

# Introduction to Reapportionment

Vermont Constitutional and Statutory Provisions

January 13, 2021

# Vermont Constitution (Ch. II)

## § 13. [REPRESENTATIVES; NUMBER]

The House of Representatives shall be composed of **one hundred fifty Representatives**. The voters of each representative district established by law shall elect one or two Representatives from that district, **the number from each district to be established by the General Assembly**.

In establishing representative districts, which shall afford equality of representation, the General Assembly shall seek to maintain geographical compactness and contiguity and to adhere to boundaries of counties and other existing political subdivisions.

## § 18. [SENATORS; NUMBERS; QUALIFICATIONS]

The Senate shall be composed of **thirty Senators** to be of the senatorial district from which they are elected. The voters of each senatorial district established by law shall elect one or more Senators from that district, **the number from each district to be established by the General Assembly**.

In establishing senatorial districts, which shall afford equality of representation, the General Assembly shall seek to maintain geographical compactness and contiguity and to adhere to boundaries of counties and other existing political subdivisions.

# Vermont Constitution (Ch. II)

## **§ 73. [MANNER OF APPORTIONMENT OF THE GENERAL ASSEMBLY]**

The General Assembly **shall establish senatorial districts** within and including all of the state, and **shall further establish representative districts** within and including all of the state.

At the biennial session following the taking of each decennial census under the authority of Congress, and at such other times as the General Assembly finds necessary, **it shall revise the boundaries of the legislative districts and shall make a new apportionment of its membership in order to maintain equality of representation among the respective districts as nearly as is practicable.** The General Assembly may provide for establishment of a **legislative apportionment board to advise and assist the General Assembly concerning legislative apportionment.** If the General Assembly fails to revise the legislative districts as required in this section, the Supreme Court in appropriate legal proceedings brought for that purpose may order reapportionment of the districts.

# Vermont Statutes

## [Chapter 33: Apportionment Of State Senators](#)

- Division of Districts; Number of Senators per District

## [Chapter 34: Apportionment Of State Representatives](#)

- Division of Districts; Number of Representatives per District

## [Chapter 34A: Periodic Reapportionment](#)

- Standards for Reapportionment; Legislative Apportionment Board; Division of Districts; Timeframe for Apportionment; Judicial Review

# Upcoming Statutory Deadlines

July 1, 2021: Legislative Apportionment Board (LAB) deadline to:

- Prepare tentative House proposal. [17 V.S.A. § 1905](#).
- Submit its final Senate proposal to Senate. [17 V.S.A. § 1907](#).

Aug. 1, 2021: Town (“boards of civil authority”) deadline to respond to LAB tentative House proposal. [17 V.S.A. § 1905](#).

Aug. 15, 2021: LAB deadline to submit its final House proposal to House. [17 V.S.A. § 1906](#).

Mid-2022 Leg. Session: Enact initial House plan.

“As soon as practical” thereafter, by April 1, 2022: Boards of civil authority may propose further House district divisions. [17 V.S.A. § 1906b\(b\) and \(e\); 17 V.S.A. § 1906c\(b\) and \(e\)](#).

# Vermont's Statutory Requirements ([Title 17, Chapter 34A](#))

**§ 1901. Purpose**

**§ 1902. Definitions**

**§ 1903. Periodic reapportionment; standards**

**§ 1904. [Composition of] Legislative Apportionment Board**

**§ 1905. House apportionment- tentative proposal**

**§ 1906. Initial districts; final proposal; final plan**

**§ 1906a. Final division into representative districts**

**§ 1906b. Division of two-member representative districts**

**§ 1906c. Division of districts having three or more Representatives**

**§ 1907. Senate apportionment**

**§ 1908. Powers of [the Legislative Apportionment] Board**

**§ 1909. [Judicial] Review**

# Vermont's Statutory Requirements (T.17, ch. 34A)

## § 1903. Periodic reapportionment; standards

(a) The House of Representatives and the Senate **shall be reapportioned and redistricted on the basis of population** during the biennial session after the taking of each decennial census of the United States, or after a census taken for the purpose of such reapportionment under the authority of this State.

(b) The standard for creating districts for the election of Representatives to the General Assembly shall be to form representative districts with minimum percentages of deviation from the apportionment standard\* for the House of Representatives. The standard for creating districts for the election of Senators on a county basis to the General Assembly shall be to form senatorial districts with minimum percentages of deviation from the apportionment standard for the Senate. **The representative and senatorial districts shall be formed consistent with the following policies insofar as practicable:**

- (1) preservation of existing political subdivision lines;**
- (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;**
- (3) use of compact and contiguous territory.**

\* "Apportionment standard" means the number obtained by dividing the total population in the State by the number of members of the House or Senate (17 V.S.A. § 1902(1)-(2))

# Vermont's Statutory Requirements (T.17, ch. 34A)

## § 1904. Legislative Apportionment Board

(a) There is hereby created the Legislative Apportionment Board, consisting of:

- a special master designated by the Chief Justice of the Supreme Court;
- one resident of the State of Vermont for five years immediately preceding the appointment, appointed by the Governor from each political party that has had more than three members serve as members of the General Assembly, who are not all from the same county, for at least three of the five biennial legislative sessions since the taking of the previous decennial census of the United States;
- and one resident of the State of Vermont for the five years immediately preceding the appointment, elected by the State committee of each of those political parties, a quorum of each committee being present and voting.

