

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 580

Introduced by Murante, 49.

Read first time January 21, 2015

<http://nebraskalegislature.gov/FloorDocs/104/PDF/Intro/LB580.pdf>

Committee:

A BILL FOR AN ACT relating to redistricting; to amend sections 49-1493 and 49-1499.03, Reissue Revised Statutes of Nebraska; to adopt the Redistricting Act; to require statements of financial interest and conflict of interest statements as prescribed; to harmonize provisions; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 28 of this act shall be known and may be cited as the Redistricting Act.

Sec. 2. (1) It is the intent of the Legislature to recognize that decennial redistricting is a significant part of the legislative and political process and must be administered in an equitable and transparent manner to ensure citizen confidence in government.

(2) It is the intent of the Legislature to create and approve districts that have an equal distribution of population, as directed by Article I, section 2, of the Constitution of the United States and the Constitution of Nebraska. It is the responsibility of the Legislature to ensure that districts are composed of compact and contiguous territory, to protect the existing boundaries of counties, political subdivisions, core communities, and communities of interest when practicable, to place precincts wholly within a single legislative district and to place legislative districts wholly within a single congressional district when practicable, and to ensure that no single district dilutes, fractures, or packs any voting majority or minority based on race or language.

(3) It is the intent of the Legislature to create the Independent Redistricting Citizen's Advisory Commission for the purpose of assisting the Legislature in the process of redistricting in 2021 and thereafter.

Sec. 3. For purposes of the Redistricting Act, the definitions in sections 4 to 17 of this act apply.

Sec. 4. Census data means the adopted official population figures and maps from the Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles for the most recent federal census published by the United States Department of Commerce, Bureau of the Census, or the most recent official population figures and maps published by the Bureau of the Census for the most recent federal census.

Sec. 5. Commission means the Independent Redistricting Citizen's Advisory Commission.

Sec. 6. County apportionment formula means dividing the population of the county by the ideal district population, dropping the remainder, and the whole number is the number of districts entirely contained within the county.

Sec. 7. Cracking means dividing the electoral strength of a particular group by a redistricting plan.

Sec. 8. Director means the Director of Research of the office of Legislative Research or his or her designee.

Sec. 9. District means any United States House of Representatives district, legislative district, State Board of Education district, University of Nebraska Board of Regents district, Supreme Court judicial district, or Public Service Commission district.

Sec. 10. Federal census means the decennial census required by federal law to be conducted by the United States Department of Commerce, Bureau of the Census, in every year ending in zero.

Sec. 11. Ideal district population means the population of the State of Nebraska divided by the total number of districts.

Sec. 12. Packing means consolidating one group as a supermajority in a small number of districts resulting in a reduction of the group's electoral influence in surrounding districts.

Sec. 13. Political party office means an elective office in the national or state organization of a political party.

Sec. 14. Public officeholder means a person holding an office of this state or a county, city, village, or other political subdivision of this state which is filled by an election process involving nomination and election of candidates.

Sec. 15. Redistricting means dividing the State of Nebraska into districts by designating boundary lines based on population through legislative action.

Sec. 16. Registered lobbyist means an individual required to register with the Clerk of the Legislature under section 49-1483.

Sec. 17. Relative means an individual who is related to the person in question as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Sec. 18. (1) In preparation for drawing new district boundaries on the basis of census data, the director shall acquire and maintain temporary and permanent equipment, materials, supplies, facilities, software, and staff as necessary to assist the commission in the development of programs and procedures. The director shall create and maintain a web site, in accordance with state requirements, which shall include, but not be limited to, information regarding members of the commission, census data for Nebraska, state redistricting history, relevant maps, schedule for public comment, and statutory redistricting authority. The Legislature shall appropriate funds to the office of Legislative Research to be spent for the purchase or lease of temporary or permanent equipment, materials, supplies, facilities, software, or staff for the explicit purpose of carrying out the Redistricting Act only and with prior approval of the Executive Board of the Legislative Council.

(2) The director shall act as a liaison between the commission and the Legislature.

(3) As soon as possible after January 1 of each year ending in one, the director shall obtain from the United States Department of Commerce, Bureau of the Census, the census data needed for redistricting

which the bureau is required to provide to this state and shall use the census data to assign an ideal district population to each district based upon the census data.

