

110TH CONGRESS
2^D SESSION

H. RES. 1365

Expressing the sense of the House of Representatives that an independent commission is the best vehicle for ensuring that Congressional redistricting conducted by a State is done in a manner that respects the principles of transparency, effective and diverse public participation, and accountability.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2008

Mr. TANNER (for himself and Mr. WAMP) submitted the following resolution;
which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the sense of the House of Representatives that an independent commission is the best vehicle for ensuring that Congressional redistricting conducted by a State is done in a manner that respects the principles of transparency, effective and diverse public participation, and accountability.

Whereas the House of Representatives was designed by the framers of the Constitution as the only institution of the Federal Government whose members are directly elected by the people, and the House should represent the true will of the public;

Whereas under article I, section 4 of the Constitution, Congress has the power to enact laws governing the time,

place, and manner of elections for Members of the House of Representatives;

Whereas article I, section 4 also conveys to Congress the authority to make or alter regulations with respect to the manner that States must follow in carrying out congressional redistricting after an apportionment of Members of the House of Representatives;

Whereas redistricting is conducted in each State by either the State legislature or a commission, and normally occurs every 10 years following the regular Census;

Whereas in the early 1960s, when many State legislative and congressional districts were grossly mal-apportioned, the Supreme Court imposed a standard of “one person, one vote” on nearly all districting, requiring that equal or nearly equal numbers of people receive equal numbers of representatives;

Whereas gerrymandering is used both by partisans seeking to gain additional seats and by incumbents of all parties seeking to shore up their districts and minimize the risk of electoral defeat, and has several adverse effects on the democratic process, including a decline in the number of competitive seats throughout the nation, reducing accountability and threatening to further the ideological polarization of our elected officials by enabling the election of partisans who need not appeal to moderate voters, as well as a reduction in voter interest and turnout in non-competitive districts;

Whereas technical advancement has allowed for the precise drawing of Congressional districts for the purpose of partisan advantage or incumbent retention;

Whereas it is important to reduce the partisan pressures that are inherent in the redistricting process when conducted by State legislatures;

Whereas transparency and public participation are crucial components in an accountable redistricting process;

Whereas numerous good government organizations and advocates have recommended the use of independent commissions for the redistricting process to draw fair and competitive Congressional districts, which would decrease partisanship and increase accountability;

Whereas 12 States presently conduct their redistricting efforts by some form of independent commission;

Whereas conducting redistricting once each decade, following the census, with a strict time line for completion and appropriate flexibility to accommodate the occasional need for technical corrections due to late-discovered data errors or other rare exogenous events, encourages stability in the political system and the accountability of representatives to constituencies established for a 10-year period, while multiple or mid-cycle redistricting worsens the retributive aspects of politics and carries the potential for increased partisan bias;

Whereas almost half of the states already have some provision in law to limit redistricting to once after each census;

Whereas under the “one person, one vote” requirement of the United States Constitution, any jurisdiction electing district-based representatives effectively must redistrict after each decennial census;

Whereas the legitimacy of democratic institutions rests largely on transparency and participation, and mistrust of in-

stitutions and government structures can taint subsequent political outcomes;

Whereas limiting redistricting to once immediately after each decennial census limits any possibility of partisan opportunism after the post-census redistricting unless a court finds that the post-census plan is itself invalid, and ensures the stability of the electoral process and the democratic process;

Whereas limiting redistricting to once after every decennial census thus makes sense especially when partisan gain is a threat, and could help constrain partisan opportunism in cases where political actors redistrict; and

Whereas the use of an independent commission would vest power in a body composed of qualified individuals competent to apply the preferred redistricting standards objectively and would be particularly well-suited to follow the procedural principles of transparency, effective, and diverse public participation and accountability: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) an independent redistricting commission is
4 the best vehicle for ensuring that Congressional re-
5 districting conducted by a State is done in a manner
6 that respects the principles of transparency, effective
7 and diverse public participation, and accountability,
8 so long as the redistricting is conducted in accord-
9 ance with a plan developed by such a commission
10 using criteria and procedures that will discourage

1 gerrymandering and promote competition, to the ex-
2 tent that such criteria and procedures are consistent
3 with the applicable requirements of the Constitution
4 of the United States and the Voting Rights Act of
5 1965 (42 U.S.C. 1973 et seq.); and

6 (2) a State should not be redistricted until after
7 the next apportionment of Representatives, unless a
8 court requires the State to conduct such subsequent
9 redistricting to comply with the Constitution or to
10 enforce the Voting Rights Act of 1965 (42 U.S.C.
11 1973 et seq.).

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