

MODEL FAIR REPRESENTATION ACT FOR CONGRESS

Background

How we elect Congress is a matter of statute. The U.S. Constitution requires that Members be elected “by the People,” and that states be awarded representation “according to their respective Numbers.” Beyond these requirements (and a few rules regarding eligibility), the manner of the election of Congress is within the power of Congress itself.

In the early years of the Republic, Congress left states to conduct their congressional elections however they preferred. During this period states experimented with a variety of creative methods, often including the use of multi-member districts or at-large elections, but all using winner-take-all systems. In 1841, Congress passed a law mandating single-member districts, in an effort to prevent states from ensuring that one party wins all their congressional seats by using at-large winner-take-all voting. That single-member district mandate was not enforced, however.

In 1967, amid the fight for civil rights, Congress became acutely aware of the negative effect that winner-take-all elections conducted at-large can have on the voting rights of racial minorities, and passed a law reinstating the requirement that all Members of Congress be elected from single-seat districts. Since 1995, a number of bills have been introduced to repeal the single-seat district mandate and require that states use fair representation voting when electing Members from multi-seat districts.

Overview of the Model Bill

FairVote’s model Fair Representation Act requires that all states electing more than one Member conduct both their primary and general House elections using fair representation voting in multi-seat districts. States are free to choose whatever form of fair representation voting they prefer. They also may decide for themselves how many super districts to use and how many representatives to elect from each super district, provided that no district elects fewer than three Members.

If a state does choose to use more than one super district, all district lines must be drawn by an independent nonpartisan commission. The commission must include two members of both the state’s majority party and minority party, along with a chair mutually agreed upon by a majority of those four members. They must accept public input on proposed maps and must make all decisions publicly and by majority vote. The map they ultimately adopt must be drawn exclusively using the criteria of compactness, contiguity, continuity with political boundaries, and compliance with all applicable federal law. States are reimbursed by the federal government for the costs of the independent commissions.

If a state fails to create an independent commission under this bill, a federal court must draw a district map using the same criteria the commission would have used.