

Redistricting News

Nevada State Legislature Legislative Counsel Bureau



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Introduction

The fourth meeting of the Legislative Commission's Committee on Reapportionment and Redistricting was held on September 29, 2000, in Carson City, Nevada, and was video-conferenced to Las Vegas, Nevada. This issue of the Redistricting News highlights some of the material presented to the Committee at the meeting.

In addition to the items reported in this newsletter, the Committee was given a presentation on alternative display screen technologies for viewing proposed redistricting plans, considered a draft of the 120-day legislative calendar, discussed potential costs associated with increasing the number of legislators and staff, and listened to presentations from various entities representing interests of Nevada's minority populations.

More detailed information concerning any topics discussed at the meeting may be obtained by contacting the Research Library of the Legislative Counsel Bureau (LCB) at 775-684-6827.



Census Official Visits Nevada

Marshall Turner, Jr., the Chief of the Census 2000 Data Office, U.S. Bureau of the Census, provided the Committee with an overview of two topics. The first topic was the status of the 2000 Census and some of the quality control measures that have gone into the Census. The second topic related to the Census data that will be provided to the state.

Census 2000 Update

Mr. Turner reported that as of the end of September 2000, the cost of conducting the 2000 Census was \$300 million under budget. In Nevada, residents responded with a mail return rate of 66 percent. The national response rate was 67 percent in 2000, but only

65 percent in 1990. Mr. Turner credited the high response rate for the cost savings in the conduct of the Census.

He explained procedures used by the Census Bureau to ensure that a full and accurate count of the population is achieved. Mr. Turner stated that when people do not return their Census forms, they must still be counted. April 1, 2000, was Census Day, and by early-May field enumerators were contacting households that had failed to send in their Census forms. In addition, he said that enumerators were sent out to reenumerate households that reported more than six people (the census forms only accommodate reporting of up to six people per household). Enumerators also double-checked housing units that may have been erroneously reported as being vacant or cases where census forms were returned with no data. In addition, enumerators checked information regarding newly constructed housing units, information concerning people who have more than one residence (including so-called "snowbirds"), and addresses that the U.S. Postal Service had reported as "undeliverable addresses."

Mr. Turner also discussed the accuracy and coverage evaluation (ACE) program. Under this program the Census Bureau takes a random sample of 314,000 households and reenumerates those households in order to determine if the original census either undercounted or overcounted the actual population. He stressed that the ACE results would not be used to provide adjusted population data unless the methodology was determined to be statistically sound.

Census Data to be Provided

Mr. Turner advised the Committee that state population totals will be delivered to the President of the United States by December 31, 2000. He indicated that as a result of a U.S. Supreme Court decision (Department of

(Continued on Page 2) 

(Continued from Page 1)

Commerce, et al. v. United States House of Representatives, et al.), the population totals provided to the President will not reflect the final quality control check done as part of the ACE program. He also noted that federal law prohibits the use of sampling techniques for apportionment of representatives in the U.S. Congress.

The Census Bureau will provide not only state population totals, but data on (1) voting age population, (2) the number of Hispanic individuals, and (3) population figures by race. This information will be tabulated by counties, county subdivisions, places (cities), census tracts, census blocks, and voting districts (election precincts). Information also will be provided for state Senate and Assembly districts. This census data will be delivered by April 1, 2001, to the Governor of Nevada and to the State's majority and minority legislative leaders. In addition, this data will be publicly available on the Census Bureau's website (www.census.gov).



Multimember Legislative Districts

Staff of the LCB presented to the Committee information concerning multimember districts. A multimember district is a district that elects two or more members to a legislative body.

Legal Issues Concerning Use of Multimember Legislative Districts

Scott G. Wasserman, Chief Deputy Legislative Counsel, Legal Division, LCB, reported on the legal issues concerning use of multimember legislative districts in Nevada and other state legislatures. He noted that in *Reynolds v. Sims*, 377 U.S. 533 (1964), a landmark case decided by the U.S. Supreme Court in 1964, the Court held that both houses of a bicameral legislature must be apportioned on the basis of population. It was this decision that started the process of putting an end to the practice of assigning legislators in one house just on the basis of counties regardless of population. The Court held that

multimember legislative districts could be used in one or both houses of the legislature. In 1971, the Court reaffirmed its holding that the use of multimember state legislative districts is not per se unconstitutional but may be subject to a challenge where the circumstances of a particular case operate to minimize or cancel out the voting strength of a minority group.

