

2009 DRAFTING REQUEST

Bill

Received: **01/30/2009**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Legislature - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Black@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

LRB and redistricting

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/P1	rchampag 02/19/2009	jdyer 02/26/2009	mduchek 02/26/2009	_____	lparisi 02/26/2009		State
/1	rchampag 03/11/2009	jdyer 03/11/2009	jfrantze 03/11/2009	_____	lparisi 03/11/2009	lparisi 03/11/2009	

FE Sent For:

*at
intro*

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/?		1 3 11/16	JF	JF AD			State
/P1	rchampag 02/19/2009	jdye 02/26/2009	mduchek 02/26/2009 3/11	3/11	lparisi 02/26/2009		

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/?	rchampag	PI 2/26/09	MD	MD 2/26			

FE Sent For:

<END>

Kuesel, Jeffery

From: Rep.Black
Sent: Monday, January 26, 2009 12:20 PM
To: Kuesel, Jeffery
Cc: Zimmerman, Terri
Subject: Bill draft

Jeff

I would like a bill draft that assigns responsibility for redistricting to the LRB.

If IV3 of the constitution doesn't allow this, then I would like a bill that similar to a provision in AJR 63 last session in so far as LRB would submit 3 plans to the Legislature that can not be amended and if all three are rejected then LRB will chose from one of the three plans.

Thanks

Spence



2007 ASSEMBLY JOINT RESOLUTION 63

August 28, 2007 - Introduced by Representatives KESSLER, BLACK, SHERIDAN, BERCEAU, POPE-ROBERTS, HEBL and FIELDS, cosponsored by Senator LEHMAN. Referred to Committee on Elections and Constitutional Law.

1 **To renumber** section 9 of article IV; **to renumber and amend** section 3 of article
2 IV; and **to create** section 3 (2) to (4) of article IV and section 9 (2) of article IV
3 of the constitution; **relating to:** the procedure for redistricting the legislature
4 and the establishment of a state redistricting board and a legislative technology
5 services bureau (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2007 legislature on first consideration, establishes a state redistricting board composed of the attorney general, the secretary of state, the state treasurer, the state superintendent of public instruction, and one member appointed by the supreme court. It also defines demographic and political standards for the drawing of legislative districts and establishes a procedure for the drawing of legislative districts. The amendment further requires the legislature to establish a legislative technology services bureau.

A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

6 **Resolved by the assembly, the senate concurring, That:**
7 **SECTION 1.** Section 3 of article IV of the constitution is renumbered section 3
8 (1) of article IV and amended to read:

1 [Article IV] Section 3 (1) ~~At its first session after~~ After each decennial
2 enumeration made by the authority of the United States, the legislature state
3 redistricting board shall apportion and district anew the members of the senate and
4 assembly, according to the number of inhabitants.

5 **SECTION 2.** Section 3 (2) to (4) of article IV of the constitution are created to
6 read:

7 [Article IV] Section 3 (2) Within 120 days after receipt of the final census report
8 of the population count by census block, the legislative technology services bureau
9 shall submit to the state redistricting board 3 apportionment proposals providing for
10 competitive elections, all meeting the following criteria:

11 (a) Each assembly district shall contain a number of inhabitants that does not
12 deviate more than 2 percent from the statewide mean district population.

13 (b) African-Americans, Hispanic Americans, Native Americans, and members
14 of any other demographic group protected by the laws of the United States shall be
15 the voting age majority in the number of assembly and senate districts in proportion
16 to the percentage of the population in counties or groups of counties having a
17 sufficient geographic concentration of their members.

18 (c) The bureau shall determine the combined mean percentage of the vote for
19 governor and president for the 2 major political parties in the 5 general elections held
20 during the prior decade. The bureau's apportionment proposals shall provide as
21 follows: at least one-half of the assembly districts, if the number of districts is
22 divisible by 2, or rounded up to the next whole number in other cases, shall have a
23 percentage above the average 5 general election percentage for the majority party;
24 at least one-half of the senate districts, if the number of districts is divisible by 2, or
25 rounded up to the next whole number in other cases, shall have a percentage above

1 the average 5 general election percentage for the minority party; at least one-fifth
2 of the assembly districts, if the number of districts is divisible by 5, or rounded up
3 to the next whole number in other cases, and at least one-fourth of the senate
4 districts, if the number of districts is divisible by 4, or rounded up to the next whole
5 number in other cases, shall be evenly split between the parties, shall have an
6 average general election percentage that does not exceed 1 percent above the
7 statewide 5 general election average; no district may have a percentage in excess of
8 85 percent of the 5 general election average for one political party.

