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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 401 Session of  
2019

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INTRODUCED BY DALEY, FREEMAN, McCLINTON, SCHLOSSBERG, HILL-  
EVANS, WARREN, OTTEN, SAPPEY AND DeLUCA, FEBRUARY 6, 2019

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 6, 2019

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AN ACT

1 Providing for congressional redistricting plan; establishing the  
2 Congressional Redistricting Commission; and making an  
3 appropriation.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Congressional  
8 Redistricting Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Census." The Federal decennial census.

14 "Commission." The Congressional Redistricting Commission  
15 established under section 4. The term includes members and staff  
16 of the commission unless context indicates otherwise.

17 "District." A congressional district in the Commonwealth of  
18 Pennsylvania created under a plan.

1 "Immediate family." A parent, spouse, child or sibling.

2 "Member." A member of the Congressional Redistricting  
3 Commission.

4 "Plan." A plan for congressional districts in the  
5 Commonwealth of Pennsylvania drawn under this act.

6 "Redistricting." The process of redrawing the boundaries of  
7 congressional districts in this Commonwealth by the commission.

8 "Secretary." The Secretary of the Commonwealth of  
9 Pennsylvania.

10 "Supreme Court." The Supreme Court of Pennsylvania.  
11 Section 3. Redistricting.

12 (a) Timing.--Unless otherwise directed by a court order,  
13 redistricting shall be permitted only once in the decade  
14 following a census.

15 (b) Prohibited considerations.--The following shall apply:

16 (1) A district shall not be drawn for the purpose of  
17 favoring or discriminating against an incumbent, political  
18 candidate or political party.

19 (2) Information regarding the location of the residence  
20 of an individual shall not be used in the creation of a plan.

21 (3) No political or election data shall be utilized in  
22 the creation of any plan, however, the commission shall have  
23 the right to use the data to test the responsiveness of any  
24 created plan.

25 (4) Districts shall not be drawn with the intent or  
26 result of denying or abridging the equal opportunity of a  
27 racial or language minority to participate in the political  
28 process or diminish the ability of a racial or language  
29 minority to elect the representatives of the minority's  
30 choice.

1 Section 4. Congressional Redistricting Commission.

2 Not later than December 31 of each year ending in zero, the  
3 Congressional Redistricting Commission shall be established for  
4 the purpose of redistricting. The commission shall:

5 (1) conduct an open and transparent process enabling full  
6 public consideration of and comment on the drawing of  
7 district lines; and

8 (2) conduct itself with integrity and fairness.

9 Section 5. Commission composition, selection and  
10 qualifications.

11 (a) Composition.--The commission shall consist of the  
12 following members:

13 (1) five members who are registered with the largest  
14 political party in this Commonwealth based on registration;

15 (2) five members who are registered with the second-  
16 largest political party in this Commonwealth based on  
17 registration; and

18 (3) four members who are not registered with either of  
19 the two largest political parties in this Commonwealth based  
20 on registration.

21 (b) Qualifications.--In addition to any other qualification  
22 prescribed by law, each member shall be a voter who has:

23 (1) been continuously registered as a voter in this  
24 Commonwealth for 10 years and whose political affiliation has  
25 not changed in the three years immediately preceding the date  
26 of appointment to the commission;

27 (2) voted in two of the last three Statewide general  
28 elections immediately preceding the date of appointment to  
29 the commission;

30 (3) not held or does not have an immediate family member

1 who has held elective public office at the Federal, State or  
2 municipal level or Federal judicial office or State judicial  
3 office in this Commonwealth in the five years immediately  
4 preceding the date of appointment to the commission;

5 (4) not served or does not have an immediate family  
6 member who has served as a paid staff member or paid  
7 consultant to Congress, the General Assembly or staff  
8 appointed by the Governor in the five years immediately  
9 preceding the date of appointment to the commission;

10 (5) not registered or does not have an immediate family  
11 member who has registered as a Federal lobbyist or State  
12 lobbyist in this Commonwealth in the five years immediately  
13 preceding the date of appointment to the commission; and

14 (6) not been nominated or does not have an immediate  
15 family member who has been nominated as a candidate for  
16 elective office by a political party or political body or  
17 served or does not have a spouse who has served as a paid  
18 staff member or officer of a political party, political body,  
19 political committee or political action committee in the five  
20 years immediately preceding the date of appointment to the  
21 commission.

22 (c) Application and selection of members.--The following  
23 shall apply:

24 (1) An application to serve as a member shall be filed  
25 with the secretary, who shall develop the application, and  
26 shall indicate the applicant's qualifications as required  
27 under this section.

28 (2) The secretary shall verify the qualifications of  
29 each applicant. If the secretary finds that an applicant is  
30 not qualified, the secretary shall not include the

1 applicant's name in the pool of applicants.

