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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5404

04/18/2024 Authored by Torkelson, Demuth, O'Driscoll, Dotseth, Fogelman and others
The bill was read for the first time and referred to the Committee on Elections Finance and Policy

1.1 A bill for an act
1.2 relating to the legislature; proposing an amendment to the Minnesota Constitution,
1.3 article IV, section 3; by adding an article XV; establishing a Bipartisan Redistricting
1.4 Commission; establishing principles to be used in adopting legislative and
1.5 congressional districts; amending Minnesota Statutes 2022, section 10A.01,
1.6 subdivision 35; proposing coding for new law in Minnesota Statutes, chapter 2.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 ARTICLE 1
1.9 BIPARTISAN REDISTRICTING COMMISSION

1.10 Section 1. CONSTITUTIONAL AMENDMENTS PROPOSED.

1.11 An amendment to the Minnesota Constitution is proposed to the people. If the amendment
1.12 is adopted, article IV, section 3, will read:

1.13 ~~Sec. 3. At its first session after each enumeration of the inhabitants of this state made~~
1.14 ~~by the authority of the United States, the legislature shall have the power to prescribe the~~
1.15 ~~bounds of congressional and legislative districts. Senators shall be chosen by single districts~~
1.16 ~~of convenient contiguous territory. No representative district shall be divided in the formation~~
1.17 ~~of a senate district. The senate districts shall be numbered in a regular series. A senate~~
1.18 ~~district must consist of two whole representative districts, labeled "A" and "B," respectively.~~

1.19 Article XV shall be added to read:

2.1 ARTICLE XV

2.2 BIPARTISAN REDISTRICTING COMMISSION

2.3 Section 1. By December 31, 2031, and by December 31 of each year following a federal
2.4 decennial census thereafter, a Bipartisan Redistricting Commission shall adopt boundaries
2.5 of congressional and legislative districts. The commission is established within the legislative
2.6 department and consists of members appointed as follows:

2.7 (1) two members must be appointed by the speaker of the house of representatives;

2.8 (2) two members must be appointed by the minority leader of the house of representatives;

2.9 (3) two members must be appointed by the majority leader of the senate; and

2.10 (4) two members must be appointed by the minority leader of the senate.

2.11 Sec. 2. The following individuals are ineligible to serve on the Bipartisan Redistricting
2.12 Commission:

2.13 (1) current federal, state, or local elected officials, and their immediate family members;

2.14 and

2.15 (2) current appointed officials who are otherwise defined by law as public officials and
2.16 their immediate family members.

2.17 Sec. 3. The commission must elect a chair, vice-chair, and other officers from among
2.18 its members, and may establish procedures to govern the conduct of its work, as it determines
2.19 necessary. A quorum of the commission is five members. The affirmative vote of six
2.20 members, including at least one member appointed by each appointing authority, is required
2.21 for the commission to adopt a redistricting plan.

2.22 A redistricting plan adopted by the commission is effective beginning at the state general
2.23 election held the second year following the federal decennial census and thereafter, until
2.24 new district plans are adopted. The commission expires when both legislative and
2.25 congressional redistricting plans have been adopted and filed with the secretary of state,
2.26 but may be reconstituted as provided by this constitution.

2.27 Following adoption of a redistricting plan, the commission may convene to make technical
2.28 corrections to the plan, until 25 weeks before the state primary election in the year ending
2.29 in two.

2.30 Sec. 4. The supreme court shall have exclusive, original jurisdiction in all cases alleging
2.31 that a redistricting plan adopted by the commission fails to comply with this article or other

3.1 applicable law. The commission shall have exclusive standing to defend any action
 3.2 challenging the adoption of a redistricting plan and, notwithstanding its expiration, may
 3.3 reconstitute itself under its own authority for this purpose.

3.4 If the supreme court or other court of jurisdiction determines that an adopted redistricting
 3.5 plan does not comply with the requirements of this article or other applicable law, the
 3.6 commission may be reconstituted by court order, or may reconstitute itself under its own
 3.7 authority, for the purpose of adopting a compliant plan. The membership of the reconstituted
 3.8 commission must be the same membership that adopted the noncompliant plan. If, after the
 3.9 commission has been reconstituted, the court finds that a newly adopted redistricting plan
 3.10 does not comply with the requirements of this article, the court may order other appropriate
 3.11 relief, including drawing and ordering new districts under the court's own authority.

