

2021 -- H 6009

LC001753

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO THE GENERAL ASSEMBLY REDISTRICTING ACT

Introduced By: Representatives Newberry, Place, Filippi, Knight, and Cortvriend

Date Introduced: February 26, 2021

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 22 of the General Laws entitled "GENERAL ASSEMBLY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 1.1

4 REDISTRICTING COMMISSION

5 **22-1.1-1. Short title.**

6 This chapter shall be known and may be cited as the "Redistricting Act".

7 **22-1.1-2. Definitions.**

8 As used in this chapter:

9 (1) "Commission" means the state redistricting commission;

10 (2) "Community of interest" means a contiguous population that shares common economic,
11 social or cultural interests;

12 (3) "District plan" means an entire plan of single-member districts for electing members to
13 the United States house of representatives, the state house of representatives, or the state senate;

14 (4) "Length-width compactness" means the absolute value of the difference between the
15 length and the width of the district, as measured by the distance from the northernmost point or
16 portion of the boundary of a district to the southernmost point or portion of the boundary of the
17 same district and the distance from the westernmost point or portion of the boundary of the district
18 to the easternmost point or portion of the boundary of the same district;

19 (5) "Lobbyist" means a person who is required to register as a lobbyist pursuant to § 42-

1 139.1-4;

2 (6) "Perimeter compactness" means the distance needed to traverse the perimeter boundary
3 of a district;

4 (7) "Political party" means a political party as defined by § 17-1-2; and

5 (8) "Public official" means a person elected to an office of the executive or legislative
6 branch of the state.

7 **22-1.1-3. State redistricting commission created – membership -- terms.**

8 (a) The "state redistricting commission" is created.

9 (b) The commission is comprised of seven (7) members, appointed as follows:

10 (1) One commissioner appointed by the speaker of the house of representatives;

11 (2) One commissioner appointed by the minority leader of the house of representatives;

12 (3) One commissioner appointed by the president of the senate;

13 (4) One commissioner appointed by the minority leader of the senate;

14 (5) Two (2) commissioners appointed by the state ethics commission, who shall not be
15 members of the largest or second largest political parties in the state; and

16 (6) One commissioner appointed by the state ethics commission, who shall be a retired
17 justice of the Rhode Island supreme court, or a retired judge of the Rhode Island superior court,
18 and who shall chair the commission.

19 (c) Commissioners shall be appointed not later than April 1, 2031 and August 1 of each
20 year ending in the number zero thereafter and shall serve until a district plan for each of Rhode
21 Island's congressional districts, the house of representatives, and the senate is passed by the
22 legislature and approved by the governor and any legal challenges to the district plans, including
23 appeals, if any, have been resolved.

24 (d) When any member of the commission dies, resigns or no longer has the qualifications
25 required for the commissioner's original appointment, the commissioner's position on the
26 commission becomes vacant and the chair shall notify the original appointing authority of the
27 vacant position. The vacancy shall be filled by appointment by the original appointing authority no
28 later than fifteen (15) days following notification of the vacancy.

29 (e) The commission shall meet as necessary to carry out its duties pursuant to this chapter.

30 (f) Commissioners are entitled to receive per diem and mileage reimbursement and shall
31 receive no other compensation, perquisite or allowance.

32 **22-1.1-4. Commissioners – qualifications -- limitations.**

33 (a) To qualify for appointment to the commission, a person shall:

34 (1) Be a qualified elector of Rhode Island; and

1 (2) Not be, or in the two (2) years prior to appointment have been, in Rhode Island, any of
2 the following:

3 (i) A public official;

4 (ii) A candidate for public office;

5 (iii) A lobbyist;

6 (iv) An office holder in a political party at the state or federal level;

7 (v) A relative in the first degree of consanguinity of a member of congress, the house of
8 representatives or the senate; or

9 (vi) An employee of congress or the state legislature.

10 (b) Before entering upon the duties of the office of commissioner, a commissioner shall
11 review this chapter and take the oath of office, as provided in the constitution of Rhode Island.

12 **22-1.1-5. Commission – powers and duties.**

13 (a) Beginning April 1, 2031, and every August 1 of each year ending in the number zero
14 thereafter, the commission shall:

15 (1) No later than October 15, 2031, and every September 1 of each year ending in the
16 number one thereafter, adopt three (3) to five (5) district plans for each of:

17 (i) Rhode Island's congressional districts;

18 (ii) The house of representatives; and

19 (iii) The senate.

