

Legislative Analysis



CONGRESSIONAL & LEGISLATIVE REDISTRICTING PLANS TO BE DEVELOPED BY LEG. SERVICE BUREAU

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House Bill 5908

Sponsor: Rep. John Walsh

Committee: Judiciary

Complete to 4-12-10

A SUMMARY OF HOUSE BILL 5908 AS INTRODUCED 3-2-10

The bill would require the Legislative Service Bureau to develop the redistricting plans for both the Michigan Legislature and the Michigan districts of the United States Congress. Currently, the redistricting plans are developed by the State Legislature. The bill would apply beginning with the redistricting that follows the 2010 federal decennial census.

House Bill 5908 would amend Public Act 463 of 1996 (MCL 4.261, et al.), which establishes guidelines for the decennial adoption of redistricting plans. It also would repeal the Congressional Redistricting Act (Public Act 221 of 1999, MCL 3.61 to 3.64), while importing some of its provisions into PA 463, including the districting guidelines.

Process for Approving Plans

Under the bill, once the official total population count of each decennial census is available, the LSB would prepare a districting plan for Congress and an apportionment and districting plan for the State Legislature and deliver them to the Clerk of the State House of Representatives and the Secretary of the Senate. The deadline for this would be May 15. Both plans would have to be approved by the House and Senate by July 31.

The plans would have to be voted on first in the House (within seven calendar days after receipt). If a plan was approved it would then be transmitted to the Senate within one calendar day and voted on in the Senate within seven calendar days after receipt. The plans would not be subject to amendment other than amendments of a technical nature.

If a plan was not approved by a majority of members elected and serving, the House or the Senate (as appropriate) would pass a resolution indicating to the LSB why the plan was not approved. The LSB would then prepare a second plan and deliver it to the Clerk of the House or Secretary of the Senate no later than 14 calendar days after the vote of non-approval. If the second plan was not approved, the House or Senate would pass a new resolution indicating why the plan was not approved, and the LSB would prepare a third plan and deliver it to the Clerk of the House or Secretary of the Senate no later than 14 calendar days after the vote of non-approval on the second plan.

The third plan would then be voted on in the House and Senate. However, the third plan could be amended, subject to statutory requirements. Once a plan was enacted it could not be amended until the next federal decennial census.

Making Public the LSB Plan

Upon delivery of a bill embodying a plan, the LSB would have to make available to the public the following information: copies of the bill delivered by the Legislative Service Bureau; maps illustrating the plan; a summary of the standards prescribed for development of the plan; and a statement of the population of each district included in the plan, and the relative deviation of each district population from the ideal district population. The LSB would be required to maintain a website that lists all of that information.

Guidelines for Plans Redistricting the State Legislature

Currently under the law, there are 12 guidelines that must be followed when developing a legislative decennial redistricting plan. The bill would modify one guideline and add a new guideline. The existing guidelines require:

- (A) Senate districts consist of 38 single-member districts.
- (B) House districts consist of 110 single-member districts.
- (C) Districts be areas of convenient territory contiguous by land.
- (D) Districts have a population not exceeding 105 percent and not less than 95 percent of the ideal district size until the United States Supreme Court establishes a different range of allowable population divergence for state legislative districts.
- (E) District lines preserve county lines with the least cost to the principle of equality of population (as specified in the paragraph D above).
- (F) When it is necessary to break county lines to stay within the range of allowable population divergence, then shifting the fewest whole cities or whole townships (and shifting those having the least population first).
- (G) Within counties having more than one Senate or House district, drawing district lines on city and township lines with the least cost to the principle of equality of population between election districts consistent with the maximum preservation of city and township lines and without exceeding the range of allowable divergence in paragraph (D).
- (H) When it is necessary to break a city or township to stay with the range of allowable divergence, the number of people necessary to achieve population equality shall be shifted between the two districts affected by the shift, except that in lieu of absolute equality, lines may be drawn along the closest street or a comparable boundary.
- (I) Within a city or township having more than one Senate or House district, drawing district lines to achieve the maximum compactness possible within a population range of 98 percent to 102 percent.
- (J) Determining compactness by circumscribing each district within a circle of minimum radius and measuring the area, not part of the Great Lakes and not part of another state, inside the circle but not inside the district.

(K) When a discontinuous township island exists within a city or discontinuous portions of townships are split by a city, the splitting of the township shall not be considered a split if (1) the city must be split to stay within the range of allowable divergence and it is practicable to keep the township together within one district; (2) a township island is contained within a whole city and a split of the city would be required to keep the township intact; or (3) the discontinuous portion of a township cannot be included in the same district with another portion of the same township without creating a noncontiguous district.

(L) Senate and House districts not violate the precedents established in *Miller v Johnson*, *Bush v Vera*, and *Shaw v Hunt*.

