



South Dakota Legislative Research Council

Issue Memorandum 98-12

COMPARISON OF SINGLE-MEMBER AND MULTIPLE-MEMBER HOUSE DISTRICTS

Introduction

Although the concept of democracy extends back to the Greeks and Romans, the modern district-based election is a much more recent Anglo-American institution. Prior to the development of parliamentary bodies in the late middle ages, all voting was done in physical assemblages of free citizens who came together to debate and decide issues in a manner similar to New England town meetings. Only after advances in mapping and census-taking did the concept of district-based elections become widely feasible. The U.S. Congressional districts arising out of the 1790 federal census was the first comprehensive system utilizing election districts. The Reform Bill of 1832 moved Britain in a similar direction. But at the time South Dakota achieved statehood in 1889, U.S. senators were still chosen by state legislatures, suffrage had not been extended to women, and multi-member districts or at-large elections were still the American norm. However, continuing advances in demographic technology and changing conceptions of fairness in suffrage and political science have gradually established the single-member district as the prevailing electoral standard of the late twentieth century.

Historical Perspective in South Dakota

In South Dakota there is a long and honorable tradition of multiple-member legislative districts. Through most of its history, the Legislature steadfastly refused to draw legislative districts that broke county boundaries. They are still reluctant to do so today. However, already at the time of statehood, population concentrations in Sioux Falls, Aberdeen, and the Black Hills mining district of Lead-Deadwood obviated the possibility of designating Minnehaha, Brown, and Lawrence Counties as single-member house districts. Then, Minnehaha County was a dual-member senate district and also elected seven at-large representatives. Since, at that time, Minnehaha encompassed about five percent of the state's population and enjoyed approximately five percent of the legislative membership, it is clear that multiple-member districts were not designed to discriminate against townsfolk.

The House made even more extensive use of multi-member districts. In 1889, Brown County elected eight representatives at-large, Minnehaha seven, Lawrence six, Yankton and Beadle four each, and many others three or two. In fact, in a one-hundred-twenty-four-member House of Representatives, there were only eleven single-member districts. During the first half of the nineteenth century, the use of multiple-member districts remained a vital legislative redistricting tool. Often a county or

pairing of counties that was somewhat under-represented in the Senate would be compensated with an offsetting over-representation in the House, or vice versa. The result was benign and, since counties' boundaries were preserved intact, generally approved by the electorate.

However, by mid-century the large counties and urban areas were being persistently under-represented in the state Legislature in South Dakota as well as many other states. In 1963, Minnehaha County still had two senators but should have been entitled to four. Although their allocation of eight representatives was about appropriate, Sioux Falls, Rapid City, and Aberdeen were, in aggregate, seriously under-represented in the Senate. The catalyst for reform was the U.S. Supreme Court edict in the 1964 case of *Reynolds v. Sims* (377 U.S. 533), which declared that both houses of all state legislatures must be districted on the basis of population. In most states, compliance with *Reynolds* was achieved by creating more single-member intracity and intracounty legislative districts. But in South Dakota, the decision was to increase the size and number of multi-member districts rather than break any county boundaries. Minnehaha County received two more senators, and Pennington and Brown one each. Minnehaha County now had nine representatives, with six in Pennington and four in Brown--all elected at large.

In the 1980 redistricting, Minnehaha County was constituted a five-member senate district and a ten-member house district. Criticism of "laundry-list" legislative elections in Minnehaha and Pennington Counties had been growing for some time. It was widely conceded that choosing ten representatives from twenty or more candidates placed an enormous burden on the Sioux Falls voter. Incumbency and name-identification were almost insurmountable political advantages and collective representation diffused electoral

accountability. In 1982, the electorate approved an initiated constitutional amendment mandating single-member districts and "either single-member or dual-member" house districts. The Legislature responded by splitting the three multiple-member senate districts in Minnehaha, Pennington, and Brown Counties into ten single-member senate districts and providing that each single-member senate district would also constitute a dual-member house district.

