

National Redistricting Review: Additional Resources

Wendy Underhill

National Conference of State Legislatures

Senate State Government Committee

April 24, 2018

Contents

Passing a Plan—Is A Simple Majority Enough, Or Is More Required? 2

 Requirements to Pass a Legislative Redistricting Bill..... 2

 Requirements to Pass a Congressional Redistricting Bill..... 2

States Without A Gubernatorial Veto for Redistricting Plans 3

Commissions 4

 Legislative Commissions 4

 Congressional Commissions..... 8

Criteria (Traditional Districting Principles and Emerging Criteria) 10

 Criteria Applicable to Legislative Plans 10

 Criteria Applicable to Congressional plans 11

What Happens if a Bill Doesn't Pass? 12

 Legislative Maps..... 12

 Congressional Maps 12

Additional Resources 13

Passing a Plan—Is A Simple Majority Enough, Or Is More Required?

Requirements to Pass a [Legislative Redistricting Bill](#)

Category	States
Commission Draws Maps; Needs Simple Majority*	12 states: AK, AZ, AR, CO, HI, ID, MT, NJ, NY, OH, PA, WA
Commission Draws Maps; Needs More Than Simple Majority	2 states: CA, MO
Legislature Draws Maps; Needs Simple Majority	33 states (all not otherwise listed)
Legislature Draws Maps; Needs More Than Simple Majority	2 states: CT, ME
Governor's maps are submitted to legislature, which can override with a resolution within 45 days, otherwise governor's map becomes law).	1 state: MD

*Simple majority is defined as the smallest possible majority, excluding rules regarding ties.

Requirements to Pass a [Congressional Redistricting Bill](#)

Category	States
Commission Simple Majority	7 states: AZ, HI, ID, MT, NJ, NY, WA
Commission Supermajority	1 state: CA
Legislative Simple Majority	34 states (all not otherwise listed)
Legislative Supermajority	2 states: CT, ME
One seat only in U.S. House*	7 states: AK, DE, MT, ND, SD, VT, WY

*Montana is both an at-large seat and has a commission to redraw its congressional districts. It is counted twice.

States Without A Gubernatorial Veto for Redistricting Plans

In most states where the legislature draws maps, a bill is the vehicle, and is subject to a veto. The exceptions to that rule are:

Florida:

Legislative plans passed as a joint resolution, not a statute, and are thus not subject to a veto. Congressional plans are subject to governor's action.

Mississippi:

Legislative plans passed as a joint resolution, not a statute, and are thus not subject to a gov. veto. Congressional plans are subject to governor's action.

North Carolina:

All districts passed by ordinary statute rules, but are exempted from gubernatorial veto.

Commissions

In 13 states, a commission has primary responsibility for drawing legislative maps. In 7 of those states, the commission also has responsibility for drawing Congressional maps.

These commissions are described below, with their size, who appoints, special selection requirements, and how the commission was created.

Note that another set of states have advisory commissions (which provide input to the legislature, which has final responsibility) or back-up commissions which come into effect if the legislature is unable to create a plan. For more on these commissions, see:

NCSL's webpage, **Redistricting Commissions: Legislative Plans**

<http://www.ncsl.org/research/redistricting/2009-redistricting-commissions-table.aspx>

NCSL's webpage, **Redistricting Commissions: Congressional Plans**

<http://www.ncsl.org/research/redistricting/redistricting-commissions-congressional-plans.aspx>

Legislative Commissions

State	Members	Appointing Authority	Selection Process	Origins
Alaska	5	Gov. chooses two, Senate & House Majority Leaders each choose 1; Chief Justice of State Supreme Court chooses 1	No commissioners may be public officials or employees upon appointment.	Legislative Referral (1998)
Arizona	5	State commission on appellate court appointments nominates a pool of 25 potential commissioners—10 Ds, 10 Rs, 10 Is. From this pool, Majority & Minority leader in each house select 1 member. Those 4 select 5 th to be chair & tiebreaker, and that 5 th can't be of same partisan affiliation as any other commissioner.	Each commissioner must be registered to vote in Arizona, and must have maintained the same political party affiliation (or lack thereof) for three years. At most, two of first four commissioners may live in same county.	Citizens' Initiative (2000)
Arkansas	3	Gov. Sec. of State, AG	N/A	Citizens' Initiative (1956)

