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| West Virginia Univerisity college of law |
| Legislative Reapportionment and Redistricting Research |
| For Professor Robert M. Bastress |
|  |
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# 50 State Survey

# Alabama

**Basics:**

* State legislature is primarily responsible for drawing both congressional and state legislative district lines
* 105 State Representatives and 35 State Senators
	+ Senators elected every four years
	+ Reps elected every four years
* 7 US House Reps

**Statutes and legislation:**

* Alabama Const. Art. IX, Sec. 200 - Duty of legislature to fix number of senators and divide state into senatorial districts; equality of senatorial districts; senatorial districts not to be changed until next apportioning session; division of counties between senatorial districts prohibited; counties within senatorial districts to be contiguous.
	+ “It shall be the duty of the legislature at its first session after taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census, to fix by law the number of senators, and to divide the state into as many senatorial districts as there are senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one senator, and no more; and such districts, when formed, shall not be changed until the next apportioning session of the legislature, after the next decennial census of the United States shall have been taken; provided, that counties created after the next preceding apportioning session of the legislature may be attached to senatorial districts. No county shall be divided between two districts, and no district shall be made up of two or more counties not contiguous to each other.”
* Alabama Const. Art. XI, Sec. 198 - Maximum number of members of house of representatives; apportionment of house based on decennial census of United States.
	+ “The house of representatives shall consist of not more than one hundred and five members, unless new counties shall be created, in which event each new county shall be entitled to one representative. The members of the house of representatives shall be apportioned by the legislature among the several counties of the state, according to the number of inhabitants in them, respectively, as ascertained by the decennial census of the United States, which apportionment, when made, shall not be subject to alteration until the next session of the legislature after the next decennial census of the United States shall have been taken.”
* Alabama Const. Art. XI, Sec. 199 - Duty of legislature to fix number of representatives and apportion them among counties following each decennial census; each county entitled to at least one representative.
	+ “It shall be the duty of the legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census, to fix by law the number of representatives and apportion them among the several counties of the state, according to the number of inhabitants in them, respectively; provided, that each county shall be entitled to at least one representative.”

**Relevant Redistricting Case:**

Brooks v. Hobbie, 631 So. 2d 883 (Ala. 1993)

* Appellants initiated a case against the state legislature under federal law, challenging the way district lines were drawn. Appellants also initiated a separate case in state court challenging the existing state legislative district lines under both federal and state law. The state court tentatively approved a consent judgment adopting a plan for redistricting. A certified question was presented to the court concerning the state court's jurisdiction to enter its order adopting the reapportionment plan. The court affirmatively answered the certified question and held that the redistricting issue was justiciable. The court determined that the state court possessed general subject matter jurisdiction to decide all justiciable issues of federal and state constitutional and statutory law. The legislature had the initial responsibility to act in redistricting matters and when the legislature failed to act, the responsibility shifted to the state judiciary. The court concluded that reapportionment was primarily the duty and responsibility of the state through its legislature or other body rather than the federal court.

Rice v. English, 835 So. 2d 157 (Ala. 2002)

* The voters sought a judgment declaring that the new plan violated state law and injunctive relief. The trial court afforded the legislature appropriate deference in its solution to the difficult question of dividing the state into 35 senate districts with approximately equal population. The districts created by the legislature were within plus or minus five percent of the ideal population of a senate district. As judges, the appellate court could not overturn the redistricting plan on the grounds asserted by the voters. The voters failed to overcome the presumption of constitutionality that precedent required to attach to the redistricting plan. The appellate court declined to exercise the power of judicial review, as no express clause of the constitution was clearly disregarded. The appellate court refused to require further proceedings on whether a deviation in population of plus or minus five percent violated the constitutional mandate of Ala. Const. art. IX, § 200 that districts shall be as nearly equal to each other in the number of inhabitants as may be. The trial court properly entered a summary judgment in favor of the election officials, as joined in by the intervenors.

# Alaska

**Basics:**

* 1 US House of Representative and 60 state legislators from 30 legislative districts
	+ 1 state senator and 2 state reps per district
		- Senator elected every 2 years
		- Rep elected every 4 years
* US Senator elected by the whole state
* US House Rep elected by whole states since Alaska has only 1 US House District

**Statutes and legislation:**

* Alaska Const. Art. VI § 3
	+ Redistrict every 10 years are centennial for the house and the senate
	+ Based on the population within each house and senate district
* Alaska Stat. § 29.20.080
	+ (e) reapportionment prepared by assembly and given to voters to accept or reject
* Alaska Stat. § 15.10.300 – Preparation for legislative redistricting
	+ (a) put together Redistricting Planning Committee (5 members)
		- 1 appointed by Senate President
		- 1 appointed by Speaker of the House
		- 1 appointed by the Chief Justice of the Supreme Court of Alaska
		- 2 appointed by the governor of Alaska
	+ (f) committee may seek help from a Legislative Council
	+ (g) if the committee is unlawful, the Legislative Council takes over
* Alaska Const. Art. VI, § 6 – District Boundaries
	+ Redistricting Board shall establish the size and area of house districts, subject to the limitations of this article.
		- Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.
		- Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty
	+ Each senate district shall be composed as near as practicable of two contiguous house districts.
	+ Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

**Relevant Redistricting Cases:**

Kenai Peninsula Borough v. State, 743 P.2d 1352 (Alaska 1987)

* The reapportionment plan had the effect of creating a new state house district and a new state senate district. On appeal, the court partially affirmed and partially reversed the decision below. The realignment effectuated consistent and rational state policies by retaining a certain district in order to promote social and economic integration. Therefore, it did not violate the Equal Protection Clauses of either the Federal or Alaska Constitution. The creation of the new house district satisfied the socio-economic integration requirement of Alaska Const. art. VI, § 6 because the communities were relatively close geographically and were connected by a common hub. However, the new senate district violated the Equal Protection Clause of the Alaska Constitution, which imposed a stricter standard than its federal counterpart when no fundamental right was a stake, because the district was deliberately fashioned to dilute the voting power of Anchorage voters. Had truly proportionate representation been employed, Anchorage would have received an additional district. Therefore, that portion of the judgment was subject to reversal.

Walter J. Hickel v. Southeast Conference, 846 P.2d 38 (Alaska 1992)

* Respondent voters brought an action against the State of Alaska and the governor challenging the governor's legislative redistricting plan. The superior court found the plan unconstitutional. On review, the court noted that the governor had the power and duty to reapportion the state legislature every 10 years pursuant to Alaska Const. art. VI, § 3. However, a redistricting plan required contiguity, compactness, and relative socio-economic integration. The court found that the plan lacked socio-economic integration of the state's communities. The state constitution also required districts to be comprised of relatively integrated areas pursuant to Alaska Const. art. VI, § 6. The court found that the redistricting board had taken a "hard look" at the redistricting issue through the use of expert advice and the consideration of alternatives. The court also found that the redistricting board was subject to the Open Meetings Act, Alaska Stat. §§ 44.62.310-.312, and the Public Records Act, Alaska Stat. §§ 09.25.110-.140.

# Arizona

**Basics:**

* 9 US Reps
* 90 state legislators
	+ 30 districts, each with one state senators and two state representatives
	+ Elections are up for both seats every two years
* An independent commission is responsible for drawing both congressional and state legislative district lines

**Statutes and legislation:**

* A.R.S. § 16-1103 - Legislative and congressional redistricting; census enumeration
	+ For purposes of adopting legislative and congressional district boundaries, the legislature or any entity that is charged with recommending or adopting legislative or congressional district boundaries shall make its recommendations or determinations using population data from the United States bureau of the census identical to those from the actual enumeration conducted by the bureau for the apportionment of the representatives of the United States house of representatives in the United States decennial census and shall not use census bureau population counts derived from any other means, including the use of statistical sampling, to add or subtract population by inference.
* A.R.S. § 9-473 – Redistricting; Representation
	+ A. The common councils of incorporated cities and towns may redistrict and subdivide their territory into districts.
	+ B. Each district shall contain a nearly equal number of inhabitants at the time of the redistricting and shall consist of contiguous territory in as compact form as possible. The redistricting shall not be made within six months before a city, town or district election.
	+ C. Each district shall be entitled to one councilman or representative in the governing body who is elected pursuant to chapter 7, article 3 of this title.
* A.R.S. Const. Art. IV, Pt. 2 § 1 - Senate; house of representatives; members; special session upon petition of members; congressional and legislative boundaries; citizen commissions
	+ (1) The senate shall be composed of one member elected from each of the thirty legislative districts established pursuant to this section. The house of representatives shall be composed of two members elected from each of the thirty legislative districts established pursuant to this section.
	+ (3) By Feb 28 of each year ending in 1, an independent redistricting commission of five members shall be established to provide for the redistricting of congressional and state legislative districts.
		- No more than two members of the independent redistricting commission shall be members of the same political party
		- Of the first four members appointed, no more than two shall reside in the same county
		- Each member shall be a registered Arizona voter who has been continously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment, who is committed to applying the provisions of this section in an honest, independent and impartial fashion and to upholding public confidence in the integrity of the redistricting process.
		- Within the three years previous to appointment, members shall not have been appointed to, elected to, or a candidate for any other public office, not including school board member or officer, and shall not have served as an officer of a political party, or served as a registered paid lobbyist or as an officer of a candidate’s campaign committee
	+ (4) The commission on appellate court appointments shall nominate candidates for appointment to the independent redistricting commission, except that, if a politically balanced commission exists whose members are nominated by the commission on appellate court appointments and whose regular duties relate to the elective process, the commission on appellate court appointments may delegate to such existing commission (hereinafter called the commission on appellate court appointments’ designee) the duty of nominating members for the independent redistricting commission, and all other duties assigned to the commission on appellate court appointments in this section.
	+ (5) By January 8 of years ending in one, the commission on appellate court appointments or its designee shall establish a pool of persons who are willing to serve on and are qualified for appointment to the independent redistricting commission. The pool of candidates shall consist of twenty-five nominees, with ten nominees from each of the two largest political parties in Arizona based on party registration, and five who are not registered with either of the two largest political parties in Arizona.
	+ (6) Appointments to the independent redistricting commission shall be made in the order set forth below. No later than January 31 of years ending in one, the highest ranking officer elected by the Arizona house of representatives shall make one appointment to the independent redistricting commission from the pool of nominees, followed by one appointment from the pool made in turn by each of the following: the minority party leader of the Arizona house of representatives, the highest ranking officer elected by the Arizona senate, and the minority party leader of the Arizona senate. Each such official shall have a seven-day period in which to make an appointment. Any official who fails to make an appointment within the specified time period will forfeit the appointment privilege. In the event that there are two or more minority parties within the house or the senate, the leader of the largest minority party by statewide party registration shall make the appointment.
	+ (7) Any vacancy in the above four independent redistricting commission positions remaining as of March 1 of a year ending in one shall be filled from the pool of nominees by the commission on appellate court appointments or its designee. The appointing body shall strive for political balance and fairness.
	+ (8) At a meeting called by the Secretary of State, the four independent redistricting commission members shall select by majority vote from the nomination pool a fifth member who shall not be registered with any party already represented on the independent redistricting commission and who shall serve as chair. If the four commissioners fail to appoint a fifth member within fifteen days, the commission on appellate court appointments or its designee, striving for political balance and fairness, shall appoint a fifth member from the nomination pool, who shall serve as chair.
	+ (9) The five commissioners shall then select by a majority vote one of their members to serve as vice-chair
	+ (10) After having been served written notice and provided with an opportunity for a response, a member of the independent redistricting commission may be removed by the governor, with the concurrence of two-thirds of the senate, for substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.
	+ (11) If a commissioner or chair does not complete the term of office for any reason, the commission on appellate court appointments or its designee shall nominate a pool of three candidates within the first thirty days after the vacancy occurs. The nominees shall be of the same political party or status as was the member who vacated the office at the time of his or her appointment, and the appointment other than the chair shall be made by the current holder of the office designated to make the original appointment. The appointment of a new chair shall be made by the remaining commissioners. If the appointment of a replacement commissioner or chair is not made within fourteen days following the presentation of the nominees, the commission on appellate court appointments or its designee shall make the appointment, striving for political balance and fairness. The newly appointed commissioner shall serve out the remainder of the original term.
	+ (12) Three commissioners, including the chair or vice-chair, constitute a quorum. Three or more affirmative votes are required for any official action. Where a quorum is present, the independent redistricting commission shall conduct business in meetings open to the public, with 48 or more hours public notice provided.
	+ (13) A commissioner, during the commissioner’s term of office and for three years thereafter, shall be ineligible for Arizona public office or for registration as a paid lobbyist.
	+ (14) The independent redistricting commission shall establish congressional and legislative districts. The commencement of the mapping process for both the congressional and legislative districts shall be the creation of districts of equal population in a grid-like pattern across the state. Adjustments to the grid shall then be made as necessary to accommodate the goals as set forth below:
		- A) Districts shall comply with the US Constitution and the US Voting Rights Act
		- B) Congressional and state legislative districts shall have equal population to the extent practicable
		- C) Districts shall be geographically compact and contiguous to the extent practicable
		- D) District Boundaries shall respect communities of interest to the extent practicable
		- E) To the extent practicable, district lines shall use visible geographic features, city, town and county boundaries, and undivided census tracts
		- F) To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals.
	+ (15) Party registration and voting history data shall be excluded from the initial phase of the mapping process but may be used to test maps for compliance with the above goals. The places of residence of incumbents or candidates shall not be identified or considered.
	+ (16) The independent redistricting commission shall advertise a draft map of congressional districts and a draft map of legislative districts to the public for comment, which comment shall be taken for at least thirty days. Either or both bodies of the legislature may act within this period to make recommendations to the independent redistricting commission by memorial or by minority report, which recommendations shall be considered by the independent redistricting commission. The independent redistricting commission shall then establish final district boundaries.
	+ (17) he provisions regarding this section are self-executing. The independent redistricting commission shall certify to the Secretary of State the establishment of congressional and legislative districts.
	+ (18) Upon approval of this amendment, the department of administration or its successor shall make adequate office space available for the independent redistricting commission. The treasurer of the state shall make $6,000,000 available for the work of the independent redistricting commission pursuant to the year 2000 census. Unused monies shall be returned to the state’s general fund. In years ending in eight or nine after the year 2001, the department of administration or its successor shall submit to the legislature a recommendation for an appropriation for adequate redistricting expenses and shall make available adequate office space for the operation of the independent redistricting commission. The legislature shall make the necessary appropriations by a majority vote.
	+ (19) The independent redistricting commission, with fiscal oversight from the department of administration or its successor, shall have procurement and contracting authority and may hire staff and consultants for the purposes of this section, including legal representation.
	+ (20) The independent redistricting commission shall have standing in legal actions regarding the redistricting plan and the adequacy of resources provided for the operation of the independent redistricting commission. The independent redistricting commission shall have sole authority to determine whether the Arizona attorney general or counsel hired or selected by the independent redistricting commission shall represent the people of Arizona in the legal defense of a redistricting plan.
	+ (21) Members of the independent redistricting commission are eligible for reimbursement of expenses pursuant to law, and a member’s residence is deemed to be the member’s post of duty for purposes of reimbursement of expenses.
	+ (22) Employees of the department of administration or its successor shall not influence or attempt to influence the district-mapping decisions of the independent redistricting commission.
	+ (23) Each commissioner’s duties established by this section expire upon the appointment of the first member of the next redistricting commission. The independent redistricting commission shall not meet or incur expenses after the redistricting plan is completed, except if litigation or any government approval of the plan is pending, or to revise districts if required by court decisions or if the number of congressional or legislative districts is changed.

**Relevant Redistricting Cases:**

Ariz. Indep. Redistricting Comm'n v. Brewer, 229 Ariz. 347, 275 P.3d 1267 (2012)

* A special action was filed seeking to challenge the Governor's removal of a chairperson from the IRC under Ariz. Const. art. 4, pt. 2, § 1(10). The IRC contended that the Governor had exceeded her limited removal authority and that the Governor and respondent Senate had violated separation-of-powers principals. In granting relief, the Supreme Court determined that it had original subject matter jurisdiction in this case. It exercised its discretion to accept special action jurisdiction because the legal issues raised required prompt resolution and were of first impression and statewide importance. Next, the chairperson had standing because she was displaced from office, and there was no need to determine if the IRC had standing. Further, appellate review of whether the Governor complied with the constitutional legal standards in removing the chairperson was not barred by the political question doctrine. However, the case failed on the merits because neither of the grounds advanced by the Governor amounted to a removal with legal cause.

# Arkansas

**Basics:**

* 4 United States Representatives
	+ Out of four districts
* 135 State Legislators
	+ 35 state senate districts and 100 state house districts
		- State senators elected every four years
		- State Representatives elected every two years
	+ Congressional lines are drawn by the state legislature, as a regular statute, subject to gubernatorial veto
	+ Arkansas' state legislative lines are drawn by a three-member politician commission, in place since 1936, consisting of the Governor, Secretary of State, and Attorney General.

**Statutes and legislation:**

* Ark. Const. Art. 8, § 1 – Board of apportionment created – Powers and duties
	+ Board of Apportionment consists of the governor (acting as the Board’s chairman), the Secretary of State and the Attorney General.
	+ Their job to make apportionment of representatives
* Ark. Const. Art. 8 § 2 – One hundred members in House of Representatives – Apportionment
	+ The House of Representatives shall consist of one hundred members and each county existing at the time of any apportionment shall have at least one representative; the remaining members shall be equally distributed (as nearly as practicable) among the more populous counties of the State, in accordance with a ratio to be determined by the population of said counties as shown by the next Federal census
* Ark. Const. Art. 8 § 3 – Thirty-five members of Senate
	+ The Senate shall consist of thirty-five members. Senatorial districts shall at all times consist of contiguous territory, and no county shall be divided in the formation of such districts. "The Board of Apportionment" hereby created shall, from time to time, divide the state into convenient senatorial districts in such manner as that the Senate shall be based upon the inhabitants of the state, each senator representing, as nearly as practicable, an equal number thereof; each district shall have at least one senator.
* Ark. Const. Art. 8, § 4 – Duties of the Board of Apportionment
	+ On or before February 1 immediately following each Federal census, said board shall reapportion the State for Representatives, and in each instance said board shall file its report with the Secretary of State, setting forth (a) the basis of population adopted for representatives; (b) the number of representatives assigned to each county; whereupon, after 30 days from such filing date, the apportionment thus made shall become effective unless proceedings for revision be instituted in the Supreme Court within said period.
* Ark. Const. Art. 8, § 5 – Mandamus to compel Board of Apportionment to act
	+ Original jurisdiction (to be exercised on application of any citizens and taxpayers) is hereby vested in the Supreme Court of the State (a) to compel (by mandamus or otherwise) the board to perform its duties as here directed and (b) to revise any arbitrary action of or abuse of discretion by the board in making such apportionment; provided any such application for revision shall be filed with said Court within 30 days after the filing of the report of apportionment by said board with the Secretary of State; if revised by the court, a certified copy of its judgment shall be by the clerk thereof forthwith transmitted to the Secretary of State, and thereupon be and become a substitute for the apportionment made by the board.

**Relevant Redistricting Cases:**

Wells v. White, 274 Ark. 197, 623 S.W.2d 187 (1981)

* The voters sought to redistrict the legislature in a manner whereby no county lines would have been crossed in the formation of the various districts. The voters contended that each county should have had at least one representative and that each county should have had a degree of self-government through the recognition of local legislative authority. The court denied the writ. The court held that Ark. Const. amend. 45, §§ 2 and 3, which the voters relied on, were previously declared unconstitutional. The court also held that Ark. Const. amend. 23 was unconstitutional as it related to district boundaries because it violated the principal of one man one vote. The court concluded that it was necessary to deviate from county lines in order to achieve anything in the area of equal population among the districts because the individual county populations varied widely.

# California

**Basics:**

* An independent commission is responsible for drawing both congressional and state legislative district lines
* 53 congressional districts
	+ 53 Congressional Reps
	+ 2 Senators
* 120 State legislators
	+ 40 state Senate districts and 80 state assembly districts
		- State senators elected every four years, state reps elected every two years

**Statutes and legislation:**

* Cal Const, Art. XXI § 2 – Redistricting Commission; Drawing of district lines
	+ (a) The Citizens Redistricting Commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.
	+ (b) The commission shall: (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.
	+ (c)
		- (1) The selection process is designed to produce a commission that is independent from legislative influence and reasonably representative of this State's diversity.
		- (2) The commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.
		- (3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.
		- (4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.
		- (5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The four final redistricting maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.
		- (6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.
	+ **(d) The commission shall establish single-member districts for the Senate, Assembly, Congress, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:**
		- (1) Districts shall comply with the United States Constitution. Congressional districts shall achieve population equality as nearly as is practicable, and Senatorial, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.
		- (2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).
		- (3) Districts shall be geographically contiguous.
		- (4) The geographic integrity of any city, county, city and county, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions. A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.
		- (5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.
		- (6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.
	+ (e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.
	+ (f) Districts for the Congress, Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.
	+ (g) By **August 15 in 2011**, and in each year ending in the number one thereafter, the commission shall approve four final maps that separately set forth the district boundary lines for the congressional, Senatorial, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the four final maps to the Secretary of State.
	+ (h) The commission shall issue, with each of the four final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.
	+ (i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.
	+ (j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the California Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.

**Relevant Redistricting Cases:**

Vandermost v. Bowen, 53 Cal. 4th 421, 269 P.3d 446 ( 2012)

* The court concluded that the Commission's certified state Senate map was the most appropriate map to be used in the 2012 state Senate elections even if the proposed referendum were to qualify for the ballot. The court rejected petitioner's suggestion that should the commission-certified map be stayed by qualification of the proposed referendum, it would be impermissible for it to consider use of the Commission's map as an interim map for the 2012 elections. Unlike any of petitioner's proposed maps, the Commission's state Senate district map had survived petitioner's prior legal challenge. Unlike the proffered alternatives, not only did the Commission-certified Senate districts appear to comply with all of the constitutionally mandated criteria set forth in article XXI of the California Constitution, the Commission-certified Senate districts were a product of what generally appeared to have been an open, transparent and nonpartisan redistricting process. The Commission's certified state Senate map was the alternative most consistent with the constitutional scheme and criteria embodied in the U.S. and California Constitutions.

Wilson v. Eu, 1 Cal. 4th 707, 823 P.2d 545 (1992)

* Petitioner governor sought a writ of mandate to order apportionment of districts by respondent secretary of state and real parties in interest California legislature before the 1992 primary and general elections. The court ordered three masters to prepare a reapportionment plan because it lacked assurance that the plan would have been validly enacted in time for the 1992 elections. The court approved the masters' report and recommendations and denied the petition for a writ of mandate. The court found that each legislative and congressional district varied by less than one percent and 0.25 percent, respectively, from "ideal" population equality, and that these minor deviations were justified by legitimate state objectives of forming reasonably compact districts, which was part of the 1973 reapportionment criteria outlined by the court in order to comply with the Voting Rights Act of 1965 (VRA), 42 U.S.C.S. § 1971 et seq. The court held that the VRA authorized deliberate construction of minority controlled voting districts, thereby approving a new district with a combined minority population in excess of 85 percent

# Colorado

**Basics:**

* 7 US Reps and 100 State Legislators
* State legislature is responsible for drawing congressional district lines
	+ Subject to veto by the governor
* Politician commission is responsible for drawing the state legislative district boundaries
	+ Comprised of 11 members
		- Legislature’s four leaders (majority and minority leaders of each chamber) each select one member
		- Governor appoints three commissioners
		- Chief Justice of the Colorado Supreme Court selects the remaining four members
	+ Only four commissioners can be members of the state legislature
	+ No more than six can belong to the same political party
	+ No more than four commissioners may reside in the same congressional district.
	+ Each congressional district must be represented on the commission.
	+ At least one commissioner must live west of the continental divide

**Statutes and legislation:**

* Colo. Const. Art. V, Section 44 – Representatives in Congress
	+ The general assembly shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment shall be made by congress, the general assembly shall divide the state into congressional districts accordingly.
* Colo. Const. Art. V, Section 45 – General Assembly
	+ The general assembly shall consist of not more than thirty-five members of the senate and of not more than sixty-five members of the house of representatives, one to be elected from each senatorial and each representative district, respectively.
* Colo. Const. Art. V, Section 46 – Senatorial and Representative Districts
	+ The state shall be divided into as many senatorial and representative districts as there are members of the senate and house of representatives respectively, each district in each house having a population as nearly equal as may be, as required by the constitution of the United States, but in no event shall there be more than **five percent** deviation between the most populous and the least populous district in each house.
* Colo. Const. Art. V, Section 47 – Composition of Districts
	+ (1) Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible. Each district shall consist of contiguous whole general election precincts. Districts of the same house shall not overlap.
	+ (2) Except when necessary to meet the equal population requirements of section 46, no part of one county shall be added to all or part of another county in forming districts. Within counties whose territory is contained in more than one district of the same house, the number of cities and towns whose territory is contained in more than one district of the same house shall be as small as possible. When county, city, or town boundaries are changed, adjustments, if any, in legislative districts shall be as prescribed by law.
	+ (3) Consistent with the provisions of this section and section 46 of this article, communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.
* Colo. Const. Art. V, Section 48 – Revision and Alteration of Districts – Reapportionment Comission
	+ (1)
		- (a) After each federal census of the United States, the senatorial districts and representative districts shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by a Colorado reapportionment commission consisting of eleven members, to be appointed and having the qualifications as prescribed in this section. Of such members, four shall be appointed by the legislative department, three by the executive department, and four by the judicial department of the state.
		- (b) The four legislative members shall be the speaker of the house of representatives, the minority leader of the house of representatives, and the majority and minority leaders of the senate, or the designee of any such officer to serve in his or her stead, which acceptance of service or designation shall be made no later than April 15 of the year following that in which the federal census is taken. The three executive members shall be appointed by the governor between April 15 and April 25 of such year, and the four judicial members shall be appointed by the chief justice of the Colorado supreme court between April 25 and May 5 of such year.
		- (c) Commission members shall be qualified electors of the state of Colorado. No more than four commission members shall be members of the general assembly. No more than six commission members shall be affiliated with the same political party. No more than four commission members shall be residents of the same congressional district, and each congressional district shall have at least one resident as a commission member. At least one commission member shall reside west of the continental divide.
		- (d) Any vacancy created by the death or resignation of a member, or otherwise, shall be filled by the respective appointing authority. Members of the commission shall hold office until their reapportionment and redistricting plan is implemented. No later than May 15 of the year of their appointment, the governor shall convene the commission and appoint a temporary chairman who shall preside until the commission elects its own officers.
		- (e) Within one hundred thirteen days after the commission has been convened or the necessary census data are available, whichever is later, the commission shall publish a preliminary plan for reapportionment of the members of the general assembly and shall hold public hearings thereon in several places throughout the state within forty-five days after the date of such publication. No later than one hundred twenty-three days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than one hundred twenty-three days prior to the date established in statute for the event commencing the candidate selection process in such year, the commission shall finalize its plan and submit the same to the Colorado supreme court for review and determination as to compliance with sections 46 and 47 of this article. Such review and determination shall take precedence over other matters before the court. The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence for such plan. Any legal arguments or evidence concerning such plan shall be submitted to the supreme court pursuant to the schedule established by the court; except that the final submission must be made no later than ninety days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than ninety days prior to the date established in statute for the event commencing the candidate selection process in such year. The supreme court shall either approve the plan or return the plan and the court's reasons for disapproval to the commission. If the plan is returned, the commission shall revise and modify it to conform to the court's requirements and resubmit the plan to the court within the time period specified by the court. The supreme court shall approve a plan for the redrawing of the districts of the members of the general assembly by a date that will allow sufficient time for such plan to be filed with the secretary of state no later than fifty-five days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than fifty-five days prior to the date established in statute for the event commencing the candidate selection process in such year. The court shall order that such plan be filed with the secretary of state no later than such date. The commission shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of copies of each plan.
* C.R.S. 2-2-901 – Population data for redistricting – legislative declaration
	+ (c) The general assembly and the reapportionment commission must perform their constitutional duty to redraw the boundaries of congressional and state legislative districts using population data derived from the latest federal census, so that the equal population requirements of the federal and state constitutions can be satisfied;
	+ (d) Federal officials have proposed using statistical sampling techniques to modify the traditional headcount of the population;
	+ (e) The United States supreme court has held that the federal census act prohibits the use of statistically adjusted population data to apportion seats in the United States house of representatives among the states;
	+ (g) There is no reason for congress to use one set of population data for apportionment of seats in congress and for state redistricting authorities to use a different set of data to redraw congressional and state legislative district boundaries, and the federal government would incur additional costs by furnishing two sets of data to the states;
	+ (h) Using different population data for redistricting would subject the state of Colorado to the risk of litigation over the appropriate population figures, which form the very foundation of any congressional or state legislative redistricting plan;
	+ (i) It is therefore necessary to establish the intent of the general assembly that the same population data be used in the congressional and state legislative redistricting processes as is used for purposes of apportioning seats in the United States house of representatives among the states.
	+ (2) For purposes of redrawing the boundaries of congressional, state senatorial, and state representative districts after the federal census in the year 2010, the general assembly and the Colorado reapportionment commission shall use population data supplied by the United States bureau of the census that has been used to apportion the seats in the United States house of representatives among the states
* C.R.S. 2-2-208 – Redistricting
	+ Lays out the tracts of land and counties for each district
* C.R.S. 2-1-101 – Congressional districts
	+ Lays out the tracts of land and counties for each district
* C.R.S. 2-1-102 – Neutral criteria for judicial determinations of congressional districts
	+ (1) In determining whether one or more of the congressional districts established in section 2-1-101 are lawful and in adopting or enforcing any change to any such district, courts:
		- (a) Shall utilize the following factors:
			* (I) A good faith effort to achieve precise mathematical population equality between districts, justifying each variance, no matter how small, as required by the constitution of the United States. Each district shall consist of contiguous whole general election precincts. Districts shall not overlap.
			* (II) Compliance with the federal "Voting Rights Act of 1965", in particular 42 U.S.C. sec. 1973; and
		- (b) May, without weight to any factor, utilize factors including but not limited to:
			* (I) The preservation of political subdivisions such as counties, cities, and towns. When county, city, or town boundaries are changed, adjustments, if any, in districts shall be as prescribed by law.
			* (II) The preservation of communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors;
			* (III) The compactness of each congressional district; and
			* (IV) The minimization of disruption of prior district lines.

**Relevant Redistricting Cases:**

People ex rel. Salazar v. Davidson, 79 P.3d 1221 (Colo. 2003)

* When the general assembly failed to redraw congressional districts after the latest census and before the upcoming election, the court settled on a new seven-district plan. After the election, the general assembly enacted 2003 Colo. Sess. Laws 1645, 1645-58, a new redistricting plan. The attorney general filed the instant action requesting an injunction to prevent implementation of the new plan. In response, the secretary of state requested dismissal of the attorney general's petition, claiming that he could not bring an original proceeding of that type. The court issued a rule to show cause in both cases and made the rule absolute in the attorney general's case. The court first held that the attorney general had authority to sue the secretary, because the resolution of the redistricting plan dispute was a matter of great public importance. The court further held that U.S. Const. art. I, § 4, granted only limited authority to the state for congressional redistricting and that Colo. Const. art. V, § 44 further limited that power to redistricting only after a decennial census, before the ensuing election, and at no other time.

Hall v. Moreno, 2012 CO 14, 270 P.3d 961 (2012)

* The court concluded that the trial court reasonably balanced the many competing non-constitutional factors set forth in Colo. Rev. Stat. § 2-1-102 (2011) in a manner that would maximize fair and effective representation for all citizens. The trial court's findings were supported by the record, which was compiled through a thorough, open, and fair process. The trial court's adoption of the Moreno/South Map did not constitute an abuse of discretion. The trial court was reasonable in placing its concern for present communities of interest above a mechanistic attempt to minimize the disruption of existing district boundaries. While the adopted plan moved almost 1.4 million Coloradoans from their existing districts, it appeared that the trial court adopted the proposed map that it determined best balanced the many competing interests at stake. This conclusion was reasonable and was supported by the evidence, and thus, was neither arbitrary nor capricious. The trial court properly applied the controlling law and adopted a lawful redistricting scheme.

# Connecticut

**Basics:**

* Five US Representatives
	+ One rep per district
* 187 state legislators
	+ 36 state senators and 151 state House districts
	+ State senators and state reps are elected every two years
* State legislature is responsible for drawing both congressional and state legislative district lines
	+ New congressional and state legislative district maps must be approved by two-thirds majorities in both chambers of the legislature.
	+ If the legislature fails to adopt maps, a backup commission is convened to draft redistricting plans

**States and Legislation:**

* Conn. Const. Art. III., Sec. 3 – Senate, Number, Qualifications
	+ The senate shall consist of not less than thirty and not more than fifty members, each of whom shall be an elector residing in the senatorial district from which he is elected. Each senatorial district shall be contiguous as to territory and shall elect no more than one senator.
* Conn. Const. Art. III., Sec. 4 – House of representatives, how constituted
	+ The house of representatives shall consist of not less than one hundred twenty-five and not more than two hundred twenty-five members, each of whom shall be an elector residing in the assembly district from which he is elected. Each assembly district shall be contiguous as to territory and shall elect no more than one representative. For the purpose of forming assembly districts no town shall be divided except for the purpose of forming assembly districts wholly within the town.
* Conn. Const. Art. III., Sec. 5 – Districts to be consistent with federal standards
	+ The establishment of districts in the general assembly shall be consistent with federal constitutional standards.
* Conn. Const. Art. III., Sec. 6 – Decennial reapportionment
	+ The assembly and senatorial districts as now established by law shall continue until the regular session of the general assembly next after the completion of the next census of the United States. Such general assembly shall, upon roll call, by a yea vote of at least two-thirds of the membership of each house, enact such plan of districting as is necessary to preserve a proper apportionment of representation in accordance with the principles recited in this article. Thereafter the general assembly shall decennially at its next regular session following the completion of the census of the United States, upon roll call, by a yea vote of at least two-thirds of the membership of each house, enact such plan of districting as is necessary in accordance with the provisions of this article.
		- b. If the general assembly fails to enact a plan of districting by the first day of the April next following the completion of the decennial census of the United States, **the governor shall forthwith appoint a commission consisting of the eight members designated by the president pro tempore of the senate, the speaker of the house of representatives, the minority leader of the senate and the minority leader of the house of representatives, each of whom shall designate two members of the commission, provided that there are members of no more than two political parties in either the senate or the house of representatives. In the event that there are members of more than two political parties in a house of the general assembly, all members of that house belonging to the parties other than that of the president pro tempore of the senate or the speaker of the house of representatives, as the case may be, shall select one of their number, who shall designate two members of the commission in lieu of the designation by the minority leader of that house.**
		- c. The commission shall proceed to consider the alteration of districts in accordance with the principles recited in this article and it shall submit a plan of districting to the secretary of the state by the first day of the July next succeeding the appointment of its members. No plan shall be submitted to the secretary unless it is certified by at least six members of the commission. Upon receiving such plan the secretary shall publish the same forthwith, and, upon publication, such plan of districting shall have the full force of law.
		- d. If by the first day of the July next succeeding the appointment of its members the commission fails to submit a plan of districting, a board of three persons shall forthwith be empaneled. The speaker of the house of representatives and the minority leader of the house of representatives shall each designate, as one member of the board, a judge of the superior court of the state, provided that there are members of no more than two political parties in the house of representatives. In the event that there are members of more than two political parties in the house of representatives, all members belonging to the parties other than that of the speaker shall select one of their number, who shall then designate, as one member of the board, a judge of the superior court of the state, in lieu of the designation by the minority leader of the house of representatives. The two members of the board so designated shall select an elector of the state as the third member.
		- e. The board shall proceed to consider the alteration of districts in accordance with the principles recited in this article and shall, by the first day of the October next succeeding its selection, submit a plan of districting to the secretary. No plan shall be submitted to the secretary unless it is certified by at least two members of the board. Upon receiving such plan, the secretary shall publish the same forthwith, and, upon publication, such plan of districting shall have the full force of law.

**Relevant Redistricting Cases:**

Fonfara v. Reapportionment Com., 222 Conn. 166, 610 A.2d 153 (1992)

* The citizens and electors of the state challenged the decennial reapportionment of respondent reapportionment commission. The court noted that once a duly appointed reapportionment commission published a redistricting plan, Conn. Const. art. III, § 6(c) prescribed that the redistricting plan had the full force of law. Thus, the court's review of the validity of the plan, like any other judicial review, was limited to an inquiry into the plan's compliance with applicable state and federal constitutional mandates. This review invoked the court's judicial authority, but did not warrant the court's exercise of legislative power. Thus, the court refused the citizens' request that the court correct alleged errors in the plan. The court stated that its judicial reluctance to become too deeply involved in reapportionment disputes was not confined to prudential concerns about entering the political thicket. It also stemmed from the inherent unsuitability of such disputes to the ordinary and traditional principles of adjudication. The court found that the citizens and electors had failed to meet their burden of showing a constitutional violation of the town integrity principle.

Slane v. Town of Fairfield, 2013 Conn. Super. LEXIS 1629, \*3 (Conn. Super. Ct. July 19, 2013) (this one may be municipal. Check later)

* In a suit brought by a resident challenging a town ordinance regarding redistricting, the resident was held to have standing to pursue the claim because he alleged that he would be adversely affected by the implementation of the allegedly illegal redistricting ordinance by virtue of the resulting change in the boundaries, location, population and composition of the voting district in which he resided and voted; The resident was granted a temporary injunction enjoining a town from implementing the redistricting plan because he demonstrated that the redistricting ordinance was void ab initio, no other action but an injunction would allow the resident to seek to vindicate damage to his right to vote, and he met the burden of establishing that it was likely that he would be able to establish a violation of the town charter in a number of respects.

# Delaware

**Basics:**

* 1 US Rep
* 62 state legislatures
* State legislature is responsible for drawing district lines
	+ Governor can veto the redistricting plans
* 21 state senate districts and 41 state house districts
	+ State senate elected every four years
	+ State house reps are elected every two years

**Statutes and legislation:**

* 29 Del. C. § 801 – Composition of the House of Representatives
	+ The House of Representatives shall be composed of 41 members who shall be chosen to hold office for 2 years. The State shall be divided into 41 representative districts, from each of which shall be chosen, by the qualified electors thereof, 1 Representative.
* 29 Del. C. § 802 – Composition of the Senate; staggered terms
	+ The Senate shall be composed of 21 members who shall be chosen to hold office for 4 years. The State shall be divided into 21 senatorial districts, from each of which shall be chosen by the qualified electors thereof, 1 Senator. The terms of office of the several Senators shall be staggered so that 10 Senators shall be elected at the first biennial general election following June 30, 2011, for a term of 2 years, and 11 Senators shall be elected at such election for a term of 4 years.
* 29 Del. C. § 804 – Determining district boundaries; criteria
	+ In determining the boundaries of the several representative and senatorial districts within the State, the General Assembly shall use the following criteria. Each district shall, insofar as is possible:
		- (1) Be formed of contiguous territory;
		- (2) Be nearly equal in population;
		- (3) Be bounded by major roads, streams or other natural boundaries; and
		- (4) Not be created so as to unduly favor any person or political party.
* 29 Del. C. § 804A – Determining district boundaries for incarcerated individuals; criteria
	+ (a) The General Assembly, in determining the reapportionment and redistricting for the State, applying the criteria set forth in § 804 of this title, and using the official reporting of the federal decennial census as set forth in § 805 of this title, shall not count as part of the population in a given district boundary any incarcerated individual who:
		- (1) Was incarcerated in a state or federal correctional facility, as determined by the decennial census; and
		- (2) Was not a resident of the State before the person's incarceration.
	+ (b) The General Assembly, in determining the reapportionment and redistricting for the State as provided in this subchapter, shall count as part of the population in a given district boundary any individual incarcerated in a state or federal correctional facility, as determined by the decennial census, if the individual was a resident of the State prior to incarceration. Such individual shall be counted for reapportionment and redistricting purposes at the individual's last known residence prior to incarceration.
	+ (c) This section shall not apply to the redistricting of the State following the 2010 federal decennial census. This section shall apply to the redistricting of the State following each federal decennial census thereafter.
* 29 Del. C. § 805 Redistricting after federal decennial census
	+ The apportionment provided for by this chapter shall continue in effect until the official reporting by the President of the United States of the next federal decennial census. After the official reporting of the 2020 federal decennial census by the President to Congress, the General Assembly shall, not later than June 30, 2021, reapportion and redistrict the State, wherever necessary, for the general election of 2022 and thereafter in such a manner that the several representative and senatorial districts shall comply, insofar as possible, with the criteria set forth in § 804(1)-(4) of this title. Such apportionment shall thence continue in effect until the next succeeding federal decennial census.
* 29 Del. C. § 806 – Staggered senatorial districts
	+ (a) The Senators from the 1st, 5th, 7th, 8th, 9th, 12th, 13th, 14th, 15th, 19th and 20th Senatorial Districts shall be elected for 4-year terms in 2012 and 2016 and for a 2-year term in 2020.
	+ (b) The Senators from the 2nd, 3rd, 4th, 6th, 10th, 11th, 16th, 17th, 18th and 21st Senatorial Districts shall be elected for a 2-year term in 2012 and for 4-year terms in 2014 and 2018.
* 29 Del. C. § 821 – Boundaries of the General Assembly House of Representative Districts
	+ Goes over every boundary for the House of Representative districts
* 29 Del. C. § 831 - Boundaries of the General Assembly Senate Districts
	+ Goes over every boundary for the General Assembly Senate Districts
* 29 Del. C. § 841 – Filing of maps
	+ Maps of the several representative and senatorial districts shall be prepared by the respective departments of elections of each county. The maps shall be certified as to correctness by the president and director of the respective departments of elections and recorded in the offices of the recorder of deeds for the respective counties. Two true and correct copies of these maps shall also be filed, not later than January 1, 2012, in the respective county departments of elections, with the State Election Commissioner, the respective state chairpersons of the 2 major political parties and the State Archivist and Records Administrator.

**Relevant Redistricting Cases:**

Hickman v. Workman, 450 A.2d 388 (Del. 1982)

* It is undisputed that the General Assembly had the right to establish and reapportion councilmanic election districts in Sussex County prior to the time it passed the Home Rule Act. See Sincock, supra, 215 F. Supp. at 191. In fact, periodic reapportionments in response to growth and shifts in population is constitutionally required. See, Reynolds v. Sims, 377 U.S. 533, 12 L. Ed. 2d 506, 84 S. Ct. 1362 (1964); Roman v. Sincock, 377 U.S. 695, 12 L. Ed. 2d 620, 84 S. Ct. 1449 (1964); Cohen v. Maloney, D.Del., 410 F. Supp. 1147 (1976). It also is undisputed that the General Assembly could validly delegate its reapportionment authority to the Council, since there is nothing in the Delaware Constitution which precluded it from so doing. Further, the broad liberal construction provision of § 7001(b) of the Home Rule Act may be interpreted as in effect rebutting application of the "expressio unuis" maxim to the Act's terms.

Opinion of Justices, 56 Del. 118, 190 A.2d 519 (1963)

* Article II, Section 10 of the Constitution requires that each House of the General Assembly shall keep a journal of its proceedings in which the final vote by yeas and nays upon all bills finally passed by the particular House shall be entered. We are, of course, quite sure that this provision was followed with respect to the final passage of the amendment before us.
* Article XVI, Section I provides that when final passage of a proposed amendment by yea and nay vote has taken place in both Houses of the General Assembly, "the same shall thereupon become part of the Constitution." This final passage is evidenced by the record of such yea and nay votes in the respective journals of the Senate and House kept in accordance with Article II, Section 10 of the Constitution. It appears from your letter that the date of the latest of such votes was in the Senate on January 17, 1963. This, accordingly, is the date on which the amendment was "agreed to by two-thirds of all the members elected to each House." It is therefore the effective date of the amendment. See State v. Anderson, 35 Del. 407, 5 W.W. Harr. 407, 166 A. 662.

