

2003 DRAFTING REQUEST

Bill

Received: **04/15/2003**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Redistricting**

Extra Copies: **JTK
JK
PJD
Pete Cannon**

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Redistricting

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 05/06/2003	csicilia 05/09/2003		_____			State
/1	rmarchan 07/28/2003	csicilia 07/29/2003	chaskett 05/09/2003	_____	amentkow 05/09/2003		State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/2

pgreensl _____
07/29/2003 _____

lemery
07/29/2003

lemery
02/24/2004

FE Sent For:

<END>

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JK - Emailed
PJD
Pete Cannon**

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

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No specific pre topic given

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/?	rmarchan 05/06/2003	csicilia 05/09/2003					State
/1	rmarchan 07/28/2003	csicilia 07/29/2003	chaskett 05/09/2003		amentkow 05/09/2003		State

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Subject: **Redistricting**

Extra Copies:

✓ JTK
JK — *emailed*
PJD
✓ Pete Cannon

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

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/?	rmarchan 05/06/2003	csicilia 05/09/2003					State
/1			chaskett 05/09/2003		amentkow 05/09/2003		

Handwritten signatures and initials:
A large signature over the 'Proofed' column for the second row.
Handwritten initials 'P/B' and 'B/S' at the bottom.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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By/Representing: himself

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Drafter: ✓rmarchan

May Contact:

Addl. Drafters:

Subject: Redistricting

Extra Copies: JTK
✓JK
PJD
Pete Cannon
Steve Miller

Submit via email: YES

Requester's email: Sen.Hansen@legis.state.wi.us

Carbon copy (CC:) to: robert.marchant@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Redistricting

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan			_____			

FE Sent For:

<END>

42.1 Definitions.

As used in this chapter, unless the context requires otherwise:

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 19A.3.
 - 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

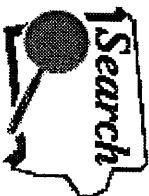
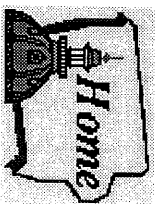
cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

Section History: Early form

[C81, § 42.1]

[Previous Section 41.2](#)

[Next Section 42.2](#)



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Comments about this site or page? iacode@staff.legis.state.ia.us.

Please remember that the person listed above does not vote on bills. Direct all comments concerning legislation to State Legislators.

Last update: Mon Jan 22 17:13:42 CST 2001

URL: IACODE/2001/42/1.html

jhf

42.2 Preparations for redistricting.

1. The legislative service bureau 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 service bureau 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 service bureau 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 service bureau 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. 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 service bureau shall begin the preparation of congressional and legislative districting plans as required by section 42.3.

Section History: Early form

[C81, § 42.2]

[Previous Section 42.1](#)

[Next Section 42.3](#)

42.3 Timetable for preparation of plan.

1. Not later than April 1 of each year ending in one, the legislative service bureau 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 seven 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.
2. If the bill embodying the plan submitted by the legislative service bureau under subsection 1 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 transmit to the legislative service bureau information which the senate or house may direct regarding reasons why the plan was not approved. The legislative service bureau shall prepare a bill embodying a second plan of legislative and congressional districting prepared in accordance with section 42.4, and taking into account the reasons cited by the senate or house of representatives for its failure to approve the plan insofar as it is possible to do so within the requirements of section 42.4. 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 May 1 of the year ending in one, or twenty-one 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, whichever date is later. It is the intent of this chapter that, if it is necessary to submit a bill under this subsection, the bill be brought to a vote not less than seven days after the bill is printed and made available to the members of the general assembly, in the same manner as prescribed for the bill required under subsection 1.
3. If the bill embodying the plan submitted by the legislative service bureau under subsection 2 fails to be approved by a constitutional majority in either the senate or the house of representatives, 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 June 1 of the year ending in one, or twenty-one 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, whichever date is later. It is the intent of this chapter that, if it is necessary to submit a bill under this subsection, the bill 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.
4. Notwithstanding subsections 1, 2 and 3 of this section:
 - a. If population data from the federal census which is sufficient to permit preparation of a congressional districting plan complying with article III, section 37 of the Constitution of the State of Iowa becomes available at an earlier time than the population data needed to permit preparation of a legislative districting plan in accordance with section 42.4, the legislative service bureau shall so inform the presiding officers of the senate and house of representatives. If the presiding officers so direct, the legislative service bureau shall prepare a separate bill

establishing congressional districts and submit it separately from the bill establishing legislative districts. It is the intent of this chapter that the general assembly shall proceed to consider the congressional districting bill in substantially the manner prescribed by subsections 1, 2 and 3 of this section.

b. If the population data for legislative districting which the United States census bureau is required to provide this state under United States Pub. L. 94-171 and, if used by the legislative service bureau, the corresponding topologically integrated geographic encoding and referencing data file for that population data, is not available to the legislative service bureau on or before February 1 of the year ending in one, the dates set forth in this section shall be extended by a number of days equal to the number of days after February 1 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 becomes available.

Section History: Early form

[C81, § 42.3]

Section History: Recent form

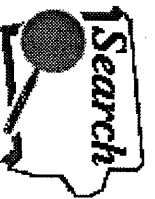
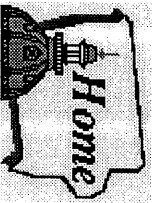
94 Acts, ch 1179, §1, 2

Internal References

Referred to in § 42.2, 42.6

[Previous Section 42.2](#)

[Next Section 42.4](#)



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. It is preferable that districts be compact in form, but the standards established by subsections 1, 2 and 3 take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular or hexagonal in shape to the extent permitted by natural or political boundaries. When 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 "b" and "c" of this subsection shall be used. Should the results of these two tests be contradictory, the standard referred to in paragraph "b" of this subsection shall be given greater weight than the standard referred to in paragraph "c" of this subsection.
 - a. As used in this subsection:

- (1) "Population data unit" means a civil township, election precinct, census enumeration district, census city block group, or other unit of territory having clearly identified geographic boundaries and for which a total population figure is included in or can be derived directly from certified federal census data.
- (2) The "geographic unit center" of a population data unit is that point approximately equidistant from the northern and southern extremities, and also approximately equidistant from the eastern and western extremities, of a population data unit. This point shall be determined by visual observation of a map of the population data unit, unless it is otherwise determined within the context of an appropriate coordinate system developed by the federal government or another qualified and objective source and obtained for use in this state with prior approval of the legislative council.
- (3) The "x" co-ordinate of a point in this state refers to the relative location of that point along the east-west axis of the state. Unless otherwise measured within the context of an appropriate co-ordinate system obtained for use as permitted by subparagraph 2 of this paragraph, the "x" co-ordinate shall be measured along a line drawn due east from a due north and south line running through the point which is the northwestern extremity of the state of Iowa, to the point to be located.
- (4) The "y" co-ordinate of a point in this state refers to the relative location of that point along the north-south axis of the state. Unless otherwise measured within the context of an appropriate co-ordinate system obtained for use as permitted by subparagraph (2) of this paragraph, the "y" co-ordinate shall be measured along a line drawn due south from the northern boundary of the state or the eastward extension of that boundary, to the point to be located.
 - a. 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.
 - b. In measuring the length and the width of a district by means of electronic data processing, the difference between the "x" co-ordinates of the easternmost and the westernmost geographic unit centers included in the district shall be compared to the difference between the "y" co-ordinates of the northernmost and southernmost geographic unit centers included in the district.
- (2) To determine the length and width of a district by manual measurement, 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 shall each be measured. If the northernmost or southernmost portion of the boundary, or each of these points, is a part of the boundary running due east and west, the line used to make the measurement required by this paragraph shall either be drawn due north and south or as nearly so as the configuration of the district permits. If the easternmost or westernmost portion of the boundary, or each of these points, is a part of the boundary running due north and south, a similar procedure shall be followed. The lines to be measured for the purpose of this paragraph shall each be drawn as required by this paragraph, even if some part of either or both lines lies outside the boundaries of the district which is being tested for compactness.
- (3) 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. However, it is not valid to cumulate or compare absolute values computed under subparagraph (1) with those computed under subparagraph (2) of this paragraph.

c. The compactness of a district is greatest when the ratio of the dispersion of population about the population center of the district to the dispersion of population about the geographic center of the district is one to one, the nature of this ratio being such that it is always greater than zero and can never be greater than one to one.

(1) The population dispersion about the population center of a district, and about the geographic center of a district, is computed as the sum of the products of the population of each population data unit included in the district multiplied by the square of the distance from that geographic unit center to the population center or the geographic center of the district, as the case may be. The geographic center of the district is defined by averaging the locations of all geographic unit centers which are included in the district. The population center of the district is defined by computing the population-weighted average of the "x" co-ordinates and "y" co-ordinates of each geographic unit center assigned to the district, it being assumed for the purpose of this calculation that each population data unit possesses uniform density of population.

