

AMENDMENT Y

Congressional Redistricting

Summary

Amendment Y would establish the Independent Congressional Redistricting Commission, transferring responsibility and authority from the Colorado General Assembly and requiring the Commission to create a congressional redistricting plan. (*Amendment Z would create a similar commission for legislative redistricting.*)

Amendment Y outlines eligibility requirements for commission members and lists criteria that would disqualify a member. It also outlines processes for commission member appointment, including a combination of random selection and selection by a panel of retired judges. The commission membership must include a mix of unaffiliated members, Democrats, and Republicans.

The amendment requires transparency in the redistricting process, including three public meetings in each congressional district; expands and clarifies criteria for the drawing and adoption of congressional district maps, including a supermajority vote to approve, which must include two unaffiliated members; and outlines the processes to challenge the maps. Amendment Y creates constitutional language to set requirements for the commission about district contiguity and compactness, the division of counties, cities, and communities of interest, and prioritizes the preservation of communities of interest and political subdivisions. 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

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](#).

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](#). There are currently seven Colorado congressional districts, but if population trends continue as projected, [experts](#) believe our state will gain an eighth congressional seat after the 2020 Census.

The state legislature is charged with congressional redistricting in Colorado, but state courts are permitted to eventually draw the maps if the legislature's plans are legally challenged. The last four redistricting cycles resulted in court action, according to Legislative Council.

Amendment Y would change redistricting for congressional districts and companion measure, Amendment Z, would change state legislative redistricting. The General Assembly agreed to support the measures during the 2018 legislative session by referring it to the voters, rather than ask the supporters to go through the more costly and time-consuming initiative process. [SCR18-004](#) 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 (currently Colorado has a state legislative redistricting commission, and Amendment Z would modify it). [Commissions](#) are charged with primary redistricting responsibility in 13 states, though most are linked to the legislature in some way, mainly through commissioner appointments. In [seven states](#), commissions are charged with congressional redistricting; constitutional amendments were required to create these commissions. [Other states](#) are exploring or amending the commission approach.

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

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.”

While Amendment Y would require nonpartisan legislative staff to draw Congressional districts, 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 Y, 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 its 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 Y 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 Y, and the companion measure Amendment Z, 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 make-up 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 new requirements are complicated and the new timeframes and deadlines 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.
- When legislatures are responsible for redistricting, it preserves the federalist system prioritized in our U.S. Constitution. U.S. Senators used to be voted into office by state legislatures, though that has since changed. Our U.S. House delegates are responsible to our state legislatures through redistricting, which is a check and balance on representative democracy.

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.