

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 743 (Delegate Trueschler, *et al.*)
Rules and Executive Nominations

General Assembly - Legislative Districting

This constitutional amendment requires the Department of Legislative Services (DLS) to establish legislative districts for electing members of the Maryland General Assembly after each decennial census.

Fiscal Summary

State Effect: DLS general fund expenditures would increase by \$150,200 in FY 2011 and \$114,200 in FY 2012 for costs associated with developing legislative district plans for enactment by the General Assembly.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2006 general election. It is expected that the amendment's requirements could be handled using existing resources within the local boards of election.

Small Business Effect: None.

Analysis

Bill Summary:

Legislative Redistricting Standards

The amendment establishes standards for the creation of legislative districts. In creating districts, due regard must be given to communities of interest and information received

from citizens during public hearings. Areas that meet only at the points of adjoining corners may not be considered to be adjoining territory.

Prohibited Practices

Districts may not be drawn to favor a political party, incumbent legislator or member of Congress, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group. DLS may not use the following information in drawing districts: (1) addresses of incumbent legislators; (2) political affiliations of registered voters; (3) previous election results; and (4) demographic information other than population head counts, except as required by the U.S. Constitution or laws of the U.S.

Temporary Redistricting Advisory Commission

The commission is generally required to determine the location of and conduct public meetings to receive public input for preparing a plan. Upon written request, the commission must provide direction to DLS on any issue for which there is no clear applicable guideline for the requirements of a legislative districting plan. The commission is terminated upon the plan's effective date.

Committee Composition

The bill requires a nine-member Temporary Redistricting Advisory Commission. Eight members must be appointed by February 1 of the first year following the census as follows: (1) four members appointed by the Governor; (2) two appointed by the President of the Senate; and (3) two appointed by the Speaker of the House of Delegates. By March 1, commission members must select a ninth member, who will serve as chair, by vote of at least five of the members. If the commission is unable to select the member, the Governor must make the appointment.

Generally, commission membership must reflect the geographical, gender, and ethnic diversity of the State population and at least three members must be members of the dominant minority party.

Eligibility

The following individuals may not be appointed to or serve on the commission:

- an elected or appointed official in the Executive or Legislative branch of a federal, State, or local government;

- an officer of a political party;
- a registered lobbyist; or
- a relative by blood or marriage or an employee of any of the above individuals.

Conversely, a commission member or his or her relative may not hold a State or federal elective or appointed office, or be a registered lobbyist, for a three-year period after serving on the commission.

Public Hearings

The amendment requires two rounds of public hearings to be held in different geographic regions of the State.

Legislative Process

The amendment repeals constitutional provisions requiring the Governor to present a plan to the General Assembly as well as provisions authorizing the Governor to call a special session for purposes of presenting a legislative redistricting plan. Provisions allowing the General Assembly to propose and adopt a plan before the forty-fifth day of the regular session are also repealed.

The amendment requires DLS to present a final legislative district plan to the President of the Senate and the Speaker of the House of Delegates to be introduced as a joint resolution in both houses in the second year following the census according to the schedule below. Each house must consider the joint resolution on second reading as a committee of the whole. With the exception of a third plan, the resolution must be brought to a vote under a procedure that prohibits all amendments except technical amendments. Amendments are allowed on a third plan, provided they conform to constitutional standards and to any direction provided by the commission.

If the joint resolution fails to pass by a constitutional majority in either chamber, the Secretary of the Senate or the Chief Clerk of the House must provide DLS with any information regarding the reasons why the plan was not approved. DLS must then introduce a second and then a third plan if the General Assembly has rejected previous plans. The third plan, which is subject to amendments, is automatically enacted on the sixty-sixth day of the regular session regardless of whether it is approved by the General Assembly.

| | <u>First Reading</u> | <u>Second Reading Committee of the Whole</u> | <u>Third Reading Final Vote</u> |
|------------------------------|---------------------------------|--|---------------------------------------|
| First Plan | 1 st Day of Session | | 22 nd Day of Session |
| Second Plan | 31 st Day of Session | | 45 th Day of Session |
| Third Plan | 50 th Day of Session | | 66 th Day of Session |
| <i>Subject to Amendments</i> | | | <i>Plan is automatically enacted.</i> |

Current Law: The Maryland Constitution requires the Governor to 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 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. Legislative districts can be subdivided for the purpose of electing one or two delegates from a subdistrict, and each legislative district is required to be contiguous, compact, and of “substantially equal” population. Creation of legislative boundaries falls under the requirements of the U.S. Constitution’s fourteenth amendment, which requires districts to be equally populated.