House Bill 5908 would retain the first 11 guidelines unchanged, modify the 12th guideline [paragraph (L)], and add one new guideline.

The 12th guideline would be revised to read: *Senate and House districts shall not violate Section 2 of Title I of the [federal] Voting Rights Act of 1965.*

The new guideline would require that the Legislative Service Bureau or Legislature shall not draw a district for the purpose of favoring a political party, incumbent legislator, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group. The LSB or Legislature shall not use or consider voting history data, past election results, or incumbent addresses during the preparation or adoption of the apportionment and redistricting plan.

Guidelines for Congressional Redistricting Plans

The bill would import into Public Act 463 of 1996 the guidelines for congressional redistricting that are currently in Section 3 of the Congressional Redistricting Act (which is to be repealed). It would also add an additional requirement: *that the LSB shall not draw a district for the purpose of favoring a political party, incumbent legislator, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group. The LSB or Legislature shall not use or consider voting history data, past election results, or incumbent addresses during the preparation or adoption of the apportionment and redistricting plan.*

The existing guidelines that are retained are to be used in the following order of priority:

- (A) The constitutional guideline is that each congressional district shall achieve precise mathematical equality of population in each district.
- (B) The federal statutory guidelines in no order of priority are as follows:
 - (1) Each congressional district shall be entitled to elect a single member.
 - (2) Each congressional district shall not violate Section 2 of Title I of the federal Voting Rights Act of 1965.
- (C) The secondary guidelines in order of priority are as follows:

- (1) Each congressional district shall consist of areas of convenient territory contiguous by land. Areas that meet only at points of adjoining corners are not contiguous.
- (2) Congressional district lines shall break as few county boundaries as is reasonably possible.
- (3) If it is necessary to break county lines to achieve equality of population between congressional districts as provided in subdivision (A), the number of people necessary to achieve population equality shall be shifted between the two districts affected by the shift.
- (4) Congressional district lines shall break as few city and township boundaries as is reasonably possible.
- (5) If it is necessary to break city or township lines to achieve equality of population between congressional districts as provided in subdivision (A), the number of people necessary to achieve population equality shall be shifted between the two districts affected by the shift.
- (6) Within a city or township to which there is apportioned more than one congressional district, district lines shall be drawn to achieve the maximum compactness possible.
- (7) Compactness shall be determined by circumscribing each district within a circle of minimum radius and measuring the area, not part of the Great Lakes and not part of another state, inside the circle but not inside the district.
- (8) If a discontinuous township island exists within an incorporated city or discontinuous portions of townships are split by an incorporated city, the splitting of the township shall not be considered a split if any of the following circumstances exist: (a) the city must be split to achieve equality of population between congressional districts as provided in subdivision (A) and it is practicable to keep the township together within one district; (b) a township island is contained within a whole city and a split of the city would be required to keep the township intact; or (c) the discontinuous portion of a township cannot be included in the same district with another portion of the same township without creating a noncontiguous district.
- (9) Each congressional district shall be numbered in a regular series, beginning with Congressional District 1 in the northwest corner of the state and ending with the highest number district in the southeast corner of the state.

Role of the State Supreme Court

Currently under the law, the Michigan Supreme Court has original and exclusive state jurisdiction to hear and decide all cases or controversies involving a legislative redistricting plan, and the statute describes how the court proceeds if legislation to establish a plan is not enacted. House Bill 5908 would retain these provisions and extend them to congressional redistricting plans.

Currently under the law, unless legislation enacting a redistricting plan for the House of Representatives or Senate is approved on or before the deadline established in Section 1 of the statute, a political party, the speaker or minority leader of the House, or the majority leader or minority leader of the Senate may file on or after November 2, a

petition or other pleadings or papers with the Supreme Court requesting that the court prepare a redistricting plan. House Bill 5908 would retain this provision, modify the filing date to "on or after August 1," and extend the provision to congressional redistricting plans.

Currently under the law, if a petition for review is filed with the Michigan Supreme Court, the statute specifies that the court, among other things, appoint a special master (or masters); provide for the submission of proposed redistricting plans by political parties and other interested parties; hear oral arguments; make the plan available for public inspection at least 30 days before a hearing; hold a hearing on the proposed plan not later than March 10; and order a redistricting plan not later than April 1. House Bill 5908 would retain these provisions, modify the filing dates to "March 11" and "April 2," and extend the provisions to congressional redistricting plans.

FISCAL IMPACT:

Based on costs for prior decennial redistricting projects, the estimated cost of redistricting would be \$1.0 million. This funding would cover the following costs: contract costs; technical staff time (i.e., preparation of election geography, absentee geography equivalency, demographics, precinct material research and validation, and creation of boundaries); equipment, to include computers, plotters, data access software, query software, and redistricting software, and hardware; maintenance and upgrades to servers; training; and other support and supplies. This fiscal estimate will be updated if additional information becomes available.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.