

MAR 25 2016

BIPARTISAN REAPPORTIONMENT COMMISSION - REDLINE

Colorado Secretary of State

J. WARD 1:30 P.M.

Be it enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, **amend** section 48 of article V as follows:

Section 48. ~~REVISION AND ALTERATION OF DISTRICTS~~ **BIPARTISAN REAPPORTIONMENT COMMISSION** Revision and alteration of districts – bipartisan reapportionment commission.

(1) THE VOTERS OF COLORADO DECLARE THAT REPRESENTATION IN THE GENERAL ASSEMBLY IS MOST EFFECTIVE WHEN COMMUNITIES OF INTEREST ARE FULLY AND FAIRLY REPRESENTED AND, TO THE EXTENT PRACTICABLE, LEGISLATIVE DISTRICTS ARE DRAWN SO ELECTION OUTCOMES ARE NOT FOREGONE CONCLUSIONS. BECAUSE ONLY THE ELECTORATE CAN CHANGE THIS PROCESS BY CONSTITUTIONAL AMENDMENT, THE VOTERS IN 2016 CHOOSE TO MODERNIZE LEGISLATIVE REAPPORTIONMENT, MAKE IT A MORE OPEN AND ACCOUNTABLE PROCESS, REJECT INCUMBENCY PROTECTION THAT IS ADVOCATED BY CERTAIN ENTRENCHED POLITICAL INTERESTS, AND ENCOURAGE COMPETITIVENESS IN OUR POLITICAL SYSTEM.

(a) After each federal census of the United States, the senatorial districts and representative districts shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by a Colorado BIPARTISAN reapportionment commission consisting of ~~eleven~~ NINE members, to be appointed and having the qualifications as prescribed in this section. Of such members, four shall be appointed by the legislative department, ~~three~~ TWO by the executive department, and ~~four~~ THREE by the judicial department of the state.

(b) The four legislative members shall be APPOINTMENTS MADE BY the speaker of the house of representatives, the minority leader of the house of representatives, and the ~~majority~~ president of the senate and the minority leaders of the senate, ~~or the designee of any such officer to serve in his or her stead, which acceptance of service or designation~~ APPOINTMENTS shall be made no later than ~~April 15~~ JANUARY 20 of the year following that in which the federal census is taken. The ~~three~~ TWO executive members shall be appointed by the governor between ~~April 15~~ JANUARY 21 and ~~April 25~~ FEBRUARY 10 of such year, and the ~~four~~ THREE judicial members shall be appointed by the chief justice of the Colorado supreme court between ~~April 25~~ FEBRUARY 11 and ~~May 5~~ MARCH 10 of such year. EACH LEGISLATIVE MEMBER SHALL BE REGISTERED TO VOTE AS AFFILIATED WITH THE POLITICAL PARTY OF HIS OR HER CHOICE ON THE DATE OF APPOINTMENT AND SHALL HAVE BEEN SO AFFILIATED FOR THE PREVIOUS TWO YEARS. THE EXECUTIVE MEMBERS SHALL EACH BE REGISTERED TO VOTE AS AFFILIATED WITH A MAJOR POLITICAL PARTY ON THE DATE OF APPOINTMENT AND SHALL HAVE BEEN SO AFFILIATED FOR THE PREVIOUS TWO YEARS, ALTHOUGH THE TWO EXECUTIVE MEMBERS CANNOT BE AFFILIATED WITH THE SAME MAJOR POLITICAL PARTY. THE JUDICIAL MEMBERS SHALL HAVE BEEN REGISTERED TO VOTE, BUT NOT

AFFILIATED WITH ANY POLITICAL PARTY, FOR AT LEAST TWO YEARS PRIOR TO THE DATE OF APPOINTMENT AND SHALL BE SO REGISTERED ON THE DATE OF APPOINTMENT.

