2021 SENATE JOINT RESOLUTION 114

March 9, 2022 – Introduced by Senators SMITH, CARPENTER, ROYS and RINGHAND, cosponsored by Representatives HESSELBEIN, SPREITZER, ANDRACA, HEBL, EMERSON, B. MEEKER, BALEH, SUBECK, SNODGRASS, DRAKE, GOYKE, RIEMER, VRUWINK, SINICKI, HINTZ, CONLEY, POPE, S. RODRIGUEZ, HONG, BOWEN, MILROY, SHANKLAND, ANDERSON and SHELTON. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

To renumber section 3 of article IV; to amend section 4 of article IV and section 5 of article IV; and to create section 3 (2), (3), (4), (5), (6), (7) and (8) of article IV and section 9 (3) of article IV of the constitution; relating to: legislative and congressional redistricting (first consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 2021 legislature, on first consideration, creates a new procedure for the preparation of legislative and congressional redistricting plans. The bill directs the Legislative Reference Bureau to draw redistricting plans based upon standards specified in the amendment and establishes a Redistricting Advisory Commission to perform certain tasks in the redistricting process. Currently, under the state constitution, the legislature is directed to redistrict legislative districts according to the number of inhabitants at its next session following each federal decennial census. At the same intervals, the legislature also reapportions congressional districts in this state pursuant to federal law.

Under the amendment, the Redistricting Advisory Commission must be created not later than February 15 of the first year following the federal decennial census and terminates upon satisfying its duties, until a new Redistricting Advisory Commission is created for the next round of legislative and congressional redistricting. The commission consists of five members. The speaker and minority leader of the assembly and the majority and minority leaders of the senate must each appoint one person to serve on the commission. Within 30 days after the fourth
commission member is appointed, but not later than February 15 of the first year following the federal decennial census, the four commission members so appointed must select the fifth commission member, who serves as chairperson. The amendment prohibits all of the following individuals from being commission members: individuals who are not eligible electors of this state at the time of the appointment, individuals who hold partisan public office or political party office, and individuals who are a relative of or are employed by a member of the legislature or of Congress or are employed directly by the legislature or Congress.

The amendment provides that the LRB must be strictly nonpartisan in preparing redistricting plans. In addition, no district may be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group, except to the extent necessary to comply with constitutional requirements and the federal Voting Rights Act, or for the purpose of diluting the voting strength of a language or racial minority group. Generally, in preparing the plan the LRB may not use political affiliations of registered voters, previous election results, or use residence addresses of incumbent legislators or members of Congress.

The amendment also provides that, if requested to do so by the LRB, the Redistricting Advisory Commission must provide direction to the LRB concerning any decision the LRB must make in preparing a redistricting plan for which there is no clearly applicable guideline. The commission must oversee the work of LRB employees engaged in preparing a redistricting plan and may enter into contracts for hiring experts to assist in plan preparation. In addition, the commission must conduct public hearings on a redistricting bill delivered by the LRB to the legislature and submit a report to the legislature summarizing information and testimony received by the commission at the hearings.

Finally, the amendment requires the LRB to deliver to the senate and assembly identical bills embodying a plan of legislative and congressional redistricting. The legislature must bring the bill to a vote expeditiously, but not less than seven days after the report of the Redistricting Advisory Commission is received and made available to the members of the legislature. In addition, the vote must be under a procedure or rule permitting no amendments. However, if the legislature rejects the bill and a 2nd redistricting bill submitted by the LRB, the legislature may amend any subsequent redistricting bill, but a subsequent bill, and any amendments to it, may be passed only with the approval of three-fourths of all the members elected in each house.

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

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1 **Resolved by the senate, the assembly concurring, That:**

2 **SECTION 1.** Section 3 of article IV of the constitution is renumbered section 3 (1) of article IV.
SECTION 2. Section 3 (2), (3), (4), (5), (6), (7) and (8) of article IV of the constitution are created to read:

[Article IV] Section 3 (2) (a) The legislative reference bureau shall acquire appropriate information, review and evaluate available facilities, and develop programs and procedures in preparation for drawing congressional and legislative redistricting plans on the basis of each federal decennial census.

(b) By December 1 of the year of the federal decennial census, the legislative reference bureau shall obtain from the federal government information regarding geographic and political units in this state for which federal census population data has been gathered and will be tabulated. The legislative reference bureau shall use the information to do all of the following:

1. Prepare necessary descriptions of geographic and political units for which census data will be reported and that are suitable for use as components of legislative districts.

