

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 13
100TH GENERAL ASSEMBLY

Reported from the Committee on Rules, Joint Rules, Resolutions and Ethics, February 28, 2019, with recommendation that the Senate Committee Substitute do pass.

0739S.07C

ADRIANE D. CROUSE, Secretary.

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 3, 5, 7, 8, 9, 16, and 19 of article III of the Constitution of Missouri, and adopting seven new sections in lieu thereof relating to members of the general assembly.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2020, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article III of the Constitution of the state of Missouri:

Section A. Sections 3, 5, 7, 8, 9, 16, and 19, article III, Constitution of
2 Missouri, is repealed and seven new sections adopted in lieu thereof, to be known
3 as sections 3, 5, 7, 8, 9, 16, and 19, to read as follows:

Section 3. (a) There is hereby established the post of "Nonpartisan State
2 Demographer". The nonpartisan state demographer shall acquire appropriate
3 information to develop procedures in preparation for [drawing] **apportioning**
4 legislative [redistricting maps] **and house districts** on the basis of each federal
5 census for presentation to the house apportionment commission and the
6 senatorial apportionment commission.

7 (b) The nonpartisan state demographer shall be selected through the
8 following process. First, state residents may apply for selection to the state
9 auditor using an application developed by the state auditor to determine an
10 applicant's qualifications and expertise relevant to the position. Second, the state
11 auditor shall deliver to the majority leader and minority leader of the senate a
12 list of at least three applicants with sufficient expertise and qualifications, as

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 determined by the state auditor, to perform the duties of the nonpartisan state
14 demographer. Third, if the majority leader and minority leader of the senate
15 together agree that a specific applicant should be selected to be the nonpartisan
16 state demographer, that applicant shall be selected and the selection process shall
17 cease. Fourth, if the majority leader and minority leader of the senate cannot
18 together agree on an applicant, they may each remove a number of applicants on
19 the state auditor's list equal to one-third of the total number of applicants on that
20 list, rounded down to the next integer, and the state auditor shall then conduct
21 a random lottery of the applicants remaining after removal to select the
22 nonpartisan state demographer. The state auditor shall prescribe a time frame
23 and deadlines for this application and selection process that both encourages
24 numerous qualified applicants and avoids delay in selection. The nonpartisan
25 state demographer shall serve a term of five years and may be reappointed. To
26 be eligible for the nonpartisan state demographer position, an individual shall not
27 have served in a partisan, elected position for four years prior to the
28 appointment. The nonpartisan state demographer shall be disqualified from
29 holding office as a member of the general assembly for four years following the
30 date of the presentation of his or her most recent legislative [redistricting map]
31 **or house apportionment plan** to the house apportionment commission or the
32 senatorial apportionment commission.

33 (c) **(1) Beginning with the one hundred second general assembly,**
34 the house of representatives shall consist of one hundred [sixty-three] **seventeen**
35 members elected at each general election [and] **with one member elected**
36 **from each house district;**

37 **(2) Beginning with the reapportionment plan to be prepared in**
38 **2021, the state shall be divided into thirty-nine legislative districts,**
39 **each of which shall subsequently be divided into three house**
40 **districts. Each house district shall be contained entirely within a**
41 **single legislative district. All legislative districts and all house**
42 **districts shall be apportioned as provided in this section.**

43 [(1)] **(3) Within ten days after the population of this state is reported to**
44 the President for each decennial census of the United States or, in the event that
45 a reapportionment has been invalidated by a court of competent jurisdiction,
46 within ten days after such a ruling has been made, the nonpartisan state
47 demographer shall begin the preparation of **apportioning** legislative [districting
48 plans and maps] **and house districts** using the following methods, listed in

49 order of priority:

50 a. Districts shall be established on the basis of total
51 population. [Legislative] Districts shall each have a total population as nearly
52 equal as practicable to the ideal population for such districts, determined by
53 dividing the number of districts to be established into the total population of the
54 state reported in the federal decennial census;

55 b. Districts shall be established in a manner so as to comply with all
56 requirements of the United States Constitution and applicable federal laws,
57 including, but not limited to, the Voting Rights Act of 1965 (as
58 amended). Notwithstanding any other provision of this Article, districts shall not
59 be drawn with the intent or result of denying or abridging the equal opportunity
60 of racial or language minorities to participate in the political process or
61 diminishing their ability to elect representatives of their choice, whether by
62 themselves or by voting in concert with other persons.

