

Representing the Unrepresented in the State Legislature

by Bernard J. Apol

The U.S. political process and governing structure has changed little in almost 200 years. We run for office and run government in much the same way as we did in the early 19th century. This commentary describes the inefficiencies and distortions in how voter preference is represented by single-member legislative districts. There are alternatives: One is the split-vote system discussed in this commentary. It would eliminate the political effect of reapportionment (redrawing district lines), give every voter partisan representation in the legislature, introduce real competition in districts dominated by one party, and result in partisan makeup of the legislature that more closely resembles the actual preferences of state voters.

INTRODUCTION

Twice in the last five years, control of a legislative chamber fell to a party whose candidates, in toto, were outpolled. In 1984 all Republican candidates for the Michigan House of Representatives polled more votes than did all Democratic candidates: The Republicans won 51.8 percent of the votes cast, and the Democrats won 48.2 percent. Yet the Republicans won only 48.2 percent of the seats (a total of 53), while the Democrats won the majority—51.8 percent of the seats (a total of 57).

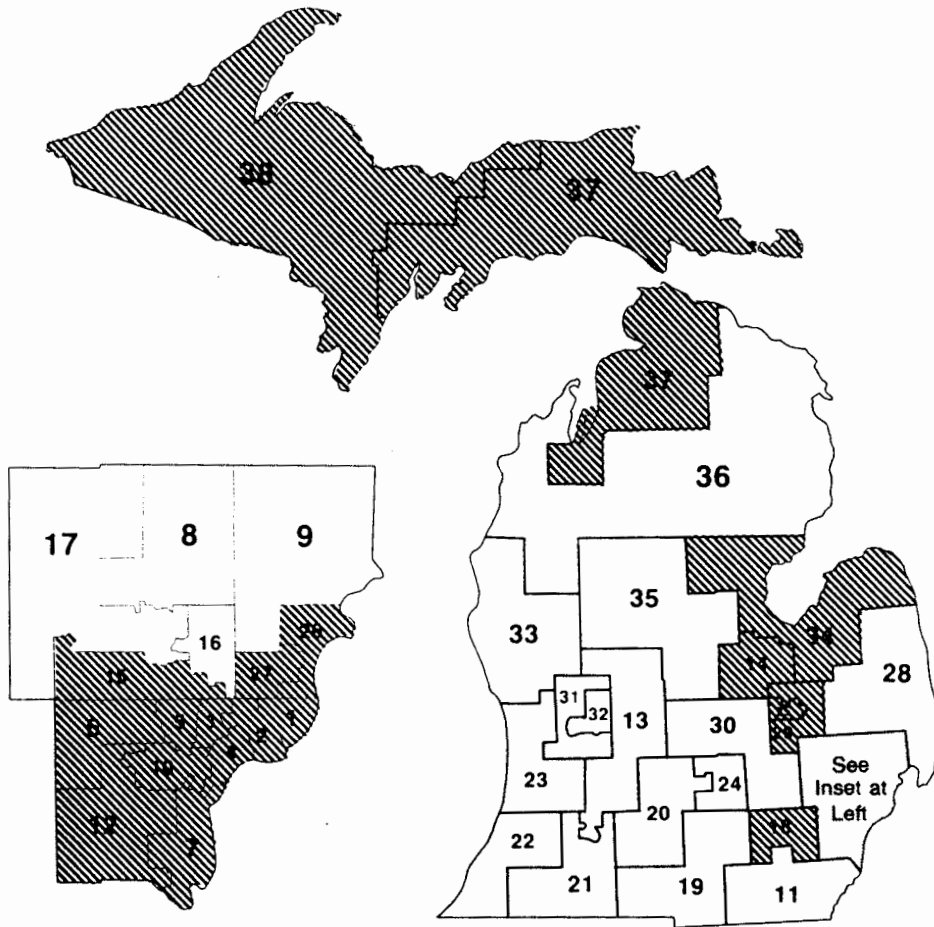
In 1986 all Democratic candidates for Michigan Senate seats polled more votes than did the Republican candidates: The Democrats won 54.8 percent of the votes cast, and the Republicans won 45.2 percent. Yet the Democrats won only 47.4 percent of the seats (a total of 18), while the Republicans won the majority—52.6 percent of all seats (a total of 20).

