

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Introduced**

### **House Bill 2445**

**FISCAL  
NOTE**

BY DELEGATE PUSHKIN, KUMP AND LOVEJOY

[Introduced January 16, 2019; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §1-2-2a, creating the Independent Redistricting Commission of the Joint  
3 Committee on Government and Finance; establishing the Redistricting Commission's  
4 purpose and composition; providing qualifications and appointment procedure for  
5 commission members; establishing a process for filling commission vacancies;  
6 establishing that commission members are not to receive compensation; providing for  
7 approved reimbursement of commission member expenses; providing for payment of  
8 necessary equipment and materials; requiring the commission to acquire appropriate  
9 information; requiring the commission to develop programs and procedures to draw  
10 congressional and legislative redistricting plans on the basis of the federal census; to  
11 prepare congressional and legislative redistricting; requiring the commission plan and  
12 propose congressional and legislative districts; providing specific criteria that the  
13 redistricting office must observe in proposing district mappings; requiring the redistricting  
14 office to advertise a proposed draft map of districts to the public; requiring a period for  
15 public comment on the proposed redistricting plan; providing for members of the  
16 legislature to make inquiries about the commission's methodology or proposed redistrict  
17 mapping; requiring the commission to publish a report and final proposals for district  
18 boundaries; requiring a recommended redistricting plan to the Legislature including  
19 identical bills for consideration by the House and Senate; requiring the full Legislature to  
20 vote on plan ratification; providing for subsequent submissions of plans and vote by  
21 Legislature; requiring that commission certify to the Secretary of State that its final  
22 proposal for district boundaries is in accordance with Constitutional and legal  
23 requirements; and prohibiting certain persons from influencing or attempting to influence  
24 district mapping proposals of the redistricting office; and providing for completion of the  
25 commission's work with certain exceptions.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. APPORTIONMENT OF REPRESENTATION.****§1-2-2a. Independent Redistricting Commission of the Joint Committee on Government and Finance to study and propose fair, balanced and rational plan to redistrict.**

1 (a) Purpose.—There is hereby created the Independent Redistricting Commission of the  
2 Joint Committee on Government and Finance (“Redistricting Commission”), established generally  
3 to provide a proposed fair, balanced and rational plan for redistricting of congressional and state  
4 legislative voting districts for final approval by the Legislature. The Redistricting Commission will,  
5 among other duties and tasks noted herein, acquire, review, study and evaluate appropriate  
6 information related to establishing and designating voting districts, prepare a report, and present  
7 proposed redistricting mappings designed to reflect fair reapportionment and redistricting in  
8 conformity with constitutional principles, especially that which requires equality of population to  
9 the greatest extent practicable,

10 (b) Establishment of the Redistricting Commission. — No later than February 28 of each  
11 year that ends in one, the Redistricting Commission shall be established by appointment in  
12 accordance with the procedures set forth in this section to provide for proposed redistricting of  
13 congressional and state legislative voting districts.

14 (c) Composition of the Redistricting Commission. —The Redistricting Commission shall  
15 consist of six members. Party membership, designated in terms of the state’s primary political  
16 parties, shall be equally represented in the Redistricting Commission. The residence of members  
17 shall reflect a broad geographic representation of the state with at least one member from each  
18 congressional district.

19 (d) Appointment and Qualifications of Redistricting Commission Members. — The  
20 President of the Senate, the Speaker of the House of Delegates, and the minority leaders of the  
21 Senate and the House of Delegates shall each designate one (1) member of the Redistricting  
22 Commission. The state chair of the two largest political parties, determined by the vote cast for  
23 Governor in the last gubernatorial election, shall each designate one (1) member of the

24 Redistricting Commission. Any official who fails to make an appointment within the specified time  
25 will forfeit the appointment privilege. If there are two or more minority parties within the House of  
26 Delegates or the Senate, the leader of the largest minority party by statewide party registration  
27 shall make the appointment.

28 (1) At the time of their selection each member shall be a registered West Virginia voter  
29 who has been continuously registered with the same political party, or unaffiliated, for three or  
30 more years immediately preceding their appointment.