63 Districts shall be designed in a manner that achieves both partisan
64 fairness and, secondarily, competitiveness. "Partisan fairness" means that parties
65 shall be able to translate their popular support into legislative representation
66 with approximately equal efficiency. "Competitiveness" means that parties'
67 legislative representation shall be substantially and similarly responsive to shifts
68 in the electorate's preferences.

69 To this end, the nonpartisan state demographer shall calculate the average
70 electoral performance of the two parties receiving the most votes in the three
71 preceding elections for governor, for United States Senate, and for President of
72 the United States. This index shall be defined as the total votes received by each
73 party in the three preceding elections for governor, for United States Senate, and
74 for President of the United States, divided by the total votes cast for both parties
75 in these elections. Using this index, the nonpartisan state demographer shall
76 calculate the total number of wasted votes for each party, summing across all of
77 the districts in the plan. "Wasted votes" are votes cast for a losing candidate or
78 for a winning candidate in excess of the fifty percent threshold needed for victory.
79 In any plan of apportionment and map of the proposed districts submitted to the
80 respective apportionment commission, the nonpartisan state demographer shall
81 ensure the difference between the two parties' total wasted votes, divided by the
82 total votes cast for the two parties, is as close to zero as practicable.

83 To promote competitiveness, the nonpartisan state demographer shall use
84 the electoral performance index to simulate elections in which the hypothetical

85 statewide vote shifts by one percent, two percent, three percent, four percent, and
86 five percent in favor of each party. The vote in each individual district shall be
87 assumed to shift by the same amount as the statewide vote. The nonpartisan
88 state demographer shall ensure that, in each of these simulated elections, the
89 difference between the two parties' total wasted votes, divided by the total votes
90 cast for the two parties, is as close to zero as practicable;

91 c. Subject to the requirements of paragraphs a. and b. of this subdivision,
92 districts shall be composed of contiguous territory. Areas which meet only at the
93 points of adjoining corners are not contiguous;

94 d. To the extent consistent with paragraphs a. to c. of this subdivision,
95 district boundaries shall coincide with the boundaries of political subdivisions of
96 the state. The number of counties and cities divided among more than one
97 district shall be as small as possible. When there is a choice between dividing
98 local political subdivisions, the more populous subdivisions shall be divided before
99 the less populous, but this preference shall not apply to a [legislative] district
100 boundary drawn along a county line which passes through a city that lies in more
101 than one county;

102 e. Preference shall be that districts are compact in form, but the
103 standards established by paragraphs a. to d. of this subdivision take precedence
104 over compactness where a conflict arises between compactness and these
105 standards. In general, compact districts are those which are square, rectangular,
106 or hexagonal in shape to the extent permitted by natural or political boundaries.

107 [(2)] (4) Within sixty days after the population of this state is reported
108 to the President for each decennial census of the United States or, in the event
109 that a reapportionment has been invalidated by a court of competent jurisdiction,
110 within sixty days that such a ruling has been made, the congressional district
111 committee of each of the two parties casting the highest vote for governor at the
112 last preceding election shall meet and the members of the committee shall
113 nominate, by a majority vote of the members of the committee present, provided
114 that a majority of the elected members is present, two members of their party,
115 residents in that district, as nominees for reapportionment
116 commissioners. Neither party shall select more than one nominee from any one
117 [state legislative] **house** district. The congressional committees shall each
118 submit to the governor their list of elected nominees. Within thirty days the
119 governor shall appoint a commission consisting of one name from each list to
120 reapportion the state into one hundred [and sixty-three representative]

121 **seventeen house** districts and to establish the numbers and boundaries of said
122 districts.

