



Minnesota (Status Quo)

KEY POINTS:

The general assembly currently draws both congressional and state legislative districts, subject to a few self-imposed constraints, and subject to federal constitutional and statutory limitations.

Article IV of the Minnesota Constitution governs redistricting, with few constraints. The legislature has adopted concurrent resolutions - nonbinding and without the force of law - to express the redistricting priorities they have selected. In the 2001 cycle, control was divided, with a Governor from the Independence Party, a Senate controlled by Democrats, and a House controlled by Republicans. The redistricting process for both Congressional and state legislative districts deadlocked, and control fell to the courts.

PROCESS:

Congressional and state legislative districts are currently drawn by the general assembly. Plans must be adopted 25 weeks before the primary elections in 2012, which are currently scheduled for September 7.

- **Independence from Legislators:** None.
- **Partisan Balance:** The process has only as much partisan balance as the legislature itself. It is possible each house will be controlled by a different party, or that the governor will be of a different party than a united legislature, but it is also possible that there will be unified party control.
- **Minority Participation:** The process will feature as much diversity as the legislature itself, but the body's substantial size makes such diversity relatively more feasible.
- **Public Input:** There are no specific provisions for the public to present or comment on plans.
- **Timing:** It is ambiguous whether Minnesota law prohibits the legislature from redrawing either state legislative or congressional districts more than once per decade.

CRITERIA:

Because most of Minnesota's redistricting criteria are set by a concurrent resolution of the legislature, they may also be adjusted by the legislature.

Congressional and state legislative districts must be contiguous, and if possible, compact. They must also follow the federal standard of equal population; at present, the Minnesota legislature has set a stricter standard, determining that state legislative districts must also fall within 2% above or below the mean population.

The legislature has determined that both congressional and state legislative districts should also preserve whole political units -- counties, cities, and towns, in that order - where feasible. Districts should attempt to preserve communities of interest where possible, and the districts must increase the voting strength of racial or language minority populations where possible.

- **Population Equality:** The current criteria restrict population disparity substantially. As a result, it is more likely that residents' votes will be of roughly equivalent weight around the state. However, the tight population limits may make it more difficult to preserve political boundaries, and may limit flexibility to create minority opportunity districts pursuant to the Voting Rights Act. There is also no express provision to determine whether the state must rely on the count conducted by the federal census (which counts incarcerated persons where they are incarcerated).
- **Minority Rights:** The legislature has determined that districts should, where demographic trends make this possible, increase the probability that members of racial or language minorities are elected. It is not clear whether this is meant to provide protection beyond the federal Voting Rights Act. If so, such a rule may further limit flexibility to maintain political boundaries.
- **Compactness:** There is a general requirement that districts be reasonably compact. This requirement, however, is not further defined and may be difficult to enforce.
- **District Competition:** There is no provision encouraging or discouraging competition within a district.
- **Statewide Partisan Balance:** If there exists unified partisan control of the legislature and governor's mansion, that party will have the ability to drive statewide results favorable to itself. There is no provision otherwise encouraging or discouraging statewide partisan balance.
- **Preservation of Political Boundaries:** The legislature has emphasized the preservation of political units, and particularly the minimal division of counties, cities, and towns. To the extent that communities of interest bridge political boundaries, this may limit the opportunity to accommodate such communities.
- **Communities of Interest:** The legislature has declared that it will attempt to preserve communities of interest where possible, but this is not further defined and may be difficult to enforce.
- **Nesting:** Each state Senate district must comprise two House of Representatives districts, tying each house's districts to the other.
- **Incumbent Residence:** The current criteria do not prohibit those drawing the lines from considering the residences of incumbents, allowing intentional harm (or benefit) to individual legislators, but also reducing the likelihood of unintentional impact on incumbents.

MINNESOTA

(SF 182)

KEY POINTS:

The proposed legislation would establish a five-person commission of retired state judges, selected in bipartisan fashion, to draw both congressional and state legislative districts. Commission plans must be submitted to the legislature, which has two opportunities to vote plans up-or-down without modification, and may then modify as it pleases. Overall, the commission must balance several concerns, including minority representation, the preservation of whole political units and communities of interest and, to a lesser extent, competition.

PROCESS:

Redistricting authority for both state legislative and congressional districts would be vested in a five-member commission composed of retired state judges who have not served in a "party-designated" or "party-endorsed" position. The House and Senate majority and minority leaders would each choose one member, and those four would, by majority vote, choose their fifth colleague.

