



February 2011

# UPDATE

League of Women Voters of Houston Education Fund

## REDISTRICTING IN TEXAS

### Introduction

The United States Constitution requires that An enumeration (census) be conducted every ten years to determine the population of each state.<sup>1</sup> The 435 congressional seats are to be apportioned according to this new data. The accuracy of the census count is very important as the distribution of federal funds at the local level and the distribution of political power at all levels of government depends on it.

Public Law 94-171, enacted by Congress in December 1975, requires the Census Bureau to provide state legislatures with the small area census population tabulations necessary for legislative redistricting. The law requires the Census Bureau to transmit the total population tabulations to the states by April 1, 2011.

However, the Constitution leaves the methods for electing Representatives – including redistricting – up to the individual states. During redistricting the political lines are redrawn so that each district is equal in population size based on the up-to-date census population data. Texas lawmakers will spend the next several months drawing political maps for the state, doing their decennial readjustment to make sure each district has roughly the same number of people.

### Key Concepts in Redistricting

**Apportionment** is the process of determining how many Congressional seats each state receives.

The 2010 census puts the Texas population at 25.1 million,<sup>2</sup> up from 20.9 million in 2000. Since the number of Members of Congress is static at 435, twelve congressional seats must be reapportioned based on population. Texas will gain four seats and will be by far the biggest gainer. Florida will gain two new seats and Washington, Nevada, Utah, Arizona, Georgia and South Carolina will gain one seat each. Based on population patterns, the four new seats in Texas are likely to be in Houston, Dallas, the I-35 corridor, and the Rio Grande Valley.

**Gerrymandering**<sup>3</sup> is the manipulation of the redistricting process for political gain.

Gerrymandering techniques:

1. ***Packing***: Placing as many voters of one type in a single district to minimize the number of elections they can influence.
2. ***Cracking***: Spreading voters of one type over many districts where they will comprise minorities that are unable to influence elections.
3. ***Hijacking***: Separating an incumbent candidate from his or her current constituents and placing him or her in a district where the incumbent has no name recognition.

4. ***Kidnapping***: Drawing two incumbent candidates into the same district so they must run against each other.

## **Redistricting**

### **A. What Is It? Who Does It?**

Redistricting is the process by which census data are used to redraw the lines and boundaries of electoral districts within a state. This process affects districts at all levels of government — from local school boards and city councils to state legislatures and the United States House of Representatives.

Redistricting takes place at least every ten years, soon after data from the census is received. Each state will receive census information regarding the population, age and race of its residents. Although the Constitution leaves the methods for electing Representatives – including redistricting – up to the individual states, both Congress and the courts have placed certain requirements on the redistricting process: First, each district must be equal in population; and second, there must be an equal opportunity for minorities to elect the candidate of their choice.

Thus, every ten years each state is forced to redraw district lines to account for both adjustments in the size of their overall congressional delegation, and variance in the populations of their already-drawn districts. In a few states – Arizona, Hawaii, Idaho, Indiana, Montana, New Jersey and Washington – redistricting is handled by specially appointed bi-partisan commissions. In the rest, including Texas, politicians are in charge of drawing district lines and are therefore the ones who often determine whose political careers might be threatened or secured by the change of a line.

### **B. Guidelines for Redistricting in Texas at the State Level:**

- Each district must elect a single member of the U.S. House of Representatives.
- Each district must have the same number of people, as counted by the 2010 Census.
- The Texas Legislature draws the district lines in its regular session in 2011.
- If state house and senate districts are not completed during the regular session, or the governor vetoes the plan, a new map for the 2012 elections is drawn up by the Legislative Redistricting Board.
- Any plan proposed by the Texas Legislature must pass review of the U.S. Department of Justice because our state is covered by the special provisions of the Voting Rights Act.<sup>4</sup>
- Provisions under the Voting Rights Act require that redistricting plans do not diminish the opportunity for protected minorities to elect representatives of their choice if they have sufficient numbers to make up a district.<sup>5</sup>
- A suit against an adopted plan may be brought at any time, and if a federal court is called in to draw up an acceptable plan, it does not need to obtain preclearance. If drawn by a state district court, then preclearance is required.

### **C. How Does the Voting Rights Act Affect the Redistricting Process?**

Sections 2 and 5 of the Voting Rights Act affect the redistricting process. Section 2 prohibits dilution of the minority vote. It provides that a voting practice is unlawful if it has a discriminatory effect. A voting

practice has a discriminatory effect if, based on the totality of circumstances, minorities have “less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” Section 2 also prohibits the enactment of redistricting plans (and other voting practices) that were adopted with a discriminatory purpose. Section 5 prohibits the enforcement or administration by covered jurisdictions of “any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting” without first receiving preclearance from the U.S. Department of Justice or the U.S. District Court for the District of Columbia (the federal court in Washington, D.C.).<sup>6</sup>

All of the above applies to redistricting for federal and state elected officials. In addition, this year the City of Houston must draw new lines for the individual City Council districts.

#### **D. Redistricting Affects All Types of Political Subdivisions**

The boundary lines for other elected positions go through redistricting. Harris County Commissioners Court will determine new boundaries for each of the four county commissioner precincts and the eight justice of the peace/constable precincts. No new precincts will be added; only the boundary lines will be adjusted to account for changes in population. The Commissioners Court also draws the lines for voting precincts. Redistricting may be necessary to maintain a substantially equal population between single-member districts within other political subdivisions such as independent school districts and city councils.

