

CHAPTER 376

GOVERNMENT - COUNTY

HOUSE BILL 26-1038

BY REPRESENTATIVE(S) Paschal and Clifford, Bacon, English, Froelich, Goldstein, Joseph, Lindsay, Marshall, Nguyen, Rutinel, Willford, McCluskie, Brown, Duran;
also SENATOR(S) Snyder, Exum, Gonzales J., Kipp, Wallace, Weissman, Coleman.

AN ACT**CONCERNING COUNTY COMMISSIONER REDISTRICTING.**

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

SECTION 1. Short title. The short title of this act is the "The County Commissioner Redistricting Integrity Act".

SECTION 2. Legislative declaration.

(1) The general assembly finds and declares that:

(a) In order for our democratic republic to truly represent the voices of the people, if districts are required, they must be drawn such that the people have an opportunity to elect representatives who are reflective of and responsive and accountable to their constituents;

(b) The people are best served when districts are not drawn to benefit particular parties or incumbents, but are instead drawn to ensure representation for the various communities of interest and to maximize the number of competitive districts;

(c) The federal "Voting Rights Act of 1965" prohibits voting practices and procedures, including redistricting, that discriminate on the basis of race, color, or language;

(d) Districts are redrawn after every decennial census for members of congress, members of the general assembly, county commissioners, school board members, city councillors, and special district representatives;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) In the 2018 legislative session, the general assembly unanimously supported two referred measures, Amendments Y and Z, that reflected a bipartisan compromise to ensure fair redistricting of congressional districts, state house of representative districts, and state senate districts;

(f) At the general election in November 2018, seventy-one percent of electors in the state approved Amendments Y and Z;

(g) The only partisan offices elected by districts in Colorado not included in Amendments Y and Z were county commissioners; and

(h) It is of statewide interest that voters in every Colorado county are empowered to elect commissioners who will reflect the communities within the county and who will be responsive and accountable to them.

(2) The general assembly further finds and declares that most Colorado counties elect their commissioners by the voters of the whole county, but counties with populations over seventy thousand are allowed to increase from three to five commissioners and elect some or all of their commissioners by the voters of individual districts. By enacting this House Bill 26-1038, the general assembly intends to build upon HB21-1047 by further ensuring that county commissioner districts are drawn by independent commissions and not by a sitting board of commissioners, the members of which have a fundamental and inherent conflict of interest in drawing a district in which they or a desired successor may run for office in the future. The general assembly also intends to further clarify what constitutes a competitive county commissioner district.

(3) The general assembly further finds and declares that, pursuant to the Colorado supreme court's holding in *League of Women Voters of Greeley v. Bd. of Cnty. Comm'rs of the Cnty. of Weld* 563 P.3d 1192 (Colo. 2025), as with HB21-1047, this House Bill 26-1038 applies to counties whether or not they are home rule counties.

SECTION 3. In Colorado Revised Statutes, 30-10-306, **amend** (6)(b) and (6)(i); **repeal** (6)(a) and (6)(d); and **add** (6)(d.5) and (7) as follows:

30-10-306. Commissioners' districts - vacancies - definitions.

(6) As used in this section and sections 30-10-306.1 to 30-10-306.4, unless the context otherwise requires:

(a) "Advisory committee" means a group of persons who are not nonpartisan staff of the county who are assigned to assist the commission by the board of county commissioners. The board of county commissioners may delegate any functions but the final adoption of a plan to the advisory committee. The advisory committee must be composed of an equal number of members who are affiliated with the state's largest political party, affiliated with the state's second largest political party, and not affiliated with any political party. For purposes of this subsection (6)(a), the state's two largest political parties shall be determined by the number of registered electors affiliated with each political party in the state according to voter registration

~~data published by the secretary of state for the earliest day in January of the redistricting year for which such data is published.~~

~~(b) "Commission" means a county commissioner district redistricting commission, whether the commission is an independent county commissioner district redistricting commission or not. A county commissioner district redistricting commission can be made up solely of the members of a county's board of county commissioners~~ CREATED IN ACCORDANCE WITH SECTION 30-10-306.1 (2).