In 1986, the Supreme Court created a three-part test to be used to determine whether a multimember district operates to dilute or cancel the voting strength of a minority group. First, the minority group must show that it is sufficiently large and geographically compact to constitute a majority in a single member district. Second, it must be demonstrated that the minority group is politically cohesive. Third, the minority group must demonstrate that the majority usually votes sufficiently as a block to enable it to defeat the candidate preferred by the minority group. After these factors are demonstrated, the Court must find that, based on the totality of the circumstances, members of a protected class have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

This test also is now used to show that single member districts may be used in an unconstitutional manner such as when packing or fracturing is present.

In 1972, a federal district court, in *Stewart v. O'Callaghan*, held that the use of multimember districts in Nevada for the election of senators in urban counties was not constitutionally impermissible in the absence of a showing that the use operated to dilute or cancel the voting strength of any segment of political grouping.

Mr. Wasserman noted that while the Supreme Court has repeatedly held that the use of multimember districts is not unconstitutional per se, in cases of court-ordered reapportionment schemes, the Court prefers single-member districts to large multimember districts. In addition, in regard to congressional districts,



Assembly Speaker Emeritus Joseph E. Dini, Jr., participates in his fourth redistricting process as a Nevada legislator.



Committee Chair, Senator Ann O'Connell (seated) confers with Committee member, Senator Dina Titus (standing) during the September 29, 2000, meeting of the Legislative Commission's Committee on Reapportionment and Redistricting.



(Continued on Page 3)



(Continued from Page 2)

federal law prohibits the use of multimember districts.

History of Multimember Legislative Districts in Nevada

Brian L. Davie, Legislative Services Officer, LCB, explained that multimember legislative districts have been in use in Nevada since statehood. From 1861 through 1961, counties were the basic unit of redistricting. Several different counties—apparently depending on population and the boom and bust cycles—served as multimember districts ranging in size from 2 to 4 members in the Senate and from 2 to 14 members in the Assembly.

With the advent of population-based redistricting for both houses of the Legislature in 1965, the use of multimember districts continued. In the 1965 reapportionment, the 20-member Senate had 11 single-member districts and 2 multimember districts. The multimember districts included a five-member Clark County district and a four-member Washoe/Storey County

district. The 40-member Assembly had seven single-member districts; two nine-member districts (one each in Clark and Washoe/Storey Counties); one three-member district (in Washoe County); and six two-member districts (in Clark, Douglas/Ormsby, Elko, and Lincoln/White Pine Counties).

Under the 1971 reapportionment, the Senate had seven single-member districts, a four-member district in Washoe County, and seven-member and two-member districts in Clark County. The Assembly in 1971 shifted to all single-member districts and has remained under the same configuration ever since.

In the 1981 reapportionment, the 21-member Nevada Senate created seven single-member districts, five two-member districts in Clark County, and two two-member districts in Washoe County.

Under the 1991 reapportionment plan, the Senate provided for 11 single-member districts and only retained multimember districts in Clark County, with five two-member districts.

Use of Multimember Districts in Other States

Robert E. Erickson, Research Director, LCB, explained that multimember legislative districts are used not only in Nevada, but in 12 other states as well. He noted that Vermont and New Hampshire have the largest number of seats in multimember districts. For example, Vermont has 30 state senators and 13 senate districts. There are six senators in that state's largest multimember district. New Hampshire has 400 House members and only 132 House districts. There are 36 House members in that state's largest multimember district.

The tables shown on this page summarize information concerning multimember legislative districts used in Nevada and other states.



Proposed Rules for Reapportionment and Redistricting

Scott G. Wasserman, Chief Deputy Legislative Counsel, Legal Division, LCB, reported on proposed rules for reapportionment and redistricting. The rules, which may be reviewed in their entirety at the LCB's Research Library, are designed to promote the development of constitutionally acceptable redistricting plans and address the following general topics:

1. **Equality of Representation**—State legislative districts must have only minor deviations in population between districts, and the population of each of the Nevada congressional districts must be as nearly equal as is practicable. Equality of population in accordance with the standards for state legislative districts also is the goal of redistricting for the State Board of Education and the Board of Regents.
2. **Population Database for Redistricting**—The total state population, and the population of defined subunits thereof, as determined by the 2000 Census shall

