
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 767 Session of
2017

INTRODUCED BY COSTA, FONTANA, STREET, BOSCOLA AND BREWSTER,
JUNE 15, 2017

REFERRED TO STATE GOVERNMENT, JUNE 15, 2017

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," providing for congressional redistricting
12 process; and establishing a congressional redistricting
13 commission.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known
17 as the Pennsylvania Election Code, is amended by adding an
18 article to read:

19 ARTICLE V-A

20 Congressional Redistricting Process

21 Section 501-A. Definitions.

22 The following words and phrases when used in this article
23 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Commission." A congressional redistricting commission
3 established under this article.

4 "Immediate family member." A parent, spouse, child, brother
5 or sister.

6 "Secretary." The Secretary of State of the Commonwealth.
7 Section 502-A. Census data.

8 Notwithstanding any other provision of law, in the year
9 immediately following the Federal decennial census, the
10 Legislative Data Processing Center shall:

11 (1) Obtain the census data for this Commonwealth from
12 the United States Census Bureau.

13 (2) Provide the adjusted population data to the
14 commission within 60 days after the Legislative Data
15 Processing Center receives the census data from the United
16 States Census Bureau.

17 Section 503-A. Congressional redistricting commission.

18 (a) Establishment.--No later than March 1 in the year
19 immediately following the Federal decennial census, a
20 congressional redistricting commission shall be constituted for
21 the purpose of redistricting the congressional districts of this
22 Commonwealth.

23 (b) Commission composition.--The commission shall consist of
24 the following members:

25 (1) Two individuals who are registered with the largest
26 political party in this Commonwealth based on registration.

27 (2) Two individuals who are registered with the second-
28 largest political party in this Commonwealth based on
29 registration.

30 (3) One individual who is not registered with either of

1 the two largest political parties in this Commonwealth based
2 on registration.

3 (c) Qualifications.--Each member of the commission:

4 (1) Must be a voter who, in the five years immediately
5 preceding the date of the individual's appointment to the
6 commission:

7 (i) has been registered continuously in this
8 Commonwealth with the same political party or has been
9 unaffiliated with a political party and has not changed
10 political party affiliation during that five-year period;
11 and

12 (ii) has voted in at least three elections. For
13 purposes of this subparagraph, the term "election" means
14 a primary, general or municipal election.

15 (2) May not have been a candidate for election to or
16 served as Governor, a member of the General Assembly or a
17 member of the Congress of the United States from this
18 Commonwealth during the five years immediately preceding the
19 date of the individual's appointment, or be an immediate
20 family member established through blood or legal relation of
21 a candidate for an office specified in this paragraph or an
22 individual who held an office specified in this paragraph.

23 (3) May not have been convicted, found guilty or pleaded
24 guilty or nolo contendere to embezzlement of public money,
25 bribery, perjury or other infamous crime.

26 (4) May not be registered as a lobbyist in this
27 Commonwealth under 65 Pa.C.S. Ch. 13A (relating to lobbying
28 disclosure), registered as a lobbyist before a political
29 subdivision in this Commonwealth or registered as a lobbyist
30 before the Federal Government.

1 (5) May not be or have served as staff, a consultant to
2 a person under a contract with or a person with an immediate
3 family relationship through blood or legal relation to the
4 Governor, a member of the General Assembly or a member of the
5 Congress of the United States from this Commonwealth.

6 (6) May not hold an appointive office in the executive
7 branch or legislative branch of the Federal, State or local
8 government.

9 (d) Procedure for selection of members.--Application and
10 selection of the members of the commission shall be subject to
11 the following:

12 (1) Application to serve as a member of the commission
13 may be filed with, and on a form developed by, the secretary
14 indicating thereon evidence of the individual's
15 qualifications as provided by this section.

16 (2) The secretary shall verify the qualifications of
17 each applicant. If the secretary finds that an applicant is
18 not qualified, the secretary shall not include the
19 applicant's name in the pool of applicants.