(2) The ratios computed for individual districts under this paragraph may be averaged 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 the year 2001, those provisions shall be substantially as follows:

a. Each odd-numbered senatorial district shall elect a senator in 2002 for a four-year term commencing in January 2003. If an incumbent senator who was elected to a four-year term which commenced in January 2001, or was subsequently elected to fill a vacancy in such a term, is residing in an odd-numbered senatorial district on February 1, 2002, that senator's term of office shall be terminated on January 1, 2003.

b. Each even-numbered senatorial district shall elect a senator in 2004 for a four-year term commencing in January 2005.

(1) If one and only one incumbent state senator is residing in an even-numbered senatorial district on February 1, 2002, and that senator meets all of the following requirements, the senator shall represent the district in the senate for the Eightieth General Assembly:

(a) The senator was elected to a four-year term which commenced in January 2001 or was subsequently elected to fill a vacancy in such a term.

(b) The senatorial district in the plan which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the even-numbered senatorial district in which the senator resides on February 1, 2002, or is contiguous to such even-numbered senatorial district and the senator's declared residence as of February 1, 2002, was within the district from which the senator was last elected. Areas which meet only at the points of adjoining corners are not contiguous.

The secretary of state shall prescribe a form to be completed by all senators to declare their residences as of February 1, 2002. The form shall be filed with the secretary of state no later than five p.m. on February 1, 2002.

(2) Each even-numbered senatorial district to which subparagraph (1) of this paragraph is not applicable shall elect a senator in 2002 for a two-year term commencing in January 2003. However, if more than one incumbent state senator is residing in an even-numbered senatorial district on February 1, 2002, and, on or before February 15, 2002, all but one of the incumbent senators resigns from office effective no later than January 1, 2003, the remaining incumbent senator shall represent the district in the senate for the Eightieth General Assembly. A copy of the resignation must be filed in the office of the secretary of state no later than five p.m. on February 15, 2002.

Section History: Early form

[C81, § 42.4]

42.5 Temporary redistricting advisory commission.

1. Not later than February 15 of each year ending in one, a five member temporary redistricting advisory commission shall be established as provided by this section. The commission's only functions shall be those prescribed by section 42.6.
 - a. Each of the four selecting authorities shall certify to the chief election officer the authority's appointment of a person to serve on the commission. The certifications may be made at any time after the majority and minority floor leaders have been selected for the general assembly which takes office in the year ending in one, even though that general assembly's term of office has not actually begun.
 - b. Within thirty days after the four selecting authorities have certified their respective appointments to the commission, but in no event later than February 15 of the year ending in one, the four commission members so appointed shall select, by a vote of at least three members, and certify to the chief election officer the fifth commission member, who shall serve as chairperson.
 - c. A vacancy on the commission shall be filled by the initial selecting authority within fifteen days after the vacancy occurs.
 - d. Members of the commission shall receive a per diem as specified in section 7E.6, travel expenses at the rate provided by section 70A.9, and reimbursement for other necessary expenses incurred in performing their duties under this section and section 42.6. The per diem and expenses shall be paid from funds appropriated by section 2.12.
2. No person shall be appointed to the commission who:
 - a. Is not an eligible elector of the state at the time of selection.
 - b. Holds partisan public office or political party office.
 - c. Is a relative of or is employed by a member of the general assembly or of the United States Congress, or is employed directly by the general assembly or by the United States Congress.

Section History: Early form

[C81, § 42.5]

Section History: Recent form

90 Acts, ch 1256, §23

42.6 Duties of commission.

The functions of the commission shall be as follows:

1. If, in preparation of plans as required by this chapter, the legislative service bureau is confronted with the necessity to make any decision for which no clearly applicable guideline is provided by section 42.4, the bureau may submit a written request for direction to the commission.
2. Prior to delivering any plan and the bill embodying that plan to the secretary of the senate and the chief clerk of the house of representatives in accordance with section 42.3, the legislative service bureau shall provide to persons outside the bureau staff only such information regarding the plan as may be required by policies agreed upon by the commission. This subsection does not apply to population data furnished to the legislative service bureau by the United States bureau of the census.
3. Upon each delivery by the legislative service bureau to the general assembly of a bill embodying a plan, pursuant to section 42.3, the commission shall at the earliest feasible time make available to the public the following information:
 - a. Copies of the bill delivered by the legislative service bureau 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.
4. Upon the delivery by the legislative service bureau to the general assembly of a bill embodying an initial plan, as required by section 42.3, subsection 1, the commission shall:
 - a. As expeditiously as reasonably possible, schedule and conduct at least three public hearings, in different geographic regions of the state, on the plan embodied in the bill delivered by the legislative service bureau to the general assembly.
 - b. Following the hearings, promptly prepare and submit to the secretary of the senate and the chief clerk of the house a report summarizing information and testimony received by the commission in the course of the hearings. The commission's report shall include any comments and conclusions which its members deem appropriate on the information and testimony received at the hearings, or otherwise presented to the commission.

Marchant, Robert

From: Kuesel, Jeffery
Sent: Tuesday, April 15, 2003 9:52 AM
To: Marchant, Robert
Cc: Dykman, Peter
Subject: Iowa redistricting procedure

Rob,

I did a quick review of the Iowa proposal and noted one problem that's rather obvious. The April 1 date for the initial plan is not at all workable. The bureau of the census has discretion in deciding when to issue its results and which geographic areas should be prioritized, and there have been years when we didn't even receive the detailed census results until April 15. I assume it's likely that the LRB would need some guidance from the advisory group because this process is extremely sensitive, and the advisory group might not have an easy time agreeing upon what advice to give. As a result, I thought that July 1 would be a much more realistic date to aim for if this approach is to have a chance of actually generating workable plans.

Then there is the problem that under the Iowa timeline, the legislature would be addressing the plans at a time when it would not normally be in floor session, because the legislature is not in floor session from July 1 or budget passage, whichever is later, until the fall floorperiod. It wouldn't help matters much if the process could be speeded up, because this would then cause the redistricting plans to be considered at the same time as the budget bill, which totally preoccupies the legislature from wrap-up day until the budget floorperiod is recessed. Extending the floorperiod is an option, but most legislators and staff take some vacation time before the fall floorperiod begins, and this time needs to be staggered.

Jeff

-----Original Message-----

From: Marchant, Robert
Sent: Tuesday, April 15, 2003 9:14 AM
To: Dykman, Peter; Kreye, Joseph
Cc: Kuesel, Jeffery
Subject: RE: bill drafting request Any takers?

I'll take it.

-----Original Message-----

From: Dykman, Peter
Sent: Monday, April 14, 2003 3:22 PM
To: Marchant, Robert; Kreye, Joseph
Cc: Kuesel, Jeffery
Subject: bill drafting request Any takers?

I received a bill drafting request from Sen Hansen to draft Iowa's redistricting procedure for Wisconsin. In general, the LRB would draft the first redistricting bill according to standards and then if the legislature doesn't enact it, take their reasons why it is bad and try again (for two more times). See

<http://www.legis.state.ia.us/Central/LSB/Guides/redist.pdf>

<http://www.legis.state.ia.us/IACODE/2003/42/1.html>

Any takers?

Kuesel, Jeffery

From: Genrich, Eric
Sent: Wednesday, April 02, 2003 2:06 PM
To: Kuesel, Jeffery
Subject: redistricting legislation

Hi Jeff,

Senator Hansen is interested in introducing a redistricting bill which would use as its model, Iowa's redistricting structure. I have attached the link to Chapter 42 of Iowa state statute, which lays out the process. Please call me if you have any questions or if you need additional information for the drafting of this bill. Thanks.

-Eric

<http://www.legis.state.ia.us/cgi-bin/IACODE/Code2001.pl>

Marchant, Robert

From: Cannon, Peter (Legislature)
Sent: Tuesday, April 15, 2003 10:42 AM
To: Marchant, Robert; Kuesel, Jeffery
Subject: RE: Iowa redistricting procedure

You need to ask Larry for comments. I think he knows quite a bit about the Iowa system and has talked to the people there who did it in the past. My impression from conversations with Larry is that Iowa went to the system because they just got fed up with going to court and so they made it work. The thing that's impossible to predict is whether we could actually get the legislature to buy into the system. The Iowa timeline works because they don't argue forever and they don't go to court. My guess is they could do it much later than they do because their system works. If the legislature doesn't act or if we go to court anyway, the timeline becomes a major issue.

I expect the census data to be more timely in the future. It was fine this time and the computers do help. The data is now distributed very quickly and it's in a form that doesn't require as much work on our part before it's ready to use. The distribution and processing should not get worse. I don't expect census bureau release to be a major issue in the future and I think the Iowa timeline is adjustable for late data anyway. April 1 or a few weeks after that puts a lot of pressure on the LRB, but Iowa manages it somehow.

If Iowa does block level plans, either the municipalities need time to create the wards before the spring elections or we simply make them change whatever they have done to accommodate the legislative map. As much as those who have to do it will hate it, most municipalities aren't affected so maybe that's the simplest solution.

