

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2239

By Delegate Pushkin

[Introduced January 11, 2023; Referred to the
Committee on the Judiciary then Finance]

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 the Independent Redistricting Commission of the
3 Joint Committee on Government and Finance; establishing the Redistricting
4 Commission's purpose and composition; providing qualifications and appointment
5 procedure for commission members; establishing a process for filling commission
6 vacancies; establishing that commission members are not to receive compensation;
7 providing for approved reimbursement of commission member expenses; providing for
8 payment of necessary equipment and materials; requiring the commission to acquire
9 appropriate information; requiring the commission to develop programs and procedures to
10 draw congressional and legislative redistricting plans on the basis of the federal census; to
11 prepare congressional and legislative redistricting; requiring the commission plan and
12 propose congressional and legislative districts; providing specific criteria that the
13 redistricting office must observe in proposing district mappings; requiring the redistricting
14 office to advertise a proposed draft map of districts to the public; requiring a period for
15 public comment on the proposed redistricting plan; providing for members of the
16 Legislature to make inquiries about the commission's methodology or proposed redistrict
17 mapping; requiring the commission to publish a report and final proposals for district
18 boundaries; requiring a recommended redistricting plan to the Legislature including
19 identical bills for consideration by the House and Senate; requiring the full Legislature to
20 vote on plan ratification; providing for subsequent submissions of plans and vote by
21 Legislature; requiring that commission certify to the Secretary of State that its final
22 proposal for district boundaries is in accordance with Constitutional and legal
23 requirements; and prohibiting certain persons from influencing or attempting to influence
24 district mapping proposals of the redistricting office; and providing for completion of the
25 commission's work with certain exceptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.**§1-2-2a. Independent Redistricting Commission of the Joint Committee on Government and Finance to study and propose fair, balanced, and rational plan to redistrict.**

1 (a) Purpose. –There is hereby created the Independent Redistricting Commission of the
2 Joint Committee on Government and Finance ("Redistricting Commission"), established generally
3 to provide a proposed fair, balanced, and rational plan for redistricting of congressional and state
4 legislative voting districts for final approval by the Legislature. The Redistricting Commission
5 shall, among other duties and tasks noted herein, acquire, review, study, and evaluate appropriate
6 information related to establishing and designating voting districts, prepare a report, and present
7 proposed redistricting mappings designed to reflect fair reapportionment and redistricting in
8 conformity with constitutional principles, especially that which requires equality of population to the
9 greatest extent practicable.

10 (b) Establishment of the Redistricting Commission. – No later than February 28 of each
11 year that ends in one, the Redistricting Commission shall be established by appointment in
12 accordance with the procedures set forth in this section to provide for proposed redistricting of
13 congressional and state legislative voting districts.

14 (c) Composition of the Redistricting Commission. –The Redistricting Commission shall
15 consist of six members. Party membership, designated in terms of the state's primary political
16 parties, shall be equally represented in the Redistricting Commission. The residence of members
17 shall reflect a broad geographic representation of the state with at least one member from each
18 congressional district.

19 (d) Appointment and Qualifications of Redistricting Commission Members. –The President
20 of the Senate, the Speaker of the House of Delegates, and the minority leaders of the Senate and
21 the House of Delegates shall each designate one member of the Redistricting Commission. The
22 state chair of the two largest political parties, determined by the vote cast for Governor in the last
23 gubernatorial election, shall each designate one member of the Redistricting Commission. Any

24 official who fails to make an appointment within the specified time shall forfeit the appointment
25 privilege. If there are two or more minority parties within the House of Delegates or the Senate, the
26 leader of the largest minority party by statewide party registration shall make the appointment.

27 (1) At the time of their selection each member shall be a registered West Virginia voter
28 who has been continuously registered with the same political party, or unaffiliated, for three or
29 more years immediately preceding their appointment.

30 (2) No person may serve on the Redistricting Commission who is or has been a registered
31 lobbyist, an elected official, or state party officer within five years prior to selection.