2 (3) The secretary shall separate all qualified  
3 applicants into three groups consisting of those who are:

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

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

8 (iii) not registered with either of the two largest  
9 political parties in this Commonwealth based on  
10 registration.

11 (4) The secretary shall select, on a random basis, 40  
12 qualified applicants from each of the three groups provided  
13 under paragraph (3).

14 (5) The Majority Leader and Minority Leader of the  
15 Senate and the Majority Leader and Minority Leader of the  
16 House of Representatives may each strike up to two applicants  
17 from each group under paragraph (3). Each leader shall have  
18 no more than six strikes.

19 (6) After the legislative leaders have exercised the  
20 permitted strikes under paragraph (5), the secretary shall  
21 randomly select for appointment as members from the remaining  
22 applicants in each of the three groups of qualified  
23 applicants under paragraph (3). In addition to the  
24 qualification requirements provided under subsection (b),  
25 appointments from each group under this paragraph shall  
26 reasonably reflect the racial, geographic and gender  
27 diversity of this Commonwealth.

28 (d) Ethics.--65 Pa.C.S. Ch. 11 (relating to ethics standards  
29 and financial disclosure), known as the Public Official and  
30 Employee Ethics Act, shall apply to all members. A member shall

1 have a duty to complete and file financial disclosure reports  
2 prior to taking office and one year after leaving office.

3 (e) Expiration of office.--The term of office of each member  
4 expires upon the appointment of the first member of the  
5 succeeding commission.

6 (f) Removal from commission.--The following shall apply to  
7 the removal of a member and vacancies on the commission:

8 (1) A member who fails to attend more than two  
9 consecutive meetings at which a vote of the commission is  
10 scheduled shall be removed from the commission unless the  
11 member is absent due to death of an immediate family member,  
12 personal illness or illness of an immediate family member.

13 (2) A member who has been convicted, found guilty or  
14 pled guilty or nolo contendere to embezzlement of public  
15 money, bribery, perjury or other infamous crimes, whether or  
16 not sentence has been imposed, shall be removed from the  
17 commission.

18 (3) A vacancy in the commission shall be filled within  
19 14 days from the time the commission is notified of the  
20 vacancy in the same manner that the position was originally  
21 filled and using the same pool of applicants from which the  
22 vacating member was chosen. If none of those remaining  
23 applicants are available for service, the secretary shall  
24 fill the vacancy from a new pool of applicants created from  
25 the same voter registration category as the vacating member.

26 (g) Prohibition following service.--The following  
27 prohibitions shall apply:

28 (1) A member shall be ineligible to do the following for  
29 a period of three years beginning from the expiration of the  
30 term for which the member was appointed:

1           (i)    Serve as a paid staff member or paid consultant  
2 to Congress, the General Assembly or staff appointed by  
3 the Governor.

4           (ii)   Register as a lobbyist in this Commonwealth.

5           (iii)   Serve as a paid staff member or paid political  
6 consultant for a political party, political body,  
7 political committee or political action committee.

8           (2)    A member and the member's immediate family shall be  
9 ineligible to do the following for a period of five years  
10 beginning from the expiration of the term for which the  
11 member was appointed to the commission:

12           (i)    Hold an appointed position or elective public  
13 office at the Federal, State or local level in this  
14 Commonwealth.

15           (ii)   Be eligible for nomination as a candidate for  
16 elective office by a political party or political body.

17           (iii)   Hold office for a political party, political  
18 body, political committee or political action committee.

19           (h)    Chair.--One of the members shall be selected as chair by  
20 a vote of at least nine members.

21           (i)    Quorum.--Nine members shall constitute a quorum.

22           (j)    Votes required for passage.--Nine affirmative votes  
23 shall be required for any official action. The final plan must  
24 include at least one vote from a member of each of the two  
25 largest political parties in this Commonwealth based on  
26 registration and one vote from a member who is not registered  
27 with either of the two largest political parties.

28           (k)    Open meetings.--All commission meetings that achieve a  
29 quorum of members shall be open to the public.

30           (l)    Appropriation.--The General Assembly shall appropriate

1 sufficient money for the compensation and expenses of members  
2 and staff appointed by the commission and for other necessary  
3 expenses.

4 (m) Per diem.--In addition to necessary expenses, members  
5 shall receive a per diem for each day or part of a day spent  
6 performing official duties. The per diem shall be the most  
7 recent per diem rate for locations in this Commonwealth as  
8 established and published by the United States General Services  
9 Administration.

10 (n) Staff.--The Department of State shall provide staff as  
11 needed to support the commission in the performance of the  
12 commission's duties.

