

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2420

Session of
2008

INTRODUCED BY SAMUELSON, TANGRETTI, LEACH, BENNINGHOFF, JOSEPHS, McILVAINE SMITH, FREEMAN, CARROLL, BASTIAN, BEAR, BENNINGTON, BEYER, BOYD, BRENNAN, BROOKS, BUXTON, CALTAGIRONE, CLYMER, CONKLIN, COSTA, CREIGHTON, CUTLER, DALLY, DePASQUALE, DiGIROLAMO, EVERETT, FRANKEL, GALLOWAY, GEORGE, GERBER, GIBBONS, GOODMAN, GRELL, GRUCELA, HANNA, HARHART, HARPER, HORNAMAN, HUTCHINSON, KESSLER, KING, KORTZ, KULA, LENTZ, LEVDANSKY, MAHONEY, MANDERINO, MANN, MANTZ, MARSHALL, McILHATTAN, MELIO, MILNE, MURT, MUSTIO, NAILOR, NICKOL, O'NEILL, PASHINSKI, PAYTON, PEIFER, PETRI, PRESTON, QUINN, RAMALEY, READSHAW, ROAE, ROCK, RUBLEY, SCAVELLO, SCHRODER, SEIP, SHAPIRO, SHIMKUS, SIPTROTH, K. SMITH, M. SMITH, STEIL, SWANGER, R. TAYLOR, TRUE, VULAKOVICH, WAGNER, WALKO, WATSON, J. WHITE, WOJNAROSKI AND YUDICHAK, MAY 7, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 7, 2008

A JOINT RESOLUTION

1 Proposing integrated amendments to the Constitution of the
2 Commonwealth of Pennsylvania, further providing for
3 legislative and congressional reapportionment.

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

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

8 (1) That section 17 of Article II be repealed:

9 [§ 17. Legislative Reapportionment Commission.

10 (a) In each year following the year of the Federal decennial
11 census, a Legislative Reapportionment Commission shall be
12 constituted for the purpose of reapportioning the Commonwealth.

1 The commission shall act by a majority of its entire membership.

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

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

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

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

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

30 The commission shall have 30 days after filing the

1 preliminary plan to make corrections in the plan.

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

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

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

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

26 (g) The General Assembly shall appropriate sufficient funds
27 for the compensation and expenses of members and staff appointed
28 by the commission, and other necessary expenses. The members of
29 the commission shall be entitled to such compensation for their
30 services as the General Assembly from time to time shall

1 determine, but no part thereof shall be paid until a preliminary
2 plan is filed. If a preliminary plan is filed but the commission
3 fails to file a revised or final plan within the time
4 prescribed, the commission members shall forfeit all right to
5 compensation not paid.

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

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

25 (2) That Article II be amended by adding a section to read:
26 § 18. Legislative and congressional reapportionment.

27 (a) (1) In each year following the year of the Federal
28 decennial census, the Legislative Reference Bureau shall perform
29 such duties as specified in this section for the purpose of
30 reapportioning the Commonwealth.

1 (2) Unless otherwise directed by court order, legislative
2 and congressional reapportionment shall only be permitted once
3 in the decade following the Federal decennial census.

4 (b) (1) The bureau shall acquire appropriate information,
5 review and evaluate available facilities and develop programs
6 and procedures in preparation for drawing congressional and
7 legislative redistricting plans on the basis of each Federal
8 census.

9 (2) As soon as possible after January 1 of each year ending
10 in one, the bureau shall obtain from the United States Bureau of
11 the Census information regarding geographic and political units
12 in this Commonwealth for which Federal census population data
13 has been gathered and will be tabulated. The bureau shall use
14 the data obtained to prepare:

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

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

22 (iii) The population data needed for legislative districting
23 which the Census Bureau is required to provide this Commonwealth
24 under 13 U.S.C. § 141 (relating to population and other census
25 information) and shall use that data to assign a population
26 figure based upon census data to each geographic or political
27 unit described pursuant to paragraph (2)(i). Upon completing
28 that task, the bureau shall begin the preparation of
29 congressional and legislative districting plans as required by
30 subsection (c).

1 (3) All information collected under this section shall be
2 posted for public inspection as soon as it is available.

3 (c) (1) Not later than February 15 of each year ending in
4 one, a five-member temporary redistricting advisory commission
5 shall be established as provided under subsection (e). The
6 commission's only functions shall be those prescribed under
7 subsection (f). All commission meetings shall be advertised and
8 open to the public. All communications between the bureau and
9 the commission regarding a plan shall be in writing and part of
10 the public record.

