

# SENATE BILL No. 301

March 24, 2011, Introduced by Senators BIEDA, WHITMER, SMITH, HUNTER, ANDERSON, GREGORY, JOHNSON, GLEASON, WARREN and YOUNG and referred to the Committee on Government Operations.

A bill to amend 1996 PA 463, entitled

"An act to establish guidelines for the decennial adoption of redistricting plans for the senate and house of representatives; to provide original jurisdiction to the supreme court to review redistricting plans enacted by the legislature for compliance with those guidelines; and to provide a procedure for the supreme court to use to redistrict the senate and house of representatives under certain circumstances,"

by amending sections 1, 1a, and 2 (MCL 4.261, 4.261a, and 4.262), section 1a as added and section 2 as amended by 1999 PA 223; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) **THE LEGISLATIVE REDISTRICTING COMMISSION IS**  
2 **CREATED WITHIN THE DEPARTMENT OF STATE.**

3           (2) **THE LEGISLATIVE REDISTRICTING COMMISSION SHALL CONSIST OF**  
4 **9 MEMBERS, APPOINTED AS FOLLOWS:**

5           (A) **FOUR MEMBERS APPOINTED BY THE POLITICAL PARTY WHOSE**

1 CANDIDATE FOR THE OFFICE OF GOVERNOR RECEIVED THE HIGHEST NUMBER OF  
2 VOTES AT THE LAST GENERAL ELECTION IN WHICH A GOVERNOR WAS ELECTED  
3 PRECEDING REDISTRICTING.

4 (B) FOUR MEMBERS APPOINTED BY THE POLITICAL PARTY WHOSE  
5 CANDIDATE FOR THE OFFICE OF GOVERNOR RECEIVED THE SECOND HIGHEST  
6 NUMBER OF VOTES AT THE LAST GENERAL ELECTION IN WHICH A GOVERNOR  
7 WAS ELECTED PRECEDING REDISTRICTING.

8 (C) ONE MEMBER, WHO SHALL SERVE AS CHAIRPERSON OF THE  
9 COMMISSION, APPOINTED BY THE AUDITOR GENERAL.

10 (3) THE MEMBERS FIRST APPOINTED TO THE LEGISLATIVE  
11 REDISTRICTING COMMISSION SHALL BE APPOINTED WITHIN 30 DAYS AFTER  
12 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
13 SUBSECTION.

14 (4) A MEMBER OF THE LEGISLATIVE REDISTRICTING COMMISSION SHALL  
15 SERVE FOR A TERM OF 2 YEARS OR UNTIL A SUCCESSOR IS APPOINTED,  
16 WHICHEVER IS LATER.

17 (5) IF A VACANCY OCCURS ON THE LEGISLATIVE REDISTRICTING  
18 COMMISSION, THE PARTY OR INDIVIDUAL WHO APPOINTED THAT MEMBER UNDER  
19 SUBSECTION (2) SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM.

20 (6) THE FIRST MEETING OF THE COMMISSION SHALL BE CALLED BY THE  
21 CHAIRPERSON. AFTER THE FIRST MEETING, THE COMMISSION SHALL MEET AT  
22 LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON  
23 OR IF REQUESTED BY 5 OR MORE MEMBERS. THE COMMISSION SHALL HOLD AT  
24 LEAST 6 PUBLIC HEARINGS PRIOR TO VOTING ON ANY LEGISLATIVE  
25 REDISTRICTING PLAN. AT LEAST 1 OF THE HEARINGS REQUIRED UNDER THIS  
26 SUBSECTION SHALL TAKE PLACE IN EACH OF THE FOLLOWING LOCATIONS IN  
27 THIS STATE:

1 (A) THE UPPER PENINSULA.

2 (B) THE NORTHERN PART OF THE LOWER PENINSULA, NORTH OF A LINE  
3 DRAWN ALONG THE NORTHERN BOUNDARIES OF THE COUNTIES OF BAY,  
4 MIDLAND, ISABELLA, MECOSTA, NEWAYGO, AND OCEANA.

5 (C) SOUTHWESTERN MICHIGAN, THOSE COUNTIES SOUTH OF THE REGION  
6 DESCRIBED IN SUBDIVISION (B) AND WEST OF A LINE DRAWN ALONG THE  
7 WESTERN BOUNDARIES OF THE COUNTIES OF BAY, SAGINAW, SHIAWASSEE,  
8 INGHAM, JACKSON, AND HILLSDALE.

9 (D) SOUTHEASTERN MICHIGAN, THE REMAINING COUNTIES OF THE  
10 STATE.

11 (7) THE COMMISSION SHALL ESTABLISH A WEBSITE AND POST ANY  
12 REDISTRICTING PLAN ON THAT WEBSITE 72 HOURS BEFORE VOTING ON THAT  
13 PLAN. THE COMMISSION SHALL NOT CHANGE A REDISTRICTING PLAN UNLESS  
14 THOSE CHANGES HAVE BEEN POSTED ON THE WEBSITE FOR 72 HOURS.

