

Amendment Y Congressional Redistricting

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

- 2 ♦ create the Independent Congressional Redistricting Commission, which will
3 amend and approve congressional district plans drawn by nonpartisan legislative
4 staff;
- 5 ♦ establish a process for selecting commissioners, a set of standards for
6 transparency and ethics, and a procedure for judicial review of commission
7 plans; and
- 8 ♦ expand the criteria for drawing the state’s U.S. congressional districts to preserve
9 communities of interest, keep districts compact, maximize the number of
10 competitive districts, and prohibit the protection of incumbents and political
11 parties.

12 **Summary and Analysis**

13 ***Reapportionment and redistricting.*** The U.S. Census Bureau counts the U.S.
14 population every ten years. After this, the congressional reapportionment process
15 occurs, by which each state is granted seats in the U.S. House of Representatives
16 based on its share of the total U.S. population. The states must then redraw their
17 districts so that the number of people in each district is equal.

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

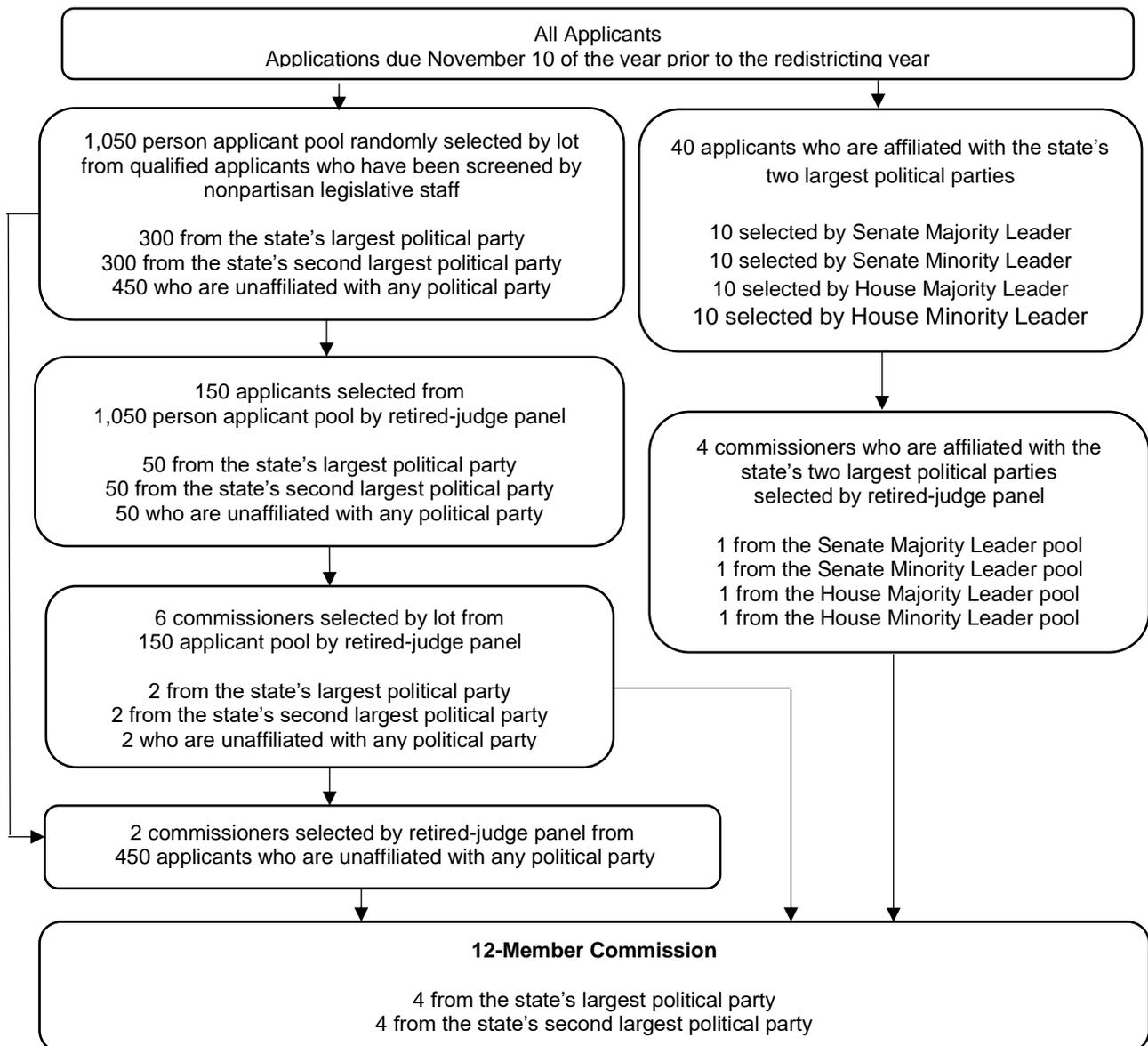
25 Amendment Y creates the Independent Congressional Redistricting Commission
26 (commission), which is charged with drawing the state’s congressional districts,
27 replacing the role of the state legislature. The commission must have 12 members who
28 are appointed from a pool of applicants as described below.