32 (3) At the time of selection each member shall be knowledgeable and possess expertise
33 relative to constitutional and legal requirements and considerations which bear on the issue of fair
34 reapportionment and redistricting and be committed to applying the provisions of this section in an
35 honest, independent, and impartial fashion and to upholding public confidence in the integrity of
36 the redistricting process.

37 (e) Vacancy. – If a commissioner or chairperson does not complete the term of office for
38 any reason, the person making the initial appointment in section (d) shall also make the
39 replacement appointment.

40 (f) Reimbursement of Redistricting Commission Members, Staff. – Members of the
41 Redistricting Commission may not be compensated for the performance of their duties as a
42 member of the Redistricting Commission. However, each member of the Redistricting
43 Commission shall be reimbursed for all reasonable and necessary expenses incurred in the
44 performance of his or her duties as a member of the Redistricting Commission. The Joint
45 Committee on Government and Finance shall provide any necessary staff for the Redistricting
46 Commission.

47 (g) Necessary Expenses. – Funds shall be expended for the purchase or lease of
48 necessary equipment and materials only with prior approval of the Joint Committee on
49 Government and Finance.

50 (h) Preparation for redistricting. –The Redistricting Commission shall acquire appropriate
51 information, review and evaluate available facilities, and develop programs and procedures in
52 preparation for drawing congressional and legislative redistricting plans on the basis of each
53 federal census.

54 (1) As soon as possible after January 1 of each year ending in one, the Redistricting
55 Commission shall obtain from the United States Bureau of the Census the population data needed
56 for legislative districting which the Census Bureau is required to provide this state under the United
57 States Census 2000 Public Law 94-171 and will use that data to assign a population figure based
58 upon certified federal census data to each geographic or political unit described pursuant to the
59 provisions of this subsection.

60 (2) Upon completing that task, the Redistricting Commission shall begin the preparation of
61 congressional and legislative districting plans as required by this section and use the data so
62 obtained to:

63 (A) Prepare necessary descriptions of geographic and political units for which census data
64 will be reported, and which are suitable for use as components of legislative districts; and

65 (B) Prepare maps of counties, cities, and other geographic units within the state, which
66 may be used to illustrate the locations of legislative district boundaries proposed in plans drawn in
67 accordance with this section.

68 (3) If population data from the federal census which is sufficient to permit preparation of a
69 congressional districting plan complying with article one, section four of the Constitution of West
70 Virginia becomes available at an earlier time than the population data needed to permit
71 preparation of a legislative districting plan in accordance with this section, the Redistricting
72 Commission shall so inform the presiding officers of the Senate and House of Delegates.

73 (4) If the population data for legislative districting which the United States Census Bureau
74 is required to provide this state under United States Census 2000 Public Law 94-171 is not
75 available to the Redistricting Office of the Joint Committee on Government and Finance on or

76 before February 1 of the year ending in one, the dates set forth in this section shall be extended by
77 a number of days equal to the number of days after February 1, of the year ending in one, that the
78 federal census population data for legislative districting becomes available.

79 (i) *Factors to be Considered in the Mapping Process.* –The Redistricting Commission shall
80 plan and propose congressional and legislative districts, to include the commencement of the
81 proposed mapping process for both the congressional and legislative districts. The mapping
82 process shall strive to create districts of equal population in a grid-like pattern across the state.
83 Adjustments to the redistricting map shall then be made as necessary to accommodate the goals
84 set forth below:

85 (1) Congressional and legislative districts shall comply with the United States Constitution,
86 the United States Voting Rights Act, and to every extent possible, Article six, Sections seven and
87 eight of the Constitution of West Virginia.

88 (2) Congressional and legislative districts shall have equal population to the extent
89 practicable.

90 (3) Congressional and legislative districts shall be geographically compact and contiguous
91 to the extent practicable.

