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I hereby certify that this brief complies with all requirements of C.A.R. 28, C.A.R. 32, and C.A.R. 57, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with 28(g) because it contains 8,915 words (no more than 9,500 words).

The brief complies with C.A.R. 28(k) because for the party raising the issue, the brief contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record, not to an entire document, where the issue was raised and rule on.

I acknowledge that my brief may be stricken if it fails to comply with the requirements of C.A.R. 28, C.A.R. 32, and C.A.R. 57.

s/ Kendra N. Beckwith

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## Statement of Issues

Colorado law imposes mandatory procedures for redistricting county commissioner districts in counties electing any of their commissioners by district.

§§ 30-10-306.1–306.4, C.R.S. (2024) (Redistricting Statutes). These statutes secure robust public participation and empower Colorado voters to elect commissioners who reflect the local community and will be responsive and accountable to their constituents. These statutes also ensure these counties are held to the same high standards Colorado voters have required for redistricting congressional and legislative districts.

It is **undisputed** the Board of the Weld County Commissioners (Board) refuses to comply with the Redistricting Statutes. The Board’s refusal is staunch and its deviations extensive. As examples, instead of designating a commission to publicly complete the redistricting process, the Board did so on its own. Instead of proposing three maps for public input, the Board proposed only one. And instead of ensuring its proposed map complied with mandatory statutory criteria—including preserving communities of interest and maximizing politically competitive districts—the Board considered only whether the districts were as nearly equal in population as possible. The Board’s unveiled and intentional usurpation of power

from Weld County citizens for itself is unprecedented. Its status as a home rule county is no excuse.

Plaintiffs—two Weld County citizens and two Weld County nonprofits interested in local government and fair elections (Voters)—sued the Board to compel compliance with the Redistricting Statutes. The district court declared the statutes binding on the Board, found it violated them, and ordered the Board to complete a compliant redistricting process. Instead of doing so, the Board appealed—and informed Voters it would not even consider compliance until 2033.

Against this backdrop, this Court granted certiorari on these issues:

- I. Whether the trial court erred in concluding that [§ section 30-10-306, et seq.](#), C.R.S. (2023), implies a private right of action.<sup>1</sup>
- II. Whether the trial court erred in concluding that Voters had standing to sue the Board based on nothing more than generalized grievance constituting pure procedural irregularities.
- III. Whether the trial court erred in concluding as a matter of law that section 30-10-306, et seq., applies to a home rule county with a conflicting charter.

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<sup>1</sup> Here, Voters do not include [§ section 30-10-306, C.R.S.](#), as part their definition of Redistricting Statutes. Voters’ definition of Redistricting Statutes includes solely [§ section 30-10-306.1 through section 30-10-306.4](#). The disparity appears to be the result of Voters’ quoting of the Board’s notice of appeal in their C.A.R. 50 petition.



- IV. Whether the trial court erred in determining there is no conflict between the provisions of [section 30-10-306, et seq.](#), and the Weld County home rule charter.
- V. Whether the Board must be directed to engage in a county commissioner redistricting process that complies with the redistricting statutes for future elections.

This Court should affirm the district court's conclusion that the Redistricting Statutes bind the Board and remand with directions that the Board immediately undertake a compliant redistricting process.

### **Factual Background**

The genesis of this lawsuit is the Board's willful decision to ignore the Redistricting Statutes. The story, however, begins much earlier with Colorado's intentional efforts to end political gerrymandering and unfair voting practices.

**A. Colorado voters amended the Colorado Constitution to create independent redistricting commissions that provide an inclusive and meaningful process.**

To protect the integrity of elections, Colorado has sought to end the practice of political gerrymandering. In 2018, voters passed—by seventy-one percent—Amendments Y and \ to the Colorado Constitution, which created independent redistricting commissions to draw congressional and legislative election districts.

**U**Colo. Const. art. V, §§ 44–44.6, 46–48.4. The amendments created an “inclusive and meaningful” redistricting process that gives the public “the ability to be heard

as redistricting maps are drawn, to be able to watch the witnesses who deliver testimony and the redistricting commission’s deliberations, and to have their written comments considered before any proposed map is voted upon by the commission as the final map.” *Id.* art. V, §§ 44(1), 46(1).

**B. The General Assembly enacted UHouse Bill 21-1047 to end the practice of political gerrymandering in county commissioner redistricting.**

County commissioner districts were the only partisan offices not included in Amendments Y and \—until 2021. At that time, UHouse Bill 21-1047 was passed, signed into law, and codified at § sections 30-10-306.1 to -306.4 to fill the gap Amendments Y and \ left open. The Redistricting Statutes apply the “inclusive and meaningful” redistricting process from Amendments Y and \ to counties that have “any number of their county commissioners not elected by the voters of the whole county.” § 30-10-306.1(1)(a). The reason was clear: “it is of statewide interest that voters in every Colorado county are empowered to elect commissioners who will reflect the communities within the county and who will be responsive and accountable to them.” UH.B. 21-1047, U73d Gen. Assemb., 1st Reg. Sess., § 1(1)(i) (Apr. 19, 2021) (attached in Appendix (App.) 1). The General Assembly intended for “robust public participation” in that process. *Id.*

Under these statutes:

- A board must “designate a county commissioner district redistricting commission and [is] encouraged to convene an independent county commissioner district redistricting commission[.]”<sup>2</sup> § 30-10-306.1(1).
- A board “may not revise or alter county commissioner districts” beyond de minimis revisions except in accordance with a final redistricting plan adopted by the redistricting commission. § 30-10-306.1(3).
- The redistricting plan must (a) make “a good-faith effort to achieve mathematical population equality between districts”; (b) comply with the federal Voting Rights Act of 1965; and (c) “[a]s much as is reasonably possible” preserve whole communities of interest and whole political subdivisions, such as cities and towns. § 30-10-306.3(1)-(3)(a).
- The districts shall be as compact as reasonably possible and “maximize the number of politically competitive districts.” § 30-10-306.3(2)(b), (3)(a).
- In developing the plan, the commission must
  - hold at least three public hearings before approving a redistricting plan, each in a different third of the county, § 30-10-306.2(3)(b);

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<sup>2</sup> In appointing commission members, boards must consider appointing persons who “accurately reflect” the political affiliations of the county’s residents (including unaffiliated residents) and the county’s “racial, ethnic, gender, and geographic diversity[.]” § 30-10-306.1(2)(a)-(b). Consideration should also be given to “[a]void conflicts of interest based on partisan alignments.” § 30-10-

306.1(2)(c).

- broadly promote throughout the county the public hearings about proposed redistricting plans, *id.*;
  - establish a method of electronically participating in hearings about redistricting, § 30-10-306.2(3)(b);
  - broadcast the hearings and maintain an archive of the hearings for online public review, [C§ 30-10-306.2\(3\)\(c\)](#);
  - maintain a website where the public can submit comments or proposed plans and written comments can be published, § 30-10-306.2(3)(d);
  - solicit, consider, and publish on the website public input on at least three proposed maps and on communities of interest that require representation in one or more specific areas of the county, [C§§ 30-10-306.2\(3\)\(a\), \(d\)](#); 30-10-306.4(1)(d); and
  - explain at public hearings how the plan was created, how it addressed public comments, and how it complied with the statutory criteria for redistricting, § 30-10-306.4(1)(e).
- A final plan cannot be approved until at least seventy-two hours after it was proposed in a public meeting. [C§ 30-10-306.2\(2\)](#). The board shall establish deadlines to ensure the plan is completed by September 30 of the redistricting year. [C§ 30-10-306.4\(1\), \(2\)](#).

**C. The Board willfully and purposefully chose not to comply with the Redistricting Statutes.**

Weld County is a Colorado county organized under a home rule charter effective January 1, 1976 (Charter). CF, pp 350–94, 755. Its Board consists of five members—two elected by the entire county, and three elected by the voters within each of the County’s three commissioner districts. CF, p 755.

In January 2023, after receiving the results of the most recent census, the Board published notice of a January 23 hearing at the Weld County Administration office to “consider a plan to modify the boundary lines of Commissioner Districts in Weld County Colorado” and to “receive input from the public regarding the plan.” CF, p 756. The notice stated the proposed map could be examined in the office of the Clerk to the Board and listed a physical address and email address to allow the public to submit written comments. CF, pp 395, 756. The notice did not provide a way to attend or access the hearing electronically. CF, pp 395, 756. The Board met on January 23 and approved hearing minutes regarding redistricting.<sup>3</sup> CF, pp 397, 756.

On January 29, the Board noticed a second public hearing for March 1. CF, pp 402, 756. This notice stated the Board would consider a resolution to adopt its proposed map and would consider public comments. CF, pp 402, 756. The notice stated where the proposed map could be examined and listed a physical address and an email address to allow the public to submit written comments. CF, pp 402, 756. It did not provide the hearing location. Although the Board’s meetings are

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<sup>3</sup> Based on Weld County’s recording of this meeting, Voters alleged these proceedings were conducted to an empty room. *See* CF, p 76 (showing still images taken from meeting recording).

livestreamed for remote observation, the notice did not include information about how to connect to the livestream. CF, pp 402, 756.

The Clerk of the Board received over fifty comments related to the proposed map before the March 1 hearing, the majority of which either opposed the plan or objected to the Board's process in developing it. CF, pp 215, 245, 756. The hearing went forward at the Weld County Administration office and around thirty people attended. Plaintiff and Weld County voter Stacy Suniga (who is also Coalition president) and four other Greeley residents expressed their concerns with the proposed map. Suniga and Plaintiff and Weld County voter Barbara Whinery (who is also a League member) asked the Board to follow the Redistricting Statutes. CF, pp 238, 756–57.

The approved hearing minutes note “Bruce Barker, County Attorney, stated **UHB 21-1047** does not require Home Rule Charter counties to comply with its provisions,” and “the Board must comply with the procedures of the Charter as it currently stands.”<sup>4</sup> CF, pp 408, 757. The hearing minutes contain no statements

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<sup>4</sup> The Charter provides “[t]he Board shall review the boundaries of the districts when necessary, but not more often than every two years, and then revise and alter the boundaries so that districts are as nearly equal in population as possible.” CF, p 149 (§ 3-2(2)).

explaining how the proposed map complies with the Redistricting Statutes' criteria. CF, p 757. During the hearing, a Board member stated the boundary lines were "based on population only." CF, p 409.

After consideration of the evidence in the record and public comments, all five Commissioners stated their reasons for supporting the redistricting map. The Board then formally approved the map by resolution, with one Commissioner abstaining (Map). The redistricting map never changed from January 23 to its adoption Map. CF, p 757.

**D. Weld County citizens were denied the inclusive and meaningful redistricting process to which they are entitled.**

It is undisputed the Board did not create a county commissioner redistricting commission, much less an independent one, and willfully ignored the Redistricting Statutes' criteria for conducting the process. The Board's decision indisputably affects all Weld County residents. *See* § 30-10-306.2(3)(a),(b) (allowing "[a]ll county residents" to participate in the redistricting process and requiring the commission to "provide meaningful and substantial opportunities for county residents to present testimony"). Because no commission was created, no consideration was given to whether the decisionmakers conducting the redistricting accurately reflected Weld County's residents' political affiliations or racial, ethnic, gender, or



geographic diversity. Nor was any consideration given to forming a commission that avoided conflicts of interest based on partisan alignments. Instead—in direct contravention of the Redistricting Statutes—the Board itself drew the Map. *See* § 30-10-306.1(3).

### **Procedural Background**

Voters are Weld County residents and voters Ms. Whinery and Ms. Suniga and Weld County-based nonprofit organizations League of Women Voters of Greeley, Weld County, Inc. (League) and Latino Coalition of Weld County (Coalition), which are “interested in local government and ensuring fair elections.” CF, p 755. Voters sued the Board and each of the five individual Commissioners (collectively Defendants). CF, p 75. Voters asserted three claims: (1) declaratory relief that the Redistricting Statutes applied to Weld County and had been violated; (2) declaratory relief that Weld County violated Voters’ procedural due process rights; and (3) permanent injunctive relief enjoining use of the Map. CF, pp 88–92. Voters asked the court to order Defendants to complete a new redistricting process in compliance with the statutory requirements. CF, p 92.

Defendants moved to dismiss, principally arguing Weld County’s status as a home rule county superseded the General Assembly’s plenary authority over

elections. CF, pp 120–46. With that motion pending, Voters moved for summary judgment as to all three claims. CF, pp 210–37.

The district court partially granted and denied each motion (Order). CF, pp 753–78. The district court dismissed the individual Commissioners and the due process claim. CF, pp 775–77. The district court granted judgment in Voters’ favor as to their first and third claims, (1) declaring the Redistricting Statutes “apply to, and are binding upon” Weld County; (2) enjoining use of the Map “in any election”; and (3) ordering the Board to “begin a redistricting process in compliance with” the Redistricting Statutes “if possible” (and if not, requiring use of a map in effect before March 1). CF, p 778.

The Board moved to reconsider, which the district court promptly rejected. CF, pp 779–94, 836. In response to Voters’ efforts to meet and confer following the orders, the Board refused to begin a statutorily compliant redistricting process, asserting it has no obligation to do so until after the next federal census in 2033.<sup>5</sup> 6.7.2024 Pet., App. at 737–38 (filing ID AED77DF37298F at PDF page 46–47).

