

# Colorado Constitutional Amendments on Redistricting

## Congressional Redistricting

C.R.S.A. Const. Art. 5, § 44

### § 44. Representatives in congress--congressional districts--commission created

Effective: December 19, 2018

(1) **Declaration of the people.** The people of the state of Colorado find and declare that:

(a) The practice of political gerrymandering, whereby congressional districts are purposefully drawn to favor one political party or incumbent politician over another, must end;

(b) The public's interest in prohibiting political gerrymandering is best achieved by creating a new and independent commission that is politically balanced, provides representation to voters not affiliated with either of the state's two largest parties, and utilizes nonpartisan legislative staff to draw maps;

(c) The redistricting commission should set district lines by ensuring constitutionally guaranteed voting rights, including the protection of minority group voting, as well as fair and effective representation of constituents using politically neutral criteria;

(d) Competitive elections for members of the United States house of representatives provide voters with a meaningful choice among candidates, promote a healthy democracy, help ensure that constituents receive fair and effective representation, and contribute to the political well-being of key communities of interest and political subdivisions;

(e) For years certain political interests opposed competitive districts in Colorado because they are primarily concerned about maintaining their own political power at the expense of fair and effective representation; and

(f) Citizens want and deserve an inclusive and meaningful congressional redistricting process that provides the public with the ability to be heard as redistricting maps are drawn, to be able to watch the witnesses who deliver testimony and the redistricting commission's deliberations, and to have their written comments considered before any proposed map is voted upon by the commission as the final map.

(2) **Congressional districts--commission created.** There is hereby created the independent congressional redistricting commission. The commission shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment is made by congress, the commission shall divide the state into congressional districts accordingly.

(3) **Definitions.** As used in this section and in sections 44.1 through 44.6 of this article V, unless the context

otherwise requires:

(a) "Commission" means the independent congressional redistricting commission created in subsection (2) of this section.

(b)

(I) "Community of interest" means any group in Colorado that shares one or more substantial interests that may be the subject of federal legislative action, is composed of a reasonably proximate population, and thus should be considered for inclusion within a single district for purposes of ensuring its fair and effective representation.

(II) Such interests include but are not limited to matters reflecting:

(A) Shared public policy concerns of urban, rural, agricultural, industrial, or trade areas; and

(B) Shared public policy concerns such as education, employment, environment, public health, transportation, water needs and supplies, and issues of demonstrable regional significance.

(III) Groups that may comprise a community of interest include racial, ethnic, and language minority groups, subject to compliance with subsections (1)(b) and (4)(b) of section 44.3 of this article V, which subsections protect against the denial or abridgement of the right to vote due to a person's race or language minority group.

(IV) "Community of interest" does not include relationships with political parties, incumbents, or political candidates.

(c) "Race" or "racial" means a category of race or ethnic origin documented in the federal decennial census.

(d) "Redistricting year" means the year following the year in which the federal decennial census is taken.

(e) "Staff" or "nonpartisan staff" means the staff of the general assembly's legislative council and office of legislative legal services, or their successor offices, who are assigned to assist the commission by the directors of those offices in accordance with section 44.2 of this article V.

(4) **Adjustment of dates.** If any date prescribed in sections 44.1 through 44.5 of this article V falls on a Saturday, Sunday, or legal holiday, then the date is extended to the next day that is not a Saturday, Sunday, or legal holiday.

#### **§ 44.1. Commission composition and appointment--vacancies**

Effective: December 19, 2018

(1) After each federal decennial census of the United States, the members of the commission shall be appointed and convened as prescribed in this section.