2. Prepare maps of geographic and political units within the state that may be used to illustrate the locations of district boundaries proposed in plans prepared in accordance with sub. (5).

(c) As soon as possible after receiving the federal census data needed for legislative redistricting, the legislative reference bureau shall use that data to assign a population figure based upon certified federal census data to each geographic and political unit described under par. (b) 1. The legislative reference bureau shall prepare and publish an analysis describing the population of current legislative and congressional districts and the extent to which the districts may violate the standards under sub. (5). Upon satisfying these requirements, the legislative
reference bureau shall begin the preparation of congressional and legislative
redistricting plans as required under sub. (4).

(d) None of the 4 selecting authorities, as defined in sub. (8) (a) 2., may assign
or hire any person to work with the legislative reference bureau to prepare for
redistricting under this subsection, to prepare plans under sub. (4), or to oversee
either process.

(3) After receipt of a division ordinance or resolution, as provided by law, the
legislative reference bureau shall use the federal census data obtained under sub.
(2) (c) to assign a population figure based upon certified federal census data to each
ward established in the division ordinance or resolution. The legislative reference
bureau shall use each ward to which a population figure is assigned in preparing
congressional and legislative redistricting plans as required under sub. (4).

(4) (a) Not later than January 1 of the 2nd year following the federal decennial
census, the legislative reference bureau shall deliver to the majority leader of the
senate and speaker of the assembly identical bills creating plans of legislative and
congressional redistricting, prepared in accordance with sub. (5). Either the
assembly or the senate shall bring the bill to a vote expeditiously, but not less than
7 days after the commission report under sub. (8) (c) 4. b. is received and made
available to the members of the legislature. The vote shall be under a procedure or
rule permitting no amendments. If the bill is approved by the first house in which
it is considered, the bill shall expeditiously be brought to a vote in the 2nd house
under a similar procedure or rule.

(b) If neither of the bills delivered by the legislative reference bureau under par.
(a) is approved by both the assembly and the senate, the chief clerk of the house that
failed to approve the bill shall immediately transmit to the legislative reference
bureau information that the house may direct regarding reasons why the plan was not approved. The legislative reference bureau shall prepare identical bills embodying a 2nd plan of legislative and congressional redistricting prepared in accordance with sub. (5), taking into account the reasons transmitted to the legislative reference bureau under this paragraph insofar as it is possible to do so within the requirements of sub. (5). The legislative reference bureau shall deliver the bills to the majority leader of the senate and the speaker of the assembly no later than 21 days after the date of the vote by which the senate or the assembly failed to approve the bill submitted under par. (a). Any bill delivered by the legislative reference bureau under this paragraph shall be expeditiously introduced and brought to a vote not less than 7 days after the date of introduction, in the same manner as prescribed for the bill required under par. (a).

(c) If neither of the bills delivered by the legislative reference bureau under par. (b) is approved by both the assembly and the senate, the same procedure as prescribed by par. (b) shall be followed. If a 3rd plan is required under this paragraph, the legislative reference bureau shall deliver the bills to the majority leader of the senate and the speaker of the assembly no later than 21 days after the date of the vote by which the senate or the assembly failed to approve the bill submitted under par. (b). Any bill delivered by the legislative reference bureau under this paragraph shall be expeditiously introduced and brought to a vote not less than 7 days after the date of introduction and shall be subject to amendment in the same manner as other bills. Any bill delivered under this paragraph, and any amendment to such a bill, may be passed only with the approval of three-fourths of all the members elected in each house.

(d) Notwithstanding pars. (a) to (c):
1. If certified federal census data that is sufficient to permit preparation of a congressional redistricting plan becomes available at an earlier time than the population data needed to permit preparation of a legislative redistricting plan in accordance with sub. (5), the legislative reference bureau shall so inform the majority leader of the senate and the speaker of the assembly. If the majority leader of the senate and the speaker of the assembly jointly direct, the legislative reference bureau shall prepare a separate bill establishing congressional districts and deliver it separately from the bill establishing legislative districts. The legislature shall proceed to consider the congressional redistricting bill in substantially the manner prescribed by pars. (a) to (c).

2. If the population data for legislative redistricting that the federal government provides and, if used by the legislative reference bureau, the corresponding topologically integrated geographic encoding and referencing data file for that population data are not available to the legislative reference bureau on or before April 1 of the first year following the federal decennial census, the deadlines set forth in this subsection shall be extended by a number of days equal to the number of days after April 1 of the first year following the federal decennial census that the population data and the topologically integrated geographic encoding and referencing data file for legislative redistricting become available.

