

History of Minnesota Congressional Redistricting

Alexis C. Stangl, Senate Counsel, and Matt Gehring, House Research¹

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Between 1860 and 1980, the legislature completed redistricting of Minnesota's congressional districts. Since the 1980 census, the courts have drawn the congressional districts in absence of enacted redistricting plans.

The number of congressional seats allocated to each state is determined by the decennial census. Because Congress has a fixed number of seats (435), Congress reallocates the seats among the states after each census to account for population changes. Since 1940, this has been determined by using the equal proportions method. The process starts by assigning each state one congressional seat. Then, Congress allocates the remaining 385 seats by a formula. Each state is notified of the number of congressional seats in late December of the year of the census or early January of the following year. 2 U.S.C.A. §2a.²

The number of congressional seats allocated to Minnesota was at its lowest with two seats after the 1860 census, the first census after Minnesota became a state. The number of seats peaked after the 1910 census, when Minnesota was allocated ten congressional seats. This number declined by one seat after the 1930 census and by another seat after the 1960 census. Since then, Minnesota has been allocated eight congressional seats.

The purpose of this memo is to review the procedure used for congressional redistricting plans enacted or implemented by a court order from 1930 through 2012. A list of citations to district plans dating to 1860 is included at the end of this memo.

The substance of this memo is limited only to redistricting plans for the Minnesota congressional districts. A review of redistricting procedures for Minnesota's legislative districts is included in a separate memo.

1930 Census

After the 1930 census, Minnesota was allocated nine congressional seats. In 1931, the legislature passed H.F. No. 1456, which provided for nine congressional districts. Laws 1931, [page 640 - H.F. No. 1456](#). The bill was presented to Governor Floyd B. Olson. The governor vetoed the bill and it was returned to the House, where it originated.³

The House then passed a resolution stating that the legislature had duly passed the bill and directed the chief clerk of the House to deposit the bill with the Secretary of State to become part of the permanent records of that office. The chief clerk complied and deposited the bill with the Secretary of State.

¹ This memo is based on a memo written by Peter S. Wattson, former Senate Counsel.

² For additional information on the allocation process, see "Congressional Apportionment" by the U.S. Census Bureau: <https://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf>. For information on the Minnesota specific timeline, see "Minnesota Redistricting Timetable for 2020" by the Geospatial Information Office of the Minnesota Legislative Coordinating Commission: <https://www.gis.leg.mn/html/redtime2020.htm>.

³ Veto letter: https://www.leg.state.mn.U.S./archive/vetoes/1931veto_HF1456.pdf.

After the legislature adjourned, the validity of the governor's veto was questioned. A Minnesota citizen petitioned the Minnesota Supreme Court, asking the court to determine if the legislature had properly enacted a redistricting plan or whether the governor's veto was valid. *Smiley v. Holm*, 184 Minn. 228, 238 N.W. 494 (Minn. 1931).

The Minnesota Supreme Court held that the veto was not effective and that the court had no authority to override the legislature's redistricting plan. *Id.* The court reasoned that the governor had no part in the process of redistricting and therefore could not veto a redistricting plan. *Id.* Therefore, the legislatively drawn plans were in effect. *Id.*

The petitioner appealed to the U.S. Supreme Court. The U.S. Supreme Court overturned the state court opinion, holding that redistricting is a lawmaking process and the governor did have a role in that process under the state Constitution. *Smiley v. Holm*, 285 U.S. 355, 372, 52 S. Ct. 397, 401 (1932). The court further held that, because there was a decrease in the number of districts since the last plan was adopted, all members of Congress would need to be elected at-large until new districts were drawn. *Id.*, 285 U.S. at 374, 52 S. Ct. at 402.

The Supreme Court issued its decision on April 11, 1932, which left little time to organize for the upcoming election. The legislature did not enact any plans for the congressional districts prior to the election, so all nine seats were elected at-large.

In 1933, the legislature passed a congressional redistricting plan. Laws 1933, [ch. 185](#). The plan was signed by Governor Olson. This plan was used for elections in 1934 and thereafter, until a new plan was enacted in 1961.

1960 Census

After the 1960 census, Minnesota was allocated eight congressional seats. Since then Minnesota has been allocated eight congressional seats after each subsequent redistricting. In 1961, the legislature passed a redistricting plan for eight congressional districts. Laws 1961, 2 Ex. Sess. [ch. 2](#). This bill was signed by Governor Elmer Andersen.

1970 Census

After the 1970 census, the legislature enacted a redistricting plan for the eight districts allocated to Minnesota. Laws 1971, [ch. 897](#). The bill was signed into law by Governor Wendell Anderson.

