

Initiative #132
State and Congressional Redistricting Commission

1 **Amendment ? proposes amending the Colorado Constitution to:**

- 2 ♦ authorize the newly created Independent Colorado Redistricting
3 Commission to approve and amend congressional and state legislative
4 district plans drawn by nonpartisan legislative staff; and

- 5 ♦ expand criteria for drawing congressional and state legislative districts
6 to include maximizing the number of competitive districts.

7 **Summary and Analysis**

8 **Reapportionment and redistricting.** State legislative and congressional districts
9 are redrawn every ten years following the U.S. Census population count so that each
10 district has equal population. For congressional districts, each state is granted
11 representatives in the U.S. Congress based on the state's share of the total U.S.
12 population. This process is called reapportionment. Redistricting is the term used for
13 the process by which states redraw their congressional districts after reapportionment.

14 For state legislative districts, the number of members in the Colorado General
15 Assembly is set in the state constitution at 35 state senators and 65 state
16 representatives. Like congressional districts, these districts are redrawn every ten
17 years to ensure that each district's population is relatively equal.

18 **Current redistricting process in Colorado.** Colorado currently has seven seats
19 in the U.S. House of Representatives. Under the state constitution, the state
20 legislature is responsible for dividing the state into districts for these representatives
21 after reapportionment is complete. If the state legislature fails to complete a new
22 district plan during the legislative session following reapportionment, the state courts
23 draw the plan. The process has required court intervention the last four times
24 congressional redistricting occurred.

25 For state legislative districts, the Colorado Reapportionment Commission
26 (reapportionment commission) is convened every ten years following the U.S. Census.
27 The reapportionment commission consists of 11 appointed members who are
28 responsible for drawing state legislative district plans, and it receives nonpartisan
29 legislative staff support. The reapportionment commission is required to draft
30 preliminary plans for state senate and house districts and hold public hearings on the
31 plans throughout the state. Its final plans are submitted to the Colorado Supreme
32 Court for approval.

1 **Changes under Amendment ?.** The measure establishes the 12-member
2 Independent Colorado Redistricting Commission (redistricting commission) to replace
3 the 11-member reapportionment commission, and authorizes the redistricting
4 commission to adopt plans for both congressional and state legislative districts.

5 Table 1 compares the membership and appointment process for the existing
6 reapportionment commission and the proposed redistricting commission.

1 **Table 1. Commission Membership and Appointments Under Current Law and**
 2 **Amendment ?**

	Current Law	Amendment ?
	Colorado Reapportionment Commission	Independent Colorado Redistricting Commission
Redistricting Responsibilities	State legislative redistricting	Congressional and state legislative redistricting
Commission Size	11 members	12 members
Appointing Authorities:		
Speaker of the State House	1 member	2 members
State House Minority Leader	1 member	2 members
State Senate President	0 members	2 members
State Senate Majority Leader	1 member	0 members
State Senate Minority Leader	1 member	2 members
Governor	3 members	0 members
Chief Justice of the Colorado Supreme Court	4 members	0 members
Appointed committee members	0 members	4 members registered with a minor political party or unaffiliated, selected unanimously by the 8 other members from a list prepared by the Supreme Court nominating commission.
Political Affiliation	No more than 6 members registered with the same political party.	No more than 4 members registered with the same political party.
Geographic Distribution	At least 1 member from each congressional district. No more than 4 members from any single congressional district.	At least 1 member from each congressional district. No more than 3 members from any single congressional district.
	At least 1 member residing west of the Continental Divide.	At least 1 member residing west of the Continental Divide.
		At least 1 member residing south of El Paso County and east of the Continental Divide.
Elected Officials	No more than 4 current legislators.	No registered lobbyists, current legislators or members of U.S. Congress, or candidates for one of these offices.

1 Any motion adopted by the redistricting commission, including approving a
2 redistricting plan, requires the vote of at least eight commission members. The
3 redistricting commission and its members are subject to open meeting laws, and
4 members are required to disclose the names of people they communicate with outside
5 of a public redistricting commission meeting regarding any plans. Redistricting
6 commission members are prohibited from communicating with nonpartisan legislative
7 staff outside of a public meeting or hearing, and staff are prohibited from
8 communicating with outside parties concerning the development of a redistricting plan.

