

1 DRAFT PREPARED BY LEGISLATIVE COUNCIL  
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8

9 **A BILL**

10  
11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,  
12 1976, BY ADDING CHAPTER 80 TO TITLE 2 SO AS TO  
13 ESTABLISH THE SOUTH CAROLINA CITIZENS  
14 REDISTRICTING COMMISSION FOR THE PURPOSE OF  
15 SUBMITTING REAPPORTIONMENT PLANS TO THE  
16 GENERAL ASSEMBLY AND TO PROVIDE FOR THE  
17 SELECTION, QUALIFICATIONS, POWERS, DUTIES, AND  
18 TERMS OF THE COMMISSION AND ITS MEMBERS.  
19

20 Be it enacted by the General Assembly of the State of South  
21 Carolina:

22  
23 SECTION 1. Title 2 of the 1976 Code is amended by adding:

24  
25 "CHAPTER 80

26  
27 South Carolina Citizens Redistricting Commission

28  
29 Section 2-80-10. The General Assembly finds that the periodic  
30 reapportionment of the House of Representatives, the Senate, and  
31 the congressional districts is a responsibility of great consequence  
32 for it is designed to guarantee fair and effective representation for  
33 all citizens of South Carolina. It is a duty whose performance  
34 involves the analysis of population data, the study of geographic and  
35 demographic factors, the assistance of statisticians and other  
36 technical experts, and the development and completion of a  
37 reapportionment plan in time not only to provide for an orderly  
38 electoral process and an informed electorate but also to comply with  
39 all state and federal election laws, including primary election and  
40 general election schedules prescribed by statute and by the  
41 Constitution of South Carolina, 1895. The General Assembly also  
42 finds that benefits are to be gained from the participation of the

1 major political parties and of the public in the process. For these  
2 reasons, the General Assembly considers it proper and necessary to  
3 provide formally for public participation in the formulation of a  
4 reapportionment plan by establishing a bipartisan independent  
5 citizens commission to construct reapportionment plans in a timely  
6 fashion and to prescribe a schedule to best ensure that the periodic  
7 redistricting of the House of Representatives, the Senate, and the  
8 congressional districts is carried out in conformity with statutorily  
9 and constitutionally prescribed dates in the nomination and election  
10 process and with all other state and federal election laws.

11  
12 Section 2-80-20. The General Assembly shall adopt the  
13 reapportionment plan for the House of Representatives, Senate, and  
14 congressional districts, as determined by the South Carolina  
15 Citizens Redistricting Commission ('commission'), by January  
16 thirty-first in calendar years that end with the numeral '2', after  
17 receipt of final reapportionment plans as required by the provisions  
18 of this chapter.

19  
20 Section 2-80-30. The State Ethics Commission shall oversee the  
21 appointment of the members of the South Carolina Citizens  
22 Redistricting Commission that is tasked with the post-census  
23 decennial reapportionment plan for the House of Representatives,  
24 Senate, and congressional districts. The selection process will be  
25 completed by January thirty-first in calendar years that end with the  
26 numeral '1', following the federal decennial census. The  
27 Redistricting Commission shall convene to begin its term of service  
28 on March first in calendar years that end with the numeral '1'.

29  
30 Section 2-80-40. The State Ethics Commission shall open the  
31 application period for appointment consideration no later than  
32 September first in calendar years that end with the numeral '0'. The  
33 application process must be open to all registered South Carolina  
34 voters in a manner that promotes a diverse and qualified applicant  
35 pool. The application period for appointment consideration shall  
36 remain open for at least sixty days and may not close before October  
37 thirty-first. All applicants must be required to provide a completed  
38 application and attest under oath that they meet the eligibility  
39 requirements. The names of all applicants who fit the eligibility  
40 criteria and who are not disqualified must be placed into the general  
41 pool.

42

1 Section 2-80-50. The State Ethics Commission shall work with  
2 the State Election Commission to identify eligible registered voters  
3 and shall make its best efforts to notify and invite all eligible voters  
4 to apply for the commission. These efforts shall include, but not be  
5 limited to:

6 (1) advertising the application period and criteria in all daily  
7 newspapers in the State for at least thirty consecutive days prior to  
8 the opening of the application period;

9 (2) advertising the application period on the home page of all  
10 state agency websites; and

11 (3) requesting all local television and radio stations to air  
12 frequent announcements that feature this information during the  
13 application period.  
14

