



League of Women Voters Minnesota Redistricting Briefing Paper

LEAGUE OF WOMEN VOTERS MINNESOTA

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I. Background

a. LWV Position on Redistricting

The League of Women Voters believes in representative government and in the individual liberties established in the Constitution of the United States.

LWVMN seeks to promote an open governmental system that is representative, accountable and responsive.

LWVMN supports timely redistricting based substantially on population and affecting all state and local governmental bodies. It further supports definite procedures to ensure prompt redistricting by the Legislature or by a reapportionment commission.

b. Definition

i. What is Redistricting?

Simply put, “after the number of legislators is set, redistricting is the process of redrawing the lines of each legislative district.”¹ Michael McDonald, of George Mason University, notes that “through redistricting, political parties seek to control government, incumbents seek job security, and minority groups seek representation.”²

The first step in redistricting is the census; the next census will begin in March 2010. By law the final population numbers must be reported to the President in December of 2010.³ The President passes this information, along with a formula to determine how to appropriate the seats, to Congress. The apportionment process requires:⁴

- The appointment population of each state
- The number of Representatives to be allocated among the states
- A method to use for the calculation

The number of Congressional seats for each state is determined by the results of the census. The total number of U.S. House of Representative members is 435 seats.⁵ In 1960, the Supreme Court ruled that districts must be close to the same size in population.⁶ Based on this ruling, district lines need to be redrawn to ensure that each Congress member represents a similar number of people. According to Tom Gillaspay, Minnesota State Demographer, if Minnesota maintains its eight (8) congressional districts, there will need to be major changes in district boundaries to ensure equal population distribution in all of the congressional districts. District 6 has 99,000 more people than the other districts. Also, District 2 will have to get smaller.⁷

In Minnesota, the task of redrawing districts falls to the Minnesota Legislature.⁸ The Governor may veto the Legislature's redistricting plan.⁹ Three of the last four (1971, 1981, and 2001) redistricting plans were determined by the courts because the Legislature and/or the governor could not agree.¹⁰

ii. Gerrymandering

Gerrymandering typically has negative connotations. In the media and the general public, gerrymandering is viewed as manipulation of borders of districts "for *some* sort of advantage."¹¹ Gerrymandering can be partisan or bi-partisan. Partisan gerrymandering occurs when the political party in power during the redistricting process draws lines that will benefit that party.¹² Partisan gerrymandering is blamed for many problems with the current system of redistricting including: reducing competitiveness, increasing partisan rancor, contributing to the dilution of minority voters, and splitting communities of interest.^{13,14} Bi-partisan gerrymandering happens when members of all parties work together to protect those who are currently elected.¹⁵

c. Principles of Redistricting

i. Contiguousness, Population Equality, and Compactness

Contiguousness, population equality, and compactness are considered traditional redistricting principles by the Supreme Court.¹⁶ According to these principles all district boundaries must be drawn using one line only (contiguousness), the population of each district should be almost equal (population equality), and the districts must be relatively compact in their size and shape (compactness).¹⁷ In addition, a 1962 Supreme Court ruling established the principle of "one person, one vote". In the case of Congressional districts the Supreme Court ruled that "one person, one vote" means congressional districts must be exact to "absolute mathematical equality."¹⁸

Redistricting issues arise more frequently with the remaining principles: minority representation, communities of interest, and competitiveness. As the interpretation is more subjective, these are more complicated principles to implement.^{19,20}

ii. Minority Representation

The Voting Rights Act of 1965 provides the overriding law on the issue of minority representation in congressional and legislative districts. Section 2 of the Voting Rights Act ensures that everyone has the right to vote regardless of race, color, language, etc. Section 2 prohibits the practice of “vote dilution” whereby redistricting is used to separate minority communities and thus diminish their voting power.²¹

iii. Communities of Interest

The communities of interest principle states that it is beneficial to keep communities with similar economic, cultural, ethnic or political concerns together. For example, a farming district has more in common with other farming districts than it has with a large city nearby. Keeping the urban, suburban, and exurban populations in separate districts is another example of communities of interests. This principle is not well-defined and can result in odd shaped districts. On the other hand, it makes sense to keep communities which share similar problems together so that they may have representatives who understand those issues.

iv. Competitiveness

The principle of competitiveness states that when considering the districts, line-drawers should draw lines that will make the general election close. “Usually, this means trying to group voters so that the election returns are likely to be 55% to 45%, or closer”.²² Like the communities of interest principle, this principle is difficult to implement. A 2007 survey conducted by the Pew Research Center, in association with the Brookings Institution and the Cato Institute, found that most Americans did not have a consistent understanding of whether their districts were competitive²³. As a society we have a wide range of understandings of what constitutes competitiveness in elections.