20 (2) Adopt rules to govern the operation of the commission;

21 (3) Hold no fewer than six (6) public meetings either virtually or in various counties of the
22 state before issuing the district plans as proposed rules for public comment;

23 (4) Hold no fewer than six (6) public rule hearings, either virtually or in various counties
24 of the state, for the purpose of adopting district plans;

25 (5) Conduct all meetings pursuant to the requirements of chapter 46 of title 42 ("open
26 meetings");

27 (6) Contract for legal and technical assistance in the creation of alternative district plans;

28 and

29 (7) Compile, index, maintain and provide public access to the commission's record for each
30 district plan it adopts.

31 (b) Beginning April 1, 2031, and every August 1 of each year ending in the number zero
32 thereafter, the commission may:

33 (1) Develop, adopt and promulgate the rules for public hearings; and

34 (2) Hire staff and enter into contracts and any interagency agreements as necessary to

1 accomplish the duties set forth in this section.

2 **22-1.1-6. Commission meetings before proposing district plans.**

3 (a) Before the commission issues proposed district plans for public comment, the
4 commission shall hold no fewer than six (6) public meetings at which the commission shall receive
5 testimony, documents and information regarding the identification of communities of interest and
6 other testimony, documents and information regarding the creation of district plans. The
7 commission shall provide the public with notice not later than thirty (30) days before these
8 meetings, and the notice shall include information about how the public may participate and submit
9 testimony, documents and information. The commission shall hold meetings either virtually or in
10 various regions across the state, and in each of the five (5) counties of the state.

11 (b) The commission shall compile, index, maintain and provide public access to all
12 testimony, documents and information received in the meetings conducted before issuing proposed
13 district plans, for public comment.

14 (c) The proposed district plans, that the commission issues for public comment, shall be
15 based, in part, on the testimony, documents and information received.

16 **22-1.1-7. District plans –requirements and prohibitions.**

17 (a) When proposing or adopting district plans, the commission shall:

18 (1) Create district plans composed of single-member districts;

19 (2) Create district plans composed of contiguous territory; provided that, districts that meet
20 only at the points of adjoining corners are not contiguous; and

21 (3) Comply with all applicable federal laws.

22 (b) When proposing or adopting district plans, the commission may use, rely upon or
23 reference the most recent federal decennial census data provided by the United States census bureau
24 as well as other reliable sources of demographic data, as determined by a majority of the
25 commission.

26 (c) When proposing or adopting district plans, the commission shall not:

27 (1) Propose or adopt district plans to favor a political party or incumbent;

28 (2) Use, rely upon or reference partisan data, such as voting history or party registration
29 data; provided that, voting history in elections may be considered to ensure that the district plan
30 complies with applicable federal law;

31 (3) Create district plans to intentionally dilute the representation of communities of interest;
32 or

33 (4) Create district plans to intentionally preserve the cores of existing districts; provided,
34 however, that district plans may intentionally preserve the cores of existing districts so long as the

1 district plan meets all other requirements provided by this section.

2 (d) When proposing or adopting district plans for congressional districts, the commission
3 shall ensure that congressional districts are as equal in population as practicable.

4 (e) When proposing or adopting district plans for the house of representatives, and the
5 senate, the commission shall create districts that are as close to equal in population as possible;
6 provided that, any deviation from equal population across districts shall not exceed plus or minus
7 five percent (5%) and shall be based on:

8 (1) Compliance with applicable federal law;

9 (2) Consideration of tribal government;

10 (3) The avoidance of diluting the representation of communities of interest;

11 (4) The avoidance of fragmenting governmental subdivisions; or

12 (5) The preservation of the core of existing districts; provided that, the district plan meets
13 all other requirements provided by this section.

14 (f) When a district plan satisfies all of the requirements provided by this section, the
15 commission shall adopt those district plans, that are most compact, as determined by a measure of
16 length-width compactness or perimeter compactness. The absolute compactness values computed
17 for individual districts may be cumulated for all districts in a plan to compare the overall
18 compactness of two (2) or more alternative redistricting plans for the state or for a portion of the
19 state. The total perimeter distance computed for individual districts may be cumulated for all
20 districts in a plan to compare the overall compactness of two (2) or more alternative redistricting
21 plans for the state or for a portion of the state.

