LWVMD Study Guide: Legislative Districts: Single-member or Multi-member? 9/30/16

The following material is provided by the Study Committee to give additional background material and resources to accompany the Fact Sheet for unit leaders of consensus meetings for the LWVMD 2016 study of Legislative Districts: Single-member or Multi-Member?

Pg. 1 – National Comparison

Five states with uniform two-member house districts: Arizona, Idaho, New Jersey, North Dakota, Washington

Pg. 2 – How Legislative Districts in Maryland Have Changed Since the 1970s

In 1971-72 the eight counties electing only 1 delegate countywide were Calvert, Caroline, Dorchester, Garrett, Kent, Somerset, Talbot and Worchester.

Additional background on history and judicial cases:

History of General Assembly Districts in Maryland
(Maryland Legislator's Handbook, Legislative Handbook Series, Volume I, 2010, extracts from pgs. 143-148) http://mgaleg.maryland.gov/Pubs/LegisLegal/2010-legislators-handbook-vol-001.pdf

The Constitution of 1776 established a legislature consisting of "two distinct branches, a senate and a house of delegates, which shall be stiled the General Assembly of Maryland."

In the House of Delegates, each of the 18 counties was allotted 4 delegates, and Annapolis and Baltimore were allotted 2 each. Delegates were chosen by popular vote for one-year terms. The Senate was composed of 15 members, 9 from the Western Shore, and 6 from the Eastern Shore, chosen by electors elected by the people, 2 from each county and 1 each from Annapolis and Baltimore. Senators were elected for five years.

And then, in 1836-37, the people approved sweeping constitutional reforms, all democratic in trend. Replacing an Electoral College model, the amendments provided for the direct popular election of Governor and State senators. The Governor's term was extended to three years. Most importantly, these amendments took steps to make the legislature more representative by beginning to equalize election districts.

The Senate was comprised of 21 members, with each county and Baltimore City represented by one senator. Senators' terms were for six years, staggered in a fashion to provide for a renewal of a third of the body's membership every two years.

Two systems for the apportionment of the House seats were provided: one for before and one for after the taking of the decennial census of 1840. Members of the House, still elected for one-year terms, were selected prior to the promulgation of the 1840 census with each county, Baltimore City, and Annapolis granted a designated apportionment. Baltimore City was allocated five delegates, as many as the largest counties.

After the census, any county with over 35,000 people got the maximum six delegates. Baltimore City was entitled to as many delegates as the most populous county. Annapolis for apportionment purposes was considered a part of Anne Arundel County and lost its individual delegate.

In the Constitution of 1851, the General Assembly was empowered to reapportion the House of Delegates after each federal census on the basis of population, with certain qualifications. The House was to be composed of no more than 80 and no fewer than 65 members. No county would have fewer than two members, and Baltimore City was to have four more than was allotted to the most populous county. The Senate apportionment remained unchanged – one senator from Baltimore City and each of the counties, elected to four-year terms, staggered to provide renewal of half the body every two years.

The 1867 constitution established, for the first time since Independence, an executive veto. It also terminated Maryland's first brief venture with a lieutenant governorship.

The apportionment of the General Assembly was settled with little controversy in this convention. Allotment of Senate seats remained unchanged – one for each of the counties and for each of the three legislative districts in Baltimore.

A weighted apportionment formula based on population was continued for the House as follows:

Under 18,000	two delegates
18,000 - 28,000	three delegates
28,000 - 40,000	four delegates
40,000 - 55,000	five delegates
Over 55,000	six delegates

Each Baltimore City legislative district was entitled to the number of delegates of the largest counties. This formula was to be applied following each decennial census, beginning with the 1870 census.

The Constitution of 1867 remains Maryland's basic law. It has been amended repeatedly, however, and in the process has undergone some rather drastic alterations.

Apportionment of the membership of the two houses of the General Assembly remained unchanged for more than 30 years, until finally, in 1901, another legislative district was carved out in Baltimore, giving the city another senator and six more delegates. By an amendment approved in 1922, two more districts were added, giving the city 6 senators and 36 delegates.