3.12 **Sec. 2. SUBMISSION TO VOTERS.**

3.13 The proposed amendment must be submitted to the people at the 2024 state general
 3.14 election. The question submitted must be:

3.15 "Shall the Minnesota Constitution be amended to establish a Bipartisan Redistricting
 3.16 Commission, to adopt the boundaries of legislative and congressional districts after each
 3.17 decennial census?

3.18 Yes
 3.19 No "

3.20 **ARTICLE 2**
 3.21 **BIPARTISAN REDISTRICTING COMMISSION; STATUTORY**
 3.22 **IMPLEMENTATION**

3.23 **Section 1. [2.93] DISTRICTING PRINCIPLES.**

3.24 Subdivision 1. **Applicability.** The principles in this section apply to legislative and
 3.25 congressional districts. The Bipartisan Redistricting Commission established by the
 3.26 Minnesota Constitution, article XV, may adopt additional principles to be used in drawing
 3.27 districts. Additional principles adopted by the commission must not conflict with those
 3.28 identified in this section.

3.29 Subd. 2. **Nesting.** A representative district may not be divided in the formation of a
 3.30 senate district.

4.1 Subd. 3. **Equal population.** (a) Legislative districts must be substantially equal in
4.2 population. The population of a legislative district must not deviate from the ideal by more
4.3 than 0.5 percent, plus or minus.

4.4 (b) Congressional districts must be as nearly equal in population as practicable.

4.5 Subd. 4. **Contiguity; compactness.** Districts must be composed of convenient, contiguous
4.6 territory. To the extent consistent with the other principles in this section, districts should
4.7 be compact. Contiguity by water is sufficient if the water is not a serious obstacle to travel
4.8 within the district. Point contiguity is not sufficient.

4.9 Subd. 5. **Numbering.** (a) Legislative districts must be numbered in a regular series,
4.10 beginning with house district 1A in the northwest corner of the state and proceeding across
4.11 the state from west to east, north to south, but bypassing the 11-county metropolitan area
4.12 until the southeast corner has been reached; then to the 11-county metropolitan area outside
4.13 the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

4.14 (b) Congressional district numbers must begin with district one in the southeast corner
4.15 of the state and end with district eight in the northeast corner of the state.

4.16 Subd. 6. **Minority representation.** (a) The dilution of racial or ethnic minority voting
4.17 strength is contrary to the laws of the United States and the state of Minnesota. These
4.18 principles must not be construed to supersede any provision of the Voting Rights Act of
4.19 1965, as amended.

4.20 (b) A redistricting plan must not have the intent or effect of dispersing or concentrating
4.21 minority population in a manner that prevents minority communities from electing their
4.22 candidates of choice.

4.23 Subd. 7. **Minor civil divisions.** (a) A county, city, or town must not be unduly divided
4.24 unless required to meet equal population requirements or to form districts composed of
4.25 convenient, contiguous territory.

4.26 (b) A county, city, or town is not unduly divided in the formation of a legislative or
4.27 congressional district if:

4.28 (1) the division occurs because a portion of a city or town is noncontiguous with another
4.29 portion of the same city or town; or

4.30 (2) despite the division, the known population of any affected county, city, or town
4.31 remains wholly located within a single district.

5.1 Subd. 8. **Preserving communities of interest.** (a) Districts should attempt to preserve
5.2 identifiable communities of interest where that can be done in compliance with the principles
5.3 under this section.

5.4 (b) For purposes of this subdivision, "communities of interest" means recognizable areas
5.5 with similarities of interests, including but not limited to racial, ethnic, geographic, social,
5.6 or cultural interests.