#### **E. Redistricting for the City of Houston.**

The City of Houston charter was amended in 1979 to draw lines for single-member districts. Under the agreement the city made then with the U.S. Department of Justice, the city was required to create two new single-member council districts when the population increased to 2,100,000. The 2.1 million threshold was reached in the middle of the decade, but the city opted to wait until the 2010 census to add the two new council districts.<sup>7</sup>

#### **F. Significance**

How and where districts are drawn will often determine if your community can elect representatives that reflect the community and its wishes to sit on your local school board or city council, and in the state legislature and Congress. It can also influence whether your elected officials respond to your community’s needs, such as ensuring equal educational opportunities or health care for everyone.

The Houston City Council will be adding two new single-member districts, increasing its size from 14 to 16 council members. Some of the major decisions the council has to make include: considerations of a shift in party balance; whether Montrose will be placed back in District C; whether a third African-American dominant voter district will be created; keeping or changing the long narrow corridor of District E; whether a third Hispanic-American dominant voter district can be created; and whether a second Asian-American dominant voter district can be created.<sup>8</sup>

New 2010 census numbers put the state’s population at 25.1 million, up about 20 percent from 2000. In the next few months, the data will be more specific about where those people live.<sup>9</sup> The legislature will divide the total population by the number of members in each body — 36 Texans in Congress, 31 in the state Senate, 150 in the state House and 15 on the State Board of Education — and draw political districts of equal size for each.<sup>10</sup>

For congressional districts, the question is: Where will those four new districts will be carved out? The Houston area is growing faster than the rest of the state, so it is likely that one new district will be totally located in Houston's metropolitan area.

The party in power in state government when lines are drawn always seeks to maximize the number of “safe” districts for its party. With the greatest growth in the last decade occurring in suburban counties around all eight metropolitan counties, such as the 57 percent increase in Fort Bend County and the 53 percent growth in Montgomery County,<sup>11</sup> Republicans are quite likely to come out with districts they can hold on to for the next ten years.

The racial and ethnic changes in population will have to be taken into account as well. Most of the growth in Texas and the Houston metropolitan area is of Hispanic residents. The Asian-American and African-American populations are growing at a slower rate, but at a faster rate than the Anglo population. In Harris County, for example, in 2000, 41.3 percent of the 3.4 million residents were Anglo. In 2009, the Anglo share had dropped to just 33.4 percent. In the same period, the Hispanic population went from 32.9 percent of the Harris County population in 39.8 percent.<sup>12</sup>

Texas Republicans will be hard-pressed to give new districts to Hispanic areas in Houston and Dallas-Fort Worth to demonstrate that they are not ignoring the fastest growing segment of the state's electorate. However, pressure to protect the GOP's largest number of sitting Anglo members will be a countervailing force. Pressure will also come from the U.S. Department of Justice, which will use its pre-clearance power under the Voting Rights Act. The Latino community, based on its sizable Hispanic presence in the Texas Legislature, will also exert itself to add Hispanic-dominated districts in Dallas-Fort Worth and Houston metro areas. The Texas Legislative Council maintains a website<sup>13</sup> with information and maps. To experience first-hand how complicated the process can be, try the The ReDistricting Game at <http://www.reistrictinggame.org/>.

## Conclusion

The timeline for drawing the new maps is not long, although the litigation that often follows can last for years. The 82<sup>nd</sup> Legislature convened in January, 2011, and lawmakers will have the population data used to fill out the maps in April 2011, leaving only two months to draw maps for Congress, the state legislature, and the State Board of Education

*Written by Millie Walker and Jan Wilbur, February 2011*

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<sup>1</sup> U. S. Constitution art. 1, § 2.

<sup>2</sup> For an explanation of apportionment and population changes see the [U. S. Census](http://2010.census.gov/2010census/data/) website at <http://2010.census.gov/2010census/data/>

<sup>3</sup> These definitions are found at <http://www.gerrymanderingmovie.com/content.php?section=issue&page=whatisit>

<sup>4</sup> The Voting Rights Act of 1965 (42 U.S.C. § 1973–1973aa-6).

<sup>5</sup> The Impact of Redistricting in Your Community, A Guide to Redistricting, A Publication of the NAACP Legal Defense and Educational Fund, Inc., Asian American Justice Center, Mexican American Legal Defense and Education Fund, pg. 5, 24 Jan. 2011, [http://naacpldf.org/files/case\\_issue/Impact%20of%20Redistricting%20in%20YOUR%20Community%202010.pdf](http://naacpldf.org/files/case_issue/Impact%20of%20Redistricting%20in%20YOUR%20Community%202010.pdf).

<sup>6</sup> *Id.*

<sup>7</sup> Olson, Bradley. “White criticized for delay in redrawing council boundaries.” *The Houston Chronicle* 23 Jan. 2009. <http://www.chron.com/disp/story.mpl/metropolitan/6227772.html>.

<sup>8</sup> Murray, Richard, “Redistricting in the City of Houston: Part Two.” Prof 13 Blog, 5 Aug. 2010, <http://prof13.abc13.com/2010/08/redistricting-in-the-city-of-houston-part-two.html>.

<sup>9</sup> See Harris County Management Services Population Study - First Quarter Review/ CIP - June 2010 <http://www.hctx.net/agenda/FY%202010-11/06-22-10%20CIP-FY%202010-11/06-22-10%20CIP-FY%202010-11%2006a-Population%20Report.pdf>. This report uses data obtained before the 2010 census figures became available.

<sup>10</sup> Ramsey, Ross “Redistricting Reality.” *The Texas Tribune* 24 March 2010. <http://www.texastribune.org/texas-redistricting/redistricting/redistricting-reality/>

<sup>11</sup> *Supra*, Note 11.

<sup>12</sup> *Supra*, Note 10.

<sup>13</sup> <http://www.tlc.state.tx.us/redist/redist.html>.