

# SENATE BILL 762

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By: **Senator Raskin**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Potomac Compact for Fair Representation**

3 FOR the purpose of establishing the Potomac Compact for Fair Representation; providing  
4 that a party state is not required to comply with the Compact under certain  
5 circumstances; establishing the Independent Congressional Districting Commission;  
6 providing for the composition and cochairs of the Commission; requiring each party  
7 state to designate a nonpartisan state agency to solicit certain applications;  
8 requiring a party state to establish a nonpartisan state agency under certain  
9 circumstances; establishing application and eligibility requirements for Commission  
10 membership; providing for the selection process for members of the Commission;  
11 specifying the term of a member of the Commission; requiring the Commission to  
12 consider the adoption of a certain congressional districting plan for a party state,  
13 draw and adopt a certain congressional districting plan for a party state before a  
14 certain deadline, operate in a certain manner, and solicit public feedback; providing  
15 that a plan must meet certain criteria; providing that a plan may be adopted by the  
16 Commission only under certain circumstances; requiring the state legislature of a  
17 party state to vote whether to approve a certain plan before a certain deadline;  
18 prohibiting a party state from amending a certain plan; providing that a party state  
19 is not required to implement a certain plan until a certain condition is met; requiring  
20 that certain party states be divided into certain multiseat districts; providing that  
21 certain party states' Representatives in Congress be elected at large; providing for  
22 the application of certain provisions of this Act; making a conforming change;  
23 defining certain terms; making this Act subject to certain contingencies; and  
24 generally relating to the Potomac Compact for Fair Representation.

25 BY adding to

26 Article – Election Law

27 Section 8–6A–01 through 8–6A–06 to be under the new subtitle “Subtitle 6A. The  
28 Potomac Compact for Fair Representation”

29 Annotated Code of Maryland

30 (2010 Replacement Volume and 2015 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Election Law  
3 Section 8–701  
4 Annotated Code of Maryland  
5 (2010 Replacement Volume and 2015 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
7 That the Laws of Maryland read as follows:

8 **Article – Election Law**

9 **SUBTITLE 6A. THE POTOMAC COMPACT FOR FAIR REPRESENTATION.**

10 **8–6A–01.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (B) “COMMISSION” MEANS THE INDEPENDENT CONGRESSIONAL  
14 DISTRICTING COMMISSION ESTABLISHED BY THE COMPACTING STATES UNDER §  
15 8–6A–03 OF THIS SUBTITLE.

16 (C) “COMPACT” MEANS THE POTOMAC COMPACT FOR FAIR  
17 REPRESENTATION.

18 (D) “NONPARTISAN STATE AGENCY” MEANS THE NONPARTISAN STATE  
19 AGENCY DESIGNATED BY A PARTY STATE UNDER § 8–6A–03(C) OF THIS SUBTITLE.

20 (E) “PARTY STATE” MEANS EACH STATE THAT HAS ENACTED THIS  
21 COMPACT.

22 (F) “PLAN” MEANS THE MULTISEAT CONGRESSIONAL DISTRICTING PLAN  
23 DRAWN FOR A PARTY STATE BY THE COMMISSION UNDER § 8–6A–04(A) OF THIS  
24 SUBTITLE.

25 **8–6A–02.**

26 (A) THERE IS A POTOMAC COMPACT FOR FAIR REPRESENTATION.

27 (B) A PARTY STATE IS NOT REQUIRED TO COMPLY WITH THIS COMPACT IF:

28 (1) THE COMMISSION FAILS TO ADOPT A CONGRESSIONAL  
29 DISTRICTING PLAN FOR A PARTY STATE; OR

1           **(2) THE PARTY STATE'S ATTORNEY GENERAL DETERMINES THAT**  
2 **ANOTHER PARTY STATE HAS:**

3           **(I) REPEALED, REPLACED, OR FAILED TO IMPLEMENT ANY**  
4 **ASPECT OF THIS COMPACT, INCLUDING FAILING TO IMPLEMENT THE DISTRICT MAP**  
5 **ADOPTED BY THE COMMISSION; OR**

6           **(II) A PARTY STATE HAS A MULTISEAT CONGRESSIONAL**  
7 **DISTRICTING PLAN AND FAILED TO ADOPT AND IMPLEMENT A SUBSTANTIALLY**  
8 **SIMILAR PROPORTIONAL VOTING METHOD AS THE OTHER PARTY STATES WHEREBY**  
9 **AN INDIVIDUAL IS GUARANTEED TO WIN IF THE CANDIDATE RECEIVES MORE VOTES**  
10 **THAN THE TOTAL NUMBER OF VALID VOTES CAST DIVIDED BY THE SUM OF 1 PLUS**  
11 **THE NUMBER OF MEMBERS TO BE ELECTED IN THE CONGRESSIONAL DISTRICT IN**  
12 **WHICH THE INDIVIDUAL IS A CANDIDATE.**

