



# WISCONSIN LEGISLATIVE REFERENCE BUREAU

## MEMORANDUM

**TO:** Speaker Robin Vos  
**FROM:** Richard Loeza, senior legislative analyst; Joseph Kreye, chief counsel  
**DATE:** September 12, 2023  
**SUBJECT:** Nonpartisan redistricting in Iowa and under LRB-4349

Per your request, the following memorandum compares the nonpartisan redistricting process employed in Iowa and the similar process proposed by LRB-4349.

### Iowa and LRB-4349: overview

Iowa's nonpartisan redistricting process assigns the duty of drawing initial congressional and legislative district maps to Iowa's nonpartisan [Legislative Service Agency](#) (LSA).<sup>1</sup> The LSA must submit a map proposal to the legislature by a specific deadline. A bipartisan advisory committee provides guidance to LSA when requested and must hold hearings on the LSA map proposal across the state and issue a report to the legislature on the testimony received in those meetings. Once submitted to the legislature, the LSA's map proposal cannot be substantively amended, and both houses must promptly vote on it. If the first map proposal is not enacted, the LSA must submit a second map proposal, and if that one is not enacted, a third map proposal.<sup>2</sup>

LRB-4349 proposes a nonpartisan legislative redistricting process almost identical to Iowa's process.<sup>3</sup> LRB-4349 would charge the Legislative Reference Bureau (LRB) with drawing legislative redistricting plans but does not create any new requirements or processes related to congressional redistricting. The legislative redistricting process proposed in LRB-4349 is largely the same as that in Iowa, with exceptions described in the remainder of this memo.

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<sup>1</sup> Iowa Code Ch. [42](#). The Legislative Service Bureau originally had this responsibility. Over the years as other nonpartisan agencies of the General Assembly have been combined, the Legislative Services Agency has assumed responsibility, see 2003 Iowa Laws Ch. [35](#).

<sup>2</sup> Since 1980, when Iowa first used this redistricting process, each redistricting cycle in Iowa has seen the enactment of a map proposal submitted by the LSA: the LSA's third map proposal was enacted in 1981 without amendment; its first map proposal was enacted in 1991 and 2011; and its second map proposal was enacted in 2001 and 2021.

<sup>3</sup> Several similar proposals have been issued over the last twenty years, starting with [2003 Senate Bill 545](#).

## Iowa and LRB-4349: comparison of details

### *Standards for map drawing*

The Iowa process and LRB-4349 all require district maps to be drawn according to certain standards, including traditional redistricting standards, such as drawing districts as near to the ideal of equal population as possible, setting maximum allowable deviations from that ideal population, requiring contiguous districts, and avoiding the division of political subdivisions.<sup>4</sup>

The specific standards required under the Iowa process and LRB-4349 are:

**Table 1: Comparison of redistricting standards**

| Iowa Redistricting Standards   | LRB-4349 Redistricting Standards  |
|--|---|
| <p>The total deviations among all districts from the ideal population cannot exceed one percent of the state’s population.</p> <p>The populations of senate districts and the populations of assembly districts, respectively, can differ by up to 5 percent.<sup>5</sup></p> <p>The legislature has the burden of justifying differences between the population of a district and the ideal district population greater than 1 percent.<sup>6</sup></p> | <p>The total deviations among all districts from the ideal population cannot exceed one percent of the state’s population.</p> <p>The legislature has the burden of justifying differences between the population of a district and the ideal district population greater than 1 percent.</p> |
| Districts must be composed of “convenient contiguous territory.” <sup>7</sup>  | Districts must be composed of “convenient contiguous territory.”  |
| District boundaries must, to the extent allowed by the population equality requirements and the Iowa Constitution, coincide with political subdivision boundaries. <sup>8</sup>  | District boundaries must coincide with ward boundaries and must, to the extent allowed by the population equality requirements and federal law, coincide with political subdivision boundaries.   |

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<sup>4</sup> Iowa Code § [42.4](#) 1. a.

<sup>5</sup> Iowa Code § [42.4](#) 1. a.

<sup>6</sup> Iowa Code § [42.4](#) 1. c.

<sup>7</sup> Iowa Code § [42.4](#) 3.