This weighted apportionment formula, establishing maximums at a fairly low population level, obviously favored the smaller counties over the large counties and Baltimore City. With the remarkable population growth that followed World War II, it became so unfair that in 1950 a constitutional amendment was adopted freezing the House of Delegates apportionment at the level prescribed by the 1940 census enumeration.

After the legislature in Maryland and in other states persistently refused to heed the growing demand for apportionment reform, the courts throughout the country intervened, and, beginning about 1962, a series of federal and State decisions enunciated the doctrine of "one person, one vote."

Maryland's first attempt to comply was to reapportion the House and leave Senate representation unchanged. The U.S. Supreme Court, however, ruled that both the Senate apportionment and the "stopgap" House reapportionment were unconstitutional, and a special session of the General Assembly was called in 1966 to reapportion both houses in conformity with court decrees. The

General Assembly reapportioned itself, providing a House of Delegates with 142 seats and a Senate with 43 seats.

The legislature's self-reapportionment to comply with the Supreme Court's orders was only a temporary stopgap. Governor Tawes used the opportunity to call the 1967 constitutional convention. The constitutional convention drafted a model, modern constitution, but it was rejected by the voters in the spring of 1968. In the wake of this "Magnificent Failure," however, the legislature still had to be reapportioned. A 1970 constitutional amendment enshrined the constitutional requirement of "one person, one vote," set the size of the legislature at 43 Senators and 142 Delegates, and provided for reapportionment every 10 years. Finally, in 1972, the constitution was amended once more to set the membership in the legislature as it is today: 47 Senators and 141 Delegates.

Redistricting Litigation in Maryland, Maryland Redistricting page, March 2011 of the Community Census & Redistricting Institute (CCRI), a project of Southern Coalition for Social Justice (SCSJ)
http://redistrictinginstitute.org/wp-content/uploads/2011/03/Maryland-Redistricting-Info.pdf

State Constitutional Issues

Jurisdiction
The Maryland Court of Appeals has original jurisdiction to review legislative redistricting and may grant appropriate relief if it finds that the plan is not consistent with the requirements of the Maryland Constitution.

Public Hearing Requirement
The 1973 legislative redistricting plan was invalidated by the Maryland Court of Appeals for failure to comply with the State constitutional requirement for public hearings. The Governor's advisory committee on redistricting had held only one public hearing, which was announced in a single press release two days earlier. A Special Master was designated by the court to hold several adequately publicized hearings around the State. The plan was subsequently adopted by the court in March 1974.
(In The Matter of Legislative Redistricting of the State, 271 Md. 320, 317 A.2d 477)

Compactness Requirement
The State constitutional compactness requirement was considered by the Maryland
Court of Appeals in a challenge to the 1982 legislative redistricting plan. Several districts in several counties were challenged, the principle districts being in Montgomery County and Baltimore City. The court upheld each challenged district stating that none of them reached the level of noncompactness contemplated by the State constitution.

Due Regard Requirement
In 1993 the Maryland Court of Appeals considered a challenge to the Governor's enacted 1992 legislative redistricting plan based on alleged violations of the State constitution's requirement that the State give due regard to natural boundaries and political subdivisions. The focus of attention were five legislative districts in Baltimore City which crossed into Baltimore County. A majority of a fractured court narrowly upheld the plan. The majority stated that the plan came "perilously close" to violating the State constitution when it crossed political subdivision lines in order to group communities that the

Governor's redistricting advisory committee felt had shared interests. (Legislative Redistricting Cases, 331 Md. 574, 629 A.2d 646).

Equal Population

The Governor's 1992 legislative redistricting plan was also challenged on the basis that its districts did not comply with the "substantially equal" population requirement of the State constitution. The difference between the least and the most populated senatorial district was 9.84%; within the allowable deviation of federal case law. The Maryland Court of Appeals interpreted the State constitutional provision as being even less strict than the federal 10% rule and cited the legislative history surrounding the enactment of the constitutional provision, which contemplated a maximum allowable deviation of 15%. (Legislative Redistricting Cases, 331 Md. 574, 629 A.2d 646).

Federal Constitutional Issues

Minority Vote Dilution

A portion of the Governor's 1992 legislative redistricting plan for the Maryland House of Delegates was invalidated by a Federal District court in Marylanders for Fair Representation v. Schaefer, 849 F.Supp 1022 (D. Md. 1994), for violating Section 2 of the Voting Rights Act.

