SENATE BILL 91
G1
CONSTITUTIONAL AMENDMENT

By: The President (By Request – Administration) and Senators Bailey, Carozza, Cassily, Eckardt, Edwards, Gallion, Hershey, Hough, Jennings, Ready, Reilly, Salling, Simonaire, and West
Introduced and read first time: January 11, 2019
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Legislative and Congressional Redistricting and Apportionment

FOR the purpose of proposing an amendment to the Maryland Constitution to require single–member delegate districts; altering certain standards for the drawing of legislative districts; proposing a new article to the Maryland Constitution to establish standards for the drawing of congressional districts; establishing a Legislative and Congressional Redistricting and Apportionment Commission as an independent unit of State government consisting of certain members; requiring the Redistricting Commission to divide the State into certain legislative districts and congressional districts; requiring legislative districts and congressional districts to meet a certain standard for population size; providing for the duties of the Redistricting Commission; requiring the presiding officers of the General Assembly to introduce certain redistricting plans in a certain manner for consideration by the General Assembly; requiring the Governor, if necessary, to convene a special session of the General Assembly to consider certain redistricting plans; requiring the General Assembly to consider only the certified legislative districts plan and the certified congressional districts plan during a certain special session; prohibiting the General Assembly from considering certain legislation during a certain special session; requiring the presiding officers to introduce certain certified redistricting plans on certain days during certain types of sessions of the General Assembly; prohibiting members of the General Assembly from introducing bills proposing certain plans; prohibiting certain plans from being amended except under certain circumstances; requiring certain plans to be passed by a certain number of votes of the members of each House of the General Assembly by a specified day of the session; requiring certain plans passed by the General Assembly to be presented to the Governor within a certain number of days; requiring the presiding officers to, within a certain number of days, provide to the Redistricting Commission a certain notice and certain information and to request an alternative plan under certain circumstances; requiring the Redistricting Commission to review a certain plan and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
consider certain information on receipt of a certain notice; requiring the Redistricting Commission to take certain actions within a certain number of days after receiving a certain notice; requiring the presiding officers to prepare certain changes as an amendment to a certain plan; requiring a certain amendment to pass by a certain number of votes; providing for the reconsideration of certain plans under certain circumstances; requiring a vote on a certain plan within a certain number of days; requiring the extension of a legislative session under certain circumstances; requiring that a certain plan and amendment be considered as not passed under certain circumstances; requiring the presentment of a certain plan to the Governor within a certain period of time; requiring the Governor to sign or veto a certain plan within a certain number of days; prohibiting a certain plan from being enacted over the veto of the Governor; providing that a certain plan becomes law under certain circumstances; providing for the effective date of a certain plan under certain circumstances; requiring the Court of Appeals to adopt a certain plan under certain circumstances; requiring the Redistricting Commission to be the representative of the State in certain proceedings; providing that the Court of Appeals has original jurisdiction to establish a certain plan or consider a certain petition; altering the cases with respect to which the Attorney General has the authority to prosecute and defend the State; defining a certain term; and submitting this amendment to the qualified voters of the State for their adoption or rejection.

BY proposing an amendment to the Maryland Constitution
   Article III – Legislative Department
   Section 3 and 4

BY proposing a repeal of the Maryland Constitution
   Article III – Legislative Department
   Section 5

BY proposing an amendment to the Maryland Constitution
   Article IV – Judiciary Department
   Section 14

BY proposing an amendment to the Maryland Constitution
   Article V – Attorney–General and State’s Attorneys
   Section 3

BY proposing an addition to the Maryland Constitution
   New Article XX – Legislative and Congressional Redistricting and Apportionment
   Section 1 and 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, (Three–fifths of all the members elected to each of the two Houses concurring), That it be proposed that the Maryland Constitution read as follows:

Article III – Legislative Department
Sen. Bill 91

3.

The State shall be divided by law into legislative districts for the election of members of the Senate and the House of Delegates. Each legislative district shall contain one (1) Senator and three (3) Delegates. [Nothing herein shall prohibit the subdivision of any one or more of the legislative districts for the purpose of electing members of the House of Delegates into three (3) single–member delegate districts or one (1) single–member delegate district and one (1) multi–member delegate district.] Each legislative district shall be subdivided into three (3) single–member delegate districts.

4.

Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions:

1. Shall respect natural boundaries and the geographic integrity and continuity of any municipal corporation, county, or other political subdivision to the extent practicable;

2. Shall be geographically compact and include nearby areas of population to the extent practicable;

3. May not account for how individuals are registered to vote, how individuals voted in the past, or the political party to which individuals belong; and

4. May not account for the domicile or residence of any individual, including an incumbent officeholder or a potential candidate for office.

