

Popular Name

AN AMENDMENT TO ESTABLISH THE ARKANSAS CITIZENS'
REDISTRICTING COMMISSION

Ballot Title

THIS IS AN AMENDMENT TO THE ARKANSAS CONSTITUTION THAT CHANGES THE MANNER FOR THE DECENNIAL REDISTRICTING OF ARKANSAS CONGRESSIONAL AND STATE LEGISLATIVE DISTRICTS. THE AMENDMENT ESTABLISHES A CITIZENS' REDISTRICTING COMMISSION (THE COMMISSION) CONSISTING OF SEVEN MEMBERS. THE AMENDMENT REPEALS ARTICLE 8 OF THE ARKANSAS CONSTITUTION THAT ESTABLISHES A BOARD OF APPORTIONMENT CONSISTING OF THE GOVERNOR, THE SECRETARY OF STATE AND THE ATTORNEY GENERAL. THAT BOARD CURRENTLY ESTABLISHES THE STATE LEGISLATIVE DISTRICTS. THE AMENDMENT REPEALS ARKANSAS CODE SECTIONS 7-2-101-105 AND REMOVES FROM THE GENERAL ASSEMBLY THE AUTHORITY TO ESTABLISH THE DISTRICTS FOR THE UNITED STATES CONGRESS. THE AMENDMENT PROVIDES THAT ONE OF THE MEMBERS SHALL BE APPOINTED BY THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES, ONE BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, ONE BY THE MAJORITY LEADER OF THE SENATE, AND ONE BY THE MINORITY LEADER OF THE SENATE. THESE FOUR MEMBERS OF THE COMMISSION SHALL CHOOSE THREE ADDITIONAL MEMBERS OF THE COMMISSION BY MAJORITY VOTE OR IF THE COMMISSION IS DEADLOCKED BY BLIND SELECTION FROM A POOL OF INDIVIDUALS NOMINATED BY EACH COMMISSIONER. NO MORE THAN FOUR OF THE MEMBERS OF THE COMMISSION SHALL HAVE ANY POLITICAL PARTY AFFILIATION AS DETERMINED BY STATEWIDE VOTER REGISTRATION AND THE THREE MEMBERS ELECTED BY THE COMMISSIONERS SHALL NOT BE AFFILIATED WITH ANY POLITICAL PARTY AS DETERMINED BY STATEWIDE VOTER REGISTRATION. EACH MEMBER OF THE COMMISSION SHALL BE A REGISTERED VOTER IN ARKANSAS FOR THE FIVE YEARS PRECEDING THEIR APPOINTMENT AND HAVE VOTED IN EACH OF THE LAST TWO STATEWIDE GENERAL ELECTIONS. A PERSON IS INELIGIBLE TO SERVE AS A COMMISSIONER IF THE PERSON OR HIS/HER IMMEDIATE FAMILY MEMBER CURRENTLY OR HAS AT ANY TIME DURING THE FIVE YEARS PRECEDING HIS OR HER APPOINTMENT SERVED AS AN ELECTED OR APPOINTED STATEWIDE OR CONSTITUTIONAL OFFICER, A MEMBER OF THE UNITED STATES CONGRESS, THE ARKANSAS GENERAL ASSEMBLY OR AS A CITY OR COUNTY OFFICIAL. A PERSON IS INELIGIBLE TO SERVE AS A COMMISSIONER IF THE PERSON CURRENTLY OR AT ANY TIME