9 (3) The state redistricting board shall consist of the attorney general, the
10 secretary of state, the state treasurer, the state superintendent of public instruction,
11 and a member appointed by the supreme court. The state redistricting board shall
12 act within 90 days after receipt of the bureau's proposals. If the state redistricting
13 board fails to adopt one of the proposals, the bureau shall select one of the proposals
14 that shall have the force of law.

15 (4) Any senator or assembly member whose district is altered as a result of the
16 adopted plan shall continue in office for the balance of his or her term even if his or
17 her residence is no longer located in the district he or she represents.

18 **SECTION 3.** Section 9 of article IV of the constitution is renumbered section (9)
19 (1) of article IV.

20 **SECTION 4.** Section 9 (2) of article IV of the constitution is created to read:

21 [Article IV] Section (9) (2) The legislature shall provide by law for the
22 establishment of a legislative technology services bureau.

23 **SECTION 5. Numbering of new provisions.** (1) The new subsections (2) to
24 (4) of section 3 of article IV of the constitution created in this joint resolution shall
25 be designated by the next higher open whole subsection numbers in that section in

1 that article if, before the ratification by the people of the amendment proposed in this
2 joint resolution, any other ratified amendment has created subsections (2) to (4) of
3 section 3 of article IV of the constitution of this state. If one or more joint resolutions
4 create subsections (2) to (4) of section 3 of article IV simultaneously with the
5 ratification by the people of the amendment proposed in this joint resolution, the
6 subsections created shall be numbered and placed in a sequence so that the
7 subsections created by the joint resolution having the lowest enrolled joint resolution
8 number have the numbers designated in that joint resolution and the subsections
9 created by the other joint resolutions have numbers that are in the same ascending
10 order as are the numbers of the enrolled joint resolutions creating the subsections.

11 (2) The new subsection (2) of section 9 of article IV of the constitution created
12 in this joint resolution shall be designated by the next higher open whole subsection
13 number in that section in that article if, before the ratification by the people of the
14 amendment proposed in this joint resolution, any other ratified amendment has
15 created a subsection (2) of section 9 of article IV of the constitution of this state. If
16 one or more joint resolutions create a subsection (2) of section 9 of article IV
17 simultaneously with the ratification by the people of the amendment proposed in this
18 joint resolution, the subsections created shall be numbered and placed in a sequence
19 so that the subsections created by the joint resolution having the lowest enrolled joint
20 resolution number have the numbers designated in that joint resolution and the
21 subsections created by the other joint resolutions have numbers that are in the same
22 ascending order as are the numbers of the enrolled joint resolutions creating the
23 subsections.



jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- gen. cat ✓

1 AN ACT ...; relating to: preparation of legislative and congressional districting
2 plans by legislative reference bureau. ✓

Analysis by the Legislative Reference Bureau

The Wisconsin Constitution requires the legislature to redistrict legislative districts according to the number of inhabitants at its next session following each decennial federal census. The legislature also reapportions congressional districts pursuant to federal law.

This bill creates a new procedure for the preparation of legislative and congressional redistricting plans. The bill requires the Joint Committee on Legislative Organization (JCLO) to develop standards for legislative and congressional districts based on population requirements under the Wisconsin Constitution and the U.S. Constitution and requirements under Section 2 of the Voting Rights Act. The bill then directs the Legislative Reference Bureau (LRB) to draw redistricting plans for submission to the legislature for approval in accordance with standards developed by JCLO. Under the bill, no later than January 1 of the second year following the decennial federal census, the LRB must deliver to the majority leader of the senate and speaker of the assembly identical bills embodying a plan of legislative and congressional districting. *

The bill requires either the assembly or the senate to expeditiously introduce and bring a bill to a vote not less than seven days after the date of introduction. The vote must be under a procedure or rule permitting no amendments, except those of a purely corrective nature. If a bill is approved by the first house in which it is considered, the bill must expeditiously be brought to a vote in the second house under a similar procedure or rule.

