

**Apportionment Commission for Maine House of Representatives,  
Maine Senate, U.S. House of Representatives, and County Commissioners**

*Organizational Meeting*

May 27<sup>th</sup>

12:00pm

Member of the public can view the meeting here:

[https://www.youtube.com/channel/UCuhJzKPPzZk\\_nKToKx5Ka6g](https://www.youtube.com/channel/UCuhJzKPPzZk_nKToKx5Ka6g)

(Members of the Commission will receive a participant link to join the Zoom meeting)

**Agenda**

- I. Introduction of Commission Members
- II. Election of Permanent Chair by vote of Commission Members  
(Formal vote required)
- III. Adoption of Rule of Procedure
  - a. Action requires a quorum of 8 members present
  - b. Suggest Robert's Rules of Order
- IV. Overview of the Legislature's Charge to the Commission and Schedule  
(Review relevant constitutional and statutory language)
- V. Review and Discussion of Petition to Extend Constitutional Deadlines for Apportionment  
(Review Petition – Decision Required)
- VI. Authorized Budget
  - a. \$280,000 appropriated (Review Budget Information)
  - b. All members entitled to reimbursement of travel expense (if in person meetings occur)
  - c. Public members only entitled to \$55 per diem per authorized meeting
- VII. Staff Support
  - a. Hired by chair, if needed, subject to available funds
  - b. Discussion as to type of staff support needed by Commission
- VIII. Next Steps
  - a. Items to be discussed or decided at next meeting
  - b. Schedule next meeting
- IX. Other Matters
- X. Adjourn

# Maine Reapportionment

## Constitutional References and Relevant Maine Revised Statutes

### Table of Contents

- List of Constitutional References
- Summary of Constitutional References
- List Relevant Statutes in MRS
- Discussion on “Nonseverability” in MRS
- Relevant Case Law re: Population Deviation
- Full Text of Constitutional References

**Reapportionment, as it is referred to in the Maine Constitution, is addressed in the Maine Constitution in five different sections.**

- Article 4, Part First, Section 2 and 3 (House)
- Article 4, Part Second, Section 2 (Senate)
- Article 4, Part Third, Section 1-A (Commission composition, organization, etc.)
- Article 9, Section 24 (Congressional)
- Article 9, Section 25 (County Commissioner)

(Complete sections are provided below).

### **In summary, the Constitution states...**

- In 2021, and every 10 years thereafter, the Legislature shall redistrict the state’s 151 House Districts, 35 Senate districts, congressional districts, and county commissioner boundaries.
- The number of districts is divided into the total population of the state, based on the Federal Decennial Census, in order to determine a mean (average) population figure for each district.
- Each district shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts.
- Whenever the population of a municipality entitles it to more than one district, all whole districts shall be drawn within municipal boundaries first. Any population remainder within the municipality shall be included in a district with contiguous territory and shall be kept intact (this has become known as the “whole district rule”).
- The commission is made up of 15 members, and includes the following appointments:
  - 3 House Democrats appointed by the Speaker
  - 3 House Republicans appointed by the House Minority Leader
  - 2 Senate Democrats appointed by the President
  - 2 Senate Republicans appointed by the Senate Minority Leader

- Chairperson of the Maine Democratic Party, or his/her designee
- Chairperson of the Maine Republican Party, or his/her designee
- 3 public members; one chosen by Democratic members of the Commission, one chosen by Republican members of the Commission, and then the final one chosen by the two public members.
- The Commission must pass a redistricting plan and submit it for legislation by June 1.
- The House and Senate must enact the plan with a  $\frac{2}{3}$  vote in both chambers by June 11.
- The Governor must then act on the bill, and the bill is subject to the normal gubernatorial actions of a typical bill.
- If the House and Senate do not enact the bill by June 11, redistricting goes to the Law Court, which has 60 days to draw final maps.
- The deadline for enactment of County Commission maps is on a slightly different mandated schedule than the House, Senate and Congressional districts. The Commission must submit its plan for the County Commission districts no later than June 1st, but the Clerk of the House has until January 15 of the following year to submit the plan to the Legislature. The Legislature then has 30 calendar days to enact the plan, or one of its own, by a  $\frac{2}{3}$  vote. This action is also subject to the Governor's approval.
- Organization of the Commission
  - The Legislature must, within three calendar days of the beginning of session, pass an order establishing the Commission.
  - The Speaker of the House serves as chairperson pro tempore until a chair is elected.
  - A quorum of 8 members must be present for the Commission to meet and take action formally.
  - The Commission is required to hold public hearings on apportionment before a plan is submitted to the Legislature.
- The Commission's budget will be determined by the previous Legislature through the general fund budget. The Commission allocates a part of that budget for administration, and then divides the remaining funds equally between the two parties.
- The Law Court has jurisdiction over any challenge to the plan by a citizen or organization.

