

Conference of Consumer Organizations

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GERRYMANDERING PENNSYLVANIA

A CRISIS IN THIS LEGISLATIVE SESSION

What is COCO?

The Conference of Consumer Organizations (COCO) is a Non-Governmental Organization which focuses on consumer and environmental issues.

We began, in 1973, when <u>Dr. Currin Shields</u>, of the Arizona Consumer Council joined people such as <u>Louis S. Meyers</u>, <u>Richard L.D. Morse</u> and <u>Prof. Robert McEwen</u> to form an associational interest group. The consortium extends across 23 states, but individual chapters sustain local interest actions. We are a not-for-profit organization, which uses any proceeds to maintain, improve and expand its operations. The details of each chapter's energies far exceed the bounds of this introduction, and the bulk of our records are stored in <u>Kansas State University's Consumer Movement Archives</u>.

COCO directed the National Consumer Affairs Internship Program, National Consumer Symposium, and Consumer Affairs Seminar. Dr. Shields directed the consumer protection program for Arizona, consumer fraud, unit pricing regulations, energy and environment, public utility rates, milk and bread prices, food price fixing, labeling and dating of perishable foods, national meat boycotts, food sale tax, aging, group health plans, Arizona Consumers cooperative store, anti-trust suit against bakeries, price fixing suit against Tucson Cement Co., and bicycle safety. Dr. Myers concentrated on Telecommunications de-regulation. Dr. McEwen served on consumer advisory panels for Ford Motor Co. and AT&T.

Roger Thomas was a member of COCO from its inception, and is now Director of the Pennsylvania Chapter.

Thomas interned under Dr. Shields and attorney Stuart Herzog during the Tucson Gas and Electric Company rate hearings in 1971. His primary activity was the development of a table of interlocking directories which showed how each of TG&E's directors had conflicts of interest by serving on the boards of other energy providers. His secondary activities were to detail TG&E's behavior as a monopoly which was not responsive to either consumer or environmental needs.

After the TG&E hearings, he became Director of Fight Inflation Together-Tucson. FITT was organized in response to the sudden increase in food prices in 1972-3. Its meat boycotts reduced those prices some 15%. FITT also sponsored a series of 11 "Kitchen Clinics" to raise awareness of alternative sources of protein, and of general home budgeting techniques.

Following the successful TG&E decision, COCO and the Arizona Consumers Council pursued the Arizona Milk Cartel's price fixing scheme. The Arizona Dairy Products Litigation focused first on 1974-1976 and then on 1986-1987. Legislation was passed, and consumers were indemnified for years of loss.

Thomas continued consumer and environmental practices after moving to Wyoming. These included organizing market basket surveys, and kitchen clinics. The first spectacular campaign there was the resolution of a 1981 "bait and switch" scheme by Supreme Foods. The customers were indemnified, and Supreme Foods changed its business practices.

The most singular effort in Wyoming was the development of a proposal for Monitored Retrievable Storage of High Level Nuclear Waste. This involved two years of research and public hearings. It culminated in a detailed MRS proposal to the Department of Energy.

While teaching, in the Republic of Hungary, COCO was instrumental in the development of the "<u>Aarhus</u> <u>Convention on Public Participation in Environmental Policy Making</u>." This project began with the European Union's Directive 313 in 1993, and continued through the Convention's ratification in 2001.

In Western Pennsylvania, COCO actively developed a series of specific petitions, ordinances and legislative bills regarding the transportation and storage of "bottom ash, fly ash and related products produced by coalfired electric utility generating stations". The Pennsylvania Department of Environmental Regulation stopped the fly ash dumping, and the local boros and townships adopted effective ordinances. We are active in the State Conservation Commission.

COCO effectively responded to bait and switch campaigns by firms such as Great Call, Jitterbug cell phones and Bizland. Our largest campaign was to win indemnification for all consumers from DIRECTV for its bait and switch policies. Restitution was awarded through Pennsylvania's Middle District Commonwealth Court.

COCO is effectively campaigning to eliminate sexual harassment from the workplace. Resolutions and legislation have been written, and lobbying is being done to better define "sexual harassment". Reporting is being developed as "an equitable right and a legal responsibility".

COCO is striving for effective voting. The present registration, districting and tallying processes are inequitable.

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PENNSYLVANIA GERRYMANDERING ALTERNATIVES

Pennsylvania is the third most Gerrymandered state in the Union. Nine redistricting proposals have been offered in Pennsylvania's 2017-2018 Legislative Session:

- Sen. Boscola (SB22) proposes an Independent Commission of 4 Republicans, 4 Democrats and 3 Independents. All politicians are excluded. 120 applicants are qualified by the Secretary of the Commonwealth, and 24 are peremptorily challenged by the legislature. Eleven of the remaining 96 are appointed by the Secretary with due consideration of race, gender, ethnicity, and geography. Voting districts and administrative subdivisions are respected, as are "contiguous populations" that share a common social or economic interest. There are public hearings in June, a preliminary plan in July, followed by public hearings, and a final plan on October 15. Members of all three groups must vote for the final plan. There is an alternative process using a Master, and a mechanism to appeal the final plan to the Supreme Court. The Commission's final plan has the full force of law. It acts without legislative interference. Rep. Samuelson filed (HB722) as a companion House Bill.¹ The Boscola/Samuelson proposal has the support of FairDistrictsPA, which is raising public awareness of the issue. 109 Representatives & 20 Senators² have co-sponsored these Bills.³
- 2. Sen. Daylin Leach's (SB243) modifies the existing process. The existing Commission is increased to nine members. The Supreme Court appoints the chair. The amendment delineates very positive criteria for the new districts. They must form a polygon. They must not partition political subdivisions. Districts must not deviate more than 15% from the standard measure of compactness.⁴ District populations may not deviate beyond 8%. The preliminary plan is due in April. There's a 30 day comment period and 30 day allowance for the final plan. Seven members of the Commission must vote for the final plan. The Commission can over-ride the General Assembly. The Supreme Court has exclusive jurisdiction, and may take initiative if the system fails.
- 3. Sen. John Blake's (SB464) also modifies the existing system. The legislative leaders appoint eight members to a Redistricting Commission. None can be party activists. 75% of the commissioners elect a chair. All meetings must be public. The Commission has 90 days to file its preliminary plan. Detractors have 30 days to file objections, and the Commission then has 30 days to make corrections. If the process fails, the Supreme Court may initiate a redistricting. The entire process must be completed within a calendar year.
- 4. Rep. Ed Neilson's (<u>HB563</u>) offers a composite of amendments to both Section 16 and 17 of the Constitution. He proposes an 11 member Independent Citizens' Commission with 4 Republicans, 4 Democrats and 3 Independents, none of whom can have been political activists for 3 years. They are appointed by the Secretary of the Commonwealth. The Commission must hold 4 public hearings in June,

¹ There are three technical differences. One line is deleted from the conduct of the Committee. One is in paragraph numbering. One definition is deleted.

^{2 2018-03-09} data

³Sen. Boscola introduced SB484(2015) for an Independent Redistricting Commission on January 8, 2015. Rep. Parker's companion was HB1835. We wrote in support of that proposal, and the Western Pennsylvania Conference of the United Methodist Church passed P-102 in support of it at our Annual Conference of June 9, 2016.

⁴ This is more commonly referred to as an "Efficiency Gap of 15%".

and present their preliminary plan by July 1. There are 4 more public hearings, and the final plan must be published before August 15. If the Commission fails to perform, a Special Master is appointed on October 16 to assume their duties. The Supreme Court has exclusive jurisdiction over appeals, and the final plan has the full force of law.

- 5. Rep. Tina Davis' (<u>HB569</u>) empowers the Pennsylvania Constitutional Courts to qualify 25 public applicants to an Independent Commission. The legislative leaders then select 2 Republicans, and 2 Democrats. The Secretary of the Commonwealth then appoints an Independent as Chair. None of the members may have been politically active for 3 years. The districts are to form a grid system which is consistent with Brian Olson's "optimally compact" equal-population congressional districts.⁵ The Commission has 90 days in which to cure the draft map, and disclose it to the public. Anyone, including the General Assembly, may comment on the plan for 30 days.
- 6. Rep. Mary Jo Daley's (<u>HB924</u>) provides that the existing Legislative Redistricting Commission must file their preliminary plan within 90 days of receiving the Federal Census. There is then a 30 day comment period, and the final plan must be filed 30 days thereafter. If the Commission fails to perform within its 150 day allotment, the Supreme Court initiates the reapportionment. Citizens may submit alternative plans. There are 5 public hearings, all meetings are open to the public, the public may testify at them. The data and records shall be published on the website.
- 7. Rep. Brian Sims' (<u>HB1114</u>) has the director of the Legislative Services Bureau appoint 5 specialists to the State Legislative Redistricting Commission before June 1. All political activists are excluded, and the members of the Commission become employees of the Legislative Reference Bureau. The Commission has 90 days to conduct public hearings and submit a preliminary plan to the legislative leaders. The legislature may not amend the plan. If the legislature fails to adopt the plan, the Supreme Court shall prepare the redistricting plan. A separate Federal Congressional Redistricting Commission follows the same procedures in developing and presenting its plan. The Secretary of the Commonwealth shall report whether Maryland and Virginia have adopted similar procedures.
- 8. Sen. Jay Costa's (SB767) amends Pennsylvania's Election Code, 25 Pa.C.S.A. 501⁶ to make an Independent Citizens' Federal Congressional Commission. No Constitutional Amendment is necessary. The Secretary of the Commonwealth randomly selects 2 Republicans, 2 Democrats and 1 Independent from 20 qualified voters in each category. All meetings are open to the public, and records and proceedings are posted on the web. Members may only communicate with each other in public. Meetings begin on May 1. They will hold 6 hearings before October 1. The preliminary plan is due on October 31. This preliminary plan is published and posted, and the final plan is due on December 15. If the Commission fails to adopt a plan, the Secretary shall petition for a special master.
- 9. Rep. Scott Conklin's (HB2020) establishes an Independent Citizens' Federal Congressional Commission giving equal weight to 3 Republicans, 3 Democrats and 3 Independents. Politicians and most felons are exempted. The Secretary of the Commonwealth opens a website in July of each Federal Census year. The Commission is established on March 1, as soon as the Census is received. The Legislative Leaders have five days to strike six nominees each. Five days later, the remaining nominees convene for a training session and select the 9 members. The unselected nominees remain as alternates. All meetings are public. Six open hearings are held before the preliminary plan is published on July 1. Four more hearings are held before the final plan is published on November 30. Failing the November 30 deadline, our Supreme Court appoints a Special Master. The Special Master has 30 days. Our Supreme Court has 7 days to certify the plan to the Secretary. Precise definitions are given for density, contiguity, compactness and administrative boundaries.

⁵ Olson already provides a map of Pennsylvania's districts optionally compacted. Olson's map is marvelously consistent with Dr.J.Chen's map which the Pennsylvania Supreme Court effectively adopted in January 2018.

