

HOUSE BILL No. 4817

June 11, 2013, Introduced by Reps. McCann, Schor, Zemke, Slavens, Lipton, Cavanagh, Roberts, Driskell, Dillon, Irwin, LaVoy, Geiss, Cochran, Switalski, Brunner, Faris, Smiley, Singh, Kosowski, Darany, Knezek, Olumba, Rutledge, Barnett, Tlaib and Oakes and referred to the Committee on Elections and Ethics.

A bill to create a citizens redistricting commission and prescribe its powers and duties; to provide for the powers and duties of certain state governmental officers and entities; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Commission" means the citizens redistricting commission.

3 (b) "Day" means a calendar day, except that if the final day
4 of a period within which an act is to be performed is a Saturday,
5 Sunday, or holiday, the period is extended to the next day that is
6 not a Saturday, Sunday, or holiday.

7 (c) "Panel" means the applicant review panel.

8 (d) "Qualified independent auditor" means an auditor who has
9 been a practicing independent auditor for at least 10 years before

1 appointment to the applicant review panel.

2 Sec. 2. (1) By January 1, 2020, and in each year ending in the
3 number zero thereafter, the auditor general shall initiate an
4 application process, open to all registered voters in this state in
5 a manner that promotes a diverse and qualified applicant pool.

6 (2) The auditor general shall remove from the applicant pool
7 individuals with conflicts of interest, including any of the
8 following:

9 (a) An applicant, or member of his or her immediate family,
10 who, within the 10 years immediately preceding the date of
11 application, has done any of the following:

12 (i) Been appointed to, elected to, or have been a candidate for
13 federal or state office.

14 (ii) Served as an officer, employee, or paid consultant of a
15 political party or of the campaign committee of a candidate for
16 elective federal or state office.

17 (iii) Served as an elected or appointed member of a political
18 party central committee.

19 (iv) Been a registered federal, state, or local lobbyist.

20 (v) Served as paid congressional or legislative staff.

21 (vi) Contributed \$2,000.00 or more to any congressional, state,
22 or local candidate for elective public office in any year. The
23 amount under this subparagraph shall be adjusted every 10 years by
24 the cumulative change in the consumer price index.

25 (b) Staff and consultants to, persons under a contract with,
26 and any person with an immediate family relationship with the
27 governor, a member of the legislature, or a member of congress. As

1 used in this subdivision, "immediate family" includes parents,
2 children, siblings, and in-laws.

3 (3) The auditor general shall establish an applicant review
4 panel, consisting of 3 qualified independent auditors, to screen
5 applicants. The auditor general shall randomly draw the names of 3
6 qualified independent auditors from a pool. The auditor general
7 shall draw until the names of 3 auditors have been drawn, including
8 1 who is a member of the political party whose candidate for
9 governor received the highest number of votes at the last general
10 election, 1 who is a member of the political party whose candidate
11 for governor received the second highest number of votes at the
12 last general election, and 1 who is not affiliated with either of
13 those political parties. After the drawing, the auditor general
14 shall notify the 3 qualified independent auditors whose names have
15 been drawn that they have been selected to serve on the panel. If
16 any of the 3 qualified independent auditors decline to serve on the
17 panel, the auditor general shall resume the random drawing until 3
18 qualified independent auditors who meet the requirements of this
19 subsection have agreed to serve on the panel. A member of the panel
20 is subject to the conflict of interest provisions set forth in
21 subsection (2).

22 (4) After removing individuals with conflicts of interest from
23 the applicant pool, the auditor general shall, no later than August
24 1, 2020, and in each year ending in the number zero thereafter,
25 publicize the names in the applicant pool and provide copies of
26 their applications to the panel.