Background: 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 natural boundaries and the boundaries of political subdivisions be given due regard.

DLS provides staff support for all members of the General Assembly who wish to offer proposed legislative districting maps during the legislative session as an alternative to the Governor’s plan prior to the forty-fifth day of session. In 2001, the Governor appointed a Redistricting Advisory Committee to conduct public hearings around the State as required by the State Constitution. DLS also provided staff support for members of the General Assembly serving on the committee.

The Governor’s Legislative Districting Plan (Chapter 276) became effective on February 22, 2002, but was invalidated by the Maryland Court of Appeals. The court found that the plan violated Article III of the Maryland Constitution primarily because of districts that crossed the boundary between Baltimore County and Baltimore City. The court’s redrawn districts became effective on June 21, 2002.

Currently, Iowa is the only state in the country in which a nonpartisan legislative agency is required to perform the essential components of the redistricting process. A five-member Temporary Redistricting Advisory Commission is established in the year following the census to provide advice and guidance to the Iowa Legislative Service Bureau on redistricting matters and to act as a liaison to the public by providing for the release of proposed redistricting plans and conducting public hearings on an initial proposed plan.

Specifically, the commission may provide direction to the Legislative Service Bureau as to how to resolve certain redistricting questions that are not clearly answered by Iowa State law or applicable constitutional mandates, upon written request by the Legislative Service Bureau. In addition, the commission has the authority to establish guidelines governing the release of information by the Legislative Service Bureau about a particular redistricting plan prior to its formal release to the Senate and House.

Once a proposed redistricting plan is released to the Iowa General Assembly, the commission must make available to the public copies of the bill embodying the plan, maps illustrating the plan, a summary of redistricting standards used to develop the plan as prescribed by state law, and a statement about the population of each proposed district and its deviation from the ideal district population. As to the initial redistricting plan delivered to the Iowa General Assembly by the Legislative Service Bureau, the commission is required to schedule and conduct at least three public hearings in different geographic regions of the state and to issue a report to the legislature summarizing the information and testimony received.

The bureau is required to submit up to three redistricting plans in the event that one or more fail to be approved by a constitutional majority in either chamber of the legislature. When considering the third plan, like the first two plans, the legislature is directed to proceed to a vote on the plan no earlier than seven days after delivery of the plan. However, unlike the first two plans, the third plan is subject to amendment in the same manner as any other bill. For state legislative redistricting, the Iowa Constitution specifically directs the Iowa Supreme Court to develop a redistricting plan for the Iowa legislature prior to December 31 of any year ending in 1 if the General Assembly fails to enact an apportionment plan that becomes law by September 15 of that year.

State Fiscal Effect: The amendment would require DLS to prepare legislative districting plan alternatives after two rounds of public hearings by the Temporary Redistricting Advisory Commission at an estimated cost of \$150,200 in fiscal 2011 for one new staff position (including fringe benefits), travel costs, additional equipment, and supplies. Fiscal 2012 expenditures would be \$114,200 for the ongoing cost of equipment maintenance, supplies, and salaries. Currently DLS prepares plans for members of the

General Assembly upon request for introduction as a joint resolution. The proposed amendment would require DLS to develop up to three State legislative redistricting plan maps as well as plans requested by members to be introduced as amendments should the General Assembly fail to adopt the initial two plans.

Additional Information

Prior Introductions: HB 1302 of 2005, an almost identical bill, was not acted upon.

Cross File: SB 364 (Senator Brochin) – Education, Health, and Environmental Affairs.

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

Fiscal Note History: First Reader - February 22, 2006
ncs/jr

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