13 Section 6. Redistricting.

14 (a) Preparation.--To begin the process of preparing  
15 information necessary for redistricting, the commission shall:

16 (1) acquire all necessary and appropriate information,  
17 review and evaluate available facilities and develop programs  
18 and procedures that may include the use of software in  
19 preparation for plans on the basis of each census; and

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



1           (i) necessary descriptions of census blocks,  
2           election districts, wards, municipalities and counties  
3           for which census data is reported and that are suitable  
4           for use as components of districts; and

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

9           (b) Public information.--The commission shall promptly make  
10          the information obtained under subsection (a)(1) available to  
11          the public on a publicly accessible Internet website established  
12          by the commission in a manner prescribed by law.

13          (c) Public hearings.--The commission shall hold the  
14          following hearings:

15               (1) No later than 30 days prior to the deadline for  
16               approval of a preliminary plan under subsection (d), the  
17               commission shall hold at least five public hearings in  
18               different geographic regions of this Commonwealth, including  
19               one in each of the two largest cities based on total  
20               population size.

21               (2) No later than 30 days following the deadline for  
22               approval of a preliminary plan under subsection (d), the  
23               commission shall hold at least five public hearings in  
24               different geographic regions of this Commonwealth, including  
25               one in each of the two largest cities based on total  
26               population size.

27          (d) Preliminary plan.--No later than July 1 of each year  
28          ending in one, the commission shall complete and approve a  
29          preliminary plan and maps as required under this section. The  
30          commission shall make the preliminary plan and maps available to

1 the public in a manner prescribed by law.

2 (e) Final plan.--The commission shall approve a final plan  
3 no later than August 15 of each year ending in one. Upon  
4 approval, the commission shall certify the resulting plan to the  
5 secretary, and that plan shall constitute the certified final  
6 plan.

7 (f) Failure to approve plan.--The following shall apply:

8 (1) If the commission fails to approve a final plan  
9 under subsection (e), the following shall apply:

10 (i) No later than September 1 of each year ending in  
11 one, the commission shall complete and approve a second  
12 preliminary plan and maps and make the second preliminary  
13 plan and maps available to the public in a manner  
14 prescribed by law.

15 (ii) Within 30 days following the deadline for  
16 approval of the second preliminary plan under  
17 subparagraph (i), the commission shall schedule and  
18 conduct at least five public hearings in different  
19 geographic regions of this Commonwealth, including one in  
20 each of the two largest cities based on total population  
21 size.

22 (iii) No later than October 15 of each year ending  
23 in one, the commission shall approve a final plan. Upon  
24 approval, the commission shall certify the resulting plan  
25 to the secretary, and that plan shall constitute the  
26 certified final plan.

27 (2) If the commission does not complete and approve a  
28 final plan under paragraph (1), the secretary shall, within  
29 seven business days of October 16th, petition the Supreme  
30 Court for an order directing the appointment of a special

1 master to develop and complete a final plan in accordance  
2 with the criteria and requirements provided under section 7.

3 (3) The Supreme Court and the special master shall  
4 receive and consider all data and public testimony submitted  
5 to and used by the commission.

6 (4) The special master must demonstrate expertise in  
7 geographic information systems by:

8 (i) holding a graduate degree in geographic  
9 information systems;

10 (ii) currently serving as a faculty member for a  
11 geographic information systems program at an institution  
12 of higher learning located within this Commonwealth; and

13 (iii) meeting the qualifications and restrictions  
14 under section 5(b) and (g).

15 (5) Upon the Supreme Court's approval of the master's  
16 plan, the court shall certify the resulting plan to the  
17 secretary, and that plan shall constitute the certified final  
18 plan.

19 (g) Legal standing.--The commission has the sole legal  
20 standing to defend an action against a certified final plan.

21 (h) Jurisdiction.--The Supreme Court has original and  
22 exclusive jurisdiction in all proceedings in which a certified  
23 final plan is challenged or is claimed not to have taken timely  
24 effect.

25 (i) Petition.--An aggrieved individual who is a registered  
26 voter in this Commonwealth may file a petition with the Supreme  
27 Court within 30 days after the commission has certified a final  
28 plan to the secretary to bar implementation of the plan on the  
29 grounds that the filed plan violates the Constitution of the  
30 United States, the Constitution of Pennsylvania or any Federal

1 or State statute.

2 (j) Use of plan.--Upon the filing of all plans required  
3 under this section and the exhaustion of all appeals of a plan,  
4 the final plan shall have the force of law and the districts  
5 provided in the plan shall be used in elections to the United  
6 States Congress until the next redistricting as required under  
7 this act.

8 (k) Inadequate funding.--The commission shall inform the  
9 General Assembly if the commission determines that money or  
10 other resources provided for the operation of the commission are  
11 not adequate.

12 Section 7. Redistricting standards.

13 (a) General rule.--Districts shall comply with the  
14 applicable Federal voting rights laws.

15 (b) Population equality.--Each district shall have a  
16 population that deviates no more than 1% from the average  
17 population of all districts.

