

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2402 Session of
2018

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REFERRED TO COMMITTEE ON RULES, JUNE 7, 2018

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, further providing for the Legislative
3 Reapportionment Commission for the purpose of reapportioning
4 and redistricting the Commonwealth of Pennsylvania.

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

7 Section 1. The following amendment to the Constitution of
8 Pennsylvania is proposed in accordance with Article XI:

9 That section 17 of Article II be amended to read:

10 § 17. Legislative [Reapportionment] and Congressional

11 Redistricting Commission.

1 (a) [In each year following the year of the Federal
2 decennial census] Not later than December 31 of each year ending
3 in zero, a Legislative [Reapportionment] and Congressional
4 Redistricting Commission shall be constituted for the purpose of
5 [reapportioning] redistricting the Commonwealth. The commission
6 shall [act by a majority of its entire membership.]:

7 (1) Conduct an open and transparent process enabling full
8 public consideration of and comment on the drawing of district
9 lines.

10 (2) Conduct itself with integrity and fairness.

11 [(b) The commission shall consist of five members: four of
12 whom shall be the majority and minority leaders of both the
13 Senate and the House of Representatives, or deputies appointed
14 by each of them, and a chairman selected as hereinafter
15 provided. No later than 60 days following the official reporting
16 of the Federal census as required by Federal law, the four
17 members shall be certified by the President pro tempore of the
18 Senate and the Speaker of the House of Representatives to the
19 elections officer of the Commonwealth who under law shall have
20 supervision over elections.

21 The four members within 45 days after their certification
22 shall select the fifth member, who shall serve as chairman of
23 the commission, and shall immediately certify his name to such
24 elections officer. The chairman shall be a citizen of the
25 Commonwealth other than a local, State or Federal official
26 holding an office to which compensation is attached.

27 If the four members fail to select the fifth member within
28 the time prescribed, a majority of the entire membership of the
29 Supreme Court within 30 days thereafter shall appoint the
30 chairman as aforesaid and certify his appointment to such

1 elections officer.

2 Any vacancy in the commission shall be filled within 15 days
3 in the same manner in which such position was originally filled.

4 (c) No later than 90 days after either the commission has
5 been duly certified or the population data for the Commonwealth
6 as determined by the Federal census are available, whichever is
7 later in time, the commission shall file a preliminary
8 reapportionment plan with such elections officer.

9 The commission shall have 30 days after filing the
10 preliminary plan to make corrections in the plan.

11 Any person aggrieved by the preliminary plan shall have the
12 same 30-day period to file exceptions with the commission in
13 which case the commission shall have 30 days after the date the
14 exceptions were filed to prepare and file with such elections
15 officer a revised reapportionment plan. If no exceptions are
16 filed within 30 days, or if filed and acted upon, the
17 commission's plan shall be final and have the force of law.

18 (d) Any aggrieved person may file an appeal from the final
19 plan directly to the Supreme Court within 30 days after the
20 filing thereof. If the appellant establishes that the final plan
21 is contrary to law, the Supreme Court shall issue an order
22 remanding the plan to the commission and directing the
23 commission to reapportion the Commonwealth in a manner not
24 inconsistent with such order.

25 (e) When the Supreme Court has finally decided an appeal or
26 when the last day for filing an appeal has passed with no appeal
27 taken, the reapportionment plan shall have the force of law and
28 the districts therein provided shall be used thereafter in
29 elections to the General Assembly until the next reapportionment
30 as required under this section 17.

1 (f) Any district which does not include the residence from
2 which a member of the Senate was elected whether or not
3 scheduled for election at the next general election shall elect
4 a Senator at such election.

5 (g) The General Assembly shall appropriate sufficient funds
6 for the compensation and expenses of members and staff appointed
7 by the commission, and other necessary expenses. The members of
8 the commission shall be entitled to such compensation for their
9 services as the General Assembly from time to time shall
10 determine, but no part thereof shall be paid until a preliminary
11 plan is filed. If a preliminary plan is filed but the commission
12 fails to file a revised or final plan within the time
13 prescribed, the commission members shall forfeit all right to
14 compensation not paid.

15 (h) If a preliminary, revised or final reapportionment plan
16 is not filed by the commission within the time prescribed by
17 this section, unless the time be extended by the Supreme Court
18 for cause shown, the Supreme Court shall immediately proceed on
19 its own motion to reapportion the Commonwealth.

