

SENATE BILL NO. 429
INTRODUCED BY J. ESP

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PROVISIONS REGARDING REDISTRICTING; PROVIDING FOR CRITERIA; PROVIDING FOR THE USE OF DECENNIAL CENSUS DATA; PROVIDING FOR THE IMPLEMENTATION OF A SUCCESSFUL CONSTITUTIONAL AMENDMENT TO REVISE LEGISLATIVE REDISTRICTING TO CREATE A NONPARTISAN PROCESS TO ALLOW THE LEGISLATURE OPPORTUNITIES TO APPROVE A PLAN; PROVIDING THAT IF A PLAN IS NOT APPROVED, A THREE-JUDGE PANEL APPOINTED BY THE SUPREME COURT SHALL APPROVE A PLAN; PROVIDING FOR A REDISTRICTING PLAN UPON ORDER BY THE COURT; AMENDING SECTION 1, CHAPTER 4, LAWS OF 2003, AND SECTIONS 5-1-101, 5-1-102, 5-1-106, 5-1-108, 5-1-109, AND 5-1-111, MCA; REPEALING SECTION 5-1-110, MCA; CONTINGENTLY REPEALING CHAPTER 3, LAWS OF 2003; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Redistricting criteria.** (1) Subject to federal law, legislative and congressional districts must be established on the basis of population.

(2) In the development of legislative districts, a plan is subject to the Voting Rights Act and must comply with the following criteria:

(a) The districts must be as equal as practicable, meaning to the greatest extent possible, within a plus or minus 1% relative deviation from the ideal population of a district as calculated from information provided by the federal decennial census. The relative deviation may be exceeded only when necessary to keep political subdivisions intact or to comply with the Voting Rights Act.

(b) The districts must be contiguous, meaning that the district must be in one piece. Areas that meet only at points of adjoining corners or areas separated by geographical boundaries or artificial barriers that prevent transportation within a district may not be considered contiguous.

(c) The districts must be compact, meaning that the compactness of a district is greatest when the length of the district and the width of a district are equal. A district may not have an average length greater than three times the average width unless necessary to comply with the Voting Rights Act.

(d) District boundaries must coincide with the boundaries of political subdivisions of the state to the

greatest extent possible. The number of counties and cities divided among more than one district must be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions must be divided before the less populous, unless the boundary is drawn along a county line which passes through a city.

(3) A district may not be drawn for the purposes of favoring a political party or an incumbent legislator or member of congress. The following data or information may not be considered in the development of a nonpartisan plan:

- (a) addresses of incumbent legislators or members of congress;
- (b) political affiliations of registered voters;
- (c) partisan political voter lists; or
- (d) previous election results, unless required as a remedy by a court.

(4) The initial and any subsequent legislative redistricting plans must be developed by the legislative services division under consultation with the districting and apportionment commission, the public, local government officials, legislators, and other interested parties and may incorporate comments gathered in public hearings. Except for the members of the judicial panel provided for in 5-1-109, a redistricting plan may not be submitted to the legislative services division by a member of the commission or by an outside third party.

Section 2. Section 5-1-101, MCA, is amended to read:

"5-1-101. Commission to redistrict and reapportion -- number of legislators. (1) In each session preceding each federal population census, a commission of ~~five~~ citizens, none of whom may be public officials, shall be selected as provided in 5-1-102 to prepare the plans for redistricting and reapportioning the state into legislative and congressional districts.

(2) The plans for redistricting and reapportionment of legislative districts must be based on the number of members in the house of representatives and the senate to be determined in the legislative session before the census."

Section 3. Section 5-1-102, MCA, is amended to read:

"5-1-102. Composition of commission. (1) The majority and minority leaders of each house shall each designate one commissioner. A commissioner must be appointed from each district listed in subsection (2). The majority leader in the senate has first choice of the district from which the majority leader will select a commissioner, and the majority leader of the house has second choice. Within 20 days after their designation,

the four commissioners ~~shall~~ may select ~~the~~ a fifth member, who, if selected, shall serve as the presiding officer of the commission. If the four members fail to select the fifth member within the time prescribed, ~~a majority of the supreme court shall select the fifth member~~ the commission is composed of the four designated commissioners, who may alternate as presiding officer.

(2) The commission districts are the following counties:

(a) District 1: Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, and Ravalli;

(b) District 2: Lewis and Clark, Powell, Granite, Deer Lodge, Silver Bow, Jefferson, Broadwater, Meagher, Beaverhead, Madison, Gallatin, and Park;

(c) District 3: Glacier, Toole, Liberty, Hill, Blaine, Phillips, Valley, Daniels, Sheridan, Roosevelt, Richland, McCone, Garfield, Petroleum, Fergus, Judith Basin, Cascade, Chouteau, Teton, and Pondera; and

(d) District 4: Wheatland, Golden Valley, Musselshell, Treasure, Rosebud, Custer, Prairie, Dawson, Wibaux, Fallon, Carter, Powder River, Big Horn, Yellowstone, Carbon, Stillwater, and Sweet Grass."

Section 4. Section 5-1-106, MCA, is amended to read:

"5-1-106. Legislative services division to provide technical and clerical services. (1) The executive director of the legislative services division, under the direction of the commission, shall provide the technical staff and clerical services that the commission, the legislature, or the panel provided for in 5-1-109 needs to prepare ~~its~~ districting and apportionment plans.

(2) The legislative services division shall obtain from the United States bureau of the census the population data needed for redistricting that the census bureau is required to provide this state under Public Law 94-171.

(3) The legislative services division shall gather information from interested parties in each of the regions and develop alternative plans for consideration by the commission. The commission shall select a plan to be presented for consideration at the regional public hearings."

