



**The Commonwealth of
Massachusetts** William Francis Galvin, Secretary
of the Commonwealth Elections Division

M E M O R A N D U M

TO: Robert C. Ross, Chief Legal Counsel, Office of the Governor Dan
Gates, Associate Legislative Director

FROM: Michelle K. Tassinari, Director and Legal Counsel, Elections Division John
Rosenberry, Legislative Director

DATE: November 1, 2021

RE: Comments on House Bill 4217 and Senate Bill 2563

We are writing to provide comments on House Bill 4217, An Act relative to establishing representative districts in the General Court and Senate Bill 2563, An Act establishing senatorial districts. While we are not providing comments on the legal standards for the district, but rather, we write to express our concerns surrounding the implementation of the new House and Senate districts. Specifically, the districts were created using different geographies including old precinct lines and census blocks, which makes election administration nearly impossible in some instances. Also, our analysis below is just using the House and Senate districts since Congressional districts have not yet been approved. It is likely that the Congressional districts will only further complicate these issues.

Using the block equivalency files for the House and Senate districts, and municipal block data, we performed a technical analysis in an effort to determine ballot styles that would apply to elections for the next decade. While the proposed House and Senate districts have been touted as having created minority-majority districts, as we conduct this analysis we are finding that whether by accident or by design the plans are likely to have the inverse effect—disenfranchising minority voters, by complicating the orderly administration of the election and leading to widespread voter confusion and increased apathy.

Traditionally, following the federal census, cities and towns draw precincts first from census blocks, the smallest geographical unit. Precincts, comprised of census

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blocks, are drawn locally, can contain no more than 4,000 residents and be equal within a municipality +/- 5%. Cities and towns consider their minority populations as well as creating compact and contiguous districts when creating their precincts. Proposed precincts must then be presented to and approved by the Local Election Districts Review Commission (LEDRC). Approved precincts are then implemented on the local level to create local election districts for offices such as Representative Town Meeting, Town Council or City Council.

After the local precincts are approved by the LEDRC, they are provided to the Legislature to be used as the building blocks to create the House, Senate, Congressional and Governor's Councillor Districts. In the past, the Legislature has interpreted the law to require Congressional districts to be exact and therefore split precincts. Following the 2010 census, 11 precincts were split to create sub-precincts for Congressional district purposes and one for House district purposes. For all practical purposes, a sub precinct is a precinct in that they each require their own unique voter list, tabulator and set of poll workers. Accordingly, since 2011, the state has had 2,174 precincts, inclusive of sub-precincts. In the prior decade (2001-2011) the state was divided into 2,157 precincts.

Based on our initial analysis of the overlaps of the districts, if the House and Senate districts are approved as it, we will likely see the creation of hundreds of sub precincts. Accordingly, we urge the Governor to delay the signing of the legislation so that we can propose some fixes that should not impact the overall shapes and composition of the districts. We believe that there are technical errors in the data, resulting in the creation of unnecessary sub-precincts and can propose remedies.

As you are aware, under the provisions of section 1(c) of chapter 56 of the Acts of 2021, cities and towns who have already approved their precincts may revisit and revise their precincts to bring them in line with the Legislative districts and resubmit to the LEDRC. However, it is clear that most cannot possibly redraw them within the bounds of the law to fit within the Legislative districts. We need time to review the data, identify problems and propose practical fixes to the Legislature or work with the cities and towns to find solutions.

As of today, we have conducted a detailed analysis of 24 communities and have found that in these 24 communities alone, more than 150 sub-precincts will need to be created. At this point, 163 of 351 communities have had their local precinct maps approved by the LEDRC. In some instances, the House districts have split a precinct three ways. There are communities, such as Haverhill, where the House and Senate appear to have split the same precinct two different ways using different census blocks.

It is seemingly rare that we encounter a community with more than one legislative district that does not require the creation of a sub-precinct. However, we have not been to fully determine how many more sub-precincts will now exist under these proposed lines and how many more will be created once the Congressional districts are approved.

This evening we anticipate the release of Congressional District data, which is likely to

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require even more. The full scope will not be known until all municipalities finalize and have their maps approved before the LEDRC.

Please find attached “Exhibit A Ballots,” which is a current running list of every ballot style in Massachusetts to be used for the next decade under the proposed districts, which totals 539 ballot styles before Congressional districts are applied. We expect Congressional districts to add about 30 ballot styles and further compound the issues described in this memo.

