

## DRAWING THE LINE—A PREVIEW OF REDISTRICTING IN 2011

**Purpose:** This information is to educate members about the upcoming process Colorado will be involved in to determine the new district boundaries for US Congressional seats and for the senators and representatives who serve in the Colorado General Assembly. The total number of state legislative districts is fixed, but the US Census may show that the boundaries need to be redrawn to adjust for population shifts as well as other possible criteria.

After census information is given to the states, it is their responsibility to draw the boundaries. This process is called **redistricting**. In the US Congress, the size of the House of Representatives is set by federal law at 435, but following the census, districts may be reallocated to the states on the basis of states' population. The drawing of new political district boundaries, including congressional, state legislative, and local districts (county commissioners, school board, etc.), is based on population shifts and/or other criteria and is the responsibility of the state. Each state is guaranteed one congressional district regardless of population. The process of determining the number of congressional representatives is called **reapportionment**.

**LWVUS Position:** "The LWVUS believes that congressional districts and government legislative bodies should be apportioned substantially on population. The League is convinced that this standard, established by the Supreme Court, should be maintained and that the US Constitution should not be amended to allow for consideration of factors other than population in apportionment."

The LWVUS adopted an apportionment position in 1966 and revised it in 1972 to cover all electoral districts. League has worked over the years for accurate census data and equitable apportionment. The Pocantico Redistricting Conference in July 2009 co-sponsored by LWVUS agreed to four principles for assuring representative government:

1. An accurate and complete count in Census 2010 is an essential building block for all redistricting efforts.
2. The process used for redistricting must be transparent to the public.
3. The redistricting process, at all levels of government, must provide data, tools and opportunities for the public to have direct input into the specific plans under consideration by the redistricting body.
4. In order to achieve representative democracy, redistricting plans must be drawn in a manner that allows elected bodies to reflect the diversity of the populace, especially racial and ethnic diversity.

**LWVCO Position:** In 1973 LWVCO adopted its apportionment position and led a citizen initiative process to put a constitutional amendment on the ballot in 1974 establishing the Colorado Reapportionment Commission.

(Position in Brief) "Support of an independent commission to reapportion the Colorado state legislature. Support of apportionment of both houses of the state legislature and Colorado U.S. congressional districts based on specific criteria."

Criteria are:

1. As nearly equal population in each district within a 5% deviation.
2. As compact as possible with linear distances of boundaries as short as possible.
3. No part of a county shall be added to all or part of another county if possible.
4. Communities of interest—ethnic, cultural, economic trade area, geographic and demographic factors—shall be preserved in a single district, if possible, based on above criteria.

## US History of Drawing the Line

“The political thicket” is the term that Supreme Court Justice Felix Frankfurter used to describe reapportionment. Even the Founding Fathers found it a perplexing problem. The first apportionment bill based on the census of 1790 and written by Hamilton was vetoed by George Washington. Since that time people have argued over who controls the drawing of boundaries for the US House of Representatives and the state legislative districts. Who will have the clout? Whose voices—urban, rural, minority, nonminority—will influence the political process?

Until the 1960’s, decisions on how to draw the lines for congressional and state legislative districts were left to the states. Even the few rules that Congress had enacted over the years were never enforced. It was a rare state legislature that reapportioned itself at regular intervals. Illinois did not redraw its congressional districts lines from 1901 until 1946. The courts stepped into the political thicket in 1962 after ignoring the standards for fair and effective representation for over 50 years. In *Baker v. Carr* the Court decided that the federal judiciary had the power to review states’ reapportionment. In 1964, *Wesberry v. Sanders* brought the concept of “One Person – One Vote” and extended the Court’s jurisdiction to congressional districts. The ruling said, “as nearly as is practicable, one man’s vote in a congressional election is to be worth as much as another’s.” With the passage of the Voting Rights Act of 1965, federal enforcement and protections of suffrage for all citizens were enacted. Redistricting was watched closely and the courts became an influential player in many redistricting plans.

The benefits of winning the fall election are magnified when redistricting comes into play. In some states the majority party controls the boundary lines. Over the years there have been many creative attempts to **gerrymander**. This is the process of modifying district boundaries to the advantage of the political party in power. It is illegal. The origin of the term began when Governor Elbridge Gerry of Massachusetts (1810-1812) signed a bill that redistricted the state in favor of his party including one district which was said to resemble a salamander, thus, a “gerrymander”.

## Colorado’s History and League’s Partnership

The Colorado Reapportionment Commission was brought into existence by a citizens’ initiative sponsored by the League of Women Voters in 1974.

**Why did we do this?** The League has been involved in reapportionment since 1956. Until 1972, Colorado had only been reapportioned five times; in 1891, 1901, 1913, 1933 (by initiative petition) and 1953. In 1972, when reapportionment was taken up by the legislature, public hearings were few, and major decisions were made in closed caucuses of the majority party. Ninety of the 150 days of the Legislative session were taken up by reapportionment, and the plan was rejected by the Supreme Court. At this time the idea of an independent non-partisan commission surfaced, but it soon became apparent that the Legislature was not interested in this approach.

