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To: Rep. Paul Mirski, Chairman, Special Committee on Redistricting

From: Pam Smarling, Committee Researcher
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RE: Authority for Redistricting in Other States

You asked:

What is the process used for adopting redistricting plans in other states? Are redistricting plans in every state subject to gubernatorial veto?

Redistricting Authority in the States

Across the country, states have adopted a range of systems for developing and adopting redistricting plans. No two states have exactly the same system. The responsibility for redistricting is granted to a variety of entities that can be generally categorized as follows:

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| Commissions | 13 states; once adopted by commission, plan is final |
| Advisory Commissions | 2 states; once adopted by commission, plan is sent to Legislature for adoption |
| Back-up Commissions | 5 states; if Legislature fails to adopt plan by a set date, commission assumes responsibility |
| Non-partisan staff | 1 state; plan developed by staff is sent to Legislature for adoption, if three staff-developed plans fail to be adopted, responsibility shifts to state supreme court |
| Legislature | 29 states |

Most states, like New Hampshire, grant the primary responsibility for redistricting to the Legislature. However, of the 29 states that fall into this category, only Florida and North Carolina have provisions in their state constitutions that permit them to reconfigure legislative districts without the signature of the Governor.

In addition, in two of the states that have provisions for back-up commissions, Mississippi and Connecticut, if the Legislature adopts a redistricting plan by a designated deadline, the plan is not subject to gubernatorial veto. If, however, the established deadline is not met, the responsibility for drawing up and adopting redistricting plans shifts to a commission and becomes final upon adoption by the commission.

A more detailed explanation of the process used and the applicable provisions from the state constitutions in each of the four states that have the ability to adopt legislative redistricting plans without being subject to gubernatorial veto follows.

Legislative Redistricting Plans not Subject to Veto

Florida – plans adopted by Joint Resolution, mandatory review by state Supreme Court

The state constitution in Florida explicitly requires the legislature to apportion the state into representative and senate districts every ten years by joint resolution. Unlike New Hampshire, in Florida, joint resolutions do not require the signature of the Governor. Once adopted by the legislature, the plan for new legislative districts in Florida must be reviewed by the state supreme court and determined to be valid. Congressional plans in Florida are subject to gubernatorial veto.

The Florida Constitution contains a detailed timeline for the adoption and review of legislative redistricting plans. The state House and Senate districts are adopted as a single piece of legislation. Once the legislative redistricting plan is adopted by both bodies of the Legislature, the Attorney General has 15 days with which to prepare a document for its review by the Florida Supreme Court. The court then has 30 days to review the plan to determine “the validity of the apportionment”. If the court finds the plan to be invalid, the Governor is required to reconvene the Legislature within 5 days and the Legislature has 15 days to adopt a new plan that conforms with the court’s judgment. Once the revised plan is adopted, the Attorney General is required to submit it to the Supreme Court for review within 15 days of the adjournment of the special reapportionment session. If no new plan is developed or the court determines that the revised plan is not valid, the court is required to file an order establishing a legislative redistricting plan within 60 days of receiving the plan from the Attorney General.

(Florida Constitution, Article III, Section 16)

Pursuant to Florida Statutes 10.001 “A joint resolution of apportionment or an order of the Supreme Court adopted or entered pursuant to s. 16 of Art. III of the State Constitution shall be included in the Florida Statutes in the same manner as a statute.”

Legislative redistricting plans are filed with and codified upon being filed with the Florida Secretary of State.

North Carolina - Redistricting Bills Explicitly Exempt from Gubernatorial Veto

Redistricting plans in North Carolina are adopted through legislation. However, the North Carolina Constitution exempts certain types of bills from the requirement for gubernatorial review. This exemption applies to bills that apportion state House and Senate districts as well as congressional districts. The exemption further applies to:

- Bills proposing amendments to the state constitution
- Bills ratifying amendments to the United States Constitution
- Joint resolutions
- Bills making appointments to public office
- Bills that apply to fewer than 15 counties under certain conditions

(North Carolina Constitution Article II, Section 22)

Mississippi – legislative plans adopted by joint resolution, back-up commission

In Mississippi the Joint Legislative Committee on Reapportionment is responsible for congressional and legislative redistricting. State legislative redistricting plans are adopted by joint resolution which are not subject to gubernatorial veto. Congressional plans in Mississippi are subject to veto.

