

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 160 (Senator Brochin, *et al.*)
 Education, Health, and Environmental Affairs

General Assembly - Legislative Districting - Process

This bill establishes a process for the creation of legislative districts for electing members of the Maryland General Assembly (MGA) after each decennial census.

The bill is contingent on passage of SB 161, a constitutional amendment, and its ratification by the voters of Maryland. Subject to those contingencies, the bill takes effect on certification of the election results.

Fiscal Summary

State Effect: General fund expenditures for the Department of Legislative Services (DLS) increase by \$573,600 in FY 2021 and by \$1.1 million in FY 2022 to conduct public hearings and develop legislative districting plans after the decennial census. The bill’s impact on total State expenditures will be partially offset to the extent that the bill diverts existing responsibilities of the Executive Branch to DLS.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	573,600	1,131,700	0	0	0
Net Effect	(\$573,600)	(\$1,131,700)	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Public Hearings

The bill requires a nine-member Temporary Redistricting Advisory Commission to hold two series of 12 public hearings each: one series prior to the development of preliminary districts, and one series after preliminary districts have been proposed.

Maps of existing legislative districts must be made available to the public during the first hearing series, and maps of preliminary proposed districts must be made available during the second round of hearings. These maps must be: (1) posted on the MGA website; (2) provided to all public libraries in the State to be retained as reference materials; and (3) available for public inspection at each public meeting.

Hearing Schedule

The first series of 12 public meetings must be held during the 45-day period between April 16 and May 31 of the first year following the census. The second series of 12 meetings must be held between September 16 and October 31 in the same year. All meetings must be held in different geographic regions throughout the State, and the commission must receive information and comments from individuals who attend the meetings. Meetings are to be held on a Tuesday, Wednesday, or Thursday evening and should not be scheduled on a religious holiday whenever possible.

Public Notice Requirements

DLS must provide public notice for each meeting indicating the purpose, location, date, time, terms and conditions for speaking and providing written comment, and information about how to obtain and inspect copies of the maps. The notice must be posted on the General Assembly website at least seven days before each meeting. Within 7 to 10 days prior to a meeting, DLS must make a news media announcement and obtain a print notice in a major newspaper of general circulation in the applicable geographic region. The newspaper notice must also be listed on the day before a meeting.

Meeting Facilities

Meeting facilities must be fully accessible, compliant with the Americans with Disabilities Act, and large enough to hold at least 500 individuals.

Speakers

Individuals who wish to speak during a public meeting must record their names on a speaker sign-up list. Individuals will be allowed to speak in the order in which they are listed for at least two minutes but no more than three minutes, unless a majority of the commission members present consent to additional time.

Recordkeeping Requirements

DLS is required to keep a record of each public meeting including the speaker sign-up list, written comments received from the public, and a summary or transcript of the oral testimony. Should the changes in the provisions of the Maryland Constitution, Article III, Section 4 be enacted, this bill requires DLS to delete specified information regarding redistricting practices prohibited by that section, such as use of political party affiliation, the addresses of incumbent legislators, and previous election results.

DLS must publish a compilation of the written records and oral testimony of the public meetings at their conclusion and make available copies to public libraries across the State and on the General Assembly website by no later than August 1 after the first series of meetings and by January 1 after the second series of meetings.

Executive Director Responsibilities

The Executive Director of DLS is generally required to provide oversight of the redistricting process by establishing procedures to complete the redistricting process as required under the bill. The director is responsible for handling all communications between DLS, the commission, the media, and the public. In addition, the executive director is required to establish two workgroups: a Public Meeting Workgroup and a Plan Development Workgroup.

Public Meeting Workgroup

The duties of this workgroup are to make necessary arrangements for public meetings and fulfill the public notice and recordkeeping requirements of the bill.

Plan Development Workgroup

This workgroup must compile and analyze population data, review and incorporate public input as contained in the redacted compilation prepared by the Public Meeting Workgroup, and draft and publish districting maps as required by the bill.

Confidentiality

DLS employees are prohibited from providing or communicating any information about the details of any congressional districting plan to any person except the executive director or members of the workgroup to which they are assigned. No employees may be involved in the work of both the Public Meeting Workgroup and the Plan Development Workgroup, except the executive director.

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.

Chapters 66 and 67 of 2010 require that population counts used to create legislative 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.

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 2011, 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.

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 bill requires DLS to staff the Temporary Redistricting Advisory Commission and prepare legislative districting plan alternatives through two workgroups. General fund expenditures increase by an estimated \$321,698 to hire 10 contractual positions, reflecting salaries and fringe benefits, in fiscal 2021 and \$671,705 in fiscal 2022. Additional operating expenses for DLS could total \$251,933 in fiscal 2021 and \$459,974 in fiscal 2022, which includes travel reimbursement costs for commission members and staff, equipment, furniture, additional software licenses and maintenance, plan advertising costs, and additional contractual services for legal experts and consultants.

Additional Information

Prior Introductions: SB 363 of 2006 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. Its cross file, HB 742 was referred the House Rules and Executive Nominations Committee, but no further action was taken. HB 1301 of 2005, a similar bill, was referred to the House Rules and Executive Nominations Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Legislative Services

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Analysis by: Jennifer K. Botts

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