My impression from things Larry has said is that Iowa frequently does more than one plan, but they haven't gone to court in 2 or 3 cycles.

If we do block level plans and make the municipalities change wards as necessary, I'd suggest a mid summer date for the LRB to finish. July 15 or August 1 would be post budget (we hope) and then plan for the first legislative action in Sept. I agree with Jeff. I think mid summer into fall is a good fit with the legislative calendar. When we were discussing wards or blocks as a basis for plans last time I was amused as I can't imagine the legislature taking up redistricting while the budget is still on the table (and personally, I don't think they should -- the budget is more important!). It would have to be about the Iowa timeline if we had to finish before the municipalities started.

I actually think we could combine our system and their system. I think we can have ward data by about Oct. 1. We could actually start working before that as you only need the wards for the final tuning. If we had a Jan 1 deadline (oh gosh, we get to work through Christmas!), the legislature has a month, a second plan and a month, a third plan and a month, that's still only mid-April which if nobody goes to court beats the hell out of June 1 which has been the experience of the last three cycles.

I'll look at it more closely and add comments.

Pete

-----Original Message-----

From: Marchant, Robert
Sent: Tuesday, April 15, 2003 9:56 AM
To: Kuesel, Jeffery; Cannon, Peter (Legislature)
Subject: RE: Iowa redistricting procedure

Jeff, thanks for your thoughts. I may have other questions for you as I go through this draft.

Pete, could you review the request below and Jeff's comments? I imagine you have thought a bit about the Iowa process. I'd be interested to know your thoughts on establishing that process in Wisconsin.

Rob

-----Original Message-----

From: Kuesel, Jeffery
Sent: Tuesday, April 15, 2003 9:52 AM
To: Marchant, Robert
Cc: Dykman, Peter

Subject: Iowa redistricting procedure

Rob,

I did a quick review of the Iowa proposal and noted one problem that's rather obvious. The April 1 date for the initial plan is not at all workable. The bureau of the census has discretion in deciding when to issue its results and which geographic areas should be prioritized, and there have been years when we didn't even receive the detailed census results until April 15. I assume it's likely that the LRB would need some guidance from the advisory group because this process is extremely sensitive, and the advisory group might not have an easy time agreeing upon what advice to give. As a result, I thought that July 1 would be a much more realistic date to aim for if this approach is to have a chance of actually generating workable plans.

Then there is the problem that under the Iowa timeline, the legislature would be addressing the plans at a time when it would not normally be in floor session, because the legislature is not in floor session from July 1 or budget passage, whichever is later, until the fall floorperiod. It wouldn't help matters much if the process could be speeded up, because this would then cause the redistricting plans to be considered at the same time as the budget bill, which totally preoccupies the legislature from wrap-up day until the budget floorperiod is recessed. Extending the floorperiod is an option, but most legislators and staff take some vacation time before the fall floorperiod begins, and this time needs to be staggered.

Jeff

-----Original Message-----

From: Marchant, Robert
Sent: Tuesday, April 15, 2003 9:14 AM
To: Dykman, Peter; Kreye, Joseph
Cc: Kuesel, Jeffery
Subject: RE: bill drafting request Any takers?

I'll take it.

-----Original Message-----

From: Dykman, Peter
Sent: Monday, April 14, 2003 3:22 PM
To: Marchant, Robert; Kreye, Joseph
Cc: Kuesel, Jeffery
Subject: bill drafting request Any takers?

I received a bill drafting request from Sen Hansen to draft Iowa's redistricting procedure for Wisconsin. In general, the LRB would draft the first redistricting bill according to standards and then if the legislature doesn't enact it, take their reasons why it is bad and try again (for two more times). See

<http://www.legis.state.ia.us/Central/LSB/Guides/redist.pdf>>

<http://www.legis.state.ia.us/IACODE/2003/42/1.html>>

Any takers?

Marchant, Robert

From: Marchant, Robert
Sent: Thursday, April 24, 2003 2:28 PM
To: Genrich, Eric
Subject: RE: redistricting draft

Eric--

In looking at this draft, I thought it may make sense to clean up a number of ambiguities and problems in the current law dealing with municipal redistricting. Traditionally, the legislature has let the municipalities do their ward plans and redistricting first, then has basically incorporated the work of the municipalities into the legislative redistricting plan. The Iowa system, if used in Wisconsin, can continue to rely upon this division of labor. But it might be good to fix some of the problems with current law, if possible. If you are open to considering expanding the scope of your bill to include statutory changes affecting municipal redistricting, take a look at 2001 SB-63. I could incorporate that draft into your drafting request, if you approve.

Rob

-----Original Message-----

From: Genrich, Eric
Sent: Thursday, April 24, 2003 2:07 PM
To: Marchant, Robert
Subject: RE: redistricting draft

Thanks for the speedy response, Rob. If we could get a copy of the draft within the next week or two, that would be great.

-Eric

-----Original Message-----

From: Marchant, Robert
Sent: Thursday, April 24, 2003 1:46 PM
To: Genrich, Eric
Subject: RE: redistricting draft

Hi, Eric--

I have not had a chance yet to begin the draft, but I plan on starting it within the next few days. Please feel free to call if you want an update on the status of the draft or if there is a specific deadline by which you would like the draft to be completed.

Thanks.

Rob

-----Original Message-----

From: Dykman, Peter
Sent: Thursday, April 24, 2003 1:30 PM
To: Genrich, Eric
Cc: Marchant, Robert
Subject: RE: redistricting draft

Rob Marchant will be drafting it.

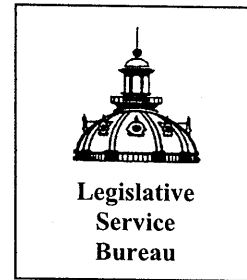
-----Original Message-----

From: Genrich, Eric
Sent: Thursday, April 24, 2003 12:36 PM
To: Dykman, Peter
Subject: redistricting draft

Hi Peter,
Jeff Kuesel informed me that you would be handling Sen. Hansen's redistricting reform bill. Could you tell me how far along you are on this draft? Thanks.

-Eric

LEGISLATIVE GUIDE TO REDISTRICTING



Note to Reader:

Research is conducted by the Legislative Service Bureau in an objective and nonpartisan manner. Although a Legislative Guide may identify issues for consideration by the General Assembly, nothing contained in a Guide should be interpreted as advocating a particular course of action. The reader is cautioned against using information contained in a Legislative Guide to draw conclusions as to the legality of a particular behavior or set of circumstances.

About the Author:

This Guide was written by Ed Cook, J.D., University of Iowa, 1982. Mr. Cook has been a Legal Counsel with the Legislative Service Bureau since 1992. He staffs the State Government and Labor Committees and drafts legislation in the areas of state government, retirement, and labor. Mr. Cook's e-mail address is ed.cook@legis.state.ia.us.

December 2000

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I. Introduction.

Redistricting, the redrawing of congressional and legislative district boundaries, has always been a political process which has generally been fought at the state level.¹ For both congressional and legislative districts, constitutional and statutory provisions generally required the drawing of district boundaries based in part upon population.² However, until 1962, most states generally ignored any requirement to redistrict congressional and legislative districts based upon changes in the state's population.

In 1962, however, the U.S. Supreme Court ruled that a person could challenge, and seek judicial redress for, an allegedly improper redistricting plan.³ As a result, state legislatures were forced to draw redistricting plans consistent with constitutional and statutory requirements or else be subject to having their congressional and legislative districts drawn by the courts.

This Legislative Guide is intended to provide some basic information concerning the process of redistricting in Iowa. Specifically, this Guide will discuss the relevant constitutional, statutory, and case law requirements that apply when establishing congressional and legislative district boundaries in Iowa. Iowa Code citations, unless otherwise noted, are to the 2001 Code.

II. Redistricting in Iowa -- Historical Perspective.

A. 1960s -- Establishing Base Principles.

Redistricting in Iowa, as well as the rest of the nation, forever changed in 1962 when the U.S. Supreme Court ruled that a challenge to a redistricting plan could be brought and resolved in court.⁴ Shortly thereafter, the U.S. Supreme Court ruled that redistricting plans which were not based upon population would be rejected.⁵ For congressional districts, the Court ruled that Article 1, section 2, of the United States Constitution required that districts within states had to be drawn with the population in each district to be equal "as nearly as practicable."⁶ The Court also held that the Equal Protection Clause of the 14th Amendment to the United States Constitution required states to make an honest and good faith effort to construct districts for both houses of its Legislature based on population.⁷

In 1968, the Iowa Constitution was amended to fulfill the constitutional mandate to draw boundaries based upon population and to provide the basis and timeline for establishing state senatorial and representative districts following the federal decennial census.⁸ Article III, section 35, of the Iowa Constitution requires the General Assembly to establish, by September 1 of the year following the decennial census, state legislative

¹ Congressional districts: 2 U.S.C. § 2a; Legislative districts: Iowa Const. Art. III, § 34. See *Chapman v. Meier*, 420 U.S. 1, 27 (1975).

