

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3906

To require States to carry out Congressional redistricting in accordance with plans developed by nonpartisan service agencies of the legislative branch of State governments, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2014

Mr. BRALEY of Iowa (for himself and Mr. LOEBSACK) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To require States to carry out Congressional redistricting in accordance with plans developed by nonpartisan service agencies of the legislative branch of State governments, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fixing America’s In-  
5       consistent Redistricting (FAIR) Act”.

1 **SEC. 2. REQUIRING REDISTRICTING TO BE CONDUCTED**  
2 **THROUGH PLAN OF NONPARTISAN SERVICE**  
3 **AGENCIES OF STATE LEGISLATURES.**

4 (a) USE OF NONPARTISAN PLAN.—Notwithstanding  
5 any other provision of law, any Congressional redistricting  
6 conducted by a State shall be conducted in accordance  
7 with a redistricting plan—

8 (1) developed by a nonpartisan agency of the  
9 legislative branch of the State government in accord-  
10 ance with section 3; and

11 (2) enacted into law by the State in accordance  
12 with section 4.

13 (b) CONFORMING AMENDMENT.—Section 22(c) of  
14 the Act entitled “An Act to provide for the fifteenth and  
15 subsequent decennial censuses and to provide for an ap-  
16 portionment of Representatives in Congress”, approved  
17 June 18, 1929 (2 U.S.C. 2a(c)), is amended by striking  
18 “in the manner provided by the law thereof” and insert-  
19 ing: “in the manner provided by the Fixing America’s In-  
20 consistent Redistricting (FAIR) Act”.

21 **SEC. 3. DEVELOPMENT OF PLAN.**

22 (a) ESTABLISHMENT OR DESIGNATION OF NON-  
23 PARTISAN AGENCY OF STATE LEGISLATURE.—

24 (1) IN GENERAL.—Not later than each Decem-  
25 ber 31 of the year preceding a redistricting year,  
26 each State shall establish a nonpartisan agency in

1 the legislative branch of the State government to de-  
2 velop the redistricting plan for the State for the re-  
3 districting year.

4 (2) NONPARTISANSHIP DESCRIBED.—For pur-  
5 poses of this subsection, an agency shall be consid-  
6 ered to be nonpartisan if under law the agency—

7 (A) is required to provide services on a  
8 nonpartisan basis;

9 (B) is required to maintain impartiality;  
10 and

11 (C) is prohibited from advocating for the  
12 adoption or rejection of any proposal.

13 (3) DESIGNATION OF EXISTING AGENCY.—At  
14 its option, a State may designate an existing agency  
15 in the legislative branch of its government to develop  
16 the redistricting plan for the State under this Act,  
17 so long as the agency meets the requirements for  
18 nonpartisanship under this subsection.

19 (4) TERMINATION OF AGENCY SPECIFICALLY  
20 ESTABLISHED FOR REDISTRICTING.—If a State does  
21 not designate an existing agency under paragraph  
22 (3) but instead establishes a new agency to serve as  
23 the nonpartisan agency under this section, the new  
24 agency shall terminate upon the enactment into law  
25 of the redistricting plan for the State.

1 (b) DEVELOPMENT OF REDISTRICTING PLAN.—

2 (1) CRITERIA.—The nonpartisan agency estab-  
3 lished or designated by a State under this section  
4 shall develop a redistricting plan for the State in ac-  
5 cordance with the following criteria:

6 (A) Adherence to the “one person, one  
7 vote” standard and other requirements imposed  
8 under the Constitution of the United States.

9 (B) To the greatest extent mathematically  
10 possible, ensuring that the population of each  
11 Congressional district in the State does not  
12 vary by more than one percent from the popu-  
13 lation of any other Congressional district in the  
14 State (as determined on the basis of the total  
15 count of persons of the most recent decennial  
16 census conducted by the Bureau of the Census).

17 (C) Consistency with any applicable re-  
18 quirements of the Voting Rights Act of 1965  
19 and other Federal laws.

20 (D) Ensuring that districts are contiguous  
21 (except to the extent necessary to include any  
22 area which is surrounded by a body of water).

23 (E) To the greatest extent practicable, the  
24 maintenance of the geographic continuity of the

1 political subdivisions of the State which are in-  
2 cluded in the same Congressional district.

