



REDISTRICTING

Empowering
Communities
Through Fair
Redistricting Plans

Lawyers' Committee For Civil Rights Under Law
1500 K Street, NW, Suite 900
Washington, DC 20005
(202) 662-8600
<https://lawyerscommittee.org>



- I. Overview
- II. Redistricting Basics/Principles
- III. Roadmap
- IV. Resources
- V. Redistricting Plan/Strategy

OBJECTIVES

CENSUS

Why? – US Constitution mandates a census (actual enumeration) of the population every 10 years

Purpose?

1) affects over \$9 trillion to local, state, and tribal governments over next 10 years,

2) **Reapportionment**

Information CANNOT be used for law enforcement or immigration enforcement

CONFIDENTIALITY

Census Law, Title 13 of the U.S. Code, is straightforward and has strong protection

Title 13 requires that responses to Census Bureau surveys and censuses be kept confidential

Responses can only be used for statistical purposes

The Census Bureau publishes only aggregated statistics that do not reveal information about particular individuals, households or businesses

All staff working with confidential information at the Census Bureau take a lifetime oath to protect the privacy and confidentiality of respondent information

success depends on the willing participation of households and business who respond

Unlawful disclosure is a federal crime punishable by a \$250,000 fine or five years in prison, or both

Why Is The Census Important?

The U.S. Constitution requires an actual count of **all persons** in the United States based on where they live or sleep most of the time. Every 10 years an accurate count is needed for **fair representation** and **resources like education programs, job training, infrastructure improvements, and a host of other needed services in our communities.**






Historically Undercounted Communities

Some communities experience a low number of returned census questionnaires and are termed Hard to Count (HTC) areas. We prefer to instead use the term:

Historically Undercounted Communities. We are committed to working with communities to ensure all individuals are counted and communities receive both **fair representation** and their **fair share of resources**.

**Example: North Carolina
2010 Census Participation
Rate = 80.7%**



REDISTRICTING BASICS

Reapportionment is the reallocation of seats in the House of Representatives

Redistricting is the drawing of district boundaries (congress, state legislatures, county commissions, city councils, school boards)