⁶ http://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1937/0/0320..PDF p. 25

Each of the current proposals has redeeming value. There is a consensus among the proposals:⁷

Membership

- 1) The voters have the right to rely on a redistricting commission that is not self-serving. Elected officials, candidates, staff members, nominees and lobbyists should be excluded. This exclusion would include people who have served in one of these capacities within the last 3 years. (Davis)
- 2) The voters have the right to a Commission which has an equitable distribution among political parties and independents.
- 3) The members of the Commission should reasonably reflect the racial, gender and ethnic diversity of the Commonwealth.
- 4) The voters have the right to rely on geographical diversity in the Commission membership, so that no 2 members would be from the same county. (Davis)
- 5) The Secretary of the Commonwealth should screen the applicants' qualifications. (A committee of Commonwealth Judges would create an appearance of conflict since they too are elected officials.)
- 6) Qualified persons who are not selected for membership on the Commission should be held as alternates in the event of vacancies on the Commission. (Boscola & Conklin)

Process and Procedure

- 7) The voters have the right to rely on the Secretary of the Commonwealth's diligence. This would extend from the moment the Federal Census is published until the Commission is convened. Before the Commission is convened, the Secretary of the Commonwealth will acquire the necessary and appropriate information, (Boscola) review the current literature and alternatives, locate appropriate software, (especially Davis) review and evaluate available facilities, develop programs and procedures, and establish a publicly accessible website, in preparation for drawing the preliminary plan.
- 8) The voters have the right to rely that the members of the Commission will be appointed and certifies within 45 days after the Federal Decennial Census is published. They also have the right to rely that the Commission will convene within 45 days of its certification. (Blake) (Boscola says July 1)
- 9) The voters have the right to rely on the publication of the preliminary plan within 90 days after the Commission is convened. (Blake)
- 10) The voters have the right to open meetings during Commission deliberations⁸. (Blake & Daley) We also have the right to public hearings around the Commonwealth when the preliminary draft is announced. We have the right to a public comment period on both the preliminary and final draft of the proposal. Members of the General Assembly will be allowed to offer oral and written testimony during these public hearings and comment periods. (Davis)
- 11) The business of the Commission should be conducted by a quorum, which would be those members present and voting at a meeting properly called by the chair. The business of the Commission shall be by majority vote of the quorum. (Davis)
- 12) Vacancies
 - a. The voters have the right to expect that the Secretary of the Commonwealth would promptly fill any vacancy on the Commission from the alternates who were qualified but not selected. (Davis)
 - b. A vacancy would occur if any member resigns, or has 2 unexcused absences from the Commission's meetings or hearings. (Boscola)
 - c. The Secretary will nominate replacement candidates within 14 days after the vacancy occurs. The nominees will be of the same status and political party as the previous member. (Davis) They will

⁷ The 2017-03-06 of this report included a provision that: A Constitutional Amendment may not be necessary Several other states, such as-California, Hawaii, Idaho, Montana, New Jersey and Washington have independent commissions.

⁸ 65 Pa.C.S. Ch. 7 (relating to open meetings). 65 Pa.C.S. 701-726 (Right to Know or Sunshine Act).

be selected from the previously qualified nominees who were not selected to the Commission. (Conklin)

- 13) The voters would have the right to rely on continuity of membership on the Commission. The tenure of office of the chair, and 2/3ds of the Commission members, would expire as soon as the final redistricting plan was adopted. One third of the members would continue to serve on the next Commission.
- 14) The voters have the right to expect that the members of the Commission will be able to accurately articulate the considerations from which the existing and previous redistricting plans were developed.
- 15) The voters have the right to expect that the Commission will actively consider alternative redistricting proposals in theory, practice and software.
- 16) The voters have the right to expect that the Commission's final plan shall have the full force of law. (especially Blake) It should not be subject to revision by either the General Assembly.
- 17) Aggrieved voters, who have actively participated in the hearings, may file a petition with the Supreme Court within 30 days after the Commission has certified a final plan to the Secretary of the Commonwealth. Such petitions may seek to bar the Secretary of the Commonwealth from implementing the final plan on the grounds that the filed plan violates the Constitution of the United States, Pennsylvania's Constitution or any Federal or State statute.

Redistricting Considerations

- 18) The voters have the right to rely that the Federal Census and Pennsylvania law⁹ (Boscola) shall control the Commission's preliminary and final redistricting maps. This shall apply to the population figure assigned to each geographic and political unit.
- 19) The voters have the right to rely that inmates, students and service personnel will be counted in their voting districts rather than their current location.¹⁰
- 20) The voters have the right to rely that the Commission's preliminary and final plan will effectively address the importance of boundaries of counties, cities, boroughs and townships. (Leach)
- 21) The voters have the right to rely that the Commission will effectively consider the <u>undivided census</u> <u>tracts</u> identified in the 1965 Voting Rights Act. (Davis)
- 22) The voters have the right to rely on the Commission's effective consideration of the Commonwealth's geographic features. (Davis)
- 23) The voters have the right to expect that the districts designed by the Commission will be compact and contiguous. (especially Davis) There should be a standard measurement of compactness. (Leach)
- 24) The voters have the right to expect the districts to be based on 1) a measured distance, 2) the most direct route, and 3) the shortest perimeter. The districts should form a polygon with a vortex and a recognizable geometric configuration. (Leach)
- 25) The voters have the right to expect that the districts will reflect current algorithms and data bases, and detail the compactness of the districts according to such current measures as Reock; Schwartzberg; Polsby-Popper; Population Polygon; and Minimum Convex Polygon.¹¹
- 26) The voters have the right to expect that the Commission's preliminary and final redistricting plans shall not consider personal or political considerations. The residence of the current officeholders, the voter registrations, and party registration shall be excluded from the Commission's deliberations. (Leach, Davis)
- 27) A "community of interest" is a contiguous population that shares common social and economic interests. Communities of Interest should be included within a single district for purposes of its effective and fair representation. (Boscola) Their historical voting patterns should only be considered as required by the 1965 Voting Rights Act or other Federal law.

⁹ 25 Pa.C.S. 1302 (Residence of electors).

¹⁰ https://www.prisonersofthecensus.org/pennsylvania/

¹¹ https://www.brennancenter.org/sites/default/files/legal-work/LWV v PA Order 1.26.18.pdf PA Supreme Court Order, January 26, 2018

28) The voters have the right to expect that each district should be within 7% of the total ideal measurement of the Commonwealth's population, as required by case law. (Leach)

Article 17 of Pennsylvania's Constitution specifies that our 50 Senate seats and 203 Representative seats should be drawn by the Majority Leader of the Senate, the Majority Leader of the House, the Minority Leader of the Senate, the Minority Leader of the House, and a Chairman elected by those four Legislative Leaders. Any alteration of this process requires a Constitutional Amendment.

The amendment process requires that a Bill be passed in a Legislative Session. The identical Bill must then be passed in the new Legislative Session after an election. The Bill must then be submitted to the public as a referendum. By definition, the process requires at least four years.

Sen. Costa and Rep. Conklin have noticed that the Federal Congressional districting process is not subject to the process recited in Article 17 of our Constitution. Federal Congressional Districts could be drawn by a modification of our existing Election Code. These Federal districts could be drawn by an Independent Citizens' Commission. Several states have adopted such a process, and The United States Supreme Court has sustained their decisions.

An Informational Hearing is scheduled for March 27, 2018. We are asking you to examine the alternative proposals so a cohesive redistricting proposal can be submitted to the General Assembly in 2018 – and the voters- in 2020.

In the alternative, Pennsylvania already has a well functioning Joint State Governmental Commission which could easily accommodate both a preliminary study of the legislation and the Commission. They have the staff, training and inclination. The JSGC could be called upon to conduct a study –in 2018- which would review all the current redistricting technology, literature, statutes & case law in the United States. This would include the last 6 Pennsylvania cases, as well as more recent cases such as Arizona, California, Hawaii, Idaho, Montana, New Jersey, Washington, Alaska, Arkansas, Colorado, Missouri, Ohio, & Iowa. Each of these states has some kind of redistricting commission which should be considered. The substantial work of the National Conference of State Legislatures should be considered. Several of the proposals offer a redeemable design for the membership of such a JSGC Advisory Committee. If the study were initiated now, the report could be published yet in 2018. The first step of the Constitutional amendment process could be accomplished yet in this Legislative Session. The second step could be accomplished in the 2019-2020 Legislative Session. The referendum could be accomplished in 2020, so the plan would be in place when we receive the Federal Census in 2021.

Please advise us how to proceed in this matter.

<u>Rev.Dr.Roger L. Thomas</u> Chair Conference of Consumer Organizations

Cc:

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Senator John Blake Senate Box 203022 Harrisburg, PA 17120-3022

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2018-03-20

The <u>first chapter</u> of our report on Gerrymandering in Pennsylvania¹² summarized the redistricting proposals currently before the General Assembly. That chapter provided a 29 item list of things Pennsylvania consumers had a right to rely on in the redistricting process.

There is a consensus among the proposals:¹³

Membership

- 29) The voters have the right to rely on a redistricting commission that is not self-serving. Elected officials, candidates, staff members, nominees and lobbyists should be excluded. This exclusion would include people who have served in one of these capacities within the last 3 years. (Davis)
- 30) The voters have the right to a Commission which has an equitable distribution among political parties and independents.
- 31) The members of the Commission should reasonably reflect the racial, gender and ethnic diversity of the Commonwealth.
- 32) The voters have the right to rely on geographical diversity in the Commission membership, so that no 2 members would be from the same county. (Davis)
- 33) The Secretary of the Commonwealth should screen the applicants' qualifications. (A committee of Commonwealth Judges would create an appearance of conflict since they too are elected officials.)
- 34) Qualified persons who are not selected for membership on the Commission should be held as alternates in the event of vacancies on the Commission. (Boscola & Conklin)

Process and Procedure

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- 36) The voters have the right to rely that the members of the Commission will be appointed and certified within 45 days after the Federal Decennial Census is published. They also have the right to rely that the Commission will convene within 45 days of its certification. (Blake) (Boscola says July 1)
- 37) The voters have the right to rely on the publication of the preliminary plan within 90 days after the Commission is convened. (Blake)

¹²²⁰¹⁷⁻⁰³⁻⁰⁶ https://www.academia.edu/32072745/Gerrymandering in Pennsylvania

¹³ 2017-06-12 The original text provided that the Constitutional amendment might not have been necessary. Sen. Costa's SB767and Rep. Conklin's HB2020 redraw the Federal Congressional districts without one. The legislature has the right to delegate. SCOTUS recognized Arizona's referendum. Several other states, such as California, Hawaii, Idaho, Montana, New Jersey and Washington have independent Commissions.

- 38) The voters have the right to open meetings during Commission deliberations¹⁴. (Blake & Daley) We also have the right to public hearings around the Commonwealth when the preliminary draft is announced. We have the right to a public comment period on both the preliminary and final draft of the proposal. Members of the General Assembly will be allowed to offer oral and written testimony during these public hearings and comment periods. (Davis)
- 39) The business of the Commission should be conducted by a quorum, which would be those members present and voting at a meeting properly called by the chair. The business of the Commission shall be by majority vote of the quorum. (Davis)
- 40) Vacancies
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 - c. The Secretary will nominate replacement candidates within 14 days after the vacancy occurs. The nominees will be of the same status and political party as the previous member. (Davis) They will be selected from the previously qualified nominees who were not selected to the Commission. (Conklin)
- 41) The voters would have the right to rely on continuity of membership on the Commission. The tenure of office of the chair, and 2/3ds of the Commission members, would expire as soon as the final redistricting plan was adopted. One third of the members would continue to serve on the next Commission.
- 42) The voters have the right to expect that the members of the Commission will be able to accurately articulate the considerations from which the existing and previous redistricting plans were developed.
- 43) The voters have the right to expect that the Commission will actively consider alternative redistricting proposals in theory, practice and software.
- 44) The voters have the right to expect that the Commission's final plan shall have the full force of law. (especially Blake) It should not be subject to revision by the General Assembly.
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Redistricting Considerations

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- 47) The voters have the right to rely that inmates, students and service personnel will be counted in their voting districts rather than their current location.¹⁶
- 48) The voters have the right to rely that the Commission's preliminary and final plan will effectively address the importance of boundaries of counties, cities, boroughs and townships. (Leach)
- 49) The voters have the right to rely that the Commission will effectively consider the <u>undivided census tracts</u> identified in the 1965 Voting Rights Act. (Davis)
- 50) The voters have the right to rely on the Commission's effective consideration of the Commonwealth's geographic features. (Davis)
- 51) The voters have the right to expect that the districts designed by the Commission will be compact and contiguous. (especially Davis) There should be a standard measurement of compactness. (Leach)
- 52) The voters have the right to expect the districts to be based on 1) a measured distance, 2) the most direct route, and 3) the shortest perimeter. The districts should form a polygon with a vortex and a recognizable geometric configuration. (Leach)
- 53) The voters have the right to expect that the districts will reflect current algorithms and data bases, and detail the compactness of the districts. The current measures are Reock; Schwartzberg; Polsby-Popper; Population Polygon; and Minimum Convex Polygon.¹⁷ These will be out of date before the next Federal census.
- 54) The voters have the right to expect that the Commission's preliminary and final redistricting plans shall not consider personal or political considerations. The residence of the current officeholders, the voter registrations, and party registration shall be excluded from the Commission's deliberations. (Leach, Davis)

¹⁴ 65 Pa.C.S. Ch. 7 (relating to open meetings). 65 Pa.C.S. 701-726 (Right to Know or Sunshine Act).