² Congressional districts: U.S. Const. Art. 1, § 2; 2 U.S.C. §§ 2a-2c; Legislative districts: Iowa Const. Art. III, §§ 34 and 35 (1962); Iowa Code chs. 41 and 42 (Code 1962).

³ *Baker v. Carr*, 369 U.S. 186 (1962).

⁴ *Id.*

⁵ See *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Reynolds v. Sims*, 377 U.S. 533 (1964).

⁶ *Wesberry* at 7-8.

⁷ *Reynolds* at 569, 577.

⁸ Iowa Const. Art. III, §§ 34-36.



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districts for both the Senate and House. Furthermore, if the General Assembly fails to enact legislation establishing Senate and House districts which becomes law by September 15 of that year, the Constitution provides that the Iowa Supreme Court shall establish the districts based on constitutional requirements.⁹ The Iowa Constitution further provides that legislative districts be apportioned based on population and be of compact and contiguous territory.¹⁰

B. 1970 Redistricting -- Court Challenge.

Pursuant to the new constitutional mandates for redistricting adopted in 1968, the Iowa General Assembly adopted legislative plans for the Senate and House that featured overall range ratios¹¹ of 1.13 to 1 in the Senate and 1.14 to 1 in the House.¹² This apportionment scheme was challenged in court and eventually resulted in the Iowa Supreme Court striking down the adopted plans and redrawing legislative districts for use during the 1970s.¹³ The Court rejected the legislative plan as establishing too wide a variation in population without valid justification. The legislative districts, as redrawn by the Court, provided for an overall range ratio of 1.0005 to 1 for the Senate and 1.0009 to 1 for the House.¹⁴

C. 1980 and 1990 Redistricting -- Statutory Redistricting Process.

During the 1980 Legislative Session, House File 707 was enacted to establish a statutory process for drawing legislative and congressional districts in Iowa following each decennial census, beginning with the 1980 census.¹⁵ The procedure established by House File 707, codified in Iowa Code chapter 42, remains largely intact today and provides that the Legislative Service Bureau has the primary responsibility for drawing proposed congressional and legislative districts, subject to legislative and gubernatorial approval.¹⁶

Based on the statutory process established in 1980, the third redistricting plan submitted by the Legislative Service Bureau was enacted into law during the 1981 Session, without amendment.¹⁷ In 1991, the first proposed redistricting plan submitted by the Legislative Service Bureau was enacted into law.¹⁸ For both 1980 and 1990 redistricting, the plans adopted were not challenged in court.

III. Redistricting Standards -- Population.

A. Introduction.

1. Overview.

The U.S. Supreme Court has articulated the general requirement that congressional and legislative districts should be drawn to effectuate the constitutional

⁹ Iowa Const. Art. III, § 35.

¹⁰ Iowa Const. Art. III, § 34.

¹¹ See definition of "overall range ratio" in part III, paragraph A, subparagraph 2, of this Guide.

¹² 57 Ia. L. Rev. 1272, 1295 (June 1972).

¹³ In re Legislative Districting of General Assembly, 193 N.W. 2d 784 (Iowa 1972); supplemented 196 N.W. 2d 209 (Iowa 1972); amended 199 N.W. 2d 614 (Iowa 1972).

¹⁴ In re Legislative Districting, 196 N.W. 2d at 210.

¹⁵ 1980 Iowa Acts ch. 1021; codified at Iowa Code ch. 42.

¹⁶ See discussion in part V of this Guide.

¹⁷ 1981 Iowa Acts, 2nd Extraordinary Session, ch. 1.

¹⁸ 1991 Iowa Acts ch. 223.



mandate to provide equal weight to every person's vote, i.e., one person, one vote.¹⁹ The question for states, then, is how equal in population must each district in a redistricting plan be to satisfy the constitutional requirement of one person, one vote? In grappling with this issue, the U.S. Supreme Court has articulated a somewhat more exacting equality standard for congressional districts in contrast with legislative districts. This section of the Guide examines the general population standards that must be considered when drawing congressional and legislative districts.

2. Measuring Inequality.

In determining whether districts are equal in population it is important to develop a basis for articulating population inequality between districts. Unfortunately, courts and state legislatures have used a myriad of terms to describe various methods of measuring inequality. To avoid confusion and to establish a common point of reference for considering constitutional and statutory population requirements, this Guide will use the following terms as a basis for describing various population inequality measures.²⁰

a. Ideal Population. The ideal population for a district is determined by dividing the total population of the state by the number of single member districts to be created. Thus, if a state's population is 1,000,000, and it has five congressional districts, 50 state senate districts, and 100 state house of representative districts, the ideal population for a congressional district would be 200,000, a state senate district would be 20,000, and a state house of representatives district would be 10,000.

b. Deviation. This measure of inequality examines the degree to which a single district's population varies from the ideal population of the district. The "absolute deviation" is the difference between a single district's population and the ideal population. The "deviation percentage variance" is the difference between a single district's population and the ideal population, divided by the ideal population, expressed as a percentage. Thus, if the ideal population of a district is 100,000, and the population of a particular district in a redistricting plan is 102,000, the absolute deviation would be 2,000 and the deviation percentage variance would be .02 or 2 percent for that district.

c. Mean Deviation. This measure of inequality examines the degree to which the populations of all districts in a redistricting plan vary from the ideal population of a district. The "absolute mean deviation" is the sum of the absolute deviations of all districts divided by the number of districts. The "mean deviation percentage variance" is the absolute mean deviation for a particular redistricting plan divided by the ideal population, expressed as a percentage. Thus, if the ideal population of a district is 100,000, and there are five districts with populations of 102,000, 99,000, 101,000, 100,000, and 99,000 respectively, the "absolute mean deviation" would be 1,000 (the sum of the absolute deviations of the five districts, which equals 5,000, divided by 5) and the "mean deviation percentage variance" would be .01 or 1 percent for that

¹⁹ Baker at 186; Wesberry at 1; Reynolds at 533.

²⁰ Terms used in this Guide are similar to those used and defined in the following publication: NCSL, Redistricting Law 2000, chapter 3 (1999).



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redistricting plan (the absolute mean deviation of 1,000 divided by the ideal population of 100,000).

d. Overall Range. This measure of inequality examines the population difference between the most populous district and the least populous district within a particular redistricting plan. The “absolute overall range” is the difference in population between the most populous and least populous districts in a redistricting plan. The “overall range ratio” is the ratio calculated by dividing the population of the most populous district by the least populous district. The “overall range percentage variance” is the absolute overall range for a particular redistricting plan divided by the ideal population, expressed as a percentage. Thus, if the ideal population of a district within a particular redistricting plan is 100,000, and there are five districts with a population in each district of 102,000, 99,000, 101,000, 100,000, and 99,000 respectively, the “absolute overall range” would be 3,000 (102,000 minus 99,000), the “overall range ratio” would be 1.0303 to 1 (102,000 divided by 99,000), and the “overall range percentage variance” would be .03 or 3 percent for that redistricting plan (3,000 divided by 100,000). The overall range, specifically the overall range percentage variance, is the method most courts have used in measuring population inequality for a particular redistricting plan.²¹

e. Miscellaneous Measurements. Another measurement of population inequality is to determine, for a particular redistricting plan, the smallest percentage of a state's total population that could be represented by a majority of the districts in a particular redistricting plan.²² Thus, if the population of all districts in a particular redistricting plan is 500,000, and there are five districts in the plan with populations of 102,000, 99,000, 101,000, 100,000, and 99,000 respectively, the smallest percentage of the total population of all districts that could be represented by a majority of the districts would be 59.6 percent (the sum of the populations of the three smallest population districts constituting a majority of the districts, which population sum equals 298,000, divided by the population of all districts, 500,000).

B. Congressional Districts.

1. Federal Constitutional Requirements.

Article 1, section 2, of the United States Constitution establishes the basic standard that congressional districts be apportioned to achieve population equality as nearly as practicable.²³ This standard has been interpreted to mean that congressional districts should be drawn to be as equal in population as possible. In *Karcher v. Daggett*, a New Jersey congressional redistricting plan with an overall range percentage variance of .69 percent was held unconstitutional.²⁴ The Court found that the overall range percentage variance could have been reduced or eliminated by a good faith effort to draw districts of equal population and that the overall range percentage variance was not otherwise justified by some legitimate state

²¹ See, e.g., *Karcher v. Daggett*, 462 U.S. 725 (1983).

²² *In re Legislative Districting of General Assembly*, 193 N.W. 2d 784 (Iowa 1972); Iowa Const. Art. III, § 34.

²³ *Wesberry* at 7-8.

²⁴ *Karcher* at 725.

objective.²⁵ The Court specifically rejected establishing some de minimus standard of population inequality, such as allowing an overall range percentage variance of less than 1 percent, which would be per se constitutional without justification.²⁶ As such, no precise mathematical cutoff point exists when it comes to establishing a valid congressional redistricting plan which will withstand constitutional scrutiny based on population alone. The Court's review would scrutinize any variance by examining the inequality of districts.