15 Section 2-80-60. (A) To be eligible to serve on the commission,  
16 a voter must possess a consistent record of regularly voting in the  
17 majority or minority party's primary elections. This provision does  
18 not apply to newly registered voters, or those who have not had  
19 primary contests on their ballot. The applicant for the commission  
20 must not be:

21 (1) a current or former state or federal office holder;

22 (2) a current or former state or federal agency executive  
23 director;

24 (3) an individual who, within the previous five years of their  
25 appointment, worked as a paid campaign staffer for a candidate for  
26 elected office;

27 (4) a paid staff member for an elected official in the five years  
28 leading up to their service on the commission;

29 (5) a declared candidate for partisan federal, state, or local  
30 office;

31 (6) an elected official to federal, state, or local office;

32 (7) an officer or member of a governing body for a federal,  
33 state, or local political party;

34 (8) a paid consultant or employee of a federal, state, or local  
35 elected official or political candidate's campaign, or political action  
36 committee;

37 (9) an employee of the General Assembly; or

38 (10) a registered state or federal lobbyist, or any employee of a  
39 registered state or federal lobbyist.

40 (B) Applicants may not have:

41 (1) immediate family members who have served in any of the  
42 roles specified in subsection (A) in the five years preceding the  
43 applicant's appointment; and

1 (2) donated more than a combined total of two thousand  
2 dollars to a candidate or candidates for elected office in the five  
3 years leading up to their service on the commission.

4 (C) The State Ethics Commission shall prepare the application  
5 for an applicant to be considered for appointment to the commission  
6 that shall also include an essay question regarding the voter's  
7 reasons for desiring to serve on the commission. The applications  
8 must be available on the State Ethics Commission's website and at  
9 every county board of voter registration and elections office.  
10 Accommodations must be made consistent with the American  
11 Disabilities Act regarding access to applications.

12  
13 Section 2-80-70. (A) Upon the closing of the application period,  
14 the State Ethics Commission randomly shall select applicants from  
15 the general pool to create a fifty-six member nominee pool. The  
16 nominee pool shall include eight residents from each of the state's  
17 seven congressional districts, of whom four nominees from each  
18 district must be majority party voters, and four must be voters of the  
19 largest minority party.

20 (B) The methodology of the random selection process, ensuring  
21 that a partisan balance of nominees are chosen from each  
22 congressional district, must be determined by the State Ethics  
23 Commission.

24 (C) Decisions requiring a vote by the State Ethics Commission  
25 must be determined by a majority of the eight members that shall  
26 include two members of the majority party and two members of the  
27 minority party.

28 (D) The State Ethics Commission shall perform a review of the  
29 nominee pool to ensure that the fifty-six member pool of applicants  
30 mirrors the geographic and demographic makeup of the State as  
31 closely as possible, that all eligibility requirements have been met,  
32 and that the applicants' stated reasons for appointment included in  
33 their essays were found reasonable by a majority of the State Ethics  
34 Commissioners. The State Ethics Commission may remove  
35 members from the nominee pool and randomly select replacements  
36 of the same geographic and partisan designations to satisfy this  
37 requirement. Once completed, the State Ethics Commission  
38 randomly shall select the final fourteen commission members from  
39 the nominee pool who met all the criteria for membership. The  
40 Citizens Redistricting Commission shall consist of fourteen  
41 members, one majority party voter and one largest minority party  
42 voter drawn from each congressional district. The final commission  
43 must be selected randomly to ensure the commission's membership

1 reflects the state’s diversity including, but not limited to, racial,  
2 ethnic, geographic, and gender diversity; however, it is not intended  
3 that formulas or specific ratios be applied for this purpose.  
4

5 Section 2-80-80. The State Ethics Commission simultaneously  
6 shall choose a panel of fourteen alternate commissioners using the  
7 same random selection method and selecting from a new pool of  
8 fifty-six voters. Each alternate must be available to replace a  
9 commission member of the same party in his congressional district,  
10 if a commission member is unable to represent his district due to  
11 illness, death, or other significant impediment, as determined by a  
12 majority vote of the Citizens Redistricting Commission. If the  
13 originally impaneled commission fails to reach a decision on  
14 reapportionment congressional and state legislative districts  
15 pursuant to this chapter, the State Ethics Commission shall dissolve  
16 the original commission and impanel the alternates to complete the  
17 reapportionment duties. The alternate panel of commissioners may  
18 consider, but is not limited to, the original panel’s reapportionment  
19 proposals.  
20

21 Section 2-80-90. (A) The commission shall convene on March  
22 first in calendar years that end with the numeral ‘1’. Commissioners  
23 shall serve from the time the commission convenes until the General  
24 Assembly adopts a final reapportionment plan. The commissioners’  
25 terms shall expire once their duties and obligations are complete,  
26 but not prior to the conclusion of judicial review, if any. A  
27 commissioner may not serve more than one term.

