CACR 19 - AS AMENDED BY THE HOUSE

14Mar2024... 0910h

2024 SESSION

24-2746
02/05

CONSTITUTIONAL AMENDMENT
CONCURRENT RESOLUTION ***19***

RELATING TO: redistricting.

PROVIDING THAT: an independent redistricting commission shall be established to draw boundaries for state and federal offices.

SPONSORS: Rep. Schuett, Merr. 12; Rep. Lane, Merr. 16; Rep. Brennan, Merr. 9; Sen. Whitley, Dist 15; Sen. Perkins Kwoka, Dist 21

COMMITTEE: Election Law

ANALYSIS

This constitutional amendment concurrent resolution establishes an independent redistricting commission to draw the boundaries for state and federal elections.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type

CACR 19 - AS AMENDED BY THE HOUSE

14Mar2024... 0910h 24-2746
02/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

CONCURRENT RESOLUTION PROPOSING CONSITUTIONAL AMENDMENT

RELATING TO: redistricting.

PROVIDING THAT: an independent redistricting commission shall be established to draw boundaries for state and federal offices.

Be it Resolved by the House of Representatives, the Senate concurring, that the Constitution of New Hampshire be amended as follows:

I. That the second part of the constitution be amended by inserting after article 8 the following new article:

[Art.] 8-a. [Independent Redistricting Commission.] An Independent Redistricting Commission whose function is to draw election district boundaries for all state and federal elections in New Hampshire is essential to ensure a robust democratic process. Therefore:

(a) There is hereby established a nonpartisan Independent Redistricting Commission which shall be charged with establishing all election district boundaries for all state and federal elections in New Hampshire. This Commission is established so that henceforth elections shall reflect to the greatest extent possible the wishes of the voters of New Hampshire by eliminating partisan distortions of electoral districts.

(b) The Commission shall consist of members of the public. A person shall be eligible for appointment to the Commission if the person has been a resident of New Hampshire for 2 years, is eligible to register to vote in New Hampshire, and does not currently hold office or is not a candidate for and has not served in any of the following offices for the last 10 years: the United States House of Representatives, United States Senate, New Hampshire house of representatives, New Hampshire senate, governor, executive council, or a county commission.

(c) The secretary of state shall begin the process of gathering a pool of applicants for the commission no later than October 1 of each year ending in zero by taking efforts that the secretary of state deems appropriate to notify all eligible persons and invite them to apply. These efforts shall include:

(1) Advertising the application period and criteria in the newspapers in the state.

(2) Advertising the application period and criteria on the home page of state agency websites, including those of the secretary of state and the Commission.

(3) Requesting media to publicize the Commission's search for eligible members.

(d) A person who is eligible to serve as a member of the Commission may submit an application to the secretary of state no later than December 1 of each year ending in the number zero. Such applications shall include the following:

(1) Whether the applicant or an applicant's immediate family has, in the preceding 10 years, registered as a lobbyist, served as an officer, paid consultant, or contractor of a campaign committee, political committee, or state-level political party, or served as a staff member, paid consultant, or contractor for an elected official or candidate for public office. For purposes of this article, "immediate family" shall mean spouse, children, parents, siblings, and siblings' spouses' children.

(2) What elective offices, if any, the applicant or applicant's immediate family has held in the past 10 years.

(3) In which elections the applicant has voted the past 10 years, and if the applicant has voted in a state primary election or a presidential primary election in New Hampshire in the past 6 years.

(4) A sworn statement under oath, subject to the penalty of perjury, that the applicant will comply with the redistricting criteria in the constitution and the laws of New Hampshire.

(e) The commission shall be selected from the pool of applicants by a panel of 4 retired superior court or supreme court judges chosen by the secretary of state. If a retired judge is disqualified from serving as a commissioner, the judge is also disqualified from serving on the panel. The panel shall not include more than two retired judges of the same party. The panel shall review the applicants and create a pool of no more than 60 applicants (20 Republicans, 20 Democrats, and 20 undeclared voters). The panel shall interview the applicants and allow for public comment on applicants before creating a pool of 45 finalists that is equally divided between Republicans, Democrats, and undeclared voters and represents the state both geographically and demographically. Six commissioners (2 Republicans, 2 Democrats, and 2 undeclared voters) shall be randomly selected by the panel. The 6 commissioners so selected shall together select the remaining 3 commissioners from the remaining pool of applicants with the goal of balancing the commissioners geographically and demographically. The 6 commissioners shall randomly select applicants from the pool, with at least 4 commissioners agreeing upon each of the 3 remaining commissioners. No commissioner shall initiate communications or reply to communications about the selection process of the remaining commissioners with outside persons attempting to influence commissioners or commission action.

(f) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the Commission may be removed by the Governor with the concurrence of two-thirds of the members of the Senate after having been served written notice and provided with an opportunity for a response. The remaining members shall replace the removed member with another member of the public from the same political party as the removed member.