No member of the Board shall serve as a member or employee of the General Assembly, or of either house thereof. The special master so designated shall be Chair of the Board, and shall call such meetings as may be necessary for the accomplishment of the duties of the Board hereafter set forth. The Secretary of State of Vermont shall be secretary of the Board, but shall have no vote. For the purpose of determining representation of a political party under this section, if a candidate for election to the General Assembly accepted a nomination from more than one political party, that candidate's party affiliation shall be only that political party to which he or she filed a petition for nomination.

(b) Members of the Board shall first be selected on or before July 1, 1990, and thereafter members shall be selected decennially before July 1 and shall serve until their successors are selected. The appointing or electing authority shall fill vacancies.

(c) For administrative purposes, **the Board shall be part of the office of the Secretary of State**, and funds for the Board's operation shall be appropriated for the Secretary of State, provided, however, that expenditures of such appropriation shall be directed by the Board.

(d) Members of the Board not receiving a salary from the State shall receive per diem compensation and expenses as provided in 32 V.S.A. § 1010.

(e) The **Board may employ or contract for such expert assistants or services**, or both, as may be necessary to carry out its duties.



# Vermont's Statutory Requirements (T.17, ch. 34A)

## **§ 1905. House apportionment- Tentative proposal**

**On or before July 1** of the year following each decennial census under the authority of Congress, **the Board shall prepare a tentative proposal for the reapportionment of the House of Representatives.** Whenever, in the tentative proposal, it appears that one town or city should be divided into two or more initial districts, or that part of one town or city should be combined with part or all of another town or city to form an initial district, the Board shall immediately notify the board of civil authority of each town and city thus affected. **The boards of civil authority may, on or before August 1,** recommend to the Legislative Apportionment Board the manner in which initial district lines within those towns and cities should be drawn, **always having regard for the standards of apportionment set forth in section 1903 of this title.** Upon request of any board of civil authority, the Legislative Apportionment Board shall designate one of its members, or a person designated in section 1908 of this title, to call and preside without vote over a joint meeting of two or more boards of civil authority for the purpose of making joint recommendations.

# Vermont's Statutory Requirements (T.17, ch. 34A)

## **§ 1906. Initial districts; final proposal; final plan**

Upon receiving recommendations made under section 1905 of this title, the **Board shall consider the same, and shall, not later than August 15**, prepare a final proposal for dividing the State into initial districts for the election of 150 Representatives. The Chair of the Board shall, on or before August 15, transmit such proposal to the Clerk of the House, and the proposal shall then be referred to the appropriate committee. **The General Assembly shall then accept the proposal and enact it into law or substitute another plan for reapportionment; provided, however, that**

**(1) the plan for initial districts finally approved shall be in conformity with the provisions of this chapter; and**

**(2) be duly enacted during the said biennial legislative session.**

# Vermont's Statutory Requirements (T.17, ch. 34A)

## § 1906a. Final division into representative districts

- (a) Each initial district listed in section 1893 of this title that is entitled to one Representative shall constitute a Representative district and may elect one Representative at elections for Representatives until the next reapportionment.
- (b) Each initial district listed in section 1893 of this title that is entitled to elect two Representatives shall constitute a representative district and may elect two Representatives at elections for Representatives until the next reapportionment, **unless such district is divided into two single-member representative districts as provided in section 1906b of this title**, in which case the resulting single-member representative districts shall each be entitled to elect one Representative at elections for Representatives until the next reapportionment.
- (c) Each initial district listed in section 1893 of this title **that is entitled to elect three or more Representatives shall be further divided into single- or two-member representative districts or a combination of single- and two-member representative districts, as provided in section 1906c of this title**, each of which shall be entitled to elect the appropriate number of Representatives at elections for Representatives until the next reapportionment.
- (d) A copy of the final plan for initial districts, and approved plans for dividing multi-member districts into representative districts, shall be filed with the Secretary of State and shall be available for public inspection. In addition, a copy of the plan for dividing a multi-member initial district into representative districts shall be filed with the town clerk of each town in the district so divided.

