



SIOUX FALLS AREA  
CHAMBER OF COMMERCE  
*Progress is everyone's business*

## **ISSUE BRIEF: Legislative Redistricting – Constitutional Amendment T**

July 2016

Approved by the Executive Committee: July 25, 2016

Approved by the Board of Directors: July 27, 2016

***The Sioux Falls Area Chamber of Commerce will remain “NEUTRAL” on  
Constitutional Amendment T on the 2016 general election ballot.***

### **Background**

There are two ways in South Dakota to propose an amendment to the State Constitution. The first is by majority vote, whereby the Legislature can endorse a joint resolution to put an issue on the ballot. The second option requires an initiative process with valid signatures equaling at least 10% of the vote total from the prior gubernatorial election. Likewise, statutory changes can be initiated by the citizenry by obtaining valid signatures equaling at least 5% of the vote total from the prior gubernatorial election. Constitutional Amendment T deals with changing the way redistricting is done for our state's legislative districts. To amend the constitution or enact the law will require a majority vote.

In summary, Constitutional Amendment T would do the following:

- Change the legislative apportionment process by creating a Redistricting Commission and, thus, remove redistricting authority from the State Legislature.

### **Discussion**

Article III, Section 5 of our state constitution outlines redistricting and vests the responsibility with the state legislature. Redistricting is required every ten years following the federal decennial census. The next scheduled redistricting is 2021 and must be done by December 1 of that year. If the legislature fails in its duty, the Supreme Court is charged with the redistricting responsibility. The language below is purported to be the original language adopted with the first state constitution.

§ 5. The legislature shall provide by law for the enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter; and at its first regular session, after each enumeration and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy. Provided, that the legislature may make an apportionment at its first session after the admission of South Dakota as a state.

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Since adoption, a number of amendments have been proposed over the years with only a few of them adopted that generally modernize the section. Thus, since statehood we have tasked the legislature with redistricting responsibility. Maps of today's legislative districts can be found at

[http://legis.sd.gov/Legislators/Who\\_Are\\_My\\_Legislators/LegislativeDistricts.aspx](http://legis.sd.gov/Legislators/Who_Are_My_Legislators/LegislativeDistricts.aspx).

Amendment T would make sweeping changes to how redistricting takes place with some of the most notable changes as follows:

- Create a nine-person commission with, in essence, three republicans, three democrats and three who are unaffiliated with the two major parties.
- Charge the State Board of Elections with choosing the commission. Today, the State Board of Elections is responsible for the elections process. This would be a broad expansion of their responsibilities.
- Require a redistricting to take place in 2017 and then again in 2021 and every ten years thereafter.
- Give the new commission the ability to decide between single-member or dual-member house districts. Today, we have dual-member districts (with some minor exceptions west river) and the legislature makes this determination.
- Give the new commission absolute authority to establish districts and the responsibility to defend their actions if challenged in court. The legislature may only provide input or comment to the process.

In addition to these changes, Amendment T outlines the procedures and processes the commission will follow to accomplish its work and restrictions on commission members and their political activity.

Currently 13 states use some sort of commission for apportionment. It is overwhelmingly common, though not universal, that legislative leadership from major parties chooses some of the members. It is also common to see the executive and judicial branches choosing some members. No two commission processes are identical.

In addition, five state use advisory commissions whose responsibility is to assist the legislature by providing input into the process. And, five states have backup commissions whose responsibility is to decide apportionment in the event the legislature is unable or unwilling to make a decision. Finally one state, Iowa, has a stand-alone process that requires nonpartisan legislative staff to draw the plan to submit to the legislature, but the legislature has final authority. Information on apportionment by state can be found at <http://www.ncsl.org/research/redistricting/2009-redistricting-commissions-table.aspx>.

A further note on the South Dakota State Board of Elections might be important. The Board consists of seven members. The Secretary of State is one member and serves

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as the chair. The senate majority and minority leaders each appoint one member and the house majority and minority leaders each appoint one member. The remaining two members are county auditors and cannot be from the same party.

The Board’s responsibility is to promulgate rules regarding the conduct of elections in South Dakota and to make recommendations to the Secretary to improve voting processes. Amendment T would significantly change their role as they would also be charged with selecting the members of the new Redistricting Commission. It should also be noted that membership on the Board is determined in a way that is very similar to how members are chosen for commissions in other states.

**Chamber Position:** (Adopted Sept. 28, 2016)

***The Sioux Falls Area Chamber of Commerce is “NEUTRAL” on Constitutional Amendment T on the 2016 general election ballot.***

**Rationale:**

*The state legislature is currently required to redraw districts after the U.S. decennial census figures are released. Though this is an important activity, the Board of Directors feels it is not an issue that rises to a level where Chamber involvement is warranted.*