¹⁵ 25 Pa.C.S. 1302(a)(iii) (Residence of electors).

¹⁶ https://www.prisonersofthecensus.org/pennsylvania/

¹⁷ https://www.brennancenter.org/sites/default/files/legal-work/LWV v PA Order 1.26.18.pdf PA Supreme Court Order, January 26, 2018

- 55) A "community of interest" is a contiguous population that shares common social and economic interests. Communities of Interest should be included within a single district for purposes of its effective and fair representation. (Boscola) Their historical voting patterns should only be considered as required by the 1965 Voting Rights Act or other Federal law.
- 56) The voters have the right to expect that each district should be within 7% of the total ideal measurement of the Commonwealth's population, as required by an efficiency gap or case law. (Leach)

The operative point of the original first chapter was to have the Joint State Government Commission conduct a six month study of redistricting, and develop a proposal for Pennsylvania. There is still time to do this.

This second chapter examines a specific Bill, reconciles it with the other proposals, and offers a draft for consideration. Sen. Boscola's SB22¹⁸ was selected because it appears to have the wind of popular support in its sails.

The preponderance of our changes within SB22 apply Judge Learned Hand's mandate that laws should be readable by the consumers who are to use them. Legal language is simplified, often through punctuation. For example, "Flying Paragraphs" are numbered. Word-processing errors are addressed. The provision excluding certain felons from membership, for example, is moved from Subsection (f)(3) on "vacancies" to Subsection (c) on "exclusions".

SB22 provides an excellent schedule of events, beginning with July 1, in subparagraphs (m) & (n). We have suggested extending this schedule back to even before January 1. Certain preliminary information should be gathered, a website should be created, the Commission should be appointed, approved, selected and meet according to the kind of schedule already provided in subparagraphs (m) & (n).

Along the same lines, the Bill gives the four Legislative Leaders certain peremptory challenges,¹⁹ but provides no default period for those challenges. It provides for a Master,²⁰ but assigns no due date for the report. No one has the right to review the Master's plan.

The schedule offered here completes the one initiated in subparagraphs (m) & (n).

We then integrated the substance of Pennsylvania's other redistricting Bills into the appropriate subparagraphs in SB22. e.g.

- Sen. Blake applies Pennsylvania's Sunshine Act, which we inserted in subparagraph (i) on Procedures.
- Rep. Davis emphasizes the 1965 Voting Rights Act, which we inserted in subparagraph (k) on Applicable Law.
- Rep. Neilson requires the Commission maintain an internet site. This is integrated throughout the proposal.

Many of the ideas found in the other proposals are integrated into subparagraph (k) which recites the initial criterion to be used in determining equitable districting. Some of these will be

¹⁸ As of 2018-03-11, SB 22, printer no. 397, (2017) has been co-sponsored by 20 Senators, including all of the Senators who have authored other redistricting Bills. Rep. Samuelson's companion, HB722, has received 109 cosponsors. This co-sponsorship is largely the result of The League of Women Voters' <u>FairDistrictPA</u>.

¹⁹ Subsection (d) (4)
²⁰ Subsection (o)

included in the Constitutional Amendment, and others will be delegated to the implementing statute.

Three ideas offered to the General Assembly deserve special mention.

- 1. Rep. Sims²¹ correctly suggests that the Congressional boundaries along our perimeter should be consistent with those of our neighboring states. The coal fields in Southwestern Pennsylvania extend into Northern West Virginia. These people are a community of interest even though they live across state lines. The two adjoining congressmen would have common interests. This should be a consideration in making Pennsylvania's final plan. He specifies that Maryland and Virginia should use a districting plan similar to Pennsylvania's.
- 2. Rep. Davis proposes a computer assisted grid system. She specifically refers to Brian Olson's "<u>optimally compact</u>" equal-population congressional districts. We have incorporated the idea of grids into the preliminary information required in subparagraph (j).

No one doubts that computer models will be used in future redistricting plans. Our Supreme Court implemented them in the current League of Women Voters' decision.²²

It is imperative that Commissioners and consumers understand the master-to-servant relationship between the user and the computer. Printouts, such as those provided in our first chapter, will be vital to developing the preliminary plan required in subparagraph (n), but they do not control the final plan developed in accordance with subparagraph (k). It falls on Commissioners to change this computer data into districts of voting citizens.

3. Sen. Leach initiated "a standard measurement of compactness". He relies on Dr. Azavea's work, much of which is recited in subparagraph (k). This is an initial example of unfolding science. Sen. Leach allows a 15% deviation, but this may be reduced by current case law. This developing law and technology must be accommodated in the legislation being developed here.

There has also been massive litigation pertaining to Pennsylvania's 2011 districting map. The Holt cases²³ impacted our Supreme Court's December 2013 decision, and League of Women Voters v. Pennsylvania²⁴ is currently impacting the 2018 elections. These decisions should be vectors in the appropriate amendments, statutes and implementing regulations.

We offer three substantial contributions for the improvement of SB22.

²¹ There is much more to Rep. Sims' HB1114, subparagraph 8, Applicability, but it is beyond our scope in this introduction.

²² Specifically Dr. Jowei Chen's maps in our Supreme Court's Order of 2018-02-07. https://www.brennancenter.org/sites/default/files/legal-work/LWV v PA Majority-Opinion.pdf

²³ Holt v. Legislative Reapportionment Commission, 38 A.3d 711 (Pa.2012) ("Holt I") Holt v 2011 Legislative Reapportionment Commission, 67 A.3d 1211 (2013) (Holt II).

²⁴ 261 MD 2017, <u>https://www.brennancenter.org/legal-work/league-women-voters-v-pennslyvania</u>

Adjusted population data. The Federal census provides raw population numbers to the Secretary. The Secretary "corrects issues in the raw data received from the Census Bureau, such as voting district code and name discrepancies, municipality name discrepancies, precinct changes which may have been made after the U.S. Census' Phase 2 program, and split block issues."²⁵

Pennsylvania's Election Code provides an extensive list of people who are not to be included as eligible voters in our districts.²⁶ Students, inmates, service personnel who reside in one place, but vote in another. There is no current mechanism for purging these people from the raw data.

The Master's accountability. SB22 allows the master imperial power. We have imposed a time line, and made the master's plan subject to a judicial hearing.

Congressional Districting. Our Constitution delineates the districting of the General Assembly. The process was recited beginning in 1776, and continues, as Article II Section 17, through the current 1968 revision.²⁷ The Federal Congressional districts are drawn through an entirely different, statutory, process. This was a deliberate act of the founders. The two processes are conceptually distinct, and serve different purposes. Independent citizens' commissions should be used to district both the General Assembly and the Federal Congressional delegation. It is not necessary for these commissions to be the same people, and it is contra-functional for them to be working with the public at the same time.

Having applied Judge Learned Hand's mandate, and integrated the Bills currently in front of the General Assembly, we drafted a proposal which we hope Sen. Boscola will consider submitting as a new printer number to SB22.

Our <u>third chapter</u> digests the current statutes and models regarding redistricting. It also summarizes the case law from Baker v Carr (1962) through Cooper v Harris (2017) and Whitford v Gill. These must be collected and applied to Pennsylvania's redistricting regulations.

Roger Thomas Chair

²⁵ http://www.redistricting.state.pa.us/Data.cfm

²⁶ 25 Pa.C.S. 1302(a)(iii) (Residence of Electors)

²⁷ The Legislative Reapportionment Commission was invented in 1968. The chairmanship of that Commission was modified in 1981, [1981 Pa. Laws 601]. SB321 (2000) Printer No.2191, pertaining to the election of State Senators, in provisions (I), (g) &(h) was adopted in 2001. http://www.dug.edu/assets/Documents/law/pa-constitution/_pdf/treatises/white-commentaries-constitution-pa.pdf

SB22 of 2017

Analysis & Commentary

THE GENERAL ASSEMBLY OF PENNSYLVANIA

Printer no. 397

No. 22 Session of 2017

A JOINT RESOLUTION

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 17 of Article II is to be amended to read:

§ 17. Legislative and Congressional Redistricting Commission.

Not later than December 31 of each year ending in zero, a Legislative and Gengressional Redistricting Commission shall be constituted for the purpose of redistricting the Commonwealth.

Preamble

(a) The Commission shall:

(1) <u>Conduct an open and transparent process enabling full public</u> consideration of and comment on the drawing of district lines.

(Comment)

Sen. Blake insists that "Each meeting of the Commission must be held in public, and must comply with any law which applies to open meetings." Pennsylvania Sunshine Act, 65 Pa.C.S. §§ 701-716. Should that provision be inserted here?

(2) Draw district lines according to the redistricting criteria

specified in this section.

Rep. Samuelson deletes this provision from HB722.

(3) Conduct itself with integrity and fairness.

Membership

(b) The Commission shall consist of 11 members, as follows: four who are registered with the largest political party in this Commonwealth based on registration, four who are registered with the secondlargest political party in this Commonwealth based on registration

and three who are not registered with either of the two largest

political parties in this Commonwealth based on registration.

The Bill achieves a prime number (11) by providing 4 Republicans, 4 Democrats and only 3 Independents. Rep. Conklin achieves it (9) by assigning 3 Republicans, 3 Democrats and 3 Independents. Conklin gives no weight to any subpool.

Requirements

(C) The General Assembly shall prescribe by law the qualification to serve as a Commission member. Each

Commission member shall possess all of the following qualifications, in

addition to any qualifications prescribed by law:

(Commentary)

The first sentence of subparagraph (c) should be deleted, as in Rep. Neilson's subsection (c). All of the qualifications should be recited in this Amendment. The legislature should not be empowered to draft additional requirements at a later date.

(1) Be a voter who has been continuously registered in this Commonwealth

with the same political party or unaffiliated with a political party or

political body for three years immediately preceding the date of

appointment to the Commission. and whose political affiliation has not changed in the three

years immediately preceding the date of appointment-to-the Commission.

(2) Has voted in two of the last three Statewide general elections

immediately preceding the date of appointment to the Commission.

Exclusions

- (3) Has not held or does not have an immediate family member who has held elective or appointed public office at the Federal or State level or elective judicial office in this Commonwealth in the five years immediately preceding the date of appointment to the Commission.
- (4) Has not served or does not have a spouse who has served as a paid staff member or paid consultant to Congress, the General Assembly or staff appointed by the Governor in the five years immediately preceding the date of appointment to the Commission.

- (5) Has not registered, or does not have a spouse who has registered, or been employed as a Federal or State lobbyist in this Commonwealth in the five years immediately preceding the date of appointment to the Commission.
- (6) Has not been nominated or does not have a spouse who has been nominated as a candidate for elective office by a political party or political body or served or does not have a spouse who has served as a paid staff member or officer of a political party, political body, political committee or political action committee in the five years immediately preceding the date of appointment to the Commission.
- (7) Not more than three members of the Commission may have served on a previous redistricting commission.
- (8) Has not been convicted, found guilty or pled guilty or nolo contendere to embezzlement of public money, bribery, perjury or other infamous crime, whether or not sentence has been imposed.

