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REDISTRICTING BASICS

WHAT and WHY

Redistricting is the process of drawing new legislative and congressional district lines so they are of equal (or very close to equal) population to achieve the goal of one person, one vote. This is done using new population data from the U.S. Census. In Oregon there are 60 State House districts and 30 State Senate districts. Every 10 years these district boundaries are redrawn, which can mean their geographic size will likely grow or shrink to ensure that the population in each district is the same or only slightly varies in population.

Oregon's population grew 12 percent to 3,831,074 residents as counted during the 2010 Census. Dividing total population by sixty results in a population target for each house district of 63,851 residents, or close to that number since some deviation is allowed if needed to meet other redistricting criteria. Since senate districts include two house districts, their target population is 127,702. April 1st, 2011 is the deadline for more detailed census results, but Oregon data was released in late February.

In 2001's redistricting process the population target for a house district was 57,023 residents. Since then overall population has increased, but that growth hasn't been equally distributed. For example, Washington County has gained population at a higher rate than the state average especially compared to many rural counties. Since each legislative district has to have equal population that means that Washington County districts will be smaller and districts in much of eastern Oregon will grow larger in terms of land mass.

There are five Congressional districts in Oregon. The U.S. House of Representatives has 435 members and the number of districts in each state is determined every 10 years based on population. This process is called reapportionment and can mean that states whose population growth is higher than the national average may gain a congressional district while states that have lost population or are slower growing may lose one or more districts. Oregon neither gained nor lost a congressional district in the reapportionment based on the 2010 Census.

WHO and WHEN

As in most states, Oregon legislators are given the initial authority for redistricting or drawing new legislative and congressional district maps. This means that legislators are picking their voters, which contributes to redistricting being an intensely partisan activity. Redistricting commissions are used in some states with a variety of membership configurations and methods of selection. Though public trust is potentially undermined when elected officials draw district lines, it should be noted that drawing new district maps is still a political process even when the task is given to a redistricting commission.

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July 1st is the deadline for legislative redistricting, a very tight timeline since detailed Oregon census data is expected to be available in mid to late March. As has frequently occurred in Oregon, if legislators can't agree on a plan or the governor vetoes their bill, the Secretary of State becomes responsible for redrawing legislative districts. Federal courts are the back up to ensure that congressional districts are drawn if the legislature can't agree on a plan or their bill for those districts is vetoed. The tight timeline continues, for example, the Secretary of State has only six weeks between July 1st and August 15th to prepare a new legislative redistricting plan.

If legal challenges are made to a legislative redistricting plan, the Oregon Supreme Court must wrap up its review by November 15th. If the Secretary of State has stepped in to draw legislative districts and that plan is challenged, the Oregon Supreme Court must complete its review by December 15th. There are no deadlines for action by federal court if the legislature cannot agree on a congressional redistricting plan.

Gerrymandering and Oregon's 2011 Political Dynamics

Gerrymandering is a frequently used redistricting term from the name of a Massachusetts governor, Elbridge Gerry, who signed a redistricting bill that included an oddly shaped district resembling a salamander, reportedly drawn to give political advantage to his party.

Gerrymandering generally refers to the manipulation of district lines to affect political power. Racial gerrymandering has historically meant drawing district lines to disenfranchise minority populations, but can mean increasing the chances for electoral success by a candidate of color. Partisan gerrymandering is drawing district lines in favor of a political party. Incumbent protection or "sweetheart gerrymandering" is when the two major political parties draw district lines that enables each party to maintain districts it controls at the time redistricting is done.

The politics of the 2011 redistricting are obviously affected by the tie between the two parties in the Oregon House and the narrow advantage that Democrats have in the Oregon Senate. That the Senate Redistricting Committee includes equal numbers of Democrats and Republicans (even though the full Senate is not equally split) appears to indicate a genuine interest in a bipartisan redistricting process with the House Redistricting Committee. This political environment could result in "sweetheart gerrymandering" to the detriment of consideration of other redistricting criteria. A legislative redistricting bill, however, must still be signed by Governor Kitzhaber.

WHY IMPORTANT with OREGON CONSIDERATIONS

The Brennan Center for Justice handout on Why Redistricting Matters identifies the following redistricting problems. Oregon law, however, mitigates some of these problems.

- Politicians choose their own voters, which can lead to elected officials drawing district lines that keep incumbents of both parties safe.
- Packing partisans or drawing districts so that voters from one party are "packed" so that candidates from that party will be successful there but have less opportunity to be competitive in other districts.
- Eliminating incumbents and/or eliminating challengers.
- Diluting minority votes to decrease opportunities for election of candidates of color.
- Splitting communities so that no representative feels responsibility for concerns of some district residents.