5.7 Subd. 9. **Incumbents.** Districts must not be drawn for the purpose of protecting or
5.8 defeating an incumbent.

5.9 Subd. 10. **Priority of principles.** Where it is not possible to fully comply with the
5.10 principles contained in subdivisions 2 to 8, a redistricting plan must give priority to those
5.11 principles in the order in which they are listed in this section, except to the extent that doing
5.12 so would violate federal or state law. Additional principles adopted by the Bipartisan
5.13 Redistricting Commission may only be used if all other principles identified in this section
5.14 have already been successfully applied to a proposed map.

5.15 **EFFECTIVE DATE.** This section is effective the day following final enactment and
5.16 applies to any plan for districts enacted or established for use on or after that date.

5.17 Sec. 2. **[2.95] BIPARTISAN REDISTRICTING COMMISSION.**

5.18 Subdivision 1. **Application.** This section establishes and implements the Bipartisan
5.19 Redistricting Commission consistent with article XV of the Minnesota Constitution. Except
5.20 where otherwise provided:

5.21 (1) the terms used in this section are defined consistently with those as used in the
5.22 Minnesota Constitution, article XV; and

5.23 (2) the dates referenced in this section refer to those dates in the year following a federal
5.24 decennial census.

5.25 Subd. 2. **Appointments; first meeting; compensation and removal.** (a) No later than
5.26 October 15 of the year of a decennial census, the appointing authorities identified in article
5.27 XV of the Minnesota Constitution must make their appointments of commission members.

5.28 (b) No later than November 15 of the year of a decennial census, a member designated
5.29 by the speaker of the house must convene the first meeting of the commission. The designee
5.30 must preside at commission meetings until a commission chair is elected. The commission
5.31 must be fully seated and must elect a chair and other officers from among all appointed
5.32 members no later than 60 days following its first meeting.

6.1 (c) Members of the commission are entitled to compensation and expense reimbursement,
6.2 consistent with the amounts provided by section 15.0575, subdivision 3.

6.3 (d) A member of the commission may only be removed for cause by a vote of six
6.4 members, including the vote of at least one member appointed by each appointing authority.

6.5 Subd. 3. **Ethics; conflicts of interest; ex parte communications.** (a) Members of the
6.6 commission are public officials for purposes of chapter 10A. In addition to the prohibitions
6.7 in section 10A.071, a member of the commission may not accept a gift as defined in that
6.8 section from a member of the legislature, a member of Congress, or a staff member to a
6.9 member of the legislature or Congress.

6.10 (b) Members of the commission may not communicate with a member of the legislature,
6.11 a member of Congress, or a staff member to a member of the legislature or Congress, about
6.12 the commission's work. A staff member to a member of the legislature may communicate
6.13 with a staff member to the commission to the extent required to fulfill a duty of the
6.14 constitution or this chapter.

6.15 (c) The prohibitions in this subdivision apply during the period beginning at the time of
6.16 the member's appointment and until the commission has adopted and filed its redistricting
6.17 plans with the secretary of state, and during any period in which the commission is
6.18 reconstituted pursuant to its own authority or by court order. A member of the legislature,
6.19 a member of Congress, or a staff member to a member of the legislature or Congress may
6.20 not give a gift, promise a future gift, or engage in communication that a commission member
6.21 is prohibited from receiving under this subdivision, and may not request another person to
6.22 give a gift, promise a future gift, or engage in communication with a commission member,
6.23 directly or indirectly, in an attempt to circumvent the prohibitions of this subdivision.

6.24 Subd. 4. **Open meetings; data practices.** The commission is subject to chapters 13 and
6.25 13D. A map proposal that is created by the commission or its staff, and any communications
6.26 or supporting data associated with a map proposal, are nonpublic data as defined in section
6.27 13.02, subdivision 9, until the map proposal is presented to the commission in a public
6.28 meeting. Supporting data do not include preliminary drafts of a map proposal or
6.29 communications related to a preliminary draft. The commission may disclose any of its data
6.30 at any time if disclosure would aid the commission in considering and preparing proposals.

6.31 Subd. 5. **Schedule of hearings; public hearing and administrative procedures.** The
6.32 commission must adopt a schedule of public meetings and necessary hearing and
6.33 administrative procedures to guide the conduct of its work. The schedule and procedures

7.1 must be posted on the commission's website. The schedule and procedures are not rules for
7.2 purposes of chapter 14, and section 14.386 does not apply.

