

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 84

Session of
2007

INTRODUCED BY TANGRETTI, SAMUELSON, BELFANTI, CALTAGIRONE,
CAPPELLI, CARROLL, CREIGHTON, CURRY, DALEY, DALLY,
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TRUE, WALKO, WOJNAROSKI, YOUNGBLOOD, YUDICHAK, GERGELY,
HANNA, REED, LEVDANSKY AND EVERETT, JANUARY 30, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 30, 2007

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, providing for a Legislative and
3 Congressional Reapportionment Bureau for the purpose of
4 reapportioning and redistricting the Commonwealth of
5 Pennsylvania.

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

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

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

11 § 17. Legislative [Reapportionment Commission] and
12 Congressional Reapportionment Bureau.

13 (a) In each year following the year of the Federal decennial
14 census, a Legislative [Reapportionment Commission] and
15 Congressional Reapportionment Bureau shall be constituted for
16 the purpose of reapportioning the Commonwealth. The bureau shall

1 consist of a director and employees as are necessary to carry
2 out the responsibilities of reapportionment and redistricting.

3 [The commission shall act by a majority of its entire
4 membership.

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

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

21 If the four members fail to select the fifth member within
22 the time prescribed, a majority of the entire membership of the
23 Supreme Court within 30 days thereafter shall appoint the
24 chairman as aforesaid and certify his appointment to such
25 elections officer.

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

28 (c) No later than 90 days after either the commission has
29 been duly certified or the population data for the Commonwealth
30 as determined by the Federal decennial census are available,

1 whichever is later in time, the commission shall file a
2 preliminary reapportionment plan with such elections officer.

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

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

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

19 (e) When the Supreme Court has finally decided an appeal or
20 when the last day for filing an appeal has passed with no appeal
21 taken, the reapportionment plan shall have the force of law and
22 the districts therein provided shall be used thereafter in
23 elections to the General Assembly until the next reapportionment
24 as required under this section 17.]

25 (b) (1) The bureau shall acquire appropriate information,
26 review and evaluate available facilities and develop programs
27 and procedures in preparation for drawing congressional and
28 legislative redistricting plans on the basis of each Federal
29 census.

30 (2) By December 31 of each year ending in zero, the bureau

1 shall obtain from the United States Bureau of the Census
2 information regarding geographic and political units in this
3 Commonwealth for which Federal census population data has been
4 gathered and will be tabulated. The bureau shall use the data
5 obtained to prepare:

6 (i) Necessary descriptions of geographic and political units
7 for which census data will be reported and which are suitable
8 for use as components of legislative districts.

9 (ii) Maps of counties, cities and other geographic units
10 within this Commonwealth, which may be used to illustrate the
11 locations of legislative district boundaries proposed in plans
12 drawn in accordance with subsection (d).

13 (3) As soon as possible after January 1 of each year ending
14 in one, the bureau shall obtain from the United States Bureau of
15 the Census the population data needed for legislative
16 districting which the Census Bureau is required to provide this
17 Commonwealth under 13 U.S.C. § 141 (relating to population and
18 other census information) and shall use that data to assign a
19 population figure based upon census data to each geographic or
20 political unit described pursuant to paragraph (2)(i). Upon
21 completing that task, the bureau shall begin the preparation of
22 congressional and legislative districting plans as required by
23 subsection (c).

24 (c) (1) Not later than April 1 of each year ending in one,
25 the bureau shall deliver to the Secretary of the Senate and the
26 Chief Clerk of the House of Representatives identical bills
27 embodying a plan of legislative and congressional districting
28 prepared in accordance with subsection (d). It is the intent of
29 this section that the General Assembly shall bring the bill to a
30 vote in either the Senate or the House of Representatives

expeditiously, but not less than seven days after the report of the commission required by subsection (f) is received and made available to the members of the General Assembly, under a procedure or rule permitting no amendments except those of a purely corrective nature. It is further the intent of this section that, if the bill is approved by the first House in which it is considered, it shall expeditiously be brought to a vote in the second House under a similar procedure or rule.