20 (3) The secretary shall separate all qualified
21 applicants into three subpools consisting of those who are:

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

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

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

29 (4) The secretary shall randomly select 20 qualified
30 applicants from each of the three subpools provided in

1 paragraph (3). The Majority Leader and Minority Leader of the
2 Senate and the Majority Leader and Minority Leader of the
3 House of Representatives may each strike up to two applicants
4 from each subpool. Each leader shall have no more than six
5 strikes.

6 (5) After the legislative leaders have exercised their
7 strikes under paragraph (4), the secretary shall randomly
8 select for appointment as members of the commission from the
9 remaining applicants in each of the three subpools of
10 qualified applicants. In addition to the qualification
11 requirements provided in subsection (c), appointments from
12 each subpool shall reasonably reflect the racial, geographic
13 and gender diversity of this Commonwealth.

14 (6) One of the members shall be selected as chairperson
15 by a vote of at least three members of the commission.

16 (7) For purposes of this subsection, "randomly select"
17 means to select by the following process:

18 (i) The secretary shall fix a day for each random
19 drawing of names from each of the three subpools of
20 qualified applicants created under paragraph (3), in such
21 a manner as may be prescribed by the secretary, for the
22 purpose of:

23 (A) preliminary selection of 20 applicants from
24 each of the three subpools under paragraph (4); and

25 (B) final selection from the remaining
26 applicants in each of the three subpools for
27 appointment as members of the commission pursuant to
28 paragraph (5).

29 (ii) For purposes of preliminary selection of 20
30 applicants from each of the three subpools under

1 paragraph (4), each applicant shall draw a number from a
2 set of sequentially numbered cards assigned to each
3 subpool. The applicants who draw cards numbered 1 through
4 20 shall remain in the subpool.

5 (iii) For purposes of final selection from the
6 remaining applicants in each of the three subpools for
7 appointment as commission members pursuant to paragraph
8 (5), each applicant shall draw a number from a set of
9 sequentially numbered cards assigned to each subpool. The
10 secretary shall appoint the following applicants to serve
11 on the commission:

12 (A) Applicants in the subpool created under
13 paragraph(3)(i) who draw cards numbered 1 and 2.

14 (B) Applicants in the subpool created under
15 paragraph(3)(ii) who draw cards numbered 1 and 2.

16 (C) The applicant in the subpool created under
17 paragraph(3)(iii) who draws the card numbered 1.

18 (iv) The secretary shall give at least two days'
19 notice by mail of the date to all applicants remaining in
20 each subpool of qualified applicants and by publication
21 once in at least two newspapers of general circulation
22 published in each county.

23 (v) All remaining applicants in each of the three
24 subpools subject to random selection may appear in person
25 or by agent duly authorized by letter of attorney, signed
26 and acknowledged by an officer empowered to take
27 acknowledgments.

28 (vi) In the event a selected applicant is not
29 present in person or by representative at the time of the
30 random drawing, the secretary shall appoint another

1 individual to represent such absentee.

2 (e) Terms.--The terms of office of each member of the
3 commission shall expire on the appointment of the first member
4 of the succeeding commission.

5 (f) Voting.--

6 (1) Four members of the commission shall constitute a
7 quorum.

8 (2) Except as provided in subsection (d)(6), at least
9 four affirmative votes of the commission shall be required
10 for official action, including preliminary and final plans
11 for congressional districts adopted by the commission.

12 Section 504-A. Member removal and vacancies.

13 (a) Member removal.--

14 (1) If a member of the commission is convicted, found
15 guilty or pleads guilty or nolo contendere to embezzlement of
16 public money, bribery, perjury or other infamous crime,
17 whether or not sentence has been imposed, the member's
18 position shall be deemed vacant.

19 (2) If a member of the commission fails to attend more
20 than two consecutive meetings at which a vote of the
21 commission is scheduled, the member's position shall be
22 deemed vacant unless the member is absent due to the member's
23 serious illness or the death or serious illness of an
24 immediate family member.

25 (b) Vacancies.--A vacancy on the commission shall be filled
26 within 14 days from the time the commission is notified of the
27 vacancy in the same manner that the position was originally
28 filled and using the same pool of applicants from which the
29 vacating member was chosen. If none of the remaining applicants
30 are available for service, the secretary shall fill the vacancy

1 from a new pool of applicants created from the same voter
2 registration category as the vacating member.

