Amendments A & C: Single-Member Districts and Convening Dates

Cooperative Extension South Dakota State University

Follow this and additional works at: https://openprairie.sdstate.edu/extension_fact

Recommended Citation
https://openprairie.sdstate.edu/extension_fact/976

This Fact Sheet is brought to you for free and open access by the SDSU Extension at Open PRAIRIE: Open Public Research Access Institutional Repository and Information Exchange. It has been accepted for inclusion in SDSU Extension Fact Sheets by an authorized administrator of Open PRAIRIE: Open Public Research Access Institutional Repository and Information Exchange. For more information, please contact michael.biondo@sdstate.edu.
Amendments A & C: Single-Member Districts and Convening Dates
Amendment A: Single-Member Districts

Galen Kelsey
Extension public affairs specialist

The proposed new Section 5 of Article III of the state constitution is usually called the single-member legislative district amendment. A more correct title is "single-member senatorial district amendment."

The proposed section requires that the Legislature apportion its membership into as many single-member districts as there are state senators, and that only one senator may be elected from each district. Two House members are to be elected from each senatorial district, and the senatorial district may be subdivided by the Legislature into two House districts with one member elected from each. The districts must consist of compact, contiguous territory and must be as nearly equal in population as is practicable, based upon the last federal decennial census.

The apportionment will be in 1983, the next in 1991, and then every 10 years thereafter. If the Legislature fails to apportion its membership by December 1 of any year in which the apportionment is required the South Dakota Supreme Court will have 90 days to complete the task. Note that current wording requires the Legislature to complete apportionment during the regular session. The proposed amendment gives the Legislature until December 1, ample time for one or more special sessions.

In the initiated amendment it is proposed that no more than one senator and two representatives be elected in each district. There is no such stipulation in the present constitution. This feature is believed by the sponsors to be the most important part of the initiated measure.

If the amendment is passed by the voters, the Legislature in 1983 will have to apportion the state into 35 districts. The 1981 apportionment resulted in 28 such districts.¹

The 1981 apportionment⁴

Figure 1 designates the legislative districts as apportioned by the 1981 Legislature. The 1981 Legislature again divided the state into 28 legislative districts. Twenty-five of these districts would probably satisfy the provisions of the proposed amendment, depending upon how the requirement that the districts be "compact" is interpreted. Voters in each of these 25 districts will elect one senator and two representatives. The population in each of the 25 districts is approximately equal.

Districts 2, 11 and 27, which include the cities of Aberdeen, Sioux Falls and Rapid City respectively, do not meet either the equal population or the one senator, two representatives per district requirements of the proposed amendment. The population per senator elected from each of the three districts

¹Section 2 of this article states that Senate membership shall not be less than 25 nor more than 35. The House membership is limited to no less than 50 nor more than 75 members. The present membership of 35 and 70 members of the Senate and House are fixed by state law (SDCL 2-2) which the Legislature could change within the above limits.

²Critics of the 1981 apportionment plan challenged it in District Federal Court, claiming that it violated the equal protection clause of the 14th amendment by diluting the voting strength of single-member district voters. Their case was based upon a claim that single-member voting strength is diluted or minimized because multi-member district voters can "weight" their votes by voting for only one candidate and withholding their remaining votes. The three-judge panel disagreed with their claim, citing several U.S. Supreme Court cases which held that a citizen's vote need only be "approximately equal in weight to that of any other citizen in the state," and that "weighted" voting does not violate the "one man, one vote" rule. Multi-member districts in themselves are not illegal under the equal protection clause of the Constitution.
Fig 1. 1981 legislative districts

is approximately equal to the other districts, but more than one senator and two house members are to be elected from each of these three districts. In District 2, the voters will elect two senators and four representatives; voters in District II will elect five senators and ten representatives; and in District 27, three senators and six representatives are to be elected.

Arguments supporting the amendment

Initiators of the proposed amendment maintain that present multi-member districts are unfair not only to the voters in such districts but also to the voters in current single-member districts. They assert that the only way there can be voter equality is for the entire state to be apportioned alike; with one senator and two representatives elected in every district.

They claim that multi-member districts are unfair to voters in such districts because voters in these districts cannot as easily hold an individual senator or representative accountable for his/her votes. Voters in single-member districts are more likely to know their individual senators and representatives and can hold them more accountable. The possibility exists that political, ethnic and racial minority views are not fairly represented in the Legislature as the majority vote in the multi-member district elects all the members of both houses in the Legislature from the one district. They point to the present situation in District 11 (Sioux Falls) in which the bulk of the legislative delegation resides in one small area of the district. If the district were to be divided into single-member districts the chances of electing someone representing minority and other local views would be greater.

Supporters of the proposed change also argue that, with a large slate of candidates on the ballot, it is difficult for the voter to make an informed choice. Thus there is a tendency to vote for a political party rather than individual candidates.

The initiators of the proposed measure further contend that multi-member districts are unfair to voters residing in single-member districts. Multi-member district voters can vote for more than one senator and two representatives.

The present constitution stipulates that a committee composed of the Governor and other constitutional officers shall apportion the Legislature if the Legislature itself does not. Proponents of the change propose that the task be delegated to the Supreme Court for several reasons.

One of the constitutional officers named in the present constitution is the superintendent of public instruction. This position was abolished as an elective office and replaced by the commissioner of education, an appointive position. Proponents believe that apportionment should be delegated to people elected to office.

The Supreme Court is better suited to be the "back-up" than the present named committee, the argument continues, because the members of the court are themselves elected from judicial districts, thus all areas of the state have assurance of being equally represented in the apportionment deliberations. It is unlikely that any apportionment plan completed by the Supreme Court would be tested in court, which might happen if apportionment had to be completed by the constitutional officers committee.