[5.

Following each decennial census of the United States and after public hearings, the Governor shall prepare a plan setting forth the boundaries of the legislative districts for electing the members of the Senate and the House of Delegates.

The Governor shall present the plan to the President of the Senate and Speaker of the House of Delegates who shall introduce the Governor’s plan as a joint resolution to the General Assembly, not later than the first day of its regular session in the second year following every census, and the Governor may call a special session for the presentation of his plan prior to the regular session. The plan shall conform to Sections 2, 3 and 4 of this Article. Following each decennial census the General Assembly may by joint resolution adopt a plan setting forth the boundaries of the legislative districts for the election of
members of the Senate and the House of Delegates, which plan shall conform to Sections
2, 3 and 4 of this Article. If a plan has been adopted by the General Assembly by the 45th
day after the opening of the regular session of the General Assembly in the second year
following every census, the plan adopted by the General Assembly shall become law. If no
plan has been adopted by the General Assembly for these purposes by the 45th day after
the opening of the regular session of the General Assembly in the second year following
every census, the Governor’s plan presented to the General Assembly shall become law.

Upon petition of any registered voter, the Court of Appeals shall have original
jurisdiction to review the legislative districting of the State and may grant appropriate
relief, if it finds that the districting of the State is not consistent with requirements of either
the Constitution of the United States of America, or the Constitution of Maryland.]

Article IV – Judiciary Department

The Court of Appeals shall be composed of seven judges, one from the First Appellate
Judicial Circuit consisting of Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset,
Talbot, Wicomico, and Worcester Counties; one from the Second Appellate Judicial Circuit
consisting of Baltimore and Harford Counties; one from the Third Appellate Judicial
Circuit, consisting of Allegany, Carroll, Frederick, Garrett, Howard, and Washington
Counties; one from the Fourth Appellate Judicial Circuit, consisting of Prince George’s
County; one from the Fifth Appellate Judicial Circuit, consisting of Anne Arundel, Calvert,
Charles, and St. Mary’s Counties; one from the Sixth Appellate Judicial Circuit, consisting
of Baltimore City; and one from the Seventh Appellate Judicial Circuit, consisting of
Montgomery County. The Judges of the Court of Appeals shall be residents of their
respective Appellate Judicial Circuits. The term of each Judge of the Court of Appeals shall
begin on the date of his qualification. One of the Judges of the Court of Appeals shall be
designated by the Governor as the Chief Judge. The jurisdiction of the Court of Appeals
shall be co–extensive with the limits of the State and such as now is or may hereafter be
prescribed by law. **EXCLUSIVE AMONG THE STATE COURTS, THE COURT OF APPEALS
SHALL HAVE ORIGINAL JURISDICTION: (1) TO ESTABLISH THE LEGISLATIVE
DISTRICTS PLAN AND THE CONGRESSIONAL DISTRICTS PLAN IN THE EVENT THAT A
PLAN IS NOT ENACTED UNDER ARTICLE XX, SECTION 2 OF THIS CONSTITUTION;
AND (2) TO CONSIDER A PETITION SEEKING REVIEW OF THE LEGALITY OF A PLAN TO
ESTABLISH LEGISLATIVE OR CONGRESSIONAL DISTRICTS ENACTED UNDER
ARTICLE XX, SECTION 2 OF THIS CONSTITUTION.** It shall hold its sessions in the City
of Annapolis at such time or times as it shall from time to time by rule prescribe. Its session
or sessions shall continue not less than ten months in each year, if the business before it
shall so require, and it shall be competent for the judges temporarily to transfer their
sittings elsewhere upon sufficient cause. The salary of each Judge of the Court of Appeals
shall be that now or hereafter prescribed by the General Assembly and shall not be
diminished during his continuance in office. Five of the judges shall constitute a quorum,
and five judges shall sit in each case unless the Court shall direct that an additional judge
or judges sit for any case. The concurrence of a majority of those sitting shall be sufficient
for the decision of any cause, and an equal division of those sitting in a case has the effect of affirming the decision appealed from if there is no application for reargument as hereinafter provided. In any case where there is an equal division or a three to two division of the Court a reargument before the full Court of seven judges shall be granted to the losing party upon application as a matter of right.