The problem illustrated above is one of disproportion; that is, the number of legislators elected from each party are out of proportion with the number of votes cast for each party. It also may be said that in any given election, close to half of all voters in the state end up disenfranchised: their candidate loses. Their say about public policy is lost. Of what influence are the opinions of Republican voters in a district that just elected a Democratic state representative? Of what influence are the opinions of Democratic voters in a district that just elected a Republican state senator?

Exhibits 1 and 2 show which party currently represents each Michigan legislative district. It is common knowledge, and the maps illustrate the point, that, except in the Upper Peninsula, the Democrats are strong in the urban areas, the Republicans in the suburban and rural areas. But who represents urban Republicans and rural Democrats? Their votes do not show up on the tote boards in the two legislative chambers. Out-state Democrats may not have the same agenda as metropolitan Democrats, and urban Republicans likely view life a bit differently from suburban and rural Republicans.

EXHIBIT 1

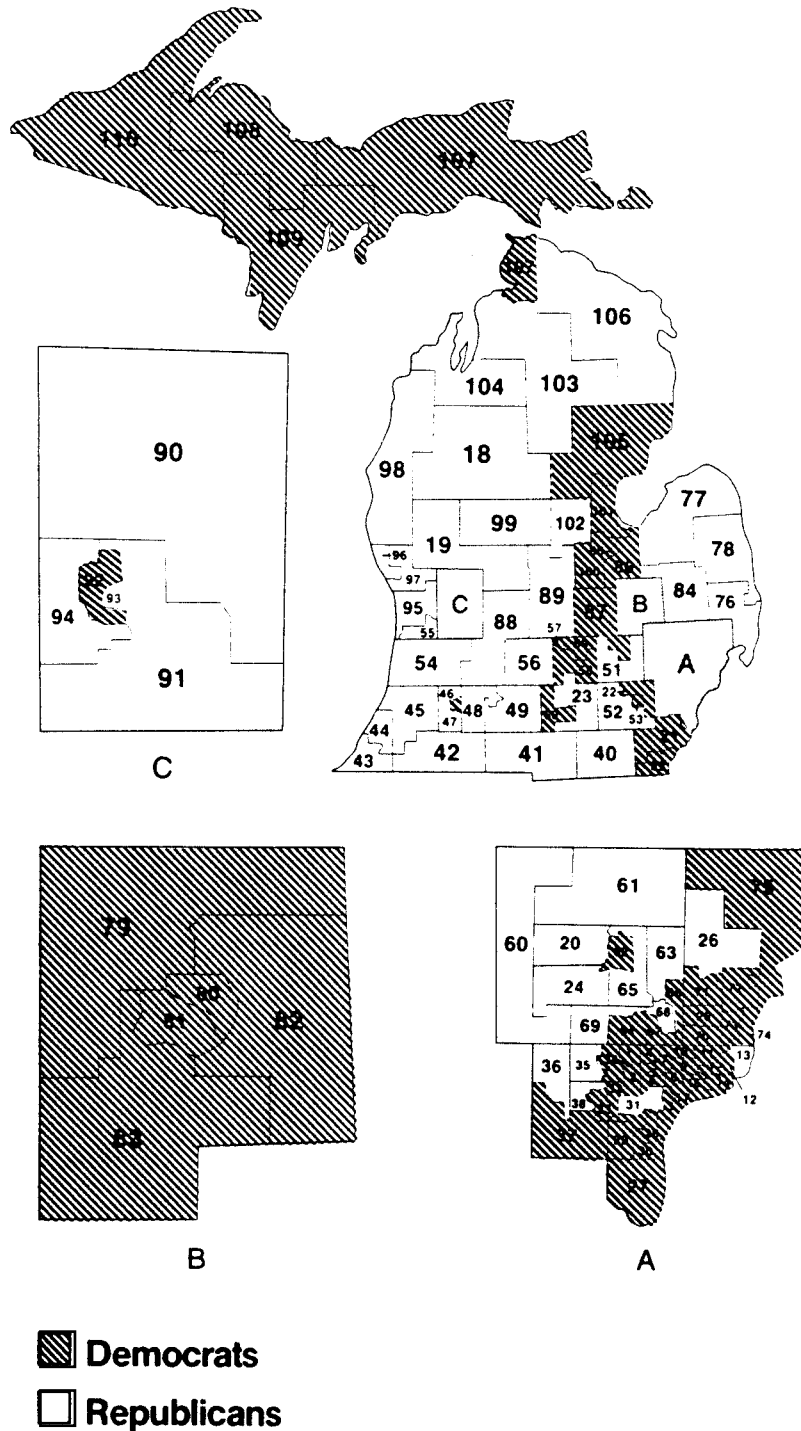
Partisan Representation
Michigan Senate 1987-90
(Based on Vote in 1986 Election)