During the 1990 redistricting debate, an attempt to establish single-member house districts was defeated in a bipartisan vote. However, the Legislature did create two single-member house districts by dividing Senate District 28 which comprises northwestern South Dakota, including the Cheyenne River and Standing Rock Indian Reservations. This was done in response to a 1986 U.S. Supreme Court edict in *Thornburg v. Gingles* (478 U.S. 30), which forbade multi-member legislative districts to dilute minority voting. Since there was sufficient Lakota population in Corson, Dewey, and Ziebach Counties, the Legislature felt that the *Gingles* case required the creation of a single-member, majority-minority house district even though they chose not to create single-member house districts statewide. In 1995, in the case of *Miller v. Johnson*, the Supreme Court clarified and partially reversed itself by deciding that it was not necessary to maximize the number of majority-minority electoral districts if the rationale for the district was based solely on race. Although *Miller v. Johnson* dealt with congressional not legislative districts, it is reasonable to assume that the same logic will prevail when the issue of majority-minority legislative districts is litigated. As a result in 1996, the South Dakota Legislature enacted HB 1282, effective January 1, 1998, which, absent a legal challenge, reunites District 28 as a dual-member house district for the 1998 election.

Multiple-Member Versus Single-Member Districts

Although the number of multi-member legislative districts has declined dramatically since the round of redistricting initiated by *Reynolds v. Sims* in 1964, multi-member districts or at-large elections are still common in county, municipal, and school elections and not unusual in other elections. No American court has held them to be illegal in and of themselves, unless they were created for an illegal purpose such as diluting the voting strength of a racial or political minority. Political scientists, while clearly favoring single-member districts, generally concede the utility of multimember districts in certain circumstances. But since the South Dakota Legislature relies on dual-member districts to a unique degree, a brief review of some of the more common arguments in the debate about single-member as opposed to multi-member districts may be useful.

The following points are often propounded by proponents of single-member districts:

- (1) Single-member districts offer voters the clearest choice. In a multiple-member district if the voter votes for candidates A and B, when he or she casts a second vote, that second vote may work to defeat the recipient of their first vote who may have been the candidate that the voter really prefers.
- (2) Multi-member districts tend to encourage many candidates to run which compounds the decision-making process in the primary election.

- (3) Multi-member districts strengthen party influence.
- (4) Multi-member districts favor incumbency and other candidates with high public name identity.
- (5) Multi-member districts favor those candidates who are well-financed since it typically costs more to run in a larger district.
- (6) Multi-member districts favor the majority party and tend to produce a winner take all result.
- (7) Multi-member districts tend to restrict racial, social, political, and economic minorities from electing a proportionate share of representation.
- (8) Multi-member districts make it more difficult for the voters to learn where the candidates stand on the issues.
- (9) Multi-member districts compound the problems of elected officeholders in attempting to provide constituent service.
- (10) When multi-member house districts mirror or overlap senate districts, there is likely to be less diversity of viewpoint between the Senate and House.
- (11) Multi-member districts may encourage negative campaigning since face-to-face contact with voters is more difficult and radio and television may be used more extensively.

- (12) Multi-member districts require any candidate to attract a full slate of running mates. (In a dual-member district, it is very difficult for the candidate of one party to win a seat if the opposition party fields two viable candidates and the first party only one.)

Defenders of multi-member districts might counter these arguments with some of the following points:

- (1) Multi-member districts significantly ease the technical and political problems of redistricting. This is especially true in thinly-populated rural states like South Dakota and largely accounts for the continuing popularity of multi-member districting in this region.
- (2) Multi-member districts are more likely to be heterogenous and require candidates to be responsive to a wide spectrum of minorities and minority viewpoints. Conversely, the candidate in a multi-member district may be more likely to vote his or her conscience since the impact of any one interest group is likely to have less impact at the time for reelection.
- (3) Multi-member districts may tend to favor issue-oriented campaigns since it may be more difficult to run campaigns based on the character or personality of the candidate.