In 1973, in light of the long bitter 1972 session, the League reviewed its old positions, and adopted a position supporting the use of an independent agency for reapportionment of the state Legislature using certain criteria such as population, compactness, etc. Congressional districts were added to the position at a later date.

With this new position, the League decided to initiate a citizens’ amendment to the Constitution that would take reapportionment out of the hands of the Legislature. The amendment passed by a wide margin, and the new Reapportionment Commission convened in July 1981 and adjourned in March 1982. The LWVCO monitored the entire session of the new commission. The object was to observe the process to see if it worked. In the League’s opinion, it did. It worked well. Why did we not include Congressional districts in the initiative? We had been advised that including Congressional districts might be unconstitutional, and we did not want to jeopardize the amendment.

*Phyllis Horney 3/28/91*

In 2000 the General Assembly could not agree on the district lines for the US Congressional Districts (there was a new district to be delineated as well). The lines were eventually drawn by the courts. In 2004 there was an attempt by the new majority party to redraw the districts, but this was ruled invalid by the State Supreme Court. The LWVCO position favors the use of the Reapportionment Commission for the US Congressional Districts.

### **Colorado Constitutional Provisions Controlling Reapportionment / Redistricting**

As stated in the Colorado Constitution, **US congressional district lines** are “drawn by the Colorado General Assembly dividing the state into as many congressional districts as there are representatives in Congress apportioned to this state by the Congress of the United States for the election of one representative to Congress from each district. When a new apportionment is made by Congress, the General Assembly shall divide the state into congressional districts accordingly”.

The General Assembly uses the following criteria that were changed in the 2010 session (HB 10-1408): population equality; compliance with the Voting Rights Act of 1965; preservation of political subdivisions; preservation of ethnic, cultural, economic, trade area, geographic and demographic factors; compactness; and minimal disruption of prior district lines.

Colorado’s Constitution calls for the **state senators and state representatives** to come from districts as nearly equal as possible in population and other criteria (similar to LWVCO’s position). The original “apportionment” of the districts was accomplished in Art. V, Sect. 45 of the Colorado Constitution: “The General Assembly shall consist of not more than thirty-five members of the Senate and of not more than sixty-five members of the House of Representatives, one to be elected from each senatorial and each representative district, respectively.”

- Each district shall consist of contiguous whole general election precincts and districts of the same house shall not overlap.
- No part of one county shall be added to all or part of another county in forming districts except when necessary to meet the equal population requirements.
- Communities of interest including ethnic, cultural, economic, trade area, geographic, and demographic factors shall be preserved within a single district wherever possible.
- After each federal census of the United States, the senatorial districts and representative districts shall be established, revised, or altered, and the members of the Senate and the House of Representatives apportioned among them by an independent, nonpartisan commission known as the **Colorado Reapportionment Commission**. This plan is to be approved/disapproved by the State Supreme Court; the legislature does not have to approve the plan.

### **The Colorado Reapportionment Commission**

- ❖ Is charged with providing the district boundary lines for both houses.
- ❖ Consists of eleven members:
  - Four appointed by the legislative department to include the speaker of the House of Representatives, minority leader of the House of Representatives, and the majority and minority leaders of the Senate, or the designee of any such officer to serve in his/her stead.
  - Three executive members appointed by the governor.
  - Four judicial members appointed by the Chief Justice of the Colorado Supreme Court.
  - No more than six members from the same political party.
  - No more than four members from the same congressional district.
  - Each congressional district must have at least one resident as a commission member.
  - At least one commission member must reside west of the Continental Divide.

### **What Lies Ahead?**

The census results for reapportionment purposes will be presented to the President in December, and the final delivery of redistricting data will occur in March 2011. Then the Colorado Reapportionment Commission will be appointed and will begin its work on the Colorado house and senate districts. The General Assembly will draw the US congressional district lines.

The Reapportionment Commission will be convened no later than May 15, 2011. Within 113 days of convening, or when the necessary census data are available, whichever is later, the Commission will present a preliminary plan and hold public hearings. No later than 123 days prior to the date of the 2012 precinct caucuses, the Commission will finalize its plan and present it to the Colorado Supreme Court for approval. If disapproved, the Commission must revise its plan to conform to the court's requirements. The plan will then be submitted to the Secretary of State no later than 55 days prior to the caucus date.

You may be wondering, **"How can I get involved?"** Under Colorado's Open Meeting Law, all committee and floor sessions to consider congressional redistricting plans are open to the public. Public testimony is usually taken at committee meetings. You may also wish to contact individual legislators or view proposed plans on the internet at <http://www.leg.state.co.us/>.

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(Based on information provided by LWV Colorado)