

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1460 (Delegate Malone, *et al.*)
Rules and Executive Nominations

Congressional Districts - Standards (Anti-Gerrymandering of Maryland's
Congressional Districts)

This proposed constitutional amendment, if approved by the voters at the next general election, requires each congressional district in the State to consist of adjoining territory, be compact in form, and be of substantially equal population. Congressional district boundaries may not account for how individuals are registered to vote, how individuals voted in the past, or the political party to which individuals belong. Due regard must be given to natural boundaries and the boundaries of political subdivisions.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Article III, Section 4 of the Maryland Constitution sets forth requirements for the State's legislative districts that are similar to those that the bill establishes for congressional districts; State legislative districts must consist of adjoining territory, be compact in form, and be of substantially equal population. Additionally, due regard must be given to natural boundaries and the boundaries of political subdivisions. The Maryland Constitution does not address party affiliation or voting patterns with regard to the formation of legislative districts, and it does not address congressional districting at all.

Congressional redistricting is governed by the U.S. Constitution, the Voting Rights Act of 1965, and federal case law. Congressional district boundaries must be redrawn after each decennial census to adjust for population changes, and they must be “as nearly equal in population as practicable.” *Wesberry v. Sanders*, 376 U.S. 1 (1964). This standard is stricter than the standard the U.S. Supreme Court has set for state legislative districts, which must be “substantially equal in population.” *Reynolds v. Sims*, 377 U.S. 533 (1964). Following the 2010 U.S. Census, the U.S. Census Bureau apportioned eight congressional seats to Maryland.

Congress has left to the states the task of redrawing congressional district boundaries. Traditionally, the Governor has submitted a new congressional map to the General Assembly at the same time as a legislative redistricting plan. The General Assembly may adopt an alternative congressional map and is subject to no deadline after which the Governor’s plan becomes law. In 2011, the Governor convened a special session to finalize congressional districts for the 2012 primary elections. The General Assembly adopted the current congressional districting plan under Chapter 1 of the 2011 special session.

Supreme Court Ruling on Partisan Gerrymandering

In November 2018, a three-judge panel of the U.S. District Court for the District of Maryland ruled in *Benisek v. Lamone* that Maryland’s 2011 congressional redistricting plan violates the First Amendment to the U.S. Constitution by burdening both the plaintiffs’ representational rights and associational rights based on their party affiliation and voting history. The ruling was appealed to the U.S. Supreme Court, which agreed to hear the case and consolidated it with a partisan gerrymandering case from North Carolina, *Rucho v. Common Cause*. In June 2019, the court held that partisan gerrymandering claims present political questions beyond the reach of federal courts. Though beyond the reach of federal courts, the court noted that the issue of excessive political gerrymandering is being actively addressed by states through the establishment of independent redistricting commissions, criteria for mapmakers, or prohibitions against drawing district lines for partisan advantage.

Additional Information

Prior Introductions: HB 463 of 2019, a similar bill, received an unfavorable report from the House Rules and Executive Nominations Committee. Its cross file, SB 110, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 1022 of 2018, a similar bill, received an unfavorable report from the House Rules and Executive Nominations Committee.

Designated Cross File: None.

Information Source(s): Governor's Office; Judiciary (Administrative Office of the Courts); Maryland Department of Planning; Maryland State Board of Elections; Department of Legislative Services

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af/mcr

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