

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**

Senate Bill 161 (Senator Brochin, *et al.*)  
Education, Health, and Environmental Affairs

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**General Assembly - Legislative Districting**

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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.

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**Fiscal Summary**

**State Effect:** If the Constitutional Amendment is adopted, general fund expenditures for the Department of Legislative Services (DLS) will increase by \$573,600 in FY 2021 and by \$1.1 million in FY 2022 for costs associated with developing legislative redistricting 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. It is assumed that the potential for increased costs to notify voters of any constitutional amendments proposed by the General Assembly, and to include any proposed constitutional amendments on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

**Small Business Effect:** None.

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## **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 United States.

#### *Temporary Redistricting Advisory Commission*

The amendment requires the appointment of a 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.

#### *Commission Composition*

The commission consists of nine members. 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.

A commission member or his or her relative may not hold a State or federal elective or appointive 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 <sup>st</sup> Day of Session		22 <sup>nd</sup> Day of Session
Second Plan	31 <sup>st</sup> Day of Session		45 <sup>th</sup> Day of Session
Third Plan	50 <sup>th</sup> Day of Session		66 <sup>th</sup> 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.

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

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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:** If adopted, 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 \$573,631 in fiscal 2021 and \$1.1 million in fiscal 2022. This estimate includes costs associated with hiring new staff, (including fringe benefits), 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.

State costs of printing absentee and provisional ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices,

candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

**Local Fiscal Effect:** Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

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### **Additional Information**

**Prior Introductions:** SB 364 of 2006 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. Its cross file, HB 743, was referred to the House Rules and Executive Nominations Committee, but no further action was taken. HB 1302 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

**Fiscal Note History:** First Reader - February 22, 2012  
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Analysis by: Jennifer K. Botts

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