HOUSE BILL 706-FN-A

AN ACT establishing an independent redistricting commission.


COMMITTEE: Election Law

ANALYSIS

This bill establishes an independent redistricting commission.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT establishing an independent redistricting commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Independent Redistricting Commission. Amend RSA by inserting after chapter 662-A the following new chapter:

CHAPTER 662-B

INDEPENDENT REDISTRICTING COMMISSION

662-B:1 Independent Redistricting Commission Established. There is hereby established a New Hampshire independent redistricting commission ("commission"), that shall convene no later than July 1, 2021, and every 10 years thereafter, in order to:

I. Conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines.

II. Draw district lines according to the redistricting criteria specified in this chapter.

III. Conduct its business with integrity and fairness.

662-B:2 Eligibility to Serve on the Commission. A person shall be eligible for appointment to the commission if the person is eligible to register to vote in New Hampshire and if the person does not currently hold office in the United States House of Representatives, New Hampshire senate, New Hampshire house of representatives, executive council, or a county commission.

662-B:3 Appointment of Commissioners.

I. The secretary of state shall identify the pool of eligible commissioners. He or she shall, to the extent practicable, notify all eligible persons and invite them to apply. These efforts may include:

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

(b) Advertising the application period and criteria on the home page of state agency websites.

(c) Requesting media to publicize the commission’s search for eligible members.

(d) Publicizing the application period and criteria in the New Hampshire house and senate calendars.

II. 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 February 1 of each year ending in the number one. Such application shall include the following information:

(1) Whether the applicant has registered as a lobbyist in the preceding 10 years.
(2) What elective offices, if any, the applicant has held in New Hampshire in the preceding 10 years.

(3) If the applicant has voted in a state primary election or presidential primary election in New Hampshire in the preceding 6 years, which political party’s ballots the applicant has taken.

(b) From all eligible applications received, the senate and house leaders from the majority party in the house shall nominate 10 applicants from the majority party in the house, and the senate and house leaders from the largest minority party in the house shall nominate 10 applicants from the largest minority party in the house. The senate and house leaders from the majority party in the house shall chose 5 members from the 10 applicants so selected from largest minority party in the house to serve on the commission. The senate and house leaders from the largest minority party in the house shall chose 5 members from the 10 applicants so selected from the majority party in the house to serve on the commission.

(c) The 10 commissioners so selected shall together select 5 commissioners from the applicants who are not members of the majority party in the house or the largest minority party in the house. The 10 commissioners may not initiate communications or reply to communications about the selection process of the remaining 5 commissioners with outside persons attempting to influence commissioners or commission action. The process of selecting the 5 commission members not affiliated with the majority party in the house or the largest minority party in the house is not subject to the right-to-know law in RSA 91-A.

III. 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, after being served written notice and given an opportunity for a response, be removed by a vote of 11 members of the commission. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the New Hampshire attorney general for criminal prosecution.

IV. Vacancies on the commission shall be filled when they occur by the commission selecting, by a vote of 11 members, a new member from among the original pool of applicants of the same political party as the vacated commissioner seat still willing to serve or by seeking a replacement in the same manner as initial appointments.

V. The term of office of commission members expires 2 years after the final enactment of the redistricting plan into law.

662-B:4 Commission Meetings.

I. The commission shall act in public meetings by the affirmative vote of at least 9 members.

II. All meetings of the commission shall be open to the public. The commission shall publicly post notice of its meetings on the commission website and other appropriate outlets at least 7 days prior to such meetings. All records of the commission, including all communications to or
from the commission regarding the work of the commission, shall be made available for public
inspection.

III. The commission shall hold at least one public meeting in each county prior to drawing
any maps and at least one public meeting in each county after releasing any proposed maps.

IV. The commission shall create a website that shall provide, at a minimum, a description of
the role of the commission in the redistricting process, timely information to the public about the
time, place, and purpose of each meeting of the commission, reports, minutes, and such other
information that will support an open and transparent process.

V. The commission shall provide a meaningful opportunity for all persons to participate in
the public meetings. Meetings shall be held only in spaces that are accessible under the Americans
with Disabilities Act of 1990, as amended.

VI. Commission meetings shall be adequately advertised and planned so as to encourage
attendance and participation across the state. This includes scheduling meetings outside of regular
work hours.

VII. The commission shall be considered a public body subject to RSA 91-A. No documents
created or received by the commissioners or staff as part of official duties, including emails and text
messages, shall be exempt from disclosure for any privilege other than attorney-client privilege.

VIII. Commissioners and staff may not initiate communications or reply to communications
about commission business with outside persons attempting to influence commissioners or
commission action outside of public meetings. To the extent that commissioners and staff receive
such communications, the identity of the person or group and the subject of the communication shall
be publicly disclosed on the commission website.

662-B:5 Developing Redistricting Maps.