~~(d) "Independent commission" means an independent county commissioner district redistricting commission created in accordance with section 30-10-306.1 (2).~~

(d.5) "INDEPENDENT COMMITTEE" MEANS A COMMITTEE COMPOSED OF AN EQUAL NUMBER OF MEMBERS WHO HAVE BEEN AFFILIATED FOR AT LEAST THE LAST THREE IMMEDIATELY PRECEDING YEARS WITH THE STATE'S LARGEST POLITICAL PARTY, HAVE BEEN AFFILIATED FOR AT LEAST THE LAST THREE IMMEDIATELY PRECEDING YEARS WITH THE STATE'S SECOND-LARGEST POLITICAL PARTY, AND HAVE NOT BEEN AFFILIATED FOR AT LEAST THE LAST THREE IMMEDIATELY PRECEDING YEARS WITH ANY POLITICAL PARTY. FOR PURPOSES OF THIS SUBSECTION (6)(d.5), THE STATE'S TWO LARGEST POLITICAL PARTIES ARE DETERMINED BY THE NUMBER OF REGISTERED ELECTORS AFFILIATED WITH EACH POLITICAL PARTY IN THE STATE ACCORDING TO VOTER REGISTRATION DATA PUBLISHED BY THE SECRETARY OF STATE FOR THE EARLIEST DAY IN JANUARY OF THE REDISTRICTING YEAR FOR WHICH SUCH DATA IS PUBLISHED. AN INDEPENDENT COMMITTEE SHALL NOT INCLUDE NONPARTISAN STAFF OF THE COUNTY.

(i) "Staff" means the nonpartisan staff of the county who are assigned to assist the commission by the board of county commissioners OR CONTRACTORS WITH THE COUNTY WHO ARE ASSIGNED TO ASSIST THE COMMISSION BY THE BOARD OF COUNTY COMMISSIONERS. STAFF DOES NOT INCLUDE THE COUNTY CLERK AND RECORDER OR ANY EMPLOYEE OF THE CLERK AND RECORDER WHO IS ACTING WITHIN THE SCOPE OF ELECTION ADMINISTRATION, VOTER REGISTRATION, ELECTION CONDUCT, ELECTION SECURITY, OR MAINTENANCE OF VOTER REGISTRATION OR PRECINCT RECORDS, UNLESS THE CLERK AND RECORDER OR EMPLOYEE OF THE CLERK AND RECORDER EXPRESSLY AGREE IN WRITING TO ASSIST THE COMMISSION.

(7)(a) ANY QUALIFIED ELECTOR OF THE COUNTY MAY CHALLENGE THE ADOPTION OF A PLAN TO DIVIDE THE COUNTY INTO AS MANY DISTRICTS AS THERE ARE COUNTY COMMISSIONERS ELECTED BY VOTERS OF THEIR DISTRICT BY AN ACTION IN THE DISTRICT COURT FOR THE COUNTY.

(b) IN AN ACTION BROUGHT PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS AND, IF APPLICABLE, THE INDEPENDENT COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION, SHALL BE NAMED AS DEFENDANTS.

(c) THE COUNTY CLERK AND RECORDER IS NOT A NECESSARY OR PROPER PARTY TO AN ACTION BROUGHT PURSUANT TO THIS SUBSECTION (7) UNLESS THE ACTION SPECIFICALLY ALLEGES A VIOLATION OF DUTIES EXPRESSLY ASSIGNED TO THE CLERK AND RECORDER BY STATUTE.

SECTION 4. In Colorado Revised Statutes, 30-10-306.1, **amend** (1) introductory portion and (2); and **add** (2.5) as follows:

30-10-306.1. Commission created - commission composition and appointment.