Every change in the “Senate” column is a new ballot, featuring the adjacent House district and the wards and precincts (where populated). As you can see from the list, the Town of Abington has not yet approved their precincts, but we do know that Abington is split both in the House (7th Plymouth House District) and Senate (Norfolk & Plymouth Senate District).

Another example is in Acton, whose new precinct lines are unknown but who currently has 6 precincts, that has one Senate District (Middlesex and Worcester Senate District) and two Representative Districts (14th Middlesex House District and 37th Middlesex), which would likely create multiple additional ballot styles beyond the 6 required for each precinct.

Scrolling down through Exhibit A to Barnstable, where we have the block file for their new precincts, we see that Barnstable is split into has two House Districts (2nd Barnstable House and 5th Barnstable). When looking into their precincts in column D, we note that the 2nd Barnstable covers precincts 1 through 11 and 13, but the current legislative redistricting plans do not include the whole precincts, and portions of precincts 7, 10 and 11 are assigned to both the 2nd and 5th Barnstable. Thus, it would create multiple ballot styles within each precinct.

This seems to be the trend throughout. We have highlighted in red, in Column D of Exhibit A Ballots, all the instances where a precinct shows up on more than one ballot. Each instance will require the creation of a sub-precinct. In the Barnstable example, we would likely create sub precincts 7A, 10A and 11A, increasing Barnstable’s 13 precinct plan to 16 precincts.

The following are 21 cities and towns that so far according to our analysis will require sub precincts:

City/Town	Proposed/Approved Precincts	Sub precincts Required	Total New Precincts
Barnstable Town	13	3	16

Boston	274	26	300
Bourne	7	1	8
Brockton	28	4	32

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Cambridge	33	19	52
Charlton	4	1	5
Chelmsford	11	3	14
Chicopee	18	6	24
Easton	7	4	11
Haverhill	21	13	34
Lowell	32	9	41
Malden	24	10	34
Marlborough	14	3	17
New Bedford	36	13	49
Newton	32	3	35
Quincy	30	8	38
Randolph	12	1	13
Reading	8	2	10
Revere	18	7	25
Springfield	64	9	73
Worcester	60	4	64

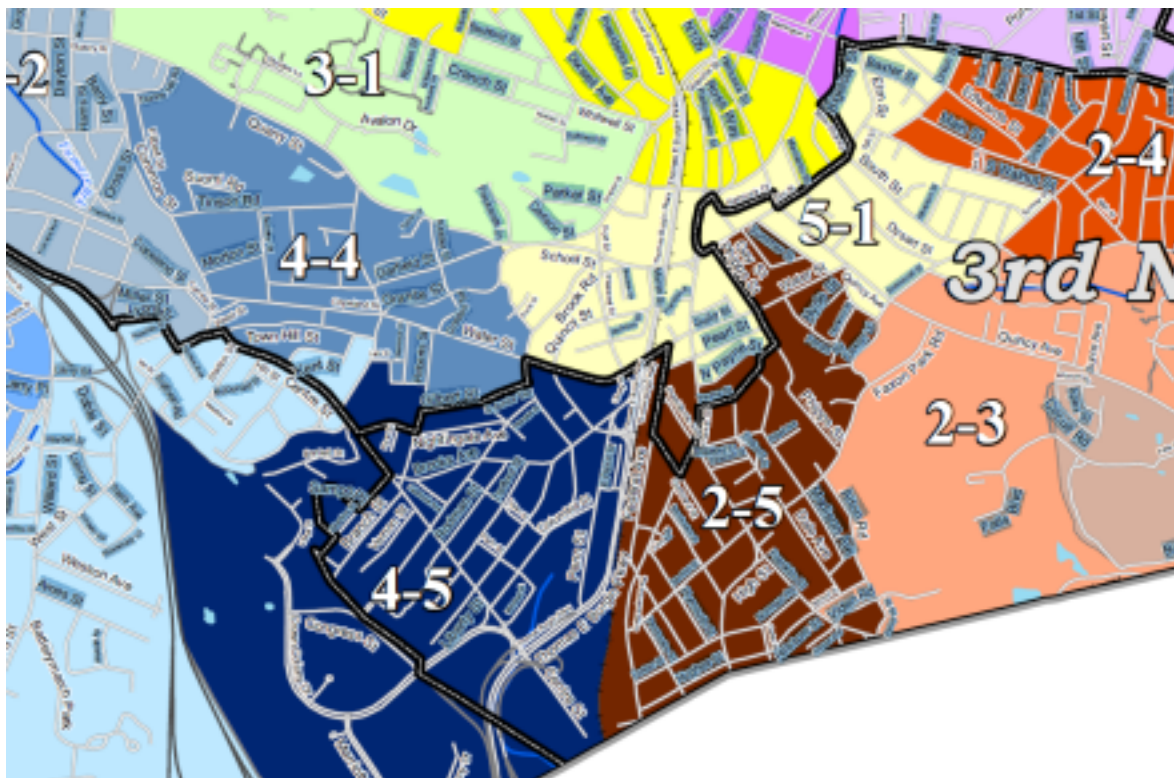
Another visual example is in the City of Quincy. Figure 1 below is taken from the Quincy map, which was approved by the LEDRC in September. The map shows the detail of certain split precincts. The heavy black line is the line between the 1st, 2nd and 3rd Norfolk House Districts. Quincy voted to stay at 30 precincts, which are used to elect their city councilors, but the legislative redistricting plan will impose seven split precincts, which will add confusion to voters and make election administration more

