

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 427 (Delegate Flanagan, *et al.*)
Rules and Executive Nominations

Voters' Legislative Districting Panel - Establishment

This proposed constitutional amendment creates a Voters' Legislative Districting Panel to prepare a districting plan for legislative districts for the Maryland General Assembly.

Fiscal Summary

State Effect: As expenses related to legislative redistricting will generally not be incurred until FY 2021, the bill has no effect on governmental finances during the five-year period covered by this fiscal and policy note. Although the bill requires the Governor to provide funds in the budget for staff, if approved by the voters, it is assumed that the Department of Legislative Services (DLS) and the Maryland Department of Planning can provide the necessary staff support with the same level of funding typically budgeted to those agencies to support the redistricting process. The Office of the Attorney General (OAG) can provide legal support with existing resources. However, general fund expenditures for expense reimbursements may increase slightly due to the large number of members of the panel. No effect on revenues.

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.

Analysis

Bill Summary: Members of the Voters' Legislative Districting Panel are selected by a lottery conducted by the State Ethics Commission. The lottery must be conducted as soon as practicable after data from the decennial U.S. Census becomes available, at a time and place determined by the Governor. It must be conducted in such a manner that the proportion of Republicans, Democrats, and nonaffiliated voters on the panel matches their proportion among registered voters in the State. To be entered in the lottery, an individual must:

- be a registered voter in the State;
- have voted in the last three statewide primary and general elections, except that unaffiliated voters need not have voted in the previous three primary elections;
- not have served as a public official in the State, including as a member of a party's central committee; and
- request to be included in the lottery.

Members of the panel are subject to the same ethics laws as members of the General Assembly and are entitled to reimbursement for their expenses. Their terms end when a legislative districting plan is submitted to the Presiding Officers.

The panel adopts its own rules and procedures to govern its activities, and the Governor must include funds in the State budget to staff the panel. OAG must provide legal assistance and recommend rules and procedures to the panel, and DLS must assist the panel as needed.

The panel must present a legislative districting plan to the Presiding Officers that conforms with State constitutional requirements. If the General Assembly does not adopt its own plan before the forth-fifth day of session, the panel's plan becomes law.

Current Law/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 that natural boundaries and the boundaries of political subdivisions be given due regard. Legislative districts can be subdivided for the purpose of electing one or two delegates from a subdistrict. Creation of legislative boundaries falls under the requirements of the U.S. Constitution's Fourteenth Amendment, which requires districts to be equally populated.

Article III, Section 5 of the Maryland Constitution requires public hearings to be held before the Governor prepares a legislative redistricting plan. In 2011, the Governor appointed a Redistricting Advisory Committee to conduct public hearings around the State as required by the State Constitution. Consistent with prior practice in previous redistricting phases, the public hearings addressed both legislative and congressional redistricting. The Governor must 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 the 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. The current legislative districting plan was enacted as Joint Resolution 2 of the General Assembly in 2012.

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

According to the National Conference of State Legislatures (NCSL), there are 13 states that give first and final authority for legislative redistricting to a group other than the legislature. NCSL indicates the commissions vary greatly from state to state in terms of their composition, but most include appointments made by legislative leaders. This bill maintains the General Assembly's final authority for approving both legislative and congressional plans.

Members of the General Assembly are entitled to various reimbursements for in-State costs incurred carrying out their legislative responsibilities:

- \$42 for meals on a daily basis, without having to supply receipts;
- \$750 annual allowance for in-district travel;
- \$0.56 per mile for travel between a member's home and place of session or other legislative function; and
- reimbursement for in-State lodging at the appropriate local rate based on the federal General Services Administration schedule.

State Fiscal Effect: State costs of printing 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). However, 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 ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Budget and Management, State Ethics Commission, Governor's Office, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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