

Senate Election Law and Internal Affairs Committee

Kelly Flathers 271-3093

SB 107, establishing an independent redistricting commission.

Hearing Date: February 14, 2017

Time Opened: 9:45 a.m.

Time Closed: 10:10 a.m.

Members of the Committee Present: Senators Birdsell, Gray, Soucy and Woodburn

Members of the Committee Absent: Senator Sanborn

Bill Analysis: This bill establishes an independent legislative redistricting commission to prepare a plan of apportionment of representative and senatorial districts following each decennial census.

Sponsors:

Sen. Lasky

Sen. Fuller Clark

Sen. Feltes

Sen. Hennessey

Sen. Kahn

Sen. McGilvray

Sen. Soucy

Sen. Watters

Sen. Woodburn

Rep. Cote

Who supports the bill: Sen. Martha Fuller Clark - District 21; Sen. David Watters - District 4; Sen. Jay Kahn - District 10; Liz Tentarelli - League of Women Voters NH; Sen. Bette Lasky - District 13; Sherry Dutzy - Self; Sylvia Gale - Self; Mary Till - Self; Michelle Sanborn - Self; Olivia Zink - Open Democracy NH Rebellion; Dan Weeks - Self; Cordell Johnston - NH Municipal Association; Tim McKernan - Granite State Progress; Fred Portnoy - Self; Richard L. Bouley - Teamsters Local 633

Who opposes the bill: Darryl W. Perry - Liberty Lobby LLC

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Bette Lasky – District 13

- Every 10 years, following the census, states redraw the boundaries for legislative and congressional districts. This has become a process where the party in power gets to make the rules and manipulate the numbers and lines to favor their candidates.
- Even the Supreme Court has ruled that partisan gerrymandering is

incompatible with democratic principles.

- Legislatures alone still draw the political boundaries in 37 states; NH is one of them. Other states use a combination of independent commissions and legislative decision making. This bill would establish an independent redistricting commission to develop a plan to redraw districts based on the most recent census.
- The plan shall conform to the NH Constitution and relevant provisions in the US Constitution.
- The Commission shall forward the plan to the Speaker of the House and President of the Senate, and shall include proposals for legislation necessary to carry out the plan. There are standards in the bill, a timetable for preparation, and time for public comment.
- Current law permits the drawing of district lines using subjective, politically charged criteria. Current practice also shuts out public scrutiny and participation. This bill would mandate transparency and objectivity.

Sen. Soucy

- (Q) This proposal would not take the legislature out of the process, but would establish a committee that would provide the legislature with a report, correct?
 - (A) **Sen. Lasky:** Correct. There are several steps that bring the legislature back into the process.

Liz Tentarelli – President, League of Women Voters NH

- I'm speaking in support of this bill.
- We've been studying redistricting for a long time. I want to remind the committee of 2001, when redistricting went so badly that the NH Supreme Court stepped in and redid it for 2002.
- In 2011, redistricting was done in secret to the point where many legislators were not aware of the details. When public hearings were held around the state, the legislators presenting were unable to tell the assembled voters what the plan was. Public input and transparency are important.
- A lack of confidence in the legislature's ability to determine districts fairly and without partisan bias leads to a disinclination to participate in elections. The legislature's public reputation will be at stake, especially in a small state like ours.
- The executive council districts are not included in this plan, which we believe is an omission. We suggest an amendment to include the executive council districts.
- An independent redistricting commission is a forward looking move. At least 14 states have an independent redistricting commission with primary responsibility for drawing a plan. 5 other states have an advisory commission that may assist the legislature. 5 more states have backup commissions that

will make the decision if the legislature is unable to agree. Iowa has a legislative staff that draws plans without any political or election data. This is done in various ways across the country.

- Arizona is predominately Republican and California is predominately Democratic, but both report that elections have become more competitive since redistricting. That competition is part of the reason for having an independent commission.
- In state legislative districts, 43% of them had only one party running in states where legislators controlled redistricting. In 32% of the districts in those states, just one person sought nomination at all. Where we have independent redistricting commissions, many more districts are competitive.
- I have included in my testimony additional information.

Olivia Zink – NH Rebellion

- I am speaking in support of this bill.
- I am distributing a letter from one of our board members, Bob Perry.
- This bill is consistent with the NH Constitution and the recommendations of the independent redistricting commission would be advisory.
- The legislature and the Governor ultimately determine which, if any plan, is adopted.
- This bill is also consistent with the 2006 amendment to the NH Constitution requiring that each town with significant population have their own representation, which was passed with 68% voter approval.
- The theory of one person, one vote is violated when districts are manipulated for partisan purposes.
- The one person, one vote standard was upheld unanimously in 2016 in the US Supreme Court.

Dan Weeks – Self

- I am speaking in support of this bill.
- We know that redistricting has been a means for a couple of centuries for political parties in power to cement their majorities in legislatures. This is something that both parties have engaged in.
- The districts drawn in 2010 did favor Republicans, with Democrats underperforming in their total share of seats in the NH Senate compared to the number of total votes cast.
- In some cases, Democrats have received more votes statewide while losing significantly in the elected membership of those bodies.
- I don't blame this on nefarious practices by the Republican Party. With Democrats tending to do better in presidential years, this could be a moment for compromise between both parties, where Democrats stand a reasonable chance to perform well in 2020.

- Taking the process out of partisan hands will help our democracy.
- More than 90% of congressional districts are locked up for one party or the other. Scholars document that members of the extreme wings of both parties fare better because primaries are the only races that really matter in these districts. The inability in Washington to compromise where necessary on certain measures is to blame for this.
- On a smaller scale, we have a moment where we can reach a reasonable compromise that more than a dozen states have already done by taking this out of partisan hands.

Sen. Woodburn

- (Q) Shouldn't every district be as competitive as possible?
 - (A) **Dan Weeks:** I believe competition should be prioritized. It is also important that the total reflection in the likely makeup of the bodies that reflects the partisan registration of the state. Other states have also prioritized maintaining historically contiguous and unified communities.

Summary of testimony presented in opposition:

Darryl Perry – CEO, Liberty Lobby LLC

- I am speaking in opposition to this bill as written, not the concept of an independent redistricting commission.
- This bill does not require anyone other than a Republican or a Democrat to be appointed. There is nothing that requires a majority of the members of each political party to agree to the plan. You could wind up with a plan that is voted on 4-3 along party lines.
- The committee should look at what they have in California. Their independent redistricting commission requires 5 members of the Republican Party, 5 members of the Democratic Party, and 4 members of other political parties, and you need a minimum of 9 votes to pass anything.
- Just because something is open to the public doesn't mean that the public will show up or that public input is taken into consideration by the body that hears it.
- I suggest a study committee to look at different options.

Neutral Information Presented: None

Future Action: Pending

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Date Hearing Report completed: February 17, 2017