While the court explained that the State was not obligated under Section 2 to create a majority minority district wherever possible in a plan, the creation of these districts are required whenever the conditions set forth under the U.S. Supreme Court decision in Thornburg v. Gingles are present. The court found that only district 37 met these conditions, which included racial block voting, geographical compactness and political cohesion of the African-American population, and a history of racial discrimination in the area. The court ordered the State to create district 37A, a new, single-member, majority minority district.

Partisan Gerrymandering

A federal District court dismissed a claim that the Governor's 1992 legislative plan was an illegal partisan gerrymander in violation of the Equal Protection Clause of the 14th Amendment. It found that the plan did not cause the degree of discriminatory effect on the minority party necessary to invalidate the plan. The plan did not take away their political influence in the legislature or among voters as a result of the redistricting plan as the decision in Davis v. Bandemer required.

Litigation after 2001 Redistricting

In the Matter of Legislative Districting of the State, Misc. No. 19, September Term 2001;
369 Md. 398; 800 A.2d 744 (June 11, 2002)

Petitions were filed by various registered MD voters, challenging the Constitutionality of the 2002 Legislative Redistricting Plan. In an Order entered April 11, 2002, the Court of Appeals concluded that the plan was valid and appointed a Special Master to conduct further hearings. On May 21, 2002, the Special Master recommended that Districts 37 and 38 be reconfigured but all other petitions be left alone. On June 11, 2002, the Court found that significant parts of the plan were inconsistent with state constitution, and undertook to form a more constitutional plan with the help of one or more technical consultants. The Court asked the parties to submit names for consultants by June 13.

In the Matter of Legislative Redistricting of the State, Misc. Nos. 19, 20, 22, 23, 24, 25, 26, 27, 28.29, 30, 31, 32, 33, 34, September Term 2001; 369 Md. 601; 801 A.2d 1049 (June 21, 2002)
In a follow-up to the afore-mentioned matter, the Court of Appeals issued a list of the new districts, which were not the same as the districts drawn up by the Special Master. The districts were created by the court with the help of technical consultants appointed June 17, 2002.

In the Matter of Legislative Redistricting of the State, Misc. Nos. 19, 20, 22, 23, 24, 25, 26, 27, 28.29, 30, 31, 32, 33, 34 , September Term 2001;370 Md. 312; 805 A.2d 292 (August 26, 2002)
The Court of Appeals issued this Order on August 26, 2002, following its Order issued on June 26, redrawing the districts. The Court had concluded that significant portions of the 2002 plan were inconsistent with Article III of the state constitution, though]it rejected accusations that it was racially unequal. The court held that the plan should adhere as much as possible to natural boundaries, while still complying with state and federal constitutional standards and the Voting Rights Act. The Court of Appeals reasoned that it was better able to draw the new districts anyway, as it was free from political influence and the political process.

Sources:
http://redistricting.state.md.us/maryland/
http://weblogs.baltimoresun.com/news/local/politics/2011/01/what_about_redistricting.html
http://www.senate.leg.state.mn.us/departments/scr/redist/redsum2000/redsum2000.htm

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pg. 4 – Electoral Effects of Different District Styles

Additional background on specific populations and parties

The Impact of Multimember Districts on Party Representation in U.S. State Legislature

http://www.socsci.uci.edu/~bgrofman/63%20Niemi-Hill-Grofman-Impact%20of%20multimember%20districts.pdf

Excerpt (Conclusion):

Multimember districts are a much maligned phenomenon – maligned especially, it would seem, by those who allege that such districts exaggerate the tendency of winner-take-all systems to over represent the majority party. What we have done in this paper is to show that, as a general proposition about minority party representation, this alleged effect is simply not true at the state legislative level. Every one of the tests we made were negative. Multimember districts did not over represent, nor did they underrepresent, the minority party.