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<sup>5</sup> [!\[\]\(779fbe5e41ccebdb89e1c2329a9d104f\_img.jpg\) \*People v. Linares-Guzman\*, 195 P.3d 1130, 1135–36 \(Colo. App. 2008\)](#) (holding court may take judicial notice of its own records).

Voters petitioned for certiorari under C.A.R. 50. *See* 6.7.2024 Pet. for Cert. This Court granted the Petition, taking four of the Board's issues along with Voters' issue and designating Voters as Petitioners and the Board as Respondent. 7.1.2024 Or.

### **Summary of the Argument**

The Order's analysis should be affirmed, but the Order remanded with directions that the district court direct the Board to immediately undertake a compliant redistricting process.

First, the Redistricting Statutes imply a private right of action to Voters to enforce compliance. Voters are within the class of persons the Redistricting Statutes are intended to benefit: residents of Weld County. Absent Voters' ability to enforce these statutes against the Board, there would be no way to redress and prevent the Board's behavior. And implying a civil remedy to Voters here furthers the General Assembly's dual purpose of ensuring redistricting processes in Colorado are inclusive and meaningful and ending political gerrymandering.

Second, Voters have standing to pursue their declaratory and injunctive relief claims. Ms. Whinery and Ms. Suniga have suffered an injury in fact: the loss of their statutory right to participate in a robust redistricting process with meaningful

and substantial public participation as the Redistricting Statutes. This injury is to a legally protected interest: a private right of action to pursue enforcement of these statutes. The League and Coalition have associational standing because they have members with individual standing, the interests at issue here are germane to these organization's respective purposes, and individual participation is unnecessary.

Third, the Redistricting Statutes bind Weld County. Home rule counties, like Weld, are required to follow all statutes imposing mandatory responsibilities and functions on all counties. The county commissioner redistricting process required under the Redistricting Statues is a mandatory county responsibility and function for **any** county electing any number of commissioners by district. Indeed, in enacting these statutes, the General Assembly specifically intended them to bind Weld County.




Fourth, because home rule counties are not exempt from statutes imposing mandatory responsibilities and functions on all counties, whether there is a conflict between Weld County's Charter and the Redistricting Statutes is immaterial. And in any event, there can be no conflict as the Charter directs the Board to perform all the duties mandated in statutes like these.

Remand, however, is still required. The district court erred in not awarding Voters the full relief to which they are entitled. Allowing the Board to redistrict only if it decides it would be “possible” means the promise to Weld County residents of a meaningful and inclusive redistricting process with robust public participation will go unfulfilled for nearly a decade.

### Argument

#### I. The Redistricting Statutes imply a private right of action to Voters to ensure the Board complies with the Redistricting Statutes.

##### A. Standard of review and preservation.

This Court reviews a district court’s grant of summary judgment de novo.  *Pierson v. Black Canyon Aggregates, Inc.*, 48 P.3d 1215, 1218 (Colo. 2002). Statutory interpretation is a question of law reviewed de novo.  *Kulmann v. Salazar*, 521 P.3d 649, 653 (Colo. 2022). Whether a statutory scheme implies a private right of action is a legal question reviewed de novo. *Accord Gerrity Oil & Gas Corp. v.  Magness*, 946 P.2d 913, 923 (Colo. 1997) (holding “critical question” in determining existence of implied private right of action is “whether legislature intended such a result” and interpreting statute).

This issue was raised and ruled on below. CF, pp 131, 433–34, 514–15, 763–67.

**B. Voters satisfy the three factors necessary to imply a private right of action.**

Where, as here, a statutory scheme does not provide an explicit private right of action, private civil actions are not necessarily foreclosed. A “particular plaintiff” may still have “available a private cause of action” implied in the scheme’s legislative intent. [¶Magness, 946 P.2d at 923](#). In determining whether a private remedy is implied, this Court considers three factors: (1) whether the plaintiff is “within the class of persons intended to benefit from the statutory enactment”; (2) whether the General Assembly “intended to create, albeit implicitly, a private right of action”; and (3) whether an implied civil remedy is consistent with the “purposes of the legislative scheme.” [¶Allstate Ins. Co. v. Parfrey, 830 P.2d 905, 911 \(Colo. 1992\)](#); [¶Magness, 946 P.2d at 923](#) (holding “*Parfrey* sets forth the appropriate test”). The second factor is the “critical question.” [¶Magness, 946 P.2d at 923](#). The district court correctly concluded each factor is satisfied here.

**1. Voters are within the class of persons the Redistricting Statutes are intended to benefit.**

Plaintiffs Ms. Suniga and Ms. Whinery are registered voters, citizens of Colorado, and residents of Weld County. CF, pp 238, 417. The League and Coalition, by nature of their membership, are as well. CF, pp 238, 417. The

Redistricting Statutes are intended to give county residents a meaningful opportunity for robust participation in the redistricting process and empower voters to elect commissioners who reflect the communities within the court and will be responsive and accountable. *See* § 30-10-306.2(3)(a),(b); *see also* **UHB 21-1047**, § 1(1)(a),(i),(2) (App. 1) (stating “districts must be drawn such that the people have an opportunity to elect representatives who are reflective of and responsive and accountable to their constituents” and the process should encourage “robust public participation”). Voters are therefore expressly within the class of persons intended to benefit from the Redistricting Statutes.

**2. The General Assembly intended to create a private right of action to enforce the Redistricting Statutes.**

An implied private right of action exists when allowing one would “furnish[] an effective incentive” to comply with the statute, and, absent one, the General Assembly’s goals “would be substantially frustrated” because there would be no other means of enforcement. [Parfrey, 830 P.2d at 911](#) (holding that to require UM/UIM coverage be included in every policy, but then “foreclose the insured’s right to relief for failure to provide this coverage, would, in all practicality, circumvent this statutorily imposed duty”).

By contrast, there is no implied private right of action where a statute provides a means for enforcement. *See, e.g.*, [§ Magness, 946 P.2d at 925](#) (holding no private right of action existed where statute reserved right to bring “any cause of action for damages”); [§ Parfrey, 830 P.2d at 910](#) (acknowledging that when the legislature provides for administrative enforcement remedies, it demonstrates “legislative intent to preclude a private civil remedy for breach of the statutory duty”); [§ Bd. of Cnty. Comm’rs of Cnty. of La Plata v. Moreland, 764 P.2d 812, 818 \(Colo. 1988\)](#) (holding no private right of action to enforce building code exists because code provided penalties for violations).

The Redistricting Statutes are silent as to any enforcement mechanism. As in [§ Parfrey](#), an inability to enforce the right to a robust and meaningful redistricting process would substantially frustrate the ability to exercise the right at all. A private right of action is necessary for enforcement. Absent a private right of action, Voters have no enforcement mechanism to prevent and redress calcitrant behavior like the Board’s here.



**3. An implied civil remedy is consistent with the General Assembly’s intent to create an inclusive and meaningful redistricting process.**

For similar reasons, implying a private right of action is necessary to further the General Assembly’s legislative scheme. To conclude otherwise would mean the General Assembly provided a right to “robust public participation” but offered Weld County residents no way to enforce it. See [¶Parfrey, 830 P.2d at 911](#) (holding availability of civil remedy “not only furnishes an effective incentive” but “furthers statutory goal”). Voters’ right to a fair redistricting process would, as practical matter, be foreclosed. See [¶id.](#) (implying right of action where because otherwise “in all practicality” statutory duty could be circumvented).

An interpretation of the Redistricting Statutes that allows Voters’ rights to be thwarted in this fashion must be avoided. See [C§ 2-4-201\(1\)\(d\)–\(e\), C.R.S. \(2024\)](#) (presuming that, in enacting a statute, a “result feasible of execution is intended” and “[p]ublic interest is favored over any private interest”); § 2-4-212 (2024), C.R.S. (requiring liberal construction).

**II. Voters have standing to sue the Board.**

**A. Standard of review and preservation.**

The district court’s grant of summary judgment is reviewed de novo. *Pierson*, [¶48 P.3d at 1218](#). Standing is a question of law reviewed de novo. *Colo. Union of*

[HTaxpayers Found. v. City of Aspen](#), 418 P.3d 506, 510 (Colo. 2018); *see also* [HState v. Hill](#), 530 P.3d 632, 634 (Colo. 2023) (reviewing lower court’s standing determination de novo).

This issue was raised and ruled on below. CF, pp 132, 433–34, 513–14, 763–67, 785–88, 836.

**B. Ms. Whinery and Ms. Suniga have an injury-in-fact to a legally protected interest sufficient to demonstrate standing.**

Standing is a threshold issue that must be satisfied to decide a case on the merits. [HealthONE v. Rodriguez ex rel. Rodriguez](#), 50 P.3d 879, 892 (Colo. 2002).

“Colorado has a tradition of conferring standing to a wide class of plaintiffs.” [Ainscough v. Owens](#), 90 P.3d 851, 853 (Colo. 2004).<sup>6</sup> “In Colorado, parties to lawsuits benefit from a relatively broad definition of standing.” [Id. at 855](#). This allows Colorado’s district courts to decide not only “traditional legal controversies” but “general complaints challenging the legality of government activities and other cases involving intangible harm.” [Id. at 853](#).

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<sup>6</sup> Colorado’s standing doctrine has a different constitutional basis from and is not coextensive with the federal standing doctrine. [Maurer v. Young Life](#), 779 P.2d 1317, 1324 n.10 (Colo. 1989); *see also* [HGreenwood Vill.](#), 3 P.3d at 437 n.8; [Wimberly v. Ettenberg](#), 194 Colo. 163, 167, 570 P.2d 535, 538 (1977) (holding state courts are not subject to [Article III of United States Constitution](#)).

A plaintiff must satisfy a two-prong test to establish standing: first, the plaintiff “must have suffered an injury-in-fact” and second, this injury must be to “a legally protected interest.” [Ainscough, 90 P.3d at 855](#). This test in Colorado “has traditionally been relatively easy to satisfy.” [Id. at 856](#). The district court correctly determined Ms. Whinery and Ms. Suniga have standing to enforce the Redistricting Statutes.

**1. Ms. Whinery and Ms. Suniga demonstrated an injury in fact under Colorado law.**

The first prong requires “concrete adverseness which sharpens the presentation of issues that parties argue to the courts.” [Ainscough, 90 P.3d at 856](#) (quoting [H](#)*City of Greenwood Vill. v. Pet’rs for Proposed City of Centennial*, 3 P.3d 427, 437 (Colo. 2000)). Intangible injuries, including “the deprivation of civil liberties” are sufficient. [Id.](#) “Deprivations of many legally created rights, although themselves intangible, are nevertheless injuries-in-fact.” [Id.](#) These include deprivations that “may exist solely by virtue of ‘statutes creating legal rights the invasion of which creates standing.’” [Cloverleaf Kennel Club, Inc. v. Colo. Racing Comm’n](#), 620 P.2d 1051, 1058 (Colo. 1980) (quoting [M](#)*Warth v. Seldin*, [442 U.S. 490, 501 \(1975\)](#)); *see also* [Concerning Application for Water Rights of Turkey Cañon Ranch Ltd. Liab. Co.](#), 937 P.2d 739, 747 (Colo. 1997) (concluding violation of statute

for proposed augmentation plan provided standing where statutory criteria were satisfied); accord [CFriends of Chamber Music v. City & Cnty. of Denver](#), 696 P.2d 309, 315 (Colo. 1985) (holding “a court first should look at the language of the statute in determining who has standing to challenge it”). Colorado law recognizes “parties actually protected by a statute . . . are generally best situated to vindicate their own rights.” [HGreenwood Vill.](#), 3 P.3d at 437.

Here, Ms. Whinery and Ms. Suniga have suffered an injury in fact. As the district court found, they allege “an actual, intangible injury based on the deprivation of civil liberties”—the actual loss of the statutory right to participate in a robust redistricting process under the Redistricting Statutes. CF, p 765. The Redistricting Statutes were designed to “ensure representation for the various communities of interest and to maximize the number of competitive districts,” and to result in “fair criteria for drawing of districts.” [UHB 21-1047](#), § 1(1)(b),(2) (App. 1). It gives Voters the right to “robust public participation” in the commissioner redistricting process, [UHB 21-1047](#), § 1(2) (App. 1), and promises “meaningful and substantial opportunities for county residents to present testimony, § 30-10-306.2(3)(b). These include, among others, the right to have three maps developed based on public input and considered by a designated redistricting commission

during at least three public hearings. §§ 30-10-306.1(1); 30-10-306.4(1)(d); 30-10-306.2(3)(b).

The Board deprived Ms. Whinery and Ms. Suniga of these rights by disregarding the statutorily mandated redistricting process and refusing to follow the law. The Board's deprivation of these statutory rights establishes a concrete injury supporting standing.

Any characterization of Ms. Suniga's and Ms. Whinery's claims as a "generalized grievance constituting pure procedural irregularities" therefore finds no support in the record.<sup>7</sup> The grievance is specific: the Board willfully disregarded the Redistricting Statutes' mandatory procedures, depriving these Voters of the robust participation to which they were entitled in the county commissioner redistricting process.