# Florida

**Basics:**

* 27 United States Reps
* 160 state legislators
	+ 40 state Senate districts and 120 state House districts
	+ State Senators elected every four years, House reps elected every two years
* State legislature is responsible for drawing both congressional and state legislative district lines.
	+ Since 1930, Florida has gained additional congressional seats every 10 years

**Statutes and legislation:**

* Fla. Const. Art. III, § 16 – Legislative apportionment
	+ (a) Senatorial and representative districts. — The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory. Should that session adjourn without adopting such joint resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment.
	+ (b) Failure of legislature to apportion; judicial reapportionment. — In the event a special apportionment session of the legislature finally adjourns without adopting a joint resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. No later than the sixtieth day after the filing of such petition, the supreme court shall file with the custodian of state records an order making such apportionment.
	+ (c) Judicial review of apportionment. — Within fifteen days after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The Supreme Court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.
	+ (d) Effect of judgment in apportionment; extraordinary apportionment session. — A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.
	+ (e) Extraordinary apportionment session; review of apportionment. — Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court. Consideration of the validity of a joint resolution of apportionment shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.
	+ (f) Judicial reapportionment. — Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the custodian of state records an order making such apportionment.
* Fla. Const. Art. III, § 21 – Standard for Establishing Legislative District Boundaries
	+ In establishing Legislative district boundaries:
		- (a) No apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.
		- (b) Unless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.
		- (c) The order in which the standards within sub-sections (a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection.
* Fla. Const. Art. X, § 8 – Census
	+ (a) Each decennial census of the state taken by the United States shall be an official census of the state.
	+ (b) Each decennial census, for the purpose of classifications based upon population, shall become effective on the thirtieth day after the final adjournment of the regular session of the legislature convened next after certification of the census.
* Fla. State. § 10.11 – Official census for apportionment; definitions
	+ (1) In accordance with s. 8(a), Art. X of the State Constitution, the United States Decennial Census of 2010 is the official census of the state for the purposes of this joint resolution.
	+ (2) The following delineation of representative and senatorial districts employs areas included within official county, voting tabulation district, tract, and block boundary descriptions used by the United States Department of Commerce, Bureau of the Census, in compiling the United States Decennial Census of 2010 in this state. The populations within these census geographic units are the population figures reported in the counts of the United States Decennial Census of 2010 provided to the state in accordance with Pub. L. No. 94-171.
	+ (3) Definitions for joint resolution maps
		- (a)-(c) definitions
* 2012 Legis. Bill Hist. FL S.B. 1176, 2012 Legis. Bill Hist. FL S.B. 1176
	+ Districts must comply with the Equal Protection clause of the Fourteenth Amendment
	+ No districts may be drawn to favor or disfavor a political party
	+ Districts should be compact and not irregularly shaped

**Relevant Redistricting Cases:**

In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So. 3d 597 (Fla. 2012)

* Within thirty days of receiving the Attorney General's petition, and after permitting adversary interests to present their views, the court had a mandatory obligation under the Florida Constitution to render the declaratory judgment determining the validity of the apportionment plans. The new standards expressed in the Fair Districts Amendment, Art. III, § 21, Fla. Const., which was imposed by the voters and clearly acted as a restraint on legislative discretion in drawing apportionment plans, were defined for the first time. With the addition of the Fair Districts Amendment, the limitations on legislative authority in apportionment decisions had increased and the constitutional yardstick had more measurements. The court entered judgment declaring the apportionment plan of the House of Representatives, as contained in the joint resolution, to be valid under the Florida Constitution and declaring the apportionment plan of the Senate, as contained in the joint resolution, to be constitutionally invalid. As contemplated by § 16(d), the Legislature then had the task of adopting a joint resolution conforming to the court's judgment.

Advisory Opinion to the AG re: Standards for Establishing Legislative District Boundaries, 2 So. 3d 175 (Fla. 2009)

* The amendments at issue addressed legislative and congressional boundaries. The court noted that the two amendments and their respective ballot titles and summaries were nearly identical except for references to legislative versus congressional boundaries. The Legislature, in opposition, asserted that the proposed amendments violated the single-subject requirement of Art. XI, § 3, Fla. Const., and were misleading in various ways. The court held that the proposed amendments meet the legal requirements of Art. XI, § 3 and that the ballot titles and summaries complied with § 101.161(1), Fla. Stat. (2008). The court held that the proposed amendments encompassed a single subject, did not engage in logrolling, and did not substantially alter the functions of multiple branches of government. The court held that the proposed amendments addressed a single function of a single branch of government, namely establishing additional guidelines for the Legislature to apply when it redistricts legislative and congressional boundaries. None of the Legislature's contentions that the proposed amendments were misleading were found to have any merit.

League of Women Voters of Fla. v. Fla. House of Representatives, 132 So. 3d 135 (Fla. 2013)

* The issue is whether the defendants, Florida legislators and legislative staff, had an absolute privilege against testifying to whether intervenor, the legislature, drew a congressional apportionment plan with unconstitutional partisan or discriminatory "intent," contrary to Art. III, § 20(a), Fla. Const. The court held that [1]-A legislative privilege was recognized because Art. II, § 3, Fla. Const., separation of powers favored it; [2]-The privilege did not bar discovering a violation of Art. III, § 20(a), Fla. Const., except thoughts and impressions of legislators and legislative staff, because, to ensure the legislature did not engage in unconstitutional partisan political gerrymandering, plaintiffs challengers had to be able to discover evidence of unconstitutional intent, and letting the legislature alone shield the reapportionment process from discovery would undermine Art. III, § 20(a), Fla. Const.

# Georgia

**The Basics:**

* 14 US Representatives
* 236 state legislators
	+ 56 state Senators and 180 state House districts
		- Both are elected every two years in partisan elections
* State legislature draws both the congressional and state legislative districts

**Statutes and legislation:**

* Ga. Const. Art. III, § II, Para. I – Senate and House Representatives
	+ (a) The Senate shall consist of not more than 56 Senators, each of whom shall be elected from single-member districts.
	+ (b) The House of Representatives shall consist of not fewer than 180 Representatives apportioned among representative districts of the state.
* Ga. Const. Art. III, § II, Para. II – Apportionment of General Assembly
	+ The General Assembly shall apportion the Senate and House districts. Such districts shall be composed of contiguous territory. The apportionment of the Senate and of the House of Representatives shall be changed by the General Assembly as necessary after each United States decennial census.
* Ga. Const. Art. III, § II, Para. V – Election and terms of members
	+ (a) The members of the General Assembly shall be elected by the qualified electors of their respective districts for a term of two years and shall serve until the time fixed for the convening of the next General Assembly.
	+ (b) The members of the General Assembly in office on June 30, 1983, shall serve out the remainder of the terms to which elected.
	+ (c) The first election for members of the General Assembly under this Constitution shall take place on Tuesday after the first Monday in November, 1984, and subsequent elections biennially on that day until the day of election is changed by law.
* O.C.G.A. § 28-2-1 – Apportionment and qualifications for the House of Representatives
	+ (a)
		- (1) There shall be 180 members of the House of Representatives.
		- (2) The General Assembly by general law shall divide the state into 180 representative districts which shall consist of either a portion of a county or a county or counties or any combination thereof and shall be represented by one Representative elected only by the electors of such district.
	+ (b) A member of the House of Representatives shall be a resident of the district which such member represents and at the time of such member's election shall have been a resident of the territory embraced within such district for at least one year preceding such time.
* O.C.G.A. § 28-2-2 – Apportionment and qualifications for the Senate
	+ (a) There shall be 56 members of the Senate. The General Assembly shall by general law divide the state into 56 Senate districts which shall be composed of a portion of a county or a county or counties or a combination thereof and shall be represented by one Senator elected only by the electors of such district.
	+ (b) A member of the Senate shall be a resident of the district which such member represents and at the time of such member's election shall have been a resident of the territory embraced within such district for at least one year preceding such time.
* O.C.G.A. § 21-1-2 – Designation of congressional districts
	+ The General Assembly shall by general law divide the state into 14 congressional districts. There shall be elected one representative to the Congress of the United States from each such district by the electors of such district.
* 2011 Ga. ALS 3EX; 2011 Ga. Laws 3EX; 2011 Ga. Act 3EX;, 2011 Ga. HB 20, 2011 Ga. ALS 3EX; 2011 Ga. Laws 3EX; 2011 Ga. Act 3EX;, 2011 Ga. HB 20 – Georgia Congressional Reapportionment Act of 2011
	+ (a) For the purpose of electing representatives to the Congress of the United States, the State of Georgia is divided into 14 congressional districts. Such congressional districts shall be and correspond to those 14 numbered districts described in and attached to and made a part of this Act and further identified as "Plan: congprop2 Plan Type: Congress Administrator: H167 User: Gina".
	+ (d) Any part of the State of Georgia which is described in subsection (a) of this section as being included in a particular congressional district shall nevertheless not be included within such congressional district if such part is not contiguous to such congressional district. Such noncontiguous part shall instead be included within that congressional district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.

**Relevant Redistricting Cases:**

Perdue v. Baker, 277 Ga. 1, 586 S.E.2d 606 (2003)

* The legislature passed a law reapportioning state senate districts. A federal district court declined to give the plan preclearance under § 5 (42 U.S.C.S. § 1973c) of the Voting Rights Act; the Attorney General appealed to the U.S. Supreme Court. Meanwhile, the legislature enacted a revised plan, 2002 Ga. Laws 149 (Act 444); the new districts would take effect only if the prior act was held to violate the Voting Rights Act. In denying the Governor relief, the trial court ruled that the Attorney General had exclusive authority to decide whether to continue the appeal. The state supreme court rejected the Attorney General's claim that the instant appeal became moot when the U.S. Supreme Court vacated the federal district court's judgment and remanded the case. First, that federal case was still pending; second, the issue was one of significant public concern, was capable of repetition, and had evaded review. Under the constitution and statutes, neither officer had the exclusive power to decide the State's interest in litigation. By declining to dismiss the appeal, the Attorney General was fulfilling a duty required by Act 444. Act 444 did not violate separation of powers principles.

Blum v. Schrader, 281 Ga. 238, 637 S.E.2d 396 (2006)

* The voters argued that S.B. 386 violated Ga. Const. art. III, § II, para. II. The state's highest court held that Ga. Const. 1976 art. III, § II, para. II and Ga. Const. art. III, § II, para. II were essentially identical with respect to the frequency of reapportionment. As long as the latest census figures were used, nothing in the provision prevented the Georgia legislature from apportioning contiguous territory into Senate and House districts as frequently as a majority of its members determined was expedient. The voters' claim that once the legislature had reapportioned itself after a census, the power could not be exercised again until a subsequent census rendered it necessary to do so was rejected. After the applicable rules of construction were applied, the provision required the legislature to reapportion itself at least once after each census if necessary, but the exercise was not limited to a once-in-a-decade occurrence. The frequency of reapportionment between censuses was a matter of unfettered legislative discretion. S.B. 386 Gen. Assem. (Ga. 2006) was enacted pursuant to the legislature's exercise of the discretionary authority granted by the Georgia Constitution.

# Hawaii

**Basics:**

* 2 US Reps
* 76 state legislators
	+ 25 state Senate districts and 51 state house districts
	+ State Senators elected every four years, state house reps elected every two
* A politician commission draws both congressional and state legislative district lines

**Statutes and legislation:**

* HRS Const. Art. III, § 2 – Composition of Senate
	+ The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. Until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be as set forth in the Schedule.
* HRS Const. Art. III, § 3 – Composition of House of Representatives
	+ The house of representatives shall be composed of fifty-one members, who shall be elected by the qualified voters of the respective representative districts. Until the next reapportionment, the representative districts and the number of representatives to be elected from each shall be as set forth in the Schedule.
* HRS Const. Art. IV, § 2 – Reapportionment Commission
	+ A reapportionment commission shall be constituted on or before May 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the House of Representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected, promptly after selection, shall be certified by the selecting authorities to the chief election officer and within thirty days thereafter, shall select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall serve as chairperson of the commission.
	+ Each of the four officials designated above as selecting authorities for the eight members of the commission, at the time of the commission selections, shall also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.
	+ A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.
	+ The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.
	+ Not more than one hundred fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts which shall become law after publication as provided by law. Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law.
	+ Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.
	+ The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties.
* HRS Const. Art. IV, § 3 – Chief Election Officer
	+ The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting.
* HRS Const. Art. IV, § 4 – Apportionment Among Basic Island Units
	+ The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, using the total number of permanent residents in each of the basic island units and computed by the method known as the method of equal proportions; except that no basic island unit shall receive less than one member in each house.
* HRS Const. Art. IV, § 5 – Minimum Representation for Basic Island Units
	+ The representation of any basic island unit initially allocated less than a minimum of two senators and three representatives shall be augmented by allocating thereto the number of senators or representatives necessary to attain such minimums which number, notwithstanding the provisions of Sections 2 and 3 of Article III shall be added to the membership of the appropriate body until the next reapportionment. The senators or representatives of any basic island unit so augmented shall exercise a fractional vote wherein the numerator is the number initially allocated and the denominator is the minimum above specified.
* HRS Const. Art. IV, § 6 – Apportionment Within Basic Island Units
	+ Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of permanent residents per member in each district is as nearly equal to the average for the basic island unit as practicable.

In effecting such redistricting, the commission shall be guided by the following criteria:

* + - 1. No district shall extend beyond the boundaries of any basic island unit.
		- 2. No district shall be so drawn as to unduly favor a person or political faction.
		- 3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
		- 4. Insofar as practicable, districts shall be compact.
		- 5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.
		- 6. Where practicable, representative districts shall be wholly included within senatorial districts.
		- 7. Not more than four members shall be elected from any district.
		- 8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.
* HRS Const. Art. IV, § 7 – Election of Senators after reapportionment
	+ Regardless of whether or not a senator is serving a term that would have extended past the general election at which an apportionment plan becomes effective, the term of office of all senators shall end at that general election. The staggered terms of senators in each district shall be recomputed as established by the next section in this article, and the number of senators in a senatorial district under the reapportionment plan of the commission.
* HRS Const. Art. IV, § 8 – Staggered terms for the Senate
	+ The reapportionment commission shall, as part of the reapportionment plan, assign two-year terms for twelve senate seats for the election immediately following the adoption of the reapportionment plan. The remaining seats shall be assigned four-year terms. Insofar as practicable, the commission shall assign the two-year terms to senate seats so that the resident population of each senate district shall have no more than two regular senate elections for a particular senate seat within the six-year period beginning in the even-numbered year prior to the reapportionment year; provided that in the event of a multi-member senate district, the senators elected with the highest number of votes in that district in the election immediately following the adoption of the reapportionment plan shall fill the senate seats in that district which were assigned the four-year terms by the commission.
* HRS Const. Art. IV, § 9 – Congressional Redistricting for United States House of Representatives
	+ The commission shall, at such times as may be required by this article and as may be required by law of the United States, redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State by Congress are elected.
* HRS Const. Art. IV, § 10 – Mandamus and Judicial Review
	+ Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition shall be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan.

**Relevant Redistricting Cases:**

Solomon v. Abercrombie, 126 Haw. 283, 270 P.3d 1013 (2012)

* The reapportionment commission apportioned the Hawai'i state legislature through a method that excluded from the counties' permanent resident populations only non-permanent residents identifiable to particular census blocks. The court found the census block method invalid because it did not properly separate the initial process of allocating the legislative members among the four counties pursuant to Haw. Const. art. IV, § 4 and Haw. Rev. Stat. § 25-2(a) from the subsequent process of apportioning the members within county districts pursuant to Haw. Const. art. IV, § 6. Apportionment of the state legislature under § 25-2(a) required use of the basis, method, and criteria prescribed by Haw. Const. art. IV, § 4, which specified using the total number of permanent residents in each of the basic island units. Thus, the reapportionment commission should have identified the non-permanent resident population for each county before it moved on to identifying residence addresses. The court accordingly invoked its power under Haw. Const. art. IV, § 10 to direct the reapportionment commission to prepare and file a corrected plan under the authority of Haw. Rev. Stat. § 25-9 (2009).

Kawamoto v. Okata, 75 Haw. 463, 868 P.2d 1183 (1994)

* The committee was charged with reapportioning nine city council districts for upcoming council elections. After considering two reapportionment plans, the committee adopted a plan that split one particular community into three separate districts. In his petition for a writ of mandamus, the citizen claimed that the plan illegally diluted the voting power of the community's residents, caused great confusion to the average voter, and favored some or all incumbent council members. In denying the citizen's petition, the court held that the council districts created by the plan were contiguous and compact as required by, inter alia, the Hawaii Constitution. It also ruled that because of the heterogeneous nature of the class of voters in the community, such voters did not qualify as a group subject to special protection under the equal protection clause of the United States Constitution. The court further found no evidence of invidious purpose in the plan, and it rejected the citizen's argument that the plan would cause confusion among the voters. Thus, the court held that the committee had not abused its discretion in adopting the reapportionment plan.

# Idaho

**Basics:**

* Two US Representatives
* 105 State legislators
	+ 35 legislative districts
		- One state senator and two state representatives are elected from each district
		- Both elected every two years in partisan elections
* An independent commission is primarily responsible for drawing both congressional and state legislative district lines

**Statues and Legislation:**

* Idaho Const. Art. III, § 4 – Apportionment of legislature
	+ The members of the legislature following the decennial census of 1990 and each legislature thereafter shall be apportioned to not less than thirty nor more than thirty-five legislative districts of the state as may be provided by law.
* Idaho Const. Art. III, § 5 – Senatorial and representative districts
	+ A senatorial or representative district, when more than one county shall constitute the same, shall be composed of contiguous counties, and a county may be divided in creating districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the constitution of the United States. A county may be divided into more than one legislative district when districts are wholly contained within a single county. No floterial district shall be created. Multi-member districts may be created in any district composed of more than one county only to the extent that two representatives may be elected from a district from which one senator is elected. The provisions of this section shall apply to any apportionment adopted following the 1990 decennial census.
* Idaho Code § 72-1501 – Commission for reapportionment
	+ (1) A commission for reapportionment shall be organized, upon the order of the secretary of state, in the event that:
		- (a) A court of competent jurisdiction orders a redistricting of an existing state legislative or congressional plan; or
		- (b) In a year ending in one (1), a new federal census is available, in which case an order shall be issued no earlier than June 1.
	+ (2) A commission formed pursuant to paragraph (1)(b) of this section shall be reconvened if, prior to the next general election, a court of competent jurisdiction orders the plan adopted by that commission to be revised.
* Idaho Code § 72-1502 – Members of the commission for reapportionment
	+ The president pro tempore of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives shall each designate one (1) member of the commission and the state chairmen of the two (2) largest political parties, determined by the vote cast for governor in the last gubernatorial election, shall each designate one (1) member of the commission. Appointing authorities should give consideration to achieving geographic representation in appointments to the commission. If an appointing authority does not select the members within fifteen (15) calendar days following the secretary of state's order to form the commission, such members shall be appointed by the Supreme Court.
	+ Should a vacancy on the commission occur during the tenure of a commission, the secretary of state shall issue an order officially recognizing such vacancy. The vacancy shall be filled by the original appointing authority within fifteen (15) days of the order. Should the original appointing authority fail to make the appointment within fifteen (15) days, the vacancy shall be filled by the Supreme Court.
	+ No person may serve on the commission who:
		- (1) Is not a registered voter of the state at the time of selection; or
		- (2) Is or has been within one (1) year a registered lobbyist; or
		- (3) Is or has been within two (2) years prior to selection an elected official or elected legislative district, county or state party officer. The provisions of this subsection do not apply to the office of precinct committeeperson.
	+ A person who has served on a commission for reapportionment shall be precluded from serving in either house of the legislature for five (5) years following such service on the commission and shall be precluded from serving on a future commission for reapportionment unless the commission is reconstituted because a court of competent jurisdiction has invalidated a plan of the commission and the commission is required to meet to complete a reapportionment or redistricting plan. This limitation on serving on a future commission for reapportionment shall apply on and after January 1, 2001.
* Idaho Code § 72-1503 – Political activities prohibited by members of the commission
	+ No person may serve on the commission who is a candidate for political office as the term "candidate" is defined in section 67-6602, Idaho Code. In the event a person serving on the commission becomes a candidate, a vacancy on the commission shall be declared by the secretary of state, and filled as provided by law.
* Idaho Code § 72-1505 – Organization and procedure
	+ The commissioners shall elect, by majority vote, a member or members to serve as chairman or cochairmen and other officers as they may determine.

 All proceedings of the commission shall be governed by the following procedure:

* + - (1) All meetings of the commission shall be subject to the provisions of the open meeting law.
		- (2) The commission shall provide notice of all meetings to any citizen or organization requesting the same.
		- (3) Copies of the validated census database, and all other databases available to the commission, will be provided in a form, as determined by the commission, to any person at cost.
		- (4) The commission shall hold meetings in different locations in the state in order to maximize the opportunity for public participation.
		- (5) A quorum of the commission shall consist of four (4) members. In the event there is a previously scheduled meeting, less than a quorum may take testimony and information, but no votes other than to set a future agenda, to prepare for future meetings, and to adjourn or recess, may be taken. Any final action of the commission shall be by a vote of two-thirds ( 2/3) of the full membership of the commission.
		- (6) A member must be present to vote.
		- (7) A redistricting plan may be presented to the commission by an individual citizen or organization. All such plans shall be public information. Any citizen or organization shall provide a current mailing address and telephone number to accompany any plan submitted.
* Idaho Code § 72-1506 – Criteria governing plans
	+ Congressional and legislative redistricting plans considered by the commission, and plans adopted by the commission, shall be governed by the following criteria:
		- (1) The total state population as reported by the U.S. census bureau, and the population of subunits determined therefrom, shall be exclusive permissible data.
		- (2) To the maximum extent possible, districts shall preserve traditional neighborhoods and local communities of interest.
		- (3) Districts shall be substantially equal in population and should seek to comply with all applicable federal standards and statutes.
		- (4) To the maximum extent possible, the plan should avoid drawing districts that are oddly shaped.
		- (5) Division of counties shall be avoided whenever possible. In the event that a county must be divided, the number of such divisions, per county, should be kept to a minimum.
		- (6) To the extent that counties must be divided to create districts, such districts shall be composed of contiguous counties.
		- (7) District boundaries shall retain the local voting precinct boundary lines to the extent those lines comply with the provisions of section 34-306, Idaho Code. When the commission determines, by an affirmative vote of at least five (5) members recorded in its minutes, that it cannot complete its duties for a legislative district by fully complying with the provisions of this subsection, this subsection shall not apply to the commission or legislative redistricting plan it shall adopt.
		- (8) Counties shall not be divided to protect a particular political party or a particular incumbent.
		- (9) When a legislative district contains more than one (1) county or a portion of a county, the counties or portion of a county in the district shall be directly connected by roads and highways which are designated as part of the interstate highway system, the United States highway system or the state highway system. When the commission determines, by an affirmative vote of at least five (5) members recorded in its minutes, that it cannot complete its duties for a legislative district by fully complying with the provisions of this subsection, this subsection shall not apply to the commission or legislative redistricting plan it shall adopt.
* Idaho Code § 72-1509 – Challenges – Supreme Court Rules
	+ (1) Within the time and in the manner prescribed by rule of the supreme court, any registered voter, incorporated city or county in this state may appeal to the supreme court a congressional or legislative redistricting plan adopted by the commission.
	+ (2) The commission shall prepare, process and transmit to the supreme court such documents of the proceedings of the commission as may be provided by rule of the supreme court.
* Idaho Code § 71-1510 – Challenges to plans
	+ Prior to October 1 of a year ending in one (1), in which a new federal census is available, any registered voter, incorporated city or county in this state may challenge an existing legislative apportionment based upon the new federal census by filing a petition in the supreme court invoking its original jurisdiction in such manner as prescribed by rule of the supreme court.

**Relevant Redistricting Cases:**

Bingham County v. Idaho Comm'n for Reapportionament (in Re Petition Challenging Legislative Redistricting), 137 Idaho 870, 55 P.3d 863 (2002)

* Counties argued, inter alia, that the redistricting plan violated the state constitution. The supreme court agreed. The plan contained a population deviation of 11.79 percent, well above a prima facie showing of a violation of equal protection standards. The commission justified that deviation on the basis that it occurred as the result of an advancement of rational state policies, particularly maintenance of the integrity of political subdivisions. Idaho Const. art. III, § 5 prohibited the division of counties, except to meet the constitutional standards of equal protection. The prohibition was honored by the commission with respect to Madison and Fremont counties, but was not honored as to Bingham and Bannock counties. In those instances, the idea of joining communities of interest prevailed over the requirement of maintaining county integrity. The basis for justifying the population deviation in the plan was not consistent with other decisions made by the commission that did not honor the integrity of political subdivisions. Therefore, the commission was directed to reconvene to adopt a redistricting plan that was consistent with constitutional standards.

Twin Falls County v. Idaho Comm'n on Redistricting, 152 Idaho 346, 271 P.3d 1202 (2012)

* The redistricting plan divided 12 counties. Before adopting the redistricting plan, the Commission considered and rejected other plans that complied with federal constitutional requirements and that divided fewer counties. The court held that the plan was invalid because it divided more counties than necessary to comply with federal constitutional requirements. Pursuant to Idaho Const. art. III, § 5, and Idaho Code Ann. § 72-1506(5), the total number of divided counties in a legislative redistricting plan had to be the minimum number required to comply with the Equal Protection Clause of the Fourteenth Amendment, U.S. Const. amend. XIV. The Commission had discretion in adopting a redistricting plan that divided counties only to the extent that counties had to be divided to comply with the federal Constitution; moreover, division of counties had to be avoided whenever possible. Because the Commission exceeded the scope of this discretion, it was necessary for the Commission to reconvene and adopt a revised plan pursuant to Idaho Code Ann. § 72-1501(2).

# Illinois

**The Basics:**

* 18 US Reps
* State legislature is responsible for drawing both congressional and state legislative districts
* 177 State legislators
	+ 59 state Senate districts and 118 House districts
		- State senators serve four year terms. State House Reps serve two year terms

**Statutes and legislation:**

* Illinois Const., Art. IV, § 2 – Legislative Composition
	+ (a) One Senator shall be elected from each Legislative District. Immediately following each decennial redistricting, the General Assembly by law shall divide the Legislative Districts as equally as possible into three groups. Senators from one group shall be elected for terms of four years, four years and two years; Senators from the second group, for terms of four years, two years and four years; and Senators from the third group, for terms of two years, four years and four years. The Legislative Districts in each group shall be distributed substantially equally over the State.
	+ (b) Each Legislative District shall be divided into two Representative Districts. In 1982 and every two years thereafter one Representative shall be elected from each Representative District for a term of two years.
	+ (c) To be eligible to serve as a member of the General Assembly, a person must be a United States citizen, at least 21 years old, and for the two years preceding his election or appointment a resident of the district which he is to represent. In the general election following a redistricting, a candidate for the General Assembly may be elected from any district which contains a part of the district in which he resided at the time of the redistricting and reelected if a resident of the new district he represents for 18 months prior to reelection.
	+ (d) Within thirty days after a vacancy occurs, it shall be filled by appointment as provided by law. If the vacancy is in a Senatorial office with more than twenty-eight months remaining in the term, the appointed Senator shall serve until the next general election, at which time a Senator shall be elected to serve for the remainder of the term. If the vacancy is in a Representative office or in any other Senatorial office, the appointment shall be for the remainder of the term. An appointee to fill a vacancy shall be a member of the same political party as the person he succeeds.
	+ (e) No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.
	+ No member of the General Assembly during the term for which he was elected or appointed shall be appointed to a public office which shall have been created or the compensation for which shall have been increased by the General Assembly during that term.
* Illinois Const., Art. IV, § 3 – Legislative redistricting
	+ (a) Legislative Districts shall be compact, contiguous and substantially equal in population. Representative Districts shall be compact, contiguous, and substantially equal in population.
	+ (b) In the year following each Federal decennial census year, the General Assembly by law shall redistrict the Legislative Districts and the Representative Districts.
		- If no redistricting plan becomes effective by June 30 of that year, a Legislative Redistricting Commission shall be constituted not later than July 10. The Commission shall consist of eight members, no more than four of whom shall be members of the same political party.
		- The Speaker and Minority Leader of the House of Representatives shall each appoint to the Commission one Representative and one person who is not a member of the General Assembly. The President and Minority Leader of the Senate shall each appoint to the Commission one Senator and one person who is not a member of the General Assembly.
		- The members shall be certified to the Secretary of State by the appointing authorities. A vacancy on the Commission shall be filled within five days by the authority that made the original appointment. A Chairman and Vice Chairman shall be chosen by a majority of all members of the Commission.
		- Not later than August 10, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members.
		- If the Commission fails to file an approved redistricting plan, the Supreme Court shall submit the names of two persons, not of the same political party, to the Secretary of State not later than September 1.
		- Not later than September 5, the Secretary of State publicly shall draw by random selection the name of one of the two persons to serve as the ninth member of the Commission.
		- Not later than October 5, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members.
		- An approved redistricting plan filed with the Secretary of State shall be presumed valid, shall have the force and effect of law and shall be published promptly by the Secretary of State.
		- The Supreme Court shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate, which shall be initiated in the name of the People of the State by the Attorney General.

**Relevant districting cases:**

* Schrage v. State Bd. of Elections, 88 Ill. 2d 87, 430 N.E.2d 483 (1981)
	+ The plan challengers claimed that there had to be strict compliance with the requirements of the Illinois Constitution regarding the population deviation that was allowed in redistricting plans. The plan proponents claimed that the redistricting plan met the constitutional standards. The court ordered that the redistricting plan be redrawn as to one district and that the clerk issue a mandate for the legislative redistricting commission to redraw the district. The court held that the requirement of compact districts within the meaning of the Illinois Constitution mandated that legislative districts be closely united and that the district as proposed was elongated and lacked commonality of communication and population. The court further held that the Illinois Constitution required that legislative districts be substantially equal in population, which under United States Supreme Court rulings was a more flexible standard than the "one man-one vote" standard and that some deviation in population was allowed. The court ordered a mandate for the legislative redistricting commission to redraw the district.
* People ex rel. Scott v. Grivetti, 50 Ill. 2d 156, 277 N.E.2d 881 (1971)
	+ Respondents, certain challengers of a redistricting plan, contended that Ill. Const. art. IV, § 3(b) was violative of U.S. Const. amend. I and the equal protection clause of U.S. Const. amend. XIV in that it placed control over the redistricting process in the hands of major party leaders and excluded any participation by representatives of other political parties or independent voters. The court adopted the redistricting plan. The court found that, on its face, § 3(b) neither restricted nor excluded the people in question. The court also found that in light of the self-appointment of some members of the legislature, to hold the commission a de facto body and its product valid would have sanctioned an impermissible violation of the constitution's demands. Additionally, the court found that the plan complied as closely as reasonably possible with the federal "one man, one vote" requirement and the state requirement that all legislative districts should be "substantially equal in population." The court also found that the plan contained reasonably compact and contiguous legislative districts and was not violative of Ill. Const. art. IV, § 3(a).

# Indiana

**The Basics:**

* 9 US Representatives
* 150 state legislators
	+ 50 state Senate districts and 100 state House districts
		- State Senators elected every four years, state House Reps are elected every two years
* State legislature is primarily responsible for drawing congressional and state district lines

**Statutes and legislation:**

* Burns Ind. Code Ann. § 3-3-2-1 – Revision of congressional districts after decennial census
	+ Congressional districts shall be established by law at the first regular session of the general assembly convening immediately following the United States decennial census.
* Burns Ind. Code Ann. § 3-3-2-2 – Failure of general assembly to redistrict – Redistricting Commission
	+ (a) If a session of the general assembly adjourns without having complied with the requirements of section 1 [IC 3-3-2-1] of this chapter or if for any other reason at any time the state finds itself without a valid congressional district law, a redistricting commission shall be established which shall consist of the speaker of the house, the president pro tem of the senate, the chairman of the senate and house committees responsible for legislative apportionment and a fifth member who shall be appointed by the governor from the membership of the general assembly.
	+ (b) The redistricting commission shall meet within thirty (30) days after adjournment of the general assembly at a time and place designated by the president pro tem of the senate and shall adopt a congressional redistricting plan in accordance with this chapter.
	+ (c) Any plan so adopted shall be signed by a majority of the redistricting committee and submitted to the governor who forthwith shall issue and publish his executive order establishing congressional districts in accordance with the plan so adopted and directing the commission to place such congressional districts in effect for the primary and general elections next succeeding such general assembly. Congressional districts so established shall continue in effect until changed by statute.
* Ind. Const. Art. 4, § 5 – Apportionment of representation
	+ The General Assembly elected during the year in which a federal decennial census is taken shall fix by law the number of Senators and Representatives and apportion them among districts according to the number of inhabitants in each district, as revealed by that federal decennial census. The territory in each district shall be contiguous.

**Relevant Redistricting Cases:**

* Parker v. State, 133 Ind. 178, 32 N.E. 836 (1892)
	+ The State brought an action to enjoin the officials from holding an election under the laws of 1885 and 1891, which apportioned the voting districts of the state for the state general assembly. The trial court granted an alternative writ of mandamus stopping the officials from holding the election under such apportionment statutes. The officials' demurrer to the writ was overruled and they appealed. The court reversed. The court held that it was a judicial question within the jurisdiction of the court to hear whether a law, even one dealing with apportionment and elective offices, was in conflict with the constitution. The court held that the constitution required equal division of the voters of the State, and the apportionment of 1891 was plainly invalid. However, the court held that the prior law, the act of 1879, was equally invalid because of the uneven apportionment of districts, so the demurrer was improperly overruled and the writ was improperly issued.
* State Election Bd. v. Bartolomei, 434 N.E.2d 74 (Ind. 1982)
	+ Plaintiffs brought an action seeking declaratory and injunctive relief to prevent the state election board from using redistricting plans drawn up pursuant to Ind. Code § 36-2-2-4 and Ind. Code § 36-2-3-4. The trial court granted a preliminary injunction and declared sections of each statute relating to counties having more than two second-class cities unconstitutional as special laws. The court reversed on appeal. The fact that only one county fit in the category of counties having more than two second-class cities did not render the statutes unconstitutional. The terms did not prevent application of their provisions to any county that could eventually qualify. The presence of three large cities in the county could impair a locally elected body's capacity to restrict consideration of district boundaries to the statutory criteria. Removal of the redistricting function from the county executive to the state executive was one way of avoiding this effect. The legislature was within its authority to establish single-member districts within counties for certain elective positions, to classify counties for this purpose, and to take steps bearing a rational relationship to its goal.

# Iowa

**The Basics:**

* 4 US Reps
* 150 State Legislators
	+ 50 State Senate districts and 100 State House Districts
* An advisory commission draws both congressional and state legislative boundary lines
	+ State legislature retains final authority on the plan
	+ Legislative maps were not subject to litigation following the 2010 redistricting cycle

**Statutes and legislation:**

* Iowa Code § 40.1 – Congressional Districts
	+ The state of Iowa is organized and divided into four congressional districts and this provision names the counties that make up each of the four districts
* Iowa Code § 41.1 – Representative Districts
	+ Goes into detail about the 100 state’s representative districts and their boundary lines
* Iowa Code § 41.2 – Senate Districts
	+ The state of Iowa is hereby divided into fifty senatorial districts, each composed of two of the representative districts established by section 41.1. Statute then breaks down what makes up every state senatorial district
* Iowa Code § 42.1 – Definitions for Legislative Redistricting
	+ 1. "Chief election officer" means the state commissioner of elections as defined by section 47.1.
	+ 2. "Commission" means the temporary redistricting advisory commission established pursuant to this chapter.
	+ 3. "Federal census" means the decennial census required by federal law to be conducted by the United States bureau of the census in every year ending in zero.
	+ 4. "Four selecting authorities" means:
	+ a. The majority floor leader of the state senate.
	+ b. The minority floor leader of the state senate.
	+ c. The majority floor leader of the state house of representatives.
	+ d. The minority floor leader of the state house of representatives.
	+ 5. "Partisan public office" means:
	+ a. An elective or appointive office in the executive or legislative branch or in an independent establishment of the federal government.
	+ b. An elective office in the executive or legislative branch of the government of this state, or an office which is filled by appointment and is exempt from the merit system under section 8A.412.
	+ c. An office of a county, city or other political subdivision of this state which is filled by an election process involving nomination and election of candidates on a partisan basis.
	+ 6. "Plan" means a plan for legislative and congressional reapportionment drawn up pursuant to the requirements of this chapter.
	+ 7. "Political party office" means an elective office in the national or state organization of a political party, as defined by section 43.2.
	+ 8. "Relative" means an individual who is related to the person in question as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.
* Iowa Code § 42.2 – Preparations for redistricting
	+ 1. The legislative services agency shall acquire appropriate information, review and evaluate available facilities, and develop programs and procedures in preparation for drawing congressional and legislative redistricting plans on the basis of each federal census. Funds shall be expended for the purchase or lease of equipment and materials only with prior approval of the legislative council.
	+ 2. By December 31 of each year ending in zero, the legislative services agency shall obtain from the United States bureau of the census information regarding geographic and political units in this state for which federal census population data has been gathered and will be tabulated. The legislative services agency shall use the data so obtained to:
		- a. Prepare necessary descriptions of geographic and political units for which census data will be reported, and which are suitable for use as components of legislative districts.
		- b. Prepare maps of counties, cities and other geographic units within the state, which may be used to illustrate the locations of legislative district boundaries proposed in plans drawn in accordance with section 42.4.
	+ 3. As soon as possible after January 1 of each year ending in one, the legislative services agency shall obtain from the United States bureau of the census the population data needed for legislative districting which the census bureau is required to provide this state under United States Pub. L. No. 94-171, and shall use that data to assign a population figure based upon certified federal census data to each geographic or political unit described pursuant to subsection 2, paragraph "a". Upon completing that task, the legislative services agency shall begin the preparation of congressional and legislative districting plans as required by section 42.3.
	+ 4. Upon each delivery by the legislative services agency to the general assembly of a bill embodying a plan, pursuant to section 42.3, the legislative services agency shall at the earliest feasible time make available to the public the following information
		- a. Copies of the bill delivered by the legislative services agency to the general assembly.
		- b. Maps illustrating the plan.
		- c. A summary of the standards prescribed by section 42.4 for development of the plan.
		- d. A statement of the population of each district included in the plan, and the relative deviation of each district population from the ideal district population.
* Iowa Code. § 42.3 – Timetable for preparation for redistricting
	+ 1. a. Not later than April 1 of each year ending in one, the legislative services agency shall deliver to the secretary of the senate and the chief clerk of the house of representatives identical bills embodying a plan of legislative and congressional districting prepared in accordance with section 42.4. It is the intent of this chapter that the general assembly shall bring the bill to a vote in either the senate or the house of representatives expeditiously, but not less than three days after the report of the commission required by section 42.6 is received and made available to the members of the general assembly, under a procedure or rule permitting no amendments except those of a purely corrective nature. It is further the intent of this chapter that if the bill is approved by the first house in which it is considered, it shall expeditiously be brought to a vote in the second house under a similar procedure or rule. If the bill embodying the plan submitted by the legislative services agency under this subsection fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall at once, but in no event later than seven days after the date the bill failed to be approved, transmit to the legislative services agency information which the senate or house may direct by resolution regarding reasons why the plan was not approved.
		- b. However, if the population data for legislative districting which the United States census bureau is required to provide this state under Pub. L. No. 94-171 and, if used by the legislative services agency, the corresponding topologically integrated geographic encoding and referencing data file for that population data are not available to the legislative services agency on or before February 15 of the year ending in one, the dates set forth in paragraph "a" shall be extended by a number of days equal to the number of days after February 15 of the year ending in one that the federal census population data and the topologically integrated geographic encoding and referencing data file for legislative districting become available.
	+ 2. If the bill embodying the plan submitted by the legislative services agency under subsection 1 fails to be enacted, the legislative services agency shall prepare a bill embodying a second plan of legislative and congressional districting. The bill shall be prepared in accordance with section 42.4, and, insofar as it is possible to do so within the requirements of section 42.4, with the reasons cited by the senate or house of representatives by resolution, or the governor by veto message, for the failure to approve the plan. If a second plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than thirty-five days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 1, or the date the governor vetoes or fails to approve the bill. If it is necessary to submit a bill under this subsection, the bill shall be brought to a vote not less than seven days after the bill is submitted and made available to the members of the general assembly, under a procedure or rule permitting no amendments except those of a purely corrective nature. It is further the intent of this chapter that if the bill is approved by the first house in which it is considered, it shall expeditiously be brought to a vote in the second house under a similar procedure or rule. If the bill embodying the plan submitted by the legislative services agency under this subsection fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall transmit to the legislative services agency in the same manner as described in subsection 1, information which the senate or house may direct by resolution regarding reasons why the plan was not approved.
	+ 3. If the bill embodying the plan submitted by the legislative services agency under subsection 2 fails to be enacted, the same procedure as prescribed by subsection 2 shall be followed. If a third plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than thirty-five days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 2, or the date the governor vetoes or fails to approve the bill. The legislative services agency shall submit a bill under this subsection sufficiently in advance of September 1 of the year ending in one to permit the general assembly to consider the plan prior to that date. If it is necessary to submit a bill under this subsection, the bill shall be brought to a vote within the same time period after its delivery to the secretary of the senate and the chief clerk of the house of representatives as is prescribed for the bill submitted under subsection 2, but shall be subject to amendment in the same manner as other bills.
* Iowa Code § 42.4 – Redistricting Standards
	+ 1. Legislative and congressional districts shall be established on the basis of population.
		- a. Senatorial and representative districts, respectively, shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. Senatorial districts and representative districts shall not vary in population from the respective ideal district populations except as necessary to comply with one of the other standards enumerated in this section. In no case shall the quotient, obtained by dividing the total of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established, exceed one percent of the applicable ideal district population. No senatorial district shall have a population which exceeds that of any other senatorial district by more than five percent, and no representative district shall have a population which exceeds that of any other representative district by more than five percent.
		- b. Congressional districts shall each have a population as nearly equal as practicable to the ideal district population, derived as prescribed in paragraph "a" of this subsection. No congressional district shall have a population which varies by more than one percent from the applicable ideal district population, except as necessary to comply with Article III, section 37 of the Constitution of the State of Iowa.
		- c. If a challenge is filed with the supreme court alleging excessive population variance among districts established in a plan adopted by the general assembly, the general assembly has the burden of justifying any variance in excess of one percent between the population of a district and the applicable ideal district population.
	+ 2. To the extent consistent with subsection 1, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this statement does not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.
	+ 3. Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.
	+ 4. Districts shall be reasonably compact in form, to the extent consistent with the standards established by subsections 1, 2, and 3. In general, reasonably compact districts are those which are square, rectangular, or hexagonal in shape, and not irregularly shaped, to the extent permitted by natural or political boundaries. If it is necessary to compare the relative compactness of two or more districts, or of two or more alternative districting plans, the tests prescribed by paragraphs "a" and "b" shall be used.
		- a. Length-width compactness. The compactness of a district is greatest when the length of the district and the width of the district are equal. The measure of a district's compactness is the absolute value of the difference between the length and the width of the district. In general, the length-width compactness of a district is calculated by measuring the distance from the northernmost point or portion of the boundary of a district to the southernmost point or portion of the boundary of the same district and the distance from the westernmost point or portion of the boundary of the district to the easternmost point or portion of the boundary of the same district. The absolute values computed for individual districts under this paragraph may be cumulated for all districts in a plan in order to compare the overall compactness of two or more alternative districting plans for the state, or for a portion of the state.
		- b. Perimeter compactness. The compactness of a district is greatest when the distance needed to traverse the perimeter boundary of a district is as short as possible. The total perimeter distance computed for individual districts under this paragraph may be cumulated for all districts in a plan in order to compare the overall compactness of two or more alternative districting plans for the state, or for a portion of the state.
	+ 5. No district shall be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group. In establishing districts, no use shall be made of any of the following data:
		- a. Addresses of incumbent legislators or members of Congress.
		- b. Political affiliations of registered voters.
		- c. Previous election results.
		- d. Demographic information, other than population head counts, except as required by the Constitution and the laws of the United States.
	+ 6. In order to minimize electoral confusion and to facilitate communication within state legislative districts, each plan drawn under this section shall provide that each representative district is wholly included within a single senatorial district and that, so far as possible, each representative and each senatorial district shall be included within a single congressional district. However, the standards established by subsections 1 through 5 shall take precedence where a conflict arises between these standards and the requirement, so far as possible, of including a senatorial or representative district within a single congressional district.
	+ 7. Each bill embodying a plan drawn under this section shall provide that any vacancy in the general assembly which takes office in the year ending in one, occurring at a time which makes it necessary to fill the vacancy at a special election held pursuant to section 69.14, shall be filled from the same district which elected the senator or representative whose seat is vacant.
	+ 8. Each bill embodying a plan drawn under this section shall include provisions for election of senators to the general assemblies which take office in the years ending in three and five, which shall be in conformity with Article III, section 6, of the Constitution of the State of Iowa. With respect to any plan drawn for consideration in a year ending in one, those provisions shall be substantially as follows:
		- a. Each senatorial district in the plan which is not a holdover senatorial district shall elect a senator in the year ending in two for a four-year term commencing in January of the year ending in three. If an incumbent senator who was elected to a four-year term which commenced in January of the year ending in one, or was subsequently elected to fill a vacancy in such a term, is residing in a senatorial district in the plan which is not a holdover senatorial district on the first Wednesday in February of the year ending in two, that senator's term of office shall be terminated on January 1 of the year ending in three.
		- b. Each holdover senatorial district in the plan shall elect a senator in the year ending in four for a four-year term commencing in January of the year ending in five.

