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# Wisconsin Legislative Council

## AMENDMENT MEMO

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### 2023 Assembly Bill 415

### Assembly Amendments 1 to 7

2023 Assembly Bill 415 (AB 415) requires the Legislative Reference Bureau (LRB) to draw legislative redistricting plans following each federal decennial census (each census) based on standards in the bill, establishes an advisory commission to perform certain tasks in the redistricting process, and specifies procedures for the consideration of redistricting plans prepared by the LRB. A detailed overview of AB 415 is provided below, followed by a description of Assembly Amendments 1 to 7 to the bill.

## 2023 ASSEMBLY BILL 415

### Redistricting Standards

AB 415 establishes standards for legislative redistricting plans relating to population, boundaries, contiguity, compactness, nonpartisanship and use of data, and constitutional requirements.

#### Population

AB 415 declares that legislative districts must be established on the basis of “population requirements imposed under the Wisconsin Constitution and the U.S. Constitution” as well as the federal Voting Rights Act (VRA) and any other applicable federal law.

In addition, for Senate and Assembly districts, the quotient obtained by dividing the sum of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established may not exceed one percent of the applicable ideal district population, except as necessary to comply with the VRA or any other applicable federal law. The “ideal district population” is determined by dividing the population of the state reported in the most recent census by the number of districts to be established.

#### Boundaries

AB 415 provides that legislative district boundaries must coincide with municipal ward boundaries, and—to the extent consistent with the Wisconsin Constitution, the U.S. Constitution, and the VRA and any other applicable federal law—district boundaries must coincide with the boundaries of political subdivisions. In addition, the number of political subdivisions divided among more than one district must be as small as possible and all such divisions must preserve communities of interest.

#### Compactness

AB 415 requires legislative districts to be in compact form, to the extent consistent with the standards described above (relating to population and boundaries). Compact districts are those that are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

Under AB 415, the compactness of a district must be measured by its Reock score. This equals the ratio of the area of the district to the area of the minimum circumscribing circle. The Reock score ranges from zero to one, with zero indicating that the district is not compact, and one indicating that the district is optimally compact.

## **Contiguity**

AB 415 requires legislative districts to be composed of convenient contiguous territory. Areas meeting only at the points of adjoining corners are not considered contiguous. However, a district containing detached portions of a municipality is legally contiguous even if the area around the detached portion of the municipality is part of a different district.

## **Nonpartisanship and Prohibited Use of Political and Demographic Data**

AB 415 specifies that, in preparing a redistricting plan, the LRB must be strictly nonpartisan. The bill prohibits drawing any legislative district for the purpose of favoring a political party, incumbent legislator, or any other person or group.

The bill also prohibits use of certain data for the purpose of augmenting or diluting the voting strength of a language or racial minority group, except to the extent required to establish districts on the basis of population requirements imposed under the Wisconsin Constitution, the U.S. Constitution, or the VRA or any other applicable federal law. This prohibition applies to residence addresses of incumbent legislators, political affiliations of registered voters, previous election results, and demographic information.

## **Constitutional Requirements**

In accordance with requirements under the Wisconsin Constitution, in any legislative redistricting plan the number of Assembly districts may not be less than 54 nor more than 100; the number of Senate districts may not be more than one-third, nor less than one-fourth, of the number of Assembly districts; and each Senate district must contain only whole Assembly districts.

## **Required Contents of Redistricting Bills**

AB 415 requires the LRB to use the following conventions in each bill embodying a plan of legislative redistricting wherever territory is described by geographic boundaries:

- Each bound continues to the intersection with the bound next named, or to the intersection with a straight-line extension of such bound.
- If the bound is a street, it follows the center line of the street or the center line of the street extended.
- If the bound is a railroad right-of-way, it follows the center line of the railroad right-of-way.
- If the bound is a river or stream, it follows the center of the main channel of such river or stream.
- If the bound follows a municipal boundary, it coincides with such boundary.

Also, AB 415 states that each bill embodying a plan of redistricting first applies, with respect to regular elections, to offices filled at the next occurring general election. With respect to special or recall elections, the bill first applies to offices filled or contested on or after the date of the next occurring general election.

## **Redistricting Advisory Commission**

### **Creation and Termination**

AB 415 requires the formation of a temporary redistricting advisory commission in connection with each decennial redistricting cycle. For the redistricting cycle beginning in 2020, the commission may be established after AB 415 takes effect. In future redistricting cycles, the commission must form no later

than February 15 of the first year following the census. Thus, for the redistricting cycle beginning in 2030, the commission must form no later than February 15, 2031. In each redistricting cycle, the commission terminates upon satisfying its duties.

