

A JOINT RESOLUTION

Proposing integrated and distinct amendments to the Constitution of the Commonwealth of Pennsylvania, deleting provisions relating to the Legislative Reapportionment Commission; providing for the Independent Redistricting Commission; and establishing redistricting criteria for congressional and legislative redistricting.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following integrated amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That section 17 of Article II be repealed:

[Section 17. Legislative Reapportionment Commission.

(a) In each year....

.....

(i).....representative districts.]

(2) That Article II be amended by adding a section to read:

Section 18. Independent Redistricting Commission.

(a) In each year of the Federal decennial census, an Independent Redistricting Commission shall be constituted for the purpose of redistricting the Commonwealth. The commission shall adopt a redistricting plan for legislative and congressional districts on the basis of each Federal decennial census in accordance with this section and such laws as the General Assembly may enact to implement this section.

(b) The commission shall consist of eleven members, as follows: four voters who are registered with the largest political party in this Commonwealth based on registration; four voters who are registered with the second-largest political party in this Commonwealth based on registration; and three voters who are not registered with either of the two largest political parties in this Commonwealth based on registration, with no more than one from any specific minor party.

(c) Each commissioner shall be a voter who:

(1) has been continuously registered in Pennsylvania with the same political party or unaffiliated with a political party in the five years immediately preceding the date of his or her appointment; and

(2) has voted in at least two of the last three statewide general elections immediately preceding the date of his or her appointment.

(d) No person shall be eligible for appointment who is or has been at any time in the past five years:

(1) A declared candidate for partisan federal, state, or local office;

(2) An elected or appointed official to federal, state, or local office (not inclusive of local precinct election officials);

(3) An officer or member of the governing body of a national, state, or local political party;

(4) A paid consultant or employee of a federal, state, or local elected official or political candidate, of a federal, state, or local political candidate's campaign, or of a political party, Legislative caucus or action committee;

(5) a registered lobbyist.

(e) No person shall be eligible for appointment who is a parent, stepparent, child, stepchild, sibling or spouse of any individual disqualified under subsection (d) of this section.

(f) For five years after the date of appointment, a commissioner shall be ineligible to hold elective office at the state, county, or city, level in Pennsylvania. For ten years after the date of appointment, a commissioner shall be ineligible to hold or be a candidate for any elective office for which the districts are enacted by this commission.

(g) For five years after the date of appointment, a commissioner shall be ineligible to hold appointive federal, state, or local public office, to serve as paid staff for the General Assembly or any individual legislator or to register as a federal, state or local lobbyist in this State.

(h) The commission in whole shall reflect the Commonwealth's geographic and demographic diversity, including, but not limited to, racial, ethnic and gender diversity, to the greatest extent practicable.

(i) The secretary shall administer an application process for individuals seeking appointment to the commission as follows:

(1) The secretary shall design an application form which shall clearly state the legal obligations and expectations of potential commissioners.

(2) Beginning January 1 in each year ending in zero, the secretary shall provide public notice of the application process, commissioner qualifications and the selection process. Notice shall be widely distributed in order to reach as many potential applicants as is feasible, including, but not limited to, the following:

(i) on the home page of all publicly accessible Commonwealth agency communications platforms.

(ii) in the ten most prominent print or online media outlets in this Commonwealth and in at least one prominent print publication in every county as determined by circulation or online readership.

(iii) on local television stations during local news broadcasts in this Commonwealth.

(iv) in media outlets that serve specific racial and ethnic communities in this Commonwealth, with specific attention to underserved or underrepresented populations.

(v) through community groups that work with underserved or underrepresented populations.

(3) The secretary shall continue to accept applications until June 1 of each year ending in zero or, if the following is not satisfied by June 1, until the following is met:

(i) At least 80 eligible individuals who are registered with the largest political party in this Commonwealth have applied.

(ii) At least 80 eligible individuals who are registered with the second-largest political party in this Commonwealth have applied.