**Relevant Redistricting Cases:**

* In re Legislative Districting of General Assembly, 193 N.W.2d 784 (Iowa 1972)
	+ The districting plan had a deviation of 3.83 percent between the high and low districts. In adopting the plan, the legislature used a de minimus approach to reach the 3.83 percent deviation. Once the highest and lowest acceptable figures were fixed by the legislative leaders all efforts to achieve voter equality ceased. In addition, the legislators' testimony tended to establish that districts were being created by the plan to facilitate keeping present members of the legislature in office and providing boundaries of districts to avoid having the members contest each other at the polls. The court held that the de minimis approach, which was used to reapportion the districts, coupled with avoidable population deviations occasioned by efforts to meet the legislators' goals to facilitate keeping present members of the legislature in office and avoid members contesting each other, was an unconstitutional violation of Iowa Const. art. III, § 36. The court stated that the impermissible political considerations, which impelled development of the resolution so that it would be acceptable to the legislators merely because of political preferment, could not pass constitutional muster.
* In re Legislative Districting of General Assembly, 175 N.W.2d 20 (Iowa 1970)
	+ The electors contested the redistricting of the legislature for the 1970 elections because the population variances were 12 percent for the Senate and 14 percent for the House, a resolution requiring the preservation of voting precincts created the unconstitutional population variances, an "as nearly equal as practicable standard" for districting was not applied, and the impact on incumbents was improperly considered. The court noted that States were required to make an honest and good faith effort to construct legislative districts that were as nearly of equal population as was practicable. The court concluded that the population variances created by the redistricting were excessive and unconstitutional. The court determined that the requirement to use the existing voting precincts was not necessary and did not justify the resulting population variances. Because there was insufficient time for the court to develop a new redistricting plan and because Iowa Const. art. III, § 35 required redistricting in 1971 based on the 1970 census, the court approved the redistricting for the 1970 elections only

# Kansas

**The Basics:**

* 4 US Reps
* 165 State Legislators
	+ 40 State Senator districts and 125 state House districts
* State legislature draws both congressional and state legislative district lines
	+ In 2010, the legislature couldn’t come to a consensus on congressional and state lines, so it fell to a federal district court to establish new district boundaries

**Statutes and legislation:**

* Kan. Const. Art. 10, § 1 – Reapportionment of senatorial and representative districts
	+ (a) At its regular session in 1989, the legislature shall by law reapportion the state representative districts, the state senatorial districts or both the state representative and senatorial districts upon the basis of the latest census of the inhabitants of the state taken by authority of chapter 61 of the 1987 Session Laws of Kansas. At its regular session in 1992, and at its regular session every tenth year thereafter, the legislature shall by law reapportion the state senatorial districts and representative districts on the basis of the population of the state as established by the most recent census of population taken and published by the United States bureau of the census. Senatorial and representative districts shall be reapportioned upon the basis of the population of the state adjusted: (1) To exclude nonresident military personnel stationed within the state and nonresident students attending colleges and universities within the state; and (2) to include military personnel stationed within the state who are residents of the state and students attending colleges and universities within the state who are residents of the state in the district of their permanent residence. Bills reapportioning legislative districts shall be published in the Kansas register immediately upon final passage and shall be effective for the next following election of legislators and thereafter until again reapportioned.
	+ (b) Within 15 days after the publication of an act reapportioning the legislative districts within the time specified in (a), the attorney general shall petition the supreme court of the state to determine the validity thereof. The supreme court, within 30 days from the filing of the petition, shall enter its judgment. Should the supreme court determine that the reapportionment statute is invalid, the legislature shall enact a statute of reapportionment conforming to the judgment of the supreme court within 15 days.
	+ (c) Upon enactment of a reapportionment to conform with a judgment under (b), the attorney general shall apply to the supreme court of the state to determine the validity thereof. The Supreme Court, within 10 days from the filing of such application, shall enter its judgment. Should the Supreme Court determine that the reapportionment statute is invalid, the legislature shall again enact a statute reapportioning the legislative districts in compliance with the direction of and conforming to the mandate of the supreme court within 15 days after entry thereof.
	+ (d) Whenever a petition or application is filed under this section, the supreme court, in accordance with its rules, shall permit interested persons to present their views.
	+ (e) A judgment of the supreme court of the state determining a reapportionment to be valid shall be final until the legislative districts are again reapportioned in accordance herewith

**Relevant Redistricting Cases:**

* In re Stephan, 251 Kan. 597, 836 P.2d 574 (1992)
	+ The court upheld the validity of House Bill No. 3083, addressing at length several issues raised by various opponents. The court held that it found no error in the procedure used to enact the bill. The bill was also entitled to presume the accuracy of the census figures used in its reapportionment. The bill's population deviation of 9.72 percent for the representative districts and 6.89 percent for the senatorial districts was within the guidelines established by the courts and did not violate the "one person-one vote" principle guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The court held that it was also permissible to split political entities, such as towns, because the bill's advocates presented reasons that refuted concerns of political gerrymandering and possible discrimination motivations. As a whole, the court said, the bill preserved the district's community of interests and ensured that all citizens receive reasonable, fair, and effective representation. The court found that the new districts did not dilute minority votes and thus the bill did not violate the federal Voting Rights Act.
* In re Stovall, 273 Kan. 715, 44 P.3d 1266 (2002)
	+ The bill drew new boundaries for the 125 house seats. The bill passed the legislature with fairly strong bipartisan support and was signed by the governor. The bill divided the state into 125 single-member state representative districts. Under the circumstances the court ruled that the reapportionment plan did not violate the one person-one vote principle guaranteed by the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. After examining the maps of the districts provided, the court found no violations that would require a satisfactory explanation. The procedure by which the reapportionment legislation was enacted had not been challenged. There was no evidence that legislative meetings or actions were conducted in secret. In the absence of evidence of violation of constitutional or statutory law, or any evidence that the applicable legislative rules were not followed, the court did not find any procedural inadequacies.

# Kentucky

**The Basics:**

* 6 US Reps
* 138 State Legislators
	+ 38 state Senator districts and 100 state House districts
		- Senators elected every four years. House reps elected every four years
* Congressional and state legislative districts lines are both drawn by the state legislature

**Statutes and legislation:**

* Ky. Const. § 33 – Senatorial and Representative districts
	+ The first General Assembly after the adoption of this Constitution shall divide the State into thirty-eight Senatorial Districts, and one hundred Representative Districts, as nearly equal in population as may be without dividing any county, except where a county may include more than one district, which districts shall constitute the Senatorial and Representative Districts for ten years. Not more than two counties shall be joined together to form a Representative District: Provided, In doing so the principle requiring every district to be as nearly equal in population as may be shall not be violated. At the expiration of that time, the General Assembly shall then, and every ten years thereafter, redistrict the State according to this rule, and for the purposes expressed in this section. If, in making said districts, inequality of populations should be unavoidable, any advantage resulting therefrom shall be given to districts having the largest territory. No part of a county shall be added to another county to make a district, and the counties forming a district shall be contiguous.
* KRS § 5.005 – Actions to challenge constitutionality of legislative districts – Venue – Parties
	+ (1) An action challenging the constitutionality of any legislative district created by this chapter shall be brought in Franklin Circuit Court, which shall have exclusive venue in all matters relating to redistricting.
	+ (2) The Secretary of State shall be named as a defendant in any action challenging the constitutionality of any legislative district created by this chapter.
	+ (3) The Legislative Research Commission may intervene as a matter of right in any action challenging the constitutionality of any legislative district created by this chapter.
* KRS § 5.100 – Division of Commonwealth into senatorial districts
	+ The Commonwealth of Kentucky is divided into thirty-eight (38) senatorial districts as provided by KRS 5.101 to 5.138.
* KRS § 5.101-.138 – Senatorial Districts
	+ Names every senatorial district and the counties that make them up
* KRS § 5.200 – Division of Commonwealth into representative districts
	+ The Commonwealth of Kentucky is divided into one hundred (100) representative districts as provided by KRS 5.201 to 5.300.
* KRS § 5.201-.300 – Representative Districts
	+ Names every representative district and the counties that make them up

**Relevant Redistricting Cases:**

* Legislative Research Comm'n v. Fischer, 366 S.W.3d 905 (Ky. 2012)
	+ Each of the redistricting plans contained one district with a population deviation greater than 5 percent from the ideal district as determined by reference to census data. Alternative plans were proposed in both chambers that divided fewer counties and that had a population variance within plus-or-minus 5 percent of the ideal districts. The court held that the redistricting plans violated Ky. Const. § 33 by failing to divide the fewest number of counties possible and by failing to achieve sufficient population equality. Although it was not possible to avoid all splitting of counties without violating equal protection principles, county integrity had to be balanced with population equality to accommodate both. Population equality was not presumed where population deviations exceeded 5 percent. The existence of alternative conforming plans did not establish unconstitutionality in itself but showed that greater population inequality was not a necessary consequence of pursuing county integrity, and no other rational state policy had been advanced. The finding of unconstitutionality made the plans null and void; thus, even if the plans were more efficient, they could not be used.
* Combs v. Matthews, 364 S.W.2d 647 (Ky. 1963)
	+ The trial court found that the pleadings merely alleged that the governor was considering calling into extraordinary session the General Assembly for the sole and express purpose of redistricting the Commonwealth. The court ruled that it was not authorized to give advisory opinions on hypothetical factual situations, but it could declare the rights of litigants in advance of action when it concluded that a justiciable controversy was presented, the advance determination of which would eliminate or minimize the risk of wrong action by any of the parties. The rule was governed by Ky. Rev. Stat. §§ 418.040, 418.045. Justiciability turned on evaluating both the appropriateness of the issues for decision and the hardship of denying judicial relief. The court found that the issues presented should be resolved and that it would serve a useful public purpose to do so in advance of any legislative action of the General Assembly in the special session. The General Assembly could enact a redistricting plan at its session called for that specific purpose and it could include more than two counties in a representative district if it deemed that it was necessary.

# Louisiana

**The Basics:**

* 6 US Reps
* 145 state legislators
	+ 39 state Senate districts and 105 state House districts
	+ Both positions up for election every four years
* Both congressional and state legislative districts lines are drawn by the state legislature

**Statutes and legislation:**

* La. Const. Art. III, § 6 – Legislative reapportionment; reapportionment by supreme court; procedure
	+ A. Reapportionment by Legislature. — By the end of the year following the year in which the population of this state is reported to the president of the United States for each decennial federal census, the legislature shall reapportion the representation in each house as equally as practicable on the basis of population shown by the census.
	+ B Reapportionment by Supreme Court. — If the legislature fails to reapportion as required in Paragraph (A), the supreme court, upon petition of any elector, shall reapportion the representation in each house as provided in Paragraph (A).
	+ C. Procedure. — The procedure for review and for petition shall be provided by law.
* La. R.S. § 18:1903 – Precincts; boundary changes
	+ Except as otherwise provided in R.S. 18:532.1(D)(2), no election precinct shall be created, divided, abolished, or merged, or the boundaries thereof otherwise changed between January first of any year of which the last digit is nine and December thirty-first of any year of which the last digit is three.
* La. R.S. § 18:1906 – Tabulation for reapportionment; legislature
	+ In accordance with Article III, Section 6(A) of the Constitution of Louisiana, the tabulation of population for each decennial census on the basis of which the legislature shall reapportion the representation in each house shall be the tabulation of population reported and transmitted by the United States Bureau of the Census to the governor and the legislature within one year after the census date, under the provisions of Public Law 94-171. Such tabulation of population shall be the sole basis for the establishment of legislative districts, and no other or subsequent tabulation of population shall be considered or utilized in such reapportionment.
* La. R.S. § 18:1951 – Maps of reapportioned districts; Department of Transportation and Development
	+ The Department of Transportation and Development is authorized to prepare maps of the Louisiana congressional districts, legislative districts, Louisiana State Board of Elementary and Secondary Education districts, and Louisiana Public Service Commission districts following reapportionment of the districts as otherwise provided by law.

**Relevant Redistricting Cases:**

* Le Doux v. Parish Democratic Executive Committee, 244 La. 981, 156 So. 2d 48 (1963)
	+ The state was required to reapportion its house of representatives because of a federal mandate based on the Baker v. Carr case. The state legislature passed an act that reapportioned its House of Representatives. On the eve of the election, the district court held that the reapportionment was unconstitutional because it violated La. Const. art. III, § 5. The court reversed and held that the act was constitutional. The court noted that La. Const. art. III, § 6 provided, in part, that the apportionment of senators and representatives shall not be changed or altered in any manner until after the enumeration (census) shall have been taken by the United States.The court held that the act in issue was an act of the legislature in reapportionment of the house in light of the 1960 census and to conform to federal constitutional requirements.

# Maine

**The Basics:**

* 2 US Reps
* 189 state legislators
	+ 35 State Senate Districts and 151 State House Districts
		- Both are elected every two years in partisan elections
* State legislature draws both the congressional and state legislative lines. A 15-members advisory board assists in the process

**Statutes and legislation:**

* Me. Const. Art. IV, Pt. 3, § 1-A – Legislature to establish Apportionment Commission; number of quorum; compensation of commission members; commission’s budget; division among political parties
	+ Section 1-A. A Legislature which is required to apportion the districts of the House of Representatives or the Senate, or both, under Article IV, Part First, Section 2, or Article IV, Part Second, Section 2, shall establish, within the first 3 calendar days after the convening of that Legislature, a commission to develop in accordance with the requirements of this Constitution, a plan for apportioning the House of Representatives, the Senate, or both.
	+ The commission shall be composed of 3 members from the political party holding the largest number of seats in the House of Representatives, who shall be appointed by the Speaker; 3 members from the political party holding the majority of the remainder of the seats in the House of Representatives, who shall be appointed by the floor leader of that party in the House; 2 members of the party holding the largest number of seats in the Senate, who shall be appointed by the President of the Senate; 2 members of the political party holding the majority of the remainder of the seats in the Senate, to be appointed by the floor leader of that party in the Senate; the chairperson of each of the 2 major political parties in the State or their designated representatives; and 3 members from the public generally, one to be selected by each group of members of the commission representing the same political party, and the third to be selected by the other 2 public members. The Speaker of the House shall be responsible for organizing the commission and shall be chairperson pro tempore thereof until a permanent chairperson is selected by the commission members from among their own number. No action may be taken without a quorum of 8 being present. The commission shall hold public hearings on any plan for apportionment prior to submitting such plan to the Legislature.
* Me. Const. Art. IV, Pt. 1, § 2 – Number of Representatives; biennial terms; division of the State into districts for the House of Representatives
	+ The House of Representatives shall consist of 151 members, to be elected by the qualified electors, and hold their office 2 years from the day next preceding the first Wednesday in December following the general election. The Legislature which convenes in 2013, and also the Legislature which convenes in 2021 and every 10th year thereafter, shall cause the State to be divided into districts for the choice of one Representative for each district. The number of Representatives shall be divided into the number of inhabitants of the State exclusive of foreigners not naturalized according to the latest Federal Decennial Census or a State Census previously ordered by the Legislature to coincide with the Federal Decennial Census, to determine a mean population figure for each Representative District. Each Representative District shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts shall be drawn within municipal boundaries. Any population remainder within the municipality shall be included in a district with contiguous territory and shall be kept intact.
* Me. Const. Art. IV, Pt. 1, § 3 – Submission of reapportionment plan to Clerk of House; Legislature’s action on commission’s plan
	+ The apportionment plan of the commission established under Article IV, Part Third, Section 1-A shall be submitted to the Clerk of the House no later than June 1st of the year in which apportionment is required. In the preparation of legislation implementing the plan, the commission, following a unanimous decision by commission members, may adjust errors and inconsistencies in accordance with the standards set forth in this Constitution, so long as substantive changes are not made. The Legislature shall enact the submitted plan of the commission or a plan of its own by a vote of 2/3 of the Members of each House by June 11th of the year in which apportionment is required. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.
	+ In the event that the Legislature shall fail to make an apportionment by June 11th, the Supreme Judicial Court shall, within 60 days following the period in which the Legislature is required to act, but fails to do so, make the apportionment. In making such apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.
	+ The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If any challenge is sustained, the Supreme Judicial Court shall make the apportionment.
* Me. Const. Art. IV, Pt. 2, § 2 – Submission of reapportionment plan to Secretary of Senate; Legislator’s action on commission’s plan; division of State into Senatorial Districts; division by Supreme Judicial Court
	+ The Legislature which shall convene in the year 2013, and also the Legislature which shall convene in the year 2021 and every tenth year thereafter, shall cause the State to be divided into districts for the choice of a Senator from each district, using the same method as provided in Article IV, Part First, Section 2 for apportionment of Representative Districts.
	+ The apportionment plan of the commission established under Article IV, Part Third, Section 1-A shall be submitted to the Secretary of the Senate no later than June 1st of the year in which apportionment is required. In the preparation of legislation implementing the plan, the commission, following a unanimous decision by commission members, may adjust errors and inconsistencies in accordance with the standards set forth in this Constitution, so long as substantive changes are not made. The Legislature shall enact the submitted plan of the commission or a plan of its own by a vote of 2/3 of the Members of each House by June 11th of the year in which apportionment is required. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.
	+ In the event that the Legislature shall fail to make an apportionment by June 11th, the Supreme Judicial Court shall, within 60 days following the period in which the Legislature is required to act but fails to do so, make the apportionment. In making such apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.
	+ The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If any challenge is sustained, the Supreme Judicial Court shall make the apportionment.
* 21-A M.R.S. § 1206 – Reapportionment
	+ 1. PROCEDURE. In 2021 and every 10 years thereafter, when the Secretary of State has received notification of the number of congressional seats to which the State is entitled and the Federal Decennial Census population count is final, the Legislative Apportionment Commission, established every 10 years pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A, shall review the existing congressional districts. If the districts do not conform to Supreme Judicial Court guidelines, the commission shall reapportion the State into congressional districts.
		- In making such a reapportionment, the commission shall ensure that each congressional district is formed of compact and contiguous territory and crosses political subdivisions the least number of times necessary to establish districts as equally populated as possible. The commission shall submit its plan to the Clerk of the House of Representatives no later than June 1st of the year in which apportionment is required. The Legislature shall enact the submitted plan of the commission or a plan of its own in regular or special session by a vote of 2/3 of the members of each house by June 11th of the year in which apportionment is required. This action is subject to the Governor's approval, as provided in the Constitution of Maine, Article IV, Part Third, Section 2.
	+ 2. COURT APPORTIONMENT. If the Legislature fails to make an apportionment by June 11th of the year in which apportionment is required, the Supreme Judicial Court shall make the apportionment within 60 days following the period in which the Legislature is required to act but fails to do so. In making the apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.
	+ 3. JUDICIAL REVIEW. The Supreme Judicial Court has original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group of citizens. If a challenge is sustained, the Supreme Judicial Court shall make the apportionment.

**Relevant Redistricting Cases:**

* In re 2003 Legislative Apportionment, 2003 ME 81, 827 A.2d 810 (2003)
	+ Challengers to a reapportionment plan presented state-law based challenges to the plan based on Me. Const. art. IV, § 2, pt. 1. A challenge that the plan maximized representation of voters in a Democratic Party stronghold by ensuring that current Democratic incumbents resided in separate districts and by placing a "jog" in a boundary line did not rise to the level of a constitutional or statutory violation. There was not discrimination against an identifiable political group. Although residences on islands presented transportation challenges, the choice of connecting the islands by district to one peninsula rather than the other was not irrational. There was no indication that the plan hindered access to meaningful representation. The District 36 challenger claimed the district was not compact. While the island district posed transportation challenges for its representative, those challenges were within what was constitutionally permissible under the state compactness-and-contiguity test when the special nature of islands was considered. The challengers failed to overcome the presumption of constitutionality that precedent required the court to attach to the redistricting plan.
* In re 1983 Legislative Apportionment of House, Senate, & Congressional Dist., 469 A.2d 819 (Me. 1983)
	+ A citizens group challenged the constitutionality under the federal and state constitutions of plans enacted by the state legislature for the apportionment of election districts for the state House of Representatives and state Senate, and asked the court to make the necessary apportionment. The court rejected a claim that the plan was invalid because the two political parties on the reapportionment commissions were unequally funded, or because the commission failed to comply with certain deadlines. The court also rejected substantive challenges. The aggregate deviation of the populations encompassed by the election districts established by the plan for the Senate fell within the range considered to be de minimis under the federal constitution, were not alleged to have resulted from a discriminatory intent, and the legislature did not fall short of exercising proper judgment in reconciling the standards of the state constitution with the one-person, one-vote principle. Although the aggregate deviation in the plan for the House exceeded the de minimis level, the deviation advanced a rational state policy of respecting municipal boundaries as required by the state constitution.

# Maryland

**The Basics:**

* 8 US Reps
* 188 state legislators
	+ 57 legislative districts, each has one state senator and three state delegates
		- In most districts, the three delegates are elected at large from the entire district
		- In minority of districts, they are further divided into subdistricts for the election of delegates
		- State senators and delegates elected every four years in partisan elections
* State legislature draws both congressional and state legislative lines
	+ If legislature cannot approve a plan, then a plan drawn by the governor will take effect

**Statutes and legislation:**

* Md. Const. Art. III, § 1 – Legislature to consist of two branches; to be styled General Assembly
	+ The Legislature shall consist of two distinct branches; a Senate, and a House of Delegates, and shall be styled the General Assembly of Maryland.
* Md. Const. Art. III, § 2 – Membership of Senate and House of Delegates
	+ The membership of the Senate shall consist of forty-seven (47) Senators. The membership of the House of Delegates shall consist of one hundred forty-one (141) Delegates.
* Md. Const. Art. III, § 3 – Division of State into legislative districts; number of Senators and Delegates from each district; subdivision of districts
	+ The State shall be divided by law into legislative districts for the election of members of the Senate and the House of Delegates. Each legislative district shall contain one (1) Senator and three (3) Delegates. Nothing herein shall prohibit the subdivision of any one or more of the legislative districts for the purpose of electing members of the House of Delegates into three (3) single-member delegate districts or one (1) single-member delegate district and one (1) multi-member delegate district.
* Md. Const. Art. III, § 4 – Requirements for districts
	+ Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.
* Md. Const. Art. III, § 5 – Legislative districting and apportionment following each decennial census
	+ Following each decennial census of the United States and after public hearings, the Governor shall prepare a plan setting forth the boundaries of the legislative districts for electing of the members of the Senate and the House of Delegates.
	+ The Governor shall present the plan to the President of the Senate and Speaker of the House of Delegates who shall introduce the Governor’s plan as a joint resolution to the General Assembly, not later than the first day of its regular session in the second year following every census, and the Governor may call a special session for the presentation of his plan prior to the regular session. The plan shall conform to Sections 2, 3 and 4 of this Article. Following each decennial census the General Assembly may by joint resolution adopt a plan setting forth the boundaries of the legislative districts for the election of members of the Senate and the House of Delegates, which plan shall conform to Sections 2, 3 and 4 of this Article. If a plan has been adopted by the General Assembly by the 45th day after the opening of the regular session of the General Assembly in the second year following every census, the plan adopted by the General Assembly shall become law. If no plan has been adopted by the General Assembly for these purposes by the 45th day after the opening of the regular session of the General Assembly in the second year following every census, the Governor’s plan presented to the General Assembly shall become law.
	+ Upon petition of any registered voter, the Court of Appeals shall have original jurisdiction to review the legislative districting of the State and may grant appropriate relief, if it finds that the districting of the State is not consistent with requirements of either the Constitution of the United States of America, or the Constitution of Maryland.
* Md. Const. Art. III, § 6 – Election and terms of members of General Assembly
	+ A member of the General Assembly shall be elected by the registered voters of the legislative or delegate district from which he seeks election, to serve for a term of four years beginning on the second Wednesday of January following his election.
* Md. State Government Code Ann. § 2-202 – Composition of legislative districts
	+ Breaks down every legislative district in Maryland
* Md. Ann. Code Art. LG, § 1-1307 – Use of population count to create legislative districts for election of governing body
	+ The population count used after each decennial census to create the legislative districts that are used to elect the governing body of a county or a municipality:
	+ (1) may not include individuals who:
		- (i) were incarcerated in State or federal correctional facilities, as determined by the decennial census; and
		- (ii) were not residents of the State before their incarceration; and
	+ (2) shall include individuals incarcerated in State or federal correctional facilities, as determined by the decennial census, at their last known residence before incarceration if the individuals were residents of the State.

**Relevant Redistricting Cases:**

* In re 2012 Legislative Districting of the State, 436 Md. 121, 80 A.3d 1073 (2013)
	+ In a suit challenging the Maryland Governor's 2012 Enacted Plan for the redistricting of congressional and legislative districts, the court concluded that petitioners did not meet the required burden to properly challenge the Enacted Plan as the challenge was not supported, as required under Md. Const. art. III, § 4, by compelling evidence demonstrating that it had subordinated mandatory constitutional requirements to substantial improper alternative considerations; The court held that the political subdivision crossing between Baltimore City, Maryland, and Baltimore County was constitutionally justified by Federal and State equal protection principles; The court held that petitioners' one person, one vote claim under U.S. Const. amend. XIV, on the basis of population density, region, partisanship, and race failed to demonstrate deliberate discriminatory intent.
* Legislative Redistricting Cases, 331 Md. 574, 629 A.2d 646 (1993)
	+ In accordance with his constitutional duty under the Md. Const. art. III, §§ 2-5, the governor of Maryland, upon receiving the results of the 1990 census, undertook to develop a redistricting plan for the Maryland General Assembly. He appointed a five-member advisory committee to assist him. The committee submitted a plan and acknowledged that the following criteria constrained its decisions: equality of population between districts, minority representation, compactness, contiguity, and respect for natural boundaries and the boundaries of political subdivisions. The court held that public notices for hearings as to the redistricting plan were sufficient and that the governor did not have a statutory or constitutional obligation to be present at the final hearing of the redistricting process. The court further held that the redistricting plan adequately described the districts created and that one district in particular satisfied the constitutional compactness requirement. Additionally, the court held that the plan fell within the 10 percent flexibility rule of the "one person, one vote" requirement and that the plan did not violate the Voting Rights Act.

# Massachusetts

**The Basics:**

* 9 US Reps
* 200 state legislators
	+ 40 state Senator districts and 160 state House districts
* State legislature draws both congressional and state legislative lines

**Statutes and legislation:**

* ALM GL ch. 57, § 1 – State Divided Into Nine Congressional Districts
	+ Breaks down every congressional district
* ALM Constitution Amend. Art. CI – Census of Inhabitants; Membership and Apportionment of House of Representatives and Senate; Districts; Residency Requirements; Jurisdiction of Supreme Judicial Court
	+ Section 1. The federal census shall be the basis for determining the representative districts for the ten year period beginning with the first Wednesday in the third January following the taking of said census.
		- The House of Representatives shall consist of one hundred and sixty members. The General Court shall, at its first regular session after the year in which said census was taken, divide the Commonwealth into one hundred and sixty representative districts of contiguous territory so that each representative will represent an equal number of inhabitants, as nearly as may be; and such districts shall be formed, as nearly as may be, without uniting two counties or parts of two or more counties, two towns or parts of two or more towns, two cities or parts of two or more cities, or a city and a town, or parts of cities and towns, into one district. Such districts shall also be so formed that no town containing less than twenty–five hundred inhabitants according to said census shall be divided. The General Court may by law limit the time within which judicial proceedings may be instituted calling in question any such division. Every representative, for one year at least immediately preceding his election, shall have been an inhabitant of the district for which he is chosen and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth. The manner of calling and conducting the elections for the choice of representatives, and of ascertaining their election, shall be prescribed by law.
	+ Section 2. Said federal census shall likewise be the basis for determining the senatorial districts and also the councillor districts for the ten year period beginning with the first Wednesday in the third January following the taking of said census. The Senate shall consist of forty members. The General Court shall, at its first regular session after the year in which said census is taken, divide the Commonwealth into forty districts of contiguous territory, each district to contain, as nearly as may be, an equal number of inhabitants according to said census; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. The General Court may by law limit the time within which judicial proceedings may be instituted calling in question such division. Each district shall elect one senator, who shall have been an inhabitant of this Commonwealth five years at least immediately preceding his election and at the time of his election shall be an inhabitant of the district for which he is chosen; and all he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the Commonwealth. The manner of calling and conducting the elections for the choice of senators and councillors, and of ascertaining their election, shall be prescribed by law.
	+ Section 3. Original jurisdiction is hereby vested in the supreme judicial court upon the petition of any voter of the Commonwealth, filed with the clerk of the supreme judicial court for the Commonwealth, for judicial relief relative to the establishment of House of Representatives, councillor and senatorial districts.

**Relevant Redistricting Cases:**

* Town of Brookline v. Secretary, 417 Mass. 406, 631 N.E.2d 968 (1994)
	+ The commonwealth legislature enacted Mass. Gen. Laws ch. 273, § 1, which established 160 districts for the House of Representatives. The redistricting plan was required under Amendments to Mass. Const., art. 101. Art. 101 specified that any challenge to the plan was to be filed within 10 days in the Supreme Judicial Court. The towns filed suit in the lower court, then filed again the next day in the proper court. The court held that the delay did not necessitate dismissing the suit, but it denied the request on the merits. The court held that the redistricting plan met the commonwealth's constitutional requirements and properly included the goals established under the Federal Voting Rights. It held that the towns had not presented a better plan that would effectuate the one person, one vote rule and the reapportionment requirements of the commonwealth's constitution. It held that its role was not to create a better redistricting plan, but to evaluate whether the plan as drafted met the federal and commonwealth constitutional requirements. It held that the legislature had created a plan that complied with those requirements.
* McClure v. Sec'y of the Commonwealth, 436 Mass. 614, 766 N.E.2d 847 (2002)
	+ The voters argued (1) § 1 was unconstitutional under Mass. Const. amend. art. 101, amended by Mass. Const. amend. arts. 109, 117, 119, (art. 101) since it put portions of the town in four representative districts when art. 101's requirements could be satisfied by dividing it into fewer districts, and (2) the redistricting was unconstitutional partisan gerrymandering violating the Equal Protection Clause. The 2000 United States census showed that, as a result of population growth and shifts, the representative districts no longer met federal population equality standards and had to be significantly altered. The new ideal representative district population was 39,682 persons. All recommended districts were within the federal constitutional purposes presumptively permissible plus or minus five percent range standard. Article 101's emphasis was on population, not territorial, equality. There was no best plan. The voters did not demonstrate beyond a reasonable doubt the legislature's exercise of its discretion was unreasonable or was purposeful political gerrymandering leading to a disproportionately low representation of Republicans in the house as a whole.

# Michigan

**The Basics:**

* 14 US Reps
* 148 state legislators
	+ 38 State Senate districts and 110 state House Districts
	+ Senators elected every four years, House Reps elected every two districts
* State legislature draws congressional and state legislative district lines

**Statutes and legislature:**

* MCLS Const. Art. IV, § 2 – Senators, number, term
	+ Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.
	+ Senatorial districts, apportionment factors. In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state’s population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state’s land area computed to the nearest one-one hundredth of one percent.
	+ Apportionment rules. In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:
		- (1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.
		- (2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.
		- (3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.
* MCLS Const. Art. IV, § 3 – Representatives, number, term; continuity of districts
	+ Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.
	+ Representative areas, single and multiple county. Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state’s population. Each such representative area shall be entitled initially to one representative.
	+ Apportionment of representatives to areas. After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.
	+ Districting of single county area entitled to 2 or more representatives. Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:
		- (1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.
		- (2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.
			* Districting of multiple county representative areas. Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.
* MCLS Const. Art. IV, § 4 - Annexation or merger with a city
	+ Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.
* MCLS Const. Art IV, § 5 – Island areas, contiguity
	+ Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.
* MCLS Const. Art. IV, § 6 – Commission on legislative apportionment
	+ Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.
	+ Eligibility to membership. No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.
	+ Appointment, term, vacancies. The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.
	+ Officers, rules of procedure, compensation, appropriation. The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.
	+ Call to convene; apportionment; public hearings. Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.
	+ Disagreement of commission; submission of plans to supreme court. If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.
	+ Jurisdiction of supreme court on elector’s application. Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.
* MCLS § 4.262 – Jurisdiction of supreme court to decide cases or controversies involving redistricting plan; procedures for review of legislative redistricting plan; modification of plan; remand to special master
	+ Sec. 2. (1) The supreme court shall have original and exclusive state jurisdiction to hear and decide all cases or controversies in Michigan’s 1 court of justice involving a redistricting plan under this act. A case or controversy in Michigan’s 1 court of justice involving a redistricting plan shall not be commenced in or heard by the state court of appeals or any state trial court.
	+ (2) If a case or controversy involves a legislative redistricting plan but an application or petition for review has not been filed under subsection (3) or section 3, the supreme court may, but is not required to, undertake all or a portion of the procedures described in section 4.
	+ (3) Upon the application of an elector filed not later than 60 days after the adoption of the enactment of a redistricting plan, the supreme court, exercising original state jurisdiction provided under section 6 of article IV of the state constitution of 1963, may review any plan enacted by the legislature, and may modify that plan or remand that plan to a special master for further action if the plan fails to comply with section 1 or 1a.

**Relevant Redistricting Cases:**

* In re Apportionment of State Legislature-1982, 413 Mich. 96, 321 N.W.2d 565 (1982)
	+ In an original proceeding, the reapportionment of the state legislature was submitted to the court for decision. This submission was made after a bipartisan commission could not agree on a reapportionment plan. The court refused to consider the commission's various plans, and instead ordered that new submissions be made by what was in effect a special master. In so ruling, the court held that the plans submitted by the bipartisan commission could not be considered by it because the commission itself was no longer a viable entity, inasmuch as it was obliged to recommend plans that considered factors other than population. Because deciding legislative district boundaries based upon factors other than population was constitutionally intolerable, the commission's very existence was invalid. Consequently, the court would not consider the several plans submitted to it by the commission, and instead ordered a special master to submit one or more plans to it for approval.
* In re Reapportionment of Michigan Legislature, 387 Mich. 442, 197 N.W.2d 249 (1972)
	+ After the Commission on Legislative Apportionment (commission) failed to agree on an apportionment plan for the state legislature, the court, proceeding under Mich. Const. art. 4, § 6, promulgated procedures and advised submission of proposed plans. The court considered apportionment plans submitted by members of the commission. The court held that it was not necessary to submit only plans previously submitted to the commission. The controlling criterion was found to be equality of population as nearly as practicable and, in determining between plans with identical equality of population factors, the court considered compactness, shape, etc. The court noted that all the plans crossed or re-crossed county, city, or township lines to some degree and of manifest necessity. The court found that the Hatcher-Kleiner plan was based upon districts containing population as nearly equal as practicable and that the districts were formed as compact, contiguous, and regular in shape, and followed county, city, and township boundaries, as nearly as practicable. Accordingly, the court directed the commission to adopt that plan.

# Minnesota

**The Basics:**

* 8 US Reps
* 201 state legislators
	+ 67 State Senate districts and 134 State House districts
		- Each Senate district contains two House districts
		- State Senators get reelected every four years, State House Reps get reelected every two years
* State legislature draws both congressional and state legislative districts
	+ If legislature cannot come up with a redistricting plan, the Minnesota Supreme Court is forced to appoint a panel to draw the final congressional district lines

**Statutes and legislation:**

* Minn. Const., Art. IV, § 2 – Apportionment of members
	+ The number of members who compose the senate and house of representatives shall be prescribed by law. The representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.
* Minn. Const. Art. IV, § 3 – Census enumeration apportionment; congressional and legislative district boundaries; senate districts
	+ At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series.
* Minn. Stat. § 2.91 – Redistricting Plans
	+ Subdivision 1. Distribution. — Upon enactment of a redistricting plan for the legislature or for Congress, the Legislative Coordinating Commission shall deposit the plan with the secretary of state. The secretary of state shall provide copies of the relevant portions of the redistricting plan to each county auditor, who shall provide a copy of the relevant portions of the plan to each municipal clerk within the county. The secretary of state, with the cooperation of the commissioner of administration, shall make copies of the plan file, maps, and tables available to the public for the cost of publication. The revisor of statutes shall code a metes and bounds description of the districts in Minnesota Statutes.
	+ Subd. 2. Corrections. — The legislature intends that a redistricting plan encompass all the territory of this state, that no territory be omitted or duplicated, that all districts consist of convenient contiguous territory substantially equal in population, and that political subdivisions not be divided more than necessary to meet constitutional requirements. Therefore, in implementing a redistricting plan for the legislature or for Congress, the secretary of state, after notifying the Legislative Coordinating Commission and the revisor of statutes, shall order the following corrections:
		- (a) If a territory in this state is not named in the redistricting plan but lies within the boundaries of a district, it is a part of the district within which it lies.
		- (b) If a territory in this state is not named in the redistricting plan but lies between the boundaries of two or more districts, it is a part of the contiguous district having the smallest population.
		- (c) If a territory in this state is assigned in the redistricting plan to two or more districts, it is part of the district having the smallest population.
		- (d) If a territory in this state is assigned to a district that consists of other territory containing a majority of the population of the district but with which it is not contiguous, the territory is a part of the contiguous district having the smallest population.
		- (e) If the description of a district boundary line that divides a political subdivision is ambiguous because a highway, street, railroad track, power transmission line, river, creek, or other physical feature or census block boundary that forms part of the district boundary is omitted or is not properly named or has been changed, or because a compass direction for the boundary line is wrong, the secretary of state shall add or correct the name or compass direction and resolve the ambiguity in favor of creating districts of convenient, contiguous territory of substantially equal population that do not divide political subdivisions more than is necessary to meet constitutional requirements.

**Relevant Redistricting Cases:**

* Cotlow v. Growe, 622 N.W.2d 561 (Minn. 2001)
	+ In 1991, plaintiffs challenged the constitutionality of the then-existing state legislative and congressional districts based on population changes reported in the 1990 Census. A three-judge special redistricting panel found the districts to be invalid and adopted a revised redistricting plan. The plaintiffs in the first case sought to have the judgment re-opened to hold the current legislative and congressional districts unconstitutional based on the 2000 Census. A different set of plaintiffs filed a new action alleging that the current legislative and congressional districts were unconstitutional based on the 2000 Census. Those plaintiffs petitioned for a new three-judge special redistricting panel. The court denied the prior plaintiff's motion, because the scope of that case concerned validity of the districts based on the 1990 census, which was fully litigated. Changes based on the 2000 Census were not within the scope of that action. Because the new action was a challenge based on the 2000 Census, the court found that a three-judge panel should be granted to hear the case and any other challenges based on new census figures.

# Mississippi

**The Basics:**

* 4 US Reps
* 174 state legislators
	+ 52 State Senate Districts and 122 State House Districts
		- Both elected every four years
* State legislature draws both congressional and state legislative lines.
	+ If state legislature fails to approve a congressional redistricting plan, a new map is drawn by a three- member panel of federal judges

**Statutes and legislation:**

* Miss. Const. Ann. Art. 13, § 254 – Senatorial and representative districts
	+ The Legislature shall at its regular session in the second year following the 1980 decennial census and every ten (10) years thereafter, and may, at any other time, by joint resolution, by majority vote of all members of each house, apportion the state in accordance with the Constitution of the state and of the United States into consecutively numbered senatorial and representative districts of contiguous territory.
	+ The Senate shall consist of not more than fifty-two (52) Senators, and the House of Representatives shall consist of not more than one hundred twenty-two (122) Representatives, the number of members of each house to be determined by the Legislature. Should the Legislature adjourn without apportioning itself as required hereby, the Governor by proclamation shall reconvene the Legislature within thirty (30) days in special apportionment session which shall not exceed thirty (30) consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the Legislature to adopt a joint resolution of apportionment.
	+ Should a special apportionment session not adopt a joint resolution of apportionment as required hereby, a five-member commission consisting of the Chief Justice of the Supreme Court as chairman, the Attorney General, the Secretary of State, the speaker of the House of Representatives and the president pro tempore of the Senate shall immediately convene and within one hundred eighty (180) days of the adjournment of such special apportionment session apportion the Legislature, which apportionment shall be final upon filing with the office of the Secretary of State. Each apportionment shall be effective for the next regularly scheduled elections of members of the Legislature.
* Miss. Code Ann. § 5-3-91 – Standing joint legislative committee on reapportionment; membership; organization
	+ There is hereby created the standing joint legislative committee on reapportionment, to be composed of the chairman and vice chairman of the apportionment and elections committee of the house of representatives and the chairman and vice chairman of the elections committee of the senate; ten (10) members of the house of representatives, two (2) from each congressional district, to be appointed by the speaker of the house of representatives; and ten (10) members of the senate, two (2) from each congressional district to be appointed by the lieutenant governor. In the event the congressional districts of the state shall change numerically, then the number appointed from the senate and appointed from the house by congressional districts shall be adjusted accordingly. The members shall serve until the end of the term of office for which such member has been elected.
	+ A majority vote of the members of each house shall be required on all votes by the committee.
* Miss. Code Ann. § 5-3-99 – Procedure for determining norm to be represented by senators and representatives
	+ (1) The committee shall divide the number of members of the senate that it recommends within constitutional limitations into the total population of the state as reported in each census to determine the number of persons which constitutes the norm to be represented by a senator.
	+ (2) The committee shall divide the number of members of the house of representatives that it recommends within constitutional limitations into the total population of the state as reported in each census to determine the number of persons which constitutes the norm to be represented by a representative.
* Mss. Code Ann. § 5-3-101 – Guidelines and standards for apportionment
	+ In accomplishing the apportionment, the committee shall follow such constitutional standards as may apply at the time of the apportionment and shall observe the following guidelines unless such guidelines are inconsistent with constitutional standards at the time of the apportionment, in which event the constitutional standards shall control:
		- (a) Every district shall be compact and composed of contiguous territory and the boundary shall cross governmental or political boundaries the least number of times possible; and
		- (b) Districts shall be structured, as far as possible and within constitutional standards, along county lines; if county lines are fractured, then election district lines shall be followed as nearly as possible.