20 (i) Any reapportionment plan filed by the commission, or
21 ordered or prepared by the Supreme Court upon the failure of the
22 commission to act, shall be published by the elections officer
23 once in at least one newspaper of general circulation in each
24 senatorial and representative district. The publication shall
25 contain a map of the Commonwealth showing the complete
26 reapportionment of the General Assembly by districts, and a map
27 showing the reapportionment districts in the area normally
28 served by the newspaper in which the publication is made. The
29 publication shall also state the population of the senatorial
30 and representative districts having the smallest and largest

1 population and the percentage variation of such districts from
2 the average population for senatorial and representative
3 districts.]

4 (b) The commission shall consist of 11 members, as follows:
5 four who are registered with the largest political party in this
6 Commonwealth based on registration, four who are registered with
7 the second-largest political party in this Commonwealth based on
8 registration and three who are not registered with either of the
9 two largest political parties in this Commonwealth based on
10 registration.

11 (c) The General Assembly shall prescribe by law the
12 qualification to serve as a commission member. Each commission
13 member shall possess all of the following qualifications, in
14 addition to any qualifications prescribed by law:

15 (1) Be a voter who has been continuously registered in this
16 Commonwealth with the same political party or unaffiliated with
17 a political party or political body and whose political
18 affiliation has not changed in the three years immediately
19 preceding the date of appointment to the commission.

20 (2) Has voted in two of the last three Statewide general
21 elections immediately preceding the date of appointment to the
22 commission.

23 (3) Has not held nor has an immediate family member who has
24 held elective public office at the Federal or State level or
25 elective judicial office in this Commonwealth in the five years
26 immediately preceding the date of appointment to the commission.

27 (4) Has not served nor has a spouse who has served as a paid
28 staff member or paid consultant to Congress, the General
29 Assembly or staff appointed by the Governor in the five years
30 immediately preceding the date of appointment to the commission.

1 (5) Has not registered nor has a spouse who has registered
2 as a Federal or State lobbyist in this Commonwealth in the five
3 years immediately preceding the date of appointment to the
4 commission.

5 (6) Has not been nominated nor has a spouse who has been
6 nominated as a candidate for elective office by a political
7 party or political body or served nor has a spouse who has
8 served as a paid staff member or officer of a political party,
9 political body, political committee or political action
10 committee in the five years immediately preceding the date of
11 appointment to the commission.

12 (d) Application and selection of the members of the
13 commission shall be subject to the following:

14 (1) Application to serve as a member of the commission may
15 be filed with, and on a form developed by, the Secretary of the
16 Commonwealth indicating thereon evidence of the applicant's
17 qualifications as provided by this section.

18 (2) The Secretary of the Commonwealth shall verify the
19 qualifications of each applicant. If the Secretary of the
20 Commonwealth finds that an applicant is not qualified, the
21 Secretary of the Commonwealth shall not include the applicant's
22 name in the pool of applicants.

23 (3) The Secretary of the Commonwealth shall separate all
24 qualified applicants into three subpools consisting of those who
25 are:

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

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

30 (iii) not registered with either of the two largest

1 political parties in this Commonwealth based on registration.

2 (4) The Secretary of the Commonwealth shall select, on a
3 random basis, 40 qualified applicants from each of the three
4 subpools provided in paragraph (3). The Majority Leader and
5 Minority Leader of the Senate and the Majority Leader and
6 Minority Leader of the House of Representatives may each strike
7 up to two applicants from each subpool. Each leader shall have
8 no more than six strikes.

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

17 (6) One of the members shall be selected as chair by a vote
18 of at least six members of the commission.

19 (e) The term of office of each member of the commission
20 shall expire at the same time the commission expires as provided
21 in this section.

22 (f) Removal of a member and vacancies on the commission
23 shall be subject to the following:

24 (1) If a member of the commission fails to attend more than
25 two consecutive meetings at which a vote of the commission is
26 scheduled, the member's position shall be deemed vacant unless
27 the member is absent due to death of an immediate family member,
28 personal illness or illness of an immediate family member.

29 (2) If a member of the commission has been convicted, found
30 guilty or pled guilty or nolo contendere to embezzlement of

1 public money, bribery, perjury or other infamous crime, whether
2 or not sentence has been imposed, the member's position shall be
3 deemed vacant.

4 (3) A vacancy in the commission shall be filled within 14
5 days from the time the commission is notified of the vacancy in
6 the same manner that the position was originally filled and
7 using the same pool of applicants from which the vacating member
8 was chosen. If none of those remaining applicants are available
9 for service, the Secretary of the Commonwealth shall fill the
10 vacancy from a new pool of applicants created from the same
11 voter registration category as the vacating member.

12 (g) A member shall be ineligible to do the following for a
13 period of three years beginning from the expiration of the term
14 for which the member was appointed to the commission:

15 (1) Serve as a paid staff member or paid consultant to
16 Congress, the General Assembly or staff appointed by the
17 Governor.

