

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 410 (Delegate Malone)
Rules and Executive Nominations

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

This proposed constitutional amendment, if approved by the voters at the next general election, requires each congressional district in the State to consist of adjoining territory, be compact in form, and be of substantially equal population. Congressional district boundaries may not account for how individuals are registered to vote, how individuals voted in the past, or the political party to which individuals belong. 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: Article III, Section 4 of the Maryland Constitution sets forth requirements for the State's legislative districts that are similar to those that the bill establishes for congressional districts; State legislative districts must consist of adjoining territory, be compact in form, and be of substantially equal population. Additionally, due regard must be given to natural boundaries and the boundaries of political subdivisions. The Maryland Constitution does not specifically address party affiliation or voting patterns with regard to the formation of legislative districts, and it does not address congressional districting at all. Chapters 66 and 67 of 2010 require that population counts used to create State congressional districts must (1) exclude incarcerated individuals who were not State

residents prior to their incarceration in State or federal correctional facilities and (2) include incarcerated individuals at their last known address, if State residents prior to their incarceration.

Congressional redistricting is subject to the requirements of the U.S. Constitution, the federal Voting Rights Act, and federal case law. Congressional district boundaries must be redrawn after each decennial census to adjust for population changes, and they must be “as nearly equal in population as practicable.” *Wesberry v. Sanders*, 376 U.S. 1 (1964). 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).

Partisan Gerrymandering

In *Rucho v. Common Cause* 588 U.S. __ (2019), the Supreme Court held that partisan gerrymandering claims present political questions beyond the reach of the federal courts. However, the court noted that the issue of excessive political gerrymandering is being actively addressed by states through legislation.

Additional Information

Prior Introductions: HB 1460 of 2020 received a hearing in the House Rules and Executive Nominations Committee, but no further action was taken. HB 463 of 2019, a similar bill, received an unfavorable report from the House Rules and Executive Nominations Committee. Its cross file, SB 110, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 1022 of 2018, a similar bill, received an unfavorable report from the House Rules and Executive Nominations Committee.

Designated Cross File: None.

Information Source(s): Governor’s Office; Judiciary (Administrative Office of the Courts); Maryland Department of Planning; Maryland State Board of Elections; Legislative Services; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2021
rh/mcr

Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510