**Relevant Redistricting Cases:**

* Mauldin v. Branch, 866 So. 2d 429 (Miss. 2003)
	+ Following the most recent census, the State's delegation to the United States House of Representatives was reduced from five to four representatives. However, the state legislature left the old five-district plan in place. Concerned about the State's failure to act, the voters filed for injunctive relief in the chancery court. They alleged that the state legislature would not submit a new redistricting plan. They requested that the chancery court adopt and implement a plan in time for the required preclearance mandated by federal voting law and a state law candidate qualifying deadline. The intervenors objected. The chancery court assumed jurisdiction and adopted a submitted congressional redistricting plan. In the meantime, a federal trial court ordered that the State use a plan it had adopted until the State produced a congressional redistricting plan that was precleared. The intervenors appealed. On appeal, the state supreme court found that the chancery court, pursuant to state law, did not have jurisdiction to adopt a submitted congressional redistricting plan, as state law dictated that only the state legislature had the power to authorize new congressional districts.
* Barbour v. Gunn, 890 So. 2d 843 (Miss. 2004)
	+ In a party primary election for a state house seat, the first winner defeated the protesting candidate. The protesting candidate filed a contest with the state party's executive committee, alleging that errors in some precincts prevented citizens of a certain district from voting in the election. The officials of the state party's executive committee were concerned that they would not have time before the general election to decide the issue; therefore, the protesting candidate seized the reins of his complaint and steered it directly to the trial court, which was a completely permissible procedure. Thus, the trial court had jurisdiction to hear the election contest. Additionally, the problems in the election were not "technical;" an entire sub-precinct was not allowed to vote. Thus, the trial court appropriately ordered a revote in the excluded areas in complete accordance with procedures mandated by the legislature. Finally, the census maps controlled the voting districts and the trial court properly determined which districts could vote in the revote. In the special election, the protesting candidate came out ahead of the first winner.

# Missouri

**The Basics:**

* 8 US Reps
* 197 state legislators
	+ 34 state Senate districts and 163 state House districts
		- Senators elected every four years, House reps elected every two years
* State legislature draws the congressional district boundaries. Two separate politician commissions draw state Senate and House district lines

**Statutes and legislation:**

* Mo. Const. Art. III, § 2 – Election of representatives – apportionment commission, appointment, duties, compensation
	+ The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner:
		- Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners.
		- Neither party shall select more than one nominee from any one state legislative district.
		- he congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.
		- If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.
	+ Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.
	+ For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.
	+ The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.
	+ Each district shall be composed of contiguous territory as compact as may be.
	+ Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.
* Mo. Const. Art. III, § 5 – Senators-number-senatorial districts
	+ The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be
* Mo. Const. Art. III, § 7 – Senatorial apportionment commission – number, appointment, duties, compensation
	+ Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.
	+ If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.
	+ Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.
	+ The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.
	+ Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.
	+ After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.
	+ Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

**Relevant Redistricting Cases:**

* Johnson v. State, 366 S.W.3d 11 (Mo. 2012)
	+ Pursuant to Mo. Const. art. III, § 2 a nonpartisan reapportionment commission was appointed to file a new apportionment plan. After the plan was filed, the voters filed a declaratory judgment action. The trial court allowed an intervention in the case. The trial court entered judgment against the voters, and this appeal followed. In affirming, the supreme court held that the trial court did not abuse its discretion in allowing intervention under Mo. Sup. Ct. R. 52.12(b) because the intervenors had unique personal and economic interests at stake. The trial court did not err in its decision under the sunshine law because the commission was a judicial entity that was not acting in an administrative capacity under Mo. Rev. Stat. § 610.010. The voters failed to meet their burden of proving that the plan filed by the commission was clearly and undoubtedly unconstitutional under Mo. Const. art. III, § 2 or Mo. Const. art. I, § 25. The record supported the trial court's finding that the voters failed to prove that it was possible to achieve greater population equality and compactness when considering federal law requirements and other factors.
* Moore v. Pacific, 534 S.W.2d 486 (Mo. Ct. App. 1976)
	+ The city changed the boundary between its two wards and divided the black voters in half by splitting them into a third ward based on the census population. The candidate contended that the reapportioned districts constituted a racially motivated gerrymander and that the ordinance resulted in uneven population distribution between the wards. The court ruled that the candidate had established a prima facie case of racial discrimination. The court held that: (1) the candidate had not sustained his burden of showing racially motivated gerrymander because the original district did not have a substantial black voting strength where black registered voters only made up 10 percent of the district's population; (2) the reapportionment violated the equal protection clause because it diminished the one man-one vote rule which required that the legislative body make a good faith effort to construct districts "as nearly of equal population as practicable"; and (3) use of the census population in this case, versus the registered voter population resulted in a disproportionate number of eligible voters because one voting district had three times the voting power of the other district.

# Montana

**The Basics:**

* 1 US Rep
* 150 state legislators
	+ 50 state Senate districts and 100 state House districts
		- Senators elected every four years and House reps elected every two years
* No congressional redistricting necessary because there is only 1 US Rep. State legislative district lines are drawn by an independent commission

**Statutes and legislation:**

* Mont. Const., Art. V § 2 – Size of the legislature
	+ The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members.
* Mont. Const., Art. V § 14 – Districting and apportionment
	+ (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.
	+ (2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative districts and a plan for redistricting the state into congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.
	+ (3) Within 90 days after the official final decennial census figures are available, the commission shall file its final plan for congressional districts with the secretary of state and it shall become law.
	+ (4) The commission shall submit its plan for legislative districts to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan for legislative districts with the secretary of state and it shall become law.
* 5-1-101, MCA – Commission to redistrict and reapportionment – number of legislators
	+ (1) In each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare the plans for redistricting and reapportioning the state into legislative and congressional districts.
	+ (2) The plans for redistricting and reapportionment of legislative districts must be based on the number of members in the house of representatives and the senate to be determined in the legislative session before the census.
* 5-1-102, MCA – Composition of commission on redistricting
	+ (1) The majority and minority leaders of each house shall each designate one commissioner for the commission provided for in 5-1-101. Two commissioners must be appointed from each district listed in subsection (2). The majority leader in the senate has first choice of the district from which the majority leader will select a commissioner, and the majority leader of the house has second choice. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as the presiding officer of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select the fifth member.
	+ (2) The commission districts are the following counties:
		- (a) District 1: Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Powell, Granite, Deer Lodge, Silver Bow, Jefferson, Broadwater, Beaverhead, Madison, Gallatin, Park, Sweet Grass, Stillwater, and Carbon;
		- (b) District 2: Glacier, Toole, Liberty, Hill, Blaine, Phillips, Valley, Daniels, Sheridan, Roosevelt, Richland, McCone, Garfield, Petroleum, Fergus, Judith Basin, Cascade, Chouteau, Teton, Pondera, Lewis and Clark, Meagher, Wheatland, Golden Valley, Musselshell, Treasure, Rosebud, Custer, Prairie, Dawson, Wibaux, Fallon, Carter, Powder River, Big Horn, and Yellowstone.
* 5-1-108, MCA – Public hearing on plans
	+ (1) Before the commission files its final congressional redistricting plan with the secretary of state, the commission shall hold at least one public hearing on it.
	+ (2) Before the commission submits its legislative redistricting plan to the legislature, it shall hold at least one public hearing on the plan at the state capitol.
	+ (3) The commission may hold other hearings as it deems necessary.
* 5-1-110, MCA – Recommendations of legislature
	+ Within 30 days after the commission submits its legislative redistricting plan to the legislature, the legislature shall return the plan to the commission with its recommendations.
* 5-1-115, MCA – Redistricting criteria
	+ (1) Subject to federal law, legislative and congressional districts must be established on the basis of population.
	+ (2) In the development of legislative districts, a plan is subject to the Voting Rights Act and must comply with the following criteria, in order of importance:
		- (a) The districts must be as equal as practicable, meaning to the greatest extent possible, within a plus or minus 1% relative deviation from the ideal population of a district as calculated from information provided by the federal decennial census. The relative deviation may be exceeded only when necessary to keep political subdivisions intact or to comply with the Voting Rights Act.
		- (b) District boundaries must coincide with the boundaries of political subdivisions of the state to the greatest extent possible. The number of counties and cities divided among more than one district must be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions must be divided before the less populous, unless the boundary is drawn along a county line that passes through a city.
		- (c) The districts must be contiguous, meaning that the district must be in one piece. Areas that meet only at points of adjoining corners or areas separated by geographical boundaries or artificial barriers that prevent transportation within a district may not be considered contiguous.
		- (d) The districts must be compact, meaning that the compactness of a district is greatest when the length of the district and the width of a district are equal. A district may not have an average length greater than three times the average width unless necessary to comply with the Voting Rights Act.
	+ (3) A district may not be drawn for the purposes of favoring a political party or an incumbent legislator or member of congress. The following data or information may not be considered in the development of a plan
		- (a) addresses of incumbent legislators or members of congress;
		- (b) political affiliations of registered voters;
		- (c) partisan political voter lists; or
		- (d) previous election results, unless required as a remedy by a court.

**Relevant Redistricting Cases:**

* Wheat v. Brown, 320 Mont. 15, 85 P.3d 765 (2004)
	+ The senators were elected to office with terms to run for four years. The district assignments of the senators differed from the Districting and Apportionment Commission's assignment. The issue on appeal was whether the Montana Constitution prohibited the Montana Legislature from enacting legislation establishing a procedure for assigning holdover senators to newly-drawn districts? The appellate court concluded the Montana Constitution's mandate that the Commission effect redistricting was self-executing and that, as the history of implementation illustrated, the power to assign holdover senators to districts was an inherent part of the redistricting process. By granting redistricting authority to the Commission under the constitution, it denied the legislature any latitude to invoke its plenary powers. The legislation designed to transfer the power to assign holdover senators from the Commission to the legislature violated Mont. Const. art. V, § 14.

# Nebraska

**The Basics:**

* 3 US Reps
* 48 state legislators
	+ 48 legislative districts
* State legislature draws both congressional and legislative district lines
	+ Only state legislature in the nation was unicameral

**Statutes and legislation:**

* Ne. Const. Art. III, § 5 – Legislative districts; apportionment; redistricting, when required
	+ The Legislature shall by law determine the number of members to be elected and divide the state into legislative districts. In the creation of such districts, any county that contains population sufficient to entitle it to two or more members of the Legislature shall be divided into separate and distinct legislative districts, as nearly equal in population as may be and composed of contiguous and compact territory. One member of the Legislature shall be elected from each such district. The basis of apportionment shall be the population excluding aliens, as shown by the next preceding federal census. The Legislature shall redistrict the state after each federal decennial census. In any such redistricting, county lines shall be followed whenever practicable, but other established lines may be followed at the discretion of the Legislature.
* Ne. Const. Art. III, § 6 – Legislature; number of members; annual sessions
	+ The Legislature shall consist of not more than fifty members and not less than thirty members. The sessions of the Legislature shall be annual except as otherwise provided by this constitution or as may be otherwise provided by law.

**Relevant Redistricting Cases:**

* Hlava v. Nelson, 247 Neb. 482, 528 N.W.2d 306 (1995)
	+ Appellants filed suit to challenge the constitutionality of Neb. Rev. Stat. § 50-1101 et seq. (Reissue 1993), contending that it violated Neb. Const. art. III, § 5 because the legislature's redistricting plan failed to follow county lines where practicable. The trial court found the statute constitutional and dismissed the suit. Upon review, the court affirmed, holding that appellants failed in their burden of proof to show that the redistricting plan adopted by the legislature was unconstitutional. The court held that Neb. Const. art. III, § 5 gave the legislature the discretion to determine which counties ultimately were to be divided in the redistricting process. The court held that appellants' argument that the boundaries of legislative districts must adhere to county lines except when a county must be divided into two or more districts was wholly without merit.
* Day v. Nelson, 240 Neb. 997, 485 N.W.2d 583 (1992)
	+ After the 1990 census the State's legislative districts were reapportioned. The citizens sought an order enjoining defendants, state officials and the State, from abolishing one county as a unitary district and dividing the county between two preexisting districts. The trial court dismissed the petition. The court reversed the judgment and held that Neb. Const. art. III, § 5 mandated that, in redistricting the State after each federal decennial census, county lines had to have been followed whenever practicable. Because it was practicable to follow the county lines of the subject county and the legislature failed to have done so, 1991 Neb. Laws 614, §§ 5-219, 5-241 violated the constitution and appellees should have been enjoined. The court noted that the presence of a number of proposed plans that left the district substantially intact made following that county's boundaries "practicable." The suggestion by the State that the process was entirely political ignored the mandatory "shall" in the constitutional section.

# Nevada

**The Basics:**

* 4 US Reps
* 63 state legislators
	+ 21 state Senator districts
		- 19 districts are single member districts. The remaining 2 districts are multimember districts
	+ 42 state House districts
	+ Senatorial elections are every four years, state House Reps are elected every two years
* State legislature draws both congressional and state legislative district boundaries

**Statutes and legislation:**

* Nev. Const. Art. 4, § 5 – Number of senators and assemblymen; apportionment
	+ Senators and members of the assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of senators shall not be less than one-third nor more than one-half of that of the members of the assembly.
	+ It shall be the mandatory duty of the legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of senators and assemblymen, and apportion them among the several counties of the state, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.
* Nev. Const. Art. 1, § 13 – Representation apportioned according to population
	+ Representation shall be apportioned according to population.
* Nev. Rev. Stat. Ann. § 218B.100 – Creation of legislative districts; Legislator must be elected registered voters of district in which Legislator resides
	+ 1. The assembly districts described in NRS 218B.600 to 218B.805, inclusive, are hereby created.
	+ 2. The senatorial districts described in NRS 218B.300 to 218B.390, inclusive, are hereby created, and the numbers of Senators designated therein are apportioned to each respectively.
	+ 3. Each Legislator must be elected from within the district wherein the Legislator resides by the registered voters residing in that district.
* Nev. Rev. Stat. Ann. § 218B.050 – “Census voting district” defined
	+ “Census voting district” means the voting district:
		- 1. Based on the geographic and population data bases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Legislature; and
		- 2. Designated in the maps filed with the Office of the Secretary of State pursuant to NRS 218B.180.

**Relevant Redistricting Cases:**

* County of Clark v. Las Vegas, 92 Nev. 323, 550 P.2d 779 (1976)
	+ The Nevada Legislature adopted the Metropolitan Cities Incorporation Law, ch. 648, 1975 Nev. Stat. 2-110.6, and the Urban County Law, ch. 648, 1975 Nev. Stat. 111-136, to allow a city and county to consolidate governmental functions and services while maintaining their distinct governmental entities. The taxpayer and the city filed separate declaratory actions seeking a determination that the entire chapter was unconstitutional. The actions were consolidated and the district court determined that Chapter 648 violated provision of the state and federal constitutions. On appeal, the county and legislative commission contended that the chapter constituted special legislation because it had temporary application and that offending provisions could be severed from the chapter. The court affirmed the decision because (1) there was no need for special legislation because the entire chapter contained provisions for the election of county officers which ostensibly applied uniformly throughout the state, (2) the new commissioner districts were based on inaccurate population estimates, (3) the votes of county residents were diluted, and (4) the provisions were not severable.
* State v. Brown, 88 Nev. 339, 497 P.2d 1364 (1972)
	+ The county clerk refused to attest a county ordinance which created election districts for county commissioners based on population. The county clerk argued that the ordinance was void because Nev. Rev. Stat. § 244.013, which provided for a multi-member district and a floating district, was constitutional. The board argued that the statute was impermissible because the inhabitants of the city within the county were underrepresented. The court granted the peremptory writ of mandamus, ordering the county clerk to attest the ordinance. The Equal Protection Clause required that districts be constructed of as nearly equal population as practicable. Each qualified voter must be given an equal opportunity to participate in an election. The deviation from equal apportionment created by § 244.013 automatically discriminated against the city. The burden was on the state to justify the variance, and that justification was absent.

# New Hampshire

**The Basics:**

* 2 US Reps
* 424 state legislators
	+ 24 state Senate districts and 204 state House districts (some districts elect more than one House representatives)
* State legislatures draw congressional and state legislative districts

**Statutes and legislation:**

* N.H. Const. Pt. SECOND, Art. 9 – Representatives Elected Every Second Year; Apportionment of Representatives
	+ There shall be in the legislature of this state a house of representatives, biennially elected and founded on principles of equality, and representation therein shall be as equal as circumstances will admit. The whole number of representatives to be chosen from the towns, wards, places, and representative districts thereof established hereunder, shall be not less than three hundred seventy-five or more than four hundred. As soon as possible after the convening of the next regular session of the legislature, and at the session in 1971, and every ten years thereafter, the legislature shall make an apportionment of representatives according to the last general census of the inhabitants of the state taken by authority of the United States or of this state. In making such apportionment, no town, ward or place shall be divided nor the boundaries thereof altered.
* N.H. Const. Pt. SECOND, Art. 26 – Senatorial Districts, How Constituted
	+ And that the state may be equally represented in the senate, the legislature shall divide the state into single-member districts, as nearly equal as may be in population, each consisting of contiguous towns, city wards and unincorporated places, without dividing any town, city ward or unincorporated place. The legislature shall form the single-member districts at its next session after approval of this article by the voters of the state and thereafter at the regular session following each decennial federal census.
* N.H. Const. Pt. SECOND, Art. 26-a – Division of Town, Ward or Place; Senatorial Districts
	+ Notwithstanding Article 26 or any other article, a law providing for an apportionment to form senatorial districts under Article 26 of Part Second may divide a town, ward or unincorporated place into two or more senatorial districts if such town, ward or place by referendum requests such division.
* N.H. Const. Pt. SECOND, Art. 11 – Small Towns; Representation by Districts
	+ When the population of any town or ward, according to the last federal census, is within a reasonable deviation from the ideal population for one or more representative seats the town or ward shall have its own district of one or more representative seats. The apportionment shall not deny any other town or ward membership in one non-floterial representative district. When any town, ward, or unincorporated place has fewer than the number of inhabitants necessary to entitle it to one representative, the legislature shall form those towns, wards, or unincorporated places into representative districts which contain a sufficient number of inhabitants to entitle each district so formed to one or more representatives for the entire district. In forming the districts, the boundaries of towns, wards, and unincorporated places shall be preserved and contiguous. The excess number of inhabitants of a district may be added to the excess number of inhabitants of other districts to form at-large or floterial districts conforming to acceptable deviations. The legislature shall form the representative districts at the regular session following every decennial federal census.

**Relevant Redistricting Cases:**

* City of Manchester v. Secretary of State, 163 N.H. 689, 48 A.3d 864 (2012)
	+ The court stated that because petitioners did not allege an equal protection violation, they had to establish that the Plan was enacted without a rational or legitimate basis. The overall range of deviation for the Plan was 9.9 percent. Petitioners argued that the legislature could have adopted a plan with a higher range of deviation that afforded more towns, wards, and places their own representatives. The court rejected this argument. Under federal equal protection standards, a plan with a maximum population deviation of more than 10 percent created a prima facie case of discrimination under U.S. Const. amend. XIV, while a plan that resulted in less than a 10 percent deviation was not per se violative of the principle of equal representation. Given this precedent, adhering to the 10 percent rule was a rational legislative policy. Furthermore, the court could not fault the legislature for giving primacy to the principle of one person/one vote. The legislature's choice to adhere to the 10 percent rule was a policy decision reserved to the legislature. Finally, nothing in the New Hampshire Constitution required a redistricting plan to consider "communities of interest."
* Below v. Gardner, 148 N.H. 1, 963 A.2d 785 (2002)
	+ The state legislature failed to enact a new district plan for the state senate following the 2000 census. The court held that it undertook the obligation of performing in the legislature's stead gingerly, mindful that, as a court, it possessed no distinctive mandate to compromise sometimes conflicting state apportionment policies in the people's name. The New Hampshire Constitution required therefore that the state legislature be apportioned so that each person's vote carried as near equal weight as possible. The overriding objective of redistricting needed to be substantial equality of population among the various legislative districts, so that the vote of any citizen was approximately equal in weight to that of any other citizen in the state. However, a state did not need to achieve "absolute population equality" with respect to state legislative districts. With respect to a court redistricting plan, any deviation from approximate population equality needed to be supported by enunciation of historically significant state policy or unique features. Plans submitted were unacceptable to the court.

# New Jersey

**The Basics:**

* 12 US Reps
* 120 state legislators
	+ 40 legislative districts
		- Each district has one state Senator and two state House Representatives
		- State Senators elected every four years and state House Reps are elected every two years
* Two distinct politician commissions draw congressional and state legislative district lines, respectively

**Statues and legislation:**

* N.J. Const., Art. II, Sec. II, Para. 1 – Establishment of Congressional districts; redistricting commission
	+ 1. (a) After each federal census taken in a year ending in zero, the Congressional districts shall be established by the New Jersey Redistricting Commission.
	+ The commission shall consist of 13 members, none of whom shall be a member or employee of the Congress of the United States. The members of the commission shall be appointed with due consideration to geographic, ethnic and racial diversity and in the manner provided herein.
	+ (b) There shall first be appointed 12 members as follows:
		- (1) two members to be appointed by the President of the Senate;
		- (2) two members to be appointed by the Speaker of the General Assembly;
		- (3) two members to be appointed by the minority leader of the Senate;
		- (4) two members to be appointed by the minority leader of the General Assembly; and
		- (5) four members, two to be appointed by the chairman of the State committee of the political party whose candidate for the office of Governor received the largest number of votes at the most recent gubernatorial election and two to be appointed by the chairman of the State committee of the political party whose candidate for the office of Governor received the next largest number of votes in that election.
* N.J. Const., Art. II, Sec. II, Para. 7 – Jurisdiction of Supreme Court relating to comission
	+ Notwithstanding any provision to the contrary of this Constitution and except as otherwise required by the Constitution or laws of the United States, no court of this State other than the Supreme Court shall have jurisdiction over any judicial proceeding challenging the appointment of members to the New Jersey Redistricting Commission, or any action, including the establishment of Congressional districts, by the commission or other public officer or body under the provisions of this section.

**Relevant Redistricting Cases:**

* Gonzalez v. State Apportionment Com'n, 428 N.J. Super. 333, 53 A.3d 1230 (App.Div. 2012)
	+ The approved map established New Jersey State Senate and Assembly districts and the apportionment of State Senators and members of the General Assembly among those districts. Plaintiffs contended that the approved map violated various provisions of the New Jersey Constitution by failing to construct New Jersey Assembly districts as nearly compact and equal in the number of their inhabitants as possible and with no or as few as possible county or municipal splits. The trial court found that the plaintiffs failed to state a claim for relief. The court agreed with the trial court's dismissal, finding that it was obligated to follow New Jersey Supreme Court precedent which has established that counties cannot constitute separate districts and are not suitable building blocks for the formation of meaningful districts. The court found that the Commission reasonably viewed its task as unconstrained by a need to create districts within the borders of county lines and that plaintiffs did not make a showing that demographic data shifts had changed the facts from the 1970 Census in a way that would now allow for effective redistricting using county lines.
* In re Contest of November 8, 2011 General Election of Office of New Jersey General Assembly, 210 N.J. 29, 40 A.3d 684 (2012)
	+ The trial court issued an order annulling respondent's certificate of election, set aside her election, and enjoined her from taking office. The trial court directed the vacancy to be filled by an interim successor selected from the Democratic Party and that the durational residency requirement was constitutional. The Court agreed and held that the durational residency requirement for members of the New Jersey General Assembly set forth in N.J. Const. art. IV, § 1, para. 2 did not violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV, and that its decision was not a new ruling, thus, it declined to limit that judgment to prospective application. The Court further held that because respondent was the incumbent at the time of the vacancy, the Democratic Party, with which respondent was affiliated at the time of the election, would select an interim successor for the vacant seat. The Court further held that, in construing the vacancy filling provisions, it recognized that respondent would meet the eligibility requirements for appointment as an interim successor, if she were selected by her party.

# New Mexico

**The Basics:**

* 3 US Reps
* 112 state legislators
	+ 42 state Senate districts and 70 state House districts
		- State Senators elected every four years and state House elected every two years
* State legislature draws both the congressional and state legislative districts
	+ When state legislature cannot draw one, a state court does

**Statutes and legislation:**

* N.M. Const. Art. IV, § 3 – Number and qualification of members; single-member districts; reapportionment
	+ A. Senators shall not be less than twenty-five years of age and representatives not less than twenty-one years of age at the time of their election. If any senator or representative permanently removes his residence from or maintains no residence in the district from which he was elected, then he shall be deemed to have resigned and his successor shall be selected as provided in Section 4 of this article. No person shall be eligible to serve in the legislature who, at the time of qualifying, holds any office of trust or profit with the state, county or national governments, except notaries public and officers of the militia who receive no salary.
	+ B. The senate shall be composed of no more than forty-two members elected from single-member districts.
	+ C. The house of representatives shall be composed of no more than seventy members elected from single-member districts.
	+ D. Once following publication of the official report of each federal decennial census hereafter conducted, the legislature may by statute reapportion its membership. (As repealed and reenacted November 2, 1976.)
* N.M. Stat. Ann. § 2-7D-1 – House of representative redistricting plan
	+ Breaks down every representative district
* N.M. Stat. Ann. § 2-7C-3 – House of Representative redistricting membership
	+ The house of representatives is composed of seventy members to be elected from districts that are contiguous and that are as compact as is practical and possible.
* N.M. Stat. Ann. § 2-8D-2 – Senate redistricting membership
	+ The senate is composed of forty-two members to be elected from districts that are contiguous and that are as compact as is practical
* N.M. Stat. Ann. § 2-8D-6 – 2-8D-48 – Senate districts
	+ Goes through every Senate district

**Relevant Redistricting Cases:**

* Maestas v. Hall, 274 P.3d 66 (N.M. 2012)
	+ The plan ultimately adopted by the district court, Executive Alternative Plan 3, did not undergo the same scrutiny for partisan bias that the majority of the plans that were previously considered had undergone. Because Executive Alternative Plan 3 contained significant partisan performance changes, the court concluded that the district court should have rejected it. A consolidated district in central Albuquerque raised questions. It resulted in a strongly partisan district favoring one political party, in effect tilting the balance for that party without any valid justification. A more competitive district should have been created if at all practicable to avoid this political advantage to one political party and disadvantage to the other. The district court appropriately exercised its equitable powers to insist on the consolidation of districts in the underpopulated regional areas of north central and southeastern New Mexico, as well as central Albuquerque. The problem noted with the central Albuquerque consolidation was not the fact that the consolidation occurred, but the manner in which the consolidation was accomplished.
* State ex rel. Craig v. Mabry, 54 N.M. 158, 216 P.2d 694 (1950)
	+ By 1949 N.M. Laws ch. 134, § 3 (Act), Los Alamos County was created and annexed to the Twenty-Eighth Representative District. The legislature adjourned, and the Act was subsequently approved. In their ex-officio character, the legislature at the same session proposed an amendment to N.M. Const. art. IV, § 3, which provided that upon the creation of any new county, it was to be annexed to a contiguous district for legislative purposes. The State filed an original mandamus proceeding against the Governor to prohibit the enforcement of the annexation of Los Alamos County pursuant to the constitutional amendment. The court issued an alternative writ of mandamus, which it made permanent. The court held that the Act and the constitutional amendment were not repugnant. The legislature had adjourned, and the Act creating Los Alamos County was in the hands of the Governor at the time the constitutional amendment was proposed. In adopting the constitutional amendment, no proposition was ever submitted to the people relative to its removal from the Twenty-Eighth Representative District. Thus, Los Alamos County remained in the representative district designated by the Act creating it.

# New York

**The Basics:**

* 27 US Reps
* 213 state legislators
	+ 63 state Senate districts and 150 state House districts
		- Both state Senate and state House districts are up for election every two years
* The state legislature draws both congressional and state legislative districts with the help of an advisory commission
	+ Beginning 2020, district lines will be drawn by a bipartisan politician commission

**Statutes and legislation:**

* NY CLS Const Art III, § 4 – Readjustments and reapportionments; when federal census to control
	+ (a) Except as herein otherwise provided, the federal census taken in the year nineteen hundred thirty and each federal census taken decennially thereafter shall be controlling as to the number of inhabitants in the state or any part thereof for the purposes of the apportionment of members of assembly and readjustment or alteration of senate and assembly districts next occurring, in so far as such census and the tabulation thereof purport to give the information necessary therefor.
	+ In the reapportionment of senate districts, no district shall contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens. No county shall have four or more senators unless it shall have a full ratio for each senator.
	+ No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.
	+ (b) The independent redistricting commission established pursuant to section five-b of this article shall prepare a redistricting plan to establish senate, assembly, and congressional districts every ten years commencing in two thousand twenty-one, and shall submit to the legislature such plan and the implementing legislation therefore on or before January first or as soon as practicable thereafter but no later than January fifteenth in the year ending in two beginning in two thousand twenty-two. The redistricting plans for the assembly and the senate shall be contained in and voted upon by the legislature in a single bill, and the congressional district plan may be included in the same bill if the legislature chooses to do so. The implementing legislation shall be voted upon, without amendment, by the senate or the assembly and if approved by the first house voting upon it, such legislation shall be delivered to the other house immediately to be voted upon without amendment. If approved by both houses, such legislation shall be presented to the governor for action If either house shall fail to approve the legislation implementing the first redistricting plan, or the governor shall veto such legislation and the legislature shall fail to override such veto, each house or the governor if he or she vetoes it, shall notify the commission that such legislation has been disapproved. Within fifteen days of such notification and in no case later than February twenty-eighth, the redistricting commission shall prepare and submit to the legislature a second redistricting plan and the necessary implementing legislation for such plan. Such legislation shall be voted upon, without amendment, by the senate or the assembly and, if approved by the first house voting upon it, such legislation shall be delivered to the other house immediately to be voted upon without amendment. If approved by both houses, such legislation shall be presented to the governor for action.
	+ If either house shall fail to approve the legislation implementing the second redistricting plan, or the governor shall veto such legislation and the legislature shall fail to override such veto, each house shall introduce such implementing legislation with any amendments each house of the legislature deems necessary. All such amendments shall comply with the provisions of this article. If approved by both houses, such legislation shall be presented to the governor for action.
	+ (c) Subject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements, the following principles shall be used in the creation of state senate and state assembly districts and congressional districts:
		- (1) When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.
		- (2) To the extent practicable, districts shall contain as nearly as may be an equal number of inhabitants. For each district that deviates from this requirement, the commission shall provide a specific public explanation as to why such deviation exists.
		- (3) Each district shall consist of contiguous territory.
		- (4) Each district shall be as compact in form as practicable.
		- (5) Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The commission shall consider the maintenance of cores of existing districts, of pre-existing political subdivisions, including counties, cities, and towns, and of communities of interest.
		- (6) In drawing senate districts, towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants.
	+ The requirements that senate districts not divide counties or towns, as well as the ‘block-on-border’ and ‘town-on-border’ rules, shall remain in effect.
	+ During the preparation of the redistricting plan, the independent redistricting commission shall conduct not less than one public hearing on proposals for the redistricting of congressional and state legislative districts in each of the following (i) cities: Albany, Buffalo, Syracuse, Rochester, and White Plains; and (ii) counties: Bronx, Kings, New York, Queens, Richmond, Nassau, and Suffolk. Notice of all such hearings shall be widely published using the best available means and media a reasonable time before every hearing. At least thirty days prior to the first public hearing and in any event no later than September fifteenth of the year ending in one or as soon as practicable thereafter, the independent redistricting commission shall make widely available to the public, in print form and using the best available technology, its draft redistricting plans, relevant data, and related information.
	+ (d) The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.
	+ (e) The process for redistricting congressional and state legislative districts established by this section and sections five and five-b of this article shall govern redistricting in this state except to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law.
	+ A reapportionment plan and the districts contained in such plan shall be in force until the effective date of a plan based upon the subsequent federal decennial census taken in a year ending in zero unless modified pursuant to court order
* NY CLS Const Art III, § 5-b – Independent redistricting commission
	+ (a) On or before February first of each year ending with a zero and at any other time a court orders that congressional or state legislative districts be amended, an independent redistricting commission shall be established to determine the district lines for congressional and state legislative offices. The independent redistricting commission shall be composed of ten members, appointed as follows:
		- (1) two members shall be appointed by the temporary president of the senate;
		- (2) two members shall be appointed by the speaker of the assembly;
		- (3) two members shall be appointed by the minority leader of the senate;
		- (4) two members shall be appointed by the minority leader of the assembly;
		- (5) two members shall be appointed by the eight members appointed pursuant to paragraphs
		- (1) through (4) of this subdivision by a vote of not less than five members in favor of such appointment, and these two members shall not have been enrolled in the preceding five years in either of the two political parties that contain the largest or second largest number of enrolled voters within the state;
		- (6) one member shall be designated chair of the commission by a majority of the members appointed pursuant to paragraphs (1) through (5) of this subdivision to convene and preside over each meeting of the commission.
	+ (c) To the extent practicable, the members of the independent redistricting commission shall reflect the diversity of the residents of this state with regard to race, ethnicity, gender, language, and geographic residence and to the extent practicable the appointing authorities shall consult with organizations devoted to protecting the voting rights of minority and other voters concerning potential appointees to the commission.
	+ (g) In the event that the commission is unable to obtain seven votes to approve a redistricting plan on or before January first in the year ending in two or as soon as practicable thereafter, the commission shall submit to the legislature that redistricting plan and implementing legislation that garnered the highest number of votes in support of its approval by the commission with a record of the votes taken. In the event that more than one plan received the same number of votes for approval, and such number was higher than that for any other plan, then the commission shall submit all plans that obtained such number of votes. The legislature shall consider and vote upon such implementing legislation in accordance with the voting rules set forth in subdivision (b) of section four of this article.
* NY CLS Const Art III, § 5 – Apportionment of assemblymen; creation of assembly districts
	+ The members of the assembly shall be chosen by single districts and shall be apportioned pursuant to this section and sections four and five-b of this article at each regular session at which the senate districts are readjusted or altered, and by the same law, among the several counties of the state, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member.
	+ An apportionment by the legislature, or other body, shall be subject to review by the supreme court, at the suit of any citizen, under such reasonable regulations as the legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same. The court shall render its decision within sixty days after a petition is filed. In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law’s legal infirmities.
* NY CLS Legis § 93 – Redistricting
	+ 1. The independent redistricting commission established pursuant to section ninety-four of this article shall prepare a redistricting plan to establish senate, assembly, and congressional districts every ten years commencing in two thousand twenty-one, and shall submit to the legislature such plan and the implementing legislation therefor on or before January first or as soon as practicable thereafter but no later than January fifteenth in the year ending in two beginning in two thousand twenty-two.
	+ The redistricting plans for the assembly and the senate shall be contained in and voted upon by the legislature in a single bill, and the congressional district plan may be included in the same bill if the legislature chooses to do so. The implementing legislation shall be voted upon, without amendment, by the senate or the assembly within ten days of the plan’s submission or within ten days after January first in a year ending in two, whichever is later. If approved by the first house voting upon it, such legislation shall be delivered to the other house immediately to be voted upon, without amendment, within five days from delivery. If approved by both houses, such legislation shall be presented to the governor for action within three days.
	+ If either house shall fail to approve the legislation implementing the first redistricting plan, or the governor shall veto such legislation and the legislature shall fail to override such veto within ten days of such veto, each house or the governor if he or she vetoes it, shall notify the commission that such legislation has been disapproved within three days of such disapproval. Within fifteen days of such notification and in no case later than February twenty-eighth of a year ending in two, the redistricting commission shall prepare and submit to the legislature a second redistricting plan and the necessary implementing legislation for such plan. Within ten days of its submission such legislation shall be voted upon, without amendment, by the senate or the assembly and, if approved by the first house voting upon it, such legislation shall be delivered to the other house immediately to be voted upon, without amendment, within five days from delivery. If approved by both houses, such legislation shall be presented to the governor for action within three days.
	+ 2. Subject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements, the following principles shall be used in the creation of state senate and state assembly districts and congressional districts:
		- (a) When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.
		- (b) To the extent practicable, districts shall contain as nearly as may be an equal number of inhabitants. For each district that deviates from this requirement, the commission shall provide a specific public explanation as to why such deviation exists.
		- (c) Each district shall consist of contiguous territory.
		- (d) Each district shall be as compact in form as practicable.
		- (e) Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The commission shall consider the maintenance of cores of existing districts, of pre-existing political subdivisions, including counties, cities, and towns, and of communities of interest.
		- (f) In drawing senate districts, towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants. The requirements that senate districts not divide counties or towns, as well as the ‘block-on-border’ and ‘town-on-border’ rules, shall remain in effect.
	+ 3. The process for redistricting congressional and state legislative districts established by this article shall govern redistricting in this state except to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law.
	+ A reapportionment plan and the districts contained in such plan shall be in force until the effective date of a plan based upon the subsequent federal decennial census taken in a year ending in zero unless modified pursuant to court order.
	+ 4. In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law’s legal infirmities.

**Relevant Redistricting Cases:**

* Petition of Orans, 45 Misc. 2d 616, 257 N.Y.S.2d 839 (N.Y. Sup. Ct. 1965)
	+ The United States Supreme Court held that New York's "apportionment scheme" violated the Equal Protection clause of the Fourteenth Amendment. In response, the Legislature passed the Act in a special session. The plan set forth in the Act increased the size of the state Assembly from 150 to 165 members. Prior to commencement of the state action, a federal district court found that the Act did not violate the federal constitution. The court held that the Act violated the New York Constitution. The court found that the "scheme" found unconstitutional consisted only of the formulae found in N.Y. Const. art. III, §§ 4, 5 as applied in the particular statute before the Supreme Court. The court held that N.Y. Const. art. III, § 2 had not been invalidated, and provided for no more than 150 members of the Assembly. The court held that the number of members could not be increased without an amendment or a new constitution, thus the Act was invalid. The court found that the provisions of the Act with regard to the state Senate must also fall, because N.Y. Const. art. III, § 5 required apportionment of both houses "by the same law."
* Warren v. North Tonawanda, 60 Misc. 2d 593, 303 N.Y.S.2d 945 (N.Y. Sup. Ct. 1969)
	+ Defendants submitted a proposed plan of redistricting the legislative body of the city that provided for two councilmen to be elected from four wards and also provided that the mayor would become a voting member of the council with no veto power. The court held that the plan violated the U.S. and New York Constitution. The court noted that the voter registration figures were used in drawing the new boundary lines. The court reasoned that if the mayor's veto power was to be taken away and he was to be given a vote, the same as the members of the council, it would be necessary to have the city charter amended by appropriate legislative enactment, and not as a part of the reapportionment that was the basis of this proceeding.

# North Carolina

**The Basics:**

* 13 US Reps
* 170 state legislators
	+ 50 state Senate districts and 120 state House districts
		- Both are up for election every two years
* State legislature draws both the congressional and state legislative districts

**Statutes and legislation:**

* N.C. Const. art. II, § 3 – Senate districts; apportionment of Senators
	+ The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:
		- (1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;
		- (2) Each senate district shall at all times consist of contiguous territory;
		- (3) No county shall be divided in the formation of a senate district;
		- (4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.
* N.C. Const. art. II, § 5 – Representative districts; apportionment of Representatives
	+ The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:
		- (1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;
		- (2) Each representative district shall at all times consist of contiguous territory;
		- (3) No county shall be divided in the formation of a representative district;
		- (4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.
* N.C. Gen. Stat. § 120-133 – Confidentiality of Redistricting communications
	+ (a) Notwithstanding any other provision of law, all drafting and information requests to legislative employees and documents prepared by legislative employees for legislators concerning redistricting the North Carolina General Assembly or the Congressional Districts are no longer confidential and become public records upon the act establishing the relevant district plan becoming law. Present and former legislative employees may be required to disclose information otherwise protected by G.S. 120-132 concerning redistricting the North Carolina General Assembly or the Congressional Districts upon the act establishing the relevant district plan becoming law.

**Relevant Redistricting Cases:**

* Stephenson v. Bartlett, 357 N.C. 301, 582 S.E.2d 247 (2003)
	+ The supreme court held the evidence supported the trial court's findings of fact that the legislature's new redistricting plan was constitutionally deficient in numerous instances. These findings of fact adequately supported the trial court's conclusion that the new redistricting plans failed to attain strict compliance with the legal requirements previously set forth by the supreme court and were unconstitutional. The new plan involved excessive division of counties, contrary to N.C. Const. art. II, §§ 3(3) and 5(3), deficiencies in county groupings, and substantial failures in compactness, contiguity, and communities of interest. The revised senate plan cut across interior county boundaries more than necessary, clustered portions of counties to structure individual county groups, and violated the requirement that districts be compact. The revised house plan cut county lines more than necessary to comply with the federal "one-person, one-vote" requirement and the Voting Rights Act of 1965, 42 U.S.C.S. § 1971, and violated the mandate that districts be compact.
* Pender County v. Bartlett, 361 N.C. 491, 649 S.E.2d 364 (2007)
	+ According to the United States Supreme Court, a minority group had to be sufficiently large and geographically compact to constitute a majority in a single-member district before a legislature was required to draw a legislative district under § 1973. The court held that the proper statistic for deciding whether a minority group met the precondition was voting age population as refined by citizenship. Furthermore, a bright line rule was appropriate: thus, if a minority group lacked a numerical majority of citizens of voting age, the precondition had not been satisfied and it was not necessary to create a § 1973 legislative district. The district in question here did not meet this bright line test. Thus, because the district was not required by § 1973, it had to be drawn in accordance with the WCP and the requirements set forth by the court in Stephenson I. The district here did not comply with these criteria. One of the counties in question lacked sufficient population to support a non-VRA house district; thus, a voting district which included that county had to add population across a county line, but only to the extent necessary to comply with the one-person, one vote standard.
* Dickson v. Rucho, 367 N.C. 542, 766 S.E.2d 238 (2014)
	+ Vacated and remanded by Dickson v. Rucho, 2015 U.S. LEXIS 2744 (U.S. 2015)
	+ HOLDINGS: [1]-The trial court properly found that the General Assembly's redistricting plans satisfied constitutional and statutory requirements because, while the trial court erred in applying strict scrutiny prematurely, the voters would gain nothing on remand where compliance with §§ 2 and 5 of the Voting Rights Act of 1965, 52 U.S.C.S. §§ 10301 and 10304, was a compelling state interest, the General Assembly had a strong evidentiary basis on which to conclude that race-based remedial action was necessary, the redistricting was sufficiently narrowly tailored to advance the state interests, and other factors were considered in addition to race, such as the Whole County Provision of N.C. Const. art. II, §§ 3(3) and 5(3), one-person, one-vote requirements, partisan considerations, population equalization, protecting incumbents, and fashioning more competitive districts.