Although the Court in *Karcher* rejected New Jersey's attempts to justify the deviation in their congressional redistricting plan, the Court did indicate that "(a)ny 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 Representatives."²⁷ The Court further noted that a state must, however, show with some specificity that a particular objective required the specific deviations in its plan, rather than simply relying on general assertions.²⁸ Subsequent to *Karcher*, several congressional redistricting plans with overall range percentage variances of up to .73 percent have been approved based upon identifiable state objectives such as minimizing the number of counties, and the number of people, relocated to new districts;²⁹ compactness, respect for political boundaries and communities of interest, the use of undivided census tracts, and compliance with the federal Voting Rights Act;³⁰ and avoiding the splitting of precincts, avoiding splitting less populous counties, and maintaining the cores of prior districts.³¹ Still, mere reliance on valid state objectives will not automatically guarantee that a particular overall range percentage variance will be approved; courts will still examine each plan on a case-by-case basis.³²

2. Iowa Standards.

Iowa Code section 42.4, subsection 1, requires that a congressional redistricting plan contain districts which have a population as nearly equal as practicable to the ideal population for a congressional district in the plan. Specifically, the Code provides that the deviation percentage variance for any congressional district in a redistricting plan shall not exceed 1 percent unless necessary to comply with constitutional requirements as provided in Article III, section 37, of the Iowa Constitution.³³ Article III, section 37, of the Iowa Constitution provides that counties shall not be split between more than one congressional district and that a congressional district containing more than one county shall not be entirely separated by a county belonging to a different

²⁵ Id. at 730.

²⁶ Id. at 732-733.

²⁷ Id. at 740.

²⁸ Id. at 741.

²⁹ *Turner v. State*, 784 F. Supp. 585, 588-589 (E.D. Ark. 1991), summarily aff'd, 504 U.S. 952 (1992) (.73 percent overall range percentage variance allowed).

³⁰ *DeWitt v. Wilson*, 856 F. Supp. 1409, 1410-15 (E.D. Cal. 1994), summarily aff'd in relevant part, 515 U.S. 1170 (1995) (.49 percent overall range percentage variance allowed).

³¹ *Abrams v. Johnson*, 117 S. Ct. 1925 (1997) (.35 percent overall range percentage variance allowed).

³² Id. at 1940.

³³ Iowa Code § 42.4(1)(b).



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congressional district. Important to note, however, is that the Code provides that if a redistricting plan is challenged in court based upon an excessive population variance among districts, the General Assembly has the burden of justifying any deviation percentage variance in excess of 1 percent for any district in the plan.³⁴

3. Summary.

Since the U.S. Supreme Court has specifically rejected authorizing a particular percentage variance, however calculated, as constitutionally permissible,³⁵ strict reliance on the 1 percent deviation percentage variance threshold provided by the Iowa Code does not guarantee that a particular Iowa congressional redistricting plan would withstand a court challenge. To ensure that a congressional redistricting plan in Iowa meets constitutional requirements, a proposed congressional plan should attempt to meet the strict equality requirements established by the U.S. Supreme Court with deviations from that requirement specifically tied to identified state objectives as provided in the Iowa Constitution and Iowa Code.³⁶

C. State Legislative Districts.

1. Federal Constitutional Requirements.

The Equal Protection Clause of the 14th Amendment to the United States Constitution has been interpreted to establish the basic requirement that state legislative districts be apportioned to achieve substantial equality of population among the various districts.³⁷ This standard for legislative districts has been interpreted by the U.S. Supreme Court to mean that an overall range percentage variance of less than 10 percent does not violate the equal protection standard and need not be specifically justified by some particular state policy.³⁸ The Court further noted that an overall range percentage variance that exceeds 10 percent, while not automatically a violation of constitutional population equality requirements, will be a violation unless the state has a valid justification for the otherwise excessive percentage variance.³⁹ For example, in at least two cases, states have justified overall range percentage variances in excess of 10 percent where the excessive percentage variances resulted from respecting the boundaries of political subdivisions.⁴⁰

2. Iowa Standards.

Article III, section 34, of the Iowa Constitution provides that state senate and representative districts be apportioned on the basis of population. This constitutional provision further provides that Iowa law may, consistent with the United States Constitution, establish other factors for apportioning senatorial districts, but only if the

³⁴ Iowa Code § 42.4(1)(c).

³⁵ Karcher at 725.

³⁶ See discussion of nonpopulation redistricting criteria in part IV of this Guide.

³⁷ Reynolds at 569.

³⁸ Brown v. Thompson, 462 U.S. 835, 842-843 (1983).

³⁹ Id.

⁴⁰ Mahan v. Howell, 410 U.S. 315 (1973) (Virginia - 16 percent overall range percentage variance); Voinovich v. Quilter, 507 U.S. 146 (1993) (Ohio - overall range percentage variance exceeded 10 percent).



law does not result in a senatorial redistricting plan whereby a majority of senators could represent less than 40 percent of the state's population.

After the 1970 census, controversy arose as to whether the Iowa General Assembly properly created a legislative redistricting plan in compliance with United States and Iowa constitutional requirements. Eventually, the Iowa Supreme Court rejected the legislatively drawn redistricting plan⁴¹ and subsequently adopted its own redistricting plan for Senate and House districts following the 1970 census.⁴² The legislatively drawn plans rejected by the Iowa Supreme Court had an overall range percentage variance for the Senate of 3.2 percent and for the House of 3.8 percent. In finding these percentage variances excessive, the Iowa Supreme Court rejected establishing a certain de minimis standard regarding percentage variances which, if met, would justify any basis for how the individual districts were drawn.⁴³ Instead, the court found that the percentage variances were excessive and avoidable, and were created for the unjustifiable purposes of protecting incumbents, preserving present districts, avoiding joining part of a rural county with an urban county, and ensuring the passage of the redistricting plan.⁴⁴ Furthermore, the court found that the proposed legislative redistricting plan failed to meet the Iowa constitutional requirement of establishing districts of compact territory.⁴⁵ After rejecting the legislative redistricting plan, the Supreme Court adopted its own plan, based primarily on providing substantial voting equality of population in each district while endeavoring to create compact districts of contiguous territory. The plan provided for overall range percentage variances of approximately .05 percent for the Senate and .09 percent for the House.⁴⁶

In 1980, Iowa Code chapter 42, which includes provisions establishing standards for governing population equality, was enacted. Iowa Code section 42.4, subsection 1, provides that each Senate and House district in a redistricting plan shall have a population as nearly equal as practicable to the ideal population for a Senate or House district in that plan. Specifically, the Iowa Code provides that the mean deviation percentage variance for a Senate or House redistricting plan shall not exceed 1 percent and that the overall range percentage variance for a Senate or House plan shall not exceed 5 percent.⁴⁷ In addition, the Iowa Code provides that if a redistricting plan is challenged in court based upon an excessive population variance among districts, the General Assembly has the burden of justifying any deviation percentage variance in excess of 1 percent for any district in the plan.⁴⁸

3. Summary.

In contrast to congressional redistricting, population equality standards for legislative redistricting as established by Iowa Code chapter 42 and as articulated by

⁴¹ In re Legislative Districting of General Assembly, 193 N.W. 2d 784 (Iowa 1972).

⁴² In re Legislative Districting of General Assembly, 196 N.W. 2d 209 (Iowa 1972), as modified 199 N.W. 2d 614 (Iowa 1972).

⁴³ In re Legislative Districting of General Assembly, 193 N.W. 2d at 788.

⁴⁴ In re Legislative Districting of General Assembly, 193 N.W. 2d at 788-789.

⁴⁵ In re Legislative Districting of General Assembly, 193 N.W. 2d at 791.

⁴⁶ In re Legislative Districting of General Assembly, 196 N.W. 2d at 210.

⁴⁷ Iowa Code § 42.4(1)(a).

⁴⁸ Iowa Code § 42.4(1)(c).



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the Iowa Supreme Court in 1972⁴⁹ are generally stricter than those established by federal case law. As such, Iowa legislative redistricting plans that meet the population equality standards provided in Iowa law should be sufficient to withstand a federal or state court challenge based upon population equality.

IV. Redistricting Standards -- Nonpopulation Criteria.

A. Introduction.

Population is by far the most important criteria for establishing valid congressional and legislative districts. However, strict mathematical equality in population among all districts in a redistricting plan is not absolutely required, even for congressional redistricting, if the state can justify the variation by proving that the variation is due to some legitimate state objective or rational state policy.⁵⁰ In contrast, mere reliance on strict population equality is no guarantee that a particular redistricting plan will withstand a court challenge if the court determines that the particular plan was drawn for an improper purpose.⁵¹ As such, standards other than population that have been established at both the state and federal level need to be carefully considered during the redistricting process. This part of the Guide will examine some of these "traditional redistricting principles" and their viability for guiding the redistricting process in Iowa.

