

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 463 (Delegate Malone, *et al.*)
Rules and Executive Nominations

**Congressional Districts - Standards (Anti-Gerrymandering of Maryland's
Congressional Districts)**

This proposed constitutional amendment, if approved by voters at the next general election, requires each congressional district in the State to consist of adjoining territory, be compact in form, and be substantially equal in population. In addition, due regard must be given to natural boundaries and the boundaries of political subdivisions.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Article III, Section 4 of the Maryland Constitution sets forth requirements for the State's legislative districts that are identical to those that the bill establishes for congressional districts. However, congressional districts are not specifically addressed in the Maryland Constitution.

Congressional districts, which must be redrawn after each decennial census, are governed by the U.S. Constitution; federal statute, including the Voting Rights Act of 1965; and applicable case law. The U.S. Supreme Court has applied a strict equal-population standard to congressional districts. This standard is stricter than the standard the U.S. Supreme Court has set for state legislative districts, which must be "substantially equal in population"

(Reynolds v. Sims, 377 U.S. 533 (1964)). Following the 2010 U.S. Census, the U.S. Census Bureau apportioned eight congressional seats to Maryland.

The task of congressional redistricting has, generally, rested with states. Traditionally, the Governor has submitted a new congressional map to the General Assembly at the same time as a legislative redistricting plan. The General Assembly may adopt an alternative congressional map and is subject to no deadline after which the Governor's plan becomes law. In 2011, the Governor convened a special session to finalize congressional districts for the 2012 primary elections. The General Assembly adopted the current congressional districting plan under Chapter 1 of the 2011 special session.

Legal Challenges to Maryland's Sixth Congressional District

On November 7, 2018, a federal three-judge District Court found Maryland's congressional map in violation of the First Amendment to the U.S. Constitution and issued an injunction ordering the State to redraw the boundaries of the Sixth Congressional District in advance of the 2020 elections. The State must develop and submit a revised districting plan for court approval by March 7, 2019. In developing the proposed districting plan, the State may not consider citizens' party affiliation or voting history. If the State fails to submit a plan by the specified deadline, or if the court rejects the State's plan, the court will establish a commission to develop and submit a plan. On November 16, 2018, the court stayed the injunction, pending appeal in the U.S. Supreme Court, until the earlier of a Supreme Court resolution or July 1, 2019. The U.S. Supreme Court will review the three-judge District Court's ruling and hear arguments in March.

Maryland Emergency Commission on Sixth Congressional District Gerrymandering

On November 26, 2018, in response to the three-judge court's ruling, the Governor issued an executive order establishing the nine-member Emergency Commission on Sixth Congressional District Gerrymandering. The executive order charges the commission with preparing a new congressional map, which must revise the boundaries of the Sixth Congressional District, comply with the court order, and adhere to all applicable legal requirements. The commission, which has conducted public hearings across the State, must submit its proposed redistricting plan by March 4, 2019, for public comment and, by April 2, 2019, submit a finalized plan and report to the Governor. Per the executive order, the Governor will submit the finalized plan for introduction as emergency legislation in the 2019 session of the General Assembly.

Additional Information

Prior Introductions: HB 1022 of 2018 received an unfavorable report from the House Rules and Executive Nominations Committee.

Cross File: SB 110 (Senator Reilly) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Planning; Maryland State Board of Elections; National Conference of State Legislatures; Department of Legislative Services

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