(Commentary)

Every proposal contains similar exclusions.

(1)We have punctuated subparagraph (c) (1) to eliminate the redundancy.
(2) Pennsylvania wisely has a "Statewide general election" every year.
Judicial and Row Offices are held in non-legislative years. This requirement could be met in 3 years.

(3) The term "immediate family member" is only used in Sen. Boscola's provisions (c) (3) and (f) (1). The term is defined in subsection (v). The term "spouse" is used throughout the rest of the document. Excluding every member of "the immediate family" who has held elective office within the previous five years would have eliminated the members of the Adams, Roosevelt, Kennedy and Bush families. More than one member of each of these families were in office at the same time. Using the term "spouse" would make the Bill internally consistent.

(3) Rep. Davis includes "appointed" as well as elected positions.

(4), (5) & (6) Sen. Boscola and Rep. Neilson have chosen a five year limit on previous political activity. Rep. Davis specifies a three year limit. Sen. Leach specifies a 10 year limit.

(5) Sen. Blake & Sen. Leach exempt volunteers from this exclusion; Commissioners "may not hold a local, State or Federal office to which compensation is attached."

(7) This proposed subparagraph would allow continuity among the Commissions. Three of the eleven Commissioners could bring prior experience to the process. Washington, Arizona, and California created

standing committees for redistricting. Rhode Island and New Jersey developed <u>ad hoc</u> committees. Both ad hoc committees considered their past two decennial reapportionments in developing their new districts according to the new census data. Paragraph (7) limits the number to three of the 11 members. This prevents a "standing committee", but allows prior experience to prevent it from becoming a completely "ad hoc committee".

(8) The felony exclusion should be moved from Subsection (f)(3) on Vacancies, here to Subsection (c) on Exclusions. As written, the original members can be felons, but not the replacements. This is not what the author intended.

Application Process

(d) Application and selection of the members of the Commission shall be subject to the following:

- (1) The Secretary shall publish a form which allows citizens of the Commonwealth to apply for Commission membership. This form shall be revised and published, on the Commission's Internet website, during the second half of each year ending in zero.
- (2) Citizens may file this form with the Secretary, delineating their qualifications, until January 1 of each year ending in one. <u>Application</u> <u>to serve as a member of the Commission may be filed with, and on a form developed by, the Secretary of</u> <u>the Commonwealth indicating thereon evidence of his or her qualifications as provided by this section.</u>
- (3) The Secretary of the Commonwealth shall verify the qualifications

of each applicant before January 31 of each year ending in one. If the Secretary of the Commonwealth finds that an applicant is not qualified, the Secretary shall notify the applicant, and delete the Secretary of the Commonwealth shall not include the applicant's name in from the pool of applicants.

(Commentary)

The "Secretary of the Commonwealth" is a non-elected person. The Secretary is already responsible for "overseeing Pennsylvania's electoral process". Using the Director of the Legislative Reference Bureau, 15 Commonwealth Judges, members of the General Assembly, or the Supreme Court Justices would be cumbersome. These alternatives would also contradict the purpose of political objectivity.

The word "Secretary" should be included among the definitions in subsection (v).

This section should begin the delineation of a time line leading to the initial meeting. When are the applications published? When are citizens

to apply? When are they selected/rejected? How long do the Legislative leaders have? When is the initial meeting? A consistent time-line is needed throughout the document.

(1) Rep. Neilson's subsection (j)(1) requires that the Commission have an Internet site. Application forms would be posted in July while the Federal census was in progress (2020). Citizens could apply through January 31 of the next year (2021).

(3) Some applicants will be rejected because of irregularities in their qualifications. The applicant has the right to be notified of their rejection, possibly on a form letter. That notification would allow the applicant the opportunity to cure the defect.

Sorting Process

- (3) The Secretary of the Commonwealth shall separate all qualified applicants into three subpools consisting of those who are:
 - (i) registered with the largest political party in this Commonwealth based on registration;
 - (ii) registered with the second-largest political party in this Commonwealth based on registration; and
 - (iii) not registered with either of the two largest political parties in this Commonwealth based on registration.
- (4) The Secretary of the Commonwealth shall select, on a random basis, 40 qualified applicants from each of the three subpools provided in paragraph (3). The Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives may each strike up to two applicants from each subpool. Each leader shall have no more than six strikes.
- (5) After the legislative leaders have exercised their strikes under paragraph (4), the Secretary of the Commonwealth shall select for appointment as members of the Commission on a random basis from the remaining applicants in each of the three subpools of qualified applicants. In addition to the qualification requirements provided in subsection (c), appointments from each subpool shall reasonably reflect the racial, geographic and gender diversity of this Commonwealth.

(Commentary)

The Secretary identifies 40 people from each subpool. That's 120 applicants. The leaders of the General Assembly may strike 24 of these people. That leaves 96 qualified applicants. The Secretary then appoints 11 of these 96 people to the Redistricting Commission. If the 11 randomly selected applicants do not reflect Pennsylvania's diversity, the Secretary will need to draw again. The 85 unselected applicants would remain available as alternates in their subpool in the event of a vacancy on the commission.

(4) The Legislative Leaders are not given a time line. Under the letter of this law, they could exercise some of their challenges through October when the plan is turned over to the master under subsection (o). The 2010 census was received on February 3, 2011. We can anticipate a similar time line in 2021. If the Legislative Leaders are given 15 days to exercise their peremptory challenges, the Secretary could convene the Commission's opening meeting on February 18 or March 1. The Legislative Leaders should be allowed a known number of days.

(4) Rep. Neilson's subsection (d) deletes this General Assembly verification process entirely. Does the General Assembly's participation increase the Commission's credibility?

(5) Please insert language in (5) specifying that the remaining 85 applicants shall be alternates. This modification would clarify the vacancies process enumerated in paragraph (f)(3).

(5) Please make the final sentence of sub-paragraph (5) a separate paragraph (6). It would substantially clarify the intent & language.

(5) Rep. Davis specifies that no more than two members of the Commission may reside in the same county.

(6) One of the members shall be selected as chair by a vote of at least

six members of the Commission.

(Note)

(6) Rep. Davis also requires a vice-chair.

Subparagraph (j)(1) has the Secretary collect preliminary districting information between July and January. This packet of information could be provided to the 120 nominees as soon as January 31. This would distribute a basis of common information, not only to the 11 commissioners and 85 alternates, but to the public at large. Meaningful dialogue could take place as soon as the selection process was completed under subparagraph (d)(5).

The initial, March, meeting could be a seminar on the preliminary information. It would select a chair, and develop a meeting schedule through the July 1 publication of the initial plan.

Terms & Vacancies

(e) The term of office of each member of the Commission shall expire at

the same time the Commission expires as provided in this section.

(Comment)

Subsection (e) should be deleted. This same language is repeated in subparagraph (s)(1).

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

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

(Commentary)

The provision "at which a vote is scheduled" creates too much opportunity for hopscotch. Commissioners can avoid any number of meetings as long as a vote is not scheduled in advance. The proviso encumbers the open meetings intent throughout the Bill.

This, and subparagraph (c)(3), are the only times the term "immediate family member" is used. All other exclusions use the term "spouse". Immediate family member is appropriate here, but not in Subsection (c).

Felons

(2) If a member of the Commission has been convicted, found-guilty-or-pled-guilty-or-nolo-contendere-to

emberslement of public money, bribery, perjury or other infamous crime, whether or not sentence has been

imposed, the member's position shall be deemed vacant.

(Commentary)

Subparagraph (2), regarding convictions, is written in the past tense. It should be moved to (c). Rep. Neilson eliminates the provision entirely.

(3) A vacancy in the Commission shall be filled within 14 days from the

time the Commission is notified of the vagancy in the same manner that the position was

originally filled and using the same subpool of applicants from which the

vacating member was chosen. If none-of those remaining applicants are available for

service, the Secretary of the Commonwealth-shall fill-the vacancy-from a new pool of applicants created

from the same voter registration category as the vacating-member.

(Commentary)

As written, the first clause of subparagraph (3) means that a vacancy must be filled using the entire three-step process including rejection by the leaders of the General Assembly. Please delete this clause. The second sentence implies that not one of the 85 unselected applicants is available for service. Reps. Davis and Neilson specify that vacancies should be filled from the candidates originally selected. Please clarify, in sub-paragraph (d) (5), that the unselected applicants in that subpool would be available as first alternates. The replacement will come from the original subpool The Commission should determine whether there is a uncentry.

The Commission should determine whether there is a vacancy. Once the Commission is convened, the locus of power shifts away from the Secretary. The Secretary changes from manager to facilitator. In re-draft, the section would read:

(3) A vacancy in the Commission shall be filled within 14 days from the

time the Commission determines that a vacancy has occurred. The vacancy shall be filled from the alternates in the subpool from which the vacating member was chosen.

Post Term Prohibitions

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

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

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

(3) Serve as a paid staff member or paid political consultant for a

political party, political body, political committee or political

action committee.

(Commentary)

Rep. Neilson's subsection (g) (1) prohibits Commissioners from holding an appointive position for three years. Subsection (g) here uses a three year prohibition, but subsection(h) uses a five year standard.

(h) A member and the member's spouse shall be ineligible to do the

following for a period of five three years beginning from the expiration

of the term for which the member was appointed to the Commission:

- (1) Hold an appointed position or elective public office at the Federal or State level in this Commonwealth.
- (2) Be eligible for nomination as a candidate for elective office by a

political party or political body.

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

committee or political action committee.

(Commentary)

The use of "spouse" should be consistent throughout the Act. Rep. Neilson does not apply these prohibitions to the member's spouse.

Procedures

(1) Seven members of the Commission shall constitute a quorum. Seven

or more affirmative votes shall be required for any official action.

(2) The final redistricting plan must be approved by at least seven

affirmative votes. At least one of these seven votes must be cast by

a member of each of the subpools provided in subparagraph (c)(6). that

must-include at least-one-vote of a member registered from-each of the two largest-political parties in

this Commonwealth based on registration and one vote from a member who is not registered with either of

the two largest political parties.

(Commentary)

The paragraphs in subsection (i) are not numbered. These "flying paragraphs" should be designated.

(1) A "quorum" that requires a fixed number invites problems. The more modern definition is; "A quorum is those members present and voting at a meeting duly called by the chair". This prevents hop scotch. If the chair calls a meeting, all the disclosure provisions apply. Even if there are only two people in attendance.

(2) This paragraph should be simplified for the ordinary reader.

Would Sen. Blake's "open meetings" language be inserted here rather than in the preamble? Sen. Boscola's open meetings provision is currently in (m.1).

Preliminary Information

(j) To begin the process of preparing information necessary to the

redistricting process, the Commission shall:

(1) The Secretary shall acquire, during the last half of each year

ending in zero, the preliminary, all necessary and appropriate

information regarding redistricting. This will include, but not be limited to, the current districting statutes, regulations, case law,

computer models, and professional literature. This information shall be continuously published on the Commission's publicly accessible website. <u>The Secretary shall further review and evaluate available facilities for the Commission</u>. The Secretary may also <u>and develop programs and procedures, that may</u> <u>include the use of software</u>, in preparation for drawing congressional and <u>legislative redistricting plans on the basis of each</u> the <u>Federal</u> <u>Census. The Commission shall-make the information available to the public in a manner-prescribed by</u>

1aw.

(Commentary)

(1)As previously discussed, Subsection (j)(1) very effectively expedites the process. All of the background work is done. The application process should be completed, the eligible commission members should be identified, and the nominees submitted to the legislative leaders all before the Secretary receives the Federal Census Report. Please continue the time line. It is developed in subsection m, and offered in subsection d. Who is to do what, and when are they to do it?