(b.1) BY JANUARY 10 OF THE YEAR AFTER THE DECENNIAL CENSUS IS CONDUCTED, ANY PERSON WHO SEEKS TO SERVE AS AN APPOINTEE TO THE COMMISSION AS AN APPOINTEE OF THE CHIEF JUSTICE SHALL SUBMIT AN APPLICATION TO DESIGNATED STAFF OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES WHO IS ASSISTING THE COMMISSION. SUCH STAFF SHALL PREPARE AN APPLICATION FORM FOR THAT PURPOSE AND PLACE IT ON THE GENERAL ASSEMBLY'S WEBSITE BY NOVEMBER 10 OF THE YEAR IN WHICH THE DECENNIAL CENSUS IS CONDUCTED. WHEN APPLICATIONS ARE SUBMITTED, STAFF SHALL DETERMINE WHETHER EACH APPLICANT MEETS THE QUALIFICATIONS SPECIFIED IN SUBSECTION (b) OF THIS SECTION. BY JANUARY 20, STAFF SHALL TRANSMIT TO THE CHIEF JUSTICE THE APPLICATIONS OF ALL APPLICANTS DETERMINED TO MEET THE SPECIFIED QUALIFICATIONS, AND THE CHIEF JUSTICE MUST PICK APPOINTEES FROM THESE APPLICANTS.

(c) Commission members shall be ~~qualified~~ REGISTERED electors of the state of Colorado. No ~~more than four~~ commission members shall be members of OR CANDIDATES FOR the general assembly. No more than ~~six~~ THREE commission members shall be affiliated with the same political party. No more than ~~four~~ TWO commission members shall be residents of the same congressional district, and each congressional district shall have at least one resident as a commission member. At least one commission member shall reside west of the continental divide.

(c.1) NO PERSON MAY BE APPOINTED TO, OR WILL BE PERMITTED TO SERVE ON, THE COMMISSION IF HE OR SHE IS:

(I) A MEMBER OF THE STATE HOUSE OF REPRESENTATIVES;

(II) A MEMBER OF THE STATE SENATE;

(III) A CANDIDATE FOR EITHER THE STATE HOUSE OF REPRESENTATIVES OR THE STATE SENATE;

(IV) COMPENSATED BY A MEMBER OF, OR A CAMPAIGN COMMITTEE ADVOCATING THE ELECTION OF A CANDIDATE TO, THE STATE HOUSE OF REPRESENTATIVES OR THE STATE SENATE; OR

(V) A MEMBER OF THE CITIZENS' CONGRESSIONAL REDISTRICTING COMMISSION.

(d) Any vacancy created by the death or resignation of a member, or, AFTER THE DATE OF APPOINTMENT, CHANGING ONE'S PARTY AFFILIATION OR BECOMING AFFILIATED WITH ANY POLITICAL PARTY IF APPOINTED AS AN UNAFFILIATED COMMISSIONER ~~otherwise~~, shall be filled by the respective appointing authority. Members of the commission shall hold office until their reapportionment and redistricting plan is implemented. No later than ~~May 15~~ MARCH 31 of the year of their appointment, the governor shall convene the commission and ~~appoint a temporary chairman who shall preside until~~ the commission elects SHALL ELECT its own officers.

(d.1) BEGINNING AT ITS FIRST MEETING, THE COMMISSION SHALL ADDRESS INITIAL PROCEDURAL RULES THAT WILL BE NECESSARY TO FACILITATE ITS GENERAL OPERATIONS AND COMPLIANCE WITH THIS SECTION, INCLUDING RULES THAT ADDRESS THE HEARING PROCESS, ELEMENTS OF THE PLAN CRITERIA, REVIEW OF PLANS SUBMITTED FOR ITS CONSIDERATION, AND THE PROCESS FOR DEVELOPING A RECORD OF THE COMMISSION'S PROCEEDINGS. THE COMMISSION SHALL PROVIDE AT LEAST SEVENTY-TWO HOURS OF ADVANCE NOTICE OF ALL PROPOSED RULES PRIOR TO CONSIDERATION FOR ADOPTION. A MAJORITY OF APPOINTED COMMISSIONERS MAY APPROVE PROCEDURAL RULES AND PROCEDURAL DECISIONS. NEITHER THE COMMISSION'S PROCEDURAL RULES NOR ITS ADOPTED PLANS ARE SUBJECT TO THE ADMINISTRATIVE PROCEDURES ACT, AS REFLECTED IN PART 1 OF ARTICLE 4, TITLE 24, OF THE COLORADO REVISED STATUTES C.R.S., AS AMENDED.

