

## REDISTRICTING 2021



Jeff Archer -- Texas Legislative Council

### *Why in 2021?*

- The publication of the 2020 census around March 1, 2021, will require redistricting of representative districts to **equalize populations** among districts
- State and many local governments will need to revise representative districts to **avoid dilution of racial or language minority group voting strength**

### Who Must Redistrict?

- STATEWIDE GOVERNING BODIES:
  - Congressional, State House and Senate, State Board of Education
- LOCAL GOVERNING BODIES:
  - County Commissioners Courts
  - Single-member district school boards, city councils, special district boards
- EXCEPTION: No redistricting may be needed if districts have substantially equal populations under 2020 census

April 1, 2020 Census Day

January 1, 2021 Congress reapportionment

April 1, 2021 Census data delivery deadline

May 31, 2021 87<sup>th</sup> Legislature adjourns

June-Aug 2021 LRB if needed for leg plans

April 1, 2021-??? Local governments redistrict

December 9, 2021 Deadline for filing for elected office for 2022 general election

ANYTIME COURT-ORDERED CHANGES

<https://redistricting.capitol.texas.gov/>

TEXAS REDISTRICTING



2020s -

Process -

Legal Requirements -

History -



DistrictViewer



Data



Who Represents Me?

CURRENT DISTRICT PLANS

State Senate

State House

U.S. Congress

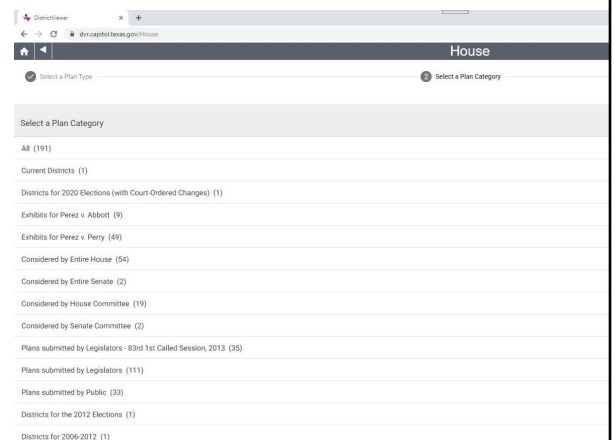
2006

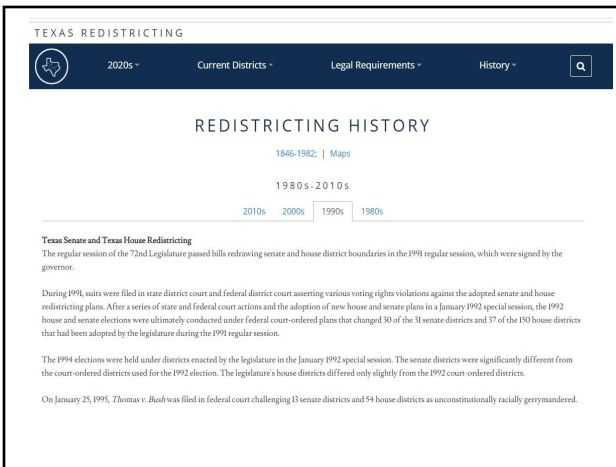
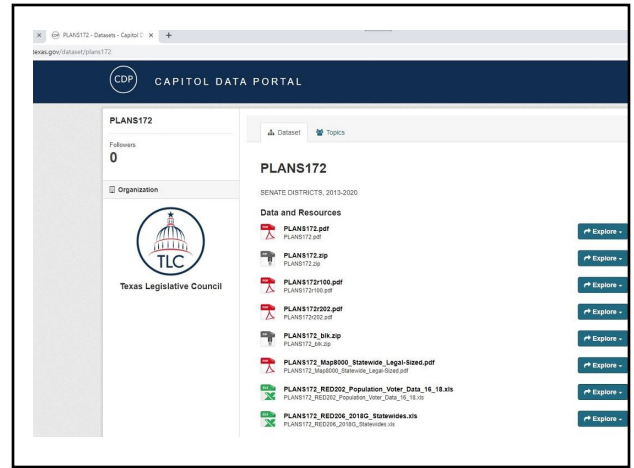
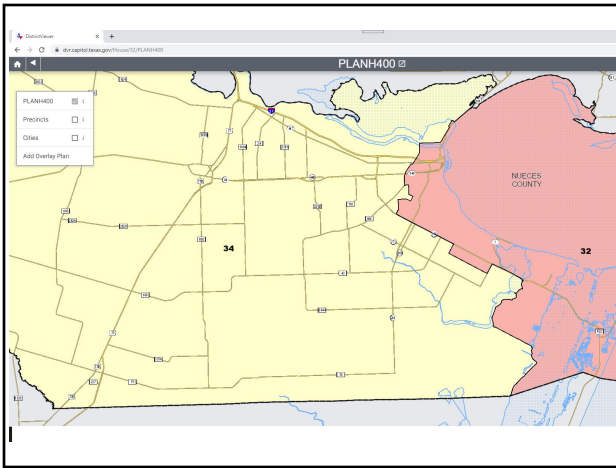
Judicial

