

# SJ18'S REDISTRICTING PROCESS

## Summary

Key protections that will strengthen the amendment ([SJ18](#)) were in the enabling legislation ([SB203/HB758](#)), which died in Conference Committee. However, the Governor can amend the criteria bill that passed ([SB717/HB1255](#)) to add key missing pieces from the enabling legislation (e.g. the application process, diversity requirement, Special Masters for the Supreme Court, etc.) to the criteria bill. That amended version of the criteria bill, with the enabling provisions added in, would then go to veto session of the General Assembly for an up-or-down vote.

## How is the amendment's Virginia Redistricting Commission set up?

The amendment creates a commission made up of sixteen members: four Senators, four Delegates, and eight citizens. By November 15, the Chief Justice of the Supreme Court of Virginia (SCOVA) would submit a list of retired judges to the legislative leaders in the General Assembly who would each choose one judge. Those four judges would select a fifth to serve as chairman. By December 1, each chamber's leaders would appoint their legislator-commissioners. By January 1, the leadership would each submit a list of at least 16 citizens to the retired judge panel, who would choose two citizens from each list, for a total of eight. This commission selection process will allow for partisan balance, an ideal common among other commissions.

The enabling legislation would have brought this process further in line with best practices in other states. It would have created an application process for citizen commissioners; codified stricter eligibility requirements; and required racial, ethnic, gender, and geographic diversity on both the retired judge panel and the Commission. These first two requirements would have ensured that the citizen-commissioners are interested citizens and conflict-free while the third would have helped create a Commission representative of all Virginians.

## What is the process for getting maps approved?

For a map to pass, six out of eight legislators and six out of eight citizens must vote to approve. Additionally, three out of four legislators must vote in favor of the map for their chamber. A supermajority vote requirement is key to ensuring bipartisan agreement on maps and is found in other commission processes. The maps then go to the General Assembly with no chance for amendment. If the Commission or General Assembly fail along the way, SCOVA would draw the maps, a fallback common to commission states like [California](#), [Colorado](#), [Michigan](#), [Pennsylvania](#), [Utah](#), and [Washington](#).

## I've heard that two legislators can gridlock the commission and send maps to the conservative SCOVA. Won't they just gerrymander for the Republicans?

Two legislators of the same party from the same chamber (i.e. two Democratic Delegates or two Republican Senators) could gridlock the Commission. If that were to occur, it is highly unlikely that SCOVA would ever draw the lines on its own, [let alone gerrymander](#). If SCOVA did draw the lines, it would likely hire a Special Master, whether required to or not. In any event, court-drawn maps often [lead to fairer districts](#) than maps drawn by a legislature.

The enabling legislation would have helped to allay fears by requiring that SCOVA follow certain rules and procedures, allow for public participation, and appoint two Special Masters. These two redistricting experts would have been chosen from a list submitted by the partisan leaders in each chamber. The legislation also would have prevented relatives of legislators from participating in the SCOVA fallback mechanism or the retired judge panel.

Some concern has also arisen about whether SCOVA would strike down the enabling legislation as unconstitutional, but this scenario is [unlikely](#). The General Assembly has the power to enact any law that does not directly conflict with the state constitution. The legislation does not seek to change the SCOVA fallback mechanism, but rather it explains how that mechanism would occur. Because the enabling legislation does not directly conflict with SJ18's SCOVA mechanism, it is unlikely that the Court would invalidate the legislation. If the enabling legislation wanted to guard itself from this unlikely occurrence, [a severability clause](#) may be useful.



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