18 (2) Register as a Federal or State lobbyist in this
19 Commonwealth.

20 (3) Serve as a paid staff member or paid political
21 consultant for a political party, political body, political
22 committee or political action committee.

23 (h) A member and the member's spouse shall be ineligible to
24 do the following for a period of five years beginning from the
25 expiration of the term for which the member was appointed to the
26 commission:

27 (1) Hold an appointed position or elective public office at
28 the Federal or State level in this Commonwealth.

29 (2) Be eligible for nomination as a candidate for elective
30 office by a political party or political body.

1 (3) Hold office for a political party, political body,
2 political committee or political action committee.

3 (i) Seven members of the commission shall constitute a
4 quorum. Seven or more affirmative votes shall be required for
5 any official action. The final redistricting plan must be
6 approved by at least seven affirmative votes that must include
7 at least one vote of a member registered from each of the two
8 largest political parties in this Commonwealth based on
9 registration and one vote from a member who is not registered
10 with either of the two largest political parties.

11 (j) To begin the process of preparing information necessary
12 to the redistricting process, the commission shall:

13 (1) Acquire all necessary and appropriate information,
14 review and evaluate available facilities and develop programs
15 and procedures, that may include the use of software, in
16 preparation for drawing congressional and legislative
17 redistricting plans on the basis of each Federal census. The
18 commission shall make the information available to the public in
19 a manner prescribed by law.

20 (2) As soon as possible after December 31 of each year
21 ending in zero, obtain from the United States Census Bureau the
22 population data needed for legislative redistricting that the
23 Census Bureau is required to provide the Commonwealth under 13
24 U.S.C. § 141 (relating to population and other census
25 information) and use that data to assign a population figure
26 based upon census data to each geographic and political unit
27 described pursuant to subparagraph (i). Upon completing that
28 task, the commission shall begin the preparation of
29 congressional and legislative redistricting plans as required by
30 this subsection and subsection (k). The commission shall use the

1 data obtained to prepare:

2 (i) Necessary descriptions of census blocks, voting
3 districts, wards, municipalities and counties for which census
4 data will be reported and which are suitable for use as
5 components of districts.

6 (ii) Maps of census blocks, voting districts, wards,
7 municipalities and counties within this Commonwealth, that may
8 be used to illustrate the locations of district boundaries
9 proposed in plans.

10 (3) In establishing districts, the commission shall not
11 consider the following data:

12 (i) Addresses of any individual.

13 (ii) Political affiliations of registered voters.

14 (iii) Previous election results, unless required by Federal
15 or State law.

16 (k) The commission shall establish congressional and
17 legislative districts pursuant to a mapping process in
18 accordance with Federal or State law.

19 (l) Each plan drawn under this section shall provide that
20 any vacancy in the General Assembly that is filled under the
21 plan, occurring at a time that makes it necessary to fill the
22 vacancy at a special election held under section 629 of the act
23 of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
24 Election Code, shall be filled from the same district that
25 elected the senator or representative whose seat is vacant.

26 (m) The commission, within 30 days prior to the deadline for
27 approval of a preliminary plan as set forth in subsection (o)
28 (1), shall schedule and conduct at least four public hearings in
29 different geographic regions of this Commonwealth.

30 (n) All commission meetings that are attended or

1 participated in by a quorum of the members of the commission
2 held for the purpose of deliberating official business of taking
3 official action shall be open to the public.

4 (o) (1) Not later than July 1 of each year ending in one,
5 the commission shall complete and approve a preliminary
6 redistricting plan and maps as required under this section and
7 make the preliminary plan and maps available to the public in a
8 manner prescribed by law.

9 (2) The commission, within 30 days following the deadline
10 for approval of a preliminary plan as provided in paragraph (1),
11 shall schedule and conduct at least four public hearings, in
12 different geographic regions of this Commonwealth, on the
13 preliminary plan.

14 (3) Not later than August 15 of each year ending in one, the
15 commission shall approve a final redistricting plan. Upon
16 approval, the commission shall certify the resulting plan to the
17 Secretary of the Commonwealth, and that plan shall constitute
18 the certified final plan.

19 (4) If the commission fails to approve a final plan in
20 accordance with paragraph (3), the following shall apply:

21 (i) Not later than September 1 of each year ending in one,
22 the commission shall complete and approve a second preliminary
23 redistricting plan and maps prepared in accordance with
24 subsections (j) and (k) and make the second preliminary plan and
25 maps available to the public in a manner prescribed by law.

