

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 122 Session of
2019

INTRODUCED BY BOSCOLA, COSTA, FONTANA, FARNESE, BLAKE, SCHWANK,
BROWNE, HAYWOOD, YUDICHAK AND SCAVELLO, SEPTEMBER 23, 2019

REFERRED TO STATE GOVERNMENT, SEPTEMBER 23, 2019

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, further providing for the Legislative
3 Reapportionment Commission for the purpose of reapportioning
4 and redistricting the Commonwealth of Pennsylvania.

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

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

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

10 § 17. Legislative [Reapportionment] and Congressional
11 Redistricting Commission.

12 (a) [In each year following the year of the Federal
13 decennial census] Not later than December 31 of each year ending
14 in zero, a Legislative [Reapportionment] and Congressional
15 Redistricting Commission shall be constituted for the purpose of
16 [reapportioning] redistricting the Commonwealth. The commission
17 shall [act by a majority of its entire membership.]:

18 (1) Conduct an open and transparent process enabling full

1 public consideration of and comment on the drawing of district
2 lines.

3 (2) Draw district lines according to the redistricting
4 criteria specified in this section.

5 (3) Conduct itself with integrity and fairness.

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

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

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

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

29 (c) No later than 90 days after either the commission has
30 been duly certified or the population data for the Commonwealth

1 as determined by the Federal census are available, whichever is
2 later in time, the commission shall file a preliminary
3 reapportionment plan with such elections officer.

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

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

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

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

26 (f) Any district which does not include the residence from
27 which a member of the Senate was elected whether or not
28 scheduled for election at the next general election shall elect
29 a Senator at such election.

30 (g) The General Assembly shall appropriate sufficient funds

1 for the compensation and expenses of members and staff appointed
2 by the commission, and other necessary expenses. The members of
3 the commission shall be entitled to such compensation for their
4 services as the General Assembly from time to time shall
5 determine, but no part thereof shall be paid until a preliminary
6 plan is filed. If a preliminary plan is filed but the commission
7 fails to file a revised or final plan within the time
8 prescribed, the commission members shall forfeit all right to
9 compensation not paid.

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

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

29 (b) The commission shall consist of 11 members, as follows:
30 four who are registered with the largest political party in this

1 Commonwealth based on registration, four who are registered with
2 the second-largest political party in this Commonwealth based on
3 registration and three who are not registered with either of the
4 two largest political parties in this Commonwealth based on
5 registration.

6 (c) The General Assembly shall prescribe by law the
7 qualification to serve as a commission member. Each commission
8 member shall possess all of the following qualifications, in
9 addition to any qualifications prescribed by law:

10 (1) Be a voter who has been continuously registered in this
11 Commonwealth with the same political party or unaffiliated with
12 a political party or political body and whose political
13 affiliation has not changed in the three years immediately
14 preceding the date of appointment to the commission.

15 (2) Has voted in two of the last three Statewide general
16 elections immediately preceding the date of appointment to the
17 commission.

18 (3) Has not held or does not have an immediate family member
19 who has held elective public office at the Federal or State
20 level or elective judicial office in this Commonwealth in the
21 five years immediately preceding the date of appointment to the
22 commission.

23 (4) Has not served or does not have a spouse who has served
24 as a paid staff member or paid consultant to Congress, the
25 General Assembly or staff appointed by the Governor in the five
26 years immediately preceding the date of appointment to the
27 commission.

28 (5) Has not registered or does not have a spouse who has
29 registered as a Federal or State lobbyist in this Commonwealth
30 in the five years immediately preceding the date of appointment

1 to the commission.

2 (6) Has not been nominated or does not have a spouse who has
3 been nominated as a candidate for elective office by a political
4 party or political body or served or does not have a spouse who
5 has served as a paid staff member or officer of a political
6 party, political body, political committee or political action
7 committee in the five years immediately preceding the date of
8 appointment to the commission.

9 (d) Application and selection of the members of the
10 commission shall be subject to the following:

11 (1) Application to serve as a member of the commission may
12 be filed with, and on a form developed by, the Secretary of the
13 Commonwealth indicating thereon evidence of his or her
14 qualifications as provided by this section.

15 (2) The Secretary of the Commonwealth shall verify the
16 qualifications of each applicant. If the Secretary of the
17 Commonwealth finds that an applicant is not qualified, the
18 Secretary of the Commonwealth shall not include the applicant's
19 name in the pool of applicants.

20 (3) The Secretary of the Commonwealth shall separate all
21 qualified applicants into three subpools consisting of those who
22 are:

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

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

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

29 (4) The Secretary of the Commonwealth shall select, on a
30 random basis, 40 qualified applicants from each of the three

1 subpools provided in paragraph (3). The Majority Leader and
2 Minority Leader of the Senate and the Majority Leader and
3 Minority Leader of the House of Representatives may each strike
4 up to two applicants from each subpool. Each leader shall have
5 no more than six strikes.