9 **Redistricting process under Amendment ?.** Amendment ? requires
10 nonpartisan legislative staff to create congressional and state legislative redistricting
11 plans (plans) for the redistricting commission to review. The redistricting commission
12 is required to hold at least 21 public hearings throughout the state to hear public
13 comment on the plans. Commissioners may not amend these plans, but can make
14 suggestions to staff for adjusting the plans.

15 Following the final public hearing, staff must submit new plans to the redistricting
16 commission, and the commission must vote on each plan. If a plan is not approved,
17 the redistricting commission must provide staff with written reasons why the plan was
18 rejected, and staff must prepare a new plan for consideration. Up to three plans each
19 may be prepared and considered for state house, state senate, and congressional
20 districts. If the redistricting commission does not approve a state legislative plan, the
21 staff is required to submit the unamended second plan to the Colorado Supreme
22 Court for review and approval. Any approved plan is also submitted to the Colorado
23 Supreme Court for review and approval. The measure does not specify procedures if
24 the commission does not approve a congressional plan.

25 **Amendment ? prohibits political gerrymandering.** Amendment ? prohibits
26 political gerrymandering, defined as purposefully drawing congressional or state
27 legislative districts to favor one political party or incumbent politician over another, or
28 to accomplish political goals.

29 **Current criteria for drawing state legislative and congressional districts.** The
30 state constitution requires state legislative districts to be as nearly equal in population
31 as possible. In addition, the state constitution and the courts require, when drawing
32 state legislative plans, that:

- 33 • the division of counties and cities among multiple districts be minimized;
34 • districts be as compact in area as possible; and
35 • communities of interest be preserved where possible.

36 Amendment ? applies these three criteria to congressional redistricting, and it
37 adds considerations for minimizing the disruption of prior district lines and maximizing
38 the number of competitive legislative and congressional districts.

1 The U.S. Constitution requires that all congressional districts within a state have
2 equal populations. Under the Voting Rights Act of 1965 the state cannot change
3 voting standards, practices, or procedures in a way that denies or limits the right to
4 vote based on race or color. In particular, the act requires that a minority group's
5 voting strength not be diluted under a redistricting plan.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 8, 2016**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

6 **Arguments For**

7 1) Amendment ? limits the role of partisan politics in the redistricting process.
8 Lobbyists and legislators are prohibited from serving on the new commission, and
9 unaffiliated voters and minor political party members will be appointed to the
10 commission. Additionally, nonpartisan legislative staff draw the district plans, and
11 each plan's approval requires a supermajority vote of the commission. These
12 provisions encourage political compromise and keep a single political party from
13 controlling the process. This is particularly beneficial for congressional redistricting,
14 which has been decided through court intervention in every redistricting period since
15 1980.

16 2) The measure makes the redistricting process more efficient and transparent,
17 and it protects the voices of individual voters in the process. Congressional and
18 legislative redistricting will be conducted more efficiently by a single independent
19 commission with safeguards against undue influence in the preparation and adoption
20 of plans. The commission is subject to the Colorado Open Records Act, and anyone
21 lobbying the commission must follow lobbyist disclosure laws. Further, commission
22 members can be removed for engaging in prohibited communications. By requiring all
23 plan communication to occur in public, Coloradans will be able to see exactly how the
24 districts are drawn.

25 **Arguments Against**

26 1) Amendment ? takes accountability out of the redistricting process. Unlike
27 state legislators who are subject to election and campaign finance requirements,
28 unelected commissioners and nonpartisan staff are not accountable to the voters of
29 Colorado. Further, nonpartisan staff are shielded from the public and are required to
30 keep redistricting plans confidential until they are presented at a hearing of the
31 commission. A truly open and transparent system would allow for public involvement
32 and input before redistricting plans are presented.

1 2) Under the measure, politics will remain part of the redistricting process.
2 Commission members are appointed by politicians based on their party affiliation, and
3 the major political parties will control the majority of the commission. Additionally,
4 political competitiveness is not defined, and in many cases, creating competitive
5 districts can favor one party over another. The commission process created under
6 Amendment ? does not guarantee a political compromise will be achieved and could
7 instead result in more court intervention due to political stalemate.

8 **Estimate of Fiscal Impact**

9 (Please note: A summary of the fiscal impact will be included in this space in the
10 second draft of the analysis, and an official fiscal note will be prepared and placed on
11 the web when the final blue book is sent to voters.)