



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4349/1

JK:all

## 2023 ASSEMBLY BILL 415

September 12, 2023 - Introduced by Representatives OLDENBURG, NOVAK, TRANEL, PLUMER, MURSAU and KITCHENS. Referred to Committee on Rules.

AN ACT *to amend* 3.002 (2), 5.15 (4) (a) and 5.15 (4) (b); *to repeal and recreate* subchapter I of chapter 4 [precedes 4.001]; and *to create* 13.49 of the statutes; **relating to:** legislative redistricting.

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### *Analysis by the Legislative Reference Bureau*

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. Under current state law, following each federal decennial census, most municipalities are also required to divide their territory into wards. With limited exceptions, wards are required to consist of one or more whole, contiguous census blocks (the smallest geographic units for which census results are available). Traditionally, the legislature has used municipal wards to construct legislative districts, although the legislature may adjust the boundaries of a municipal ward and use the revised ward boundaries instead. Legislative redistricting plans enacted pursuant to this procedure are used to elect members of the legislature in the fall of the second year following the year of the census.

This bill creates a new procedure for the preparation of legislative redistricting plans. The bill directs the Legislative Reference Bureau (LRB) to draw redistricting plans based upon standards specified in the bill and establishes a redistricting advisory commission to perform certain tasks in the redistricting process. The bill

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also makes various other changes to the laws governing redistricting. Significant aspects of the bill include the following:

***Redistricting standards***

Under the bill, a redistricting plan drawn by the LRB must satisfy several criteria, including the following:

1. The plan must be based on population requirements imposed under the Wisconsin Constitution and the U.S. Constitution and requirements imposed under the federal Voting Rights Act, which, among other things, generally prohibits redistricting plans from abridging the right to vote on account of race or color or because a person is a member of a language minority group.

2. The senate and assembly districts established in the plan must satisfy equal population standards specified in the bill.

3. District boundaries under the plan must coincide with municipal ward boundaries and, to the extent consistent with the Wisconsin Constitution, the U.S. Constitution, and the Voting Rights Act, must coincide with the boundaries of political subdivisions. The number of political subdivisions divided among more than one district must be as small as possible and must preserve the communities of interest.

4. Districts must be composed of convenient contiguous territory. Under the bill, areas that meet only at the points of adjoining corners are not contiguous.

5. To the extent consistent with the requirements described in items 1 to 3, districts must be compact. The bill also specifies how compactness is to be measured.

6. In preparing the plan, the LRB must be strictly nonpartisan. No district may be drawn for the purpose of favoring a political party, incumbent legislator, or other person or group. The LRB may not use residence addresses of incumbent legislators, political affiliations of registered voters, previous election results, or demographic information to augment or dilute the voting strength of a language or racial minority group, except as necessary to meet the requirements described in item 1.

7. The number of assembly districts may not be less than 54 nor more than 100. The number of senate districts may not be more than one-third nor less than one-fourth of the number of assembly districts and each senate district must contain only whole assembly districts.

***Redistricting advisory commission***

The bill assigns several tasks to the redistricting advisory commission, including the following:

1. If requested to do so by the LRB, the commission must provide direction to the LRB concerning any decision the LRB must make in preparing a redistricting plan for which no clearly applicable guideline is provided under the bill.

2. The commission must make available to the public at the earliest feasible time copies of any redistricting bill delivered by the LRB to the legislature, as

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provided under this bill, maps illustrating the redistricting bill, a summary of the standards applicable to the LRB for development of the plan in the redistricting bill, and a statement of the population of each district created in the plan and the relative deviation of each district population from the ideal district population.

3. The commission must conduct at least three public hearings on a redistricting bill delivered by the LRB to the legislature, as provided under this bill, unless the redistricting bill represents a plan drawn in response to a redistricting bill that was previously delivered to the legislature and rejected by at least one house. The commission must submit a report to the legislature summarizing information and testimony received by the commission at the hearings. The report may also 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.

The bill also permits the commission to establish policies limiting the information that the LRB may provide to persons other than LRB staff concerning any redistricting plan drawn by the LRB, except that any such policy does not apply to population data furnished to the LRB by the U.S. Bureau of the Census or to a redistricting plan after a bill embodying that plan is delivered by the LRB to the legislature as required under this bill.

Under the bill, 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 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 bill prohibits all of the following individuals from being a commission member: 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 are employed directly by the legislature or Congress.