## **Relevant Reapportionment Statutes in Maine Revised Statutes**

### [Title 21-A Elections, Chapter 15: Apportionment §1201 -§1207](#)

#### [§1202 Definitions](#)

#### [§1203-B State Senate Districts](#)

#### [§1204-B State House Districts](#)

#### [§1205 Congressional Districts](#)

#### [§1206 Procedure, Court Apportionment, Judicial Review](#)

#### [§1206-A Definition of "functionally contiguous and compact territory"](#)

#### [§1207 Implementation, Interpretation, and Nonseverability](#)

These statutes reaffirm what is stated in the Constitution, but [§1207](#) addresses “**nonseverability**,” which states it is the intent of the Legislature that the apportionment of the Maine Senate, the Maine House of Representatives and Maine congressional districts become law as an entirety. If the apportionment of one or more of the bodies is rendered invalid or unlawful by a court of law, it is the intent of the Legislature that the apportionment of all of the bodies become void.

### **Relevant Case Law re: Population Deviation Among Districts**

Based upon previous case law, the population deviation between the largest district and the smallest district should be no more than 10%. According to the Maine Constitution, the primary goal of redistricting is to “establish as nearly as practicable equally populated districts.” But the constitution does not define a number or deviation that is acceptable. Federal and state courts have held that “...as a general matter, that an aggregate deviation of less than 10% in an apportionment plan is insufficient to make a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification from the State.” Therefore, in previous redistricting efforts, we have used the 10% deviation rule (5% higher than mean and 5% lower than mean) as a hard boundary. ([See relevant 1983 Maine Law Court ruling that cites federal rulings](#)).

### **Maine State Constitution, as referenced above:**

- Article 4, Part First, Section 2 and 3 (House)
- Article 4, Part Second, Section 2 (Senate)
- Article 4, Part Third, Section 1-A (Commission composition, organization, etc.)
- Article 9, Section 24 (Congressional)
- Article 9, Section 25 (County Commissioner)

### **Article 4, Part First (House)**

Section 2. Number of Representatives; biennial terms; division of the State into districts for House of Representatives.

The House of Representatives shall consist of 151 members, to be elected by the qualified electors, and hold their office 2 years from the day next preceding the first Wednesday in December following the general election. The Legislature which convenes in 2013, and also the Legislature which convenes in 2021 and every 10th year thereafter, shall cause the State to be divided into districts for the choice of one Representative for each district. The number of Representatives shall be divided into the number of inhabitants of the State exclusive of foreigners not naturalized according to the latest Federal Decennial Census or a State Census previously ordered by the Legislature to coincide with the Federal Decennial Census, to determine a mean population figure for each Representative District. Each Representative District shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally

populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts shall be drawn within municipal boundaries. Any population remainder within the municipality shall be included in a district with contiguous territory and shall be kept intact.

Section 3. Submission of reapportionment plan to Clerk of House; Legislature's action on commission's plan.

The apportionment plan of the commission established under Article IV, Part Third, Section 1-A shall be submitted to the Clerk of the House no later than June 1st of the year in which apportionment is required. In the preparation of legislation implementing the plan, the commission, following a unanimous decision by commission members, may adjust errors and inconsistencies in accordance with the standards set forth in this Constitution, so long as substantive changes are not made. The Legislature shall enact the submitted plan of the commission or a plan of its own by a vote of 2/3 of the Members of each House by June 11th of the year in which apportionment is required. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.

In the event that the Legislature shall fail to make an apportionment by June 11th, the Supreme Judicial Court shall, within 60 days following the period in which the Legislature is required to act, but fails to do so, make the apportionment. In making such apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If any challenge is sustained, the Supreme Judicial Court shall make the apportionment.

