

The General Assembly: 2016 Extra Session

Legislators convened for an extra session on February 18, 2016, to address congressional redistricting. The session lasted only two days, adjourning on Friday, February 19.

Background

Following the census every 10 years legislators work to redraw both state legislative districts and Congressional districts. The most recent census was conducted in 2010 and legislators created new state legislative districts and Congressional districts during the 2011 legislative session. Both sets of district maps were challenged in court. While the lawsuit over the state legislative districts is still working its way through the courts, a three judge panel of the U.S. District Court for the Middle District of North Carolina issued a decision on February 5, 2016, finding that race predominated in the redistricting of Districts 1 and 12 and that the 2011 Congressional Redistricting Plan violated the Equal Protection Clause¹. The Court required the General Assembly to redraw the Congressional districts by February 19. The defendants filed a motion for a stay, which was denied. Following the denial, the defendants filed a request for an emergency stay with the U.S. Supreme Court.

Governor McCrory issued a proclamation on February 17 calling the General Assembly into an extra session². Legislators prepared for the possibility of an extra session by appointing a Joint Select Committee on Congressional Redistricting (Committee). The Committee held hearings across the state on February 15 to hear public comments on the Congressional districts. The Committee met on February 16 and 17 to review the public comments, adopt criteria for the development of the new districts, and approve a new Congressional district map for recommendation to the General Assembly.

In addition to prohibiting the use of data identifying the race of individuals or voters, the Committee adopted the following seven criteria to use in developing the new Congressional districts: (1) equal protection—requires the number of persons in each congressional district to be as nearly as equal as practicable, as determined under the most recent federal decennial census; (2) contiguity—requires districts to be comprised of contiguous territory; (3) political data—specifies that the only data other than population data to be used to construct congressional districts are election results in statewide contests since January 1, 2008, not including the last two presidential contests. This criteria also prohibits voting districts from being unless necessary to comply with the zero deviation population requirements; (4) partisan advantage—requires reasonable efforts to construct districts that maintain the current partisan makeup of North Carolina’s congressional delegation, which is 10 Republicans and 3 Democrats; (5) Twelfth District—requires constructing districts that eliminate the current configuration of the Twelfth District; (6) compactness—requires

¹ *Harris, et al v. McCrory, et al*, North Carolina Middle District Court, Case No. 1:13-cv-00949

² The Governor’s proclamation is available here:

<http://www.ncleg.net/sessions/2015e1/Governor'sProclamationofExtraSession.pdf>

reasonable efforts to construct districts that improve the compactness of the current districts and keep more counties and VTDs whole as compared to the current enacted plan, and specifies that division of counties is only to be to equalize population, consider incumbency and political impact. This criteria also requires reasonable efforts to not divide a county into more than two districts; (7) incumbency—requires reasonable efforts to ensure that incumbent members of Congress are not paired with another incumbent in one of the new districts.

Session Action

The first legislation considered during the 2016 Extra Session was a set of resolutions establishing House and Senate Rules governing the session. Among the rules adopted for the extra session (House Bill 1 and Senate Bill 2), the only standing committees of the House for the extra Session were Rules, Calendar, and Operations of the House; Ethics; and Redistricting. The standing committees of the Senate were Redistricting, and Rules and Operations of the Senate. The rules limited bills that were allowed to be considered to bills adopting redistricting plans for the House of Representatives of the U.S. Congress or providing for the scheduling and implementation of the Congressional primary election in 2016. Both chambers also limited floor amendments on redistricting legislation to those that were previously proposed in committee, replaced the entire text of the bill amended, and were accompanied by Congressional district maps.

SL 2016-1 (Senate Bill 2) amended the composition of the 13 congressional districts. The newly drawn districts consist of the following counties. District 1 includes the following counties: Bertie, Edgecombe, Gates, Granville, Halifax, Hertford, Martin, Northampton, Vance, Warren, and Washington counties, as well as specified parts of the following counties, Durham, Pitt, and Wilson. District 2 includes the following counties: Franklin, Harnett, and Nash and specified parts of Johnston, Wake, and Wilson. District 3 includes the following counties: Beaufort, Camden, Carteret, Chowan, Craven, Currituck, Dare, Greene, Hyde, Jones, Lenoir, Onslow, Pamlico, Pasquotank, Perquimans, and Tyrrell, with specified parts of Pitt County. District 4 includes the following counties: Orange and specified parts of Durham and Wake. District 5 includes the following counties: Alexander, Alleghany, Ashe, Avery, Forsyth, Stokes, Surry, Watauga, Wilkes, and Yadkin with specified parts of Catawba County. District 6 includes the following counties: Alamance, Caswell, Chatham, Lee, Person, Randolph, and Rockingham, with specified parts of Guilford County. District 7 includes the following counties: Brunswick, Columbus, Duplin, New Hanover, Pender, Sampson, and Wayne, with specified parts of Bladen and Johnston counties. District 8 includes the following counties: Cabarrus, Hoke, Montgomery, Moore, and Stanly, with specified parts of Cumberland and Rowan. District 9 includes the following counties: Anson, Richmond, Robeson, Scotland, and Union, with specified parts of Cumberland, Bladen, and Mecklenburg. District 10 includes the following counties: Cleveland, Gaston, Lincoln, Polk, and Rutherford, and specified parts of Buncombe, Catawba, and Iredell. District 11 includes the following counties: Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, and Yancey counties, with specified parts of Buncombe County. District 12 includes specified parts of Mecklenburg County. District 13 includes the following counties: Davidson and Davie, and specified parts of Guilford, Iredell, and Rowan. A map of the new congressional districts and accompanying documents are posted on the General Assembly's website at <http://www.ncleg.net/representation/redistricting.aspx>. The final map is under the heading "2016 Contingent Congressional Plan – Corrected," reflecting changes made by the committee substitute to the first edition of the bill.

SL 2016-2 (House Bill 2) sets out requirements for the 2016 U.S. House of Representatives primary election (primary). The act moves the primary to Tuesday June 7, 2016, with the filing period running from March 16 to March 25, 2016. Candidates are required to have been affiliated with their party for at least 75 days at the time of filing for candidacy while persons registered as

"Unaffiliated" are ineligible to file for the primary. The act also prohibits a candidate from running for two separate offices at the same time as a result of winning a March 15 and June 7 primary; such individuals must withdraw from one of the races no later than a week after results are certified for both primaries. The act also prohibits holding second primaries during the 2016 election cycle. In light of the ongoing court review, the act specifies that the act is repealed if before March 16, 2016, the U.S. Supreme Court reverses or stays the decision of the U.S. District Court for the Middle District of North Carolina holding G.S. 163-201(a) unconstitutional as it existed prior to the enactment of this act (or the decision is otherwise enjoined, made inoperable, or ineffective).

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