***Redistricting process***

The bill requires the LRB to perform certain tasks in preparation for drawing legislative redistricting plans on the basis of each federal decennial census. For example, as soon as possible after receiving from the U.S. Bureau of the Census the population data needed for legislative redistricting, the LRB must use that data to assign a population figure to geographic or political units to facilitate the drawing of redistricting plans. Typically, this data is available on or about April 1 of the first year following the federal decennial census. The LRB must also prepare and publish an analysis describing the population of current legislative districts and the

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extent to which the districts may violate the redistricting standards described above. In addition, as municipalities complete their ward plans (typically, by October of the first year following the federal decennial census), the LRB must assign a population figure based upon certified federal census data to each municipal ward, for use in drawing redistricting plans.

Not later than January 1 of the second year following the federal decennial census, the LRB must deliver to the majority leader of the senate and speaker of the assembly identical bills embodying a plan of legislative districting, drawn in accordance with the standards described above. The bill further specifies a procedure that the legislature must follow in considering the bills, although that procedure is not enforceable by the courts. The bill requires either the assembly or the senate to 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. The vote must be under a procedure or rule permitting no amendments except those of a purely corrective nature. If the 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 both the assembly and the senate, the chief clerk of the house that failed to approve the bill must transmit to the LRB information on why the plan was not approved by that house.

The LRB must then prepare identical bills embodying a second plan of legislative redistricting, taking into account the reasons transmitted to the LRB by the legislature, or, if applicable, by the governor by veto message, insofar as it is possible to do so while complying with the standards described above. 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 the date of the vote by which the senate or the assembly failed to approve the bill initially submitted. 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 similarly rejected by at least one house, the same procedure applies, except that the third bill is subject to amendment in the same manner as other bills.

The bill also provides exceptions to this process to account for variations in the timing of the release of federal census data.

***Required contents of redistricting bills***

The LRB must ensure that each bill embodying a redistricting plan it draws contains specified conventions to apply wherever territory in a plan is described by geographic boundaries. Also, each such bill must provide that the bill first applies, with respect to regular elections, to offices filled at the next occurring general election and, with respect to special or recall elections, to offices filled or contested on or after the date of the next occurring general election.

**ASSEMBLY BILL 415*****Challenge based on population inequality***

If an action is brought challenging a legislative redistricting plan adopted under the procedure established in the bill on the basis of an excessive population variance among senate or assembly districts, the legislature has the burden of justifying any variance in excess of 1 percent between the population of a senate or assembly district and the applicable ideal district population.

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

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

**SECTION 1.** 3.002 (2) of the statutes is amended to read:

3.002 (2) Wherever territory is described by geographic boundaries, such boundaries follow the conventions set forth in s. ~~4.003~~ 4.008 (1).

**SECTION 2.** Subchapter I of chapter 4 [precedes 4.001] of the statutes is repealed and recreated to read:

**CHAPTER 4****SUBCHAPTER I****GENERAL PROVISIONS****AND REDISTRICTING**

**4.001 Definitions.** In this chapter, unless the context requires otherwise:

(1) “Block” has the meaning given in s. 5.02 (1q).

(2) “Commission” means the redistricting advisory commission established under s. 13.49.

(3) “Plan” means a plan for legislative reapportionment prepared under this subchapter.

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(4) “Political subdivision” means a city, town, village, or county within this state.

(5) “Ward” means a municipal ward in effect on April 1 of the year of the federal decennial census and used in preparing plans as required under s. 4.005.

**4.002 Political subdivision boundaries.** In this chapter, reference to any political subdivision means that political subdivision as its boundaries exist on April 1 of the year of the federal decennial census.

**4.003 Legislative districts established.** This state is divided into 33 senate districts, each composed of 3 assembly districts. Each senate district may elect one member of the senate. Each assembly district may elect one representative to the assembly.

**4.004 Preparations for redistricting.** (1) The legislative reference bureau shall acquire appropriate information, review and evaluate available facilities, and develop programs and procedures in preparation for drawing plans on the basis of each federal decennial census.

(2) By December 1 of the year of the federal decennial census, the legislative reference bureau shall obtain from the U.S. bureau of the census 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:

(a) 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.

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(b) 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 s. 4.007.

(3) As soon as possible after receiving from the U.S. bureau of the census the population data needed for legislative redistricting that the U.S. bureau of the census is required to provide this state under P.L. 94-171, the legislative reference bureau shall use that data to assign a population figure to each geographic or political unit described under sub. (2). The legislative reference bureau shall prepare and publish an analysis describing the population of current legislative districts and the extent to which the districts may violate the standards under s. 4.007. Upon satisfying these requirements, the legislative reference bureau shall begin the preparation of plans as required under s. 4.006.

**4.005 Use of municipal ward plans.** After receipt of a division ordinance or resolution under s. 5.15 (4) (b), the legislative reference bureau shall use the data obtained from the U.S. bureau of the census under s. 4.004 (3) to assign a population figure 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 plans as required under s. 4.006.

