

HOUSE BILL No. 5908

March 2, 2010, Introduced by Reps. Walsh, Crawford, Horn, Bledsoe, McMillin, Agema, Denby, Opsommer and Ball and referred to the Committee on Judiciary.

A bill to amend 1996 PA 463, entitled

"An act to establish guidelines for the decennial adoption of redistricting plans for the senate and house of representatives; to provide original jurisdiction to the supreme court to review redistricting plans enacted by the legislature for compliance with those guidelines; and to provide a procedure for the supreme court to use to redistrict the senate and house of representatives under certain circumstances,"

by amending the title and sections 1, 2, 3, 4, and 5 (MCL 4.261, 4.262, 4.263, 4.264, and 4.265), section 2 as amended by 1999 PA 223, and by adding section 6; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to establish guidelines for the decennial adoption of redistricting plans for **CONGRESS AND** the senate and house of representatives; to provide original jurisdiction to the supreme court to review redistricting plans enacted by the legislature for

1 compliance with those guidelines; ~~and to provide a procedure for~~
2 the supreme court to use to redistrict the senate and house of
3 representatives under certain circumstances; **AND TO REPEAL ACTS AND**
4 **PARTS OF ACTS.**

5 Sec. 1. (1) ~~By November 1, 2001, and every 10 years~~
6 ~~thereafter, the legislature shall enact a redistricting plan for~~
7 ~~the senate and house of representatives.~~ **BEGINNING WITH THE 2010**
8 **FEDERAL DECENNIAL CENSUS, AND AFTER THE OFFICIAL TOTAL POPULATION**
9 **COUNT OF EACH FEDERAL DECENNIAL CENSUS OF THIS STATE AND ITS**
10 **POLITICAL SUBDIVISIONS IS AVAILABLE, THE LEGISLATIVE SERVICE BUREAU**
11 **SHALL PROCEED TO DISTRICT AND APPORTION THE SENATE AND HOUSE OF**
12 **REPRESENTATIVES. NOT LATER THAN MAY 15, 2011 AND EVERY 10 YEARS**
13 **THEREAFTER, THE LEGISLATIVE SERVICE BUREAU SHALL PREPARE A**
14 **CONGRESSIONAL DISTRICTING PLAN AND A LEGISLATIVE APPORTIONMENT AND**
15 **DISTRICTING PLAN AND SHALL DELIVER THOSE PLANS TO THE SECRETARY OF**
16 **THE SENATE AND THE CLERK OF THE HOUSE OF REPRESENTATIVES WHICH**
17 **SHALL BE INTRODUCED IN BILL FORM. A CONGRESSIONAL DISTRICTING PLAN**
18 **AND A LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN SHALL BE VOTED**
19 **UPON IN THE HOUSE OF REPRESENTATIVES WITHIN 7 CALENDAR DAYS OF**
20 **RECEIPT. IF EITHER PLAN IS APPROVED BY A MAJORITY OF THE MEMBERS**
21 **ELECTED TO AND SERVING IN THE HOUSE OF REPRESENTATIVES, THE PLAN**
22 **SHALL BE TRANSMITTED WITHIN 1 CALENDAR DAY AND BE VOTED UPON IN THE**
23 **SENATE WITHIN 7 CALENDAR DAYS OF RECEIPT. A CONGRESSIONAL**
24 **DISTRICTING PLAN OR A LEGISLATIVE APPORTIONMENT AND DISTRICTING**
25 **PLAN IS NOT SUBJECT TO AMENDMENT OTHER THAN AMENDMENTS OF A**
26 **TECHNICAL NATURE.**