We believe that the differences between the nonexistent (or at least minimal) effects of multimember districts on aggregate party representation and the strong effects of multimember districts on racial representation is due to four factors, three of which are closely related. First, few state legislative districts are mostly black in population, while many of the districts that elected members of the statewide minority party are ones in which that party is in the majority. Second, to the extent that multimember districts are built of whole (or nearly whole) counties, as is the case in a number of states, the differences in party support between urban and rural counties create natural geographic bases in which the statewide minority party may dominate. Third, to the extent that

bipartisan gerrymandering occurred, some multimember districts may have been “given” to the statewide majority party may dominate. Finally, a more idiosyncratic factor is that in the southern and border states that have a black population above 15 percent (and in which the possibility of black representation is therefore the greatest), the shift to single-member districts often came about because of the courts or the Justice Department intervened to guarantee the formation of at least some majority black districts. In addition, in most of these states both Democrats and Republicans had previously acquiesced in a plan detrimental to black representation.

While caution is therefore required, we should ot lose sight of the main point. Multimember districts do not invariably, or even generally, underrepresent the statewide majority party I state legislative elections. Nor, as indicated by the frequency of two-party multimember districts, do they entirely shut out the party that is in a minority in a given district. Rather, like most other electoral devices, they can have positive or negative effects depending on the circumstances. They best way to view them is as a tools sometimes used to suppress minority party representation, but not as prima facie evidence of discrimination against the minority party. Any final judgment about their utility – and their constitutionality – must take that into account.

How single member districts hold women back

http://www.representation2020.com/uploads/9/2/2/7/9227685/fair_election_structure.pdf

(Advocating the use of multimember districts AND ranked-choice voting)

Excerpts:

In the case of women, single-member districts can prove to be a significant barrier to receiving fair and descriptive representation in legislatures. For over 40 years, academics have noted that women tend to be better represented in multimember districts than in single member districts, both in the United States and abroad.

Currently, ten states use multimember districts to elect at least one house in their state legislature. These ten states tend to rank among the highest for their percentage of legislators who are women. AS of January 2014, six of the ten states with the highest percentages of women in their state legislatures used multi-member districts in at least one of their state legislative chambers…..Overall, state legislative chambers that use multi-member districts are currently 31% women, compared to chambers that use only single-member districts, which are 22.8% women.

Ethnic Minorities and Single-member Districts
http://aceproject.org/ace-en/topics/es/esy/esy_us

Single-member districts (SMDs) are deeply rooted in American political tradition. From the founding of the United States in the eighteenth century to the present, electoral representation has been grounded on the concept of territorial units and subunits. Americans have always thought of popular sovereignty in spatial terms, beginning with the original conception of the U.S. Constitution as a compact among sovereign states and continuing within the states to the valorization of county and municipal government autonomy or "home rule." The Constitution does not specify how popular

elections should be structured, and the states have experimented with a variety of single-member-district, multimember-district and at-large forms. But SMDs frequently, if episodically, have been the method of choice for elections at all levels, federal, state, and local, because they enable smaller, geographically situated communities to send their own representatives to larger legislative assemblies. Conversely, multimember districts and at-large elections have been employed when ruling majorities wanted to emphasize the corporate identity of particular jurisdictions and to suppress partisan or ethnic "factionalism." At-large voting rules such as majority-vote requirements, anti-single-shot laws and numbered places were used to maximize the power of ethnic majorities to control all the seats in their legislative bodies.

Historically blacks have been the primary targets of vote-submergence devices in the U.S. The United States is the only modern democracy founded on the institution of slavery, and blacks are entrenched in its Constitution and political institutions as an internal national "other." Slaves were non-persons, and even free blacks were non-citizens. After the Civil War and Reconstruction, blacks in the South were systematically terrorized during elections and, around the turn of the century, disfranchised altogether. The all-white Democratic Party primary became the only election that mattered, and it turned the "solid South" into a region of one-party states. International pressures of the Cold War and the NAACP's litigation campaign against legalized racial segregation eventually succeeded in striking down laws which denied blacks the vote and barred them from primary elections. Thereafter, many majority-white jurisdictions, in and out of the South, resorted to at-large and multimember election schemes to minimize black electoral influence.