27 (5) From the applicant pool, the panel shall select 60 of

1 the most qualified applicants, including 20 who are members of the
2 political party whose candidate for governor received the highest
3 number of votes at the last general election, 20 who are members of
4 the political party whose candidate for governor received the
5 second highest number of votes at the last general election, and 20
6 who are not members of either of the 2 political parties. These
7 subpools shall be created on the basis of relevant analytical
8 skills, ability to be impartial, and appreciation for this state's
9 diverse demographics and geography. The members of the panel shall
10 not communicate with any member of the legislature or congressional
11 member, or their representatives, about any matter related to the
12 nomination process or applicants before the presentation by the
13 panel of the pool of recommended applicants to the secretary of the
14 senate and the clerk of the house of representatives under
15 subsection (6).

16 (6) By October 1, 2020, and in each year ending in the number
17 zero thereafter, the panel shall present its pool of recommended
18 applicants to the secretary of the senate and the clerk of the
19 house of representatives. No later than November 15, 2020, and in
20 each year ending in the number zero thereafter, the president pro
21 tempore of the senate, the minority floor leader of the senate, the
22 speaker of the house of representatives, and the minority floor
23 leader of the house of representatives may each strike up to 2
24 applicants from each subpool of 20. After all legislative leaders
25 have exercised their strikes, the secretary of the senate and the
26 clerk of the house of representatives shall jointly present the
27 pool of remaining names to the auditor general.

1 (7) No later than November 20, 2020, and in each year ending
2 in the number zero thereafter, the auditor general shall randomly
3 draw 8 names from the remaining pool of applicants as follows: 3
4 from the remaining subpool who are members of the political party
5 whose candidate for governor received the highest number of votes
6 at the last general election, 3 from the remaining subpool who are
7 members of the political party whose candidate for governor
8 received the second highest number of votes at the last general
9 election, and 2 from the remaining subpool of applicants who are
10 not affiliated with either of the 2 political parties. These 8
11 individuals shall serve on the commission.

12 (8) No later than December 31, 2020, and in each year ending
13 in the number zero thereafter, the 8 commissioners shall review the
14 remaining names in the pool of applicants and appoint 6 applicants
15 to the commission as follows: 2 from the remaining subpool who are
16 members of the political party whose candidate for governor
17 received the highest number of votes at the last general election,
18 2 from the remaining subpool who are members of the political party
19 whose candidate for governor received the second highest number of
20 votes at the last general election, and 2 from the remaining
21 subpool of applicants who are not affiliated with either of the 2
22 political parties. The 6 appointees must be approved by at least 5
23 affirmative votes, including at least 2 votes of commissioners
24 registered from each of the 2 parties and 1 vote from a
25 commissioner who is not affiliated with either of the 2 political
26 parties. The 6 appointees shall be chosen to ensure that the
27 commission reflects this state's diversity, including, but not

1 limited to, racial, ethnic, geographic, and gender diversity.
2 However, it is not intended that formulas or specific ratios be
3 applied for this purpose. Applicants shall also be chosen based on
4 relevant analytical skills and ability to be impartial.

5 Sec. 3. (1) In the event of substantial neglect of duty, gross
6 misconduct in office, or inability to discharge the duties of
7 office, the governor may remove a member of the commission with the
8 concurrence of 2/3 of the members elected to and serving in the
9 senate after the member has been served written notice and has been
10 provided with an opportunity for a response. A finding of
11 substantial neglect of duty or gross misconduct in office may
12 result in referral to the attorney general for criminal prosecution
13 or the appropriate administrative agency for investigation.

14 (2) Any vacancy, whether created by removal, resignation, or
15 absence, in the 14 commission positions shall be filled within the
16 30 days after the vacancy occurs from the pool of applicants of the
17 same voter registration category as the vacating nominee that was
18 remaining as of November 20 in the year in which that pool was
19 established. If none of those remaining applicants are available
20 for service, the auditor general shall fill the vacancy from a new
21 pool created for the same voter registration category in accordance
22 with section 2.

23 Sec. 4. (1) The activities of the commission are subject to
24 all of the following:

25 (a) The business that the commission may perform shall be
26 conducted at a public meeting of the commission held in compliance
27 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

1 (b) A writing prepared, owned, used, in the possession of, or
2 retained by the commission in the performance of an official
3 function is subject to the freedom of information act, 1976 PA 442,
4 MCL 15.231 to 15.246.