Article V – Attorney-General and State’s Attorneys

3.  
(a) The Attorney General shall:

1. [Prosecute] EXCEPT FOR PROCEEDINGS TO ESTABLISH THE LEGISLATIVE DISTRICTS PLAN AND THE CONGRESSIONAL DISTRICTS PLAN IN THE EVENT THAT A PLAN IS NOT ENACTED UNDER ARTICLE XX, SECTION 2 OF THIS CONSTITUTION OR A PETITION SEEKING REVIEW OF THE LEGALITY OF A PLAN TO ESTABLISH LEGISLATIVE DISTRICTS OR CONGRESSIONAL DISTRICTS ENACTED UNDER ARTICLE XX, SECTION 2 OF THIS CONSTITUTION, PROSECUTE and defend on the part of the State all cases pending in the appellate courts of the State, in the Supreme Court of the United States or the inferior Federal Courts, by or against the State, or in which the State may be interested, except those criminal appeals otherwise prescribed by law.

2. Investigate, commence, and prosecute or defend any civil or criminal suit or action or category of such suits or actions in any of the Federal Courts or in any Court of this State, or before administrative agencies and quasi legislative bodies, on the part of the State or in which the State may be interested, which the General Assembly by law or joint resolution, or the Governor, shall have directed or shall direct to be investigated, commenced and prosecuted or defended.

3. When required by the General Assembly by law or joint resolution, or by the Governor, aid any State’s Attorney or other authorized prosecuting officer in investigating, commencing, and prosecuting any criminal suit or action or category of such suits or actions brought by the State in any Court of this State.

4. Give his opinion in writing whenever required by the General Assembly or either branch thereof, the Governor, the Comptroller, the Treasurer or any State’s Attorney on any legal matter or subject.

(b) The Attorney General shall have and perform any other duties and possess any other powers, and appoint the number of deputies or assistants, as the General Assembly from time to time may prescribe by law.

(c) The Attorney General shall receive for his services the annual salary as the General Assembly from time to time may prescribe by law, but he may not receive any fees, perquisites or rewards whatever, in addition to his salary, for the performance of any
(d) The Governor may not employ any additional counsel, in any case whatever, unless authorized by the General Assembly.

**ARTICLE XX – LEGISLATIVE AND CONGRESSIONAL REDISTRICTING AND APPORTIONMENT**

1. **EACH CONGRESSIONAL DISTRICT:**

   (1) **SHALL RESPECT NATURAL BOUNDARIES AND THE GEOGRAPHIC INTEGRITY AND CONTINUITY OF ANY MUNICIPAL CORPORATION, COUNTY, OR OTHER POLITICAL SUBDIVISION TO THE EXTENT PRACTICABLE;**

   (2) **SHALL BE GEOGRAPHICALLY COMPACT AND INCLUDE NEARBY AREAS OF POPULATION TO THE EXTENT PRACTICABLE;**

   (3) **MAY NOT ACCOUNT FOR HOW INDIVIDUALS ARE REGISTERED TO VOTE, HOW INDIVIDUALS VOTED IN THE PAST, OR THE POLITICAL PARTY TO WHICH INDIVIDUALS BELONG; AND**

   (4) **MAY NOT ACCOUNT FOR THE DOMICILE OR RESIDENCE OF ANY INDIVIDUAL, INCLUDING AN INCUMBENT OFFICEHOLDER OR A POTENTIAL CANDIDATE FOR OFFICE.**

2. **(A) IN THIS SECTION, “REDISTRICTING COMMISSION” MEANS THE LEGISLATIVE AND CONGRESSIONAL REDISTRICTING AND APPORTIONMENT COMMISSION.**

   (B) **THE PROVISIONS OF THIS SECTION AND ANY LAWS ENACTED TO CARRY OUT THIS SECTION ARE THE EXCLUSIVE MEANS TO ADOPT ANY PLAN TO ALTER LEGISLATIVE DISTRICTS OR CONGRESSIONAL DISTRICTS.**

   (C) (1) **THERE IS A LEGISLATIVE AND CONGRESSIONAL REDISTRICTING AND APPORTIONMENT COMMISSION.**

   (2) **THE REDISTRICTING COMMISSION IS AN INDEPENDENT UNIT OF STATE GOVERNMENT, ESTABLISHED BY LAW, CONSISTING OF MEMBERS WHO ARE IMPARTIAL AND REASONABLY REPRESENTATIVE OF THE STATE’S GEOGRAPHICAL, RACIAL, AND GENDER MAKEUP.**
(D) In the year following each decennial census of the United States, the Redistricting Commission shall:

(1) Divide the State into consecutively numbered legislative districts that conform to Article III, Sections 2, 3, and 4 of this Constitution; and

(2) Divide the State into as many congressional districts as there are Representatives in Congress apportioned to the State that conform to Section 1 of this Article.

(E) (1) Legislative districts shall be as nearly equal in population as practicable, but may not deviate more than 2% in population between legislative districts.