The U.S. Supreme Court responded to the post-World War II reexamination of American nationality by elevating the constitutional importance of the individual. In 1963 and 1964 the Court reversed its longstanding refusal to get involved in redistricting controversies and granted relief to white urban voters complaining about the refusal of state legislatures, dominated by underpopulated rural districts, to redistrict themselves. The Supreme Court relied on the Equal Protection Clause of the Fourteenth Amendment to announce the rule of one person, one vote, defining the individual citizen as the basic unit of electoral politics. However, by making the under-weighting of a person's vote justifiable, the Court opened the door to claims that voting strength could be diluted by non-mathematical means, in particular by electoral structures which allowed a bloc-voting white majority to deny a black citizen any opportunity to choose a representative in the state or local legislature. The Supreme Court responded by instructing lower courts to prefer SMDs when they ordered redistricting of malapportioned legislative bodies, and in 1973 it declared unconstitutional Texas' use of multimember legislative districts, specifically because they denied black and Latino voters an equal opportunity to elect candidates of their choice.

All these electoral reforms were wrought by judicial reinterpretation of the Constitution. Meanwhile, in 1965, prodded by the confrontational mass politics of the Civil Rights Movement, Congress passed and President Lyndon Johnson signed the Voting Rights Act, which enabled most blacks in the South to vote for the first time. The conditions that would warrant judicial relief from minority vote dilution became the subject of intense and increasingly complicated litigation, both with respect to at-large or multimember-district elections and with respect to allegedly gerrymandered SMDs. In 1980 the Supreme Court held that racial minorities must prove that a challenged election structure was designed or maintained intentionally to dilute their voting strength. Congress responded with the Voting Rights Act of 1982, which created a statutory entitlement to judicial relief from election structures which had the effect or "result" of diluting the voting strength of protected minorities, defined as racial groups and "persons who are American Indian, Asian American, Alaskan Natives or

of Spanish heritage." The 1982 Voting Rights Act, helped along by a 1986 Supreme Court decision which streamlined the proof it required, sparked widespread changes from at-large elections to SMDs, through both litigation and legislation.

By the time the 1990 census rolled around, nearly every state and local redistricting authority was preoccupied with the task of drawing "minority-majority" SMDs that would comply with both the constitutional rule of population equality and the anti-vote dilution mandate of the Voting Rights Act. The new SMDs produced remarkable gains in office holding for both African Americans and Latinos. The number of black elected officials nationwide grew from 300 in 1964 to approximately 8,000 in 1993, although this figure still constituted less than two percent of all elected officials in a country where blacks account for twelve percent of the population. Since passage of the 1965 Voting Rights Act, the number of African-American members of Congress had increased from nine to thirty-eight, and majority-black SMDs were responsible for all seventeen of the African Americans elected to Congress from the eleven Southern states of the old Confederacy. After the 1994 elections, under a new redistricting plan negotiated by black political leaders, Alabama became the first and only Southern State ever to achieve black proportional representation in both houses of its Legislature.

The nationalist backlash provoked by this surge in majority-black and majority-Hispanic SMDs probably was inevitable. The way SMDs are drawn necessarily defines the constituencies that are deemed to be relevant for purposes of representation in legislative assemblies, and it does so in strictly geographic terms. Seldom are redistricting choices politically irrelevant, mere administrative devices for cumulating individual voter preferences. Rather, they declare who the operative national subcommunities shall be and how much power they will enjoy in the lawmaking process. In the United States, counties, municipalities, and recognizable neighborhoods have been the traditional building blocks for redistricting, except when it was expedient to ignore their boundaries for the sake of submerging the electoral influence of African Americans and other ethnic minorities. Now it has become necessary to split up traditional political subdivisions to create districts with African-American or Latino majorities, because in the U.S. people of color have no clearly discernible "homelands." Although they frequently are clustered in ethnically identifiable neighborhoods, these residential enclaves are dispersed among more populous, predominantly white neighborhoods. The result in some cases has been very irregularly shaped, noncompact majority-black or majority-Latino districts which, although they were no more bizarre than some majority-white districts, unmistakably signaled racial or ethnic designs.

