

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Jan 10, 2018
S.B. 702
PRINCIPAL CLERK

S

D

SENATE BILL DRS45512-MT-144 (01/08)

Short Title: Independent Redistricting Commission. (Public)

Sponsors: Senators Smith, Clark, and J. Jackson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO ESTABLISH AN
3 INDEPENDENT REDISTRICTING COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Effective beginning with the redistricting done upon the return of the
6 2020 decennial census, Section 3 of Article II of the North Carolina Constitution reads as
7 rewritten:

8 "**Sec. 3. Senate districts; apportionment of Senators.**

9 The Senators shall be elected from districts. ~~The General Assembly, at the first regular~~
10 ~~session convening~~ The Independent Redistricting Commission, beginning as soon as practical
11 after the return of every decennial census of population taken by order of Congress, shall revise
12 the senate districts and the apportionment of Senators among those districts, ~~subject to the~~
13 ~~following requirements;~~ so that, to the extent possible, those districts meet the following goals:

14 (1) ~~Each Senator shall represent, as nearly as may be, an equal number of inhabitants,~~
15 ~~the number of inhabitants that each Senator represents being determined for this purpose by~~
16 ~~dividing the population of the District that he represents by the number of Senators apportioned~~
17 ~~to that district;~~ The goal of compactness, to avoid elongated and irregularly shaped districts.

18 (2) ~~Each senate district shall at all times consist of contiguous territory;~~ The goal of one
19 person, one vote to ensure each voter's vote.

20 (3) ~~No county shall be divided in the formation of a senate district;~~ The goal of
21 minimizing the number of split counties, municipalities, and other communities of interest.

22 Precincts shall not be split in the preparation of a plan for State Senate districts. All districts
23 shall be contiguous.

24 (4) When established, the senate districts and the apportionment of Senators shall
25 remain unaltered until the return of another decennial census of population taken by order of
26 Congress.

27 The Independent Redistricting Commission shall present three plans to the General
28 Assembly, which may enact one of the plans. If the General Assembly fails to enact one of the
29 plans within 120 days of receipt, the Independent Redistricting Commission shall adopt one of
30 the plans the Commission submitted to the General Assembly, which shall have the force and
31 effect of acts of the General Assembly."

32 **SECTION 2.** Effective beginning with the redistricting done upon the return of the
33 2020 decennial census, Section 5 of Article II of the North Carolina Constitution reads as
34 rewritten:

35 "**Sec. 5. Representative districts; apportionment of Representatives.**



* D R S 4 5 5 1 2 - M T - 1 4 4 *

1 The Representatives shall be elected from districts. ~~The General Assembly, at the first~~
2 ~~regular session convening~~ The Independent Redistricting Commission, as soon as practical
3 after the return of every decennial census of population taken by order of Congress, shall revise
4 the representative districts and the apportionment of Representatives among those districts,
5 ~~subject to the following requirements:~~so that, to the extent possible, those districts meet the
6 following goals:

7 (1) ~~Each Representative shall represent, as nearly as may be, an equal number of~~
8 ~~inhabitants, the number of inhabitants that each Representative represents being determined for~~
9 ~~this purpose by dividing the population of the district that he represents by the number of~~
10 ~~Representatives apportioned to that district;~~The goal of compactness, to avoid elongated and
11 irregularly shaped districts.

12 (2) ~~Each representative district shall at all times consist of contiguous territory;~~The goal
13 of one person, one vote to ensure each voter's vote.

14 (3) ~~No county shall be divided in the formation of a representative district;~~The goal of
15 minimizing the number of split counties, municipalities, and other communities of interest.

16 Precincts shall not be split in the preparation of a plan for State House of Representatives
17 districts. All districts shall be contiguous.

18 (4) When established, the representative districts and the apportionment of
19 Representatives shall remain unaltered until the return of another decennial census of
20 population taken by order of Congress.

21 The Independent Redistricting Commission shall present three plans to the General
22 Assembly, which may enact one of the plans. If the General Assembly fails to enact one of the
23 plans within 120 days of receipt, the Independent Redistricting Commission shall adopt one of
24 the plans the Commission submitted to the General Assembly, which shall have the force and
25 effect of acts of the General Assembly."

26 **SECTION 3.** Effective January 1, 2019, Article II of the North Carolina
27 Constitution is amended by adding a new section to read:

28 **"Sec. 25. Independent Redistricting Commission.**

29 (1) Establishment and membership. There is established the Independent Redistricting
30 Commission to consist of nine persons appointed as follows:

31 (a) Two by the Chief Justice of the Supreme Court, with no more than one
32 affiliated with the same political party.