every 10 years, based on the new census

needed to comply with one person one vote and reapportionment

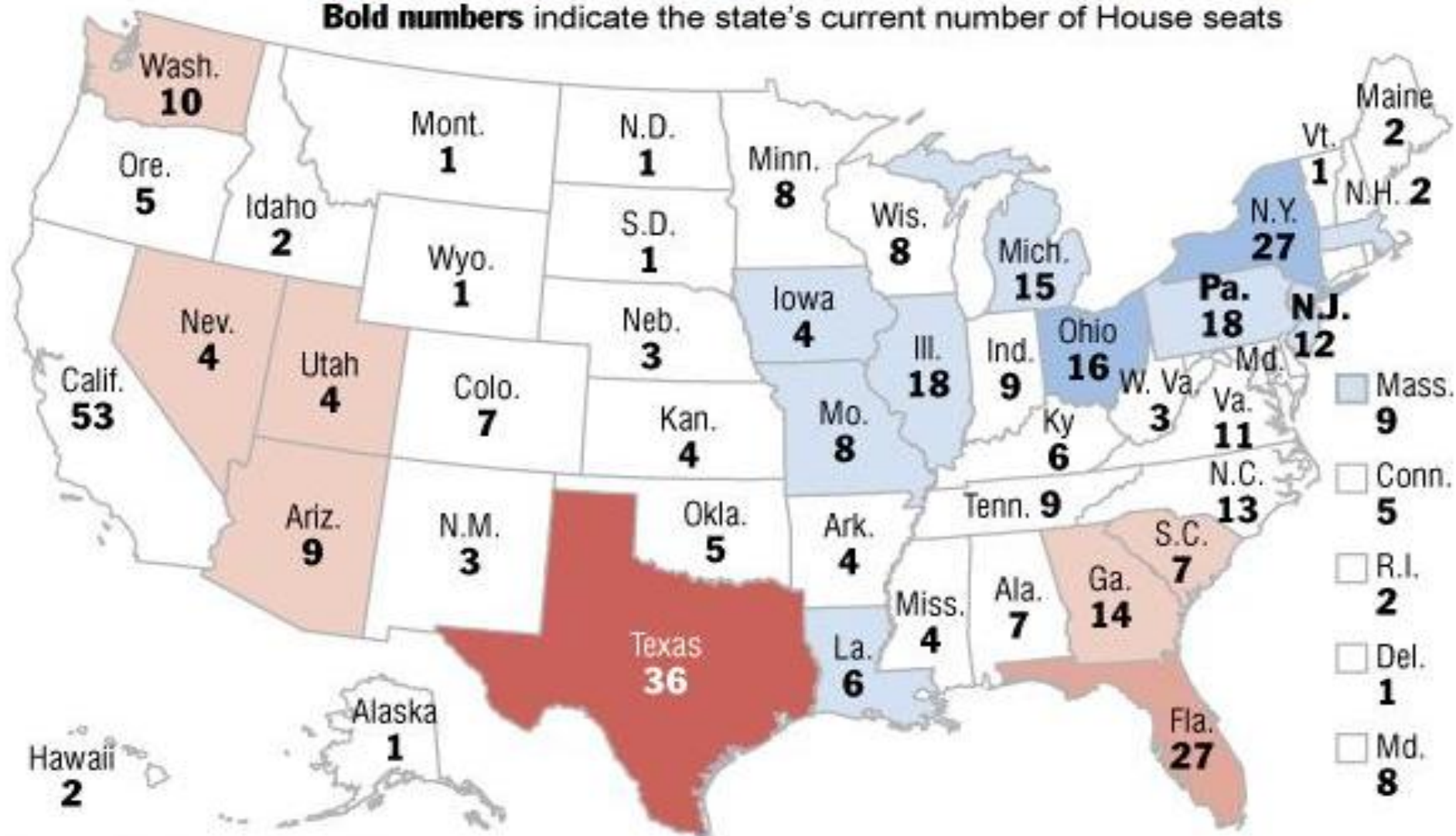
usually needed at every level of government

House Reapportionment From the 2010 Census

Northeastern states, such as Pennsylvania and New Jersey, and states in the Midwest continued to lose House seats, with gains coming in the South and West.