3 (F) To the greatest extent practicable,  
4 maintaining compact districts.

5 (2) FACTORS PROHIBITED FROM CONSIDER-  
6 ATION.—In developing the redistricting plan for the  
7 State, the nonpartisan agency may not take into  
8 consideration any of the following factors, except to  
9 the extent necessary to comply with the Voting  
10 Rights Act of 1965:

11 (A) The residence of incumbent Members  
12 of the House of Representatives in the State.

13 (B) The voting history of the population of  
14 a Congressional district, except that the agency  
15 may take such history into consideration to the  
16 extent necessary to comply with any State law  
17 which requires the establishment of competitive  
18 Congressional districts.

19 (C) The political party affiliation of the  
20 population of a district.

21 (c) SUBMISSION OF PLAN TO LEGISLATURE AND  
22 TEMPORARY REDISTRICTING ADVISORY COMMISSION.—  
23 Not later than April 1 of the redistricting year, the non-  
24 partisan agency shall submit the redistricting plan devel-  
25 oped under this section to the State legislature and to the

1 Temporary Redistricting Advisory Commission of the leg-  
2 islature established under section 4(a).

3 **SEC. 4. ENACTMENT OF PLAN BY STATE LEGISLATURE.**

4 (a) **ROLE OF TEMPORARY REDISTRICTING ADVISORY**  
5 **COMMISSION.—**

6 (1) **IN GENERAL.—**Not later than February 15  
7 of each redistricting year, each State shall appoint  
8 a commission to be known as the “Temporary Redis-  
9 tracting Advisory Commission” (hereafter referred to  
10 as the “Commission”), consisting of—

11 (A) 2 members, of whom 1 shall be ap-  
12 pointed by the majority leader of the upper  
13 house of the State legislature and 1 shall be ap-  
14 pointed by the majority leader of the lower  
15 house of the State legislature (or, in the case of  
16 a State with a unicameral legislature, both of  
17 whom shall be appointed by the majority leader  
18 of the legislature);

19 (B) 2 members, of whom 1 shall be ap-  
20 pointed by the minority leader of the upper  
21 house of the State legislature and 1 shall be ap-  
22 pointed by the minority leader of the lower  
23 house of the State legislature (or, in the case of  
24 a State with a unicameral legislature, both of

1 whom shall be appointed by the minority leader  
2 of the legislature); and

3 (C) 1 member appointed by a majority vote  
4 of the members appointed under the previous  
5 subparagraphs.

6 (2) QUALIFICATIONS.—An individual is eligible  
7 to serve as a member of the Commission if the indi-  
8 vidual meets each of the following requirements:

9 (A) The individual is an eligible elector of  
10 the State at the time of appointment.

11 (B) The individual does not hold a par-  
12 tisan political office or serve as an officer of a  
13 political party.

14 (C) The individual is not an employee or  
15 an immediate family member of a member of  
16 the State legislature or member of Congress, or  
17 an employee of the State legislature or Con-  
18 gress. In this subparagraph, the term “imme-  
19 diate family member” means, with respect to an  
20 individual, a father, mother, son, daughter,  
21 brother, sister, husband, wife, father-in-law, or  
22 mother-in-law.

23 (3) ASSISTANCE TO NONPARTISAN AGENCY.—  
24 At the request of the nonpartisan agency established  
25 or designated under section 3, the Commission shall

1 provide guidance to the agency in its development of  
2 the redistricting plan for the State.

3 (4) REVIEW OF NONPARTISAN AGENCY PLAN.—

4 (A) HEARINGS.—Upon receiving the redistricting  
5 plan from the nonpartisan agency  
6 under section 3(c), the Commission shall analyze  
7 and review the plan, and shall hold at least  
8 3 public hearings in various geographic areas of  
9 the State to solicit comments on the plan.

10 (B) REPORT TO LEGISLATURE.—Not later  
11 than 14 days after receiving the redistricting  
12 plan from the nonpartisan agency under section  
13 3, the Commission shall submit a report to the  
14 State legislature which includes the Commission's  
15 recommendation regarding whether the  
16 legislature should adopt or reject the plan, taking  
17 into account any comments provided at the  
18 hearings held under subparagraph (A), as well  
19 as any other comments and conclusions regarding  
20 the plan which the Commission considers  
21 appropriate.