If the legislature adjourns without adopting a redistricting plan, the governor is required to convene a special apportionment session within 30 days. The Special Session cannot exceed 30 days and must only address a joint resolution for redistricting.

If a legislative redistricting plan is not adopted 60 days after the end of the regular legislative session, a five-member Redistricting Commission is established. The five commissioners are the Chief Justice of the Mississippi Supreme Court, State Attorney General, Secretary of State, Speaker of the House, and Senate President Pro Temp. The Commission must apportion the legislature within 180 days of the adjournment of the special apportionment session. The Commission's plan is not subject to veto and is final upon filing with the office of the secretary of state.

(Mississippi Constitution Article 13, Section 254)

Connecticut – joint legislative committee plan not subject to veto; if committee plan not adopted, authority shifts to back-up commission

The Connecticut General Assembly names a Joint Reapportionment Committee to redraw state legislative and congressional districts every ten years. The president pro-tempore and minority leader in the state Senate, as well as the speaker and minority leader of the House, each name two legislators to the committee. If there is a third party in the General Assembly, two members of that party will also be named to the committee. The 8 (or 10 if there is a third party in the state legislature) members of the committee will make a report of reapportionment recommendations to be submitted to the General Assembly. Each plan must be adopted by a 2/3 vote in each chamber. These plans are not subject to veto by the Governor

If the General Assembly does not adopt a plan by September 15th of the year following the decennial census, the Governor appoints a back-up commission designated by the same officials who selected the Reapportionment Committee. The 8 members of the commission then choose a state elector as a ninth member. The Commission has until November 30th to publish and submit a plan to the Secretary of State. Commission members adopt plans with a simple majority vote. Once filed, the plan becomes law. If a plan is not submitted by the required date, the Secretary of State can request that the Chief Justice of Connecticut Supreme Court either compel the commission to come up with a plan or establish its own redistricting plan.

(Connecticut Constitution Article III, Section 6)

If I can provide further information on this, please let me know.

Florida Constitution

Article III

SECTION 16. Legislative apportionment.—

SECTION 16. Legislative apportionment.—

(a) **SENATORIAL AND REPRESENTATIVE DISTRICTS.** The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory. Should that session adjourn without adopting such joint resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment.

(b) **FAILURE OF LEGISLATURE TO APPORTION; JUDICIAL REAPPORTIONMENT.** In the event a special apportionment session of the legislature finally adjourns without adopting a joint resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. No later than the sixtieth day after the filing of such petition, the supreme court shall file with the custodian of state records an order making such apportionment.

(c) **JUDICIAL REVIEW OF APPORTIONMENT.** Within fifteen days after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.

(d) **EFFECT OF JUDGMENT IN APPORTIONMENT; EXTRAORDINARY APPORTIONMENT SESSION.** A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.

(e) **EXTRAORDINARY APPORTIONMENT SESSION; REVIEW OF APPORTIONMENT.** Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court. Consideration of the validity of a joint

resolution of apportionment shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.

(f) **JUDICIAL REAPPORTIONMENT.** Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the custodian of state records an order making such apportionment.

History.—Am. proposed by Constitution Revision Commission, Revision No. 8, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

Florida Statutes; Title 3, Chapter 10

10.001

Legislative representation.

Beginning with the general election held in the second year following each decennial census, the representation of the people of Florida in the Florida Legislature shall be as set forth earlier in such year by the Legislature by joint resolution or by the Supreme Court by order, as the case may be. A joint resolution of apportionment or an order of the Supreme Court adopted or entered pursuant to s. 16 of Art. III of the State Constitution shall be included in the Florida Statutes in the same manner as a statute.

North Carolina Constitution

Article II, Sec. 22. Action on bills. (sections 1 through 6)

(1) Bills subject to veto by Governor; override of veto.

Except as provided by subsections (2) through (6) of this section, all bills shall be read three times in each house and shall be signed by the presiding officer of each house before being presented to the Governor. If the Governor approves, the Governor shall sign it and it shall become a law; but if not, the Governor shall return it with objections, together with a veto message stating the reasons for such objections, to that house in which it shall have originated, which shall enter the objections and veto message at large on its journal, and proceed to reconsider it. If after such reconsideration three-fifths of the members of that house present and voting shall agree to pass the bill, it shall be sent, together with the objections and veto message, to the other house, by which it shall likewise be reconsidered; and if approved by three-fifths of the members of that house present and voting, it shall become a law notwithstanding the objections of the Governor. In all such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively.