Change since 2000: +4 seats +2 seats +1 seat No change -1 seat -2 seats

Bold numbers indicate the state's current number of House seats



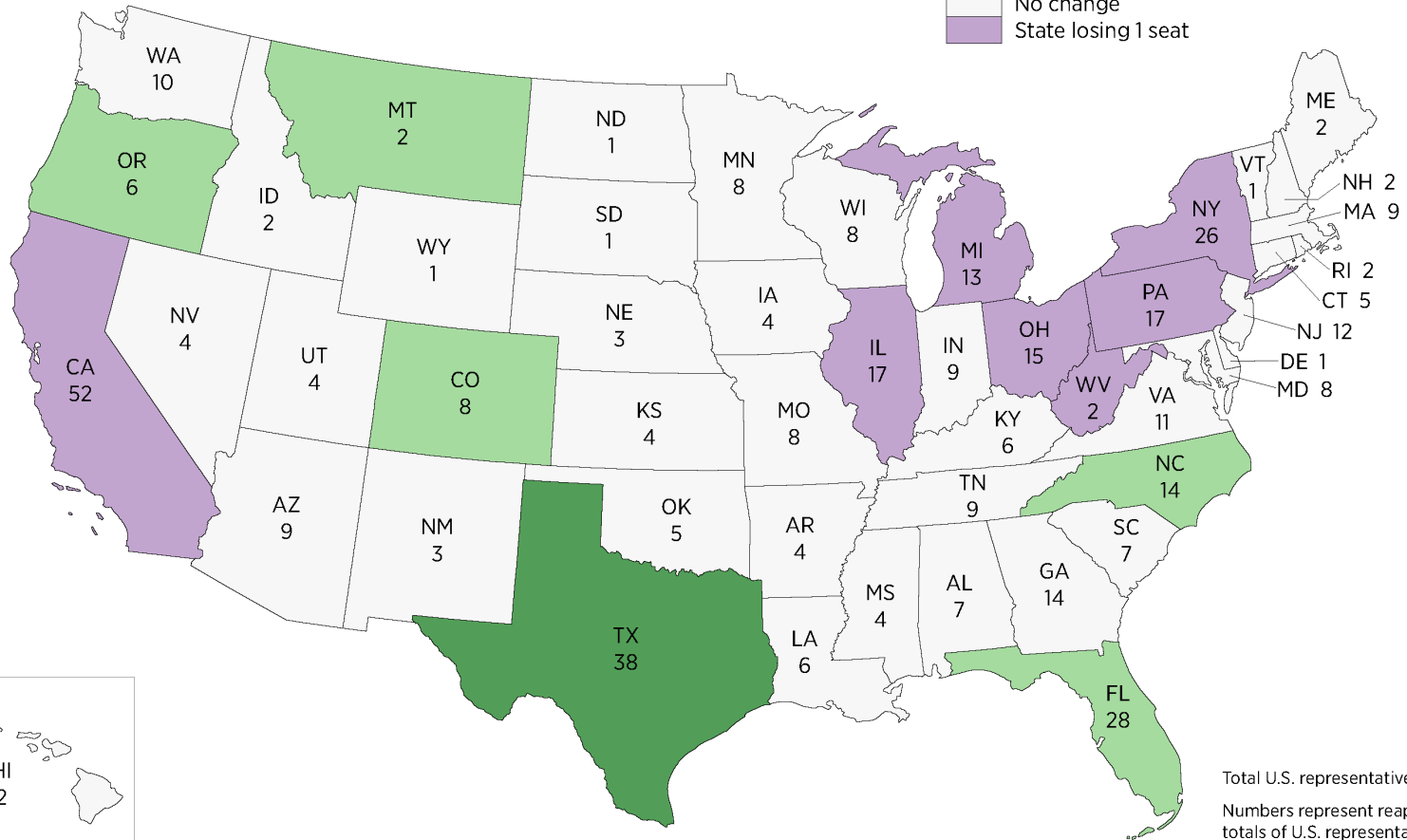
SOURCE: U.S. Census Bureau

Apportionment of the U.S. House of Representatives Based on the 2020 Census



Change from 2010 to 2020

- State gaining 2 seats
- State gaining 1 seat
- No change
- State losing 1 seat



Total U.S. representatives: 435
Numbers represent reapportioned totals of U.S. representatives.

As of 2017, there
were **90,126**
federal, state, and
local governments
in the U.S.

DISTRICTS *EVERYWHERE*

- 13 Congressional Districts
- 120-seat House of Representatives
- 50-seat Senate
- 100 Counties
- 500 municipalities (cities & towns)
- 303 school districts (*some charter school districts & may be consolidated*)

