

SENATE BILL No. 82

February 1, 2017, Introduced by Senators BIEDA, GREGORY, CONYERS, JOHNSON and YOUNG
and referred to the Committee on Government Operations.

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 sections 1, 1a, and 2 (MCL 4.261, 4.261a, and 4.262),
section 1a as added and section 2 as amended by 1999 PA 223; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) THE LEGISLATIVE REDISTRICTING COMMISSION IS
2 CREATED WITHIN THE DEPARTMENT OF STATE.

3 (2) THE LEGISLATIVE REDISTRICTING COMMISSION SHALL CONSIST OF
4 9 MEMBERS, APPOINTED AS FOLLOWS:

5 (A) FOUR MEMBERS APPOINTED BY THE POLITICAL PARTY WHOSE

1 CANDIDATE FOR THE OFFICE OF GOVERNOR RECEIVED THE HIGHEST NUMBER OF
2 VOTES AT THE LAST GENERAL ELECTION IN WHICH A GOVERNOR WAS ELECTED
3 PRECEDING REDISTRICTING.

4 (B) FOUR MEMBERS APPOINTED BY THE POLITICAL PARTY WHOSE
5 CANDIDATE FOR THE OFFICE OF GOVERNOR RECEIVED THE SECOND HIGHEST
6 NUMBER OF VOTES AT THE LAST GENERAL ELECTION IN WHICH A GOVERNOR
7 WAS ELECTED PRECEDING REDISTRICTING.

8 (C) ONE MEMBER, WHO SHALL SERVE AS CHAIRPERSON OF THE
9 COMMISSION, APPOINTED BY THE AUDITOR GENERAL.

10 (3) THE MEMBERS FIRST APPOINTED TO THE LEGISLATIVE
11 REDISTRICTING COMMISSION MUST BE APPOINTED WITHIN 30 DAYS AFTER THE
12 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

13 (4) A MEMBER OF THE LEGISLATIVE REDISTRICTING COMMISSION SHALL
14 SERVE FOR A TERM OF 2 YEARS OR UNTIL A SUCCESSOR IS APPOINTED,
15 WHICHEVER IS LATER.

16 (5) IF A VACANCY OCCURS ON THE LEGISLATIVE REDISTRICTING
17 COMMISSION, THE PARTY OR INDIVIDUAL WHO APPOINTED THAT MEMBER UNDER
18 SUBSECTION (2) SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM.

19 (6) THE CHAIRPERSON OF THE COMMISSION SHALL CALL THE FIRST
20 MEETING OF THE COMMISSION. AFTER THE FIRST MEETING, THE COMMISSION
21 SHALL MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF
22 THE CHAIRPERSON OR IF REQUESTED BY 5 OR MORE MEMBERS. THE
23 COMMISSION SHALL HOLD AT LEAST 6 PUBLIC HEARINGS BEFORE VOTING ON
24 ANY LEGISLATIVE REDISTRICTING PLAN. AT LEAST 1 OF THE HEARINGS
25 REQUIRED UNDER THIS SUBSECTION MUST TAKE PLACE IN EACH OF THE
26 FOLLOWING LOCATIONS IN THIS STATE:

27 (A) THE UPPER PENINSULA.

1 (B) THE NORTHERN PART OF THE LOWER PENINSULA, NORTH OF A LINE
2 DRAWN ALONG THE NORTHERN BOUNDARIES OF THE COUNTIES OF BAY,
3 MIDLAND, ISABELLA, MECOSTA, NEWAYGO, AND OCEANA.

4 (C) SOUTHWESTERN MICHIGAN, THOSE COUNTIES SOUTH OF THE REGION
5 DESCRIBED IN SUBDIVISION (B) AND WEST OF A LINE DRAWN ALONG THE
6 WESTERN BOUNDARIES OF THE COUNTIES OF BAY, SAGINAW, SHIAWASSEE,
7 INGHAM, JACKSON, AND HILLSDALE.

8 (D) SOUTHEASTERN MICHIGAN, THE REMAINING COUNTIES OF THE STATE
9 NOT INCLUDED IN SUBDIVISIONS (A) TO (C).