29 ***Application and appointment process.*** Amendment Y sets minimum qualifications
30 for commissioners. An applicant must be registered to vote and have voted in the
31 previous two general elections in Colorado, and have been either affiliated with the same
32 party or unaffiliated with any party for the last five consecutive years. An applicant may
33 not be appointed to the commission if he or she has been a candidate for federal office
34 within the last five years, or within the last three years been: a professional registered
35 lobbyist; an elected public official; an elected political party official above the precinct
36 level; or paid by a member of or candidate for Congress. Commissioners may not also
37 serve on the Independent Legislative Redistricting Commission proposed in
38 Amendment Z.

1 The measure requires nonpartisan legislative staff to prepare an application form for
 2 commissioners after receiving public input on the application at one or more public
 3 hearings. Applicants are assessed based on their experience in representing the
 4 interests of a group or organization, their analytical skills, and their ability to be impartial
 5 and promote consensus on the commission. The Chief Justice of the Colorado
 6 Supreme Court designates a panel of three of the most recently retired judges from the
 7 Colorado Supreme Court or Colorado Court of Appeals to facilitate the selection of
 8 commissioners. Selected judges may not serve on both this commission and the
 9 proposed Independent Legislative Redistricting Commission. The final composition of
 10 the commission is meant to reflect Colorado’s racial, ethnic, gender, and geographic
 11 diversity, and represent each congressional district.

12 Figure 1 details the process by which applicants are selected to serve on the
 13 commission.

14 **Figure 1. Commissioner Selection Under Amendment Y**



1 **Commission operations.** Under the measure, staff for the commission must be
2 assigned from nonpartisan legislative staff agencies. The commission is responsible for
3 adopting rules to govern its administration and operation, and the commissioners are
4 subject to open meeting laws. Commissioners are prohibited from communicating with
5 nonpartisan legislative staff about the plans outside of a public meeting or hearing, and
6 staff are prohibited from communicating with outside parties concerning the development
7 of a redistricting plan. Any commissioner who participates in prohibited communication
8 must be removed from the commission. Any person who receives compensation for
9 advocating to the commission, one or more commissioners, or staff, is considered a
10 lobbyist and must disclose his or her compensation and its source to the Secretary of
11 State for publication.

12 **Criteria for drawing a congressional district plan.** The U.S. Constitution requires
13 that all congressional districts within a state have equal populations. Under the federal
14 Voting Rights Act of 1965, the state cannot change voting standards, practices, or
15 procedures in a way that denies or limits the right to vote based on race or color or
16 membership in a language minority group. In particular, the act requires that a minority
17 group's voting strength not be diluted under a redistricting plan. Amendment Y adopts
18 portions of the Voting Rights Act into state law.

19 Amendment Y also adds criteria for the commission to follow when adopting a plan.
20 After achieving population equality and complying with the Voting Rights Act, the
21 commission must preserve whole political subdivisions and communities of interest, and
22 districts must be as compact as possible. After the consideration of these criteria,
23 Amendment Y requires the commission to maximize the number of politically competitive
24 districts. Plans cannot be drawn for the purpose of protecting incumbents or political
25 parties.

26 **Plan consideration and public involvement.** The measure directs nonpartisan
27 commission staff to create a preliminary redistricting plan, and requires them to consider
28 public comments while developing the plan. Members of the public may also present
29 proposed redistricting maps and written comments for the commission's consideration.
30 The commission must hold at least three public hearings in each congressional district to
31 receive public input before approving a redistricting plan. At least ten commissioners
32 must attend each hearing, either in person or electronically. These hearings must be
33 broadcast online, and the commission must maintain a website through which Colorado
34 residents may submit maps or written comments. All written comments pertaining to
35 redistricting must be published on the website. After the commission holds its hearings
36 on the preliminary plan, staff must prepare additional plans. The commission can adopt
37 standards and guidelines for staff to follow when developing staff plans. Any
38 commissioner can request at a public hearing that staff prepare additional plans or
39 amendments to plans. The commission can adopt a final plan at any time after the
40 presentation of the first staff plan.