(2) The commission consists of twelve members who have the following qualifications:

(a) Commissioners must be registered electors who voted in both of the previous two general elections in Colorado;

(b) Commissioners must either have been unaffiliated with any political party or have been affiliated with the same political party for a consecutive period of no less than five years at the time of the application; and

(c) No person may be appointed to or serve on the commission if he or she:

(I) Is or has been a candidate for federal elective office within the last five years preceding the date on which applications for appointment to the commission are due under subsection (4) of this section;

(II) Is or has been, within the last three years preceding the date on which applications for appointment to the commission are due under subsection (4) of this section, compensated by a member of, or a campaign committee advocating the election of a candidate to, the United States house of representatives or the United States senate;

(III) Is or has been, within the last three years preceding the date on which applications for appointment to the commission are due under subsection (4) of this section, an elected public official at the federal, state, county, or municipal level in Colorado;

(IV) Is or has been, within the last three years preceding the date on which applications for appointment to the commission are due under subsection (4) of this section, an elected political party official above the precinct level in Colorado or an employee of a political party;

(V) Is a member of the commission responsible for dividing the state into senatorial and representative districts of the general assembly; or

(VI) Is or has been a professional lobbyist registered to lobby with the state of Colorado, with any municipality in Colorado, or at the federal level within the last three years preceding the date on which applications for appointment to the commission are due under subsection (4) of this section.

(3)

(a) By August 10 of the year prior to the redistricting year, nonpartisan staff shall, after holding one or more public hearings, prepare an application form that will allow appointing authorities to

evaluate a person's experience and qualifications and make such application available on the general assembly's website or comparable means of communicating with the public.

(b) The application form must clearly state the legal obligations and expectations of potential appointees. Information required of applicants must include, but is not necessarily limited to, professional background, party affiliation, a description of past political activity, a list of all political and civic organizations to which the applicant has belonged within the previous five years, and whether the applicant meets the qualifications stated in subsection (2) of this section. In addition, the application form must require the applicant to explain why they want to serve on the commission and afford the applicant an opportunity to make a statement about how they will promote consensus among commissioners if appointed to the commission. Applicants may also choose to include up to four letters of recommendation with their application.

(4) By November 10 of the year prior to the redistricting year, any person who seeks to serve on the commission must submit a completed application to nonpartisan staff. All applications are public records and must be posted promptly after receipt on the general assembly's website or comparable means of communicating with the public.

(5)

(a) No later than January 5 of the redistricting year, the chief justice of the Colorado supreme court shall designate a panel to review the applications. The panel must consist of the three justices or judges who most recently retired from the Colorado supreme court or the Colorado court of appeals, appointed sequentially starting with the most recent justice or judge to retire who has been affiliated with the same political party or unaffiliated with any political party for the two years prior to appointment; except that no appointee, within two years prior to appointment, shall have been affiliated with the same political party as a justice or judge already appointed to the panel. If any of the three justices or judges who most recently retired from the Colorado supreme court or the Colorado court of appeals is unable or unwilling to serve on the panel or has been affiliated within two years prior to appointment with a political party already represented on the panel, then the chief justice shall appoint the next justice or judge who most recently retired from the Colorado supreme court or the Colorado court of appeals and who has not been affiliated within two years prior to appointment with the same political party as any justice or judge already appointed to the panel. If, after considering all justices and judges who have retired from the Colorado supreme court and the Colorado court of appeals, fewer than three eligible participants for the panel have been identified who are able and willing to serve, the chief justice shall appoint the most recently retired district court judge who has not been affiliated within two years prior to appointment with the same political party as any previous appointee to the panel and who accepts such appointment. No justice or judge shall serve both on this panel and the panel assisting in the process of choosing members of the commission responsible for dividing the state into state senate and state house of representatives districts.

(b) All decisions of the panel regarding the selection of applicants pursuant to this section require the affirmative approval of all three members of the panel.

(c) The general assembly shall prescribe by law the compensation of members of the panel. Nonpartisan staff shall assist the panel in carrying out its duties.

