

Amendment Z Legislative Redistricting

1 Amendment Z proposes amending the Colorado Constitution to:

- 2 ♦ create the Independent Legislative Redistricting Commission, replacing the
3 Colorado Reapportionment Commission, to amend and approve state legislative
4 district plans drawn by nonpartisan legislative 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 state legislative districts to include maximizing the
9 number of competitive districts and prohibiting the protection of incumbents and
10 political parties.

11 **Summary and Analysis**

12 **Redistricting.** The state legislature has 35 state senators and 65 state
13 representatives. The U.S. Census is conducted every ten years, and afterward state
14 legislative districts are redrawn to have nearly equal populations.

15 **Legislative redistricting process in Colorado.** Since voters approved its creation
16 in 1974, the Colorado Reapportionment Commission (reapportionment commission) has
17 convened after each U.S. Census to draw a new state legislative district plan. The
18 reapportionment commission consists of 11 members appointed by legislative leaders,
19 the Governor, and the Chief Justice of the Colorado Supreme Court. The state
20 legislature funds the reapportionment commission and provides nonpartisan staff
21 support. The reapportionment commission is required to draft preliminary plans for state
22 senate and house districts and hold public hearings on the plans throughout the state.
23 Its final plans must have the support of a simple majority of commissioners, and they are
24 submitted to the Colorado Supreme Court for approval.

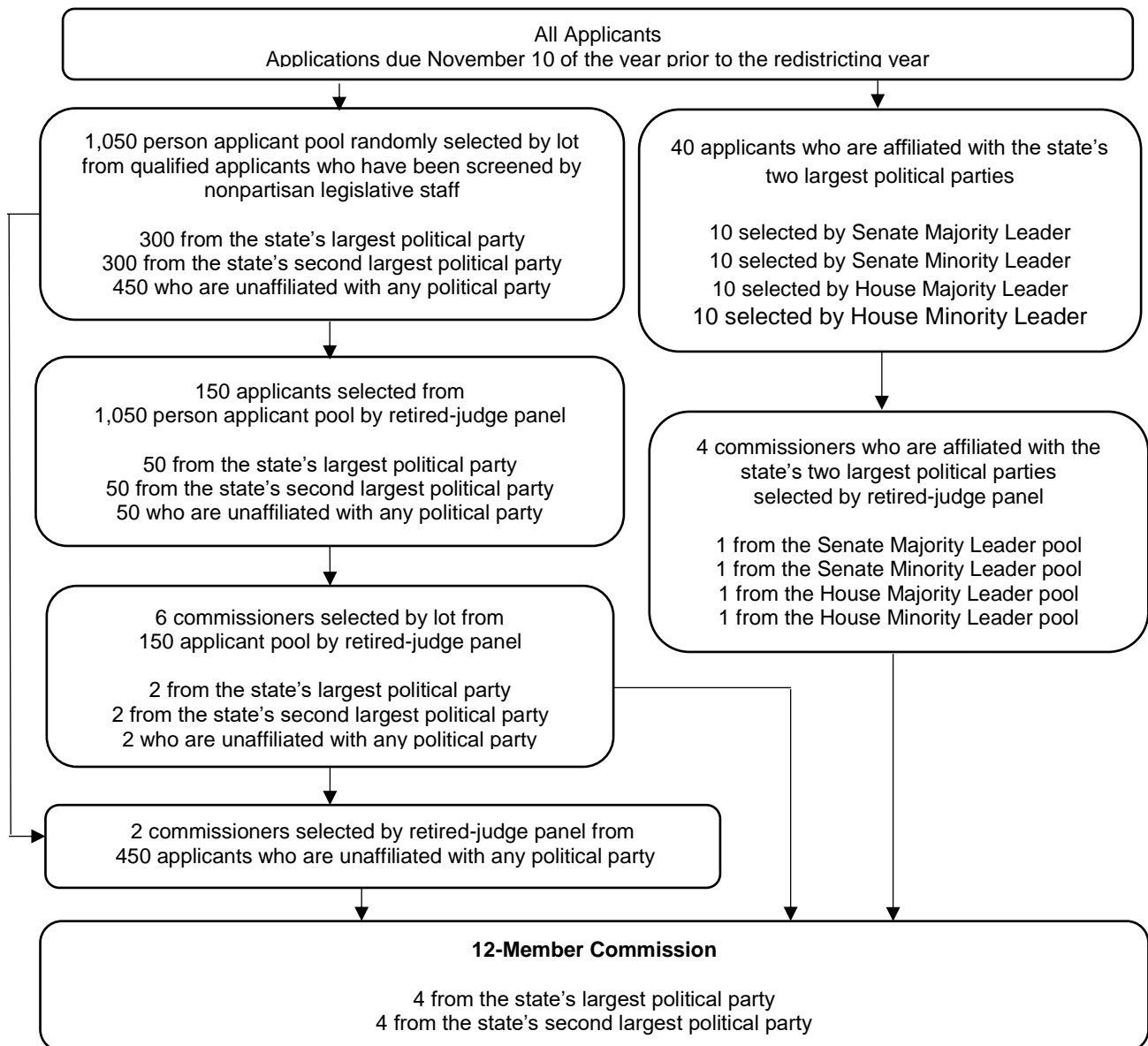
25 Amendment Z replaces the reapportionment commission with the Independent
26 Legislative Redistricting Commission (commission), which is charged with drawing the
27 state's legislative districts. The commission must have 12 members who are appointed
28 from a pool of applicants as described below.

