

Model Legislation for Independent Redistricting Commissions

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The Brennan Center's proposal for independent redistricting commissions promotes independence, inclusivity, and transparency in the map-drawing process.

Section I — Independent Redistricting Commission

- A. An Independent Redistricting Commission** (“Commission”) shall draw [all state and federal electoral district maps].
- B. The Commission shall be convened** no later than [relevant deadline]. The Commission shall:
1. Conduct an open and transparent process enabling full public consideration of and comment on the drawing of district maps and on proposed maps under consideration by the Commission;
 2. Draw district maps according to the redistricting criteria specified in this article; and
 3. Conduct itself with integrity and fairness.
- C. Commission composition.**
1. The Commission shall consist of fifteen commissioners:
 - a. Five commissioners who are [affiliated] with the largest political party in the State;
 - b. Five commissioners who are [affiliated] with the second-largest political party in the State; and
 - c. Five commissioners who are [affiliated] with neither the largest nor second-largest political party in the State.

2. The Commission as a whole shall reflect the State's geographic and demographic diversity to the greatest extent practicable.
3. The commissioner terms expire upon the appointment of the succeeding Commission.

D. Commissioner application process.

1. The [independent agency] shall develop and administer an application for appointment to the Commission. The application period shall open on [relevant deadline] and close on [relevant deadline] of the year ending in zero.
2. The application shall obtain all information necessary for the [independent agency] to determine each applicant's qualifications, party affiliation, relevant experiences and skills, and commitment to compromise and fairness. If needed, the [independent agency] may request additional information from an applicant.
3. The [independent agency] shall adequately publicize the application process, including but not limited to advertising the application period, commissioner qualifications, and selection process in the following outlets:
 - (i) The top [10] print and/or online media outlets in the State, as determined by circulation or online viewership, for a period of one month;
 - (ii) The home page of all state agency websites;
 - (iii) Local television stations during local news broadcasts; and
 - (iv) Media outlets that serve specific racial and ethnic communities.
4. Notwithstanding paragraph 1 of this section, the [independent agency] shall continue to accept applications until there are at least 60 applications from persons [affiliated] with the largest political party in the State, 60 applications from persons [affiliated] with the second-largest political party in the State, and 60 applications from persons [affiliated] with neither of the two largest political parties in the State.

E. Commissioner qualifications.

1. A person shall be eligible to serve as a commissioner if, during the [six years] prior to submitting an application for appointment to the Commission, the person:
 - a. Has continuously resided in the State;
 - b. Has voted in [two of the last three] statewide general elections in even-numbered years; and
 - c. Has been continuously [affiliated] with the largest or second-largest political party or with neither of these parties. To make this determination, the [independent agency] shall consider party registration, participation in party primaries, political contributions, and campaigning on behalf of partisan candidates.
2. A person shall not be eligible to serve as a commissioner if, during the [six years] prior to submission of an application for appointment to the Commission, the person:
 - a. Has been a candidate for or has been elected or appointed to any federal, state, or [local] office;
 - b. Has served as an elected or appointed member of the national, state, or [local] committee of a political party;
 - c. Has served as an officer, employee, or paid consultant of a political party, political action committee, campaign committee of a candidate for federal or state office, current statewide officeholder, member of the [legislature], or member of Congress; or
 - d. Has been registered as a state or federal [lobbyist].

3. No person with [an immediate family relationship] with a current statewide officeholder, member of the [legislature], member of Congress, or member of the [independent agency] is eligible to serve as commissioner.

F. Commissioner disclosures.

1. All persons who apply to serve on the Commission shall disclose in their applications under penalty of perjury the following information covering the [six years] prior to submission of an application for appointment:
 - a. [Party registration], participation in party primaries, and any paid or unpaid campaign activity on behalf of a candidate, proposition, or measure;
 - b. Relevant leadership and community building experience;
 - c. All political contributions over [\$250] to federal, state, or local government candidates or to any committee supporting or opposing the election of candidates to federal, state, or local government office or supporting or opposing any proposition or measure appearing on the ballot; and
 - d. Contractual and other financial interests with the State.
2. All submitted disclosures shall be made publicly available on the commission website as established in Section II(D).