**4.006 Preparation of redistricting plans.** (1) 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, prepared in accordance with s. 4.007. Either the assembly or the senate shall bring the bill to a vote expeditiously, but not less than

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7 days after the commission report under s. 13.49 (3) (c) 2. is received and made available to the members of the legislature. The vote shall be under a procedure or rule permitting no amendments except those of a purely corrective nature. 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.

(2) If neither of the bills delivered by the legislative reference bureau under sub. (1) 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 on why the plan was not approved by that house. The legislative reference bureau shall prepare identical bills embodying a 2nd plan prepared in accordance with s. 4.007, taking into account the reasons transmitted to the legislative reference bureau under this subsection or, if applicable, transmitted to the legislative reference bureau by the governor by veto message, insofar as it is possible to do so within the requirements of s. 4.007. 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 sub. (1). Any bill delivered by the legislative reference bureau under this subsection 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 sub. (1).

(3) If neither of the bills delivered by the legislative reference bureau under sub. (2) is approved by both the assembly and the senate, the same procedure as



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prescribed by sub. (2) shall be followed. If a 3rd plan is required under this subsection, 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 sub. (2). Any bill delivered by the legislative reference bureau under this subsection 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.

(4) Notwithstanding subs. (1) to (3), if the population data for legislative redistricting that the U.S. bureau of the census is required to provide this state under P.L. 94-171 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 section 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.

**4.007 Redistricting standards.** (1) Legislative districts shall be established on the basis of population requirements imposed under the Wisconsin Constitution and the U.S. Constitution and requirements imposed under the federal Voting Rights Act and any other applicable federal law.

(2) Senate and assembly districts, respectively, shall satisfy the population

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standards established in this subsection. The quotient, obtained by dividing the sum of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established, may not exceed 1 percent of the applicable ideal district population, unless necessary to maintain compliance with the federal Voting Rights Act or any other applicable federal law. For purposes of this subsection, 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.

(3) District boundaries shall coincide with ward boundaries and, to the extent consistent with sub. (1), 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 and all such divisions shall preserve communities of interest.

(4) Districts shall be composed of convenient contiguous territory. Areas that meet only at the points of adjoining corners are not contiguous. A district containing detached portions of a municipality is legally contiguous even if the area around the detached portion of the municipality is part of a different district.

(5) To the extent consistent with subs. (1) to (3), 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. The compactness of a district shall be measured by its Reock score. For each district, the Reock score shall be calculated by taking the ratio of the area of the district to the area of the minimum circumscribing circle. The Reock score ranges from zero to 1, with zero

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indicating that the district is not compact and one indicating that the district is optimally compact.

(6) In preparing any 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 other person or group. In establishing districts, no use shall be made of any of the following data for the purpose of augmenting or diluting the voting strength of a language or racial minority group, except to the extent required under sub. (1):

- (a) The residence addresses of incumbent legislators.
- (b) Political affiliations of registered voters.
- (c) Previous election results.
- (d) Demographic information.

(7) The number of assembly districts in any plan may not be less than 54 nor more than 100. The number of senate districts in any plan may not be more than one-third nor less than one-fourth of the number of assembly districts. Each senate district shall contain only whole assembly districts.

**4.008 Required provisions in redistricting bills.** Each bill delivered under s. 4.006 shall provide all of the following:

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

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

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(b) If the bound is a street, it follows the center line of the street or the center line of the street extended.

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

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

(e) If the bound follows a municipal boundary, it coincides with such boundary.

(2) 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.

**4.0085 Challenge based on population inequality; burden of proof.** If an action is brought challenging a plan under this subchapter 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 1 percent between the population of a senate or assembly district and the applicable ideal district population, as described under s. 4.007 (2).

**SECTION 3.** 5.15 (4) (a) of the statutes is amended to read:

5.15 (4) (a) Except as provided in par. (c), the division ordinance or resolution shall number all wards in the municipality with unique whole numbers in consecutive order, beginning with the number one, shall designate the polling place for each ward, and shall describe the boundaries of each ward consistent with the

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conventions set forth in s. ~~4.003~~ 4.008 (1). The ordinance or resolution shall be accompanied by a list of the block numbers used by the U.S. bureau of the census that are wholly or partly contained within each ward, with any block numbers partly contained within a ward identified, and a map of the municipality which illustrates the revised ward boundaries. If the legislature, in an act redistricting legislative districts under article IV, section 3, of the constitution, or in redistricting congressional districts, establishes a district boundary within a municipality that does not coincide with the boundary of a ward established under the ordinance or resolution of the municipality, the municipal governing body shall, no later than April 10 of the 2nd year following the year of the federal decennial census on which the act is based, amend the ordinance or resolution to the extent required to effect the act. The amended ordinance or resolution shall designate the polling place for any ward that is created to effect the legislative act. Nothing in this paragraph shall be construed to compel a county or city to alter or redraw supervisory or aldermanic districts.

