
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 795 Session of
2009

INTRODUCED BY BOSCOLA, FONTANA, WASHINGTON, KITCHEN, FARNESE,
FOLMER, ERICKSON, BRUBAKER, STOUT, BAKER AND BROWNE,
MAY 1, 2009

REFERRED TO STATE GOVERNMENT, MAY 1, 2009

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

19 [The commission shall act by a majority of its entire

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

27 (2) By December 31 of each year ending in zero, the bureau
28 shall obtain from the United States Census Bureau information
29 regarding geographic and political units in this Commonwealth
30 for which Federal census population data has been gathered and

1 will be tabulated. The bureau shall use the data obtained to
2 prepare:

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

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

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

21 (c) (1) Not later than April 1 of each year ending in one,
22 the bureau shall deliver to the Secretary of the Senate and the
23 Chief Clerk of the House of Representatives identical bills
24 embodying a plan of legislative and congressional districting
25 prepared in accordance with subsection (d). It is the intent of
26 this section that the General Assembly shall bring the bill to a
27 vote in either the Senate or the House of Representatives
28 expeditiously, but not less than seven days after the report of
29 the commission required by subsection (f) is received and made
30 available to the members of the General Assembly, under a

1 procedure or rule permitting no amendments except those of a
2 purely corrective nature. It is further the intent of this
3 section that, if the bill is approved by the first House in
4 which it is considered, it shall expeditiously be brought to a
5 vote in the second House under a similar procedure or rule.

6 (2) If the bill embodying the plan submitted by the bureau
7 under paragraph (1) fails to be approved by a constitutional
8 majority in either the Senate or the House of Representatives,
9 the Secretary of the Senate or the Chief Clerk of the House of
10 Representatives, as the case may be, shall at once transmit to
11 the bureau information which the Senate or House of
12 Representatives may direct regarding reasons why the plan was
13 not approved. The bureau shall prepare a bill embodying a second
14 plan of legislative and congressional districting prepared in
15 accordance with subsection (d), taking into account the reasons
16 cited by the Senate or House of Representatives for its failure
17 to approve the plan insofar as it is possible to do so within
18 the requirements of subsection (d). If a second plan is required
19 under this subsection, the bill embodying it shall be delivered
20 to the Secretary of the Senate and the Chief Clerk of the House
21 of Representatives not later than May 1 of the year ending in
22 one or 14 days after the date of the vote by which the Senate or
23 the House of Representatives fails to approve the bill submitted
24 under paragraph (1), whichever date is later. It is the intent
25 of this section that, if it is necessary to submit a bill under
26 this subsection, the bill be brought to a vote not less than
27 seven days after the bill is printed and made available to the
28 members of the General Assembly, in the same manner as
29 prescribed for the bill required under paragraph (1).

30 (3) If the bill embodying the plan submitted by the bureau

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

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

18 (i) If population data from the Federal census which is
19 sufficient to permit preparation of a congressional districting
20 plan becomes available at an earlier time than the population
21 data needed to permit preparation of a legislative districting
22 plan in accordance with subsection (d), the bureau shall so
23 inform the presiding officers of the Senate and House of
24 Representatives. If the presiding officers so direct, the bureau
25 shall prepare a separate bill establishing congressional
26 districts and submit it separately from the bill establishing
27 legislative districts. It is the intent of this section that the
28 General Assembly shall proceed to consider the congressional
29 districting bill in substantially the manner prescribed by
30 paragraphs (1), (2) and (3).

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

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

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

29 (ii) Congressional districts shall each have a population as
30 nearly equal as practicable to the ideal district population,

1 derived as prescribed in subparagraph (i). No congressional
2 district shall have a population which varies by more than 2.5%
3 from the applicable ideal district population.

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

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

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

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

29 (5) Districts should represent communities of interest as
30 reflected by common economic patterns of production and

1 consumption, school district boundaries, cultural activities,
2 self-identification, media coverage and other relevant
3 demographic information.

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

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

10 (ii) Political affiliations of registered voters.

11 (iii) Previous election results.

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

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

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

30 (i) Each of the four selecting authorities shall certify to

1 the chief election officer his appointment of a person to serve
2 on the commission. The certifications may be made at any time
3 after the four selecting authorities have been selected for the
4 General Assembly to take office in the year ending in one, even
5 though the terms of office of the selecting authorities have not
6 actually begun.

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

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

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

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

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

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

24 (iii) Is a relative of or is employed by a member of the
25 General Assembly or of Congress or is employed directly by the
26 General Assembly or by Congress.