# North Dakota

**The Basics:**

* 1 US Rep
* 141 state legislators
	+ 47 legislative districts. Each district elects one state Senator and two state Representatives
		- Both positions are up for election every four years
* State legislature draws the state legislative districts. Since there is only 1 US Rep, there is no need for congressional redistricting

**Statutes and legislation:**

* N.D. Const. Art. IV, § 2 – Senatorial districts – Apportionment
	+ The legislative assembly shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The districts thus ascertained and determined after the 1990 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.
	+ The legislative assembly shall guarantee, as nearly as is practicable, that every elector is equal to every other elector in the state in the power to cast ballots for legislative candidates. A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts. The legislative assembly may combine two senatorial districts only when a single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of a single member senatorial district, and may provide for the election of senators at large and representatives at large or from subdistricts from those districts.
* N.D. Cent. Code, § 54-03-01.5 – Legislative redistricting requirements
	+ A legislative redistricting plan based on any census taken after 1999 must meet the following requirements:
		- 1. The senate must consist of forty-seven members and the house must consist of ninety-four members.
		- 2. Except as provided in subsection 3, one senator and two representatives must be apportioned to each senatorial district. Representatives may be elected at large or from subdistricts.
		- 3. Multimember senate districts providing for two senators and four representatives are authorized only when a proposed single-member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of the proposed single-member senatorial district.
		- 4. Legislative districts and subdistricts must be compact and of contiguous territory.
		- 5. Legislative districts must be as nearly equal in population as is practicable. Population deviation from district to district must be kept at a minimum. The total population variance of all districts, and subdistricts if created, from the average district population may not exceed recognized constitutional limitations.
* N.D. Cent. Code, § 11-07-03 – Method of redistricting – Election of commissioners at large if redistricting not accomplished by time certain
	+ 1. In redistricting a county, the redistricting board shall first attempt to make the districts contiguous following township lines where practicable, as regular and compact in form as practicable, and as substantially equal in population as possible. In no event shall any commissioner’s district vary in population more than ten percent from the average population per commissioner as determined in section 11-07-02, and any variance from the average population shall be justified in the statement filed pursuant to this section.
	+ 3. In the event that redistricting is required but not completed in the manner prescribed in subsection 1 or 2, all commissioners’ districts in such county shall be abolished and, notwithstanding the provisions of section 11-11-02, thereafter county commissioners for such county shall be elected at large without regard to district representation in the manner and at the time provided in this title and shall continue to be elected at large until a proper redistricting plan is filed as required by this chapter.
	+ The geographical boundaries of new districts created by the redistricting board must be agreed upon by a majority of the board. Redistricting must be completed by the filing, by the chairman of the redistricting board, of an accurate description of the redistricting method employed and the approved geographical boundaries and a statement of the population of the new districts, including an explanation of any variances, with the county auditor by January first of an even-numbered year to be effective for that year’s elections.

**Relevant Redistricting Cases:**

* Kelsh v. Jaeger, 2002 ND 53, 641 N.W.2d 100 (2002)
	+ A legislative redistricting plan reduced the number of senatorial districts from 49 to 47, fixed the number of senators and representatives, and divided the state into senatorial districts. The senator contended that N.D. Cent. Code § 54-03-01.8, as amended in 2001, truncated his four-year senate term to two years and thereby violated N.D. Const. art. IV, § 4, requiring a senator's term to be four years. The supreme court held that the language in § 54-03-01.8 that allowed an incumbent state senator to decide whether to stop an election for state senator was an impermissible delegation of legislative power. However, by allowing an election for state senator, § 54-03-01.8 provided the electors in the newly drawn district their constitutional right to elect a state senator. Construing all provisions of the state constitution together, the supreme court concluded that a senator generally had to be elected for a term of four years, but the legislature could truncate senate terms when reasonably necessary to accomplish another constitutional mandate. The supreme court held that the remainder of § 54-03-01.8, in truncating the senator's term, did not violate N.D. Const. art. IV. § 4.
* State ex rel. Williams v. Meyer, 20 N.D. 628, 127 N.W. 834 (1910)
	+ The district was created by the reapportionment of senatorial districts made at an earlier session of the state legislative assembly. The current senator was elected as the senator for that district at a general election, and he received a certificate reciting that he was elected for a term of four years. The secretary of state certified that there was no vacancy in that office to the county auditor. The candidate's contention was that the current senator's term of office expired at the end of two years. The court agreed with the candidate that the exception to N.D. Const. § 27 applied; the provision of N.D. Const. § 30, that the senators were to have been divided into two classes, those in the even-numbered districts constituting one class, and those in the odd-numbered districts the other class, was controlling. It was the clear intent of the constitutional convention that one half of the senators, as nearly as practicable, were to have been elected biennially.

# Ohio

**The Basics:**

* 16 US Reps
* 132 state legislators
	+ 33 state Senate districts and 99 state House districts
	+ State Senate positions are up for election every four years, state House positions are up for election very two years
* State legislature draws congressional districts. State legislative district lines are drawn by a politician commission.

**Statutes and legislation:**

* Oh. Const. Art. XI, § 1 – Persons responsible for apportionment of state for members of general assembly
	+ The governor, auditor of state, secretary of state, one person chosen by the speaker of the house of representatives and the leader in the senate of the political party of which the speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the speaker is not a member shall be the persons responsible for the apportionment of this state for members of the general assembly.
	+ Such persons, or a majority of their number, shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety-nine house of representative districts and thirty-three senate districts. Such meeting shall convene on a date designated by the governor between August 1 and October 1 in the year one thousand nine hundred seventy-one and every tenth year thereafter. The governor shall give such persons two weeks advance notice of the date, time, and place of such meeting.
	+ The governor shall cause the apportionment to be published no later than October 5 of the year in which it is made, in such manner as provided by law.
* ORC Ann. 103.51 – Legislative task force on redistricting, reapportionment and demographic research
	+ (A) There is hereby created the legislative task force on redistricting, reapportionment, and demographic research, consisting of six members. The president of the senate shall appoint three members, not more than two of whom shall be members of the same political party. One member appointed by the president shall not be a member of the general assembly. The speaker of the house of representatives shall appoint three members, not more than two of whom shall be members of the same political party. One member appointed by the speaker shall not be a member of the general assembly.
	+ The president of the senate shall appoint a member of the task force, and the speaker of the house of representatives shall appoint a member of the task force, to serve as co-chairmen of the task force. The co-chairmen shall be members of different political parties. The co-chairmen may enter into any agreements on behalf of the task force and perform any acts that may be necessary or proper for the task force to carry out its powers and duties under this section.
	+ (C) The task force shall do all of the following:
		- (1) Provide such assistance to the general assembly and its committees as requested in order to help the general assembly fulfill its duty to establish districts for the election of representatives to congress;
		- (2) Provide such assistance to the apportionment board as requested in order to help it fulfill its duty to provide for the apportionment of this state for members of the general assembly. As used in this section, “apportionment board” means the persons designated in Section 1 of Article XI, Ohio Constitution, as being responsible for that apportionment.
		- (3) Engage in such research studies and other activities as the task force considers necessary or appropriate in the preparation and formulation of a plan for the next apportionment of the state for members of the general assembly and a plan for the next establishment of districts for the election of representatives to congress and in the utilization of census and other demographic and statistical data for policy analysis, program development, and program evaluation purposes for the benefit of the general assembly.

**Relevant Redistricting Cases:**

* Wilson v. Kasich, 134 Ohio St. 3d 221, 981 N.E.2d 814 (2012)
	+ Relators did not name as parties the Board and the member who voted against the apportionment plan. The high court held that neither was a necessary and indispensable party to the action under Civ.R. 19. As long as the plan satisfied the requirements of Ohio Const. art. XI, respondents were not precluded from considering political factors in drafting it. The Board considered political factors only after the applicable constitutional and other legal requirements were met. The high court rejected relators' claim that the Board erred in relying on Ohio Const. art. XI, § 7(D) to justify violations of art. XI, § 7(A), (B), and (C) because § 7(D), being the last subsection, was subordinate to the other subsections. Art. XI, § 7(D) was coequal with art. XI, § 7(A), (B), and (C), and the high court would not order the Board to correct a violation of § 7(A), (B), and (C) by violating § 7(D). Given the discretion accorded respondents under § 7(D) and related provisions, relators did not establish beyond a reasonable doubt that respondents' purported failure to use the exact same boundary lines as the prior apportionment plan for a few districts constituted a violation of § 7(D).
* State ex rel. Voters First v. Ohio Ballot Bd., 133 Ohio St. 3d 257, 978 N.E.2d 119 (2012)
	+ If the proposed amendment was approved by the electorate, the Ohio Citizens Independent Redistricting Commission (commission) would establish new district boundaries for Ohio's state legislative and federal congressional districts. The Court held that relators established that the ballot board's condensed ballot language for the proposed redistricting amendment was defective in three ways: (1) it materially omitted who selected the commission members; (2) it materially omitted the criteria used by the commission to adopt new legislative districts; and (3) it inaccurately stated that the Ohio General Assembly must appropriate all funds as determined by the commission. The Court found that those factual inaccuracies and material omissions deprived voters of the right to know what it was they were being asked to vote upon, and the factual inaccuracy concerning the funding of the commission was in the nature of a persuasive argument against the proposed amendment.

# Oklahoma

**The Basics:**

* 5 US Reps
* 149 state legislators
	+ 48 state Senate districts and 101 state House districts
		- Senators elected every 4 years, House Reps elected every 2 years
* State legislature draws both congressional and state legislative district lines
	+ If state legislature is unable to approve a state legislative redistricting plan, a backup commission must draw new lines

**Statutes and legislation:**

* Okl. Const. Art. V, § 9A – Senatorial Districts -- Tenure
	+ The state shall be apportioned into forty-eight senatorial districts in the following manner: the nineteen most populous counties, as determined by the most recent Federal Decennial Census, shall constitute nineteen senatorial districts with one senator to be nominated and elected from each district; the fifty-eight less populous counties shall be joined into twenty-nine two-county districts with one senator to be nominated and elected from each of the two-county districts. In apportioning the State Senate, consideration shall be given to population, compactness, area, political units, historical precedents, economic and political interests, contiguous territory, and other major factors, to the extent feasible.
	+ Each senatorial district, whether single county or multi-county, shall be entitled to one senator, who shall hold office for four years; provided that any senator, serving at the time of the adoption of this amendment, shall serve the full time for which he was elected. Vitalization of senatorial districts shall provide for one-half of the senators to be elected at each general election.
* 14 Okl. St. § 80.35.2 – Redistricting – Senate Composition
	+ The State Senate shall be composed of forty-eight (48) members elected from the districts hereinafter described. The following delineation of areas to be included in each Senate district is based on the official counties, voting districts (VTD's) and blocks as defined in 2010 by the United States Bureau of the Census. The forty-eight (48) Senate districts shall consist of the counties, voting districts (VTD's) and blocks next described:
* 14 Okl. St. § 135 – Redistricting – House of Representatives composition
	+ The House of Representatives shall be composed of one hundred one (101) members as hereinafter described:

**Relevant Redistricting Cases:**

* Alexander v. Taylor, 2002 OK 59, 51 P.3d 1204 (2002)
	+ It was determined by the 2000 Census that the number of congressional districts in Oklahoma had to be reduced from six to five because Oklahoma's population had failed to grow as fast as that of many other states since the 1990 Decennial Census. The voters alleged the Oklahoma Legislature had not yet adopted a redistricting plan and that the qualifying deadline for candidacy for the U.S. House of Representatives was soon approaching. They requested the trial court ensure enforcement of the laws and adopt and implement a congressional redistricting plan to be in place in sufficient time for the candidate qualification and election process to go forward. On appeal, the senators urged the supreme court to substitute their redistricting plan for the governor's plan. The supreme court refused to do so. After initially determining the trial court had subject matter jurisdiction over the suit and an obligation to resolve the dispute, the supreme court determined the governor's plan continued the policies of Oklahoma as expressed it its previous redistricting plans. The absence of the Oklahoma Election Board as a party did not deprive the trial court of subject matter jurisdiction.
* Ballard v. Christian, 1969 OK 44, 451 P.2d 943 (1969)
	+ he citizen sought to compel the county commissioners to comply with their statutory duty and reapportion the county into three compact districts as equal in population as possible. The commissioners alleged that reapportionment was an executive function vested within their discretion, and was not under control or jurisdiction of the trial court. The trial court held that the commissioners had divided the district in fairly equal parts, and that they had therefore made a good faith effort to comply with the statute. The court reversed the judgment. The commissioners alleged that the 1960 census introduced by the citizen was no longer accurate and urged the use of voter registration as a basis for a consideration of the population question. However, the commissioners did not show that the population had changed from 1960 and 1965. Pursuant to the statute, population, not area, was the determining factor in dividing the district. Here, districts one and three had less than one-half of the county population but had two commissioners, whereas district one had more than half of the population but only one commissioner. Thus, the trial court erred in denying the writ of mandamus.

# Oregon

**The Basics:**

* 5 US Reps
* 90 state legislators
	+ 30 state Senate districts and 60 state House districts
		- State Senate is up for election every four years, state House is up for election every two years
* State legislature draws both congressional and state legislative district lines
	+ If legislature cannot come up with a plan, the secretary of state must draw the boundaries

**Statutes and legislation:**

* Ore. Const. Art. IV, § 6 – Apportionment of Senators and Representatives; operative date
	+ (1) At the odd-numbered year regular session of the Legislative Assembly next following an enumeration of the inhabitants by the United States Government, the number of Senators and Representatives shall be fixed by law and apportioned among legislative districts according to population. A senatorial district shall consist of two representative districts. Any Senator whose term continues through the next odd-numbered year regular legislative session after the operative date of the reapportionment shall be specifically assigned to a senatorial district. The ratio of Senators and Representatives, respectively, to population shall be determined by dividing the total population of the state by the number of Senators and by the number of Representatives. A reapportionment by the Legislative Assembly becomes operative as described in subsection (6) of this section.
	+ (c) If the Supreme Court determines that the reapportionment does not comply with subsection (1) of this section and all law applicable thereto, the reapportionment shall be void. In its written opinion, the Supreme Court shall specify with particularity wherein the reapportionment fails to comply. The opinion shall further direct the Secretary of State to draft a reapportionment of the Senators and Representatives in accordance with the provisions of subsection (1) of this section and all law applicable thereto. The Supreme Court shall file its order with the Secretary of State on or before September 15. The Secretary of State shall conduct a hearing on the reapportionment at which the public may submit evidence, views and argument. The Secretary of State shall cause a transcription of the hearing to be prepared which, with the evidence, shall become part of the record. The Secretary of State shall file the corrected reapportionment with the Supreme Court on or before November 1 of the same year.
* ORS § 188.010 – Criteria for apportionment of state into congressional and legislative districts
	+ The Legislative Assembly or the Secretary of State, whichever is applicable, shall consider the following criteria when apportioning the state into congressional and legislative districts:
		- (1) Each district, as nearly as practicable, shall:
			* (a) Be contiguous;
			* (b) Be of equal population;
			* (c) Utilize existing geographic or political boundaries;
			* (d) Not divide communities of common interest; and
			* (e) Be connected by transportation links.
		- (2) No district shall be drawn for the purpose of favoring any political party, incumbent legislator or other person.
		- (3) No district shall be drawn for the purpose of diluting the voting strength of any language or ethnic minority group.
		- (4) Two state House of Representative districts shall be wholly included within a single state senatorial district.
* ORS § 188.015 – Secretary of State rules
	+ The Secretary of State shall adopt rules the secretary considers necessary in carrying out the secretary’s reapportionment duties under ORS 188.010 to 188.295 and section 6, Article IV of the Oregon Constitution.
* ORS § 188.140 – Congressional district boundaries
	+ Goes through every congressional district boundary
* ORS § 188.290 – District Boundaries for House of Representatives
	+ Goes through every district for House of Representatives

* ORS § 188.295 – Senate Districts
	+ Goes through all 30 senatorial districts

**Relevant Redistricting Cases:**

* McCall v. Legislative Assembly, 291 Ore. 663, 634 P.2d 223 (1981)
	+ The people of the state adopted a constitutional amendment to Or. Const. art. IV, § 6 that would assure them of an apportionment of the legislative assembly after each federal census. The amendment provided for review of challenges to a reapportionment measure enacted by the assembly, for preparation of a reapportionment by the Secretary of State if the assembly enacted no reapportionment measure or enacted a faulty one, and for further review by the court of any reapportionment thus prepared by the secretary. The voters challenged 1981 Or. Laws 261 on a variety of grounds, including the formation of a new district by adding some adjoining census tracts to an existing district to meet the new population ratio. The voters argued that the law divided a city and a county into separate legislative districts and that certain residents would not be able to vote in some elections. The court held that the reapportionment complied with the 14th Amendment standards of equal representation, but did not comply with Or. Const. art. IV, § 6(1), and was therefore null and void. The court ordered the secretary to prepare a draft reapportionment and return the draft to the court.
* Ater v. Keisling, 312 Ore. 207, 819 P.2d 296 (1991)
	+ Five separate groups of citizens sought review of the reapportionment of their districts and argued that the secretary's plan failed to comply with Or. Const. art. IV, § 6(1). The court dismissed three of the petitions. Or. Rev. Stat. 188.010(1) required that the secretary "consider" the five criteria: that each district, as nearly as practicable, shall be: contiguous, of equal population, utilize existing geographic or political boundaries, not divide communities of common interest; and be connected by transportation links. Where the statutory goals collided, the reapportionment process necessarily required some flexibility in application. The record was replete with evidence that the secretary did consider all five statutory criteria and the choices made in drawing the district boundaries at issue in three of the petitions were consistent with Or. Const. art. IV, § 6(1) and Or. Rev. Stat. 188.010. Because of mistakes made by the secretary in dividing the districts in the two remaining petitions, the court voided the reapportionment and the secretary was directed to correct the errors in one of the petitions and to reconsider the district assignments in the other.

# Pennsylvania

**The Basics:**

* 18 US Reps
* 253 state legislators
	+ 50 state Senator districts and 203 state House districts
		- Senators up for election every four years, state house reps elected every two years
* State legislature draws the congressional district boundaries. A politician commission draws state legislative district boundaries

**Statutes and legislation:**

* Pa. Const. Art. II, § 17 – Legislative Reapportionment Comission
	+ (a) In each year following the year of the Federal decennial census, a Legislative Reapportionment Commission shall be constituted for the purpose of reapportioning the Commonwealth. The commission shall act by a majority of its entire membership.
	+ (b) The commission shall consist of five members: four of whom shall be the majority and minority leaders of both the Senate and the House of Representatives, or deputies appointed by each of them, and a chairman selected as hereinafter provided. No later than 60 days following the official reporting of the Federal decennial census as required by Federal law, the four members shall be certified by the President pro tempore of the Senate and the Speaker of the House of Representatives to the elections officer of the Commonwealth who under law shall have supervision over elections.
	+ The four members within 45 days after their certification shall select the fifth member, who shall serve as chairman of the commission, and shall immediately certify his name to such elections officer. The chairman shall be a citizen of the Commonwealth other than a local, State or Federal official holding an office to which compensation is attached.
	+ If the four members fail to select the fifth member within the time prescribed, a majority of the entire membership of the Supreme Court within 30 days thereafter shall appoint the chairman as aforesaid and certify his appointment to such elections officer.
* Pa. Const. Art. II, § 16 – Legislative districts
	+ The Commonwealth shall be divided into 50 senatorial and 203 representative districts, which shall be composed of compact and contiguous territory as nearly equal in population as practicable. Each senatorial district shall elect one Senator, and each representative district one Representative. Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided in forming either a senatorial or representative district.
* 53 Pa.C.S. § 903 – Reapportionment by a governing body
	+ (a) General rule. — Within the year following that in which the Federal census, decennial or special, is officially and finally reported and at such other times as the governing body deems necessary, each entity having a governing body not entirely elected at large shall be reapportioned into districts by its governing body. The governing body shall number the districts.
	+ (b) Composition of districts. — Districts shall be composed of compact and contiguous territory as nearly equal in population as practicable as officially and finally reported in the most recent Federal census, decennial or special.

**Relevant Redistricting Cases:**

* Holt v. 2011 Legislative Reapportionment Comm'n, 620 Pa. 373, 67 A.3d 1211 (2013)
	+ The Court previously declared the legislative redistricting plan filed by the LRC was contrary to law under Pa. Const. art. II, § 17(d) and remanded the matter to the LRC to reapportion the Commonwealth in a manner consistent with the Court's directives and cautions. As a result, the LRC produced the Final Plan to which appellants filed the consolidated appeals. The Court considered the specific challenges asserted by appellants and the LRC's response and held that the Final Plan was not contrary law. The Court held that the LRC, in crafting the Final Plan, sufficiently heeded the Court's admonition that it could have easily achieved a substantially greater fidelity to all of the mandates in Pa. Const. art. II, § 16 than it did in its unconstitutional 2011 Final Plan. The Court noted that the Final Plan was not perfect but held that appellants have not demonstrated that the Final Plan was contrary to law. As such, the Court concluded that the LRC utilized the population data of the 2010 census to create a redistricting map that complied with the Pennsylvania Constitution.
* Albert v. 2001 Legislative Reapportionment Comm'n, 567 Pa. 670, 790 A.2d 989 (2002)
	+ The commission reapportioned the commonwealth senate and house of representatives districts based on the most recent census figures. The total range of deviation from the ideal population was 3.98 percent for the senate and 5.54 percent for the house. Various challengers claimed that the reapportionment plan was unconstitutional for various reasons, including that it failed to respect municipal boundaries to the fullest extent possible and that it failed to provide for compact districts to the fullest extent possible. The supreme court found that the range of deviation from the ideal population, as well as the population ratio from the least populous to the most populous district, compared favorably to prior reapportionment plans that had been approved. The supreme court rejected the arguments that the new districts did not abide by the homogeneity and shared interests of communities, finding that these concepts reflected nothing more than continuation of the pre-existing legislative districts. The reapportionment process considered the interests of communities across the commonwealth by assigning their elected representatives the task of reapportioning the districts.

# Rhode Island

**The Basics:**

* 2 US Reps
* 113 state legislators
	+ 38 state Senate Districts and 75 state House districts
		- Both are up for election every two years
* State legislature draws both congressional and state legislative district lines
	+ An 18 member advisory commission is also involved in the process since 2011

**Statutes and legislation:**

* R.I. Const. Art. VII, § 1 – Composition of the House of Representatives
	+ There shall be one hundred members of the house of representatives, provided, however, that commencing in 2003 there shall be seventy-five members of the house of representatives. The house of representatives shall be constituted on the basis of population and the representative districts shall be as nearly equal in population and as compact in territory as possible. The general assembly shall, after any new census taken by authority of the United States, reapportion the representation to conform to the Constitution of the state and the Constitution of the United States.
* R.I. Const. Art. VII, § 1 – Composition of Senate
	+ The senate shall consist of the lieutenant governor and fifty members from the senatorial districts in the state, provided, however, that commencing in 2003 the senate shall consist of thirty-eight members from the senatorial districts in the state. The senate shall be constituted on the basis of population and the senatorial districts shall be as nearly equal in population and as compact in territory as possible. The general assembly shall, after any new census taken by authority of the United States, reapportion the representation to conform to the Constitution of the state and the Constitution of the United States.
* 2011 R.I. ALS 106 – Act Establishing a Reapportionment Commission
	+ (a) There is hereby created a special commission on reapportionment, which shall consist of eighteen (18) members: four (4) of whom shall be from the house of representatives, to be appointed by the speaker; two (2) of whom shall be from the house of representatives, to be appointed by the minority leader of the house of representatives; four (4) of whom shall be from the senate, to be appointed by the president of the senate; two (2) of whom shall be appointed by the minority leader of the senate; three (3) of whom shall be members of the general public to be appointed by the speaker; and three (3) of whom shall be members of the general public to be appointed by the president of the senate.
	+ (b) It shall be the purpose and responsibility of the commission to draft and to report to the general assembly an act to reapportion the districts of the general assembly and the state’s United States congressional districts and to perform the necessary functions incident to drafting such an act including, but not limited to, the division of the state into seventy-five (75) state representative districts, thirty-eight (38) state senatorial districts and two (2) United States congressional districts as near equal as possible.
	+ (a) All districts shall be single member districts.
	+ (b) Congressional and state legislative districts shall comply with all requirements of the United States Constitution. All state legislative districts shall comply with all requirements of the United States Constitution and of the Rhode Island Constitution, and recognize pertinent or applicable federal legislation and court precedent.
	+ (c) Congressional and state legislative districts shall be as nearly equal in population as possible, and:
		- (1) In no case shall congressional districts vary in population by more than one percent (1%) from each other as determined by the population reported in the federal census in 2010; and
		- (2) In no case shall a single state senate district have a population which varies by more than five percent (5%) from the average population of all senate districts as determined by the population reported in the federal census in 2010, and in no case shall a single state representative district have a population which varies by more than five percent (5%) from the average population of all representative districts as determined by the population reported in the federal census in 2010.
	+ (d) Congressional and state legislative districts shall be as compact in territory as possible and, to the extent practicable, shall reflect natural, historical, geographical and municipal and other political lines, as well as the right of all Rhode Islanders to fair representation and equal access to the political process.
	+ (e) To the extent practicable, congressional and state legislative districts shall be composed of contiguous territory.
	+ (f) To the extent practicable, the commission should endeavor to avoid the division of state representative districts in the formation of state senate districts and the division of state senate districts in the formation of United States congressional districts in any manner which would result in the creation of voting districts composed of fewer than one hundred (100) potential voters.

**Relevant Redistricting Cases:**

* Holmes v. Burns, 1982 R.I. Super. LEXIS 153, \*1 (R.I. Super. Ct. 1982)
	+ Plaintiffs alleged that the reapportionment and redistricting of the House of Representatives violated the U.S. and Rhode Island constitutions. The court dismissed the complaint and denied the injunctive relief sought by plaintiffs because they failed to bear the burden of proof imposed on them by law to demonstrate beyond a reasonable doubt that the Reapportionment Act of 1982, insofar as it reapportioned and redistricted the House of Representatives, violated the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States, or the Thirteenth Amendment to the Constitution of Rhode Island, or the provisions of 42 U.S.C.S. § 1982. The court found that the deviations in population size within the new districts was not prima facie unconstitutional, that the strength of racial minorities within new districts was maintained, and that the territorial compactness of the districts was reasonable.
* Parella v. Montalbano, 899 A.2d 1226 (R.I. 2006)
	+ A Special Commission on Reapportionment recommended State and House district reapportionment plans, which were enacted by the Rhode Island General Assembly under R.I. Gen. Laws §§ 22-1-2 and 22-2-2 (1956). Plaintiffs challenged the redistricting under R.I. Gen. Laws § 22-1-2, asserting that the statute was unconstitutional because the districts did not meet the requirements of the Compactness Clause of the Rhode Island Constitution, R.I. Const. art. VIII, § 1, requiring that they be as compact or contiguous in territory as possible. The trial court justice found that the redistricting statute was not solely based on political considerations, did not violate the Compactness Clause, and was not unconstitutional. On appeal, the court adopted the trial court's decision. It noted that deferential review was given to legislative acts regarding redistricting, and the burden of proof of beyond a reasonable doubt as to the statute's unconstitutionality was properly placed on plaintiffs. There was no evidence of gerrymandering, each district possessed some areas of common interest, and the plan was reasonable and rational. The contiguity and compactness requirements were not violated.

# South Carolina

**The Basics:**

* 7 US Reps
* 170 state legislators
	+ 46 state Senate districts and 124 state House districts
		- State Senators elected every four years, state House reps elected every two years
* State legislature draws both congressional and state legislative district boundaries

**Statutes and legislation:**

* S.C. Const. Ann. Art. III, § 3 – Number of members; enumeration of inhabitants
	+ The House of Representatives shall consist of one hundred and twenty-four members, to be apportioned among the several Counties according to the number of inhabitants contained in each. Each County shall constitute one election district. An enumeration of the inhabitants for this purpose shall be made in the year Nineteen hundred and One, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed: Provided, That the General Assembly may at any time, in its discretion, adopt the immediately preceding United States Census as a true and correct enumeration of the inhabitants of the several Counties, and make the apportionment of Representatives among the several Counties, according to said enumeration: Provided, further, That until the apportionment which shall be made upon the next enumeration shall take effect, the representation of the several Counties as they now exist (including the County of Saluda established by ordinance) shall be as follows:
		- Names all of the counties in South Carolina
* S.C. Const. Ann. Art. III, § 4 – Assignment of representatives
	+ In assigning Representatives to the several Counties, the General Assembly shall allow one Representative to every one hundred and twenty-fourth part of the whole number of inhabitants in the State: Provided, That if in the apportionment of Representatives any County shall appear not to be entitled, from its population, to a Representative, such County shall, nevertheless, send one Representative; and if there be still a deficiency in the number of Representatives required by Section third of this Article, such deficiency shall be supplied by assigning Representatives to those Counties having the largest surplus fractions.
* S.C. Const. Ann. Art. III, § 6 – Senate
	+ The Senate shall be composed of one member from each County, to be elected for the term of four years by the qualified electors in each County, in the same manner in which members of the House of Representatives are chosen.

**Relevant Redistricting Cases:**

* Elliott v. Richland County, 322 S.C. 423, 472 S.E.2d 256 (1996)
	+ By a regularly enacted ordinance, the county reapportioned its county council districts. This reapportionment plan (Plan one) received the appropriate federal approval. The county realized Plan one contained an error, and by a regularly enacted ordinance amended Plan one, and this amended plan (Plan two) also received federal approval. By a regularly enacted ordinance the county adopted Plan 3, which repealed all previously adopted reapportionment ordinances inconsistent with Plan 3. Plan three was declared valid on the party chairman's complaint. In reversing the judgment the court held that plan three violated S.C. Code Ann. § 4-9-90 (1986 & Supp. 1994), because under § 4-9-90, once a county council had enacted a valid reapportionment ordinance, it could not subsequently enact another such ordinance until after the next regular apportionment period prescribed by § 4-9-90, which was after adoption of the federal decennial census. The court held that Plan 2 constituted not a new and comprehensive - and therefore void - reapportionment ordinance, but was merely amendatory of Plan 1, and thus itself was not violative of § 4-9-90.

# South Dakota

**The Basics:**

* 1 US Rep
* 105 state legislators
	+ 35 legislative districts. Each district elects one state Senator and two state House Representatives
		- Both up for election every two years
* 1 congressional rep, so no need to redistrict. State legislature draws the state legislative district lines

**Statutes and legislation:**

* S.D. Const. Article III, § 5 – Legislative department
	+ The Legislature shall apportion its membership by dividing the state into as many single-member, legislative districts as there are state senators. House districts shall be established wholly within senatorial districts and shall be either single-member or dual-member districts as the Legislature shall determine. Legislative districts shall consist of compact, contiguous territory and shall have population as nearly equal as is practicable, based on the last preceding federal census. An apportionment shall be made by the Legislature in 1983 and in 1991, and every ten years after 1991. Such apportionment shall be accomplished by December first of the year in which the apportionment is required. If any Legislature whose duty it is to make an apportionment shall fail to make the same as herein provided, it shall be the duty of the Supreme Court within ninety days to make such apportionment.
* S.D. Codified Laws § 2-2-32 – Redistricting principles
	+ The Legislature, in making the 2001 redistricting, determines, as a matter of policy, that the following principles are of primary significance:
		- (1) Adherence to standards of population deviance as established by judicial precedent and to standards of population deviance as prescribed by Article III, section 5, of the South Dakota Constitution;
		- (2) Protection of communities of interest by means of compact and contiguous districts;
		- (3) Respect for geographical and political boundaries; and
		- (4) Protection of minority voting rights consistent with the United States Constitution, the South Dakota Constitution, and federal statutes, as interpreted by the United States Supreme Court and other courts with jurisdiction.

**Relevant Redistricting Cases:**

* Bone Shirt v. Hazeltine, 700 N.W.2d 746 (S.D. 2005)
	+ Pursuant to its mandate under S.D. Const. art. III, § 5, the state legislature undertook redistricting after a federal census. The Native American voters brought a federal action, alleging the redistricting violated §§ 2 and 5 of the Voting Rights Act. The federal court determined that the redistricting impermissibly diluted the Indian vote in violation of § 2 of the Act. It gave the legislature 45 days to fashion a remedy. The legislators requested a certified question to the court as to whether the legislature had the authority to fashion a remedy, and the federal court certified the question. The court found that S.D. Const. art. III, § 5, transferred the duty of apportionment to the court only if the legislature failed to enact apportionment legislation. Where the legislature enacted valid apportionment legislation, it had no power to make another apportionment until after the next federal census. However, where the apportionment legislation was held to be invalid, it had the continuing duty to enact a valid plan. Therefore, the legislature had the authority and the duty to enact a valid apportionment plan after the federal court's decision invalidated the prior legislation.
* Bailey v. Jones, 81 S.D. 617, 139 N.W.2d 385 (1966)
	+ The county was divided into five commissioner districts pursuant to S.D. Codified Laws § 12.0608, two of which comprised the city; the other three comprised the balance of the county. Under S.D. Codified Laws § 12.06, a county commissioner had to be a resident elector of the district and his nomination and election was by a vote of the electors of the district of which he was a resident elector. Thus, two of the commissioners were elected by and represented 65,466 persons (32,733 each) from the city and the three outside the city were elected by and represented 21,109 persons (7,036 each). The court affirmed the judgment of the trial court, finding that the statutory election scheme resulted in inequality in the districts and disproportionate representation. The court held that the "one person, one vote" doctrine applied to the election of county commissioners and that such doctrine applied equally to both state and local elections, as well as federal elections. The court concluded that a classification that discriminated geographically deprived a citizen on his constitutional rights the same as one that discriminated by reason of race, creed, or color.

# Tennessee

**The Basics:**

* 9 US Reps
* 132 State Legislators
	+ 33 state Senate districts and 99 state House Districts
		- State Senate is up for election every four years, state House is up for election every two years
* State legislature draws both congressional and state legislative district boundaries

**Statutes and legislation:**

* Tenn. Const. Art. II, § 4 – Apportionment of senators and representatives
	+ The apportionment of Senators and Representatives shall be substantially according to population. After each decennial census made by the Bureau of Census of the United States is available the General Assembly shall establish senatorial and representative districts. Nothing in this Section nor in this Article II shall deny to the General Assembly the right at any time to apportion one House of the General Assembly using geography, political subdivisions, substantially equal population and other criteria as factors; provided such apportionment when effective shall comply with the Constitution of the United States as then amended or authoritatively interpreted. If the Constitution of the United States shall require that Legislative apportionment not based entirely on population be approved by vote of the electorate, the General Assembly shall provide for such vote in the apportionment act.
* Tenn. Const. Art. II, § 5 – Number of Representatives – Apportionment
	+ The number of Representatives shall be ninety-nine and shall be apportioned by the General Assembly among the several counties or districts as shall be provided by law. Counties having two or more Representatives shall be divided into separate districts. In a district composed of two or more counties, each county shall adjoin at least one other county of such district; and no county shall be divided in forming such a district.
* Tenn. Const. Art. II, § 6 – Number of senators – Apportionment
	+ The number of Senators shall be apportioned by the General Assembly among the several counties or districts substantially according to population, and shall not exceed one-third the number of Representatives. Counties having two or more Senators shall be divided into separate districts. In a district composed of two or more counties, each county shall adjoin at least one other county of such district; and no county shall be divided in forming such a district.
* Tenn. Code Ann. § 7-21-402 – Legislative Branch – Redistricting
	+ On or before December 31 of the first calendar year following a year of federal decennial census, it is the duty of the legislative branch of the unified government to reapportion or redistrict the seats of the legislative branch and the seats of the board of education of the unified government to comply with constitutional requirements. Districts reapportioned or redistricted under this section shall be relatively compact, undivided, representative of community interests, and as equal in population as reasonably practicable.

**Relevant Redistricting Cases:**

* Moore v. State, 436 S.W.3d 775 (Tenn. Ct. App. 2014)
	+ The trial court properly denied the registered voters' motion for summary judgment and subsequently granted motions by the State and its officials (jointly, the State) to dismiss the voters' declaratory judgment action because, the Senate Reapportionment Act, 2012 Tenn. Pub. Acts ch. 514, did not violate Tenn. Const. art. II, § 4 where the State carried its burden to demonstrate that crossing county lines was necessary in consideration of equal protection requirements and the voters did not allege any particular improper or "bad faith" motivation.
* State ex rel. Lockert v. Crowell, 631 S.W.2d 702 (Tenn. 1982)
	+ Appellees filed suit challenging the constitutionality of the Senate Reapportionment Act (Act) contending the Act violated Tenn. Const. art. II, § 6, which provided that no county could be divided in forming a senate district. Appellants contended there was no basis under the Tennessee Constitution on which to hold the Act invalid since the Act complied with the "one person, one vote" requirements of the Equal Protection Clause and contended the plan was close to mathematical perfection in that it had a total maximum variance of less than two percent. The court reversed the chancery court's order sustaining appellees' motion for summary judgment and remanded the case for further proceedings. The court held the case was not a proper case for summary judgment since there was conflicting evidence as to the maximum total variance in the proposed reapportionment plans and the record failed to establish whether either plan diluted minority voting strength. The court held the question of whether the state made a good faith effort to construct senatorial districts that complied with both federal and state constitutions was an issue of fact that required a full evidentiary hearing.

# Texas

**The Basics:**

* 36 US Reps
* 181 state legislators
	+ 31 state Senate districts and 150 state House districts
		- State Senators up for election every four years. State House Reps are up for election every two years
* State legislature draws both congressional and state legislative lines
	+ If state legislature fails to approve a state legislative redistricting plan, a backup commission draws the lines

**Statutes and legislation:**

* Tex. Const. Art. III, § 28 – Time for apportionment; Apportionment by Legislative Redistricting Board
	+ The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion the state into senatorial and representative districts, agreeable to the provisions of Sections 25 and 26 of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislative Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members, as follows: The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office, a majority of whom shall constitute a quorum. Said Board shall assemble in the City of Austin within ninety (90) days after the final adjournment of such regular session.
	+ The Board shall, within sixty (60) days after assembling, apportion the state into senatorial and representative districts, or into senatorial or representative districts, as the failure of action of such Legislature may make necessary. Such apportionment shall be in writing and signed by three (3) or more of the members of the Board duly acknowledged as the act and deed of such Board, and, when so executed and filed with the Secretary of State, shall have force and effect of law. Such apportionment shall become effective at the next succeeding statewide general election. The Supreme Court of Texas shall have jurisdiction to compel such Board to perform its duties in accordance with the provisions of this section by writ of mandamus or other extraordinary writs conformable to the usages of law. The Legislature shall provide necessary funds for clerical and technical aid and for other expenses incidental to the work of the Board, and the Lieutenant Governor and the Speaker of the House of Representatives shall be entitled to receive per diem and travel expense during the Board's session in the same manner and amount as they would receive while attending a special session of the Legislature.
* Tex. Const. Art. III, § 26 – Apportionment of Members of House of Representatives
	+ The members of the House of Representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the House is composed; provided, that whenever a single county has sufficient population to be entitled to a Representative, such county shall be formed into a separate Representative District, and when two or more counties are required to make up the ratio of representation, such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more Representatives, such Representative or Representatives shall be apportioned to such county, and for any surplus of population it may be joined in a Representative District with any other contiguous county or counties.
* Tex. Const. Art. III, § 25 – Senatorial Districts
	+ The State shall be divided into Senatorial Districts of contiguous territory, and each district shall be entitled to elect one Senator.

**Relevant Redistricting Cases:**

* Clements v. Valles, 620 S.W.2d 112 (Tex. 1981)
	+ Appellee voters brought a class action suit on behalf of all voters for a declaration that H.R. 960, 67th Leg., Reg. Sess. (Tex. 1981) was unconstitutional and to enjoin appellants, Texas governor, attorney general, and secretary of state, from conducting elections pursuant to the act. The district court declared the statute unconstitutional and appellant secretary of state was permanently enjoined from conducting elections under it. On appeal, the question was whether the statute violated Tex. Const., art. III, § 26. The court affirmed and held that H.R. 960 failed to follow the requirements of § 26 and was thus invalid in its entirety. Appellants had failed to prove that the retention of the present populations and boundaries within the counties was impermissible while appellees were able to show alternative plans which kept the counties intact and complied with constitutional requirements.
* Mauzy v. Legislative Redistricting Bd., 471 S.W.2d 570 (Tex. 1971)
	+ Before adjourning, the legislature enacted a statute apportioning the state into representative districts, but failed to enact a statute apportioning the state into senatorial districts. In the event the legislature failed to make the proper apportionments, Tex. Const. art. III, § 28 required respondent Legislative Redistricting Board (board) to meet and apportion the state appropriately. Before the board met, a trial court declared that the representative district apportionment act was invalid and the court affirmed. Relator judge then sought a writ of mandamus to compel respondent to redistrict representative as well as senatorial districts. The court held that upon the failure of the legislature to apportion representative districts agreeable with Tex. Const. Art. III, § 26, the duty to apportion for such districts then devolved to the board. The court issued a writ of mandamus to respondent, as sought by relator, but with the caveat that the manner in which respondent apportioned the state into new districts was entirely within the judgment and discretion of respondent, so long as it acted within the limitations imposed by the state and federal constitutions.

# Utah

**The Basics:**

* 4 US Reps
* 104 State legislators
	+ 29 state Senate districts and 75 state House districts
		- State Senate is up for elections every four years, state House is up for election every two years
* State legislature draws both congressional and state legislative boundaries

**Statutes and legislation**

* Utah Const. Art. IX, § 1 – Dividing the state into districts
	+ No later than the annual general session next following the Legislature’s receipt of the results of an enumeration made by the authority of the United States, the Legislature shall divide the state into congressional, legislative, and other districts accordingly.
* 2012 Utah ALS 6 – Redistricting Boundary information – Representatives
	+ (1) The Utah House of Representatives shall consist of 75 members, with one member to be elected from each Utah House of Representative district.
	+ (2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2010 national decennial census as the official data for establishing House district boundaries.
	+ (3)
		- (a) The Legislature enacts the numbers and boundaries of the House districts designated by the House block assignment file that is the electronic component of the bill that enacts this section.
		- (b) That House block assignment file, and the legislative boundaries generated from that block assignment file, may be accessed via the Utah Legislature’s website.
* 2012 Utah ALS 27 – Redistricting Boundary information – Senators
	+ (1) The Utah State Senate shall consist of 29 members, with one member to be elected from each Utah State Senate district.
	+ (2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2010 national decennial census as the official data for establishing Senate district boundaries.
	+ (3)
		- (a) The Legislature enacts the numbers and boundaries of the Senate districts designated in the Senate block assignment file that is the electronic component of the bill that enacts this section.
		- (b) That Senate block assignment file, and the Senate district boundaries generated from that Senate block assignment file, may be accessed via the Utah Legislature’s website.

**Relevant Redistricting Cases:**

* Parkinson v. Watson, 4 Utah 2d 191, 291 P.2d 400 (1955)
	+ Since Utah had achieved statehood, its legislative apportionment had not been done on the basis purely of population. The apportionment created by the 1955 legislature at Laws Utah 1955, c. 61, U.C.A.1953, 36-1-1 through 36-1-4, provided, among other things, that representation in the state senate would be on the basis of one senator for the first 19,000 inhabitants, or major fraction thereof, with an additional senator for each additional 55,000 inhabitants or major fraction thereof residing in the senatorial district. Plaintiffs brought this declaratory judgment action to determine whether the law violated Article IX, § 2, of the Constitution of Utah. The court determined that the law did not violate the constitution and was valid. The court held that the law represented a bona fide attempt to carry out the mandate of Article IX, § 2. The court noted that § 2 said nothing about representation having to be "equal" or "in direct proportion" to the population, or limiting it to a single ratio. The double ratio scheme of the 1955 reapportionment was not so extreme as to be an attempt to avoid the principle of representation based on population. Perfect representation was impossible.