**SECTION 4.** 5.15 (4) (b) of the statutes is amended to read:

5.15 (4) (b) Within 5 days after adoption or enactment of an ordinance or resolution under this section or any amendment thereto, the municipal clerk shall transmit one copy of the ordinance or resolution or the amendment to the county clerk of each county in which the municipality is contained and one copy of the ordinance or resolution or the amendment to the legislative reference bureau, accompanied by the list and map specified in par. (a), together with a report confirming the boundaries of the municipality and of all wards in the municipality.

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Within 5 days after notice to the municipal clerk of a judgment that has the effect of changing the municipal boundaries, the clerk shall file the same report. The municipal clerk shall ensure that each copy of the ordinance or resolution or amendment and each accompanying report identify the name of the municipality and the county or counties in which it is located.

**SECTION 5.** 13.49 of the statutes is created to read:

**13.49 Redistricting advisory commission.** (1) DEFINITIONS. In this section:

(a) “Chief election officer” means the chief election officer of the elections commission.

(b) “Four selecting authorities” means all of the following:

1. The majority leader of the senate.
2. The minority leader of the senate.
3. The speaker of the assembly.
4. The minority leader of the assembly.

(c) “Partisan public office” means any of the following:

1. The office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, or state representative to the assembly.

2. A county office that is filled by an election process involving nomination and election of candidates on a partisan basis.

(d) “Political party office” means an elective office in a political party, as defined in s. 5.02 (13), or in a national political party.

(e) “Relative” means an individual who is related to the person in question as

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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.

(2) GENERAL PROVISIONS. (a) Not later than February 15 of the first year following the federal decennial census, a temporary redistricting advisory commission is created consisting of 5 members. Each of the 4 selecting authorities shall certify to the chief election officer the selecting authority's appointment of an individual 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.

(b) No individual may be appointed to the redistricting advisory commission who satisfies any of the following:

1. The individual is not an eligible elector of this state at the time of the appointment.
2. The individual holds partisan public office or political party office.
3. 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.

(c) Members of the redistricting advisory commission appointed by a selecting authority shall be reimbursed from the appropriation account under s. 20.765 (1) (a) or (b), depending upon the house in which that member's appointing authority

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holds office, 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 from the appropriation under s. 20.765 (1) (a) for actual and necessary expenses incurred in performance of duties as a commission member.

(d) A vacancy on the redistricting advisory commission shall be filled as provided in s. 17.20 (1) within 15 days after the vacancy occurs.

(e) Each redistricting advisory commission terminates upon complying with sub. (3).

**(3) DUTIES.** The redistricting advisory commission shall do all of the following:

(a) 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 under subch. I of ch. 4 for which no clearly applicable standard is provided under s. 4.007.

(b) Upon delivery by the legislative reference bureau of a bill embodying a redistricting plan as required under s. 4.006, make available to the public at the earliest feasible time all of the following information:

1. Copies of the bill.
2. Maps illustrating the plan.
3. A summary of the standards prescribed under s. 4.007 for development of the plan.
4. 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.



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(c) Upon delivery by the legislative reference bureau of an initial bill embodying a redistricting plan as required under s. 4.006 (1), do all of the following:

1. As expeditiously as reasonably possible, schedule and conduct at least 3 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 the northern half of the state.

2. Following the hearings held under subd. 1., promptly prepare and submit to the legislature in the manner provided under s. 13.172 (2) 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. The report shall be treated in the same manner as a report submitted under s. 13.172 (2).

(4) **CONFIDENTIALITY.** The redistricting advisory commission may establish policies limiting the information that the legislative reference bureau may provide to persons other than the bureau staff concerning any redistricting plan prepared under subch. I of ch. 4, except that any such policy does not apply to a redistricting plan after a bill embodying that plan is delivered by the legislative reference bureau as required under s. 4.006 or to population data furnished to the legislative reference bureau by the U.S. bureau of the census.

**SECTION 6. Nonstatutory provisions.**

(1) Notwithstanding the deadline for establishing the commission under s.

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13.49 (2), the redistricting advisory commission may be established after the effective date of this subsection. For the decennial period beginning in 2020, and notwithstanding any other deadline under this act, the legislative reference bureau shall expeditiously obtain census data and deliver any plan prepared in accordance with s. 4.007 to the majority leader of the senate and the speaker of the assembly upon the completion of the redistricting plans no later than January 1, 2024.

**SECTION 7. Initial applicability.**

(1) This act first applies to the 2020 federal decennial census.

**(END)**