## § 1906b. Division of two-member representative districts

- (a) **An initial district entitled to two Representatives under section 1893 of this title may be divided into single-member representative districts as provided in this section.**
- (b) As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, **the boards of civil authority of the town or towns that constitute 25 percent or more of the population of the initial district may call a meeting** of the boards of civil authority of the town or towns of the initial district **for the purpose of preparing a proposal for division of the district.** Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects.
- (c) **In making a proposal under this section, the boards of civil authority shall consider:**
- (1) preservation of existing political subdivision lines;**
  - (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;**
  - (3) use of compact and contiguous territory;**
  - (4) incumbencies.**
- (d) In no initial district divided under this section shall the percentage of deviation result in a representative district that extends the limits of the overall range of the percentage of deviation in the initial district plan for reapportionment enacted by the General Assembly under section 1906 of this title.
- (e) **On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district proposing division under this section shall present a proposal for division to the Clerk of the House, and the proposal shall be referred to the appropriate committee.** If the boards of civil authority desire to divide the initial district but are unable to obtain a majority vote on a proposed division, they may notify the Clerk of the House on or before April 1 of their failure to agree on a proposal and request that the General Assembly divide the initial district, and the General Assembly may divide the initial district into single-member representative districts.
- (f) Representative districts proposed under this section shall become effective when approved by the General Assembly before adjournment sine die. **The General Assembly shall approve representative districts proposed by the boards of civil authority if they are consistent with the standards set forth in this section.**

## § 1906c. Division of districts having three or more Representatives

(a) An initial district entitled to three or more Representatives under section 1893 of this title shall be divided into single- and two-member representative districts as provided in this section.

(b) **As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, the boards of civil authority of the town or towns** within an initial district having three or more **Representatives shall meet and prepare a proposal for division of the district.** Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects.

(c) In making a proposal under this section, the boards of civil authority shall consider:

**(1) preservation of existing political subdivision lines;**

**(2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;**

**(3) use of compact and contiguous territory;**

**(4) incumbencies.**

(d) In no initial district divided under this section shall the percentage of deviation result in a representative district that extends the limits of the overall range of the percentage of deviation in the initial district plan for reapportionment enacted by the General Assembly under section 1906 of this title.

(e) **On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district subject to this section shall present a proposal for division to the Clerk of the House,** and the proposal shall be referred to the appropriate committee. If the boards of civil authority are unable to obtain a majority vote on a proposed division, they shall notify the Clerk of the House, on or before April 1, of their failure to agree on a proposal, and the General Assembly shall divide the initial district into representative districts.

(f) Representative districts proposed under this section shall become effective when approved by the General Assembly before adjournment sine die. **The General Assembly shall approve representative districts proposed by the boards of civil authority if they are consistent with the standards set forth in this section.**

# Vermont's Statutory Requirements (T.17, ch. 34A)

## **§ 1907. Senate apportionment**

(a)(1) **On or before July 1** of each year following the taking of a decennial census under the authority of Congress, the **Board shall prepare a proposal for reapportionment of the Senate**, apportioning the 30 senatorial seats among the counties or combinations of counties with a maximum of three members in each proposed district, and **in such manner as to achieve substantial equality in the choice of members as guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.**

(2) The Chair of the Board shall transmit such proposal to the Secretary of the Senate and it shall be referred to the appropriate committee.

(b) **The General Assembly shall then accept the proposal and enact it into law or enact into law a substitute plan for reapportionment** of the Senate that limits each senatorial district to a maximum of three members.

# Vermont's Statutory Requirements (T.17, ch. 34A)

## **§ 1908. Powers of Board**

The Legislative Apportionment Board shall have the following powers:

- (1) To call for, and receive, the assistance of any State, county, or municipal official or employee in obtaining information** regarding the population in any county, town, city, village, ward, precinct, or water, fire, or school district;
- (2) To hold public hearings** in any town or city for the purpose of obtaining information relevant to reapportionment of the General Assembly;
- (3) To delegate**, under regulations adopted by it, any of the foregoing powers to one or more of its members, or to investigators or hearing examiners in its employ.

# Vermont's Statutory Requirements (T.17, ch. 34A)

## § 1909. Review

- (a) Within 30 days of the effective date of **any apportionment bill enacted pursuant to section 1906b, 1906c, or 1907** of this chapter, any five or more voters of the State aggrieved by the plan or **act may petition the Supreme Court of Vermont** for review of same.
- (b) The **sole grounds of review** to be considered by the Supreme Court shall be that the apportionment plan, or any part of it, **is unconstitutional or violates section 1903 of this chapter**.
- (c) The Supreme Court may consolidate two or more appeals, as the interests of justice may require, with due regard for expediting decision in all appeals.
- (d) The Supreme Court may designate one or more Justices, one or more Superior judges, or one or more masters, to take testimony and make findings of fact in any appeal or consolidated appeals under this section.
- (e) **In the event the Supreme Court allows any appeal upon one or both grounds set forth in subsection (b) of this section, it shall forward its opinion and decision to the General Assembly, which shall forthwith revise and correct the apportionment law in light of the Supreme Court's decision, to conform to the requirements of law.** The Supreme Court shall retain jurisdiction until the General Assembly has produced a plan conforming to all constitutional and statutory requirements, which plan shall thereupon become law.
- (f) The review provided in this section shall be the original and exclusive review of legislative apportionment in the courts of this State.