(1) The board of county commissioners in each of the following counties must ~~designate~~ CONVENE a county commissioner district redistricting commission ~~and are encouraged to convene an independent county commissioner district redistricting commission, in order to adopt a plan~~ APPROVE ONE OR MORE PLANS to divide the relevant county into as many districts as there are county commissioners elected by voters of their district:

(2) In appointing members to ~~an independent~~ A commission, a board of county commissioners: ~~is encouraged to:~~

(a) ~~Appoint persons who accurately reflect the political affiliations of the residents of the county, including unaffiliated residents;~~

(b) ~~Appoint persons who accurately reflect the county's racial, ethnic, gender, and geographic diversity; and~~

(c) SHALL avoid conflicts of interest based on partisan alignments;

(d) SHALL ENSURE THAT THE COMMISSION IS AN INDEPENDENT COMMITTEE;

(e) SHALL EITHER DIRECT THE COMMISSION TO APPROVE ONE FINAL PLAN TO DIVIDE THE RELEVANT COUNTY INTO AS MANY DISTRICTS AS THERE ARE COUNTY COMMISSIONERS ELECTED BY VOTERS OF THEIR DISTRICT, WHICH PLAN THE BOARD OF COUNTY COMMISSIONERS SHALL ADOPT AS THE FINAL PLAN, OR DIRECT THE COMMISSION TO APPROVE AT LEAST THREE FINAL PLANS TO DIVIDE THE RELEVANT COUNTY INTO AS MANY DISTRICTS AS THERE ARE COUNTY COMMISSIONERS ELECTED BY VOTERS OF THEIR DISTRICT, WHICH PLANS THE BOARD OF COUNTY COMMISSIONERS SHALL SELECT FROM IN DECIDING WHICH PLAN TO ADOPT AS THE FINAL PLAN;

(f) SHALL NOT APPOINT ANY MEMBER TO A COMMISSION WHO IS A CURRENTLY ELECTED COUNTY COMMISSIONER;

(g) SHALL ESTABLISH A REASONABLY ACCESSIBLE PUBLIC APPLICATION PROCESS FOR MEMBERS OF THE PUBLIC TO APPLY TO BE SELECTED BY THE BOARD OF COUNTY COMMISSIONERS TO SERVE ON THE COMMISSION;

(h) SHALL SELECT MEMBERS TO THE COMMISSION ONLY AFTER PROVIDING PUBLIC NOTICE NO FEWER THAN THIRTY DAYS BEFORE THE DATE THAT THE BOARD OF COUNTY COMMISSIONERS SELECTS MEMBERS TO THE COMMISSION; AND

(i) IS ENCOURAGED TO APPOINT PERSONS WHO ACCURATELY REFLECT THE COUNTY'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY.

(2.5) THE BOARD OF COUNTY COMMISSIONERS MAY REMOVE ANY MEMBER OF THE COMMISSION FOR MALFEASANCE IN OFFICE, FOR FAILURE TO REGULARLY ATTEND MEETINGS, OR FOR PREVENTING THE COMMISSION FROM DISCHARGING ITS DUTIES.

SECTION 5. In Colorado Revised Statutes, 30-10-306.2, **amend** (1), (2), (3)(c), (3)(d), (4)(b)(I)(B), (4)(b)(I)(C), (4)(b)(I)(D), (4)(b)(I)(F), (4)(b)(II), and (4)(b)(III) as follows:

30-10-306.2. Commission organization - procedures - transparency - voting requirements.

(1) The board of county commissioners shall appoint staff as needed to assist the commission. Staff ~~or the advisory committee~~ shall acquire and prepare all necessary resources, including computer hardware, software, and demographic, geographic, and political databases, as far in advance as necessary to enable the commission to begin its work immediately upon convening.

(2) The commission shall not vote upon ~~THE APPROVAL OF a final plan OR SET OF FINAL PLANS~~ until at least seventy-two hours after it has been proposed to the commission in a public meeting or at least seventy-two hours after it has been amended by the commission in a public meeting, whichever occurs later.

(3) (c) The commission shall maintain a website through which any county resident may submit proposed plans or written comments, or both, without attending a hearing of the commission. The commission shall ensure that the website is easily accessible and contains a record of the commission's activities and proceedings, including the commission's directions to staff ~~or an advisory committee~~ on proposed changes to any plan and the commission's rationale for such changes.