(2) Amendments to Constitution of North Carolina. Every bill proposing a new or revised Constitution or an amendment or amendments to this Constitution or calling a convention

of the people of this State, and containing no other matter, shall be submitted to the qualified voters of this State after it shall have been read three times in each house and signed by the presiding officers of both houses.

(3) Amendments to Constitution of the United States. Every bill approving an amendment to the Constitution of the United States, or applying for a convention to propose amendments to the Constitution of the United States, and containing no other matter, shall be read three times in each house before it becomes law, and shall be signed by the presiding officers of both houses.

(4) Joint resolutions. Every joint resolution shall be read three times in each house before it becomes effective and shall be signed by the presiding officers of both houses.

(5) Other exceptions. Every bill:

(a) In which the General Assembly makes an appointment or appointments to public office and which contains no other matter;

(b) Revising the senate districts and the apportionment of Senators among those districts and containing no other matter;

(c) Revising the representative districts and the apportionment of Representatives among those districts and containing no other matter; or

(d) Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of Representatives among those districts and containing no other matter,

shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses.

(6) Local bills. Every bill that applies in fewer than 15 counties shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses. The exemption from veto by the Governor provided in this subsection does not apply if the bill, at the time it is signed by the presiding officers:

(a) Would extend the application of a law signed by the presiding officers during that two year term of the General Assembly so that the law would apply in more than half the counties in the State, or

(b) Would enact a law identical in effect to another law or laws signed by the presiding officers during that two year term of the General Assembly that the result of those laws taken together would be a law applying in more than half the counties in the State.

Notwithstanding any other language in this subsection, the exemption from veto provided by this subsection does not apply to any bill to enact a general law classified by population or other criteria, or to any bill that contains an appropriation from the State treasury.

Mississippi Constitution

*ARTICLE 13
APPORTIONMENT
SECTION 254.*

The legislature shall at its regular session in the second year following the 1980 decennial census and every ten (10) years thereafter, and may, at any other time, by joint resolution, by majority vote of all members of each house, apportion the state in accordance with the constitution of the state and of the United States into consecutively numbered senatorial and representative districts of contiguous territory. The senate shall consist of not more than fifty-two (52) senators, and the house of representatives shall consist of not more than one hundred twenty-two (122) representatives, the number of members of each house to be determined by the legislature. Should the legislature adjourn, without apportioning itself as required hereby, the governor by proclamation shall reconvene the legislature within thirty (30) days in special apportionment session which shall not exceed thirty (30) consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment. Should a special apportionment session not adopt a joint resolution of apportionment as required hereby, a five-member commission consisting of the chief justice of the supreme court as chairman, the attorney general, the secretary of state, the speaker of the house of representatives and the president pro tempore of the senate shall immediately convene and within one hundred eighty (180) days of the adjournment of such special apportionment session apportion the legislature, which apportionment shall be final upon filing with the office of the secretary of state. Each apportionment shall be effective for the next regularly scheduled elections of members of the legislature.

West's Annotated Mississippi Code
Title 5. Legislative Department
[Chapter 3](#). Legislative Committees
Standing Joint Legislative Committee on Reapportionment

§ 5-3-93. Plan to apportion legislature

The members of the committee shall draw a plan to apportion, according to constitutional standards, the membership of the Mississippi Senate and the Mississippi House of Representatives no later than fifteen (15) days prior to the scheduled adjournment of the next regular session of the Legislature following the delivery of the 2000 decennial census data to the state and every ten (10) years thereafter and at such other times as they may be directed by joint resolution of the Mississippi Legislature.

Provided, however, the committee shall not be required to present a plan to the Legislature prior to four (4) months after the publication of census data.

§ 5-3-103. Apportionment plans submitted to legislature

Upon completion of apportionment plans, the committee shall present its plans to the Mississippi Legislature, which shall act on the plans not later than the next regular session of the legislature. The committees to which the plans are referred shall report their recommendations to their respective houses no later than the forty-fifth day of the legislative session.

§ 5-3-123 Redistricting plan preparation

The members of the committee shall draw a plan to redistrict, according to constitutional standards, the United States congressional districts for the state of Mississippi no later than thirty (30) days preceding the convening of the next regular session of the legislature after the results of the 1980 decennial census are published and every ten (10) years thereafter.

Provided, however, the committee shall not be required to present a plan to the governor and to the legislature prior to four (4) months after the publication of census data.