22 (5) TERMINATION.—The Commission shall terminate  
23 upon the enactment into law of the redistricting  
24 plan for the State.



1 (b) ACTION BY STATE LEGISLATURE AND CHIEF EX-  
2 ECUTIVE TO ENACT PLAN.—

3 (1) CONSIDERATION OF PLAN BY LEGISLA-  
4 TURE.—Not later than 3 days after receiving the  
5 Commission’s report under subsection (a) on the re-  
6 districting plan developed by the nonpartisan agen-  
7 cy, the State legislature shall either—

8 (A) approve the plan as submitted by the  
9 nonpartisan agency without amendment and  
10 forward the plan to the chief executive of the  
11 State; or

12 (B) reject the plan.

13 (2) ENACTMENT OF PLAN.—

14 (A) IN GENERAL.—A redistricting plan de-  
15 veloped by the nonpartisan agency shall be con-  
16 sidered to be enacted into law if the plan is for-  
17 warded to the chief executive of the State pur-  
18 suant to paragraph (1)(A) and—

19 (i) the chief executive approves the  
20 plan as forwarded by the legislature with-  
21 out amendment; or

22 (ii) the chief executive vetoes the plan  
23 and the legislature overrides the veto in ac-  
24 cordance with the applicable law of the

1 State, except that at no time may the plan  
2 be amended.

3 (B) SPECIAL RULE.—In the case of a  
4 State in which the chief executive is prohibited  
5 under State law from acting on a redistricting  
6 plan, a redistricting plan developed by the non-  
7 partisan agency shall be considered to be en-  
8 acted into law if the State legislature approves  
9 the plan as submitted by the nonpartisan agen-  
10 cy without amendment.

11 (c) EFFECT OF REJECTION OF PLAN.—

12 (1) REJECTION BY LEGISLATURE.—If the State  
13 legislature votes under subsection (b)(1) to reject the  
14 redistricting plan of the nonpartisan agency, not  
15 later than 7 days after the vote to reject the plan  
16 the legislature shall submit to the nonpartisan agen-  
17 cy and disseminate publicly a statement of the legis-  
18 lature’s reasons for rejecting the plan.

19 (2) VETO BY CHIEF EXECUTIVE.—If the chief  
20 executive vetoes the redistricting plan of the non-  
21 partisan agency and the State legislature fails to  
22 override the veto, not later than 7 days after the  
23 failed vote to override the veto the chief executive  
24 shall submit to the nonpartisan agency and dissemi-

1       nate publicly a statement of the chief executive's  
2       reasons for vetoing the plan.

3               (3) DEVELOPMENT AND SUBMISSION OF RE-  
4       VISED PLAN.—Not later than 35 days after receiving  
5       a statement from the State legislature under para-  
6       graph (1) or a statement from the chief executive of  
7       the State under paragraph (2) (as the case may be),  
8       the nonpartisan agency established or designated  
9       under section 3 shall develop a revised redistricting  
10      plan for the State which is consistent with the cri-  
11      teria set forth in section 3(b) but which addresses  
12      the reasons provided under paragraph (1) or para-  
13      graph (2) (as the case may be) for the rejection of  
14      the plan, and shall submit the revised plan to the  
15      State legislature.

16              (4) CONSIDERATION OF REVISED PLAN BY LEG-  
17      ISLATURE.—Not later than 7 days after receiving  
18      the revised redistricting plan under paragraph (3),  
19      the State legislature shall either—

20                      (A) approve the revised plan as submitted  
21                      by the nonpartisan agency without amendment  
22                      and forward the plan to the chief executive of  
23                      the State; or

24                      (B) reject the plan.

1           (5) ENACTMENT OF REVISED PLAN.—Sub-  
2           section (b)(2) shall apply with respect to the enact-  
3           ment of the revised plan developed and submitted by  
4           the nonpartisan agency under paragraph (3) in the  
5           same manner as such subsection applies with respect  
6           to the initial redistricting plan developed and sub-  
7           mitted by the agency under such subsection.

8           (d) EFFECT OF REJECTION OF REVISED PLAN; PER-  
9           MITTING LEGISLATURE TO AMEND SECOND REVISED  
10          PLAN.—

11           (1) REJECTION BY LEGISLATURE.—If the State  
12          legislature votes under subsection (c)(4) to reject the  
13          revised redistricting plan of the nonpartisan agency,  
14          not later than 7 days after the vote to reject the  
15          plan the legislature shall submit to the nonpartisan  
16          agency and disseminate publicly a statement of the  
17          legislature’s reasons for rejecting the revised plan.

