

WEST VIRGINIA LEGISLATURE

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Introduced

Senate Bill 54

FISCAL
NOTE

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[Introduced January 10, 2018; Referred
to the Committee on Government Organization; and then
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §1-2-2a, relating to creating an Independent Redistricting Commission;
3 designating duties of the commission; providing that members are nominated by State
4 Election Commission; setting forth required traits and restrictions of members; providing
5 for how commission members are appointed; setting forth a process for determining the
6 chair of the commission; providing for the filling of vacancies of commission; requiring
7 members to conduct an organizational meeting and select a vice chairperson; providing
8 for the removal of a member for cause; providing for the filling of vacancies that may occur
9 on commission; setting forth certain requirements of the commission; providing that three
10 members constitute a quorum; providing that members are ineligible for public office or
11 registration as paid lobbyist for three years after completing their last term on commission;
12 requiring that commission plan and propose congressional and legislative districts;
13 providing specific criteria that commission must observe in proposing district mappings;
14 requiring commission to advertise a proposed draft map of districts to the public; permitting
15 legislators to make inquiry of commission members regarding their methodology and
16 proposed redistrict mapping; requiring that commission publish its proposals for district
17 boundaries; requiring the commission to recommend redistricting plans to the Legislature;
18 authorizing a vote on the plans in an extraordinary session called by the Governor;
19 requiring the full Legislature to vote on the first proposal plan ratification without
20 amendment; setting forth a process for subsequent proposed plans, amendment
21 restrictions and vote requirements; authorizing the West Virginia Supreme Court of
22 Appeals to make the final determination between three plans proposed by the independent
23 redistricting commission if the Legislature and Governor cannot agree; requiring that the
24 commission certify to Secretary of State that its proposals for district boundaries is in
25 accordance with constitutional and legal requirements; providing for reimbursement of
26 expenses and per diem allowances for commission members; authorizing the commission

27 to contract for staffing and consultants; prohibiting certain persons from influencing or
28 attempting to influence district mapping proposals of the commission; and providing for
29 the expiration of commission appointments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.

§1-2-2a. Independent Redistricting Commission to study and propose fair, balanced and rational plan to redistrict.

1 (a) There is hereby created the Independent Redistricting Commission, which shall be
2 appointed in accordance with the procedures set forth in this section to study population trends
3 and present proposed redistricting mappings, designed to reflect fair reapportionment and
4 redistricting in conformity with constitutional principles, especially that which requires equality of
5 population to the greatest extent practicable. Commission members shall be knowledgeable and
6 possess expertise relative to constitutional and legal requirements and considerations which bear
7 on the issue of fair reapportionment and redistricting.

8 (b) By February 28 of each year that ends in one, an Independent Redistricting
9 Commission shall be established to provide for proposed redistricting of congressional and state
10 legislative districts. The Independent Redistricting Commission shall consist of five members.
11 No more than two members of the Independent Redistricting Commission shall be members of
12 the same political party. No more than two members shall reside in the same county. Each
13 member shall be a registered West Virginia voter who has been continuously registered with the
14 same political party or registered as unaffiliated with a political party for three or more years
15 immediately preceding appointment, who is committed to applying the provisions of this section
16 in an honest, independent and impartial fashion and to upholding public confidence in the integrity
17 of the redistricting process. Within the three years previous to appointment, members shall not
18 have been appointed to, elected to, or a candidate for any other public office and shall not have
19 served as an officer of a political party, a registered paid lobbyist, an officer of a candidate's

20 campaign committee, or an officer of a political action committee.

21 (c) The State Election Commission shall nominate candidates for appointment to the
22 Independent Redistricting Commission.

23 (d) By January 8 of years ending in one, the State Election Commission shall establish a
24 pool of persons who are willing to serve on and are qualified for appointment to the Independent
25 Redistricting Commission. The pool of candidates shall consist of twenty-five nominees, with ten
26 nominees from each of the two largest political parties in West Virginia based on party registration,
27 and five who are not registered with either of the two largest political parties in West Virginia.

28 (e) Appointments to the Independent Redistricting Commission shall be made in the order
29 set forth below. No later than January 31 of years ending in one, the Speaker of the House of
30 Delegates shall make one appointment to the Independent Redistricting Commission from the
31 pool of nominees, followed by one appointment from the pool made in turn by each of the
32 following: The minority party leader of the House of Delegates, the President of the Senate and
33 the minority party leader of the Senate. Each official shall have a seven-day period in which to
34 make an appointment. Any official who fails to make an appointment within the specified time
35 period will forfeit the appointment privilege. In the event that there are two or more minority parties
36 within the House of Delegates or the Senate, the leader of the largest minority party by statewide
37 party registration shall make the appointment.

38 (f) Any vacancy in the above four Independent Redistricting Commission positions
39 remaining as of March 1 of a year ending in one shall be filled from the pool of nominees by the
40 State Election Commission or its designee. The appointing body shall strive for political balance
41 and fairness.

