

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 962 (Delegate McComas, *et al.*)
Rules and Executive Nominations

Elections - Study Commission on the Redistricting Process in Maryland

This bill establishes a Study Commission on the Redistricting Process in Maryland. The Department of Legislative Services (DLS) and the State Board of Elections (SBE) must provide staff for the commission. The commission must report its findings, recommendations, and any proposed constitutional or statutory changes to the Governor and the General Assembly by December 31, 2018, for consideration during the 2019 legislative session.

The bill takes effect July 1, 2017, and terminates June 30, 2019.

Fiscal Summary

State Effect: Although the timing of the study commission may have an operational impact on SBE, both DLS and SBE can handle the staffing requirements using existing budgeted resources. Any expense reimbursements for commission members are anticipated to be minimal and absorbable within existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The commission is required to (1) examine the current redistricting process relating to members of the General Assembly and the State's representatives to the U.S. Congress; (2) collect and analyze information relating to the manner and methods of

state legislative and congressional redistricting in other states; (3) as it considers appropriate, receive testimony and consult with individuals who are knowledgeable about State and federal constitutional and statutory requirements and other related matters; and (4) suggest any State constitutional or statutory changes needed to improve the redistricting process in Maryland.

Current Law/Background:

State Legislative Districts: State legislative district boundaries are required under the Maryland Constitution and federal case law to be redrawn every 10 years after the decennial census to adjust for population changes. The Maryland Constitution provides for 47 legislative districts. Article III, Section 4 requires that State legislative districts consist of adjoining territory, be compact in form and of substantially equal population, and that natural boundaries and the boundaries of political subdivisions be given due regard. Legislative districts can be subdivided for the purpose of electing one or two delegates from a subdistrict. Creation of legislative boundaries falls under the requirements of the U.S. Constitution's Fourteenth Amendment, which requires districts to be equally populated.

Public Hearings: Article III, Section 5 of the Maryland Constitution requires public hearings to be held before the Governor prepares a legislative redistricting plan. In 2011, the Governor appointed a Redistricting Advisory Committee to conduct public hearings around the State as required by the State Constitution. Consistent with prior practice in previous redistricting phases, the public hearings addressed both legislative and congressional redistricting. The Governor must present a legislative districting plan to the General Assembly by the first day of session in the second year following the decennial census and after the public hearings. If the General Assembly does not pass an alternative plan before the forty-fifth day of session, the Governor's plan becomes law. The current legislative districting plan was enacted as Joint Resolution 2 of the General Assembly in 2012.

Prisoner Allocation: Chapters 66 and 67 of 2010 require that population counts used to create legislative, congressional, county, and municipal districts in Maryland exclude incarcerated individuals who were not State residents prior to their incarceration in either State or federal correctional facilities that are located in the State. If incarcerated individuals were State residents prior to their incarceration, Chapters 66 and 67 require that they be counted as residents of their last known address before their incarceration in a State or federal facility.

Congressional Districts: Under federal case law, congressional district boundaries must be redrawn every 10 years after the decennial census to adjust for population changes; they must also conform to the requirements of the Voting Rights Act of 1965 and related case

law. Congress has left to the states the task of redrawing congressional boundaries. The Governor has traditionally introduced a congressional map along with the State legislative district plan that is required by the State Constitution. The General Assembly may pass its own congressional plan in lieu of the Governor's, but unlike with the legislative plan, there is no deadline set in statute for this to happen. In order to finalize congressional districts for the 2012 primary election cycle, a special session took place in fall 2011. The current districts were established under Chapter 1 of the 2011 special session.

Redistricting Commissions: According to the National Conference of State Legislatures (NCSL), there are 13 states that give first and final authority for legislative redistricting to a group other than the legislature. NCSL indicates the commissions vary greatly from state to state in terms of their composition, but most include appointments made by legislative leaders. Only six states (Arizona, California, Hawaii, Idaho, New Jersey, and Washington) give first and final authority for congressional redistricting to a commission.

State Expenditures: SBE advises that it has little expertise in the subject of redistricting and that the staffing requirement under the bill is coterminous with the 2018 gubernatorial election. As much of the commission's work is likely to occur during the gubernatorial election, SBE will have difficulty finding staff available to perform the additional duties contemplated by the bill. DLS advises that since SBE does not have the subject matter expertise, DLS likely serves as the primary staff for the commission, with SBE in a supportive role. Accordingly, both DLS and SBE can handle the bill's requirements with existing resources.

Additional Information

Prior Introductions: HB 610 of 2015 received a hearing in the House Rules and Executive Nominations Committee, but no further action was taken. HB 698 of 2014 and HB 599 of 2012 were each heard by the House Rules and Executive Nominations Committee, but no further action was taken on either bill.

Cross File: None.

Information Source(s): Maryland State Board of Elections; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2017
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