Ms. Whinery and Ms. Suniga therefore have standing. [Hill, 530 P.3d at 634](#) (holding a party seeking a declaratory judgment "must raise a claim that is based on an existing controversy, not speculation that a problem may arise in the future").

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<sup>7</sup> This language was quoted directly from the Board's notice of appeal in Voters' Petition for Certiorari. The district court rejected this characterization. CF, p 765.

**2. Ms. Whinery and Ms. Suniga have a legally protected interest in a compliant county commissioner redistricting process.**

The second prong requires the plaintiff have a legal interest protecting against the alleged injury. [Ainscough, 90 P.3d at 856](#). This requires a party assert “a legal basis on which a claim for relief can be grounded.” [Hill, 530 P.3d at 635](#). This can include a claim for relief under a statute. [Ainscough, 90 P.3d at 856](#). This requirement applies with “full force” to declaratory judgment claims—with “some additional nuance.” [Hill, 530 P.3d at 634](#). A party seeking a declaratory judgment “must raise a claim that is based on an existing controversy, not speculation that a problem may arise in the future.” [Id. at 634–35](#).

Here, it is undisputed the Board willfully refused to comply with the Redistricting Statutes. CF, p 757. For the reasons articulated in section I, above, the Redistricting Statutes provide Ms. Whinery and Ms. Suniga a private right of action to enforce them. Ms. Whinery’s and Ms. Suniga’s injuries in fact are therefore to a legally protected interest: their right to robust public participation in the commissioner redistricting process.

**C. The League and Coalition have associational standing.**

The League and Coalition have associational standing. Associational standing requires only that (1) an organization’s members would “otherwise have standing to sue in their own right;” (2) the interests at issue are “germane to the organization’s purpose;” and (3) the lawsuit does not require individual members’ participation. [H](#)*City of Aspen*, 418 P.3d at 510; see also [H](#)*Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 342–43 (1977) (concluding associational standing exists even “in the absence of injury” to the association where three-factor test is satisfied). So long as some members have standing to sue, the first factor is met. [H](#)*Id.* (holding that because two members could sue, first factor was satisfied).

Ms. Whinery’s and Ms. Suniga’s memberships in the Coalition and League, respectively, and standing to bring this lawsuit individually readily establish this first factor. See CF, pp 238, 417, 755, 767. The League and Coalition were formed to protect and encourage active participation in government and voting rights, CF, pp 238, 417, 755, confirming they have a “stake in the resolution of the dispute” that satisfies the second factor. [H](#)*City of Aspen*, 418 P.3d at 511; see also CF, p 238 (“The league is a nonpartisian political organization that encourages informed and active participation in government through education and advocacy.”), p 417 (“The

Coalition is a grassroots nonprofit organization that works to foster leadership, representation, and participation by the Latino community in civil life, including local government.”).

Finally, because the relief in this case is declaratory, individual participation is unnecessary, satisfying the third factor. [HCity of Aspen, 418 P.3d at 511](#); *see also* [HStancyk v. Poudre Sch. Dist. R-1, 490 P.3d 582, 592 \(Colo. App. 2020\)](#) (concluding third factor was satisfied as to declaratory judgment claim because compliance with statute would “impact all Association members” in plaintiff’s position, not plaintiff alone).

### **III. The Redistricting Statutes bind home rule counties, including Weld County.**

#### **A. Standard of review and preservation.**

The district court’s grant of summary judgment is reviewed de novo. [Pierson, 48 P.3d at 1218](#). Constitutional and statutory interpretation present questions of law this Court reviews de novo. [HKulmann, 521 P.3d at 653](#).

This issue was raised and ruled on below. CF, pp 218–20, 768–71.

#### **B. The Redistricting Statutes apply to all counties electing any commissioners by district, including home rule counties.**

The central dispute between the Board and Voters is whether Weld County’s home rule status excuses it from compliance with the Redistricting Statutes. CF, p



768. Throughout the underlying redistricting process and this lawsuit, the Board's position has been constant: it believes applying these statutes to Weld County will "eviscerate the Charter and, via judicial fiat, subjugate every detail of county home rule in Colorado to the whims of the General Assembly." CF, p 502; *see also* CF, p 507 (claiming application of Redistricting Statutes would result in "judicial neutering of Article XIV, Section 16"); CF, p 757 (finding it undisputed the Weld County attorney advised the Redistricting Statutes do "not require Home Rule Charter counties to comply with its provisions").

The district court flatly rejected the Board's position: "It is clear **beyond all reasonable doubt** that the General Assembly intended to regulate the redistricting process in counties such as Weld County." CF, p 768 (emphasis added). This Court should adamantly affirm this conclusion.

1. **A home rule county must fulfill all mandatory responsibilities and functions required by statute of any rule county.**

Home rule counties find their origin in Colorado's Constitution and the Colorado Home Rule Powers Act ([Csection 30-25-101, C.R.S., et seq.](#)). These authorities vest registered voters in each county "with the power to adopt a home rule charter establishing the organization and structure of county government

consistent with” **U**article XIV of the Colorado Constitution and “statutes enacted pursuant hereto.” **C**Colo. Const. art. XIV, § 16(1); §§ 30-11-503–505; (detailing procedures for adopting charter); **C***Bd. of Cnty. Comm’rs v. Andrews*, 687 P.2d 457, 458 (Colo. 1984) (observing the Colorado Constitution and statutes “limit” home rule counties’ authority).

The Colorado Constitution requires a home rule county to comply with mandatory state statutes in exercising its power. By constitution, a home rule county “**shall** provide all mandatory county functions, services and facilities and shall exercise all mandatory powers as may be required by statute.” **C**Colo. Const. art. XIV, § 16(3) (emphasis added). A home rule county may also choose to “exercise such permissive powers as may be authorized by statute applicable to all home rule counties, except as may be otherwise prohibited or limited by charter” or constitution. **C***Id.*, § 16(4).

Under the Home Rule Powers Act, a home rule county “shall have all the powers of any county not adopting a home rule charter,” unless provided otherwise in the Act, county charter, or Colorado Constitution. **C**§ 30-35-103(1), C.R.S. (2024) The Act, like the constitution, requires home rule counties to provide “all mandatory county functions, services, and facilities [and] exercise all mandatory

powers as are required by law for counties not having home rule powers.” § 30-35-103(4). A home rule county’s governing body “shall have all powers and **responsibilities** as provided by law for governing bodies of counties not adopting a home rule charter.” [C§ 30-35-201, C.R.S. \(2024\)](#) (emphasis added).

None of these powers allow a home rule county to “opt out” of providing mandatory county functions, responsibilities, and services simply because it dislikes them.

**2. The Redistricting Statutes create mandatory responsibilities and functions for commissioner redistricting.**

When interpreting a statute, a court’s “primary aim is to effectuate the legislature’s intent.” [HNieto v. Clark’s Mkt., Inc., 488 P.3d 1140, 1143 \(Colo. 2021\)](#).

Courts “look to the entire statutory scheme in order to give consistent, harmonious, and sensible effect to all of its parts, and ... apply words and phrases in accordance with their plain and ordinary meanings.” [HId.](#) (quoting *Bill Barrett Corp. v. HLembke*, 474 P.3d 46, 49 (Colo. 2020)); see also [C§ 2-4-101, C.R.S. \(2024\)](#) (“Words and phrases shall be read in context and construed according to the rules of grammar and common usage.”).

The use of “shall” in a statute is usually interpreted to make the provision mandatory. [C§ 2-4-401\(13.7\)\(a\), C.R.S. \(2024\)](#) (stating “‘shall’ means that a

person has a duty”); [CDiMarco v. Dep’t of Rev., Motor Vehicle Div., 857 P.2d 1349, 1352 \(Colo. App. 1993\)](#) (same). The use of “must” has a similar meaning. § 2-4- 401(6.5)(a) (stating “‘must’ means that a person or thing is required to meet a condition for a consequence to apply”); [Silverview at Overlook, LLC v. Overlook at Mt. Crested Butte Liab. Co., 97 P.3d 252, 255 \(Colo. App. 2004\)](#) (“Use of the word ‘must’ [in a statute] connotes a requirement that is mandatory and not subject to equivocation.”).

Section 30-10-306.1(1)(a) applies to boards of county commissioners in counties “that have **any number** of their county commissioners not elected by the voters of the whole county[.]” (Emphasis added.) This language is unambiguous: if fewer than all of the voters in a county elect even one county commissioner, the Redistricting Statutes apply. See [HNieto, 488 P.3d at 1143](#) (holding “where the plain language is unambiguous, we apply the statute as written”).

The boards in counties to which the Redistricting Statutes apply “**must** designate a county commissioner redistricting commission ... in order to adopt a plan to divide the relevant county into as many districts as there are county commissioners elected by voters of their district.” § 30-10-306.1(a) (emphasis

added).<sup>8</sup> While the make-up and independence of this commission is discretionary,<sup>9</sup> *see* § 30-10-306.1(2)(a)-(b), appointment of a commission is not, § 30-10-306.1(a). Importantly, the board of county commissioners' participation in the redistricting process is extremely limited thereafter. § 30-10-306.1(3) (stating a board of county commissioners "may not revise or alter county commissioner districts" except in accordance with an adopted redistricting plan).

The Redistricting Statutes then provide mandatory procedures the commission must follow in adopting a redistricting plan, § 30-10-306.2, and require the board to adopt deadlines for preparation and approval of redistricting plans, § 30-10-306.4. These include, for example, presenting at least three proposed plans for public comment, holding three public hearings before approving a plan, and maintaining a website whether public comments can be submitted and proposed

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<sup>8</sup> Ideally, this commission should be independent of the Board. *See* § 30-10-306.1(1) (stating boards of county commissioners "are encouraged to convene an independent county commissioner district redistricting commission").

<sup>9</sup> In appointing members to this commission, careful consideration should be given to appointing person who "accurately reflect" the political affiliations of the county's residents (including unaffiliated residents) and the county's "racial, ethnic, gender, and geographic diversity." § 30-10-306.1(2)(a)-(b). Careful consideration should also be given to "[a]void conflicts of interest based on partisan alignments." § 30-10-306.1(2)(c).

plans and written comments can be published. §§ 30-10-306.2(3)(b),(d); 30-10-306.4(1)(d). Further, the Redistricting Statutes define the mandatory criteria with which the plan must comply, § 30-10-306.3(1)–(3)(a), and require public explanation of how the proposed plans comply with these mandatory criteria, § 30-10-306.3(3)(c).

**C. Weld County elects three commissioners by individual district, meaning the Redistricting Statutes impose mandatory responsibilities for redistricting.**

It is beyond dispute the Board has five members, three of whom are elected by separate geographic districts and not by the whole county. Because some Weld County commissioners are elected by less than all the voters in the county, the responsibilities in the Redistricting Statutes unambiguously apply to the Board. Nowhere in section 30-10-306.1 are home rule counties exempted. See [HLarimer Cnty. Bd. of Equalization v. 1303 Frontage Holdings LLC](#), 531 P.3d 1012, 1023 (Colo. 2023) (prohibiting courts from adding words to statutes).

Further, a board’s responsibility to form a redistricting commission and comply with the requirements under the Redistricting Statutes are mandatory. As a home rule county, Weld County “shall provide all mandatory functions, services, and facilities, and shall exercise all mandatory powers as may be required by

statute.” [CColo. Const. art. XIV, § 16\(3\)](#). This constitutionally sanctioned role for statutes that impose mandatory powers and functions on home rule counties disproves the Board’s repeated assertion it is excused from compliance with the Redistricting Statutes.

Nothing in section 30-10-306.1 makes the formation of a redistricting commission and compliance with the Redistricting Statutes requirements for this process “permissive” such that Weld County would have a constitutional or statutory excuse to decline to follow them. [CColo. Const. art. XIV, § 16\(4\)](#); § 30-35-201.

Because the Redistricting Statutes provide an essential, mandatory county function and power, and because some commissioners of Weld County are not elected by voters of the whole county, the Redistricting Statutes bind Weld County and the Board must follow them. *See* [CColo. Const. art. XIV, § 16\(3\)](#). The analysis ends there, and Weld County’s home rule status does not excuse its failure to comply with the Redistricting Statutes.

**D. The General Assembly intended the Redistricting Statutes to apply to Weld County.**

While the Redistricting Statutes are unambiguous, this Court may consider legislative history in confirming its plain language interpretation is consistent with

the General Assembly’s intent. See [Smith v. Exec. Custom Homes, Inc., 230 P.3d 1186, 1190 n.5 \(Colo. 2010\)](#) (reviewing legislative history as part of plain language interpretation and finding “legislative history to be consistent with the plain meaning of the statute”); [People v. Rockwell, 125 P.3d 410, 418–19 \(Colo. 2005\)](#) (looking to legislative history where statute was plain and unambiguous “only to show that the legislative history does not contradict” interpretation); see also [United States v. Mo. Pac. R.R. Co., 278 U.S. 269, 278 \(1929\)](#) (holding legislative history can be used to confirm a statute’s plain meaning).

