



# CRC MEMORANDUM



Summary of Report 370

A publication of the Citizens Research Council of Michigan

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## CONGRESSIONAL AND LEGISLATIVE REDISTRICTING REFORM

This Memo summarizes CRC Report #370. The full report can be accessed at [www.crcmich.org/congressional legislative redistricting reform-2011](http://www.crcmich.org/congressional_legislative_redistricting_reform-2011)

### Background

With the U.S. Census Bureau’s release of the 2010 population counts, states are set to begin the process of redrawing electoral district boundaries. Voters elect members to the U.S. House of Representatives and to both chambers of the state legislature from districts. How voters are grouped into these districts therefore affects who the representatives are and what policies representatives implement.

As a fundamental part of our democracy, federal and state laws govern the redistricting process. The U.S. Constitution mandates equal representation among districts, and the Voting Rights Act of 1965 requires that states provide minority groups an equal opportunity to elect candidates of their choice. Most states have secondary guidelines to govern and constrain the redistricting process. The most common requirements are that districts adhere to political boundaries, preserve communities of interest, and be contiguous and compact.

### Michigan’s Process

Michigan’s legislative redistricting laws have undergone a number of changes since adoption of the 1963 Michigan Constitution. Article IV, Sections 2 through 6, of the Constitution originally defined Michigan’s legislative redistricting approach. However, in 1964, the U.S. Supreme Court found that standards used to create districts based on anything other than population were in violation of the “one man, one vote” provisions of the federal Constitution, and in 1982, the Michigan Supreme Court invalidated Michigan’s redistricting provisions because one requirement violated the Equal Protection Clause of the U.S. Constitution and the other provisions were non-severable from the violating section. Although the Michigan Supreme Court prescribed criteria that a special master used to draft the redistricting plan after the 1980 census, it was not until 1996, when the state legislature passed Public Act (PA) 463, that Michigan again had guidelines for legislative redistricting. These requirements comprise provisions for a population variance

of five percent above or below the ideal district size (The total state population, typically per the decennial census, divided by the number of seats in a legislative body), upholding precedents related to the Voting Rights Act, preserving political boundaries, contiguity, compactness, and single-member districts.

Because the state legislature, with gubernatorial approval, has the authority to change state statute but cannot change the state Constitution without a vote of the people, redistricting provisions outlined in statute do not bind the legislature. Case in point: PA 221 of 1999, the Congressional Redistricting Act, established guidelines for drawing Michigan’s congressional districts. The guidelines comprised provisions for strict population equity, upholding the Voting Rights Act, preserving political boundaries, contiguity, compactness, single-member districts, and numbering districts. In 2002, a group of voters challenged the redistricting plan that the 2001 legislature passed, contending in part that the plan failed to comply with PA 221 of 1999. The Michigan Supreme Court, however, opined that PA 221 of 1999 is not binding beyond the 1999 legislature because, in essence, when the 2001 legislature approved the congressional redistricting plan, the statute they passed superseded the provisions of PA 221 of 1999. Thus, this opinion also puts PA 463 of 1996 in question.

### CRC Recommendations

Given how critical redistricting is to representative democracy, Michigan legislators should use this redistricting cycle to do more than redraw boundaries. Legislators should draft a constitutional amendment to reform the process and provide clear guidelines for future redistricting. The Citizens Research Council of Michigan recommends that the legislature introduce a constitutional amendment to amend Sections 2 through 6 of Article IV of the 1963 Michigan Constitution and enshrine in the constitution provisions to:

- Recreate a redistricting commission – recreate the Commission on Legislative Apportionment comprised of individuals appointed by the majority



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and minority leaders in the House and Senate and those appointed individuals are responsible for choosing an independent person.

- Limit redistricting to once per decade – align with the decennial census.
- Describe the appropriate redistricting process and timeline – designate the secretary of state as the Commission secretary and require the secretary to provide staffing to the redistricting process.
- Increase transparency and public engagement – require the Commission to hold public hearings across the state to receive input and share tools used in redistricting process.
- Protect electors’ right to challenge redistricting plans – allow any elector to appeal to the Michigan Supreme Court for review of final plan within 60 days of plan publication.
- Minimize population variance among districts – use modern technology to ensure congressional districts have little to no population variance and limit variance for legislative districts to no more than five percent.
- Ensure contiguous single-member districts – align state law with federal law that requires single-member legislative districts.
- Create district boundaries that adhere to political

boundaries – adhere to county lines and limit the number of boundary breaks.

- Protect communities of interest – describe in state law what constitutes a community of interest.

To ensure that the process occurs in a way that minimizes bias and to ensure that districts have the preferred characteristics, it is necessary to amend Michigan’s Constitution with valid and binding language. District boundaries determine from which voters a candidate must gain support, creating an incentive for a redistricting entity to try to bias districts to advantage one group over another – called gerrymandering. While it may be too difficult to isolate the effects of gerrymandering to measure them, most experts agree that gerrymandering distorts voters’ choices and undermines the legitimacy of our democracy. These experts argue that a transparent redistricting process – outlined in a state’s constitution, offering opportunities for public engagement and minimizing political control – can do much to deter gerrymandering and uphold the integrity of the political system.

Unless valid constitutional provisions are adopted, redistricting in Michigan will continue to occur in a legislatively-devised and legislatively-adjustable framework. CRC recommends that the legislature take advantage of this redistricting cycle to put in place constitutional standards to guide the redistricting process for future years.

## About the Citizens Research Council of Michigan

CRC is a privately funded, not-for-profit public affairs research organization, founded in 1916. The objective of CRC is to provide factual, unbiased, independent information on significant issues concerning state and local government organization and finance. CRC believes that the use of this information by policymakers will lead to sound, rational public policy formation in Michigan.

CRC is noted for the accuracy and objectivity of its research. Over the years, CRC has made significant contributions to the ongoing debate over the appropriate role of government and has gained vast experience in virtually every facet of state and local government.

CRC does not lobby, support or oppose candidates for public office, or take positions on ballot issues. Instead, CRC relies on the presentation of its research findings to bring about sound public policy on state and local issues. The hallmark of CRC is timely, reliable information researched in an independent, nonpartisan manner. As a result of the credibility earned by CRC, it is often the only organization that can address controversial issues in an objective fashion.

The Citizens Research Council of Michigan is supported primarily by the charitable contributions from businesses, foundations, and individuals. It is a tax exempt organization and contributions are tax deductible under Section 501(c)(3) of the Internal Revenue Code. CRC has 6 full-time staff members and operates two offices — one in Livonia and the other in Lansing.

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