(iii) At least 80 eligible individuals who are not registered with the largest political party or second-largest political party in this Commonwealth have applied.

(4) An applicant must disclose, under the penalty of perjury, the following information pertaining to the five years before the submission of an application:

(i) Political party registration.

(ii) An explanation of why the applicant desires to serve on the commission.

(iii) Relevant leadership and community experiences.

(iv) All reportable political contributions to candidates for Federal, State or municipal office or to any committee supporting or opposing the election of candidates to Federal, State or municipal office.

(v) Contractual and other financial interests with the Commonwealth and with any other government-related entity.

(vi) Applicants may include up to four letters of recommendation with their application.

(5) The secretary shall determine the eligibility of applicants to serve on the commission. If the documentation submitted by an applicant is insufficient to determine whether the applicant is eligible, the applicant shall be notified of elements lacking and allowed seven days from the date of notification to cure the application. Following the cure deadline applicants determined or deemed to be ineligible shall be notified of the reasons why they will not be included in the final pool of applicants to be considered for appointment to the commission.

(6) Once ineligible applicants have been excluded, the secretary shall separate applications into three pools consisting of those who are:

(i) registered with the largest political party in this Commonwealth based on registration;

(ii) registered with the second largest political party in this Commonwealth based on registration; and

(iii) not registered with either of the two largest political parties in this Commonwealth based on registration.

(j) Once separated, each applicant pool shall be narrowed by the State Ethics Commission to the most qualified 60 applicants as reflective of the diversity of the commonwealth as possible. In narrowing pools, State Ethics Commission shall consider applicant submissions, letters of recommendation, relevant publicly available information, and geographic, gender, racial and ethnic diversity.

(k) Once pools are narrowed, State Ethics Commission shall provide the lists of applicants to the leaders of the General Assembly. No later than July 15 of each year ending in zero, the Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives may each strike up to two applicants from each sub-pool.

(l) Members of the commission shall be selected as follows:

(1) No later than August 1 of each year ending in zero, the secretary shall convene a public event, made available to public view through all appropriate technologies, for the random selection of the first eight commissioners.

(2) Names shall be drawn at random by the secretary or designee in the following order: three from the largest party pool; three from the second largest party pool; two from the unaffiliated/minor party pool. If a choice from the unaffiliated/minor party pool is a second from a specific minor party, that choice shall be set aside and another name drawn.

(3) Following the public drawing of the first eight candidates, the State Ethics Commission shall have fifteen days to select an additional candidate from each pool to further balance commission demographics to reasonably reflect the racial, geographic and gender diversity of this Commonwealth and, if possible, add needed skills or experience that may be lacking in the randomly-selected eight commissioners.

(m) Commissioners shall be compensated at the rate of two hundred fifty dollars per day, plus reimbursement for reasonable expenses incurred in connection with the duties performed pursuant to this section, for each day attending commission meetings or otherwise carrying out the responsibilities of the commission. The rate of compensation shall be adjusted annually for inflation.

(n) The commission may remove one of its members in the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office. Removal shall require seven affirmative votes from the other members, after the member has been served written notice and provided an opportunity to respond. Substantial neglect of duty includes repeated failure to attend voting meetings without reasons deemed excusable by the chair.

(o) A vacancy in the commission shall be filled within 14 days from the time the commission is notified of the vacancy using the same pool of applicants from which the vacating member was chosen. The State Ethics Commission shall narrow the pool to demographics reasonably reflecting the commissioner to be replaced, and the secretary shall randomly select a new commissioner. If none of the remaining applicants are available for service, the secretary shall fill the vacancy from a new pool of applicants created from the same voter registration category as the vacating member.