G. Commissioner selection.

1. From the applications received, the [independent agency] shall select 120 applicants who meet all qualifications and fairly represent the [number of] geographic regions of the State. In making selections, the [independent agency] shall give due consideration to maintaining racial, ethnic, and gender diversity.
2. The 120 persons shall be divided into three pools: 40 persons who are [affiliated] with the largest political party in the State, 40 persons who are [affiliated] with the second-largest political party in the State, and 40 persons who are [affiliated] with neither of the two largest political parties in the State.
3. The [independent agency] shall interview the 120 persons screening for applicants who are compromise-oriented, able to be impartial, and have respect for the State's diversity. All interviews shall be transcribed and made available to the public on the commission website. The three pools shall then be reduced by 10 persons each [by the relevant deadline]. The majority and minority leaders in each chamber of the legislature shall review the 90 applicants for up to two weeks and may each strike up to two applicants from each pool.
4. From the applicants remaining, the [independent agency] shall, at a public meeting, randomly appoint three commissioners from each pool. These nine commissioners shall then meet publicly and by majority vote, including the vote of at least one commissioner from each pool, appoint the final six commissioners from the persons remaining, two from each pool. These final six commissioners shall be appointed in a manner to ensure the Commission is as representative of the State's geographic and demographic diversity as possible and possesses the relevant skills to perform the Commission's duties.

- H. Commissioner removal or vacancy.** If a commissioner is guilty of substantial neglect of duty or gross misconduct, or is otherwise unable to discharge the office's duties, the Commission may act to remove that commissioner after notice and an opportunity for public hearing. The Commission shall fill any vacancy whether the result of removal, resignation, or death by acting to select a qualified person who is willing to serve from the same pool as that of the former commissioner.

Section II — Commission Process and Duties

- A. Commission action.** All acts of the Commission shall be in public meeting by the affirmative vote of at least nine commissioners, including at least two commissioners who are [affiliated] with each of the two largest political parties in the State and two who are [affiliated] with neither of the two largest political parties in the State.
- B. Commission quorum.** Nine commissioners constitute a quorum for the Commission.
- C. Commission officers.** At the first meeting of the full Commission, the commissioners shall act to select a chair and a vice chair. The chair and vice chair shall not be [affiliated] with the same political party.
- D. Commission website.**
1. The [independent agency] shall create an official website no later than [relevant deadline]. Once commissioners have been selected and staff and consultants have been hired, the Commission shall assume responsibility for managing and updating the website.
 2. The commission website shall provide, at a minimum, a description of the role of the Commission; timely information about the application process and public bidding process; timely information about the time, place, and purpose of Commission meetings; a portal for the submission of proposed maps; all maps drawn by the Commission or submitted by the public; the underlying data used to create or evaluate maps in a format easily usable for analysis; precinct-level shapefiles and census block equivalency; precinct-level results from statewide primary and general elections for the past 10 years; all reports analyzing the maps; transcripts and a video archive of all meetings of the Commission; and all other disclosures.
 3. All data related to redistricting shall be published on the Commission website at the same time it is made available to the Commission and shall be considered public records.
- E. Commission communications.**
1. The Commission shall be considered a public body subject to [relevant open meetings laws].
 2. No documents or communications created or received by commissioners, staff, or consultants as part of official duties shall be exempt from disclosure for any privilege other than attorney-client privilege.
 3. All records pertaining to Commission action on preliminary maps and/or analyses of the maps shall be available for public inspection on the commission website before the adoption of final maps.
 4. Commissioners, staff, and consultants shall not communicate with any outside persons attempting to influence the map-drawing process outside of public meetings and public comment periods. To the extent that commissioners, staff, or consultants receive such communications, they must be promptly publicly disclosed on the commission website. Failure to disclose such communications shall constitute substantial neglect of duty.
- F. Commission meetings.**
1. To identify communities of interest and to obtain other information relevant to the drawing of districts, the Commission shall seek public input. Before any maps are drawn, the Commission shall hold no fewer than [10] public hearings in [various regions] across the State to solicit testimony from a representative cross section of the State's population.
 2. All Commission meetings shall be open to the public, and there must be public notice at least seven days before a meeting.

3. Commission meetings shall be adequately advertised and planned to encourage attendance. This includes scheduling meetings outside of regular work hours and using technology that allows for real-time virtual participation and feedback. All Commission meetings shall be recorded and posted on the commission website within [three] days.
4. The Commission shall provide a meaningful opportunity for all persons to participate in the redistricting process, including, but not limited to, issuing notice in multiple languages, ensuring that adequate translation services are available at all meetings, and complying with all federal and state law protections for persons with disabilities.
5. If initial public input does not appear to represent the diversity of the State, then the Commission shall take remedial steps, including but not limited to conducting additional outreach, holding additional hearings, and identifying underrepresented communities.