(6) After applications are submitted, nonpartisan staff, with the cooperation and assistance of the secretary of state, shall make an objective and factual finding based on, to the extent possible, publicly available information, including information contained in the application and information contained within the records maintained by the secretary of state, whether each applicant meets the qualifications specified in subsection (2) of this section. No later than January 11 of the redistricting year, nonpartisan staff shall make its findings publicly available and notify the applicants of the staff's finding. If the staff finds that an applicant is not eligible, then the staff shall include the reasons in its finding.

(7) By January 18 of the redistricting year, the panel, in a public meeting, shall randomly select by lot from all of the applicants who were found to meet the qualifications specified in subsection (2) of this section the names of three hundred applicants who are affiliated with the state's largest political party, three hundred applicants who are affiliated with the state's second largest political party, and four hundred fifty applicants who are not affiliated with any political party, or such lesser number as there are total applicants who meet the qualifications specified in subsection (2) of this section for each of those groups.

(8)

(a) In one or more public hearings conducted on or before February 1 of the redistricting year, after reviewing the applications of the applicants selected in accordance with subsection (7) of this section, the panel shall identify fifty applicants who are affiliated with the state's largest political party, fifty applicants who are affiliated with the state's second largest political party, and fifty applicants who are unaffiliated with any political party and who best demonstrate:

(I) Experience in organizing, representing, advocating for, adjudicating the interests of, or actively participating in groups, organizations, or associations in Colorado; and

(II) Relevant analytical skills, the ability to be impartial, and the ability to promote consensus on the commission.

(b) No later than February 1 of the redistricting year, from the applicants identified in subsection (8)(a) of this section, the panel shall choose by lot six applicants to serve on the commission as follows:

(I) Two commissioners who are not affiliated with any political party;

(II) Two commissioners who are affiliated with the state's largest political party; and

(III) Two commissioners who are affiliated with the state's second largest political party.

(c) In the process of choosing applicants by lot for appointment to the commission, no applicant whose name is chosen may be appointed if he or she is registered to vote in a congressional district that is already represented on the commission; except that, when all then-existing congressional districts in Colorado are represented on the commission, a congressional district may be represented by a second commissioner. No congressional district may be represented by more than two commissioners. Any persons whose names are chosen but duplicate a congressional district's representation on the commission and are not appointed to the commission shall be eligible for appointment pursuant to subsections (9) and (10) of this section.

(9)

(a) By February 16 of the redistricting year, the majority leader of the state senate, the minority leader of the state senate, the majority leader of the state house of representatives, and the minority leader of the state house of representatives shall each select a pool of ten applicants who are affiliated with one of the state's two largest political parties from all applications submitted to nonpartisan staff and notify the panel of their selections.

(b) As determined by the legislative leaders in selecting their respective pools, the applicants selected for each pool must meet the qualifications set forth in subsection (2) of this section and demonstrate the qualities listed in subsection (8)(a) of this section.

(c) For each congressional district not represented by a commissioner appointed pursuant to subsections (8)(b) and (8)(c) of this section, each pool must consist of at least one applicant who is registered to vote in that congressional district.

(d) If there is an insufficient number of available applicants that meet the requirements of subsection (9)(b) of this section to select any complete pool, then the pool must consist of only those applicants who meet those requirements.

(10) By March 1 of the redistricting year, the panel of judges shall select, in such order as the panel determines, one commissioner from each legislative leader's pool of applicants and two commissioners from those applicants who are not affiliated with any political party and whose names were randomly selected by lot pursuant to subsection (7) of this section. The panel of judges must ensure that the commission includes four commissioners who are not affiliated with any political party, four commissioners who are affiliated with the state's largest political party, and four commissioners who are affiliated with the state's second largest political party. The panel of judges may interview applicants before making the appointments. In selecting applicants, the panel shall, in addition to considering applicants' other qualifications:

(a) To the extent possible, ensure that the commission reflects Colorado's racial, ethnic, gender, and geographic diversity;

(b) Ensure that at least one commissioner is registered to vote in each congressional district but no more than two commissioners are registered to vote in any single congressional district;

(c) Ensure that at least one commissioner resides west of the continental divide; and

(d) Ensure that all commissioners meet the qualifications set forth in subsection (2) of this section and demonstrate the qualities listed in subsection (8)(a) of this section.