15 (8) A LOBBYIST, OR AN OFFICER OR EMPLOYEE OF THE FEDERAL OR  
16 STATE GOVERNMENT, UNLESS THE OFFICER OR EMPLOYEE IS THE MEMBER  
17 APPOINTED BY THE AUDITOR GENERAL, IS NOT ELIGIBLE TO SERVE ON THE  
18 COMMISSION. A MEMBER OF THE COMMISSION IS NOT ELIGIBLE FOR ELECTION  
19 TO THE LEGISLATURE UNTIL 4 YEARS AFTER THE REDISTRICTING IN WHICH  
20 HE OR SHE PARTICIPATED BECOMES EFFECTIVE.

21 (9) A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A  
22 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
23 COMMISSION. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
24 REQUIRED FOR OFFICIAL ACTION OF THE COMMISSION.

25 (10) THE BUSINESS THAT THE COMMISSION MAY PERFORM SHALL BE  
26 CONDUCTED AT A PUBLIC MEETING OF THE COMMISSION HELD IN COMPLIANCE  
27 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

1           (11) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
2     RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL  
3     FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
4     MCL 15.231 TO 15.246.

5           (12) A MEMBER OF THE COMMISSION SHALL NOT SOLICIT OR ACCEPT A  
6     GIFT OR LOAN OF MONEY, GOODS, SERVICES, OR OTHER THING OF VALUE  
7     FROM A LOBBYIST, AN INDIVIDUAL WHO HOLDS AN ELECTIVE OFFICE, A  
8     STATE OR FEDERAL EMPLOYEE, OR A 501 OR 527 ORGANIZATION.

9           (13) A MEMBER OF THE LEGISLATIVE REDISTRICTING COMMISSION  
10    SHALL SERVE WITHOUT COMPENSATION. HOWEVER, A MEMBER OF THE  
11    LEGISLATIVE REDISTRICTING COMMISSION MAY BE REIMBURSED FOR HIS OR  
12    HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF  
13    OFFICIAL DUTIES AS A MEMBER OF THE COMMISSION.

14          (14) BY SEPTEMBER 1, 2011, AND EVERY 10 YEARS THEREAFTER, THE  
15    LEGISLATIVE REDISTRICTING COMMISSION SHALL PREPARE A LEGISLATIVE  
16    REDISTRICTING PLAN AND SHALL DELIVER THAT PLAN TO THE LEGISLATURE.  
17    IF 6 MEMBERS OF THE LEGISLATIVE REDISTRICTING COMMISSION CANNOT  
18    AGREE ON A PLAN, THE MEMBERS APPOINTED UNDER SUBSECTION (2) (A)  
19    SHALL SUBMIT A PROPOSED PLAN TO THE LEGISLATURE AND THE MEMBERS  
20    APPOINTED UNDER SUBSECTION (2) (B) SHALL SUBMIT A PROPOSED PLAN TO  
21    THE LEGISLATURE BY SEPTEMBER 15. A LEGISLATIVE REDISTRICTING PLAN  
22    SUBMITTED TO THE LEGISLATURE UNDER THIS SUBSECTION SHALL BE VOTED  
23    UPON BY THE LEGISLATURE BEFORE ANY OTHER REDISTRICTING PLAN IS  
24    ENACTED. By November 1, 2001, and every 10 years thereafter, the  
25    legislature shall enact a redistricting plan for the senate and  
26    house of representatives. Except as otherwise required by federal  
27    law for legislative districts in this state, the COMMISSION OR

1 **LEGISLATURE SHALL PREPARE THE LEGISLATIVE** redistricting plan ~~shall~~  
2 ~~be enacted~~ using only the following guidelines:

3 (a) The senate districts shall consist of 38 single-member  
4 districts.

5 (b) The house of representatives districts shall consist of  
6 110 single-member districts.

7 (c) Senate and house of representatives districts shall be  
8 areas of convenient territory contiguous by land. Areas that meet  
9 only at the points of adjoining corners are not contiguous.

10 (d) Senate and house of representatives districts shall have a  
11 population not exceeding 105% and not less than 95% of the ideal  
12 district size for the senate or the house of representatives unless  
13 and until the United States supreme court establishes a different  
14 range of allowable population divergence for state legislative  
15 districts.

16 (e) Senate and house of representatives district lines shall  
17 preserve county lines with the least cost to the principle of  
18 equality of population provided for in subdivision (d).

19 (f) If it is necessary to break county lines to stay within  
20 the range of allowable population divergence provided for in  
21 subdivision (d), the fewest whole cities or whole townships  
22 necessary shall be shifted. Between 2 cities or townships, both of  
23 which will bring the districts into compliance with subdivisions  
24 (d) and (h), the city or township with the lesser population shall  
25 be shifted.