42 (g) At a meeting called by the Secretary of State by April 1 in each year that ends in one,
43 the four Independent Redistricting Commission members shall meet and conduct an
44 organizational meeting, which will constitute the commencement of their official duties, and at
45 which the commission will select by majority vote from the nomination pool a fifth member who

46 shall not be registered with any party already represented on the Independent Redistricting
47 Commission and who shall serve as chair. If the four commissioners fail to appoint a fifth member
48 within fifteen days, the State Election Commission or its designee, striving for political balance
49 and fairness, shall appoint a fifth member from the nomination pool who shall not be registered
50 with any party already represented on the Independent Redistricting Commission and who shall
51 serve as chair.

52 (h) The five commissioners shall then select by majority vote one of their members to
53 serve as vice-chair.

54 (i) After having been served written notice and provided with an opportunity for a response,
55 a member of the Independent Redistricting Commission may be removed by the Governor, with
56 the concurrence of two thirds of the Senate, for substantial neglect of duty, gross misconduct in
57 office, or inability to discharge the duties of office.

58 (j) If a commissioner or chairperson does not complete the term of office for any reason,
59 the State Election Commission or its designee shall nominate a pool of three candidates within
60 the first thirty days after the vacancy occurs. The nominees shall be of the same political party or
61 status as was the member who vacated the office at the time of his or her appointment, and the
62 appointment other than the chair shall be made by the current holder of the office designated to
63 make the original appointment. The appointment of a new chair shall be made by the remaining
64 commissioners. If the appointment of a replacement commissioner or chair is not made within
65 fourteen days following the presentation of the nominees, the State Election Commission or its
66 designee shall make the appointment, striving for political balance and fairness. The newly
67 appointed commissioner shall serve out the remainder of the original term.

68 (k) Three commissioners, including the chair or vice-chair, constitute a quorum. Three or
69 more affirmative votes are required for any official action. Where a quorum is present, the
70 Independent Redistricting Commission shall conduct business in meetings open to the public,
71 with forty-eight or more hours of public notice provided.

72 (l) A commissioner, during the commissioner's term of office and for three years thereafter,
73 shall be ineligible for public office or for registration as a paid lobbyist.

74 (m) The Independent Redistricting Commission shall plan and propose congressional and
75 legislative districts. The commencement of the proposed mapping process for both the
76 congressional and legislative districts shall be the creation of districts of equal population in a
77 grid-like pattern across the state. Adjustments to the grid shall then be made as necessary to
78 accommodate the goals as set forth below:

79 (1) Districts shall comply with the United States Constitution and the United States Voting
80 Rights Act;

81 (2) Congressional districts shall have equal population to the extent practicable, and state
82 legislative districts shall have equal population to the extent practicable;

83 (3) Districts shall be geographically compact and contiguous to the extent practicable;

84 (4) To the extent practicable, district lines shall use visible geographic features, city, town
85 and county boundaries, and undivided census tracts; and

86 (5) To the extent practicable, competitive districts should be favored where to do so would
87 create no significant detriment to the other goals.

88 (n) Party registration and voting history data shall be excluded from the initial phase of the
89 mapping process but may be used to test maps for compliance with the above goals. The places
90 of residence of incumbents or candidates shall not be identified or considered.

91 (o) The Independent Redistricting Commission shall advertise a proposed draft map of
92 congressional districts and a proposed draft map of legislative districts to the public for comment,
93 which comment shall be taken for at least thirty days. During the public comment period, the
94 commission shall hold three public hearings in geographically distinct areas of the state to present
95 the plan and hear public comments. Any member of either body of the Legislature may, within
96 the public comment period, make inquiry of the Independent Redistricting Commission concerning
97 its methodology or proposed redistrict mapping, which inquiry shall be fully addressed by the

98 Independent Redistricting Commission. After conclusion of the public comment period:

99 (1) The Independent Redistricting Commission shall then make and publish its first
100 proposal for district boundaries and recommend the plan to the Legislature, which shall vote,
101 during an extraordinary session called by the Governor, upon it after an explanation of the
102 proposal on the floors of the House of Delegates and Senate. No amendments to the first
103 proposal shall be in order in either the House or the Senate. The Senate and House of Delegates
104 shall take a separate vote on the plans for the congressional allocation, the House of Delegates
105 allocation, and the Senate allocation. If any plans pass, they shall be presented to the Governor
106 for his or her signature in the same manner as all pieces of legislation adopted by the Legislature.