27 (2) IF A CONGRESSIONAL DISTRICTING PLAN OR A LEGISLATIVE

1 APPORTIONMENT AND DISTRICTING PLAN PREPARED BY THE LEGISLATIVE
2 SERVICE BUREAU IS NOT APPROVED BY A MAJORITY OF THE MEMBERS ELECTED
3 TO AND SERVING IN EITHER THE SENATE OR THE HOUSE OF
4 REPRESENTATIVES, THE SENATE OR THE HOUSE OF REPRESENTATIVES SHALL
5 PASS A RESOLUTION PROVIDING INFORMATION TO THE LEGISLATIVE SERVICE
6 BUREAU INDICATING WHY THE PLAN WAS NOT APPROVED. THE LEGISLATIVE
7 SERVICE BUREAU SHALL PREPARE A SECOND CONGRESSIONAL DISTRICTING
8 PLAN OR LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN. THE SECOND
9 CONGRESSIONAL DISTRICTING PLAN OR LEGISLATIVE APPORTIONMENT AND
10 DISTRICTING PLAN SHALL BE DELIVERED TO THE SECRETARY OF THE SENATE
11 AND THE CLERK OF THE HOUSE OF REPRESENTATIVES NOT LATER THAN 14
12 CALENDAR DAYS AFTER THE DATE OF THE VOTE BY WHICH THE SENATE OR
13 HOUSE OF REPRESENTATIVES FAILED TO APPROVE THE FIRST PLAN. THE
14 SECOND CONGRESSIONAL DISTRICTING PLAN OR LEGISLATIVE APPORTIONMENT
15 AND DISTRICTING PLAN SHALL BE VOTED UPON IN THE SAME MANNER
16 PRESCRIBED FOR THE FIRST PLAN.

17 (3) IF THE SECOND CONGRESSIONAL DISTRICTING PLAN OR
18 LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN PREPARED BY THE
19 LEGISLATIVE SERVICE BUREAU IS NOT APPROVED BY A MAJORITY OF THE
20 MEMBERS ELECTED TO AND SERVING IN EITHER THE SENATE OR THE HOUSE OF
21 REPRESENTATIVES, THE SENATE OR THE HOUSE OF REPRESENTATIVES SHALL
22 PASS A RESOLUTION PROVIDING INFORMATION TO THE LEGISLATIVE SERVICE
23 BUREAU INDICATING WHY THE SECOND PLAN WAS NOT APPROVED. THE
24 LEGISLATIVE SERVICE BUREAU SHALL PREPARE A THIRD CONGRESSIONAL
25 DISTRICTING PLAN OR LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN.
26 THE THIRD CONGRESSIONAL DISTRICTING PLAN OR LEGISLATIVE
27 APPORTIONMENT AND DISTRICTING PLAN SHALL BE DELIVERED TO THE

1 SECRETARY OF THE SENATE AND THE CLERK OF THE HOUSE OF
2 REPRESENTATIVES NOT LATER THAN 14 CALENDAR DAYS AFTER THE DATE OF
3 THE VOTE BY WHICH THE SENATE OR HOUSE OF REPRESENTATIVES FAILED TO
4 APPROVE THE SECOND PLAN. THE THIRD CONGRESSIONAL DISTRICTING PLAN
5 OR LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN SHALL BE VOTED
6 UPON IN THE SAME MANNER PRESCRIBED FOR THE FIRST PLAN. THE SENATE
7 OR THE HOUSE OF REPRESENTATIVES MAY AMEND THE THIRD CONGRESSIONAL
8 DISTRICTING PLAN OR LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN
9 SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (4) AND (5). THE SENATE
10 AND HOUSE OF REPRESENTATIVES SHALL APPROVE A CONGRESSIONAL
11 DISTRICTING PLAN OR LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN
12 BY JULY 31 IMMEDIATELY FOLLOWING THE DEADLINE ESTABLISHED IN
13 SUBSECTION (1). ONCE A CONGRESSIONAL DISTRICTING PLAN OR
14 LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN IS ENACTED, THAT
15 PLAN SHALL NOT BE AMENDED UNTIL THE NEXT FEDERAL DECENNIAL CENSUS.

