

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1012 (The President)
Reapportionment and Redistricting

Congressional Districting Plan

This emergency bill establishes eight congressional districts in the State for the election of members to the U.S. House of Representatives, pursuant to the Order of the Circuit Court for Anne Arundel County in Case No. C-02-CV-001816 and Case No. C-02-CV-001773, dated March 25, 2022. A specified question must be submitted to the voters of the State if the bill is petitioned to referendum. If the circuit court's judgement that Chapter 32 (House Bill 1) of the 2021 special session is unconstitutional is not upheld on appeal, or if the appeal is not otherwise dismissed, then the bill is void and of no further effect.

Fiscal Summary

State Effect: As noted above, the bill was developed pursuant to the March 25, 2022 circuit court order. While the operations of the State Board of Elections (SBE) are likely affected, the bill is generally not expected to materially affect State finances, as discussed below.

Local Effect: While sufficient information was not available in time to fully analyze the impact of this legislation, it is assumed that the operations of local boards of elections are likely to be significantly affected, and expenditures for local boards of elections may increase in FY 2022 due to overtime and other costs, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law/Background: Congressional district boundaries must be redrawn every 10 years following the decennial census to adjust for population changes. Congressional districts must comply with the U.S. Constitution and the federal Voting Rights Act of 1965. The U.S. Census Bureau has apportioned eight congressional seats to Maryland in accordance with 2020 census figures.

The U.S. Supreme Court has held that congressional districts are subject to a strict population equality standard under Article I, Section 2 of the U.S. Constitution. Accordingly, the populations of congressional districts must be as close to mathematical equality as practicable. Based on adjusted Maryland population counts used for redistricting, the ideal population for each congressional district in the State is 771,925.

While the Maryland Constitution does not explicitly address congressional districting, the Circuit Court for Anne Arundel County held, in a [memorandum opinion](#) dated March 25, 2022, that Article III, Section 4 of the Maryland Constitution, which establishes standards for legislative districts in the State, applies to congressional districting. Article III, Section 4 of the Maryland Constitution requires each legislative district to consist of adjoining territory, be compact in form, and be of substantially equal population, and further requires that due regard be given to natural boundaries and the boundaries of political subdivisions.

Chapters 66 and 67 of 2010 require that population counts used to create the State's congressional district plan exclude individuals incarcerated in State or federal correctional facilities, as determined by the decennial census, who were not State residents prior to their incarceration. Individuals incarcerated in State or federal correctional facilities who were residents of the State prior to their incarceration must be counted at their last known residence.

2021 Congressional District Plan

The State's current congressional districting plan was enacted as Chapter 32 of the 2021 special session. The plan is based on the work of the Legislative Redistricting Advisory Commission, which was appointed by the Presiding Officers of the General Assembly in July 2021 to conduct virtual and in-person town hall meetings across the State and to prepare congressional and State legislative district plans for consideration by the General Assembly. The enacted congressional and State legislative district maps can be found [here](#).

In 2022, the Circuit Court for Anne Arundel County considered two consolidated cases (*Szeliga et. al v. Lamone et. al* and *Parrott et. al v. Lamone et. al*) challenging the

2021 congressional districting plan. On March 25, 2022, the circuit court entered a [declaratory judgment](#) ruling that the 2021 congressional districting plan violates the Maryland Constitution and Declaration of Rights and issued a permanent injunction enjoining the State from using, applying, administering, enforcing, or implementing the 2021 plan in any future election in Maryland, including the 2022 primary and general elections. The circuit court remanded the plan to the General Assembly to develop a new plan that comports with Article III, Section 4 of the Maryland Constitution and the Voting Rights Act by March 30, 2022. It also scheduled a hearing on the revised plan for April 1, 2022.

Postponement of 2022 Primary Elections and Related Deadlines

On March 15, 2022, the Court of Appeals of Maryland issued an [order](#) postponing the 2022 State primary election from June 28, 2022, to July 19, 2022, extending the deadline for filing certificates of candidacy for the 2022 primary election to April 15, 2022, and amending other specified deadlines related to the 2022 primary election, due to pending challenges to the State's legislative districting plan as enacted by Joint Resolution 1 of 2022.

Additional Information

For additional information on redistricting in Maryland, see [Issue Papers, 2022 Legislative Session](#), Department of Legislative Services, pgs. 219-221 (“Redistricting”) (December 2021).

State/Local Fiscal Effect: As discussed above, the bill was developed pursuant to a March 2022 circuit court order, which remanded the 2021 congressional districting plan to the General Assembly to develop a new plan that meets specified requirements. Pursuant to the court's injunction, the State is prohibited from using the 2021 congressional districting plan, enacted as Chapter 32 of the 2021 special session, in the 2022 primary and general elections or any other future election in Maryland. As noted above, the 2022 State primary election has been postponed to July 19, 2022, due to pending litigation related to the 2022 State legislative districting plan. Nonetheless, the State and local boards of elections must implement the new congressional districting plan, as established under the bill, within a significantly compressed timeframe.

While SBE operations are likely affected, it is generally assumed that SBE can likely handle its responsibilities with respect to implementation of the new congressional district plan with existing budgeted resources. However, local boards of elections may incur costs as a result of the bill's changes. While a precise estimate is not feasible at this time, it is anticipated that many local boards of elections likely incur increased overtime expenses in fiscal 2022 in order to implement new congressional district boundaries in time for the 2022 primary election, and some jurisdictions may incur costs to send new voter

notification cards. Regardless, it is unclear whether local boards of elections can implement changes to district boundaries within such a compressed timeframe. The Department of Legislative Services (DLS) notes that the revised congressional map alters the boundaries for all eight congressional districts enacted under Chapter 32 of the 2021 special session; although not every county is affected, boards of elections in multiple counties must incorporate changes.

The Maryland Association of Election Officials has previously advised DLS that implementing a new electoral district map involves, among other things, manually reviewing and entering changes in the statewide voter registration database, determining whether new precincts and polling places are required, and producing and mailing voter notification cards. These activities also generally require that all relevant district maps are finalized, including the legislative district map, which is also subject to legal challenge. Associated preliminary implementation work for local boards of elections can take up to several weeks.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Maryland Association of Election Officials; Department of Legislative Services

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