If neither of the bills delivered by the LRB is approved by the assembly and the senate, the speaker of the assembly and the majority leader of the senate must provide the LRB with information, in writing, regarding the reasons why the plan was not approved. The LRB must then prepare identical bills embodying a second plan of legislative and congressional redistricting, taking into account the reasons provided to the LRB. The LRB must deliver the bill to the majority leader of the senate and the speaker of the assembly no later than ~~twenty-one~~ ²¹ days after receiving the information from the speaker of the assembly and the majority leader of the senate. This second bill must be expeditiously introduced and brought to a vote not less than seven days after the date of introduction, in the same manner as prescribed for the initial bill.

If the second bill is not approved by the assembly and the senate, the same procedure applies for the preparation of a third plan by the LRB and legislative consideration of a third plan. The bill does not provide any procedure for the preparation and submission of a fourth plan by the LRB. It is important to note that the procedure established under the bill for legislative consideration of any legislative or congressional districting plan is a rule of proceeding under the Wisconsin Constitution and, as such, would not be legally enforceable in a court of law if the assembly or senate failed to follow the procedure.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 4.006 of the statutes is created to read:

2 **4.006 Redistricting procedure.** (1) The joint committee on legislative
3 organization shall develop standards for legislative and congressional districts
4 based on population requirements under the Wisconsin Constitution and the U.S.
5 Constitution and requirements under Section 2 of the Voting Rights Act.

6 (2) Not later than January 1 of the 2nd year following the decennial federal
7 census, the legislative reference bureau shall deliver to the majority leader of the
8 senate and speaker of the assembly identical bills creating plans of legislative and
9 congressional redistricting, prepared in accordance with standards developed by the
10 joint committee on legislative organization under sub. (1). Either the assembly or
11 the senate shall expeditiously introduce and bring a bill to a vote not less than 7 days

1 after the date of introduction. The vote shall be under a procedure or rule permitting
2 no amendments except those of a purely corrective nature. If a bill is approved by
3 the first house in which it is considered, the bill shall expeditiously be brought to a
4 vote in the 2nd house under a similar procedure or rule.

5 (3) If neither of the bills delivered by the legislative reference bureau under
6 sub. (2) is approved by both the assembly and the senate, the speaker of the assembly
7 and the majority leader of the senate shall immediately provide the legislative
8 reference bureau with information, in writing, regarding why the plan was not
9 approved. The legislative reference bureau shall prepare identical bills embodying
10 a 2nd plan of legislative and congressional redistricting taking into account the
11 information provided by the speaker of the assembly and the majority leader of the
12 senate. The legislative reference bureau shall deliver the bills to the majority leader
13 of the senate and the speaker of the assembly no later than 21 days after the date
14 of the vote by which the senate or the assembly failed to approve the bill submitted
15 under sub. (2). Any bill delivered by the legislative reference bureau under this
16 subsection shall be expeditiously introduced and brought to a vote not less than 7
17 days after the date of introduction, in the same manner as prescribed for the bill
18 required under sub. (2).

19 (4) If neither of the bills delivered by the legislative reference bureau under
20 sub. (3) is approved by both the assembly and the senate, the same procedure as
21 prescribed by sub. (2) shall be followed for the preparation and legislative
22 consideration of a 3rd plan.

23 (END)

d-note



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1886/P1dn

RAC: ↑:...

date

JLD

Representative Black: ✓

Article IV, section 3, ✓ of the Wisconsin Constitution ✓ requires the legislature to “apportion and district anew the members of the senate and assembly, according to the number of inhabitants.” ✓ Because this is a duty assigned to the legislature by the constitution, I do not believe it can be delegated to a legislative service agency, such as the Legislative Reference Bureau (LRB). ✓ The legislature can certainly direct the LRB ✓ to prepare districting plans, but ultimately the legislature must fulfill its duty under the constitution. ✓