#### **Article 4, Part Second (Senate)**

Section 2. Submission of reapportionment plan to Secretary of Senate; Legislature's action on commission's plan; division of State into Senatorial Districts; division by Supreme Judicial Court.

The Legislature which shall convene in the year 2013, and also the Legislature which shall convene in the year 2021 and every tenth year thereafter, shall cause the State to be divided into districts for the choice of a Senator from each district, using the same method as provided in Article IV, Part First, Section 2 for apportionment of Representative Districts.

The apportionment plan of the commission established under Article IV, Part Third, Section 1-A shall be submitted to the Secretary of the Senate no later than June 1st of the year in which apportionment is required. In the preparation of legislation implementing the plan, the commission, following a unanimous decision by commission members, may adjust errors and inconsistencies in accordance with the standards set forth in this Constitution, so long as substantive changes are not made. The Legislature shall enact the submitted plan of the

commission or a plan of its own by a vote of 2/3 of the Members of each House by June 11th of the year in which apportionment is required. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.

In the event that the Legislature shall fail to make an apportionment by June 11th, the Supreme Judicial Court shall, within 60 days following the period in which the Legislature is required to act but fails to do so, make the apportionment. In making such apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If any challenge is sustained, the Supreme Judicial Court shall make the apportionment.

#### **Article 4, Part Third (commission composition, organization, etc.)**

Section 1-A. Legislature to establish Apportionment Commission; number of quorum; compensation of commission members; commission's budget; division among political parties.

A Legislature which is required to apportion the districts of the House of Representatives or the Senate, or both, under Article IV, Part First, Section 2, or Article IV, Part Second, Section 2, shall establish, within the first 3 calendar days after the convening of that Legislature, a commission to develop in accordance with the requirements of this Constitution, a plan for apportioning the House of Representatives, the Senate, or both.

The commission shall be composed of 3 members from the political party holding the largest number of seats in the House of Representatives, who shall be appointed by the Speaker; 3 members from the political party holding the majority of the remainder of the seats in the House of Representatives, who shall be appointed by the floor leader of that party in the House; 2 members of the party holding the largest number of seats in the Senate, who shall be appointed by the President of the Senate; 2 members of the political party holding the majority of the remainder of the seats in the Senate, to be appointed by the floor leader of that party in the Senate; the chairperson of each of the 2 major political parties in the State or their designated representatives; and 3 members from the public generally, one to be selected by each group of members of the commission representing the same political party, and the third to be selected by the other 2 public members. The Speaker of the House shall be responsible for organizing the commission and shall be chairperson pro tempore thereof until a permanent chairperson is selected by the commission members from among their own number. No action may be taken without a quorum of 8 being present. The commission shall hold public hearings on any plan for apportionment prior to submitting such plan to the Legislature.

Public members of the commission shall receive the same rate of per diem that is paid to Legislators for every day's attendance at special sessions of the Legislature as defined by law. All members of the commission shall be reimbursed for actual travel expenses incurred in

carrying out the business of the commission. The Legislature which is required to apportion shall establish a budget for the apportioning commission within the state budget document in the fiscal year previous to the fiscal year during which the apportioning commission is required to convene and shall appropriate sufficient funds for the commission to satisfactorily perform its duties and responsibilities. The budget shall include sufficient funds to compensate the chairperson of the commission and the chairperson's staff. The remainder of the appropriation shall be made available equally among the political parties represented on the commission to provide travel expenses, incidental expenses and compensation for commission members and for partisan staff and operations.

#### **Article 9 Section 24 (Congressional)**

Section 24. Reapportionment. Congressional districts must be reapportioned as follows.

1. Procedure. Beginning in 2021 and every 10 years thereafter, when the Secretary of State has received notification of the number of congressional seats to which the State is entitled and the Federal Decennial Census population count is final, the Legislative Apportionment Commission, established every 10 years pursuant to Article IV, Part Third, Section 1- A, shall review the existing congressional districts. If the districts do not conform to Supreme Judicial Court guidelines, the commission shall reapportion the State into congressional districts.

In making such a reapportionment, the commission shall ensure that each congressional district is formed of compact and contiguous territory and crosses political subdivisions the least number of times necessary to establish districts as equally populated as possible. The commission shall submit its plan to the Clerk of the House of Representatives no later than June 1st of the year in which apportionment is required. The Legislature shall enact the submitted plan of the commission or a plan of its own in regular or special session by a vote of 2/3 of the members of each House by June 11th of the year in which apportionment is required to the Clerk of the House of Representatives. This action is subject to the Governor's approval, as provided in Article IV, Part Third, Section 2.