1980 Census

In March of 1981, Minnesota citizens initiated a lawsuit in federal district court challenging the apportionment of the congressional districts. The parties stipulated that the current apportionment contradicted Article 14 of the U.S. Constitution, as well as Article 4, section 3, of the Minnesota Constitution.⁴ On September 14, 1981, the federal district court declared the

⁴ Article 4, section 3, of the Minnesota Constitution reads: "Census enumeration apportionment; congressional and legislative district boundaries; Senate districts. At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series."

congressional districts to be unconstitutional. *LaComb v. Growe*, Civ. No. 4-81-414 (D. Minn. Sept. 15, 1981). On December 29, 1981, the same court issued an order setting forth the criteria for redistricting plans. *LaComb v. Growe*, Civ. No. 4-81-414 (D. Minn. December 29, 1981).

In 1981, H.F. No. 1478 was introduced and heard in the House. The companion bill, S.F. No. 1387, was introduced in the Senate but was not heard. Early in the 1982 legislative session, both the House and Senate passed H.F. No. 1478 and the bill was sent to conference. The bill never left the conference committee.

On March 11, 1982, the Minnesota federal district court issued an order for eight congressional districts. The districts were created pursuant to the criteria issued in the earlier court order. The court noted that redistricting is the responsibility of the legislature, but because the legislature had failed to complete redistricting, the court was required to do so. *LaComb v. Growe*, 541 F. Supp. 145 (D. Minn. Mar. 11, 1982) aff'd sub nom. *Orwoll v. LaComb*, 456 U.S. 966 (1982).

On February 16, 1990, a Minnesota voter challenged the 1982 congressional reapportionment in federal district court. The challenge alleged that the districts were gerrymandered⁵ and diluted his voting strength. All eight congressional seats were up for election in 1990 and by the time the motion was heard on April 9, 1990, the election cycle was well underway. The court dismissed the complaint because it would unnecessarily disrupt the election process underway and result in confusion for voters and candidates. Further, granting the requested relief would violate “proper federal-state relations” in light of the fact that the legislature would be conducting congressional redistricting the following year. *Emison v. Growe*, No. Civ. 3-90-87 (D. Minn. Apr. 9, 1990).

1990 Census

In 1991, the legislature adopted a concurrent resolution setting standards for congressional redistricting. Further, a statutory deadline for enacting a plan (25 weeks prior to the state primary) was enacted. The legislature did not pass any congressional redistricting bills.

In January of 1991, Minnesota citizens filed suit in state district court seeking to have the 1982 congressional districts declared unconstitutional. The Minnesota Supreme Court appointed a three-judge special redistricting panel. *Cotlow v. Growe*, No. C8-91-985.

In March of 1991, a different group of Minnesota citizens filed suit in federal district court challenging the congressional districts that were drawn in 1982, alleging that the plans violated Article 1, section 2 of the U.S. Constitution.⁶ *Emison v. Growe*, No. 4-91-202 (D. Minn. March 1991).

⁵ “Gerrymandering” is defined as “[t]he practice of dividing a geographical area into electoral districts, often of highly irregular shape, to give one political party an unfair advantage by diluting the opposition’s voting strength.” Black’s Law Dictionary (10th ed. 2014)

⁶ Article 1, section 2, of the U.S. Constitution, and subsequent caselaw interpreting it, require equal representation and that congressional districts be apportioned so that the districts are nearly equal as possible. *Wesberry v. Sanders*, 376 U.S. 1 (1964). The Supreme Court has also interpreted the 14th Amendment’s equal protection clause to include a similar – though not identical – equal population standard for state legislative districts. *Reynolds v. Sims*, 377 U.S. 533 (1964).

On April 8, 1991, the federal district court appointed a three-judge district court panel. On May 16, the House and Senate were granted permission to intervene in the federal suit.

In November, the state court panel ruled that its plans would go into effect in January of 1992 unless the legislature and governor could enact a plan before then.

On December 5, 1991, the federal court issued an injunction preventing the state court from taking action on a redistricting plan. *Emison v. Growe*, No. 4-91-202 (D. Minn. Dec. 5, 1991).

Early in the 1992 legislative session, S.F. No. 1597 passed both bodies and became Chapter 357. Laws 1992, ch. 357. The bill provided a redistricting plan for the eight allocated congressional districts. The bill was presented to Governor Arne Carlson. The governor vetoed the bill on January 10, 1992.⁷

Also on January 10, the U.S. Supreme Court lifted the injunction pending a state court review of the plan.

On February 19, the federal district court adopted a congressional redistricting plan. *Emison v. Growe*, 782 F. Supp. 427 (D. Minn., Feb. 19, 1992). The court also enjoined the state court from implementing its congressional plan.

