

## Emerging Models for Redistricting Commissions

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### **State legislatures are introducing many new models**

Adoption of independent nonpartisan redistricting committees has stalled. In response, legislatures across the country are introducing alternative models for commissions. The drive for new models has been spurred by strong and rising voter pressure to limit politicization of redistricting coupled with recognition that legislatures will generally resist entirely giving up this very powerful political tool.

New models are appearing that are: 1) **bi-partisan**, rather than nonpartisan; 2) **semi-independent**, rather than independent, preserving a role for the legislature; and 3) **constrained** in how they use data, engage citizens, ensure transparency, and make decisions. Many of these models create commissions that are chosen in whole or in part by elected officials and thus constitute a variation on the most common form of redistricting commission, often called a **politician commission**. Such models may therefore be termed “**constrained politician commissions**” (**CPCs**). CPCs appear to be particularly attractive in states where initiatives, including constitutional amendments, cannot get on the ballot without prior legislative approval (a situation affecting about half the states; see map below).

Other new models include those that provide a greater role for the judiciary, offer variations on the “citizens pool” model adopted in California and Arizona, or assign a significant role to legislative research units (variations on the Iowa model).

Dozens of bills using these models were introduced in state legislatures in 2017.

These include several

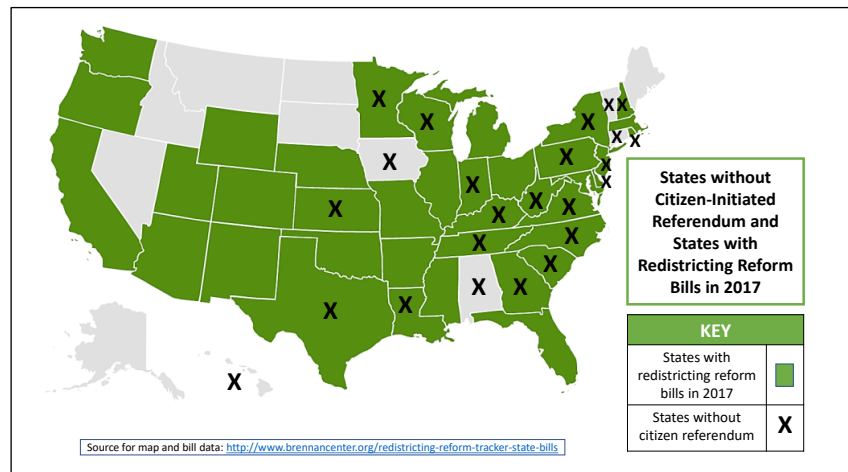
structured as **constitutional**

**amendments**, an approach that limits opportunities for future revision/reversal of the reform and also directly engages voters in adopting the reform. New York’s recent reform—one of the very few bills and possibly the only bill to pass both legislative houses and make it into law since 2010—takes the form of a constitutional amendment and also adopts the CPC model.

### **How do “constrained politician commission” models work?**

CPC models embody the “art of the possible.” They seek to fence in legislatively-controlled redistricting in such a way that the plan adopted more closely resembles what an independent nonpartisan commission might devise, while leaving the actual decision-making in the hands of legislators or their designees. A League representative from NY commented that the law adopted there was not ideal, but that they decided it was the best they were going to get and therefore supported it. If ever there was a need to follow the maxim, “don’t let the perfect be the enemy of the good,” redistricting reform is it.

CPCs constrain a politically-appointed commission by adopting several complementary strategies (we are still analyzing the different configurations). Core elements are shown on the following page.



### Strategies for constraining politician commissions to improve redistricting outcomes

- **Fixed tripartite composition:** The commission must include an equal number of Democrats and Republicans and, typically, a somewhat smaller number of independents (e.g., 5-5-4 or 4-4-2). Many require that an independent member chair the commission.
- **Procedure for membership selection:** Bills often specify which elected officials are to name members to the committee; these may either be limited to legislative leadership positions or include representatives of the governor and/or the state court system.
- **Strict membership criteria:** Bills define commission members' required backgrounds and may also bar them from running for office for a certain period after serving on the commission. Some provide for sitting or former judges to sit on the commission or to chair it.
- **Mandated mapping criteria:** Plans must meet standard criteria, such as equal population, contiguity, compactness, keeping political units (counties, municipalities, precincts) whole, respecting communities of interest, and complying with the VRA.
- **Prohibited mapping criteria:** Plans must not be drawn to pursue a partisan objective nor to protect incumbents.
- **Prohibited data:** To protect these criteria, the commission must not use data on party registration, incumbent or challenger addresses, or past election outcomes.
- **Transparency of operation:** Commission operations must meet open meeting requirements; plans must be posted on websites as soon as developed; records must be maintained and made available to the public, etc.
- **Public involvement:** Bills detail how many public hearings must be held at each stage of the process (including before and after release of draft maps) and where hearings must take place, require hearings to be livestreamed and posted, and provide for public access to software and data as well as public submission of comments and citizen-developed draft maps.
- **Resources:** Many bills provide for funding and staffing to support the commission's operation, whether by the legislative research unit or specially hired staff, with rules for contracting outside expertise.
- **Detailed timelines:** Some bills provide specific and detailed schedules showing when each step must be completed.
- **Supermajority decision rules:** Most require that any plan adopted must be approved by a majority that includes members of all three groups (D-R-I), sometimes with majority approval required within each subgroup as well. ***This is a key requirement of CPCs, designed to make a politician commission operate more like a nonpartisan, independent commission.***
- **Legislative involvement:** Legislative approval is required in some plans, generally on an up-or-down vote; some plans call for the plan to become final upon approval of the commission alone. Where legislative approval is required, the bills often specify a procedure for one or more revised plans to be submitted should the first plan fail to win approval.
- **Failsafe procedures:** Bills detail what happens if the commission fails to develop a plan or if the legislature fails to approve it. In some cases, procedures are provided for a state (or, for Congressional districts, federal) court to draw the maps if no plan is approved by the legislature. Some bills also provide specific procedures for dealing with challenges to expedite the process.