(2) Each delegate district shall be as nearly equal in population as practicable, but may not deviate more than 2% in population between the other delegate districts in the legislative district.

(F) The Redistricting Commission shall:

(1) Adopt one plan for legislative districts and one plan for congressional districts;

(2) Certify that each plan is the plan adopted by the Redistricting Commission; and

(3) Send each certified plan to the presiding officers of the General Assembly.

(G) On receipt of the certified legislative districts plan and the certified congressional districts plan from the Redistricting Commission, the presiding officers shall introduce each plan separately for consideration by the General Assembly.

(H) (1) Unless the Governor finds that a special session is not required, the Governor shall issue a proclamation convening a special session of the General Assembly to consider the plans required to be introduced under subsection (g) of this section.

(2) During a special session convened under this
SUBSECTION, the General Assembly:

(I) Shall consider only the certified legislative districts plan and the certified congressional districts plan and any amendments to the plans authorized under Subsection (N) of this section; and

(II) May not consider any legislation, including bills that have been vetoed.

(I) The presiding officers shall introduce the certified legislative districts plan and the certified congressional districts plan at the following time:

(1) If the Governor does not convene a special session, on the first day of the regular session of the General Assembly in the year ending in the number 2; or

(2) If the Governor convenes a special session, on the first day of the special session.

(J) Except for the plans required to be introduced by the presiding officers under Subsection (G) of this section, a member of the General Assembly may not introduce a bill proposing a plan for legislative districts or congressional districts.

(K) Except for an amendment prepared by the presiding officers under Subsection (N) of this section, a legislative districts plan or a congressional districts plan may not be amended.

(L) (1) (I) During a regular session of the General Assembly, each House of the General Assembly shall pass a legislative districts plan and a congressional districts plan by a vote of three-fifths of the members elected to that House by the 45th day after the opening of the regular session.

(II) During a special session of the General Assembly, each House of the General Assembly shall pass a legislative districts plan and a congressional districts plan by a vote of three-fifths of the members elected to that House by the 15th day after the opening of the special session.

(2) The legislative districts plan and congressional
DISTRICTS PLAN PASSED BY THE HOUSE OF DELEGATES AND THE SENATE SHALL
BE PRESENTED TO THE GOVERNOR FOR APPROVAL WITHIN 1 DAY AFTER PASSAGE.

(M) (1) If the legislative districts plan or the congressional districts plan does not pass by the deadline established under subsection (L)(1) of this section, or the Governor vetoes the legislative districts plan or the congressional districts plan under subsection (P) of this section, the presiding officers of the General Assembly shall, within 3 days:

(i) Notify the Redistricting Commission that the legislative districts plan or the congressional districts plan did not pass or was vetoed;

(ii) Send the Redistricting Commission the recommendations of the General Assembly for changes to the legislative districts plan or the congressional districts plan and the Governor's objections, if any; and

(iii) Request that the Redistricting Commission propose an alternative plan.

(2) (i) On receipt of the notice from the General Assembly under paragraph (1)(i) of this subsection, the Redistricting Commission shall review the legislative districts plan or the congressional districts plan and consider any recommendations for changes to a plan from the General Assembly and the objections of the Governor, if any.

(ii) The Redistricting Commission shall send the legislative districts plan or the congressional districts plan, including any changes approved by the Redistricting Commission, to the presiding officers within 20 days after receiving the notification of the General Assembly under paragraph (1)(i) of this subsection.

(N) (1) Within 3 days after receiving the legislative districts plan or the congressional districts plan from the Redistricting Commission under subsection (M)(2)(ii) of this section, the presiding officers shall prepare any changes recommended by the Redistricting Commission as an amendment to the legislative districts plan or the congressional districts plan.

(2) (i) In order for an amendment prepared under
PARAGRAPH (1) OF THIS SUBSECTION TO BE PASSED, THE AMENDMENT SHALL BE
PASS BY A VOTE OF THREE–FIFTHS OF THE MEMBERS ELECTED TO EACH HOUSE.

(II) IF AN AMENDMENT IS NOT PASSED UNDER SUBPARAGRAPH
(I) OF THIS PARAGRAPH, THE LEGISLATIVE DISTRICTS PLAN OR THE
CONGRESSIONAL DISTRICTS PLAN SHALL BE CONSIDERED AS NOT PASSED.

(III) AFTER AN AMENDMENT IS PASSED UNDER SUBPARAGRAPH
(I) OF THIS PARAGRAPH, IN ORDER TO BECOME LAW, EACH HOUSE OF THE GENERAL
ASSEMBLY SHALL PASS THE LEGISLATIVE DISTRICTS PLAN OR THE CONGRESSIONAL
DISTRICTS PLAN, AS AMENDED, BY A VOTE OF THREE–FIFTHS OF THE MEMBERS
ELECTED TO EACH HOUSE.