6 (5) After the legislative leaders have exercised their
7 strikes under paragraph (4), the Secretary of the Commonwealth
8 shall select for appointment as members of the commission on a
9 random basis from the remaining applicants in each of the three
10 subpools of qualified applicants. In addition to the
11 qualification requirements provided in subsection (c),
12 appointments from each subpool shall reasonably reflect the
13 racial, geographic and gender diversity of this Commonwealth.

14 (6) One of the members shall be selected as chair by a vote
15 of at least six members of the commission.

16 (e) The term of office of each member of the commission
17 shall expire at the same time the commission expires as provided
18 under this section.

19 (f) Removal of a member and vacancies on the commission
20 shall be subject to the following:

21 (1) If a member of the commission fails to attend more than
22 two consecutive meetings at which a vote of the commission is
23 scheduled, the member's position shall be deemed vacant unless
24 the member is absent due to death of an immediate family member,
25 personal illness or illness of an immediate family member.

26 (2) If a member of the commission has been convicted, found
27 guilty or pled guilty or nolo contendere to embezzlement of
28 public money, bribery, perjury or other infamous crime, whether
29 or not sentence has been imposed, the member's position shall be
30 deemed vacant.

1 (3) A vacancy in the commission shall be filled within 14
2 days from the time the commission is notified of the vacancy in
3 the same manner that the position was originally filled and
4 using the same pool of applicants from which the vacating member
5 was chosen. If none of those remaining applicants are available
6 for service, the Secretary of the Commonwealth shall fill the
7 vacancy from a new pool of applicants created from the same
8 voter registration category as the vacating member.

9 (g) A member shall be ineligible to do the following for a
10 period of three years beginning from the expiration of the term
11 for which the member was appointed to the commission:

12 (1) Serve as a paid staff member or paid consultant to
13 Congress, the General Assembly or staff appointed by the
14 Governor.

15 (2) Register as a Federal or State lobbyist in this
16 Commonwealth.

17 (3) Serve as a paid staff member or paid political
18 consultant for a political party, political body, political
19 committee or political action committee.

20 (h) A member and the member's spouse shall be ineligible to
21 do the following for a period of five years beginning from the
22 expiration of the term for which the member was appointed to the
23 commission:

24 (1) Hold an appointed position or elective public office at
25 the Federal or State level in this Commonwealth.

26 (2) Be eligible for nomination as a candidate for elective
27 office by a political party or political body.

28 (3) Hold office for a political party, political body,
29 political committee or political action committee.

30 (i) Seven members of the commission shall constitute a

1 quorum. Seven or more affirmative votes shall be required for
2 any official action. The final redistricting plan must be
3 approved by at least seven affirmative votes that must include
4 at least one vote of a member registered from each of the two
5 largest political parties in this Commonwealth based on
6 registration and one vote from a member who is not registered
7 with either of the two largest political parties.

8 (j) To begin the process of preparing information necessary
9 to the redistricting process, the commission shall:

10 (1) Acquire all necessary and appropriate information,
11 review and evaluate available facilities and develop programs
12 and procedures, that may include the use of software, in
13 preparation for drawing congressional and legislative
14 redistricting plans on the basis of each Federal census. The
15 commission shall make the information available to the public in
16 a manner prescribed by law.

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

29 (i) Necessary descriptions of census blocks, voting
30 districts, wards, municipalities and counties that census data

1 will be reported and that are suitable for use as components of
2 districts.

3 (ii) Maps of census blocks, voting districts, wards,
4 municipalities and counties within this Commonwealth, that may
5 be used to illustrate the locations of district boundaries
6 proposed in plans.

7 (3) In establishing districts, the commission shall not
8 consider the following data:

9 (i) Addresses of any individual.

10 (ii) Political affiliations of registered voters.

11 (iii) Previous election results, unless required by Federal
12 or State law.

13 (k) The commission shall establish congressional and
14 legislative districts pursuant to a mapping process in
15 accordance with Federal or State law.

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

23 (m) The commission, within 30 days prior to the deadline for
24 approval of a preliminary plan as provided under subsection (n)
25 (1), shall schedule and conduct at least four public hearings in
26 different geographic regions of this Commonwealth.

27 (m.1) All commission meetings that are attended or
28 participated in by a quorum of the members of the commission
29 held for the purpose of deliberating official business of taking
30 official action shall be open to the public.

1 (n) (1) Not later than July 1 of each year ending in one,
2 the commission shall complete and approve a preliminary
3 redistricting plan and maps as required under this section and
4 make the preliminary plan and maps available to the public in a
5 manner prescribed by law.

6 (2) The commission, within 30 days following the deadline
7 for approval of a preliminary plan as provided under paragraph
8 (1), shall schedule and conduct at least four public hearings,
9 in different geographic regions of this Commonwealth, on the
10 preliminary plan.

11 (3) Not later than August 15 of each year ending in one, the
12 commission shall approve a final redistricting plan. Upon
13 approval, the commission shall certify the resulting plan to the
14 Secretary of the Commonwealth, and that plan shall constitute
15 the certified final plan.