~~(e) Within one hundred thirteen THIRTY days after the commission has been convened or the necessary census data are available, whichever is later, the commission shall publish a preliminary plan for reapportionment of the members of the general assembly and shall hold public hearings thereon in several places throughout the state within forty five days after the date of such publication. No later than one hundred twenty three days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than one hundred twenty three days prior to the date established in statute for the event commencing the candidate selection process in such year,~~ THE COMMISSION SHALL, TO THE MAXIMUM EXTENT PRACTICABLE, PROVIDE OPPORTUNITIES FOR COLORADO RESIDENTS TO PRESENT TESTIMONY AT REGIONAL HEARINGS HELD THROUGHOUT THE STATE. THE COMMISSION SHALL NOT ADOPT A PLAN UNTIL AT LEAST THREE HEARINGS HAVE BEEN HELD IN EACH CONGRESSIONAL DISTRICT, INCLUDING AT LEAST ONE HEARING WEST OF THE CONTINENTAL DIVIDE AND AT LEAST ONE HEARING SOUTH OF EL PASO COUNTY AND EAST OF THE CONTINENTAL DIVIDE. THE COMMISSION SHALL ALSO MAINTAIN A WEBSITE THROUGH WHICH ANY PERSON-COLORADO RESIDENT MAY SUBMIT PROPOSED PLANS OR WRITTEN COMMENTS, OR BOTH, WITHOUT ATTENDING ONE OF THE HEARINGS REFERRED TO IN THIS SECTION. THE COMMISSION SHALL POST ALL WRITTEN COMMENTS PERTAINING TO REAPPORTIONMENT ON ITS WEBSITE AS WELL AS THE NAME OF THE COLORADO RESIDENT SUBMITTING SUCH COMMENTS. ALL COLORADO RESIDENTS, INCLUDING BUT NOT LIMITED TO STAFF ACTING ON BEHALF OF THE COMMISSION AND COMMISSIONERS INDIVIDUALLY, MAY PRESENT PROPOSED REAPPORTIONMENT PLANS OR WRITTEN COMMENTS, OR BOTH, FOR CONSIDERATION. IF THE COMMISSION OR ITS STAFF HAVE A SUBSTANTIAL BASIS TO BELIEVE THAT THE PERSON SUBMITTING SUCH COMMENTS HAS NOT TRUTHFULLY OR ACCURATELY IDENTIFIED HIMSELF OR HERSELF OR IS NOT A COLORADO RESIDENT, THE COMMISSION NEED NOT CONSIDER AND NEED NOT POST SUCH COMMENTS. THE COMMISSION MAY WITHHOLD COMMENTS, IN WHOLE OR IN PART, FROM THE WEBSITE THAT DO NOT RELATE TO REAPPORTIONMENT PLANS OR POLICY. THE COMMISSION SHALL PROVIDE SIMULTANEOUS ACCESS TO THE REGIONAL HEARINGS BY BROADCASTING THEM VIA ITS WEBSITE AND MAINTAIN AN ARCHIVE OF SUCH HEARINGS FOR PUBLIC REVIEW.