11 (2) Not later than April 1 of each year ending in one, the
12 bureau shall deliver to the commission a preliminary plan of
13 legislative and congressional districting prepared in accordance
14 with subsection (d).

15 (3) Upon receipt of the preliminary plan the commission
16 shall:

17 (i) As expeditiously as reasonably possible but no later
18 than 30 days after receiving the preliminary plan, schedule and
19 conduct at least five public hearings on the plan in different
20 geographic regions of this Commonwealth.

21 (ii) Within ten days following completion of the hearings,
22 promptly prepare and submit to the Secretary of the Senate, the
23 Chief Clerk of the House of Representatives and the bureau a
24 report summarizing information and testimony received by the
25 commission in the course of the hearings. The commission's
26 report shall include any comments and conclusions which its
27 members deem appropriate on the information and testimony
28 received at the hearings or otherwise presented to the
29 commission.

30 (iii) The bureau shall have 30 days after receiving the

commission report to prepare a revised plan of legislative and congressional districting prepared in accordance with subsection (d) taking into account public comments on the preliminary plan insofar as it is possible to do so within the requirements of subsection (d) and deliver identical bills embodying the revised legislative district plan and identical bills embodying the revised congressional district plan to the commission, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(iv) The General Assembly shall bring the bills to a vote in both the Senate and the House of Representatives not less than seven days but no more than 20 days after the bills have been delivered in accordance with subparagraph (iii) under a procedure or rule permitting no amendments. 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 be brought to a vote in the second House within ten days under a similar procedure or rule.

(4) (i) If the bill embodying the revised 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 revised plan was not approved.

(ii) The bureau shall prepare a bill embodying a final 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

1 to approve the revised plan insofar as it is possible to do so
2 within the requirements of subsection (d). If a final plan is
3 required under this subsection, the bill embodying it shall be
4 delivered to the Secretary of the Senate and the Chief Clerk of
5 the House of Representatives no later than 14 days after the
6 date of the vote by which the Senate or the House of
7 Representatives fails to approve the bill submitted under
8 paragraph (1), whichever date is later.

9 (iii) It is the intent of this section that, if it is
10 necessary to submit a bill under this paragraph, the bill be
11 brought to a vote within the same time period after its delivery
12 to the Secretary of the Senate and the Chief Clerk of the House
13 of Representatives as is prescribed for the bill submitted under
14 paragraph (2), but shall not be subject to amendment in the same
15 manner as other bills.

16 (5) If either House fails to bring a bill embodying a final
17 plan to a vote within the prescribed time, the plan embodied in
18 that bill shall be the adopted plan. If a bill embodying a final
19 plan fails to receive a constitutional majority of either or
20 both Houses of the General Assembly, then the revised and final
21 plan shall be sent to the chief elections officer who shall
22 choose one of them by lot.

23 (6) Notwithstanding paragraphs (1), (2) and (3):

24 (i) If population data from the Federal census which is
25 sufficient to permit preparation of a congressional districting
26 plan becomes available at an earlier time than the population
27 data needed to permit preparation of a legislative districting
28 plan in accordance with subsection (d), the bureau shall so
29 inform the commission. If the commission so directs, the bureau
30 shall prepare a separate bill establishing congressional

districts and submit it separately from the bill establishing legislative districts.

(ii) It is the intent of this section that the General Assembly shall proceed to consider the congressional districting bill in the manner prescribed by paragraphs (1), (2) and (3).

(iii) 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 as follows:

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

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

(iii) If an action is filed with the Supreme Court under subsection (j) alleging excessive population variance among districts established in a plan adopted by the General Assembly, the General Assembly has the burden of justifying any variance in excess of the standards described in subparagraphs (i) and (ii).

(2) To the extent consistent with paragraph (1), district boundaries shall coincide with the boundaries of political subdivisions of this Commonwealth. The number of counties and cities divided among more than one district shall be as small as possible. With respect to any congressional or legislative plan, when there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this statement does not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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

(4) It is preferable that a district be compact in form with a compactness measurement of not less than 15% of the total ideal measurement for the district, but the standards

established by paragraphs (1), (2) and (3) take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular or hexagonal in shape to the extent permitted by natural or political boundaries.

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

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

(ii) Political affiliations of registered voters.

(iii) Previous election results.

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

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

(8) Each bill embodying a plan drawn under this section shall provide that any aggrieved person may file an appeal from the plan directly to the Supreme Court within 30 days after the passage thereof. If the appellant establishes that the final

plan is contrary to law, the Supreme Court shall issue an order remanding the plan to the bureau and directing the bureau to reapportion the Commonwealth in a manner not inconsistent with such order.