(3) IF THE REDISTRICTING COMMISSION SENDS THE LEGISLATIVE
DISTRICTS PLAN OR THE CONGRESSIONAL DISTRICTS PLAN TO THE PRESIDING
OFFICERS WITH NO CHANGES UNDER SUBSECTION (M)(2)(II) OF THIS SECTION, THE
GENERAL ASSEMBLY SHALL:

(I) RECONSIDER THE LEGISLATIVE DISTRICTS PLAN OR THE
CONGRESSIONAL DISTRICTS PLAN; AND

(II) IN ORDER TO BECOME LAW, PASS THE PLAN BY A VOTE OF
THREE–FIFTHS OF THE MEMBERS ELECTED TO EACH HOUSE.

(4) EXCEPT FOR AN AMENDMENT PREPARED BY THE PRESIDING
OFFICERS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LEGISLATIVE
DISTRICTS PLAN OR THE CONGRESSIONAL DISTRICTS PLAN AND AN AMENDMENT
MAY NOT BE AMENDED.

(5) THE GENERAL ASSEMBLY SHALL VOTE ON THE LEGISLATIVE
DISTRICTS PLAN OR THE CONGRESSIONAL DISTRICTS PLAN AND ANY AMENDMENT
WITHIN 15 DAYS AFTER THE OFFERING OF THE AMENDMENT.

(6) A REGULAR SESSION OR A SPECIAL SESSION OF THE GENERAL
ASSEMBLY SHALL BE EXTENDED, IF NEEDED, TO ALLOW FOR CONSIDERATION OF
THE LEGISLATIVE DISTRICTS PLAN OR THE CONGRESSIONAL DISTRICTS PLAN AND
ANY AMENDMENT IN THE TIME SET FORTH IN PARAGRAPH (5) OF THIS SUBSECTION.

(7) IF THE LEGISLATIVE DISTRICTS PLAN OR THE CONGRESSIONAL
DISTRICTS PLAN AND AMENDMENT DO NOT RECEIVE A VOTE OF THE MEMBERS OF
THE GENERAL ASSEMBLY WITHIN THE TIME PERIOD SET FORTH UNDER
PARAGRAPH (5) OF THIS SUBSECTION, THE LEGISLATIVE DISTRICTS PLAN OR THE
CONGRESSIONAL DISTRICTS PLAN AND AMENDMENT SHALL BE CONSIDERED AS NOT
PASSED.

(O) The General Assembly shall present the legislative districts plan or the congressional districts plan passed under this section to the Governor within 1 day after passage.

(P) (1) (I) The Governor shall sign or veto the legislative districts plan or the congressional districts plan within 6 days after presentment.

(ii) A legislative districts plan or a congressional districts plan passed under this section may not be enacted over the veto of the Governor under Article II, Section 17(d) of this Constitution.

(2) If the Governor does not sign or veto a plan within 6 days after presentment, the legislative districts plan or the congressional districts plan shall be a law in like manner as if signed by the Governor.

(Q) A legislative districts plan or a congressional districts plan adopted under this section shall become effective:

(1) On the date the Governor signs the plan;

(2) If the Governor does not sign or veto the plan, on the sixth day after presentment to the Governor; or

(3) If there is a proceeding involving the legislative districts plan or the congressional districts plan in the Court of Appeals under Article IV, Section 14 of this Constitution, on the date ordered by the Court of Appeals.

(R) As provided in Article IV, Section 14 of this Constitution, the Court of Appeals shall adopt a legislative districts plan or congressional districts plan if:

(1) The Redistricting Commission fails to approve a legislative districts plan or a congressional districts plan;

(2) The General Assembly does not pass a plan under this section; or
(3) **The Governor vetoes a plan passed under subsection (n) of this section.**

(S) **The Redistricting Commission shall be the representative of the State:**

(1) **In a proceeding under subsection (r) of this section; or**

(2) **In a petition to review the legality of a plan under Article IV, Section 14 of this Constitution.**

SECTION 2. **And be it further enacted**, that the General Assembly determines that the amendment to the Maryland Constitution proposed by Section 1 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland Constitution concerning local approval of constitutional amendments do not apply.

SECTION 3. **And be it further enacted**, that the amendment to the Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified voters of the State at the next general election to be held in November 2020 for adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the words “For the Constitutional Amendment” and “Against the Constitutional Amendment”, as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings had in accordance with Article XIV.