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# **SPECIAL INTERIM STUDY COMMITTEE ON REDISTRICTING**

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**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**Monday October 17, 2016**

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# SPECIAL INTERIM STUDY COMMITTEE ON REDISTRICTING

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## FINAL REPORT

### **Redistricting, Special Interim Study Committee on**

#### **I. STATUTORY DIRECTIVE (IC 2-5-39) AND LEGISLATIVE COUNCIL DIRECTIVE**

The committee shall do the following and submit a final report to the Legislative Council before December 1, 2016:

(1) Review state and federal laws and court cases related to state and federal laws governing the design and establishment of election districts.

(2) Study the manner in which each state establishes districts for the election of state legislators and members of Congress, including the following:

(A) What entities or individuals propose, take public testimony concerning, evaluate, and finally adopt redistricting plans.

(B) The manner in which individuals engaged in the redistricting process are selected.

(C) The required qualifications for individuals engaged in the redistricting process.

(D) The standards and guidelines used to develop and finally adopt redistricting plans.

(E) The process used to develop and finally adopt redistricting plans.

(F) The role of the state legislature and its committees in proposing, taking public testimony concerning, evaluating, and finally adopting redistricting plans and the manner in which the state legislature and its committees interact with other bodies (if any) established for the redistricting process.

(G) The required or typical schedule over which redistricting plans are developed and finally adopted.

(H) Any unique rights or procedures applicable to the review or appeal of an adopted redistricting plan or changes in a redistricting plan that has been found in an adjudication to be invalid.

(I) Costs incurred in the redistricting process.

(3) Review the experience (including litigation history) states have had with using redistricting commissions and other methods to establish redistricting plans after each decennial census, including approaches similar to the provisions in Indiana law (IC 3-3-2-1) that provide for a redistricting commission to establish congressional districts in Indiana if the general assembly fails to establish congressional districts within the time permitted by law.

(4) Evaluate (to the extent possible) the positive benefits and negative consequences in each state of the redistricting process and the criteria used to establish election districts on state legislative and congressional elections in that state, including the following:

(A) The extent to which campaigns for state legislative and congressional offices are competitive and the extent to which the redistricting process and the criteria used to establish election districts have contributed to furthering competitive elections.

(B) The extent to which women and minorities are elected to state legislative and congressional offices and the extent to which the redistricting process and the criteria used to establish election districts in each state have contributed to furthering diversity, relative to the population of the state as a whole.

(5) Evaluate:

(A) the potential positive benefits of;

(B) potentially negative consequences of;

(C) estimated costs of; and

(D) the issues that would need to be addressed for;

a change in the method for establishing districts for the election of members of the general assembly and

members of Congress from Indiana if the change were made.  
(6) Study any other matter assigned by the legislative council.

In addition, Legislative Council Resolution 16-01 directed the committee to study the following topic:

(A) Alternative methods for establishing districts for the election of members of the General Assembly and members of Congress from Indiana and related topics specified in HEA 1003-2015.

(Source: IC 2-5-39.)

## II.SUMMARY OF WORK PROGRAM

The committee met once during the 2015 interim and four times during the 2016 interim.

### 2015 Interim

The committee met for the first time on October 1, 2015, for an organizational meeting and to hear a presentation from committee staff concerning redistricting trends and alternatives.

The minutes for the October 1, 2015, meeting may be accessed at:

[https://iga.in.gov/legislative/2015/committees/redistricting\\_special\\_interim\\_study\\_committee\\_on](https://iga.in.gov/legislative/2015/committees/redistricting_special_interim_study_committee_on)

The archived video of the October 1, 2015, meeting may be accessed by doing the following:

(1) Click on this link:

[https://iga.in.gov/information/archives/2015/video/committee\\_redistricting\\_special\\_interim\\_study\\_committee\\_on/](https://iga.in.gov/information/archives/2015/video/committee_redistricting_special_interim_study_committee_on/)

(2) After opening the linked web page, select the date of the meeting from the drop down menu to begin viewing the video.

### 2016 Interim

The committee met on May 5, 2016, to receive the following presentations:

- (1) James Bopp, Jr, testified in favor of legislators conducting redistricting.
- (2) Tom Sugar testified in favor of redistricting based on the process used in Iowa.
- (3) Ted Boehm testified about the federal and state constitutional issues involved in determining whether districts have been unconstitutionally drawn as the result of political factors.

The committee met on July 7, 2016, to receive the following presentations:

- (1) Michael Li outlined current redistricting methods used in the United States and summarized recent and ongoing redistricting reform efforts.
- (2) Ed Cook detailed Iowa's approach to redistricting.

The committee met on September 19, 2016, to discuss and receive public comment regarding the possible contents of the committee's final report.

The committee met on October 17, 2016, to discuss and receive public comment concerning the committee's proposed final report, including possible amendments to the proposed final report, and to adopt the committee's final report.