I have crafted a procedure that requires the LRB ✓ to draft legislative and congressional districting plans in accordance with standards developed by JCLO. ✓ You may certainly leave JCLO out of this entirely and instead direct the LRB ✓ to develop standards and fashion plans according to these standards, but I thought you might wish to have some legislative involvement in setting the standards that will be used to develop districting plans. Under the draft, the LRB ✓ is then required to incorporate the districting plans into bills and submit the bills to the legislature for expeditious ✓ consideration. You will note that I have not given the LRB ✓ the authority to simply choose a plan if the legislature fails to act on three ✓ plans, as I do not believe that that sort of authority can be delegated to a party outside of the legislature. ✓ If you wish, I can certainly draft a subsection (5) that would require the LRB ✓ to select among the three ✓ plans and require the legislature to pass a bill incorporating the plan selected by the LRB, but any such requirement on the part of the legislature to pass this bill, as well as any other specific bill, would be unenforceable in a a court of law. ✓

Please review this preliminary draft and let me know how you wish to proceed. ✓

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1886/P1dn
RAC:jld:md

February 26, 2009

Representative Black:

Article IV, section 3, of the Wisconsin Constitution requires the legislature to “apportion and district anew the members of the senate and assembly, according to the number of inhabitants.” Because this is a duty assigned to the legislature by the constitution, I do not believe it can be delegated to a legislative service agency, such as the Legislative Reference Bureau (LRB). The legislature can certainly direct the LRB to prepare districting plans, but ultimately the legislature must fulfill its duty under the constitution.

I have crafted a procedure that requires the LRB to draft legislative and congressional districting plans in accordance with standards developed by JCLO. You may certainly leave JCLO out of this entirely and instead direct the LRB to develop standards and fashion plans according to these standards, but I thought you might wish to have some legislative involvement in setting the standards that will be used to develop districting plans. Under the draft, the LRB is then required to incorporate the districting plans into bills and submit the bills to the legislature for expeditious consideration. You will note that I have not given the LRB the authority to simply choose a plan if the legislature fails to act on three plans, as I do not believe that that sort of authority can be delegated to a party outside of the legislature. If you wish, I can certainly draft a subsection (5) that would require the LRB to select among the three plans and require the legislature to pass a bill incorporating the plan selected by the LRB, but any such requirement on the part of the legislature to pass this bill, as well as any other specific bill, would be unenforceable in a court of law.

Please review this preliminary draft and let me know how you wish to proceed.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

Champagne, Rick

From: Kuesel, Jeffery
Sent: Tuesday, March 10, 2009 4:37 PM
To: Champagne, Rick
Subject: FW: Lrb 1886/p1 redraft request

Rick,

I think this is yours. If so, please confirm to Rep. Black that you are taking care of it. Thanks.
Jeff

From: Rep.Black
Sent: Tuesday, March 10, 2009 4:30 PM
To: Kuesel, Jeffery
Cc: Zimmerman, Terri
Subject: Lrb 1886/p1 redraft request

Jeff

I'm afraid you're right in the drafters note about the legislature having to pass this.

I would like the redraft to delete two provisions

1. delete references to JCLO
2. delete requirement that Ass. Spkr and Sen Maj Ld provide information about why bill was not approved.

Thank you

Spence



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1886/P1 1

RAC:jld:md

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Legislative Reference Bureau (LRB)

- gen. cat

1 AN ACT to create 4.006 of the statutes; relating to: preparation of legislative
2 and congressional districting plans by legislative reference bureau.

Analysis by the Legislative Reference Bureau

The Wisconsin Constitution requires the legislature to redistrict legislative districts according to the number of inhabitants at its next session following each decennial federal census. The legislature also reapportions congressional districts pursuant to federal law.

This bill creates a new procedure for the preparation of legislative and congressional redistricting plans. The bill requires the ~~Joint Committee on Legislative Organization (JCO)~~ to develop standards for legislative and congressional districts based on population requirements under the Wisconsin Constitution and the U.S. Constitution and requirements under Section 2 of the Voting Rights Act. The bill then directs the ~~Legislative Reference Bureau (LRB)~~ to draw redistricting plans for submission to the legislature for approval in accordance with standards developed by JCO. Under the bill, no later than January 1 of the second year following the decennial federal census, the LRB must deliver to the majority leader of the senate and speaker of the assembly identical bills embodying a plan of legislative and congressional districting.