The information gathered, and the procedures developed are preliminary. They are subject to change by the commission. The locus of power runs to the commission.

(1) Rep. Neilson's subsection (j) (1) requires continuous posting of this preliminary information on the Commission's Internet site.

(1) The issue of "available facilities" appears here in subsection
 (j) (1). Rep. Davis addresses this in subsection (k) of HB 569. Please move the third sentence of (j) (1), regarding "facilities", to the "staffing" provisions in subsection (r).

(1) Please delete the last clause of paragraph (j)(1). It should be a declaratory sentence which empowers the Secretary to use the most current technology for public access.

(2) (i) As soon as possible after December 31 of each year ending in

zero, the Secretary shall obtain from the United States Census

Bureau the population data needed for legislative redistricting

that the Census Bureau is required to provide the Commonwealth

under 13 U.S.C. § 141 (relating to population and other census

information). and

(Commentary)

(2) We have punctuated the first sentence of paragraph (j)(2) for the benefit of ordinary readers. It is presented here as (2)(i) & (ii).

(2) The 2010 Census Redistricting Data (P.L. 94-171) was released to the

states on February 3, 2011. The proposal anticipates the Census Report before February 5. The Commission convenes in March. Four public hearings take place in June, and the preliminary plan is due on July 1. The time line is effective.

Proposed re-write:

(2) (i) The Secretary shall obtain the population data needed for redistricting as soon as possible after December 31 of each year ending in zero. This shall include the data the Federal Census Bureau is required to provide under 13 U.S.C. 141 (relating to population and other census information. This shall also include the information required under the Pennsylvania Election Code. The Secretary shall apply this information to determine the adjusted population data throughout the Commonwealth.

"ADJUSTED POPULATION DATA"

There is a huge hole at this point.

The Federal Census measures all the people present in any location on a specific day. This includes all kinds of temporary residents who do not actually live there. Snow birds, students, service personnel and inmates. The districts are supposed to be drawn according to the "adjusted population data" of eligible voters.²⁸

25 PA Consolidated Statutes Section 1302(a)(iii) (Residence of Electors) provides that voters should be counted in their home of record rather than their current location. Viz:

25 Pa.C.S. § 1302(a)(iii). Residence of electors.

(a) General rule.--

(1) For the purpose of registration and voting, no individual shall be deemed to have gained a residence by reason of presence or lost a residence by reason of absence in any of the following circumstances:

(i) Being employed in the service, either civil or military, of this Commonwealth or of the United States.

(ii) Being engaged in the navigation of the waters of this Commonwealth or of the United States or on the high seas.

(iii) Being in an institution at public expense. This subparagraph does not apply to a veteran who resides in a home for disabled and indigent soldiers and sailors maintained by the Commonwealth. Such a veteran may elect to utilize that residence for registration and voting or elect to vote as an absentee elector by the use of an absentee ballot.

(2) Nothing in paragraph (1) shall preclude any elector eligible under section 1301 (relating to qualifications to register) from establishing the district of residence as the election district of residence pursuant to subsection (b).

(3) Except as otherwise provided in this subsection, no individual who is confined in a penal institution shall be deemed a resident of the election district where the institution is located. The individual shall be deemed to reside where the individual was last registered before being confined in the penal institution, or, if there was no registration prior to confinement, the individual shall be deemed to reside at the last known address before confinement.

²⁸ Evenwel v. Abbott, 136 S. Ct. 1120 (2016)

(4) An individual who resides at an institution for the mentally ill or the mentally retarded, if otherwise qualified under section 1301, shall be deemed at the individual's option a resident in one of the following:

(i) The district where the institution is located.

(ii) The district where the individual was last registered to vote before entering the institution. For purposes of this subparagraph, if the individual was not registered before entering the institution, the individual shall be deemed to reside at the last known address before entering the institution.

(b) Rules for determination. -- The following apply:

(1) That the place shall be considered the residence of an individual in which habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning.

(2) An individual shall not be considered to have lost residence if the individual leaves home and goes into another state or another election district for temporary purposes only, with the intention of returning.

(3) An individual shall not be considered to have gained a residence in an election district if the individual comes into that district for temporary purposes only, without the intention of making that election district a permanent place of abode.

(4) If an individual removes to another state with the intention of making that state the permanent residence, the individual shall be considered to have lost residence in this Commonwealth.

(5) If an individual removes to another state with the intention of remaining there an indefinite time and making that state the place of residence, the individual shall be considered to have lost residence in this Commonwealth, notwithstanding an intention to return at some indefinite future period.

(6) If an individual goes into another state and, while there, votes in an election held by that state, the individual shall be considered to have lost residence in this Commonwealth.

(7) An individual employed in the service of the Federal Government or of the Commonwealth and required thereby to be absent from the municipality where the individual resided when entering that employment and the spouse of the individual may remain registered in the district where the individual resided immediately prior to entering that employment, and the individual and the spouse shall be enrolled in the political party designated by the individual or spouse without declaring a residence by street and number.

The mechanism for deleting these populations to determine the "adjusted population data" is not clear. Presently, 30% of Forest County's population, 6% of Union's, 5% of Wayne's, 5% of Huntindon's, 4% of Centre's, & 4% of Montgomery's are inmates. If the student population were deducted, Oakland would be a village. The population of Pennsylvania's 15 major military bases would also seriously impact those counties' population figures.

How does this information reach the Legislative Redistricting Commission? When is it considered part of the "adjusted population data? Present law makes no provision.

§ 502-A. Census data.²⁹

Notwithstanding any other provision of law, in the year immediately following the Federal decennial census, the Legislative Data Processing Center shall:

- 1) Obtain the census data for this Commonwealth from the United States Census Bureau.
- 2) Provide the adjusted population data to the commission within 60 days after the Legislative Data Processing Center receives the census data from the United States Census Bureau.

One source says:

29 ?

"The adjusted U.S. Census population data corrects issues in the raw data received from the Census Bureau, such as voting district code and name discrepancies, municipality name discrepancies, precinct changes which may have been made after the U.S. Census' Phase 2 program, and split block issues.

"This data has been certified as being in useable form for redistricting, and it is the official data used to redraw the boundaries of state legislative districts. This official data is also used for congressional redistricting."³⁰

Another source says:

"The Census Department is entirely responsible for discerning and assigning population, as described in that section. The "adjusted population data" is solely focused on any precinct boundary changes that may have occurred after Census conducted their survey."³¹

Both sources say that the only adjustments made to the Federal Census Report pertain to the information provided to the Secretary by the County Election Bureau under 25 Pa.C.S.302(m).³² Apparently no one is charged with applying exclusions recited in 25 Pa.C.S. 1302(a)(iii) to the data provided in the Federal Census Report.

The 2011 Legislative Redistricting Commission did not have this "temporary resident" information in front of them. Nor was it implemented under SR148 of 2011³³. The Commissions' staff reports:

"I believe "adjusted population data" means the data the commission receives from LDPC which reflects changes in population data as a result of the Census. The commission makes corrections, if necessary, such as it did when it reserved the right to do in August 2011."³⁴

25 Pa.C.S.1302(a)(iii) was enacted in 2012, well before the resolution of the Holt litigation and the Court's December 2013 adoption of the 2011 redistricting map. "Eight House districts meet minimum federal population requirements only because they count prisoners as local residents".³⁵

³³ http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2011&sInd= 0&body=S&type=R&bn=148

³⁰ http://www.redistricting.state.pa.us/Data.cfm

³¹ Legislative Data Processing Center, 2017-10-16.

³² 25 Pa.C.S 302(m) "To prepare and submit, within twenty days after the last day to register to vote in each primary, municipal and general election, a report to the Secretary of the Commonwealth in the form prescribed by him, which shall contain a statement of the total number of electors registered in each election district, together with a breakdown of registration by each political party or other designation. Copies of said statement shall be furnished, upon request, to the county chairman of each political party and political body. The Secretary of the Commonwealth shall forthwith submit such information to the Legislative Data Processing Center and shall publicly report the total number of registered electors for each political party or other designation in each county not later than five days prior to the primary, municipal or general election."

³⁴ December 18, 2017

³⁵ <u>https://www.prisonersofthecensus.org/pennsylvania</u>/ Districts 5, 69, 73, 74, 81, 85, 123, 147 <u>https://www.prisonpolicy.org/reports.html#prison-gerrymandering</u>

"Pennsylvania inmates cannot vote. In other words, prisoners are used to pad the districts where the prisons are located thereby diluting the power of the districts were they are actual residents. This practice is known as "prison gerrymandering".

Because the "adjusted population data" includes people who are exempted by statute, the entire legislative distribution is distorted. Pennsylvania's population is 12,805,537.³⁶ The 18 districts should therefore be 711,418 each.³⁷ Subtract our 50,277 prison population,³⁸ and the Commonwealth becomes 12,755,260, with districts of 708,625. That 2,793 difference is just on prison populations. The additional impact from service personnel, students and other people exempted under 25 Pa.C.S. 1302(a)(iii) would be substantial.

This hole is extremely easy to plug. The Secretary could gather the data required under 25 Pa.C.S. 1302(a)(iii) in preparation for the Federal Census Report. This could be done in January. It would be on file before the Federal Census was received. The information in both 25 Pa.C.S. 302(m) and 1302(a)(iii) could then be applied to the Federal Census to determine the "adjusted population data". Accurate data would then be provided to the Legislative Data Processing Center. We have provided an alternative above in (i). Here's a similar example:

(ii) The Secretary shall further reconcile the population data received from the Census Bureau with the Pennsylvania Election Code.³⁹ This adjusted population data shall be used use that data to assign a population figure based upon census data to each geographic and political unit described pursuant to subparagraph (i).

Done!

Grids

At this point, Rep. Davis requires the Secretary to develop the initial grids. Viz:

(iii) The Secretary shall immediately use the adjusted population data to create districts of equal population into an initial gridlike pattern across this Commonwealth. The Commission shall make adjustments to this initial grid as part of their deliberations.

There is no doubt that computers and grids will be used in future districting processes. Our Pennsylvania Courts have used them in the current districting endeavor.⁴⁰ The Secretary will have a bath of

³⁶ https://www.census.gov/quickfacts/PA July 1, 2017

³⁷ The Pennsylvania Courts used this number in the current League of Women Voters litigation.

³⁸ <u>http://www.cor.pa.gov/About%20Us/Statistics/Documents/Monthly%20Population</u> %20Reports/Mtpop1802.pdf

³⁹ 25 Pa.C.S. § 1302(a)(iii) (Residence of electors) and 25 Pa.C.S 302(m) (Powers and Duties of County Boards).

⁴⁰ The Commonwealth Court applied computer models at <u>https://www.brennancenter.org/sites/default/files/legal-work/17.12.29</u> <u>\$20Recommended\$20Findings\$20of\$20Fact\$20and\$20Conclusions\$20of\$20Law.pdf</u>; Our Supreme

objective data, and an abundance of highly qualified experts with valid vectors in various algorithms available even before the Commission is formed. The Secretary could gather an adequate sample of these proposed grids and have them ready for the Commission. Learning how to read them would be part of the training. Collecting an adequate sample of objective data for subjective consideration reflects what the Commonwealth Court did in 2017. It is also what litigants did on appeal in 2018.⁴¹

Here again, the intent of the provision is for the Secretary to gather as much information as possible before the Commission is formed. The objective information would be public, with direct links to the current redistricting literature. It would also apply the existing computer module, and provide an initial grid to the Commissioners and the public.

Publication

(3) (i) As soon as the Commission is appointed under subsection (d), the members shall review the preliminary information published by the Secretary according to subsection (j) (1) and (2).

(ii) Upon completing these tasks, that task, the Commission shall begin

the preparation of congressional and legislative redistricting plans as

required by this subsection and subsection (k).