The commission must be comprised of five members, with one each appointed by the Speaker and Minority Leader of the Assembly and the Majority and Minority Leaders of the Senate. The four appointed commissioners must select the fifth commissioner, by a vote of at least three members, who must serve as chairperson. Appointments must be certified to the chief election officer of the Wisconsin Elections Commission.

To serve as a commissioner, an individual must be an eligible Wisconsin voter at the time of the appointment; cannot hold partisan public office or political party office; cannot be a relative of or employed by a member of the Legislature or of Congress; and cannot be employed directly by the Legislature or Congress. A vacancy must be filled by the appointing power in the manner prescribed for making regular appointments to the commission within 15 days after the vacancy occurs.

### **Duties**

AB 415 provides that, if requested to do so by the LRB, the redistricting advisory commission must provide direction concerning any decision the LRB must make in preparing a redistricting plan for which no clearly applicable guideline is provided under the bill.

The commission must make certain information available to the public at the earliest feasible time after LRB delivers a bill embodying a redistricting plan. This includes copies of the bill, maps illustrating the plan, and other summary information.

In each decennial redistricting cycle, upon the LRB's delivery of the initial bill embodying a redistricting plan, the commission must conduct at least three public hearings on the plan. The hearings must be held in different geographic regions of the state. Not more than one hearing may be held in Madison, and at least one hearing must be held in the northern half of the state. Following such hearings, the commission must promptly prepare and submit to the Legislature a report summarizing the information and testimony received by the commission and other comments.

Additionally, AB 415 allows the redistricting advisory commission to establish policies limiting the information that the LRB may provide to others concerning any redistricting plan. However, the policy cannot apply to a redistricting plan after a bill embodying that plan is delivered by the LRB, nor should the policy apply to population data furnished to the LRB by the U.S. Census Bureau.

## **Redistricting Process**

### **Preparations for Redistricting**

AB 415 requires the LRB to acquire appropriate information, review and evaluate available facilities, and develop programs and procedures in preparation for drawing plans on the basis of each census. As soon as possible after receiving from the federal government the population data needed for legislative redistricting, the LRB must use it to assign population figures to geographic and political units to facilitate the drawing of redistricting plans, and the LRB must publish an analysis of the extent to which current districts may violate redistricting standards, as described in the bill.

### **Preparation of Redistricting Plans**

In each decennial redistricting cycle, the LRB must create identical companion bills embodying a plan of legislative redistricting, in accordance with the standards in AB 415. The LRB must deliver the bills to the Majority Leader of the Senate and the Speaker of the Assembly, respectively. For the redistricting

cycle beginning in 2020, the LRB must expeditiously obtain the census data and deliver the plan no later than January 1, 2024. In future decennial redistricting cycles, the plan must be delivered no later than January 1 of the second year following the census. Thus, for the cycle beginning in 2030, the plan must be delivered no later than January 1, 2032.

AB 415 states that either the Assembly or the Senate must bring the bill to a vote expeditiously, but not less than seven days after the Legislature has received the redistricting advisory commission's report relating to information and testimony from the commission's hearings on the plan and such report has been made available to the members of the Legislature.

AB 415 further states that, when a vote is held on the bill, it must be under a procedure or rule that permits no amendments except those of a purely corrective nature. If the bill is approved by the first house in which it is considered, the second house should expeditiously bring it to a vote under a similar procedure or rule.

If neither of the initial companion bills is enacted into law, the LRB must prepare identical companion bills embodying a second plan of legislative redistricting. If neither companion bill was approved by both houses, the clerk of the house that failed to approve the bill must transmit to the LRB information on why it was not approved by that house. In preparing the second plan of legislative redistricting, the LRB must take into account the reasons transmitted by the clerk or, if applicable, by the Governor by veto message. The companion bills embodying the second plan of legislative redistricting must be delivered no later than 21 days after the failed vote on the initial plan.

AB 415 states that the second bill should be expeditiously introduced and brought to a vote not less than seven days after the date of introduction. This should be in the same manner as prescribed for the initial bill, so there may be no amendments except those of a purely corrective nature.