16 (4) Except as otherwise required by federal law for
17 legislative districts in this state, the ~~redistricting plan~~
18 LEGISLATIVE SERVICE BUREAU, OR LEGISLATURE ON A THIRD APPORTIONMENT
19 AND REDISTRICTING PLAN UNDER SUBSECTION (3), shall be enacted
20 PREPARE THE LEGISLATIVE APPORTIONMENT AND DISTRICTING PLAN using
21 only the following guidelines:

22 (a) The senate districts shall consist of 38 single-member
23 districts.

24 (b) The house of representatives districts shall consist of
25 110 single-member districts.

26 (c) Senate and house of representatives districts shall be
27 areas of convenient territory contiguous by land. Areas that meet

1 only at the points of adjoining corners are not contiguous.

2 (d) Senate and house of representatives districts shall have a
3 population not exceeding 105% and not less than 95% of the ideal
4 district size for the senate or the house of representatives unless
5 and until the United States supreme court establishes a different
6 range of allowable population divergence for state legislative
7 districts.

8 (e) Senate and house of representatives district lines shall
9 preserve county lines with the least cost to the principle of
10 equality of population provided for in subdivision (d).

11 (f) If it is necessary to break county lines to stay within
12 the range of allowable population divergence provided for in
13 subdivision (d), the fewest whole cities or whole townships
14 necessary shall be shifted. Between 2 cities or townships, both of
15 which will bring the districts into compliance with subdivisions
16 (d) and (h), the city or township with the lesser population shall
17 be shifted.

18 (g) Within those counties to which there is apportioned more
19 than 1 senate district or house of representatives district,
20 district lines shall be drawn on city and township lines with the
21 least cost to the principle of equality of population between
22 election districts consistent with the maximum preservation of city
23 and township lines and without exceeding the range of allowable
24 divergence provided for in subdivision (d).

25 (h) If it is necessary to break city or township lines to stay
26 within the range of allowable divergence provided for in
27 subdivision (d), the number of people necessary to achieve

1 population equality shall be shifted between the 2 districts
2 affected by the shift, except that in lieu of absolute equality the
3 lines may be drawn along the closest street or comparable boundary.

4 (i) Within a city or township to which there is apportioned
5 more than 1 senate district or house of representatives district,
6 district lines shall be drawn to achieve the maximum compactness
7 possible within a population range of 98% to 102% of absolute
8 equality between districts within that city or township.

9 (j) Compactness shall be determined by circumscribing each
10 district within a circle of minimum radius and measuring the area,
11 not part of the Great Lakes and not part of another state, inside
12 the circle but not inside the district.

13 (k) If a discontinuous township island exists within an
14 incorporated city or discontinuous portions of townships are split
15 by an incorporated city, the splitting of the township shall not be
16 considered a split if any of the following circumstances exist:

17 (i) The city must be split to stay within the range of
18 allowable divergence provided for in subdivision (d) and it is
19 practicable to keep the township together within 1 district.

20 (ii) A township island is contained within a whole city and a
21 split of the city would be required to keep the township intact.

22 (iii) The discontinuous portion of a township cannot be included
23 in the same district with another portion of the same township
24 without creating a noncontiguous district.

25 (l) Senate and house districts shall not violate ~~the precedents~~
26 ~~established in Miller v Johnson, 115 S Ct 2475; 132 L Ed 2d 762~~
27 ~~(1995); Bush v Vera, 116 S Ct 1941; 135 L Ed 2d 248 (1996); and,~~

~~Shaw v Hunt, 116 S Ct 1894, 135 L Ed 2d 207 (1996)~~ SECTION 2 OF
TITLE I OF THE VOTING RIGHTS ACT OF 1965, 42 USC 1973.