II. Redistricting Reform Proposals

In Minnesota, the state Legislature produces a plan that the governor may either veto or approve. If the Legislature and/or the governor cannot agree, the courts determine the final redistricting plan. This has happened in three of the last four decades. A word of caution when examining and advocating for redistricting plans: there is no one objective solution. Three reform options being considered and evaluated by citizen groups and lawmakers in Minnesota are: Independent Commissions, Iowa Model, and the Carlson-Mondale Plan.

a. Independent Commissions

An independent commission is currently used by six (6) states for federal redistricting and by a dozen (12) states for state legislative redistricting.^{24,25} In 1972, commissions drew eight (8) redistricting maps. This number increased to fifty-four (54) drawn in 2002.²⁶ Who sits on an independent commission, how they are selected, and what authority they have varies from state to state. In Arizona, the commission consists of five members including two Democrats, two Republicans, and one Independent.²⁷ They must not have held an elected or partisan office.²⁸ The model also follows strict, defined sets of requirements and the members operate under a goal-oriented, process-based structure.²⁹

b. Iowa- Nonpartisan Legislative Support Staff

Unique among redistricting formats is the Iowa model. There, the Legislative Services Agency (LSA), a nonpartisan legislative support staff chosen by the majority and minority leaders, draws up the redistricting map.³⁰ The plan is sent to the legislature for approval and eventually the governor's signature or veto. The Legislature may make changes to the maps after rejecting the second map.³¹ Although the Legislature still holds considerable power, McDonald notes that the well-defined criteria under which the staff agency makes its maps is valuable and could be replicated by other states.³² The Iowa model attempts to take the overt partisan battles out of the hands of those who are making the maps. If the maps are made with well-defined criteria and drawn by people who claim to use a nonpartisan approach to drawing them, then the Iowa plan is a good first, but potentially cumbersome, step toward removing some partisan influences.

c. Carlson-Mondale Plan

Former Republican Governor Arne Carlson and former Democrat Vice President Walter Mondale have proposed a plan to have an independent commission take over the process

of redistricting in Minnesota. In addition to support from former speakers of the House from both parties and along with Thomas E. Mann of the Brookings Institution, and Norm Ornstein of the American Enterprise Institute,³³ this plan is receiving significant attention as Minnesota approaches the 2010 Census and the upcoming redistricting. The plan proposes, “a nonpartisan, independent, five-member commission made up of retired appellate court judges.”³⁴ Four of the retired judges would be appointed, one each by the majority and minority leader of the Senate and one each by the majority and minority leader of the House. The four judges would then select the fifth judge.³⁵ The commissioners would produce two or three redistricting plans that the Legislature could reject, but not modify.³⁶

Senator Larry Pogemiller and Senator Ann Rest introduced the Mondale-Carlson proposal to the Minnesota Senate. The bill (S.F. No. 182) would establish the principles that should be used in drawing the district boundaries including guidelines on equal population, contiguousness, compactness, minority representation, communities of interest, and political competitiveness.³⁷

In his analysis of the bill, Peter S. Wattson, Minnesota Senate Counsel, explained the process of submitting and approving the plans. The commission would submit to the Legislature, by April 30, for its approval but not modification, the plan that it had created. If the first plan were not approved, the commission would have two (2) weeks to submit a new plan that the Legislature could approve or deny. If the second plan were rejected by the Legislature, the commission would submit a third and final plan that the Legislature could approve, deny or modify.³⁸ As with other states’ commissions, this proposed commission would not have the final say in the map. The Legislature would maintain its ability to reject the first two plans and then make its changes on the third submission.

The Minnesota Democracy Network Steering Committee and Justin Levitt of the Brennan Center for Justice at New York University Law School have concerns about this bill in its existing format. Their recommendations for alterations are that:³⁹

- A timeline be added to the bill so that a plan is adopted in a current session and not be drawn into a later session of the Legislature. This recommendation is in line with LWVMN support of timely and prompt redistricting.
- Instead of a fifth judge, the four judges select three capable members of the public to ensure representation of the geographic and demographic diversity of the state.
- All political and demographic data be made available to the public, in addition to the three public hearings put forth in the bill.
- There be a thirty-day period for public comment and these comments be considered in the first plan.

LWVMN does not support mid-decade redistricting. Redistricting should be done only when new census data has been distributed.

III. Summary

The issue of redistricting will receive more and more public attention in the next year for two reasons. First, the 2010 census will determine whether Minnesota retains or loses its eighth Congressional representative. In addition, the census will determine the need to alter district boundaries within the state in order to equalize populations. As described above, there is no perfect way to approach redistricting. Educating the public and keeping this issue front of mind are the best ways to attain LWVMN's goals of representative, accountable and responsive government.