State Senate

The 86th Legislature, 1st Called Session, enacted S.B. 2 (Plus8772). The districts are identical to the interim plan, ordered by the U.S. District Court for the Western District of Texas, used to elect members in 2012 to the Texas Senate. This plan is effective January 2013.

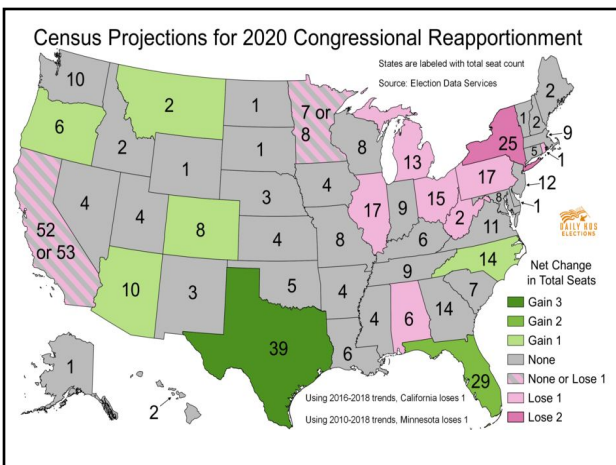
Texas has 11 state senate districts. Each district has an ideal 2010 census population of 813,147.





## ***HOT TOPICS for 2020-2021***

Congressional Reapportionment:  
How many districts will Texas  
gain from other states? 2 or 3 most  
likely.



## One Person, One Vote

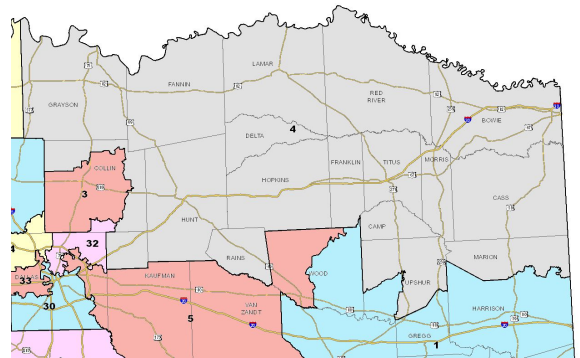
- Electoral districts must have equal or nearly equal populations
- **Ideal district population**- the number of people each district would have if the total population is divided by the number of districts to be drawn
- **Deviation** from the ideal district population is reported as the total number of people and as a percent
- Districts required to fall within a total deviation range of 10% from the ideal (except Congress)