123 If any of the congressional committees fails to submit a list within such
124 time the governor shall appoint a member of his **or her** own choice from that
125 district and from the political party of the committee failing to make the
126 appointment.

127 Members of the commission shall be disqualified from holding office as
128 members of the general assembly for four years following the date of the filing by
129 the commission of its final statement of apportionment.

130 For the purposes of this Article, the term congressional district committee
131 or congressional district refers to the congressional district committee or the
132 congressional district from which a congressman was last elected, or, in the event
133 members of congress from this state have been elected at large, the term
134 congressional district committee refers to those persons who last served as the
135 congressional district committee for those districts from which congressmen were
136 last elected, and the term congressional district refers to those districts from
137 which congressmen were last elected. Any action pursuant to this section by the
138 congressional district committee shall take place only at duly called meetings,
139 shall be recorded in their official minutes and only members present in person
140 shall be permitted to vote.

141 [(3)] **(5)** Within six months after the population of this state is reported
142 to the President for each decennial census of the United States or, in the event
143 that a reapportionment has been invalidated by a court of competent jurisdiction,
144 within six months after such a ruling has been made, the nonpartisan state
145 demographer shall make public and file with the secretary of state and with the
146 house apportionment commission a tentative plan of apportionment and map of
147 the proposed **house** districts, as well as all demographic and partisan data used
148 in the creation of the plan and map.

149 The commissioners so selected shall, within ten days of receiving the
150 tentative plan of apportionment and map of the proposed **house** districts, meet
151 in the capitol building and proceed to organize by electing from their number a
152 chairman, vice chairman and secretary. The commission shall adopt an agenda
153 establishing at least three hearing dates on which hearings open to the public
154 shall be held to hear objections or testimony from interested persons. A copy of
155 the agenda shall be filed with the clerk of the house of representatives within
156 twenty-four hours after its adoption. Executive meetings may be scheduled and

157 held as often as the commission deems advisable.

158 The commission may make changes to the tentative plan of apportionment
159 and map of the proposed **house** districts received from the nonpartisan state
160 demographer provided that such changes are consistent with this section and
161 approved by a vote of at least seven-tenths of the commissioners. If no changes
162 are made or approved as provided for in this subsection, the tentative plan of
163 apportionment and map of proposed **house** districts shall become final. Not later
164 than two months ~~[of]~~ **after** receiving the tentative plan of apportionment and
165 map of the proposed **house** districts, the commission shall file with the secretary
166 of state a final statement of the numbers and the boundaries of the **house**
167 districts together with a map of the **house** districts.

168 Each member of the commission shall receive as compensation fifteen
169 dollars a day for each day the commission is in session but not more than one
170 thousand dollars, and, in addition, shall be reimbursed for his **or her** actual and
171 necessary expenses incurred while serving as a member of the commission.

172 No reapportionment shall be subject to the referendum.

 Section 5. The senate shall consist of ~~[thirty-four]~~ **thirty-nine** members
2 elected by the qualified voters of the ~~[senatorial]~~ **legislative** districts
3 **established pursuant to section 3 of this article** for a term of four
4 years. ~~[Senatorial]~~ **Legislative** districts shall be apportioned as provided for in
5 Article III, Section ~~[7]~~ **3**.

 Section 7. (a) ~~[Within ten days after the population of this state is~~
2 reported to the President for each decennial census of the United States or, in the
3 event that a reapportionment has been invalidated by a court of competent
4 jurisdiction, within ten days after such a ruling has been made, the nonpartisan
5 state demographer authorized in Article III, Section 3 shall begin the preparation
6 of senatorial districting plans and maps using the same methods and criteria as
7 those required by Article III, Section 3 for the establishment of districts for the
8 house of representatives.