¹ Levitt, Justin with Bethany Foster. A Citizen's Guide to Redistricting. (New York, NY: Brennan Center for Justice at NYU School of Law, 2008), page 6. Available at <http://www.brennancenter.org/page/Democracy/2008redistrictingGuide.pdf>.

² McDonald, Michael P. "A Comparative Analysis of Redistricting Institutions in the United States, 2001-02". State Politics and Policy Quarterly, Volume 3, No. 4 (Winter 2004), page 371.

³ U.S. Census Bureau. "2010 Census Timeline: Key Dates". Washington D.C. Available at http://2010.census.gov/2010census/about_2010_census/013279.html

⁴ U.S. Census Bureau. Apportionment of the U.S. House of Representatives. Washington D.C. Available at <http://www.census.gov/population/www/censusdata/apportionment/files/apportn.pdf>

⁵ Apportionment of the U.S. House of Representatives.

⁶ Levitt, Justin. 16.

⁷ Gillaspay, Tom. "Redistricting". Audio recording of presentation. Woodbury Senior High School. Woodbury, MN. 2 March 2009.

⁸ For a compressive overview of Minnesota law on the redistricting, see "Redistricting Law 2010". Prepared by National Conference of State Legislatures. Page 209-211. Available at http://www.senate.mn/departments/scr/redist/Red2010/Redistricting_Law_2010.pdf

⁹ Levitt, Justin. 31.

¹⁰ Moe, Roger. "Redistricting". Audio recording of presentation. Woodbury Senior High School. Woodbury, MN. 2 March 2009.

¹¹ Sapp, Erin. "Redistricting: Citizen League Minnesota Anniversary Project". PowerPoint presentation. Woodbury Senior High School. Woodbury, MN. 2 March 2009.

¹² Levitt, Justin. 7.

¹³ Jacobs, Lawrence R. Redistricting Reform to Fix a Broken System and Restore Competition. Minneapolis, MN (2008), 1. Available at http://www.hhh.umn.edu/centers/cspg/pdf/Redistricting_Reform.pdf

¹⁴ Levitt, Justin. 12-13.

¹⁵ Levitt, Justin. 7.

¹⁶ Levitt, Justin, 42, 48.

¹⁷ Levitt, Justin. 49.

¹⁸ Levitt, Justin. 42.

¹⁹ Sapp, Erin. PowerPoint Presentation.

²⁰ Levitt, Justin. 44-7, 49-51, 52-60.

²¹ Levitt, Justin. 44.

²² Levitt, Justin. 60.

²³ Levitt, Justin. 49.

²⁴ Lawrence, Jacob. Redistricting Reform to Fix a Broken System and Restore Competition. 3.

²⁵ Mann, Thomas E. "Redistricting Reform: What is Desirable? Possible?" Presented at the conference Competition, Partisanship, and Congressional Redistricting. 16 April 2004. Pg. 13-14. Available at https://www.policyarchive.org/bitstream/handle/10207/6435/crc_Mann.pdf?sequence=1

²⁶ Carson, Jamie L. and Michael Crespin. The Competitive Effects of Redistricting Approaches: Legislatures, Courts and Commissions over Time. 2006. Presented at "Restoring Electoral Competitiveness: Research and Remedies for Redistricting Conference" Minneapolis, MN. 1-13. 25 April 2006. Page 6.

²⁷ Arizona Independent Redistricting Commission. About the Commission. 2003. Available at <http://www.azredistricting.org/?page>

²⁸ Mann, Thomas E. 20-21.

²⁹ McDonald, Michael. 676.

³⁰ Legislative Services Agency. Legislative Guide to Redistricting. Des Monies: IA (2007) PG. 13. Available at <http://www.legis.state.ia.us/Central/LSB/Guides/redist.pdf>

³¹ Mann, Thomas E. 16.

³² McDonald, Michael P. 676.

³³ Jacobs, Lawrence. Redistricting Reform Report. 1.

³⁴ Jacobs, Lawrence. Redistricting Reform Report. 3.

³⁵ How do you cite a bill? Text of bill

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=S0182.2.html&session=ls86> S.F. No. 182

³⁶ Moe, Roger. Audio recording.

³⁷ S.F. No. 182

³⁸Wattson, Peter S. Overview: S.F. No. 182-Redistricting Commission. 31 March 2009. Presented in committee. Page. 1. Available at http://www.senate.leg.state.mn.us/departments/scr/billsumm/summary_display.php?ls=86&session=regular&body=Senate&billtype=SF&billnumber=182&ss_year=0

³⁹ The Minnesota Democracy Network Steering Committee consists of Mike Dean, Director of Common Cause, Dan McGrath, Executive Director of Take Action Minnesota, Marcia Avner, Public Policy Director of the Minnesota Council of Nonprofits, and Keesha Gaskins, Executive Director of the League of Women Voters Minnesota.

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