(e.1) ON OR BEFORE AUGUST 10, the commission shall finalize its plan, BUT THE COMMISSION CAN APPROVE A PLAN THAT SETS OUT DISTRICTS FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE ONLY IF A SUPER-MAJORITY ADOPTS SUCH PLAN. ~~and~~ WHERE A PLAN IS SO APPROVED, THE COMMISSION SHALL submit the same to the Colorado supreme court for review and determination

as to compliance with sections 46 and 47 of this article; PROVIDED THAT THE COMMISSION SHALL DRAW A PLAN THAT FOSTERS COMPETITIVENESS WITHIN DISTRICTS WHERE CONSISTENT WITH THE OTHER CRITERIA TO BE CONSIDERED AS SET FORTH IN THIS SUBSECTION. Such review and determination shall take precedence over other matters before the court. The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence for such plan. Any legal arguments or evidence concerning such plan shall be submitted to the supreme court pursuant to the schedule established by the court; ~~except that the final submission must be made no later than ninety days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than ninety days prior to the date established in statute for the event commencing the candidate selection process in such year.~~ The supreme court shall DETERMINE IF THE COMMISSION ABUSED ITS DISCRETION AND either approve the plan or return the plan and the court's reasons for disapproval to the commission. If the plan is returned, the commission shall revise and modify it to conform to the court's requirements and, IF A SUPER-MAJORITY ADOPTS THE AMENDED PLAN, resubmit the plan to the court within the time period specified by the court. The supreme court shall approve a plan for the redrawing of the districts of the members of the general assembly by a date that will allow sufficient time for such plan to be filed with the secretary of state BY, IF PRACTICABLE, ~~no later than NOVEMBER 1 fifty-five days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than fifty five days prior to the date established in statute for the event commencing the candidate selection process in such year.~~ The court shall order that such plan be filed with the secretary of state no later than such date. The commission shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of copies of each plan.

(e.2) IF THE COMMISSION CANNOT AGREE ON A PLAN BY A SUPER-MAJORITY VOTE BY AUGUST 10, ANY COMMISSIONER MAY FILE A PLAN WITH THE SUPREME COURT BY AUGUST 20 WITH THE RECORD DEVELOPED AT COMMISSION HEARINGS AND MEETINGS, AS WELL AS WRITTEN ARGUMENT IN SUPPORT OF SUCH PLAN. THE SUPREME COURT SHALL DETERMINE WHICH PLAN OR PLANS PRESENTED TO IT COMPLY WITH THE REQUIREMENTS OF LAW AS PROVIDED IN OR REFERRED TO BY THIS SECTION. IF THERE IS ONLY ONE SUCH PLAN THAT COMPLIES WITH THE REQUIREMENTS OF LAW, THE COURT SHALL ORDER THAT IT BE FILED WITH THE SECRETARY OF STATE. IF THERE ARE MULTIPLE PLANS THAT COMPLY, THE COURT SHALL IDENTIFY THEM AND DIRECT THE COMMISSION TO ADOPT ONE OF THEM, INCLUDING SUCH TECHNICAL REVISIONS AS THE COURT MAY AUTHORIZE, WHICH THE COMMISSION SHALL DO BY MAJORITY VOTE. IF THE SUPREME COURT FINDS NO PLAN COMPLIES WITH THE REQUIREMENTS OF LAW, IT SHALL IDENTIFY A PLAN BEFORE THE COURT THAT COMES CLOSEST TO COMPLYING AND DIRECT THE COMMISSION TO MODIFY THAT PLAN IN ORDER TO ACHIEVE COMPLIANCE AND MAY PROVIDE SUCH DIRECTIONS TO THE COMMISSION AS WILL FACILITATE ITS WORK. THE COMMISSION SHALL APPROVE A MODIFIED PLAN BY MAJORITY VOTE AND SUBMIT THE PLAN TO THE COURT FOR APPROVAL, ACCORDING TO A SCHEDULE ESTABLISHED BY THE COURT. THE COURT MAY REJECT SUCH PLAN IF THE MODIFIED PLAN FAILS TO MEET THE REQUIREMENTS OF LAW OR, IF IT MEETS THOSE REQUIREMENTS, ORDER THAT THE PLAN BE FILED WITH THE SECRETARY OF STATE.

(f) The general assembly shall appropriate sufficient funds for the compensation and payment of the expenses of the commission members and any staff employed by it. The commission shall have access to statistical information compiled by the state or its political subdivisions and necessary for its reapportionment duties. THE COMMISSION AND ITS STAFF SHALL COOPERATE WITH THE CITIZENS' CONGRESSIONAL REDISTRICTING COMMISSION AND ITS STAFF TO OPTIMIZE USE OF STATE RESOURCES. THE TWO COMMISSIONS MAY SHARE STAFF AND HOLD COORDINATED PUBLIC HEARINGS.

