

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 339 (Delegate Malone)
Rules and Executive Nominations

Legislative Districts - Standards

This proposed constitutional amendment, if approved by the voters at the next general election, specifies that legislative districts in the State may not account for how individuals are registered to vote, how individuals voted in the past, or the political party to which individuals belong.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Article III of the Maryland Constitution sets forth requirements for State legislative districts and procedures for legislative redistricting. The boundaries of the State's 47 legislative districts must be redrawn after each decennial census to adjust for population changes. 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. Legislative districts may be subdivided into single-member and/or multi-member districts for the purpose of electing delegates.

Chapters 66 and 67 of 2010 require that population counts used to create State legislative districts must (1) exclude incarcerated individuals who were not State residents prior to

their incarceration in State or federal correctional facilities and (2) include incarcerated individuals at their last known address, if State residents prior to their incarceration.

State legislative boundaries are also subject to the requirements of the U.S. Constitution, the federal Voting Rights Act, and federal case law. State legislative districts must be “substantially equal in population.” *Reynolds v. Sims* 377 U.S. 533 (1964).

Partisan Gerrymandering

In *Rucho v. Common Cause* 588 U.S. ___ (2019), the Supreme Court held that partisan gerrymandering claims present political questions beyond the reach of the federal courts. However, the court noted that the issue of excessive political gerrymandering is being actively addressed by states through legislation.

Additional Information

Prior Introductions: HB 1495 of 2020 received a hearing in the House Rules and Executive Nominations Committee, but no further action was taken. HB 1048 of 2019 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; Department of Legislative Services

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