(11)

(a) A commissioner's position on the commission will be deemed vacant if he or she, having been appointed as a registered elector who is not affiliated with a political party, affiliates with a political party before the supreme court has approved a plan pursuant to section 44.5 of this article V. A commissioner's position on the commission will also be deemed vacant if he or she, having been affiliated with one of the state's two largest political parties at the time of

appointment, affiliates with a different political party or becomes unaffiliated with any political party before the supreme court has approved a plan pursuant to section 44.5 of this article V.

(b) Any vacancy on the commission, including one that occurs due to death, resignation, removal, failure to meet the qualifications of appointment, refusal or inability to accept an appointment, or otherwise, must be filled as soon as possible by the designated appointing authority from the designated pool of eligible applicants for that commissioner's position and in the same manner as the originally chosen commissioner; except that no commissioner chosen to fill a vacancy will be bypassed for appointment if all congressional districts are already represented on the commission.

(12) For purposes of this section, the state's two largest political parties shall be determined by the number of registered electors affiliated with each political party in the state according to voter registration data published by the secretary of state for the earliest day in January of the redistricting year for which such data is published.

#### **§ 44.2. Commission organization--procedures--transparency--voting requirements**

Effective: December 19, 2018

**(1) Initial organization, officers, procedures, rules, and transparency.** (a) The governor shall convene the commission no later than March 15 of the redistricting year and appoint a temporary chairperson from the commission's members. Upon convening, the commission shall elect a chair and a vice-chair, who are not members of the same political party, and other such officers as it determines.

(b) The director of research of the legislative council and the director of the office of legislative legal services, or the directors of successor nonpartisan offices of the general assembly, shall appoint nonpartisan staff from their respective offices as needed to assist the commission and the panel of judges as described in section 44.1 of this article V. Nonpartisan staff shall acquire and prepare all necessary resources, including computer hardware, software, and demographic, geographic, and political databases, as far in advance as necessary to enable the commission to begin its work immediately upon convening.

(c) The commission may retain legal counsel in all actions and proceedings in connection with the performance of its powers, duties, and functions, including representation of the commission before any court.

(d) The general assembly shall appropriate sufficient funds for the payment of the expenses of the commission, the compensation and expenses of nonpartisan staff, and the compensation and expenses of the panel of judges as described in section 44.1 of this article V. Members of the commission shall be reimbursed for their reasonable and necessary expenses and may also receive such per diem allowance as may be established by the general assembly. Subject to available appropriations, hardware and software necessary for the development of plans may, at the request of any commissioner, be provided to the commissioner. The commission and its staff must have access to statistical information compiled by the state and its political subdivisions as

necessary for its duties. State agencies and political subdivisions shall comply with requests from the commission and its staff for such statistical information.

(e) The commission shall adopt rules to govern its administration and operation. The commission must provide at least seventy-two hours of advance public notice of all proposed rules prior to consideration for adoption; except that proposed rules may be amended during commission deliberations without such advance notice of specific, related amendments. Neither the commission's procedural rules nor its mapping decisions are subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., or any successor statute. Rules must include but need not be limited to the following:

(I) The hearing process and review of maps submitted for its consideration;

(II) Maintenance of a record of the commission's activities and proceedings, including a record of written and oral testimony received, and of the commission's directions to nonpartisan staff on proposed changes to any plan and the commission's rationale for such changes;

(III) The process for removing commissioners for participating in communications prohibited under this section;

(IV) The process for recommending changes to plans submitted to the commission by nonpartisan staff; and

(V) The adoption of a statewide meeting and hearing schedule, including the necessary elements of electronic attendance at a commission hearing.