9 (b) ~~Within sixty days after the population of this state is reported to the~~
10 President for each decennial census of the United States, or within sixty days
11 after a reapportionment has been invalidated by a court of competent jurisdiction,
12 the state committee of each of the two political parties casting the highest vote
13 for governor at the last preceding election shall, at a committee meeting duly
14 called, select by a vote of the individual committee members, and thereafter
15 submit to the governor a list of ten persons, and within thirty days thereafter the

16 governor shall appoint a commission of ten members, five from each list, to
17 reapportion the [thirty-four senatorial] **thirty-nine legislative** districts and to
18 establish the numbers and boundaries of said districts.

19 If either of the party committees fails to submit a list within such time the
20 governor shall appoint five members of his own choice from the party of the
21 committee so failing to act.

22 Members of the commission shall be disqualified from holding office as
23 members of the general assembly for four years following the date of the filing by
24 the commission of its final statement of apportionment.

25 [(c)] **(b)** Within six months after the population of this state is reported
26 to the President for each decennial census of the United States or in the event
27 that a reapportionment has been invalidated by a court of competent jurisdiction,
28 within six months after such a ruling has been made, the nonpartisan state
29 demographer shall file with the secretary of state and with the senatorial
30 apportionment commission a tentative plan of apportionment and map of the
31 proposed **legislative** districts **apportioned pursuant to Section 3 of this**
32 **article.**

33 The commissioners so selected shall within ten days of receiving the
34 tentative plan of apportionment and map of the proposed districts required by
35 this subsection, meet in the capitol building and proceed to organize by electing
36 from their number a chairman, vice chairman and secretary. The commission
37 shall adopt an agenda establishing at least three hearing dates on which hearings
38 open to the public shall be held to hear objections or testimony from interested
39 persons. A copy of the agenda shall be filed with the secretary of the senate
40 within twenty-four hours after its adoption. Executive meetings may be
41 scheduled and held as often as the commission deems advisable. The commission
42 may make changes to the tentative plan of apportionment and map of the
43 proposed **legislative** districts received from the nonpartisan state demographer
44 provided that such changes are consistent with this section and the methods and
45 criteria required by Section 3 of this Article [for the establishment of districts for
46 the house of representatives] and approved by a vote of at least seven-tenths of
47 the commissioners. If no changes are made or approved as provided for in this
48 subsection, the tentative plan of apportionment and map of proposed **legislative**
49 districts shall become final. Not later than two months after receiving the
50 tentative plan of apportionment and map of the proposed **legislative** districts,
51 the commission shall file with the secretary of state a final statement of the

52 numbers and the boundaries of the **legislative** districts together with a map of
53 the **legislative** districts.

54 Each member of the commission shall receive as compensation fifteen
55 dollars a day for each day the commission is in session, but not more than one
56 thousand dollars, and, in addition, shall be reimbursed for his **or her** actual and
57 necessary expenses incurred while serving as a member of the commission.

58 No reapportionment shall be subject to the referendum.

Section 8. **1.** No one shall be elected to serve more than [eight] **sixteen**
2 years total in [any one house of] the General Assembly [nor more than sixteen
3 years total in both houses of the General Assembly]. In applying this section,
4 service in the General Assembly [resulting from an election prior to December 3,
5 1992, or service] of less than one year, in the case of a member of the house of
6 representatives, or two years, in the case of a member of the senate, by a person
7 elected after the effective date of this section to complete the term of another
8 person, shall not be counted.

9 **2. No one elected to serve in the General Assembly shall serve**
10 **more than four years in each of the following positions:**

- 11 **(1) Speaker of the House of Representatives;**
- 12 **(2) President pro tempore of the Senate;**
- 13 **(3) Majority leader of the House of Representatives;**
- 14 **(4) Majority leader of the Senate;**
- 15 **(5) Minority leader of the House of Representatives; or**
- 16 **(6) Minority leader of the Senate.**