(M) THE LEGISLATIVE SERVICE BUREAU OR LEGISLATURE SHALL NOT
DRAW A DISTRICT FOR THE PURPOSE OF FAVORING A POLITICAL PARTY,
INCUMBENT LEGISLATOR, OR OTHER PERSON OR GROUP, OR FOR THE PURPOSE
OF AUGMENTING OR DILUTING THE VOTING STRENGTH OF A LANGUAGE OR
RACIAL MINORITY GROUP. THE LEGISLATIVE SERVICE BUREAU OR
LEGISLATURE SHALL NOT USE OR CONSIDER VOTING HISTORY DATA, PAST
ELECTION RESULTS, OR INCUMBENT ADDRESSES DURING THE PREPARATION OR
ADOPTION OF THE APPORTIONMENT AND DISTRICTING PLAN.

(5) EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW FOR
CONGRESSIONAL DISTRICTS IN THIS STATE, THE LEGISLATIVE SERVICE
BUREAU, OR LEGISLATURE ON A THIRD APPORTIONMENT AND REDISTRICTING
PLAN UNDER SUBSECTION (3), SHALL PREPARE THE CONGRESSIONAL
DISTRICTING PLAN USING ONLY THESE GUIDELINES IN THE FOLLOWING ORDER
OF PRIORITY:

(A) THE CONSTITUTIONAL GUIDELINE IS THAT EACH CONGRESSIONAL
DISTRICT SHALL ACHIEVE PRECISE MATHEMATICAL EQUALITY OF POPULATION
IN EACH DISTRICT.

(B) THE FEDERAL STATUTORY GUIDELINES IN NO ORDER OF PRIORITY
ARE AS FOLLOWS:

(i) EACH CONGRESSIONAL DISTRICT SHALL BE ENTITLED TO ELECT A
SINGLE MEMBER.

(ii) EACH CONGRESSIONAL DISTRICT SHALL NOT VIOLATE SECTION 2 OF
TITLE I OF THE VOTING RIGHTS ACT OF 1965, 42 USC 1973.

(C) THE SECONDARY GUIDELINES IN ORDER OF PRIORITY ARE AS
FOLLOWS:

1 (i) EACH CONGRESSIONAL DISTRICT SHALL CONSIST OF AREAS OF
2 CONVENIENT TERRITORY CONTIGUOUS BY LAND. AREAS THAT MEET ONLY AT
3 POINTS OF ADJOINING CORNERS ARE NOT CONTIGUOUS.

4 (ii) CONGRESSIONAL DISTRICT LINES SHALL BREAK AS FEW COUNTY
5 BOUNDARIES AS IS REASONABLY POSSIBLE.

6 (iii) IF IT IS NECESSARY TO BREAK COUNTY LINES TO ACHIEVE
7 EQUALITY OF POPULATION BETWEEN CONGRESSIONAL DISTRICTS AS PROVIDED
8 IN SUBDIVISION (A), THE NUMBER OF PEOPLE NECESSARY TO ACHIEVE
9 POPULATION EQUALITY SHALL BE SHIFTED BETWEEN THE 2 DISTRICTS
10 AFFECTED BY THE SHIFT.

11 (iv) CONGRESSIONAL DISTRICT LINES SHALL BREAK AS FEW CITY AND
12 TOWNSHIP BOUNDARIES AS IS REASONABLY POSSIBLE.

13 (v) IF IT IS NECESSARY TO BREAK CITY OR TOWNSHIP LINES TO
14 ACHIEVE EQUALITY OF POPULATION BETWEEN CONGRESSIONAL DISTRICTS AS
15 PROVIDED IN SUBDIVISION (A), THE NUMBER OF PEOPLE NECESSARY TO
16 ACHIEVE POPULATION EQUALITY SHALL BE SHIFTED BETWEEN THE 2
17 DISTRICTS AFFECTED BY THE SHIFT.

18 (vi) WITHIN A CITY OR TOWNSHIP TO WHICH THERE IS APPORTIONED
19 MORE THAN 1 CONGRESSIONAL DISTRICT, DISTRICT LINES SHALL BE DRAWN
20 TO ACHIEVE THE MAXIMUM COMPACTNESS POSSIBLE.

