

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 04-0368.01 Thomas Morris

HOUSE BILL 04-1043

HOUSE SPONSORSHIP

Fairbank,

SENATE SPONSORSHIP

Lamborn,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MANDATORY CRITERIA TO BE USED BY COURTS IN**
102 **DETERMINING CONGRESSIONAL DISTRICT BOUNDARIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits courts from using non-neutral factors, including political party registration, political party election performance, and other factors that invite the court to speculate about the outcome of an election, in determining whether one or more congressional districts are lawful and in adopting or enforcing any change to any such district. Requires courts to use only neutral factors in the following order of precedence:

First, population equality, contiguity, the use of whole general election precincts, and a prohibition on district

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
January 27, 2004

HOUSE
2nd Reading Unamended
January 23, 2004

overlap;
Second, compliance with the federal "Voting Rights Act of 1965";
Third, preservation of political subdivision boundaries, with precedence given to the most populous counties, cities, and towns;
Fourth, preservation of communities of interest, including the traditional western slope and eastern plains communities of interest;
Fifth, compactness; and
Sixth, minimization of disruption to prior district lines.

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

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

4 **2-1-102. Neutral criteria for judicial determinations of**
5 **congressional districts.** (1) IN DETERMINING WHETHER ONE OR MORE OF
6 THE CONGRESSIONAL DISTRICTS ESTABLISHED IN SECTION 2-1-101 ARE
7 LAWFUL AND IN ADOPTING OR ENFORCING ANY CHANGE TO ANY SUCH
8 DISTRICT, COURTS SHALL:

9 (a) NOT UTILIZE NON-NEUTRAL FACTORS. FOR PURPOSES OF THIS
10 SECTION, "NON-NEUTRAL FACTORS" INCLUDE POLITICAL PARTY
11 REGISTRATION, POLITICAL PARTY ELECTION PERFORMANCE, AND OTHER
12 FACTORS THAT INVITE THE COURT TO SPECULATE ABOUT THE OUTCOME OF
13 AN ELECTION.

14 (b) UTILIZE ONLY NEUTRAL FACTORS IN THE ORDER OF
15 PRECEDENCE ESTABLISHED IN THIS PARAGRAPH (b). FOR PURPOSES OF
16 THIS SECTION, A "NEUTRAL FACTOR" MEANS:

17 (I) FIRST, A GOOD FAITH EFFORT TO ACHIEVE PRECISE
18 MATHEMATICAL POPULATION EQUALITY BETWEEN DISTRICTS, JUSTIFYING
19 EACH VARIANCE, NO MATTER HOW SMALL, AS REQUIRED BY THE

1 CONSTITUTION OF THE UNITED STATES. EACH DISTRICT SHALL CONSIST OF
2 CONTIGUOUS WHOLE GENERAL ELECTION PRECINCTS. DISTRICTS SHALL
3 NOT OVERLAP.

4 (II) SECOND, COMPLIANCE WITH THE FEDERAL "VOTING RIGHTS
5 ACT OF 1965", IN PARTICULAR 42 U.S.C. SEC. 1973;

6 (III) THIRD, EXCEPT WHEN NECESSARY TO COMPLY WITH
7 SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (b), POLITICAL
8 SUBDIVISIONS SUCH AS COUNTIES, CITIES, AND TOWNS SHALL BE
9 PRESERVED INTACT AND SHALL NOT BE FRAGMENTED OR DISPERSED
10 ACROSS DISTRICT LINES. WHEN APPLYING THIS CRITERION, PRESERVATION
11 OF THE MOST POPULOUS COUNTIES, CITIES, AND TOWNS SHALL TAKE
12 PRECEDENCE. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE
13 CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICTS SHALL BE AS PRESCRIBED
14 BY LAW.

15 (IV) FOURTH, COMMUNITIES OF INTEREST, INCLUDING ETHNIC,
16 CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC
17 FACTORS, SHALL BE PRESERVED WITHIN A SINGLE DISTRICT WHENEVER
18 POSSIBLE. TRADITIONAL COMMUNITIES OF INTEREST IN COLORADO
19 INCLUDE THE WESTERN SLOPE AND THE EASTERN PLAINS.

20 (V) FIFTH, EACH CONGRESSIONAL DISTRICT SHALL BE AS COMPACT
21 IN AREA AS POSSIBLE, AND THE AGGREGATE LINEAR DISTANCE OF ALL
22 DISTRICT BOUNDARIES SHALL BE AS SHORT AS POSSIBLE; AND

23 (VI) SIXTH, DISRUPTION OF PRIOR DISTRICT LINES SHALL BE
24 MINIMIZED.

25 **SECTION 2. Applicability.** This act shall apply to judicial
26 determinations of congressional district boundaries occurring on or after
27 the effective date of this act.

1 **SECTION 3. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.