(Commentary)

This is the first time the proposal refers to both the "congressional and legislative redistricting plans".

The Constitutional authors very deliberately placed the structure and districting of the General Assembly in Article II of our Constitution. Pennsylvania has the sole and only authority to determine these matters.

These same Constitutional authors also deliberately placed districting of the Federal Congressional districts in Section V of the Election Code.

One is a Constitutional issue, over which Pennsylvania has exclusive control, and the other is a Federal issue over which Pennsylvania has little or no control.

At the end of each Federal census, Congress takes it upon itself to implement the Reapportionment Act of 1929.⁴² Pennsylvania is a recipient, rather than an operative of Congress' decision.

The purpose and intent of designing the Commonwealth's General Assembly is completely distinct from implementing Congress' parceling.

Court applied them at https://www.brennancenter.org/sites/default/files/legal-work/LWV v PA Majority-Opinion.pdf

⁴¹ Proposed alternative computer simulations were offered by the League of Women Voters, Gov. Wolf, LT Gov Stack, the Democratic House Caucus, the Intervenors, the Senate Democratic Caucus, Concerned Citizens for Democracy, Adele Schneider and Stephen Wolf, Fair Democracy, & the American Civil Rights Union.

⁴² Ch. Stat. 21, <u>2 U.S.C.</u> § 2a (June 18,1929, Ch.28, 22, 46 Stat.26; Apr.25,1940, Ch. 152, 54 Stat. 162; Nov. 15, 1941, ch.470, 1, 55 Stat.76

The controlling data is different. The algorithms are different. The underlying assumptions are different. Having a single citizens' commission redistrict both the General Assembly and the Congressional delegation is equivalent to assigning both a doctor and an exterminator to the same task. There would be distinct communities of interest. There are different definitions of "boundaries", "contiguous", and "compact". Although the idea is conceptually related, the implementation would be so different as to generate infinite confusion. Explaining two different sets of plans to the members of the citizens' commission would be difficult. Explaining two different sets of algorithms to the viewing public and the paparazzi would literally be comic. Even the judiciary would throw up its hands.

The citizens' commission for the General Assembly and the citizens' commission for the Congressional districts should be similarly composed, but must operate distinctly. They could possibly be convened at separate times.

(4) The Commission shall use the data obtained to prepare:

(i) Necessary descriptions of census blocks, voting districts,

wards, municipalities and counties that census data will be reported and that are

ouitable for use as components of districts.

(ii) Maps of census blocks, voting districts, wards, municipalities

and counties within this Commonwealth that may be used to

- illustrate the locations of district boundaries proposed in plans.
- (1) The Commission's Internet links would access relevant statutes beginning with the Voting Rights Act of 1965.
- (2) These links would also access the relevant case law beginning with; Baker v. Carr 369 U.S. 186 (1962), Reynolds v. Sims 377 U.S. 533 (1964), South Carolina v. Katzenbach, 383 U.S. 301 (1966), Beer v. United States, 425 U.S. 130 (1976), Thornburg v. Gingles, 478 US 30 (1986), Shaw v. Reno 509 U.S. 630 (1993),Miller v. Johnson, 515 US 900 (1995),Larios v. Cox, 305 F. Supp. 2d 1335 (N.D. Ga. 2004), Bartlett v. Strickland 556 U.S. 1 (2009), Shelby County v. Holder, 570 U.S. (2013), Alabama Legislative Black Caucus v. Alabama, 135 S. Ct. 1257 (2015), League of Women Voters of Florida v. Detzner, 172 So.3d 363 (Fla.2015), Shapiro v. McManus, 136 S.Ct. 450 (2015), Arizona State Legislature v. Arizona Independent Redistricting Commission, 576 U. S. (2015), Evenwel v. Abbott, 136 S. Ct. 1120 (2016), Personhuballah v. Alcorn, 155 F. Supp. 3d 552 (2016), Bethune-Hill v. Virginia State Board of Elections 141 F. Supp. 3d 505 (2017 VA), Whitford v Gill (WD WI 2017), Perez v. Abbott (TX 2017), Cooper v. Harris, U.S. (2017).

- (3) These links should also include the current computer redistricting matrixes and algorithms beginning with the undivided census tracts.
- (4) These links should access the current academic literature in the field such as; <u>https://www.theatlantic.com/magazine/archive/2012/10/the-league-</u>

of/309084/ https://www.washingtonpost.com/news/wonk/ ?utm term=.1931b81061cf, http://mrspetersclass.org/wp-content/uploads/2014/07/Article -Gerrymandering.pdf, http://www.scotusblog.com/case-files/cases/alabama-legislativeblack-caucus-v-alabama/, http://politicsandpolicy.org/article/ gerrymandering-provingall-politics-local, https://ballotpedia.org/State-by-state redistricting procedures, http://redistricting.lls.edu/who.php.

(5) These links would include current alternatives provided by the other states, several of which have distinctive redistricting patterns and policies.

If this basic body of information were available both to the public and the Commission before the first meeting -probably in February- then the public hearings scheduled for June would be fully informed. The background information would have been collected and published. The function of the Commission would be to apply the most current information to this Commonwealth.

Excluded Information

(3) In establishing districts, the Commission shall not consider the

following data:

- (i) Addresses of any individual.
- (ii) Political affiliations of registered voters.

(iii) Previous election results, unless required by Federal or State

law.

(Commentary)

- Sen. Leach uses a conceptual exclusion in addition to those listed here:
- (iv) Any political or personal considerations.
- Rep. Davis modifies the use of historical data:
- (v) Party registration and voting history data shall be excluded from the initial phase of the mapping process, but may be used to test maps for compliance with the goals under paragraph (k).
- Rep. Davis then narrows the "addresses" provision:
- (vi) The places of residence of incumbents or candidates.

Applicable Law

(k) Applicable law: (1) The Commission shall establish congressional and

legislative districts pursuant to a mapping process in accordance with

Federal or and State law. Legislative districts:

- a) Shall be competitive, unless the competitive districts cause significant detriment to the other goals set forth in this section. (Rep. Davis)
- b) Shall be geographically compact and contiguous. (Rep. Neilson)
- c) Shall reflect a standard measurement of compactness for the districts in each plan. No district may have a compactness measurement of less than 15% of the total ideal measurement for a district. (Sen. Leach)

(Commentary)

Paragraph (k) is a "flying paragraph" which should be numbered for identification.

The wording of paragraph (k)(1) implies that the mapping process should be done in accordance with either Federal OR State law. Please change the conjunction from several to joint, both Federal <u>AND</u> State law.

The redistricting considerations should be enumerated here in subparagraph (k)(1). The list provided below is extracted from the alternative redistricting Bills presently before the General Assembly.

Sen. Leach refers to Dr. Azavea's <u>redistricting study</u>. <u>http://www.redistrictingthenation.com/whatis-compactness.aspx</u> Azavea recites four criteria:

- i. The extent to which the shape of a district is spread out from its center,
- ii. How smooth or contorted the boundaries of a district are,
- iii. The variance of distances from all points in the districts to the district's areal center, and
 - iv. The distribution of the population within a district.

These were among the very vectors used as the Northwest Ordinances⁴³ developed. A township was the distance a man could ride in a day. A county was a week. Jefferson's original plan made these administrative areas into a grid like pattern. These measures of compactness have a very credible, historical basis.

- d) Shall not, as a whole, favor a specific person, political party or political body. (Rep. Neilson)
- e) Shall not divide any voting precinct that forms a single polygon. (Sen. Leach)
- f) Shall not divide any county, city, township, borough or incorporated town unless absolutely necessary. If any political division is partitioned, the Commission must file an addendum to each plan adopted by the Commission which recites the exact rationale for each

⁴³ https://www.britannica.com/event/Northwest-Ordinances

partitioning. (Sen. Leach)

- g) Shall respect Communities of Interest as defined in subsection (v).
- h) Shall respect the Constitution of the United States and the Voting Rights Act of 1965 (Public Law 89-110, 52 U.S.C. § 10301 et seq.). (Rep. Davis)
- i) Shall respect visible geographic and undivided census tracts. (Rep. Davis).

There is an additional battery of information flowing from League v Pennsylvania.⁴⁴

- a. A 2010 Census block equivalency and ESRI shape file expressing the plan.
- b. A report detailing the compactness of the districts according to each of the following measures: Reock; Schwartzberg; Polsby-Popper; Population Polygon; and Minimum Convex Polygon.

These are excellent criteria reflecting the level of academia and technology available in 2018. They will be out-molded before the 2020 Federal census. This further illustrates the importance of the abundance of preliminary research required here in Subsection (j).

Rep. Sims' proposal reconciles the congressional districts with those of our neighboring states. There is a great deal of merit to having southwestern Pennsylvania's congressional district consistent with northern West Virginia's congressional district. The needs of these populations cross state lines.

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

(Commentary)

Paragraph (k) (2) should be simplified for public readers. Eq:

 "Any vacancy in the General Assembly which requires a special election under Section 629 of the Act of June 3, 1937 (P,L.1333, No.320), known as the Pennsylvania Election Code, shall be filled from the same district from which the legislator was last elected."

or

2) "The certified final plan under this Act shall provide that any vacancy in the General Assembly which requires a special election ... shall be filled from the district from which the member was last elected.

Paragraph (k) (2) should be moved to (u), and reconciled to (s) (2).

Schedule

(m) The Commission, within 30 days prior to the deadline for approval of

⁴⁴ https://www.brennancenter.org/sites/default/files/legal-work/LWV v PA Order 1.26.18.pdf
a preliminary plan as set forth in subsection (n)(1), shall schedule and conduct at least four public hearings in different geographic regions of

this Commonwealth.

(m.1) All Commission meetings that are attended or participated in by a

quorum of the members of the Commission, held for the purpose of

deliberating official business of taking official action, shall be open

to the public.

(Commentary)

The "open meetings" paragraph, (m.1), should be moved to the Procedures portion as paragraph (i)(3). It should specify that these meetings should be "live streamed" on the Commission's public website using current technology and programming. The word "quorum" should be deleted. All meetings "for the purpose of deliberating..." should "be open to the public."

Paragraph (m) should be re-numbered as paragraph (n)(1) so the complete Commission schedule would be recited in one place. Viz:

(n) (1) The Commission shall schedule and conduct at least four public hearings in different regions of the Commonwealth during the month of June of each year ending in one.

Sen. Blake insists that "Each meeting of the Commission must be held in public and must comply with any law which applies to open meetings." Pennsylvania Sunshine Act, 65 Pa.C.S. §§ 701-716.

Rep. Davis' subsection (g) further requires "at least 48 hours' notice to the public before the commencement of the meetings."

Rep. Davis' subsection (j)(2) allows; "The General Assembly may submit recommendations to the Commission during the public comment period for consideration."

(n) (1) Not later than July 1 of each year ending in one, the Commission

shall complete and approve a preliminary redistricting plan and maps

as required under this section and make the preliminary plan and maps

available to the public in a manner prescribed by law.

(2) The Commission, within 30 days following the deadline for approval

of a preliminary plan as provided in paragraph (2), shall schedule

and conduct at least four public hearings, in different geographic

regions of this Commonwealth, on the preliminary plan.

(3) Not later than August 15 of each year ending in one:

i. The Commission shall approve a final redistricting plan in

accordance with subsections (j) and (k).

- ii. This final plan shall be available to the public including on the Commission's website.
- iii. Upon approval, the Commission shall certify the resulting plan to the Secretary. of the Commonwealth, and
- iv. That plan shall constitute the certified final plan.
- (4) If the Commission fails to approve a final plan in accordance with paragraph (3), the following shall apply:
 - (i) Not later than September 1 of each year ending in one, the Commission shall complete and approve a second preliminary redistricting plan and maps prepared in accordance with subsections (j) and (k). This preliminary plan shall be available to the public including on the Commission's website. and make the second preliminary plan and maps available to the public. in a manner prescribed by law.
 - (ii) Within 30 days following the deadline for approval of the second preliminary plan as set forth in subparagraph (i), the Commission shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the second preliminary plan.
 - (iii) Not later than October 15 of each year ending in one, the Commission shall approve a final redistricting plan. Upon approval, the Commission shall certify the resulting plan to the Secretary. of the Commonwealth, and That plan shall constitute the certified final plan.