(2) **Voting requirements.** A simple majority of the appointed commissioners may approve rules and procedural decisions. The election of the commission's chair and vice-chair requires the affirmative vote of at least eight commissioners, including the affirmative vote of at least one commissioner who is unaffiliated with any political party. Removal of any commissioner as provided in this section requires the affirmative vote of at least eight commissioners, including the affirmative vote of at least two commissioners who are unaffiliated with any political party. Adoption of the final plan for submission to the supreme court and the adoption of a revised plan after a plan is returned to the commission from the supreme court requires the affirmative vote of at least eight commissioners, including the affirmative vote of at least two commissioners who are unaffiliated with any political party. The commission shall not vote upon a final plan until at least seventy-two hours after it has been proposed to the commission in a public meeting or at least seventy-two hours after it has been amended by the commission in a public meeting, whichever occurs later; except that commissioners may unanimously waive the seventy-two hour requirement.

**(3) Public involvement--hearing process.**

(a) All Colorado residents, including individual commissioners, may present proposed redistricting maps or written comments, or both, for the commission's consideration.

(b) The commission must, to the maximum extent practicable, provide opportunities for Colorado residents to present testimony at hearings held throughout the state. The commission shall not approve a redistricting map until at least three hearings have been held in each congressional



district, including at least one hearing that is held in a location west of the continental divide and at least one hearing that is held in a location east of the continental divide and either south of El Paso county's southern boundary or east of Arapahoe county's eastern boundary. No gathering of commissioners can be considered a hearing for this purpose unless it is attended, in person or electronically, by at least ten commissioners. The commission shall establish by rule the necessary elements of electronic attendance at a commission hearing.

(c) The commission shall maintain a website or comparable means of communicating with the public through which any Colorado resident may submit proposed maps or written comments, or both, without attending a hearing of the commission.

(d) The commission shall publish all written comments pertaining to redistricting on its website or comparable means of communicating with the public as well as the name of the Colorado resident submitting such comments. If the commission or nonpartisan staff have a substantial basis to believe that the person submitting such comments has not truthfully or accurately identified himself or herself, the commission need not consider and need not publish such comments but must notify the commenter in writing of this fact. The commission may withhold comments, in whole or in part, from the website or comparable means of communicating with the public that do not relate to redistricting maps, policies, or communities of interest.

(e) The commission shall provide simultaneous access to the regional hearings by broadcasting them via its website or comparable means of communicating with the public and maintain an archive of such hearings for online public review.

**(4) Ethical obligations--transparency--lobbyist reporting.**

(a) Commissioners are guardians of the public trust and are subject to antibribery and abuse of public office requirements as provided in parts 3 and 4 of article 8 of title 18, C.R.S., as amended, or any successor statute.

(b) To ensure transparency in the redistricting process:

(l)

(A) The commission and the commissioners are subject to open meetings requirements as provided in part 4 of article 6 of title 24, C.R.S., as amended, or any successor statute.

(B) Except as provided in subsection (4)(b)(l)(D) of this section, a commissioner shall not communicate with nonpartisan staff on the mapping of congressional districts unless the communication is during a public meeting or hearing of the commission.

(C) Except for public input and comment, nonpartisan staff shall not have any communications about the content or development of any plan outside of public hearings with anyone except other staff members. Nonpartisan staff shall report to the commission any attempt by anyone to exert influence over the staff's role

in the drafting of plans.

(D) One or more nonpartisan staff may be designated to communicate with commissioners regarding administrative matters, the definition and scope of which shall be determined by the commission.

(E) Any commissioner who participates in a communication prohibited in this section must be removed from the commission, and such vacancy must be filled within seven days.

(II) The commission, each commissioner, and nonpartisan staff are subject to open records requirements as provided in part 1 of article 72 of title 24, C.R.S., as amended, or any successor statute; except that maps in draft form and not submitted to the commission are not public records subject to disclosure. Work product and communications among nonpartisan staff are subject to disclosure once a plan is submitted to the supreme court.