B. Federal Strictures on Redistricting -- Race Standards.

The 15th Amendment to the United States Constitution guarantees that the right of citizens to vote shall not be denied or abridged based on race or color. In part to implement the requirements of this constitutional amendment, the federal Voting Rights Act of 1965 was enacted to ensure that states do not discriminate against the right of minorities to vote and be represented. The two sections of the Voting Rights Act that impact redistricting are Section 2⁵² and Section 5.⁵³ Section 5 establishes requirements for certain states and locations to gain prior approval from the United States Department of Justice of a particular redistricting plan. Section 5 does not apply to Iowa. Section 2 of the Voting Rights Act of 1965, however, applies to all states and prohibits a state or political subdivision from imposing or applying voting qualifications; prerequisites to voting; or standards, practices, or procedures to deny or abridge the right to vote on account of race or color or because a person is a member of a language minority group.⁵⁴

To establish a potential Section 2 violation, courts have established several preconditions that, if met, give rise to a further analysis of whether a Section 2 violation exists, thus requiring the establishment of a majority-minority district. These preconditions include consideration of whether the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district; whether the minority group is politically cohesive, that is, whether it usually votes for the same candidates; and whether,

⁴⁹ In re Legislative Districting of General Assembly, 193 N.W. 2d 784 (Iowa 1972); supplemented 196 N.W. 2d 209 (Iowa 1972); amended 199 N.W. 2d 614 (Iowa 1972).

⁵⁰ Congressional redistricting: Karcher at 725; Legislative redistricting: Brown at 842-843.

⁵¹ See, e.g., Shaw v. Reno, 509 U.S. 630 (1993).

⁵² 42 U.S.C. § 1973.

⁵³ 42 U.S.C. § 1973(c).

⁵⁴ 42 U.S.C. § 1973.



in the absence of special circumstances, bloc voting by the white majority usually defeats the minority's preferred candidate.⁵⁵ If the minority group challenging a particular redistricting plan establishes that the three preconditions exist, the minority group can attempt to establish that the effect of the challenged redistricting plan is discriminatory by proving, by the totality of the circumstances, that the members of the minority group have "less opportunity than other members of the electorate to participate in the electoral process and to elect representatives of their choice" under the challenged redistricting plan.⁵⁶

Creating a district where a minority group constitutes a majority of the district, even if population equality standards are met, however, does not insulate a state from a challenge to that district. Recently, attempts to maximize the number of majority-minority districts have been challenged as violative of the Equal Protection Clause of the 14th Amendment as being drawn solely on the basis of race.⁵⁷ The mere fact that the district was drawn ostensibly for the purpose of meeting a Voting Rights Act challenge has been deemed insufficient to uphold the validity of such districts. An important factor courts have used in determining whether race was the predominant factor in drawing districts is the "appearance" of the challenged district, more specifically, its apparent lack of compactness, as well as whether other "traditional redistricting principles" can explain the final redistricting plan.⁵⁸ Since appearance, compactness, and traditional redistricting principles are such subjective measures, courts will likely continue to struggle with attempts by states to meet Voting Rights Act concerns while not violating the Equal Protection Clause prohibiting racial gerrymandering.

In Iowa, establishing a Voting Rights Act violation for any particular minority group would be difficult since the first precondition to proving such a claim, that a minority group is sufficiently large and geographically compact to constitute a majority in a single-member district, would be difficult to establish for congressional or legislative redistricting. Even if a federal violation would be difficult to establish given the small minority population of the state, Iowa law still prohibits establishing a district which discriminates against a particular minority group. Specifically, the Iowa Code provides that no district shall be drawn for the purpose of augmenting or diluting the voting strength of a language or racial minority group and that consideration of demographic information, other than population head counts, should not be considered unless constitutionally required.⁵⁹

C. Traditional Redistricting Factors in Iowa.

1. Respect for Political Subdivisions.

For both congressional and legislative redistricting, Iowa law provides that, consistent with population equality requirements, district boundaries should coincide with the boundaries of political subdivisions of the state.⁶⁰ Moreover, for congressional

⁵⁵ *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986); *Grove v. Emison*, 507 U.S. 25 (1993) (preconditions apply to single-member districts).

⁵⁶ 42 U.S.C. § 1973(b).

⁵⁷ *Shaw v. Reno* at 630; *Shaw v. Hunt*, 116 S.Ct. 1894 (1996).

⁵⁸ *Shaw v. Reno* at 630; *Shaw v. Hunt* at 1894.

⁵⁹ Iowa Code § 42.4(5).

⁶⁰ Iowa Code § 42.4(2).



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redistricting, Article III, section 37, of the Iowa Constitution specifically provides that no county shall be divided in forming a congressional district.

To assist the redistricting process, the Iowa Code provides some guidance as to how to apply and meet the goal of respecting political subdivisions when preparing any particular legislative redistricting plan. Specifically, the Code provides that the number of counties and cities divided among more than one district in a redistricting plan shall be as small as possible.⁶¹ In addition, when a choice exists as to dividing political subdivisions, the most populous subdivision shall be divided first.⁶² However, the preference for dividing the most populous political subdivision 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.⁶³

2. Contiguosity.

The Iowa Constitution establishes the basic requirement that congressional and legislative districts be composed of contiguous territory.⁶⁴ Specifically, Article III, section 34, of the Iowa Constitution provides that "(e)ach district so established shall be of compact and contiguous territory." As for congressional redistricting, Article III, section 37, of the Iowa Constitution provides that a congressional district consisting of more than one county shall not be entirely separated by a county belonging to another congressional district.

The Iowa Code also provides that congressional and legislative districts shall be composed of convenient contiguous territory.⁶⁵ The Iowa Code further states that a district which includes areas which meet only at the points of adjoining corners is not contiguous.⁶⁶

3. Compactness.

Iowa law provides that congressional and legislative districts should be compact in form. As noted previously, the requirement to establish legislative districts compact in form is specifically provided for in the Iowa Constitution.⁶⁷

Iowa Code section 42.4, subsection 4, provides more specific guidance regarding the requirement to establish congressional and legislative districts compact in form. The Code describes a compact district as "... those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries."⁶⁸ The Code provides, however, that this compactness requirement is specifically made subservient to the requirements concerning population equality, respect for political subdivisions, and contiguosity.⁶⁹

⁶¹ Iowa Code § 42.4(2).

⁶² Iowa Code § 42.4(2).

⁶³ Iowa Code § 42.4(2).

⁶⁴ Iowa Const. Art. III, § 34. Contiguosity for purposes of redistricting generally means that a person can reach any point in a district without having to cross the district boundary.

⁶⁵ Iowa Code § 42.4(3).

⁶⁶ Iowa Code § 42.4(3).

⁶⁷ Iowa Const. Art. III, § 34.

⁶⁸ Iowa Code § 42.4(4).

⁶⁹ Iowa Code § 42.4(4).

In order to compare the relative compactness of two or more districts or of two or more alternative redistricting plans, the Iowa Code provides for two fairly elaborate measures of compactness. If the two measurements are in conflict, the Code provides that the first measurement takes precedence.

The first compactness measure tries to determine the relative “squareness” of a district in a redistricting plan by comparing the length of the district with the width of the district.⁷⁰ The compactness of a district, based on this measure, is greatest when the length and width of a district are equal.

The second compactness measure concerns the dispersion of population within a district by comparing the population center of the district to the geographic center of the district.⁷¹ In essence, a compact district is one where the dispersion of population within a district is as uniform as possible so as to minimize the difference between the population center and the geographic center of the district.

4. Improper Considerations.

Iowa law also provides that certain factors shall not be taken into account when preparing redistricting plans. Specifically, the Iowa Code provides that districts shall not be drawn to favor any political party, an incumbent legislator or member of Congress, or any other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group.⁷² To ensure compliance with these requirements, the Iowa Code provides that data concerning the addresses of incumbents, the political affiliation of registered voters, previous election results, and demographic data other than population head counts not otherwise required by federal law are not to be considered or used in establishing districts.⁷³ Prior to the adoption of Iowa Code chapter 42, the Iowa Supreme Court found that protecting incumbents, preserving present districts, avoiding joining part of a rural county with an urban county, and ensuring the passage of the redistricting plan to be improper grounds for the Legislature to rely on to justify the extent of the population variances among districts in a particular legislative redistricting plan.⁷⁴

5. Interrelationship of Districts.

Iowa law provides that each representative district shall be wholly included within a single senatorial district.⁷⁵ In addition, each Senate and House district shall, as far as possible, be within a single congressional district. However, the requirement to include state legislative districts wholly within a particular congressional district is subservient to the requirements provided in subsections 1 through 5 of Iowa Code section 42.4, i.e., population equality, respect for political subdivisions, contiguousness, compactness, and political and racial neutrality.

⁷⁰ Iowa Code § 42.4(4)(b).

⁷¹ Iowa Code § 42.4(4)(c).