92 (4) To the extent practicable, district lines shall use visible geographic features, city, town,
93 and county boundaries, and undivided census tracts.

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

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

99 (7) The geographic integrity of any city, county, and local neighborhood, or local community
100 of interest shall be respected in a manner that minimizes their division to the extent possible
101 without violating the requirements of any of the preceding subdivisions.

102 (8) To the extent practicable, and where this does not conflict with the criteria above,
103 districts shall be drawn to encourage geographical compactness such that nearby areas of
104 population are not bypassed for more distant population.

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

107 (10) Districts may not be drawn for favoring or discriminating against an incumbent,
108 political candidate, or political party.

109 (11) To the maximum extent possible, the plan shall avoid drawing districts that are oddly
110 shaped.

111 (12) Division of counties shall be avoided whenever possible. If a county must be divided,
112 the number of such divisions, per county, shall be kept to a minimum.

113 (13) To the extent that counties must be divided to create districts, such districts shall be
114 composed of contiguous counties.

115 (14) District boundaries shall respect communities of interest to the extent practicable;

116 (15) To the extent practicable, district lines shall use visible geographic features, city, town,
117 and county boundaries, and undivided census tracts; and

118 (16) A district may not be drawn to favor a political party, incumbent Legislator or member
119 of Congress, or other person or group, or for the purpose of augmenting or diluting the voting
120 strength of a language or racial minority group.

121 (17) In establishing districts, no use may be made of any of the following data:

122 (A) Address of incumbent Legislators or members of Congress;

123 (B) Political affiliations of registered voters;

124 (C) Previous election results; and

125 (D) Demographic information, other than population head counts, except as required by
126 the Constitution and laws of the United States.

127 (18) Party registration and voting history data shall be excluded from the mapping process.

128 The places of residence of incumbents or candidates may not be identified or considered.

129 (19) An elected or appointed office holder, lobbyist, official of a political party, or other
130 person affiliated with an elected or appointed office holder, lobbyist, or official of a political party,
131 may not influence or attempt to influence the district-mapping proposals of the Redistricting
132 Commission.

133 (20) When a legislative district contains more than one county or a portion of a county, the
134 counties or portion of a county in the district shall be directly connected by roads and highways
135 which are designated as part of the interstate highway system, the United States highway system,
136 or the state highway system.

137 (21) When the Redistricting Commission determines, by an affirmative vote of at least five
138 members recorded in its minutes, that it cannot complete its duties for a legislative district by fully
139 complying with the provisions of this subsection, this subsection is not applicable to the
140 Redistricting Commission or legislative redistricting plan it adopts.

141 (j) *Advertisement, publication, certification, and submission of the commission report for*
142 *legislative approval.* – The Redistricting Commission shall advertise proposed draft maps of
143 congressional and legislative districts to the public for comment, to include on-line publication and
144 access, which comment period shall be taken for at least 30 days, also including on-line access.
145 The Redistricting Commission shall hold a public hearing in each Congressional district at a
146 location, or locations, to be determined by the Redistricting Commission.

147 (1) Any member of either body of the Legislature may, within this period, make written or
148 on-line inquiry of the Redistricting Commission concerning its apportionment methodology or
149 proposed redistrict mapping, which inquiry shall be fully addressed by the Redistricting
150 Commission.

151 (2) Within 20 days after the period for comment, the Redistricting Commission shall certify
152 to the Secretary of State that its final proposal for boundaries of congressional and legislative
153 districts are in accordance with constitutional and legal requirements and considerations as

154 provided in this section.

155 (3) Not later than April 1 of each year ending in one, the Redistricting Commission shall
156 make and publish its final proposal for district boundaries, a report to include identical bills
157 embodying a plan of legislative and congressional districting prepared in accordance with this
158 section, and deliver that plan to the Clerk of the Senate and the Clerk of the House of Delegates
159 with recommendation of the plan to the Legislature, which shall vote as a full body upon it.