DURING THE FIVE YEARS IMMEDIATELY PRECEDING HIS OR HER APPOINTMENT HAS SERVED AS A FEDERAL, STATE OR LOCAL LOBBYIST. A PERSON IS INELIGIBLE TO SERVE AS A COMMISSIONER IF THE PERSON CURRENTLY OR AT ANY TIME DURING THE FIVE YEARS IMMEDIATELY PRECEDING HIS OR HER APPOINTMENT HAS BEEN AN EMPLOYEE OF THE FEDERAL, STATE OR LOCAL GOVERNMENT, THE UNITED STATES CONGRESS, THE ARKANSAS GENERAL ASSEMBLY OR A CONSTITUTIONAL OFFICER. A PERSON WHO IS RETIRED FROM ACTIVE DUTY IN ANY BRANCH OF THE UNITED STATES ARMED FORCES OR CURRENTLY SERVES OR HAS PREVIOUSLY SERVED IN THE UNITED STATES ARMED FORCES RESERVE IS NOT INELIGIBLE AS A RESULT OF SUCH MILITARY SERVICE. A PERSON IS INELIGIBLE TO SERVE AS A COMMISSIONER IF THE PERSON CURRENTLY OR AT ANY TIME DURING THE FIVE YEARS IMMEDIATELY PRECEDING HIS OR HER APPOINTMENT HAS BEEN AN EMPLOYEE OR COMPENSATED IN ANY MANNER BY THE CAMPAIGN COMMITTEE OF A CANDIDATE FOR THE UNITED STATES CONGRESS, THE ARKANSAS GENERAL ASSEMBLY OR A STATEWIDE OFFICE OR HAS BEEN ELECTED OR APPOINTED TO A POSITION WITH A NATIONAL, STATE OR LOCAL POLITICAL PARTY ORGANIZATION IN THE STATE, OR HAS BEEN EMPLOYED OR HAS BEEN COMPENSATED IN ANY MANNER BY A NATIONAL, STATE, OR LOCAL POLITICAL PARTY ORGANIZATION IN THIS STATE. THE APPOINTMENTS TO THE COMMISSION SHALL BE MADE BETWEEN JANUARY 15 AND FEBRUARY 1 IN YEARS ENDING IN ONE. AT A MEETING CALLED BY THE SECRETARY OF STATE NO LATER THAN FEBRUARY 15, THE FOUR MEMBERS SHALL SELECT WITHIN 14 DAYS OF THE INITIAL MEETING BY MAJORITY VOTE THE THREE ADDITIONAL MEMBERS. FIVE MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM AND FIVE OR MORE AFFIRMATIVE VOTES ARE REQUIRED FOR ANY OFFICIAL ACTION. FOR ANY COMMISSIONER WHO DOES NOT COMPLETE HIS TERM, THE REPLACEMENT COMMISSIONER SHALL BE APPOINTED IN THE MANNER OF THE COMMISSIONER'S ORIGINAL APPOINTMENT. COMMISSIONERS SHALL HAVE A TERM OF OFFICE OF TEN YEARS. IN ADDITION TO THE FIVE-YEAR RESTRICTIONS ON CERTAIN PUBLIC SERVICE PRIOR TO BECOMING A COMMISSIONER, DURING THE TERM OF OFFICE AND FOR THREE YEARS THEREAFTER A COMMISSIONER SHALL BE INELIGIBLE FOR REGISTRATION AS A PAID LOBBYIST OR HOLD ANY ELECTIVE OR APPOINTED OFFICE IN THE EXECUTIVE OR LEGISLATIVE BRANCH OF GOVERNMENT OF THIS STATE. THE COMMISSION SHALL ESTABLISH SINGLE-MEMBER CONGRESSIONAL AND LEGISLATIVE DISTRICTS USING THE FOLLOWING CRITERIA IN THE FOLLOWING ORDER OF PRIORITY: DISTRICTS SHALL BE ESTABLISHED ON THE BASIS OF POPULATION AND SHALL NOT VARY BY MORE THAN ONE PERCENT OF THE IDEAL POPULATION FOR SUCH DISTRICTS, WITH THE IDEAL POPULATION