The proposal provides for at least three public hearings and opportunities for the public to submit proposed plans; in addition, it binds the commissioners to the Code of Judicial Conduct, which includes a prohibition on ex parte contact, and might require that meetings of the commission be public. No voting rule is specified in the bill, leaving plans presumably to be adopted by majority vote of the commissioners. Further approval of a plan proceeds much as in Iowa, with up to three submissions to the legislature. By April 30, 2011, the commission must adopt plans and submit them to the legislature for an up-or-down vote; if the legislature rejects a plan, the commission must propose a substitute within two weeks, to be submitted for an up-or-down vote as well; if the legislature rejects this second plan, the commission must propose a final substitute, which can be approved, rejected, or modified by the legislature.

- **Independence from Legislators:** This will depend greatly on Minnesota's political culture. First, four of the five commissioners are chosen by legislators; though the judges may not have held partisan public office, the bill does not appear to preclude those with a history of private partisan jobs, before or after their judicial service. I do not know whether retired judges in Minnesota generally take such positions upon their retirement, or whether the Code of Judicial Conduct's admonition that judges be "unswayed by partisan interests" would be achieved in practice. Second, the plan does not give any veto to the commissioner not chosen directly by legislators, which could foster a bipartisan but incumbent-protective map. Finally, the legislature has a structural incentive to "wait out" the commission, rejecting the first two proposals in order to enact their own plan; in Iowa, where the same structure exists, the legislature has not stalled in order to submit their own plan, but I don't know whether Minnesota legislators would have the same approach.

- **Partisan Balance**: The structure of the commission provides a partisan balance among the commissioners.
- **Minority Participation**: The commission's small size, and the demographics of the pool of retired state judges, makes diversity among the commissioners extremely difficult to achieve.
- **Public Input**: The proposal provides for at least three public hearings, and allows the public to submit plans - but the extremely short deadline for submitting a plan may make extensive public input difficult. The bill does not require that data be made available to the public, though Minnesota has historically done an excellent job of making this data available.
- **Timing**: It is ambiguous whether Minnesota law prohibits the legislature from redrawing either state legislative or congressional districts more than once per decade. The bill does not address that ambiguity.

CRITERIA:

Under the proposal, congressional and state legislative districts must be contiguous and compact. Congressional districts must be as equipopulous as practicable, following federal law; state legislative districts must fall within 2% above or below the mean population.

The proposal would attempt to preserve whole political units -- counties, cities, and towns, in that order - where feasible. The bill would also attempt to preserve communities of interest, and require that districts increase the voting strength of racial or language minority populations where possible. The proposal also includes a mild effort to "encourage" competitiveness, and restricts the ability to draw districts in order to protect or defeat an incumbent.

- **Population Equality**: The current criteria restrict population disparity substantially. As a result, it is more likely that residents' votes will be of roughly equivalent weight around the state. However, the tight population limits may make it more difficult to preserve political boundaries, and may limit flexibility to create districts embracing various communities. There is also no express provision to determine whether the state must rely on the count conducted by the federal census (which counts incarcerated persons where they are incarcerated).
- **Minority Rights**: The bill provides that districts should, where demographic trends make this possible, increase the probability that members of racial or language minorities are elected. It is not clear whether this is meant to provide protection beyond the federal Voting Rights Act, or whether there would be constitutional objections to such a plan.
- **Compactness**: There is a general requirement that districts be reasonably compact. This requirement, however, is not further defined and may be difficult to enforce.
- **District Competition**: The bill instructs that districts be created to "encourage" political competition, the definition of which is left to the commission.
- **Statewide Partisan Balance**: Other than the composition of the commission, there is no provision expressly encouraging or discouraging statewide partisan balance. The Code of Judicial Conduct demands that judges be "unswayed by partisan interests" - but it is not clear how that would translate, if at all, to a partisan balance in the districts.

- **Preservation of Political Boundaries:** The proposal would require the minimal division of counties, cities, and towns. To the extent that communities of interest bridge political boundaries, this may limit the opportunity to accommodate such communities.
- **Communities of Interest:** The bill asks that districts attempt to preserve communities of interest where possible.
- **Nesting:** Each state Senate district must comprise two House of Representatives districts, tying each house's districts to the other.
- **Incumbent Residence:** The bill would not prohibit those drawing the lines from considering the residences of incumbents, but does prohibit them from drawing districts in order to protect or defeat an incumbent.