(2) If the bill embodying the plan submitted by the bureau under paragraph (1) fails to be approved by a constitutional majority in either the Senate or the House of Representatives, the Secretary of the Senate or the Chief Clerk of the House of Representatives, as the case may be, shall at once transmit to the bureau information which the Senate or House of Representatives may direct regarding reasons why the plan was not approved. The bureau shall prepare a bill embodying a second plan of legislative and congressional districting prepared in accordance with subsection (d) taking into account the reasons cited by the Senate or House of Representatives for its failure to approve the plan insofar as it is possible to do so within the requirements of subsection (d). If a second plan is required under this subsection, the bill embodying it shall be delivered to the Secretary of the Senate and the Chief Clerk of the House of Representatives not later than May 1 of the year ending in one or 14 days after the date of the vote by which the Senate or the House of Representatives fails to approve the bill submitted under paragraph (1), whichever date is later. It is the intent of this section that, if it is necessary to submit a bill under this paragraph, the bill be brought to a vote not less than seven days after the bill is printed and made available to the

members of the General Assembly, in the same manner as prescribed for the bill required under paragraph (1).

(3) If the bill embodying the plan submitted by the bureau under paragraph (2) fails to be approved by a constitutional majority in either the Senate or the House of Representatives, the same procedure as prescribed by paragraph (2) shall be followed. If a third plan is required under this subsection, the bill embodying it shall be delivered to the Secretary of the Senate and the Chief Clerk of the House of Representatives not later than June 1 of the year ending in one or 14 days after the date of the vote by which the Senate or the House of Representatives fails to approve the bill submitted under paragraph (2), whichever date is later. It is the intent of this section that, if it is necessary to submit a bill under this paragraph, the bill be brought to a vote within the same time period after its delivery to the Secretary of the Senate and the Chief Clerk of the House of Representatives as is prescribed for the bill submitted under paragraph (2), but shall be subject to amendment in the same manner as other bills.

(4) Notwithstanding paragraphs (1), (2) and (3):

(i) If population data from the Federal census which is sufficient to permit preparation of a congressional districting plan becomes available at an earlier time than the population data needed to permit preparation of a legislative districting plan in accordance with subsection (d), the bureau shall so inform the presiding officers of the Senate and House of Representatives. If the presiding officers so direct, the bureau shall prepare a separate bill establishing congressional districts and submit it separately from the bill establishing legislative districts. It is the intent of this section that the

General Assembly shall proceed to consider the congressional districting bill in substantially the manner prescribed by paragraphs (1), (2) and (3).

(ii) If the population data for legislative districting which the United States Census Bureau is required to provide this Commonwealth under 13 U.S.C. § 141 is not available to the Legislative and Congressional Reapportionment Bureau on or before February 1 of the year ending in one, the dates set forth in this section shall be extended by a number of days equal to the number of days after February 1 of the year ending in one that the Federal census population data for legislative districting becomes available.

(d) (1) Legislative and congressional districts shall be established on the basis of population.

(i) Senatorial and representative districts, respectively, shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of this Commonwealth reported in the Federal decennial census. Senatorial districts and representative districts shall not vary in population from the respective ideal district populations except as necessary to comply with one of the other standards enumerated in this section. In no case shall the quotient, obtained by dividing the total of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established, exceed 2.5% of the applicable ideal district population. No senatorial district shall have a population which exceeds that of any other senatorial district by more than 5%, and no representative district shall have a population which exceeds

1 that of any other representative district by more than 5%.

2 (ii) Congressional districts shall each have a population as
3 nearly equal as practicable to the ideal district population,
4 derived as prescribed in subparagraph (i). No congressional
5 district shall have a population which varies by more than 2.5%
6 from the applicable ideal district population.

7 (iii) If a challenge is filed with the Supreme Court
8 alleging excessive population variance among districts
9 established in a plan adopted by the General Assembly, the
10 General Assembly has the burden of justifying any variance in
11 excess of 2.5% between the population of a district and the
12 applicable ideal district population.

13 (2) To the extent consistent with paragraph (1), district
14 boundaries shall coincide with the boundaries of political
15 subdivisions of this Commonwealth. The number of counties and
16 cities divided among more than one district shall be as small as
17 possible. When there is a choice between dividing local
18 political subdivisions, the more populous subdivisions shall be
19 divided before the less populous, but this statement does not
20 apply to a legislative district boundary drawn along a county
21 line which passes through a city that lies in more than one
22 county.

23 (3) Districts shall be composed of convenient contiguous
24 territory. Areas which meet only at the points of adjoining
25 corners are not contiguous.