Any analysis of the relative merits of single-member and multi-member districts is handicapped by a dearth of scientific statistical data that would tend to verify the argument under discussion. Moreover, the election dynamics of district-based elections may vary dramatically from constituency to constituency—what works in South Dakota may produce a very different result in South Carolina. Obviously, all of the preceding arguments are, at best, subjective.

Alternatives to Traditional District-Based Electoral Systems

Proportional Representation. As Americans, we tend to forget that outside of Great Britain and her immigrant nations, America, Canada, Australia, and New Zealand, district-based elections are not, and never have been, the norm. In most of the other democratic countries, the electoral system is based on some variation of proportional representation. In a pure proportional representation system, each party nominates a list of candidates, and the percentage of votes that it achieves in the election determines the number of seats to which it is entitled. Thus if the party gains thirty-one percent of the votes in an election for a two hundred number parliament, the first sixty-two names on its list would be elected. Usually, however, there is some additional minimum requirement such as achieving five percent of the total, a majority in at least one constituency, or a minimum percentage in a majority of constituencies.

In recent years there has been an increasing tendency, however, to provide for a mixed system with some of the seats elected by proportional representation but some elected by head-to-head, first-pass-the-post contests in districts. Germany uses this system, and Italy has recently implemented it in an effort to reform its government. The Labor Party in

Britain has also proposed going to a mixed system.

Experience with proportional representation in America have been very limited and restricted to local elections. Although somewhat popular with academics and political scientists, proportional representation has never gained much of a following with the public.

Proportional representation does work best in multiparty systems and America's two-party system is not, therefore, conducive to it. It does, however, remain a viable and reasonable, if untested, alternative.

Slotting. The purest compromise between single-member and multi-member districts is slotting. In a slotted district, two or more legislators are elected from the same district but run head-to-head for a designated individual seat. In South Dakota's dual-member House districts, this system might be established in something like the following manner: Each House incumbent in a dual-member district would be assigned a letter-designation, either A or B, by lot. If the incumbent wishes to retain that seat, he or she would take out renominating petitions specific to seat A or B. Anyone wishing to challenge either incumbent or wishing to run for an open slot would also take out nominating petitions specific to seat A or B. If any party had two or more candidates file for either seat A or seat B, there would be a primary. In November, the candidates nominated for seat A would square off in one election, while those nominated for seat B would oppose each other in a separate election. Each elector in the dual member district would have one vote in each of two district-wide one-on-one elections rather than, as at present, two votes in a two-to-be-elected at-large contest.

Slotting has had very limited practical experience in America--mostly in New England and the South and entirely in local elections. It does provide some of the advantages of single-member elections, especially one-on-one elections rather than laundry-list, multiple-contest races, while allowing the retention of geographically larger, multi-member districts. Its major drawbacks appear to be its novelty and fears by some that the incumbent who is perceived to be the weaker of the two will attract all the opposition while the stronger incumbent may be uncontested. Proponents, on the other hand, often cite this tendency to focus on and to defeat the weaker incumbent as one of the advantages of slotting.

Several bills to establish a system of slotting in the state House of Representatives races were introduced in South Dakota in the seventies. None attracted much legislative support.

Conclusion

Currently, a constitutional amendment would not be required to implement single-member House districts in South Dakota. Under the provisions of Article III, section 5, the Legislature is, however, restricted to redistricting only once every ten years. Short of a constitutional change or a court order, the next redistricting is due in 2001. However, if the Legislature so chose, a redistricting system based on slotted House districts could be in place for the general election of 2000. That date is significant because that is the first election at which legislative term limits will restrict the right of some incumbent legislators to run for their old seats. Since it is likely that an unusually high number of incumbents will either retire or run for the Senate, the general election of 2000 offers an unusual opportunity to make the switch to one-on-one House elections, if that decision were to be made.

This issue memorandum was written by Reuben D. Bezpaletz, Chief of Research Analysis and Legal Services, for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.