If neither of the companion bills embodying the second plan is enacted into law, then a third plan of legislative redistricting must be delivered, introduced, and brought to a vote, under similar procedures to those specified above. However, in contrast to bills embodying the first and second plans, the bill embodying the third plan is subject to the ordinary rules of amendment.

Finally, AB 415 provides exceptions to the timelines described above, if needed, to account for variations in the timing of the release of federal census data. If the necessary federal data is not made available to the LRB on or before April 1 of the first year following the federal census, the timelines are extended by the number of days it takes for the data to become available.

## **Challenges Based on Population Inequality**

AB 415 provides that if a redistricting plan is challenged in court on the basis of an excessive population variance among districts, the Legislature has the burden of justifying any variance in excess of one percent between the population of a district and the applicable ideal district population.

## **Initial Applicability**

AB 415 first applies to the 2020 federal decennial census.

## **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 (AA1) to the bill requires the LRB to provide assistance to the redistricting advisory commission regarding the operations of the commission.

## **ASSEMBLY AMENDMENT 2**

Assembly Amendment 2 (AA2) to the bill provides that any plan delivered by the LRB under the redistricting process created in the bill must be passed by a bipartisan vote in the Legislature.

## **ASSEMBLY AMENDMENT 3**

Assembly Amendment 3 (AA3) to the bill provides that no member of the redistricting advisory commission may abstain from any vote taken by the commission on any matter before the commission. In addition, AA3 provides that no vote may be taken by the commission without all five members of the commission present and voting.

## **ASSEMBLY AMENDMENT 4**

Assembly Amendment 4 (AA4) to the bill requires the redistricting advisory commission's members, upon the LRB's recommendation, to appoint a person with expertise in the federal VRA to provide guidance to the commission regarding VRA compliance.

## **ASSEMBLY AMENDMENT 5**

Assembly Amendment 5 (AA5) to the bill specifies that the procedures relating to the third bill embodying a legislative redistricting plan delivered by the LRB also apply to any subsequent bill embodying a legislative redistricting plan delivered by the LRB.

AA5 removes the provision allowing a third bill embodying a redistricting plan to be subject to the ordinary rules of amendment. Instead, AA5 provides that the third and all subsequent bills embodying a legislative redistricting plan should be considered in the same manner as prescribed for the initial and second bills, so there may be no amendments except those of a purely corrective nature.

Finally, AA5 provides that, for each decennial redistricting cycle, no redistricting plan delivered by the LRB may be considered and voted on after January 31 of the second year following the census.<sup>1</sup>

## **ASSEMBLY AMENDMENT 6**

Assembly Amendment 6 (AA6) to the bill requires the redistricting advisory commission to schedule and conduct at least eight public hearings on the initial plan delivered by the LRB in each decennial redistricting cycle, instead of three such hearings as specified in the bill as introduced. AA6 also requires that at least one public hearing be held in the City of Milwaukee.

## **ASSEMBLY AMENDMENT 7**

Assembly Amendment 7 (AA7) to the bill modifies the provision in AB 415 allowing the redistricting advisory commission to establish policies limiting the information that the LRB may provide to others concerning a redistricting plan. Specifically, AA7 clarifies that the policies must be consistent with requirements regarding drafting records and the policies may limit access to records under the Public

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<sup>1</sup> AA5 does not include language extending the application of this deadline for the 2020 redistricting cycle, which is in conflict with the treatment of other deadlines in AB 415. This creates an ambiguity regarding whether and how the January 31 deadline is intended to apply during the 2020 redistricting cycle.

Records Law. AA7 also provides that, upon the introduction of a redistricting plan, the LRB must make the drafting file of the plan available for public inspection.

## **BILL HISTORY**

Representative Oldenburg introduced 2023 AB 415 on September 12, 2023, and the bill was referred to the Assembly Committee on Rules. On September 14, 2023, Representative Oldenburg offered Assembly Amendments 1 to 6, and Representative Allen offered Assembly Amendment 7. On the same day, the Assembly took up AB 415 as a special order of business pursuant to 2023 Assembly Resolution 17. The Assembly adopted AA1 on a vote of Ayes, 63; Noes, 35. The Assembly adopted AA2 and AA3 on votes of Ayes, 64; Noes, 34. The Assembly adopted AA4, AA5, AA6, and AA7 on votes of Ayes, 66; Noes, 32. The Assembly passed AB 415, as amended, on a vote of Ayes, 64; Noes, 32.

For a full history of the bill, visit the Legislature's [bill history page](#).

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