California	14	<p>Panel of 3 state auditors chooses 20 Democrats, 20 Republicans, and 20 who are neither to be nominees for the commission. Panel should consider analytical skills, impartiality, and diversity when selecting the pool of nominees.</p> <p>From this pool, 2 nominees may be cut by Majority & Minority leader in each house. Eight commissioners (3D, 3R, 2 neither) are chosen randomly from the remaining nominees. Those eight choose 6 colleagues from the remaining nominees, to reflect the diversity of the state.</p>	<p>Commissioners must have voted in at least two of the statewide elections, and may not have changed party affiliation for at least five years. Cannot have been, or had a family member that has been, within 10 years of appointment, a candidate for federal or state office or a member of a party central committee, or a paid consultant to any of the above. Cannot have been a registered lobbyist or paid legislative staff, or have donated more than \$2000 to an elected candidate. Cannot serve, nor have immediately family serving, in government or as a government contractor during service as commissioner.</p>	<p>Citizens' Initiative (2008); powers enhanced by Citizens' Initiative (2010)</p>
Colorado	11	<p>1 each by Majority & Minority leader in each house; 3 by Governor. 4 by Chief Justice of state Supreme Court.</p>	<p>No more than 4 commissioners may be legislators; no more than 6 may have same party registration; no more than 4 may live in same congressional district. At least 1 commissioner must be from each congressional district; of these, 1 member must live west of the continental divide.</p>	<p>Citizens' Initiative (1974)</p>

Hawaii	9	2 each by Majority & Minority leader in each house; those 8 select 9 th . If they cannot, Supreme Court appoints tiebreaking member	In the first two elections following the creation of the districts, no commissioner is eligible to run for a seat in either house of the state Legislature, or for a Congressional seat.	Legislative Referral (1992)
Idaho	6	1 each by Majority & Minority leader in each house; 1 each by chairs of two largest political parties in state	Commissioners cannot be an elected official in Idaho when appointed. Further, those who have been registered lobbyists within the past year, or elected officials or district, county, or state party officers within the last two years, may serve as commissioners.	Legislative Referral (1994)
Missouri (House)	18	2 each by each party's congressional district committee for each of the state's congressional districts. 1 per district per party by Governor.	Commissioners are prohibited from serving as members in either house of the General Assembly for four years following date upon which maps are filed.	Legislative Referral (1966)
Missouri (Senate)	13	Each major party's state party committee nominates 10 members; Governor chooses 5 per party from the nominees to serve on commission.	Commissioners are prohibited from serving as members in either house of the General Assembly for four years following date upon which maps are filed.	Legislative Referral (1966)

Montana	5	1 each by Majority & Minority leader in each house; those 4 select 5 th to be Chair. If they cannot agree, Supreme Court selects Chair.	Of first four commissioners, two each must be selected from two distinct geographic county groupings: from the Rocky Mountains westward to the Idaho border, and from the eastern remainder of the state.	Legislative Referral (1984)
New Jersey	11	5 each by Chairs of state's two largest parties. If those 10 cannot agree to a map, state Supreme Court appoints tiebreaking member.	Due consideration in selection of commissioners should be given to geographic diversity of state.	Legislative Referral (1966)
Ohio	5	Governor, Auditor, Secretary of State. 1 each chosen by Speaker of House and House Minority Leader (each in concert with his or her party's leader in the Senate).	None	Legislative Referral (2015)
Pennsylvania	5	1 each by Majority & Minority leader in each house; those 4 select 5 th to serve as Chair. If they cannot agree, Supreme Court selects 5 th to serve as Chair.	None	Legislative Referral (1968) (adopted as part of 1968 State Constitution)
Washington	5	1 each by Majority & Minority leader in each house; those 4 select 5 th .	No commissioner may have been elected official or elected party officer at any level within two years of appointment as commissioner. Persons registered as lobbyists in last year also prohibited from serving as commissioners.	Legislative Referral (1983)