31 (2) No person may serve on the Redistricting Commission who is or has been a registered  
32 lobbyist, an elected official, or state party officer within five years prior to selection.

33 (3) At the time of selection each member shall be knowledgeable and possess expertise  
34 relative to constitutional and legal requirements and considerations which bear on the issue of  
35 fair reapportionment and redistricting and be committed to applying the provisions of this section  
36 in an honest, independent and impartial fashion and to upholding public confidence in the integrity  
37 of the redistricting process.

38 (e) Vacancy. – If a commissioner or chairperson does not complete the term of office for  
39 any reason, the person making the initial appointment in section (d) shall also make the  
40 replacement appointment.

41 (f) Reimbursement of Redistricting Commission Members, Staff. – Members of the  
42 Redistricting Commission shall not be compensated in any fashion for the performance of their  
43 duties as a member of the Redistricting Commission. However, each member of the Redistricting  
44 Commission shall be reimbursed for all reasonable and necessary expenses incurred in the  
45 performance of his or her duties as a member of the Redistricting Commission. The Joint  
46 Committee on Government and Finance shall provide any necessary staff for the Redistricting  
47 Commission.

48 (g) Necessary Expenses. – Funds shall be expended for the purchase or lease of  
49 necessary equipment and materials only with prior approval of the Joint Committee on

50 Government and Finance.

51 (h) Preparation for redistricting. – The Redistricting Commission shall acquire appropriate  
52 information, review and evaluate available facilities, and develop programs and procedures in  
53 preparation for drawing congressional and legislative redistricting plans on the basis of each  
54 federal census.

55 (1) As soon as possible after January 1 of each year ending in one, the Redistricting  
56 Commission shall obtain from the United States Bureau of the Census the population data needed  
57 for legislative districting which the Census Bureau is required to provide this state under the United  
58 States Census 2000 Public Law 94-171 and will use that data to assign a population figure based  
59 upon certified federal census data to each geographic or political unit described pursuant to the  
60 provisions of this subsection.

61 (2) Upon completing that task, the Redistricting Commission shall begin the preparation  
62 of congressional and legislative districting plans as required by this section, and use the data so  
63 obtained to:

64 (A) Prepare necessary descriptions of geographic and political units for which census  
65 data will be reported, and which are suitable for use as components of legislative districts; and

66 (B) Prepare maps of counties, cities and other geographic units within the state, which  
67 may be used to illustrate the locations of legislative district boundaries proposed in plans drawn  
68 in accordance with this section.

69 (3) If population data from the federal census which is sufficient to permit preparation of a  
70 congressional districting plan complying with article one, section four of the Constitution of West  
71 Virginia becomes available at an earlier time than the population data needed to permit  
72 preparation of a legislative districting plan in accordance with this section, the Redistricting  
73 Commission shall so inform the presiding officers of the Senate and House of Delegates.

74 (4) If the population data for legislative districting which the United States Census Bureau  
75 is required to provide this state under United States Census 2000 Public Law 94-171 is not

76 available to the Redistricting Office of the Joint Committee on Government and Finance on or  
77 before February 1 of the year ending in one, the dates set forth in this section shall be extended  
78 by a number of days equal to the number of days after February 1, of the year ending in one, that  
79 the federal census population data for legislative districting becomes available.

80 (i) *Factors to be Considered in the Mapping Process* – The Redistricting Commission  
81 shall plan and propose congressional and legislative districts, to include the commencement of  
82 the proposed mapping process for both the congressional and legislative districts. The mapping  
83 process shall strive to create districts of equal population in a grid-like pattern across the state.  
84 Adjustments to the redistricting map shall then be made as necessary to accommodate the goals  
85 set forth below:

86 (1) Congressional and legislative districts shall comply with the United States Constitution,  
87 the United States Voting Rights Act and to every extent possible, Article six, Sections seven and  
88 eight<sup>8</sup> of the Constitution of West Virginia.

89 (2) Congressional and legislative districts shall have equal population to the extent  
90 practicable.

91 (3) Congressional and legislative districts shall be geographically compact and contiguous  
92 to the extent practicable.

93 (4) To the extent practicable, district lines shall use visible geographic features, city, town  
94 and county boundaries, and undivided census tracts.