18 (c) District boundaries.--

19 (1) The area of each district shall be contiguous. A  
20 district with areas that meet only at points of adjoining  
21 corners is not contiguous.

22 (2) An election district must be wholly within a single  
23 district.

24 (3) District boundaries shall coincide with the  
25 boundaries of political subdivisions of this Commonwealth to  
26 the extent practicable.

27 (d) Communities of interest.--The commission shall respect  
28 the boundaries of communities of interest, including, but not  
29 limited to, contiguous populations that share common social and  
30 economic interests, language or cultural characteristics to the

1 extent practicable to help ensure the opportunity for voters to  
2 elect a chosen candidate.

3 (e) Compactness.--The commission shall adopt a compactness  
4 measurement, which shall be utilized for determining  
5 compactness. The standards established under subsections (a) and  
6 (b) shall take precedence over compactness where a conflict  
7 arises between compactness and standards required under this  
8 act.

9 Section 8. Resident plans.

10 (a) Public submission.--Any resident of this Commonwealth  
11 may submit a notarized congressional redistricting plan to the  
12 commission, which must give the plan due consideration. The  
13 commission must provide a convenient and timely electronic  
14 method for plan submissions.

15 (b) Public availability.--The commission shall make all  
16 resident-generated maps and associated commentaries available  
17 electronically to the public.

18 Section 9. Public information and confirmations.

19 (a) Open meetings.--All proceedings related to the  
20 redistricting under this act shall comply with 65 Pa.C.S. Ch. 7  
21 (relating to open meetings) and the act of February 14, 2008  
22 (P.L.6, No.3), known as the Right-to-Know Law.

23 (b) Public comments.--The commission shall develop a system  
24 for receiving written comments from the public, including all  
25 electronic mail formats. This information shall be reviewed by  
26 the commission and given consideration equal to consideration  
27 given to the testimony of those who have appeared before the  
28 commission.

29 (c) Publicly available information.--The commission shall:

30 (1) develop a publicly accessible Internet website to

1 disseminate information received or developed by the  
2 commission; and

3 (2) within 48 hours of receipt or development of  
4 information, post on the website developed under paragraph  
5 (1) information including, but not limited to, the following:

6 (i) Data intended for use in drafting a plan, the  
7 preliminary plan or any revised plan.

8 (ii) Access to software that can be used to prepare  
9 resident plans.

10 (iii) Plans submitted by residents under section  
11 8(a) that comply with standards outlined in section 7.

12 (iv) Notice of commission meetings and public  
13 hearings.

14 (v) Transcripts of testimony presented at public  
15 meetings.

16 (vi) Any written testimony.

17 (vii) All written communications between the  
18 commission and other persons concerning a plan.

19 (viii) The preliminary and final plan.

20 (ix) A detailed explanation of the differences  
21 between the preliminary and final plan.

22 Section 10. Appeals.

23 (a) General rule.--A resident of this Commonwealth has  
24 standing to file suit for violations of this act.

25 (b) Public information.--All official documents relating to  
26 any appeals of the final plan shall be posted on the  
27 commission's publicly accessible Internet website.

28 Section 11. Advertising.

29 The final plan shall be advertised in the newspaper with the  
30 largest circulation in each county and posted on the

1 commission's publicly accessible Internet website in various  
2 formats. The website shall demonstrate how:

3 (1) district boundaries of the proposed and final plans  
4 overlay with the county and municipal boundaries;

5 (2) the proposed and final plans compare with existing  
6 and prior plans approved by the commission; and

7 (3) the districts comply with all other standards in  
8 section 7.

9 Section 12. Prohibited activities.

10 No person shall attempt to influence the commission except  
11 through testimony at a public hearing or by written document  
12 submitted to the commission.

13 Section 13. Penalties.

14 The following penalties shall apply:

15 (1) Violation of section 5(b) or (g) shall result in the  
16 immediate removal of the member.

17 (2) Violation of section 7 shall be grounds for  
18 declaring the map unconstitutional.

19 (3) Violation of section 8, 9 or 11 shall result in a  
20 penalty as prescribed under 65 Pa.C.S. § 714 (relating to  
21 penalty) and section 1305 of the act of February 14, 2008  
22 (P.L.6, No.3), known as the Right-to-Know Law.

23 (4) Violation of section 14 shall result in a penalty as  
24 prescribed under 65 Pa.C.S. § 13A07(f) (relating to  
25 prohibited activities) and, if committed by an elected or  
26 appointed public official, shall be grounds for removal from  
27 office.

28 Section 14. Severability.

29 If any provision of this act or application of the act is  
30 found to be unconstitutional, the remaining provisions or

1 applications of the act shall continue in force as law.

2 Section 15. Effective date.

3 This act shall take effect in 60 days.