2. Court apportionment. If the Legislature fails to make an apportionment by June 11th, the Supreme Judicial Court shall make the apportionment within 60 days following the period in which the Legislature is required to act but fails to do so. In making the apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

3. Judicial review. The Supreme Judicial Court has original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group of citizens. If a challenge is sustained, the Supreme Judicial Court shall make the apportionment.

#### **Article 9 Section 25 (County Commissioner Districts)**

Section 25. Apportionment of county commissioner districts. County commissioner districts must be apportioned as follows.

1. Redistricting, generally. Beginning in 2021 and every 10 years thereafter, the apportionment commission established under Article IV, Part Third, Section 1- A shall review the existing county commissioner districts and, as necessary, reapportion those districts in each county to establish as nearly as practicable equally populated districts. The Speaker of the House of Representatives is responsible for calling the commission together to review the county commissioner districts. No action may be taken by the commission without a quorum of 7.

A. The apportionment commission shall divide the number of commissioners in each county into the number of inhabitants of the county, excluding foreigners not naturalized, according to the latest Federal Decennial Census or a state census previously ordered by the Legislature to coincide with the Federal Decennial Census, to determine a mean population figure for each county commissioner district. Each county commissioner district must be formed of contiguous and compact territory and must cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts must be drawn within the municipal boundaries. Any population remainder within the municipality must be included in a district drawn to cross the municipal boundary as long as the population remainder within the municipality is contiguous to another municipality or municipalities included in the district. Any county that already meets the standards and guidelines for equally populated districts, as established by this section, this Constitution and the Constitution of the United States, need not be reapportioned.

B. Interested parties from each county may submit redistricting plans for the commission to consider. Those plans must be submitted to the commission no later than 30 calendar days after the commission is called together by the Speaker of the House of Representatives under this subsection. The commission may hold public hearings on plans affecting each county.

C. The commission shall submit its plan to the Clerk of the House of Representatives no later than June 1st of the year in which apportionment is required. The Clerk of the House of Representatives shall submit to the Legislature, no later than January 15, 2022, and every 10th year thereafter, one legislative document to reapportion the county commissioner districts based on the plan submitted by the apportionment commission. The Legislature must enact the submitted plan or a plan of its own in regular or special session by a vote of 2/3 of the members of each House within 30 calendar days after the plan is submitted to it by the Clerk of the House of Representatives. This action is subject to the Governor's approval, as provided in Article IV, Part Third, Section 2.

2. Supreme Judicial Court. If the Legislature fails to make an apportionment within the 30 calendar days, the Supreme Judicial Court shall make the apportionment within 60 calendar



days following the period in which the Legislature is required to act but fails to do so. In making the apportionment, the Supreme Judicial Court shall consider plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

**130th Legislature Reapportionment Commission  
Proposed Budget Allocations**

\$280,000 was appropriated by the 129th Legislature for the reapportionment effort in 2021. Based upon the budget allocations and the actual spending of the reapportionment efforts in 2013, we are proposing that the Commission make the following budget allocations for 2021.

Commission Costs/Administrative	\$37,433.16	(13.3%)
Republican Caucus	\$121,283.42	(43.3%)
Democratic Caucus	\$121,283.42	(43.3%)
Total	\$280,000.00	(100%)

These allocations and percentages reflect the percentages ~~in~~and allocations decided upon in 2013.

---

Below are the budget numbers from 2011 and 2013, for your reference, which have been provided by the Executive Director's Office.

\$280,000 was appropriated for the reapportionment efforts in 2011 and 2013. The Commission decided to allocate \$60,000 to the Congressional reapportionment in 2011 and \$220,000 to the 2013 reapportionment of the Legislative and County Commission Districts. \$4,400 remained out of the 2011 \$60,000 allocation, creating a 2013 budget of \$224,400. Below are the budget allocations for the reapportionment effort in 2013, as decided by the Commission.

Commission Costs/Administration	\$30,000.00	(13.3%)
Republican Caucus	\$97,200.00	(43.3%)
Democratic Caucus	\$97,200.00	(43.3%)
Total	\$280,000.00	(100%)