

Innovative Proposal Seeks to End Partisan Gerrymandering

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See the video at: <https://youtu.be/8U4Vp1tagsw>

A bill that will be soon be circulated for sponsorship in the House of Representatives seeks to end the biased, one-party system Delaware uses to redraw the boundaries of legislative districts each decade.

As required by the U.S. Constitution, every ten years a national census counts every American citizen. Following the count, the district lines of all elected offices are redrawn to ensure equal representation in local, state, and federal government.

In Delaware, the lines of all 41 Representative Districts and 21 Senatorial Districts will be redrawn so that each state representative and senator has approximately* the same number of constituents.

In most states, like Delaware, the legislature has primary control over the redistricting process. This usually results in maps that are politically "gerrymandered" – where district lines are drawn to maximize partisan advantage for the majority party, at the expense of the public and the minority party.

"Redistricting is supposed to be a process to ensure that every voice has equal representation in government – not an opportunity to bully your opposition into submission, nor to put your self-interests ahead of the citizens and communities impacted by the partisan changes," said State Rep. Mike Smith, R-Pike Creek Valley.

Rep. Smith said when district lines are drawn with political gain as the primary consideration, citizens are often the losers as relationships between them, and legislators that have a long history of working on their behalves are abruptly ended.

Eight states have adopted independent commissions to draw the new maps, adjusting district lines to account for population shifts, while attempting to avoid partisan considerations and minimizing disruption.

"The problem with this method, especially in a small state like ours, is that it is difficult to find qualified people, interested in doing this work, that are not politically connected or have some personal stake in the outcome," Rep. Smith said. "The work of commissions like this have often been criticized for having conflicts-of-interest and producing disputed results."

Rep. Smith's proposal is a fresh approach that has not been tried in any other state.

"While doing some research, I hit on an innovative proposal by two professors at Carnegie Mellon University for redistricting," Rep. Smith said. "At its heart, it is the 'you cut, and I choose' method parents often use for dividing one thing fairly between two of their kids. For example, you have one piece of cake, you allow one child to cut it, but the other child gets first selection of which portion he or she wants.

"The charm of this method is that it recognizes that while redistricting has an obvious partisan component, it can be done in such a way that provides a balanced opportunity for both sides to affect the outcome."

Under Rep. Smith's bill, the two competing parties are the partisan caucuses of each General Assembly chamber. One caucus will initially draw all the legislative districts. The second caucus will have the ability to "freeze" a set number of the districts, locking their boundaries into place. They will then be able to redraw the remaining districts as they wish, delivering the new maps back to the first caucus. This group will also engage in the freeze and redraw process, with the cycles continuing until all the districts have been defined.

"With both sides getting equal bites of the apple, each has a practical ability to effect the outcome and a reason to work together to achieve a mutually acceptable end product," Rep. Smith said.

The bill includes a provision for the caucuses to meet at the end of the process to make necessary tweaks, negotiate, and ensure the redrawn districts comply with required legal standards.

The measure also includes safeguards to ensure public notification and participation in the process, as well as a contingency to allow the judicial branch to draw the new legislative maps should the General Assembly be unable to achieve the task. This legislation assumes calling the General Assembly into a special session to approve the finalized maps, providing enough time for the process to be conducted in a deliberative manner.

Rep. Smith said the U.S. Supreme Court's ruling last June in two redistricting challenges (*Rucho et al. V. Common Cause et al.*) demonstrates it is up to citizens and elected officials to fix the system. The 5-to-4 decision written by Chief Justice John G. Roberts states: "We conclude that partisan gerrymandering claims present political questions beyond the reach of the federal courts."

"Delawareans, whether they're Democrats or Republicans, should not be supporting a scheme they know will allow their elected officials to game the system and produce biased, self-serving outcomes," Rep. Smith said.

Citing examples from the past two census cycles in the State House of Representatives, Rep. Smith noted that both parties have abused their redistricting authority when they

have had the opportunity. When House Republicans drew the maps in 2001, they increased their majority from 26 to 29 seats in the next election. When House Democrats controlled the process in 2011, they increased their majority from 26 to 27 and drew two Republican incumbents into the same district, forcing a primary election between them.

"Legislators who are part of the majority party will have a choice to make," Rep. Smith continued. "Do they have the integrity to support a bill that would improve government at the cost of their power, or will they only pay lip service to real reform and maintain the current dysfunctional, discriminatory system?"

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*** A small variance from the targeted district size is allowed.**