13 **8-6A-03.**

14           **(A) THERE IS AN INDEPENDENT CONGRESSIONAL DISTRICTING**  
15 **COMMISSION.**

16           **(B) THE COMMISSION CONSISTS OF:**

17           **(1) THE FOLLOWING MEMBERS SELECTED IN ACCORDANCE WITH**  
18 **SUBSECTION (E) OF THIS SECTION FROM EACH PARTY STATE:**

19           **(I) TWO MEMBERS OF THE MAJORITY PARTY IN THE PARTY**  
20 **STATE;**

21           **(II) TWO MEMBERS OF THE MINORITY PARTY IN THE PARTY**  
22 **STATE; AND**

23           **(III) TWO MEMBERS WHO ARE UNAFFILIATED WITH EITHER THE**  
24 **MAJORITY OR THE MINORITY PARTY IN THE PARTY STATE; AND**

25           **(2) ONE MEMBER SELECTED BY A MAJORITY OF THE MEMBERS**  
26 **SELECTED UNDER ITEM (1) OF THIS SUBSECTION WHO:**

27           **(I) IS NOT A RESIDENT OF A PARTY STATE; AND**

28           **(II) IS A PROMINENT ACADEMIC, FORMER GOVERNMENT**  
29 **OFFICIAL, OR CIVIC LEADER KNOWN FOR POLITICAL INDEPENDENCE IN JUDGMENT.**

1           **(C) (1) EACH PARTY STATE SHALL DESIGNATE A NONPARTISAN STATE**  
2 **AGENCY TO SOLICIT APPLICATIONS TO BECOME A MEMBER OF THE COMMISSION.**

3           **(2) IF A PARTY STATE DOES NOT HAVE AN EXISTING NONPARTISAN**  
4 **STATE AGENCY THAT CAN BE DESIGNATED UNDER PARAGRAPH (1) OF THIS**  
5 **SUBSECTION, THE PARTY STATE SHALL ESTABLISH A NONPARTISAN STATE AGENCY.**

6           **(D) (1) AN INDIVIDUAL MAY APPLY TO BECOME A MEMBER OF THE**  
7 **COMMISSION BY SUBMITTING THE INDIVIDUAL'S QUALIFICATIONS AND PARTY**  
8 **AFFILIATION, IF ANY, TO THE NONPARTISAN STATE AGENCY OF THE PARTY STATE IN**  
9 **WHICH THE INDIVIDUAL RESIDES.**

10           **(2) TO BE ELIGIBLE TO BECOME A MEMBER OF THE COMMISSION, AN**  
11 **INDIVIDUAL MAY NOT:**

12                   **(I) HOLD PUBLIC OFFICE;**

13                   **(II) BE A CANDIDATE FOR PUBLIC OFFICE;**

14                   **(III) SERVE AS AN OFFICER, AN EMPLOYEE, OR A PAID**  
15 **CONSULTANT OF A POLITICAL PARTY OR CANDIDATE CAMPAIGN; OR**

16                   **(IV) BE A REGISTERED LOBBYIST.**

17           **(E) (1) THE NONPARTISAN STATE AGENCY SHALL SELECT, SUBJECT TO**  
18 **THE APPROVAL OF A BIPARTISAN LEGISLATIVE COMMITTEE OF THE PARTY STATE,**  
19 **FROM THE APPLICANTS A POOL OF 30 INDIVIDUALS CONSISTING OF:**

20                   **(I) 10 MEMBERS OF THE MAJORITY PARTY IN THE PARTY**  
21 **STATE;**

22                   **(II) 10 MEMBERS OF THE MINORITY PARTY IN THE PARTY**  
23 **STATE; AND**

24                   **(III) 10 INDIVIDUALS WHO ARE UNAFFILIATED WITH EITHER THE**  
25 **MAJORITY OR MINORITY PARTY IN THE PARTY STATE.**

26           **(2) FROM THE POOL SELECTED UNDER PARAGRAPH (1) OF THIS**  
27 **SUBSECTION, THE NONPARTISAN STATE AGENCY SHALL SELECT TWO MEMBERS AT**  
28 **RANDOM FROM EACH OF THE CATEGORIES TO SERVE AS MEMBERS OF THE**  
29 **COMMISSION.**