26 (4) It is preferable that districts be compact in form, but
27 the standards established by paragraphs (1), (2) and (3) take
28 precedence over compactness where a conflict arises between
29 compactness and these standards. In general, compact districts
30 are those which are square, rectangular or hexagonal in shape to

1 the extent permitted by natural or political boundaries.

2 (5) Districts should represent communities of interest as
3 reflected by common economic patterns of production and
4 consumption, school district boundaries, cultural activities,
5 self-identification, media coverage, and other relevant
6 demographic information.

7 (6) However, no district shall be drawn for the purpose of
8 favoring a political party, incumbent legislator or member of
9 Congress or other person or group. In establishing districts, no
10 use shall be made of any of the following data:

11 (i) Addresses of incumbent legislators or members of
12 Congress.

13 (ii) Political affiliations of registered voters.

14 (iii) Previous election results.

15 (7) Each bill embodying a plan drawn under this section
16 shall provide that any vacancy in the General Assembly for which
17 an individual takes office in the year ending in one, occurring
18 at a time which makes it necessary to fill the vacancy at a
19 special election held pursuant to section 629 of the act of June
20 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election
21 Code, shall be filled from the same district which elected the
22 senator or representative whose seat is vacant.

23 (8) Each bill embodying a plan drawn under this section
24 shall include provisions for election of senators to the General
25 Assemblies which take office in the years ending in three and
26 five, which shall be in conformity with section 16 of this
27 article.

28 (9) Each bill embodying a plan drawn under this section
29 shall provide that any aggrieved person may file an appeal from
30 the plan directly to the Supreme Court within 30 days after the

1 passage thereof. If the appellant establishes that the final
2 plan is contrary to law, the Supreme Court shall issue an order
3 remanding the plan to the bureau and directing the bureau to
4 reapportion the Commonwealth in a manner not inconsistent with
5 such order.

6 (e) (1) Not later than February 15 of each year ending in
7 one, a five-member temporary redistricting advisory commission
8 shall be established as provided by this section. The
9 commission's only functions shall be those prescribed by
10 subsection (f).

11 (i) Each of the four selecting authorities shall certify to
12 the chief election officer his appointment of a person to serve
13 on the commission. The certifications may be made at any time
14 after the four selecting authorities have been selected for the
15 General Assembly to take office in the year ending in one, even
16 though the terms of office of the selecting authorities have not
17 actually begun.

18 (ii) Within 30 days after the four selecting authorities
19 have certified their respective appointments to the commission,
20 but in no event later than February 15 of the year ending in
21 one, the four commission members so appointed shall select, by a
22 vote of at least three members, and certify to the chief
23 election officer the fifth commission member who shall serve as
24 chairperson.

25 (iii) A vacancy on the commission shall be filled by the
26 initial selecting authority within 15 days after the vacancy
27 occurs.

28 (iv) Members of the commission shall receive per diem travel
29 expenses and reimbursement for other necessary expenses incurred
30 in performing their duties under this section.

1 (2) No person shall be appointed to the commission who:

2 (i) Is not an eligible elector of this Commonwealth at the
3 time of selection.

4 (ii) Holds partisan public office or political party office.

5 (iii) Is a relative of or is employed by a member of the
6 General Assembly or of the United States Congress or is employed
7 directly by the General Assembly or by the United States
8 Congress.

9 (f) The functions of the commission shall be as follows:

10 (1) If, in preparation of plans as required by this section,
11 the bureau is confronted with the necessity to make any decision
12 for which no clearly applicable guideline is provided by
13 subsection (d), the bureau may submit a written request for
14 direction to the commission.

15 (2) Prior to delivering any plan and the bill embodying that
16 plan to the Secretary of the Senate and the Chief Clerk of the
17 House of Representatives in accordance with subsection (c), the
18 bureau shall provide to persons outside the bureau staff only
19 such information regarding the plan as may be required by
20 policies agreed upon by the commission. This paragraph does not
21 apply to population data furnished to the bureau by the United
22 States Bureau of the Census.

23 (3) Upon each delivery by the bureau to the General Assembly
24 of a bill embodying a plan, pursuant to subsection (c), the
25 commission shall at the earliest feasible time make available to
26 the public the following information:

27 (i) Copies of the bill delivered by the bureau to the
28 General Assembly.

29 (ii) Maps illustrating the plan.

30 (iii) A summary of the standards prescribed by subsection

1 (d) for development of the plan.

2 (iv) A statement of the population of each district included
3 in the plan and the relative deviation of each district
4 population from the ideal district population.

