



HOUSE BILL 69: Nonpartisan Redistricting Commission.

2019-2020 General Assembly

Committee:	House Redistricting. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	October 24, 2019
Introduced by:	Reps. Reives, McGrady, Hardister, B. Turner	Prepared by:	Jessica Sammons and Erika Churchill,
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 69 would establish a nonpartisan redistricting process for legislative and Congressional districts, with maps drawn by a Nonpartisan Redistricting Commission based on specific redistricting standards. The maps would then be considered and enacted by the General Assembly.*

CURRENT LAW: Following each federal decennial census, the General Assembly of North Carolina engages in redistricting of congressional districts and legislative districts, as required by the U.S. and N.C. Constitutions. The constitutional provisions addressing redistricting are as follows:

United States Constitution

Article I, Section 2

Clause 3: Representatives . . . shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons . . . [and] three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the U.S., and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.

Amendment XIV

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

North Carolina Constitution

Article II: Legislative

Sec. 2. Number of Senators.

The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. Senate districts; apportionment of Senators.

The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

- (1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the

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This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

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population of the district that he represents by the number of Senators apportioned to that district;

- (2) Each senate district shall at all times consist of contiguous territory;
- (3) No county shall be divided in the formation of a senate district;
- (4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. Number of Representatives.

The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. Representative districts; apportionment of Representatives.

The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

- (1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;
- (2) Each representative district shall at all times consist of contiguous territory;
- (3) No county shall be divided in the formation of a representative district;
- (4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

In North Carolina, a bill creating an official redistricting plan follows the same course through the General Assembly as any other legislation, culminating in a statute setting forth the redistricting plan for House, Senate, or Congress, which statute specifies the counties, voting tabulation districts, and census blocks that comprise each district. House, Senate, and Congressional plans must be approved by the full General Assembly. However, a redistricting plan is not subject to gubernatorial veto if it is in a bill that contains no other matter. The maps and statistics generated during the redistricting process are not part of the legislation that enacts the plans, but can be used as tools to evaluate the plans.

Case law at both the federal and State level have set additional criteria and factors that the legislative body must take into consideration when enacting new districting plans, such as:

- Population equality (One person, one vote).
- The Voting Rights Act of 1965.
- *Stephenson v. Bartlett* (legislative redistricting).
- Gerrymandering.

BILL ANALYSIS: House Bill 69 would create a new Article in Chapter 120 to establish a Nonpartisan Redistricting Commission and to provide for a process for revising legislative and Congressional districts.

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- **Nonpartisan Redistricting Commission:** The Commission would consist of 11 registered voters, consisting of the following:
 - Four members affiliated with the political party having the highest number of registered affiliates.
 - Four members affiliated with the political party having the second highest number of registered affiliates.
 - Three members not affiliated with either of the two political parties having the highest number of registered affiliates.
- *Selection of Commission Members:* Lists of nominees would be submitted at the beginning of each biennium by the President Pro Tempore of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives. The Office of the State Auditor would verify that each nominee is eligible for appointment, and then randomly select Commission members from the lists of nominees.
- *Terms, Quorum, Vacancies:* Commission members would serve four year terms. Members would not be eligible to serve more than three consecutive terms. Five members would constitute a quorum. Vacancies would be filled within 30 days by random selection by the Office of the State Auditor from the most recent lists of nominees.
- *Function of the Commission:* The Commission would prepare proposed plans for revising legislative and Congressional districts. The Commission would also record information submitted to the Commission, document conversations between Commission members and elected officials or candidates, disseminate information to the public electronically, and conduct necessary public hearings.
- **Redistricting Process:** For all bills being considered by the General Assembly for establishing legislative and Congressional districts, the following requirements would apply:
 - Upon receipt of population data from the Census Bureau, the Commission would prepare proposed plans in compliance with redistricting standards.
 - The Commission would conduct at least 21 public hearings throughout the State: at least 11 before releasing any proposed plan, and at 10 after releasing any proposed plan.
 - The Commission would, by a vote of at least eight members, submit the proposed plans to the General Assembly.
 - *Plan 1:* A member of the General Assembly would file a bill embodying the plan within three legislative days. The bill would be required to be voted on no later than three legislative days after filing. No amendments other than corrective amendments would be permitted. If the bill failed to pass second or third reading in either chamber, the respective chamber may direct by resolution to the Commission information on why the plan was not approved.
 - *Plan 2:* If the first plan is not enacted, the Commission would submit a second proposed plan, taking into account the reasons cited for failure to approve the first plan. The plan would be resubmitted within 35 calendar days. A member would file a bill embodying the plan within three legislative days. The bill would be required to be voted on no later than three legislative days after filing. No amendments other than corrective amendments would be permitted. If the bill failed to pass second or third reading in either chamber, the

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- respective chamber may direct by resolution to the Commission information on why the plan was not approved.
- *Plan 3:* If a second plan is not enacted, the Commission would submit a third plan, taking into account the reasons cited for failure to approve the second plan. The plan would be resubmitted within 35 calendar days. A member would file a bill embodying the plan within three legislative days. The bill would be subject to amendments in the same manner as other bills.
 - **Redistricting Standards:** The Commission would be required to follow the following standards in drawing redistricting plans:
 - Districts must be based on population. Legislative districts must have a population within 5% of the ideal population. Congressional districts must have a population as nearly equal as practicable to the ideal, but at least within 1/10th of 1% of the ideal population.
 - Districts must be drawn in a manner that complies with requirements of federal and state law.
 - To the extent consistent with other standards, districts must coincide with political subdivision boundaries, and divisions of those boundaries must be minimized for counties, cities, and voting tabulation districts. For legislative districts, the whole county requirements of the N.C. Constitution must be complied with in a manner consistent with federal law.
 - Districts must be composed of convenient contiguous territory.
 - Districts must be reasonably compact. If tests of compactness are needed for comparison purposes, compactness should be measured using length-width compactness or perimeter compactness.
 - Districts must not be drawn to favor a political party, incumbents, or other persons or groups, or to augment or dilute the voting strength of a language or racial minority group. The addresses or geographic locations of incumbents may not be used in drawing the plan.
 - Except as required by the N.C. or U.S. Constitutions, the 1965 Voting Rights Act, and applicable court decisions, the following may not be used: political affiliations of registered voters, previous election results, or demographic data, other than population head counts.

EFFECTIVE DATE: Effective when it becomes law, and applies to redistricting following the return of the 2020 federal decennial census and thereafter.