FOR EACH DISTRICT DETERMINED BY DIVIDING THE NUMBER OF DISTRICTS TO BE ESTABLISHED INTO THE POPULATION OF THE STATE, EXCEPT AS REQUIRED TO COMPLY WITH THE CRITERIA FOLLOWING BELOW, UNITED STATES CONSTITUTION AND THE FEDERAL VOTING RIGHTS ACT; THE DISTRICTS SHALL BE COMPOSED OF CONTIGUOUS TERRITORY; THE GEOGRAPHIC INTEGRITY OF ANY CITY, COUNTY, LOCAL NEIGHBORHOOD, OR COMMUNITY OF INTEREST SHALL BE RESPECTED; DISTRICTS SHALL BE REASONABLY COMPACT. IN NO CASE SHALL A DISTRICT HAVE A POPULATION THAT VARIES BY MORE THAN FIVE PERCENT FROM THE IDEAL DISTRICT POPULATION NOR SHALL A DISTRICT HAVE A POPULATION THAT VARIES BY MORE THAN ONE PERCENT FROM THE AVERAGE DISTRICT POPULATION. THE AMENDMENT PROVIDES THAT NO DISTRICT SHALL BE DRAWN TO DISCRIMINATE AGAINST OR FAVOR A POLITICAL PARTY, INCUMBENT LEGISLATOR OR MEMBER OF CONGRESS NOR BE DRAWN TO AUGMENT OR DILUTE THE VOTING STRENGTH OF A GROUP OF INDIVIDUALS SPEAKING THE SAME LANGUAGE OR RACIAL MINORITY GROUP. THE AMENDMENT ESTABLISHES THE PROCEDURES THE COMMISSION MUST FOLLOW FOR ESTABLISHING THE LEGISLATIVE AND CONGRESSIONAL DISTRICTS. THE AMENDMENT PROVIDES THAT THE COMMISSION SHALL HAVE STANDING IN ALL LEGAL ACTIONS. THE AMENDMENT PROVIDES THAT THE DEPARTMENT OF FINANCE AND ADMINISTRATION SHALL SUBMIT TO THE LEGISLATURE A RECOMMENDATION FOR APPROPRIATION FOR ADEQUATE REDISTRICTING EXPENSES AND THAT THE LEGISLATURE SHALL MAKE THE NECESSARY APPROPRIATIONS BY MAJORITY VOTE. THE AMENDMENT PROVIDES THAT ORIGINAL JURISDICTION IS VESTED IN THE ARKANSAS SUPREME COURT TO COMPEL THE COMMISSION TO PERFORM ITS DUTIES.

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(1) The Senate shall consist of thirty-five members elected from each of the thirty-five senatorial districts established pursuant to this Amendment. Each district shall have one member.

(2) The House of Representatives shall be composed of one hundred members elected from each of the one hundred representative districts established pursuant to this Amendment. Each district shall have one member.

(3) On or before March 1 of each year that ends in one, a Citizens' Redistricting Commission ("The Commission") shall be established to provide for the redistricting of congressional and state legislative districts. The Commission shall conduct the state's decennial congressional and legislative redistricting, including, but not limited to, preparing and adopting redistricting plans and conducting public hearings on proposed plans.

(4) The Commission shall consist of seven private citizens who meet the requirements of this section.

A. Of the seven members of the Commission, no more than two members shall reside in the same congressional district.

B. Each member shall be a registered Arkansas voter who has been continuously registered with the same political party or registered as unaffiliated with a political party for five or more years immediately preceding appointment, who has voted in each of the last two statewide

general elections immediately preceding his or her appointment to the Commission.

C. A person is ineligible to serve on the Commission if the person or his or her immediate family member:

i. Has served, at any time during the 5 years immediately preceding his or her appointment to the Commission, or currently serves as an elected or appointed statewide or constitutional officer, as a member of the United States Congress or the General Assembly, or as a city or county official.

ii. Has served, at any time during the 5 years immediately preceding his or her appointment to the Commission, or currently serves as a federal, state, or local lobbyist.

iii. Has served, at any time during the 5 years immediately preceding his or her appointment to the Commission, or currently serves as an employee of one of the following:

1. The Federal, State, or local Government.
2. The United States Congress.
3. The General Assembly.
4. A constitutional officer.