Arguments opposing the amendment

People supporting the present wording in the constitution and opposing the proposed amendment cite the following reasons.

South Dakota is a rural state. None of our cities is so large that a legislator elected from multi-member legislative districts will not have some rural constituency. If the amendment passes, totally urban districts inevitably will be created which will tend to divide and further diminish rural strength in the legislature.

The value of the single-member district is most clear in more densely populated states with one or several metropolitan cities, opponents of the amendment say. In such places it is difficult for voters to know and have access to
their legislators even if they have only one senator and two representatives. None of our cities is so large that individual voters cannot have access to their legislators if they care to make the effort—it is as close as the telephone. Indeed, it may be much easier for a voter in District 11 to know and have access to all of the candidates for legislative seats than it is for a voter in District 22, a single-member district encompassing all of six counties and part of another.

Opponents of the proposed measure argue that multi-member district legislators are every bit as accountable to their constituents as their single-member counterparts are to their constituents. From media coverage of legislative action, constituents know how their legislators stand on every important issue. In South Dakota both the senators and representatives are elected every 2 years. Barely 1½ years after the election candidates seeking reelection must defend their records in the pre-election campaigns.

Opponents point out that major issues which commonly come before the Legislature these days are state-wide or regional in nature (transportation, water development and funding of education are examples). In earlier times, issues were more local in nature, and geographic representation was more important. Even though single-member districts will provide a better mix of geographic areas, they do not necessarily insure better representation from a variety of business or agricultural backgrounds. Dividing a multi-member district into single-member districts, the argument continues, might deny some very capable people the opportunity to serve in the Legislature, just because they happen to live in the same district as others equally capable. Training, experience and judgment of the candidate is more important than geographic representation, considering the kind of problems legislatures must cope with today, opponents conclude.

Supporters of the present constitution also maintain that the present requirement that the Legislature be apportioned by the Governor and other constitutional officers is not very important. It is only important that the constitution name somebody to act in the event the Legislature is unable to agree on an apportionment plan.¹ They maintain that apportionment is the Legislature’s prerogative and responsibility. The threat that some other branch of state government, either executive or judicial, would apportion the legislative branch will assure that the Legislature will complete the task on schedule.

The state constitution has more power to prohibit than it does to direct. If the Legislature acts contrary to the constitution, the courts can declare the act invalid. But there is no way built into the constitutional system to force the Legislature to enact laws to carry out provisions of the constitution. Voter opinion and the Legislature’s own sense of responsibility must be the motive powers. The threat that the responsibility passes to another group, should the Legislature fail to act, is a strong motive.

The proposed new Article III, Section 5

5. Legislative Reapportionment. The Legislature shall apportion its membership in accordance with the last federal census prior to the Legislative session at which such apportionment shall be made. Such apportionment shall be made by the regular session of the Legislature in 1951 and every ten years thereafter and at no other time. If any Legislature whose duty it is to make an apportionment shall fail to make the same as herein provided that it shall be the duty of the Governor, superintendent of public instruction, presiding judge of the Supreme Court, attorney general and secretary of state within thirty days after the adjournment of the Legislature to make such apportionment and when so made a proclamation is issued by the Governor announcing such apportionment the same shall have the same force and effect as though made by the Legislature.

¹Prior to 1936 (when present clause was added) there was no provision in the constitution for any other group to apportion the Legislature should the Legislature fail to do so. The 23rd Legislature apportioned its membership after the 22nd failed to act. As a result the present clause was added.
Amendment C: Legislative Convening Date

This amendment to Article III, Section 7 is offered by the Legislature. The proposal would change the starting date of the Legislature from the first Tuesday after the first Monday in January to the second Tuesday in January. No other changes in the article are proposed. A “yes” vote is in favor of the proposed change.

Recent history

An amendment proposed in 1978 would have changed the starting date of the legislative session to the second Tuesday in January and provided for two 40-day sessions in a biennium. It was rejected by the voters.

A related amendment to change the length of the legislative sessions to one 40-day and one 35-day session each biennium was passed in 1980 by a vote of 156,630 to 120,703. No attention was given to a revised starting date for the Legislature in the 1980 amendment.

Reasons for the proposed change

The Legislature is seeking this change as a convenience to the members. Under present constitutional wording, the Legislature must begin on or before January 8. If the wording is changed the Legislature cannot begin before January 8.

Implications of proposed amendment

If there is no change in the constitution, between 1983 and 2000 the Legislature will begin on January 2 in 1990 and 1996. It would meet on the 3rd in 1984, 1989 and 1995. Under both the present constitution and the proposed change, it would meet on January 8 in 1985 and 1991. In the other years the convening date would fall between the 4th and 7th of January if there is no change.

For personal and business reasons many legislators would prefer a few more days between the busy end-of-year period and the beginning of the legislative session.

The text

The following is the full text of the section. The words to be deleted are italicized and the substitute wording is in parentheses.

The Legislature shall meet at the seat of government on the first Tuesday after the first Monday (second Tuesday) of January at 12 o'clock p.m. and at no other time except as provided by this constitution.

Issued in furtherance of Cooperative Extension work, Acts of May 8 and June 30, 1914, in cooperation with the USDA, Hollis D. Hall, Director of Cooperative Extension Service, SDSU, Brookings. Educational programs and materials offered without regard to age, race, color, religion, sex, handicap or national origin. An Equal Opportunity Employer.

File: 5.3-8-56M-8-82mb-1632D - ES 015