The bill requires either the assembly or the senate to expeditiously introduce and bring a bill to a vote not less than seven days after the date of introduction. The vote must be under a procedure or rule permitting no amendments, except those of a purely corrective nature. If a bill is approved by the first house in which it is considered, the bill must expeditiously be brought to a vote in the second house under a similar procedure or rule.

me

If neither of the bills delivered by the LRB is approved by the assembly and the senate, the ~~speaker of the assembly and the majority leader of the senate must provide the LRB with information, in writing, regarding the reasons why the plan was not approved.~~ [✓] The LRB must then prepare identical bills embodying a second plan of legislative and congressional redistricting ~~taking into account the reasons provided to the LRB.~~ [✓] The LRB must deliver the bill to the majority leader of the senate and the speaker of the assembly no later than 21 days [✓] after ~~receiving the information from the speaker of the assembly and the majority leader of the senate.~~ [✓] This second bill must be expeditiously introduced and brought to a vote not less than seven days after the date of introduction, in the same manner as prescribed for the initial bill.

If the second bill is not approved by the assembly and the senate, the same procedure applies for the preparation of a third plan by the LRB and legislative consideration of a third plan. The bill does not provide any procedure for the preparation and submission of a fourth plan by the LRB. It is important to note that the procedure established under the bill for legislative consideration of any legislative or congressional districting plan is a rule of proceeding under the Wisconsin Constitution and, as such, would not be legally enforceable in a court of law if the assembly or senate failed to follow the procedure.

For further information see the *state* fiscal estimate, which will [✓] be printed as an appendix to this bill.

the date of the vote by which the senate or assembly failed to approve the first bill

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 SECTION 1. [✓] 4.006 of the statutes is created to read:
- 2 **4.006 Redistricting procedure.** (1) The ^{reference bureau} ~~joint committee~~ ^{of} legislative
- 3 ~~organization~~ shall develop standards for legislative and congressional districts
- 4 based on population requirements under the Wisconsin Constitution and the U.S.
- 5 Constitution and requirements under section 2 of the Voting Rights Act.
- 6 (2) Not later than January 1 of the 2nd year following the decennial federal
- 7 census, the legislative reference bureau shall deliver to the majority leader of the
- 8 senate and speaker of the assembly identical bills creating plans of legislative and
- 9 congressional redistricting, prepared in accordance with standards developed by the
- 10 ^{reference bureau} ~~joint committee~~ ^{of} legislative ~~organization~~ under sub. (1). Either the assembly or
- 11 the senate shall expeditiously introduce and bring a bill to a vote not less than 7 days

1 after the date of introduction. The vote shall be under a procedure or rule permitting
2 no amendments except those of a purely corrective nature. If a bill is approved by
3 the first house in which it is considered, the bill shall expeditiously be brought to a
4 vote in the 2nd house under a similar procedure or rule.

5 (3) If neither of the bills delivered by the legislative reference bureau under

6 sub. (2) is approved by both the assembly and the senate, the ~~speaker of the assembly~~ ^{speaker of the assembly}

7 ~~and the majority leader of the senate shall immediately provide the legislative~~

8 ~~reference bureau with information, in writing, regarding why the plan was not~~

9 ~~approved.~~ The legislative reference bureau shall prepare identical bills embodying

10 a 2nd plan of legislative and congressional redistricting ~~taking into account the~~

11 ~~information provided by the speaker of the assembly and the majority leader of the~~

12 ~~senate.~~ The legislative reference bureau shall deliver the bills to the majority leader

13 of the senate and the speaker of the assembly no later than [✓]21 days after the date

14 of the vote by which the senate or the assembly failed to approve the bill submitted

15 under sub. (2). [✓] Any bill delivered by the legislative reference bureau [✓] under this

16 subsection shall be expeditiously introduced and brought to a vote not less than 7

17 days after the date of introduction, in the same manner as prescribed for the bill

18 required under sub. (2).

19 (4) If neither of the bills delivered by the legislative reference bureau under

20 sub. (3) is approved by both the assembly and the senate, the same procedure as

21 prescribed by sub. (2) shall be followed for the preparation and legislative

22 consideration of a 3rd plan.

23 (END)

Parisi, Lori

From: Zimmerman, Terri
Sent: Wednesday, March 11, 2009 12:20 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-1886/1 Topic: LRB and redistricting

Please Jacket LRB 09-1886/1 for the ASSEMBLY.