

Thank you for the opportunity to submit supplemental information on redistricting reform policy in the United States. We deeply appreciate the time and effort this committee has put into understanding this complex issue and look forward to continuing to work with this committee and individual Senators to enact meaningful redistricting reform, including an independent nonpartisan citizens redistricting commission, in Pennsylvania.

Overview:

Generally, there are four different redistricting models in place in the United States¹. Please note that there are significant variations within each of these models.

1. Maps drawn by state legislature:
 - a. Maps drawn by state legislature with advisory commissions: Advisory commissions recommend maps to the state legislature for them to adopt. The commissions may be made up of legislators, non-legislators, or a mix of the two.
 - b. Backup Commission: If legislature is deadlocked or there is a gubernatorial veto on the final map, the backup commission draws the map. The commission composition varies by state but can include: members appointed by legislative leadership, specific statewide elected officials, or just the governor. Some form of a backup commission is used in six states.
2. Independent Commission: Maps are drawn by a commission made up of members of the public who are neither elected nor appointed officials. Commissioners are also prohibited from running for office for a few years after the maps are drawn. Some form of an independent commission is used in six states.
3. Politician Commission: Maps are drawn by a commission including elected officials. Pennsylvania's Legislative Redistricting Commission is an example of this model. 7 states have commissions with various combinations of legislators, statewide elected officials, and non-politicians; some have partisan balance built into the system, including Ohio and Pennsylvania
 - a. Arkansas: 3 members: governor, secretary of state, attorney general. State legislative districts only.
 - b. Colorado: 11 members: legislative majority and minority leaders select 1 each, governor selects 3, chief justice selects 4. State legislative districts only.
 - c. Hawaii: 9 members: legislative majority and minority leaders select 2 each. 6 of 8 must agree on 1 tiebreaker. Politicians can technically be on the

¹ <http://www.brennancenter.org/analysis/who-draws-maps-states-redrawing-congressional-and-state-district-lines>

commission but often aren't because they are then restricted from running for office for a certain period.

- d. Missouri: 18 for House, 10 for Senate: each major party selects a pool a candidates, governor appoints equal number of Democrats and Republicans from those pools. State legislative districts only.
 - e. New Jersey: 10 or 11 members: 5 selected by each major party, Chief Justice chooses 1 more if group is deadlocked.
4. Single-district states: Seven states currently have only one congressional district.

Who Draws The Map? (“Citizens Redistricting Commission”)

Nonpartisan Citizen Redistricting Commissions should be established to replace the current congressional and state legislative redistricting processes. If a commission is created, it should be structured so that, if membership includes representatives from political parties, that no political party interests can advance a plan without support from other political parties; and, so that the two major political parties cannot collude to create a plan without support from other members not affiliated with either major political party. Approval of redistricting plans should require approval by a super-majority of the members or by consensus of the members of the commission. Commissions should reflect the geographic, racial, ethnic, gender, and age diversity of the state.

Selection of Citizen Commissioners (“Random Selection”)

The selection process for citizen commissioners varies widely among states.

State	Selection Process
California ² 14 members	1. Open application process 2. CA State Auditor ³ pre-screens applicants to ensure that they meet basic qualifications outlined in redistricting statute 3. Qualified applicants were required to submit a supplemental application and three letters of recommendation. 4. All Supplemental Applications are reviewed by the Applicant Review Panel (ARP). The ARP also reviews any public comments and letters of recommendation and narrows the pool of applicants to 120 most

² <http://wedrawthelines.ca.gov/selection.html>

³ The auditor's role is unique in that he or she, while appointed by the governor with the approval of the Joint Legislative Audit Committee, is independent of both the executive and legislative branches.

	<p>qualified (40 D, 40R, 40 other party).</p> <ol style="list-style-type: none"> 5. The 120 applicants are then interviewed by the ARP and the pool is narrowed down to the 60 most qualified (20D, 20R, 20 other) 6. List of 60 most qualified is submitted to Legislature. The Majority and Minority leaders in both houses may each strike/remove 2 names from each of the 3 pools of 20. This reduces each pool to 12. 7. The remaining 36 remaining applicants are returned to the State Auditor who conducts a random drawing to select 8 Commissioners. 8. The 8 Commissioners select two applicants from each of the subpools (a total of 6) <ol style="list-style-type: none"> a. Prior to the selection of the remaining 6 Commissioners, the original 8 Commissioners were required to attend training on CA's diverse demographics and geography, responsibilities of the Commission, and the process of redistricting including the use of computer software.
<p>Arizona⁴ 5 members</p>	<ol style="list-style-type: none"> 1. Commission on Appellate Court Appointments⁵ (or their designee) establishes a pool of 25 willing and qualified applicants (10 from each of the 2 largest political parties, 5 other) 2. Out of that pool, Majority and Minority leaders of both houses take turns making one appointment each from the pool (House leader, House minority, Senate leader, Senate minority) 3. At meeting called by SOS, the 4 commissioners select by majority vote a 5th member from the remaining pool 4. Removing Commissioners: After written notice and opportunity for response, a member of the redistricting commission may be removed by Gov with concurrence of 2/3 Senate for "substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office."
<p>Alaska⁶ 5 members</p>	<ol style="list-style-type: none"> 1. Governor appoints 2 members, presiding officer of state Senate, presiding officer of the state House, and chief justice each appoint 1 member 2. At least one board member must be a resident of each judicial district and appointments shall be made without regard to political affiliation.
<p>Idaho⁷ 6 members</p>	<ol style="list-style-type: none"> 1. Leaders of two largest parties in both houses each appoint 1 member 2. Leaders of two largest political parties based on last election results appoint 1 member 3. No member may be an elected or appointed official in the state of ID at the time of designation or selection