(III) Persons who contract for or receive compensation for advocating to the commission, to one or more commissioners, or to the nonpartisan staff for the adoption or rejection of any map, amendment to a map, mapping approach, or manner of compliance with any of the mapping criteria specified in section 44.3 of this article V are lobbyists who must disclose to the secretary of state any compensation contracted for, compensation received, and the person or entity contracting or paying for their lobbying services. Such disclosure must be made no later than seventy-two hours after the earlier of each instance of such lobbying or any payment of such compensation. The secretary of state shall publish on the secretary of state's website or comparable means of communicating with the public the names of such lobbyists as well as the compensation received and the persons or entities for whom they work within twenty-four hours of receiving such information. The secretary of state shall adopt rules to facilitate the complete and prompt reporting required by this subsection (4)(b)(III) as well as a complaint process to address any lobbyist's failure to report a full and accurate disclosure, which complaint must be heard by an administrative law judge, whose decision may be appealed to the court of appeals.

#### **§ 44.3. Criteria for determinations of congressional districts--definition**

Effective: December 19, 2018

(1) In adopting a congressional redistricting plan, the commission shall:

(a) Make a good-faith effort to achieve precise mathematical population equality between districts, justifying each variance, no matter how small, as required by the constitution of the United States. Districts must be composed of contiguous geographic areas;

(b) Comply with the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 50301, as amended.

(2)

(a) As much as is reasonably possible, the commission's plan must preserve whole communities of interest and whole political subdivisions, such as counties, cities, and towns.

(b) Districts must be as compact as is reasonably possible.

(3)

(a) Thereafter, the commission shall, to the extent possible, maximize the number of politically competitive districts.

(b) In its hearings in various locations in the state, the commission shall solicit evidence relevant to competitiveness of elections in Colorado and shall assess such evidence in evaluating proposed maps.

(c) When the commission approves a plan, or when nonpartisan staff submits a plan in the absence of the commission's approval of a plan as provided in section 44.4 of this article V, the nonpartisan staff shall, within seventy-two hours of such action, make publicly available, and include in the commission's record, a report to demonstrate how the plan reflects the evidence presented to, and the findings concerning, the extent to which competitiveness in district elections is fostered consistent with the other criteria set forth in this section.

(d) For purposes of this subsection (3), "competitive" means having a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses. Competitiveness may be measured by factors such as a proposed district's past election results, a proposed district's political party registration data, and evidence-based analyses of proposed districts.

(4) No map may be approved by the commission or given effect by the supreme court if:

(a) It has been drawn for the purpose of protecting one or more incumbent members, or one or more declared candidates, of the united states house of representatives or any political party; or

(b) It has been drawn for the purpose of or results in the denial or abridgement of the right of any citizen to vote on account of that person's race or membership in a language minority group, including diluting the impact of that racial or language minority group's electoral influence.

#### **§ 44.4. Preparation, amendment, and approval of plans--public hearings and participation**

Effective: December 19, 2018

(1) The commission shall begin by considering a plan, created by nonpartisan staff alone, to be known as the "preliminary plan". The preliminary plan must be presented and published no earlier than thirty days and no later than forty-five days after the commission has convened or the necessary census data are available, whichever is later. Within the first twenty days after the commission has convened, any member

of the public and any member of the commission may submit written comments to nonpartisan staff on the creation of the preliminary plan and on communities of interest that require representation in one or more specific areas of the state. Nonpartisan staff shall consider such comments in creating the preliminary plan and such comments must be part of the record of the commission's activities and proceedings. At the first public hearing at which the preliminary plan is presented, nonpartisan staff shall explain how the plan was created, how the plan addresses the categories of public comments received, and how the plan complies with the criteria prescribed in section 44.3 of this article V.

(2) By July 7 of the redistricting year, the commission shall complete public hearings on the preliminary plan in several places throughout the state in accordance with section 44.2 of this article V.

