HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS COMMITTEE
SUBSTITUTE FOR
HOUSE JOINT RESOLUTION 9

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

A JOINT RESOLUTION

PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR THE CREATION OF AN INDEPENDENT REDISTRICTING COMMISSION TO DEVELOP REDISTRICTING PLANS FOR CONGRESSIONAL DISTRICTS, STATE LEGISLATIVE DISTRICTS AND THE DISTRICTS OF OTHER DISTRICTED STATE OFFICES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 4, Section 3 of the constitution of New Mexico to read:

"A. Senators shall not be less than twenty-five years of age and representatives not less than twenty-one years of age at the time of their election. If any senator or representative permanently removes [~~his~~] the senator's or representative's residence from or maintains no residence in the district from which [~~he~~] the senator or representative was

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elected, then [~~he~~] the senator or representative shall be deemed to have resigned, and [~~his~~] a successor shall be selected as provided in Article 4, Section 4 of this [~~article~~] constitution. No person shall be eligible to serve in the legislature who, at the time of qualifying, holds any office of trust or profit with the state, county or national governments, except notaries public and officers of the militia who receive no salary.

B. The senate shall be composed of no more than forty-two members elected from single-member districts.

C. The house of representatives shall be composed of no more than seventy members elected from single-member districts.

[~~D. Once following publication of the official report of each federal decennial census hereafter conducted, the legislature may by statute reapportion its membership.~~]"

SECTION 2. It is proposed to amend Article 20 of the constitution of New Mexico by adding a new section to read:

"A. By August 15 of each year ending in the number zero, a redistricting commission shall be established to prepare and provide for the redistricting of congressional districts, state legislative districts and the districts of other districted state offices.

B. The redistricting commission shall consist of seven commissioners, no more than three of whom shall be

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members of the same political party. Each commissioner shall be a registered qualified elector of New Mexico who has not changed political party registration within the five years immediately preceding appointment. A commissioner shall not be a former federal, state or local elected official; provided that the chair of the redistricting commission shall be a retired district court judge, appellate court judge or justice of the supreme court. A commissioner shall not have been a candidate for public office, an employee or contractor for a candidate, campaign committee or political action committee, a registered paid lobbyist, a direct relative or employee of a federal, state or local elected official, an officer of a political party or a paid political consultant for the ten years immediately preceding the opening of the selection process.

C. Through a public application process, established in rule by the state ethics commission, the state ethics commission shall solicit, accept and evaluate applications from registered qualified electors who are qualified to serve as commissioner and committed to conducting the redistricting process in an honest, independent and impartial fashion. The state ethics commission shall select at least thirty-eight nominees from the applicants who are representative of the various geographic regions of the state; provided that no more than twelve of whom shall be members of

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the same political party. The state ethics commission shall submit the selected nominees to the legislature by July 1 of each year ending in the number zero. The president pro tempore of the senate, the senate minority floor leader, the speaker of the house and house minority floor leader may each strike up to three applicants from the pool of applicants.

D. No later than July 21 of each year ending in the number zero, the legislative leadership shall submit the list of applicants they want stricken from eligibility for appointment to the state ethics commission.

E. The state ethics commission shall appoint six commissioners from the remaining pool of applicants, ensuring geographic, racial and gender balance among the appointees. The appointees shall include two appointees each from the two political parties with the largest number of registered voters affiliated with the party in the state and two members who are affiliated with other political parties or who are unaffiliated voters. The state ethics commission shall also appoint from the remaining pool of applicants a retired district court judge, appellate court judge or justice of the supreme court to serve as chair of the redistricting commission. All appointments shall be made on or before August 15 of each year ending in the number zero.

F. A vacancy on the redistricting commission shall be filled by the state ethics commission from the remaining

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pool of qualified applicants. A commissioner shall be deemed to have resigned from the redistricting commission and a vacancy created if, after the day of appointment, the commissioner changes party registration in such a way as to cause one political party to have more than three members on the commission.