# Vermont

**The Basics:**

* 1 US Rep
* 180 state legislators
	+ 13 state Senatorial districts
		- 3 single member districts
		- 6 two member districts
		- 3 three member districts
		- 1 six member district
	+ 108 state House districts
		- 66 single member districts
		- 42 two member districts
	+ State Senators and Reps elected every two years
* 1 US Rep so no congressional district. State legislature is responsible for drawing state legislative district lines.
	+ An advisory commission is also involved in the process

**Statutes and legislation:**

* V.S.A. Const. § 13 – Representatives; number
	+ The House of Representatives shall be composed of one hundred fifty Representatives. The voters of each representative district established by law shall elect one or two Representatives from that district, the number from each district to be established by the General Assembly.
	+ In establishing representative districts, which shall afford equality of representation, the General Assembly shall seek to maintain geographical compactness and contiguity and to adhere to boundaries of counties and other existing political subdivisions.
* V.S.A. Const. § 73 – Manner of apportionment of the general assembly
	+ The General Assembly shall establish senatorial districts within and including all of the state, and shall further establish representative districts within and including all of the state.
	+ At the biennial session following the taking of each decennial census under the authority of Congress, and at such other times as the General Assembly finds necessary, it shall revise the boundaries of the legislative districts and shall make a new apportionment of its membership in order to maintain equality of representation among the respective districts as nearly as is practicable. The General Assembly may provide for establishment of a legislative apportionment board to advise and assist the General Assembly concerning legislative apportionment. If the General Assembly fails to revise the legislative districts as required in this section, the Supreme Court in appropriate legal proceedings brought for that purpose may order reapportionment of the districts.
* V.S.A. Const. § 18 – Senators; numbers; qualifications
	+ The Senate shall be composed of thirty Senators to be of the senatorial district from which they are elected. The voters of each senatorial district established by law shall elect one or more Senators from that district, the number from each district to be established by the General Assembly.
	+ In establishing senatorial districts, which shall afford equality of representation, the General Assembly shall seek to maintain geographical compactness and contiguity and to adhere to boundaries of counties and other existing political subdivisions.
* 17 V.S.A. § 1903 – Periodic reapportionment; standards
	+ (a) The house of representatives and the senate shall be reapportioned and redistricted on the basis of population during the biennial session after the taking of each decennial census of the United States, or after a census taken for the purpose of such reapportionment under the authority of this state.
	+ (b) The standard for creating districts for the election of representatives to the general assembly shall be to form representative districts with minimum percentages of deviation from the apportionment standard for the house of representatives. The standard for creating districts for the election of senators on a county basis to the general assembly shall be to form senatorial districts with minimum percentages of deviation from the apportionment standard for the senate. The representative and senatorial districts shall be formed consistent with the following policies insofar as practicable:
		- (1) preservation of existing political subdivision lines;
		- (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;
		- (3) use of compact and contiguous territory.
* 17 V.S.A. § 1904 – Legislative apportionment board
	+ (a) There is hereby created the legislative apportionment board, consisting of: a special master designated by the chief justice of the supreme court; one resident of the state of Vermont for five years immediately preceding the appointment, appointed by the governor from each political party that has had more than three members serve as members of the general assembly, who are not all from the same county, for at least three of the five biennial legislative sessions since the taking of the previous decennial census of the United States; and one resident of the state of Vermont for the five years immediately preceding the appointment, elected by the state committee of each of those political parties, a quorum of each committee being present and voting. No member of the board shall serve as a member or employee of the general assembly, or of either house thereof. The special master so designated shall be chair of the board, and shall call such meetings as may be necessary for the accomplishment of the duties of the board hereafter set forth. The secretary of state of Vermont shall be secretary of the board, but shall have no vote. For the purpose of determining representation of a political party under this section, if a candidate for election to the general assembly accepted a nomination from more than one political party, that candidate's party affiliation shall be only that political party to which he or she filed a petition for nomination.
	+ (b) Members of the board shall first be selected on or before July 1, 1990, and thereafter members shall be selected decennially before July 1 and shall serve until their successors are selected. The appointing or electing authority shall fill vacancies.
	+ (c) For administrative purposes, the board shall be part of the office of the secretary of state, and funds for the board's operation shall be appropriated for the secretary of state, provided, however, that expenditures of such appropriation shall be directed by the board.
	+ (d) Members of the board not receiving a salary from the state shall receive per diem compensation and expenses as provided in 32 V.S.A. § 1010.
	+ (e) The board may employ or contract for such expert assistants or services, or both, as may be necessary to carry out its duties.
* 17 V.S.A. § 1906c – Division of districts having three or more representatives
	+ (a) An initial district entitled to three or more representatives under section 1893 of this title shall be divided into single- and two-member representative districts as provided in this section.
	+ (b) As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, the boards of civil authority of the town or towns within an initial district having three or more representatives shall meet and prepare a proposal for division of the district. Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects.
	+ (c) In making a proposal under this section, the boards of civil authority shall consider
		- (1) preservation of existing political subdivision lines;
		- (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;
		- (3) use of compact and contiguous territory;
		- (4) incumbencies.
	+ (d) In no initial district divided under this section shall the percentage of deviation result in a representative district which extends the limits of the overall range of the percentage of deviation in the initial district plan for reapportionment enacted by the general assembly under section 1906 of this title.
	+ (e) On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district subject to this section shall present a proposal for division to the clerk of the house, and the proposal shall be referred to the appropriate committee. If the boards of civil authority are unable to obtain a majority vote on a proposed division, they shall notify the clerk of the house, on or before April 1, of their failure to agree on a proposal, and the general assembly shall divide the initial district into representative districts.
	+ (f) Representative districts proposed under this section shall become effective when approved by the general assembly before adjournment sine die. The general assembly shall approve representative districts proposed by the boards of civil authority if they are consistent with the standards set forth in this section.

**Relevant Redistricting Cases:**

* In re Senate Bill 177, 130 Vt. 358, 294 A.2d 653 (1972)
	+ Under the provisions of Vt. Const. ch. II, § 18, the reapportionment was mandatory because of the taking of a census. Rather than adopt or amend the proposal provided by a legislative apportionment board, pursuant to Vt. Stat. Ann. tit. 17, §§ 1901-11, the senate substituted a new plan. This enactment was then passed by both houses and became law. Upon review, the court held that reapportionment of the Senate had to be done on the basis of population, not as a federal requirement, but as a directive of Vermont's Constitution. As a result, the challenged reapportionment could not stand. The court found that the reapportionment plans of both the board and the senate were based on fulfilling the required of the Vermont Constitution that there be a Senate of 30 members. However, in light of the statutory requirement that 30 senators be apportioned, substantial equality within the Equal Protection Clause of the 14th Amendment was impossible to achieve while observing county lines. As a result, the requirement of a Senate of 30 members would have to yield to the Federal constitutional requirements.
* In re Reapportionment of Woodbury, 177 Vt. 556, 861 A.2d 1117 (2004)
	+ The citizens brought a petition to challenge the legislature's reapportionment of voting districts for the House on the grounds that the decision to place their towns in a certain district violated constitutional and statutory requirements. The citizens essentially argued that the reapportionment violated Vt. Stat. Ann. tit. 17, § 1903(b) and Vt. Const. ch. II, § 13, by failing to maintain geographical contiguity and county boundaries. The court found that those provisions both acknowledged that it was impossible for the legislature to absolutely comply with all numerical and non-numerical criteria in all districts when making a redistricting plan. As long as the legislature weighed the necessary criteria, and as long as its decision was not irrational or illegitimate, the court would defer to the legislature's judgment in resolving tensions between constitutional and statutory criteria for reapportionment. The citizens failed to meet the heavy burden required to challenge the legislative reapportionment plan where they failed to show any procedural irregularities and where the apportionment complied with the statutory and constitutional provisions.

# Virginia

**The Basics:**

* 11 US Reps
* 140 state legislators
	+ 40 state Senate districts and 100 state House districts
		- Senators up for election every four years, House reps up for election every two years
* State legislator draws both congressional and state legislative district lines. An advisory committee is also involved in the process

**Statutes and legislation:**

* Va. Const. Art. II, § 6 – Apportionment
	+ Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the General Assembly. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2011 and every ten years thereafter.
* Va. Code Ann. § 30-263 – Joint Reapportionment Committee; membership; terms; quorum; compensation and expenses
	+ A. The Joint Reapportionment Committee is established in the legislative branch of state government. The Committee shall consist of five members of the Committee on Privileges and Elections of the House of Delegates and three members of the Committee on Privileges and Elections of the Senate appointed by the respective chairmen of the two committees. Members shall serve terms coincident with their terms of office.
	+ C. The Joint Committee shall supervise activities required for the tabulation of population for the census and for the timely reception of precinct population data for reapportionment, and perform such other duties and responsibilities and exercise such supervision as may promote the orderly redistricting of congressional, state legislative, and local election districts.
* Va. Code Ann. § 30-263 – Staff to Joint Reapportionment Committee; census liason
	+ A. The Division of Legislative Services shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.
	+ B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance which changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with maps and other evidence documenting the boundary, to the Division.
	+ C. The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary.
* Va. Code Ann. § 30-265 – Reapportionment of congressional and state legislative districts; United States Census population counts
	+ For the purposes of redrawing the boundaries of the congressional, state Senate, and House of Delegates districts after the United States Census for the year 2000 and every 10 years thereafter, the General Assembly shall use the population data provided by the United States Bureau of the Census identical to those from the actual enumeration conducted by the Bureau for the apportionment of the Representatives of the United States House of Representatives following the United States decennial census, except that the census data used for this apportionment purpose shall not include any population figure which is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states.
* Va. Code Ann. § 24.2-311 – Effective date of decennial redistricting measures; elections following decennial redistricting
	+ A. Legislation enacted to accomplish the decennial redistricting of congressional and General Assembly districts required by Article II, Section 6 of the Constitution of Virginia shall take effect immediately. Members of Congress and the General Assembly in office on the effective date of the decennial redistricting legislation shall complete their terms of office. The elections for their successors shall be held at the November general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the legislation to accomplish the decennial redistricting. However, (i) if the decennial redistricting of congressional districts has not been enacted and approved for implementation pursuant to § 5 of the United States Voting Rights Act of 1965 before January 1 of the year of the election for statewide office, the previously enacted congressional districts shall remain in effect for the purpose of meeting the petition signature requirements set out in §§ 24.2-506, 24.2-521, 24.2-543, and 24.2-545 and (ii) any reference on a petition to the usual primary date of the second Tuesday in June shall not be cause to invalidate the petition even though the date of the primary may be altered by law.

**Relevant Redistricting Cases:**

* Wilkins v. West, 264 Va. 447, 571 S.E.2d 100 (2002)
	+ The residents said their residency in one district allowed them to challenge the redistricting of all districts. The supreme court held only residents of districts alleged to violate compactness and contiguity requirements of Va. Const. art. II, § 6, or which were allegedly racially gerrymandered, contrary to Va. Const. art. I, § 11, or non-residents showing specific evidence of a particularized injury, had standing. The residents had no standing to challenge some redistricting. If the legislature's reconciliation of various criteria was fairly debatable and not clearly erroneous, arbitrary, or wholly unwarranted, its redistricting plan did not violate the compactness and contiguity provisions of Va. Const. art. II, § 6. The evidence did not show districts at issue violated these provisions. The standards for reviewing federal equal protection claims applied to review of claims of racial gerrymandering, contrary to Va. Const. art. I, § 11. Race was a factor in composing districts, under the Voting Rights Act, 42 U.S.C.S. §§ 1971 through 1974(e), but it was not predominant, eliminating the strict scrutiny standard, and qualifying alternative plans were not shown.
* Jamerson v. Womack, 244 Va. 506, 423 S.E.2d 180 (1992)
	+ The state officials adjusted the electoral districts to reflect changes in population shifts to conform to the constitutional requirements of equal representation. The voters claimed that the composition of two of the reapportioned districts violated art. II, § 6 because they were not compact either in content or in form and that compactness pertained to the relation of the contents of the item being measured. The court disagreed and found that the language of art. II, § 6 clearly limited compactness to spatial restrictions in the composition of electoral districts. The court affirmed the judgment because there was evidence from which the circuit court could have concluded that the legislature had considered compactness in reconciling the multiple concerns of apportionment. The court also gave deference to the parts of the circuit court's decision that were based on conflicting evidence because that court was in the position to evaluate the credibility of the witnesses.

# Washington

**The Basics:**

* 10 US Reps
* 123 state legislators
	+ 49 state legislative districts
		- Each district elects one state senator and two state house reps
			* State Senators are up for election every four years and state House reps are up for election every two years
* An independent commission draws congressional and state legislative district boundaries

**Statutes and legislation:**

* Wash. Const. Art. II, § 43 – Redistricting
	+ (1) In January of each year ending in one, a commission shall be established to provide for the redistricting of state legislative and congressional districts.
	+ (2) The commission shall be composed of five members to be selected as follows: The legislative leader of the two largest political parties in each house of the legislature shall appoint one voting member to the commission by January 15th of each year ending in one. By January 31st of each year ending in one, the four appointed members, by an affirmative vote of at least three, shall appoint the remaining member. The fifth member of the commission, who shall be nonvoting, shall act as its chairperson. If any appointing authority fails to make the required appointment by the date established by this subsection, within five days after that date the supreme court shall make the required appointment.
	+ (3) No elected official and no person elected to legislative district, county, or state political party office may serve on the commission. A commission member shall not have been an elected official and shall not have been an elected legislative district, county, or state political party officer within two years of his or her appointment to the commission. The provisions of this subsection do not apply to the office of precinct committee person.
	+ (4) The legislature shall enact laws providing for the implementation of this section, to include additional qualifications for commissioners and additional standards to govern the commission. The legislature shall appropriate funds to enable the commission to carry out its duties.
	+ (5) Each district shall contain a population, excluding nonresident military personnel, as nearly equal as practicable to the population of any other district. To the extent reasonable, each district shall contain contiguous territory, shall be compact and convenient, and shall be separated from adjoining districts by natural geographic barriers, artificial barriers, or political subdivision boundaries. The commission’s plan shall not provide for a number of legislative districts different than that established by the legislature. The commission’s plan shall not be drawn purposely to favor or discriminate against any political party or group.
	+ (7) The legislature may amend the redistricting plan but must do so by a two-thirds vote of the legislators elected or appointed to each house of the legislature. Any amendment must have passed both houses by the end of the thirtieth day of the first session convened after the commission has submitted its plan to the legislature. After that day, the plan, with any legislative amendments, constitutes the state districting law.
	+ (10) The supreme court has original jurisdiction to hear and decide all cases involving congressional and legislative redistricting.
	+ (11) Legislative and congressional districts may not be changed or established except pursuant to this section. A districting plan and any legislative amendments to the plan are not subject to Article III, section 12 of this Constitution.
* Wash. Const. Art. II, § 2 – House of representatives and senate
	+ The house of representatives shall be composed of not less than sixty-three nor more than ninety-nine members. The number of senators shall not be more than one-half nor less than one-third of the number of members of the house of representatives. The first legislature shall be composed of seventy members of the house of representatives, and thirty-five senators.
* Wash. Const. Art. XXII, § 1 – Senatorial apportionment
	+ Lists every senatorial and representative district in Washington
* Rev. Code. Wash. (ARCW) § 44.05.030 – Redistricting commission – Membership – Chairperson- Vacancies
	+ A redistricting commission shall be established in January of each year ending in one to accomplish state legislative and congressional redistricting. The five-member commission shall be appointed as follows:
		- (1) Each legislative leader of the two largest political parties in each house of the legislature shall appoint one voting member to the commission by January 15th of each year ending in one.
		- (2) The four legislators appointing commission members pursuant to this section shall certify their appointments to the chief election officer. If an appointing legislator does not certify an appointment by January 15th of each year ending in one, within five days the supreme court shall certify an appointment to the chief election officer.
		- (3) No later than January 31st of the year of their selection, the four appointed members, by an affirmative vote of at least three, shall appoint and certify to the chief election officer the nonvoting fifth member who shall act as the commission’s chairperson. If by January 31st of the year of their selection three of the four voting members fail to elect a chairperson, the supreme court shall within five days certify an appointment to the chief election officer. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the vacancy occurs.
* Rev. Code. Wash. (ARCW) § 44.05.090 – Redistricting Plan
	+ In the redistricting plan
		- (1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census.
		- (2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:
			* (a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as small as possible;
			* (b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and
			* (c) Whenever practicable, a precinct shall be wholly within a single legislative district.
		- (3) The commission’s plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall provide for forty-nine legislative districts.
		- (4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall consist of forty-nine members, one of whom shall be elected from each legislative district.
		- (5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission’s plan shall not be drawn purposely to favor or discriminate against any political party or group.
* Rev. Code Wash. (ARCW) § 44.05.130 – Challenges to plan
	+ After the plan takes effect as provided in RCW 44.05.100, any registered voter may file a petition with the supreme court challenging the plan. After a modification to the redistricting plan takes effect as provided in RCW 44.05.120, any registered voter may file a petition with the supreme court challenging the amended plan. The court may consolidate any or all petitions and shall give all such petitions precedence over all other matters.

**Relevant Redistricting Cases:**

* State ex rel. Miller v. Hinkle, 156 Wash. 28, 286 P. 839 (1930)
	+ The Secretary of State contended that the legislative power of redistricting and reapportioning the state remained exclusively a prerogative of the legislature. However, the attorney general conceded that if the matter of redistricting or reapportioning the state related to an act or acts of the legislature or law making, then Wash. Const. amend. VII was enforceable; otherwise it was not. The court granted the writ. The court found that the matter of apportioning the state for legislative membership was a matter of law requiring legislative acts. The court held that the people had a right to initiate legislation for the legislative reapportionment of the state.
* State ex rel. Warson v. Howell, 92 Wash. 540, 159 P. 777 (1916)
	+ The putative candidate attempted to file under Wash. Const. art. 22, § 2 as a candidate for the office of state senator for a district that was composed of two counties. The secretary refused the filing on the ground that the senatorial districts had been reapportioned since the effective date of Wash. Const. art. 22, § 2 such that district for which the putative candidate had attempted to file no longer existed. The putative candidate applied for a writ of mandamus to compel the secretary to accept his filing, claiming that the apportionments made by the legislature were unconstitutional because the apportionments were not made according to the number of inhabitants. The court denied the putative candidate's application, finding that the legislature could not be compelled to redistrict the state as directed by the Constitution. The court also ruled that the legislature's Apportionment Act of 1901 that had eliminated the district sought by the putative candidate was not unconstitutional because the act was not a product of an arbitrary act of the Legislature. The court held further that the putative candidate's claim was otherwise barred by laches.

# Wisconsin

**The Basics:**

* 8 US Reps
* 132 state legislators
	+ 33 state Senate districts and 99 state Assembly districts
		- Each state Senate districts contains three state Assembly districts
			* State Senators are up for election every four years. State House reps are up for election every two years
* State legislature draws congressional and state legislative district boundaries

**Statutes and legislation:**

* Wis. Const. Art. IV, § 3 – Apportionment
	+ At its first session after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and assembly, according to the number of inhabitants.
* Wis. Const. Art. IV, § 4 – Representatives to assembly, how chosen
	+ The members of the assembly shall be chosen biennially, by single districts, on the Tuesday succeeding the first Monday of November in even-numbered years, by the qualified electors of the several districts, such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable.
* Wis. Const. Art. IV, § 4 – Senators, how chosen
	+ The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen; and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even-numbered districts for the term of 4 years.
* 2013 Bill Text WI S.B. 163
	+ 1. The plan must be based on population requirements imposed under the Wisconsin Constitution and the U.S. Constitution and requirements imposed under Section 2 of the federal Voting Rights Act, which, among other things, generally prohibits redistricting plans from abridging the right to vote on account of race or color or because a person is a member of a language minority group.
	+ 2. The senate and assembly districts established in the plan must satisfy equal population standards specified in the bill. Among other things, no senate district may have a population which exceeds that of any other senate district by more than ten percent and no assembly district may have a population which exceeds that of any other assembly district by more than ten percent, unless necessary to maintain compliance with Section 2 of the Voting Rights Act. Congressional districts established in the plan must each have a population as nearly equal as practicable to the ideal population for such districts, while maintaining compliance with Section 2 of the Voting Rights Act.
	+ 3. District boundaries under the plan must coincide with municipal ward boundaries and, to the extent consistent with the Wisconsin Constitution, the U.S. Constitution, and Section 2 of the Voting Rights Act, must coincide with the boundaries of political subdivisions. The number of political subdivisions divided among more than one district must be as small as possible and, with limited exceptions, if there is a choice among political subdivisions to divide, the more populous political subdivisions shall be divided before the less populous.
	+ 4. Districts must be composed of convenient contiguous territory. Under the bill, areas which meet only at the points of adjoining corners are not contiguous.
	+ 5. To the extent consistent with the requirements described in items 1. to 3., districts must be compact. The bill also specifies how compactness is to be measured.
	+ 6. In preparing the plan, the LRB must be strictly nonpartisan. No district may be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group, or, except to the extent necessary to meet the requirements described in item 1., for the purpose of augmenting or diluting the voting strength of a language or racial minority group. The LRB may not use residence addresses of incumbent legislators or members of Congress, political affiliations of registered voters, previous election results, or, except as necessary to meet the requirements described in item 1., demographic information.
	+ 7. The number of assembly districts may not be less than 54 nor more than 100. The number of senate districts may not be more than one-third nor less than one-fourth of the number of assembly districts. Each senate district must contain only whole assembly districts and, with certain exceptions, each congressional district may contain only whole senate districts, to the extent possible.

**Relevant Redistricting Cases:**

* State ex rel. Reynolds v. Zimmerman, 22 Wis. 2d 544, 126 N.W.2d 551 (1964)
	+ The Governor brought suit to enjoin the Secretary of State from holding an election under the Rosenberry legislative apportionment. The court held that the Governor had standing to challenge the constitutionality of a reapportionment plan. Further, the reapportionment plan enacted by joint resolution was invalid because legislative districts of Wisconsin could not be apportioned without the joint action of the legislature and the Governor. Further, the Rosenberry apportionment was invalid because it permitted great deviations on either side of a norm representing apportionment in direct ratio to population. The court also concluded that it had the power to adopt a reapportionment plan that conformed to the requirements of Wis. Const. art. IV. It then set a deadline by which a valid apportionment plan was to be adopted and reserved its authority to draft a final plan of apportionment if the legislature and the Governor were unable to adopt a valid plan by the deadline.
* Jensen v. Wis. Elections Bd., 2002 WI 13, 1, 249 Wis. 2d 706, 639 N.W.2d 537 (2002)
	+ The Republicans sought to have the court declare the existing legislative districts constitutionally invalid due to population shifts documented by the 2000 census. They further requested that the election board be enjoined from conducting the 2002 elections using the existing districts. Finally, they requested the court to remap the state's Senate and Assembly districts in time for the 2002 election cycle. The council argued against the assumption of original jurisdiction, as a three-judge panel of the federal district court had already taken jurisdiction over state legislative redistricting, scheduled a trial, and was ready to decide the state and federal questions presented by the case. The state supreme court held that, while redistricting implicated the sovereign rights of the people and warranted the state supreme court's original jurisdiction, any redistricting plan adopted by the state would be subject to federal court review for compliance with federal law. As conflicts could arise between any federal and state court decision, and there was not enough time to resolve potential conflicts before the upcoming elections, the petition was denied without prejudice.

# Wyoming

**The Basics:**

* 1 US Rep
* 90 state legislators
	+ 30 state Senate districts and 60 state House districts
* No congressional redistricting necessary. State legislature draws state legislative boundaries

**Statutes and legislation:**

* Wyo. Const. Art. 3, § 3 – Legislative apportionment
	+ Each county shall constitute a senatorial and representative district; the senate and house of representatives shall be composed of members elected by the legal voters of the counties respectively, every two (2) years. They shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. Each county shall have at least one senator and one representative; but at no time shall the number of members of the house of representatives be less than twice nor greater than three times the number of members of the senate. The senate and house of representatives first elected in pursuance of this constitution shall consist of sixteen and thirty-three members respectively.
* Wyo. Const. Art. 3, § 48 – State census
	+ At the first budget session of the legislature following the federal census, the legislature shall reapportion its membership based upon that census. Notwithstanding any other provision of this article, any bill to apportion the legislature may be introduced in a budget session in the same manner as in a general session.
* Wyo. Const. Art. 3, § 47 – Congressional representation
	+ One representative in the congress of the United States shall be elected from the state at large, the Tuesday next after the first Monday in November, 1890, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by congress, the legislature shall divide the state into congressional districts accordingly.
* Wyo. Const. Art. 3, § 49 – District representation
	+ Congressional districts may be altered from time to time as public convenience may require. When a congressional district shall be composed of two or more counties they shall be contiguous, and the districts as compact as may be. No county shall be divided in the formation of congressional districts.
* Wyo. Const. Art. 3, § 50 – Apportionment for first legislature
	+ Breaks down every district for the first legislative session

**Relevant Redistricting Cases:**

* No Relevant Redistricting Cases

# Federal Court Redistricting Cases

**Harris v. Ariz. Indep. Redistricting Comm'n, 993 F. Supp. 2d 1042 (D. Ariz. 2014)**

* The legislative redistricting plan for the State of Arizona, based on the 2010 census, that was created by a state restricting commission, did not violate the one-person, one-vote principle of the Equal Protection Clause of the Fourteenth Amendment because the population deviations in the 10 districts submitted to the U.S. Department of Justice as minority ability-to-elect districts were predominantly a result of the commission's good faith efforts to achieve preclearance under the Voting Rights Act, 42 U.S.C.S. § 1973c, which was a legitimate consideration; while partisanship might have played some role with respect to one particular voting district, the primary motivation to achieve preclearance was legitimate.

**Evenwel v. Perry, 2014 U.S. Dist. LEXIS 156192 (W.D. Tex. Nov. 5, 2014) (SCOTUS Granted Cert.)**

* After this case was filed raising allegations implicating a statewide redistricting scheme, Fifth Circuit Chief Judge Carl Stewart appointed this three-judge panel to preside over the case. 28 U.S.C. § 2284. This court has federal-question jurisdiction. 28 U.S.C. §§ 1331, 1343(a)(3)-(4); 42 U.S.C. § 1983. Before the court are the Defendants' Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted (Clerk's Doc. No. 15). The court heard oral argument on the motion on June 25, 2014. Also pending are Plaintiffs' motion for summary judgment (Clerk's Doc. No. 12) and a motion to intervene filed by the Texas Senate Hispanic Caucus, and others (Clerk's Doc. No. 25). For the following reasons, we GRANT Defendants' Motion to Dismiss. Accordingly, we DISMISS Plaintiffs' motion for summary judgment and the motion to intervene.
* Plaintiffs characterize Burns as the Court "ma[king] clear that the right of voters to an equally weighted vote is the relevant constitutional principle and that any interest in proportional representation must be subordinated to that right." Quite the contrary, the Supreme Court recognized that the precise question presented here—whether to "include or exclude" groups of individuals ineligible to vote from an apportionment base—"involves choices about the nature of representation" which the Court has "been shown no constitutionally founded reason to interfere." 384 U.S. at 92. Furthermore, the Supreme Court indicated problems in using one of the Plaintiffs' proposed metrics—registered voters—and ultimately measured the constitutionality of Hawaii's apportionment using the permissible population base of state citizenship. See id. at 92-93. We conclude that Plaintiffs are asking us to "interfere" with a choice that the Supreme Court has unambiguously left to the states absent the unconstitutional inclusion or exclusion of specific protected groups of individuals. We decline the invitation to do so. See, e.g., Chen, 206 F.3d 502; Daly, 93 F.3d 1212.

**Page v. Va. State Bd. of Elections, 15 F. Supp. 3d 657 (E.D. Va. 2014)**

* Overturned by Cantor v. Personhuballah, 2015 U.S. LEXIS 2204, 135 S. Ct. 1699, 191 L. Ed. 2d 671, 83 U.S.L.W. 3762 (U.S. 2015) in light of Alabama Legislative Black Caucus v. Alabama, 575 U.S. \_\_\_, 2015 U.S. LEXIS 2122 (2015)
* Marston also avers that, while he served as "legal counsel to the Speaker of the Virginia House of Delegates and the Virginia House Republican Caucus," he "also worked in a legislative capacity for the Republican members of the Virginia House of Delegates." His job in the latter capacity was coordinating communications and legislative strategy. Marston asserts that there were four staff members, but that, in his consulting capacity, he "effectively was lead staff for the redistricting efforts of the Virginia House of Delegates."
* In his role of consultant, Marston "participated in crafting redistricting legislation; coordinating and gathering analysis of data and information from which redistricting legislation was introduced; assisted members of the House of Delegates in holding hearings on redistricting; assisted in preparing statements to members about redistricting; advised members and their staff regarding strategy for passage of redistricting legislation; and regularly engaged in frank discussions with members concerning the creation, evolution, and passage of redistricting legislation." Marston recites that, when performing those responsibilities, he "was a consultant due to the manner in which [he] was compensated."
* Marston argues that, "in order to establish their case, Plaintiffs 'need not offer direct evidence of discriminatory intent.'" Reply at 6 (quoting Comm. for a Fair and Balanced Map v. Ill. State Bd. of Elecs., No. 11C5065, 2011 U.S. Dist. LEXIS 117656, 2011 WL 4837508, at \*3 (N.D. Ill. Oct. 12, 2011)). He correctly points out that plaintiffs are generally entitled to rely on circumstantial factors such as district shape, racial bloc voting, low minority registration, and minority retrogression when litigating redistricting decisions. See id. But, when defendants do not base their entire defense on the absence of race-based motivations, the value of circumstantial evidence is decreased. The Intervenor-Defendants in this action have argued that any race-based redistricting decisions were narrowly tailored to the compelling government interest of compliance with Section 5 of the Voting Rights Act. See Docket No. 44 (Int. Def's Opp. to Motion for Summary Judgment). The circumstantial factors iterated by Marston provide little insight into what the legislature deemed necessary for "compliance" or whether less race-based alternatives were given serious consideration.
* Admittedly, the Plaintiffs can obtain and introduce some direct evidence even without the benefit of Marston's documents. For example, they have already signaled their intent to include direct evidence about the views of Delegate Janis, the chief architect of the enacted 2012 redistricting plan. See Plaintiffs' Trial Brief, Docket No. 86, at 3-5. And, they may rely on the previously identified circumstantial evidence. However, the availability of statements made by Janis and that circumstantial evidence does not mean that the Plaintiffs must confine their proof to those statements or to the circumstantial evidence. The real proof is what was in the contemporaneous record in the redistricting process. Taken as a whole, the Court finds that this factor does not militate against disclosure of the documents in Marston's possession.

**Benisek v. Mack, 11 F. Supp. 3d 51 (D. Md. 2014)**

* Affirmed by Benisek v. Mack, 2014 U.S. App 19122 (4th Cir. Md., Oct. 7, 2014)
* HOLDINGS: [1]-In an action that challenged the constitutionality of the apportionment of Maryland's congressional districts, the district court concluded that the action was not barred by res judicata; [2]-However, with respect to plaintiffs' claim under U.S. Const. art. I, § 2, and the Fourteenth Amendment, the court lacked judicially discoverable and manageable standards for resolving plaintiffs' claim; [3]-As a result, it was a nonjusticiable political question; [4]-Plaintiffs' First Amendment claim was not one for which relief could be granted.
* Granted cert. to be heard in front of the Fourth Circuit under Shapiro v. Mack, 2015 U.S. LEXIS 3839 (U.S. 2015)

# Relevant Supreme Court Cases

# Ariz. State Legis. v. Ariz. Indep. Redistricting Comm'n, 192 L. Ed. 2d 704, 2015 U.S. LEXIS 4253, 83 U.S.L.W. 4633 (U.S. 2015)

* + HOLDINGS: [1]-The Arizona Legislature had standing to challenge Arizona Proposition 106, which amended Ariz. Const. art. IV, pt. 2, § 1 to remove redistricting authority from the Legislature and vest it in the Arizona Independent Redistricting Commission (AIRC); [2]-Redistricting was a legislative function, and there was no constitutional barrier to Arizona's use of the initiative form of lawmaking; [3]-2 U.S.C.S. § 2a(c) permitted use of the AIRC to adopt Arizona's congressional districts, as the state had redistricted in the manner provided by state law; [4]-The Elections Clause, U.S. Const. art. I, § 4, cl. 1, permitted the people of Arizona to provide for redistricting by an independent commission. Specification in the Clause of "the Legislature" did not mean that only the state's representative body could prescribe regulations for redistricting.
	+ Relevant language
		- Proposition 106 amended Arizona’s Constitution, removing redistricting authority from the Arizona Legislature and vesting it in an independent commission, the Arizona Independent Redistricting Commission (AIRC).
		- Direct lawmaking by the people was “virtually unknown when the Constitution of 1787 was drafted.”
		- Aimed at “ending the practice of gerrymandering and improving voter and candidate participation in elections,” App. 50, Proposition 106 amended the Arizona Constitution to remove congressional redistricting authority from the state legislature, lodging that authority, instead, in a new entity, the AIRC.
		- The AIRC convenes after each census, establishes final district boundaries, and certifies the new districts to the Arizona Secretary of State. The legislature may submit nonbinding recommendations to the AIRC and is required to make necessary appropriations for its operation. The highest ranking officer and minority leader of each chamber of the legislature each select one member of the AIRC from a list compiled by Arizona’s Commission on Appellate Court Appointments. The four appointed members of the AIRC then choose, from the same list, the fifth member, who chairs the Commission. A Commission’s tenure is confined to one redistricting cycle; each member’s time in office “expire[s] upon the appointment of the first member of the next redistricting commission.”
		- We note, preliminarily, that dictionaries, even those in circulation during the founding era, capaciously define the word “legislature.” Samuel Johnson defined “legislature” simply as “[t]he power that makes laws.” 2 A Dictionary of the English Language (1st ed. 1755); ibid. (6th ed. 1785); ibid. (10th ed. 1792); ibid. (12th ed. 1802). Thomas Sheridan’s dictionary defined “legislature” exactly as Dr. Johnson did: “The power that makes laws.” 2 A Complete Dictionary of the English Language (4th ed. 1797). Noah Webster defined the term precisely that way as well. Compendious Dictionary of the English Language 174 (1806). And Nathan Bailey similarly defined “legislature” as “the Authority of making Laws, or Power which makes them.” An Universal Etymological English Dictionary (20th ed. 1763).
		- As well in Arizona, the people may delegate their legislative authority over redistricting to an independent commission just as the representative body may choose to do.
		- This Court has “long recognized the role of the States as laboratories for devising solutions to difficult legal problems.”
		- We resist reading the Elections Clause to single out federal elections as the one area in which States may not use citizen initiatives as an alternative legislative process. Nothing in that Clause instructs, nor has this Court ever held, that a state legislature may prescribe regulations on the time, place, and manner of holding federal elections in defiance of provisions of the State’s constitution.
		- The Framers may not have imagined the modern initiative process in which the people of a State exercise legislative power coextensive with the authority of an institutional legislature. But the invention of the initiative was in full harmony with the Constitution’s conception of the people as the font of governmental power. As Madison put it: “The genius of republican liberty seems to demand . . . not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people.”
		- Our Declaration of Independence drew from Locke in stating: “Governments are instituted among Men, deriving their just powers from the consent of the governed.” And our fundamental instrument of government derives its authority from “We the People.” U. S. Const., Preamble. As this Court stated, quoting Hamilton: “[T]he true principle of a republic is, that the people should choose whom they please to govern them.”
			* In this light, it would be perverse to interpret the term “Legislature” in the Elections Clause so as to exclude lawmaking by the people, particularly where such lawmaking is intended to check legislators’ ability to choose the district lines they run in, thereby advancing the prospect that Members of Congress will in fact be “chosen . . . by the People of the several States,” Art. I, §2
		- Independent redistricting commissions, it is true, “have not eliminated the inevitable partisan suspicions associated with political line-drawing.” Cain, 121 Yale L. J., at 1808. But “they have succeeded to a great degree [in limiting the conflict of interest implicit in legislative control over redistricting].” Ibid. They thus impede legislators from choosing their voters instead of facilitating the voters’ choice of their representatives.
		- Banning lawmaking by initiative to direct a State’s method of apportioning congressional districts would do more than stymie attempts to curb partisan gerrymandering, by which the majority in the legislature draws district lines to their party’s advantage. It would also cast doubt on numerous other election laws adopted by the initiative method of legislating.
		- The Framers may not have imagined the modern initiative process in which the people of a State exercise legislative power coextensive with the authority of an institutional legislature. But the invention of the initiative was in full harmony with the Constitution’s conception of the people as the font of governmental power. As Madison put it: “The genius of republican liberty seems to demand . . . not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people.”
		- Quoting Locke
			* “[T]he Legislative being only a Fiduciary Power to act for certain ends, there remains still in the People a Supream Power to remove or alter the Legislative, when they find the Legislative act contrary to the trust reposed in them. For all Power given with trust for the attaining an end, being limited by that end, whenever that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and the Power devolve into the hands of those that gave it, who may place it anew where they shall think best for their safety and security.”
	+ Dissent (Roberts, Scalia, Thomas, and Alito)
		- What chumps! Didn’t they realize that all they had to do was interpret the constitutional term “the Legislature” to mean “the people”? The Court today performs just such a magic trick with the Elections Clause. Art. I, §4. That Clause vests congressional redistricting authority in “the Legislature” of each State. An Arizona ballot initiative transferred that authority from “the Legislature” to an “Independent Redistricting Commission.” The majority approves this deliberate constitutional evasion by doing what the proponents of the Seventeenth Amendment dared not: revising “the Legislature” to mean “the people.”
		- The Court’s position has no basis in the text, structure, or history of the Constitution, and it contradicts precedents from both Congress and this Court. The Constitution contains seventeen provisions referring to the “Legislature” of a State, many of which cannot possibly be read to mean “the people.” See Appendix, infra. Indeed, several provisions expressly distinguish “the Legislature” from “the People.” See Art. I, §2; Amdt. 17. This Court has accordingly defined “the Legislature” in the Elections Clause as “the representative body which ma[kes] the laws of the people.” Smiley v. Holm, 285 U. S. 355, 365, 52 S. Ct. 397, 76 L. Ed. 795 (1932)
		- The majority devotes much of its analysis to establishing that the people of Arizona may exercise lawmaking power under their State Constitution. See ante, at 5-6, 25, 27-28. Nobody doubts that. This case is governed, however, by the Federal Constitution. The States do not, in the majority’s words, “retain autonomy to establish their own governmental processes,” ante, at 27, if those “processes” violate the United States Constitution. In a conflict between the Arizona Constitution and the Elections Clause, the State Constitution must give way.
		- Any ambiguity about the meaning of “the Legislature” is removed by other founding era sources. “[E]very state constitution from the Founding Era that used the term legislature defined it as a distinct multimember entity comprised of representatives.”
		- When seeking to discern the meaning of a word in the Constitution, there is no better dictionary than the rest of the Constitution itself.
		- the Elections Clause reflected a compromise—a pragmatic recognition that the grand project of forging a Union required everyone to accept some things they did not like. See The Federalist No. 59, at 364 (describing the power allocated to state legislatures as “an evil which could not have been avoided”). This Court has no power to upset such a compromise simply because we now think that it should have been struck differently. As we explained almost a century ago, “[t]he framers of the Constitution might have adopted a different method,” but it “is not the function of courts . . . to alter the method which the Constitution has fixed.” Hawke, 253 U. S., at 227, 40 S. Ct. 495, 64 L. Ed. 871.
		- The constitutional text, structure, history, and precedent establish a straightforward rule: Under the Elections Clause, “the Legislature” is a representative body that, when it prescribes election regulations, may be required to do so within the ordinary lawmaking process, but may not be cut out of that process. Put simply, the state legislature need not be exclusive in congressional districting, but neither may it be excluded.
		- The people of Arizona have concerns about the process of congressional redistricting in their State. For better or worse, the Elections Clause of the Constitution does not allow them to address those concerns by displacing their legislature. But it does allow them to seek relief from Congress, which can make or alter the regulations prescribed by the legislature. And the Constitution gives them another means of change. They can follow the lead of the reformers who won passage of the Seventeenth Amendment. Indeed, several constitutional amendments over the past century have involved modifications of the electoral process. Amdts. 19, 22, 24, 26. Unfortunately, today’s decision will only discourage this democratic method of change. Why go through the hassle of writing a new provision into the Constitution when it is so much easier to write an old one out?

# Ala. Legis. Black Caucus v. Alabama, 135 S. Ct. 1257, 191 L. Ed. 2d 314, 2015 U.S. LEXIS 2122, 83 U.S.L.W. 4210, 25 Fla. L. Weekly Fed. S 167 (U.S. 2015)

* HOLDINGS: [1]-Where appellants, a caucus and a conference, alleged that Alabama's redistricting created "racial gerrymanders" in violation of the Fourteenth Amendment's Equal Protection Clause, and a district court found in favor of Alabama, the district court's analysis of racial gerrymandering of the State "as a whole" was legally erroneous because appellants did not waive their right to consideration of their claims as applied to particular districts; [2]-There was inadequate support for the conclusion that the conference lacked standing; [3]-The court misapplied the "predominance" test for strict scrutiny since the requirement that districts have approximately equal populations was a background rule and was not a factor to be treated like other nonracial factors; [4]-The court's determination that the districts would satisfy strict scrutiny rested upon a misperception of the law.
	+ The Alabama Constitution requires the legislature to reapportion its State House and Senate electoral districts following each decennial census. Ala. Const., Art. IX, §§199-200. In 2012 Alabama redrew the boundaries of the State’s 105 House districts and 35 Senate districts. 2012 Ala. Acts no. 602 (House plan); id., at no. 603 (Senate plan) (Acts). In doing so, Alabama sought to achieve numerous traditional districting objectives, such as compactness, not splitting counties or precincts, minimizing change, and protecting incumbents. But it placed yet greater importance on achieving two other goals. See Alabama Legislature Reapportionment Committee Guidelines in No. 12-cv-691, Doc. 30-4, pp. 3-5 (Committee Guidelines).
	+ First, it sought to minimize the extent to which a district might deviate from the theoretical ideal of precisely equal population. In particular, it set as a goal creating a set of districts in which no district would deviate from the theoretical, precisely equal ideal by more than 1%—i.e., a more rigorous deviation standard than our precedents have found necessary under the Constitution. See Brown v. Thomson, 462 U. S. 835, 842, 103 S. Ct. 2690, 77 L. Ed. 2d 214 (1983) (HN3 5% deviation from ideal generally permissible). No one here doubts the desirability of a State’s efforts generally to come close to a one-person, one-vote ideal.
	+ Second, it sought to ensure compliance with federal law, and, in particular, the Voting Rights Act of 1965. 79 Stat. 439, as amended, 52 U. S. C. §10301 et seq. At the time of the redistricting Alabama was a covered jurisdiction under that Act. HN4 Accordingly §5 of the Act required Alabama to demonstrate that an electoral change, such as redistricting, would not bring about retrogression in respect to racial minorities’ “ability . . . to elect their preferred candidates of choice.” 52 U. S. C. §10304(b). Specifically, Alabama believed that, to avoid retrogression under §5, it was required to maintain roughly the same black population percentage in existing majority-minority districts. See Appendix B, infra.
	+ Compliance with these two goals posed particular difficulties with respect to many of the State’s 35 majority-minority districts (8 in the Senate, 27 in the House). That is because many of these districts were (compared with the average district) underpopulated. In order for Senate District 26, for example, to meet the State’s no-more-than-1% population-deviation objective, the State would have to add about 16,000 individuals to the district. And, prior to redistricting, 72.75% of District 26’s population was black. Accordingly, Alabama’s plan added 15,785 new individuals, and only 36 of those newly added individuals were white.
	+ This suit, as it appears before us, focuses in large part upon Alabama’s efforts to achieve these two goals. The Caucus and the Conference basically claim that the State, in adding so many new minority voters to majority-minority districts (and to others), went too far. They allege the State created a constitutionally forbidden “racial gerrymander”—a gerrymander that (e.g., when the State adds more minority voters than needed for a minority group to elect a candidate of its choice) might, among other things, harm the very minority voters that Acts such as the Voting Rights Act sought to help.
	+ A racial gerrymandering claim, however, applies to the boundaries of individual districts. It applies district-by-district. It does not apply to a State considered as an undifferentiated “whole.” We have consistently described a claim of racial gerrymandering as a claim that race was improperly used in the drawing of the boundaries of one or more specific electoral districts. See, e.g., Shaw I, 509 U. S., at 649, 113 S. Ct. 2816, 125 L. Ed. 2d 511 (violation consists of “separat[ing] voters into different districts on the basis of race” (emphasis added)); Vera, 517 U. S., at 965, 116 S. Ct. 1941, 135 L. Ed. 2d 248 (principal opinion) (“[Courts] must scrutinize each challenged district . . .” (emphasis added)). We have described the plaintiff’s evidentiary burden similarly. See Miller, supra, at 916, 115 S. Ct. 2475, 132 L. Ed. 2d 762 (plaintiff must show that “race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district” (emphasis added)).
	+ A showing that race-based criteria did not significantly affect the drawing of some Alabama districts, however, would have done little to defeat a claim that race-based criteria predominantly affected the drawing of other Alabama districts, such as Alabama’s majority-minority districts primarily at issue here. See id., at 1329 (Thompson, J., dissenting) (“[T]he drafters[’] fail[ure] to achieve their sought-after percentage in one district does not detract one iota from the fact that they did achieve it in another”). Thus, the District Court’s undifferentiated statewide analysis is insufficient. And we must remand for consideration of racial gerrymandering with respect to the individual districts subject to the appellants’ racial gerrymandering challenges.
	+ We consequently conclude that the District Court’s analysis of racial gerrymandering of the State “as a whole” was legally erroneous. We find that the appellants did not waive their right to consideration of their claims as applied to particular districts. Accordingly, we remand the cases. See Pullman-Standard v. Swint, 456 U. S. 273, 291, 102 S. Ct. 1781, 72 L. Ed. 2d 66 (1982) (remand is required when the District Court “failed to make a finding because of an erroneous view of the law”); Rapanos v. United States, 547 U. S. 715, 757, 126 S. Ct. 2208, 165 L. Ed. 2d 159 (2006) (same).