▨ Democrats
□ Republicans

EXHIBIT 2

Partisan Representation
Michigan House of Representatives 1989-90
(Based on Vote in 1988 Election)



Great attention always is given to the way legislative districts are drawn, but the real cause of policymaking disenfranchisement for millions of Michigan voters is the fact that districts can be represented by only one person, regardless of the way in which their boundaries are set or apportioned. This being so, to reform reapportionment is rather like rearranging the deck chairs on the Titanic: The ship—in this case, the ship of state—still is in trouble.

ARE MICHIGAN'S LEGISLATIVE DISTRICTS REPRESENTATIVE OF VOTERS' WISHES?

Mentioned in the introduction were the dramatic anomalies of the 1984 House and 1986 Senate elections. Less spectacular results also are interesting. In 1986, Democrats won 55.4 percent of all votes cast for the House but carried into office 58.2 percent of House members. In 1988, although Democrats only narrowly outpolled Republicans for the House—50.9 percent to 49.1 percent, they carried 55.5 percent of the seats.

The current legislative district boundaries were drawn in 1982. At the time, political observers perceived that the way in which districts were drawn favored Republican candidates for the Senate and Democratic candidates for the House. History has established a certain truth to those perceptions. Consistently in recent elections, Republicans have produced greater numbers of senators than their combined vote for all Senate candidates would suggest; Democrats have elected greater numbers of representatives than their combined vote would suggest.

The way in which districts are drawn, in combination with the power of incumbency, has resulted in the GOP being favored in the Senate and the Democrats being favored in the House. In two recent elections, one for each chamber (the 1986 Senate campaign and the 1984 House campaign), the majority of voters cast their ballots for one party's candidate for the chamber but woke up the next morning to discover that the other party controlled it.

Exhibit 3 illustrates the bias toward Republicans of Senate districts and toward Democrats of House districts. In the two most recent general Senate elections, Republicans have averaged 44.5 percent of the total senatorial vote but 50.0 percent of seats won. In the three most recent general House elections, Democrats have averaged 51.5 percent of the total vote but 55.2 percent of seats won.

If seats were based on the proportion of the total vote cast for each party, the Democrats now would control the Senate 21-17, rather than the Republicans holding it 20-18. The Republicans would have controlled the House in 1985-86 by 57-53, rather than the Democrats holding it 57-53. And in today's House, the Democrats would be in control by 56-54, a far more even balance than the current 61-49 split in their favor.

WHY SINGLE-MEMBER DISTRICTS?

Since our current system sometimes creates a policymaking majority out of an electoral minority, what is its advantage?

Single-member districts work in favor of fewer political parties. One or two parties survive best. Why? It is not because parties are constitutionally mandated. It is because a district-by-district, "winner-take-all" approach means that with exceedingly few exceptions only a party that holds at least 40 percent support will be able to compete in most districts. Minor party candidates might win 20 or even 30 percent of a vote statewide but fail to win even one of 110 House seats; none since 1912 has been elected to the Michigan legislature.

EXHIBIT 3

Michigan Senate

Election	Political Party	% Vote	% Seats	% of Seats Won Compared To % of Total Votes Cast
1982	Republican	43.9	47.4	+3.5%
1986	Republican	45.2	52.6	+7.4
	Average Republican	44.5	50.0	+5.5

Michigan House of Representatives

1984	Democrat	48.2	51.8	+3.6
1986	Democrat	55.4	58.2	+2.8
1988	Democrat	50.9	55.5	+4.6
	Average Democrat	51.5	55.2	+3.7

A third-party candidate for president can win 10 percent of the total vote, in some cases (1912 and 1968) perhaps more. But no third party has come close to winning 10 percent of the seats in the U.S. Congress in large measure because of single-member districts. Since 1953, only one third-party candidate has been elected to the U.S. House of Representatives. Third parties in modern times generally are created around a single person (Teddy Roosevelt and John Anderson, for example) and expire with the retreat of that individual from the national political scene.

