

SENATE RESOLUTION NO. 6

Senator Horn offered the following resolution:

1 A resolution to authorize the Senate Majority Leader to engage
2 counsel to file a motion on behalf of the Senate to intervene in
3 *League of Women Voters of Michigan, et al v. Jocelyn Benson.*

4 Whereas, On August 9, 2011, following the 2010 Census, then-
5 Governor Rick Snyder signed into law Public Acts 128 and 129 of
6 2011. These acts collectively provided for the redistricting of
7 congressional and state legislative districts, as required by the
8 U.S. and Michigan constitutions and in accordance with state law.
9 Specifically, Public Act 129 of 2011, which passed both chambers of
10 the Legislature with bipartisan support, provided for the
11 redistricting of the Michigan House of Representatives and the
12 Senate; and

13 Whereas, On December 22, 2017, the League of Women Voters of

1 Michigan and other named individuals filed an action against the
2 Secretary of State, in her official capacity, in the United States
3 District Court for the Eastern District of Michigan, Case No. 2:17-
4 cv-14148, contending that the congressional and state legislative
5 district maps are unconstitutional partisan gerrymanders in
6 violation of the First and Fourteenth Amendments of the U.S.
7 Constitution; and

8 Whereas, Following the filing of the action, then-Secretary of
9 State Ruth Johnson engaged in a vigorous defense of Public Acts 128
10 and 129 of 2011, including the filing of multiple motions to
11 dismiss the lawsuit and for summary judgement. On November 6, 2018,
12 the people of Michigan elected Jocelyn Benson as Secretary of
13 State, succeeding Secretary of State Johnson on January 1, 2019;
14 and

15 Whereas, On January 17, 2019, Secretary of State Benson,
16 through newly appointed counsel, filed a motion to stay the
17 proceedings. In the motion, the Secretary of State expressed a
18 desire to settle the matter with the plaintiffs, presumably by
19 agreeing to allow for the redrawing of congressional and state
20 legislative districts for the 2020 elections, including potentially
21 calling for a special state Senate election in 2020. The filing of
22 such a motion, together with media reports indicating a desire by
23 the Secretary of State to adopt a new apportionment plan for the
24 2020 election, effectively ended the adversarial role of the
25 Secretary of State and its meaningful participation in and defense
26 of this matter; and

27 Whereas, Individual members of Congress and the Michigan House
28 of Representatives previously filed motions to intervene as
29 defendants and those motions were ultimately granted; and

1 Whereas, Members of the Michigan Senate now have an additional
2 interest in this matter, as the proposed settlement could include a
3 requirement that the Michigan Senate be subject to a special
4 election in 2020 in violation of Article IV, Section 2 of the
5 *Constitution of the State of Michigan of 1963*, which provides:

6 The senate shall consist of 38 members to be elected from
7 single member districts at the same election as the
8 governor for four-year terms concurrent with the term of
9 office of the governor.

10 ; and

11 Whereas, On January 22, 2019, three current members of the
12 Senate filed a motion to intervene in order to help fill the
13 adversarial void and defend against claims raised by plaintiffs and
14 to protect the interests of the Senate and its members who are
15 elected to represent the people of Michigan; and

16 Whereas, The Senate must seek to intervene in this case in
17 order to defend its unique role in Michigan's constitutional
18 system. Permitting the court to consider a mid-term special Senate
19 election without hearing meaningful opposition would greatly harm
20 operation of this legislative body and the ability of its members
21 to carry out the duties of their office, including representing
22 members of the public; now, therefore, be it

23 Resolved by the Senate, That the Senate Majority Leader is
24 authorized to engage counsel to file a motion on behalf of the
25 Senate to intervene in *League of Women Voters of Michigan, et al v.*
26 *Jocelyn Benson* (2:17-cv-14148) and take all necessary steps
27 incidental thereto, including, but not limited to, the pursuit or
28 defense of any appeals.