7.3 Subd. 6. **General powers; staffing and professional services.** (a) The commission has
7.4 the powers necessary to carry out its responsibilities as required by the constitution and this
7.5 chapter. The commission may employ nonpartisan staff and enter other agreements to secure
7.6 necessary legal counsel, information technology, geographic information systems, and other
7.7 administrative, professional, and technical services as the commission deems necessary.

7.8 (b) Prior to January 1 in the year of the decennial census, the director of the Legislative
7.9 Coordinating Commission must contract with a consultant to provide the commission with
7.10 operational and logistical support. The Legislative Coordinating Commission must assist
7.11 the commission in hiring additional staff and securing adequate office and meeting space.

7.12 Subd. 7. **Data to be used.** (a) The geographic areas and population counts used in maps,
7.13 tables, and legal descriptions of legislative and congressional districts must be those used
7.14 by the Geographic Information Services (GIS) Office of the Legislative Coordinating
7.15 Commission. The population counts must be the block population counts provided to the
7.16 state under Public Law 94-171 after each decennial census, subject to correction of any
7.17 errors acknowledged by the United States Census Bureau. Both the commission and the
7.18 GIS Office must make this data available to the public on their websites.

7.19 (b) A redistricting plan must not be considered for adoption until the plan's block
7.20 equivalency file has been submitted to the GIS Office in a form prescribed by the GIS
7.21 Office. The block equivalency file must show the district to which each census block has
7.22 been assigned.

7.23 Subd. 8. **Technical review and corrections.** (a) The commission must engage in a
7.24 technical review of a redistricting plan prior to its adoption. A technical review includes
7.25 ensuring that the plan encompasses all the territory of this state and that no territory is
7.26 omitted or duplicated. No later than 25 weeks before the state primary election in the year
7.27 ending in two, the commission may amend an adopted plan for the purpose of making
7.28 technical corrections as necessary to meet the following principles:

7.29 (1) if a territory in this state is not named in the redistricting plan but lies within the
7.30 boundaries of a district, it is a part of the district within which it lies;

7.31 (2) if a territory in this state is not named in the redistricting plan but lies between the
7.32 boundaries of two or more districts, it is a part of the contiguous district having the smallest
7.33 population;

8.1 (3) if a territory in this state is assigned in the redistricting plan to two or more districts,
8.2 it is a part of the district having the smallest population;

8.3 (4) if a territory in this state is assigned to a district that consists of other territory
8.4 containing a majority of the population of the district but with which it is not contiguous,
8.5 the territory is a part of the contiguous district having the smallest population; and

8.6 (5) if the description of a district boundary line that divides a political subdivision is
8.7 ambiguous because a highway, street, railroad track, power transmission line, river, creek,
8.8 or other physical feature or census block boundary that forms part of the district boundary
8.9 is omitted or is not properly named or has been changed, or because a compass direction
8.10 for the boundary line is wrong, the commission may add or correct the name or compass
8.11 direction and resolve the ambiguity in favor of creating districts of contiguous territory of
8.12 substantially equal population that do not divide political subdivisions more than is necessary
8.13 to meet constitutional requirements.

8.14 (b) In addition to meeting the principles described in paragraph (a), at a meeting where
8.15 a redistricting plan is proposed for final adoption, the commission may adopt amendments
8.16 to the plan for the purpose of incorporating any technical corrections that may be
8.17 recommended by the secretary of state.

8.18 (c) The affirmative vote of at least six members of the commission, including one
8.19 appointed by each appointing authority, is necessary to adopt technical corrections to a
8.20 redistricting plan.

8.21 (d) If a technical error in a redistricting plan is discovered after the commission has
8.22 dissolved, the chief administrative law judge, after notifying the secretary of state, the
8.23 Legislative Coordinating Commission, and the chief justice of the supreme court, may order
8.24 a correction consistent with the principles listed in this subdivision. The chief administrative
8.25 law judge must provide a copy of each correction order to each affected county auditor and
8.26 municipal clerk.