(4) Upon delivery by the director to the commission of the six bills embodying redistricting plans for the districts pursuant to section 28 of this act, the director shall, at the earliest possible time, make available to the public the following information:

(a) Copies of each of the six legislative bills approved by the commission;

(b) Copies of maps illustrating each of the six legislative bills approved by the commission;

(c) Copies of the ideal district population and total population of each district included in each of the six legislative bills and the relative deviation of the population of each district from the target population for the district; and

(d) Copies of the county apportionment formula and the number of districts entirely contained within each county.

Sec. 19. Not later than January 30 of each year ending in one, a six-member, Independent Redistricting Citizen's Advisory Commission shall be established as provided by the Redistricting Act. Each of the three legislative caucuses shall certify to the Secretary of State and the Speaker of the Legislature the appointment of three persons, with no more than two who have the same political party affiliation, to serve on the commission. The commission's only functions shall be those prescribed by the act. The commission shall be reconstituted if the Governor or Legislature, as authorized by Article IV, section 8, of the Constitution of Nebraska, calls for a special session of the Legislature on any redistricting plan or in the event of a successful legal challenge to any part of any redistricting plan for the purpose of reformulating the challenged redistricting plan. The members of the commission shall be reimbursed for per diem, travel, and actual expenditures as authorized under sections 81-1174 to 81-1177. The commission shall receive necessary equipment, materials, supplies, facilities, software, and staff from the office of Legislative Research.

Sec. 20. The Redistricting Fund is created. The Legislature shall appropriate, from the General Fund, an amount prescribed by the Executive Board of the Legislative Council to the Redistricting Fund for temporary or permanent equipment, materials, supplies, facilities, software, and staff for the office of Legislative Research for purposes of assisting the commission and for per diems and travel and actual expenses of the members of the commission. Any money in the fund following the termination of the commission shall revert to the General Fund. Any money in the Redistricting Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 21. The commission shall cease to exist and suspend all official action following the final legislative approval and Governor's signature, or judicial approval if applicable, on all six redistricting plans. Following such suspension, the director shall prepare and submit electronically a detailed report and financial statement to the Legislature disclosing all expenditures made by the office of Legislative Research on behalf of the commission. The director shall transmit original copies of all information developed by the commission pursuant to carrying out its duties under the Redistricting Act to the Secretary of State, including maps, census data collected, meetings of minutes, written communications, digital or electronic video, tapes, emails, and other information of similar nature. The Secretary of State

shall be the custodian for the permanent preservation of such information which shall constitute the official record.

Sec. 22. To be eligible to serve on the commission, a person shall:

(1) Be a Nebraska resident;

(2) Be a registered voter who, at the time of appointment, has not changed political party affiliation within the previous twelve months;

(3) Not be a registered lobbyist and, at the time of appointment, not have been a registered lobbyist within the previous twelve months; and

(4) Not be a public officeholder in Nebraska nor a holder of a political party office in Nebraska or the United States;

Sec. 23. No member of the commission shall be a candidate for elective office while a member of the commission.

Sec. 24. (1) Prior to legislative approval, each member of the Independent Redistricting Citizen's Advisory Commission shall file a statement of financial interests and conflict of interest with the Nebraska Accountability and Disclosure Commission pursuant to sections 49-1493 to 49-14,104.

(2) Within ten days after the Legislature has approved the members for the Independent Redistricting Citizen's Advisory Commission, the members shall by majority vote select from among the members of the commission a chairperson and a vice-chairperson of different political party affiliation and report such selection to the Secretary of State and the Speaker of the Legislature.

(3) Five voting members shall constitute a quorum for decisions by the commission. The commission shall meet at the call of the chairperson. All meetings shall be subject to the Open Meetings Act. The commission shall be subject to the Records Management Act.

(4) Any member of the commission who violates the Redistricting Act, who becomes ineligible for the office pursuant to section 22 of this act, or who has a known or discovered conflict of interest may be removed by a majority vote of the Legislature.

(5) Any vacancy on the commission shall be filled by the legislative caucus which selected the member whose position is vacant within five legislative days after the vacancy occurs, and such replacement member shall hold the same political party affiliation as the member whose position is vacant.