(p) The secretary shall establish a publicly accessible communications platform for the commission. Once the commissioners have been appointed and a communications technology manager has been hired by the secretary, the commission shall assume responsibility for managing and updating the platform

(q) The communications platform shall include, but not be limited to, all of the following information:

- (1) A description of the role of the commission.
- (2) Timely information about the application process.
- (3) Prominently posted information about the time, place and purpose of commission meetings.
- (4) Precinct-level shapefiles and census block equivalency files.
- (5) Precinct-level results from Statewide primary and general elections for the past 10 years.
- (6) Legal description and shapefiles from previous redistricting cycles for all relevant maps.
- (7) Links to free, publicly accessible software tools members of the public can use to create maps for submission and quantitatively evaluate all proposed maps.
- (8) A portal for the submission of proposed congressional and legislative district maps.
- (9) All congressional and legislative district maps or portions of maps drawn by the commission or submitted by the public.
- (10) The underlying data used to create or evaluate maps in a format easily usable for analysis.
- (11) A portal for submission and curation of comments and responses to any proposed maps or portions of maps.
- (12) Means for members of the public to comment directly on specific submitted maps.
- (13) A video archive of all meetings of the commission.
- (14) Transcripts of all commission meetings.
- (15) Reports providing analysis of all submitted maps using respected, readily available tools assessing required criteria.

(r) The commission shall post any data regarding congressional and legislative redistricting on the publicly accessible communications portal at the same time it is made available to the commission and the data shall be considered public record under applicable laws.

(s) The commission shall deem each incarcerated person as residing at his or her last known place of residence, rather than at the institution of his or her incarceration, except if the last known place of residence is outside of the Commonwealth. This reallocation of population data shall be furnished prior to the drafting of any proposed maps and be made available to the public.

(t) Actions by the commission shall be in a public meeting by the affirmative vote of no less than seven commissioners, including the following:

(1) At least two commissioners registered with the largest political party in this Commonwealth.

(2) At least two commissioners registered with the second-largest political party in this Commonwealth.

(3) At least two commissioners who are not registered with the largest political party or second-largest political party in this Commonwealth.

(u) No later than October 1 of each year ending in zero, the secretary or designee shall convene a series of public meetings of the commission for the purposes of orientation and training, including, but not limited to the following topics:

(1) The Federal Voting Rights Act and minority representation in Pennsylvania.

(2) Mapping tools and respected analysis of district plans.

(3) Understanding redistricting criteria.

(4) Review of effective redistricting processes in other states with independent citizens commissions.

(v) No later than January 10 of each year ending in one, the commissioners shall select one of the commissioners to serve as a chair and one of the commissioners to serve as vice chair. The chair and vice chair may not be registered with the same political party.

(w) The commission has the sole power to make its own rules of procedure. The commission shall have procurement and contracting authority and may hire staff and consultants for the purposes of this section, including legal representation.

(x) The General Assembly shall appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities. The commission shall furnish reports of expenditures, at least annually, to the governor and the General Assembly and shall be subject to annual audit as provided by law.

(y) The commission shall have legal standing to prosecute an action regarding the adequacy of resources provided for the operation of the commission, and to defend any action regarding an adopted plan. The commission shall inform the General Assembly if the commission determines that funds or other resources provided for operation of the commission are not adequate. The General Assembly shall provide adequate funding to allow the commission to defend any action regarding an adopted plan.

(z) The following shall apply to commission meetings, records and communications:

(1) The commission shall be considered a public body subject to laws applicable to Commonwealth agencies, including open meetings laws and laws allowing access to public records.

(2) The proceedings of the commission or committees shall be contemporaneously broadcast on the publicly accessible communication platform in a way that allows for public viewing and public interaction. To ensure public participation, meetings and hearings shall be widely advertised in multiple languages, where necessary, and be held at times that allow for broad attendance.

(3) Except for documents or communications subject to attorney-client privilege, documents or communications created or received by a commissioner, a commission staff member or a consultant to the commission as a part of the commission's duties under this act shall not be exempt by any privilege.

(4) Records pertaining to a commission's action on a preliminary congressional or legislative district map or the analysis of a preliminary map shall be publicly disclosed on the commission's publicly accessible communication platform as soon as practicable after the records are created.