3 Section 505-A. Commission conduct.

4 (a) Public access.--

5 (1) The activities of the commission are subject to the
6 provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings)
7 and the act of February 14, 2008 (P.L.6, No.3), known as the
8 Right-to-Know Law. The commission shall be considered a
9 legislative agency as defined in section 102 of the Right-to-
10 Know Law.

11 (2) Notwithstanding 65 Pa.C.S. § 709(a) (relating to
12 public notice), the commission shall provide no less than 14
13 days' prior public notice for each meeting.

14 (3) The commission shall maintain a publicly accessible
15 Internet website for purposes of providing public notice of
16 hearings, receiving public comment, publishing census data in
17 multiple commonly used formats, such as geographic
18 information systems (GIS) mapping files, keyhole markup
19 language (KML) files and Microsoft Excel files, and
20 publishing the preliminary and final redistricting plans as
21 required by this article.

22 (b) Hearing process.--

23 (1) The commission shall establish and implement an open
24 hearing process for public comment and deliberation that is
25 designed to encourage citizen outreach and solicit broad
26 public participation in the redistricting public review
27 process.

28 (2) The hearing process shall:

29 (i) Include hearings to receive public comment
30 before the commission adopts preliminary and final plans

1 and at least one hearing following the adoption and
2 display of a preliminary plan.

3 (ii) Be supplemented with other activities as
4 appropriate to further increase opportunities for the
5 public to observe and participate in the review process.

6 (3) The commission shall:

7 (i) Display the plan for public comment in a manner
8 designed to achieve the widest public access reasonably
9 possible.

10 (ii) Take public comment for 14 days from the date
11 of public display of a preliminary redistricting plan.

12 (c) Ex parte communication.--

13 (1) Except as provided in paragraph (2), commission
14 members and staff may not communicate with or receive
15 communications about redistricting matters from anyone unless
16 during a public hearing or as provided in this article.

17 (2) Commission members may communicate with other
18 members, staff, legal counsel, consultants retained by the
19 commission, staff and consultants of the Legislative Data
20 Processing Center and the United States Census Bureau.

21 (d) Compensation.--Members of the commission may not receive
22 a salary, but the General Assembly shall appropriate sufficient
23 funds for the reimbursement of reasonable and necessary expenses
24 for members and staff appointed by the commission incurred in
25 the performance of their duties under this article.

26 Section 506-A. Congressional redistricting process and
27 criteria.

28 (a) First meeting.--The commission shall convene its first
29 meeting on or before May 1 of the year following each Federal
30 decennial census.

1 (b) Timeline for hearings and plans.--

2 (1) At its first meeting or on or before 30 days after
3 the commission receives the adjusted census data from the
4 Legislative Data Processing Center, whichever is later, the
5 commission shall commence a series of public hearings to
6 receive public comment concerning a redistricting plan.

7 (2) (i) On or before October 1 of the year that the
8 commission receives the adjusted census data from the
9 Legislative Data Processing Center, the commission shall
10 hold at least six hearings throughout this Commonwealth.

11 (ii) The hearings required under this paragraph
12 shall be held at times that are likely to maximize public
13 participation and in locations that encompass the
14 geographic, racial and ethnic diversity of this
15 Commonwealth.

16 (iii) The commission shall conduct an open and
17 transparent process enabling public consideration of and
18 comment on the drawing of district lines as required by
19 this article.

20 (3) Following the conclusion of the public hearings
21 required under paragraph (2), but no later than October 31 of
22 the year that the commission receives the adjusted census
23 data from the Legislative Data Processing Center, the
24 commission shall prepare and adopt a preliminary plan for
25 congressional districts.

26 (4) On or before November 30 of the year that the
27 commission receives the adjusted census data from the
28 Legislative Data Processing Center, the commission shall:

29 (i) Publish the preliminary plan on the commission's
30 publicly accessible Internet website.

1 (ii) Submit the preliminary plan to the secretary
2 for publication once in at least one newspaper of general
3 circulation in each congressional district.

