

CHAPTER 93

GENERAL ASSEMBLY

HOUSE BILL 04-1043

BY REPRESENTATIVE(S) Fairbank, Brophy, Cadman, Clapp, Crane, Decker, Hall, Harvey, Hefley, Hoppe, King, Lee, Lundberg, May M., Rhodes, Rose, Schultheis, Spence, Stafford, and Wiens; also SENATOR(S) Lamborn, Andrews, Arnold, Cairns, Chlouber, Dyer, Entz, Evans, Hillman, Johnson S., Jones, May R., and Teck.

AN ACT

CONCERNING MANDATORY CRITERIA TO BE USED BY COURTS IN DETERMINING CONGRESSIONAL DISTRICT BOUNDARIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 1 of title 2, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

2-1-102. Neutral criteria for judicial determinations of congressional districts. (1) IN DETERMINING WHETHER ONE OR MORE OF THE CONGRESSIONAL DISTRICTS ESTABLISHED IN SECTION 2-1-101 ARE LAWFUL AND IN ADOPTING OR ENFORCING ANY CHANGE TO ANY SUCH DISTRICT, COURTS SHALL:

(a) NOT UTILIZE NON-NEUTRAL FACTORS. FOR PURPOSES OF THIS SECTION, "NON-NEUTRAL FACTORS" INCLUDE POLITICAL PARTY REGISTRATION, POLITICAL PARTY ELECTION PERFORMANCE, AND OTHER FACTORS THAT INVITE THE COURT TO SPECULATE ABOUT THE OUTCOME OF AN ELECTION.

(b) UTILIZE ONLY NEUTRAL FACTORS IN THE ORDER OF PRECEDENCE ESTABLISHED IN THIS PARAGRAPH (b). FOR PURPOSES OF THIS SECTION, A "NEUTRAL FACTOR" MEANS:

(I) FIRST, 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. EACH DISTRICT SHALL CONSIST OF CONTIGUOUS WHOLE GENERAL ELECTION PRECINCTS. DISTRICTS SHALL NOT OVERLAP.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) SECOND, COMPLIANCE WITH THE FEDERAL "VOTING RIGHTS ACT OF 1965", IN PARTICULAR 42 U.S.C. SEC. 1973;

(III) THIRD, EXCEPT WHEN NECESSARY TO COMPLY WITH SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (b), POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES, AND TOWNS SHALL BE PRESERVED INTACT AND SHALL NOT BE FRAGMENTED OR DISPERSED ACROSS DISTRICT LINES. WHEN APPLYING THIS CRITERION, PRESERVATION OF THE MOST POPULOUS COUNTIES, CITIES, AND TOWNS SHALL TAKE PRECEDENCE. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICTS SHALL BE AS PRESCRIBED BY LAW.

(IV) FOURTH, COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS, SHALL BE PRESERVED WITHIN A SINGLE DISTRICT WHENEVER POSSIBLE. TRADITIONAL COMMUNITIES OF INTEREST IN COLORADO INCLUDE THE WESTERN SLOPE AND THE EASTERN PLAINS.

(V) FIFTH, EACH CONGRESSIONAL DISTRICT SHALL BE AS COMPACT IN AREA AS POSSIBLE, AND THE AGGREGATE LINEAR DISTANCE OF ALL DISTRICT BOUNDARIES SHALL BE AS SHORT AS POSSIBLE; AND

(VI) SIXTH, DISRUPTION OF PRIOR DISTRICT LINES SHALL BE MINIMIZED.

SECTION 2. Applicability. This act shall apply to judicial determinations of congressional district boundaries occurring on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 2004