33 (b) Three by the Governor, with no more than two affiliated with the same
34 political party.

35 (c) One by the Speaker of the House of Representatives and one by the leader in
36 the House of Representatives of the political party with the next highest or
37 equal number of members of the House of Representatives as the party of
38 the Speaker. If there are two or more parties other than the Speaker's party
39 with equal membership, the appointing authority shall be selected in a
40 manner prescribed by law.

41 (d) One by the President Pro Tempore of the Senate and one by the leader in the
42 Senate of the political party in the Senate with the next highest or equal
43 number of Senators as the party of the President Pro Tempore. If there are
44 two or more parties other than the President Pro Tempore's party with equal
45 membership, the appointing authority shall be selected in a manner
46 prescribed by law.

47 (e) No person who has served as a member of the Independent Redistricting
48 Commission shall be eligible to hold any elective public office for four years
49 after termination of service on the Independent Redistricting Commission.
50 The term "public office" means any partisan or nonpartisan office filled by
51 election by the people on a statewide, county, municipal, or district basis.

- (2) Duties. The Independent Redistricting Commission shall have the following duties:
- (a) Present to the General Assembly, for consideration in accordance with Sections 3 and 5 of this Article, three plans for revising the Senate districts and three plans for revising the House of Representatives districts.
- (b) Present to the General Assembly for consideration three district plans for election of members of the House of Representatives of the Congress of the United States.
- (c) If none of the bills embodying a plan submitted by the Independent Redistricting Commission under this subsection is approved by the General Assembly within 120 days of receipt, the Independent Redistricting Commission shall by majority vote adopt one of the plans the Commission submitted to the General Assembly, which shall have the force and effect of acts of the General Assembly."

SECTION 4. The amendments set out in Sections 1 through 3 of this act shall be submitted to the qualified voters of the State at the general election in November 2018, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Subchapter III of Chapter 163A of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

A constitutional amendment providing for an Independent Redistricting Commission to present three redistricting plans to the General Assembly for the purpose of electing members of the General Assembly and members of the United States House of Representatives. If the General Assembly fails to enact one of the plans within 120 days of receipt, the Independent Redistricting Commission will adopt one of the redistricting plans the Commission submitted to the General Assembly."

SECTION 5. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 through 3 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The amendments become effective as provided in this act. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

SECTION 6. Article 20 of Chapter 163A of the General Statutes is amended by adding a new Part to read:

"Part 2A. Redistricting.

"§ 163A-1080. Independent Redistricting Commission.

(a) Membership. – Membership of the Commission shall comply with the requirements set forth in Section 25 of Article II of the North Carolina Constitution.

(1) If there are two or more parties other than the Speaker's party in the House of Representatives with equal membership, the leaders in that chamber of the tied parties other than the Speaker's party shall draw lots to determine which shall make the appointment. If there are two or more parties other than the President Pro Tempore's party in the Senate with equal membership, the leaders in that chamber of the tied parties other than the President Pro Tempore's party shall draw lots to determine which shall make the appointment.

(2) The appointing officers shall appoint members of the Independent Redistricting Commission as soon as practicable after this section becomes effective. Subsequent to the initial appointments, the appointing officers shall make their appointments, other than vacancy appointments, no earlier than February 1 of the year prior to the year in which the appointed members are to take office under subsection (b) of this section and no later than June 1 of the year in which the members are to take office under subsection (b) of

1 this section. The appointing officers, in making their appointments, shall
2 take into account the advisability of having the Commission reflect the
3 State's geographic, gender, racial, and ethnic diversity.

4 (b) Term of Office; Vacancies; Chair. – The initial members of the Independent
5 Redistricting Commission shall take office in the year 2019 as soon as practicable after their
6 appointment. The initial members shall serve until their successors are appointed and qualified.
7 Beginning in the year 2030, the members of the Independent Redistricting Commission shall
8 take office on the first day of July of each year ending in the number zero and shall continue in
9 office until their successors are appointed and qualified. Any vacancy occurring in the
10 membership of the Commission shall be filled for the remainder of the unexpired term by the
11 holder of the office which appointed the vacating member. The Independent Redistricting
12 Commission shall elect from its members a Chair, who will serve throughout the term of the
13 Commission unless replaced by vote of the Commission.

14 (c) Eligibility. – To be eligible for appointment to the Independent Redistricting
15 Commission, a person must be a resident of North Carolina. No person may serve on the
16 Commission who has held elective public office or been a candidate for elective public office
17 in the four years prior to commencement of service on the Independent Redistricting
18 Commission.