<sup>8</sup> Iowa’s law does not mention that the districts must comply with federal laws like the Voting Rights Act, but federal law still applies to Iowa redistricting even in the absence of a state statutory requirement.

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|---|---|
| When there is a choice between dividing political subdivisions, the more populous subdivisions should be divided before the less populous. <sup>9</sup> | The number of divided political subdivisions should be “as small as possible” and all such divisions must “preserve communities of interest.”               |
| Compactness is measured with length/width ratio and “perimeter” measures of compactness. <sup>10</sup>  | Compactness is measured with the Reock score, measured as the area of a district divided by the area of the smallest circumscribing circle of the district. |

In addition to the above standards, both Iowa and LRB-4349 prohibit the drawing agency from using data on incumbent legislator addresses, voter’s political affiliations, previous election results and demographic information, except that both states allow demographic information to be used to ensure consistency with federal law.<sup>11</sup>

#### *Advisory commissions*

Both Iowa law and LRB-4349 create a redistricting advisory commission to hold public hearings, report on map proposals, and perform other duties. The composition of the five-person commission is the same in both cases: four appointees designated respectively by the minority and majority leaders of each house of the legislature, and a chairperson selected by the four appointees. The chairperson must be selected by February 15 of each year ending in 1. A person is ineligible to serve as a commissioner if the person is not a resident of the state, holds a partisan public office or a political party office, or is related to or employed by a Congressperson or legislator. If a vacancy occurs, the appointing authority that appointed the vacating person appoints that person’s replacement.<sup>12</sup>

**Table 2: Comparison of redistricting advisory commission duties**

| <b>Commission’s duties in Iowa</b>  | <b>Commission’s duties under LRB-4349</b>   |
|---|---|
| Provide guidance to LSA, when requested, on decisions for which no clearly applicable statutory guideline is available. | Provide guidance to LRB, when requested, on decisions for which no clearly applicable statutory guideline is available. |

<sup>9</sup> Iowa Code § [42.4](#) 2.

<sup>10</sup> For a description of length/width ratio and perimeter test, see H.P. Young, “Measuring the Compactness of Legislative Districts,” *Legislative Studies Quarterly* 13, no. 1 (Feb 1988): 109 and 111.

<sup>11</sup> That is, compliance with the Voting Rights Act.

<sup>12</sup> Iowa Code § [42.5](#) 1. c. and Wis. Stat. § [17.20 \(1\)](#).

|  |   |
|--|---|
| <p>Conduct at least three hearings on proposal.</p> <p>Hearings must be held in different parts of the state.</p> <p>Information from hearings must be presented to legislature.</p> | <p>Conduct at least three hearings on proposal.</p> <p>Only one hearing may be held in Madison, and at least one must be held in the northern half of the state.</p> <p>Information from hearings must be presented to legislature.</p> |
| <p>Issue report compiling information gathered at public hearings on LSA proposals, as well as comments and conclusions of the commission members.</p>                               | <p>Issue report compiling information gathered at public hearings on LRB proposals, as well as comments and conclusions of the commission members.</p>  |
| <p>Establish policies limiting what information LSA can provide regarding any redistricting plan.</p>  | <p>Establish policies limiting what information LRB can provide regarding any redistricting plan.</p>   |

In Iowa, the commissioners receive a per diem and reimbursement for certain expenses.<sup>13</sup> Under LRB-4349, the commissioners are reimbursed only for expenses, paid out of the general program operations appropriations for each legislative house.<sup>14</sup>

### *Process and deadlines*

Iowa law and LRB-4349 set deadlines for key events in the redistricting process. LRB-4349 starts the redistricting process later in the year and sets out a longer timeline.<sup>15</sup> In the event that the legislature fails to pass the initial map proposal, Iowa law requires LSA to produce up to two more proposals; in contrast, LRB-4349 does the same.

The Iowa legislature’s feedback must, to the extent allowed by Iowa’s statutes and the Constitution, be incorporated into the second or third map proposal. If a map proposal is vetoed by the governor, the governor’s feedback must be incorporated into the second or third map proposal. LRB-4349 has similar requirements for incorporating the legislature and governor’s feedback between map proposals.