160 (4) The Redistricting Commission may not meet or incur expenses after the proposed
161 redistricting plan is completed, unless:

162 (A) Litigation or legislative approval of the plan is pending;

163 (B) Necessary to revise districts if required by court decisions;

164 (C) The number of congressional or legislative districts is changed; or,

165 (D) The Redistricting Commission shall prepare a bill in accordance with subsections (k)(2)
166 and (k)(3) of this section.

167 (5) The provisions regarding this section are self-executing.

168 (k) Legislative approval.

169 (1) The Legislature shall bring the bill embodying the plan submitted by the Redistricting
170 Commission to a vote in either the Senate or the House of Delegates expeditiously, but not less
171 than three months after the report of the Redistricting Commission required by this section is
172 received and made available to the members of the Legislature. The legislative vote on the
173 proposed redistricting shall occur under procedure or rule permitting no amendments except those
174 of a purely corrective nature. If the bill is approved by the first house in which it is considered, it
175 shall expeditiously be brought to a vote in the second house under a similar procedure or rule
176 permitting no amendments except those of a purely corrective nature.

177 (2) If the bill embodying the plan submitted by the Redistricting Commission fails to be
178 approved by a constitutional majority in either the Senate or the House of Delegates, the Clerk of
179 the Senate or the Clerk of the House shall at once transmit to the Redistricting Commission

180 information which the Senate or House may direct regarding reasons why the plan was not
181 approved.

182 (A) The Redistricting Commission shall then prepare a bill embodying a second plan of
183 legislative and congressional districting prepared in accordance with this section considering the
184 reasons cited by the Senate or House of Delegates for its failure to approve the plan insofar as it is
185 possible to do so within the requirements of this section.

186 (B) If a second plan is required under this section, the bill embodying it shall be delivered to
187 the Clerk of the Senate and the Clerk of the House of Delegates not later than two months after the
188 date of the vote by which the Senate or the House of Delegates fails to approve the bill first
189 submitted. If it is necessary to submit a bill under this section, the bill shall be brought to a vote in
190 not less than two months, in the same manner as prescribed for the first bill required under this
191 section.

192 (3) If the bill embodying the plan submitted by the Redistricting Commission Office under
193 subdivision (2) of this section fails to be approved by a constitutional majority in either the Senate
194 or the House of Delegates, the same procedure as prescribed by subdivision (2) of this section
195 shall be followed.

196 (A) If a third plan is required, the bill embodying it shall be delivered to the Clerk of the
197 Senate and the Clerk of the House of Delegates not later than two months after the date of the vote
198 by which the Senate or the House of Delegates fails to approve the bill submitted under
199 subdivision (2) of this section, but before the beginning of the next regular session of the
200 Legislature. If it is necessary to submit a bill under this subsection, the bill shall be brought to a
201 vote within the same time after its delivery to the Clerk of the Senate and the Clerk of the House of
202 Delegates as is prescribed for the bill submitted under subdivision (2) of this section.

203 (B) If it is necessary to submit a third bill under this section, that bill shall be subject to
204 amendment in the Legislature in the same manner as any other bills in the regular legislative
205 process.

NOTE: The purpose of this bill is to provide for the Redistricting Office of the Joint Committee on Government and Finance to propose redistricting plans during census years. The main task of the Redistricting Office is to propose a plan to the Legislature which is based on constitutional and legal requirements and considerations. The bill provides specific criteria that the redistricting office must observe in proposing district mappings. The bill requires the redistricting office to advertise a proposed draft map of districts to the public. The bill requires the redistricting office to recommend redistricting plan to the Legislature. The bill requires the full Legislature to vote on plan ratification. The bill provides for subsequent submissions of plans and vote by Legislature. The bill requires that the commission certify to the Secretary of State that its final proposal for district boundaries is in accordance with constitutional and legal requirements. The bill prohibits certain persons from influencing or attempting to influence district mapping proposals of the redistricting office.

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