The minutes for the committee's 2016 meetings may be accessed at:

[https://iga.in.gov/legislative/2016/committees/redistricting\\_special\\_interim\\_study\\_committee\\_on](https://iga.in.gov/legislative/2016/committees/redistricting_special_interim_study_committee_on)

The archived video of the committee's 2016 meetings may be accessed from this report by doing the following:

- (1) Download the report.
- (2) Click on this link within the downloaded report:

[https://iga.in.gov/information/archives/2016/video/committee\\_redistricting\\_special\\_interim\\_study\\_committee\\_on/](https://iga.in.gov/information/archives/2016/video/committee_redistricting_special_interim_study_committee_on/)

- (3) After opening the linked web page, select the date of the meeting from the drop down menu to begin viewing the video.

#### **IV. INFORMATION REQUIRED TO BE INCLUDED IN THE FINAL REPORT BY IC 2-5-39-9**

- (1) A description of the alternative approaches that could be used in Indiana to establish districts for the election of members of the general assembly and members of Congress from Indiana.

The committee studied the following approaches that could be used in Indiana to conduct redistricting:

- (1) The state legislature conducts redistricting.
  - (2) An advisory commission prepares and submits proposed redistricting plans to the state legislature for enactment.
  - (3) A back-up commission prepares and adopts redistricting plans whenever the state legislature fails to do so.
  - (4) A commission prepares and adopts redistricting plans instead of the state legislature.
  - (5) Iowa's redistricting process, which requires the nonpartisan Iowa Legislative Services Agency (LSA) to prepare Congressional and state legislative redistricting plan that are delivered to the General Assembly. The General Assembly votes on the plan without amendment. If the first plan is not enacted, the LSA prepares a second plan, which the General Assembly votes on without amendment. If the second plan is not enacted, the LSA prepares a third plan, which the General Assembly may amend before voting on the plan. The LSA follows extensive, detailed statutory provisions in drawing the maps, including a prohibition on favoring a political party, an incumbent, or another person or group. If the state legislative redistricting plans are not adopted by the General Assembly by September 1, the Iowa Supreme Court draws the districts.
- (2) A description of the types of standards and guidelines that could be used in Indiana to

establish districts for the election of members of the general assembly and members of Congress from Indiana.

The committee received information about the following standards and guidelines that must and could be used in Indiana to conduct redistricting:

- (1) Mandatory standards and requirements
  - (A) Substantially equal population
  - (B) Federal Voting Rights Act and other applicable federal law requirements
  - (C) Contiguity (required by Article 4, Section 5, of the Constitution of the State of Indiana)
- (2) Suggested standards and requirements
  - (A) Compactness
  - (B) Maintain to the extent possible the boundaries of political subdivisions, including counties, towns, cities, townships, and school districts
  - (D) Maintain to the extent possible communities of interest, such as urban areas, rural areas, industrial areas, agricultural areas, neighborhoods, and historic districts, where residents share common traits and concerns
  - (E) Preserve the core of prior districts
  - (F) Prohibit the use of political data, such as voter data or the residence of incumbents and candidates/encourage political competition

Because these standards and guidelines can be incompatible or difficult to achieve all at once, testimony suggested that the redistricting standards and guidelines chosen be ranked or given a relative priority to guide the drawing of the maps.

- (3) Additional suggestions provided to the Committee during its meetings
  - (A) Require a specified number of public hearings, including the locations and times of the public hearings to increase public participation in the redistricting process
  - (B) Use technology and social media to receive greater public input during the redistricting process
  - (C) Establish a website for the public to draw and submit maps and to comment on proposed maps
  - (D) Require a narrative description that provides the rationale for drawing the proposed maps
  - (E) Require that all redistricting meetings and materials are subject to Indiana's Open Door Law (IC 5-14-1.5) and Access to Public Records Law (IC 5-14-3)
  - (F) Require a commission to approve maps by a super-majority
  - (G) Spell out with as much specificity as possible where the funds for redistricting will come from and what the funds may be used for
- (3) An evaluation of what (if any) changes to the Constitution of the State of Indiana and statutory law would be necessary or desirable to implement each of the approaches described in (1) and (2).

Indiana law (IC 3-3-2) currently requires Congressional districts to be established by law at the first regular

session of the General Assembly convening immediately following the United States decennial census. IC 3-3-2-1. If the General Assembly does not establish the Congressional districts, a back-up commission meets within 30 days of adjournment of the General Assembly, at a time and place designated by the president pro tempore of the Indiana senate, to adopt Congressional maps by a majority vote. IC 3-3-2-2. The governor then issues an executive order establishing the districts.

Article 4, Section 5, of the Constitution of the State of Indiana requires the General Assembly elected during the year in which a federal decennial census is taken to fix by law the number of senators and representatives and apportion them among district according to the number of inhabitants in each district, as revealed by that federal decennial census. The territory in each district must be contiguous.