107 (2) If any of the first proposal plans fail to obtain approval of the Senate, the House of
108 Delegates and the Governor, then the Independent Redistricting Commission shall meet and
109 confer in order to propose a second proposal to the Legislature. The second proposal shall follow
110 the same proposed draft plan and public comment requirements contained in this subsection.
111 The Independent Redistricting Commission shall then make and publish its second proposal for
112 district boundaries that were not approved by the Legislature in the first proposal. The Legislature
113 shall vote, during an extraordinary session called by the Governor, upon the second proposal
114 after an explanation of the proposal on the floors of the House of Delegates and Senate. No
115 amendments to the second proposal shall be in order in either the House or the Senate. The
116 Senate and House of Delegates shall take a separate vote on any plans not approved in the first
117 proposal. If any plans pass, they shall be presented to the Governor for his or her signature in the
118 same manner as all pieces of legislation adopted by the Legislature.

119 (3) If any of the second proposal plans fail to obtain approval of the Senate, the House of
120 Delegates and the Governor, then the Independent Redistricting Commission shall meet and
121 confer in order to propose a third proposal to the Legislature. The third proposal shall follow the
122 same proposed draft plan and public comment requirements contained in this subsection. The
123 Independent Redistricting Commission shall then make and publish its third proposal for district

124 boundaries that were not approved by the Legislature in the first proposal. The Legislature shall
125 vote, during an extraordinary session called by the Governor, upon the third proposal after an
126 explanation of the proposal on the floors of the House of Delegates and Senate. The members
127 of the House of Delegates and Senate may vote to amend the third proposal. The Senate and
128 House of Delegates shall take a separate vote on any plans not approved in the first or second
129 proposal. If any plans pass, they shall be presented to the Governor for his or her signature in the
130 same manner as all pieces of legislation adopted by the Legislature.

131 (4) If any of the third proposal plans fail to obtain approval of the Senate, the House of
132 Delegates and the Governor, then the first, second and third proposal plans that were not adopted
133 shall be presented to the Supreme Court of Appeals. The Supreme Court of Appeals shall
134 choose, by majority vote, between the three proposals from the Independent Redistricting
135 Commission without any possibility of amending any of the three plans or incorporating any
136 amendments that were proposed in the Senate or House of Delegates on the third proposal. The
137 selection of the Supreme Court of Appeals shall be final, subject to judicial review, and the
138 Legislature may not make any amendment to the final adopted plan until the Independent
139 Redistricting Commission proposes new plans during the next year that ends in one.

140 (p) The provisions regarding this section are self-executing. The Independent
141 Redistricting Commission shall certify to the Secretary of State that its proposals for district
142 boundaries of congressional and legislative districts are in accordance with those constitutional
143 and legal requirements and considerations as provided in this section.

144 (q) Each member of the Independent Redistricting Commission shall be reimbursed for all
145 reasonable and necessary expenses incurred in the performance of his or her duties as a member
146 of the commission and shall receive a per diem allowance equivalent to the per diem received by
147 members of the Legislature for each full work day actually engaged in the performance of his or
148 her duties as required by this section. Members shall keep expense vouchers and time sheets
149 demonstrating dates and times in which they are engaged fulfilling required obligations as well as

150 a description of the specific activity in which they are engaged. Seven hours of related work and
151 activity shall constitute payment for one day. Payment based on less than seven hours shall be
152 prorated in an appropriate proportionate manner. The Legislature shall make the necessary
153 appropriations by a majority vote to fund the activities of the Independent Redistricting
154 Commission.

155 (r) The Independent Redistricting Commission, with fiscal oversight from the Department
156 of Administration, shall have procurement and contracting authority and may hire staff and
157 consultants in order to accomplish the purposes of this section.

158 (s) No elected or appointed office holder, lobbyist, official of a political party, or other
159 person affiliated with an elected or appointed office holder, lobbyist or official of a political party,
160 may influence or attempt to influence the district-mapping proposals of the Independent
161 Redistricting Commission.

162 (t) Each commissioner's duties established by this section expire upon the completion of
163 redistricting. The Independent Redistricting Commission may not meet or incur expenses after
164 the proposed redistricting plan is completed, except if litigation or government approval of the plan
165 is pending, or to revise districts if required by court decisions or if the number of congressional or
166 legislative districts is changed.

NOTE: The purpose of this bill is to provide for an Independent Redistricting Commission to propose redistricting plans during census years. The commission consists of five members who are initially nominated by the State Election Commission. The actual appointments are made by the leaders of both houses of the Legislature and by the first four commission members selected. The commission's main task is to propose plans to the Legislature based on constitutional and legal requirements and considerations and which is removed from stark political aspirations or concerns. The bill provides that commission members receive remuneration and reimbursement of expenses associated with their work. The bill also requires that the commission publish their proposal to the public at large, fully address any legislator's questions before issuing a final draft proposal and submitting the plan to the full body of the Legislature for its action. The bill allows for multiple plans, if the Legislature or Governor reject a plan. The bill gives the Supreme Court of Appeals the final decision if the Legislature and Governor cannot agree on three potential plans.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.