For purposes of this paragraph, a person who has retired from active duty in any branch of the United States Armed Forces or currently serves or has previously served in the United States Armed Forces Reserve is not ineligible as a result of such military service, and a

person who has been or is an employee of an institution of higher education is not ineligible as a result of such employment.

iv. Has been employed or compensated, at any time during the 5 years immediately preceding his or her appointment to the Commission, or is currently employed or compensated in any manner by the campaign committee of a candidate for United States Congress, the General Assembly, or statewide office.

v. Has been elected or appointed to a position with a national, state, or local political party organization in the state.

vi. Has been employed or has been compensated in any manner by a national, state, or local political party organization in the state.

vii. For purposes of this subsection, the term “immediate family member” means a person’s spouse, children, parents or guardian, siblings, and grandparents, whether related by blood, adoption or marriage

(5) Appointments to the Commission shall be made in the order and manner set forth below. Between January 15 and February 1 of years ending in one, the majority party leader of the Arkansas House of Representatives shall make one appointment to the Commission, followed by one appointment made in turn by each of the following: the minority party leader of the Arkansas House of Representatives, the majority party leader of the Arkansas Senate, and the minority party

leader of the Arkansas Senate. Any official who fails to make an appointment within the specified time period will forfeit the appointment privilege and the privilege will go to the next highest-ranking member of the party whose member failed to make the appointment. In the event that there are two or more minority parties within the House or the Senate, the leader of the largest minority party by statewide party registration shall make the appointment. Each of the officials making appointments to the Commission according to Section 5 shall appoint an individual who has the same political party affiliation, determined by statewide voter registration, as the respective official making the appointment.

(6) At a meeting called by the Secretary of State no later than February 15 of the years ending in one the following shall occur:

A. The four Commission members shall select by majority vote three additional members who shall not be registered with any political party (or have been in the previous 5 years);

B. If the four Commission members fail to select three additional members by majority vote as described in Section 6(A) above, then each Commission member shall select a different individual (who shall not be registered with any political party (or have been in the previous 5 years)) who shall become a nominee, the name of each of the four respective nominees shall be placed in a randomized pool, and one nominee's name shall be selected blindly from the pool by each of the

following persons in the following order: the Secretary of State, the first-appointed Commission member, and the second-appointed Commission member;

C. The appointments of the three additional members shall be made within 14 days of the initial meeting called by the Secretary of State.

(7) The seven Commission members shall select, by majority vote, one of the seven commissioners to serve as chair of the Commission. The seven commissioners shall then select by majority vote one of their members to serve as vice-chair.

(8) If a commissioner or chair does not complete the term of office for any reason (“outgoing commissioner”), a replacement commissioner shall be appointed in the manner of the outgoing commissioner’s original appointment as prescribed in Sections 5 or 6. The appointment of a replacement commissioner or chair shall be made within fourteen days. The newly appointed commissioner shall serve out the remainder of the original term.

(9) Five commissioners, including the chair or vice-chair, constitute a quorum. Five or more affirmative votes are required for any official action. Where a quorum is present, the Commission shall conduct business in meetings open to the public, with at least 72 hours public notice provided. The Commission is subject to all aspects of Arkansas open meetings and freedom of information law.

(10) A commissioner, during the Commissioner's term of office and for three years thereafter, shall be ineligible for registration as a paid lobbyist or to hold any elective or appointed office in the executive or legislative branch of the government of this state. The General Assembly shall make such laws as are necessary to enforce this restriction and to punish violations.