In addition to limiting viable political parties to two, single-member districts quench the U.S. thirst for clear winners. We disdain results of contests—political or sports—that are less than clear cut. Having more than one winner in an election would be akin to having ended the 1989 NCAA basketball season after the final four regional contests and declaring Duke, Illinois, Michigan, and Seton Hall national co-champions.

Having only two parties compete for the control of a legislative chamber and having those two parties slug it out in each district of that body gives us the clear winners we want. Only one person can be elected from each district, and—except occasionally in evenly divided chambers—only one party can win a majority of seats in, and thereby control, a chamber of the legislature. No need for runoffs; no uncertainty about an election producing a winning candidate and a majority party; no ambiguity due to multiple parties being represented in a chamber; and precious little concern about the final results mirroring the voters' true preferences.

IS THERE AN ACCEPTABLE ALTERNATIVE TO SINGLE-MEMBER DISTRICTS?

There are alternatives to single-member districts: One is the split-vote system. An examination of this alternative is worthwhile because it will point out flaws in our current system and may stimulate thought about ways to drag our 200-year-old political system into the next century.

Let us turn the current system upside down and assume that a House district's voters may elect *two* persons to the legislature. Let us also say that in District X a Democrat wins 53 percent of the vote; the GOP challenger wins 47 percent. As the two highest vote getters, both are elected.

In January, both individuals are seated in the Michigan House of Representatives. On every record roll call vote, the Democrat casts .53 of this district's vote and the Republican casts .47 of that vote. The district's constituents receive full representation. If we record the votes of the 220 House members (two from each district), we will have a final vote tally that comes exceedingly close to the actual percentage of the vote cast in the November elections for the respective parties. The same system also could be used in the Michigan Senate.

WHAT ARE THE ADVANTAGES OF SPLIT-VOTE DISTRICTS?

Voter efficiency (the concept that every vote counts) is the primary goal of split-vote representation. Split-vote districting advances the concept that every person's vote will count in the legislature but also maintains a systemic bias toward two major parties. We could elect, for example, three or four or more people from each district, but this certainly would encourage the development of multiple parties, which the experience of the European democracies suggests can lead to confusion and stagnation.

A split-vote system would nearly eliminate the political effect of and, therefore, preoccupation with reapportionment, the decennial struggle to redraw legislative district boundaries. The purpose of reapportionment ostensibly is to accommodate population changes and shifts, but in effect it is to establish partisan political power for the next decade. (For a history of apportionment and the upcoming 1991 fray, please see Public Sector Consultants' *Michigan Commentary* of December 16, 1987, "Legislative Reapportionment in Michigan." Copies are available from our office.) Under a split-vote arrangement, redrawing the boundaries of a single district no longer would leave one party advantaged, since the candidates of both parties would be elected—only their portion of the roll call vote would be changed. If a party lost strength in one district, it could gain it in the neighboring district. Gerrymandering (drawing district lines for crass partisan gain) would be a thing of the past.

Democratic voters in Republican districts and Republican voters in Democratic districts would have a voice in legislative deliberations. Unlike now, they would be represented. Unaligned voters would have two legislators to compare and contrast: not an altogether undesirable result in itself.

Pragmatically, split-vote districting would moderate (move toward the center) the two parties' legislative caucuses. Why? Because more "liberal" Republicans would run in heavily Democratic, liberal districts and be elected. More "conservative" Democrats likewise would run in Republican, conservative districts and be elected. Today, in heavily Democratic or Republican districts, the weaker party's candidates simply are sacrificial lambs; they have no chance of winning and thus little incentive to raise money, organize supporters, and campaign hard. The split-vote system, with its co-winners, would improve the underdog's odds of succeeding and carrying a percentage of a vote in the legislature comparable to the percentage of votes garnered in the general election. Because every citizen's vote would count, it would pay for all candidates to campaign hard. Even shoo-ins, such as incumbents in safe districts, would be rewarded for campaigning hard since their percentage of the district's legislative vote would increase with a larger winning margin.