95 (5) To the extent practicable, competitive districts should be favored where to do so would  
96 create no significant detriment to the other goals.

97 (6) Party registration and voting history data shall be excluded from the initial phase of the  
98 mapping process, but may be used to test maps for compliance with the above goals. The places  
99 of residence of incumbents or candidates shall not be identified or considered.

100 (7) The geographic integrity of any city, county, and local neighborhood, or local  
101 community of interest shall be respected in a manner that minimizes their division to the extent  
102 possible without violating the requirements of any of the preceding subdivisions.

103 (8) To the extent practicable, and where this does not conflict with the criteria above,  
104 districts shall be drawn to encourage geographical compactness such that nearby areas of  
105 population are not bypassed for more distant population.

106 (9) To the extent practicable, competitive districts should be favored where to do so would  
107 create no significant detriment to the other goals.

108 (10) Districts shall not be drawn for favoring or discriminating against an incumbent,  
109 political candidate, or political party.

110 (11) To the maximum extent possible, the plan should avoid drawing districts that are  
111 oddly shaped.

112 (12) Division of counties shall be avoided whenever possible. If a county must be divided,  
113 the number of such divisions, per county, should be kept to a minimum.

114 (13) To the extent that counties must be divided to create districts, such districts shall be  
115 composed of contiguous counties.

116 (14) District boundaries shall respect communities of interest to the extent practicable;

117 (15) To the extent practicable, district lines shall use visible geographic features, city, town  
118 and county boundaries, and undivided census tracts; and

119 (16) A district may not be drawn to favor a political party, incumbent Legislator or member  
120 of Congress, or other person or group, or for the purpose of augmenting or diluting the voting  
121 strength of a language or racial minority group.

122 (17) In establishing districts, no use may be made of any of the following data:

123 (A) Address of incumbent Legislators or members of Congress;

124 (B) Political affiliations of registered voters;

125 (C) Previous election results; and

126 (D) Demographic information, other than population head counts, except as required by  
127 the Constitution and laws of the United States.

128 (17) Party registration and voting history data shall be excluded from the mapping process.  
129 The places of residence of incumbents or candidates shall not be identified or considered.

130 (18) An elected or appointed office holder, lobbyist, official of a political party, or other  
131 person affiliated with an elected or appointed office holder, lobbyist or official of a political party,  
132 may not influence or attempt to influence the district-mapping proposals of the Redistricting  
133 Commission.

134 (19) When a legislative district contains more than one county or a portion of a county,  
135 the counties or portion of a county in the district shall be directly connected by roads and highways  
136 which are designated as part of the interstate highway system, the United States highway system  
137 or the state highway system.

138 (20) When the Redistricting Commission determines, by an affirmative vote of at least five  
139 members recorded in its minutes, that it cannot complete its duties for a legislative district by fully  
140 complying with the provisions of this subsection, this subsection shall not apply to the Redistricting  
141 Commission or legislative redistricting plan it shall adopt.

142 (i) Advertisement, publication, certification and submission of the commission report for  
143 legislative approval. – The Redistricting Commission shall advertise proposed draft maps of  
144 congressional and legislative districts to the public for comment, to include on-line publication and  
145 access, which comment period shall be taken for at least 30 days, also including on-line access.  
146 The Redistricting Commission shall hold a public hearing in each Congressional district at a  
147 location, or locations, to be determined by the Redistricting Commission.

148 (1) Any member of either body of the Legislature may, within this period, make written or  
149 on-line inquiry of the Redistricting Commission concerning its apportionment methodology or  
150 proposed redistrict mapping, which inquiry shall be fully addressed by the Redistricting  
151 Commission.



152 (2) Within 20 days after the period for comment, the Redistricting Commission shall certify  
153 to the Secretary of State that its final proposal for boundaries of congressional and legislative  
154 districts are in accordance with constitutional and legal requirements and considerations as  
155 provided in this section.

156 (3) Not later than April 1 of each year ending in one, the Redistricting Commission shall  
157 make and publish its final proposal for district boundaries, a report to include identical bills  
158 embodying a plan of legislative and congressional districting prepared in accordance with this  
159 section, and deliver that plan to the Clerk of the Senate and the Clerk of the House of Delegates  
160 with recommendation of the plan to the Legislature, which shall vote as a full body upon it.

