

AMENDMENT Z

Legislative Redistricting

Summary

Amendment Z would amend the Constitution to replace the [Colorado Reapportionment Commission](#), which handles redistricting for Colorado’s state legislative districts, with the Independent Legislative Redistricting Commission. *(Amendment Y would create a similar commission for congressional redistricting.)* Amendment Z outlines new eligibility requirements for commission members and lists criteria that would disqualify a member.

The commission membership must include a mix of unaffiliated members and those affiliated with the two largest state political parties. It outlines new processes for the selection of commission members, including a mix of random selection and selection by a panel of retired judges. The commission must include unaffiliated members.

The amendment provides for public input and transparency in the redistricting process (including that the commission hold three meetings in each congressional district); expands and clarifies criteria for the drawing and adoption of state legislative district maps, (including a supermajority vote to approve, which must include two unaffiliated members); and outlines the process to challenge the maps. It incorporates principles of the federal Voting Rights Act into state law which protects minority voting rights and prohibits discriminatory practices. *Click [here](#) to view the Colorado Legislative Council's analysis, including the estimated fiscal impact.*

Research

Redistricting occurs every 10 years in all states, following the U.S. Census. States are tasked with drawing congressional and state legislative districts. In Colorado, redistricting laws are outlined in the [state constitution](#). The purpose of redrawing of district boundaries is to ensure fair representation for citizens living there. Unfortunately, it’s often a highly political process, one that can “manipulate boundaries and stacks the deck in favor of a political party or incumbent candidates” instead of ensuring fairness, says the [Brennan Center](#).

Colorado has a 65-member House of Representatives and a 30-member Senate; districts must be drawn for both bodies. In 1974, Colorado voters approved a constitutional measure creating the Reapportionment Commission and charged it with creating Colorado’s legislative district maps. Legislative leaders, the governor, and the Chief Justice of the Supreme Court appoint people to the 11-member Commission. Nonpartisan legislative staff serve the Commission. The Commission holds public hearings, adopts maps through majority vote, and submits the maps to the state Supreme Court for approval.

Amendment Z would change redistricting for state legislative districts and a companion measure, Amendment Y, would change congressional redistricting, which is currently done by legislators. The General Assembly agreed to support the measures during the 2018 legislative session by referring them to the voters, rather than ask the supporters to go through the more costly and time-consuming initiative process. [SCR18-005](#) was sponsored by legislative leadership and had unanimous legislative support throughout the process.

Should both Amendments Y and Z pass, Colorado would be the only state with separate commissions for legislative and congressional redistricting. [Commissions](#) are charged with primary redistricting responsibility in 13 states, though most are linked to the legislature in some way, mainly through commissioner appointments. For legislative redistricting, nine states (representing 10 commissions, as Missouri has separate commissions for the House and Senate) created their commissions through referred ballot measures. The other commissions were created through citizen initiatives. In all cases, constitutional amendments were required. [Other states](#) are exploring or amending the commission approach.

The redistricting model proposed in Amendment Z borrows from elements of California’s and Iowa’s redistricting processes, cited during legislative hearings as examples of states have fair and depoliticized redistricting processes.

California created its current redistricting structure via [voter initiatives](#) in 2008 and 2010, and has been through one round of redistricting with the model. In [Iowa](#), nonpartisan legislative staff draw districts but the legislature, not a commission, votes to approve them. Legislative deadlines are followed, versus the 45-day timeline outlined in Amendment Z.

In California, there is one [14-member commission](#), including members who are neither registered as Democrats nor Republicans. Some of the processes used to select commission members are similar to those outlined in Amendments Y and Z, and like Colorado's proposal, California's commission is given prioritized [criteria](#) for creating districts. For example, it must minimize the division, to the extent possible, of "cities, counties, neighborhoods and communities of interest." California's redistricting processes also allow for robust public participation and transparency in the form of public meetings and opportunities for public comment around the state — requirements that are also found in Amendments Y and Z. Unlike Colorado's proposals, however, California commissioners are instructed to ignore factors that create incumbent protections — and even legislators' home addresses — while creating districts that are compact.

According to interviews with experts from the National Conference of State Legislatures, California's independent commission process worked as intended — for the most part. The maps were challenged, but this often occurs, regardless of how the lines are drawn. Other proof points show some discord surrounding California's model, including political parties, particularly state Democrats, [successfully mobilizing and influencing public hearings](#) around "communities of interest."

Another finding is the combination of little experience and the absence of political information hindered the commissioners from spotting political gamesmanship. An analyst interviewed by [Governing magazine](#) states, "The California commission's work offers more proof, if any were necessary, that it's impossible to remove politics from redistricting. Whether you think they did a good job or not depends on whether your ox was gored, but that's true of redistricting in general."