29 **Application and appointment process.** Amendment Z 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 the state
34 legislature within the last five years, or within the last three years been: a professional
35 registered lobbyist; an elected public official; an elected political party official above the
36 precinct level; or paid by a member of or candidate for the state legislature.
37 Commissioners may not also serve on the Independent Congressional Redistricting
38 Commission proposed in Amendment Y.

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 the 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 Congressional Redistricting Commission. The final composition
 10 of the commission is meant to reflect Colorado’s racial, ethnic, gender, and geographic
 11 diversity, and represent each U.S. 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 legislative districts.** The U.S. and Colorado Constitutions
13 require state legislative districts to be as nearly equal in population as possible. Under
14 the federal Voting Rights Act of 1965, the state cannot change voting standards,
15 practices, or procedures in a way that denies or limits the right to vote based on race or
16 color or membership in a language minority group. In particular, the act requires that a
17 minority group's voting strength not be diluted under a redistricting plan.

18 Additionally, current state law requires, when drawing state legislative plans, that:

- 19 • districts be contiguous and as compact in area as possible;
20 • the division of counties and cities among multiple districts be minimized; and
21 • communities of interest be preserved where possible.

22 Amendment Z continues these requirements, but allows for exceptions to keeping
23 counties whole in order to preserve cities or towns in a single district even if the city or
24 town crosses county lines. The measure adopts portions of the Voting Rights Act into
25 state law. Additionally, the measure allows for communities of interest to be preserved
26 in one district where their legislative issues are more essential than county boundaries to
27 allow for the fair and effective representation of the residents of a district. After these
28 criteria are considered, Amendment Z requires the commission to maximize the number
29 of politically competitive districts. Plans cannot be drawn for the purpose of protecting
30 incumbents or political parties.

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

1 **Final plan.** Under the measure, the commission must adopt a final plan and submit
2 it to the Colorado Supreme Court for review. Eight commissioners, including at least two
3 unaffiliated commissioners, must vote to approve the final plan. The commission cannot
4 vote on a final plan until at least 72 hours after it has been proposed to the commission
5 in a public meeting, although commissioners can unanimously waive the 72-hour
6 requirement. If the commission fails to submit a final plan, the commission’s staff must
7 submit the third staff plan considered by the commission, without amendments, to the
8 Colorado Supreme Court for judicial review.