Congressional Commissions

State	Members	Appointing Authority	Selection Requirements & Notes	Origins
Arizona	5	State commission on appellate court appointments nominates a pool of 25 potential commissioners—10 Ds, 10 Rs, 10 Is. From this pool, Majority & Minority leader in each house select 1 member. Those 4 select 5 th to be chair & tiebreaker, and that 5 th can't be of same partisan affiliation as any other commissioner.	Each commissioner must be registered to vote in Arizona, and must have maintained the same political party affiliation (or lack thereof) for three years. At most, two of first four commissioners may live in same county.	Citizens' Initiative (2000)
California	14	<p>Panel of 3 state auditors chooses 20 Democrats, 20 Republicans, and 20 who are neither to be nominees for the commission. Panel should consider analytical skills, impartiality, and diversity when selecting the pool of nominees.</p> <p>From this pool, 2 nominees may be cut by Majority & Minority leader in each house. Eight commissioners (3D, 3R, 2 neither) are chosen randomly from the remaining nominees. Those eight choose 6 colleagues from the remaining nominees, to reflect the diversity of the state.</p>	<p>Commissioners may not have changed party affiliation for at least five years. Cannot have been, or had a family member that has been, within 10 years of appointment, a candidate for federal or state office or a member of a party central committee, or a paid consultant to any of the above. Cannot have been a registered lobbyist, or have donated more than \$2000 to an elected candidate. Cannot serve in government or as a government contractor during service as commissioner.</p>	Citizens' Initiative (2008); powers enhanced by Citizens' Initiative (2010)

Hawaii	9	2 each by Majority & Minority leader in each house; those 8 select 9 th . If they cannot, Supreme Court appoints tiebreaking member	In the first two elections following the creation of the districts, no commissioner is eligible to run for a seat in either house of the state Legislature, or for a Congressional seat.	Legislative Referral (1992)
Idaho	6	1 each by Majority & Minority leader in each house; 1 each by chairs of two largest political parties in state	Commissioners cannot be an elected official in Idaho when appointed. Further, those who have been registered lobbyists within the past year, or elected officials or district, county, or state party officers within the last two years, may serve as commissioners.	Legislative Referral (1994)
Montana	5	1 each by Majority & Minority leader in each house; those 4 select 5 th to be Chair. If they cannot agree, Supreme Court selects Chair.	Of first four commissioners, two each must be selected from two distinct geographic county groupings: from the Rocky Mountains westward to the Idaho border, and from the eastern remainder of the state.	Legislative Referral (1984)
New Jersey	13	2 each by Majority & Minority leader in each house; 2 each by chairs of two largest political parties. Those 12 select 13 th to be Chair. If they cannot agree, they present two candidates to the Supreme Court, who then chooses the Chair.	Members should be appointed with consideration to ethnic, racial, and geographic diversity.	Legislative Referral (1966)

Washington	5	1 each by Majority & Minority leader in each house; those 4 select 5 th .	No commissioner may have been elected official or elected party officer at any level within two years of appointment as commissioner. Persons registered as lobbyists in last year also prohibited from serving as commissioners.	Legislative Referral (1983)
------------	---	--	---	-----------------------------

Criteria (Traditional Districting Principles and Emerging Criteria)

The tables below summarize state-specific redistricting principles and criteria in use in two or more states. The information is divided into criteria applicable for legislative plans and criteria applicable to Congressional plans. For more, see NCSL's webpage, Redistricting Criteria, <http://www.ncsl.org/research/redistricting/redistricting-criteria.aspx>

Criteria Applicable to Legislative Plans

Criterion	Number of States Adopted	States
Compactness	39	AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IA, KS, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI, WY
Contiguity	50	AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WV, WI, WY
Preserving Political Subdivisions	43	AL, AK, AZ, AR, CA, CO, CT, FL, GA, ID, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, VT, WA, WV, WI, WY
Preserving Communities of Interest	26	AL, AK, AZ, AR, CA, CO, GA, HI, ID, KS, MI, MN, MS, NV, NM, NY, NC, OK, OR, PA, SC, SD, VT, VA, WA, WY
Avoid Pairing Incumbents	3	KS, NV, SC

Preserve Cores of Prior Districts	8	AR, LA, MI, NE, NV, NY, ND, SC
Enhance Competition	3	AZ, NY, WA
Cannot Favor or Disfavor Any Political Party/Incumbent/Candidate	12	AZ, CA, DE, FL, HI, IA, MN, MT, NE, NY, OH, WA
Cannot Use Partisan Data	5	AZ, CA, IA, MT, NE