4 (iii) Issue with the preliminary plan a report that:

5 (A) Explains the basis which the commission used
6 in preparing the preliminary plan in compliance with
7 the criteria required under this article.

8 (B) Includes definitions of the terms and
9 standards the commission used in preparing the
10 preliminary plan.

11 (iv) (A) Hold at least one public hearing on the
12 preliminary plan.

13 (B) Allow the public to submit comments to the
14 commission through the commission's publicly
15 accessible Internet website concerning the
16 preliminary plan.

17 (5) On or before December 15 of the year the commission
18 receives the adjusted census data from the Legislative Data
19 Processing Center, the commission shall adopt and publish a
20 final congressional redistricting plan on the commission's
21 publicly accessible Internet website and submit the final
22 redistricting plan to the secretary for publication once in
23 at least one newspaper of general circulation in each
24 congressional district.

25 (6) If the commission does not complete and approve a
26 final redistricting plan within the time prescribed in this
27 section, unless the time is extended by the Supreme Court of
28 Pennsylvania for cause shown on application by the
29 commission, the secretary shall immediately petition the
30 Supreme Court for an order directing the appointment of a

1 special master to develop and complete a final redistricting
2 plan in accordance with the district requirements provided in
3 this section. The special master must demonstrate expertise
4 in geographic information systems by holding a graduate
5 degree in geographic information systems and currently
6 serving as a faculty member for a geographic information
7 systems program at an institution of higher learning located
8 within this Commonwealth and must meet the qualifications in
9 section 503-A(c). Upon the Supreme Court's approval of the
10 master's plan, the court shall certify the resulting plan to
11 the secretary and that plan shall constitute the final
12 congressional redistricting plan for the Commonwealth.

13 (c) District requirements.--

14 (1) (i) Congressional districts shall be established on
15 the basis of population.

16 (ii) Each congressional district shall:

17 (A) Comply with the Constitution of the United
18 States.

19 (B) Comply with the Voting Rights Act of 1965
20 (Public Law 89-110, 52 U.S.C. § 10301 et seq.).

21 (C) Be equal in population, except where
22 deviation is required to comply with the Voting
23 Rights Act of 1965 or is otherwise allowed by law.

24 (D) Without violating the requirements of this
25 section, respect the geographic integrity of a county
26 or municipality, to the extent possible.

27 (E) Be geographically contiguous. Areas that
28 meet only at the points of adjoining corners shall
29 not be deemed contiguous.

30 (F) To the extent practicable and, if it does

1 not conflict with the criteria specified in clauses
2 (A), (B), (C), (D) and (E) and paragraph (2), be
3 drawn to encourage geographic compactness.

4 (2) To the extent consistent with paragraph (1)(ii)(C),
5 district boundaries shall coincide with the boundaries of
6 political subdivisions of this Commonwealth. The number of
7 counties and municipalities divided among more than one
8 district shall be as few as possible.

9 (d) Other redistricting data.--In establishing districts
10 consistent with Federal and State law, the commission may
11 utilize other redistricting data, including voter registration
12 and previous election results.

13 Section 507-A. Final congressional redistricting plan.

14 (a) General rule.--The final redistricting plan for
15 congressional districts prepared and adopted by the commission
16 under section 506-A shall:

17 (1) be the congressional redistricting plan for the
18 Commonwealth; and

19 (2) be filed with the secretary within seven days of the
20 plan being adopted by the commission.

21 (b) Aggrieved persons.--An aggrieved person must file an
22 appeal from the final congressional redistricting plan with a
23 United States District Court in Pennsylvania within 30 days
24 after the filing of the final congressional redistricting plan.

25 (c) Effective date of plan.--When a court has finally
26 decided an appeal under subsection (b) or when the last day for
27 filing an appeal has passed with no appeal taken, the final
28 congressional redistricting plan shall have the force and effect
29 of law and the districts in the final congressional
30 redistricting plan shall be used thereafter in elections for

1 representatives from this Commonwealth to the House of
2 Representatives of the United States until the adoption of a new
3 congressional redistricting plan following the next Federal
4 decennial census.

5 Section 2. This act shall take effect October 1, 2017, or
6 immediately, whichever is later.