21 (vii) COMPACTNESS SHALL BE DETERMINED BY CIRCUMSCRIBING EACH
22 DISTRICT WITHIN A CIRCLE OF MINIMUM RADIUS AND MEASURING THE AREA,
23 NOT PART OF THE GREAT LAKES AND NOT PART OF ANOTHER STATE, INSIDE
24 THE CIRCLE BUT NOT INSIDE THE DISTRICT.

25 (viii) IF A DISCONTIGUOUS TOWNSHIP ISLAND EXISTS WITHIN AN
26 INCORPORATED CITY OR DISCONTIGUOUS PORTIONS OF TOWNSHIPS ARE SPLIT
27 BY AN INCORPORATED CITY, THE SPLITTING OF THE TOWNSHIP SHALL NOT BE

1 CONSIDERED A SPLIT IF ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

2 (A) THE CITY MUST BE SPLIT TO ACHIEVE EQUALITY OF POPULATION
3 BETWEEN CONGRESSIONAL DISTRICTS AS PROVIDED IN SUBDIVISION (A) AND
4 IT IS PRACTICABLE TO KEEP THE TOWNSHIP TOGETHER WITHIN 1 DISTRICT.

5 (B) A TOWNSHIP ISLAND IS CONTAINED WITHIN A WHOLE CITY AND A
6 SPLIT OF THE CITY WOULD BE REQUIRED TO KEEP THE TOWNSHIP INTACT.

7 (C) THE DISCONTIGUOUS PORTION OF A TOWNSHIP CANNOT BE INCLUDED
8 IN THE SAME DISTRICT WITH ANOTHER PORTION OF THE SAME TOWNSHIP
9 WITHOUT CREATING A NONCONTIGUOUS DISTRICT.

10 (ix) EACH CONGRESSIONAL DISTRICT SHALL BE NUMBERED IN A REGULAR
11 SERIES, BEGINNING WITH CONGRESSIONAL DISTRICT 1 IN THE NORTHWEST
12 CORNER OF THE STATE AND ENDING WITH THE HIGHEST NUMBERED DISTRICT
13 IN THE SOUTHEAST CORNER OF THE STATE.

14 (D) THE LEGISLATIVE SERVICE BUREAU OR LEGISLATURE SHALL NOT
15 DRAW A DISTRICT FOR THE PURPOSE OF FAVORING A POLITICAL PARTY,
16 INCUMBENT LEGISLATOR, OR OTHER PERSON OR GROUP, OR FOR THE PURPOSE
17 OF AUGMENTING OR DILUTING THE VOTING STRENGTH OF A LANGUAGE OR
18 RACIAL MINORITY GROUP. THE LEGISLATIVE SERVICE BUREAU OR
19 LEGISLATURE SHALL NOT USE OR CONSIDER VOTING HISTORY DATA, PAST
20 ELECTION RESULTS, OR INCUMBENT ADDRESSES DURING THE PREPARATION OR
21 ADOPTION OF THE APPORTIONMENT AND DISTRICTING PLAN.

22 Sec. 2. (1) The supreme court shall have original and
23 exclusive state jurisdiction to hear and decide all cases or
24 controversies in Michigan's 1 court of justice involving a
25 redistricting plan under this act. A case or controversy in
26 Michigan's 1 court of justice involving a redistricting plan **UNDER**
27 **THIS ACT** shall not be commenced in or heard by the state court of

1 appeals or any state trial court.

2 (2) If a case or controversy involves a legislative
3 redistricting plan but an application or petition for review has
4 not been filed under subsection (3) or section 3, the supreme court
5 may, but is not required to, undertake all or a portion of the
6 procedures described in section 4.

7 (3) Upon the application of an elector filed not later than 60
8 days after the adoption of the enactment of a redistricting plan,
9 the supreme court, exercising original state jurisdiction provided
10 under section 6 of article IV of the state constitution of 1963,
11 may review any plan enacted by the legislature, and may modify that
12 plan or remand that plan to a special master for further action if
13 the plan fails to comply with section 1 or 1a.