Section 9. Until the convening of the [Seventy-fourth] **One Hundred**
2 **Second** General Assembly the House of Representatives shall consist of one
3 hundred sixty-three members elected from the one hundred sixty-three
4 representative districts **and the Senate shall consist of thirty-four**
5 **members elected from thirty-four Senate districts**, as they existed
6 [January 1, 1965] **during the One Hundred First General**
7 **Assembly. Beginning with the One Hundred Second General Assembly**
8 **the House of Representatives shall consist of one hundred seventeen**
9 **members elected from house districts apportioned pursuant to section**
10 **3 of this article and the Senate shall consist of thirty-nine members**
11 **elected from thirty-nine legislative districts apportioned pursuant to**
12 **section 3 of this article.**

Section 16. **1.** Senators and representatives shall receive from the state

2 treasury as salary such sums as are provided by law. No law fixing the
3 compensation of members of the general assembly shall become effective until the
4 first day of the regular session of the general assembly next following the session
5 at which the law was enacted. Upon certification by the president and secretary
6 of the senate and by the speaker and chief clerk of the house of representatives
7 as to the respective members thereof, the state comptroller shall audit and the
8 state treasurer shall pay such compensation without legislative enactment. Until
9 otherwise provided by law senators and representatives shall receive one dollar
10 for every ten miles traveled in going to and returning from their place of meeting
11 while the legislature is in session, on the most usual route.

12 **2.** Until otherwise provided by law, each senator or representative shall
13 be reimbursed from the state treasury for the actual and necessary expenses
14 incurred by him in attending sessions of the general assembly in the sum of ten
15 dollars (\$10.00) per day for each day on which the journal of the senate or house
16 respectively shows the presence of such senator or representative. Upon
17 certification by the president and secretary of the senate and by the speaker and
18 chief clerk of the house of representatives as to the respective members thereof,
19 the state comptroller shall approve and the state treasurer shall pay monthly
20 such expense allowance without legislative enactment.

21 **3. Beginning with the one hundred second general assembly and**
22 **on the first day of each successive general assembly, the compensation**
23 **of members of the general assembly shall be increased by the increase**
24 **in the cost of living. On September 30, 2022, and on each September**
25 **thirtieth of each successive even-numbered year, the secretary of the**
26 **senate shall measure the increase in the cost of living by the**
27 **percentage increase as of the preceding July over the level as of July**
28 **of the second preceding year of the Consumer Price Index for Urban**
29 **Wage Earners and Clerical Workers (CPI-W) or successor index as**
30 **published by the United States Department of Labor or its successor**
31 **agency, with the amount of compensation increase rounded to the**
32 **nearest dollar.**

Section 19. (a) Senators and representatives shall, in all cases except
2 treason, felony, offenses under this Article, or breach of the peace, be privileged
3 from arrest during the session of the general assembly, and for the fifteen days
4 next before the commencement and after the termination of each session; and
5 they shall not be questioned for any speech or debate in either house in any other

6 place.

7 (b) a. Legislative records shall be public records and subject to generally
8 applicable state laws governing public access to public records, including the
9 Sunshine Law. Legislative records include, but are not limited to, all records, in
10 whatever form or format, of the official acts of the general assembly, of the official
11 acts of legislative committees, of the official acts of members of the general
12 assembly, of individual legislators, their employees and staff, of the conduct of
13 legislative business and all records that are created, stored or distributed through
14 legislative branch facilities, equipment or mechanisms, including electronic,
15 **provided that the following shall not be considered a legislative record**
16 **and shall not be subject to any state laws governing public access to**
17 **public records, including the Sunshine Law:**

18 i. **The work product of an employee or staff member of a member**
19 **of the general assembly;**

20 ii. **The work product of an employee of the house of**
21 **representatives or the senate; and**

22 iii. **Communications between members of the general assembly.**

23 b. Each member of the general assembly is the custodian of legislative
24 records under the custody and control of the member, their employees and
25 staff. The chief clerk of the house or the secretary of the senate are the
26 custodians for all other legislative records relating to the house and the senate,
27 respectively.

28 (c) Legislative proceedings, including committee proceedings, shall be
29 public meetings subject to generally applicable law governing public access to
30 public meetings, including the Sunshine Law. Open public meetings of legislative
31 proceedings shall be subject to recording by citizens, so long as the proceedings
32 are not materially disrupted.

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