26 (ii) Within 30 days following the deadline for approval of
27 the second preliminary plan as set forth in subparagraph (i),
28 the commission shall schedule and conduct at least four public
29 hearings, in different geographic regions of this Commonwealth,
30 on the second preliminary plan.

1 (iii) Not later than October 15 of each year ending in one,
2 the commission shall approve a final redistricting plan. Upon
3 approval, the commission shall certify the resulting plan to the
4 Secretary of the Commonwealth, and that plan shall constitute
5 the certified final plan.

6 (p) If the commission does not complete and approve a final
7 redistricting plan by October 16 of each year ending in one, the
8 Secretary of the Commonwealth shall immediately petition the
9 Supreme Court for an order directing the appointment of a
10 special master to develop and complete a final redistricting
11 plan in accordance with the criteria and requirements provided
12 in subsections (j) and (k). The special master must demonstrate
13 expertise in geographic information systems by holding a
14 graduate degree in geographic information systems and currently
15 serving as a faculty member for a geographic information systems
16 program at an institution of higher learning located within this
17 Commonwealth and must meet the qualifications in subsection (c)
18 and be bound by the restrictions in subsections (g) and (h).
19 Upon the Supreme Court's approval of the master's plan, the
20 court shall certify the resulting plan to the Secretary of the
21 Commonwealth, and that plan shall constitute the certified final
22 plan.

23 (q) The commission has the sole legal standing to defend an
24 action regarding a certified final plan and shall inform the
25 General Assembly if it determines that funds or other resources
26 provided for the operation of the commission are not adequate.

27 (r) (1) The Supreme Court has original and exclusive
28 jurisdiction in all proceedings that a certified final plan is
29 challenged or is claimed not to have taken timely effect.

30 (2) An aggrieved person who is a registered voter in this

1 Commonwealth may file a petition with the Supreme Court within
2 30 days after the commission has certified a final plan to the
3 Secretary of the Commonwealth to bar the Secretary of the
4 Commonwealth from implementing the plan on the grounds that the
5 filed plan violates the Constitution of the United States, the
6 Constitution of Pennsylvania or any Federal or State statute.

7 (s) The Department of State shall provide staff as needed to
8 support the commission in the performance of its duties.

9 (t) Upon the filing of all redistricting plans required
10 under this section and the exhaustion of all appeals of a
11 redistricting plan:

12 (1) the commission shall expire and the commission's
13 responsibilities shall terminate; and

14 (2) the final plan shall have the force of law and the
15 districts provided in the plan shall be used thereafter in
16 elections to the General Assembly until the next redistricting
17 as required under this section.

18 (u) The General Assembly shall appropriate sufficient funds
19 for the compensation and expenses of members and staff appointed
20 by the commission and for other necessary expenses. In addition
21 to necessary expenses, the members of the commission shall
22 receive a per diem for each day or part of a day spent
23 performing their official duties. The per diem shall be the most
24 recent per diem rate for locations in this Commonwealth as
25 established and published by the United States General Services
26 Administration.

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

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

4 "Commission." The Legislative and Congressional
5 Redistricting Commission.

6 "Federal census." The decennial census required by Federal
7 law to be conducted by the United States Census Bureau in every
8 year ending in zero.

9 "Immediate family." A parent, spouse, child, brother or
10 sister.

11 "Member." A member of the Legislative and Congressional
12 Redistricting Commission.

13 "Plan." A plan for legislative and congressional
14 redistricting drawn under the requirements of this section.

15 Section 2. (a) Upon the first passage by the General
16 Assembly of this proposed constitutional amendment, the
17 Secretary of the Commonwealth shall proceed immediately to
18 comply with the advertising requirements of section 1 of Article
19 XI of the Constitution of Pennsylvania and shall transmit the
20 required advertisements to two newspapers in every county in
21 which such newspapers are published in sufficient time after
22 passage of this proposed constitutional amendment.

23 (b) Upon the second passage by the General Assembly of this
24 proposed constitutional amendment, the Secretary of the
25 Commonwealth shall proceed immediately to comply with the
26 advertising requirements of section 1 of Article XI of the
27 Constitution of Pennsylvania and shall transmit the required
28 advertisements to two newspapers in every county in which such
29 newspapers are published in sufficient time after passage of
30 this proposed constitutional amendment. The Secretary of the

1 Commonwealth shall submit this proposed constitutional amendment
2 to the qualified electors of this Commonwealth at the first
3 primary, general or municipal election which meets the
4 requirements of and is in conformance with section 1 of Article
5 XI of the Constitution of Pennsylvania and which occurs at least
6 three months after the proposed constitutional amendment is
7 passed by the General Assembly.