10 (7) THE COMMISSION SHALL ESTABLISH A WEBSITE AND POST ANY
11 REDISTRICTING PLAN ON THAT WEBSITE AT LEAST 72 HOURS BEFORE VOTING
12 ON THAT PLAN. THE COMMISSION SHALL NOT CHANGE A REDISTRICTING PLAN
13 UNLESS THOSE CHANGES HAVE BEEN POSTED ON THE WEBSITE FOR AT LEAST
14 72 HOURS.

15 (8) A LOBBYIST, OR AN OFFICER OR EMPLOYEE OF THE FEDERAL OR
16 STATE GOVERNMENT, UNLESS THE OFFICER OR EMPLOYEE IS THE MEMBER
17 APPOINTED BY THE AUDITOR GENERAL, IS NOT ELIGIBLE TO SERVE ON THE
18 COMMISSION. A MEMBER OF THE COMMISSION IS NOT ELIGIBLE FOR ELECTION
19 TO THE LEGISLATURE UNTIL 4 YEARS AFTER THE REDISTRICTING IN WHICH
20 HE OR SHE PARTICIPATED BECOMES EFFECTIVE.

21 (9) A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A
22 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
23 COMMISSION. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
24 REQUIRED FOR OFFICIAL ACTION OF THE COMMISSION.

25 (10) THE BUSINESS THAT THE COMMISSION MAY PERFORM MUST 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 (11) 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 (12) A MEMBER OF THE COMMISSION SHALL NOT SOLICIT OR ACCEPT A
6 GIFT OR LOAN OF MONEY, GOODS, SERVICES, OR OTHER THING OF VALUE
7 FROM A LOBBYIST, AN INDIVIDUAL WHO HOLDS AN ELECTIVE OFFICE, A
8 STATE EMPLOYEE OR FEDERAL EMPLOYEE, OR A 501 OR 527 ORGANIZATION.

9 (13) A MEMBER OF THE LEGISLATIVE REDISTRICTING COMMISSION
10 SERVES WITHOUT COMPENSATION. HOWEVER, A MEMBER OF THE LEGISLATIVE
11 REDISTRICTING COMMISSION MAY BE REIMBURSED FOR HIS OR HER ACTUAL
12 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL
13 DUTIES AS A MEMBER OF THE COMMISSION.

14 (14) BY SEPTEMBER 1, 2021, AND EVERY 10 YEARS THEREAFTER, THE
15 LEGISLATIVE REDISTRICTING COMMISSION SHALL PREPARE A LEGISLATIVE
16 REDISTRICTING PLAN AND SHALL DELIVER THAT PLAN TO THE LEGISLATURE.
17 IF 6 MEMBERS OF THE LEGISLATIVE REDISTRICTING COMMISSION CANNOT
18 AGREE ON A PLAN, THE MEMBERS APPOINTED UNDER SUBSECTION (2) (A)
19 SHALL SUBMIT A PROPOSED PLAN TO THE LEGISLATURE AND THE MEMBERS
20 APPOINTED UNDER SUBSECTION (2) (B) SHALL SUBMIT A PROPOSED PLAN TO
21 THE LEGISLATURE BY SEPTEMBER 15. A LEGISLATIVE REDISTRICTING PLAN
22 SUBMITTED TO THE LEGISLATURE UNDER THIS SUBSECTION SHALL BE VOTED
23 UPON BY THE LEGISLATURE BEFORE ANY OTHER REDISTRICTING PLAN IS
24 **ENACTED.** By November 1, ~~2001~~, **2021**, and every 10 years thereafter,
25 the legislature shall enact a redistricting plan for the senate and
26 house of representatives. Except as otherwise required by federal
27 law for legislative districts in this state, the **COMMISSION OR**

1 **LEGISLATURE SHALL PREPARE THE LEGISLATIVE** redistricting plan ~~shall~~
2 ~~be enacted~~ using only the following guidelines:

3 (a) The senate districts ~~shall~~**MUST** consist of 38 single-
4 member districts.

5 (b) The house of representatives districts ~~shall~~**MUST** consist
6 of 110 single-member districts.

7 (c) Senate and house of representatives districts ~~shall~~**MUST**
8 be areas of convenient territory contiguous by land. Areas that
9 meet only at the points of adjoining corners are not contiguous.

10 (d) Senate and house of representatives districts ~~shall~~**MUST**
11 have a population not exceeding 105% and not less than 95% of the
12 ideal district size for the senate or the house of representatives
13 unless and until the United States ~~supreme court~~**SUPREME COURT**
14 establishes a different range of allowable population divergence
15 for state legislative districts.