(3) Subsequent to hearings on the preliminary plan, nonpartisan staff shall prepare, publish online, and present to the commission no fewer than three plans, except as provided in subsection (5) of this section. These plans will be known as the "staff plans" and must be named and numbered sequentially for purposes of subsection (6) of this section. Staff plans must be prepared, published online, and presented in accordance with a timetable established by the commission; except that each staff plan must be presented to the commission no fewer than ten days after the presentation of any previous staff plan and no fewer than twenty-four hours after it has been published online. If the commission fails to establish a timetable for the presentation of staff plans within ten days after the completion of hearings on the preliminary plan, nonpartisan staff shall establish such timetable. Nonpartisan staff shall keep each plan confidential until it is published online or by a comparable means of communicating with the public using generally available technologies. The commission may provide direction, if approved by at least eight commissioners including at least one commissioner unaffiliated with any political party, for the development of staff plans through the adoption of standards, guidelines, or methodologies to which nonpartisan staff shall adhere, including standards, guidelines, or methodologies to be used to evaluate a plan's competitiveness, consistent with section 44.3(3)(d) of this article V. In preparing all staff plans, nonpartisan staff shall also consider public testimony and public comments received by the commission that are consistent with the criteria specified in section 44.3 of this article V.

(4) Any commissioner or group of commissioners may request nonpartisan staff to prepare additional plans or amendments to plans. Any such request must be made in a public hearing of the commission but does not require commission approval. Plans or amendments developed in response to such requests are separate from staff plans for purposes of subsection (6) of this section.

(5)

(a) The commission may adopt a final plan at any time after presentation of the first staff plan, in which case nonpartisan staff does not need to prepare or present additional staff plans.

(b) No later than September 1 of the redistricting year, the commission shall adopt a final plan, which must then be submitted to the supreme court for its review and determination in accordance with section 44.5 of this article V.

(c) The commission may adjust the deadlines specified in this section if conditions outside of the commission's control require such an adjustment to ensure adopting a final plan as required by this subsection (5).

(d) The commission may grant nonpartisan staff the authority to make technical de minimis

adjustments to the adopted plan prior to its submission to the supreme court.

(6) If for any reason the commission does not adopt a final plan by the date specified in subsection (5) of this section, then nonpartisan staff shall submit the unamended third staff plan to the supreme court.

#### **§ 44.5. Supreme court review**

Effective: December 19, 2018

(1) The supreme court shall review the submitted plan and determine whether the plan complies with the criteria listed in section 44.3 of this article V. The court's review and determination shall take precedence over other matters before the court. The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence for such plan. Any legal arguments concerning such plan must be submitted to the supreme court pursuant to the schedule established by the court.

(2) The supreme court shall approve the plan submitted unless it finds that the commission or nonpartisan staff, in the case of a staff plan submitted in the absence of a commission-approved plan, abused its discretion in applying or failing to apply the criteria listed in section 44.3 of this article V, in light of the record before the commission. The supreme court may consider any maps submitted to the commission in assessing whether the commission or nonpartisan staff, in the case of a staff plan submitted in the absence of a commission-approved plan, abused its discretion.

(3) If the supreme court determines that the submitted plan constitutes an abuse of discretion in applying or failing to apply the criteria listed in section 44.3 of this article V, in light of the record before the commission, the supreme court shall return the plan to the commission with the court's reasons for disapproval.

(4)

(a) By November 1 of the redistricting year, the supreme court shall approve the plan submitted or return the plan to the commission.

(b) If the court returns the plan to the commission, the commission shall have twelve days to hold a commission hearing that includes public testimony and to return an adopted plan that resolves the court's reasons for disapproval.

(c) If the commission fails to adopt and return a plan to the court within twelve days, nonpartisan staff shall have an additional three days to prepare a plan that resolves the court's reasons for disapproval and return it to the court for approval.

(d) The supreme court shall review the revised plan in accordance with subsections (1), (2), and (3) of this section.