22 (g) Based on length-width compactness, a district shall be most compact when the length
23 of the district and the width of the district are equal.

24 **22-1.1-8. Commission adoption of district plans.**

25 The commission shall adopt three (3) to five (5) district plans for each of Rhode Island's
26 congressional districts, the house of representatives, or the senate at an open meeting. After the
27 commission adopts the district plans, the commission shall:

28 (1) Provide written evaluations of each district plan that address the satisfaction of the
29 requirements set forth in this chapter, the ability of racial and language minorities to elect
30 candidates of their choice, a measure of partisan fairness and the preservation of communities of
31 interest; and

32 (2) Indicate which district plan for each of Rhode Island's congressional districts, the house
33 of representatives and the senate, best satisfies the requirements of § 22-1.1-7. The commission
34 shall explain its indication for each indicated district plan in the written evaluation accompanying

1 the indicated district plan.

2 **22-1.1-9. Legislative selection of district plans.**

3 (a) The commission shall deliver its adopted district plans for Rhode Island's congressional
4 districts, the house of representatives and the senate, all accompanying written evaluations and all
5 accompanying concise explanatory statements to the secretary of the senate and the clerk of the
6 house by October 15, 2031, and every September 1 of each year ending in the number one
7 thereafter.

8 (b) The legislature may select one district plan from each set of district plans and pass the
9 selected district plans without amendment and present the plans to the governor for approval.

10 (c) If the legislature does not select one district plan, from any one set of district plans,
11 pursuant to subsection (b) of this section, then the legislature shall select, pass without amendment
12 and present to the governor for approval, the district plan for that set that the commission indicated
13 best satisfies the requirements of § 22-1.1-7.

14 **22-1.1-10. Judicial review.**

15 (a) A person who submitted data, views, or arguments, orally or in writing, at a public
16 hearing conducted by the commission may file a notice of appeal in the supreme court asking for a
17 review of any district plan adopted by the commission. A notice of appeal shall be filed within
18 thirty (30) days after the commission adopts the district plan being appealed. The notice of appeal
19 shall name the commission as appellee and shall identify the district plan from which the appeal is
20 taken. A person who submitted data, views, or arguments, orally or in writing, at a public rule
21 hearing conducted by the commission and whose rights may be directly affected by the appeal may
22 appear and become a party, or the supreme court may, upon proper notice, order any person to be
23 joined as a party.

24 (b) Upon the filing of a notice of appeal, the appellant shall cause a copy of the notice of
25 appeal to be served upon the commission in the manner prescribed by the supreme court rules of
26 appellate procedure. Within thirty (30) days after service of the notice of appeal or such further
27 time as the supreme court may specify, the commission shall certify to the supreme court the
28 complete commission rulemaking record; provided that, the parties and the commission may
29 stipulate that only a specified portion of the commission rulemaking record shall be certified to the
30 supreme court for review on appeal.

31 (c) The appeal shall be heard on the commission rulemaking record, and the supreme court
32 shall not permit the introduction of new evidence addressed to any of the issues presented at the
33 hearing before the commission.

34 (d) The burden shall be on the appellant to show that the district plan appealed from,

1 violates applicable law, is arbitrary or capricious or is not supported by substantial evidence.

2 (e) The supreme court shall have no power to modify the district plan appealed from, but
3 shall either affirm or annul and vacate the same. If the supreme court either affirms or annuls a
4 district plan, the supreme court may remand the matter to the commission for any further necessary
5 administrative proceedings. Proceedings in the supreme court shall be governed by the provisions
6 of this chapter and by the supreme court rules of appellate procedure.

7 (f) During the pendency of an appeal, the supreme court in its discretion may stay or
8 suspend adoption by the legislature of any district plan subject to appeal.

9 (g) The supreme court shall not award fees to the prevailing party unless required by federal
10 law.

11 SECTION 2. This act shall take effect upon passage or June 30, 2021, whichever date is
12 later.

=====
LC001753
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO THE GENERAL ASSEMBLY REDISTRICTING ACT

1 This act would create a redistricting commission to act every ten (10) years to adopt a
2 redistricting plan for all general assembly and congressional districts. It also provides for a possible
3 right of appeal of the plan, to the state supreme court.

4 This act would take effect upon passage or June 30, 2021, whichever date is later.

=====
LC001753
=====