(e) (1) The members of the temporary redistricting advisory commission established in subsection (c)(1) shall be selected as follows:

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

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

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

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

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

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

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

2 (iii) Is a relative of or is employed by a member of the
3 General Assembly or of the United States Congress or is employed
4 directly by the General Assembly or by the United States
5 Congress.

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

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

12 (2) (i) Prior to delivering any plan and the bill embodying
13 that plan to the Secretary of the Senate and the Chief Clerk of
14 the House of Representatives in accordance with subsection (c),
15 the bureau shall provide to persons outside the bureau staff
16 only such information regarding the plan as may be required by
17 policies agreed upon by the commission.

18 (ii) This paragraph does not apply to data furnished to the
19 bureau by the United States Bureau of the Census.

20 (3) Upon each delivery by the bureau to the commission or
21 the General Assembly of a plan or bill embodying a plan,
22 pursuant to subsection (c), the commission shall at the earliest
23 feasible time make available to the public and post on the
24 Internet the following information:

25 (i) Copies of the bill delivered by the bureau to the
26 General Assembly.

27 (ii) Maps illustrating the plan.

28 (iii) A summary of the standards prescribed by subsection
29 (d) for development of the plan.

30 (iv) A statement of the population of each district included

in the plan and the relative deviation of each district population from the ideal district population.

(v) An explanation of any deviation from any standard specified in subsection (d)(1)(i) and (ii), along with any document used to support the deviation.

(g) Any district which 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 such election.

(h) The preliminary and adopted congressional and legislative redistricting plan shall be published by the chief elections officer once in at least one newspaper of general circulation in each congressional senatorial and representative district. The publication shall contain a map of the Commonwealth showing the complete reapportionment of the congressional and legislative districts, and a map showing the reapportionment districts in the area normally served by the newspaper in which the publication is made. The publication shall also state the population of the congressional senatorial and representative districts having the smallest and largest population and the percentage variation of such districts from the average population for congressional senatorial and representative districts.

(i) The commission shall expire and its responsibilities shall terminate when a redistricting plan is adopted and shall be reconstituted no later than February 15 in the year following the next Federal decennial census.

(j) (1) A party aggrieved by a final plan under this section may file an action in the Supreme Court for review of the final plan. The appeal must be filed within 30 days of the

1 adoption of the final plan.

2 (2) If the Supreme Court finds that the final plan is
3 unconstitutional, it shall order the bureau to make the
4 necessary revisions to the plan and to submit the plan with
5 revisions to the Supreme Court for approval.

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

9 "Bureau." The Legislative Reference Bureau.

10 "Chief election officer." The Secretary of the Commonwealth
11 or a designee.

12 "Commission." The temporary redistricting advisory
13 commission established pursuant to this section.

14 "Federal census." The decennial census required by Federal
15 law to be conducted by the United States Bureau of the Census in
16 every year ending in zero.

17 "Four selecting authorities."

18 (1) The Majority Leader of the Senate.

19 (2) The Minority Leader of the Senate.

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

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

22 "Partisan public office."

23 (1) An elective or appointive office in the executive or
24 legislative branch or in an independent establishment of the
25 Federal Government.

26 (2) An elective office in the executive or legislative
27 branch of the government of this Commonwealth or an office which
28 is filled by appointment.

29 (3) An office of a county, city or other political
30 subdivision of this Commonwealth which is filled by an election

1 process involving nomination and election of candidates on a
2 partisan basis.

3 "Plan." A plan for legislative and congressional
4 reapportionment drawn up pursuant to the requirements of this
5 section.

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

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

15 Section 2. (a) Upon the first passage by the General
16 Assembly of these proposed constitutional amendments, 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 these proposed constitutional amendments.

23 (b) Upon the second passage by the General Assembly of these
24 proposed constitutional amendments, 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 these proposed constitutional amendments. The Secretary of the

1 Commonwealth shall:

2 (1) Submit the proposed constitutional amendments under
3 section 1 to the qualified electors of this Commonwealth as a
4 single ballot question at the first primary, general or
5 municipal election which meets the requirements of and is in
6 conformance with section 1 of Article XI of the Constitution
7 of Pennsylvania and which occurs at least three months after
8 the proposed constitutional amendments are passed by the
9 General Assembly.

10 (2) Submit the proposed constitutional amendments under
11 section 1 to the qualified electors of this Commonwealth as
12 separate ballot questions at the first primary, general or
13 municipal election which meets the requirements of and is in
14 conformance with section 1 of Article XI of the Constitution
15 of Pennsylvania and which occurs at least three months after
16 the proposed constitutional amendments are passed by the
17 General Assembly.