(g) The terms of all Commissioners shall be for ten years. A member may be re-appointed upon the expiration of his or her term, to serve a maximum of two terms. The members shall elect annually a chairperson from among the members.

(h) No Independent Redistricting Commission member shall make a contribution to any candidate for office or political committee during the time he or she serves on the Commission.

(i) The Commission shall be authorized to conduct the redistricting of the State required by the state Constitution in the year after the results of the decennial federal census. The Commission shall establish single or multi-member districts for the New Hampshire House of Representatives, and single member districts for the New Hampshire Senate, Executive Council and U.S. Congressional offices using the following criteria in the following order of priority:

(1) Districts shall comply with the United States Constitution and all applicable federal laws. Districts shall be drawn on the basis of total population.

(2) Districts shall comply with the New Hampshire constitution and all applicable state laws.

(3) Districts shall be geographically contiguous.

(4) Districts shall provide racial minorities and language minorities with an equal opportunity to participate in the political process and shall not diminish their ability to elect candidates of choice whether alone or in coalition with others.

(5) Districts shall respect the integrity of communities of interest to the extent practicable. A community of interest is defined as an area with recognized similarities of interests, including, but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities. Communities of interest shall not include common relationships with political parties or political candidates.

(6) Districts shall form single congeries and shall not be bisected or otherwise divided by other districts, and districts shall respect the geographic integrity of political boundaries to the extent practicable without violating the requirements of state law or this Constitution.

(7) The plan as a whole shall not have the intent or the effect of unduly favoring or disfavoring any political party or incumbent or candidate for political office.

(8) Districts shall be drawn, if possible, in compact shapes and shall avoid jagged edges and extensions.

(j) The Commission shall create an approved plan on or before December 15 of a year ending in 1 with a vote of at least 7 members, with at least one Democrat, one Republican, and one undeclared member voting in favor of the final plan. Upon completion, the Commission shall certify the final plan to the Secretary of State, and provide copies to the Speaker of the New Hampshire House of Representatives and the president of New Hampshire Senate.

(k) If the Commission fails to adopt and file a redistricting plan by December 15 of the odd year following a federal decennial census, the New Hampshire Supreme Court shall appoint, by

January 15 of the year ending in 2, a special master to create a plan in accordance with the redistricting criteria and requirements set forth in subparagraph (i). The Supreme Court shall make the special master's plan public and schedule a hearing where interested parties may present testimony and other evidence regarding the plan's compliance with redistricting criteria. The Supreme Court shall modify or adopt the proposed plan no later than April 1 of the year ending in 2 and certify the results to the Secretary of State, which shall constitute the final certified plan.

(l) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged or is claimed not to have taken timely effect. Any registered voter in this State may file a petition, within forty-five days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute. The New Hampshire Supreme Court shall give priority to ruling on any matter related to redistricting presented to the Court. If the Court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the Court shall fashion the relief that it deems appropriate, including, but not limited to, the relief set forth in subparagraph (k).

II. That article 9 of the second part of the constitution be amended to read as follows:

[Art.] 9. [Representatives Elected Every Second Year; Apportionment of Representatives.] There shall be in the Legislature of this State a House of Representatives, biennially elected and founded on principles of equality, and representation therein shall be as equal as circumstances will admit. The whole number of representatives to be chosen from the towns, wards, places, and representative districts thereof established hereunder, shall be not less than three hundred seventy-five or more than four hundred. As soon as possible after the convening of the next regular session of the Legislature, and at the session in 1971, and every ten years thereafter, the [~~legislature~~] ***Independent Redistricting Commission*** shall make an apportionment of representatives according to the last general census of the inhabitants of the State taken by authority of the United States or of this State. In making such apportionment, no town, ward or place shall be divided nor the boundaries thereof altered.

III. That article 11 of the second part of the constitution be amended to read as follows:

[Art.] 11. [Small Towns; Representation by Districts.] When the population of any town or ward, according to the last federal census, is within a reasonable deviation from the ideal population for one or more representative seats, the town or ward shall have its own district of one or more representative seats. The apportionment shall not deny any other town or ward membership in one non-floterial representative district. When any town, ward, or unincorporated place has fewer than the number of inhabitants necessary to entitle it to one representative, the [~~legislature~~] ***Independent Redistricting Commission*** shall form those towns, wards, or unincorporated places into representative districts which contain a sufficient number of inhabitants to entitle each district

so formed to one or more representatives for the entire district. In forming the districts, the boundaries of towns, wards, and unincorporated places shall be preserved and contiguous. The excess number of inhabitants of ***a*** district may be added to the excess number of inhabitants of other districts to form at-large or floterial districts conforming to acceptable deviations. The [~~legislature~~] ***Independent Redistricting Commission*** shall form the representative districts at the regular session following every decennial federal census.