(d) The commission shall publish all written comments pertaining to redistricting on its website or comparable means of communicating with the public as well as the name of the county resident submitting such comments. If the commission ~~advisory committee~~, or staff have a substantial basis to believe that a person submitting such comments has not truthfully or accurately identified himself or herself, the commission need not consider and need not publish such comments but must notify the commenter in writing of this fact. The commission may withhold comments, in whole or in part, from the website or comparable means of communicating with the public that do not relate to redistricting plans, policies, or communities of interest.

(4) (b) To ensure transparency in the redistricting process:

(I) (B) Except as provided in subsections (4)(b)(I)(D) and (4)(b)(I)(F) of this section, a member of the commission shall not communicate with staff or any members of the ~~advisory committee~~ BOARD OF COUNTY COMMISSIONERS, AND A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS SHALL NOT COMMUNICATE WITH A MEMBER OF THE COMMISSION OR STAFF, ~~on the mapping of county commissioner districts unless the communication is during a public meeting or hearing of the commission.~~

(C) Except for public input and comment, staff shall not have any communications about the content or development of any plan outside of public

hearings with anyone, ~~including any members of the advisory committee~~, except other staff members. ~~Likewise, except for public input and comment, members of the advisory committee shall not have any communications about the content or development of any plan outside of public hearings with anyone, including staff, except other members of the advisory committee.~~ Communications about the content or development of any plan include communications about how plans will be drawn to satisfy the criteria in section 30-10-306.3, specific parameters related to the interpretation of the criteria in section 30-10-306.3, and requests for the drawing of additional plans. ~~Staff or members of the advisory committee shall report to the commission any attempt by anyone to exert influence over the staff's or advisory committee's role in the drafting of plans.~~

(D) One or more staff may be designated to communicate with members of the commission ~~or advisory committee and, in the case of a commission that is composed of the board of county commissioners, administrative staff of the county,~~ regarding administrative matters, the definition and scope of which shall be determined by the commission. ~~Likewise, one or more members of the advisory committee may be designated to communicate with members of the commission or staff regarding administrative matters, the definition and scope of which shall be determined by the commission.~~ Any communication that occurs outside of a public meeting or hearing of the commission between staff, SERVING IN THEIR ROLE AS STAFF TO THE COMMISSION, and a member of the ~~advisory committee~~ COMMISSION OR BOARD OF COUNTY COMMISSIONERS, beyond those allowed by this subsection (4)(b)(I)(D), must be documented and made a part of the public record.

(F) Staff may make a completed proposed plan that staff prepared as a result of a request made in a public hearing available to the public on the commission's website. In addition, staff may communicate with a member of the commission ~~or the advisory committee~~ to clarify directions that were given to staff during a public meeting regarding the creation of a proposed plan, so long as staff makes a record of the content of the communication available to the public on the commission's website.

(II) ~~The commission, each member of the commission, the advisory committee, each member of the advisory committee,~~ and staff are subject to open records requirements as provided in part 2 of article 72 of title 24, as amended, or any successor statute; except that plans in draft form and not submitted to the commission are not public records subject to disclosure. Work product and communications among staff ~~members of the advisory committee,~~ and between staff SERVING IN THEIR ROLE AS STAFF TO THE COMMISSION and ~~the advisory committee~~ A MEMBER OF THE COMMISSION OR THE BOARD OF COUNTY COMMISSIONERS are subject to disclosure once a plan is adopted by the board of county commissioners.

