Arizona Redistricting & Reapportionment

INTRODUCTION

This issue brief addresses redistricting and reapportionment, including the history of Arizona’s 2000 redistricting plan, the 2010 census timeline, and the history of Arizona’s 2010 redistricting plan.

REAPPORTIONMENT

Redistricting and reapportionment are terms that are often used interchangeably when discussing the process that occurs every ten years across the country. In actuality, “redistricting” is the process of redrawing the specific congressional district and legislative district boundaries, while “reapportionment” is the process of reallocating the 435 seats in Congress among the 50 states, based on each state’s population total as determined in the decennial census. Reapportionment of Congress every ten years is mandated in the U.S. Constitution and is the underlying purpose for taking the Census although the population count also affects the allocation of federal funding to local, state and tribal governments. Federal law outlines the mathematical formula for determining how to calculate each state’s representation in Congress, based on total population, but with a guarantee that each state will receive at least one seat in the U.S. House of Representatives. As a result of population growth, Arizona’s congressional membership increased from six in the 1990s to eight, effective in 2002, and increased again from eight to nine, effective in 2012.

REDISTRICTING

Since the late 1960s, the Arizona Legislature has consisted of 30 legislative districts, each of which is represented by two members of the Arizona House of Representatives and one member of the Arizona Senate. The 30 districts have been redrawn every ten years after the Census, generally by passage of a bill by the Legislature that describes the boundaries of the districts. The U.S. Supreme Court has established two different standards for reviewing
population variations for districts within a state, with one standard for state legislative districts and a higher standard for a state’s congressional districts. For a state’s legislative districts, the Supreme Court has ruled that districts must be “substantially equal” in population, which is generally interpreted as having less than a ten percent difference between the most populous and least populous districts. For a state’s congressional districts, the Supreme Court has held that district population totals must be “as nearly equal as practicable,” which requires a good-faith effort to achieve precise mathematical equality.

Independent Redistricting Commission

With the approval of Proposition 106 at the 2000 general election, the job of drawing Arizona’s congressional and legislative district lines was transferred from the Legislature to the five-member Independent Redistricting Commission (IRC). The Commission on Appellate Court Appointments (Appellate Commission) nominates a pool of 25 applicants who are required to meet specific criteria regarding geographic representation, political affiliation, and political employment and activity. The first four members are selected in succession by each of the four caucus leaders at the Legislature, with those four Commissioners then selecting a fifth person from the pool of applicants to serve as the chair of the IRC.

The IRC begins the mapping process by creating districts of equal population in a grid-like pattern across Arizona. Adjustments to the districts are made to accommodate compliance with the U.S. Constitution and the Voting Rights Act and to the extent practicable, the following five goals:

1. equal population for the congressional districts and equal population for the state legislative districts;
2. geographic compactness and contiguousness;
3. boundaries that must respect communities of interest;
4. use of visible geographic features, city, town and county boundaries and undivided census tracts; and
5. favoring the creation of competitive district without significant detriment to the other goals.

The IRC adopts congressional and legislative district boundaries after holding hearings and receiving comment from the public and the Legislature, as provided in Proposition 106. On adoption by the IRC, the new district boundaries are subject to review and preclearance by the U.S. Department of Justice (DOJ) under the Voting Rights Act, just like any other change in Arizona’s election laws or procedures. Once precleared, the new districts are used for all subsequent legislative and congressional elections.

2000 Redistricting Plan

The IRC adopted the equal population grid for the congressional and legislative districts on June 7, 2001. The grid was required by Proposition 106 as the initial starting point for districts and was based on Arizona’s Township, Range and Section Public Land Survey System.

The Commissioners traveled around the state in the summer of 2001 conducting public hearings. The purpose of the hearings was to present information about the redrawing of Arizona’s congressional and legislative districts and to hear input from citizens about redistricting.

Draft district maps were adopted by the IRC in August 2001. The draft maps incorporated modifications to the initial grids to accommodate many of Proposition 106’s redistricting goals, such as respect for “communities of interest.” The draft maps were available for public comment for at least 30 days and were adopted and submitted to the DOJ for preclearance.

Following DOJ objections to the legislative maps, the IRC developed an emergency interim legislative plan. On May 29, 2002, the United States District Court ordered the emergency interim
maps be used in the fall 2002 legislative elections. The IRC adjusted the interim plan and advertised the map to the public for 30 days. On August 14, 2002, the IRC adopted a final legislative district map, which was precleared by the DOJ in February 2003.

In January 2004, the Maricopa County Superior Court found that the maps drawn by the IRC failed to meet a constitutional mandate requiring districts to be made politically competitive to the best extent possible. The Superior Court found that the IRC’s failure to adequately take competition in the districts into account violated the rights of Arizona voters and resulted in maps that were unfair. The court approved an injunction against using the maps in the 2004 election and ordered the IRC to reconvene within 45 days to adopt a new plan for use in the 2004 election. The Superior Court approved a reworked IRC map in April 2004 and ordered the IRC to submit the new map to the DOJ.