161 (4) The Redistricting Commission may not meet or incur expenses after the proposed  
162 redistricting plan is completed, unless:

163 (A) Litigation or legislative approval of the plan is pending,

164 (B) Necessary to revise districts if required by court decisions;

165 (C) The number of congressional or legislative districts is changed; or,

166 (D) The Redistricting Commission is required to prepare a bill in accordance with sections  
167 (k)(2) and (k)(3), herein.

168 (5) The provisions regarding this section are self-executing.

169 (k) Legislative approval.

170 (1) The Legislature shall bring the bill embodying the plan submitted by the Redistricting  
171 Commission to a vote in either the Senate or the House of Delegates expeditiously, but not less  
172 than three months after the report of the Redistricting Commission required by this section is  
173 received and made available to the members of the Legislature. The legislative vote on the  
174 proposed redistricting shall occur under procedure or rule permitting no amendments except  
175 those of a purely corrective nature. If the bill is approved by the first house in which it is  
176 considered, it shall expeditiously be brought to a vote in the second house under a similar  
177 procedure or rule permitting no amendments except those of a purely corrective nature.

178 (2) If the bill embodying the plan submitted by the Redistricting Commission fails to be  
179 approved by a constitutional majority in either the Senate or the House of Delegates, the Clerk of  
180 the Senate or the Clerk of the House shall at once transmit to the Redistricting Commission  
181 information which the Senate or House may direct regarding reasons why the plan was not  
182 approved.

183 (A) The Redistricting Commission shall then prepare a bill embodying a second plan of  
184 legislative and congressional districting prepared in accordance with this section considering the  
185 reasons cited by the Senate or House of Delegates for its failure to approve the plan insofar as it  
186 is possible to do so within the requirements of this section.

187 (B) If a second plan is required under this section, the bill embodying it shall be delivered  
188 to the Clerk of the Senate and the Clerk of the House of Delegates not later than two months after  
189 the date of the vote by which the Senate or the House of Delegates fails to approve the bill first  
190 submitted. If it is necessary to submit a bill under this section, the bill shall be brought to a vote  
191 in not less than two months, in the same manner as prescribed for the first bill required under this  
192 section.

193 (3) If the bill embodying the plan submitted by the Redistricting Commission Office under  
194 subdivision (2) of this section fails to be approved by a constitutional majority in either the Senate  
195 or the House of Delegates, the same procedure as prescribed by subdivision (2) shall be followed.

196 (A) If a third plan is required, the bill embodying it shall be delivered to the Clerk of the  
197 Senate and the Clerk of the House of Delegates not later than two months after the date of the  
198 vote by which the Senate or the House of Delegates fails to approve the bill submitted under  
199 subdivision (2), but before the beginning of the next regular session of the Legislature. If it is  
200 necessary to submit a bill under this subsection, the bill shall be brought to a vote within the same  
201 time after its delivery to the Clerk of the Senate and the Clerk of the House of Delegates as is  
202 prescribed for the bill submitted under subdivision (2).

203 (B) If it is necessary to submit a third bill under this section, that bill shall be subject to

204 amendment in the Legislature in the same manner as any other bills in the regular legislative  
205 process.

NOTE: The purpose of this bill is to provide for the Redistricting Office of the Joint Committee on Government and Finance to propose redistricting plans during census years. The main task of the Redistricting Office is to propose a plan to the Legislature which is based on constitutional and legal requirements and considerations. The bill provides specific criteria that the redistricting office must observe in proposing district mappings. The bill requires the redistricting office to advertise a proposed draft map of districts to the public. The bill requires the redistricting office to recommend redistricting plan to the Legislature. The bill requires the full Legislature to vote on plan ratification. The bill provides for subsequent submissions of plans and vote by Legislature. The bill requires that the commission certify to the Secretary of State that its final proposal for district boundaries is in accordance with constitutional and legal requirements. The bill prohibits certain persons from influencing or attempting to influence district mapping proposals of the redistricting office.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.