(III) Persons who contract for or receive compensation for advocating to the commission, to one or more members of the commission, ~~to the advisory committee,~~ ~~to one or more members of the advisory committee,~~ or to staff for the adoption or rejection of any plan, amendment to a plan, mapping approach, or manner of compliance with any of the mapping criteria specified in section 30-10-306.3 are lobbyists who must disclose to the secretary of state any compensation contracted for, compensation received, and the person or entity contracting or paying for their lobbying services. Such disclosure must be made no later than seventy-two hours

after the earlier of each instance of such lobbying or any payment of such compensation. The secretary of state shall publish on the secretary of state's website or comparable means of communicating with the public the names of such lobbyists, as well as the compensation received and the persons or entities for whom they work within twenty-four hours of receiving such information. The secretary of state shall adopt rules to facilitate the complete and prompt reporting required by this subsection (4)(b)(III) as well as a complaint process to address any lobbyist's failure to report a full and accurate disclosure. ~~which complaint must be heard by an administrative law judge, whose decision may be appealed to the court of appeals~~

SECTION 6. In Colorado Revised Statutes, 30-10-306.3, **amend** (1) introductory portion, (3)(a), (3)(c), (3)(d), (4) introductory portion, and (5); and **add** (6) as follows:

30-10-306.3. Criteria for determination of county commissioner districts - definitions.

(1) In ~~adopting~~ APPROVING a county commissioner district redistricting plan, the commission shall:

(3) (a) (I) ~~Thereafter~~ AFTER COMPLYING WITH SUBSECTIONS (1) AND (2) OF THIS SECTION, the commission shall, to the extent reasonably possible, maximize the number of politically competitive districts.

(II) (A) TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION (3)(a), THE COMMISSION SHALL ADOPT A COMPOSITE FORMULA THAT GENERATES A COMPETITIVENESS MEASURE EXPRESSED AS A PERCENTAGE TO MEASURE DISTRICT COMPETITIVENESS AND MAY ALSO ADOPT OTHER MEASURES OF DISTRICT COMPETITIVENESS.

(B) AT LEAST SEVENTY-TWO HOURS BEFORE ADOPTING A COMPOSITE FORMULA OR OTHER MEASURE OF COMPETITIVENESS, THE COMMISSION SHALL MAKE THE COMPOSITE FORMULA OR OTHER MEASURE OF COMPETITIVENESS AVAILABLE TO THE PUBLIC AND SHALL PROVIDE THE PUBLIC SUFFICIENT TIME TO REVIEW AND COMMENT ON THE COMPOSITE FORMULA.

(C) USING THE RESULTS OF THE COMPOSITE FORMULA OR OTHER MEASURE OF COMPETITIVENESS IT ADOPTED, THE COMMISSION SHALL FIRST ATTEMPT TO MAXIMIZE THE NUMBER OF HIGHLY COMPETITIVE DISTRICTS AND THEN ATTEMPT TO MAXIMIZE THE NUMBER OF MODERATELY COMPETITIVE DISTRICTS.

(c) When the commission approves a plan, the staff ~~or advisory committee~~ shall, within seventy-two hours of such action, make publicly available, and include in the commission's record, a report to demonstrate how the plan reflects the evidence presented to, and the findings concerning, the extent to which competitiveness in district elections is fostered consistent with the other criteria set forth in this section.

(d) ~~For purposes of this subsection (3);~~ AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "Competitive" means having a reasonable potential for the party affiliation of the district's county commissioner to change at least once between federal decennial censuses. Competitiveness may be measured by factors such as a proposed district's past election results, a proposed district's political party registration data, and evidence-based analyses of proposed districts.

(II) "COMPOSITE FORMULA" MEANS A FORMULA THAT AVERAGES THE MARGIN OF VICTORY ACROSS THE MOST REPRESENTATIVE COMBINATION OF NATIONAL, STATEWIDE, OR LOCAL ELECTIONS, AS DETERMINED BY THE COMMISSION, TO DETERMINE A DISTRICT'S COMPETITIVENESS MEASURE EXPRESSED AS A PERCENTAGE.

(III) "HIGHLY COMPETITIVE DISTRICT" MEANS A DISTRICT WITH A COMPETITIVENESS MEASURE GREATER THAN OR EQUAL TO NEGATIVE FIVE PERCENT AND LESS THAN OR EQUAL TO FIVE PERCENT.

(IV) "MARGIN OF VICTORY" MEANS, FOR AN ELECTION, THE DIFFERENCE BETWEEN THE PERCENTAGE OF VOTES CAST FOR THE CANDIDATE OF THE STATE'S LARGEST POLITICAL PARTY AND THE PERCENTAGE OF VOTES CAST FOR THE CANDIDATE OF THE STATE'S SECOND LARGEST POLITICAL PARTY.