18           (2) VETO BY CHIEF EXECUTIVE.—If the chief  
19          executive vetoes the revised redistricting plan of the  
20          nonpartisan agency and the State legislature fails to  
21          override the veto, not later than 7 days after the  
22          failed vote to override the veto the chief executive  
23          shall submit to the nonpartisan agency and dissemi-  
24          nate publicly a statement of the chief executive’s  
25          reasons for vetoing the revised plan.

1           (3) DEVELOPMENT AND SUBMISSION OF SEC-  
2           OND REVISED PLAN.—Not later than 35 days after  
3           receiving a statement from the State legislature  
4           under paragraph (1) or a statement from the chief  
5           executive of the State under paragraph (2) (as the  
6           case may be), the nonpartisan agency established or  
7           designated under section 3 shall develop a second re-  
8           vised redistricting plan for the State which is con-  
9           sistent with the criteria set forth in section 3(b) but  
10          which addresses the reasons provided under para-  
11          graph (1) or paragraph (2) (as the case may be) for  
12          the rejection of the revised plan, and shall submit  
13          the second revised plan to the State legislature.

14          (4) CONSIDERATION OF SECOND REVISED PLAN  
15          BY LEGISLATURE.—Not later than 7 days after re-  
16          ceiving the second revised redistricting plan under  
17          paragraph (3), the State legislature shall either—

18                 (A) approve the second revised plan as  
19                 submitted by the nonpartisan agency with or  
20                 without amendment and forward the plan to the  
21                 chief executive of the State; or

22                 (B) reject the plan.

23          (5) ENACTMENT OF SECOND REVISED PLAN.—  
24          Subsection (b)(2) shall apply with respect to the en-  
25          actment of the second revised plan developed and

1 submitted by the nonpartisan agency under para-  
2 graph (3) in the same manner as such subsection  
3 applies with respect to the initial redistricting plan  
4 developed and submitted by the agency under such  
5 subsection.

6 (e) REJECTION OF SECOND REVISED PLAN.—

7 (1) DEVELOPMENT OF PLAN BY HIGHEST  
8 COURT OF STATE.—If the second revised redis-  
9 tricting plan developed and submitted under sub-  
10 section (d) is not enacted into law, the highest court  
11 of the State shall assume sole responsibility for the  
12 development and enactment of the redistricting plan  
13 for the State, and shall publish the plan it develops  
14 not later than November 15 of the redistricting year.

15 (2) APPLICATION OF SAME CRITERIA USED BY  
16 NONPARTISAN AGENCY.—Section 3(b) shall apply  
17 with respect to the development of the redistricting  
18 plan by a court under this subsection in the same  
19 manner as such section applies to the development  
20 of the plan by the nonpartisan agency under section  
21 3.

22 (3) ENACTMENT UPON PUBLICATION.—Upon  
23 the publication by the highest court of the State of  
24 the redistricting plan under this subsection, the plan  
25 shall be deemed to be enacted into law.

1 **SEC. 5. REDISTRICTING YEAR DEFINED.**

2       In this Act, the term “redistricting year” means, with  
3 respect to a State, the year in which the chief executive  
4 officer of the State receives the notice from the Clerk of  
5 the House of Representatives under section 22(b) of the  
6 Act entitled “An Act to provide for the fifteenth and sub-  
7 sequent decennial censuses and to provide for an appor-  
8 tionment of Representatives in Congress”, approved June  
9 18, 1929 (2 U.S.C. 2a), of the number of Representatives  
10 to which the State is entitled.

11 **SEC. 6. NO EFFECT ON ELECTIONS FOR STATE AND LOCAL**  
12 **OFFICE.**

13       Nothing in this Act or in any amendment made by  
14 this Act may be construed to affect the manner in which  
15 a State carries out elections for State or local office, in-  
16 cluding the process by which a State establishes the dis-  
17 tricts used in such elections.

18 **SEC. 7. EFFECTIVE DATE.**

19       This Act and the amendments made by this Act shall  
20 apply with respect to any Congressional redistricting  
21 which occurs after the regular decennial census conducted  
22 during 2020.

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