The most contorted black and Latino districts quickly drew court challenges from white voters, who contended they violated a radically "colorblind" interpretation of the Constitution. In 1993, the Supreme Court issued the first of a series of decisions which established "an analytically distinct" constitutional cause of action that could be used by individual citizens who wished to challenge "racially gerrymandered" SMDs. Plaintiffs would not have to bear the heavy burden of proving that because of the challenged districts their votes were denied or abridged or that their voting strength was diluted. Instead, the Court recognized a presumptively stigmatic harm ensuing from districts which were drawn for the "predominant" purpose of race and which could not be justified as a "narrowly tailored" effort to serve a "compelling state interest." Such districts are unconstitutional, said the Court, because they presume that all members of the ethnic minority think and vote alike and share the same political interests, a message the Court fears will encourage racial "balkanization" of the electorate. This new gerrymander jurisprudence, which aims to address perceived harms to national unity rather than to the individual plaintiff, has produced court orders striking down several majority-black and majority-Latino SMDs at the Congressional, state, and local levels. The new

constitutional districting rules have been created and reaffirmed by the same narrow, five-justice Court majority over the vigorous dissents of four justices, who contend that they offend both substantive justice and the proper limits of judicial review.

Justice Felix Frankfurter warned about the perils of the judiciary entering the "political thicket" in his dissent from the first one-person, one-vote case in 1963. He may be vindicated by the incoherence of the Supreme Court's gerrymandering principles. Surely nothing could be less appropriate for resolution by judges than questions about how the sovereign people should define themselves in a multi-ethnic democratic republic. In its rush to prevent state legislatures from assuming that all African Americans think alike, the Court has yet to confront the converse proposition: What if African-American or Mexican-American or Asian-American or Native-American citizens in a particular state or locale actually do share the same political interests and freely associate to assert them through their elected representatives, through their community institutions or through political organizations - perhaps political parties? To suggest that citizens of color are constitutionally prohibited from negotiating for their own SMDs would contravene historical, constitutionally protected notions of political freedom in the U.S. This is an entirely different question from whether members of an ethnic minority can demand that such districts be created as a matter of legal or constitutional right.

But these are serious questions, which advocates of "majority-minority" SMDs themselves are only now being forced to address. There was never a consensus among them about the political limits or normative endpoint of the voting rights they pressed into remarkably successful service. Today, most advocates of SMDs designed to produce voter majorities of a particular ethnic group defend them as necessary responses to the "unfortunate" reality of ethnic divisions in the national fabric. They share with the opponents of majority-minority districts an underlying commitment to the vision of the United States as an immigrant nation, one in which newcomers and their descendants voluntarily assimilate in the established institutions of public political and social life while retaining the right to preserve their ethnic distinctiveness in strictly private institutional ways. Even private (white) ethnic associations were under pressure to disappear during the "melting pot" era of Anglo ascendancy, which extended at least through World War I. A distinct change in American identity was wrought by World War II, however, when the descendants of other European nationalities placed their stamp of ownership on the American nation and the Anglo-American political traditions they had adopted. The full implications of this national redefinition were largely submerged, as they were throughout the world, in the empires created by competing statist ideologies during the Cold War. That has all changed now, and the U.S. is not immune from the winds of ethnic nationalism that are sweeping the globe.

Today, Americans of German and Irish ancestry outnumber those of English descent. They now sit in the front benches, along with Southern-European and Eastern-European Americans, including secular American Jews, where together they have become the most passionate defenders of their adopted English language and Anglo-American Constitution. Ethnically identifiable SMDs are an embarrassment to these Americans and a threat to their national vision. The right wing of the immigrant nation supports the current regime of suppressing and delegitimising SMDs that have all too obvious racial or ethnic designs, while the left wing either defends majority-minority districts as temporary integration tools or urges that they be replaced with multimember-district schemes using semi-proportional or single-transferrable-vote rules. The growing number of PR proponents also criticize SMDs because they can make it easier for incumbents to get re-elected, engendering a lack of accountability which hurts ethnic majorities and minorities alike. But PR systems are not invulnerable to the same charges often leveled at majority-minority SMDs, that they encourage ethnic polarization and threaten destabilization.

Left out of this immigrant debate and its common objectives of national uniformity, however, are Americans of color, especially the descendants of African slaves. Some scholars now acknowledge that white supremacy has always been a more powerful defining characteristic of American citizenship than any of the more openly debated versions of liberal pluralism and civic republicanism. Many white Americans are simply disturbed or even frightened by black control of the political units in which they reside. For African Americans, a more inclusive immigrant nation may be neither realistic nor an acceptable remedy for centuries of caste exclusion. They may favour renegotiations of American nationhood on terms that at last acknowledge their distinctiveness and accord them full dignity and free agency. The periodic redrawing of SMDs may be one of the best ways of forcing their national demands onto the table, which could explain why a hostile Supreme Court majority has constitutionalized the issue in hopes of squelching the debate. Proportional representation systems may afford African Americans equal participation in legislative bodies, but by sidestepping the constitutive inter-ethnic dialogue redrawing SMDs requires they may actually impede the historical quest of descendants of slaves for complete freedom. PR proposals by some members of the Congressional Black Caucus have not resonated strongly in the black community. On the other hand, it is easy to imagine how the descendants of conquered indigenous peoples and of non-white immigrants might have entirely different views of which election structures best suit their personal and collective agendas in an increasingly diverse U.S.

A just resolution of these conflicting, often incommensurable ethnic positions on electoral structures and their underlying national visions can be achieved only through mutual consent to compromises, which must be incomplete and provisional so long as we value the liberal ideal of individual freedom to shape and reshape one's own cultural and political identity. The negotiations required to reach agreement on such formative questions are particularly difficult to start and to sustain in the United States, because for so many Americans their national identity is invested in a sacred, written Constitution, which for all practical purposes can only be reinterpreted, not renegotiated. Not surprisingly, the greatest progress toward national consensus usually has been achieved through democratically negotiated compromises outside the constitutional context, as with the Voting Rights Act, for example. Now, with considerable encouragement from "colorblind" conservatives, some members of the Supreme Court are suggesting that what they consider to be overzealous implementation by the democratic branches of federal and state governments may call into question the constitutional validity of the Act itself. And the occasion for this constitutional confrontation will be the battle over legislative redistricting. Thus, if the American experience with SMDs as an instrument of political empowerment for ethnic minorities holds any lessons for other democracies, they would include the importance of the particular national context, of respect for its political traditions and the particular situations of subnational groups within them, of the opportunities for gaining the widest possible consensus in making decisions about election structures, and, most of all, of humility when it comes to expectations of lasting solutions.

Make-up of State Legislatures, from National Council of State Legislatures
www.ncsl.org

There is an average female proportion of 24% in state legislatures, varying from 41 to 12%. Of the top 16 states with the highest proportion of women in State legislatures (both upper and lower houses), seven of them (* below) have some form of multi-member districts in the lower house:

Colorado; Vermont*	41%
Arizona*	36%
Minnesota, Nevada, Washington*	33%
Illinois	32%
Maryland*, Montana, Oregon	31%
New Jersey*	30%
Hawaii, Maine, New Hampshire*	29%
Alaska, Idaho*	28%

The additional three states with multi-member districts fall below the average:

North Carolina*	22%
West Virginia*	15%
South Carolina*	14%

The average minority proportion of both houses of State Legislatures is 18.3% - with 81.7% white. Five of the states with multi-member districts in the lower house have above average percentages of minority races/ethnicity, with Maryland the fifth highest at 33%, behind Hawaii, New Mexico, Texas, California. Four other multi-member districts are above the national average, with Arizona at 29%, New Jersey at 26%, South Carolina at 24%, and North Carolina at 21%.

The other five multi-member district states fall in the 3 – 9% range of minorities: West Virginia, Vermont, Idaho, New Hampshire and Washington.

HISTORY of LEGISLATIVE DISTRICTS by NUMBER of MEMBERS ELECTED

Following each decade's redistricting plan, adopted or court-ordered

1MDs: Four LDs have had all three members elected from single member districts at some point, in western and south-central Maryland, and once on the Eastern Shore:

LD 1: for 3 cycles (1992 – present)	*Garrett and parts of Allegany*
LD 2: for 4 cycles (1975 – 2011)	*Washington and sometimes part of Allegany*
LD 29: for 4 cycles (1983 – present)	*St. Mary's, and either Anne Arundel, Charles or Calvert*
LD 38: for 1 cycle (2012 – present)	*Somerset, Wicomico and Worcester*

2MDs: No LD has had a consistent double member/single member configuration, but Frederick has had two districts with a double and a single member for 4 out of 5 cycles.

The highest frequency of this configuration follows:

4 cycles:	*LD 3*	*(not 1992 – 2011)*	*Frederick and often with Washington or Carroll*
	LD 4	*(not 2012 – present*	*Frederick and sometimes Carroll*
3 cycles:	*LD 5*	*(1975 –91, 2002–11)*	*Carroll and (1975) with Harford, Baltimore County*
	LD 9	*(1992 – present)*	*Baltimore County and/or Howard*
	LD 14	*(1975 – 2001)*	*Howard and (1992-2001) with Montgomery*
	LD 35	*(1983 – 2011)*	*Harford*
	LD 37	*(1992 – present)*	*Caroline, Dorchester, Talbot and Wicomico*

2 cycles: *LD 1 (1975 – 1991)* *Garrett and Allegany*
LD 12 (1992 – 2011) *Baltimore County and Howard*
LD 13 (1983 – 2002) *Howard and (1992) with Prince George's*
LD 27 (1992 – 2011) *Prince George's*
LD 30 (1975 – 82, 2012+) *Anne Arundel*
LD 47 (1992 – 2001, 2012+) *Baltimore City (1992) or Prince George's (2012)*

3MDs: Since 1974, an overwhelming majority of Maryland voters elect 3 delegates from multi-member legislative district, ranging from a high of 83% of legislators in 1975 to a low of 68% in 2002, with it currently being 74% since 2012.

Nearly half of the General Assembly has been elected since 1974 from 22 three-member districts covering much of Baltimore City and Baltimore, Montgomery and Prince George's Counties, along with the northern half of the Eastern Shore (Caroline, Cecil, Kent, Queen Anne's and Talbot Counties).

Percentage of all delegates elected by voters from 3 member legislative districts:
1975 – 83%, 1983 – 79%, 1992 – 72%, 2002 – 68% and 2012 – 74%.

Almost half (47%) of the members of the House of Delegates elected since 1974 were from these 22 three-member districts:

LDs 6 and 7 *Baltimore County and/or Harford*
LDs 8 and 10 *Baltimore County and sometimes Baltimore City*
LD 11 *Baltimore County*

LDs 16,17,18,19 and 20 *Montgomery County*

LD 21 *Prince George's and sometimes Anne Arundel*
LDs 24, 25 and 26 *Prince George's*

LD 32 *Anne Arundel*

LD 36 *(1975) Somerset, Wicomico, Worcester*
(1983 – 2002) Caroline, Cecil, Kent, Queen Anne's, Talbot
(2003 – present) Caroline, Cecil, Kent, Queen Anne's

LD 39 *Baltimore City (1975-1991); Montgomery (1992 – now)*
LDs 40–41,43,45-46 *Baltimore City*

Over the five decades, the average legislative distribution is 16 one-member districts, 9 two- member districts, and 35 three--member districts.

States employing multimember districts

States employing multimember districts			
State	**State Senate**	**House of Representatives**	**Range of members after the 2014 elections**
West Virginia	Staggered	Bloc	Senate: 2 House: 1-5
Vermont	Bloc	Bloc	House: 1-2 Senate: 1-6
Maryland	-	Bloc/Post	3
South Dakota	-	Bloc/Post	2 (Districts 26 and 28: 2 posts)
Washington	-	Post	2 (2 posts per district)
Arizona	-	Bloc with partial abstention	2
Idaho	-	Post	2
New Jersey	-	Bloc	2
North Dakota	-	Bloc	2
New Hampshire	-	Bloc	1-11

https://ballotpedia.org/State_legislative_chambers_that_use_multi-member_districts#tab=Maryland

Multi-member districts (MMDs) are electoral districts that send two or more members to a legislative chamber. Ten U.S. states have at least one legislative chamber with MMDs.

There are two other electoral systems employed in the United States, single-member and at-large. At-large districts are only used currently for the U.S. House of Representatives in states that are only allotted one representative. The vast majority use single-member districts at both the federal and state levels.

Arizona, New Jersey, South Dakota, and Washington use MMDs to elect all state House members; 10 other states allow the use of MMDs by law even when not used; and five states are legally neutral on the matter.

Of the 7,383 seats in the 50 state legislatures, 1,082 are elected from districts with more than one member, a total of 14.7 percent.