Connecticut

Connecticut Constitution
Article III, Section 6

(Reapportionment procedure. Reapportionment Committee. Reapportionment Commission.)

Sec. 6. a. The assembly and senatorial districts and congressional districts as now established by law shall continue until the regular session of the general assembly next after the completion of the taking of the next census of the United States. On or before the fifteenth day of February next following the year in which the decennial census of the United States is taken, the general assembly shall appoint a reapportionment committee consisting of four members of the senate, two who shall be designated by the president pro tempore of the senate and two who shall be designated by the minority leader of the senate, and four members of the house of representatives, two who shall be designated by the speaker of the house of representatives and two who shall be designated by the minority leader of the house of representatives, provided there are members of no more than two political parties in either the senate or the house of representatives. In the event that there are members of more than two political parties in a house of the general assembly, all members of that house belonging to the parties other than that of the president pro tempore of the senate or the speaker of the house of representatives, as the case may be, shall select one of their number, who shall designate two members of the committee in lieu of the designation by the minority leader of that house. Such committee shall advise the general assembly on matters of apportionment. Upon the filing of a report of such committee with the clerk of the house of representatives and the clerk of the

senate, the speaker of the house of representatives and the president pro tempore of the senate shall, if the general assembly is not in regular session, convene the general assembly in special session for the sole purpose of adopting a plan of districting. Upon the request of the speaker of the house of representatives and the president pro tempore of the senate, the secretary of the state shall give notice of such special session by mailing a true copy of the call of such special session, by registered or certified mail, return receipt requested, to each member of the house of representatives and of the senate at his or her address as it appears upon the records of said secretary not less than ten nor more than fifteen days prior to the date of convening of such special session or by causing a true copy of the call to be delivered to each member by a constable, state policeman or indifferent person at least twenty-four hours prior to the time of convening of such special session. Such general assembly shall, upon roll call, by a yeas vote of at least two-thirds of the membership of each house, adopt such plan of districting as is necessary to preserve a proper apportionment of representation in accordance with the principles recited in this article. Thereafter the general assembly shall decennially at its next regular session or special session called for the purpose of adopting a plan of districting following the completion of the taking of the census of the United States, upon roll call, by a yeas vote of at least two-thirds of the membership of each house, adopt such plan of districting as is necessary in accordance with the provisions of this article.

b. If the general assembly fails to adopt a plan of districting by the fifteenth day of the September next following the year in which the decennial census of the United States is taken, the governor shall forthwith appoint a commission designated by the president pro tempore of the senate, the speaker of the house of representatives, the minority leader of the senate and the minority leader of the house of representatives, each of whom shall designate two members of the commission, provided that there are members of no more than two political parties in either the senate or the house of representatives. In the event that there are members of more than two political parties in a house of the general assembly, all members of that house belonging to the parties other than that of the president pro tempore of the senate or the speaker of the house of representatives, as the case may be, shall select one of their number, who shall designate two members of the commission in lieu of the designation by the minority leader of that house. The eight members of the commission so designated shall within thirty days select an elector of the state as a ninth member.

c. The commission shall proceed to consider the alteration of districts in accordance with the principles recited in this article and it shall submit a plan of districting to the secretary of the state by the thirtieth day of the November next succeeding the appointment of its members. No plan shall be submitted to the secretary unless it is certified by at least five members of the commission. Upon receiving such plan the secretary shall publish the same forthwith, and, upon publication, such plan of districting shall have the full force of law. If the commission shall fail to submit such a plan by the thirtieth day of November, the secretary of the state shall forthwith so notify the chief justice of the supreme court.

d. Original jurisdiction is vested in the supreme court to be exercised on the petition of any registered voter whereby said court may compel the commission, by mandamus or otherwise, to perform its duty or to correct any error made in its plan of districting, or said court may take such other action to effectuate the purposes of this article, including

the establishing of a plan of districting if the commission fails to file its plan of districting by the thirtieth day of November as said court may deem appropriate. Any such petition shall be filed within thirty days of the date specified for any duty or within thirty days after the filing of a plan of districting. The supreme court shall render its decision not later than forty-five days following the filing of such petition or shall file its plan with the secretary of the state not later than the fifteenth day of February next following the time for submission of a plan of districting by the commission. Upon receiving such plan the secretary shall publish the same forthwith, and, upon publication, such plan of districting shall have the full force of law.