(5) (a) Legislative and congressional districts shall be established on the basis of population requirements imposed under this constitution and the U.S. Constitution and requirements imposed under section 2 of the Voting Rights Act of 1965.

(b) Senate and assembly districts, respectively, shall satisfy the population standards established in this paragraph. The quotient, obtained by dividing the sum
of the absolute values of the deviations of all district populations from the applicable
eideal district population by the number of districts established, may not vary by more
than 1 percent from the applicable ideal district population, unless necessary to
maintain compliance with section 2 of the Voting Rights Act of 1965. For purposes
of this paragraph, the ideal district population is determined by dividing the
population of the state reported in the most recent federal decennial census by the
number of districts to be established. No senate district may have a population that
varies by more than 10 percent from any other senate district and no assembly
district may have a population that varies by more than 10 percent from any other
assembly district, unless necessary to maintain compliance with section 2 of the

(c) Congressional districts shall each have a population as nearly equal as
practicable to the ideal district population, derived as prescribed in par. (b), while
maintaining compliance with section 2 of the Voting Rights Act of 1965. No
congressional district may have a population that varies by more than 1 percent from
the applicable ideal district population, unless necessary to comply with section 2 of

(d) District boundaries shall coincide with ward boundaries and, to the extent
consistent with par. (a), shall coincide with the boundaries of political subdivisions.
The number of political subdivisions divided among more than one district shall be
as small as possible. When there is a choice among political subdivisions to divide,
the more populous political subdivisions shall be divided before the less populous,
except that this requirement does not apply to a legislative district boundary drawn
along a county boundary that passes through a city with territory in more than one
county.
(e) Districts shall be composed of convenient contiguous territory. Areas that meet only at the points of adjoining corners are not contiguous.

(f) Districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or diminishing the ability of racial or language minorities to elect representatives of each minority group's choice, whether by the group or by voting concert with other persons.

(g) 1. In this paragraph:

a. “Geographic unit center” means that point within a population data unit approximately equidistant from the northern and southern extremities and also approximately equidistant from the eastern and western extremities of the population data unit. This point shall be determined by visual observation of a map of the population data unit, unless it is otherwise determined within the context of an appropriate coordinate system developed by the federal government or another source that the legislative reference bureau determines is qualified and objective and is obtained for use in this state with prior approval of the joint committee on legislative organization.

b. “Population data unit” means a ward, census enumeration district, block, or other unit of territory that has clearly identified geographic boundaries and for which a total population figure is included in or can be derived directly from certified federal census data.

c. “X-coordinate” means the relative location of a point along the east–west axis of the state. Unless otherwise measured within the context of an appropriate coordinate system obtained for use as permitted by subd. 1. a., the x-coordinate shall
be measured along a line drawn due east from a due north and south line running
through the point that is the western extremity of this state, to the point to be located.

d. “Y-coordinate” means the relative location of a point along the north–south
axis of the state. Unless otherwise measured within the context of an appropriate
coordinate system obtained for use as permitted by subd. 1. a., the y-coordinate shall
be measured along a line drawn due south from a due east and west line running
through the point that is the northern extremity of this state, to the point to be
located.

2. To the extent consistent with pars. (a) to (c), districts shall be compact in
form. Compact districts are those that are square, rectangular, or hexagonal in
shape to the extent permitted by natural or political boundaries. When it is
necessary to compare the relative compactness of 2 or more districts, or of 2 or more
alternative redistricting plans, the tests prescribed by subds. 3. and 4. shall be used.
Should the results of these 2 tests be contradictory, the standard under subd. 3. shall
be given greater weight than the standard under subd. 4.

3. a. The compactness of a district is greatest when the length of the district and
the width of the district are equal. The measure of a district’s compactness is the
absolute value of the difference between the length and the width of the district.

b. In measuring the compactness of a district by means of electronic data
processing, the difference between the x-coordinates of the easternmost and the
westernmost geographic unit centers included in the district shall be compared to the
difference between the y-coordinates of the northernmost and southernmost
geographic unit centers included in the district.

c. To determine the length and width of a district by manual measurement, the
distance from the northernmost point or portion of the boundary of a district to the
southernmost point or portion of the boundary of the same district and the distance
from the westernmost point or portion of the boundary of the district to the
easternmost point or portion of the boundary of the same district shall each be
measured. If the northernmost or southernmost portion of the boundary, or each of
these points, is a part of the boundary running due east and west, the line used to
make the measurement required by this subd. 3. c. shall be drawn either due north
and south or as nearly so as the configuration of the district permits. If the
easternmost or westernmost portion of the boundary, or each of these points, is a part
of the boundary running due north and south, a similar procedure shall be followed.
The lines to be measured for the purpose of this subd. 3. c. shall each be drawn as
required by this subd. 3. c., even if some part of either or both lines lies outside the
boundaries of the district that is being tested for compactness.

d. The absolute values computed for individual districts under this subdivision
may be cumulated for all districts in a plan in order to compare the overall
compactness of 2 or more alternative redistricting plans for the state or for a portion
of the state. However, it is not valid to cumulate or compare absolute values
computed using the measurements under subd. 3. b. with those computed using the
measurements under subd. 3. c.