14 Sec. 3. Unless legislation enacting a redistricting plan for
15 **CONGRESS AND** the house of representatives and senate is approved on
16 or before the deadline established in section 1, a political party,
17 the speaker of the house of representatives, the minority leader of
18 the house of representatives, the majority leader of the senate, or
19 the minority leader of the senate may file, on or after ~~November 2~~
20 **AUGUST 1** immediately following the deadline established in section
21 1, a petition or other pleadings or papers with the supreme court
22 requesting that the supreme court prepare a redistricting plan for
23 **CONGRESS OR** the senate and house of representatives in compliance
24 with the redistricting guidelines set in section 1.

25 Sec. 4. If a petition for review is filed in the supreme court
26 under section 2 or 3, the supreme court shall do all of the
27 following:

1 (a) Exercising original jurisdiction provided under section 6
2 of article IV of the state constitution of 1963, or other
3 jurisdiction pursuant to Michigan court rule 7.301(A)(7) or any
4 successor court rule, undertake the preparation of a redistricting
5 plan for **CONGRESS OR** the house of representatives and the senate.

6 (b) Appoint and utilize a special master or masters as the
7 court considers necessary.

8 (c) Provide, by order, for the submission of proposed
9 redistricting plans by political parties and other interested
10 persons who have been allowed to intervene. Political parties shall
11 be granted intervention as of right.

12 (d) After hearing oral argument or appointing special masters,
13 propose 1 plan for the consideration of the parties and the public,
14 and make that plan available for public inspection at least 30 days
15 in advance of the time set for hearing in subdivision (f).

16 (e) Prescribe, by order or otherwise, the procedure for and
17 the deadlines pertaining to filing objections and rebuttal to the
18 proposed plan in advance of the hearing scheduled in subdivision
19 (f).

20 (f) Hold a hearing on the proposed plan at a time determined
21 by the court but not later than March ~~10~~**11** immediately following
22 the deadline established in section 1.

23 (g) In order to provide for the orderly election process and
24 for candidates to meet statutory deadlines for filing and
25 residency, order a redistricting plan for **CONGRESS OR** the senate
26 and house of representatives not later than April ~~1~~**2** immediately
27 following the deadline established in section 1.

1 Sec. 5. If **A COURT FINDS** any portion of this act or
2 application of any portion of this act to any person or
3 circumstance ~~is found to be invalid, by a court,~~ the invalidity
4 shall not affect the remaining portions or applications of this act
5 that can be given effect without the invalid portions or
6 application, if the remaining portions are not determined by the
7 court to be inoperable, and to this end this act is declared to be
8 severable.

9 **SEC. 6. (1) UPON EACH DELIVERY BY THE LEGISLATIVE SERVICE**
10 **BUREAU TO THE LEGISLATURE OF A BILL EMBODYING A PLAN, THE**
11 **LEGISLATIVE SERVICE BUREAU SHALL MAKE AVAILABLE TO THE PUBLIC THE**
12 **FOLLOWING INFORMATION:**

13 **(A) COPIES OF THE BILL DELIVERED BY THE LEGISLATIVE SERVICE**
14 **BUREAU.**

15 **(B) MAPS ILLUSTRATING THE PLAN.**

16 **(C) A SUMMARY OF THE STANDARDS PRESCRIBED BY SECTION 1 FOR**
17 **DEVELOPMENT OF THE PLAN.**

18 **(D) A STATEMENT OF THE POPULATION OF EACH DISTRICT INCLUDED IN**
19 **THE PLAN, AND THE RELATIVE DEVIATION OF EACH DISTRICT POPULATION**
20 **FROM THE IDEAL DISTRICT POPULATION.**

21 **(2) THE LEGISLATIVE SERVICE BUREAU SHALL MAINTAIN A WEBSITE**
22 **THAT LISTS ALL OF THE INFORMATION IN SUBSECTION (1).**

23 Enacting section 1. 1999 PA 221, MCL 3.61 to 3.64, is
24 repealed.