Criteria Applicable to Congressional plans

Criterion	Number of States Adopted	States
Compactness	27	AL, AZ, CA, FL, GA, HI, ID, IA, ME, MI, MN, MS, MO, NE, NV, NJ, NM, NY, ND, OK, PA, RI, SC, UT, VA, WA, WV, WY
Contiguity	33	AL, AZ, CA, FL, GA, HI, ID, IA, KS, KY, LA, ME, MA, MI, MN, MO, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, UT, VA, WA, WV, WY
Preserving Political Subdivisions	29	AL, AZ, CA, FL, GA, ID, IA, KS, KY, LA, ME, MA, MI, MN, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, WA, WV, WY
Preserving Communities of Interest	21	AL, AZ, AR, CA, GA, HI, ID, KS, KY, MN, MS, NV, NM, NY, OK, OR, PA, SC, VA, WA, WY
Avoid Pairing Incumbents	2	NV, SC
Preserve Cores of Prior Districts	7	LA, KS, NE, NV, NY, ND, SC
Enhance Competition	3	AZ, NY, WA
Cannot Favor or Disfavor Any Political Party/Incumbent/Candidate	8	AZ, CA, FL, HI, IA, NY, OH, WA
Cannot Use Partisan Data	5	AZ, CA, IA, MT, NE

What Happens if a Bill Doesn't Pass?

Most states are silent on what action is taken, or who will draw districts, if a state misses the deadline for redistricting. Of the states that do specify a back-up plan, the options are a back-up commission is called on, or the state Supreme Court is assigned the task, or, in three states, another option is identified.

Legislative Maps

What Happens	States
Back-up commission draws maps	CT, IL, MS, OK, TX
State Supreme Court draws maps	FL, ME, WA
State Supreme Court appoints commission of state appellate judges	MO
Governor's plan takes effect	MD
Secretary of state draws maps	OR
No Statutory or Constitutional Procedure	39 states (all otherwise not specified)

Congressional Maps

What Happens	States
Backup Commission Draws Maps	CT, IN
State Supreme Court Draws Maps	ME, WA
No Statutory or Constitutional Procedure	46 states (all others not specified)
Other	N/A

Additional Resources

NCSL's webpage, **Redistricting Commissions: Legislative Plans**

<http://www.ncsl.org/research/redistricting/2009-redistricting-commissions-table.aspx>

NCSL's webpage, **Redistricting Commissions: Congressional Plans**

<http://www.ncsl.org/research/redistricting/redistricting-commissions-congressional-plans.aspx>

NCSL's webpage, **Action on Redistricting Plans**, which leads to decade-by-decade analysis of

passage of plans <http://www.ncsl.org/research/redistricting/redistricting-plan-success-rates-636359876.aspx?ct=8f67d1103a2ee8d19398053f2ddb964eb0c3bce969ba53a23056fd1da9619c0309f3e8425022b053bc574f51b9cd2e5cbb37269367e86e95eb57c2862c76e66d>

NCSL's webpage, **Redistricting Plan Success Rates**, which compares legislative and commission plans in how well they fared under court challenges

http://www.ncsl.org/Portals/1/Documents/Elections/new_success_rates_1970s-2010s_31520.pdf

NCSL's webpage, **The “Iowa Model” for Redistricting**

<http://www.ncsl.org/research/redistricting/the-iowa-model-for-redistricting.aspx>

NCSL's webpage, **Redistricting and the Supreme Court: The Most Significant Cases**

<http://www.ncsl.org/research/redistricting/redistricting-and-the-supreme-court-the-most-significant-cases.aspx>

NCSL's webpage, **Redistricting Case Summaries | 2010-Present**

<http://www.ncsl.org/research/redistricting/redistricting-case-summaries-2010-present.aspx>

Constitutional language for Ohio's legislative redistricting commission, passed in 2015

https://www.legislature.ohio.gov/laws/ohio-constitution/section;jsessionid=7e9cf24cd5310c9d3f2ae62e845e?const=11.01*

Ohio Secretary of State Jon Husted's video explanation on Ohio's Congressional redistricting proposal (Issue 1), to be voted on during May's primary election

<https://www.youtube.com/watch?v=V8mXfAZXobE>