In enacting the Redistricting Statutes, the General Assembly declared “it is of statewide interest that voters in **every Colorado county** are empowered to elect commissioners who will reflect the communities within the county and who will be responsive and accountable to them.” [U.H.B. 21-1047, § 1\(1\)\(i\) \(App. 1\)](#) (emphasis added). The Redistricting Statutes were enacted to “ensure that counties that elect some or all of their commissioners by the voters of individual districts are hold to the same high [redistricting] standards” as congressional and legislative districts. [Id., § 1\(2\) \(App. 1\)](#). To fulfill this promise, the General Assembly adopted standard that include “fair criteria for drawing of districts, plans drawn by nonpartisian staff, robust public participation, and where practicable,



independent commissions.” *Id.*

Moreover, the final fiscal note attached to UHouse Bill 21-1047 (which enacted the Redistricting Statutes) identified Weld County as one of three counties that would be affected by the Redistricting Statutes when they were passed. Final Fiscal Note, UH.R. 73d Gen. Assem., 1st Reg. Sess., LLS 21-0131, UHB 21-1047 ( July 14, 2021) (attached in App. 1). This legislative history reinforces that the Redistricting Statutes apply to the Board.

**E. It is undisputed the Board did not comply with the Redistricting Statutes, entitling Voters to injunctive and declaratory relief.**

The Board’s failure to designate a redistricting commission and adhere to the Redistricting Statutes’ criteria is dispositive of Voters’ claims. Voters are therefore entitled to judgment in their favor.

**IV. There is no conflict between the Charter and Redistricting Statutes that excuses the Board’s willful refusal to comply.**

**A. Standard of review and preservation.**

The district court’s grant of summary judgment is reviewed de novo. [Pierson](#), 48 P.3d at 1218. Statutory interpretation is a question of law reviewed de novo. [HKulmann](#), 521 P.3d at 653.

This issue was raised and ruled on. CF, pp 525, 768–71.

**B. Nothing in the Charter permits the Board to simply disregard the Redistricting Statutes.**

In its briefing below, the Board asked the district court to bless its willful refusal to comply with the Redistricting Statutes, citing a conflict between the Statutes and the Charter. CF, p 525. The district court found no conflict between the Redistricting Statutes “and the sparse redistricting provisions” in the Charter. CF, p 769. The district court was correct, and this Court can affirm its conclusion on any one of three grounds. See [People v. Aarness, 150 P.3d 1271, 1277 \(Colo. 2006\)](#) (“On appeal, a party may defend the trial court’s judgment on any ground supported by the record, whether relied upon or even considered by the trial court.”).

First, the conflict argument the Board manufactured to excuse its willful refusal to comply mischaracterizes Colorado law. CF, p 525. [Board of County Commissioners of Weld County v. Andrews](#) does not permit the Board to avoid its statutory obligations based on conflict between the Charter and the Redistricting Statutes. Rather, *Andrews* turns on a substantive analysis of the duty. Where the duty concerns the county’s structure, “home rule counties are given broad discretion.” [Andrews, 687 P.2d at 458](#). Where the duty concerns a county function, home rule counties are given “less freedom in determining what functions

they may choose” to perform. [CId.](#); see also [CColo. Const. art. XIV, § 16\(3\)](#)

(requiring home rule counties “provide all mandatory county functions, services, and facilities and shall exercise all mandatory powers as may be required by statute”).

In [CAndrews](#), the issue there was whether the Weld County Sheriff was entitled to hire and fire his deputies at will (as statute provided) or whether he had to comply with the Weld County personnel system (established under the Charter). [CAndrews](#), 687 P.2d at 459. Because the “establishment of a personnel system governing the selection, tenure and dismissal of county employees relates to structure and organization of county government, not the functions of that government,” the Charter superseded any applicable state statute providing for a different process. [CId.](#)

Nothing in the manner in which county commissioner districts are drawn remotely resembles the personnel issue in [CAndrews](#). As established in section III, above, the Redistricting Statutes entitle Voters to meaningful participation in and a robust process surrounding county commissioner redistricting. This differs from determining what procedural mechanism applies to fire a county employee.

Second, the existence of any conflict is immaterial to the Board’s obligation to comply with the Redistricting Statutes. The Charter requires the Board “exercise

all the powers and perform all the duties now required or permitted or that may hereafter be required or permitted by State law to be exercised or performed by County Commissioners in either home rule or non-home rule counties.” CF, p 355 (Charter, § 3-8(1)). By its plain terms, the Charter requires the Board comply with the Redistricting Statutes. As a matter of pure logic, there can be no conflict because the Charter incorporates by reference the Board’s duties under the Redistricting Statutes.

Finally, as the district court concluded, there is no material conflict. The Charter’s requirement that the Board “revise and alter the boundaries so that districts are as nearly equal in population as possible” does not conflict with the Redistricting Statutes’ requirement that a commission “[m]ake a good-faith effort to achieve mathematical equality between districts.” CF, p 770. While the Redistricting Statutes require “additional procedures,” they do not conflict with the Charter. *CId.*

For these reasons, the Board cannot be excused from compliance with the Redistricting Statutes.

**V. The district court erred in not directing the Board to complete a compliant redistricting process before 2033.**

**A. Standard of review and preservation.**




The district court's grant of summary judgment is reviewed de novo. [☐](#)

[Pierson](#), 48 P.3d at 1218. A district court's decision to grant or deny an injunction is reviewed for an abuse of discretion. [☐Phoenix Cap., Inc. v. Dowell](#), 176 P.3d 835, 840 (Colo. App. 2007). Under this standard, the district court's ruling is examined to determine whether it is based on an erroneous application of the law, or is otherwise manifestly arbitrary, unreasonable, or unfair. [☐Id.](#) This Court defers to the factual findings underlying the injunction if the record supports them. [Rinker v. MColina-Lee](#), [☐419 P.3d 161, 171–72 \(Colo. App. 2019\)](#).

The Board argued Voters' claims were moot given the deadline for approval of redistricting plans under section 30-10-306.4 had passed. CF, p 512. Voters disagreed. CF, p 730. The district court concluded the claims were not moot, ordered the Board to "begin a redistricting process in compliance with [the Redistricting Statutes], if possible," and if not possible, ordered the Board "to use the commissioner district maps in effect before the March 1 Resolution was adopted." CF, pp 777–78.

**B. Weld County does not intend to comply with the Redistricting Statutes until 2033.**

For all the arguments the Board raised below, that it complied with the Redistricting Statutes' criteria was not one of them. Nor could the Board have even credibly argued as much. Its county attorney made clear during the redistricting process these statutes would not be followed in favor of the Charter's process. CF, p 757.

In its Order, the district court rejected the Board's contention that Voters' claims were moot because the compliance deadline had passed. CF, p 777. While assuming at the time (March) "there was insufficient time for the Board to comply," the court did not relieve the Board of compliance altogether.  *Id.* Instead, it held the "simple answer" was the "2024 Weld County Commissioner election will be conducted using the districts established before the new redistricting map was improperly approved."  *Id.* The force of its ruling was clear: "it would be improper for the court to allow the Board to use the new redistricting map that was improperly approved in violation of Colorado law."  *Id.*

In post-trial conferrals, the Board made clear that—even given the Order—it had no intention of engaging in a compliant redistricting process until 2033. *See* Pet.

App. at 737.<sup>10</sup> This means a decade’s worth of elections will pass in which Voters and the citizens of Weld County will elect county commissioners without using a compliant redistricting map. Most immediately, this harm will materialize when the term for the District 2 Weld County Commissioner expires in 2026—less than two years from now. *See* Cnty. Comm’r Webpage, Scott James, <https://www.weld.gov/Government/Elected-Officials/County-Commissioners/Scott-James> (last accessed Aug. 19, 2024) (stating District 2 commissioner term up for election in 2026).<sup>11</sup> This result is untenable.

**C. Voters are entitled to a compliant redistricting process undertaken immediately on remand.**

**C.C.R.C.P. 65** empowers district courts to order injunctive relief as a “preventive and protective remedy, affording against future, rather than past, acts.” **H***Bd. of Cnty. Comm’rs v. Pfeifer*, 190 Colo. 275, 279, 546 P.2d 946, 949 (1976); *see also* **C***Graham v. Hoyle*, 157 Colo. 338, 341, 402 P.2d 604, 606 (1965) (same).

Accordingly,

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<sup>10</sup> C.R.E. 201(b)(2) (providing a court may take judicial notice of a fact “no subject to reasonable dispute in that it is ... capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned”); *see* **L***inares-Guzman*, 195 P.3d at 1135–36.

<sup>11</sup> *See* **H***Shook v. Pitkin Cnty. Bd. of Cnty. Comm’rs*, 411 P.3d 158, 161 n.4 (Colo. App. 2015) (taking judicial notice of information posted on county attorney’s website).

to afford complete relief, an injunction must effectively redress and prevent future harm. *Accord* [!\[\]\(082f818d99f166a3ba574d9284d73064\_img.jpg\) \*May Dep't Stores Co. v. State ex rel. Woodard\*, 863 P.2d 967, 979 n.24 \(Colo. 1993\)](#) (holding “cessation or modification of an unlawful practice does not obviate the need for injunctive relief to prevent future misconduct” (citing [!\[\]\(64f7c7e956682d89489e8b2ffcb346b7\_img.jpg\) \*Old Homestead Bread Co. v. Marx Baking Co.\*, 108 Colo. 375, 380, 117 P.2d 1007, 1010 \(1941\)\)\)\).](#)

In their Complaint, Voters requested the Board be ordered to “complete a new redistricting process in compliance with” the Redistricting Statutes. CF, p 92. The district court’s conclusion it would be “improper” to allow a redistricting map “improperly approved in violation of Colorado law” to be used is accurate, but affords Voters only partial relief. CF, p 777. The redistricting map in place before the Board’s improperly approved map is **equally** improper—it was drawn and approved without using the process and safeguards the Redistricting Statutes require. Accordingly, it is equally necessary the district court compel the Board to engage in a compliant redistricting process as quickly as feasible. Otherwise, the promise to Voters and the citizens of Weld County of robust participation in county commissioner redistricting remains unfulfilled for nearly a decade. *Accord* [!\[\]\(d263118e0bfd47dc6bc704167d936b83\_img.jpg\) \*Ex parte Lennon\*, 166 U.S. 548, 556 \(1897\)](#) (holding “it was clearly not beyond the



power of a court of equity, which is not always limited to the restraint of a contemplated or threatened action, but may even require affirmative action, where the circumstances of the case demand it”); [HBowles v. Skaggs](#), 151 F.2d 817, 820 (6th Cir. 1945) (holding it “is undoubtedly within the power of equity courts to mould [sic] their remedies to the need of particular situations” and “when equitable considerations have required restoration of the status quo, issued mandatory injunctions or granted other affirmative relief responsive to the needs of the parties invoke equity”).

**D. Nothing in the Redistricting Statutes prevents this relief.**

The Redistricting Statutes contemplate the process will occur in “a redistricting year.” § 30-10-306.4(1); *see also* [§ 30-10-306\(h\), C.R.S. \(2024\)](#) (“‘Redistricting year’ means the second odd-numbered year following the year in which the federal decennial census is taken or the year following a county electing to have any number of its county commissioners not elected by the voters of the whole county.”). The Board has argued its failure to comply with the statutes means it is excused from having to do so for the next decade. This leads to an absurd interpretation of the Redistricting Statutes that must be avoided. *See* [Town of Erie v. Eason](#), 18 P.3d 1271, 1276 (Colo. 2001) (holding “courts must not follow statutory construction that leads to an absurd result”).

Rather, this Court has flexibly interpreted similar deadlines in context of the congressional redistricting process. There, this Court determined deviation from the statutory deadline was necessary to “effectuate the will of the voters and allow the Commission to fulfill its substantive” redistricting obligations given unprecedented obstacles to timely compliance. *See In re Colo. Indep. Cong.*

*Redistricting Comm’n*, 497 P.3d 493, 503–04 (Colo. 2021) (noting deviation from constitutional deadline was necessary to ensure the new redistricting process’s “three key purposes” were served despite COVID 19).

Like Amendment Y there, deviation from the timing in section 30-10-306.4 here is necessary to ensure the Redistricting Statutes’ substantive obligations and important purposes are not “thwarted.” *CId. at 504*. And like the unprecedented COVID circumstances delaying the Amendment Y process, Weld County’s willful, blatant refusal to comply with a state statutory scheme that plainly applies to the county is similarly unprecedented, warranting similar deviation from statutory deadlines. *See also Hoffman v. N.Y. State Indep. Redistricting Comm’n*, 234 N.E.3d 1002, 1018 (N.Y. 2023) (rejecting, in New York State redistricting process, argument that time for compliance had passed because “the untimeliness argument

is nothing more than a way to undo the constitutional [redistricting] requirement[s]” and “would cause” improperly drawn maps “to last a decade”).

The district court should have ordered the Board to conduct a redistricting process in compliance with the Redistricting Statutes. By requiring a compliant redistricting only if the Board considers it “possible,” the district court failed to order the full relief to which Voters were entitled. Remand with directions to immediately undertake a compliant redistricting process is appropriate for this reason.