Sec. 25. (1) The commission shall adopt substantive and procedural guidelines, consistent with the Redistricting Act, that will guide the commission's redistricting process. During the legislative session of each year ending in one, the substantive guidelines adopted by the commission shall be presented to the Legislature. The commission shall, at the earliest feasible time, make available to the public the guidelines prepared under this section.

(2) The commission shall follow the following guidelines in the following order of importance:

(a) Equal population among districts to meet constitutional requirements;

(b) Follow county lines in accordance with Article III, section 5, of the Constitution of Nebraska;

- (c) Ensure compliance with the federal Voting Rights Act of 1965;
- (d) Ensure districts are compact;
- (e) Ensure districts are contiguous;
- (f) Follow the boundaries of cities and villages;
- (g) Follow the boundaries of political subdivisions;
- (h) Create districts with communities of common interest;
- (i) Provide districts with easily identifiable boundaries, such as major roads, rivers, and county roads;
- (j) Create districts with population deviations nearest to zero; and
- (k) Protect the incumbent officeholder's constitutional right to remain in the district and serve a full term.

(3) The commission shall adopt maps by majority vote not later than March 1 of the year ending in one. The director shall deliver the bills to the Executive Board of the Legislative Council not later than March 10 of the year ending in one.

(4) Upon delivery by the director to the Executive Board of the Legislative Council of a bill for each district, as adopted by the commission, the commission shall, not later than April 1 of the year ending in one, properly provide notice and schedule and conduct at least four public hearings in different geographic regions of the state on each of the six redistricting plans embodied in the bills delivered to the Legislature. Following completion of all hearings, the commission shall review the redistricting plans and make whatever changes are necessary to ensure that the plans are consistent with the Redistricting Act and shall promptly prepare and submit electronically to the Legislature a report summarizing information and testimony received by the commission in the course of the hearings. The report shall include any written or oral public comments and conclusions which the members of the commission deem appropriate on the information and testimony received at the hearings or otherwise presented to the commission.

Sec. 26. (1) In the preparation of the redistricting plans, neither the director nor the commission shall consider political party affiliation of registered voters or previous election results. The director and the commission shall not draw district boundary lines to favor any one individual, group, political party, or incumbent officeholder and shall not have access to:

- (a) Political party affiliations of registered voters; or
- (b) Previous elections results.

(2) The director and commission shall not draw any district boundary that dilutes, fractures, or packs any voting majority or minority based on race or language.

Sec. 27. The following criteria shall be specifically applicable to the public bodies for which the Legislature will review and approve new district boundaries in years ending in one:

- (1) United States House of Representatives:

(a) Three single-member districts;

(b) Population among districts shall be as nearly equal as practicable, that is, with an overall range of deviation at or approaching zero percent; and

(c) No plan will be considered which results in an overall range of deviation in excess of one percent or a relative deviation in excess of plus or minus one-half percent, based on the ideal district population. Any deviation from absolute equality of population must be necessary to the achievement of a legitimate state objective as that concept has been articulated by the United States Supreme Court;

(2) Legislature:

(a) Forty-nine single-member districts;

(b) In establishing new legislative district boundaries, the Legislature shall create districts that are as nearly equal in population as may be. No plan will be considered which results in an overall range of deviation in excess of ten percent or a relative deviation in excess of plus or minus five percent, based on the target population;

(c) Any deviation in excess of the deviation set forth in subdivision (b) of this subdivision must be justifiable as necessary for the realization of a rational state policy as that concept has been articulated by the United States Supreme Court; and

(d) If the population of any county falls within the relative deviation set forth in subdivision (b) of this subdivision, the boundaries of that county shall define a legislative district;

(3) Supreme Court:

(a) Six single-member districts; and

(b) Equality of population shall be achieved in accordance with the standards established for redistricting the Legislature;

(4) Board of Regents of the University of Nebraska:

(a) Eight single-member districts; and

(b) Equality of population shall be achieved in accordance with the standards established for redistricting the Legislature;

(5) Public Service Commission:

(a) Five-single member districts; and

(b) Equality of population shall be achieved in accordance with the standards established for redistricting the Legislature; and

(6) State Board of Education:

(a) Eight single-member districts; and

(b) Equality of population shall be achieved in accordance with the standards established for redistricting the Legislature.