⁴ <https://www.azleg.gov/const/4/1.p2.htm>

⁵ Chief Justice Chairs, 5 attorney state bar nominations, governor appoints with senate confirmation, 10 non-attorney governor appoints, senate confirmation; geographic and partisan balance required

⁶ <https://gov.alaska.gov/services/boards-and-commissions/fact-sheet/?board=129>

⁷ <http://legislature.idaho.gov/statutesrules/idconst/ArtIII/Sect2/>

Montana ⁸	Majority and minority legislative leaders in both legislative chambers each select one commissioner and those 4 commissioners choose one additional commissioner as chair. (In 2009 because the commissioners could not agree, Montana Supreme Court was requested to select the 5 th commissioner)
Washington ⁹	Majority and minority legislative leaders in both legislative chambers each select one commissioner (must be a registered voter). Those 4 commissioners choose a nonvoting, nonpartisan 5 th commissioner to serve as a chair. If can't agree on the 5 th member, the WA Supreme Court will appoint. No commissioner may have been an elected official or elected party official within two years of appointment to the commission.
Ohio ¹⁰ 7 members + 6 member advisory commission	Commission includes: <ol style="list-style-type: none"> 1. Governor 2. State Auditor 3. Secretary of State 4. Appointee of Speaker of OH House of Representatives 5. Appointee of minority leader in OH House 6. Appointee of President of OH Senate 7. Appointee of minority leader in OH Senate Advisory commission includes: <ol style="list-style-type: none"> 1. Majority and Minority leaders in both houses each appoint 3 members, "at least one of whom must be from a different party and at least one of whom must not be a legislator"
<i>PA proposal (SB22)</i> 11 members	<ol style="list-style-type: none"> 1. Open applications to serve as a member of the commission are filed with the Secretary of the Commonwealth 2. SOC verifies qualifications of each applicant. If not qualified, will remove from pool 3. SOC separates remaining qualified applicants into 3 sub-pools (registered with largest political party, registered with second largest political party, registered with any other party or unaffiliated) 4. SOC shall select on a random basis, 40 qualified applicants from each of the 3 pools 5. Majority and Minority leaders of House and Senate may each strike up to two applicants from each sub-pool 6. From remaining members of each sub-pool (32 in each pool), SOC shall randomly select commission members. (4 from pool of largest party, 4 from pool of second largest party, 3 from pool of other/unaffiliated)

⁸ <http://redistricting.lls.edu/states-MT.php>

⁹ <http://www.redistricting.wa.gov/commission.asp>

¹⁰ Ohio does not have an independent redistricting commission. However, we have included it in this report because of the interest of members of the Senate State Government Committee. https://ballotpedia.org/Redistricting_in_Ohio

Diversity Considerations: It is important that the commission reflects the gender, racial, ethnic, geographical, and other diversity of the Commonwealth. However, quotas (x number of individuals from y sub-group) are a legally untenable solution. There are political scientists who have worked to establish a mathematical formula that would make it possible to ensure that randomly selected commissioners meet certain criteria (including gender, race, ethnic, and other diversity) for the commission as a whole. However, based on our review, some combination of random and non-random selection is the best mechanism to ensure that the commission reflects the diversity of the Commonwealth.

Neutral Processor: For those independent redistricting commissions that rely on some sort of application process, an individual or entity must be identified to handle the initial acceptance and review of the applications, including any random selection and/or examination of the applications to ensure that the stated qualifications are met. California relies on the State Auditor, an appointed but independent quasi-executive branch official. Arizona relies on the Appellate Court Appointment Commission, an appointed commission tasked with selecting appellate court judges as part of Arizona's merit selection process.

While there is no directly equivalent office in Pennsylvania, we rely on our Secretary of the Commonwealth to administer our elections and related systems in a nonpartisan, neutral manner. We believe this makes the Secretary of the Commonwealth the most logical individual to act as a neutral arbiter. In the alternative, the independently elected Attorney General or Auditor may provide the requisite level of political neutrality.

Legislative Participation in Selection Process: Legislative participation may either be proactive (nominating individuals to serve on the commission) or reactive (striking individuals from the pool of qualified applicants). Notably, the recent trend is toward reactive legislative participation in order to further establish the independence of the commission and remove partisan influence.

Map Approval Process ("Supermajority")

The term super majority within the context of redistricting is defined as achieving more than half of the votes on a commission. In most cases a super majority would represent three-fifths or more votes for passage. Several redistricting commissions in our country apply the usage of a supermajority. Three-fifths (60%), two-thirds (67%), or three quarters (75%) would result in votes from more than one political affiliation.

A super majority ensures that all parties have in some manner voted in the affirmative for a plan. It eliminates the notion of a political party power grab or severe influence possibly arranged through some proposed side deal. If a commission is structured to rule only through supermajority then the commission should experience more interaction, relationship building and trust because one side or group can't determine the outcome.

Public support for independent citizens commissions have indicated a desire to see bipartisan representation in the approval of congressional and/or legislative maps. It would be an incredible gesture and source of appreciation to see commission members from different political affiliations reach consensus. In addition, a super majority vote should diminish any litigation based around an extreme partisan gerrymander because more than members of one party have voted in the affirmative for a plan.

Failsafe Mechanism ("Special Master")

As has been previously communicated, the "Special Master" provision in Senate Bill 22 is intended to codify the process that would occur if no agreement could be reached on the final map. The use of a special master by the Pennsylvania Supreme Court to handle a wide variety of tasks and projects is well-established. Elsewhere in the United States, Special Masters are routinely used by state courts to evaluate current district maps or to draft new district maps. Because this provision has become problematic for members of both legislative chambers, we have no objection to the removal of this provision.