Section 5. Section 5-1-108, MCA, is amended to read:

"5-1-108. Public hearing hearings on plans. (1) Before the commission files its final congressional redistricting plan with the secretary of state, the commission shall hold at least one public hearing on it.

(2) Before the commission submits its legislative redistricting plan to the legislature, it shall hold at least four regional public hearings on a tentative plan and one public hearing on the entire plan at the state capitol. The commission shall hold the final public hearing at least 15 days but not more than 30 days prior to its submission

to the legislature.

~~(3) The commission may hold other hearings as it deems necessary."~~

Section 6. Section 5-1-109, MCA, is amended to read:

"5-1-109. Submission of plan for legislative redistricting to legislature -- legislative action -- judicial panel. (1) The commission shall submit ~~its~~ a nonpartisan legislative redistricting plan, including a recommendation for assignment of holdover senators, to the legislature by the 10th legislative day of the first regular session after its appointment or after the census figures are available.

(2) Within 15 legislative days after submission, the legislature shall consider the legislative redistricting plan, including assignment of holdover senators, for approval by resolution without amendment, unless purely corrective in nature. If the plan is approved, it must be submitted to the secretary of state and it becomes law. If the plan is not approved, then the legislature shall direct the legislative services division to prepare a second nonpartisan plan based on information transmitted by both houses. Both houses shall specify the concerns to be addressed, if any, in the second plan, and the legislative services division shall issue a report stating how each concern was addressed or not addressed and the reasons for the action taken regarding each concern. The legislative services division shall prepare the second plan within time constraints that will allow both houses of the legislature sufficient time to take action on the plan within 21 legislative days of the first plan's rejection.

(3) If the second plan is approved, it must be submitted to the secretary of state and it becomes law. If the second plan is not approved, then the legislature shall direct the legislative services division to prepare a third nonpartisan plan based on information transmitted by both houses. Both houses shall specify the concerns to be addressed, if any, in the third plan, and the legislative services division shall issue a report stating how each concern was addressed or not addressed and the reasons for the action taken regarding each concern. The legislative services division shall prepare the third plan within the time constraints that will allow both houses of the legislature sufficient time to take action on the plan within 21 legislative days of the second plan's rejection. The third plan is subject to amendment by the legislature.

(4) If third plan is approved, it must be submitted to the secretary of state and it becomes law. If the third plan is not approved and submitted within 21 legislative days, the plans must be transmitted to a three-judge panel of district court judges who are appointed by the supreme court from three different judicial districts. The panel shall adopt a plan from any of the previous plans prepared or direct the legislative services division to prepare a nonpartisan legislative redistricting plan to be adopted within 45 calendar days of the third rejection. The panel shall file its final plan for legislative districts with the secretary of state and it becomes law.

(5) The legislature or the panel provided for in subsection (4) shall assign holdover senators as provided in [section 7] and submit the assignment as part of the final plan as provided in 5-1-109.

(6) A redistricting plan that has become law and that must be revised by order of a court must be revised by the legislative services division and presented to the legislature at the earliest opportunity to follow the process as provided in subsections (2) through (5)."

Section 7. Section 5-1-111, MCA, is amended to read:

"5-1-111. Final plan -- dissolution of commission. (1) Within 90 days after the official final decennial census figures are available, the commission shall file its final plan for congressional districts with the secretary of state and it ~~shall become~~ becomes law.

~~(2) Within 30 days after receiving the legislative redistricting plan and the legislature's recommendations, the commission shall file its final legislative redistricting plan with the secretary of state and it shall become law.~~

~~— (3) Upon filing both plans, Upon filing the congressional plan and submitting a legislative plan to the legislature, as provided in 5-1-109, the commission shall be~~ is dissolved."

Section 8. Section 1, Chapter 4, Laws of 2003, is amended to read:

"Section 1. Assignment of holdover senators. (1) In the session in which the legislative redistricting plan is submitted to the legislature for recommendations, the legislature, ~~by joint resolution,~~ shall assign holdover senators to a district for the remainder of those senators' terms. The districting and apportionment commission may not assign holdover senators to districts for the remainder of those senators' terms but may only make a recommendation. The assignments must ~~occur after the~~ be submitted as a part of the redistricting plan becomes law as provided in 5-1-109.

(2) In making the assignments provided for in subsection (1), the legislature, if possible, shall assign a holdover senator to a district based upon the greatest percentage of population in the new district that ~~voted~~ had the opportunity to vote for the senator in the prior election and the senator's residence.

(3) For the purposes of this section, a holdover senator is a senator who is not required to seek election at the general election held immediately following the districting plan becoming law."

NEW SECTION. **Section 9. Repealer.** Section 5-1-110, MCA, is repealed.

NEW SECTION. **Section 10. Codification instruction.** [Section 1] is intended to be codified as an

integral part of Title 5, chapter 1, part 1, and the provisions of Title 5, chapter 1, part 1, apply to [section 1].

NEW SECTION. Section 11. Coordination instruction -- contingent repealer. (1) If [LC856] is not passed and approved at the general election to be held in November 2004, then [sections 2 through 9] in this act are void.

(2) If this act is passed and approved and [LC856] is passed and approved at the general election to be held in November 2004, then Chapter 3, Laws of 2003, is repealed.

(3) If this act is passed and approved and [LC856] is not passed and approved at the general election to be held in November 2004, then Chapter 3, Laws of 2003, is repealed.

NEW SECTION. Section 12. Applicability. [This act] applies to proceedings begun after [the effective date of this act] for the redistricting based on the 2010 decennial census.

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