



HOUSE BILL 648: NC FAIR State & Congressional Districts Act.

2019-2020 General Assembly

Committee:	House Redistricting. If favorable, re-refer to Elections and Ethics Law. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	October 24, 2019
Introduced by:	Reps. Warren, Hanig, Martin, Beasley	Prepared by:	Jessica Sammons and Erika Churchill, Committee Counsel
Analysis of:	First Edition		

OVERVIEW: *House Bill 648 would establish a redistricting process for legislative and Congressional districts, with maps drawn by a Special Master based on specific redistricting standards, voted on by an Independent Redistricting Commission, and then considered and enacted by the General Assembly.*

CURRENT LAW: Following each federal decennial census, the General Assembly of North Carolina engages in redistricting of congressional districts and legislative districts, as required by the U.S. and N.C. Constitutions. The constitutional provisions addressing redistricting are as follows:

United States Constitution

Article I, Section 2

Clause 3: Representatives . . . shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons . . . [and] three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the U.S., and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.

Amendment XIV

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

North Carolina Constitution

Article II: Legislative

Sec. 2. Number of Senators.

The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. Senate districts; apportionment of Senators.

The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

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- (1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;
- (2) Each senate district shall at all times consist of contiguous territory;
- (3) No county shall be divided in the formation of a senate district;
- (4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. Number of Representatives.

The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. Representative districts; apportionment of Representatives.

The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

- (1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;
- (2) Each representative district shall at all times consist of contiguous territory;
- (3) No county shall be divided in the formation of a representative district;
- (4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

In North Carolina, a bill creating an official redistricting plan follows the same course through the General Assembly as any other legislation, culminating in a statute setting forth the redistricting plan for House, Senate, or Congress, which statute specifies the counties, voting tabulation districts, and census blocks that comprise each district. House, Senate, and Congressional plans must be approved by the full General Assembly. However, a redistricting plan is not subject to gubernatorial veto if it is in a bill that contains no other matter. The maps and statistics generated during the redistricting process are not part of the legislation that enacts the plans, but can be used as tools to evaluate the plans.

Case law at both the federal and State level have set additional criteria and factors that the legislative body must take into consideration when enacting new districting plans, such as:

- Population equality (One person, one vote).
- The Voting Rights Act of 1965.
- Stephenson v. Bartlett (legislative redistricting).
- Gerrymandering.

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BILL ANALYSIS: House Bill 648 would create a new Article in Chapter 120 to establish an Independent Redistricting Commission and to provide for a process for revising legislative and Congressional districts.

- **Independent Redistricting Commission:** The Commission would be established no later than June 1 of each year ending in zero, and would consist of 16 individuals registered to vote in this State for at least one year, with 11 voting members and five nonvoting alternate members, consisting of the following:
 - Two voting members, and one alternate nonvoting member for those two members, selected by the majority leader of the Senate.
 - Two voting members, and one alternate nonvoting member for those two members, selected by the minority leader of the Senate.
 - Two voting members, and one alternate nonvoting member for those two members, selected by the majority leader of the House of Representatives.
 - Two voting members, and one alternate nonvoting member for those two members, selected by the minority leader of the House of Representatives.
 - Three voting members, and one alternate nonvoting member for those three members, selected by the other eight voting members of the Commission. These members must:
 - (1) Be listed as unaffiliated on the individual's voter registration record.
 - (2) Have not voted twice consecutively in a political party's primary during the past five years.
 - *Selection of Commission Members:* The selecting authorities would submit nominees, and the State Board of Elections would verify that each nominee is eligible for appointment. If any nominee is determined to be not eligible for appointment, a substitute nominee may be submitted, or the alternate would become a voting member. Once verified, the eight selected members would appoint the three unaffiliated voting members, and the alternate nonvoting member for those three members.
 - *Terms, Quorum, Vacancies:* Commission members would serve a term of office beginning on July 1 of each year ending in zero, and continuing until a plan for redistricting has been enacted by the General Assembly or has been found favorably adjudicated without appeal, if court challenged, whichever occurs later. Seven members would constitute a quorum. Vacancies would be filled immediately by the alternate member who was selected to replace that departing member. Within 10 days, a new alternate member would be selected.
 - *Selection of Special Master:* The Commission would select and contract with a Special Master for the purpose of preparing proposed plans in accordance with redistricting standards.
- **Redistricting Process:** For all bills being considered by the General Assembly for establishing legislative and Congressional districts, the following requirements would apply:
 - No later than February 1 of each year ending in one, the Commission would interview at least three individuals classified as a Special Master, and then select a Special Master by majority vote.

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- Upon receipt of population data from the Census Bureau, the Commission would deliver the data to the Special Master, and the Special Master would begin the process of preparing proposed plans.
 - The Special Master would submit to the Commission two proposed plans for revising each of the following: House districts, Senate districts, and Congressional districts.
 - The Commission would select, by a vote of at least six members, one of the plans for each body, and submit that plan to the Principal Clerks of both chambers of the General Assembly. If the Commission does not submit a plan within 30 days after receiving proposed plans from the Special Master, the Commission would work with the Special Master to amend the proposed plans.
 - A member of the General Assembly would file a bill embodying the plan within three legislative days. This bill would be subject to amendments in the same manner as other bills.
- **Redistricting Standards:** The Commission would be required to follow the following standards in drawing redistricting plans:
- Districts must be based on population. Legislative districts must have a population within 5% of the ideal population. Congressional districts must have a population as nearly equal as practicable to the ideal, but at least within 1/10th of 1% of the ideal population.
 - Districts must be drawn in a manner that complies with requirements of federal and state law.
 - To the extent consistent with other standards, districts must coincide with political subdivision boundaries, and divisions of those boundaries must be minimized for counties, cities, and voting tabulation districts. For legislative districts, the whole county requirements of the N.C. Constitution must be complied with in a manner consistent with federal law.
 - Districts must be composed of convenient contiguous territory.
 - Districts must be reasonably compact. If tests of compactness are needed for comparison purposes, compactness should be measured using length-width compactness or perimeter compactness.
 - Districts must not be drawn to favor a political party, incumbents, or other persons or groups, or to augment or dilute the voting strength of a language or racial minority group. The addresses or geographic locations of incumbents may not be used in drawing the plan.
 - Except as required by the N.C. or U.S. Constitutions, the 1965 Voting Rights Act, and applicable court decisions, the following may not be used: political affiliations of registered voters, previous election results, or demographic data, other than population head counts.

EFFECTIVE DATE: Effective when it becomes law, and applies to redistricting following the return of the 2020 federal decennial census and thereafter.