

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 722 Session of  
2017

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TOOHIL, VAZQUEZ, VITALI, WARREN, YOUNGBLOOD AND WATSON,  
MAY 8, 2017

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 8, 2017

## 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

1 decennial census] Not later than December 31 of each year ending  
2 in zero, a Legislative [Reapportionment] and Congressional  
3 Redistricting Commission shall be constituted for the purpose of  
4 [reapportioning] redistricting the Commonwealth. The commission  
5 shall [act by a majority of its entire membership.]:

6 (1) Conduct an open and transparent process enabling full  
7 public consideration of and comment on the drawing of district  
8 lines.

9 (2) Conduct itself with integrity and fairness.

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

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

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

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

3 (c) No later than 90 days after either the commission has  
4 been duly certified or the population data for the Commonwealth  
5 as determined by the Federal census are available, whichever is  
6 later in time, the commission shall file a preliminary  
7 reapportionment plan with such elections officer.

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

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

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

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

30 (f) Any district which does not include the residence from

1 which a member of the Senate was elected whether or not  
2 scheduled for election at the next general election shall elect  
3 a Senator at such election.

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

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

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

1 the average population for senatorial and representative  
2 districts.]

3 (b) The commission shall consist of 11 members, as follows:  
4 four who are registered with the largest political party in this  
5 Commonwealth based on registration, four who are registered with  
6 the second-largest political party in this Commonwealth based on  
7 registration and three who are not registered with either of the  
8 two largest political parties in this Commonwealth based on  
9 registration.

10 (c) The General Assembly shall prescribe by law the  
11 qualification to serve as a commission member. Each commission  
12 member shall possess all of the following qualifications, in  
13 addition to any qualifications prescribed by law:

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

19 (2) Has voted in two of the last three Statewide general  
20 elections immediately preceding the date of appointment to the  
21 commission.

22 (3) Has not held nor has an immediate family member who has  
23 held elective public office at the Federal or State level or  
24 elective judicial office in this Commonwealth in the five years  
25 immediately preceding the date of appointment to the commission.

26 (4) Has not served nor has a spouse who has served as a paid  
27 staff member or paid consultant to Congress, the General  
28 Assembly or staff appointed by the Governor in the five years  
29 immediately preceding the date of appointment to the commission.

30 (5) Has not registered nor has a spouse who has registered

1 as a Federal or State lobbyist in this Commonwealth in the five  
2 years immediately preceding the date of appointment to the  
3 commission.

4 (6) Has not been nominated nor has a spouse who has been  
5 nominated as a candidate for elective office by a political  
6 party or political body or served nor has a spouse who has  
7 served as a paid staff member or officer of a political party,  
8 political body, political committee or political action  
9 committee in the five years immediately preceding the date of  
10 appointment to the commission.

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

13 (1) Application to serve as a member of the commission may  
14 be filed with, and on a form developed by, the Secretary of the  
15 Commonwealth indicating thereon evidence of the applicant's  
16 qualifications as provided by this section.

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

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

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

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

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

1     (4) The Secretary of the Commonwealth shall select, on a  
2 random basis, 40 qualified applicants from each of the three  
3 subpools provided in paragraph (3). The Majority Leader and  
4 Minority Leader of the Senate and the Majority Leader and  
5 Minority Leader of the House of Representatives may each strike  
6 up to two applicants from each subpool. Each leader shall have  
7 no more than six strikes.

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

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

18     (e) The term of office of each member of the commission  
19 shall expire at the same time the commission expires as provided  
20 in this section.

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

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

28     (2) If a member of the commission has been convicted, found  
29 guilty or pled guilty or nolo contendere to embezzlement of  
30 public money, bribery, perjury or other infamous crime, whether

1 or not sentence has been imposed, the member's position shall be  
2 deemed vacant.

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

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

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

17 (2) Register as a Federal or State lobbyist in this  
18 Commonwealth.

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

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

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

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

30 (3) Hold office for a political party, political body,



1 political committee or political action committee.

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

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

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

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

1 (i) Necessary descriptions of census blocks, voting  
2 districts, wards, municipalities and counties for which census  
3 data will be reported and which are suitable for use as  
4 components of districts.

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

9 (3) In establishing districts, the commission shall not  
10 consider the following data:

11 (i) Addresses of any individual.

12 (ii) Political affiliations of registered voters.

13 (iii) Previous election results, unless required by Federal  
14 or State law.

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

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

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

29 (n) All commission meetings that are attended or  
30 participated in by a quorum of the members of the commission

1 held for the purpose of deliberating official business of taking  
2 official action shall be open to the public.

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

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

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

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

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

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

30 (iii) Not later than October 15 of each year ending in one,

1 the commission shall approve a final redistricting plan. Upon  
2 approval, the commission shall certify the resulting plan to the  
3 Secretary of the Commonwealth, and that plan shall constitute  
4 the certified final plan.

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

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

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

29 (2) An aggrieved person who is a registered voter in this  
30 Commonwealth may file a petition with the Supreme Court within

1 30 days after the commission has certified a final plan to the  
2 Secretary of the Commonwealth to bar the Secretary of the  
3 Commonwealth from implementing the plan on the grounds that the  
4 filed plan violates the Constitution of the United States, the  
5 Constitution of Pennsylvania or any Federal or State statute.

6 (s) The Department of State shall provide staff as needed to  
7 support the commission in the performance of its duties.

8 (t) Upon the filing of all redistricting plans required  
9 under this section and the exhaustion of all appeals of a  
10 redistricting plan:

11 (1) the commission shall expire and the commission's  
12 responsibilities shall terminate; and

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

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

26 (v) A district that 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 the election.

30 (w) The following words and phrases when used in this

1 section shall have the meanings given to them in this subsection  
2 unless the context clearly indicates otherwise:

3 "Commission." The Legislative and Congressional  
4 Redistricting Commission.

5 "Federal census." The decennial census required by Federal  
6 law to be conducted by the United States Census Bureau in every  
7 year ending in zero.

8 "Immediate family." A parent, spouse, child, brother or  
9 sister.

10 "Member." A member of the Legislative and Congressional  
11 Redistricting Commission.

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

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

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

1 to the qualified electors of this Commonwealth at the first  
2 primary, general or municipal election which meets the  
3 requirements of and is in conformance with section 1 of Article  
4 XI of the Constitution of Pennsylvania and which occurs at least  
5 three months after the proposed constitutional amendment is  
6 passed by the General Assembly.