(5) The commission shall develop a system for receiving written comments from the public, including all electronic mail formats and a comment portal on the publicly accessible Internet website. The portal shall be able to facilitate real-time public comment during live-streamed commission and committee meetings and hearings. The comments shall be reviewed by the commission and committees and given consideration equal to in-person testimony.

(6) A commissioner, commission staff member or consultant to the commissioner may not communicate with any outside persons attempting to influence the map drawing process outside of public meetings and public comment periods. To the extent that a commissioner, commission staff member or consultant to the commissioner receives a communication described under this paragraph, the communication shall be publicly disclosed on the commission's publicly accessible Internet website as soon as practicable after the communication is received.

(a.1) The following shall apply to public hearings of the commission:

(1) To identify communities of interest and obtain other information relevant to the drawing of congressional and legislative districts, the commission shall seek public input. Before any proposed district maps are drawn, the commission shall hold no less than eight public hearings across this Commonwealth to solicit testimony from a representative cross-section of this Commonwealth's population. The commission shall provide at least 14 days' notice before a public hearing is held as specified under paragraph (2). At least one hearing shall be held in each of the four largest cities in the Commonwealth by population, in central locations easily accessible by public transportation. Remaining hearings shall be located to balance accessibility in remaining portions of the Commonwealth.

(2) The commission shall adequately advertise a public hearing and schedule a public hearing in a manner to encourage attendance, including scheduling the public hearings outside of regular work hours and using technology that allows for real-time, virtual participation and feedback in the public hearing. The commission shall record a public hearing and post a video of the public hearing on the commission's publicly accessible communication platform within three days of the public hearing.

(b.1) The commission shall provide a meaningful opportunity for all persons to participate in the redistricting process, including, but not limited to, the following:

(1) Issuing notices in multiple languages.

(2) Ensuring that adequate translation services are available at public hearings.

(3) Complying with all Federal and State law protections for individuals with disabilities.

(4) If the initial public input during the commission's public hearings does not appear to represent the diversity of this Commonwealth, the commission shall take remedial steps, including, but not limited to, conducting additional outreach, holding additional public hearings and identifying underrepresented communities.

(c.1) The following shall apply to the consideration and approval of redistricting plans:

(1) Not later than July 1 of each year ending in one, or no later than 60 days after population data for the Commonwealth as determined by the Federal decennial census are available, whichever comes first, the commission shall complete and provide for public review at least one proposed redistricting plan for each type of district.

(2) All proposed plans and supporting reports shall be made available to the public through the commission's publicly accessible communication portal.

(3) Accompanying reports shall include statistical data regarding compliance with criteria, comparison to top scoring submissions and explanation of rationale, plus explanation of ways public submissions and comment were incorporated.

(4) The commission, within 60 days following publication of all preliminary plans as set forth in paragraph (1), shall schedule and conduct at least eight public hearings, in different geographic regions of this Commonwealth, to receive comment and recommended changes for the preliminary plans. At least one hearing shall be held in each of the four largest cities in the Commonwealth by population, in central locations easily accessible by public transportation. Remaining hearings shall be located to balance accessibility in remaining portions of the Commonwealth. The public communication portal shall provide opportunity for public comment or partial maps submissions suggesting alterations on each preliminary plan.

(5) Not later than October 1 of each year ending in one, or no later than 120 days after population data for the Commonwealth as determined by the Federal decennial census are available, whichever comes first, the commission shall approve a final redistricting plan for each category. Final plans must be accompanied by reports which shall include statistical data regarding compliance with criteria, comparison to top scoring submissions and explanation of rationale, plus explanation of ways public submissions and comment were incorporated.

(6) Upon approval, the commission shall certify the resulting plan to the secretary, which plan shall constitute the certified final plan.

(d.1) If the commission does not complete and approve a final redistricting plan by November 1, the following shall apply:

(1) The commission shall consider proposed plans for each category of district separately from all other categories.

