



Informational Memorandum

from the Legislative
Reference Bureau



Informational Memorandum 10-4

July 2010

Wisconsin Redistricting Chronology, 1950-2002

In Wisconsin, responsibility for redrawing legislative and congressional district lines rests with the legislature. The legislature is required to redraw legislative and congressional districts every 10 years based upon the results of the decennial federal census. Article IV of the Wisconsin Constitution contains the basic provisions concerning legislative redistricting. Under its provisions, the legislature is to be comprised of a senate and an assembly divided into single-member districts which are compact as practicable and consist of contiguous territory bounded by “county, precinct, town or ward lines”. The legislature is directed to redistrict each house at the first session following the decennial federal census; establish from 54 to 100 assembly districts; draw senate districts which do not cross assembly boundaries and which comprise not more than one-third nor less than one-quarter of the number of assembly districts. There are no Wisconsin statutory or constitutional provisions specifically relating to the apportionment of the U.S. Congress. Congressional apportionment is based on Article I, Section 2 of the U.S. Constitution which provides that “Representatives ... shall be apportioned among the several states ... according to their respective numbers.”

Although a legislative responsibility, the courts have been involved in legislative redistricting to some degree in each of the past 5 decades. In all cases, judicial intervention was the result of the legislature and the governor failing to agree on a plan to redraw legislative district boundaries. In contrast, the legislature has had comparatively little difficulty in enacting congressional redistricting plans, even in cases where the number of seats have been reduced due to relative population growth.

The following chronology summarizes legislative and judicial involvement in redistricting beginning with the 1950 decade which represented the first attempt to draw legislative districts on the one person, one vote principle. That principle became a national standard in the 1960's following a series of decisions by the U.S. Supreme which firmly established equal population as a basic tenet of state legislative redistricting.

The 1950s. The legislature redrew legislative districts following the 1950 census. In July 1950, the Legislative Council created a reapportionment committee consisting of 2 senators, 3 representatives, and 3 public members. The committee became known as the “Rosenberry Committee” after its chairperson, Marvin B. Rosenberry, a former chief justice of the Wisconsin Supreme Court. The committee’s recommendations were submitted to the 1951 Legislature and formed the basis of the legislative redistricting plan adopted by the 1951 Legislature. Chapter 728, Laws of 1951, the “Rosenberry Act,” represented the first full statewide reapportionment since 1921 and was based solely on the premise of making legislative districts as equal in population as possible. The constitutionality of the plan was upheld by the Wisconsin Supreme Court, and the plan, with several minor adjustments, served for the remainder of the decade. No changes in the boundaries of Wisconsin’s 10 congressional districts were made during the decade.

The 1960s. Following the 1960 census, a Republican-controlled legislature and Democratic governors were unable to agree on a legislative redistricting plan during the 1961 and 1963 sessions. In 1964, the Wisconsin Supreme Court established the legislative districts which served for the remainder of the decade.

The legislature failed to redistrict legislative or congressional districts during the 1961 session. Meeting simultaneously in regular and special session in June 1962, the legislature considered 4 bills

for congressional redistricting, 5 bills for legislative reapportionment, and 8 joint resolutions proposing amendments to the Wisconsin Constitution relating to reapportionment. Two congressional and one legislative bill passed but were vetoed by Governor Gaylord Nelson.

The 1963 Legislature again failed to enact a legislative plan which was acceptable to the governor. When Governor John Reynolds vetoed a legislative plan, the legislature proceeded to reenact the vetoed plan in the form of a joint resolution (1963 Senate Joint Resolution 74). The Wisconsin Supreme Court held that plan invalid because the governor was improperly excluded (*State ex rel. Reynolds v. Zimmerman*, 22 Wis. (2d) 544) and eventually promulgated its own "temporary" legislative redistricting plan in May 1964 (*State ex rel. Reynolds v. Zimmerman*, 23 Wis.. (2d) 606). The plan was used for the 1964 legislative elections and, in the absence of a legislatively-enacted plan, served for the remainder of the decade. A bill to redraw congressional districts was passed by the 1963 Legislature and was signed into law as Chapter 36, Laws of 1963.

The 1970s. The 1971 Legislature redistricted Wisconsin's 9 congressional districts (Chapter 133, Laws of 1971) and after several unsuccessful attempts and the threat of judicial action, eventually succeeded in enacting a legislative plan (Chapter 304, Laws of 1971).

Following the 1970 census, political control was again divided. The Democratic governor, Patrick Lucey, and a legislature which had a Republican majority in the Senate and Democratic majority in the Assembly, failed to adopt a plan. A 12-member commission of citizens and legislators appointed by the governor also failed to reach agreement. When the legislature recessed in March 1972 without agreeing on a legislative redistricting plan, a federal court suit was filed requesting the court to reapportion the legislature. In addition, Attorney General Robert Warren petitioned the Wisconsin Supreme Court to carry out the reapportionment. The Wisconsin Supreme Court set a deadline for the legislature to act before the act before the court would undertake the task of redrawing legislative districts. Acting in the shadow of this deadline and the threat of imminent court action, the legislature met in special session and passed a legislative plan which was signed by the governor (Chapter 304, Laws of 1971).

The 1980s. A Democratic-controlled legislature and a Republican governor were unable to agree on a legislative plan and a 3-judge federal panel in June 1982 promulgated a legislative redistricting plan (*AFL-CIO v. Elections Board*, 543 F. Supp. 630 (E.D. Wis. 1981)) to govern the November 1982 elections to all 99 assembly districts and 17 of 33 senate districts. In July 1983, the court plan was superseded by the legislative redistricting enacted by the legislature and signed into law by Governor Earl (1983 Wisconsin Act 29). The 1981 Legislature adopted a congressional redistricting plan (Chapters 154 and 155, Laws of 1981) after an earlier plan was vetoed by Governor Lee Dreyfus.

The 1990s. Although both houses of the Legislature were controlled by Democrats, Republican Governor Tommy Thompson used his veto authority to reject a plan (1991 SB-578) passed by legislature. Subsequently, the U.S. District Court for the Western District of Wisconsin promulgated a legislative redistricting plan in June 2002 (*Prosser et al. v. Elections Board et al.*, 793 F. Supp. 859 (W.D. Wis. 1992)) that remained in effect for the remainder of the decade.

A congressional redistricting plan was enacted by the Legislature in 1991 Wisconsin Act 256.

The 2000s. With partisan control split in the two houses, there was little likelihood of agreement on a redistricting plan. Each house passed a plan but neither was acted upon by the other house. As a result, the federal district court was once again called upon to promulgate a plan and it did so in *Baumgart et al. v. Wendelberger et al.* (Case No. 01-C-0121, E.D. Wis.); revised order issued in July 2002.

Although Wisconsin's 2000 Census population resulted in the loss of a ninth congressional seat, the Legislature reached agreement on a 8-district congressional plan (2001 Wisconsin Act 46).