IV. That article 26 of the second part of the constitution be amended to read as follows:

[Art.] 26. [Senatorial Districts, How Constituted.] And that the State may be equally represented in the Senate, the Legislature shall divide the State into single member districts, as nearly equal as may be in population, each consisting of contiguous towns, city wards and unincorporated places, without dividing any town, city ward or unincorporated place. The [~~legislature~~] ***Independent Redistricting Commission*** shall form the single member districts at its next session after approval of this article by the voters of the state and thereafter at the regular session following each decennial federal census.

V. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2024.

VI. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2024 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2024 session of the general court shall be approved.

VII. That the wording of the question put to the qualified voters shall be:

"Are you in favor of amending the second part of the Constitution by inserting after article 8 a new article 8-a, and by amending articles 9, 11, and 26 to read as follows:

[Art.] 8-a. [Independent Redistricting Commission.] An Independent Redistricting Commission whose function is to draw election district boundaries for all state and federal elections in New Hampshire is essential to ensure a robust democratic process. Therefore:

(a) There is hereby established a nonpartisan Independent Redistricting Commission which shall be charged with establishing all election district boundaries for all state and federal elections in New Hampshire. This Commission is established so that henceforth elections shall reflect to the greatest extent possible the wishes of the voters of New Hampshire by eliminating partisan distortions of electoral districts.

(b) The Commission shall consist of members of the public. A person shall be eligible for appointment to the commission if the person has been a resident of New Hampshire for 2 years, is eligible to register to vote in New Hampshire, and does not currently hold office or is not a candidate for and has not served in any of the following offices for the last 10 years: the United States House of Representatives, United States Senate, New Hampshire house of representatives, New Hampshire senate, governor, executive council, or a county commission.

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(2) What elective offices, if any, the applicant or applicant's immediate family has held in the past 10 years.

(3) In which elections the applicant has voted the past 10 years, and if the applicant has voted in a state primary election or a presidential primary election in New Hampshire in the past 6 years.

(4) A sworn statement under oath, subject to the penalty of perjury, that the applicant will comply with the redistricting criteria in the constitution and the laws of New Hampshire.

(e) The Commission shall be selected from the pool of applicants by a panel of 4 retired superior court or supreme court judges chosen by the secretary of state. If a retired judge is disqualified from serving as a commissioner, the judge is also disqualified from serving on the panel. The panel shall not include more than two retired judges of the same party. The panel shall review the applicants and create a pool of no more than 60 applicants (20 Republicans, 20 Democrats, and 20 undeclared voters). The panel shall interview the applicants and allow for public comment on applicants before creating a pool of 45 finalists that is equally divided between Republicans, Democrats, and undeclared voters and represents the state both geographically and demographically. Six commissioners (2 Republicans, 2 Democrats, and 2 undeclared voters) shall be randomly selected by the panel. The 6 commissioners so selected shall together select the remaining 3 commissioners from the remaining pool of applicants with the goal of balancing the commissioners geographically and demographically. The 6 commissioners shall randomly select applicants from the

pool, with at least 4 commissioners agreeing upon each of the 3 remaining commissioners. No commissioner shall initiate communications or reply to communications about the selection process of the remaining commissioners with outside persons attempting to influence commissioners or commission action.

(f) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the Commission may be removed by the Governor with the concurrence of two-thirds of the members of the Senate after having been served written notice and provided with an opportunity for a response. The remaining members shall replace the removed member with another member of the public from the same political party as the removed member.

(g) The terms of all Commissioners shall be for ten years. A member may be re-appointed upon the expiration of his or her term, to serve a maximum of two terms. The members shall elect annually a chairperson from among the members.

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(l) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged or is claimed not to have taken timely effect. Any registered voter in this State may file a petition, within forty-five days after the Commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute. The New Hampshire Supreme Court shall give priority to ruling on any matter related to redistricting presented to the Court. If the Court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the Court shall fashion the relief that it deems appropriate, including, but not limited to, the relief set forth in subparagraph (k).

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[Art.] 26. [Senatorial Districts, How Constituted.] And that the State may be equally represented in the Senate, the Legislature shall divide the State into single member districts, as nearly equal as may be in population, each consisting of contiguous towns, city wards and unincorporated places, without dividing any town, city ward or unincorporated place. The [~~legislature~~] ***Independent Redistricting Commission*** shall form the single member districts at its next session after approval of this article by the voters of the state and thereafter at the regular session following each decennial federal census.

VIII. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2024 General Court" shall be printed in bold type at the top of the ballot.

IX. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

X. Voters' Guide.

AT THE PRESENT TIME, the state legislature apportions state representatives according to the last United States census or state census.

IF THE AMENDMENT IS ADOPTED, election district boundaries for all state and federal elections in the state shall be established by a nonpartisan Independent Redistricting Commission.