(5) The supreme court shall approve a plan for the redrawing of congressional districts no later than December 15 of the redistricting year. The court shall order that such plan be filed with the secretary of state no later than such date.

**§ 44.6. Severability**

Effective: December 19, 2018

If any provision of sections 44.1 through 44.5 of this article V is found by a court of competent jurisdiction to be unconstitutional, or if any application of these sections is found by such a court to be unconstitutional, such invalidity shall not affect other provisions or applications of the remaining provisions of these sections that can be given effect without the invalid provision or application. The provisions of sections 44.1 through 44.5 of this article V are deemed and declared severable.

# State Legislative Redistricting

C.R.S.A. Const. Art. 5, § 44

## § 46. Senatorial and representative districts--commission created

Effective: December 19, 2018

(1) **Declaration of the people.** The people of the state of Colorado find and declare that:

(a) The practice of political gerrymandering, whereby legislative districts are purposefully drawn to favor one political party or incumbent politician over another, must end;

(b) The public's interest in prohibiting political gerrymandering is best achieved by creating a new and independent commission that is politically balanced, provides representation to voters not affiliated with either of the state's two largest parties, and utilizes nonpartisan legislative staff to draw maps;

(c) The redistricting commission should set district lines by ensuring constitutionally guaranteed voting rights, including the protection of minority group voting, as well as fair and effective representation of constituents using politically neutral criteria;

(d) Competitive elections for members of the general assembly provide voters with a meaningful choice among candidates, promote a healthy democracy, help ensure that constituents receive fair and effective representation, and contribute to the political well-being of key communities of interest and political subdivisions;

(e) For years certain political interests opposed competitive districts in Colorado because they are primarily concerned about maintaining their own political power at the expense of fair and effective representation; and

(f) Citizens want and deserve an inclusive and meaningful legislative redistricting process that provides the public with the ability to be heard as redistricting maps are drawn, to be able to watch the witnesses who deliver testimony and the redistricting commission's deliberations, and to have their written comments considered before any proposed map is voted upon by the commission as the final map.

(2) **Legislative districts--commission created.** There is hereby created the independent legislative redistricting commission. The commission shall divide the state into as many senatorial and representative districts as there are members of the senate and house of representatives respectively. After each federal decennial census, the senatorial districts and representative districts shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by the independent legislative redistricting commission.

(3) **Definitions.** As used in this section and in sections 47 through 48.4 of this article V, unless the context otherwise requires:

(a) "Commission" means the independent legislative redistricting commission created in

subsection (2) of this section.

(b)

(I) "Community of interest" means any group in Colorado that shares one or more substantial interests that may be the subject of state legislative action, is composed of a reasonably proximate population, and thus should be considered for inclusion within a single district for purposes of ensuring its fair and effective representation.

(II) Such interests include but are not limited to matters reflecting:

(A) Shared public policy concerns of urban, rural, agricultural, industrial, or trade areas; and

(B) Shared public policy concerns such as education, employment, environment, public health, transportation, water needs and supplies, and issues of demonstrable regional significance.

(III) Groups that may comprise a community of interest include racial, ethnic, and language minority groups, subject to compliance with subsections (1)(b) and (4)(b) of section 48.1 of this article V, which subsections protect against the denial or abridgement of the right to vote due to a person's race or language minority group.

(IV) "Community of interest" does not include relationships with political parties, incumbents, or political candidates.

(c) "Race" or "racial" means a category of race or ethnic origin documented in the federal decennial census.

(d) "Redistricting year" means the year following the year in which the federal decennial census is taken.

(e) "Staff" or "nonpartisan staff" means the staff of the general assembly's legislative council and office of legislative legal services, or their successor offices, who are assigned to assist the commission by the directors of those offices in accordance with section 48 of this article V.

(4) **Adjustment of dates.** If any date prescribed in sections 47 through 48.3 of this article V falls on a Saturday, Sunday, or legal holiday, then the date is extended to the next day that is not a Saturday, Sunday, or legal holiday.