(2) Each commissioner or group of commissioners may propose one plan in each category. Each proposed plan shall be accompanied by a written report that demonstrates the plan's compliance with all applicable Federal and State laws, including redistricting criteria.

(3) All proposed plans and supporting written reports shall be made available for public review and comment for a period of ten days.

(4) After the close of the public comment period, the commission shall vote on all proposed plans as follows:

(i) Each commissioner shall rank the plans submitted in each category according to preference, with each plan being assigned a point value inverse to its ranking among the number of choices in a category, giving the lowest ranked plan one point and the highest ranked plan a point value equal to the number of plans submitted in that category.

(ii) The plan or plans receiving the lowest combined ranking in each category shall be eliminated.

(iii) The commission shall repeat the process until only one plan remains in each category.

(5) Upon approval of plans for all categories, the commission shall certify the resulting combined plan to the secretary, and that plan shall constitute the certified final plan.

(e.1) The final plan shall have the force of law and the districts provided in the plan shall be used thereafter in elections to the General Assembly and United States Congress until the next redistricting as required under this section.

(f.1) The Department of State shall provide support to the commission in the performance of its duties.

(g.1) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(h.1) A district that does not include the residence from which a member of the Senate was elected whether or not scheduled for election at the next general election shall elect a Senator at the election.

(i.1) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Commission.” The Independent Redistricting Commission.

“Commissioner” or “member.” A member of the Independent Redistricting Commission.

“Federal census.” The decennial census required by Federal law to be conducted by the United States Census Bureau in every year ending in zero.

“Final plan.” A plan for both congressional and legislative redistricting filed with the Secretary of the Commonwealth.

“Redistricting plan.” A plan for congressional or legislative redistricting, or a plan for both congressional and legislative redistricting.

“Secretary.” The Secretary of the Commonwealth.

Section 2. The following distinct amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That Article II be amended by adding a section to read:

Section 19. Redistricting criteria.

(a) In addition to the requirements of section 16, the following shall apply:

(1) Districts shall comply with the United States Constitution and comply with the federal Voting Rights Act and other federal laws.

(2) A redistricting plan shall not:

(i) purposefully or unduly favor or disfavor any incumbent elected official, candidate or prospective candidate for elective office.

(ii) provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined by using accepted measures of partisan fairness.

(3) Districts shall provide racial minorities an equal opportunity to participate in the political process and may not dilute or diminish their ability to elect candidates of choice whether alone or in coalition with others.

(4) Districts shall respect communities of interest to the extent practicable and after compliance with the requirements of paragraphs 1 and 2.

(5) Senatorial and representative districts shall be drawn with the fewest number of divisions to counties, municipalities and wards within a population deviation of 2.5% above or below the ideal population. A county may not contain more senatorial districts than the number required by the population plus one. A county may not contain more representative districts than the number required by the population plus two. No precincts shall be split in the drawing of district lines.

(6) Congressional districts shall be drawn with the fewest number of divisions to counties, municipalities and wards within a population deviation of .25% above or below the ideal population. A county may not contain more congressional districts than the number required by the population plus one. No precincts shall be split in the drawing of district lines.

(7) The boundaries of each district shall be contiguous. Boundaries shall be drawn using a single non-intersecting continuous line. A county or municipal fragment or enclave containing less than fifty persons shall be considered contiguous to the district if the remainder of the county or municipality is wholly within the same district.

(8) To the extent possible without violating the preceding criteria, districts shall be compact in form as determined through standard compactness measures, and district boundaries shall conform to natural boundaries existing in the physical geography of an area.



(b) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Community of interest.” an area with recognized similarities of interests, including but not limited to ethnic, racial, economic, tribal, social, cultural, geographic or historic identities. The term may include political subdivisions such as counties, municipalities, tribal lands and reservations, or school districts, but shall not include common relationships with political parties or political candidates.

Section 3. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall submit these proposed constitutional amendments to the qualified electors of this Commonwealth at the first general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendments are passed by the General Assembly.