16 (e) Senate and house of representatives district lines ~~shall~~
17 **MUST** preserve county lines with the least cost to the principle of
18 equality of population provided for in subdivision (d).

19 (f) If it is necessary to break county lines to stay within
20 the range of allowable population divergence provided for in
21 subdivision (d), the fewest whole cities or whole townships
22 necessary shall be shifted. Between 2 cities or townships, both of
23 which will bring the districts into compliance with subdivisions
24 (d) and (h), the city or township with the lesser population shall
25 be shifted.

26 (g) Within those counties to which there is apportioned more
27 than 1 senate district or house of representatives district,

1 district lines ~~shall~~**MUST** be drawn on city and township lines with
2 the least cost to the principle of equality of population between
3 election districts consistent with the maximum preservation of city
4 and township lines and without exceeding the range of allowable
5 divergence provided for in subdivision (d).

6 (h) If it is necessary to break city or township lines to stay
7 within the range of allowable divergence provided for in
8 subdivision (d), the number of people necessary to achieve
9 population equality shall be shifted between the 2 districts
10 affected by the shift, except that in lieu of absolute equality the
11 lines may be drawn along the closest street or comparable boundary.

12 (i) Within a city or township to which there is apportioned
13 more than 1 senate district or house of representatives district,
14 district lines ~~shall~~**MUST** be drawn to achieve the maximum
15 compactness possible within a population range of 98% to 102% of
16 absolute equality between districts within that city or township.

17 (j) Compactness ~~shall~~**MUST** be determined by circumscribing
18 each district within a circle of minimum radius and measuring the
19 area, not part of the Great Lakes and not part of another state,
20 inside the circle but not inside the district.

21 (k) If a discontinuous township island exists within an
22 incorporated city or discontinuous portions of townships are split
23 by an incorporated city, the splitting of the township ~~shall~~**IS** not
24 ~~be~~ considered a split if any of the following circumstances exist:

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

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

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

(l) Senate and house districts ~~shall~~**MUST** not violate the precedents established in Miller v Johnson, 115 S Ct 2475; 132 L Ed 2d 762 (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).

(15) AS USED IN THIS SECTION:

(A) "COMMISSION" MEANS THE LEGISLATIVE REDISTRICTING COMMISSION CREATED IN SUBSECTION (1).

(B) "ELECTIVE OFFICE" MEANS A PUBLIC OFFICE FILLED BY AN ELECTION.

(C) "501 OR 527 ORGANIZATION" MEANS AN ORGANIZATION THAT IS EXEMPT FROM FEDERAL INCOME TAX UNDER SECTION 501 OR 527 OF THE INTERNAL REVENUE CODE, 26 USC 501 OR 527.

(D) "LOBBYIST" MEANS A LOBBYIST OR LOBBYIST AGENT REGISTERED UNDER 1978 PA 472, MCL 4.411 TO 4.431.

(E) "STATE EMPLOYEE" MEANS A CLASSIFIED MEMBER OF THE STATE CIVIL SERVICE OR AN UNCLASSIFIED EMPLOYEE OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

Sec. 1a. Senate and house districts shall not violate section 2 of title I of the voting rights act of 1965, Public Law 89-110, ~~42 U.S.C. 1973-52~~ **USC 10301.**

Sec. 2. (1) The supreme court ~~shall have~~**HAS** original and exclusive state jurisdiction to hear and decide all cases or

1 controversies in Michigan's 1 court of justice involving a
2 redistricting plan under this act. A case or controversy in
3 Michigan's 1 court of justice involving a redistricting plan **UNDER**
4 **THIS ACT** shall not be commenced in or heard by the state court of
5 appeals or any state trial court.

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

11 (2) ~~(3)~~ Upon the application of an elector filed not later
12 than 60 days after the adoption of the enactment of a redistricting
13 plan, the supreme court, exercising original state jurisdiction
14 provided under section 6 of article IV of the state constitution of
15 1963, may review any plan enacted by the legislature ~~and may~~
16 ~~modify that plan or~~ **SHALL** remand that plan to a ~~special master~~ **THE**
17 **LEGISLATIVE REDISTRICTING COMMISSION** for further action if the plan
18 fails to comply with section 1 or 1a.

19 Enacting section 1. Sections 3 and 4 of 1996 PA 463, MCL 4.263
20 and 4.264, are repealed.