



Redistricting: Why Legislative Districts Are Redrawn, How It Is Done, and by Whom

WHAT IS REDISTRICTING?

Redistricting is the process by which legislative bodies maintain the principle of equal representation by adjusting their district boundaries to reflect changes in population. This generally occurs once every ten years, reflective of the fact that the United States Census, our most reliable and official measure of population, is conducted every ten years.

WHY REDISTRICIT?

Wisconsin Constitution. The redistricting process in Wisconsin is mandated by article 4, section 3, of the Wisconsin Constitution, which requires that the state senate and assembly be redistricted following each federal census “according to the number of inhabitants.” Since 1973, the Wisconsin Legislature has had 33 senate districts, each of which is divided into 3 assembly districts, for a total of 99 assembly districts.

Congressional redistricting. The number of congressional seats in each state is determined by an apportionment based on each state’s share of the whole country’s population. Wisconsin currently has eight seats in the U.S. House of Representatives. The legislature has the responsibility of creating eight equal population districts for the election of

U.S. representatives from the state. U.S. senators are elected at-large, or from the whole state, so no districting is necessary.

The census. Article 1, section 2, of the U.S. Constitution requires that an “actual enumeration” of the inhabitants of the U.S. be conducted every ten years. This requirement is fulfilled by the U.S. Census, which does attempt an actual enumeration by sending a census form to every household in the United States, and asking for information on individuals in the household as of a specific date. (Last time it was April 1, 2000.) The census has been conducted in every year ending in “0” since 1790.

THE PROCESS

Census data. The essential element for the legislature to begin redistricting is the data from the most recent census. The Census Bureau provides each state with a special file providing detailed demographic information down to the city block level. This file is compiled specifically for legislative and congressional redistricting. It is usually available around one year after the census date, that is, in the spring of the year ending in “1.”

Ward lines. In response to the new census data, each municipality with a population greater than 1,000 must divide itself into wards to facilitate elections and must provide these new ward lines to the legislature by August of the year ending in “1.” This enables the legislature to use lines selected locally if it becomes necessary to divide a municipality between two legislative districts.

Congressional redistricting. Late in the year of the census, the Census Bureau releases the total enumeration for each state. Congress then uses that data to apportion the 435 seats of the U.S. House of Representatives among the 50 states. In the spring of the following year, the detailed census data is released, and the legislature can draw lines to create congressional districts of equal population. Virtually no deviation is allowed in the population of congressional districts. The districts are created by the passage of a bill containing detailed descriptions of the districts. Like any bill that passes the legislature, it must be signed by the governor, or passed over his or her veto by a two-thirds majority in each house to become law.

Legislative redistricting. Like congressional redistricting, legislative redistricting involves the use of detailed census data and the

passage of a plan by the legislature. But in the case of Wisconsin's legislative redistricting, the number of seats is fixed by law at 33 in the senate and 99 in the assembly. The population of the state is divided by those numbers to achieve the ideal population of a district in each house. The legislature normally considers a number of bills, each proposing its own redistricting plan. If the two houses of the legislature are able to agree on a plan, and it is approved by the governor or passed over his or her veto, it becomes law.

Court action. If the legislature is not able to enact a redistricting plan, it is likely that a lawsuit will result in new districts being drawn by a court and issued by court order. In fact, federal courts have created the redistricting plans for the Wisconsin Legislature in each of the last three decades. Court challenges to plans enacted by the legislature based on statutory or constitutional grounds are also possible, and can result in the altering or elimination of a redistricting plan by the court.

Deadline. The entire process must be completed by June 1 of the year ending in "2" so that candidates may begin the process of filing to run for office in the new districts in November.

PRINCIPLES OF REDISTRICTING

There are a number of factors the legislature considers in creating a redistricting plan. Some carry more legal weight than others, and the legislature must take this into account while considering redistricting.

Equal population. The fundamental principle in redistricting is that districts must be of equal population. Courts have ruled that legislative districting plans must follow this principle, and that no district may deviate more than 10 percent from the ideal size. In Wisconsin, a standard of 1 percent is usually followed.

Protection of minority rights. Court interpretations of the Voting Rights Act have made it unlawful for states to draw district lines in a manner that dilutes the voting strength of racial minorities, either by concentrating them in a district or dividing them among two or more districts.

Compactness. It is generally considered desirable for districts to be as compact as possible, that is, centered on an area, rather than made in irregular shapes that bring far-flung interests together in the same district.

Contiguity. Districts must consist of one geographic entity; they must not include parts or fragments detached from the main body of the district.

Community of interest. The legislature will generally try to place persons of common interest in the same district where geographically possible. This common characteristic may be ethnic, linguistic, or a matter of keeping a whole county or municipality together in one district. Persons with common economic or political interests may also wish to be grouped together.

Political considerations. Redistricting is an inherently political process, as it is done by an elected legislature that will have to live

with the political consequences of the result. Political considerations, both of parties and of individuals, will underlie every decision made.

Trends in redistricting. Since the redistricting efforts following the 2000 census, there have been some noteworthy developments. Some states—like Texas and Colorado in 2003—have begun to create new district plans between census counts using the same 2000 census numbers. This has typically been done in states where political shifts have made it possible for new legislative majorities to draw plans more favorable to their parties than had been possible during the regular round of redistricting. In Colorado, the state supreme court found the action to be in violation of the state constitution.

The increasingly partisan atmosphere surrounding redistricting—and the charge of "partisan gerrymandering" creating districts that do not produce competitive elections—has resulted in calls for the redistricting task to be taken over by nonpartisan commissions. Two states, California and Ohio, have recently scheduled referenda on the subject.