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One mitigating factor to redistricting problems is that Oregon law (see criteria list below) forbids drawing district lines to benefit incumbents or for political advantage. Oregon also does not allow diluting the voting strength of minorities. Another Oregon consideration is that the legislature has frequently failed to adopt successful district maps, or the governor vetoed redistricting bills. The Secretary of State did redistricting in 1991 and 2001 and adjustments to legislative plans have also been frequently required.

OREGON CRITERIA

Criteria for redistricting in Oregon are in ORS 188.010 and outlined below:

- Each districts, as nearly as practicable, shall:
 - Be contiguous;
 - Be of equal population;
 - Utilize existing geographic or political boundaries;
 - Not divide communities of common interest; and
 - Be connected by transportation links.
- No district shall be drawn for the purpose of favoring any political party, incumbent legislator or other person.
- No district shall be drawn for the purpose of diluting the voting strength of any language or ethnic minority group.
- Two state House of Representative districts shall be wholly included within a single state senatorial district.

LEGAL CONSIDERATIONS and RACE

Though both federal and Oregon law bans the dilution of minority voting strength, there are legal cautions related to drawing district maps to facilitate the electoral success of candidates of color. It is legal to draw “majority-minority” or “minority opportunity” districts. In one U.S. Supreme Court decision, however, Judge Sandra Day O’Connor wrote that “appearance matters” and was concerned about the map being “so bizarre on its face that it is ‘unexplainable on grounds other than race.’” Other federal litigation indicates that race may be a motivating factor but not the predominant consideration in redistricting. Race can also not be used as a proxy for political affiliation. It is worth repeating, however, that it is legal to draw “majority-minority” or “minority opportunity” districts and Common Cause Oregon supports this goal since our legislature does not reflect the diversity of our state.

GETTING INVOLVED

Public hearings are not required, but have been prominent parts of line drawing by both the legislature and the Secretary of State. The legislative process takes the form of passing a bill that describes district maps. In 2011, the House Redistricting Committee is evenly split between Republicans and Democrats to reflect the tie in that legislative body. Though Democrats narrowly control the Senate, that body’s Redistricting Committee is evenly split. Governor Kitzhaber must still sign a redistricting bill.

Participating in either legislative or Secretary of State hearings is very important to be sure there is local input on what constitutes communities of interest. Common Cause Oregon also anticipates working with the Public Mapping Project to provide independent opportunities to draw maps of communities of interest.

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DEFINING COMMUNITIES OF INTEREST

Probably the most difficult aspect of redistricting is deciding what constitutes communities of interest. Political jurisdictions, particularly cities and counties, are of particular importance in thinking about communities of interest, as seen in past guidelines below. But communities of interest are more than just political boundaries, especially when a district will be smaller or larger than a city or county and require other input for line drawing.

To testify on your community of interest, think about how you'd describe your area to an out-of-town visitor. What are community issues, community history, community centers, important landmarks, or common characteristics of residents? Getting local input on this topic is essential since a claim of community interest can sometimes be a cloak for drawing a district line for political advantage. Or lines can be drawn in a way that some residents lose their political voice. More positively, voters are empowered when those with similar interests are drawn into the same district with greater opportunities to elect candidates of their choice and express their views.

To provide additional guidance about communities of interest Secretary of State Phil Keisling adopted the following three principles during his 1991 redistricting. In 2001, Secretary of State Bill Bradbury also used these three principles and also sought "no division of cities with less than 58,000 population and serious consideration of the role that counties play in rural areas."

1. Fully incorporate cities within a single district when possible. Possible exceptions are below with a possible guideline being that the more dependent a city's economy is on resources in unincorporated areas the more justifiable to divide
 - a. City boundaries cross a county line (e.g. Lake Oswego; Mill City)
 - b. Can be shown that compelling interest exists to divide.
 - c. If a city is divided, at a minimum it should be reunited in a Senate district, not further divided.
2. Respect for County Boundaries with the possible exception being to cross county lines to maximize minority representation.
 - a. Wherever practicable, a county that could be wholly incorporated in a single district should not be divided among more than two districts; if in two, then among three; if in three, then among four, etc.
 - b. Especially pay heed to county lines in more rural areas, where community activities are more tied to counties.
3. Minimize Population Deviation
 - a. West side of the Cascades, to $\pm 1\%$ population deviation; more urban a district, the less deviation within that range.
 - b. For the approximately eight districts East of the Cascades, allow up to $\pm 3\%$, if:
 - Such deviation is necessary to meet other strategies, especially with respect to county boundaries and/or community of interest
 - Such deviation does not have adverse effects on the West
 - If East is short, explore desirability/legality of compensating with higher populations in the four Jackson/Josephine Districts that would logically complete the Second Congressional District.
 - A possible guideline is that among these eight districts to under populate those most likely to grow in next decade while keeping close to zero deviation or slightly overpopulate those likely to lose population.

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