Sec. 28. Not later than April 1 of each year ending in one, the director shall deliver to the Clerk of the Legislature the six commission-approved legislative bills embodying a plan of redistricting and corresponding public hearing reports as prepared in accordance with the Redistricting Act. The reports shall be submitted electronically. The Legislature shall bring each bill to a vote expeditiously, but not less than three days after the bill and the report of the commission required in the act is received and made available to the members of the Legislature. If the redistricting bills embodying the six plans submitted by the director fail to be approved by the eightieth legislative day, there shall be an immediate vote taken for the advancement or passage of the bills.

Sec. 29. Section 49-1493, Reissue Revised Statutes of Nebraska, is amended to read:

49-1493 The individuals listed in subdivisions (1) through (14) of this section shall file with the commission a statement of financial interests as provided in sections 49-1496 and 49-1497 for the preceding calendar year on or before April 1 of each year in which such individual holds such a position. An individual who leaves office shall, within thirty days after leaving office, file a statement covering the period since the previous statement was filed. Disclosure of the interest named in sections 49-1496 to 49-1498 shall be made by:

- (1) An individual holding a state executive office as provided in Article IV of the Constitution of Nebraska, including the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, Tax Commissioner, and heads of such other executive departments as set forth in the Constitution or as may be established by law;
- (2) An individual holding the office of Commissioner of Education, member of the State Board of Education, member of the Board of Regents of the University of Nebraska with the exception of student members, or member of the Coordinating Commission for Postsecondary Education;
- (3) A member of the Board of Parole;
- (4) A member of the Public Service Commission;
- (5) A member of the Legislature;
- (6) A member of the board of directors or an officer of a district organized under the provisions of Chapter 70;
- (7) A member of any board or commission of the state or any county which examines or licenses a business or which determines rates for or otherwise regulates a business;
- (8) A member of a land-use planning commission, zoning commission, or authority of the state or any county with a population of more than one hundred thousand inhabitants;
- (9) An elected official of a city of the primary or metropolitan class;
- (10) An elected county official;
- (11) A member of the Nebraska Environmental Trust Board;
- (12) An individual employed at the University of Nebraska-Lincoln in the position of Head Football Coach, Men's Basketball Coach, or Women's Basketball Coach; and

(13) An official or employee of the state designated by rules and regulations of the commission who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (a) Contracting or procurement;
- (b) Administering or monitoring grants or subsidies;
- (c) Land-use planning or zoning;
- (d) Inspecting, licensing, regulating, or auditing any person; or
- (e) Any similar action; and.

(14) A member of the Independent Redistricting Citizen's Advisory Commission.

Sec. 30. Section 49-1499.03, Reissue Revised Statutes of Nebraska, is amended to read:

49-1499.03 (1)(a) An official of a political subdivision designated in section 49-1493 who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

- (i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict; and
 - (ii) Deliver a copy of the statement to the commission and to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the subdivision.
- (b) The official shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.
- (c) This subsection does not prevent such a person from making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made. A person acting pursuant to this subdivision shall report the occurrence to the commission.

(2)(a) Any person holding an elective office of a city or village not designated in section 49-1493, and any person holding an elective office of a school district, and any member appointed to the Independent Redistricting Citizen's Advisory Commission who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

- (i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(ii) Deliver a copy of the statement to the person in charge of keeping records for the city, village, or school district, or commission who shall enter the statement onto the public records of the city, village, or school district, or commission; and

(iii) Abstain from participating or voting on the matter in which the person holding elective office or appointive office has a conflict of interest.

(b) The person holding elective office or appointive office may apply to the commission for an opinion as to whether the person has a conflict of interest.

(3) Matters involving an interest in a contract are governed either by sections 49-14,102 and 49-14,103 or by sections 49-14,103.01 to 49-14,103.06. Matters involving the hiring of an immediate family member are governed by section 49-1499.04. Matters involving nepotism or the supervision of a family member by an official or employee in the executive branch of state government are governed by section 49-1499.07.

Sec. 31. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 32. Original sections 49-1493 and 49-1499.03, Reissue Revised Statutes of Nebraska, are repealed.