In May 2004, the Arizona Court of Appeals granted a stay of the Superior Court injunction to allow the 2002 maps to be used in the 2004 election, finding that it was too late into the election cycle to redraw the maps. The reworked IRC map was withdrawn from submission to the DOJ.

In October 2005, the Arizona Court of Appeals rendered a decision regarding the maps. It reversed the portion of the January 2004 judgment that invalidated the legislative redistricting map and remanded the case to the Superior Court for further review. It directed the Superior Court to apply another standard of review to the case and to determine whether a new trial or additional evidence or arguments were warranted. The Court of Appeals vacated the Superior Court’s judgment that approved the reworked IRC map in April 2004.

The Superior Court utilized a more deferential standard of review but again found that the IRC’s plan violated the Arizona Constitution. Specifically, the court found that the IRC did not sufficiently favor competitiveness because the IRC never found that competitive districts were not practicable or would cause significant detriment to the other constitutional goals. Since the plan violated the Constitution, the IRC could not utilize the plan in any upcoming elections, effective on March 7, 2007. The IRC appealed and in April 2008, the Arizona Court of Appeals reversed the trial court’s findings and held that the IRC properly considered competitiveness as required by the Arizona Constitution. The Court of Appeals concluded that the IRC’s findings were supported by substantial evidence that a more competitive plan would cause a significant detriment to the other five constitutional goals.

The Arizona Supreme Court accepted the petition to review and issued a decision in May 2009. The Supreme Court’s analysis began by determining the standard of review for the IRC’s process. The Supreme Court found that the IRC acts as a legislative body since the IRC exercises discretion and makes policy decisions when drawing district boundaries, the IRC’s enactments carry the “force of law” and the IRC’s function is traditionally a legislative task. The Supreme Court applied the standard afforded to legislative acts and determined that the IRC fulfilled its responsibility to attempt to accommodate all six constitutional goals during its process.

Additionally, the Superior Court concluded that the IRC did not violate the Arizona Constitution by advertising a draft map before the map was adjusted to accommodate competitiveness because the IRC later advertised an adjusted draft map. Finally, the Supreme Court held that the redistricting plan had a reasonable basis because there was no showing that a reasonable commission would not have adopted the plan. Therefore, the IRC complied with substantive constitutional requirements. The Arizona Supreme Court vacated the opinion of the Court of Appeals, reversed the judgment of the trial court and remanded the case to the trial court with instructions to enter a judgment in favor of the IRC.
The 2010 Census utilized a short form and included questions regarding name, gender, age, origin, race, relationship and housing. In March 2010, the U.S. Census Bureau began mailing and delivering the census forms to households. The first day of April was designated as National Census Day to encourage participation and census takers visited households from April through July to collect census forms. The U.S. Census Bureau was required to deliver the population information to the President of the United States by December 31, 2010, and when Congress convened, the President issued a statement specifying the apportionment of the 435 seats. Federal law required that the redistricting data be delivered to all the states by April 1, 2011.

The IRC approved and adopted tentative final maps in January 2012, and submitted the maps to DOJ for preclearance in February. In April 2012, DOJ pre-cleared the legislative and congressional district maps submitted by the IRC for use in the 2012 election cycle.

Draft district maps were adopted by the IRC in October 2011. The draft maps reflected changes made to the initial grid maps in consideration of the redistricting goals set forth by Proposition 106. The draft maps were available for public comment for at least 30 days.

On November 1, 2011, Arizona Governor Janice K. Brewer exercised a provision under Article 4, Part 2, § 1 of the Arizona Constitution that permits removal of an IRC commissioner, with the concurrence of two-thirds of the Senate. As such, two-thirds of the Senate concurred in the removal of Chairperson Colleen Mathis. The Arizona Supreme Court, after a subsequent hearing on the matter, held that the Governor’s stated grounds for removing Mathis did not meet the constitutional requirements for removal and reinstated Mathis to the Commission.

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1 *Arizona Independent Redistricting Comm'n v. Brewer*, 229 Ariz. 347, 275 P.3d 1267
**ADDITIONAL RESOURCES**

- Independent Redistricting Commission

- Arizona Judicial Nominating Commissions (for agendas, minutes and notices regarding the Appellate Commission)
  [http://www.supreme.state.az.us/jnc/default.htm](http://www.supreme.state.az.us/jnc/default.htm)

- Arizona Court Rules Forum (to review and comment on the “Procedures for Nominations for the IRC”)
  [http://www.supreme.state.az.us/rules/](http://www.supreme.state.az.us/rules/)

- 2010 Census

- National Conference of State Legislatures, Elections

- U.S. Department of Justice, Civil Rights Division, Voting Section

- Arizona Redistricting Law: Arizona Constitution Art. IV, part 2, § 1