5 (4) Upon the delivery by the bureau to the General Assembly
6 of a bill embodying an initial plan, as required by subsection
7 (c)(1), the commission shall:

8 (i) As expeditiously as reasonably possible, schedule and
9 conduct at least three public hearings, in different geographic
10 regions of this Commonwealth, on the plan embodied in the bill
11 delivered by the bureau to the General Assembly.

12 (ii) Following the hearings, promptly prepare and submit to
13 the Secretary of the Senate and the Chief Clerk of the House of
14 Representatives a report summarizing information and testimony
15 received by the commission in the course of the hearings. The
16 commission's report shall include any comments and conclusions
17 which its members deem appropriate on the information and
18 testimony received at the hearings or otherwise presented to the
19 commission.

20 [(f)] (g) Any district which does not include the residence
21 from which a member of the Senate was elected whether or not
22 scheduled for election at the next general election shall elect
23 a Senator at such election.

24 [(g) The General Assembly shall appropriate sufficient funds
25 for the compensation and expenses of members and staff appointed
26 by the commission, and other necessary expenses. The members of
27 the commission shall be entitled to such compensation for their
28 services as the General Assembly from time to time shall
29 determine, but no part thereof shall be paid until a preliminary
30 plan is filed. If a preliminary plan is filed but the commission

1 fails to file a revised or final plan within the time
2 prescribed, the commission members shall forfeit all right to
3 compensation not paid.

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

9 (i) Any reapportionment plan filed by the commission, or
10 ordered or prepared by the Supreme Court upon the failure of the
11 commission to act, shall be published by the elections officer
12 once in at least one newspaper of general circulation in each
13 senatorial and representative district. The publication shall
14 contain a map of the Commonwealth showing the complete
15 reapportionment of the General Assembly by districts, and a map
16 showing the reapportionment districts in the area normally
17 served by the newspaper in which the publication is made. The
18 publication shall also state the population of the senatorial
19 and representative districts having the smallest and largest
20 population and the percentage variation of such districts from
21 the average population for senatorial and representative
22 districts.]

23 (h) All positions in the bureau shall be deemed to be
24 included in the list of positions set forth in section 3(d) of
25 the act of August 5, 1941 (P.L.752, No.286), known as the Civil
26 Service Act, and the provisions and benefits of the act shall be
27 applicable to the employees of and positions in the bureau.

28 (i) The bureau shall expire and its responsibilities shall
29 terminate not later than November 1 of each year ending in one
30 and shall be reconstituted on November 1 in the year of the next

1 Federal decennial census.

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

5 "Bureau." The Legislative and Congressional Reapportionment
6 Bureau.

7 "Chief election officer." The Secretary of the Commonwealth
8 or a designee.

9 "Commission." The temporary redistricting advisory
10 commission established pursuant to this section.

11 "Federal census." The decennial census required by Federal
12 law to be conducted by the United States Bureau of the Census in
13 every year ending in zero.

14 "Four selecting authorities."

15 (1) The Majority Leader of the Senate.

16 (2) The Minority Leader of the Senate.

17 (3) The Majority Leader of the House of Representatives.

18 (4) The Minority Leader of the House of Representatives.

19 "Partisan public office."

20 (1) An elective or appointive office in the executive or
21 legislative branch or in an independent establishment of the
22 Federal Government.

23 (2) An elective office in the executive or legislative
24 branch of the government of this Commonwealth or an office which
25 is filled by appointment.

26 (3) An office of a county, city or other political
27 subdivision of this Commonwealth which is filled by an election
28 process involving nomination and election of candidates on a
29 partisan basis.

30 "Plan." A plan for legislative and congressional

1 reapportionment drawn up pursuant to the requirements of this
2 section.

3 "Political party office." An elective office in the national
4 or State organization of a political party.

5 "Relative." An individual who is related to the person in
6 question as father, mother, son, daughter, brother, sister,
7 uncle, aunt, first cousin, nephew, niece, husband, wife,
8 grandfather, grandmother, father-in-law, mother-in-law, son-in-
9 law, daughter-in-law, brother-in-law, sister-in-law, stepfather,
10 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
11 brother or half sister.

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

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

1 requirements of and is in conformance with section 1 of Article
2 XI of the Constitution of Pennsylvania and which occurs at least
3 three months after the proposed constitutional amendment is
4 passed by the General Assembly.