1           **(F) THE MEMBERS OF THE COMMISSION SHALL ELECT TWO MEMBERS,**  
2 **EACH FROM A DIFFERENT PARTY STATE, TO SERVE AS COCHAIRS.**

3           **(G) THE TERM OF A MEMBER OF THE COMMISSION IS 10 YEARS.**

4 **8-6A-04.**

5           **(A) THE COMMISSION SHALL:**

6                   **(1) CONSIDER THE ADOPTION OF A MULTISEAT CONGRESSIONAL**  
7 **DISTRICTING PLAN FOR A PARTY STATE;**

8                   **(2) NO LATER THAN 30 DAYS BEFORE A PARTY STATE MUST**  
9 **IMPLEMENT A CONGRESSIONAL DISTRICTING PLAN, DRAW AND ADOPT A**  
10 **CONGRESSIONAL DISTRICTING PLAN FOR THE PARTY STATE;**

11                   **(3) OPERATE IN AN OPEN AND TRANSPARENT MANNER; AND**

12                   **(4) SOLICIT PUBLIC FEEDBACK IN DRAWING A PLAN.**

13           **(B) WHETHER A PLAN IS BASED ON SINGLE-SEAT DISTRICTS OR MULTISEAT**  
14 **DISTRICTS, THE PLAN SHALL MEET THE FOLLOWING CRITERIA IN ORDER OF**  
15 **PRIORITY:**

16                   **(1) HAVE EQUAL POPULATION PER REPRESENTATIVE TO THE EXTENT**  
17 **PRACTICABLE;**

18                   **(2) BE CONSISTENT WITH THE FEDERAL VOTING RIGHTS ACT AND**  
19 **ANY OTHER APPLICABLE FEDERAL OR STATE LAW;**

20                   **(3) LEAD TO A STATE CONGRESSIONAL DELEGATION THAT REFLECTS**  
21 **AND REPRESENTS GENERALLY THE POLITICAL PREFERENCES OF THE PEOPLE OF**  
22 **THE STATE;**

23                   **(4) BE CONTIGUOUS;**

24                   **(5) RESPECT EXISTING POLITICAL BOUNDARIES AND COMMUNITIES**  
25 **OF INTEREST;**

26                   **(6) BE COMPACT; AND**

27                   **(7) FOLLOW VISIBLE GEOGRAPHIC FEATURES.**

1 (C) A PLAN MAY BE ADOPTED BY THE COMMISSION ONLY IF:

2 (1) A MAJORITY OF THE FULL MEMBERSHIP OF THE COMMISSION  
3 VOTES FOR ADOPTION; AND

4 (2) AT LEAST ONE MEMBER IN EACH CATEGORY LISTED IN  
5 § 8-6A-03(B)(1) OF THIS SUBTITLE FROM THE PARTY STATE FOR WHICH THE PLAN  
6 IS BEING ADOPTED VOTES FOR ADOPTION.

7 8-6A-05.

8 (A) NO LATER THAN 30 DAYS BEFORE A PARTY STATE MUST IMPLEMENT A  
9 CONGRESSIONAL DISTRICTING PLAN, THE STATE LEGISLATURE OF THE PARTY  
10 STATE SHALL VOTE WHETHER TO APPROVE THE PLAN ADOPTED BY THE  
11 COMMISSION FOR THE PARTY STATE.

12 (B) A PARTY STATE MAY NOT AMEND THE PLAN ADOPTED BY THE  
13 COMMISSION FOR THE PARTY STATE.

14 (C) A PARTY STATE IS NOT REQUIRED TO IMPLEMENT THE PLAN ADOPTED  
15 BY THE COMMISSION FOR THE PARTY STATE UNTIL AT LEAST ONE OTHER PARTY  
16 STATE ADOPTS THE PLAN THE COMMISSION ADOPTED FOR THAT PARTY STATE.

17 8-6A-06.

18 (A) THIS SECTION ONLY APPLIES IF THE COMMISSION IS DRAWING AND  
19 ADOPTING A MULTISEAT CONGRESSIONAL DISTRICTING PLAN FOR A PARTY STATE.

20 (B) (1) MARYLAND SHALL BE DIVIDED INTO TWO MULTISEAT DISTRICTS.

21 (2) ONE MARYLAND DISTRICT SHALL ELECT FOUR OF THE STATE'S  
22 REPRESENTATIVES IN CONGRESS.

23 (3) THE OTHER MARYLAND DISTRICT SHALL ELECT FOUR OF THE  
24 STATE'S REPRESENTATIVES IN CONGRESS.

25 (C) (1) IF VIRGINIA BECOMES A PARTY STATE, VIRGINIA SHALL BE  
26 DIVIDED INTO THREE MULTISEAT DISTRICTS.