⁷² Iowa Code § 42.4(5).

⁷³ Iowa Code § 42.4(5).

⁷⁴ *In re Legislative Districting of General Assembly*, 193 N.W. 2d 784, 788-789 (Iowa 1972).

⁷⁵ Iowa Code § 42.4(6).



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V. Iowa Redistricting Process.

A. Preliminary Work.

1. Reporting of Population Data to the States -- Establishing Geographic Boundaries.

Redistricting in Iowa is not a one-year event. In fact, the process for establishing new congressional and legislative boundaries begins long before the census is conducted and redistricting plans are prepared. One aspect of redistricting which is accomplished prior to the collection of census data is the establishment of geographic areas for the reporting of population data collected by the Census Bureau.⁷⁶ The boundaries of these geographic areas must coincide with recognizable map features, such as roads and rivers, and can represent current local election precincts. Specific geographic areas for a state can be determined by the state subject to the approval of the Census Bureau. In Iowa, legislative leadership and the Governor have authorized the Legislative Service Bureau to establish, in coordination with the Census Bureau, permissible geographic areas based on recognizable political boundaries, such as precincts.⁷⁷ The Census Bureau reports population data collected based on these geographic areas to the states, which is then used by the states in drawing congressional and legislative districts within constitutional constraints.

2. Census Day -- Apportionment.

Article 1, section 2, of the United States Constitution establishes the requirement for conducting an enumeration of persons in each state every 10 years. The census enumeration date for the year 2000 is April 1. Title 13 of the U.S. Code requires that the apportionment counts, i.e., the resident population totals for each state, be delivered to the President within nine months of the census enumeration date, i.e., by December 31, 2000. Within a week of the opening of the next session of Congress, the President must report to the Clerk of the House of Representatives the census counts for each state and the number of representatives to which each state is entitled. The U.S. Code provides that the number of representatives to be apportioned to each state shall be determined by the mathematical formula known as the "method of equal proportions."⁷⁸ Within 15 days of the President's report, the Clerk of the House informs each state governor of the number of representatives to which the state is entitled. The legislatures in each state are then responsible for geographically defining the boundaries of their congressional districts through redistricting.⁷⁹

⁷⁶ Pub. L. No. 94-171 (1995) establishes the ability of states to designate geographic areas for the reporting of population data from the Census Bureau.

⁷⁷ Iowa Code § 42.2(1) provides the general authority for the Legislative Service Bureau to make preparations for redistricting.

⁷⁸ 2 U.S.C. § 2a. The U.S. Supreme Court has upheld using the method of equal proportions in apportioning congressional representatives. *United States Department of Commerce v. Montana*, 503 U.S. at 442 (1992).

⁷⁹ 2 U.S.C. § 2b. (2 U.S.C. § 2c establishes congressional district boundaries in a state for purposes of congressional elections conducted following reapportionment but prior to the state's establishment of new district boundaries based on the results of the census.)

B. Iowa Redistricting Plan Adoption -- Timeline and Process.

1. Preparatory Work.

Iowa Code chapter 42 establishes the process in Iowa for establishing congressional and legislative district boundaries based on the information received following the decennial census. Iowa Code section 42.2 requires the Legislative Service Bureau to take the necessary steps to prepare for the process of redistricting. Specifically, the Legislative Service Bureau is authorized to acquire the necessary equipment and materials to perform the duty of redistricting.⁸⁰ In addition, by December 31, 2000,⁸¹ the Legislative Service Bureau is directed to prepare the necessary geographic descriptions for the geographic units that will be used by the Census Bureau in reporting population data and to begin preparing maps of counties and cities for use in visually describing proposed new districts.⁸² Finally, the Legislative Service Bureau is required to assign each geographic unit with population totals from the Census Bureau as soon as possible after January 1, 2001,⁸³ in order to begin the process of redistricting.⁸⁴

2. Temporary Redistricting Advisory Commission.

a. Selection. Iowa Code section 42.5 provides for the establishment of a five-member Temporary Redistricting Advisory Commission by February 15, 2001.⁸⁵ Four of the Commission members are to be selected by the respective majority and minority floor leaders for the General Assembly convening in 2001. Within 30 days after the four appointments have been made, but in no event later than February 15, the four Commission members shall select, by a vote of at least three members, the fifth Commission member who shall also serve as chairperson.⁸⁶ The Code provides that a Commission member shall be an eligible voter of this state but shall not hold a partisan political office or political party office or be related to or employed by a member of the United States Congress or the Iowa Legislature or be employed by the Congress or Iowa Legislature itself.⁸⁷

b. Duties. Iowa Code Section 42.6 describes the functions of the Commission. Generally, the Commission's role is twofold, to provide advice and guidance to the Legislative Service Bureau on certain redistricting matters⁸⁸ and to act as a liaison to the public by providing for the release of proposed redistricting plans and the conducting of public hearings on the first proposed plan.⁸⁹

Specifically, the Commission may provide direction to the Legislative Service Bureau as to how to resolve certain redistricting questions that are not clearly

⁸⁰ Iowa Code § 42.2(1).

⁸¹ Iowa Code § 42.2(2) states "[b]y December 31 of each year ending in zero."

⁸² Iowa Code § 42.2(2).

⁸³ Iowa Code § 42.2(3) states "[a]s soon as possible after January 1 of each year ending in one."

⁸⁴ Iowa Code § 42.2(3).

⁸⁵ Iowa Code § 42.5(1) provides for the naming of the committee by February 15 "of each year ending in one".

⁸⁶ Iowa Code § 42.5(1)(b).

⁸⁷ Iowa Code § 42.5(2).

⁸⁸ Iowa Code § 42.6(1-2).

⁸⁹ Iowa Code § 42.6(3-4).



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answered by the Iowa Code or applicable constitutional mandates, upon written request by the Legislative Service Bureau.⁹⁰ In addition, the Commission has the authority to establish guidelines governing the release of information by the Legislative Service Bureau about a particular redistricting plan prior to its formal release to the Senate and House.⁹¹

Once a proposed redistricting plan is released to the General Assembly, the Commission shall make available to the public copies of the bill embodying the plan, maps illustrating the plan, a summary of redistricting standards used to develop the plan as prescribed by the Iowa Code, and a statement about the population of each proposed district and its deviation from the ideal district population.⁹² As to the initial redistricting plan delivered to the General Assembly by the Legislative Service Bureau, the Commission is required to schedule and conduct at least three public hearings in different geographic regions of the state and to issue a report to the General Assembly summarizing the information and testimony received.⁹³

3. Plan Preparation.

The timetable for preparing and finally approving a congressional and legislative redistricting plan is detailed in Iowa Code section 42.3 and Article III, section 35, of the Iowa Constitution.

a. First Plan. The Legislative Service Bureau is required to deliver the first proposed congressional and legislative redistricting plan to both chambers of the Legislature by April 1, 2001.⁹⁴ This deadline is extended, however, if the necessary population data to prepare a legislative redistricting plan is not received from the Census Bureau by February 1.⁹⁵ If the information is received after February 1, the April 1 deadline is extended by the same number of days by which the receipt of the necessary census information is delayed beyond February 1. For example, if the census data is received February 15, then the Bureau is required to submit a redistricting plan by April 15.

Once the first redistricting plan is submitted to the General Assembly, the Temporary Redistricting Advisory Commission is required to hold at least three public hearings about the plan in different geographic regions of the state and to submit a report concerning the hearings to the Legislature.⁹⁶ Once the report is submitted, the General Assembly is required to bring the redistricting bill to a vote in one of the chambers expeditiously, but in no event less than seven days after the report is submitted.⁹⁷ If the bill passes in one chamber, then the second chamber is required to take the bill up in an expeditious manner. Only corrective amendments to the redistricting plan bill are allowed.⁹⁸

⁹⁰ Iowa Code § 42.6(1).

⁹¹ Iowa Code § 42.6(2).

⁹² Iowa Code § 42.6(3).

⁹³ Iowa Code § 42.6(4).

⁹⁴ Iowa Code § 42.3(1).

⁹⁵ Iowa Code § 42.3(4)(b).

⁹⁶ Iowa Code § 42.6(4).

⁹⁷ Iowa Code § 42.3(1).