16 (4) If the commission fails to approve a final plan in
17 accordance with paragraph (3), the following shall apply:

18 (i) Not later than September 1 of each year ending in one,
19 the commission shall complete and approve a second preliminary
20 redistricting plan and maps prepared in accordance with
21 subsections (j) and (k) and make the second preliminary plan and
22 maps available to the public in a manner prescribed by law.

23 (ii) Within 30 days following the deadline for approval of
24 the second preliminary plan as provided under subparagraph (i),
25 the commission shall schedule and conduct at least four public
26 hearings, in different geographic regions of this Commonwealth,
27 on the second preliminary plan.

28 (iii) Not later than October 15 of each year ending in one,
29 the commission shall approve a final redistricting plan. Upon
30 approval, the commission shall certify the resulting plan to the

1 Secretary of the Commonwealth, and that plan shall constitute
2 the certified final plan.

3 (o) If the commission does not complete and approve a final
4 redistricting plan by October 16 of each year ending in one, the
5 Secretary of the Commonwealth shall immediately petition the
6 Supreme Court for an order directing the appointment of a
7 special master to develop and complete a final redistricting
8 plan in accordance with the criteria and requirements provided
9 in subsections (j) and (k). The special master must demonstrate
10 expertise in geographic information systems by holding a
11 graduate degree in geographic information systems and currently
12 serving as a faculty member for a geographic information systems
13 program at an institution of higher learning located within this
14 Commonwealth and must meet the qualifications in subsection (c)
15 and be bound by the restrictions in subsections (g) and (h).
16 Upon the Supreme Court's approval of the master's plan, the
17 court shall certify the resulting plan to the Secretary of the
18 Commonwealth, and that plan shall constitute the certified final
19 plan.

20 (p) The commission has the sole legal standing to defend an
21 action regarding a certified final plan and shall inform the
22 General Assembly if it determines that funds or other resources
23 provided for the operation of the commission are not adequate.

24 (q) (1) The Supreme Court has original and exclusive
25 jurisdiction in all proceedings that a certified final plan is
26 challenged or is claimed not to have taken timely effect.

27 (2) An aggrieved person who is a registered voter in this
28 Commonwealth may file a petition with the Supreme Court within
29 30 days after the commission has certified a final plan to the
30 Secretary of the Commonwealth to bar the Secretary of the

1 Commonwealth from implementing the plan on the grounds that the
2 filed plan violates the Constitution of the United States, the
3 Constitution of Pennsylvania or any Federal or State statute.

4 (r) The Department of State shall provide staff as needed to
5 support the commission in the performance of its duties.

6 (s) Upon the filing of all redistricting plans required
7 under this section and the exhaustion of all appeals of a
8 redistricting plan:

9 (1) the commission shall expire and the commission's
10 responsibilities shall terminate; and

11 (2) the final plan shall have the force of law and the
12 districts provided in the plan shall be used thereafter in
13 elections to the General Assembly until the next redistricting
14 as required under this section.

15 (t) The General Assembly shall appropriate sufficient funds
16 for the compensation and expenses of members and staff appointed
17 by the commission and for other necessary expenses. In addition
18 to necessary expenses, the members of the commission shall
19 receive a per diem for each day or part of a day spent
20 performing their official duties. The per diem shall be the most
21 recent per diem rate for locations in this Commonwealth as
22 established and published by the United States General Services
23 Administration.

24 (u) A district that does not include the residence that a
25 member of the Senate was elected whether or not scheduled for
26 election at the next general election shall elect a Senator at
27 the election.

28 (v) The following words and phrases when used in this
29 section shall have the meanings given to them in this subsection
30 unless the context clearly indicates otherwise:

1 "Commission." The Legislative and Congressional
2 Redistricting Commission.

3 "Community of interest." A contiguous population that shares
4 common social and economic interests that should be included
5 within a single district for purposes of its effective and fair
6 representation. It shall not include relationships with
7 political parties, incumbents or political candidates.

8 "Federal census." The decennial census required by Federal
9 law to be conducted by the United States Census Bureau in every
10 year ending in zero.

11 "Immediate family." A parent, spouse, child, brother or
12 sister.

13 "Member." A member of the Legislative and Congressional
14 Redistricting Commission.

15 "Plan." A plan for legislative and congressional
16 redistricting drawn under the requirements of this section.

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

25 (b) Upon the second passage by the General Assembly of this
26 proposed constitutional amendment, the Secretary of the
27 Commonwealth shall proceed immediately to comply with the
28 advertising requirements of section 1 of Article XI of the
29 Constitution of Pennsylvania and shall transmit the required
30 advertisements to two newspapers in every county in which such

1 newspapers are published in sufficient time after passage of
2 this proposed constitutional amendment. The Secretary of the
3 Commonwealth shall submit this proposed constitutional amendment
4 to the qualified electors of this Commonwealth at the first
5 primary, general or municipal election which meets the
6 requirements of and is in conformance with section 1 of Article
7 XI of the Constitution of Pennsylvania and which occurs at least
8 three months after the proposed constitutional amendment is
9 passed by the General Assembly.