

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 428 (Delegate Flanagan, *et al.*)
Rules and Executive Nominations

Voters' Congressional Districting Panel - Establishment

This bill creates a Voters' Congressional Districting Panel to prepare a districting plan for congressional districts in the State.

Fiscal Summary

State Effect: As expenses related to congressional 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' Congressional 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 in the same manner as members of the General Assembly. Their terms end when a congressional 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.

After a public hearing, the panel must present a congressional districting plan to the Presiding Officers that conforms with applicable State and federal laws. The Presiding Officers must introduce the plan to the General Assembly as a joint resolution no later than the first day of the regular session of the General Assembly that is held in the second year following the decennial census. The Governor may call a special session to consider the plan. If the General Assembly does not adopt, by two-thirds vote of each house, an alternate districting plan by the forty-fifth day of the session, the panel's plan becomes law.

The Court of Appeals has original jurisdiction to review the plan that becomes law if any registered voter petitions for its review. If the court finds that the plan is not consistent with applicable legal requirements, it may grant appropriate relief.

Current Law/Background: 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.

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. 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. The current congressional districts were established under Chapter 1 of the 2011 special session.

According to the National Conference of State Legislatures, only seven states (Arizona, California, Hawaii, Idaho, Montana, New Jersey, and Washington) give first and final authority for congressional redistricting to a commission. 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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md/lgc

Analysis by: Michael C. Rubenstein

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