28 (B) The commission shall elect its own chairperson and vice  
29 chair. The chairperson and vice chair must not be of the same  
30 political party affiliation. The Department of Administration shall  
31 provide staff support for the commission’s work. The commission  
32 shall have the sole power to make its own rules, have procurement  
33 and contracting authority, and may hire staff and consultants as  
34 needed, including legal representation.

35 (C) Redistricting commission members and staff may not  
36 communicate with or receive communications about redistricting  
37 matters from anyone outside of a public hearing. This does not  
38 prohibit communication between commission members, staff, legal  
39 counsel, and consultants retained by the commission.

40 (D) The commission shall establish clear criteria for the hiring  
41 and removal of staff and consultants, communication protocols, and  
42 a code of conduct. The commission shall apply the conflicts of  
43 interest standards set forth in this chapter to the hiring of staff to the

1 extent applicable. The Department of Administration shall provide  
2 support functions to the commission until its staff and office are  
3 fully functional. Commission employees are exempt from civil  
4 service requirements. The commission shall require that at least one  
5 of its hired legal counsel possess demonstrated extensive experience  
6 and expertise in implementation and enforcement of the federal  
7 Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.). The  
8 commission shall make hiring, removal, or contracting decisions on  
9 staff, legal counsel, and consultants by a majority vote.

10 (E) Each commissioner, including alternates, shall receive per  
11 diem for each day of actual work.

12 (F) To ensure transparency and accountability, the minutes of all  
13 the meetings shall be publicly posted on the commission's website.

14  
15 Section 2-80-100. The commission shall establish fair and  
16 reasonable written criteria appropriate for reapportionment that it  
17 shall follow in formulating plans of reapportionment. The  
18 Department of Administration shall provide technical staff and  
19 clerical services to the commission. The various county boards of  
20 voter registration and elections are also authorized to provide  
21 technical and administrative assistance to the commission upon  
22 request.

23  
24 Section 2-80-110. (A) In developing reapportionment plans or  
25 maps, the commission shall consider the following five factors, in  
26 priority order:

- 27 (1) population equality;
- 28 (2) Voting Rights Act compliance;
- 29 (3) communities of interest, which include, but are not limited  
30 to, populations that share cultural or historical characteristics or  
31 economic interests. Communities of interest do not include  
32 relationships with political parties, incumbents, or political  
33 candidates;
- 34 (4) competitiveness of district; and
- 35 (5) consistency with existing local boundaries.

36 (B) Once the mandatory criteria are achieved, the commission  
37 shall consider contiguity and compactness of districts. Islands are  
38 contiguous by land to the county of which they are a part.

39 The commission shall count incarcerated persons as residing at  
40 their most recent home addresses, not at the address of the place of  
41 incarceration.

42 (C) The commission shall propose plans or maps with districts  
43 that:

1 (1) are of equal population as mandated by the U.S.  
2 Constitution and shall comply with the Voting Rights Act and all  
3 other federal laws;

4 (2) are geographically contiguous;

5 (3) reflect the state's diverse population and communities of  
6 interest;

7 (4) do not provide a disproportionate advantage to any  
8 political party;

9 (5) reflect consideration of county, city, and township  
10 boundaries; and

11 (6) are reasonably compact.

12 (D) Before voting to adopt a plan, the commission shall ensure  
13 that the plan is tested, using appropriate technology, for compliance  
14 with the criteria required pursuant to this section. All commission  
15 decisions must be determined by a majority of at least ten members  
16 that includes at least four Democrats and four Republicans.

17  
18 Section 2-80-120. After formulating a proposed plan, the  
19 commission shall open a forty-five day public comment period to  
20 host public hearings across the State beginning no later than June  
21 first in calendar years that end with the numeral '1'. The  
22 commission shall establish and implement an open hearing process  
23 for public input and deliberation that must be subject to public notice  
24 and promoted through a thorough outreach program to solicit broad  
25 public participation in the reapportionment public review process.  
26 Notice of all public hearings must be published in daily newspapers  
27 of general circulation covering all areas of the State for at least  
28 fourteen days prior to the hearing date. The commission shall hold  
29 at least seven public hearings across the State, with at least one in  
30 each congressional district, and the commissioners from that district  
31 must be in attendance. The public hearings must be supplemented  
32 with other activities as appropriate to increase opportunities for the  
33 public to observe and participate in the review process. The  
34 commission shall display, and post on their website, the maps for  
35 public comment in a manner designed to achieve the widest public  
36 access reasonably possible.