# Reynolds v. Sims, 377 U.S. 533 (1964)

* The original plaintiffs, county residents, taxpayers, and voters, alleged that despite uneven population growth from 1900 to 1960, the failure of the Alabama legislature to reapportion itself denied them equal suffrage in free and equal elections and the equal protection of the law, in violation of U.S. Const. amend. XIV. The court affirmed the judgment of the district court, which held that the existing and two legislatively proposed plans for the apportionment of seats in the two houses of the Alabama legislature were invalid. The court held that the Equal Protection Clause required both houses of a bicameral state legislature to be apportioned on a population basis and that recourse to the so-called "federal analogy" would not be sustained. The district court was found to have acted with proper judicial restraint after the Alabama legislature failed to act effectively to remedy the constitutional deficiencies in its apportionment scheme in ordering its own temporary plan to permit the holding of elections pursuant to it without great difficulty and in retaining jurisdiction and deferring a hearing on a final injunction to allow the legislature opportunity to act effectively.
* Relevant language
	+ The maximum size of the Alabama House was increased from 105 to 106 with the creation of a new county in 1903, pursuant to the constitutional provision which states that, in addition to the prescribed 105 House seats, each county thereafter created shall be entitled to one representative. Article IX, §§ 202 and 203, of the Alabama Constitution established precisely the boundaries of the State's senatorial and representative districts until the enactment of a new reapportionment plan by the legislature. These 1901 constitutional provisions, specifically describing the composition of the senatorial districts and detailing the number of House seats allocated to each county, were periodically enacted as statutory measures by the Alabama Legislature, as modified only by the creation of an additional county in 1903, and provided the plan of legislative apportionment existing at the time this litigation was commenced.
	+ Plaintiffs below alleged that the last apportionment of the Alabama Legislature was based on the 1900 federal census, despite the requirement of the State Constitution that the legislature be reapportioned decennially. They asserted that, since the population growth in the State from 1900 to 1960 had been uneven, Jefferson and other counties were now victims of serious discrimination with respect to the allocation of legislative representation. As a result of the failure of the legislature to reapportion itself, plaintiffs asserted, they were denied "equal suffrage in free and equal elections . . . and the equal protection of the laws" in violation of the Alabama Constitution and the Fourteenth Amendment to the Federal Constitution.
	+ the Equal Protection Clause provides discoverable and manageable standards for use by lower courts in determining the constitutionality of a state legislative apportionment scheme
	+ "It would defeat the principle solemnly embodied in the Great Compromise -- equal representation in the House for equal numbers of people -- for us to hold that, within the States, legislatures may draw the lines of congressional districts in such a way as to give some voters a greater voice in choosing a Congressman than others."
	+ "[t]he right to vote is personal . . . ."While the result of a court decision in a state legislative apportionment controversy may be to require the restructuring of the geographical distribution of seats in a state legislature, the judicial focus must be concentrated upon ascertaining whether there has been any discrimination against certain of the State's citizens which constitutes an impermissible impairment of their constitutionally protected right to vote.
	+ "We do not believe that the Framers of the Constitution intended to permit the same vote-diluting discrimination to be accomplished through the device of districts containing widely varied numbers of inhabitants. To say that a vote is worth more in one district than in another would . . . run counter to our fundamental ideas of democratic government . . . ."
	+ We are cautioned about the dangers of entering into political thickets and mathematical quagmires. Our answer is this: a denial of constitutionally protected rights demands judicial protection; our oath and our office require no less of us.
	+ We hold that, as a basic constitutional standard, the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State.
	+ At the time this litigation was commenced, there had been no reapportionment of seats in the Alabama Legislature for over 60 years. Legislative inaction, coupled with the unavailability of any political or judicial remedy, had resulted, with the passage of years, in the perpetuated scheme becoming little more than an irrational anachronism. Consistent failure by the Alabama Legislature to comply with state constitutional requirements as to the frequency of reapportionment and the bases of legislative representation resulted in a minority strangle hold on the State Legislature.
	+ Political subdivisions of States -- counties, cities, or whatever -- never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities created by the State to assist in the carrying out of state governmental functions. These governmental units are "created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them," and the "number, nature and duration of the powers conferred upon [them] . . . and the territory over which they shall be exercised rests in the absolute discretion of the State." The relationship of the States to the Federal Government could hardly be less analogous.
	+ Thus, we conclude that the plan contained in the 67-Senator Amendment for apportioning seats in the Alabama Legislature cannot be sustained by recourse to the so-called federal analogy. Nor can any other inequitable state legislative apportionment scheme be justified on such an asserted basis. This does not necessarily mean that such a plan is irrational or involves something other than a "republican form of government." We conclude simply that such a plan is impermissible for the States under the Equal Protection Clause, since perforce resulting, in virtually every case, in submergence of the equal population principle in at least one house of a state legislature.
	+ We do not believe that the concept of bicameralism is rendered anachronistic and meaningless when the predominant basis of representation in the two state legislative bodies is required to be the same -- population. A prime reason for bicameralism, modernly considered, is to insure mature and deliberate consideration of, and to prevent precipitate action on, proposed legislative measures.
	+ istory indicates, however, that many States have deviated, to a greater or lesser degree, from the equal-population principle in the apportionment of seats in at least one house of their legislatures. So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature. But neither history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote.
	+ A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions. Several factors make more than insubstantial claims that a State can rationally consider according political subdivisions some independent representation in at least one body of the state legislature, as long as the basic standard of equality of population among districts is maintained. Local governmental entities are frequently charged with various responsibilities incident to the operation of state government. In many States much of the legislature's activity involves the enactment of so-called local legislation, directed only to the concerns of particular political subdivisions. And a State may legitimately desire to construct districts along political subdivision lines to deter the possibilities of gerrymandering. However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population.
	+ This would be especially true in a State where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties. Such a result, we conclude, would be constitutionally impermissible.
	+ We find, therefore, that the action taken by the District Court in this case, in ordering into effect a reapportionment of both houses of the Alabama Legislature for purposes of the 1962 primary and general elections, by using the best parts of the two proposed plans which it had found, as a whole, to be invalid, was an appropriate and well-considered exercise of judicial power.
	+ Harlan, Dissenting
		- These decisions, with Wesberry v. Sanders, 376 U.S. 1, involving congressional districting by the States, and Gray v. Sanders, 372 U.S. 368, relating to elections for statewide office, have the effect of placing basic aspects of state political systems under the pervasive overlordship of the federal judiciary.
		- The Court's elaboration of its new "constitutional" doctrine indicates how far -- and how unwisely -- it has strayed from the appropriate bounds of its authority. The consequence of today's decision is that in all but the handful of States which may already satisfy the new requirements the local District Court or, it may be, the state courts, are given blanket authority and the constitutional duty to supervise apportionment of the State Legislatures. It is difficult to imagine a more intolerable and inappropriate interference by the judiciary with the independent legislatures of the States.
		- The Court does not establish, or indeed even attempt to make a case for the proposition that conflicting interests within a State can only be adjusted by disregarding them when voters are grouped for purposes of representation.

# League of United Latin Am. Citizens v. Perry, 548 U.S. 399 (2006)

* Following the 2000 census, a court-ordered redistricting plan was implemented in Texas for seats in the United States House of Representatives. In 2003, after Republicans gained control of the Texas Legislature, a new redistricting map was passed. Appellants argued that the mid-decade redistricting was an unconstitutional partisan gerrymander and that changes to particular districts violated the Voting Rights Act, the First Amendment, and the Equal Protection Clause. The Court rejected appellants' challenge to the plan as a whole, but did not reach agreement as to whether a reliable test for gerrymander might exist. However, changes to a Latino-majority district, which were designed to protect an incumbent, constituted vote dilution in violation of 42 U.S.C.S. § 1973(b). Creation of a new, noncompact Latino-majority district did not compensate for the dismantling of the former compact district, and the absence of the former district undermined the progress of a racial group that had been subject to significant voting-related discrimination. The Court upheld the district court's decision that changes to another district did not unlawfully dilute African-American voting strength.
	+ Although the legislative branch plays the primary role in congressional redistricting, our precedents recognize an important role for the courts when a districting plan violates the Constitution. See, e.g., Wesberry v. Sanders, 376 U.S. 1, 84 S. Ct. 526, 11 L. Ed. 2d 481 (1964). This litigation is an example, as we have discussed. When Texas did not enact a plan to comply with the one-person, one-vote requirement under the 2000 census, the District Court found it necessary to draw a redistricting map on its own. That the federal courts sometimes are required to order legislative redistricting, however, does not shift the primary locus of responsibility.
	+ Plan 1374C made changes to district lines in south and west Texas that appellants challenge as violations of § 2 of the Voting Rights Act and the Equal Protection Clause of the Fourteenth Amendment. The most significant changes occurred to District 23, which--both before and after the redistricting--covers a large land area in west Texas, and to District 25, which earlier included Houston but now includes a different area, a north-south strip from Austin to the Rio Grande Valley.
	+ The Court has identified three threshold conditions for establishing a § 2 violation: (1) the racial group is "'"sufficiently large and geographically compact to constitute a majority in a single-member district"'"; (2) the racial group is "'"politically cohesive"'"; and (3) the majority "'"vot[es] sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate."'" Johnson v. De Grandy, 512 U.S. 997, 1006-1007, 114 S. Ct. 2647, 129 L. Ed. 2d 775 (1994) (quoting Growe, 507 U.S., at 40, 113 S. Ct. 1075, 122 L. Ed. 2d 388 (in turn quoting Thornburg v. Gingles, 478 U.S. 30, 50-51, 106 S. Ct. 2752, 92 L. Ed. 2d 25 (1986))). These are the so-called Gingles requirements. If all three Gingles requirements are established, the statutory text directs us to consider the "totality of circumstances" to determine whether members of a racial group have less opportunity than do other members of the electorate.
	+ To begin the Gingles analysis, it is evident that the second and third Gingles preconditions--cohesion among the minority group and bloc voting among the majority population--are present in District 23. The District Court found "racially polarized voting" in south and west Texas, and indeed "throughout the State." Session, supra, at 492-493. The polarization in District 23 was especially severe: 92% of Latinos voted against Bonilla in 2002, while 88% of non-Latinos voted for him. App. 134, Table 20 (expert Report of Allan J. Lichtman on Voting-Rights Issues in Texas Congressional Redistricting (Nov. 14, 2003) (hereinafter Lichtman Report)). Furthermore, the projected results in new District 23 show that the Anglo citizen voting-age majority will often, if not always, prevent Latinos from electing the candidate of their choice in the district. Session, supra, at 496-497. For all these reasons, appellants demonstrated sufficient minority cohesion and majority bloc voting to meet the second and third Gingles requirements.
	+ The first Gingles factor requires that a group be "sufficiently large and geographically compact to constitute a majority in a single-member district." 478 U.S., at 50, 106 S. Ct. 2752, 92 L. Ed. 2d 25 . Latinos in District 23 could have constituted a majority of the citizen voting-age population in the district, and in fact did so under Plan 1151C. Though it may be possible for a citizen voting-age majority to lack real electoral opportunity, the Latino majority in old District 23 did possess electoral opportunity protected by § 2.
	+ Plan 1374C's version of District 23, by contrast, "is unquestionably not a Latino opportunity district." Id., at 496. Latinos, to be sure, are a bare majority of the voting-age population in new District 23, but only in a hollow sense, for the parties agree that the relevant numbers must include citizenship. This approach fits the language of § 2 because only eligible voters affect a group's opportunity to elect candidates. In sum, appellants have established that Latinos could have had an opportunity district in District 23 had its lines not been altered and that they do not have one now.
	+ The District Court found that the current plan contains six Latino opportunity districts and that seven reasonably compact districts could not be drawn. Appellant GI Forum presented a plan with seven majority-Latino districts, but the District Court found these districts were not reasonably compact, in part because they took in "disparate and distant communities." Session, supra, at 491-492, and n 125. While there was some evidence to the contrary, the court's resolution of the conflicting evidence was not clearly erroneous.
	+ While no precise rule has emerged governing § 2 compactness, the "inquiry should take into account 'traditional districting principles such as maintaining communities of interest and traditional boundaries.'" Abrams, supra, at 92, 117 S. Ct. 1925, 138 L. Ed. 2d 285 (quoting Vera, 517 U.S., at 977, 116 S. Ct. 1941, 135 L. Ed. 2d 248 (plurality opinion)); see also id., at 979, 116 S. Ct. 1941, 135 L. Ed. 2d 248 (A district that "reaches out to grab small and apparently isolated minority communities" is not reasonably compact). The recognition of nonracial communities of interest reflects the principle that a State may not "assum[e] from a group of voters' race that they 'think alike, share the same political interests, and will prefer the same candidates at the polls.'" Miller, supra, at 920, 115 S. Ct. 2475, 132 L. Ed. 2d 762 (quoting Shaw v. Reno, 509 U.S. 630, 647, 113 S. Ct. 2816, 125 L. Ed. 2d 511 (1993)). In the absence of this prohibited assumption, there is no basis to believe a district that combines two farflung segments of a racial group with disparate interests provides the opportunity that § 2 requires or that the first Gingles condition contemplates. "The purpose of the Voting Rights Act is to prevent discrimination in the exercise of the electoral franchise and to foster our transformation to a society that is no longer fixated on race." Georgia v. Ashcroft, 539 U.S., at 490, 123 S. Ct. 2498, 156 L. Ed. 2d 428; cf. post, at 511, 165 L. Ed. 2d, at 689 (opinion of Roberts, C. J.). We do a disservice to these important goals by failing to account for the differences between people of the same race.
	+ We proceed now to the totality of the circumstances, and first to the proportionality inquiry, comparing the percentage of total districts that are Latino opportunity districts with the Latino share of the citizen voting-age population. As explained in De Grandy, HN17 proportionality is "a relevant fact in the totality of circumstances." 512 U.S., at 1000, 114 S. Ct. 2647, 129 L. Ed. 2d 775. It does not, however, act as a "safe harbor" for States in complying with § 2. Id., at 1017-1018, 114 S. Ct. 2647, 129 L. Ed. 2d 775; see also id., at 1025, 114 S. Ct. 2647, 129 L. Ed. 2d 775 (O'Connor, J., concurring) (proportionality "is always relevant evidence in determining vote dilution, but is never itself dispositive"); id., at 1027-1028, 114 S. Ct. 2647, 129 L. Ed. 2d 775 (Kennedy, J., concurring in part and concurring in judgment) (proportionality has "some relevance," though "placing undue emphasis upon proportionality risks defeating the goals underlying the Voting Rights Act"). If proportionality could act as a safe harbor, it would ratify "an unexplored premise of highly suspect validity: that in any given voting jurisdiction . . ., the rights of some minority voters under § 2 may be traded off against the rights of other members of the same minority class." Id., at 1019, 114 S. Ct. 2647, 129 L. Ed. 2d 775; see also Shaw II, 517 U.S., at 916-918, 116 S. Ct. 1894, 135 L. Ed. 2d 207
	+ We conclude the answer in these cases is to look at proportionality statewide. The State contends that the seven districts in south and west Texas correctly delimit the boundaries for proportionality because that is the only area of the State where reasonably compact Latino opportunity districts can be drawn. This argument, however, misunderstands the role of proportionality. HN18 We have already determined, under the first Gingles factor, that another reasonably compact Latino district can be drawn. The question now is whether the absence of that additional district constitutes impermissible vote dilution. This inquiry requires an "'intensely local appraisal'" of the challenged district. Gingles, 478 U.S., at 79, 106 S. Ct. 2752, 92 L. Ed. 2d 25 (quoting Rogers v. Lodge, 458 U.S. 613, 622, 102 S. Ct. 3272, 73 L. Ed. 2d 1012 (1982)); see also Gingles, supra, at 101, 106 S. Ct. 2752, 92 L. Ed. 2d 25 (O'Connor, J., concurring in judgment). A local appraisal is necessary because the right to an undiluted vote does not belong to the "minority as a group," but rather to "its individual members." Shaw II, supra, at 917, 116 S. Ct. 1894, 135 L. Ed. 2d 207 . And a State may not trade off the rights of some members of a racial group against the rights of other members of that group. See De Grandy, supra, at 1019, 114 S. Ct. 2647, 129 L. Ed. 2d 775; Shaw II, supra, at 916-918, 116 S. Ct. 1894, 135 L. Ed. 2d 207 . The question is therefore not "whether line-drawing in the challenged area as a whole dilutes minority voting strength," post, at 504, 165 L. Ed. 2d, at 685 (opinion of Roberts, C. J.), but whether line-drawing dilutes the voting strength of the Latinos in District 23.
	+ Based on the foregoing, the totality of the circumstances demonstrates a § 2 violation. Even assuming Plan 1374C provides something close to proportional representation for Latinos, its troubling blend of politics and race--and the resulting vote dilution of a group that was beginning to achieve § 2's goal of overcoming prior electoral discrimination--cannot be sustained.
	+ We reject the statewide challenge to Texas' redistricting as an unconstitutional political gerrymander and the challenge to the redistricting in the Dallas area as a violation of § 2 of the Voting Rights Act. We do hold that the redrawing of lines in District 23 violates § 2 of the Voting Rights Act. The judgment of the District Court is affirmed in part, reversed in part, and vacated in part, and the cases are remanded for further proceedings.
	+ The District Court held in the alternative that the claims of racial gerrymandering must fail because “[r]ace was not the predominant motivating factor” in the creation of any of the challenged districts. 989 F. Supp. 2d, at 1293. In our view, however, the District Court did not properly calculate “predominance.” In particular, it judged race to lack “predominance” in part because it placed in the balance, among other nonracial factors, legislative efforts to create districts of approximately equal population. See, e.g., id., at 1305 (the “need to bring the neighboring districts into compliance with the requirement of one person, one vote served as the primary motivating factor for the changes to [Senate] District 22” (emphasis added)); id., at 1297 (the “constitutional requirement of one person, one vote trumped every other districting principle”); id., at 1296 (the “record establishes that the drafters of the new districts, above all, had to correct [for] severe malapportionment . . .”); id., at 1306 (the “inclusion of additional precincts [in Senate District 26] is a reasonable response to the underpopulation of the District”).
	+ In our view, however, HN13 an equal population goal is not one factor among others to be weighed against the use of race to determine whether race “predominates.” Rather, it is part of the redistricting background, taken as a given, when determining whether race, or other factors, predominate in a legislator’s determination as to how equal population objectives will be met.
	+ But we have not listed equal population objectives. And there is a reason for that omission. The reason that equal population objectives do not appear on this list of “traditional” criteria is that equal population objectives play a different role in a State’s redistricting process. That role is not a minor one. Indeed, in light of the Constitution’s demands, that role may often prove “predominant” in the ordinary sense of that word. But, as the United States points out, “predominance” in the context of a racial gerrymandering claim is special. It is not about whether a legislature believes that the need for equal population takes ultimate priority. Rather, it is, as we said, whether the legislature “placed” race “above traditional districting considerations in determining which persons were placed in appropriately apportioned districts.” Brief for United States as Amicus Curiae 19 (some emphasis added). In other words, if the legislature must place 1,000 or so additional voters in a particular district in order to achieve an equal population goal, the “predominance” question concerns which voters the legislature decides to choose, and specifically whether the legislature predominately uses race as opposed to other, “traditional” factors when doing so.
	+ The legislators in charge of creating the redistricting plan believed, and told their technical adviser, that a primary redistricting goal was to maintain existing racial percentages in each majority-minority district, insofar as feasible. See supra, at 9-10 (compiling extensive record testimony in support of this point). There is considerable evidence that this goal had a direct and significant impact on the drawing of at least some of District 26’s boundaries. See 3 Tr. 175-180 (testimony of Hinaman); Appendix C, infra (change of district’s shape from rectangular to irregular). Of the 15,785 individuals that the new redistricting laws added to the population of District 26, just 36 were white—a remarkable feat given the local demographics. See, e.g., 2 Tr. 127-128 (testimony of Senator Quinton Ross); 3 Tr. 179 (testimony of Hinaman). Transgressing their own redistricting guidelines, Committee Guidelines 3-4, the drafters split seven precincts between the majority-black District 26 and the majority-white District 25, with the population in those precincts clearly divided on racial lines. See Exh. V in Support of Newton Plaintiffs’ Opposition to Summary Judgment in No. 12-cv-691, Doc. 140-1, pp. 91-95. And the District Court conceded that race “was a factor in the drawing of District 26,” and that the legislature “preserved” “the percentage of the population that was black.” 989 F. Supp. 2d, at 1306.
	+ Here the District Court enunciated a narrow tailoring standard close to the one we have just mentioned. It said that a plan is “narrowly tailored . . . when the race-based action taken was reasonably necessary” to achieve a compelling interest. 989 F. Supp. 2d, at 1307 (emphasis added). And it held that preventing retrogression is a compelling interest. Id., at 1306-1307. While we do not here decide whether, given Shelby County v. Holder, 570 U. S. \_\_\_, 133 S. Ct. 2612, 186 L. Ed. 2d 651 (2013), continued compliance with §5 remains a compelling interest, we conclude that the District Court and the legislature asked the wrong question with respect to narrow tailoring. They asked: “How can we maintain present minority percentages in majority-minority districts?” But given §5’s language, its purpose, the Justice Department Guidelines, and the relevant precedent, they should have asked: “To what extent must we preserve existing minority percentages in order to maintain the minority’s present ability to elect the candidate of its choice?” Asking the wrong question may well have led to the wrong answer. Hence, we cannot accept the District Court’s “compelling interest/narrow tailoring” conclusion.
	+ For these reasons, the judgment of the District Court is vacated. We note that appellants have also raised additional questions in their jurisdictional statements, relating to their one-person, one-vote claims (Caucus) and vote dilution claims (Conference), which were also rejected by the District Court. We do not pass upon these claims. The District Court remains free to reconsider the claims should it find reconsideration appropriate. And the parties are free to raise them, including as modified by the District Court, on any further appeal.

# Vieth v. Jubelirer, 541 U.S. 267 (2004)

* The voters contended that the districts created by the officers' legislation were meandering and irregular, and ignored all traditional redistricting criteria, including the preservation of local government boundaries, solely for the sake of partisan political advantage. A plurality of the United States Supreme Court held, however, that the existence of the alleged political gerrymandering was a political question which precluded judicial intervention. While prior Supreme Court precedent indicated that the constitutional provision for equal protection of the law granted judicial authority to control political gerrymandering, such precedent was erroneous in view of the lack of judicially discoverable and manageable standards for resolving the propriety of voting districts. The judicial power to rectify gerrymandering based on race did not provide a basis for considering the political advantages or disadvantages of voting districts, since political affiliation was clearly not permanently discernible and the effects of political gerrymandering could never be adequately assessed. The U.S. Constitution provided equal protection to persons, not equal representation to political parties.
* Relevant Language
	+ Plaintiffs-appellants Richard Vieth, Norma Jean Vieth, and Susan Furey challenge a map drawn by the Pennsylvania General Assembly establishing districts for the election of congressional Representatives, on the ground that the districting constitutes an unconstitutional political gerrymander. he complaint alleged, among other things, that the legislation created malapportioned districts, in violation of the one-person, one-vote requirement of Article I, § 2, of the United States Constitution, and that it constituted a political gerrymander, in violation of Article I and the Equal Protection Clause of the Fourteenth Amendment. With regard to the latter contention, the complaint alleged that the districts created by Act 1 were "meandering and irregular," and "ignor[ed] all traditional redistricting criteria, including the preservation of local government boundaries, solely for the sake of partisan advantage."
	+ Eighteen years ago, we held that HN4 the Equal Protection Clause grants judges the power--and duty--to control political gerrymandering, see Davis v. Bandemer, 478 U.S. 109, 106 S. Ct. 2797, 92 L. Ed. 2d 85 (1986).
	+ To satisfy appellants' intent standard, a plaintiff must "show that the mapmakers acted with a predominant intent to achieve partisan advantage," which can be shown "by direct evidence or by circumstantial evidence that other neutral and legitimate redistricting criteria were subordinated to the goal of achieving partisan advantage." Brief for Appellants 19 (emphasis added). As compared with the Bandemer plurality's test of mere intent to disadvantage the plaintiff's group, this proposal seemingly makes the standard more difficult to meet--but only at the expense of making the standard more indeterminate.
	+ Even within the narrower compass of challenges to a single district, applying a "predominant intent" test to racial gerrymandering is easier and less disruptive. HN9 The Constitution clearly contemplates districting by political entities, see Article I, § 4, and unsurprisingly that turns out to be root-and-branch a matter of politics.
	+ a person's politics is rarely as readily discernible--and never as permanently discernible--as a person's race. Political affiliation is not an immutable characteristic, but may shift from one election to the next; and even within a given election, not all voters follow the party line. We dare say (and hope) that the political party which puts forward an utterly incompetent candidate will lose even in its registration stronghold. These facts make it impossible to assess the effects of partisan gerrymandering, to fashion a standard for evaluating a violation, and finally to craft a remedy.
	+ Deny it as appellants may (and do), this standard rests upon the principle that groups (or at least political-action groups) have a right to proportional representation. But the Constitution contains no such principle. It guarantees equal protection of the law to persons, not equal representation in government to equivalently sized groups. It nowhere says that farmers or urban dwellers, Christian fundamentalists or Jews, Republicans or Democrats, must be accorded political strength proportionate to their numbers.
	+ Our one-person, one-vote cases, see Reynolds v. Sims, 377 U.S. 533, 12 L. Ed. 2d 506, 84 S. Ct. 1362 (1964); Wesberry v. Sanders, 376 U.S. 1, 11 L. Ed. 2d 481, 84 S. Ct. 526 (1964), have no bearing upon this question, neither in principle nor in practicality. Not in principle, because to say that each individual must have an equal say in the selection of representatives, and hence that a majority of individuals must have a majority say, is not at all to say that each discernable group, whether farmers or urban dwellers or political parties, must have representation equivalent to its numbers. And not in practicality, because the easily administrable standard of population equality adopted by Wesberry and Reynolds enables judges to decide whether a violation has occurred (and to remedy it) essentially on the basis of three readily determined factors-- where the plaintiff lives, how many voters are in his district, and how many voters are in other districts; whereas requiring judges to decide whether a districting system will produce a statewide majority for a majority party casts them forth upon a sea of imponderables, and asks them to make determinations that not even election experts can agree upon.
	+ While we do not lightly overturn one of our own holdings, "when governing decisions are unworkable or are badly reasoned, 'this Court has never felt constrained to follow precedent.'" Id., at 827, 115 L. Ed. 2d 720, 111 S. Ct. 2597 (quoting Smith v. Allwright, 321 U.S. 649, 665, 64 S. Ct. 757, 88 L. Ed. 987 (1944)). Eighteen years of essentially pointless litigation have persuaded us that Bandemer is incapable of principled application.

**Davis v. Bandemer, 478 U.S. 109 (1986)**

* In contention with Vieth v. Jubelirer, but not explicitly overturned
* Appellees filed suit against appellants, several state officials, claiming that a legislative reapportionment plan constituted a political gerrymander intended to disadvantage Democrats across the state. The trial court declared the reapportionment unconstitutional, and appellants sought review. On appeal, the Court found that although the issue was justiciable, the trial court used an insufficiently demanding standard to find unconstitutional vote dilution. The Court held that a threshold showing of discriminatory vote dilution was required for a prima facie case of an equal protection violation and that the findings made by the trial court of an adverse effect on appellees did not surmount the threshold requirement. Appellees did not meet their burden of showing both intentional discrimination against an identifiable political group and an actual discriminatory effect on the group. The Court reversed judgment that a legislative district reapportionment plan was an unconstitutional political gerrymander where, although the issue was justiciable, the lower court used an insufficiently demanding standard in finding unconstitutional vote dilution.
	+ Our racial gerrymander cases such as White v. Regester and Whitcomb v. Chavis indicate as much. In those cases, there was no population variation among the districts, and no one was precluded from voting. The claim instead was that an identifiable racial or ethnic group had an insufficient chance to elect a representative of its choice and that district lines should be redrawn to remedy this alleged defect. In both cases, we adjudicated the merits of such claims, rejecting the claim in Whitcomb and sustaining it in Regester. Just as clearly, in Gaffney v. Cummings, where the districts also passed muster under the Reynolds formula, the claim was that the legislature had manipulated district lines to afford political groups in various districts an enhanced opportunity to elect legislators of their choice. Although advising caution, we said that "we must . . . respond to [the] claims . . . that even if acceptable populationwise, the . . . plan was invidiously discriminatory because a 'political fairness principle' was followed . . . ." 412 U.S., at 751-752 (emphasis added). We went on to hold that the statute at issue did not violate the Equal Protection Clause.
	+ These decisions support a conclusion that this case is justiciable. As Gaffney demonstrates, that the claim is submitted by a political group, rather than a racial group, does not distinguish it in terms of justiciability. That the characteristics of the complaining group are not immutable or that the group has not been subject to the same historical stigma may be relevant to the manner in which the case is adjudicated, but these differences do not justify a refusal to entertain such a case.
	+ The typical election for legislative seats in the United States is conducted in described geographical districts, with the candidate receiving the most votes in each district winning the seat allocated to that district. If all or most of the districts are competitive -- defined by the District Court in this case as districts in which the anticipated split in the party vote is within the range of 45% to 55% -- even a narrow statewide preference for either party would produce an overwhelming majority for the winning party in the state legislature. This consequence, however, is inherent in winner-take-all, district-based elections, and we cannot hold that such a reapportionment law would violate the Equal Protection Clause because the voters in the losing party do not have representation in the legislature in proportion to the statewide vote received by their party candidates. As we have said: "[We] are unprepared to hold that district-based elections decided by plurality vote are unconstitutional in either single- or multi-member districts simply because the supporters of losing candidates have no legislative seats assigned to them." Whitcomb v. Chavis, supra, at 160. This is true of a racial as well as a political group. White v. Regester, supra, at 765-766. It is also true of a statewide claim as well as an individual district claim.
	+ To draw district lines to maximize the representation of each major party would require creating as many safe seats for each party as the demographic and predicted political characteristics of the State would permit. This in turn would leave the minority in each safe district without a representative of its choice. We upheld this "political fairness" approach in Gaffney v. Cummings, despite its tendency to deny safe district minorities any realistic chance to elect their own representatives. But Gaffney in no way suggested that the Constitution requires the approach that Connecticut had adopted in that case.
	+ In cases involving individual multimember districts, we have required a substantially greater showing of adverse effects than a mere lack of proportional representation to support a finding of unconstitutional vote dilution. Only where there is evidence that excluded groups have "less opportunity to participate in the political processes and to elect candidates of their choice" have we refused to approve the use of multimember districts. Rogers v. Lodge, 458 U.S., at 624. See also United Jewish Organizations of Williamsburgh, Inc. v. Carey, 430 U.S., at 167; White v. Regester, supra, at 765-766; Whitcomb v. Chavis, supra, at 150. In these cases, we have also noted the lack of responsiveness by those elected to the concerns of the relevant groups. See Rogers v. Lodge, supra, at 625-627; White v. Regester, supra, at 766-767.
	+ These holdings rest on a conviction that the mere fact that a particular apportionment scheme makes it more difficult for a particular group in a particular district to elect the representatives of its choice does not render that scheme constitutionally infirm. This conviction, in turn, stems from a perception that the power to influence the political process is not limited to winning elections. An individual or a group of individuals who votes for a losing candidate is usually deemed to be adequately represented by the winning candidate and to have as much opportunity to influence that candidate as other voters in the district. We cannot presume in such a situation, without actual proof to the contrary, that the candidate elected will entirely ignore the interests of those voters. This is true even in a safe district where the losing group loses election after election.
	+ Relying on a single election to prove unconstitutional discrimination is unsatisfactory. The District Court observed, and the parties do not disagree, that Indiana is a swing State. Voters sometimes prefer Democratic candidates, and sometimes Republican. The District Court did not find that because of the 1981 Act the Democrats could not in one of the next few elections secure a sufficient vote to take control of the assembly. Indeed, the District Court declined to hold that the 1982 election results were the predictable consequences of the 1981 Act and expressly refused to hold that those results were a reliable prediction of future ones. The District Court did not ask by what percentage the statewide Democratic vote would have had to increase to control either the House or the Senate. The appellants argue here, without a persuasive response from the appellees, that had the Democratic candidates received an additional few percentage points of the votes cast statewide, they would have obtained a majority of the seats in both houses. Nor was there any finding that the 1981 reapportionment would consign the Democrats to a minority status in the Assembly throughout the 1980's or that the Democrats would have no hope of doing any better in the reapportionment that would occur after the 1990 census. Without findings of this nature, the District Court erred in concluding that the 1981 Act violated the Equal Protection Clause.

# Baker v. Carr, 369 U.S. 186 (1962)

* Plaintiffs, residents of several counties, filed a complaint against defendants, state officers and election officials, alleging that a state statute arbitrarily and capriciously appointed representatives without reference to any logical or rational formula and that it deprived them of the equal protection of the laws in violation of U.S. Const. amend. XIV. The trial court granted defendants' motion to dismiss, finding that it lacked subject matter jurisdiction and that the complaint failed to state a claim upon which relief could be granted. The court reversed and remanded, holding that the complaint's allegations of a denial of equal protection presented a justiciable constitutional cause of action upon which plaintiffs were entitled to a trial and a decision. The right that plaintiffs asserted was within the reach of judicial protection under U.S. Const. amend. XIV. The court further found that if discrimination were sufficiently shown, the right to relief under the Equal Protection Clause would not be diminished by the fact that the discrimination related to political rights.
	+ Tennessee's standard for allocating legislative representation among her counties is the total number of qualified voters resident in the respective counties, subject only to minor qualifications. Decennial reapportionment in compliance with the constitutional scheme was effected by the General Assembly each decade from 1871 to 1901. The 1871 apportionment was preceded by an 1870 statute requiring an enumeration. The 1881 apportionment involved three statutes, the first authorizing an enumeration, the second enlarging the Senate from 25 to 33 members and the House from 75 to 99 members, and the third apportioning the membership of both Houses. In 1891 there were both an enumeration and an apportionment. In 1901 the General Assembly abandoned separate enumeration in favor of reliance upon the Federal Census and passed the Apportionment Act here in controversy. In the more than 60 years since that action, all proposals in both Houses of the General Assembly for reapportionment have failed to pass.
	+ Indeed, the complaint alleges that the 1901 statute, even as of the time of its passage, "made no apportionment of Representatives and Senators in accordance with the constitutional formula . . . , but instead arbitrarily and capriciously apportioned representatives in the Senate and House without reference . . . to any logical or reasonable formula whatever." It is further alleged that "because of the population changes since 1900, and the failure of the Legislature to reapportion itself since 1901," the 1901 statute became "unconstitutional and obsolete."
	+ The controlling facts cannot be disputed. It appears from the record that 37% of the voters of Tennessee elect 20 of the 33 Senators while 40% of the voters elect 63 of the 99 members of the House. But this might not on its face be an "invidious discrimination," Williamson v. Lee Optical of Oklahoma, 348 U.S. 483, 489 (1955), for a "statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." McGowan v. Maryland, 366 U.S. 420, 426 (1961).
	+ The truth is that -- although this case has been here for two years and has had over six hours' argument (three times the ordinary case) and has been most carefully considered over and over again by us in Conference and individually -- no one, not even the State nor the dissenters, has come up with any rational basis for Tennessee's apportionment statute
	+ No one -- except the dissenters advocating the HARLAN "adjusted 'total representation'" formula -- contends that mathematical equality among voters is required by the Equal Protection Clause. But certainly there must be some rational design to a State's districting. The discrimination here does not fit any pattern -- as I have said, it is but a crazy quilt. My Brother HARLAN contends that other proposed apportionment plans contain disparities. Instead of chasing those rabbits he should first pause long enough to meet appellants' proof of discrimination by showing that in fact the present plan follows a rational policy. Not being able to do this, he merely counters with such generalities as "classic legislative judgment," no "significant discrepancy," and "de minimis departures." I submit that even a casual glance at the present apportionment picture shows these conclusions to be entirely fanciful. If present representation has a policy at all, it is to maintain the status quo of invidious discrimination at any cost. Like the District Court, I conclude that appellants have met the burden of showing "Tennessee is guilty of a clear violation of the state constitution and of the [federal] rights of the plaintiffs. . . ."
	+ Although I find the Tennessee apportionment statute offends the Equal Protection Clause, I would not consider intervention by this Court into so delicate a field if there were any other relief available to the people of Tennessee. But the majority of the people of Tennessee have no “practical opportunities for exerting their political weight at the polls" to correct the existing "invidious discrimination." Tennessee has no initiative and referendum. I have searched diligently for other "practical opportunities" present under the law. I find none other than through the federal courts. The majority of the voters have been caught up in a legislative strait jacket. Tennessee has an "informed, civically militant electorate" and "an aroused popular conscience," but it does not sear "the conscience of the people's representatives." This is because the legislative policy has riveted the present seats in the Assembly to their respective constituencies, and by the votes of their incumbents a reapportionment of any kind is prevented. The people have been rebuffed at the hands of the Assembly; they have tried the constitutional convention route, but since the call must originate in the Assembly it, too, has been fruitless. They have tried Tennessee courts with the same result, and Governors have fought the tide only to flounder. It is said that there is recourse in Congress and perhaps that may be, but from a practical standpoint this is without substance. To date Congress has never undertaken such a task in any State. We therefore must conclude that the people of Tennessee are stymied and without judicial intervention will be saddled with the present discrimination in the affairs of their state government.
	+ The Court today decides three things and no more: "(a) that the court possessed jurisdiction of the subject matter; (b) that a justiciable cause of action is stated upon which appellants would be entitled to appropriate relief; and (c) . . . that the appellants have standing to challenge the Tennessee apportionment statutes." Ante, pp. 197-198.

# West Virginia Legislative Redistricting and Reapportionment

# The Basics:

* 3 US Reps
* 134 state legislators
	+ 17 state Senate districts and 67 state House districts
		- Each Senate district elects two state senators
		- Some state House districts elect multiple delegates
		- State Senators are up for election every four years, state Delegates are elected every two years
* Both state and congressional legislative district boundaries are drawn by the state legislature

# Statutes and legislation:

# W. Va. Const. Art. II, § 4 – Equal Representation

* + Every citizen shall be entitled to equal representation in the government, and, in all apportionments of representation, equality of numbers of those entitled thereto, shall as far as practicable, be preserved.

# W. Va. Const. Art. VI, § 7 – After Census, Delegate Apportionment

* + After every census the delegates shall be apportioned as follows: The ratio of representation for the house of delegates shall be ascertained by dividing the whole population of the State by the number of which the house is to consist and rejecting the fraction of a unit, if any, resulting from such division. Dividing the population of every delegate district, and of every county not included in a delegate district, by the ratio thus ascertained, there shall be assigned to each a number of delegates equal to the quotient obtained by this division, excluding the fractional remainder. The additional delegates necessary to make up the number of which the house is to consist, shall then be assigned to those delegate districts, and counties not included in a delegate district, which would otherwise have the largest fractions unrepresented; but every delegate district and county not included in a delegate district, shall be entitled to at least one delegate.

# W. Va. Const. Art. VI, § 4 – Division of State into Senatorial Districts

* + For the election of senators, the State shall be divided into twelve senatorial districts, which number shall not be diminished, but may be increased as hereinafter provided. Every district shall elect two senators, but, where the district is composed of more than one county, both shall not be chosen from the same county. The districts shall be compact, formed of contiguous territory, bounded by county lines, and, as nearly as practicable, equal in population, to be ascertained by the census of the United States. After every such census, the legislature shall alter the senatorial districts, so far as may be necessary to make them conform to the foregoing provision.

# W. Va. Const. Art. I, § 4 – Representatives to Congress

* + For the election of representatives to Congress, the State shall be divided into districts, corresponding in number with the representatives to which it may be entitled; which districts shall be formed of contiguous counties, and be compact. Each district shall contain as nearly as may be, an equal number of population, to be determined according to the rule prescribed in the Constitution of the United States.

