

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 361 Session of 2013

INTRODUCED BY BOSCOLA, FONTANA, BREWSTER, TEPLITZ, WASHINGTON,  
YUDICHAK, FARNESE, SMITH, FERLO, LEACH, WOZNIAK, SOLOBAY,  
BLAKE, VOGEL, FOLMER, BAKER AND EICHELBERGER,  
JANUARY 31, 2013

REFERRED TO STATE GOVERNMENT, JANUARY 31, 2013

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.

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

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

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

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

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

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

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

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

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

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

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

28 (2) By December 31 of each year ending in zero, the bureau  
29 shall obtain from the United States Census Bureau information  
30 regarding geographic and political units in this Commonwealth

1 for which Federal census population data has been gathered and  
2 will be tabulated. The bureau shall use the data obtained to  
3 prepare:

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

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

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

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

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

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

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

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

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

1 paragraphs (1), (2) and (3).

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

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

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

30 (ii) Congressional districts shall each have a population as

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

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

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

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

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

30 (5) Districts should represent communities of interest as



1 reflected by common economic patterns of production and  
2 consumption, school district boundaries, cultural activities,  
3 self-identification, media coverage and other relevant  
4 demographic information.

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

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

11 (ii) Political affiliations of registered voters.

12 (iii) Previous election results.

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) If, in preparation of plans as required by this section,  
30 the bureau is confronted with the necessity to make any decision

1 for which no clearly applicable guideline is provided by  
2 subsection (d), the bureau may submit a written request for  
3 direction to the commission.

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

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

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

18 (ii) Maps illustrating the plan.

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

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

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

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

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

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

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

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

28 (i) Any reapportionment plan filed by the commission, or  
29 ordered or prepared by the Supreme Court upon the failure of the  
30 commission to act, shall be published by the elections officer

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

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

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

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

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

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

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

30 "Federal census." The decennial census required by Federal

1 law to be conducted by the United States Census Bureau in every  
2 year ending in zero.

3 "Four selecting authorities."

4 (1) The Majority Leader of the Senate.

5 (2) The Minority Leader of the Senate.

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

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

8 "Partisan public office."

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

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

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

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

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

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

30 Section 2. (a) Upon the first passage by the General

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

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