8.27 Subd. 9. **Duty of secretary of state.** The secretary of state shall provide copies of the
8.28 relevant portions of a filed redistricting plan to each county auditor, who shall provide a
8.29 copy of the relevant portions of the plan to each municipal clerk within the county. The
8.30 secretary of state, with the cooperation of the commissioner of administration, shall make
8.31 copies of the plan file, maps, and tables available to the public for the cost of publication.

8.32 **EFFECTIVE DATE.** If the constitutional amendments in article 1 are adopted, this
8.33 section is effective January 1, 2030, and applies to the 2030 redistricting cycle and thereafter.

9.1 Sec. 3. Minnesota Statutes 2022, section 10A.01, subdivision 35, is amended to read:

9.2 Subd. 35. **Public official.** "Public official" means any:

9.3 (1) member of the legislature;

9.4 (2) individual employed by the legislature as secretary of the senate, legislative auditor,
9.5 director of the Legislative Budget Office, chief clerk of the house of representatives, revisor
9.6 of statutes, or researcher, legislative analyst, fiscal analyst, or attorney in the Office of
9.7 Senate Counsel, Research and Fiscal Analysis, House Research, or the House Fiscal Analysis
9.8 Department;

9.9 (3) constitutional officer in the executive branch and the officer's chief administrative
9.10 deputy;

9.11 (4) solicitor general or deputy, assistant, or special assistant attorney general;

9.12 (5) commissioner, deputy commissioner, or assistant commissioner of any state
9.13 department or agency as listed in section 15.01 or 15.06, or the state chief information
9.14 officer;

9.15 (6) member, chief administrative officer, or deputy chief administrative officer of a state
9.16 board or commission that has either the power to adopt, amend, or repeal rules under chapter
9.17 14, or the power to adjudicate contested cases or appeals under chapter 14;

9.18 (7) individual employed in the executive branch who is authorized to adopt, amend, or
9.19 repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

9.20 (8) executive director of the State Board of Investment;

9.21 (9) deputy of any official listed in clauses (7) and (8);

9.22 (10) judge of the Workers' Compensation Court of Appeals;

9.23 (11) administrative law judge or compensation judge in the State Office of Administrative
9.24 Hearings or unemployment law judge in the Department of Employment and Economic
9.25 Development;

9.26 (12) member, regional administrator, division director, general counsel, or operations
9.27 manager of the Metropolitan Council;

9.28 (13) member or chief administrator of a metropolitan agency;

9.29 (14) director of the Division of Alcohol and Gambling Enforcement in the Department
9.30 of Public Safety;

9.31 (15) member or executive director of the Higher Education Facilities Authority;

- 10.1 (16) member of the board of directors or president of Enterprise Minnesota, Inc.;
- 10.2 (17) member of the board of directors or executive director of the Minnesota State High
10.3 School League;
- 10.4 (18) member of the Minnesota Ballpark Authority established in section 473.755;
- 10.5 (19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;
- 10.6 (20) manager of a watershed district, or member of a watershed management organization
10.7 as defined under section 103B.205, subdivision 13;
- 10.8 (21) supervisor of a soil and water conservation district;
- 10.9 (22) director of Explore Minnesota Tourism;
- 10.10 (23) citizen member of the Lessard-Sams Outdoor Heritage Council established in section
10.11 97A.056;
- 10.12 (24) citizen member of the Clean Water Council established in section 114D.30;
- 10.13 (25) member or chief executive of the Minnesota Sports Facilities Authority established
10.14 in section 473J.07;
- 10.15 (26) district court judge, appeals court judge, or supreme court justice;
- 10.16 (27) county commissioner;
- 10.17 (28) member of the Greater Minnesota Regional Parks and Trails Commission;
- 10.18 (29) member of the Destination Medical Center Corporation established in section
10.19 469.41; ~~or~~
- 10.20 (30) chancellor or member of the Board of Trustees of the Minnesota State Colleges
10.21 and Universities; or
- 10.22 (31) member of the Bipartisan Redistricting Commission.
- 10.23 **EFFECTIVE DATE.** If the constitutional amendments in article 1 are adopted, this
10.24 section is effective January 1, 2030, and applies to the 2030 redistricting cycle and thereafter.