41 **Final plan.** Under the measure, the commission must adopt a final plan and submit
42 it to the Colorado Supreme Court for review. Eight commissioners, including at least two
43 unaffiliated commissioners, must vote to approve the final plan. The commission cannot
44 vote on a final plan until at least 72 hours after it has been proposed to the commission
45 in a public meeting, although commissioners can unanimously waive the 72-hour
46 requirement. If the commission fails to submit a final plan, the commission's staff must

1 submit the third staff plan considered by the commission, without amendments, to the
2 Colorado Supreme Court for judicial review.

3 The Colorado Supreme Court must review the final plan and either approve it or
4 return it to the commission. If returned, the commission has 12 days to hold a hearing
5 and submit a revised plan to the Colorado Supreme Court. If the commission fails to
6 submit a revised plan, nonpartisan staff have an additional three days to submit a
7 revised plan. The Colorado Supreme Court must approve a congressional redistricting
8 plan by December 15 of the redistricting year.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, 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>

9 **Arguments For**

10 1) Amendment Y limits the role of partisan politics in the redistricting process.
11 Lobbyists and elected officials are prohibited from serving on the new
12 commission. Unaffiliated voters must be appointed to the commission.
13 Additionally, nonpartisan legislative staff draw the district plans, and each plan's
14 approval requires a supermajority vote of the commission, including at least two
15 unaffiliated commissioners. These provisions encourage political compromise
16 and keep a single political party from controlling the process. This is particularly
17 beneficial for congressional redistricting, which has been decided through court
18 intervention in every redistricting period since 1980.

19 2) The measure makes the redistricting process more transparent and protects the
20 voices of individual voters in the process. Through the commissioner selection
21 process, checks and balances are in place to make sure no one political party
22 has control of the commission. Congressional redistricting is conducted by an
23 independent commission in a process with safeguards against undue influence in
24 the preparation and adoption of plans. The commission is subject to the
25 Colorado Open Records Act, and anyone lobbying the commission must follow
26 lobbyist disclosure laws. Further, commission members are removed for
27 engaging in prohibited communications. By requiring that plan communications
28 occur in public, Coloradans will be able to see exactly how the districts are
29 drawn.

30 3) The measure outlines fair and neutral criteria for drawing districts. It specifies
31 that incumbents cannot be protected, parties cannot be favored, and competitive
32 districts are encouraged, while still creating equal and compact districts and
33 protecting voting rights and community interests. This could result in a more
34 diverse pool of candidates for public office, and the resulting election outcomes
35 could be more reflective of the state's population.

1 **Arguments Against**

- 2 1) Amendment Y takes accountability out of the redistricting process. Unlike state
3 legislators who are subject to election and campaign finance requirements,
4 unelected commissioners are not accountable to the voters of Colorado. The
5 selection process relies on unelected retired judges to screen applicants and
6 select half of the commissioners. Further, the commission is staffed by
7 government employees who are not accountable to the voters, and they may end
8 up drawing the final maps if the commission cannot reach an agreement.
- 9 2) The measure will not take politics out of the redistricting process. Politicians
10 select some of the commission candidates based on their party affiliation, and
11 minor parties are left out of this process, as their members have no access to the
12 appointment process. Just because a person is not affiliated with a political party
13 does not mean he or she does not have political leanings, so the protected role
14 of unaffiliated commissioners will not necessarily reduce political disagreements.
15 Finally, the commission process created under Amendment Y does not
16 guarantee a political compromise will be achieved or that political stalemate will
17 not occur.
- 18 3) Finding enough applicants and commissioners may prove difficult since
19 Amendment Y disqualifies large segments of the population based on political
20 involvement, including elected officials, candidates, lobbyists, campaign workers,
21 and party officials. The commissioner selection process also seeks to appoint
22 candidates who have experience organizing and advocating for Colorado
23 organizations and who have analytical skills. Finding qualified commissioner
24 candidates who have these skills and are not politically active may be
25 challenging. Amendment Y prevents individuals with important experience and
26 knowledge from being commissioners. Without a robust pool of applicants, it will
27 be difficult to fill the geographic and diversity requirements of the commission,
28 and to complete the commission's work.

29 **Estimate of Fiscal Impact**

30 *(Please note: A summary of the fiscal impact will be included in this space in the*
31 *second draft of the analysis. A final fiscal impact statement will be prepared and placed*
32 *on the General Assembly's website when the final blue book is sent to voters.)*