(11) The Commission, or the Department of Finance and Administration acting on the Commission's behalf, shall acquire, as soon as practicable, appropriate information and develop programs and procedures in preparation for drawing congressional and legislative redistricting plans on the basis of each federal census. The Commission, or the Department of Finance and Administration acting on the Commission's behalf, shall obtain, as soon as practicable, from the United States bureau of the Census information regarding geographic and political units in this state for which federal census population data has been gathered and will be tabulated. The Commission, or the Department of Finance and Administration acting on the Commission's behalf, shall use the data so obtained to:

A. Prepare necessary descriptions of areas for which census data will be reported, and which are suitable for use as components of legislative districts.

B. Prepare maps of counties, cities and other areas within the state, which may be used to illustrate the locations of legislative district boundaries proposed in plans drawn in accordance with section 14.

(12) As soon as possible after February 1 of each year ending in one, the Commission, or the Department of Finance and Administration acting on the Commission's behalf, shall obtain from the United States Bureau of the Census the population data needed for congressional and legislative districting which the census bureau is required to provide this state under United States Pub. L. No. 94-171, and shall use that data to assign a population figure based upon certified federal census data to each area described pursuant to subsection 12(A) Upon completing that task, the Commission shall begin the preparation of congressional and legislative districting plans.

(13) The Commission shall establish single-member congressional and legislative districts using the following criteria as set forth in the following order of priority:

A. Legislative, or "senatorial" and "representative" districts, and congressional districts shall be established on the basis of population. Legislative and congressional districts, respectively, shall have a population as nearly equal as practicable to the ideal population for such districts. Ideal population is determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

i. Legislative districts shall have a population which varies by no more than one percent from the applicable ideal district population, except as required to comply with 14(B) through 14(G). Before adopting a redistricting plan, the Commission shall issue a report justifying any deviation of a district's population in excess of one percent of the applicable ideal district population. In no case shall a district have a population which varies by more than five percent from the applicable ideal district population, nor shall the quotient, obtained by dividing the total of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established, exceed one percent of the applicable ideal district population. No senatorial district shall have a population which exceeds that of any other senatorial district by more than five percent, and no representative district shall have a population which exceeds that of any other representative district by more than five percent.

ii. No congressional district shall have a population which varies by more than one percent from the applicable ideal district population, except as necessary to ensure that a congressional district with more than one county shall not be separated entirely by a county belonging to another congressional district.

B. Districts shall adhere to the United States Constitution and the federal Voting Rights Act.

C. Districts shall be composed of contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous. Contiguousness means that a person can reach any point in a district without having to cross that district's boundary.

D. The geographic integrity of any city, county, local neighborhood, or community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions. A community of interest is a contiguous population which shares common social, ethnic, or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

E. Districts shall be reasonably compact in form. In general, reasonably compact districts are those which are not irregularly shaped, to the extent permitted by natural or political boundaries, and the compactness of a district is greatest when the length of the district and the width of the district are equal, and when the distance needed to traverse the perimeter boundary of a district is as short as possible.

F. To the extent practicable, district boundaries shall use visible geographic features, coincide with the boundaries of political subdivisions of the state, and include undivided census tracts. The Commission shall minimize the number of divided counties, cities, and

census tracts in that order. If a district is entirely contained within a county or city, that district shall not be considered to divide that county or city. If a city is in more than one county, the city shall not be considered divided so long as all portions of that city within a county are contained entirely within a single district. Where feasible, no county or city shall be divided more than once.

(14) No district shall be drawn to discriminate or favor a political party, incumbent legislator or member of Congress, or other person or group, nor be drawn for the purpose of augmenting or diluting the voting strength of a group of individuals speaking the same language or racial minority group, except as required to comply with federal law.

(15) The Commission shall establish the legislative and congressional districts according to the following procedures:

A. At any time prior to finalizing a redistricting plan, the Commission shall conduct at least one public hearing in each congressional district in this state, after providing adequate advance notice to the public so that any interested citizens have a reasonable opportunity to express their views with regard to redistricting plans.

