

**FEDERAL AND STATE LAWS AND SESSION RULES RELATING TO
REAPPORTIONMENT AND REDISTRICTING**
(State of Nevada – 2011)

The legal parameters under which reapportionment and redistricting are framed are set forth in the *United States Constitution*, the *Nevada Constitution*, various federal and State laws, and numerous court decisions. The Joint Standing Rules of the Senate and Assembly also address the procedures regarding reapportionment and redistricting. Below is a listing of key relevant federal and state laws as well as the Joint Standing Rules relating to reapportionment and redistricting.

United States Constitutional Requirements

Article 1, Section 2, of the *United States Constitution* provides that congressional representatives shall be apportioned among the several states according to their respective numbers. On the basis of this provision, the U.S. Supreme Court has held that population of congressional districts must be “as nearly equal as practicable.” In addition, the Equal Protection Clause of the 14th Amendment to the *United States Constitution* is the basis for the equal population requirement for state legislative districts, also known as the “one-person, one-vote” principle. On the basis of this provision, the U.S. Supreme Court has held that state legislative districts must achieve “substantial equality of population.”

Nevada Constitutional Requirements

Several provisions of the *Nevada Constitution* relate directly to the method of reapportionment and redistricting used in this state:

- Section 13, Article 1 of the *Nevada Constitution* requires representation to be apportioned according to population. The purpose of this section is to secure to each citizen equal representation in the making of the laws of this state. *State ex rel. Winnie v. Stoddard*, 25 Nev. 452, 62 Pac. 237 (1900).
- Section 5, Article 4 of the *Nevada Constitution* requires that, after each decennial census of the United States, the Legislature shall fix by law the number of senators and members of the assembly and apportion them among legislative districts according to the number of inhabitants in them respectively.
- Section 6, Article 15 of the *Nevada Constitution* provides that the aggregate number of members of both branches of the Legislature must never exceed 75. Section 5, Article 4 requires that the number of senators shall not be less than one-third or more than one-half of the number of assembly members.

- Section 13, Article 15 of the *Nevada Constitution* provides that the census taken under the direction of Congress every ten years shall serve as the basis of representation in both houses of the Nevada Legislature.

Joint Standing Rules of the Senate and Assembly for the 2011 Legislative Session Relating to Reapportionment and Redistricting (Joint Standing Rule 13 through 13.6)

Rule No. 13. Responsibility for Measures.

The Committee on Legislative Operations and Elections of the Senate and the Committee on Legislative Operations and Elections of the Assembly are respectively responsible for measures which primarily affect the designation of the districts from which members are elected to the Legislature. These committees are hereby designated as the “redistricting committees” for the purposes of this Rule and Joint Standing Rules Nos. 13.1, 13.2, 13.3, 13.4, 13.5, 13.6 and 14.6. [Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]

Rule No. 13.1. Equality of Representation.

1. Congressional Districts: The population of each of the Nevada congressional districts must be as nearly equal as practicable.

2. State Legislative Districts: The population of the state legislative districts must be substantially equal. In order to meet constitutional guidelines, a plan, or a proposed amendment thereto, will not be considered if the plan or proposed amendment results in an overall range of 10 percent or more, or a relative deviation in excess of plus or minus 5 percent, from the ideal district population.

3. Districts for the State Board of Education, the Board of Regents of the University of Nevada and Petition Districts: Equality of population in accordance with the standard for the state legislative districts is the goal of redistricting for the State Board of Education and the Board of Regents of the University of Nevada and for the establishment of petition districts in accordance with NRS 293.127561.

[Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]

Rule No. 13.2. Population Database.

1. The total state population, and the population of defined subunits thereof, as determined by the 2010 federal decennial census must be the exclusive database for redistricting by the Nevada Legislature.

2. Such 2010 census data, as validated by the staff of the Legislative Counsel Bureau, must be the exclusive database used for the evaluation of proposed redistricting plans for population equality.

[Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]

Rule No. 13.3. Districts.

All district boundaries created by a redistricting plan must follow the census geography.

[Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]

Rule No. 13.4. Procedures of the Redistricting Committees and Exemptions.

1. A legislator or member of the public may present to the redistricting committees any plans or proposals relating to redistricting, including proposals for redistricting specific districts or all of the state legislative districts, congressional districts, districts for the Board of Regents of the

University of Nevada, districts for the State Board of Education or petition districts for consideration by the redistricting committees.

2. Bill draft requests, including bills in skeletal form, setting forth specific boundaries of the state legislative districts, congressional districts, districts for the Board of Regents of the University of Nevada, districts for the State Board of Education or petition districts, and amendments affecting a majority of the state legislative districts, may only be requested by the chairs of the redistricting committees.

3. The chairs of the redistricting committees are limited to one request each for a bill draft setting forth the specific boundaries of the state legislative districts, one request each for a bill draft setting forth the specific boundaries of the congressional districts, one request each for a bill draft setting forth the specific boundaries of the districts for the Board of Regents of the University of Nevada, one request each for a bill draft setting forth the specific boundaries of the districts for the State Board of Education and one request each for a bill draft setting forth the specific boundaries of the petition districts. At the direction of the chair of a redistricting committee, the bill draft requests setting forth the specific boundaries of the state legislative districts, the congressional districts, districts for the Board of Regents of the University of Nevada, districts for the State Board of Education and petition districts may be combined in any manner.

4. All bill drafts and measures requested by a redistricting committee pursuant to subsection 3 are exempt pursuant to subsection 4 of Joint Standing Rule No. 14.6.
[Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]

Rule No. 13.5. Compliance with the Voting Rights Act.

1. A redistricting committee will not consider a plan that the redistricting committee determines is a violation of section 2 of the Voting Rights Act, 42 U.S.C. § 1973(a), 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.

2. A redistricting committee will not consider a plan that the redistricting committee determines is racially gerrymandered. Racial gerrymandering exists when:

- (a) Race is the dominant and controlling rationale in drawing district lines; and
- (b) The Legislature subordinates traditional districting principles to racial considerations.

3. For the purpose of analyzing the 2010 census data, the redistricting committees shall adopt the method set forth in the Office of Management and Budget (OMB) Bulletin No. 0002 for aggregating and allocating the 63 categories of race data that will be reported to Nevada by the United States Census Bureau as part of the federal decennial census.

[Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]

Rule No. 13.6. Public Participation.

1. The redistricting committees shall seek and encourage:

- (a) Public participation in all aspects of the reapportionment and redistricting activities; and
- (b) The widest range of public input into the deliberations relating to those activities.

2. Notices of all meetings of the redistricting committees must be transmitted to any member of the public who so requests, without charge.

3. All interested persons are encouraged to appear before the redistricting committees and to provide their input regarding the reapportionment and redistricting activities. The redistricting committees shall afford a reasonable opportunity to any interested persons to present plans for redistricting, or amendments to plans for redistricting, unless such plans demonstrably fail to meet the minimally acceptable criteria set forth in this rule and Joint Standing Rules Nos. 13, 13.1, 13.2, 13.3, 13.4 and 13.5.

4. Each of the redistricting committees shall fully utilize available videoconferencing capabilities and shall, either jointly or separately, hold at least one hearing in the southern portion of the State and at least one hearing in a rural portion of the State to allow residents throughout the State an opportunity to participate in the deliberations relating to the reapportionment and redistricting activities.

5. The Legislative Counsel Bureau shall make available to the public copies of the validated 2010 census database for the cost of reproducing the database.

6. The redistricting committees shall make available for review by the public, copies of all maps prepared at the direction of the committees.

[Assembly Concurrent Resolution No. 1 of the 2011 Session (File No. 1)]