27 (2) TWO VIRGINIA DISTRICTS SHALL EACH ELECT THREE OF THE  
28 STATE'S REPRESENTATIVES IN CONGRESS.

1           **(3) THE OTHER VIRGINIA DISTRICT SHALL ELECT FIVE OF THE**  
2 **STATE'S REPRESENTATIVES IN CONGRESS.**

3           **(D) IF A STATE THAT IS ENTITLED TO FIVE OR FEWER REPRESENTATIVES IN**  
4 **CONGRESS BECOMES A PARTY STATE, THE STATE'S REPRESENTATIVES IN**  
5 **CONGRESS SHALL BE ELECTED AT LARGE.**

6           **(E) (1) THIS SUBSECTION DOES NOT APPLY TO MARYLAND OR VIRGINIA.**

7           **(2) (I) IF A STATE THAT IS ENTITLED TO SIX OR MORE**  
8 **REPRESENTATIVES IN CONGRESS BECOMES A PARTY STATE, THE STATE SHALL BE**  
9 **DIVIDED INTO MULTISEAT DISTRICTS IN WHICH AT LEAST THREE, BUT NO MORE**  
10 **THAN FIVE, REPRESENTATIVES IN CONGRESS ARE ELECTED.**

11 8-701.

12           (a) The population count used after each decennial census for the purpose of  
13 creating the congressional districting plan used to elect the State's Representatives in  
14 Congress:

15           (1) may not include individuals who:

16                   (i) were incarcerated in State or federal correctional facilities, as  
17 determined by the decennial census; and

18                   (ii) were not residents of the State before their incarceration; and

19           (2) shall count individuals incarcerated in the State or federal correctional  
20 facilities, as determined by the decennial census, at their last known residence before  
21 incarceration if the individuals were residents of the State.

22           **[(b) The State is divided into eight districts for the election of the State's**  
23 **Representatives in Congress.]**

24           **[(c) (B) (1) The descriptions of congressional districts in this subtitle include**  
25 **the references indicated.**

26           (2) (i) The references to:

27                   1. election districts and wards are to the geographical  
28 boundaries of the election districts and wards as they existed on April 1, 2010; and

29                   2. precincts are to the geographical boundaries of the  
30 precincts as reviewed and certified by the local boards or their designees, before they were  
31 reported to the U.S. Bureau of the Census as part of the 2010 census redistricting data  
32 program and as those precinct lines are specifically indicated in the P.L. 94-171 data or

1 shown on the P.L. 94–171 census block maps provided by the U.S. Bureau of the Census  
2 and as reviewed and corrected by the Maryland Department of Planning.

3 (ii) Where precincts are split between congressional districts, census  
4 tract and block numbers, as indicated in P.L. 94–171 data or shown on the P.L. 94–171  
5 census block maps provided by the U.S. Bureau of the Census and referred to in this  
6 subtitle, are used to define the boundaries of congressional districts.

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) This Act may not take effect until:

9 (1) a similar Act is enacted by:

10 (i) Virginia no later than January 1, 2018; or

11 (ii) if Virginia fails to enact a similar Act by January 1, 2018,  
12 Arkansas, Indiana, Kansas, Michigan, Missouri, North Carolina, Oklahoma, Pennsylvania,  
13 Utah, West Virginia, or Wisconsin on or after January 1, 2018; and

14 (2) the United States Congress has approved the use of multiseat  
15 congressional districts by the compacting states.

16 (b) Virginia is requested to concur in this Act by enactment of a similar Act before  
17 January 1, 2018.

18 (c) If Virginia fails to enact a similar Act by January 1, 2018, the states listed in  
19 subsection (a)(1)(ii) of this section are requested to concur in this Act by enactment of a  
20 similar Act on or after January 1, 2018.

21 (d) The Department of Legislative Services shall notify the appropriate officials  
22 of the states listed in subsection (a)(1) of this section and the United States Congress of the  
23 enactment of this Act.

24 (e) On the concurrence in this Act by Virginia or by another state and approval  
25 by the United States Congress as specified in this section, the Governor of the State of  
26 Maryland shall issue a proclamation declaring this Act valid and effective and shall forward  
27 a copy of the proclamation to the Executive Director of the Department of Legislative  
28 Services.

29 (f) If no state concurs in this Act as specified in this section or if the United States  
30 Congress does not approve the use of multiseat congressional districts before January 1,  
31 2020, with no further action required by the General Assembly, this Act shall be null and  
32 void and of no further force and effect.

33 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this  
34 Act, this Act shall take effect October 1, 2016.