difficult and expensive.

In municipal elections Quincy voters in Ward 4, Precinct 5 are all in the same city council district, will appear on one voters list at one polling location and all receive the same ballot. For state election purposes, however, under the proposed plan, voters in Ward 4, Precinct 5 would be split (presumably precincts 5, 5A, 5B) and appear on different voters lists and likely sent to different locations that will only serve to add to voter confusion and increase the chance of the voter receiving the wrong ballot. You can see in Figure 1 the same situation Ward 2, Precinct 5 and Ward 5, Precinct 1, which are split between two districts.

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Figure 1. Quincy



The above Quincy scenario will essentially be reproduced in all split precincts across the state. Exhibit A demonstrates the magnitude of the problem each instance of red highlighting is a split precinct. Each split precinct is an opportunity for voter disenfranchisement. These split precincts are occurring in cities with critical minority

voting communities Springfield, Lowell, Worcester, Haverhill, Cambridge and we expect the problem to be further compounded with the release of Congressional data this evening.

These split precincts, or sub-precincts, also increase the resources needed by local election officials to administer elections. For each sub-precinct, the local election officials will need to employ additional poll workers, procure additional equipment and likely find additional polling places. This will add significant costs to local budgets, or to the state budget, if determined to be a local mandate.

Voter confusion is our biggest concern. If a city or town has different voting precincts for local and state elections, they will need to notify voters of the correct locations before each and every election. Even then, some voters may go to the wrong location and rather than go to the redirected location, may choose not to vote. As noted above, when precincts are split, if they do share a polling place, there is a likelihood that voters could be given the wrong ballot style.

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Further, in those districts where only one or two census blocks are being used for a district, the secrecy of the ballot could be in jeopardy. The blocks are being used based on the number of inhabitants within as designated by the federal census. This does not translate to voters. Any block could have only a few voters or just two, like was the case in Andover for many years. As part of the 2011 redistricting, precinct 9 in the Town of Andover was split into two congressional districts creating a sub-precinct 9A. For many years there were only two registered voters who voted in that sub-precinct and they often voted the same way. Since the election results have to be reported by precinct, how those voters voted was easily discoverable and they had no secrecy in their vote. Using single census blocks for any district could create this issue again and result in voting secrecy issues for the next decade.

As stated at the start of this memo, we are not seeking to dramatically change the districts. However, we would like the opportunity to work with the House and Senate to minimize the impacts where the districts split cities and towns. It should be noted that we attempted to work with the House and Senate Chairs on Redistricting during their drafting period. Senator Brownsberger was receptive to receiving proposed precinct maps for cities and towns to try fit the Senate districts within them. On the House side, we had little to no communication on the lines. The only municipality that was successful in working with the House to adjust the lines was the City of Worcester, who had increased from 50 to 60 precincts. The City of Cambridge, whose population increased by over 13,000, indicated that they requested the House make adjustments, but those changes were not made resulting in multiple overlaps of split precincts for the City if the Districts are approved.

Finally, all of these concerns will only be amplified by the Congressional districts, which are likely to split additional cities, towns and precincts.

Thank you for your consideration and please let us know if you have any questions.