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<sup>13</sup> Iowa Code § [42.5](#) 1. d.

<sup>14</sup> Wis. Stat. § [20.765 \(1\) \(a\)](#) and [\(b\)](#). Cost reimbursement without a per-diem is standard for part-time bodies in Wisconsin.

<sup>15</sup> This may be because of the Iowa Legislature’s shorter session schedule as compared to Wisconsin. For example, see Iowa Legislative Services Agency, “[2023 Iowa Legislative Session Timetable](#)” March 30, 2023, <https://www.legis.iowa.gov/>.

**Table 3: Comparison of redistricting process deadlines**

| <b>Event</b>                                       | <b>Iowa Deadline</b>  | <b>LRB-4349 Deadline</b>                                       |
|--|---|--|
| First map proposal due at legislature              | April 1 of each year ending in 1  | January 1 of year ending in 2                                  |
| Vote on first map proposal                         | At least 3 days after submission and release of advisory commission report  | At least 7 days after submission of advisory commission report |
| Second map proposal due at legislature (if needed) | 35 days after a house of legislature or governor fails to approve   | 21 days after a house of legislature fails to approve          |
| Vote on second map proposal (if needed)            | At least 7 days after submission of map proposal  | At least 7 days after submission of map proposal               |
| Third map proposal due at legislature (if needed)  | 35 days after a house of legislature or governor fails to approve, but sufficiently in advance of September 1 to allow full consideration | 21 days after a house of legislature fails to approve          |
| Vote on third map proposal (if needed)             | At least 7 days after submission of map proposal  | At least 7 days after submission of map proposal               |
| Court must intervene                               | If no map proposal is enacted by September 15 of the year ending in 1   | No deadline specified  |

This schedule may change in certain circumstances. In Iowa, the April 1 deadline to submit a map proposal is pushed forward by one day for every day after February 15 of a year ending in 1 that the U.S. Census Bureau’s redistricting data is not released. Under LRB-4349, the January deadline to submit a map proposal is extended by one day for every day after April 1 that census redistricting data is not released.<sup>16</sup>

<sup>16</sup> LRB-4349 allows the redistricting advisory commission to be established after the effective date of the bill. LRB-4349 also directs the LRB to create and deliver redistricting plans by January 1, 2024, notwithstanding the bill’s normal deadlines.

In Iowa, the legislature is permitted to make “corrective” amendments to the first and second map proposals,<sup>17</sup> but can amend the third map proposal in the same manner as it amends other legislation.<sup>18</sup> Under LRB-4349, the Wisconsin legislature can also make corrective amendments to the first and second map proposals and amend the third map proposal in the same manner as it amends other legislation.

In Iowa, if no map proposal is enacted by September 15, the Iowa Constitution (Art. III, § [35](#)) directs the Iowa Supreme Court to adopt, or cause to be adopted, a redistricting plan for legislative districts.<sup>19</sup> LRB-4349 does not specify a deadline by which a map proposal must be adopted. In addition, the Wisconsin Constitution does not require the Wisconsin Supreme Court to adopt, or cause to be adopted, a redistricting plan.

## Conclusion

The nonpartisan redistricting process used by Iowa and the process created under LRB-4349 are virtually identical. The very few differences reflect matters unique to Wisconsin law, such as the timing of the steps in the process and the constitutional power of the Wisconsin Supreme Court. Aside from accommodating these unique features of Wisconsin law, LRB-4349 adopts the Iowa redistricting process for Wisconsin.

Please let us know if you have any questions or require additional information.

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<sup>17</sup> Iowa Code § [42.3](#) 1. a. and 2.

<sup>18</sup> Iowa Code § [42.3](#) 3.

<sup>19</sup> In 2021, the census data for redistricting was not made available until August. [LSA’s announced timeline](#) indicated that new districts would not be in place by the September 1 deadline. The Iowa Supreme Court chose to use its authority to “cause the state to be apportioned” to extend the redistricting deadline for the LSA and legislature to December 1, 2021. [In the Matter of Reapportionment of State Senatorial and Representative Districts](#), Order No. 21-1281 (Iowa, September 14, 2021).