## ***HOT TOPICS for 2020-2021***

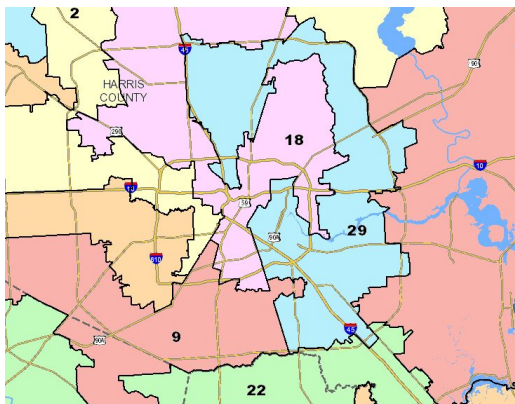
Commerce Department plans to release citizenship data for redistricting.

Will states be able to redistrict using adult citizen population (CVAP) to meet 1 person 1 vote?

## **CONGRESSIONAL DISTRICT 4**



## **CONGRESSIONAL DISTRICT 29**



## **TOTAL POP v CITIZENS**

### **DISTRICT 4**

Total	VAP	CVAP
698,488	521,731	484,120

### **DISTRICT 29**

Total	VAP	CVAP
698,488	471,352	311,655

## ***HOT TOPICS for 2020-2021***

What is the law regarding **PARTISAN GERRYMANDERING**?

SCOTUS has considered issue for 40 years.

Plaintiffs have proposed the Efficiency Gap (“Wasted Votes”) Test to compare votes cast in legislative districts to party outcomes.

## **PARTISAN GERRYMANDERING**

Justice Roberts in *Rucho v Common Cause* (2019):

**[P]artisan gerrymandering claims present political questions beyond the reach of the federal courts.**

Federal judges have no license to reallocate political power between the two major political parties, with no plausible grant of authority in the Constitution, and no legal standards to limit and direct their decisions

## Legislative Redistricting Board Art. III Sec. 28

Texas House or Senate Plans drawn by LRB if within 90 days after Sine Die:

- Legislature fails to enact a plan
  - Bill enacting plan is vetoed
  - Enacted plan is invalidated by courts
- LRB has 60 days to consider & adopt plans

## County Line Rule

TEXAS HOUSE -- Art. III Sec. 26:

A county may be cut in drawing a house district only when required to comply with federal law:

- One-person, one-vote
- Voting Rights Act

## Minority Voting Rights

- Districts may not dilute the voting strength of a minority community
- Districts may not be drawn predominantly on the basis of race – **even to promote minority representation.**

## Note on Preclearance Under Voting Rights Act

- Formerly, all changes in representative districts in certain states were subject to preclearance by U.S. Dept. of Justice or DC federal court BEFORE implementation to ensure districts did not RETROGRESS.
- Shelby County v. Holder*** (2013) ended preclearance under Section 5 of Voting Rights Act – coverage formulas obsolete.

## VRA Sec. 2 EFFECTS TEST

Prohibits election procedures that results in a denial or abridgment of the right to vote on account of race or color or language group, ***regardless of intent.***

A violation is established if it is shown that members of a racial or language group have less ***opportunity*** than other members of the electorate ***to elect representatives of their choice.***

## ***Supreme Court's “GINGLES TEST”***

- Minority community must be large and geographically compact enough to win elections in a single-member district
- Minority community must vote together, be politically cohesive
- Racially polarized voting by majority must usually result in defeat of candidate preferred by minority voters

***HOT TOPICS***  
***under Voting Rights Act***

What level of minority population is needed for an effective electoral opportunity?

- Majority of the population?
- Voting age population majority?
- Majority voting aged citizens?
- NONE OF THE ABOVE?

***HOT TOPICS***  
***under Voting Rights Act***

**MINORITY COALITION DISTRICTS**

Are combined minority majority districts “protected” under Voting Rights Act?

Do Black, Hispanic, and Asian voters vote as a block? Are they “politically cohesive?”