(Commentary)

Subparagraph (4)(i) provides that "the second preliminary plan and maps be made available to the public". This language should also appear regarding the "final redistricting plan".

Special Master

(o) (1) If the Commission does not complete and approve a final redistricting plan by October 16 of each year ending in one, the Secretary of the Commonwealth shall immediately petition the Supreme Court for an order directing the appointment of a special master to develop and complete a final redistricting plan in accordance with the criteria and requirements provided in subsections (j) and (k).
(2) The special master must demonstrate expertise in geographic information systems by holding a graduate degree in geographic information systems and currently serving as a faculty member for a geographic information systems program at an institution of higher learning located within this Commonwealth and must meet the qualifications in subsection (c) and be bound by the restrictions in subsections (g) and (h).

(3) The special master shall publish a preliminary plan within 30 days of appointment. The Pennsylvania Supreme Court shall hold a hearing on this preliminary plan within 30 days of its publication to verify that the preliminary plan meets the requirements, standards and criteria set forth in this Section. If the master's preliminary plan does not comply with the requirements, standards and criteria herein, the Supreme Court may grant a single, 30 day, continuance for the master to cure the defects therein.

(4) Upon the Supreme Court's approval of the master's plan, the court shall certify the resulting plan to the Secretary of the Commonwealth, and that plan shall constitute the certified final plan.

(Comment)

The master must have a due date, and must be answerable to someone.

Jurisdiction

(p) The Commission has the sole legal standing to defend an action regarding a certified final plan. The Commission and shall inform the

General Assembly if it determines that funds or other resources provided

for the operation of the Commission are not adequate for such purpose.

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

(2) An aggrieved person who is a registered voter in this Commonwealth

may file a petition with the Supreme Court within 30 days after the

Commission has certified a final plan to the Secretary. Such

petition shall allege of the Commonwealth to bar the Secretary of the Commonwealth from implementing the plan on the grounds that the filed plan violates the

Constitution of the United States, the Constitution of Pennsylvania

or any Federal or State statute.

Staffing

(r) The Department of State shall provide staff as needed to support the

Commission in the performance of its duties.

(Comment)

This is the only time "The Department of State" is used rather than "the Secretary".

Sen. Boscola's subparagraphs (r) & (t) could be blended.

Pennsylvania Constitution, Article II, Section 17(g), currently provides; "The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the commission, and other necessary expenses. The members of the commission shall be entitled to such compensation for their services as the General Assembly from time to time shall determine, but no part thereof shall be paid until a preliminary plan is filed. If a preliminary plan is filed but the commission fails to file a revised or final plan within the time prescribed, the commission members shall forfeit all right to compensation not paid."

Rep. Davis has the Department of General Services "make adequate office space available for the Commission. The General Assembly shall appropriate \$6,000,000 from the General Fund to the Commission for its operations..." Further; "The Commission, with fiscal oversight from the Governor's Office, shall have procurement and contracting authority and may hire staff and consultants for the purposes of this section, including legal representation."

Rep. Sims provides that; "(b) The Commission shall be composed of all of the following: (1) A demographer. (2) A cartographer. (3) An applied mathematician. (4) A computer scientist. (5) A lawyer or legal expert who specializes in election and redistricting law." All of the people Rep. Sims lists should be available as resource people to the Commission.

Rep. Sims makes the members of the Commission full time employees. Sen. Blake provides: "(g) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the Commission, and other necessary expenses. The members of the Commission shall be entitled to such compensation for their services as the General Assembly from time to time shall determine, but no part thereof shall be paid until a preliminary plan is filed. If a preliminary plan is filed but the Commission fails to file a revised or final plan within the time prescribed, the Commission members shall forfeit all right to compensation not paid."

(r) Staffing and compensation. The Commission shall be provided with the staff and support necessary to perform the tasks assigned in this section.

- (1) The Department of General Services shall make adequate office space available for the Commission and its staff.
- (2) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the Commission, and other necessary expenses.
- (3) The members of the Commission shall be entitled to such compensation as the General Assembly from time to time shall determine, but no part thereof shall be paid until the preliminary plan is filed in accordance with subsection (n). If a preliminary plan is filed, but the Commission fails to file a revised or final plan as provided under subsection (n), the Commission members shall forfeit all right to any remaining compensation.
- (4) The Commission shall have procurement and contacting authority, and may hire staff and consultants for the purposes of this section, including legal representation.

Implementation

(s) Upon the filing of all redistricting plans required under this

section, and the exhaustion of all appeals of a redistricting plan:

(1) the Commission shall expire and the Commission's responsibilities

shall terminate; and

(2) the final plan shall have the force of law and the districts

provided in the plan shall be used thereafter in elections to the General

Assembly until the next redistricting as required under this section.

(Commentary)

Subparagraph (s) (2) applies only to the General Assembly. Should also apply to Congress?

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

<u>, co naminiociación.</u>

(Commentary)

Sections (r) & (t) should be reconciled.

Section (t), with its per diem provisions, should actually be eliminated in favor of Sen. Blake's provision in section (r)(3). The Commissioners get paid when they adopt the final plan!

(u) A district that does not include the residence that a member of the Senate was elected, whether or not scheduled for election at the next

general election, shall elect a Senator at the election.

(Commentary)

This provision should be simplified for the ordinary reader. If the final plan is adopted in 2021, the new districts will be reflected in the 2022 elections.

Definitions

(v) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly

indicates otherwise:

"Adjusted population data." The population of the Commonwealth received

from the Federal Census and modified in accordance with the Pennsylvania Election Code.

"Commission." The Legislative and Congressional Redistricting Commission. "Community of interest." A contiguous population that shares common

social and economic interests that should be included within a single district for purposes of its effective and fair representation. It shall not include relationships with political parties, incumbents or political candidates.

"Federal census." The decennial census required by Federal law to be conducted by the United States Census Bureau in every year ending in zero. under 13 U.S.C. § 141 (relating to population and other census information).

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

- "Member." A member of the Legislative and Congressional Redistricting Commission.
- "Plan." A plan for legislative and congressional redistricting drawn under the requirements of this section.

"Secretary." The Secretary of the Commonwealth of Pennsylvania.

Ratification

- Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.
- (b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of Section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the <u>Commonwealth</u> shall submit this proposed constitutional amendment to the gualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance

with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

SB22 of 2017

A RECONCILIATION

PRINTER'S NO.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

No. 22 Session of 2017

INTRODUCED BY BOSCOLA, SCAVELLO, BROWNE, SCHWANK, BLAKE, DINNIMAN, LEACH, WILLIAMS, YUDICHAK AND HAYWOOD, FEBRUARY 27, 2017

A JOINT RESOLUTION

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the Legislative Reapportionment Commission for the purpose of reapportioning and redistricting the Commonwealth of Pennsylvania.

The General Assembly of the Commonwealth of Pennsylvania hereby

resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is

proposed in accordance with Article XI:

That section 17 of Article II be amended to read:

§ 17. Legislative (Reapportionment) Redistricting Commission.

(a) ⁴⁵Preamble:

(1) (In each year following the year of the Federal decennial census) Not later than December 31 of each year ending in zero, a Legislative (Reapportionment) Redistricting Commission shall be constituted for the purpose of (reapportioning) redistricting the Commonwealth.

(2) The Commission shall {act by a majority of its entire membership.}:

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

⁴⁵ The wording in Black is the original text of Sen. Lisa Boscola's SB22 Printer No. 397. The words in green are <u>Roger Thomas</u>' proposed augmentation as a supplemental Printer Number.

specified in this section.

(c) Conduct itself with integrity and fairness.

{{b}---The Commission shall consist-of_five_members: four of whom shall be the majority and minority leaders of both-the Senate and the House of Representatives, or deputies appointed by each of them, and a chairman selected as hereinafter provided.--No later than 60 days following-the official reporting-of the Federal census as required by Federal-law, the four members shall be certified by the President-pro-tempore of the Senate and the Speaker of the House of Representatives to the elections officer of the Commonwealth who under law shall have supervision-over-elections.

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

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

Any-vacancy in the Commission-shall be filled-within-15-days-in-the same-manner-in-which-such-position-was originally filled.

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

The Gommission shall have 30 days after filing the preliminary plan to make corrections in the plan. Any person aggrieved by the preliminary plan shall have the same 30 day period to file exceptions with the Commission in which case the Commission shall have 30 days after the date the exceptions were filed to prepare and file with such elections officer a revised reapportionment plan. If no exceptions are filed within 30 days, or if filed and acted upon, the Commission's plan shall be final and have the force of law.

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

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

(f) Any district which does-not include the residence from which a member of the Senate was elected whether or not scheduled-for election at the next-general election shall elect-a Senator at such election.

(g) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the Commission, and other necessary expenses. The members of the Commission shall be entitled to such compensation for their services as the General Assembly from time to time shall determine, but no part thereof shall be paid until a preliminary plan is filed. If a preliminary plan is filed but the Commission members shall be for final plan within the time preseribed, the Commission members shall forfeit all right to compensation not paid.

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

(i) Any reapportionment plan filed by the Commission, or ordered or prepared by the Supreme Court upon the failure of the Commission to act, shall be published by the elections officer once in at least one newspaper of general elections in each senatorial and representative district. The publication shall contain a map of the Commonwealth showing the complete reapportionment of the General Assembly by districts, and a map showing the reapportionment districts in the area normally served by the newspaper in which the publication is made. The publication shall also state the population of the senatorial and representative districts from the average population for senatorial and representative and representative districts from the average population for senatorial and representative districts.

(b) Commission Membership: The Commission shall consist of 11 members, as

follows:

(1) four who are registered with the largest political party in this Commonwealth based on registration,

(2) four who are registered with the second-largest political party in

this Commonwealth based on registration and

(3) three who are not registered with either of the two largest

political parties in this Commonwealth based on registration.

(c) (1) Membership Qualifications: Each Commission member shall possess all of the following qualifications:

(a) Be a voter who has been continuously registered in this Commonwealth with the same political party or unaffiliated with a political party or political body for the three years immediately preceding the date of appointment to the Commission.

(b) Has voted in two of the last three Statewide general elections immediately preceding the date of appointment to the Commission.

(2) Exclusions from Membership: No person may be appointed to the Commission who:

(a) Has held, or has a spouse who has held, elective or appointed public office at the Federal or State level or elective judicial office in this Commonwealth in the five years immediately preceding the date of appointment to the Commission.

(b) Has served, or has a spouse who has served, as a paid staff member or paid consultant to Congress, the General Assembly or staff appointed by the Governor in the five years immediately preceding the date of appointment to the Commission.

(c) Has registered, or **has** a spouse who has registered, as a Federal or State lobbyist in this Commonwealth in the five years immediately preceding the date of appointment to the Commission.

(d) Has been nominated, or **has** a spouse who has been nominated, as a candidate for elective office by a political party or political body.

(e) Has served or has a spouse who has served as a paid staff member or officer of a political party, political body, political committee or political action committee in the five years immediately preceding the date of appointment to the Commission.

(f) Has held, or has a spouse who has held, a local, State or Federal

office to which compensation is attached.

(g) Has been convicted, found guilty or pled guilty or nolo contendere to embezzlement of public money, bribery, perjury or other infamous crime, whether or not sentence has been imposed.