G. A commissioner may be removed by the supreme court for substantial neglect of duty, gross misconduct in office or inability to discharge the duties of office. The supreme court has original jurisdiction over proceedings to remove commissioners. A proceeding for the removal of a commissioner shall be commenced by the attorney general upon the request of the commission.

H. The redistricting commission shall develop district plans for congressional districts, state legislative districts and other districted state offices following each federal decennial census. The commission shall develop district plans in accordance with the following provisions:

(1) congressional districts shall be as equal in population as practicable;

(2) legislative districts and other state office districts shall be substantially equal in population. The commission shall not consider district plans for the legislature and other state offices that have a total deviation of more than plus or minus five percent;

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(3) the commission shall use the most recent federal decennial census data generated by the United States census bureau and may use other reliable sources of demographic data as determined by majority vote of the commission;

(4) district plans shall comport with the provisions of federal law and shall not dilute a protected minority's voting strength. Race may be considered in developing district plans but shall not be the predominant consideration, and traditional race-neutral redistricting principles shall not be subordinated to racial considerations;

(5) district plans shall use only single-member districts and shall not split precincts;

(6) districts shall be drawn consistent with traditional redistricting principles;

(7) districts shall be composed of contiguous precincts and shall be reasonably compact;

(8) to the extent feasible, districts shall be drawn in an attempt to preserve communities of interest and shall take into consideration political and geographic boundaries, including the boundaries of Indian nations, tribes and pueblos and their political subdivisions; and

(9) to the extent feasible, the commission may seek to preserve the core of existing districts.

I. The redistricting commission may incorporate suggested changes to its proposed district plans in accordance

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with public comments and testimonies it receives, but shall not subordinate the requirements of Paragraphs (1) through (9) of Subsection H of this section in doing so.

J. When proposing or adopting district plans, the redistricting commission shall not:

(1) use, rely upon or reference partisan data, such as voting history or party registration data; provided that voting history in elections may be considered to ensure that the district plan complies with applicable federal law; or

(2) consider the voting address of incumbents.

K. After release of the necessary federal decennial census data to the state, the redistricting commission shall hold public hearings throughout the state to develop proposed district plans and subsequently to adopt district plans. The commission shall make any adjustments to the proposed plans that it deems necessary to meet the redistricting criteria and establish the final district boundaries. The commission shall file with the secretary of state the commission's approved plans for senate, house of representatives and congressional districts and other districted state offices by October 1 of each year ending in the number one.

L. An approved plan shall determine the districts for use in the succeeding primary and general elections for the respective body.

M. The legislature shall provide adequate resources

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for the operation of the redistricting commission in performing its duties.

N. The redistricting commission shall have procurement and contracting authority and may hire staff, consultants and legal counsel as necessary to carry out its duties. The commission shall have standing in legal actions challenging its redistricting plans or process, or the adequacy of resources provided for the operation of the commission. The commission shall have sole authority to determine whether the attorney general or counsel hired or selected by the commission shall represent the state in the legal defense of a redistricting plan.

O. Commissioners are eligible for per diem and mileage at the internal revenue service maximum federal per diem rate for the city of Santa Fe and the internal revenue service standard mileage rate for travel on redistricting commission business.

P. Commissioners shall disclose by the next public meeting any communication with outside persons or organizations attempting to influence the map-drawing process outside of public meetings and public comment periods. Failure to disclose the communications shall constitute substantial neglect of duty.

Q. Each commissioner shall serve until the commissioner's successor is appointed and qualified in July or

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August of the next year ending in the number zero following the commissioner's appointment. The redistricting commission shall not meet nor incur expenses after the redistricting process is completed, except:

(1) when litigation related to a plan is pending;

(2) to revise districts if required by a court decision;

(3) to correct partisan bias of any plan declared to be partisan biased by an independent expert retained by the commission; or

(4) to maintain and provide public access to records of its proceedings.

R. The redistricting commission shall develop and adopt rules at the beginning of each redistricting process.

S. The provisions of this section are self-executing."

SECTION 3. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

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