19 (d) Staffing. – The Commission shall be administratively housed in the Legislative
20 Services Office of the General Assembly. In order to implement Section 25 of Article II of the
21 North Carolina Constitution, the Independent Redistricting Commission shall retain
22 independent staff under contract to prepare redistricting plans covered by that Section. In
23 drafting plans for consideration by the General Assembly, that staff shall not be provided any
24 instructions as to the content of the plans other than to follow the guidelines set out in that
25 Section.

26 **"§ 163A-1081. Redistricting Plans.**

27 (a) Legislative Plans. – The Independent Redistricting Commission shall present to the
28 General Assembly, for consideration in accordance with Sections 3 and 5 of Article II of the
29 North Carolina Constitution, three plans for revising the Senate districts and three plans for
30 revising the House of Representatives districts. Each of the bills shall be voted on under a
31 procedure or rule permitting no amendments except those of a purely corrective nature. If any
32 of the bills is approved on third reading by the first house in which it is considered, it shall
33 expeditiously be brought to a vote in the second house under a similar procedure or rule. The
34 General Assembly shall, within 120 days of receiving the plans, adopt one Senate plan and one
35 House plan presented by the Commission. If none of the bills embodying a plan submitted by
36 the Independent Redistricting Commission under this subsection is approved by the General
37 Assembly within 120 days of receipt, the Independent Redistricting Commission shall by
38 majority vote adopt, in accordance with Sections 3 and 5 of Article II of the North Carolina
39 Constitution, one of the plans the Commission submitted to the General Assembly for revising
40 the Senate districts and House of Representatives districts, which shall have the force and effect
41 of acts of the General Assembly.

42 (b) Congressional Plans. – The Independent Redistricting Commission shall present to
43 the General Assembly for consideration three district plans for election of members of the
44 House of Representatives of the Congress of the United States. Each of the bills shall be voted
45 on under a procedure or rule permitting no amendments except those of a purely corrective
46 nature. If any of the bills is approved on third reading by the first house in which it is
47 considered, it shall expeditiously be brought to a vote in the second house under a similar
48 procedure or rule. The General Assembly shall, within 120 days of receiving the plans, adopt
49 one of the plans presented by the Commission. If none of the bills embodying a plan submitted
50 by the Independent Redistricting Commission under this subsection is approved by the General
51 Assembly within 120 days of receipt, the Independent Redistricting Commission shall by

1 majority vote adopt a district plan for election of members of the House of Representatives of
2 the Congress of the United States, which shall have the force and effect of acts of the General
3 Assembly.

4 (c) Preparation and Adoption of Plans. – District plans shall be adopted no later than
5 October 1 of the year following each decennial census of population taken by order of
6 Congress. The Independent Redistricting Commission shall ensure there is a minimum period
7 of 45 days of public comment on a plan before it is submitted to the General Assembly for
8 consideration. In preparing or adopting its plans, the Independent Redistricting Commission
9 shall do the following:

10 (1) Not consider the following information:

11 a. The location of incumbents' residences; or

12 b. Demographic data from sources other than the United States Bureau
13 of the Census. In the use of Census data, racial and ethnic data shall
14 be used only for the purposes of compliance with the United States
15 Constitution and laws enacted pursuant thereto.

16 (2) Ensure that districts are contiguous. This may be achieved through
17 contiguity by water. To the extent practical, all areas of a district should be
18 easily accessible from all other areas of the same district, without leaving
19 that district.

20 (3) Ensure that districts do not create an unfair advantage for one party over
21 another. The Independent Redistricting Commission may consider the
22 political affiliation of voters, voting data from previous elections, and
23 measures like the "efficiency gap" to determine whether there is an undue
24 partisan advantage.

25 (d) In Case Plan Held Invalid. – A new district plan shall be adopted as required by
26 subsections (a), (b), and (c) of this section in the event that an adopted plan is held invalid.

27 (e) Federal and State Law. – In adopting any plan under this section, the General
28 Assembly and the Independent Redistricting Commission shall take into consideration all
29 relevant requirements of the United States Constitution and Acts of Congress and shall comply
30 with the North Carolina Constitution.

31 (f) Local Redistricting. – The General Assembly may by law assign to the Independent
32 Redistricting Commission the duty to prepare districting and redistricting plans for any county,
33 city, town, special district, and other governmental subdivision if the governing board of the
34 unit or a court of competent jurisdiction so requests."

35 **SECTION 7.** Section 6 of this act becomes effective January 1, 2019, and is
36 effective only if the constitutional amendments proposed by Sections 1 through 3 of this act are
37 approved by the qualified voters as provided in Sections 4 and 5 of this act.

38 **SECTION 8.** The remainder of this act is effective when it becomes law.