4. a. The compactness of a district is greatest when the ratio of the dispersion
of population about the population center of the district to the dispersion of
population about the geographic center of the district is one to one.

b. The population dispersion about the population center of a district or about
the geographic center of a district is computed as the sum of the products of the
population of each population data unit included in the district multiplied by the
square of the distance from the geographic unit center of that population data unit
to the population center or the geographic center of the district, as the case may be.
The geographic center of the district is defined by averaging the locations of all
geographic unit centers that are included in the district. The population center of
the district is defined by computing the population-weighted average of the
x-coordinates and y-coordinates of each geographic unit center assigned to the
district, it being assumed for the purpose of this calculation that each population
data unit possesses uniform density of population.

c. The ratios computed for individual districts under this subdivision may be
averaged for all districts in a plan in order to compare the overall compactness of 2
or more alternative redistricting plans for the state or for a portion of the state.

(h) In preparing any redistricting plan, the legislative reference bureau shall
be strictly nonpartisan. No district may be drawn for the purpose of favoring a
political party, incumbent legislator or member of Congress, or other person or group
or, except to the extent required under par. (a), for the purpose of augmenting or
diluting the voting strength of a language or racial minority group. Except as
provided in par. (j), in establishing districts, no use shall be made of any of the
following data:

1. The residence addresses of incumbent legislators or members of Congress.
2. Political affiliations of registered voters.
3. Previous election results.
4. Demographic information except as necessary to meet the requirements of
pars. (a) and (j).

(i) Except as otherwise provided in this paragraph, to the extent possible, each
congressional district shall contain only whole senate districts. The other standards
specified in this subsection shall take precedence in a case in which a conflict arises
between those standards and the requirement of including only whole senate districts within a congressional district.

(j) In preparing any redistricting plan, the legislative reference bureau shall test the efficiency gap and competitiveness of each district and make the test results available to the public, including publishing the results on its Internet site, no later than 72 hours prior to the first public hearing on the proposed plan. The legislative reference bureau may use the data described under par. (b) 2. to 4. to perform the tests under this paragraph.

(6) Each bill delivered under sub. (4) shall provide all of the following:

(a) That, wherever territory is described in the bill by geographic boundaries, the following conventions are used:

1. Each bound continues to the intersection with the bound next named, or to the intersection with a straight-line extension of such bound.

2. If the bound is a street, it follows the center line of the street or the center line of the street extended.

3. If the bound is a railroad right-of-way, it follows the center line of the railroad right-of-way.

4. If the bound is a river or stream, it follows the center of the main channel of such river or stream.

5. If the bound follows a municipal boundary, it coincides with such boundary.

(b) That the bill first applies, with respect to regular elections, to offices filled at the next occurring general election after the bill takes effect and, with respect to special or recall elections, to offices filled or contested on or after the date of that general election.
(7) If an action is brought challenging a legislative redistricting plan under this section on the basis of an excessive population variance among senate or assembly districts established in the plan, the legislature has the burden of justifying any variance in excess of 10 percent between the population of a senate or assembly district and the applicable ideal district population. If an action is brought challenging a congressional redistricting plan under this section on the basis of an excessive population variance among congressional districts established in the plan, the legislature has the burden of justifying any variance in excess of 1 percent between the population of a congressional district and the applicable ideal district population.

(8) (a) In this subsection:

1. “Chief election officer” means the elections commission administrator.

2. “Four selecting authorities” means all of the following:
   a. The majority leader of the senate.
   b. The minority leader of the senate.
   c. The speaker of the assembly.
   d. The minority leader of the assembly.

3. “Partisan public office” means any of the following:
   a. The office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, or state representative to the assembly.
   b. A county office that is filled by an election process involving nomination and election of candidates on a partisan basis.