### **Conclusion**

This Court should affirm the district court’s conclusion that the Redistricting Statutes bind the Board and remand with directions that the Board immediately undertake a compliant redistricting process.

Dated: August 19, 2024

Lewis Roca Rothgerber Christie LLP

s/ Kendra N. Beckwith

Kendra N. Beckwith

Kenneth R. Rossman, IV

Elizabeth Michaels

Joseph Hykan

*Attorneys for Petitioners*

### **Certiflcate of Service**

I hereby certify on August 19, 2024, I filed the foregoing with the Colorado Supreme Court and served true and correct copies of the foregoing via the Colorado E-File System on all counsel of record.

*s/ Kendra N. Beckwith*

COLORADO SUPREME COURT Ralph L. Carr Judicial Center 2 East 14th Avenue Denver, Colorado 80203	DATE FILED August 19, 2024 11:02 PM
CERTIORARI TO THE COURT OF APPEALS Case No. 2024CA774	COURT USE ONLY
DISTRICT COURT, WELD COUNTY Honorable Todd L. Taylor Case No. 2023CV30834	
<b>Petitioners:</b> LEAGUE OF WOMEN VOTERS OF GREELEY, WELD COUNTY, INC., ET AL.  v.  <b>Respondent:</b> BOARD OF COUNTY COMMISSIONERS OF WELD COUNTY.	Case No.: 2024SC394
Attorneys for Petitioners:  Lewis Roca Rothgerber Christie LLP Kenneth F. Rossman, IV, No. 29249 Kendra N. Beckwith, No. 40154 Elizabeth Michaels, No. 50200 Joseph Hykan, No. 52865 1601 Nineteenth Street, Suite 1000 Denver, Colorado 80202 303.623.9000 krossman@lewisroca.com kbeckwith@lewisroca.com emichaels@lewisroca.com jhykan@lewisroca.com	
APPENDIX 1	

# An Act

HOUSE BILL 21-1047

BY REPRESENTATIVE(S) Kennedy, Amabile, Arndt, Bird, Duran, Exum, Gonzales-Gutierrez, Gray, Herod, Hooton, Lontine, Ortiz, Snyder, Valdez A., Weissman, Bernett, Mullica, Garnett;  
also SENATOR(S) Lee, Jaquez Lewis, Moreno, Winter.

CONCERNING THE DRAWING OF VOTING DISTRICTS BY COUNTY GOVERNMENTS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds, declares, and determines that:

(a) In order for our democratic republic to truly represent the voices of the people, districts must be drawn such that the people have an opportunity to elect representatives who are reflective of and responsive and accountable to their constituents;

(b) The people are best served when districts are not drawn to benefit particular parties or incumbents, but are instead drawn to ensure representation for the various communities of interest and to maximize the number of competitive districts;

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(c) The federal "Voting Rights Act of 1965" prohibits voting practices and procedures, including redistricting, that discriminate on the basis of race, color, or language;

(d) Districts are redrawn after every decennial census for members of congress, members of the general assembly, county commissioners, school board members, city councillors, and special district representatives;

(e) In the 2018 legislative session, the general assembly unanimously supported two referred measures, Amendments Y and Z, that reflected a bipartisan compromise to ensure fair redistricting of congressional districts, state house of representative districts, and state senate districts;

(f) At the general election in November 2018, seventy-one percent of electors in the state approved Amendments Y and Z;

(g) The only partisan offices elected by districts in Colorado not included in Amendments Y and Z were county commissioners;

(h) Most Colorado counties elect their commissioners by the voters of the whole county, but counties with populations over seventy thousand are allowed to increase from three to five commissioners and elect some or all of their commissioners by the voters of individual districts; and

(i) While current law imposes very few limitations on how county commissioner districts are to be drawn, it is of statewide interest that voters in every Colorado county are empowered to elect commissioners who will reflect the communities within the county and who will be responsive and accountable to them.

(2) By enacting House Bill 21-1047, the general assembly intends to ensure that counties that elect some or all of their commissioners by the voters of individual districts are held to the same high standards that Amendments Y and Z require of redistricting for congressional districts, state house of representative districts, and state senate districts, including fair criteria for drawing of districts, plans drawn by nonpartisan staff, robust public participation, and where practicable, independent commissions.



**SECTION 2.** In Colorado Revised Statutes, amend 30-10-306 as follows:

**30-10-306. Commissioners' districts - vacancies - definitions.**

(1) Each county ~~shall~~ MUST be divided into three compact districts by the board of county commissioners. Each district ~~shall~~ MUST be as nearly equal in population as possible based on the ~~most recent federal census of the United States minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the department of corrections for the most recent fiscal year~~ REDISTRICTING POPULATION DATA PREPARED BY STAFF OF THE LEGISLATIVE COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR ANY SUCCESSOR OFFICES, IN ACCORDANCE WITH SECTION 2-2-902. IN NO EVENT SHALL THERE BE MORE THAN FIVE PERCENT DEVIATION BETWEEN THE MOST POPULOUS AND THE LEAST POPULOUS DISTRICT IN EACH COUNTY, AT THE TIME SUCH DISTRICT BOUNDARIES ARE ADOPTED. Each district ~~shall~~ MUST be numbered consecutively and ~~shall~~ MUST not be subject to alteration more often than once every two years. One ~~commissioner shall~~ COUNTY COMMISSIONER MUST be elected from each of such districts by the voters of the whole county. If any COUNTY commissioner, during his or her term of office, moves from the district in which he or she resided when elected, his or her office ~~shall~~ thereupon ~~become~~ BECOMES vacant. All proceedings by the board of county commissioners in formation of such districts not inconsistent with this section are confirmed and validated.

(2) Each county having a population of seventy thousand or more that has chosen to increase the members of the board of county commissioners from three to five must be divided into three or five districts by the board of county commissioners according to the method of election described in section 30-10-306.5 (5) or (6) or section 30-10-306.7. WHEN APPLICABLE, THE BOARD OF COUNTY COMMISSIONERS SHALL DIVIDE THE COUNTY INTO DISTRICTS IN ACCORDANCE WITH THE FINAL REDISTRICTING PLAN APPROVED IN ACCORDANCE WITH SECTION 30-10-306.4. The districts must be as nearly equal in population as possible based on the ~~most recent federal census of the United States minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the department of corrections for the most recent fiscal year~~ REDISTRICTING POPULATION DATA PREPARED BY STAFF OF THE LEGISLATIVE COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR ANY SUCCESSOR OFFICES, IN ACCORDANCE WITH SECTION

2-2-902. IN NO EVENT SHALL THERE BE MORE THAN FIVE PERCENT DEVIATION BETWEEN THE MOST POPULOUS AND THE LEAST POPULOUS DISTRICT IN EACH COUNTY, AT THE TIME SUCH DISTRICT BOUNDARIES ARE ADOPTED. Each district must be numbered consecutively and is not subject to alteration more often than once every two years; except that, notwithstanding subsection (3) of this section, the board may alter the districts to conform to precinct boundaries that are changed in accordance with section 1-5-103 (1), based on the division of the state into congressional districts or an approved plan for redistricting of the members of the general assembly when necessary to ensure that no precinct is located in more than one district. COUNTY commissioners are elected at large or from districts according to the method of election described in section 30-10-306.5 (5) or (6) or section 30-10-306.7. If any COUNTY commissioner required to be resident in a district moves during his or her term of office from the district in which he or she resided when elected, his or her office thereupon becomes vacant. All proceedings by the board of county commissioners in formation of such districts not inconsistent with this section are confirmed and validated.

(3) When a board of county commissioners determines to change the boundaries of commissioner districts or when new districts are created, such changes or additions ~~shall~~ MUST be made only in odd-numbered years and, if made, ~~shall~~ MUST be completed by July 1 of such year, except in cases of changes resulting from EITHER changes in county boundaries OR FROM A FINAL REDISTRICTING PLAN IN ACCORDANCE WITH SECTION 30-10-306.4.

(4) Notwithstanding subsections (1) to (3) of this section, after each federal census of the United States, each COMMISSIONER district ~~shall~~ MUST be established, revised, or altered to assure that such districts ~~shall be~~ ARE as nearly equal in population as possible based on ~~such census minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the department of corrections for the most recent fiscal year~~ THE REDISTRICTING POPULATION DATA PREPARED BY STAFF OF THE LEGISLATIVE COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR ANY SUCCESSOR OFFICES, IN ACCORDANCE WITH SECTION 2-2-902. IN NO EVENT SHALL THERE BE MORE THAN FIVE PERCENT DEVIATION BETWEEN THE MOST POPULOUS AND THE LEAST POPULOUS DISTRICT IN EACH COUNTY, AT THE TIME SUCH DISTRICT BOUNDARIES ARE ADOPTED. The establishment, revision, or alteration of districts required by this subsection (4) ~~shall~~ MUST be completed by

September 30 of the SECOND odd-numbered year following such census. IF A DISTRICT IS REVISED OR ALTERED IN ACCORDANCE WITH THIS SUBSECTION (4) IN A MANNER THAT EXCLUDES THE RESIDENCE OF A COUNTY COMMISSIONER ELECTED TO REPRESENT THE DISTRICT, THE COUNTY COMMISSIONER REMAINS ELIGIBLE AND MAY CONTINUE TO HOLD THE OFFICE OF COUNTY COMMISSIONER UNTIL HIS OR HER TERM OF OFFICE EXPIRES.

(5) No less than thirty days before adopting any resolution to change the boundaries of commissioner districts, or create new commissioner districts, UNLESS THE BOARD OF COUNTY COMMISSIONERS IS MAKING SUCH CHANGES IN ACCORDANCE WITH A FINAL REDISTRICTING PLAN IN ACCORDANCE WITH SECTION 30-10-306.4, the board of county commissioners shall hold a public hearing on the proposed district boundaries.

(6) AS USED IN THIS SECTION AND SECTIONS 30-10-306.1 TO 30-10-306.4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVISORY COMMITTEE" MEANS A GROUP OF PERSONS WHO ARE NOT NONPARTISAN STAFF OF THE COUNTY WHO ARE ASSIGNED TO ASSIST THE COMMISSION BY THE BOARD OF COUNTY COMMISSIONERS. THE BOARD OF COUNTY COMMISSIONERS MAY DELEGATE ANY FUNCTIONS BUT THE FINAL ADOPTION OF A PLAN TO THE ADVISORY COMMITTEE. THE ADVISORY COMMITTEE MUST BE COMPOSED OF AN EQUAL NUMBER OF MEMBERS WHO ARE AFFILIATED WITH THE STATE'S LARGEST POLITICAL PARTY, AFFILIATED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY, AND NOT AFFILIATED WITH ANY POLITICAL PARTY. FOR PURPOSES OF THIS SUBSECTION (6)(a), THE STATE'S TWO LARGEST POLITICAL PARTIES SHALL BE DETERMINED BY THE NUMBER OF REGISTERED ELECTORS AFFILIATED WITH EACH POLITICAL PARTY IN THE STATE ACCORDING TO VOTER REGISTRATION DATA PUBLISHED BY THE SECRETARY OF STATE FOR THE EARLIEST DAY IN JANUARY OF THE REDISTRICTING YEAR FOR WHICH SUCH DATA IS PUBLISHED.

(b) "COMMISSION" MEANS A COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION, WHETHER THE COMMISSION IS AN INDEPENDENT COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION OR NOT. A COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION CAN BE MADE UP SOLELY OF THE MEMBERS OF A COUNTY'S BOARD OF COUNTY COMMISSIONERS.

(c) (I) "COMMUNITY OF INTEREST" MEANS ANY GROUP IN A COUNTY THAT SHARES ONE OR MORE SUBSTANTIAL INTERESTS THAT MAY BE THE SUBJECT OF ACTION BY THE BOARD OF COUNTY COMMISSIONERS, IS COMPOSED OF A REASONABLY PROXIMATE POPULATION, AND SHOULD BE CONSIDERED FOR INCLUSION WITHIN A SINGLE DISTRICT FOR PURPOSES OF ENSURING ITS FAIR AND EFFECTIVE REPRESENTATION.

(II) SUCH INTERESTS INCLUDE BUT ARE NOT LIMITED TO MATTERS REFLECTING:

(A) SHARED PUBLIC POLICY CONCERNS OF URBAN, RURAL, AGRICULTURAL, INDUSTRIAL, OR TRADE AREAS; AND

(B) SHARED PUBLIC POLICY CONCERNS SUCH AS EDUCATION, EMPLOYMENT, ENVIRONMENT, PUBLIC HEALTH, TRANSPORTATION, WATER NEEDS AND SUPPLIES, AND ISSUES OF DEMONSTRABLE REGIONAL SIGNIFICANCE.

(III) GROUPS THAT MAY COMPRISE A COMMUNITY OF INTEREST INCLUDE RACIAL, ETHNIC, AND LANGUAGE MINORITY GROUPS, SUBJECT TO COMPLIANCE WITH SECTIONS 30-10-306.3 (1)(b) AND (4)(b), WHICH SUBSECTIONS PROTECT AGAINST THE DENIAL OR ABRIDGEMENT OF THE RIGHT TO VOTE DUE TO A PERSON'S RACE OR LANGUAGE MINORITY GROUP.