(V) "MODERATELY COMPETITIVE DISTRICT" MEANS A DISTRICT WITH A COMPETITIVENESS MEASURE EITHER GREATER THAN FIVE PERCENT AND LESS THAN OR EQUAL TO TEN PERCENT, OR LESS THAN NEGATIVE FIVE PERCENT AND GREATER THAN OR EQUAL TO NEGATIVE TEN PERCENT.

(4) No plan may be approved by the ~~board of county commissioners or the~~ commission if the plan:

(5) So long as the commission has complied with the requirements of subsections (1) through (4) of this section, in ~~adopting~~ APPROVING a county commissioner redistricting plan, the commission may consider congressional districts, state house of representative districts, and state senate districts ~~in order~~ to minimize the number of necessary voting precincts in a county.

(6) THE BOARD OF COUNTY COMMISSIONERS MAY DIRECT THE COMMISSION TO MODIFY A PROPOSED PLAN IF THE BOARD OF COUNTY COMMISSIONERS IDENTIFIES ELEMENTS OF THE PLAN THAT DO NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION AND WHY THOSE ELEMENTS OF THE PLAN DO NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

SECTION 7. In Colorado Revised Statutes, 30-10-306.4, **amend** (1)(b), (1)(d), (1)(e), (1)(g), and (2) as follows:

30-10-306.4. Deadlines for preparation, amendment, and approval of plans.

(1) The board of county commissioners shall establish deadlines to ensure that the board of county commissioners shall adopt a plan for the redrawing of county commissioner districts no later than September 30 of the redistricting year. These deadlines must include dates by which the following must be accomplished:

(b) The appointment of staff ~~and an advisory committee~~ as needed to assist the commission and the acquisition of all necessary resources to enable the commission to begin its work, in accordance with section 30-10-306.2 (1);

(d) The submission of written comments to staff ~~or an advisory committee~~ by any member of the public and any member of the commission on the creation of not less than three plans for county commissioner districts, created by staff ~~or an advisory committee~~ alone, and on communities of interest that require representation in one or more specific areas of the county. Staff ~~or an advisory committee~~ shall consider such comments in creating the plans, and such comments shall be part of the record of the commission's activities and proceedings. Staff ~~and the advisory committee~~ shall keep each plan confidential until it is published online or by a comparable means of communicating with the public using generally available technologies. The commission may provide direction for the development of these plans through the adoption of standards, guidelines, or methodologies to which staff ~~and the advisory committee~~ shall adhere; including standards, guidelines, or methodologies to be used to evaluate a plan's competitiveness, consistent with ~~section 30-10-306.3 (3)(d)~~ SECTION 30-10-306.3 (3).

(e) The creation, presentation to the commission, and publishing online of the plans. At public hearings at which the plans are presented, staff ~~or an advisory committee~~ shall explain how the plans were created, how the plans address the categories of public comments received, and how the plans comply with the criteria prescribed in section 30-10-306.3.

(g) The request by any member of the commission or group of members of the commission for staff ~~or an advisory committee~~ to prepare additional plans or amendments to plans. Any such request must be made in a public hearing of the commission but does not require commission approval.

(2) The commission may adjust the deadlines specified in subsection (1) of this section, if conditions outside of the commission's control require such an adjustment to ensure that the board of county commissioners can approve a plan for the redrawing of county commissioner districts no later than September 30 of the redistricting year OR IF THE BOARD OF COUNTY COMMISSIONERS DIRECTED THE COMMISSION TO ADJUST A PLAN PURSUANT TO SECTION 30-10-306.3 (6).

SECTION 8. Act subject to petition - effective date - applicability.

(1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to the adoption of a county commissioner district redistricting plan that occurs after the effective date of this act and does not require the

adjustment or readoption of a county commissioner district redistricting plan that has been adopted as of the effective date of this act.

Approved: June 4, 2026