

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 162 (Senator Brochin, *et al.*)
 Education, Health, and Environmental Affairs

Congressional Districting Process

This bill establishes a process for the creation of congressional districts for electing members of Congress after each decennial census.

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 congressional 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:

Congressional Redistricting Standards

The bill establishes standards for the creation of congressional districts. Each district must have a population as nearly equal as practicable to the ideal district population, which is derived by dividing the State population as determined by the U.S. Census, by the number of districts in the State. Districts must also be compact, contiguous, and where practicable, due regard should be given to the boundaries of political subdivisions, communities of interest, and information received from citizens during public hearings. The Chesapeake Bay may not be considered to be a barrier to contiguity, but areas which meet only at the points of adjoining corners are not to be considered contiguous.

Prohibited Practices

Districts may not be drawn to favor a political party, elected official, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group. DLS is prohibited from using the following information in drawing congressional districts: (1) addresses of elected officials; (2) political affiliations of registered voters; (3) previous election results; (4) polling data; (5) proposed redistricting maps by persons not employed by DLS; and (6) demographic information other than head counts, except as required by the U.S. Constitution or laws of the United States.

Temporary Redistricting Advisory Commission

The bill establishes a Temporary Redistricting Advisory Commission. The commission is generally required to determine the location of and conduct public meetings. 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 congressional districting plan.

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's population, and at least three members must be members of the dominant minority party. A vacancy on the commission is filled by the Governor in consultation with the presiding officers of the General Assembly within 15 days after the vacancy occurs.

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 from the date that the legislation creating the new congressional districts is signed into law.

All commission members are entitled to reimbursement for expenses in accordance with the standard State travel regulations but may not receive a salary.

Public Hearings

The commission must hold two rounds 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 congressional 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 Maryland General Assembly website; (2) distributed to all public libraries and retained as reference materials; and (3) made 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. A 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 is to 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 public meeting. Within 7 to 10 days prior to a meeting, DLS must make a news media announcement and obtain an advertisement 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. DLS must delete any information regarding redistricting practices prohibited under the bill, such as use of political party affiliation, 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 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 employee may be involved in the work of both the Public Meeting Workgroup and the Plan Development Workgroup, except the executive director.

Legislative Process

DLS must present the congressional districting plan to the President of the Senate and the Speaker of the House of Delegates to be introduced as a regular bill in both houses according to the schedule below, in the second year following the census. Each house must consider the bill on second reading as a committee of the whole. With the exception of a third plan, the bill must be brought to a vote under a procedure that prohibits all amendments except technical amendments.

If the bill fails to pass by a constitutional majority in either chamber, the Secretary of the Senate or the Chief Clerk of the House of Delegates 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 same process is to be used for consideration of a congressional districting plan during a special session. Special session deadlines are also indicated below.

	<u>First Reading</u>	<u>Second Reading Committee of the Whole</u>	<u>Third Reading Final Vote</u>
First Plan			
Regular Session	1 st Day of Session	Nothing Specified	10 th Day of Session
Special Session	1 st Day of Session	Nothing Specified	5 th Day of Session
Second Plan			
Regular Session	17 th Day of Session	Nothing Specified	24 th Day of Session
Special Session	10 th Day of Session	Nothing Specified	15 th Day of Session
Third Plan			
Regular Session	31 st Day of Session	Nothing Specified	Nothing Specified
Special Session	20 th Day of Session	Nothing Specified	Nothing Specified

Current Law: Under federal case law, congressional district boundaries must be redrawn every 10 years after the decennial census to adjust for population changes; they must also conform to the requirements of the Voting Rights Act of 1965 and related case law. The U.S. Census Bureau has apportioned eight congressional seats to Maryland, each of which must have 721,529 residents, according to 2010 census figures. Because the adjusted State population is not divisible by eight, one district will have one fewer resident than the required number.

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

Congress has left to the states the task of redrawing congressional boundaries. The Governor has traditionally introduced a congressional map along with the State legislative district plan that is required by the State Constitution. The General Assembly may pass its own congressional plan in lieu of the Governor's, but unlike with the legislative plan, there is no deadline set in statute for this to happen. In order to finalize congressional districts for the 2012 primary election cycle, a special session took place in the fall of 2011. Chapter 1 of the 2011 special session enacted the current congressional districting plan.

Background: 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 congressional 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 by \$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 362 of 2006 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. Its cross file, HB 741, was referred to the House Rules and Executive Nominations Committee, but no further action was taken. HB 1300 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
ncs/lgc

Analysis by: Jennifer K. Botts

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