Example: North Carolina Government

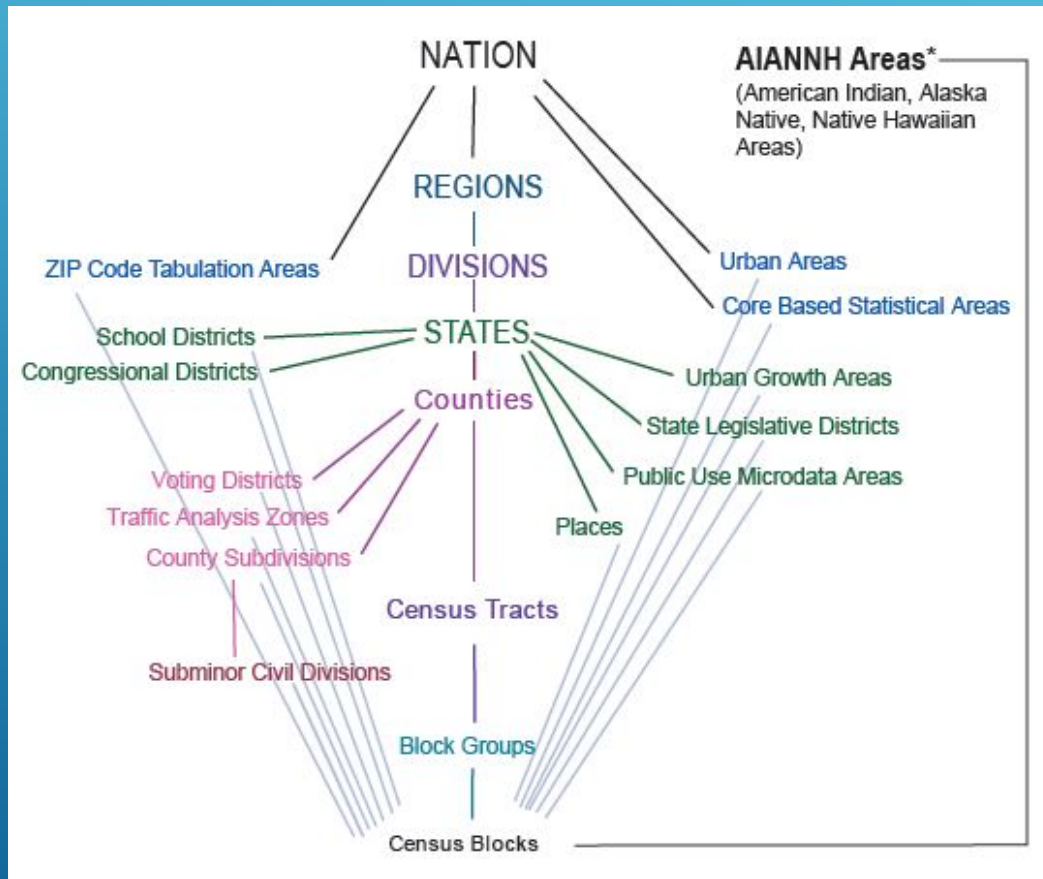
**LEGISLATOR'S GUIDE TO NORTH CAROLINA
LEGISLATIVE AND CONGRESSIONAL
REDISTRICTING**

**2011 GENERAL ASSEMBLY 2011 REGULAR
SESSION**

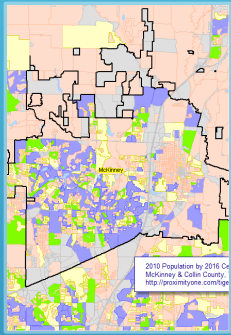
**THIS DOCUMENT IS AVAILABLE ON
LINE AT
<http://www.ncleg.net/Redistricting>**



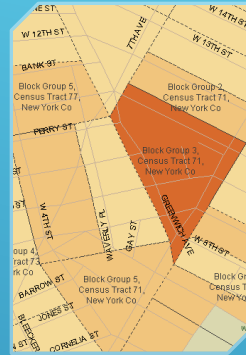
HOW DATA FOR REDISTRICTING IS USED: CENSUS GEOGRAPHY



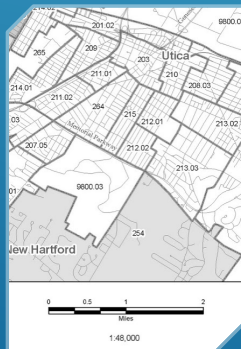
CENSUS BLOCKS



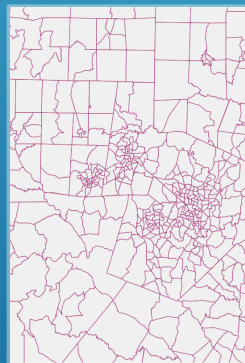
BLOCK GROUPS



CENSUS TRACT



VOTING DISTRICT (VTD)



Who Draws the Lines?

When?

How are Lines Drawn?

How Can You Participate?

What Then?

Who Draws?

