

HOUSE BILL No. 4122

January 31, 2017, Introduced by Reps. Moss, Hoadley, Camilleri, Schor, Hammoud, Wittenberg, Love, Chang, Pagan, Rabhi, Elder, Faris, Sneller, Geiss, Sowerby, Lasinski, Robinson, Hertel, Cochran, Peterson, Dianda, Chirkun and Zemke 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 by January 1 in each year
3 ending in the number zero thereafter, the auditor general shall
4 initiate an application process, open to all registered voters in
5 this state in a manner that promotes a diverse and qualified
6 applicant pool.

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

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

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

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

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

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

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

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

26 (b) Staff and consultants to, persons under a contract with,
27 and any person with an immediate family relationship with the

1 governor, a member of the legislature, or a member of congress. As
2 used in this subdivision, "immediate family" includes parents,
3 children, siblings, and in-laws.

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

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

1 (5) From the applicant pool, the panel shall select 60 of
2 the most qualified applicants, including 20 who are members of the
3 political party whose candidate for governor received the highest
4 number of votes at the last general election, 20 who are members of
5 the political party whose candidate for governor received the
6 second highest number of votes at the last general election, and 20
7 who are not members of either of the 2 political parties. These
8 subpools must be created on the basis of relevant analytical
9 skills, ability to be impartial, and appreciation for this state's
10 diverse demographics and geography. The members of the panel shall
11 not communicate with any member of the legislature or congressional
12 member, or their representatives, about any matter related to the
13 nomination process or applicants before the presentation by the
14 panel of the pool of recommended applicants to the secretary of the
15 senate and the clerk of the house of representatives under
16 subsection (6).

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

1 representatives shall jointly present the pool of remaining names
2 to the auditor general.

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

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

1 political parties. The 6 appointees shall be chosen to ensure that
2 the commission reflects this state's diversity, including, but not
3 limited to, racial, ethnic, geographic, and gender diversity.
4 However, it is not intended that formulas or specific ratios be
5 applied for this purpose. Applicants shall also be chosen based on
6 relevant analytical skills and ability to be impartial.

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

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

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

27 (a) The business that the commission may perform shall be

1 conducted at a public meeting of the commission held in compliance
2 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

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

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

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

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

1 and enforcement of the federal voting rights act of 1965, 52 USC
2 10101 to 10702. The commission shall make hiring, removal, or
3 contracting decisions on staff, legal counsel, and consultants by 9
4 or more affirmative votes, including at least 3 votes of members of
5 the political party whose candidate for governor received the
6 highest number of votes at the last general election, 3 votes of
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 3 votes from members who are not members of either of
10 the 2 political parties.

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

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

1 be taken for at least 14 days from the date of public display of
2 any map.

3 (2) The legislature shall take all steps necessary to ensure
4 that a complete and accurate computerized database is available for
5 redistricting and that procedures are in place to provide the
6 public with ready access to redistricting data and computer
7 software for drawing maps. Upon the commission's formation and
8 until its dissolution, the legislature shall coordinate these
9 efforts with the commission.

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

19 Enacting section 1. 1996 PA 463, MCL 4.261 to 4.265, is
20 repealed.

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

23 Enacting section 3. 1999 PA 222, MCL 3.71 to 3.75, is
24 repealed.

25 Enacting section 4. This act does not take effect unless
26 Senate Joint Resolution ____ or House Joint Resolution B ____
27 (request no. 00594'17) of the 99th Legislature becomes a part of

- 1 the state constitution of 1963 as provided in section 1 of article
- 2 XII of the state constitution of 1963.