

CUMBERLAND TIMES-NEWS

On the docket

January 8, 2019

Some Western Marylanders are irate because nobody from this end of the state was named to Gov. Larry Hogan's Emergency Commission on 6th Congressional Districting Gerrymandering. (See: "Citizens group: 'We should have some say,'" Jan. 7 Times-News, Page 1A.)

That's because Allegany, Garrett and Washington counties are part of the 6th District. It may turn out that our being left out may not matter — and that wouldn't be good for us.

The U.S. Supreme Court says it will decide whether Maryland's congressional redistricting process is unconstitutionally gerrymandered. Its ruling could alter the way the process is handled in other states, as well, or it may have no affect at all.

If the court decides to let Maryland's redistricting stand, any work the commission does — and its membership — would be meaningless. Our district will remain gerrymandered.

Attorney General Brian Frosh appealed a 4th U.S. Circuit Court of Appeals ruling that the 6th District was unconstitutionally redrawn in 2011 with the intent of replacing its longtime Republican representative with a Democrat.

Frosh said he wants the court to provide clear guidance on the way redistricting should be done.

The Supreme Court has in the past found that when legislators are in charge of redistricting, partisanship is bound to affect the result. However, there are times when the process is constitutional and times when it is not.

The justices said in 1986 that "Unconstitutional discrimination occurs when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole."

Gerrymandering would be unconstitutional when one party attempts to dilute the votes of the other party by putting most of its voters into a few districts they are sure to win, while scattering the rest among a larger number of districts where their votes will be outnumbered and meaningless.

That is what Republicans allege was done in Maryland — and it's what former Gov. Martin O'Malley, a Democrat, has admitted was the goal of the redistricting that followed the 2010 census.

Maryland's 6th District lines were redrawn to guarantee that 20-year Republican Rep. Roscoe E. Bartlett would lose his seat in the 2012 election to a Democrat. Maryland now has seven Democrats in the House of Representatives, instead of the six it had before. The 1st District is Republican, and no amount of gerrymandering is likely to change that.

Mark Stutzman, president of Engage Mountain Maryland, a nonprofit volunteer advocacy organization, said the 2011 redistricting put 50 percent of the 6th District's votes in the city of Frederick and northern Montgomery County.

Some observers say the court's decisions in the Maryland case and a North Carolina case it will hear the same day could limit the influence of partisan politics on the drawing of congressional districts. In North Carolina, it's the Republicans who do the gerrymandering. In about two dozen states, redistricting is done on a nonpartisan, bipartisan or independent basis.

Others say it might decide that federal courts should have no say in the process. That also could have national ramifications.

Newly sworn-in 6th District Rep. David Trone, a Democrat, filed a brief in the case and has said he "is no fan of partisan gerrymandering, but that does not mean it is a terminal disease, much less one that the judiciary can or should cure."

We disagree. America's judiciary is tasked with deciding whether laws, regulations or other legal provisions are acceptable under existing laws and state constitutions or the U.S. Constitution.

The Supreme Court says gerrymandering is unconstitutional under certain circumstances, so the courts should stand ready to "cure" it when necessary.

The state has an 11-member Maryland Redistricting Reform Commission, which was formed in November, and the emergency commission, whose membership was announced more recently and includes three Republicans, three Democrats and three unaffiliated voters.

Walter Olson, a Republican, and Alexander Williams Jr., a Democrat, are co-chairmen of both panels. Allegany County Del. Jason Buckel, who is on the reform commission, is the only member of either group from Allegany, Garrett or Washington counties.

The 4th U.S. Circuit Court ordered Maryland to submit a new and satisfactory redistricting map by March 7, or it would appoint its own commission to produce a map for the 2020 election. That order was put on hold after Frosh appealed the ruling to the Supreme Court.

Olson said he expects the map to be redrawn before the Supreme Court decides the case.

Anything the commission does might be rendered moot if the high court reverses the 4th Circuit Court's ruling and leaves Maryland's current congressional districting intact.

One more thing: The Maryland Department of Planning is developing a website that will allow the public to provide input into the redistricting process. It is expected to be in operation this week, and what it produces should be interesting.