

Proposed Legislation for Changes to Redistricting Process in Maryland 2019 Legislative Session March 1, 2019

Introduction

Starting in 2016 and every year thereafter, Governor Hogan has proposed legislation that would change the process by which redistricting is accomplished for congressional districts at the federal level and legislative districts at the state level. The current redistricting process is written into the Maryland Constitution in Article III. To revise the process, both houses of the Maryland Legislature must approve proposing a constitutional amendment, which then must be voted on by the state's registered voters.

Current Law

1. Source: Maryland Redistricting Reform Commission Report – 2015
<https://governor.maryland.gov/wp-content/uploads/2015/11/Final-Redistricting.pdf>

On federal congressional districts:

"The Maryland General Assembly has the authority to redistrict congressional districts, but the state constitution and laws are silent on congressional redistricting. A congressional district plan is introduced as a bill in the General Assembly and must be passed by both chambers and signed by the Governor. Any member can introduce a map, but typically the Governor introduces a congressional plan with a legislative plan which becomes the default plan."

On state legislative districts:

"The Maryland Constitution requires the Governor to prepare a legislative plan every ten years after the census. The plan is then presented to the President of the Senate and the Speaker of the House who must introduce the plan as a joint resolution on the first day of the General Assembly's second regular session after the census. The General Assembly has 45 days to enact a different plan or the Governor's plan becomes law. While Maryland's constitution and laws offer no criteria or guidelines for congressional redistricting, the Commission was particularly interested to learn that the Maryland Constitution does provide criteria for legislative districts. Article III, section 4 of the Maryland Constitution requires legislative districts to be contiguous, compact, substantially equal in population, and must give "due regard" to political boundaries, so county and municipal boundaries must be respected as much as possible."

Proposed Changes

The proposed changes arise from the Maryland Commission on Redistricting via the 2015 report cited above. Essentially the new proposal is to remove proposing new district boundaries from the Legislature and the Governor and have the proposal for

new maps come from an independent commission with approval by the Legislature. Text from the 2019 bills is provided below.

1. HB0043/SB0090 – MD Election Law - Elections - Legislative and Congressional Redistricting and Apportionment - Commission and Process

This bill would revise existing election law to define an independent commission appointed by the State Ethics Commission consisting of 3 members of the majority party, 3 members of the minority party, and 3 members not registered with either major political party. The Ethics Commission will solicit applications who must meet defined independence criteria, will identify 10 applicants who meet each of the 3 party-affiliation criteria, and then randomly select 3 applicants from each pool of 10 qualified applicants. The selected commission members will conduct hearings and work in an open process to draw new boundaries for each congressional and state legislative district. The new maps will be submitted to the State Legislature for approval. The bill provides that the independent commission represents the state before the MD Court of Appeals or in Federal courts in the event of complaints on redistricting. The bill does not specify the criteria to be used in redistricting other than to point to the requirements of the MD Constitution.

2. HB0044/SB0091 – MD Constitutional Amendment on Legislative and Congressional Redistricting and Apportionment

Note: Text is copied from proposed bills. CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.

a. Definition of Districts:

“Article III – Legislative Department

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.”

b. Criteria for drawing district boundaries and who is responsible for proposing and approving new districts:

“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 7 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."

3. HB0463/SB0110 – MD Constitutional Amendment on Congressional Redistricting

"ARTICLE XX – CONGRESSIONAL DISTRICTS

1. EACH CONGRESSIONAL DISTRICT SHALL CONSIST OF ADJOINING TERRITORY, BE COMPACT IN FORM, AND BE OF SUBSTANTIALLY EQUAL POPULATION. DUE REGARD SHALL BE GIVEN TO NATURAL BOUNDARIES AND THE BOUNDARIES OF POLITICAL SUBDIVISIONS."

Note: This pair of bills competes with HB0044/SB0091 described above and addresses only Congressional Districts with fewer criteria for redistricting. It adds to the constitution the same criteria for Congressional redistricting as is presently in the constitution for state legislative districts, which does not include prohibitions on consideration of party affiliation.

4. HB1048 – MD Constitutional Amendment – Legislative Districts – Standards

“Article III – Legislative Department

4.

(A) Each legislative district [shall]:

(1) SHALL consist of adjoining territory, be compact in form, and of substantially equal population; **AND**

(2) MAY NOT ACCOUNT FOR HOW INDIVIDUALS ARE REGISTERED TO VOTE, HOW INDIVIDUALS VOTED IN THE PAST, OR THE POLITICAL PARTY TO WHICH INDIVIDUALS BELONG.

(B) Due regard shall be given to natural boundaries and the boundaries of political subdivisions.”

Note: This bill defines criteria for MD legislative districts by adding the prohibition to considering party affiliation or past voting records.

Source for language of bills:

<http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?pid=legisnpage&tab=subject3>