(d) Application Process: Application and selection of the members of the Commission shall be subject to the following:

(1) The Secretary shall publish a form which allows citizens of the Commonwealth to apply for Commission membership during the second half of each year ending in zero. This form shall be published, on the Commission's Internet website.

(2) Citizens may file this form with the Secretary, delineating their qualifications, until January 1 of each year ending in one.

(3) Before January 31 of each year ending in one, the Secretary shall:

(i) verify the qualifications of each applicant.

(ii) Notify each applicant of any deficiencies in their application.

(iii) delete the name of any unqualified applicant from the pool of applicants.

(4) The Secretary shall separate all qualified applicants into three subpools consisting of those who are:

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

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

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

(5) On January 31 of each year ending in one:

(i) the Secretary shall select, on a random basis, 40 qualified applicants from each of the three subpools provided in paragraph (4).

(ii) the Secretary shall immediately provide this list of applicants

to the Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives.

(6) The Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives may each strike up to two applicants from each subpool. Each leader shall have no more than six strikes, which shall be published on or before February 15 of each year ending in one.

(7) The Secretary shall immediately select for appointment as members of the Commission, on a random basis, from the remaining applicants in each of the three subpools of qualified applicants. The applicants who are not selected under this paragraph shall be alternates from whom vacancies may be filled.

(8) Appointments to the Commission shall reasonably reflect the racial, geographic and gender diversity of this Commonwealth.

(9) No more than two members of the Commission may reside in the same county.

(10) No more than three members may have served on a previous districting Commission.

(11) The Secretary shall convene the Commission's initial meeting before February 20 of each year ending in one.

(a) One of the members shall be selected as chair, at the initial meeting, by a vote of at least six members of the Commission.

(b) The Commissioners shall be provided with a packet of preliminary information before the initial meeting.

(c) The Commission shall adopt, and publish, a schedule of meetings and hearings, through July 1, at the initial meeting.

(e) Term: The term of office of each member of the Commission shall expire at the same time the Commission expires as provided in subparagraph (s) this section. (f) Vacancies: Removal of a member and vacancies on the Commission shall be subject to the following:

(1) If a member of the Commission fails to attend more than two consecutive scheduled meetings the member's position shall be deemed vacant unless the member is absent due to death of an immediate family member, personal illness or illness of an immediate family member.

(2) A vacancy in the Commission shall be filled within 14 days from the time the Commission determines that a vacancy exists. The vacancy shall be filled from the unselected, alternate, applicants in the subpool from which the vacating member was chosen.

(g) Post Service Prohibitions:

(1) A member shall be ineligible to do the following for a period of three years beginning from the expiration of the term for which the member was appointed to the Commission:

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

(b) Register as a Federal or State lobbyist in this Commonwealth.

(c) Serve as a paid staff member or paid political consultant for a political party, political body, political committee or political action committee.

(2) A member and the member's spouse shall be ineligible to do the following for a period of three years beginning from the expiration of the term for which the member was appointed to the Commission:

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

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

(c) Hold office for a political party, political body, political committee or political action committee.

(i) Procedures

(1) Those members present and voting at a meeting duly called by the chair shall constitute a quorum. Seven or more affirmative votes shall be required for any official action.

(2) Each meeting of the Commission must comply with <u>Pennsylvania's</u> <u>Sunshine Act, 65 Pa.C.S. §§ 701-716</u>, and any other Commonwealth or Federal open meetings law.

(3) All Commission meetings shall be open to the public, broadcast, and recorded using the most current technology.

(4) The time, date and place of each meeting shall be published on the Commission's Internet website at least 48 hours prior to the meeting.

(5) The final redistricting plan must be approved by at least seven affirmative votes. At least one of these seven votes must be cast by a member of each subpool.

(j) Preliminary Information: To begin the process of preparing information necessary to the redistricting process the Secretary shall acquire, before December 31 of each year ending with zero:

(1) (a) the preliminary, necessary and appropriate information regarding redistricting. This will include, but not be limited to, the current districting statutes, regulations, case law, computer models, and professional literature. This information shall be published on the Commission's publicly accessible Internet website. The Secretary may also develop programs and procedures in preparation for drawing congressional and legislative redistricting plans on the basis of each Federal census.

(b) the population distribution data required in the Pennsylvania Election Code, specifically pertaining to registrations and exclusions, to assist in determining the adjusted population data.

(2) (i) As soon as possible after December 31 of each year ending in zero, the Secretary shall obtain from the United States Census Bureau the

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population data needed for legislative redistricting that the Census Bureau is required to provide the Commonwealth under 13 U.S.C. § 141 (relating to population and other census information).

(ii) The Secretary shall immediately use the adjusted population data to propose districts of equal population into an initial grid-like pattern across this Commonwealth. The Commission shall make adjustments to these proposed grids as part of their deliberations.

(iii) The Secretary shall use the adjusted population data to assign a population figure based upon census data to each geographic and political unit.

(3) (a) As soon as the Commission is appointed under subsection (d), the members shall review the preliminary information gathered by the Secretary according to subsection (j)(1) and (2).

(4) <u>The Commission shall use the preliminary information obtained under</u> subsection (i), and the Federal census <u>data obtained</u> under subparagraph
 (j) <u>to prepare:</u>

(i) Necessary descriptions of communities of interest, census blocks, voting districts, wards, municipalities and counties for use as components of districts.

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

(5) The Commission shall then begin the preparation of legislative redistricting plans as required by this subsection and subsection (k).

(6) In establishing districts, the Commission shall not consider the following data:

(i) Any political or personal considerations.

(ii) Addresses of any individual.

(iii) Political affiliations of registered voters.

(iv) Previous election results, unless required by Federal or State

law. However, voter registration and voting history may be used to test

maps for compliance with the goals under paragraph (k).

(k) Applicable law: (1) The Commission shall establish legislative

districts pursuant to a mapping process in accordance with Federal and

State law.

- (2) Legislative districts:
 - j) Shall not, as a whole, favor a specific person, political party or political body.
 - k) Shall be politically competitive, unless the competitive districts cause significant detriment to the other goals set forth in this section.
 - 1) Shall respect visible geographic and undivided census tracts.
 - m) Shall be geographically compact and contiguous.
 - n) Shall reflect a current standard measurement of compactness for the districts in each plan. The Commission shall define this standard measurement of compactness before July 1 of each year ending in one. No district may have a compactness measurement of less than 15% of the total ideal measurement for a district. The measure of compactness shall consider, among other things, the extent to which the shape of a district is spread out from its center, how smooth or contorted the boundaries of a district are, the variance of distances from all points in the districts to the district's areal center, and the distribution of the population within a district.
 - o) Shall not divide any voting precinct that forms a single polygon.
 - p) Shall not divide any county, city, township, borough or incorporated town unless absolutely necessary. If any political division is partitioned, the Commission must file an addendum to each plan adopted by the Commission which recites the exact rationale for each partitioning.
 - q) Shall respect Communities of Interest as defined in subsection (v).
 - r) Shall respect the Constitution of the United States and the Voting Rights Act of 1965 (Public Law 89-110, 52 U.S.C. § 10301 et seq.)

(3) As provided in subparagraph (s)(2), this section shall apply to legislative elections on or after the date the final plan is adopted. Any vacancy in the General Assembly which requires a special election under Section 629 of the Act of June 3, 1937 (P,L.1333, No.320), known as the Pennsylvania Election Code, shall be filled from the district from which the member was last elected.

(m) Public hearings: The Commission shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, during the month of June of each year ending in one. Members of the General Assembly, and other Pennsylvania elected officials shall be allowed to present information at these hearings.

(n) Preliminary plans: (1) Not later than July 1 of each year ending in one, the Commission shall complete and approve a preliminary redistricting plan and maps as required under this section. These preliminary plan and maps shall be published on the Commission's Internet website, and published in the newspapers of common circulation.

(2) The Commission, shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the preliminary plan between July 1 and August 15 of each year ending in one.

(3) Not later than August 15 of each year ending in one:

- v. The Commission shall approve a final redistricting plan in accordance with subsections (j) and (k).
- vi. This final plan shall be available to the public, including on the Commission's website.
- vii. Upon approval, the Commission shall certify the resulting plan to the Secretary.
- viii. That plan shall constitute the certified final plan.

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

(i) Not later than September 1 of each year ending in one, the Commission shall complete and approve a second preliminary redistricting plan and maps prepared in accordance with subsections (j) and (k). This second preliminary plan shall be available to the public including on the Commission's website.

(ii) Before October 1 of each year ending in one, the Commission shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the second preliminary plan.

(iii) Not later than October 15 of each year ending in one, the Commission shall approve a final redistricting plan. Upon approval, the Commission shall certify the resulting plan to the Secretary. That plan shall constitute the certified final plan. The final plan shall be available to the public including on the Commission's website.

(o) Special Master:

(1) If the Commission does not complete and approve a final redistricting plan by October 16 of each year ending in one, the Secretary shall immediately petition the Supreme Court for an order directing the appointment of a special master to develop and complete a final redistricting plan in accordance with the criteria and requirements provided in subsections (j) and (k).

(2) The special master must demonstrate expertise in geographic information systems by holding a graduate degree in geographic information systems and currently serving as a faculty member for a geographic information systems program at an institution of higher learning located within this Commonwealth and must meet the qualifications in subsection (c) and be bound by the restrictions in subsections (g) and (h).

(3) The special master shall publish a preliminary plan within 30 days of appointment. The Pennsylvania Supreme Court shall hold a hearing on this preliminary plan within 30 days of its publication to verify that the preliminary plan meets the requirements, standards and criteria set forth in this Section. If the master's preliminary plan does not comply with the requirements, standards and criteria herein, the Supreme Court may grant a single, 30 day, continuance for the master to cure the defects therein.

(4) Upon the Supreme Court's approval of the master's plan, the court shall certify the resulting plan to the Secretary, and that plan shall constitute the certified final plan.

(p)_Standing: The Commission has the sole legal standing to defend an action regarding a certified final plan. The Commission shall inform the

General Assembly if it determines that funds or other resources provided for the operation of the Commission are not adequate for such purpose.

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

(2) An aggrieved person who is a registered voter in this Commonwealth may file a petition with the Supreme Court within 30 days after the Commission has certified a final plan to the Secretary. Any such petition shall allege that the filed plan violates the Constitution of the United States, the Constitution of Pennsylvania or any Federal or State statute. (r) Staffing and compensation. The Commission shall be provided with the staff and support necessary to perform the tasks assigned in this section.

(1) The Department of General Services shall make adequate office space available for the Commission and its staff.

(2) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the Commission, and other necessary expenses.

(3) The members of the Commission shall be entitled to such compensation as the General Assembly from time to time shall determine, but no part thereof shall be paid until the preliminary plan is filed. If a preliminary plan is filed, but the Commission fails to file a final plan, the Commission members shall forfeit all right to any remaining compensation.

(4) The Commission shall have procurement and contacting authority, and may hire staff and consultants for the purposes of this section, including legal representation.

(s) Finality Upon the filing of all redistricting plans required under this section and the exhaustion of all appeals of a redistricting plan:

(1) the Commission shall expire and the Commission's responsibilities

shall terminate; and

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

(t) Senate vacancy: If the final plan creates a senatorial district in which no seated senator resides, a senator shall be elected to that district in the next election.

(u) Definitions: The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Adjusted population data." The population of the Commonwealth received from the Federal Census and modified in accordance with the Pennsylvania Election Code.

"Commission." The Legislative and Congressional Redistricting Commission.

"Community of interest." A contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. It shall not include relationships with political parties, incumbents or political candidates.

"Federal census." The decennial census required by Federal law to be conducted by the United States Census Bureau under 13 U.S.C. § 141

(relating to population and other census information).

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

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

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

"Secretary." The Secretary of the Commonwealth of Pennsylvania.

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

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary shall proceed immediately to comply with the advertising requirements of Section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with Section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.