Redistricting commissions

<u>State</u>	<u>Type</u>	<u>Number of commissioners</u>
Alaska	Non-politician	5
Arizona	Non-politician	5
Arkansas	Politician	3
California	Non-politician	14
Colorado	Non-politician	12 (<i>two -- cong & state each with 12 members</i>)
Hawaii	Non-politician	9
Idaho	Non-politician	6
Michigan	Non-politician	13
Missouri	Politician	18 (House); 10 (Senate)
Montana	Non-politician	5
New Jersey	Politician	13 (congressional); 10 (state legislative)
Ohio	Politician	7 (state legislative)
Pennsylvania	Politician	5 (state legislative)

All other states, redistricting done by state legislature

When?

Census

October 31, 2020: Census response period deadline

April 30, 2021: Proposed apportionment count to the President

(By) Sept 30, 2021: Proposed deadline for receipt of redistricting files (P.L. 94-171)

State Election Issues: NC Example

North Carolina Election Schedule (Congressional & State Legislature)

Filing Periods

In 2021, there are two scheduled filing periods for municipal elections by contest type:
Municipalities in which there are NO district contests: Noon on Friday, July 2 to noon on Friday, July 16, 2021.

Municipalities in which there ARE district contests: Noon on Monday, July 26 to noon on Friday, Aug. 13, 2021.*

*Applies if any office requires residency in a municipal district or ward.

Election Dates

In 2021, there are three municipal election dates:

Tuesday, Sept. 14, 2021

Tuesday, Oct. 5, 2021

Tuesday, Nov. 2, 2021

North Carolina's legislature must draw state legislative plans "at the first regular session convening after the return of every decennial census of population taken by order of Congress." [Brennan Center -- N.C. Const. art. II, §§ 3, 5.]

HOW ARE LINES DRAWN?

REDISTRICTING PRINCIPLES

ONE PERSON ONE VOTE

COMPACTNESS

CONTIGUITY

VOTING RIGHTS ACT

PRECINCT AND COUNTY LINES

COMMUNITIES OF INTEREST

INCUMBENCY PROTECTION AND CONSTITUENT

CONSISTENCY (depends on state guidelines)

STATES MAY HAVE ADDITIONAL REQUIREMENTS

ONE PERSON ONE VOTE

congressional districts

Article 1, § 2 of the U.S. Constitution

“as mathematically equal as possible”

other districts

Fourteenth Amendment

10% overall deviation

Total Pop = 100

of Districts = 5

Ideal District Size = 20

DISTRICT	POP	DEV
District 1 = 20 people	(0)	0.00
District 2 = 25 people	(+5)	+0.25
District 3 = 18 people	(-2)	-0.10
District 4 = 22 people	(+2)	+0.10
District 5 = 15 people	(-5)	-0.25
TOTAL DEV		0.50 (violates deviation)

DEVIATION

congressional districts must = 0.00

state/local districts cannot exceed 0.10 with no district deviation over 5%

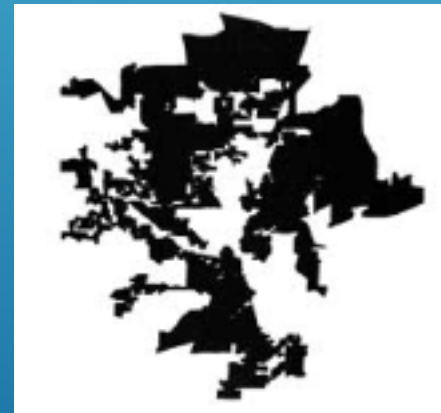
COMPACTNESS

“eyeball test”

compact



not compact (court ruling)