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

28 (1) If, in preparation of plans as required by this section,
29 the bureau is confronted with the necessity to make any decision
30 for which no clearly applicable guideline is provided by

1 subsection (d), the bureau may submit a written request for
2 direction to the commission.

3 (2) Prior to delivering any plan and the bill embodying that
4 plan to the Secretary of the Senate and the Chief Clerk of the
5 House of Representatives in accordance with subsection (c), the
6 bureau shall provide to persons outside the bureau staff only
7 such information regarding the plan as may be required by
8 policies agreed upon by the commission. This paragraph does not
9 apply to population data furnished to the bureau by the United
10 States Census Bureau.

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

15 (i) Copies of the bill delivered by the bureau to the
16 General Assembly.

17 (ii) Maps illustrating the plan.

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

20 (iv) A statement of the population of each district included
21 in the plan and the relative deviation of each district
22 population from the ideal district population.

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

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

30 (ii) Following the hearings, promptly prepare and submit to

1 the Secretary of the Senate and the Chief Clerk of the House of
2 Representatives a report summarizing information and testimony
3 received by the commission in the course of the hearings. The
4 commission's report shall include any comments and conclusions
5 which its members deem appropriate on the information and
6 testimony received at the hearings or otherwise presented to the
7 commission.

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

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

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

27 (i) Any reapportionment plan filed by the commission, or
28 ordered or prepared by the Supreme Court upon the failure of the
29 commission to act, shall be published by the elections officer
30 once in at least one newspaper of general circulation in each

1 senatorial and representative district. The publication shall
2 contain a map of the Commonwealth showing the complete
3 reapportionment of the General Assembly by districts, and a map
4 showing the reapportionment districts in the area normally
5 served by the newspaper in which the publication is made. The
6 publication shall also state the population of the senatorial
7 and representative districts having the smallest and largest
8 population and the percentage variation of such districts from
9 the average population for senatorial and representative
10 districts.]

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

16 (i) The bureau shall expire and its responsibilities shall
17 terminate not later than November 1 of each year ending in one
18 and shall be reconstituted on November 1 in the year of the next
19 Federal decennial census.

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

23 "Bureau." The Legislative and Congressional Reapportionment
24 Bureau.

25 "Chief election officer." The Secretary of the Commonwealth
26 or a designee.

27 "Commission." The temporary redistricting advisory
28 commission established under this section.

29 "Federal census." The decennial census required by Federal
30 law to be conducted by the United States Census Bureau in every

1 year ending in zero.

2 "Four selecting authorities."

3 (1) The Majority Leader of the Senate.

4 (2) The Minority Leader of the Senate.

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

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

7 "Partisan public office."

8 (1) An elective or appointive office in the executive or
9 legislative branch or in an independent establishment of the
10 Federal Government.

11 (2) An elective office in the executive or legislative
12 branch of the government of this Commonwealth or an office which
13 is filled by appointment.

14 (3) An office of a county, city or other political
15 subdivision of this Commonwealth which is filled by an election
16 process involving nomination and election of candidates on a
17 partisan basis.

18 "Plan." A plan for legislative and congressional
19 reapportionment drawn under the requirements of this section.

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

22 "Relative." An individual who is related to the person in
23 question as father, mother, son, daughter, brother, sister,
24 uncle, aunt, first cousin, nephew, niece, husband, wife,
25 grandfather, grandmother, father-in-law, mother-in-law, son-in-
26 law, daughter-in-law, brother-in-law, sister-in-law, stepfather,
27 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
28 brother or half sister.

29 Section 2. (a) Upon the first passage by the General
30 Assembly of this proposed constitutional amendment, the

1 Secretary of the Commonwealth shall proceed immediately to
2 comply with the advertising requirements of section 1 of Article
3 XI of the Constitution of Pennsylvania and shall transmit the
4 required advertisements to two newspapers in every county in
5 which such newspapers are published in sufficient time after
6 passage of this proposed constitutional amendment.

7 (b) Upon the second passage by the General Assembly of this
8 proposed constitutional amendment, the Secretary of the
9 Commonwealth shall proceed immediately to comply with the
10 advertising requirements of section 1 of Article XI of the
11 Constitution of Pennsylvania and shall transmit the required
12 advertisements to two newspapers in every county in which such
13 newspapers are published in sufficient time after passage of
14 this proposed constitutional amendment. The Secretary of the
15 Commonwealth shall submit this proposed constitutional amendment
16 to the qualified electors of this Commonwealth at the first
17 primary, general or municipal election which meets the
18 requirements of and is in conformance with section 1 of Article
19 XI of the Constitution of Pennsylvania and which occurs at least
20 three months after the proposed constitutional amendment is
21 passed by the General Assembly.