

HOUSE BILL REPORT

HB 1494

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to alignment of statutory deadlines to the Constitution.

Brief Description: Aligning statutory redistricting deadlines to the Constitution.

Sponsors: Representatives Walsh, Gregerson and Hudgins; by request of Secretary of State.

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/8/19, 2/19/19 [DP].

Brief Summary of Bill

- Changes the statutory deadline for the Redistricting Commission to approve a redistricting plan to November 15 of a year ending in "1," matching the State Constitution.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Jason Zolle (786-7124).

Background:

When Washington became a state in 1889, its Constitution provided for the Legislature to draw district boundaries for the state Senate and House of Representatives (House). The Constitution further provided that after each United States census, the Legislature would redraw district boundaries.

Initially, there were few restrictions on the Legislature's apportionment of districts. This led to complaints that districts were unfairly drawn to give voters in some areas more power in the Legislature relative to voters in other areas. In 1930 citizens proposed Initiative 57,

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which divided the state into 46 legislative districts and drew the boundaries for those districts. Each district was entitled to one senator and two representatives in the House, with the exception of Yakima, Clark, and Lewis counties, which were each entitled to three representatives. The initiative passed by a mere 795 votes out of the over 232,000 cast (50.17 percent to 49.83 percent), showing just how contentious redistricting was.

Another initiative to redistrict Washington was passed in 1956 with 52.4 percent of the vote, which increased the number of legislative districts in the state to 49. But the Legislature in 1957 revised the districts to roughly the way they were before the 1956 initiative.

After the 1960 census, it became clear just how unequal those districts were. The most populated district in Washington had 510,512 people, compared to only 342,540 people in the least populated district—i.e., voters in the smaller district had 1.5 times as much relative power in the Legislature. About 38 percent of the population was represented by 51 of the 99 representatives in the House, and 25 of the 49 senators represented just 35.6 percent of the population.

In 1962 the United States Supreme Court in *Baker v. Carr* departed from its precedent and held that federal courts could hear challenges to over- and under-representation in state legislative districts. A ruling the following year articulated the "one person, one vote" standard to clarify that under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, each person is entitled to roughly equal representation in a state legislature.

An initiative in 1962 to redraw Washington districts for more equal representation was defeated at the polls. But shortly after the *Baker v. Carr* decision was announced, a voter named James Thigpen filed a class action lawsuit arguing that the legislative districts drawn in 1957 were unconstitutional. A three-judge panel in federal district court found that the districts in Washington were unconstitutional, but the court gave the Legislature the chance to redraw districts in a more equal manner in the 1963 session. The United States Supreme Court affirmed this decision in 1964. The Legislature finally redrew districts in 1965, but those districts were again declared unconstitutional by a federal district court after the 1970 census.

After the 1980 census, the state chose a different route for redistricting. The state enacted legislation in 1982 to create a six-member Redistricting Commission to draw legislative districts "as nearly equal as is practicable." Members were to be chosen by February 15 of each year ending in "1," and the Redistricting Commission was required to prepare a districting plan by November 31 of the same year. With this legislation, Washington was the third state to adopt a redistricting commission.

In 1983 a constitutional amendment was passed that modified the Redistricting Commission in several respects. The Redistricting Commission was reduced to five members: one appointed by each of the legislative leaders of the two largest caucuses in each of the two houses, and one nonvoting chair chosen by those four appointed members. The deadline for approving a redistricting plan, which requires at least three votes in favor of the plan, was extended to January 1 of each year ending in "2." If three members could not agree on a plan, the Washington Supreme Court was tasked with adopting a plan. Per the state

Constitution, the Supreme Court has until April 30 to adopt a plan; legislation passed in 1983, however, sets the Court's deadline at March 1. The Legislature can amend a redistricting plan only by a two-thirds majority vote.

The Redistricting Commission met for the first time in 1991 and drew district boundaries based on the 1990 census.

The deadline for the Redistricting Commission to approve a redistricting plan has been modified three times since its first use in 1991. In 1995 the Legislature moved the statutory deadline forward to December 15 of each year ending in "1," although the constitutional deadline of January 1 was not modified. The 2001 Redistricting Commission approved its state legislative map on December 16, 2001. In the 2002 session, the Legislature pushed the statutory deadline back to January 1 of each year ending in "2." But a constitutional amendment in 2016 moved the constitutional deadline forward again, this time to November 15 of each year ending in "1."

Currently, there are 14 states that use a commission to draw state legislative districts. Six other states use a commission to advise the legislature (Iowa similarly uses nonpartisan legislative staff to develop maps for the legislature to approve), and five states use a commission as a backup if the legislature is unable to agree on a map.

Summary of Bill:

The statutory deadline for the Redistricting Commission to approve a redistricting plan is moved forward to November 15 of a year ending in "1," matching the state Constitution.

Appropriation: None.

Fiscal Note: Requested on January 23, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The redistricting deadline has moved around quite a bit, and recently the constitutional date was moved to November 15. January 1 was a terrible time for the deadline because of the holiday season. The public saw fit to amend the deadline in the Constitution, but the statute never caught up. This is a simple and direct bill to put the statute in line with the Constitution.

(Opposed) None.

Persons Testifying: Representative Walsh, prime sponsor; and Jay Jennings, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: None.