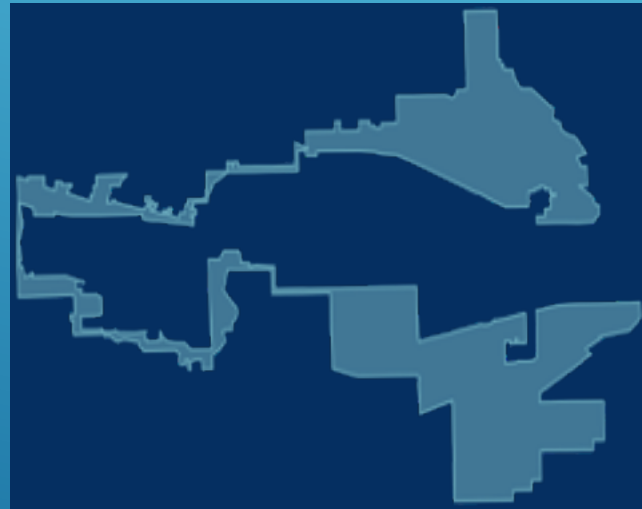


COMPACTNESS, CONTINUED

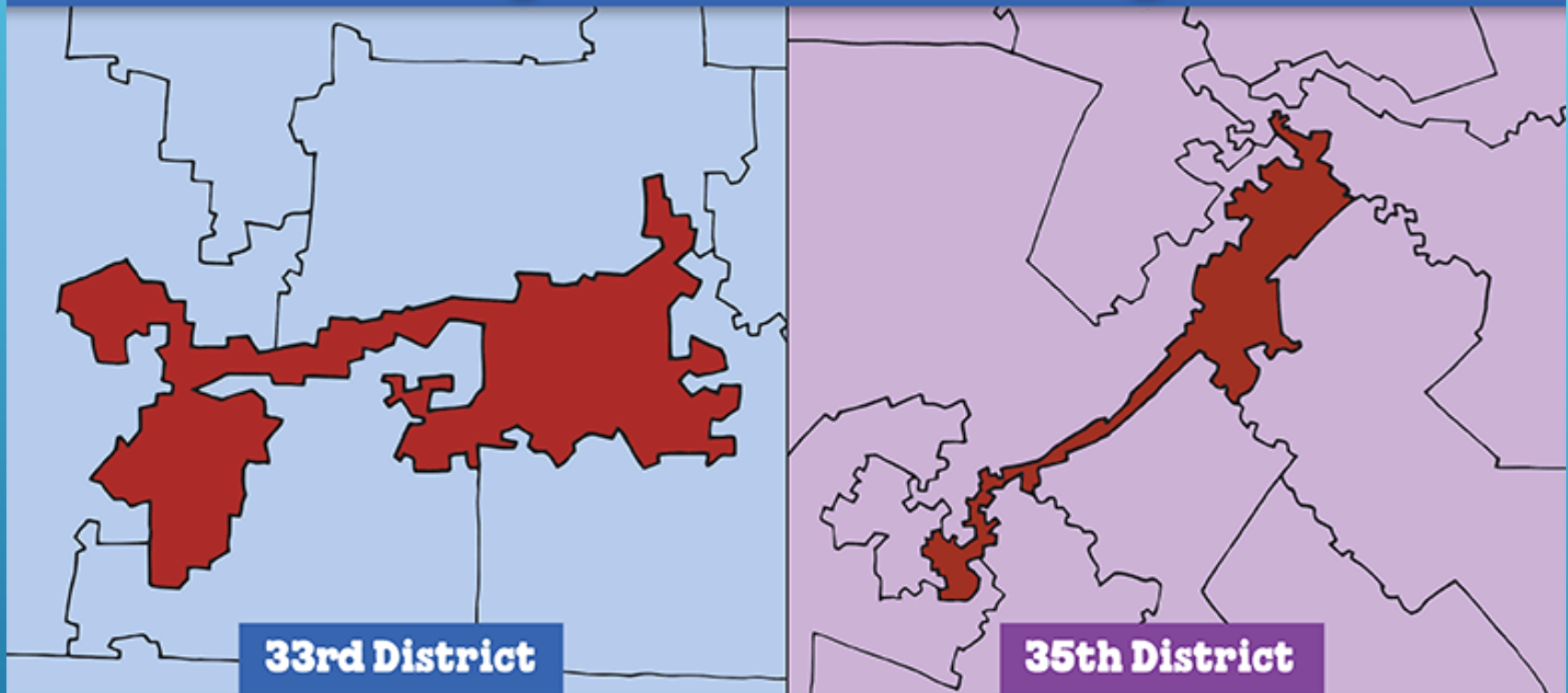
probably compact



probably not compact



Texas's Gerrymandered Voting Districts



Gerrymander: Drawing of legislative district boundaries to benefit a particular group, political party, or incumbent