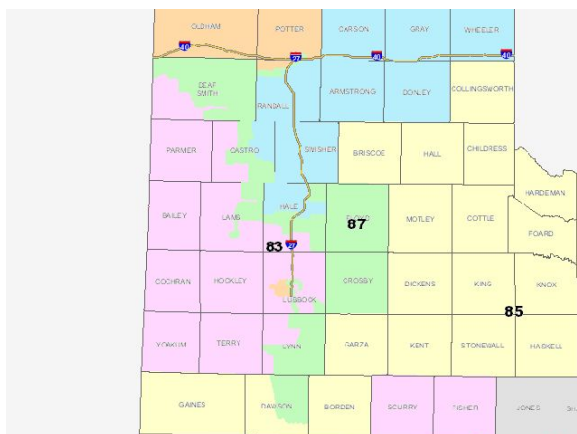
***HOT TOPICS***  
***under Voting Rights Act***

**“MINORITY IMPACT DISTRICTS”**

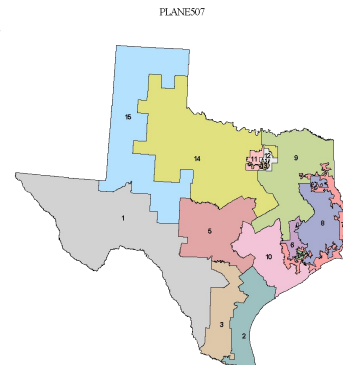
Are current districts with less than a voting majority of members of minority group entitled to Voting Rights Act protection?

***HOT TOPICS***  
***under Voting Rights Act***

- How compact must minority population be to require that a single-member district provide an electoral opportunity for that population?



**Proposed  
SBOE  
Plan  
1991**



## GOING TOO FAR:

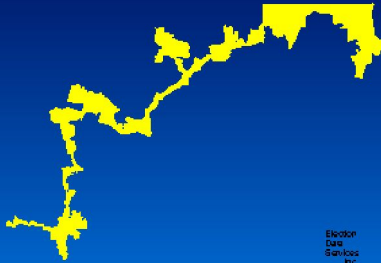
### ***SHAW v. RENO***

- Landmark 1993 U.S. Supreme Court Case
- The Court by 5-4 vote held that a minority district can be “so extremely irregular...that it rationally can be viewed only as an effort to segregate the races for purposes of voting, without regard for traditional districting principles”
  - Based on Equal Protection Clause

Examples of minority districts held to be unconstitutionally gerrymandered on basis of race in violation of ***SHAW v. RENO***:

### North Carolina

Congressional District 12 - 1992



### Florida

Congressional District 3 - 1992



### Texas

Congressional District 30 - 1992



### Texas

Congressional District 29 - 1992



### Texas

Congressional District 18 - 1992



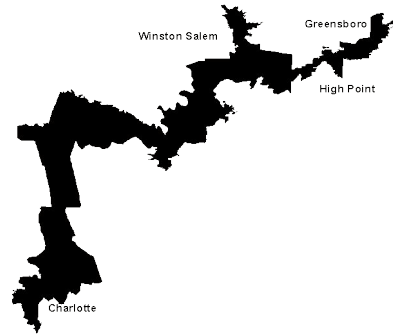
***BUT . . .***

## Illinois

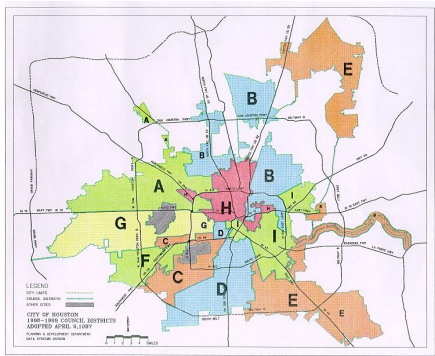
Congressional District 4 - 1992



## North Carolina CD12-1997



## Houston City Council



## ***OTHER TOPICS***

REDISTRICTING COMMISSIONS

PRISONER GERRYMANDERING

PUBLIC PARTICIPATION

COURT-ORDERED PLANS

State v. Federal Courts

# FIN