

CHAPTER 170

GENERAL ASSEMBLY

SENATE BILL 99-206

BY SENATORS Owen, Andrews, Blickensderfer, Congrove, Lamborn, Musgrave, Powers, Wattenberg, Anderson, Arnold, Chlouber, Dennis, Epps, Evans, Hillman, Lacy, Nichol, Tebedo, and Teck; also REPRESENTATIVES McElhany, Allen, Berry, Dean, Fairbank, George, May, McKay, Mitchell, Paschall, Pfiffner, Stengel, Swenson, Taylor, Tool, Webster, Witwer, Young, Clapp, Decker, Lee, Scott, and Sinclair.

AN ACT

CONCERNING THE POPULATION DATA TO BE USED FOR REDISTRICTING AFTER THE FEDERAL CENSUS IN THE YEAR 2000.

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

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

**PART 9
CENSUS DATA FOR REDISTRICTING**

2-2-901. Population data for redistricting. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SECTION 44 OF ARTICLE V OF THE STATE CONSTITUTION REQUIRES THE GENERAL ASSEMBLY TO DIVIDE THE STATE INTO CONGRESSIONAL DISTRICTS AFTER EACH NEW APPORTIONMENT OF SEATS IN THE UNITED STATES HOUSE OF REPRESENTATIVES, AND A NEW APPORTIONMENT OCCURS AFTER EACH FEDERAL DECENNIAL CENSUS;

(b) SECTION 48 OF ARTICLE V OF THE STATE CONSTITUTION REQUIRES THAT A REAPPORTIONMENT COMMISSION BE APPOINTED AFTER EACH FEDERAL CENSUS TO ESTABLISH, REVISE, AND ALTER THE STATE SENATORIAL AND REPRESENTATIVE DISTRICTS;

(c) THESE SECTIONS IMPLY THAT THE GENERAL ASSEMBLY AND THE REAPPORTIONMENT COMMISSION MUST PERFORM THEIR CONSTITUTIONAL DUTY TO REDRAW THE BOUNDARIES OF CONGRESSIONAL AND STATE LEGISLATIVE DISTRICTS

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

USING POPULATION DATA DERIVED FROM THE LATEST FEDERAL CENSUS, SO THAT THE EQUAL POPULATION REQUIREMENTS OF THE FEDERAL AND STATE CONSTITUTIONS CAN BE SATISFIED;

(d) FEDERAL OFFICIALS HAVE PROPOSED USING STATISTICAL SAMPLING TECHNIQUES TO MODIFY THE TRADITIONAL HEADCOUNT OF THE POPULATION;

(e) THE UNITED STATES SUPREME COURT HAS HELD THAT THE FEDERAL CENSUS ACT PROHIBITS THE USE OF STATISTICALLY ADJUSTED POPULATION DATA TO APPORTION SEATS IN THE UNITED STATES HOUSE OF REPRESENTATIVES AMONG THE STATES;

(f) MANY HAVE ARGUED THAT STATISTICALLY ADJUSTED POPULATION DATA DOES NOT SATISFY THE REQUIREMENT OF THE FEDERAL CONSTITUTION FOR AN "ACTUAL ENUMERATION" OF THE POPULATION;

(g) THERE IS NO REASON FOR CONGRESS TO USE ONE SET OF POPULATION DATA FOR APPORTIONMENT OF SEATS IN CONGRESS AND FOR STATE REDISTRICTING AUTHORITIES TO USE A DIFFERENT SET OF DATA TO REDRAW CONGRESSIONAL AND STATE LEGISLATIVE DISTRICT BOUNDARIES, AND THE FEDERAL GOVERNMENT WOULD INCUR ADDITIONAL COSTS BY FURNISHING TWO SETS OF DATA TO THE STATES;

(h) USING DIFFERENT POPULATION DATA FOR REDISTRICTING WOULD SUBJECT THE STATE OF COLORADO TO THE RISK OF LITIGATION OVER THE APPROPRIATE POPULATION FIGURES, WHICH FORM THE VERY FOUNDATION OF ANY CONGRESSIONAL OR STATE LEGISLATIVE REDISTRICTING PLAN;

(i) IT IS THEREFORE NECESSARY TO ESTABLISH THE INTENT OF THE GENERAL ASSEMBLY THAT THE SAME POPULATION DATA BE USED IN THE CONGRESSIONAL AND STATE LEGISLATIVE REDISTRICTING PROCESSES AS IS USED FOR PURPOSES OF APPORTIONING SEATS IN THE UNITED STATES HOUSE OF REPRESENTATIVES AMONG THE STATES.

(2) FOR PURPOSES OF REDRAWING THE BOUNDARIES OF CONGRESSIONAL, STATE SENATORIAL, AND STATE REPRESENTATIVE DISTRICTS AFTER THE FEDERAL CENSUS IN THE YEAR 2000, THE GENERAL ASSEMBLY AND THE COLORADO REAPPORTIONMENT COMMISSION SHALL USE POPULATION DATA SUPPLIED BY THE UNITED STATES BUREAU OF THE CENSUS THAT HAS BEEN USED TO APPORTION THE SEATS IN THE UNITED STATES HOUSE OF REPRESENTATIVES AMONG THE STATES.

SECTION 2. 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: May 7, 1999