Imagine state Republican strategists fielding strong, well-financed candidates in Detroit's inner city legislative districts and in the Upper Peninsula. Imagine state Democrats recruiting and bankrolling top-notch candidates in the southwestern rural counties or in the Thumb. Interestingly, party strategists could find that there is much to be gained in terms of their party's ultimate policymaking weight in the legislature

by fielding good candidates and running strong campaigns in what are now their *weakest* districts. Suddenly, in areas that now too often resemble one-party systems of eastern bloc nations, there would be competition. Today, competition is eroding in all but a very few districts. Of the 110 House seats, only 12 have changed partisan hands since 1982. Of the 38 Senate seats, only two have, both through recall elections. In every election, only 15 percent or so of legislative seats are even remotely competitive. In 1982 for example, the GOP fielded no Senate candidates in 6 of the 38 districts, meaning that 16 percent of all voters in the state were, at the most, disenfranchised before the campaigning even began and, at the least, not much interested in the outcome. The more competitive the district, the more likely it is that able candidates will be fielded and that the electorate will be more attuned and informed during a campaign.

Once elected, the two district legislators would have to weigh statewide partisan discipline against community sentiment—just as now. Should the Detroit Republican vote with his/her caucus position or with his/her constituents' feelings? At the least, under the split-vote scheme, Detroit Republicans would have some effect on the final legislative tally and so would outstate Democrats.

WHAT ARE THE FLAWS AND SPECIAL CONSIDERATIONS IN SPLIT-VOTE SCHEMES?

Dual representation from each legislative district would entail several thorny changes in the legislative and electoral processes. To start with, salary/fringe costs would double and the chamber space would be halved if we sent two legislators from each 110 House and 38 Senate districts. There are two ways around these problems. One is to move toward a unicameral (one house) legislature, a single chamber elected possibly to four-year terms with the governor. Another is doubling the size of each current district in both chambers. The latter scheme has its advantages in that larger districts tend to produce more competitive races and more geographically and politically balanced constituencies. In this scenario, the state House would consist of 55 districts, each represented by two legislators; the Senate would consist of 19 districts (each about the size of a congressional district), again represented by two lawmakers each.

How could committee structures and voting be accommodated if each legislator had less than one full vote? In all likelihood, committees comprised of ten or twenty legislators (each with .45 or .60 floor votes) actually might have a combined voting strength of an odd number: ten members might produce 5.7 votes, a seemingly ridiculous way of tabulating committee votes. This problem might be resolved by giving a legislator a whole vote in committee while maintaining a partial vote in full proceedings of the chamber.

Would not voting by a full chamber be complex? Of course it would. In the old days of legislators each saying "yea" or "nay" as his/her name was called, it would have taken hours to tabulate each fractional vote. Today both chambers use computerized tote board systems, which could be programmed to record the proportionate vote of each legislator.

Another problem is that legislative leaders are accustomed to counting votes informally ahead of time to put together the majorities needed to pass bills. They would have a much more difficult time adding split votes to assure that the equivalent of 56 votes in the House or 20 in the Senate (simple majorities) could be mustered.

Filling vacancies would be a concern. If a Republican vacates his/her seat, would the election for the successor be held solely for Republican voters or open to candidates of all parties? Would special election results affect the voting strength of the sitting legislators?

Recounts would have to be handled quite differently, but probably they would be necessary only rarely because a change in a handful of votes would not significantly affect each lawmaker's portion of a district's

vote. When only one lawmaker is elected, and the margin of victory is very small, a recount is well worth the expense.

The status of minor parties (how they qualify for the ballot and the minimum vote requirements to hold a position on the ballot) would be made more complex. It is possible that minor party candidates occasionally could outpoll one of the major party candidates in a district that is now woefully uncompetitive.

Also interesting is how split-vote districting might affect political fund-raising. Currently, political action committees (PACs) heavily weight their spending on behalf of incumbents, particularly those in safe districts. Would PACs alter strategies and put funds into less safe races, anticipating that they would have to buy access to both "winning" as well as "losing" candidates? Would the new system, hence, tend to promote a broader (fairer) distribution of PAC monies?

None of these issues is insoluble. But the list of effects on the lawmaking and campaign processes gives the reader a feel for the dramatic change that would ensue from such a far-reaching electoral reform.

CONCLUSION

Of all institutions in U.S. society, none has changed less than our political process and governing structure. Essentially, we run for office and run government much the same way we did in the early years of the 19th century. Inching toward a new century, our dedication to a vital, representative form of government requires us to question age-old conventions and to seek means to make government as accountable, responsible, and fairly representative as possible.

An electoral change as significant as the ending of single-member districts is not without drawbacks and certainly would not appeal to many politicians or voters. But in each decade the thorny problems of reapportionment again raises—and again fails to answer—questions of voter efficiency and fairness. And each time we overlook systemic flaws that set back electoral accountability and fair representation of voters' wishes.

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