37  
38 Section 2-80-130. (A) Within thirty days of the completion of  
39 the public comment period, but no later than August fifteenth, the  
40 commission shall make any amendments to the proposed map or  
41 plan and vote to adopt a final version. At least ten members,  
42 including at least four majority party members and four largest  
43 minority party members, shall approve the final version no later than

1 August fifteenth in calendar years that end with the numeral '1'. The  
2 final version, to include maps, must be presented to the public,  
3 General Assembly, and congressional offices by September first in  
4 calendar years that end with the numeral '1'.

5 (B) If the commission is unable to come to such an agreement,  
6 the State Ethics Commission shall dissolve the original commission  
7 and convene the alternate commission within fourteen calendar days  
8 of the original commission's dissolution. The alternate commission  
9 shall have sixty days to conclude the reapportionment duties as  
10 described in this chapter, to include the delivery of the final version  
11 along with maps to all of the parties specified in subsection (A).

12  
13 Section 2-80-140. There is no mechanism for executive or  
14 legislative alteration or veto power over the commission's final  
15 reapportionment plan and maps. Any legal challenges to the  
16 commission's final reapportionment plan or maps must be filed in  
17 state circuit court or federal district court pursuant to state and  
18 federal law. An appeal of a state court decision regarding  
19 reapportionment must be heard in the South Carolina Supreme  
20 Court.

21  
22 Section 2-80-150. Each alternate must be available to replace a  
23 commission member of the same party in his congressional district,  
24 if a commission member is unable to represent his district due to  
25 illness, death, or other significant impediment, as determined by a  
26 majority vote of the Citizens Redistricting Commission. If there is a  
27 vacancy, the State Ethics Commission randomly shall draw a name  
28 from this alternate pool, according to the respective congressional  
29 district and political party. The alternate pool must be refreshed and  
30 maintained throughout the original process. Alternates must be kept  
31 abreast of commission proceedings either through attendance or  
32 electronic communications throughout the process.

33  
34 Section 2-80-160. (A) In calendar years that end with the  
35 numeral '9', prior to the decennial census, the Governor shall submit  
36 a budget to the General Assembly that includes funding sufficient to  
37 meet the estimated expenses of the entire redistricting process  
38 required by this chapter. The Governor also shall make adequate  
39 office and meeting space available for commission operations. The  
40 General Assembly shall make the necessary appropriation for the  
41 commission in the appropriate annual appropriations act, and the  
42 appropriation must be available during the entire redistricting  
43 process. The General Assembly shall appropriate funds sufficient to



1 compensate the commissioners and to enable the commission to  
2 execute its functions, operations, and activities, which may include,  
3 but are not limited to:

- 4 (1) retaining independent, nonpartisan subject matter experts  
5 and legal counsel;
- 6 (2) conducting hearings;
- 7 (3) publishing notices;
- 8 (4) maintaining a record of the commission's proceedings;
- 9 and
- 10 (5) other activities necessary for the commission to conduct  
11 its business.

12 (B) The General Assembly shall provide adequate funding to  
13 allow the commission to defend itself against any action regarding  
14 an adopted plan.

15 (C) The commission shall furnish reports of expenditures to the  
16 Governor and the General Assembly and must be subject to an audit  
17 as provided by law.

18 (D) The commission shall notify the General Assembly if it  
19 determines that funds or resources are inadequate.

20 (E) The State shall indemnify the commission for costs actually  
21 incurred that exceed the commission's appropriations.

22  
23 Section 2-80-170. For purposes of this chapter, the most recently  
24 completed United States Census qualifies as the decennial  
25 enumeration required by Section 3, Article III of the Constitution of  
26 South Carolina, 1895.

27  
28 Section 2-80-180. For five years following the expiration of a  
29 former commissioner's term of service, a former commissioner may  
30 not:

- 31 (1) serve as a lobbyist within the meaning of Chapter 17, Title  
32 2;
- 33 (2) offer as a candidate for elected office, or be appointed to fill  
34 a vacancy in an elected office;
- 35 (3) be appointed to serve as a state agency executive director; or
- 36 (4) contribute more than a combined total of two thousand  
37 dollars to a candidate or candidates for elected office in a single  
38 election cycle."

39  
40 SECTION 2. This act takes effect upon approval by the Governor.

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