(IV) "COMMUNITY OF INTEREST" DOES NOT INCLUDE RELATIONSHIPS WITH POLITICAL PARTIES, INCUMBENTS, OR POLITICAL CANDIDATES.

(d) "INDEPENDENT COMMISSION" MEANS AN INDEPENDENT COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION CREATED IN ACCORDANCE WITH SECTION 30-10-306.1 (2).

(e) "PLAN" MEANS A DEPICTION OF THE BOUNDARIES OF COUNTY COMMISSIONER DISTRICTS.

(f) "POPULATION" MEANS THE TOTAL POPULATION DATA REFERENCED IN SECTION 2-2-901 AND PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR ANY SUCCESSOR OFFICES, IN ACCORDANCE WITH SECTION 2-2-902 (4).

(g) "RACE" OR "RACIAL" MEANS A CATEGORY OF RACE OR ETHNIC

ORIGIN DOCUMENTED IN THE FEDERAL DECENNIAL CENSUS.

(h) "REDISTRICTING YEAR" MEANS THE SECOND ODD-NUMBERED YEAR FOLLOWING THE YEAR IN WHICH THE FEDERAL DECENNIAL CENSUS IS TAKEN OR THE YEAR FOLLOWING A COUNTY ELECTING TO HAVE ANY NUMBER OF ITS COUNTY COMMISSIONERS NOT ELECTED BY THE VOTERS OF THE WHOLE COUNTY.

(i) "STAFF" MEANS THE NONPARTISAN STAFF OF THE COUNTY WHO ARE ASSIGNED TO ASSIST THE COMMISSION BY THE BOARD OF COUNTY COMMISSIONERS.

**SECTION 3.** In Colorado Revised Statutes, **add** 30-10-306.1, 30-10-306.2, 30-10-306.3, and 30-10-306.4 as follows:

**30-10-306.1. Commission created - commission composition and appointment.** (1) THE BOARD OF COUNTY COMMISSIONERS IN EACH OF THE FOLLOWING COUNTIES MUST DESIGNATE A COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION, AND ARE ENCOURAGED TO CONVENE AN INDEPENDENT COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSION, IN ORDER TO ADOPT A PLAN TO DIVIDE THE RELEVANT COUNTY INTO AS MANY DISTRICTS AS THERE ARE COUNTY COMMISSIONERS ELECTED BY VOTERS OF THEIR DISTRICT:

(a) COUNTIES THAT HAVE ANY NUMBER OF THEIR COUNTY COMMISSIONERS NOT ELECTED BY THE VOTERS OF THE WHOLE COUNTY;

(b) COUNTIES THAT HAVE ANY NUMBER OF THEIR COUNTY COMMISSIONERS NOT ELECTED BY THE VOTERS OF THE WHOLE COUNTY THAT CHANGE THE NUMBER OF COUNTY COMMISSIONERS IN THE COUNTY; AND

(c) COUNTIES THAT HAVE ALL OF THEIR COUNTY COMMISSIONERS ELECTED BY THE VOTERS OF THE WHOLE COUNTY THAT THEN ELECT TO HAVE ANY NUMBER OF THEIR COUNTY COMMISSIONERS NOT ELECTED BY THE VOTERS OF THE WHOLE COUNTY.

(2) IN APPOINTING MEMBERS TO AN INDEPENDENT COMMISSION, A BOARD OF COUNTY COMMISSIONERS IS ENCOURAGED TO:

(a) APPOINT PERSONS WHO ACCURATELY REFLECT THE POLITICAL

AFFILIATIONS OF THE RESIDENTS OF THE COUNTY, INCLUDING UNAFFILIATED RESIDENTS;

(b) APPOINT PERSONS WHO ACCURATELY REFLECT THE COUNTY'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY; AND

(c) AVOID CONFLICTS OF INTEREST BASED ON PARTISAN ALIGNMENTS.

(3) THE BOARD OF COUNTY COMMISSIONERS IN A COUNTY DESCRIBED BY SUBSECTION (1) OF THIS SECTION MAY NOT REVISE OR ALTER COUNTY COMMISSIONER DISTRICTS, BEYOND MAKING DE MINIMIS REVISIONS OR ALTERATIONS, UNLESS THE BOARD OF COUNTY COMMISSIONERS MAKES SUCH REVISIONS OR ALTERATIONS DURING A REDISTRICTING YEAR IN ACCORDANCE WITH A FINAL REDISTRICTING PLAN PURSUANT TO SECTION 30-10-306.4.

**30-10-306.2. Commission organization - procedures - transparency - voting requirements.** (1) THE BOARD OF COUNTY COMMISSIONERS SHALL APPOINT STAFF AS NEEDED TO ASSIST THE COMMISSION. STAFF OR THE ADVISORY COMMITTEE SHALL ACQUIRE AND PREPARE ALL NECESSARY RESOURCES, INCLUDING COMPUTER HARDWARE, SOFTWARE, AND DEMOGRAPHIC, GEOGRAPHIC, AND POLITICAL DATABASES, AS FAR IN ADVANCE AS NECESSARY TO ENABLE THE COMMISSION TO BEGIN ITS WORK IMMEDIATELY UPON CONVENING.

(2) THE COMMISSION SHALL NOT VOTE UPON A FINAL PLAN UNTIL AT LEAST SEVENTY-TWO HOURS AFTER IT HAS BEEN PROPOSED TO THE COMMISSION IN A PUBLIC MEETING OR AT LEAST SEVENTY-TWO HOURS AFTER IT HAS BEEN AMENDED BY THE COMMISSION IN A PUBLIC MEETING, WHICHEVER OCCURS LATER.

(3) (a) ALL COUNTY RESIDENTS, INCLUDING INDIVIDUAL MEMBERS OF THE COMMISSION, MAY PRESENT PROPOSED REDISTRICTING PLANS OR WRITTEN COMMENTS, OR BOTH, FOR THE COMMISSION'S CONSIDERATION.

(b) THE COMMISSION SHALL PROVIDE MEANINGFUL AND SUBSTANTIAL OPPORTUNITIES FOR COUNTY RESIDENTS TO PRESENT TESTIMONY, EITHER IN PERSON OR ELECTRONICALLY, AT HEARINGS. IF THE HEARINGS ARE HELD IN PERSON, EACH HEARING MUST BE HELD IN A DIFFERENT THIRD OF THE COUNTY. IF THE HEARINGS ARE HELD

ELECTRONICALLY, THE BOARD OF COUNTY COMMISSIONERS SHALL EITHER SOLICIT FEEDBACK FROM THE WHOLE COUNTY FOR EACH HEARING OR SOLICIT FEEDBACK FROM A DIFFERENT THIRD OF THE COUNTY FOR EACH HEARING. THE BOARD OF COUNTY COMMISSIONERS SHALL ENSURE THAT THESE HEARINGS ARE BROADLY PROMOTED THROUGHOUT THE COUNTY. THE COMMISSION SHALL NOT APPROVE A REDISTRICTING PLAN UNTIL AT LEAST THREE HEARINGS HAVE BEEN HELD. NO GATHERING OF MEMBERS OF THE COMMISSION CAN BE CONSIDERED A HEARING FOR THIS PURPOSE UNLESS IT IS ATTENDED, IN PERSON OR ELECTRONICALLY, BY AT LEAST A MAJORITY OF THE MEMBERS OF THE COMMISSION. THE COMMISSION SHALL ESTABLISH THE NECESSARY ELEMENTS OF ELECTRONIC ATTENDANCE AT A COMMISSION HEARING.

(c) THE COMMISSION SHALL MAINTAIN A WEBSITE THROUGH WHICH ANY COUNTY RESIDENT MAY SUBMIT PROPOSED PLANS OR WRITTEN COMMENTS, OR BOTH, WITHOUT ATTENDING A HEARING OF THE COMMISSION. THE COMMISSION SHALL ENSURE THAT THE WEBSITE IS EASILY ACCESSIBLE AND CONTAINS A RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS, INCLUDING THE COMMISSION'S DIRECTIONS TO STAFF OR AN ADVISORY COMMITTEE ON PROPOSED CHANGES TO ANY PLAN AND THE COMMISSION'S RATIONALE FOR SUCH CHANGES.

(d) THE COMMISSION SHALL PUBLISH ALL WRITTEN COMMENTS PERTAINING TO REDISTRICTING ON ITS WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC AS WELL AS THE NAME OF THE COUNTY RESIDENT SUBMITTING SUCH COMMENTS. IF THE COMMISSION, ADVISORY COMMITTEE, OR STAFF HAVE A SUBSTANTIAL BASIS TO BELIEVE THAT A PERSON SUBMITTING SUCH COMMENTS HAS NOT TRUTHFULLY OR ACCURATELY IDENTIFIED HIMSELF OR HERSELF, THE COMMISSION NEED NOT CONSIDER AND NEED NOT PUBLISH SUCH COMMENTS BUT MUST NOTIFY THE COMMENTER IN WRITING OF THIS FACT. THE COMMISSION MAY WITHHOLD COMMENTS, IN WHOLE OR IN PART, FROM THE WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC THAT DO NOT RELATE TO REDISTRICTING PLANS, POLICIES, OR COMMUNITIES OF INTEREST.

(e) THE COMMISSION SHALL PROVIDE SIMULTANEOUS ACCESS TO THE HEARINGS BY BROADCASTING THEM VIA ITS WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC, ALLOWING BOTH ELECTRONIC AND IN-PERSON PUBLIC TESTIMONY, AND MAINTAINING AN ARCHIVE OF SUCH HEARINGS FOR ONLINE PUBLIC REVIEW.

(4) (a) MEMBERS OF THE COMMISSION ARE GUARDIANS OF THE PUBLIC TRUST AND ARE SUBJECT TO ANTIBRIBERY AND ABUSE OF PUBLIC OFFICE REQUIREMENTS AS PROVIDED IN PARTS 3 AND 4 OF ARTICLE 8 OF TITLE 18, AS AMENDED, OR ANY SUCCESSOR STATUTE.

(b) TO ENSURE TRANSPARENCY IN THE REDISTRICTING PROCESS:

(I) (A) THE COMMISSION AND THE MEMBERS OF THE COMMISSION ARE SUBJECT TO OPEN MEETINGS REQUIREMENTS AS PROVIDED IN PART 4 OF ARTICLE 6 OF TITLE 24, AS AMENDED, OR ANY SUCCESSOR STATUTE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (4)(b)(I)(D) OF THIS SECTION, A MEMBER OF THE COMMISSION SHALL NOT COMMUNICATE WITH STAFF OR ANY MEMBERS OF THE ADVISORY COMMITTEE ON THE MAPPING OF COUNTY COMMISSIONER DISTRICTS UNLESS THE COMMUNICATION IS DURING A PUBLIC MEETING OR HEARING OF THE COMMISSION.

(C) EXCEPT FOR PUBLIC INPUT AND COMMENT, STAFF SHALL NOT HAVE ANY COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN OUTSIDE OF PUBLIC HEARINGS WITH ANYONE, INCLUDING ANY MEMBERS OF THE ADVISORY COMMITTEE, EXCEPT OTHER STAFF MEMBERS. LIKEWISE, EXCEPT FOR PUBLIC INPUT AND COMMENT, MEMBERS OF THE ADVISORY COMMITTEE SHALL NOT HAVE ANY COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN OUTSIDE OF PUBLIC HEARINGS WITH ANYONE, INCLUDING STAFF, EXCEPT OTHER MEMBERS OF THE ADVISORY COMMITTEE. COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN INCLUDE COMMUNICATIONS ABOUT HOW PLANS WILL BE DRAWN TO SATISFY THE CRITERIA IN SECTION 30-10-306.3, SPECIFIC PARAMETERS RELATED TO THE INTERPRETATION OF THE CRITERIA IN SECTION 30-10-306.3, AND REQUESTS FOR THE DRAWING OF ADDITIONAL PLANS. STAFF OR MEMBERS OF THE ADVISORY COMMITTEE SHALL REPORT TO THE COMMISSION ANY ATTEMPT BY ANYONE TO EXERT INFLUENCE OVER THE STAFF'S OR ADVISORY COMMITTEE'S ROLE IN THE DRAFTING OF PLANS.

(D) ONE OR MORE STAFF MAY BE DESIGNATED TO COMMUNICATE WITH MEMBERS OF THE COMMISSION OR ADVISORY COMMITTEE AND, IN THE CASE OF A COMMISSION THAT IS COMPOSED OF THE BOARD OF COUNTY COMMISSIONERS, ADMINISTRATIVE STAFF OF THE COUNTY, REGARDING ADMINISTRATIVE MATTERS, THE DEFINITION AND SCOPE OF WHICH SHALL BE DETERMINED BY THE COMMISSION. LIKEWISE, ONE OR MORE MEMBERS OF



THE ADVISORY COMMITTEE MAY BE DESIGNATED TO COMMUNICATE WITH MEMBERS OF THE COMMISSION OR STAFF REGARDING ADMINISTRATIVE MATTERS, THE DEFINITION AND SCOPE OF WHICH SHALL BE DETERMINED BY THE COMMISSION. ANY COMMUNICATION THAT OCCURS OUTSIDE OF A PUBLIC MEETING OR HEARING OF THE COMMISSION BETWEEN STAFF AND A MEMBER OF THE ADVISORY COMMITTEE, BEYOND THOSE ALLOWED BY THIS SUBSECTION (4)(b)(I)(D), MUST BE DOCUMENTED AND MADE A PART OF THE PUBLIC RECORD.