I. During the map drawing process, any member of the public may submit maps or portion of
maps for consideration by the commission in a portable document format suitable for archiving
(PDF/A) format, or other format approved by the secretary of state. These submissions shall be
made publicly available and shall include the name of the person making the submission.
Electronically submitted maps may be posted on the commission website.

II.(a) The commission shall post proposed maps in a manner determined by the commission,
provided that such display shall include posting on the commission website for a minimum of 7 days
for public comment and by distribution to the news media in a manner designed to achieve the
widest public access reasonably possible before establishing a final plan. Additionally, the efforts to
achieve access may include but not be limited to:

(1) Advertising the availability of the proposed maps in daily newspapers in the
state.

(2) Advertising the availability of the proposed maps on the home page of state
agency websites.
(3) Requesting media to publicize the availability of the proposed maps.

(b) When releasing a proposed map, the commission shall also release the data used to create the plan, such as population data, geographic data, and election data.

III. The commission shall issue with the proposed and final maps written evaluations that measure the maps against external metrics, and may include efficiency gap and compactness. These metrics shall cover all criteria set forth in RSA 662-B:6.

IV.(a) No later than December 20 of any year ending in one, the commission shall submit final plans for New Hampshire county commission, house, senate, executive council, and congressional districts to the senate president, speaker of the house of representatives, and senate and house minority leaders.

(b) If a chamber of the legislature fails to pass the final plans for any of the districts, the commission shall review the legislative record. The commission shall then amend the final plans after reviewing the legislative record, and resubmit the plans to the legislature.

(c) When the legislature passes final redistricting plans the plans shall be filed with the secretary of state.

662-B:6 Redistricting Criteria.

I. The commission shall establish single or multi-member districts for the New Hampshire county commissions, house of representatives, and single member districts for the New Hampshire senate, executive council, and United States representative, using the following criteria as set forth in the following order of priority:

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

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

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

(d) Districts shall be drawn in compact shapes and shall avoid jagged edges and extensions.

(e) Commissioners shall consider the integrity of communities of interest to the extent practicable. For purposes of this section 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.

II.(a) The plan as a whole shall not have the intent or the effect of unduly favoring or disfavoring any political party, incumbent, or candidate for political office.
(b) Districts shall not have the intent or the effect of unduly favoring or disfavoring any racial or language group.

662-B:7 Failure of Legislature to Reach Consensus. If a redistricting plan is not enacted, any registered voter may file a petition with the New Hampshire supreme court. The supreme court may appoint a special master to create the relevant plans, upon its determination that no redistricting plan will be validly enacted in time for the upcoming election. If the court creates a redistricting plan, nothing in this section shall prevent a subsequent legislature from enacting an otherwise lawful redistricting plan.

662-B:8 Judicial Review. Any registered voter in this state may file a petition within 45 days after adoption of a final map on the grounds that the plan violates any federal or state law.

662-B:9 Compensation. Members of the commission shall receive mileage reimbursement at the federal rate for expenses incurred in connection with the duties performed pursuant to this chapter.

662-B:10 Financial Independence.

I. For the fiscal year ending June 30, 2021, the governor may draw a warrant out of sums not otherwise appropriated to fund expenses of the commission established pursuant to this chapter.

II. For each subsequent biennium preceding the decennial census, the governor shall include in his or her budget recommendation appropriations sufficient to meet the estimated expenses of the commission, including but not limited to adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process and adequate office space available for the operation of the commission.

662-B:11 Secretary of State to Provide Support. The secretary of state shall provide such administrative and staff support as is necessary for the commission to perform its duties.

2 Effective Date. This act shall take effect upon its passage.

VETOED August 9, 2019
Veto Sustained September 18, 2019
AN ACT establishing an independent redistricting commission.

FISCAL IMPACT:  [ X ] State  [ ] County  [ ] Local  [ ] None

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The Judicial Branch and Department of Justice were originally contacted on January 8, 2019, with follow up on January 15, 2019 for a fiscal note worksheet, which they have not provided as of February 12, 2019.

METHODOLOGY:

This bill creates an independent redistricting commission to convene no later than December 30th every 10 years, beginning in 2020. The Secretary of State would identify the pool of eligible individuals to serve as commissioners, notify such eligible persons and invite them to apply, and use advertisements and media to publicize the search for eligible members. The Secretary of State shall select 60 qualified individuals from this process and further interview and screen these individuals to offer a list of 30 individuals to the House and Senate majority and minority leaders of the General Court for further review and selection, and the Secretary shall then appoint 9 members who will appoint the final 6 members. The Secretary of State shall provide administrative and staff support to the commission.

The Department of State indicates the process of selection of commissioners is involved and would be concurrent with election responsibilities, which may necessitate additional staff. Actual costs are indeterminable at this time.

The Legislative Branch assumes additional costs associated with independent commission member mileage reimbursement would be addressed through appropriations to the Secretary of State's Office. Expenses of the leadership of the General Court in striking applicants and voting on final plans could be absorbed without additional legislative funding.
AGENCIES CONTACTED:

Departments of State and Justice, Legislative and Judicial Branches