Any approach that varies from current statutory law would require the the General Assembly to enact amendments to that law in order to adopt that approach. To the extent any approach does not have the General Assembly enacting state legislative district maps, the Constitution of the State of Indiana would also need to be amended.

(4) The:

(A) potential positive benefits of;

(B) potentially negative consequences of;

(C) estimated costs of; and

(D) issues that would need to be addressed for;

the implementation and use of each of the approaches described in (1) and (2).

(1) The state legislature conducts redistricting.

This is Indiana's current approach for both Congressional and legislative redistricting. Without changes to the current process, this approach may not address certain issues which the committee discussed and on which the committee received testimony, including: (1) the lack of competitive districts; (2) low voter turnout; (3) use of, and limitations on the use of, political data; (4) the splitting of geographic and political subdivision boundaries; and (5) low citizen involvement in the redistricting process.

Retaining this approach would not generate additional costs or issues to be addressed.

(2) An advisory commission prepares and submits proposed redistricting plans to the state legislature for enactment.

This approach could: (1) increase the diversity of the individuals drawing the district maps; (2) increase the number of competitive districts; (3) increase transparency and confidence in the redistricting process; (4) spell out more specifically the standards and criteria for drawing districts to guide the commission; (5) specify or limit the use of political data; and (6) provide for additional public input in the redistricting process.

This approach would require statutory amendments to the Indiana Code, but it would not require amendments to the Constitution of the State of Indiana in order to implement the approach.

The only significant cost identified during the committee's meetings was the member per diem cost of the commission meetings.

At least the following additional issues would need to be addressed to implement this approach, including: (1) commissioner eligibility; (2) the commissioner selection process; (3) the commission size; (4) the commission's operating rules, including the procedure for adopting district maps; (5) the criteria and priority of those criteria in drawing the districts; (6) the timeline of the redistricting process; and (7) the type and amount of public participation in the redistricting process.



(3) A back-up commission prepares and adopts redistricting plans whenever the state legislature fails to do so.

This is Indiana's approach for Congressional redistricting. If this approach were also used for legislative redistricting the same issues and considerations that are discussed above for an advisory commission could also apply to a back-up commission, except that the Constitution of the State of Indiana would need to be amended to permit the back-up commission to adopt redistricting plans.

(4) A commission prepares and adopts redistricting plans instead of the state legislature.

This approach would involve the same issues and considerations discussed above for an advisory commission except that the Constitution of the State of Indiana would need to be amended to permit the commission to adopt redistricting plans.

(5) Iowa's redistricting process.

This approach would involve the same issues and considerations discussed above for an advisory commission. In addition, the committee did not come to a conclusion on the extent to which and how Iowa's success with this approach might be transferable to Indiana.

## **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

IC 2-5-39-9(5) requires the committee's final report to include a recommendation that describes: (1) the details of the redistricting process; and (2) standards and guidelines for the establishment of districts; for the election of members of the general assembly and members of Congress from Indiana that, in the opinion of the committee, would best serve the citizens of Indiana.

### Findings

The committee finds that the interests of the voters and citizens of Indiana would be best served if a bipartisan commission draws the Congressional and state legislative maps and submits the maps to the General Assembly for enactment beginning with the redistricting that follows the 2020 decennial census.

### Recommendation

The committee recommends the introduction in the 2017 regular session of the Indiana general assembly Preliminary Draft 3350, as amended by the following:

- (1) Amendment 1 (Exhibit 4);
- (2) Amendment 3 (Exhibit 6);
- (3) Amendment 5 (Exhibit 8);
- (4) Amendment 6 (Exhibit 9); and
- (5) Amendment 8 (Exhibit 11).

Preliminary Draft 3350, as amended, details a redistricting process using a redistricting commission and provides the standards and guidelines for the establishment of districts by the redistricting commission.

## WITNESS LIST

Oscar Anderson, Montgomery County League of Women Voters  
Debra Asberry, League of Women Voters of Indiana  
Ted Boehm  
James Bopp, Jr.  
Ed Cook, Iowa Legislative Services Agency  
Kate Cruikshank, League of Women Voters of Bloomington-Monroe County  
John R. Davis, League of Women Voters  
John Dickerson  
Ted Dobracki  
Michael E. Fincher, League of Women Voters  
Rachel Guglielmo  
Richard Hamilton  
Linda Hanson, League of Women Voters of Muncie-Delaware County  
Samuel Harnish  
Charles Hoffman  
Erin Kelley, League of Women Voters of Indiana  
Mike Kendall  
Michael Li, Brennan Center for Justice at NYU School of Law  
Ann Newton  
Peggy Piety, Indiana Legislative Services Agency  
Lisa Plencner, League of Women Voters of Indiana  
Dennis Shock, Hoosier Interfaith Power & Light  
Linze Southwick, Legislative Chair of Morgan County Sierra Heartland Club  
Tom Sugar, Lead or Leave  
John Ulmer  
Julia Vaughn, Common Cause Indiana & Coalition for Independent Redistricting