4. “Political party office” means an elective office in a political party or in a national political party.
5. “Relative” means an individual who is related to the individual in question as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) 1. Not later than February 15 of the first year following the federal decennial census, a temporary redistricting advisory commission shall be created consisting of 5 members. Each of the 4 selecting authorities shall certify to the chief election officer the selecting authority’s appointment of a person to serve on the commission. Within 30 days after the last selecting authority has certified his or her appointment, but not later than February 15 of the first year following the federal decennial census, the 4 commission members so appointed shall select, by a vote of at least 3 members, and certify to the chief election officer the 5th commission member, who shall serve as chairperson.

2. No individual may be appointed to the redistricting advisory commission who satisfies any of the following:

   a. The individual is not an eligible elector of this state at the time of the appointment.

   b. The individual holds partisan public office or political party office.

   c. The individual is a relative of or is employed by a member of the legislature or of Congress or is employed directly by the legislature or Congress.

3. Members of the redistricting advisory commission appointed by a selecting authority shall be reimbursed for actual and necessary expenses incurred in performance of duties as a commission member. The member who is not appointed
by a selecting authority shall be reimbursed for actual and necessary expenses
incurred in performance of duties as a commission member.

4. A vacancy on the redistricting advisory commission shall be filled as
provided by law within 15 days after the vacancy occurs.

5. Each redistricting advisory commission terminates upon complying with
par. (c).

(c) The redistricting advisory commission shall do all of the following:

1. If requested to do so by the legislative reference bureau, provide direction
to the legislative reference bureau concerning any decision the legislative reference
bureau must make in preparing a redistricting plan for which no clearly applicable
guideline is provided under sub. (5).

2. Oversee the work of legislative reference bureau employees engaged in
preparing a redistricting plan and may enter into contracts for hiring experts to
assist in the preparation of such plans. The commission may enter into a contract
to retain experts for preparing a redistricting plan only with the approval of
three-fourths of the members of the commission and may terminate a contract
employee only with the approval of three-fourths of the members of the commission.

3. Upon delivery by the legislative reference bureau of a bill embodying a
redistricting plan as required under sub. (4), make available to the public at the
earliest feasible time all of the following information:

   a. Copies of the bill.

   b. Maps illustrating the plan.

   c. A summary of the standards prescribed under sub. (5) for development of the
      plan.
d. A statement of the population of each district included in the plan and the
relative deviation of each district population from the ideal district population.

4. Upon delivery by the legislative reference bureau of an initial bill embodying
a redistricting plan as required under sub. (4) (a), do all of the following:

a. As expeditiously as reasonably possible, schedule and conduct public
hearings, in different geographic regions of the state, on the plan embodied in the
bill. No more than one public hearing may be held in the city of Madison, and at least
one public hearing shall be held in each congressional district of the state. The
commission shall hold public hearings on weekends whenever it is practicable.

b. Following the hearings held under subd. 4. a., promptly prepare and submit
to the legislature in the manner provided by law a report summarizing information
and testimony received by the commission in the course of the hearings. The report
may include any comments and conclusions that the commission’s members deem
appropriate concerning the information and testimony received at the hearings or
otherwise presented to the commission.

(d) 1. Except as provided in subd. 2., the redistricting advisory commission may
establish policies limiting the information that the legislative reference bureau may
provide to persons outside of the bureau staff concerning any redistricting plan
prepared under this section.

2. Any policy established under subd. 1. does not apply to a redistricting plan
after a bill embodying that plan is delivered by the legislative reference bureau as
required under sub. (4) or to population data furnished to the legislative reference
bureau by the federal government. Any draft maps, along with the data sets used
to create the maps, that are produced by the legislative reference bureau in the
course of its work in preparing a bill under sub. (4) shall be open to public inspection
SECTION 3. Section 4 of article IV of the constitution is amended to read:

[Article IV] Section 4. The members of the assembly shall be chosen biennially, by single districts, on the Tuesday succeeding the first Monday of November in even-numbered years, by the qualified electors of the several districts, such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable.

SECTION 4. Section 5 of article IV of the constitution is amended to read:

[Article IV] Section 5. The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen; and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even-numbered districts for the term of 4 years.

SECTION 5. Section 9 (3) of article IV of the constitution is created to read:

[Article IV] Section 9 (3) The legislature shall provide by law for the establishment of a legislative reference bureau.

SECTION 6. Numbering of new provisions. If another constitutional amendment ratified by the people creates the number of any provision created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of the provisions whose numbers conflict.
Be it further resolved, That this proposed amendment be referred to the legislature to be chosen at the next general election and that it be published for 3 months previous to the time of holding such election.

(END)