⁹⁸ Iowa Code § 42.3(1).

b. Second Plan. If the first redistricting plan fails to be approved by a constitutional majority in either chamber of the Legislature, the Legislative Service Bureau is required to submit a second plan.⁹⁹ Either the Senate or the House can transmit to the Legislative Service Bureau information as to why the first plan was not adopted and the Bureau shall take into account the reasons when drafting the second plan, as long as the reasons do not conflict with any redistricting standard provided by the Code. The second redistricting plan is required to be submitted to the General Assembly by May 1, or within 21 days after the first plan is disapproved, whichever is later. The May 1 alternative deadline will be extended in the same manner as the deadline to submit the first redistricting plan if the necessary information from the Census Bureau was not received by February 1. As is the case with the first plan, the Legislature shall proceed to vote on the bill reflecting the second plan in either the Senate or House expeditiously, but no earlier than seven days after delivery, and only corrective amendments are allowed. The Temporary Advisory Redistricting Commission is not required to hold public hearings concerning the second plan.

c. Third Plan. If the second redistricting plan fails to be approved by a constitutional majority in either chamber of the Legislature, the Legislative Service Bureau is required to submit a third plan.¹⁰⁰ The third redistricting plan is required to be submitted to the General Assembly by June 1, or within 21 days after the first plan is disapproved, whichever is later. The June 1 alternative deadline will be extended in the same manner as the deadline to submit the first redistricting plan if the necessary information from the Census Bureau was not received by February 1. Like the first two plans, the Legislature is directed to proceed to a vote on the third plan no earlier than seven days after delivery of the plan. However, unlike the first two plans, the third plan is subject to amendment in the same manner as any other bill.

d. Separate Redistricting Plan Bills. If the information necessary to prepare a redistricting plan for congressional districts becomes available prior to obtaining the information needed to prepare legislative districts, the Legislative Service Bureau shall inform the presiding officers of both the Senate and House who may direct the Legislative Service Bureau to prepare a separate bill establishing congressional districts.¹⁰¹ The general time standards and guidelines applicable to a joint congressional and legislative districting plan shall also apply to a redistricting bill that deals only with congressional districts and with a separate bill dealing with only legislative districts.

e. Judicial Intervention. If no redistricting plan is enacted into law or if a plan is challenged in court and rendered invalid, the Iowa Supreme Court will likely assume or be given the responsibility for establishing a valid redistricting plan.¹⁰²

- *Legislative redistricting:* For state legislative redistricting, Article III, section 35, of the Iowa Constitution specifically directs the Iowa Supreme Court to develop a

⁹⁹ Iowa Code § 42.3(2).

¹⁰⁰ Iowa Code § 42.3(3).

¹⁰¹ Iowa Code § 42.3(4)(a).

¹⁰² See *Grove* at 25 (reapportionment is primarily a state issue and federal courts are generally required to defer consideration of redistricting disputes if the state, through the Legislature or its courts, is addressing the issue).



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redistricting plan for the Iowa Legislature prior to December 31 of any year ending in 1 if the General Assembly fails to enact an apportionment plan that becomes law by September 15 of that year. If a plan is enacted by the General Assembly but is subsequently challenged and struck down by the Iowa Supreme Court, Article III, section 36, of the Iowa Constitution provides that the Supreme Court has 90 days to adopt a valid apportionment plan.

- *Congressional redistricting:* For congressional redistricting, Article III, section 36, of the Iowa Constitution provides that the Iowa Supreme Court has original jurisdiction of all litigation questioning any apportionment plan adopted by the General Assembly. In addition, this constitutional provision provides that the Iowa Supreme Court shall review any apportionment plan adopted by the General Assembly (which would include both congressional and legislative redistricting plans) upon a verified application to the court by any qualified elector. As noted when discussing legislative redistricting, if a redistricting plan is enacted by the General Assembly but is subsequently challenged and struck down by the Iowa Supreme Court, the Supreme Court has 90 days to adopt a valid apportionment plan. Unlike legislative redistricting, however, the Iowa Constitution does not provide a time deadline for the General Assembly to redraw congressional boundaries or any requirement for the Iowa Supreme Court to redraw congressional districts if the General Assembly is unable to enact a new plan. However, if a state has not yet adopted new congressional district boundaries prior to the next congressional election, the U.S. Code provides for election of representatives on a statewide basis if the number of representatives for the state has increased or decreased based on the census, or, if the number of representatives for a state remains unchanged, permits election from the previously created districts.¹⁰³ However, if districts that were drawn based on the prior census but not the current census are used, shifts in population within a state from one census to the next would probably result in population variations between districts that would not meet the constitutional requirement to have districts equal in population as nearly as practicable.

C. Postredistricting Effects -- Senators.

1. Overview.

The Iowa Constitution provides that senators shall be elected to four-year terms and that, as nearly as possible, one-half of the members of the Senate shall be elected every two years.¹⁰⁴ To implement this constitutional requirement, elections in Iowa for state Senate seats are staggered, with elections in odd-numbered Senate districts in 1998, 2002, 2006, and 2010, and elections in even-numbered Senate districts in 1996, 2000, 2004, and 2008.¹⁰⁵

Because of redistricting, the boundaries and numbering of Senate districts will inevitably change. As a result, some senators who were just elected to a four-year

¹⁰³ 2 U.S.C. § 2c.

¹⁰⁴ Iowa Const. Art. III, §§ 5,6.

¹⁰⁵ See, generally, Iowa Code § 42.4(8); 1980 Iowa Acts ch. 1021; 1990 Iowa Acts ch. 1244.

term will be paired with other incumbent senators in a single new district, or will reside in a new district requiring an election in the next election cycle. The Iowa Constitution recognizes this potential impact of redistricting by permitting the reapportioning authority to shorten the term of any senator if necessary when establishing new senatorial districts.¹⁰⁶ For specific guidance, Iowa Code section 42.4, subsection 8, resolves the questions as to whether an incumbent senator will be required to seek reelection for a shortened two-year term.

2. Odd-numbered Senatorial Districts.

Every odd-numbered senatorial district is required to elect a senator in 2002 for a four-year term. An incumbent senator who was elected from an even-numbered district in 2000 but is now located in an odd-numbered district is also required to seek reelection in 2002 despite having served for only two years.¹⁰⁷

3. Even-numbered Senatorial Districts.

Each even-numbered senatorial district shall elect a senator in 2004 for a four-year term. The question then, is who shall serve in an even-numbered district from January 2003 to 2005 and whether or not an election in 2002 for a shortened two-year term will have to be held.

a. 2002 Election Required. An election for a shortened two-year term in 2002 is required under any of the following circumstances:

- If no incumbent senators reside in a new even-numbered district.
- If at least two incumbent senators reside in a new even-numbered district as of February 1, 2002. However, if all but one incumbent senator in the new district resigns by February 15, 2002, effective no later than January 1, 2003, then the district shall be deemed to have but one incumbent senator for purposes of determining whether an election shall be required.
- If only one incumbent senator resides in a new even-numbered district on February 1, 2002, but the requirements described in paragraph "b" below are not met.

b. 2002 Election Not Required. An election in 2002 in a new even-numbered district shall not be required, and the affected incumbent senator can serve in that district until 2004 without an election in 2002, if all of the following requirements are met:

- Only one incumbent senator, who has not resigned and who was elected from an old even-numbered district in 2000, or in a subsequent special election for that district, is residing in a new even-numbered district on February 1, 2002.
- The place of residence of the incumbent senator on February 1, 2002, and the senator's place of residence on the date of the senator's last election, are located in the same even-numbered senatorial district of the new plan; or, the place of

¹⁰⁶ Iowa Const. Art. III, § 35.

¹⁰⁷ Iowa Code § 42.4(8)(a).



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residence of the incumbent senator on February 1, 2002, is located in a new even-numbered senatorial district contiguous to another new senatorial district that includes the place of residence of the incumbent senator on the date of the senator's last election, and the place of residence of the incumbent senator on February 1, 2002, would have been located in the old even-numbered senatorial district from which the senator was last elected. This provision means, then, so long as all other requirements are met, that an incumbent senator who was elected from an even-numbered district in 2000, or later, can move to any part of that senator's old district by February 1, 2002, and avoid an election in November 2002, if the senator's new place of residence is in a newly created even-numbered district and the senator's old place of residence on the date of the senator's last election is in another newly created contiguous district.

4. Renumbering Criteria.

The Iowa Code provides that any redistricting plan shall provide for the election of senators, which shall be consistent with the requirement of Article III, section 6, of the Iowa Constitution that, as nearly as possible, one-half of the members of the Senate shall be elected every two years. Based on this mandate, then, every attempt is made to avoid elections in even-numbered districts in 2002 since all odd-numbered districts shall be subject to election in that year. As such, once proposed redistricting boundaries are determined, a newly drawn district which includes the residence of an incumbent senator who was elected from an even-numbered district shall, as nearly as practicable, be given an even-number.¹⁰⁸

VI. Conclusion.

The redrawing of congressional and legislative district boundaries following each decennial census is a difficult process, fraught with many critical legal and political considerations. Iowa, though, is rather unique in the country since Iowa law requires a nonpartisan legislative agency to perform many of the essential components of the redistricting process based upon fairly specific constitutional and statutory guidelines governing the drawing of district boundaries. Hopefully, this Guide has provided those interested in the redistricting process in Iowa with some background as to the procedure for congressional and legislative redistricting in the state and the relevant constitutional and statutory provisions that apply.

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¹⁰⁸ Since Iowa Code § 42.4(5) provides that the residence of incumbent senators cannot be examined in developing the redistricting boundaries, the residence will be looked at only after the lines have been drawn and district numbers are being determined.