Table 1: State Senate

State	Number of Senators	Number of Districts	Number of Multimember Districts	Largest Number of Seats in a District
Nevada	21	16	5	2
North Carolina	50	42	8	2
Vermont	30	13	10	6
West Virginia	34	17	17	2

Table 2: State Assembly or House of Representatives

State	Number of House Members	Number of Districts	Number of Multimember Districts	Largest Number of Seats in a District
Arizona	60	30	30	2
Arkansas	100	97	2	3
Idaho	70	35	35	2
Maryland	141	63	44	3
New Hampshire	400	132	74	36
New Jersey	80	40	40	2
North Carolina	120	98	17	3
North Dakota	98	49	49	2
South Dakota	70	35	35	2
Vermont	150	108	42	2
Washington	98	49	49	2
West Virginia	100	56	23	7

Source: National Conference of State Legislatures (NCSL), 1999; The Book of the States, 2000

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(Continued on Page 4) 

(Continued from Page 3)

be the exclusive database for redistricting by the Nevada Legislature.

3. **Districts**—All district boundaries created by a redistricting plan must follow the census geography.
4. **Procedures of the Redistricting Committees**—Legislative measures relating to redistricting of state

legislative districts, congressional districts, districts for the Board of Regents or districts for the State Board of Education may only be requested by the chairs of the redistricting committees (the committee in each house having jurisdiction over legislative measures relating to redistricting). The chairs of the redistricting committees shall be limited to one request each for a bill draft for the redistricting of the

state legislative districts, one request each for a bill draft for the redistricting of the congressional districts, one request each for a bill draft for the redistricting of the districts for the Board of Regents and one request each for a bill draft for the redistricting of the districts for the State Board of Education.

5. **Compliance with the Voting Rights Act**—The redistricting committees will not consider a plan that violates Section 2 of the Voting Rights Act, which prohibits any state from imposing any voting qualification, standard, practice or procedure that results in the denial or abridgment of any United States citizen's right to vote on account of race, color or status as a member of a language minority group. More specifically, the redistricting committees will not consider a plan that is racially gerrymandered. For the purpose of analyzing the 2000 Census data, the redistricting committees shall adopt the method set forth in the Office of Management and Budget Bulletin No. 00-02 for aggregating and allocating the 63 categories of race data that will be reported to Nevada by the Census Bureau as part of the federal decennial census.
6. **Public Participation**—The redistricting committees shall seek and encourage public participation in all aspects of the reapportionment and redistricting activities and the widest range of public input into the deliberations relating to those activities. In addition, the LCB shall make available to the public copies of the validated 2000 Census database for the cost of reproducing the database, and the redistricting committees shall make available for review by the public, copies of all maps prepared at the direction of the committees.

Elections Database for 2001 Redistricting

Brian L. Davie, Legislative Services Officer, LCB, furnished information to the Committee concerning the statewide general elections in Nevada and data from those elections that could be included in an elections database for use in the redistricting task of the 2001 Nevada Legislature. He explained that political gerrymandering is a justiciable issue under the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. In response to a 1986 U.S. Supreme Court case (*Davis v. Bandemer*), national experts on reapportionment indicated that state legislatures should have sufficient election and voter registration data to compare the effects of their redistricting plans to help ensure that unconstitutional discrimination does not result.

For the 1991 redistricting, the Nevada Legislature created an elections database to provide some measure of comparison of voting patterns over several election cycles between the two major political

parties for the most competitive statewide election contests. This database also provided another method for party caucuses to evaluate the political effects of various redistricting plan alternatives. In addition, this data was of value in analyzing voting patterns of nonpartisan registrants.

Mr. Davie presented data on statewide general elections for 1996 and 1998 and suggested that, if the Committee wanted to establish a database for the 2001 redistricting cycle, the most useful contests would be the Presidential race in 1996 and the U.S. Senate race in 1998. He also suggested that both of the statewide elections from the 2000 General Election could be included in an elections database since they would provide the latest available data for consideration of electoral results.

The Committee adopted a motion to include in an elections database the election results from the Presidential race in 1996, the U.S. Senate race in 1998, and the two statewide races from the 2000 General Election.



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The Committee on Reapportionment and Redistricting agreed to take no action on rule number 4, pending further review and discussion concerning procedures related to bill drafting. The Committee adopted the other five proposed rules.