5 (c) Commission members and staff may not communicate with or
6 receive communications about redistricting matters from anyone
7 outside of a public hearing. This subdivision does not prohibit
8 communication between commission members, staff, legal counsel, and
9 consultants retained by the commission that is otherwise permitted
10 by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275,
11 outside of a public hearing.

12 (d) The commission shall select, by the voting process
13 prescribed in the state constitution of 1963, 1 of its members to
14 serve as the chair and 1 to serve as vice chair. The chair and vice
15 chair shall not be of the same party.

16 (e) The commission shall hire commission staff, legal counsel,
17 and consultants as needed. The commission shall establish clear
18 criteria for the hiring and removal of these individuals,
19 communication protocols, and a code of conduct. The commission
20 shall apply the conflicts of interest listed in section 2 to the
21 hiring of staff to the extent applicable. The secretary of state
22 shall provide support functions to the commission until its staff
23 and office are fully functional. The commission shall require that
24 at least 1 of the legal counsel hired by the commission has
25 demonstrated extensive experience and expertise in implementation
26 and enforcement of the federal voting rights act of 1965. The
27 commission shall make hiring, removal, or contracting decisions on

1 staff, legal counsel, and consultants by 9 or more affirmative
2 votes, including at least 3 votes of members of the political party
3 whose candidate for governor received the highest number of votes
4 at the last general election, 3 votes of members of the political
5 party whose candidate for governor received the second highest
6 number of votes at the last general election, and 3 votes from
7 members who are not members of either of the 2 political parties.

8 (f) Notwithstanding any other provision of law, an employer
9 shall not discharge, threaten to discharge, intimidate, coerce, or
10 retaliate against any employee by reason of that employee's
11 attendance or scheduled attendance at any meeting of the
12 commission.

13 (g) The commission shall establish and implement an open
14 hearing process for public input and deliberation that shall be
15 subject to public notice and promoted through a thorough outreach
16 program to solicit broad public participation in the redistricting
17 public review process. The hearing process shall include hearings
18 to receive public input before the commission draws any maps and
19 hearings following the drawing and display of any commission maps.
20 In addition, hearings shall be supplemented with other activities
21 as appropriate to further increase opportunities for the public to
22 observe and participate in the review process. The commission shall
23 display the maps for public comment in a manner designed to achieve
24 the widest public access reasonably possible. Public comment shall
25 be taken for at least 14 days from the date of public display of
26 any map.

27 (2) The legislature shall take all steps necessary to ensure

1 that a complete and accurate computerized database is available for
2 redistricting and that procedures are in place to provide the
3 public with ready access to redistricting data and computer
4 software for drawing maps. Upon the commission's formation and
5 until its dissolution, the legislature shall coordinate these
6 efforts with the commission.

7 Sec. 5. Members of the commission shall be compensated at the
8 rate of \$300.00 for each day the member is engaged in commission
9 business. For each succeeding commission, the rate of compensation
10 shall be adjusted in each year ending in 9 by the cumulative change
11 in the consumer price index. Members of the panel and the
12 commission are eligible for reimbursement of personal expenses
13 incurred in connection with the duties performed under this act. A
14 member's residence is considered to be the member's post of duty
15 for purposes of reimbursement of expenses.

16 Enacting section 1. 1996 PA 463, MCL 4.261 to 4.265, is
17 repealed.

18 Enacting section 2. The congressional redistricting act, 1999
19 PA 221, MCL 3.61 to 3.64, is repealed.

20 Enacting section 3. 1999 PA 222, MCL 3.71 to 3.75, is
21 repealed.

22 Enacting section 4. This act does not take effect unless
23 Senate Joint Resolution ____ or House Joint Resolution ____
24 (request no. 00402'13) of the 97th Legislature becomes a part of
25 the state constitution of 1963 as provided in section 1 of article
26 XII of the state constitution of 1963.