G. Adopting maps.

1. During the map-drawing process, any member of the public may submit maps, portions of maps, or other comments for consideration by the Commission. These submissions must be made publicly available on the commission website and open to comment.
2. Proposed maps.
 - a. The Commission shall release proposed maps for [state house, state senate, and congressional districts] and shall display them for a minimum of [14] days for public comment in a manner designed to achieve the widest public access reasonably possible before acting to approve final maps.
 - b. The Commission shall hold no fewer than [10] public hearings in [various regions] across the State after the release of any proposed maps and, in addition, shall accept written comments on proposed maps both online and through paper submissions.
 - c. When releasing proposed maps, the Commission shall release population data, geographic data, election data, and any other data used to create or evaluate the maps.
4. No later than [timing provision], the Commission shall act to approve final maps for [state house, state senate, and congressional districts]. Upon approval, the Commission shall certify the final maps to the [secretary of state].
5. The Commission shall release with all proposed and final maps written evaluations that measure the maps against external metrics. These metrics must cover all criteria set forth in Section III, including the impact of the maps on the ability of racial or language minorities to elect candidates of choice, measures of partisan fairness using multiple accepted methodologies, and the degree to which the maps preserve or divide communities of interest.

Section III — Redistricting Criteria

- A. Map-drawing criteria.** The Commission shall establish single-member districts for [state house, state senate, and Congress] using the following criteria as set forth in the following order of priority:
1. Districts shall comply with the United States Constitution, the Voting Rights Act of 1965, and all applicable federal laws;
 2. Districts shall be drawn on the basis of inhabitants;
 3. Districts shall be geographically contiguous;
 4. Districts shall provide racial and language minorities with an equal opportunity to participate in the political process and shall not dilute or diminish their ability to elect candidates of choice, whether alone or in coalition with others;
 5. Districts shall respect the integrity of communities of interest to the extent practicable. A community of interest is defined as an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities. Communities of interest shall not include common relationships with political parties or political candidates; and
 6. Districts shall not split precincts and shall respect the geographic integrity of political subdivision boundaries to the extent that preceding criteria have been satisfied.
- B. Prohibitions.** Certified maps shall not, when considered on a statewide basis, unduly favor or disfavor any political party.

Section IV — Failure to Reach Consensus

- A. Special master.** If the Commission fails to adopt and file a final map for [state house, state senate, or congressional districts] by [relevant deadline], the [state supreme court] shall appoint, by [relevant deadline], a special master to create map(s) in accordance with the redistricting criteria set forth in Section III.
- B. Public engagement.** The [state supreme court] shall make the special master's map(s) public and schedule one or more hearings where interested parties may present testimony and other evidence regarding the compliance of the map(s) with redistricting criteria.
- C. Adopting maps.** The [state supreme court] shall issue an opinion with reasoning explaining the decision to accept or modify the special master's map(s).

Section V — Judicial Review

- A. Legal standing.** The Commission has the sole legal standing to defend any action regarding any certified map. The [legislature] shall provide the funding for the defense of a certified map. The Commission has sole authority to determine whether the attorney general or other legal counsel retained by the Commission shall defend the certified map.
- B. Judicial review.**
1. The [state supreme court] has original jurisdiction in any proceeding in which any certified map is challenged or is claimed not to have taken timely effect.
 2. Any resident of the State may file a petition, within 45 days after the Commission has certified a final map to the [secretary of state], to bar the [secretary of state] from implementing the certified map.
 3. The [state supreme court] shall give priority to ruling on a redistricting-related petition. If the court determines that a final map violates the State's constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate, including but not limited to the relief set forth in Section IV.

Section VI — Financial and Administrative Independence

- A. Compensation.** Commissioners shall be compensated at the rate of [\$300] for each day the person is engaged in commission business. [Adjustment for inflation provision.] Members of the [independent agency] and commissioners are eligible for reimbursement of reasonable personal expenses incurred in connection with the duties performed pursuant to this act in accordance to guidelines applicable to general state employees.
- B. Funding.** The Commission shall have ample funding to perform all duties and implement an independent redistricting system. In the year before each federal decennial census, the [legislature] shall allocate sufficient funding for the Commission to meet estimated expenses for a three-year period, including but not limited to commissioner selection, hiring staff, and a statewide public education and outreach program. The [relevant state facilities manager] shall also make adequate office space available for the operation of the Commission.
- C. Commission staff.**
1. The Commission shall act to hire a website manager, technical staff, legal counsel, and other consultants as needed through a public bid process. Any person submitting a bid to serve the Commission shall file a disclosure statement under penalty of perjury setting forth the information listed in Section I(F)(1)(a)-(d) and all other paid work as consultant to a political party, a political action committee, or a campaign committee of a candidate for elected office.
 2. The Commission shall act to hire administrative staff as necessary.
 3. The duty of any person employed or retained by the Commission is to act in the utmost public interest of the people of the State and not any party, individual, or special interest.

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