Colorado's current redistricting commission uses nonpartisan legislative staff. The new commission would do the same. Iowa's model prohibits staff from using elections data to draw maps — their process is devoid of databases that contain incumbent addresses, voter registration, or election information. According to [Governing](#), "Over the years, its maps have put the Legislature in play and left Iowa with a high number of competitive congressional races, considering the modest size of the state's delegation."

Iowa can more easily adhere to criteria such as compactness and communities of interest because it's less diverse. Colorado has different realities, such as a larger Hispanic/Latino population and varied topography. Another important distinction between Iowa and Colorado: under Amendment Z, staff would be directed to draw competitive plans. The only way to do so is with partisan data. Finally, [Iowa's process](#) is outlined in state statute, rather than state constitution, leaving it subject to legislative repeal.

NCSL [points](#) to elements of redistricting that are often open to litigation. With respect to redistricting commissions, "as important as who draws the lines is what criteria a state's constitution requires, and whether these are provided in priority order." Amendment Z prioritizes the preservation of communities of interest and political subdivisions, but there is still a chance the criteria for creating the districts could collide. For instance, one plan might preserve counties, while others might preserve communities of interest. Also, the definition of "competitiveness" is not fully clear. Florida has similar language about competitiveness and its legislatively-drawn plans were overturned by the state Supreme Court, despite voters passing constitutional amendments mandating nonpartisan maps.

Lastly, through the 2000 cycle, [commission-drawn plans](#) were neither more nor less likely to be challenged or survive challenges than plans drawn by legislatures. In the 2010 cycle, while California's plans were adopted, Arizona's commission-drawn plans — also intended to be independent — faced several challenges, two of which made their way to the U.S. Supreme Court.

Amendments Z and Y, its companion, are the result of [compromise](#). Since 2015, reformers have tried to change Colorado’s redistricting processes through the initiative process. In 2017, groups representing different points of view on redistricting, Fair Districts Colorado and People Not Politicians, planned to ask voters to choose between proposals. Eventually, the two perspectives collaborated to develop the two compromise measures passed by the General Assembly. The language in these measures reflected the wishes of Republican-backed groups, who were dissatisfied by the last round of redistricting, and organizations concerned about the impact of redistricting on people of color and the disenfranchised. The combined coalition is named [Fair Maps Colorado](#).

Arguments For

- Many of the changes in the measure — such as inclusion of unaffiliated commission members, more public hearings, prioritization of district criteria, and delegating responsibility of drawing the maps to nonpartisan legislative staff — creates a fairer, depoliticized redistricting process.
- Requiring four commission members be unaffiliated voters and giving those members greater weight in decision making on map adoptions creates more accurate and effective representation for all Colorado voters.
- Rebalancing the commission and changing the processes by which commission members are selected will lead to more equal representation and a more independent process.
- The amended constitutional language creates clear criteria for map drawing and prohibitions on gerrymandering. The new process will require heightened open meetings, public record, and ethical rules.
- The commission is directed to maximize the number of competitive congressional districts in Colorado, which decreases gerrymandering.

Proponents

Fair Maps Colorado, which lists numerous state and community leaders and organizations among its supporters. See them listed [here](#).

Arguments Against

- It’s impossible to take politics out of redistricting. States with independent commissions have had maps challenged in court and don’t completely eliminate partisan rancor or accusations of an unfair process. Additionally, it’s hard to ensure unaffiliated members are independent minded.
- The requirements outlined in the measure make a complicated process even more complicated.
- As outlined, the timeframes and deadlines in the measure’s language are tight and may be difficult to adhere to.
- Prohibitions on who is eligible to serve on the commission and the method of selecting commissioners could lead to less experienced or knowledgeable members serving. Commissioners can be reimbursed for expenses, but won’t be paid (unlike in California), so this may further limit the pool of potential commissioners.
- Vagueness in the definition of “competitive” and lack of clarity on the ranking or balancing of other criteria may leave maps open to court challenge.
- The constant turnover resulting from highly competitive districts creates instability that could undermine the legislative process and institution. One benefit to having stable districts is they are good for institutional memory, especially with legislator term limits.

Opponents

No groups listed in opposition at this time.

Recommendation: Support

Amendments Y and Z can lead to an improved, less contentious redistricting process. In a time when partisanship runs high, a better process can increase trust in government and citizen participation. The combined coalition compromise plan is a thoughtful approach to reforming a complicated, but essential, part of representative democracy.