(E) IF A MEMBER PARTICIPATES IN A COMMUNICATION PROHIBITED BY THIS SECTION, THE COMMUNICATION AND ANY COMPLAINTS ASSOCIATED WITH IT MUST BE MADE PART OF THE PUBLIC RECORD AND DOCUMENTED ON THE WEBSITE.

(II) THE COMMISSION, EACH MEMBER OF THE COMMISSION, THE ADVISORY COMMITTEE, EACH MEMBER OF THE ADVISORY COMMITTEE, AND STAFF ARE SUBJECT TO OPEN RECORDS REQUIREMENTS AS PROVIDED IN PART 2 OF ARTICLE 72 OF TITLE 24, AS AMENDED, OR ANY SUCCESSOR STATUTE; EXCEPT THAT PLANS IN DRAFT FORM AND NOT SUBMITTED TO THE COMMISSION ARE NOT PUBLIC RECORDS SUBJECT TO DISCLOSURE. WORK PRODUCT AND COMMUNICATIONS AMONG STAFF, MEMBERS OF THE ADVISORY COMMITTEE, AND BETWEEN STAFF AND THE ADVISORY COMMITTEE ARE SUBJECT TO DISCLOSURE ONCE A PLAN IS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS.

(III) PERSONS WHO CONTRACT FOR OR RECEIVE COMPENSATION FOR ADVOCATING TO THE COMMISSION, TO ONE OR MORE MEMBERS OF THE COMMISSION, TO THE ADVISORY COMMITTEE, TO ONE OR MORE MEMBERS OF THE ADVISORY COMMITTEE, OR TO STAFF FOR THE ADOPTION OR REJECTION OF ANY PLAN, AMENDMENT TO A PLAN, MAPPING APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE MAPPING CRITERIA SPECIFIED IN SECTION 30-10-306.3 ARE LOBBYISTS WHO MUST DISCLOSE TO THE SECRETARY OF STATE ANY COMPENSATION CONTRACTED FOR, COMPENSATION RECEIVED, AND THE PERSON OR ENTITY CONTRACTING OR PAYING FOR THEIR LOBBYING SERVICES. SUCH DISCLOSURE MUST BE MADE NO LATER THAN SEVENTY-TWO HOURS AFTER THE EARLIER OF EACH INSTANCE OF SUCH LOBBYING OR ANY PAYMENT OF SUCH COMPENSATION. THE SECRETARY OF STATE SHALL PUBLISH ON THE SECRETARY OF STATE'S WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC THE NAMES OF SUCH LOBBYISTS, AS WELL AS THE COMPENSATION RECEIVED AND THE PERSONS OR ENTITIES FOR

WHOM THEY WORK WITHIN TWENTY-FOUR HOURS OF RECEIVING SUCH INFORMATION. THE SECRETARY OF STATE SHALL ADOPT RULES TO FACILITATE THE COMPLETE AND PROMPT REPORTING REQUIRED BY THIS SUBSECTION (4)(b)(III) AS WELL AS A COMPLAINT PROCESS TO ADDRESS ANY LOBBYIST'S FAILURE TO REPORT A FULL AND ACCURATE DISCLOSURE, WHICH COMPLAINT MUST BE HEARD BY AN ADMINISTRATIVE LAW JUDGE, WHOSE DECISION MAY BE APPEALED TO THE COURT OF APPEALS.

**30-10-306.3. Criteria for determination of county commissioner districts - definition.** (1) IN ADOPTING A COUNTY COMMISSIONER DISTRICT REDISTRICTING PLAN, THE COMMISSION SHALL:

(a) MAKE A GOOD-FAITH EFFORT TO ACHIEVE MATHEMATICAL POPULATION EQUALITY BETWEEN DISTRICTS, AS REQUIRED BY THE CONSTITUTION OF THE UNITED STATES, BUT IN NO EVENT SHALL THERE BE MORE THAN FIVE PERCENT DEVIATION BETWEEN THE MOST POPULOUS AND THE LEAST POPULOUS DISTRICT IN EACH COUNTY, AT THE TIME SUCH DISTRICT BOUNDARIES ARE ADOPTED; AND

(b) COMPLY WITH THE FEDERAL "VOTING RIGHTS ACT OF 1965", 52 U.S.C. SEC. 10301, AS AMENDED.

(2) (a) AS MUCH AS IS REASONABLY POSSIBLE, THE COMMISSION'S PLAN MUST PRESERVE WHOLE COMMUNITIES OF INTEREST AND WHOLE POLITICAL SUBDIVISIONS, SUCH AS CITIES AND TOWNS; EXCEPT THAT A DIVISION OF SUCH CITY OR TOWN IS PERMITTED WHERE, BASED ON A PREPONDERANCE OF THE EVIDENCE IN THE RECORD, A COMMUNITY OF INTEREST'S LEGISLATIVE ISSUES ARE MORE ESSENTIAL TO THE FAIR AND EFFECTIVE REPRESENTATION OF RESIDENTS OF THE DISTRICT. WHEN THE COMMISSION DIVIDES A CITY OR TOWN, IT SHALL MINIMIZE THE NUMBER OF DIVISIONS OF THAT CITY OR TOWN.

(b) DISTRICTS MUST BE AS COMPACT AS IS REASONABLY POSSIBLE.

(3) (a) THEREAFTER, THE COMMISSION SHALL, TO THE EXTENT REASONABLY POSSIBLE, MAXIMIZE THE NUMBER OF POLITICALLY COMPETITIVE DISTRICTS.

(b) IN ITS HEARINGS IN VARIOUS LOCATIONS IN THE COUNTY, THE COMMISSION SHALL SOLICIT EVIDENCE RELEVANT TO COMPETITIVENESS OF

ELECTIONS IN THE COUNTY AND SHALL ASSESS SUCH EVIDENCE IN EVALUATING PROPOSED PLANS.

(c) WHEN THE COMMISSION APPROVES A PLAN, THE STAFF OR ADVISORY COMMITTEE SHALL, WITHIN SEVENTY-TWO HOURS OF SUCH ACTION, MAKE PUBLICLY AVAILABLE, AND INCLUDE IN THE COMMISSION'S RECORD, A REPORT TO DEMONSTRATE HOW THE PLAN REFLECTS THE EVIDENCE PRESENTED TO, AND THE FINDINGS CONCERNING, THE EXTENT TO WHICH COMPETITIVENESS IN DISTRICT ELECTIONS IS FOSTERED CONSISTENT WITH THE OTHER CRITERIA SET FORTH IN THIS SECTION.

(d) FOR PURPOSES OF THIS SUBSECTION (3), "COMPETITIVE" MEANS HAVING A REASONABLE POTENTIAL FOR THE PARTY AFFILIATION OF THE DISTRICT'S COUNTY COMMISSIONER TO CHANGE AT LEAST ONCE BETWEEN FEDERAL DECENNIAL CENSUSES. COMPETITIVENESS MAY BE MEASURED BY FACTORS SUCH AS A PROPOSED DISTRICT'S PAST ELECTION RESULTS, A PROPOSED DISTRICT'S POLITICAL PARTY REGISTRATION DATA, AND EVIDENCE-BASED ANALYSES OF PROPOSED DISTRICTS.

(4) NO PLAN MAY BE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OR THE COMMISSION IF THE PLAN:

(a) HAS BEEN DRAWN FOR THE PURPOSE OF PROTECTING ONE OR MORE INCUMBENT MEMBERS, OR ONE OR MORE DECLARED CANDIDATES, OF THE BOARD OF COUNTY COMMISSIONERS, OR ANY POLITICAL PARTY; OR

(b) HAS BEEN DRAWN FOR THE PURPOSE OF OR RESULTS IN THE DENIAL OR ABRIDGEMENT OF THE RIGHT OF ANY CITIZEN TO VOTE ON ACCOUNT OF THAT PERSON'S RACE OR MEMBERSHIP IN A LANGUAGE MINORITY GROUP, INCLUDING DILUTING THE IMPACT OF THAT RACIAL OR LANGUAGE MINORITY GROUP'S ELECTORAL INFLUENCE.

(5) SO LONG AS THE COMMISSION HAS COMPLIED WITH THE REQUIREMENTS OF SUBSECTIONS (1) THROUGH (4) OF THIS SECTION, IN ADOPTING A COUNTY COMMISSIONER REDISTRICTING PLAN, THE COMMISSION MAY CONSIDER CONGRESSIONAL DISTRICTS, STATE HOUSE OF REPRESENTATIVE DISTRICTS, AND STATE SENATE DISTRICTS IN ORDER TO MINIMIZE THE NUMBER OF NECESSARY VOTING PRECINCTS IN A COUNTY.

**30-10-306.4. Deadlines for preparation, amendment, and**

**approval of plans.** (1) THE BOARD OF COUNTY COMMISSIONERS SHALL ESTABLISH DEADLINES TO ENSURE THAT THE BOARD OF COUNTY COMMISSIONERS SHALL ADOPT A PLAN FOR THE REDRAWING OF COUNTY COMMISSIONER DISTRICTS NO LATER THAN SEPTEMBER 30 OF THE REDISTRICTING YEAR. THESE DEADLINES MUST INCLUDE DATES BY WHICH THE FOLLOWING MUST BE ACCOMPLISHED:

(a) THE DESIGNATION OF A COMMISSION, IN ACCORDANCE WITH SECTION 30-10-306.1;

(b) THE APPOINTMENT OF STAFF AND AN ADVISORY COMMITTEE AS NEEDED TO ASSIST THE COMMISSION AND THE ACQUISITION OF ALL NECESSARY RESOURCES TO ENABLE THE COMMISSION TO BEGIN ITS WORK, IN ACCORDANCE WITH SECTION 30-10-306.2 (1);

(c) THE CREATION OF A WEBSITE AND A METHOD FOR COUNTY RESIDENTS TO PRESENT TESTIMONY, IN ACCORDANCE WITH SECTION 30-10-306.2 (3);

(d) THE SUBMISSION OF WRITTEN COMMENTS TO STAFF OR AN ADVISORY COMMITTEE BY ANY MEMBER OF THE PUBLIC AND ANY MEMBER OF THE COMMISSION ON THE CREATION OF NOT LESS THAN THREE PLANS FOR COUNTY COMMISSIONER DISTRICTS, CREATED BY STAFF OR AN ADVISORY COMMITTEE ALONE, AND ON COMMUNITIES OF INTEREST THAT REQUIRE REPRESENTATION IN ONE OR MORE SPECIFIC AREAS OF THE COUNTY. STAFF OR AN ADVISORY COMMITTEE SHALL CONSIDER SUCH COMMENTS IN CREATING THE PLANS, AND SUCH COMMENTS SHALL BE PART OF THE RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS. STAFF AND THE ADVISORY COMMITTEE SHALL KEEP EACH PLAN CONFIDENTIAL UNTIL IT IS PUBLISHED ONLINE OR BY A COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC USING GENERALLY AVAILABLE TECHNOLOGIES. THE COMMISSION MAY PROVIDE DIRECTION FOR THE DEVELOPMENT OF THESE PLANS THROUGH THE ADOPTION OF STANDARDS, GUIDELINES, OR METHODOLOGIES TO WHICH STAFF AND THE ADVISORY COMMITTEE SHALL ADHERE, INCLUDING STANDARDS, GUIDELINES, OR METHODOLOGIES TO BE USED TO EVALUATE A PLAN'S COMPETITIVENESS, CONSISTENT WITH SECTION 30-10-306.3 (3)(d).

(e) THE CREATION, PRESENTATION TO THE COMMISSION, AND PUBLISHING ONLINE OF THE PLANS. AT PUBLIC HEARINGS AT WHICH THE PLANS ARE PRESENTED, STAFF OR AN ADVISORY COMMITTEE SHALL EXPLAIN

HOW THE PLANS WERE CREATED, HOW THE PLANS ADDRESS THE CATEGORIES OF PUBLIC COMMENTS RECEIVED, AND HOW THE PLANS COMPLY WITH THE CRITERIA PRESCRIBED IN SECTION 30-10-306.3.

(f) THREE PUBLIC HEARINGS ON THE PLANS, IN ACCORDANCE WITH 30-10-306.2 (3)(b), IN WHICH THE COMMISSION SOLICITS FEEDBACK FROM THE COUNTY;

(g) THE REQUEST BY ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS OF THE COMMISSION FOR STAFF OR AN ADVISORY COMMITTEE TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS. ANY SUCH REQUEST MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION BUT DOES NOT REQUIRE COMMISSION APPROVAL.

(h) THE ADOPTION OF A FINAL PLAN BY THE COMMISSION.

(2) THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN SUBSECTION (1) OF THIS SECTION, IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE THAT THE BOARD OF COUNTY COMMISSIONERS CAN APPROVE A PLAN FOR THE REDRAWING OF COUNTY COMMISSIONER DISTRICTS NO LATER THAN SEPTEMBER 30 OF THE REDISTRICTING YEAR.