Rucho v. Common Cause & Lamone v. Benisek
Partisan Gerrymandering Claims are not justiciable

CONTIGUITY

all parts of a district must be touching
contiguity by water is usually accepted

contiguous



not contiguous



VOTING RIGHTS ACT

The Voting Rights Act of 1965 is a landmark piece of federal legislation in the United States that prohibits racial discrimination in voting.

Section 2

prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one of the language minority groups identified in Section 4(f)(2) of the Act

Thornburg v. Gingles, 478 U.S. 30 (1986), Supreme Court explained that the "essence of a Section 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives when determining a violation of the statute when the racial makeup of an election district is challenged:

- (1) whether "the minority group . . . is sufficiently large and geographically compact to constitute a majority in a single-member district;"
- (2) (2) whether "the minority group . . . is politically cohesive," i.e., tends to vote as a bloc; and
- (3) (3) whether "the majority votes sufficiently as a bloc to enable it - in the absence of special circumstances . . . usually to defeat the minority's preferred candidate."

SECTION 2 LAWSUIT

The Senate Committee on the Judiciary issued a report to accompany the 1982 legislation. In that report, it suggested several factors for courts to consider when determining if, within the **totality of the circumstances** in a jurisdiction, the operation of the electoral device being challenged results in a violation of Section 2. These factors include:

1. the history of official voting-related discrimination in the state or political subdivision;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
3. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet voting;
4. the exclusion of members of the minority group from candidate slating processes;
5. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;
6. the use of overt or subtle racial appeals in political campaigns; and
7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

S.Rep. No. 97-417, 97th Cong., 2d Sess. (1982), pages 28-29.

SENATE FACTORS

VOTING RIGHTS ACT

Shelby County v. Holder is a landmark decision that invalidated a method to combat jurisdictions that had a history of discrimination in voting.

Section 5

Once required certain areas of the country to obtain preclearance from DOJ or the U.S. District Court for the District of Columbia for any changes with reference to voting.

PRECINCT AND COUNTY LINES

precinct lines may have to be split in congressional redistricting in order to satisfy one person one vote

precinct and county lines cannot be maintained at the expense of VRA or Constitution

COMMUNITIES OF INTEREST

no clear definition

examples

communities that have designated commonalities (farmers, students, celebrities, religious interests)