26 (g) Within those counties to which there is apportioned more  
27 than 1 senate district or house of representatives district,

1 district lines shall be drawn on city and township lines with the  
2 least cost to the principle of equality of population between  
3 election districts consistent with the maximum preservation of city  
4 and township lines and without exceeding the range of allowable  
5 divergence provided for in subdivision (d).

6 (h) If it is necessary to break city or township lines to stay  
7 within the range of allowable divergence provided for in  
8 subdivision (d), the number of people necessary to achieve  
9 population equality shall be shifted between the 2 districts  
10 affected by the shift, except that in lieu of absolute equality the  
11 lines may be drawn along the closest street or comparable boundary.

12 (i) Within a city or township to which there is apportioned  
13 more than 1 senate district or house of representatives district,  
14 district lines shall be drawn to achieve the maximum compactness  
15 possible within a population range of 98% to 102% of absolute  
16 equality between districts within that city or township.

17 (j) Compactness shall be determined by circumscribing each  
18 district within a circle of minimum radius and measuring the area,  
19 not part of the Great Lakes and not part of another state, inside  
20 the circle but not inside the district.

21 (k) If a discontinuous township island exists within an  
22 incorporated city or discontinuous portions of townships are split  
23 by an incorporated city, the splitting of the township shall not be  
24 considered a split if any of the following circumstances exist:

25 (i) The city must be split to stay within the range of  
26 allowable divergence provided for in subdivision (d) and it is  
27 practicable to keep the township together within 1 district.

1           (ii) A township island is contained within a whole city and a  
2 split of the city would be required to keep the township intact.

3           (iii) The discontinuous portion of a township cannot be included  
4 in the same district with another portion of the same township  
5 without creating a noncontiguous district.

6           (l) Senate and house districts shall not violate the precedents  
7 established in Miller v Johnson, 115 S Ct 2475; 132 L Ed 2d 762  
8 (1995); Bush v Vera, 116 S Ct 1941; 135 L Ed 2d 248 (1996); and,  
9 Shaw v Hunt, 116 S Ct 1894; 135 L Ed 2d 207 (1996).

10           (15) AS USED IN THIS SECTION:

11           (A) "COMMISSION" MEANS THE LEGISLATIVE REDISTRICTING  
12 COMMISSION CREATED IN SUBSECTION (1).

13           (B) "ELECTIVE OFFICE" MEANS A PUBLIC OFFICE FILLED BY AN  
14 ELECTION.

15           (C) "LOBBYIST" MEANS A LOBBYIST OR LOBBYIST AGENT REGISTERED  
16 UNDER 1978 PA 472, MCL 4.411 TO 4.431.

17           (D) "STATE EMPLOYEE" MEANS A CLASSIFIED MEMBER OF THE STATE  
18 CIVIL SERVICE OR AN UNCLASSIFIED EMPLOYEE OF THE EXECUTIVE,  
19 LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

20           (E) "501 OR 527 ORGANIZATION" MEANS AN ORGANIZATION THAT IS  
21 EXEMPT FROM FEDERAL INCOME TAX PURSUANT TO SECTION 501 OR 527 OF  
22 THE INTERNAL REVENUE CODE OF 1986, 26 USC 501 OR 527.

23           Sec. 1a. Senate and house districts shall not violate section  
24 2 of title I of the voting rights act of 1965, Public Law 89-110,  
25 42 U.S.C.—USC 1973.

26           Sec. 2. (1) The supreme court ~~shall have~~**HAS** original and  
27 exclusive state jurisdiction to hear and decide all cases or

1 controversies in Michigan's 1 court of justice involving a  
2 redistricting plan under this act. A case or controversy in  
3 Michigan's 1 court of justice involving a redistricting plan **UNDER**  
4 **THIS ACT** shall not be commenced in or heard by the state court of  
5 appeals or any state trial court.

6 ~~—— (2) If a case or controversy involves a legislative~~  
7 ~~redistricting plan but an application or petition for review has~~  
8 ~~not been filed under subsection (3) or section 3, the supreme court~~  
9 ~~may, but is not required to, undertake all or a portion of the~~  
10 ~~procedures described in section 4.~~

11 (2) ~~(3)~~—Upon the application of an elector filed not later  
12 than 60 days after the adoption of the enactment of a redistricting  
13 plan, the supreme court, exercising original state jurisdiction  
14 provided under section 6 of article IV of the state constitution of  
15 1963, may review any plan enacted by the legislature, ~~and may~~  
16 ~~modify that plan or~~ **SHALL** remand that plan to a ~~special master~~ **THE**  
17 **LEGISLATIVE REDISTRICTING COMMISSION** for further action if the plan  
18 fails to comply with section 1 or 1a.

19 Enacting section 1. Section 3 and 4 of 1996 PA 463, MCL 4.263  
20 and 4.264, are repealed.