# W. Va. Code § 1-2-1 – Senatorial districts

* + (a) This section shall be known and may be cited as the Senate Redistricting Act of 2011.
	+ (b) As used in this section:
		- (1) “County” means the territory comprising a county of this state as such county existed on January 1, 2010, notwithstanding any boundary changes thereof made subsequent thereto;
		- (2) “Block” and “voting district” mean those geographic areas as defined by the Bureau of the Census of the United States Department of Commerce for the taking of the 2010 census of population and described on census maps prepared by the Bureau of the Census. Such maps are, at the time of this enactment, maintained by the Bureau of the Census and filed in the Redistricting Office of the Joint Committee on Government and Finance;
		- (3) “Incumbent senator” means a senator elected at the general election held in the year 2010 or at any general election thereafter, with an unexpired term of at least two years in duration.
	+ (c) The Legislature recognizes that in dividing the state into senatorial districts, the Legislature is bound not only by the United States Constitution but also by the West Virginia Constitution; that in any instance where the West Virginia Constitution conflicts with the United States Constitution, the United States Constitution must govern and control, as recognized in section one, article I of the West Virginia Constitution; that the United States Constitution, as interpreted by the United States Supreme Court and other federal courts, requires state legislatures to be apportioned so as to achieve equality of population as near as is practicable, population disparities being permissible where justified by rational state policies; and that the West Virginia Constitution requires two senators to be elected from each senatorial district for terms of four years each, one such senator being elected every two years, with one half of the senators being elected biennially, and requires senatorial districts to be compact, formed of contiguous territory and bounded by county lines. The Legislature finds and declares that it is not possible to divide the state into senatorial districts so as to achieve equality of population as near as is practicable as required by the United States Supreme Court and other federal courts and at the same time adhere to all of these provisions of the West Virginia Constitution; but that, in an effort to adhere as closely as possible to all of these provisions of the West Virginia Constitution, the Legislature, in dividing the state into senatorial districts, as described and constituted in subsection (d) of this section, has:
		- (1) Adhered to the equality of population concept, while at the same time recognizing that from the formation of this state in the year 1863, each Constitution of West Virginia and the statutes enacted by the Legislature have recognized political subdivision lines and many functions, policies and programs of government have been implemented along political subdivision lines;
		- (2) Made the senatorial districts as compact as possible, consistent with the equality of population concept;
		- (3) Formed the senatorial districts of “contiguous territory” as that term has been construed and applied by the West Virginia Supreme Court of Appeals;
		- (4) Deviated from the long-established state policy, recognized in subdivision (1) above, by crossing county lines only when necessary to ensure that all senatorial districts were formed of contiguous territory or when adherence to county lines produced unacceptable population inequalities and only to the extent necessary in order to maintain contiguity of territory and to achieve acceptable equality of population; and
		- (5) Also taken into account in crossing county lines, to the extent feasible, the community of interests of the people involved.
	+ (d) The Senate shall be composed of thirty-four senators, one senator to be elected at the general election to be held in the year 2012, and biennially thereafter for a four-year term from each of the senatorial districts hereinafter in this subsection described and constituted as follows:
		- (describes senatorial districts in detail)
		- First Senatorial District
			* Brooke County
			* Hancock County
			* Parts of Marshall County
		- Second Senatorial District
			* Calhoun County
			* Doddridge County
			* Parts of Gilmer County
			* Parts of Marion County
			* Parts of Marshall County
			* Parts of Monongalia County
			* Ritchie County
			* Tyler County
			* Wetzel County
		- Third Senatorial District
			* Pleasants County
			* Parts of Roane County
			* Wirt County
			* Wood County
		- Fourth Senatorial District
			* Jackson County
			* Mason County
			* Parts of Putnam County
			* Parts of Roane County
		- Fifth Senatorial District
			* Cabell County
			* Parts of Wayne County
		- Sixth Senatorial District
			* Parts of McDowell County
			* Mercer County
			* Parts of Mingo County
			* Parts of Wayne County
		- Seventh Senatorial District
			* Boone County
			* Lincoln County
			* Logan County
			* Parts of Mingo County
			* Parts of Wayne County
		- Eighth Senatorial District
			* Parts of Kanawha County
			* Parts of Putnam County
		- Ninth Senatorial District
			* Parts of McDowell County
			* Raleigh County
			* Wyoming County
		- Tenth Senatorial District
			* Fayette County
			* Greenbrier County
			* Monroe County
			* Summers County
		- Eleventh Senatorial District
			* Parts of Grant County
			* Nicholas County
			* Pendleton County
			* Pocahontas County
			* Randolph County
			* Upshur County
			* Webster County
		- Twelfth Senatorial District
			* Braxton County
			* Clay County
			* Parts of Gilmer County
			* Harrison County
			* Lewis County
		- Thirteenth Senatorial District
			* Parts of Marion County
			* Parts of Monongalia County
		- Fourteenth Senatorial District
			* Barbour County
			* Parts of Grant County
			* Hardy County
			* Parts of Mineral County
			* Parts of Monongalia County
			* Preston County
			* Taylor County
			* Tucker County
		- Fifteenth Senatorial District
			* Parts of Berkeley County
			* Hampshire County
			* Parts of Mineral County
			* Morgan County
		- Sixteenth Senatorial District
			* Parts of Berkeley County
			* Jefferson County
		- Seventeenth Senatorial District
			* Parts of Kanawha County
	+ (e) The West Virginia Constitution further provides, in section four, article VI thereof, that where a senatorial district is composed of more than one county, both senators for such district shall not be chosen from the same county, a residency dispersal provision which is clear with respect to senatorial districts which follow county lines, as required by such Constitution, but which is not clear in application with respect to senatorial districts which cross county lines. However, in an effort to adhere as closely as possible to the West Virginia Constitution in this regard, the following additional provisions, in furtherance of the rationale of such residency dispersal provision and to give meaning and effect thereto, are hereby established:
		- (1) With respect to a senatorial district which is composed of one or more whole counties and one or more parts of another county or counties, no more than one senator shall be chosen from the same county or part of a county to represent such senatorial district;
		- (2) With respect to a senatorial district which does not contain any whole county but only parts of two or more counties, no more than one senator shall be chosen from the same part to represent such senatorial district; and
		- (3) With respect to superimposed senatorial districts which contain only one whole county, all senators shall be chosen from such county to represent such senatorial districts.

# W. Va. Code § 1-2-2 – Apportionment of membership of House of Delegates (including population figures)

* + (a) As used in this section:
		- (1) “County” means the territory comprising a county of this state as it existed on January 1, 2010, notwithstanding any boundary changes made subsequent thereto;
		- (2) “Block” and “VTD” (voting district) mean those geographic areas as defined by the Bureau of the Census of the United States Department of Commerce for the taking of the 2010 census of population and described on census maps prepared by the Bureau of the Census. The maps are, at the time of the reenactment of this section in the year 2011, maintained by the Bureau of the Census and filed in Redistricting Office of the Joint Committee on Government and Finance.
	+ (b) The House of Delegates is composed of one hundred members elected from the delegate districts as described in subsection (c) of this section. Each delegate district is entitled to representation as described in this subsection:
		- First Delegate District
			* District one is entitled to two delegates.
				+ Population: 37,602
			* Parts of Brooke County
			* Hancock County
		- Second Delegate District
			* District two is entitled to one delegate
				+ Population: 19,289
			* Parts of Brooke County
			* Parts of Ohio County
		- Third Delegate District
			* District three is entitled to two delegates
				+ Population: 38,882
			* Parts of Ohio County
		- Fourth Delegate District
			* District four is entitled to two delegates
				+ Population: 36,522
			* Marshall County
			* Parts of Ohio County
		- Fifth Delegate District
			* District five is entitled to one delegate
				+ Population: 17,616
			* Parts of Monongalia County
			* Wetzel County
		- Sixth Delegate District
			* District six is entitled to one delegate
				+ Population: 17,728
			* Doddridge County
			* Parts of Pleasants County
			* Tyler County
		- Seventh Delegate District
			* District seven is entitled to one delegate
				+ Population: 17,736
			* Parts of Pleasants County
			* Ritchie County
		- Eighth Delegate District
			* District eight is entitled to one delegate
				+ Population: 18,428
			* Parts of Wood County
		- Ninth Delegate District
			* District nine is entitled to one delegate
				+ Population: 18,288
			* Wirt County
			* Parts of Wood County
		- Tenth Delegate District
			* District ten is entitled to three delegates
				+ Population: 55,957
			* Parts of Wood County
		- Eleventh Delegate District
			* District eleven is entitled to one delegate
				+ Population: 18,387
			* Parts of Jackson County
			* Roane County
		- Twelfth Delegate District
			* District twelve is entitled to one delegate
				+ Population: 17,830
			* Parts of Jackson County
		- Thirteenth Delegate District
			* District thirteen is entitled to two delegates
				+ Population: 37,271
			* Parts of Jackson County
			* Parts of Mason County
			* Parts of Putnam County
		- Fourteenth Delegate District
			* District fourteen is entitled to one delegate
				+ Population: 17,677
			* Parts of Mason County
			* Parts of Putnam County
		- Fifteenth Delegate District
			* District fifteen is entitled to one delegate
				+ Population: 18,384
			* Parts of Putnam County
		- Sixteenth Delegate District
			* District sixteen is entitled to three delegates
				+ Population: 52,810
			* Parts of Cabell County
			* Parts of Lincoln County
		- Seventeenth Delegate District
			* District seventeen is entitled to two delegates
				+ Population: 35,210
			* Parts of Cabell County
			* Parts of Wayne County
		- Eighteenth Delegate District
			* District eighteen is entitled to one delegate
				+ Population: 17,608
			* Parts of Cabell County
		- Nineteenth Delegate District
			* District nineteen is entitled to two delegates
				+ Population: 36,921
			* Parts of Wayne County
		- Twentieth Delegate District
			* District twenty is entitled to one delegate
				+ Population: 17,621
			* Parts of Logan County
			* Parts of Mingo County
		- Twenty-First Delegate District
			* District twenty-one is entitled to one delegate
				+ Population: 19,269
			* Parts of McDowell County
			* Parts of Mingo County
			* Parts of Wyoming County
		- Twenty-Second Delegate District
			* District twenty-two is entitled to two delegates
				+ Population: 35,249
			* Parts of Boone County
			* Parts of Lincoln County
			* Parts of Logan County
			* Parts of Putnam County
		- Twenty-Third Delegate District
			* District twenty-three is entitled to one delegate
				+ Population: 17,873
			* Parts of Boone County
		- Twenty-Fourth Delegate District
			* District twenty-four is entitled to two delegates
				+ Population: 35,250
			* Parts of Boone County
			* Parts of Logan County
			* Parts of Wyoming County
		- Twenty-Fifth Delegate District
			* District twenty-five is entitled to one delegate
				+ Population: 19,089
			* Parts of McDowell County
			* Parts of Mercer County
			* Parts of Wyoming County
		- Twenty-Sixth Delegate District
			* District twenty-six is entitled to one delegate
				+ Population: 18,624
			* Parts of McDowell County
			* Parts of Mercer County
		- Twenty-Seventh Delegate District
			* District twenty-seven is entitled to three delegates
				+ Population: 58,217
			* Parts of Mercer County
			* Parts of Raleigh County
		- Twenty-Eighth Delegate District
			* District twenty-eight is entitled to two delegates; not more than one delegate may be nominated, elected or appointed who is a resident of any single county within the district
				+ Population: 38,909
			* Parts of Monroe County
			* Parts of Raleigh County
			* Parts of Summers County
		- Twenty-Ninth Delegate District
			* District twenty-nine is entitled to one delegate
				+ Population: 19,453
			* Parts of Raleigh County
		- Thirtieth Delegate District
			* District thirty is entitled to one delegate
				+ Population: 19,447
			* Parts of Raleigh County
		- Thirty-First Delegate District
			* District thirty-one is entitled to one delegate
				+ Population: 19,451
			* Parts of Raleigh County
			* Parts of Wyoming County
		- Thirty-Second Delegate District
			* District thirty-two is entitled to three delegates
				+ Population: 57,586
			* Parts of Clay County
			* Fayette County
			* Parts of Kanawha County
			* Parts of Nicholas County
			* Parts of Raleigh County
		- Thirty-Third Delegate District
			* District thirty-three is entitled to one delegate
				+ Population: 19,378
			* Calhoun County
			* Parts of Clay County
			* Parts of Gilmer County
		- Thirty-Fourth Delegate District
			* District thirty-four is entitled to one delegate
				+ Population: 19,446
			* Braxton County
			* Parts of Gilmer County
		- Thirty-Fifth Delegate District
			* District thirty-five is entitled to four delegates
				+ Population: 70,630
			* Parts of Kanawha County
		- Thirty-Sixth Delegate District
			* District thirty-six is entitled to three delegates
				+ Population: 52,906
			* Parts of Kanawha County
		- Thirty-Seventh Delegate District
			* District thirty-seven is entitled to one delegate
				+ Population: 17,917
			* Parts of Kanawha County
		- Thirty-Eighth Delegate District
			* District thirty-eight is entitled to one delegate
				+ Population: 19,438
			* Parts of Kanawha County
			* Parts of Putnam County
		- Thirty-Ninth Delegate District
			* District thirty-nine is entitled to one delegate
				+ Population: 19,431
			* Parts of Kanawha County
		- Fortieth Delegate District
			* District forty is entitled to one delegate
				+ Population: 19,455
			* Parts of Kanawha County
		- Forty-First Delegate District
			* District forty-one is entitled to one delegate
				+ Population: 18,798
			* Parts of Greenbrier County
			* Parts of Nicholas County
		- Forty-Second Delegate District
			* District forty-two is entitled to two delegates
				+ Population: 38,871
			* Parts of Greenbrier County
			* Parts of Monroe County
			* Parts of Summers County
		- Forty-Third Delegate District
			* District forty-three is entitled to two delegates
				+ Population: 37,819
			* Pocahontas County
			* Parts of Randolph County
		- Forty-Fourth Delegate District
			* District forty-four is entitled to one delegate
				+ Population: 19,133
			* Parts of Nicholas County
			* Parts of Randolph County
			* Parts of Upshur County
			* Webster County
		- Forty-Fifth Delegate District
			* District forty-five is entitled to one delegate
				+ Population: 19,332
			* Parts of Upshur County
		- Forty-Sixth Delegate District
			* District forty-six is entitled to one delegate
				+ Population: 18,397
			* Lewis County
			* Parts of Upshur County
		- Forty-Seventh Delegate District
			* District forty-seven is entitled to one delegate
				+ Population: 19,278
			* Barbour County
			* Parts of Tucker County
		- Forty-Eighth Delegate District
			* District forty-eight is entitled to four delegates
				+ Population: 70,424
			* Harrison County
			* Parts of Taylor County
		- Forty-Ninth Delegate District
			* District forty-nine is entitled to one delegate
				+ Population: 18,629
			* Parts of Marion County
			* Parts of Monongalia County
			* Parts of Taylor County
		- Fiftieth Delegate District
			* District fifty is entitled to three delegates
				+ Population: 55,380
			* Parts of Marion County
		- Fifty-First Delegate District
			* District fifty-one is entitled to five delegates
				+ Population: 93,135
			* Parts of Monongalia County
		- Fifty-Second Delegate District
			* District fifty-two is entitled to one delegate
				+ Population: 19,075
			* Parts of Preston County
		- Fifty-Third Delegate District
			* District fifty-three is entitled to one delegate
				+ Population: 18,897
			* Parts of Preston County
			* Parts of Tucker County
		- Fifty-Fourth Delegate District
			* District fifty-four is entitled to one delegate
				+ Population: 19,352
			* Grant County
			* Parts of Mineral County
			* Parts of Pendleton County
		- Fifty-Fifth Delegate District
			* District fifty-five is entitled to one delegate
				+ Population: 19,414
			* Hardy County
			* Parts of Pendleton County
		- Fifty-Sixth Delegate District
			* District fifty-six is entitled to one delegate
				+ Population: 19,396
			* Parts of Mineral County
		- Fifty-Seventh Delegate District
			* District fifty-seven is entitled to one delegate
				+ Population: 19,419
			* Parts of Hampshire County
			* Parts of Mineral County
		- Fifty-Eighth Delegate District
			* District fifty-eight is entitled to one delegate
				+ Population: 19,151
			* Parts of Hampshire County
			* Parts of Morgan County
		- Fifty-Ninth Delegate District
			* District fifty-nine is entitled to one delegate
				+ Population: 19,190
			* Parts of Berkeley County
			* Parts of Morgan County
		- Sixtieth Delegate District
			* District sixty is entitled to one delegate
				+ Population: 19,314
			* Parts of Berkeley County
		- Sixty-First Delegate District
			* District sixty-one is entitled to one delegate
				+ Population: 18,472
			* Parts of Berkeley County
		- Sixty-Second Delegate District
			* District sixty-two is entitled to one delegate
				+ Population: 17,796
			* Parts of Berkeley County
		- Sixty-Third Delegate District
			* District sixty-three is entitled to one delegate
				+ Population: 17,744
			* Parts of Berkeley County
		- Sixty-Fourth Delegate District
			* District sixty-four is entitled to one delegate
				+ Population: 18,295
			* Parts of Berkeley County
		- Sixty-Fifth Delegate District
			* District sixty-five is entitled to one delegate
				+ Population: 18,261
			* Parts of Jefferson County
		- Sixty-Sixth Delegate District
			* District sixty-six is entitled to one delegate
				+ Population: 17,612
			* Parts of Jefferson County
		- Sixty-Seventh Delegate District
			* District sixty-seven is entitled to one delegate.
				+ Population: 17,625
			* Parts of Jefferson County

# W. Va. Code § 1-2-2b – Precinct boundary changes

* + If an election precinct of this state includes territory contained in more than one senatorial or delegate district, as such senatorial districts are established by section one of this article and as such delegate districts are established by section two of this article, the county commission of the county in which the precinct is located shall, prior to January 21, 2012, alter the boundary lines of its election precincts so that no precinct contains territory included in more than one senatorial or delegate district.

# W. Va. Code § 1-2-3 – Congressional districts

* + The number of members to which the state is entitled in the House of Representatives of the Congress of the United States are apportioned among the counties of the state, arranged into three congressional districts, numbered as follows:
		- First District: Barbour, Brooke, Doddridge, Gilmer, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel and Wood.
		- Second District: Berkeley, Braxton, Calhoun, Clay, Hampshire, Hardy, Jackson, Jefferson, Kanawha, Lewis, Morgan, Pendleton, Putnam, Randolph, Roane, Upshur and Wirt.
		- Third District: Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster and Wyoming.

# Relevant Redistricting Cases

# State ex rel. Cooper v. Tennant, 229 W. Va. 585, 730 S.E.2d 368 (2012)

* + A voter said W. Va. Code § 1-2-2 (2011) violated W. Va. Const. art. VI, § 6 by dividing counties. The Supreme Court of Appeals disagreed because (1) a "whole" county did not have to be attached to a county to form a district, and (2) counties could be divided. A multi-member district delegate residency requirement did not violate W. Va. Const. art. IV, § 4 or art. VI, § 12 because it served legitimate public purposes. It did not violate W. Va. Const. art. VI, § 39's "local bills" bar because implementing it was a legislative issue. W. Va. Code § 1-2-1 (2011) did not violate equal representation requirements in W. Va. Const. art. II, § 4, or art. VI, § 4, because its stated policy interests showed required balancing. Its division of counties did not offend W. Va. Const. art. VI, § 4 because (1) county lines were only crossed as needed to ensure districts formed of contiguous territory or to address population inequalities, W. Va. Code § 1-2-1(c)(4), and (2) communities of interest were considered, W. Va. Code § 1-2-1(c)(5). The statute did not violate W. Va. Const. art. VI, § 4 compactness in three districts because they were the result of legislative balancing that was deferred to.
	+ Relevant Language
		- Syl. Pt. 3. "In considering the constitutionality of a legislative enactment, courts must exercise due restraint, in recognition of the principle of the separation of powers in government among the judicial, legislative and executive branches. Every reasonable construction must be resorted to by the courts in order to sustain constitutionality, and any reasonable doubt must be resolved in favor of the constitutionality of the legislative enactment in question. Courts are not concerned with questions relating to legislative policy. The general powers of the legislature, within constitutional limits, are almost plenary. In considering the constitutionality of an act of the legislature, the negation of legislative power must appear beyond reasonable doubt."
		- Syl. Pt. 12. The only role of the Supreme Court of Appeals of West Virginia in determining whether a state legislative redistricting plan is constitutional is to assess the validity of the particular plan adopted by the Legislature under both federal and state constitutional principles, rather than to ascertain whether a better plan could have been designed and adopted.
		- Petitioner Cooper further asserts that the redistricting plan, as adopted by the Legislature, violates Article VI, Sections 6 and 79 of the West Virginia Constitution by failing to require that a county remain whole when it is attached to another county or counties, pursuant to the requirements of article VI, section 6, and by permitting the splitting of counties into various delegate districts.
		- Once the inquiry goes beyond equal representation (and certain other immutable, historically suspect, and objective criteria like race), other authorized or permissible redistricting factors like compactness, community interest, protection of incumbency, partisan advantage, single-member vs. multi-member, political boundary lines, and even contiguity in some instances, are just that — factors — that are properly part of the legislative balancing process, but only very rarely if ever can serve as the basis for a successful court challenge to redistricting legislation. Id. at 601, 730 S.E.2d at 384
		- However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population. Carried too far, a scheme of giving at least one seat in one house to each political subdivision (for example, to each county) could easily result, in many States, in a total subversion of the equal-population principle in that legislative body. This would be especially true in a State where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties. Such a result, we conclude, would be constitutionally impermissible.
		- The West Virginia Legislature is competent to assess the myriad of alternatives available in redistricting decisions and is charged with the duty to do so. If, however, a particular policy is to be advanced in the creation of legislation or in the evaluative process, its genesis is properly within the chambers of the West Virginia Legislature, rather than the chambers of the Supreme Court of Appeals of West Virginia. In the absence of a constitutional prohibition against splitting counties, this Court will not intervene in the political process of the legislative redistricting decisions on this matter.
		- The employment of multi-member delegate districts and the splitting of county boundaries in the redistricting process are not per se unconstitutional. While single-member districts and adherence to county lines may arguably be preferable from a policy standpoint, this Court will not engage in revision of a legislative decision on redistricting unless constitutional infirmity exists. Simply put, our state constitution does not prohibit a plan containing multi-member delegate districts.
		- Gerrymandering, in and of itself, is not unconstitutional and has clearly been deemed acceptable in legislative redistricting decisions. Lacking any authoritative standard by which to definitively judge such matters and absent compelling evidence that any unconstitutional partisan gerrymandering occurred in this matter, no relief is warranted, and Petitioners' claims of gerrymandering must consequently fail.
		- As previously stated in the discussion of HB 201, this Court is unwilling to disavow the "strong policy of deference to state legislatures in devising redistricting plans. Redistricting and reapportioning legislative bodies [are] a legislative task which . . . courts should make every effort not to preempt. State policies and state preferences are for a state's elected representatives to decide[,]" and courts should not intercede unless there is a direct constitutional violation. Deem, 188 F. Supp. 2d at 655 (internal citations omitted)
		- this Court is aware of no constitutional provision precluding the division of election precincts in a state legislative redistricting plan. West Virginia Code § 1-2-2b (2002) provides that "[i]f an election precinct of this state includes territory contained in more than one senatorial or delegate district, . . . the county commission of the county in which the precinct is located shall [] . . . alter the boundary lines of its election precincts so that no precinct contains territory included in more than one senatorial or delegate district." Election precinct boundary modifications and changes are more specifically provided for in West Virginia Code §§ 3-1-5 and -7 (2003). Election precinct boundaries are drawn based upon registered voters rather than population. W.Va. Code § 3-1-5(a). Furthermore, West Virginia Code § 3-1-7 allows county commissions not only to change the boundaries of any precinct located within the county, but also to divide, consolidate or change the location thereof, "whenever the public convenience may require it." W.Va. Code § 3-1-7(a).
		- In the present case, whether Senate Districts 2, 6 and 12 might have been drawn to be more geometrically compact is not for this Court to decide. There is a presumption of constitutionality with regard to SB 1006, including the relative compactness of all of the senatorial districts. The shapes of the districts were crafted as a result of the legislative process, which involved the balancing of various concerns. See In Re Legislative Districting, 299 Md. 658, 475 A.2d 428, 443 (Md. Ct. App. 1984) (stating that "in determining whether there has been compliance with the mandatory compactness requirement, due consideration must be afforded . . . to the 'mix' of constitutional and other factors which make some degree of noncompactness unavoidable"). We, therefore, conclude that Senate Districts 2, 6 and 12 do not violate the compactness requirement of West Virginia Constitution Article VI, Section 4.
		- The members of the Legislature elected by the people of this state are assigned the political function of weighing the various factors and considering the multitude of acceptable goals for redistricting. The only mechanism available to this Court for overturning that decision is a finding that the legislative choice is violative of a clearly enunciated constitutional provision. Because the West Virginia Constitution is a restriction of power rather than a grant of power, the Legislature may enact any statute which is not specifically prohibited by constitutional provision.

# State ex rel. Boley v. Tennant, 228 W. Va. 812, 724 S.E.2d 783 (2012)

* The state's highest court held that the incumbent was entitled to the writ. The Third Senatorial District (District 3) was composed of all or part of four counties, and its other incumbent senator was a resident of Wood County who was not seeking reelection. The challenger, also a resident of Wood County, could not be seated even if elected because that would have resulted in both of District 3's senators being from Wood County. The residency requirements in art. VI, § 4 and § 1-2-1 et seq., were constitutional. The residency requirements in § 4 did not violate the Equal Protection Clause, U.S. Const. amend. XIV, § 1. The residency requirements contained in § 1-2-1 et seq. did not violate the freedoms of speech and association guaranteed under W. Va. Const. art. III, §§ 7 and 16, the equal protection principles of W. Va. Const. art. III, § 10, or the right of political participation guaranteed under W. Va. Const. art. IV, § 1. The incumbent proved a clear legal right to the relief sought, a legal duty on the part of the Secretary to do the thing which the incumbent sought to compel, and the absence of another adequate remedy.
	+ Syl. Pt. 4. The residency requirements contained in the Senate Redistricting Act of 2011, W.Va. Code § 1-2-1, et seq., do not violate the freedoms of speech and association guaranteed under Sections 7 and 16 of Article III of the Constitution of West Virginia, the equal protection principles of Section 10 of Article III of the Constitution of West Virginia, or the right of political participation guaranteed under Section 1 of Article IV of the Constitution of West Virginia.
	+ The Petitioner contacted the Secretary and requested that she withdraw her certification of Mr. Deem's candidacy. The Petitioner asserted that Mr. Deem's candidacy was contrary to the residency requirements contained in Article VI, Section 4, of the Constitution of West Virginia, and in the Senate Redistricting Act of 2011, which prohibit both of a district's senators being chosen from the same county when the district is composed of more than one county. The Petitioner noted that District 3 is composed of all or part of four counties; that its other incumbent senator, Senator Nohe, was a resident of Wood County; and that Senator Nohe's office is not on the ballot in the 2012 election cycle. Therefore, the Petitioner argued, Mr. Deem — also a resident of Wood County — could not be seated even if elected because that would result in both of District 3's senators being chosen from Wood County.
	+ Mr. Deem contends that the residency requirements contained in Article VI, Section 4, of the Constitution of West Virginia, and the residency provisions contained in the Senate Redistricting Act of 2011, violate the First and Fourteenth Amendments to the Constitution of the United States, as well as his, and other District 3 residents' "freedoms of speech and association guaranteed under Sections and 16 of Article III of the West Virginia Constitution, the equal protection principles of Section 10 of Article III of the West Virginia Constitution, and the right of political participation guaranteed under Section 1 of Article IV of the West Virginia Constitution."
	+ More importantly, W.Va. Code, § 1-2-1(f), states that "no person may file a certificate of candidacy for election from a senatorial district . . . if he or she resides in the same county and the same such senatorial district wherein also resides an incumbent senator[.]"

# Deem v. Manchin, 188 F. Supp. 2d 651 (N.D. W. Va. 2002)

* The court found the senate redistricting division directly contravened W. Va. Const. art. VI, § 4, which required senate districts to be "bounded by county lines." But the maximum deviation above 10 percent was slight, only 0.92 percent. The bill identified five policy interests, including recognizing established political subdivision lines, making districts compact, consistent with equality of population, forming each district of contiguous territory, maintaining community of interests involved, and crossing county lines only when necessary to preserve the other goals. The plan served the goals while creating only a slight deviation. The policy decisions were not irrational. In two or three instances the plan violated an objective of crossing county lines only when necessary. But, the court's quest was to assess plan's constitutionality. As to the redistricting of the state house, the intervenors' case did not have sufficiently similar underlying facts. The only common relevant facts were the populations and boundaries of the counties, none of which were disputed.
* Relevant language
	+ According to the 2000 census the population of West Virginia is 1,808,344. The State Senate comprises seventeen senatorial districts. Under ideal population equality, each district would contain 106,374 people. West Virginia's most populous county, Kanawha, is given two districts which are coterminous. These two districts, District 8 and District 17, together contain 200,073 people, the total population of Kanawha County. Thus, each district has a population of 100,036.5 persons, 6,337.5 fewer persons than the ideal, a deviation of 5.96%.
	+ We begin our analysis by observing that there is a strong policy of deference to state legislatures in devising redistricting plans. Redistricting and reapportioning legislative bodies is a legislative task which federal courts should make every effort not to preempt. See Wise v. Lipscomb, 437 U.S. 535, 57 L. Ed. 2d 411, 98 S. Ct. 2493 (1978). State policies and state preferences are for a state's elected representatives to decide; federal judges should not interfere unless those policies or preferences directly violate the United States Constitution. See White v. Weiser, 412 U.S. 783, 37 L. Ed. 2d 335, 93 S. Ct. 2348 (1973).
	+ In Brown v. Thomson, 462 U.S. 835, 77 L. Ed. 2d 214, 103 S. Ct. 2690 (1983), the Supreme Court established HN8 some guidelines for courts to follow in examining state legislative apportionments. Under Thomson, if the maximum population deviation of a plan is less than 10%, the plan is prima facie non-discriminatory. On the other hand, if the deviation exceeds 10%, the plan is prima facie violative of equal protection, and the burden shifts to the state to show that the plan "may reasonably be said to advance" consistently applied, rational and legitimate state policies. Mahan v. Howell, 410 U.S. 315, 328, 35 L. Ed. 2d 320, 93 S. Ct. 979 (1973). The degree of disparity determines the magnitude of the state's burden. The showing required to justify population deviations is flexible -- the greater the deviation, the heavier the burden. See Karcher v. Daggett, 462 U.S. 725, 77 L. Ed. 2d 133, 103 S. Ct. 2653 (1983). In the instant case, the maximum deviation above 10% is slight, only 0.92%. Stated another way, Kanawha, the county with the fewest people per Senator, has 11.06% of the state's population and 11.76% of its Senators.
	+ Keeping Kanawha County intact serves all of the Legislature's stated goals. It preserves the territorial integrity of Kanawha County, an established political subdivision; it creates two compact districts which are formed of contiguous territory; it maintains Kanawha County's community of interests, which differs substantially from the interests of adjoining counties; and, finally, the districts do not cross county lines at all. The plan serves all of these goals while creating a deviation only slightly above 10%. We cannot, in light of this, say that the legislature's policy decisions were irrational.
	+ We recognize that, in order to pass constitutional muster, the legislative policy offered to support a deviation in excess of 10% must be consistently applied. Here, we have some concerns about House Bill 511, but our concerns do not compel us to invalidate the plan. There are two or three instances in which the plan rather cavalierly violates the objective of crossing county lines only when necessary to preserve other stated goals. For example, five voting districts of Ohio County are severed from the First Senatorial District, which contains the bulk of that county, and are added to the Second Senatorial District. The necessity for this is difficult to perceive. Moreover, although the plan generally serves to advance the goal of community interests within each district, there are instances in which this principle is also violated. For example, the Fifteenth Senatorial District comprises the southern portion of quickly growing Berkeley County as well as Pocahontas County, two areas culturally distinct and separated by a driving distance of over 200 miles.
	+ Despite our concerns, we are constrained to uphold the plan. HN14 Our inquiry is limited to whether this plan meets the constitutional requirements. Our quest is not to find the best plan, but rather to assess the constitutionality of the plan the legislature has chosen. Here, the deviation from the ideal exceeds only slightly 10%. The legislature has adopted five rational and legitimate policy goals to justify a deviation in excess of 10%. In many respects these goals are competing and must be balanced by the legislature. We cannot conclude from the facts of this case that, in this balancing process, the legislature has failed to meet the requirement that the policies be consistently applied. Accordingly, we hold that House Bill 511, as it relates to the West Virginia Senate, is constitutional.

# Law Review Articles and Other Academic Sources

# LAW MAKING: "ONE PERSON, ONE VOTE" AND THE DECLINE OF COMMUNITY, 23 Legal Stud. Forum 131, 131 (1999)

* Very good history for reapportionment, redistricting, and gerrymandering. Much of the case law is probably overturned by Vieth.
* In Federalist 52, he regarded "representation as a substitute for a meeting of the citizens in person"; and in Federalist 56, Madison emphasized the "sound and important principle that the representative ought to be acquainted with the interests and circumstances of his constituents." As to this last point, Alexander Hamilton agreed. In Federalist 35, he asked if it were not natural that one who desired to represent his constituents "should take care to inform himself of their dispositions and inclinations and should be willing to allow them their proper degree of influence upon his conduct?" Thus, as Lipset noted, the representation system serves to facilitate interchange between authority and "groupings of society"-or communities of interest.
* The prevailing wisdom had been expressed in a congressional districting case from Illinois, a state which contained both the nation's most- and least-populous districts, adjacent constituencies which ranged from 914,000 to 112,000 residents. The plaintiff, a resident of the larger district, argued such extreme population disparities, caused by the state's unwillingness to redistrict (since 1901), denied him "equal protection of the law." The Court, by a four-to-three decision, refused to consider the merits of the case and warned, "Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure legislatures that will apportion properly...." On the basis of this decision, the federal courts for the next 16 years routinely rejected all challenges to legislative and congressional districting for lack of justiciability.
* Then came the Baker decision, the case which Chief Justice Earl Warren would later term the most important case decided during his term: "I think, as far as its effect on American life was concerned, that was the most basic case we have decided. I think a great many of these other problems would have been solved long ago if everyone had the right to vote and his vote counted the same as anybody else's."
* Although widely heralded, by redistricting proponents and the then Chief Justice, Baker itself did not reapportion a single state legislature. It did not create "one man, one vote," Warren's words notwithstanding. Further, the Court had deliberately refused in Baker to indicate the extent of population discrimination that could render an apportionment plan unconstitutional, thus providing little guidance to state and federal courts handling the numerous reapportionment cases which ensued.
* A State may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible… Indiscriminate districting, without any regard for political subdivision or natural or historic boundary lines, may be little more than an open invitation to partisan gerrymandering…
* In 1969, however, the Court would establish strict population standards, at least for congressional districts. Indeed, in a case from Missouri, the Court held the Wesberry language "as nearly equal as practicable" meant "the State make a good- faith effort to achieve precise mathematical equality...." Moreover, "the State must justify each variance, no matter how small." Many observers expected this standard to be applied to state legislative districting as well; the Court's opinions on both sides cited Reynolds, the state case, as precedent.
* The Court held in 1973 that Virginia could create its lower house districts with a population variation of more than 16 percent, although this range approached "tolerable limits." Because Virginia had consistently followed county and city boundaries (excepting Fairfax County) in creating districts, the Court justified this action as a legitimate consideration of state policy. A decade later, the Court would permit each Wyoming county to have a state legislative seat, although wide population variations existed. The Court held that as the county in question had held a state representative seat since its creation in 1913, this constituted the necessary "rational policy" which justified any statistical deviation.
* Partisan Gerrymandering
	+ The Democratic-controlled New Jersey legislature had created new congressional districts based on the 1980 census. These districts were "marvelously close in population [a deviation of less than 0.7 percent], but . . . so ingeniously drawn that outraged Republicans brought suit." By a five-to-four majority, the Court invalidated the districting plan but not on grounds of partisan gerrymandering. Rather the Court held New Jersey had not made a good-faith effort to achieve the "paramount objective" of absolute population equality. Nor had the state justified even these minimal deviations, although "any number of consistently applied legislative policies might justify some variance, including, for instance, making districts compact, respecting municipal boundaries, preserving the cores of prior districts and avoiding contests between incumbent[s]."
	+ In sum, the Court's decision in Davis is reminiscent of its holdings in both Baker and Reynolds. As in the instance of legislative districting, the Court deemed the issue of partisan gerrymandering justiciable. But, as initially in the case of population-based districting, it established no clear directions for determining partisan gerrymandering for the lower courts-this at least in part because the majority itself could not agree on an appropriate measure. Since its faltering first step in the case involving the Indiana General Assembly, the Court has even recognized the political reality of "incumbency protection" as a "legitimate" state concern. Because state legislators have available increased computer technology and more sophisticated data bases, they remain able to draw politically favorable yet mathematically acceptable districts. As one observer has noted, Davis "opened the federal door to challenges aimed at partisan gerrymandering." However, as of 1998, the Court had not ruled definitely on just what is or is not permissible in this area. Perhaps this results from the fact that, unlike its post-Reynolds experience, the Court has not been confronted with numerous challenges by political parties to the necessarily political process of districting; therefore, it has found no need to set any standards.
* Minority-Majority Districting
	+ The Court had long dealt with issues of representation in terms of population equity and, to a much lesser degree, partisan bias. But for a few instances, however, it had largely avoided the more controversial question of whether districting practices violated the equal protection of racial or ethnic minorities. As one example, it ruled in 1971 that multi-member legislative districts drawn by the Republican-controlled Indiana legislature for the state's major metropolitan counties did not necessarily discriminate against minorities residing in urban areas: "The failure of the minority to have legislative seats in proportion to its population emerges more as a function of losing elections than one of built-in bias against poor Negroes."
	+ Districting, of course, is a political act. A majority party seeks to maximize its chances or minimize the chances of an opposing party by packing the opposition into as few districts as possible and dispersing the remainder into as many districts as feasible. The Republican administration proved exceptionally willing to ensure creation of the required minority-majority districts by concentrating black and Hispanic voter into relatively few districts. Isolating these groups of traditional Democratic voters, more than 80 percent of whom tended to support that party, would weaken other customarily Democratic districts.
	+ The Court would invalidate North Carolina's 12th District, declaring its configuration "had an uncomfortable appearance to political apartheid." But while the decision chastised the state's legislature for adopting "a reapportionment scheme so irrational on its face that it can be understood only as an effort to segregate voters into separate voting districts because of their race," the Court did not state that race-based districting was necessarily unconstitutional. It based its decision on the exclusion of other, traditional districting factors as compactness and respect for political subdivisions.
	+ Finally, in 1997, the Supreme Court appeared to take the stance that districts cannot be deliberately drawn so that one racial group would constitute a congressional majority. This case involved the judicially-drawn Georgia congressional map used for the 1996 elections which contained only one black-majority district. Both the Justice Department and a group of black voters argued the lower court had "failed to respect" the desire of the Georgia legislature and should have created two black-majority districts. During oral arguments, however, Justice O'Connor pointed out that Georgia had drawn such a map in 1992 but "only as a result of Justice Department coercion."
	+ The Court upheld the single minority-majority district plan. It found that the black population outside of Atlanta was not "sufficiently compact" to warrant a second black-majority district and that the lower court could not have created two such districts "without engaging in racial gerrymandering." Further, the Court noted that Georgia traditionally had not divided counties other than Fulton (Atlanta) in redistricting and that the state's unusually high number of counties (159), second only to the much larger state of Texas, served to "represent communities of interest to a much greater degree than is common."

# THE PHILIP D. REED LECTURE SERIES:CITATION OF UNPUBLISHED OPINIONS:NOTE:"SHOULD I STAY OR SHOULD I GO?": THE CURRENT STATE OF PARTISAN GERRYMANDERING ADJUDICATION AND A PROPOSAL FOR THE FUTURE, 74 Fordham L. Rev. 163 (2005)

* Also, good background information on legislative redistricting and partisan gerrymanering
* In Vieth, a plurality of the Supreme Court held that partisan gerrymandering claims were non-justiciable because courts lacked "judicially discernable and manageable standards" to measure such claims. The Vieth plurality overruled the groundbreaking case of Davis v. Bandemer, where the Court held that partisan gerrymandering presented a justiciable equal protection issue. While Vieth appeared as an attempt to close the judicial door on partisan gerrymandering claims, the remand of the Texas case indicates that the Supreme Court is not ready to put an end to judicial review of partisan gerrymandering claims. The Court, however, has failed to define the role that the judiciary should play in regulating partisan redistricting. As a result, the questions of when and how the courts will measure the constitutionality of partisan gerrymandering claims remain unanswered.
* Redistricting is necessary to ensure the equality promised by the Equal Protection Clause and the one-person, one-vote standard. The process is, however, often executed by legislators who have a vested interest in election outcomes, and districting is likely to reflect partisan interests. Partisan gerrymandering allows "a party with only a minority of the popular vote [to] assert control over a majority of seats in the state assembly and … the national House of Representatives." By creating "a majority party or merely increasing the majority's power, [a districting plan can secure] a partisan imbalance so skillfully that the legislature" becomes unresponsive to the will of the people they represent.
* Vieth was the first Supreme Court case to discuss the applicability of the First Amendment standard to partisan gerrymandering. This standard would measure the effect of a political gerrymander on a citizen's right to "associate for the advancement of political beliefs." The freedom of association standard has not yet been adopted by any court, but it may prove to be the best protection against partisan gerrymanders enacted purely to disadvantage the opposing party at the polls.
* The right to associate provides individuals the ability to join a party and "to gain a voice" in choosing candidates. The associational right is central to protecting minorities who may express alternative, perhaps unpopular ideas. "Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association." Without this protection, majority groups could impose their will on others, monopolizing the "marketplace of ideas," which underlies our democratic system of governance. In 1974, the Court expressly held that states must show a "compelling state interest" before burdening the First Amendment rights of political parties or their members. The Constitution provides broad guidelines to legislatures, but legislators are bound by additional statutory and traditional social science criteria.
* Formal criteria evaluate districts in terms of political and physical geography. The first criterion, population equality, is constitutionally required. A second straightforward measure of districting is contiguity. Contiguity occurs in districting when "every part of a district is reachable from every other part without crossing the district boundary." Contiguity is a cornerstone of the district-based representation system, which relies on the ability of representatives to reach all members of their constituency. Contiguity assures that a district is geographically unified. Political scientists agree with virtual unanimity that population equality and contiguity serve as sound bases for district line drawing.
* A third formal criterion for districting is compactness. Compactness refers to the territorial shape of a district and while there is not one agreed upon definition of compactness, compact districts are typically in the shape of a square or circle. Though there is no consensus on the role of the compactness standard, courts continue to look at this standard when evaluating gerrymanders, but generally decline to strike down districting plans under this measure unless there are severe departures from compactness in several districts.
* A fourth formal criterion used to measure gerrymanders is respect for political subdivisions and communities of interest. This measure of districting requires that line drawers take into account county lines, neighborhoods and common political and economic interests. This is the one criterion that the Supreme Court has permitted to justify district deviation from population equality.
* Bound by the aforementioned constraints, legislators seek to create districts that preserve, or expand, their political power. Originally, the highly political nature of districting kept the Supreme Court from adjudicating claims that certain districts violated individual constitutional rights. The Court declined to hear such cases, declaring districting claims to be non-justiciable, as detailed in this part.
* By declaring legislative districting claims justiciable in Baker, the Court began the "Reapportionment Revolution." Baker announced that just because a claim "seeks protection of a political right does not mean it presents a political question." While finding jurisdiction over plaintiff's equal protection claim, Baker did not articulate a standard for measuring unconstitutional apportionment. Baker also did not set up a clear standard for the role of courts in districting. The Baker Court did, however, create some guidelines for districting: Legislators must redraw districts at a minimum after each census and approve court involvement in refashioning districts when the state legislators fail to act.
* The one-person, one-vote standard protects individuals and ensures that registered voters have the right to cast a vote that has equal value. While the original districting cases focused on mathematical equality and individual claims for "fair and effective representation," it is clear that the Court had concerns that equally populated districts alone could not prevent constitutionally infirm elections.
* Reynolds recognized that limits on apportionment were only one step towards protecting voters' rights, as the "opportunities for [partisan] gerrymandering are greatest when there is freedom to construct unequally populated districts." The Court noted, however, that by allowing non-compact, noncontiguous districts, there was "an open invitation to partisan gerrymandering."

SYMPOSIUM: ELECTORAL REDISTRICTING AND THE SUPREME COURT:THE BRIGHT SIDE OF PARTISAN GERRYMANDERING, 14 Cornell J. L. & Pub. Pol'y 443 (Summer 2005)

* The first of two major complaints about redistricting is that partisan gerrymandering has virtually eliminated competitive elections. Redistricting by self-interested politicians in many states has helped ensure that they face little serious opposition from challengers. Incumbents rig their re-election prospects by packing their own districts with friendly voters, which scares off or trounces challengers attempting to take their seats. As a result, many legislative races are one-sided, uncompetitive, or uncontested. The executive director of FairVote - The Center for Voting and Democracy characterizes recent U.S. House elections as "the least competitive in history." Another commentator, the executive director of Common Cause, alleges the state of competition in congressional races to be "on a par with elections [in] Cuba and the old Soviet Union."
* The second, and distinct, complaint about gerrymandering is that partisanship has run out of control in the process. This complaint, as I will argue further in this article, is quite different from the first. The allegation is that the redistricting process is taking partisanship to unprecedented levels of viciousness in several states. Political actors are taking every advantage of their redistricting authority for the purpose of injuring their partisan opponents.

# [Gerrymandering and the Courts on Redistricting](https://www.youtube.com/watch?v=xmxEWjZFR0E)

* This is a Youtube video conducted by Donald Scarinci who explains what political gerrymandering is and how redistricting commissions are unable to totally take the politics out of the redistricting process.