communities that share a language other than English



<https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx>

ALL ABOUT ■ ■ ■
REDISTRICTING

Justin Levitt, All About Redistricting,
<https://redistricting.ils.edu/>

STATE GUIDELINES

INCUMBENCY PROTECTION CONSTITUENT CONSISTENCY

keep constituent groups together in the same district as practicable

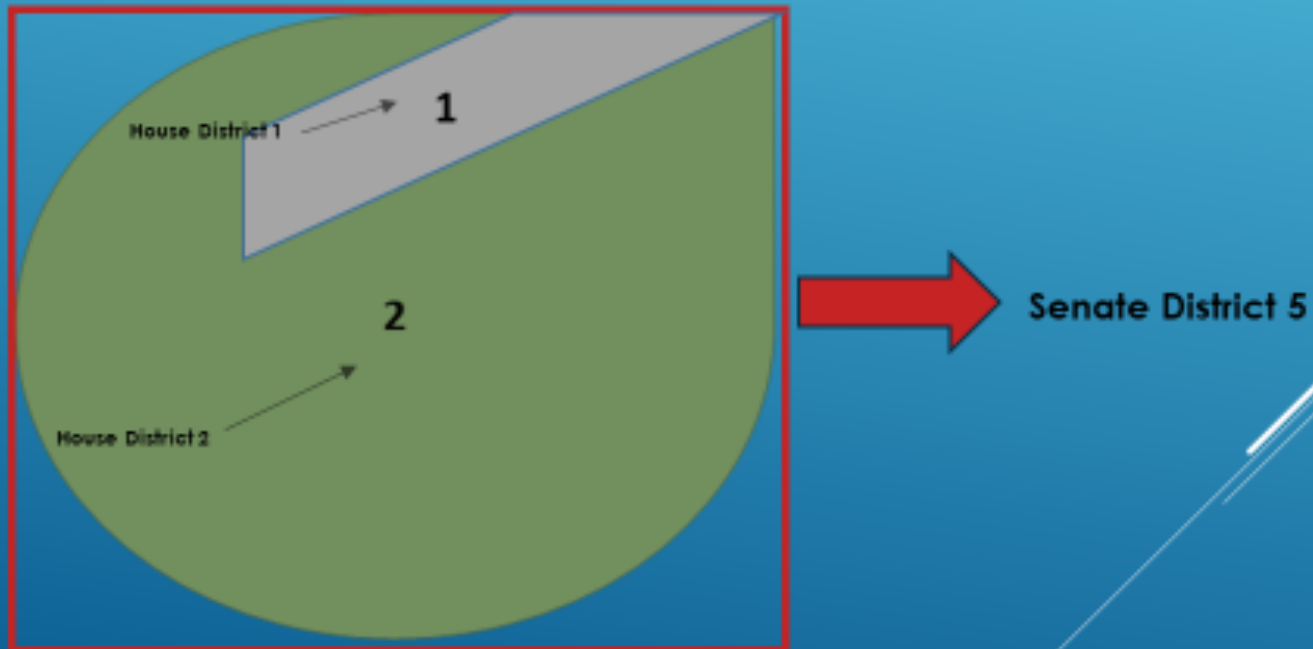
maintain the core of an incumbent's constituency

avoid placing more than one incumbent in a single district

BUT, no need to make a district winnable for the incumbent

NESTING

- ▶ **Nesting** refers the practice of using the voting districts of one body to define the voting districts of another body. For example, a state may require that each district of its upper chamber comprise two or three complete lower chamber districts.



OTHER CONSIDERATIONS:

race can be considered during redistricting

BUT, **race** must not predominate the redistricting process

other traditional redistricting principles cannot be subordinated

if **race** predominates, a plan can be challenged under the Equal Protection clause as a “racial gerrymander”

Learn Components of Redistricting
Attend Webinars, Forums, Town Halls
Determine Role(s): Mapping, Oral
Presentations
Provide Input on Plan
Attend Hearing(s)
Determine Next Steps

ROADMAP

Redistricting Data Hub, The
Princeton Gerrymandering
Project, MGGG Redistricting
Lab, NCSL, Justin Levitt, All
About Redistricting

Maptitude, ArcGIS

Districtr, Dave's Redistricting,
State mapping sources

Resources



MAPPING SOFTWARE



OPEN SOURCE MAPPING

Publicly available data can be used to define communities, draw maps, identify racial or partisan gerrymanders, and evaluate the fairness and accountability of proposed redistricting plans.



Redistricting
Data Hub

- ❑ **Public Education/Training**
- ❑ **Evaluate adopted plan/Offer alternative (Record)**
- ❑ **Determine VRA lawsuit preconditions**
- ❑ **Explore litigation**

WHAT THEN?



Public Education

- Redistricting Education
(Redistricting 101)
- Drawing/Evaluating Plans
- Law & Legal Issues

Advocacy

- Plan Consensus
- Public Hearings
- Plan Submission

Litigation

** If necessary*

**Redistricting Plan /
Strategy**

QUESTIONS

for more information:

<https://lawyerscommittee.org/>

Lawyers' Committee For Civil Rights Under Law

1500 K Street, NW, Suite 900

Washington, DC 20005

(202) 662-8600

fmcbride@lawyerscommittee.org



The Lawyers' Committee is a nonpartisan, nonprofit organization formed in 1963. Use of this electronic and any other organization material designates the Lawyers' Committee for Civil Rights Under Law does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. Please request permission to use material.