9 The Colorado Supreme Court must review the final plan and either approve it or
10 return it to the commission. If returned, the commission has 12 days to hold a hearing
11 and submit a revised plan to the Colorado Supreme Court. If the commission fails to
12 submit a revised plan, nonpartisan staff have an additional three days to submit a
13 revised plan. The Colorado Supreme Court must approve a legislative redistricting plan
14 by December 29 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>

15 **Arguments For**

- 16 1) Amendment Z limits the role of partisan politics in the redistricting process.
17 Applicants must be qualified to serve on the commission and, unlike the current
18 Reapportionment Commission, lobbyists and elected officials are prohibited from
19 serving. The application process relies on unbiased retired judges and random
20 selection, limiting the appointment power of party leaders. Unaffiliated voters
21 must be appointed to the commission. Additionally, nonpartisan legislative staff
22 draw the district plans, and each plan's approval requires a supermajority vote of
23 the commission, including at least two unaffiliated commissioners. These
24 provisions encourage political compromise and keep a single political party from
25 controlling the process.
- 26 2) The measure makes the redistricting process more transparent, and protects the
27 voices of individual voters in the process. Through the commissioner selection
28 process, checks and balances are in place to make sure no one political party
29 has control of the commission. Legislative redistricting is conducted by a more
30 independent commission than currently exists, with safeguards against undue
31 influence in the preparation and adoption of plans. The commission is subject to
32 the Colorado Open Records Act, and anyone lobbying the commission must
33 follow lobbyist disclosure laws. Further, commission members are removed for
34 engaging in prohibited communications. By requiring that plan communications
35 occur in public, Coloradans will be able to see exactly how the districts are
36 drawn.

- 1 3) The measure outlines fair and neutral criteria for drawing districts. It specifies
2 that incumbents cannot be protected, parties cannot be favored, and competitive
3 districts are encouraged, while still creating equal and compact districts and
4 protecting voting rights and community interests. This could result in a more
5 diverse pool of candidates for public office, and the resulting election outcomes
6 could make the state legislature more reflective of the state’s population.

7 **Arguments Against**

- 8 1) Amendment Z reduces accountability in the redistricting process. The selection
9 process the measure proposes will result in a group of commissioners who are
10 not only not elected but not even accountable to elected officials. This process
11 relies on unelected retired judges to screen applicants and select half of the
12 commissioners. Further, the commission is staffed by government employees
13 who are not accountable to the voters, and they may end up drawing the final
14 maps if the commission cannot agree. These nonpartisan legislative staff may
15 have a vested interest in the outcome of legislative elections that could bias their
16 work drawing district maps.
- 17 2) The measure will not take politics out of the redistricting process. Politicians
18 select some of the commission candidates based on their party affiliation, and
19 minor parties are left out of this process, as their members have no access to the
20 appointment process. Just because a person is not affiliated with a political party
21 does not mean he or she does not have political leanings, so the protected role
22 of unaffiliated commissioners will not necessarily reduce political disagreements.
23 Finally, the commission process created under Amendment Z does not
24 guarantee a political compromise will be achieved or that political stalemate will
25 not occur.
- 26 3) Finding enough applicants and commissioners may prove difficult since
27 Amendment Z disqualifies large segments of the population based on political
28 involvement, including elected officials, candidates, lobbyists, campaign workers,
29 and party officials. The commissioner selection process also seeks to appoint
30 candidates who have experience organizing and advocating for Colorado
31 organizations and who have analytical skills. Finding qualified commissioner
32 candidates who have these skills and are not politically active may be
33 challenging. Amendment Z prevents individuals with important experience and
34 knowledge from being commissioners. Without a robust pool of applicants, it will
35 be difficult to fill the geographic and diversity requirements of the commission,
36 and to complete the commission’s work.

37 **Estimate of Fiscal Impact**

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