B. The Commission shall develop and maintain a public website making available all data used or considered by the Commission and containing the following: copies of all proposed plans or maps, with population and demographic data for each district; transcripts of all meetings of the Commission; and copies of all written reports or other

materials required by this Amendment to be prepared by the Commission or the department of finance and administration.

C. The Commission shall develop at least three (3) draft maps of congressional districts and at least three (3) draft maps of legislative districts based on the parameters set forth in Section 14 to this Amendment, and present, including publishing on the internet, such draft districts to the public for comment, which comment shall be taken for at least thirty (30) days. In establishing these draft districts, the Commission shall not use any of the following data:

- i. Addresses of incumbent legislators or members of Congress.
- ii. Political affiliations of registered voters.
- iii. Voting history
- iv. Previous election results.

D. Upon presenting the draft maps of districts to the public for comment, the Commission shall use and make public the data listed in Section (16)(A)(ii)-(iv) to evaluate compliance of the draft districts with Section 15 and any applicable criteria in Section 14. The Commission shall then establish final district boundaries.

(16) If a challenge is filed with the supreme court alleging excessive population variance among districts established in a plan adopted by the Commission, the Commission has the burden of

justifying any variance in excess of one percent between the population of a district and the applicable ideal district population.

(17) The provisions regarding this section are self-executing. The Commission shall certify to the Secretary of State the establishment of congressional and legislative districts on or before October 31 in years ending in one (1).

(18) Consistent with Article 5, Section 3 of the Arkansas Constitution, after establishment of legislative districts, the qualified electors of each senate district shall elect a senator in the next election in the year ending in two (2), and at the first session of the newly elected senate, the senators shall divide themselves into two classes, by lot, and the first class shall hold their places for two years only, after which all shall be elected for four years.

(19) The Department of Finance and Administration or its successor shall submit to the legislature, prior to each regular session of the General Assembly beginning with January 2021, a recommendation for an appropriation for adequate redistricting expenses, including for necessary software and other materials, and shall make available adequate office space for the operation of the Commission. The legislature shall make the necessary appropriations by a majority vote.

(20) The Commission, with fiscal oversight from the Department of Finance and Administration or its successor, shall have procurement and contracting authority, may buy materials, including software, and

may hire staff and consultants for the purposes of this section, including legal representation.

(21) The Commission shall have standing in legal actions regarding the redistricting plan and the adequacy of resources provided for the operation of the Commission.

(22) Members of the Commission are eligible for reimbursement of expenses pursuant to law including a per diem of up to \$200.00. This amount may be increased by the General Assembly by a majority vote.

(23) Employees of the Department of Finance and Administration or its successor shall not influence or attempt to influence the district-mapping decisions of the Commission.

(24) Each commissioner's term of office shall be either ten years from the date of the commissioner's appointment or until the date of appointment of the first member of the next redistricting commission. Each commissioner's duties established by this section expire upon completion of the commissioner's ten-year term or upon the appointment of the first member of the next redistricting commission; however, commissioners may be reappointed following the procedures in Sections 4 or 5 herein. The Commission shall not meet or incur expenses after the redistricting plan is completed, except if litigation or any government approval of the plan is pending, or to revise districts if required by court decisions or if the number of congressional or legislative districts is changed.

(25) Article 8 of the Arkansas Constitution is hereby repealed in its entirety.

(26) The authority for apportionment and redistricting of districts for U.S. Congress is hereby removed from the General Assembly and vested in the Commission. Arkansas Code Annotated sections 7-2-101 - 105 are hereby repealed in their entirety.

(27) Original Jurisdiction (to be exercised on application of citizen and taxpayer) is hereby vested in the Supreme Court of this State to compel (by mandamus, contempt, or otherwise) the Commission to perform its duties, including but not limited to the adoption of a plan according to Sections 10 and 18 of this Amendment. This Section 28 shall be an exception to the State's right to sovereign immunity.

(28) In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or word of this amendment is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this amendment, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this amendment.