(3) THE COMMISSION MAY GRANT ITS STAFF THE AUTHORITY TO MAKE TECHNICAL DE MINIMIS ADJUSTMENTS TO THE ADOPTED PLAN.

(4) UPON ADOPTION OF THE PLAN APPROVED BY THE COMMISSION, THE COMMISSION SHALL PROVIDE COPIES OF THE PUBLISHED PLAN TO THE SECRETARY OF STATE AND THE DEPARTMENT OF LOCAL AFFAIRS.

(5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A COUNTY COMMISSIONER MAY REMAIN ON THE BOARD OF COUNTY COMMISSIONERS, EVEN IF HE OR SHE NO LONGER RESIDES IN THE DISTRICT HE OR SHE REPRESENTS, UNTIL THE EXPIRATION OF HIS OR HER TERM OF OFFICE, SO LONG AS THE COUNTY COMMISSIONER RESIDED IN THE DISTRICT HE OR SHE REPRESENTED IMMEDIATELY BEFORE A PLAN FOR THE REDRAWING OF COUNTY COMMISSIONER DISTRICTS WAS ADOPTED IN ACCORDANCE WITH THIS SECTION.

**SECTION 4.** In Colorado Revised Statutes, 30-10-306.7, **amend**

(3) as follows:

**30-10-306.7. Procedure for electing county commissioners.**

(3) (a) Subject to referral as provided in this subsection (3), a board of county commissioners may pass a resolution ~~changing the method of electing the members of the board or~~ decreasing the membership of the board, as provided in subsection (2) of this section. Prior to the ninetieth day before the next general election, the board of county commissioners shall request that the county clerk and recorder place the resolution on the ballot for referral to the registered electors of the county at the next general election.

(b) SUBJECT TO REFERRAL AS PROVIDED IN THIS SUBSECTION (3), A BOARD OF COUNTY COMMISSIONERS MAY PASS A RESOLUTION CHANGING THE METHOD OF ELECTING THE MEMBERS OF THE BOARD. THE RESOLUTION SHALL BE REFERRED TO THE REGISTERED ELECTORS OF THE COUNTY AT A GENERAL ELECTION. IF ANY NUMBER OF THE COUNTY COMMISSIONERS ARE NOT ELECTED BY THE VOTERS OF THE WHOLE COUNTY WHEN THE BOARD OF COUNTY COMMISSIONERS PASSES THIS RESOLUTION, THEN THE RESOLUTION MUST DESIGNATE NO FEWER THAN TWO OF THE METHODS OF ELECTION SET FORTH IN SUBSECTION (2) OF THIS SECTION. IF A MAJORITY OF VOTES CAST ARE IN FAVOR OF THE RESOLUTION, THE BOARD OF COUNTY COMMISSIONERS SHALL TAKE SUCH ACTION AS IS NECESSARY TO ENSURE THAT THE COUNTY COMMISSIONERS ARE ELECTED AT THE NEXT GENERAL ELECTION ACCORDING TO THE PROCEDURE FOR ELECTION CONTAINED IN THE RESOLUTION THAT RECEIVED THE LARGEST NUMBER OF VOTES CAST.

**SECTION 5.** In Colorado Revised Statutes, 1-5-101, **amend** (3); **repeal** (2); and **add** (7) as follows:

**1-5-101. Establishing precincts and polling places for partisan elections.** (2) ~~In counties that use paper ballots, the county clerk and recorder, subject to approval by the board of county commissioners, shall establish at least one precinct for every six hundred active eligible electors, with boundaries that take into consideration municipal and school district boundary lines whenever possible. However, the county clerk and recorder, subject to approval by the board of county commissioners, may establish one precinct for every seven hundred fifty active eligible electors.~~

(3) (a) ~~In a county that uses an electronic or electromechanical~~

~~voting system,~~ the EVERY county clerk and recorder, subject to approval by the board of county commissioners, shall establish at least one precinct for every one thousand five hundred active eligible electors IN THE COUNTY AT THE TIME OF THE MOST RECENT FEDERAL DECENNIAL CENSUS. However, the county clerk and recorder, subject to approval by the board, may establish one precinct for every two thousand active eligible electors.

(b) THE PRECINCTS ESTABLISHED BY THE COUNTY CLERK AND RECORDER IN SUBSECTION (3)(a) OF THIS SECTION NEED NOT BE MODIFIED UNTIL THE PRECINCTS HAVE MORE THAN TWICE AS MANY ACTIVE ELIGIBLE ELECTORS AS THEY DID AT THE TIME OF THE MOST RECENT FEDERAL DECENNIAL CENSUS, OR WHEN THEY WERE ESTABLISHED BY THE COUNTY CLERK AND RECORDER, WHICHEVER IS LATER.

(7) IN ANY COUNTY, THE COUNTY CLERK AND RECORDER MAY ALTER THE PRECINCT BOUNDARIES WHEN NECESSARY TO ENSURE THAT NO PRECINCT IS LOCATED IN MORE THAN ONE COUNTY COMMISSIONER DISTRICT.

**SECTION 6.** In Colorado Revised Statutes, **amend 2-2-901** as follows:

**2-2-901. Population data for redistricting.** For purposes of redrawing the boundaries of congressional, state senatorial, ~~and state representative, districts~~ AND COUNTY COMMISSIONER DISTRICTS after each federal census, the independent legislative and congressional redistricting commissions established pursuant to sections 44 and 46 of article V of the state constitution AND THE COUNTY COMMISSIONER DISTRICT REDISTRICTING COMMISSIONS ESTABLISHED PURSUANT TO SECTION 30-10-306.1 shall use total population data supplied by the United States census bureau that has been used to apportion the seats in the United States house of representatives among the states as adjusted by the legislative council staff and office of legislative legal services, or any successor offices, pursuant to section 2-2-902.

**SECTION 7.** In Colorado Revised Statutes, 2-2-902, **amend (4)** as follows:

**2-2-902. Accurate census data - electronic record of prisoner home address - adjustment of census data - definitions.** (4) Pursuant to subsection (5) of this section, nonpartisan staff shall prepare redistricting

population data to reflect incarcerated persons at their residential addresses in this state rather than their place of incarceration. This data prepared by nonpartisan staff is the necessary census data provided to and to be used by the independent legislative and congressional redistricting commissions established pursuant to sections 44 and 46 of article V of the state constitution AND IN THE ESTABLISHMENT OF COUNTY COMMISSIONER DISTRICTS PURSUANT TO SECTION 30-10-306. The data is the population basis of congressional districts, COUNTY COMMISSIONER DISTRICTS, state house of representative districts, and state senate districts. Nonpartisan staff shall make this census data available to the independent legislative and congressional redistricting commissions and to members of the public and any county or local governmental entity of Colorado upon request.

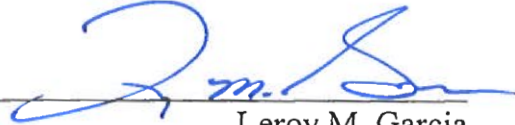
**SECTION 8. Safety clause.** The general assembly hereby finds,



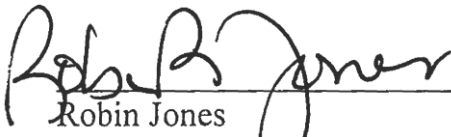
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

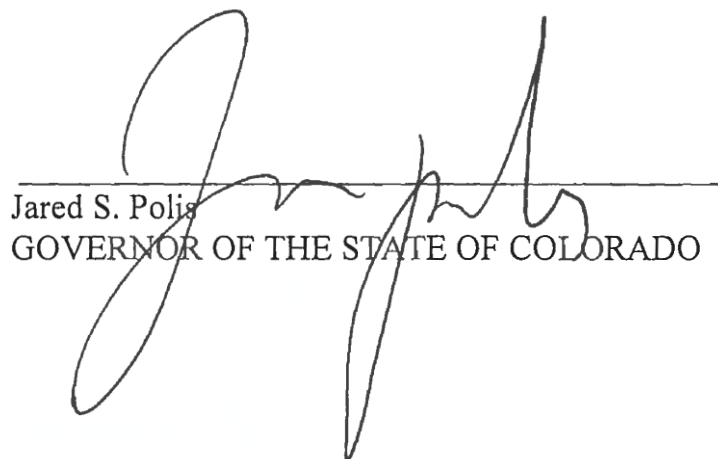


Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED April 29, 2021 at 12:15pm  
(Date and Time)



Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

**Legislative Council Staff***Nonpartisan Services for Colorado's Legislature***Final Fiscal Note**

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<b>Drafting Number:</b>	LLS 21-0131	<b>Date:</b>	July 14, 2021
<b>Prime Sponsors:</b>	Rep. Kennedy Sen. Lee	<b>Bill Status:</b>	Signed into Law
		<b>Fiscal Analyst:</b>	Josh Abram   303-866-3561 Josh.Abram@state.co.us

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<b>Bill Topic:</b>	<b>COUNTY COMMISSIONER DISTRICTS GERRYMANDERING</b>
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**Summary of  
Fiscal Impact:**

- |   |  |
|---|--|
| <input type="checkbox"/> State Revenue                | <input type="checkbox"/> TABOR Refund                |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer               | <input type="checkbox"/> Statutory Public Entity     |

The bill establishes a process for county redistricting and encourages the creation of independent county redistricting commissions. The bill is applicable only in counties where commissioners are elected by just a portion of the county. Every 10 years, the bill minimally increases state revenue and workload and increases local government expenditures.

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<b>Appropriation Summary:</b>	No appropriation is required.
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<b>Fiscal Note Status:</b>	The fiscal note reflects the final act.
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**Summary of Legislation**

The bill creates a redistricting process to be used in any county that has commissioners that are elected only by a given county district, and not elected by voters of the whole county. The county must divide itself into commissioner districts according to a final plan prepared by the redistricting commission, and reviewed and approved by a panel of district judges. Redistricting occurs the year after the federal decennial census.

In affected counties, the bill encourages the creation of an independent redistricting commission and establishes rules for its composition and the eligibility of applicants. The redistricting commission may alternatively be comprised of the elected county commissioners. The county must assign nonpartisan staff to assist the redistricting commission.

County redistricting commissions are required to conduct public hearings and provide for public input and the bill details a process for adopting and recommending a final redistricting plan. Redistricting commissions are required to use specified evaluative criteria in the process, such as preserving whole communities of interest and political subdivisions. Once a final plan is adopted, it must be submitted to a judicial panel comprised of three sitting district court judges appointed by the

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chief judge of the district. The judicial panel must review the redistricting plan and determine if it complies with the required criteria.

The bill requires that persons lobbying the county redistricting commission register with the Secretary of State (SOS) and disclose compensation contracted for and received, and the person or entity contracting or paying for their lobbying services. Disclosures must be made 72 hours after each instance of lobbying and the SOS must publish data within 24 hours of receiving the disclosure. Any complaint alleging a lobbyist's failure to report a full and accurate disclosure must be heard by an administrative law judge whose decision may be appealed to the court of appeals.

## **Background**

Only three counties are currently affected by the bill: Arapahoe, El Paso, and Weld counties. Redistricting in these counties and associated expenses are required in 2021, the year following the census.

## **State Revenue and Expenditures**

In any year that affected counties are required to redistrict, the Secretary of State and the Judicial Department will see a minimal increase in workload and revenue. The bill may minimally increase fine revenue to the Department of State Cash Fund for fines collected from lobbyists that fail to disclose required information. The Judicial Department is required to provide judicial review of proposed county redistricting plans. This will increase workload for the branch every 10 years. Given the volume of plans to review, these expenses are not anticipated to require additional appropriations. If complaints are filed against lobbyists, expenditures also increase in the Department of Personnel and Administration for an Administrative Law Judge to hear any cases referred by the SOS.

## **Local Government**

Affected counties are encouraged to establish a county redistricting commission, interview and appoint qualifying commission members, provide nonpartisan support staff for developing and revising redistricting plans, and conduct public hearings before submitting a final plan for judicial review. Impacted counties will have increased legal, administrative, and operating costs in any year in which redistricting occurs. Although each of the affected county's expenses will vary, costs are estimated to be between \$75,000 and \$135,000 per county. Cost drivers are described in more detail below.

**Personal services.** County redistricting will require the compensation of nonpartisan staff. Personal service expenditures can assume a 6 month process to develop plans. This analysis also assumes that only nonpartisan staff are compensated, and that redistricting commissioners receive no compensation but are entitled to per diem and travel expenses.

**Computer equipment and software.** Redistricting requires computers that use GIS and mapping software, as well as data and printing services.

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**Legal services.** Professional and legal consultation will be required for rulemaking, open records requests, and for redistricting plans.

**Travel and per diem.** The county redistricting commission must hold public meetings and will incur expenses for travel reimbursement and per diem for staff and commission members.

**Effective Date**

The bill was signed into law by the Governor and it took effect on April 29, 2021.

**State and Local Government Contacts**

Counties	Information Technology	Judicial
Law	Local Affairs	Secretary of State

fiscal year. For additional information about fiscal notes, please visit: [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes).