



LEAGUE OF WOMEN VOTERS® OF MARYLAND, INC.

Testimony

Maryland Redistricting Reform Commission

September 15, 2015

On behalf of the League of Women Voters of Maryland, I want to thank the members of the Maryland Redistricting Reform Commission for your willingness to learn about reforming this process in Maryland and share your knowledge with the public and elected officials. We eagerly await your findings, conclusions and suggestions on how to improve upon our current redistricting process. I hope that your hearings across the state lead to you to appreciate how many citizens of Maryland are truly interested in your work.

I can't say there are many, many reasons to reform Maryland's redistricting process, but I can say that there are a few important ones.

First, the citizens of Maryland have recognized that the process isn't fair, and they want reform. A poll taken by Gonzales Research and Marketing Strategies in October 2013 revealed that 73% of Marylanders polled thought redistricting by independent commission was a better way to draw district lines than our current system. And this was not just disgruntled and disappointed minor party voters. 68% of Democrats, 78% of Republicans and 83% of independent voters thought a commission drawing the lines was better than elected official drawing the lines.

Maryland voters have come to understand that they should not be uprooted from their voting districts to appease the whim of a greedy line-drawer. Even active citizens can have difficulty developing a relationship with their elected officials on various levels of government when that relationship can be disrupted almost in secret with little rational excuse. "According to data from the 2000 Census, only 174,000 Marylanders actually needed to be placed into new districts in order to create districts with equal populations. The O'Malley plan placed over 1.5 million Marylanders - nearly a third of the state's residents - into new districts." <http://freestaterblog.blogspot.com/2015/08/maryland-needs-redistricting-reform-now.html> .

Second, we know that excessive gerrymandering leads to polarization of legislators and safely-drawn biased districts have led to the unprecedented disappearance of the political center. In a political system that demands compromise and accommodation to bring about change, the center is considered vital to moderate, bipartisan public policymaking. Increased partisanship and ideological polarization feed public distrust of and distaste for politicians and the political process. (*The Disappearing Political Center: Congress and the Incredible Shrinking Middle*, Sara A. Binder, Brookings Institute, 1996)

We are not naïve. We recognize that bad redistricting is not the only reason for polarization of Maryland and American politics, but we do consider it one of the important reasons.

Political polarization of the electorate over the past few decades has also resulted from population movement, immigration and ideological realignment – an increasing number of people choose to live in communities of people who think and vote like they do. This trend has been evident since the 1970's but has accelerated in recent years. Additionally, the increase in lack of competitiveness of elections results from the power of incumbency, more specifically because of the inability of challengers to compete financially in elections against incumbents. (*Incumbency, Redistricting, and the Decline of Competition in U.S. House Elections*, Abramowitz, Alexander and Funning, *Journal of Politics*, Feb. 2006)

Third, districts drawn to favor one political party or insure incumbent victory result in non-competitive elections. This lack of competitiveness breeds voter apathy and reduced political participation. Why get involved when the result is foreordained. Why donate to a sure loser or for that matter, a sure winner. Not only do voters lack incentives for participation: it becomes increasingly difficult to recruit credible candidates to run on the ticket of the “sure loser” party. The result is that in many of these races, voters are left with a choice between the anointed and the annoying–marginal candidates who offer no new ideas, no energy, and no genuine challenge of any sort. Such contests simply exacerbate voter apathy.

We hear a lot about voter apathy, as if it were a moral deficiency of the voters. Allow me to suggest that it may be a highly rational response to noncompetitive politics. Those same “apathetic” folks show up at the local zoning hearings to testify about problematic properties in their neighborhood or at school board hearings to have input into whether to close their child’s elementary school. People save their efforts for places where those efforts count, and thanks to the increasing lack of competitive elections, those places may not include the voting booth.

We do have suggestions. Our position in favor of a redistricting process and standards that promote fair and effective representation in the state legislature and the House of Representatives with maximum opportunity for public scrutiny can be achieved with the following reforms:

1. The lines for both congressional and state legislative districts should be drawn by an independent commission;
2. To ensure that commission's independence,
 - a. no political party should have a majority and the membership should include voters who are unaffiliated or members of a party other than the Republican or Democratic parties;
 - b. no elected official or political party official should be appointed to the commission; and
3. Congressional districts should conform to the same standards that the Maryland constitution applies to state legislative districts (they must be compact, composed of adjoining territory, and respect geographic and political subdivision boundaries).

Unless partisans are constrained by clear criteria, they will continue to use redistricting to reshape the districts for political advantage. While I in no way mean to diminish our desire for Maryland to have an independent redistricting commission, we do recognize that rational and adequate criteria for drawing legislative AND congressional districts are imperative – no matter who draws the lines. It is just senseless that our state Constitution does not define criteria or standards for Congressional redistricting.

Questions have arisen as to whether or not Maryland should wait until the U.S. Congress deals with issue of redistricting before we enact reforms in our state. The logic behind the desire to wait for federal action on this issue is that if one state, say Maryland, reforms its redistricting process to make it more transparent, fair and non-partisan, there is no guarantee that another state with equally gerrymandered districts would do the same. Hence, the majority party in Maryland would be at a disadvantage if it did not continue to gerrymander districts to ensure majority party super dominance.

We should not wait until Texas, Florida, North Carolina and other decennial bad-boys of redistricting get it right before we can be assured of a fair and transparent process in Maryland. Looking at a parallel issue on the environmental front, it is clear to me that Maryland should have the ability to put a moratorium on fracking, even if Montana, Wyoming, Oklahoma and Louisiana don't want to ban fracking. As every parent knows, the "He did it, too" or "She did it first" defenses just don't cut it. Our kids are supposed to be good in spite of the actions of others, and we should too.

A quick search of the Library of Congress' Thomas website reveals that there have been 115 pieces of federal legislation since 1992 that have some bearing on redistricting. None have passed. Here are some of the redistricting related bills and resolutions currently pending in Congress (for the purpose of illuminating the potential probability of success of any of these bills, I have included a probability of passage figure determined by the website GovTrack.us):
HR 2173 Redistricting Reform Act of 2015, with 40 co-sponsors including Maryland's Representatives Edward, Sarbanes and Van Hollen. It requires an independent, multi-party redistricting commission in each state to draw Congressional maps, sets criteria for members of commission, and criteria for districts. (0% chance of being enacted)

HR 1347, introduced in March 2015 by Rep. Cooper from Tennessee, requires independent redistricting commission that holds its meeting in public, specifies that under certain circumstances the highest court of the state or US District Court could select the redistricting plan, and interestingly, calls for the US Election Assistance Commission to pay state to carry out redistricting. (1% chance of being enacted)

HR 75, Coretta Scott King Mid-Decade Redistricting Prohibition Act of 2015, prohibits redistricting except after the decennial census unless a court requires it to comply with the Constitution or enforce the Voting Rights Act of 1965. This very limited bill is shown as having 0% chance of passage.

Even a limited resolution introduced by Rep. Richard Nolan of Minnesota for “Expressing the sense of the House of Representatives regarding the need to eliminate partisan redistricting and gerrymandering” is given only a 9% chance of success.

In addition to the timing and probability of passage problems of waiting for successful federal legislation on the issue of redistricting reform, should legislation ever pass in Congress that requires an independent redistricting commission in every state, there is no consensus as to whether Democrats or the Republicans would come out ahead on a national level. We can assume that Maryland may end up with additional Republican Congressional representatives, and that Texas would end up with additional Democratic Representatives, but trying to figure that out on a state by state basis to develop a national-level result is a convoluted computation. And a risky one.

In the absence of federal redistricting reform, states are moving forward with reform efforts, and so should Maryland. Arizona, California and Florida have achieved redistricting reform (to use independent commission) through the initiative process. In Illinois, an initiative to create an independent commission could be on the 2016 ballot and in several Midwestern states — such as Ohio and Wisconsin — efforts to create redistricting commissions are in nascent stages.

Lastly, I would like to acknowledge our appreciation for Governor Hogan’s willingness to consider reforms to the redistricting process in Maryland. Several years ago at a public education meeting about redistricting reform, former Maryland Secretary of State John Willis was asked by an audience member how we could push the reform ball forward or what actions citizens could take to move legislators to act on this issue, the politically astute Mr. Willis answered “All you can do is wait. Absolutely nothing will happen in Maryland to reform the redistricting process until you elect a governor who is willing to work for it.” Now we’ve done that, and he has appointed you, and we wish you good luck in your work.