(2) (a) COMMISSIONERS ARE GUARDIANS OF THE PUBLIC TRUST AND ARE SUBJECT TO ANTI-BRIBERY AND ABUSE OF PUBLIC OFFICE STATUTES AS REFLECTED IN PARTS 3 AND 4 OF ARTICLE 8, TITLE 18 OF THE COLORADO REVISED STATUTES, AS AMENDED.

(b) TO ENSURE TRANSPARENCY IN THE REDISTRICTING PROCESS, THE COMMISSION, THE COMMISSIONERS, AND THE COMMISSION'S STAFF ARE SUBJECT TO STATE STATUTES REGARDING OPEN MEETINGS AND OPEN RECORDS AS REFLECTED IN PART 4 OF ARTICLE 6 AND PART 1 OF ARTICLE 72 OF TITLE 24 OF THE COLORADO REVISED STATUTES, AS AMENDED.

(c) PERSONS WHO CONTRACT OR RECEIVE COMPENSATION FOR ADVOCATING TO THE COMMISSION, ONE OR MORE COMMISSIONERS, OR THE STAFF THE ADOPTION OF ANY PLAN, AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE PLAN CRITERIA IN THIS SECTION AND SECTIONS 46 AND 47 OF THIS ARTICLE ARE LOBBYISTS WHO MUST DISCLOSE TO THE SECRETARY OF STATE ANY COMPENSATION CONTRACTED FOR, COMPENSATION RECEIVED, AND THE PERSON OR ENTITY CONTRACTING OR PAYING FOR THEIR LOBBYING SERVICES. THE SECRETARY SHALL PUBLISH ON THAT OFFICE'S WEBSITE THE NAMES OF SUCH LOBBYISTS, AS WELL AS THE COMPENSATION RECEIVED AND THE PERSONS OR ENTITIES FOR WHOM THEY WORK. THE SECRETARY SHALL ADOPT RULES TO FACILITATE THE COMPLETE AND PROMPT REPORTING REQUIRED BY THIS SUBSECTION.

~~(d) AN ALLEGED VIOLATION OF ANY APPLICABLE ETHICAL REQUIREMENT IN PART 1 OF ARTICLE 18, TITLE 24 OF THE COLORADO REVISED STATUTES, AS AMENDED, CAN BE ADJUDICATED BEFORE THE INDEPENDENT ETHICS COMMISSION, AS PROVIDED IN ARTICLE XXIX OF THIS CONSTITUTION, AND SHALL BE PLACED AT THE TOP OF THE COMMISSION'S DOCKET AND RESOLVED AS EXPEDITIOUSLY AS POSSIBLE, CONSISTENT WITH DUE PROCESS GUARANTEES.~~

(3) **DEFINITIONS.** FOR PURPOSES OF THIS SECTION:

(a) "COMMISSION" MEANS THE COLORADO BIPARTISAN REAPPORTIONMENT COMMISSION;

(b) "COMPETITIVENESS" MEANS THE REASONABLE POTENTIAL FOR A DISTRICT'S REPRESENTATION TO CHANGE POLITICAL PARTIES AT LEAST ONCE DURING THE DECADE BETWEEN FEDERAL CENSUSES AND SHALL BE MEASURED ON FACTORS INCLUDING A PROPOSED DISTRICT'S HISTORIC POLITICAL PERFORMANCE DATA AND CURRENT AND PROJECTED POLITICAL PARTY REGISTRATION DATA; AND

(c) "SUPER-MAJORITY" MEANS A VOTE REFLECTING THE AGREEMENT OF SIX COMMISSIONERS.

(4) THIS INITIATIVE SHALL BE EFFECTIVE ON THE DAY THE RESULTS OF THE 2016 GENERAL ELECTION ARE CERTIFIED BY THE GOVERNOR.