In March, the plans were appealed to the U.S. Supreme Court. The federal court plan was upheld for the congressional districts. Additional hearings on challenges to both the federal and state court plans were scheduled to occur after the 1992 election. *Growe v. Emison*, 112 S.Ct 5 1461 (Mar. 11, 1992) (Blackmun, J., in chambers). This meant that the federal court's redistricting plan was in effect for the congressional districts in the 1992 election.

In April, the state panel adopted a congressional redistricting plan, subject to the federal court's injunction. *Cotlow v. Growe*, No. C8-91-985 (Minn. Spec. Redis. Panel, Apr. 15, 1992).

In February of 1993, the U.S. Supreme Court ruled unanimously that federal court overstepped its authority and should have deferred to legislature and state court processes. *Growe v. Emison*, (1993). Therefore, the state court plan for congressional districts was to be in effect for the subsequent elections.

In 1994, the legislature enacted the state court congressional plan. Laws 1994, [ch. 406](#).

2000 Census

On January 4, 2001, Minnesota citizens filed a lawsuit in state district court alleging the current districts were unconstitutional based on the 2000 census results. *Zachman, et al. v. Kiffmeyer, et al.*, No. C0-01-160.⁸ Plaintiffs requested that the court appoint a new three-judge special redistricting panel to hear and decide the case.

⁷ Veto letter: https://www.leg.state.mn.us/archive/vetoes/1992veto_ch357.pdf.

⁸ For court orders related to this case, see the Minnesota Judicial Branch website on the 2001 special redistricting panel: <http://www.mncourts.gov/Media/Historic-High-Profile-Cases/Special-Redistricting-Panel-2001.aspx>.

On January 11, the *Cotlow* plaintiffs from the 1990's case sought to have the three-judge panel from the 1990's reopened and current districts declared unconstitutional, based on the 2000 census results. This motion was redirected to the Minnesota Supreme Court, where the plaintiffs asked that the 1990 panel be renewed or a new panel be appointed. *Cotlow, et al. v. Growe, et al.*, No. C8-91-985.

On March 2, the Minnesota Supreme Court denied the request to reopen the 1990 redistricting panel, but granted a motion to appoint a new special panel to handle redistricting matters. The appointment of the panel was stayed until further order of the Chief Justice of the Minnesota Supreme Court. The stay was left in place to allow the legislature to take action. [*Zachman, et al. v. Kiffmeyer, et al.*](#), No. C0-01-160; [*Cotlow, et al. v. Growe, et al.*](#), No. C8-91-985.

In May of 2001, different versions of S.F. No. 2377 were passed by the House and Senate. Conference committee members were appointed on May 21, 2001. The conference committee did not reach an agreement and was discharged for the interim.

For the first time in Minnesota redistricting history, S.F. No. 2377 was drafted to refer to an electronically created map of the proposed new districts, rather than a narrative "metes-and-bounds" description of each district. The change was due, in part, to the availability of better technology for drawing maps, but also to reduce the risk of the types of technical drafting errors that plagued the description of Minnesota's districts in the 1990s.

On July 12, a five-judge state court panel was appointed. [*Zachman v. Kiffmeyer*](#), No. C0-01-160, 629 N.W.2d 98 (Minn. July 12, 2001).

In October, the *Cotlow* plaintiffs and a number of state and federal officials were granted permission to intervene in the *Zachman* suit. [*Zachman v. Kiffmeyer*](#), C0-01-160 (Minn. Spec. Redis. Panel, October 9, 2001).

In December 2001, the five-judge panel established the criteria for redistricting plans. [*Zachman v. Kiffmeyer*](#), No. C0-01-160 (Minn. December 11, 2001). The next month, the court issued an order requiring statewide public hearings.

On February 4, 2002, S.F. No. 2377 was returned to the conference committee. The committee again failed to reach agreement.

On March 19, 2002, the five-judge panel issued new congressional district boundaries. [*Zachman v. Kiffmeyer*](#), No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002).

2010 Census

On January 21, 2011 Minnesota citizens filed a challenge in state court alleging that the current congressional districts were unconstitutional based on the anticipated results of the 2010 census. [*Hippert v. Ritchie*](#), No. CV-11-433 (January 21, 2011).⁹

⁹ For filings and orders related to this case, see the Minnesota Judicial Branch website on the 2011 special redistricting panel: <http://www.mncourts.gov/Media/Historic-High-Profile-Cases/Special-Redistricting-Panel-2011.aspx>.

On January 12, 2011, another group of Minnesota citizens filed a challenge in federal district court challenging the current congressional districts. An order to stay the matter was issued on Feb. 7, 2011. The stay was not lifted and the case was voluntarily dismissed on August 22, 2012. *Britton v. Ritchie*, No. 11-cv-0093 PJS/AJB (D. Minn. Aug. 22, 2012).

On February 14, 2011, the Minnesota Supreme Court issued an order to establish a three-judge panel to hear the *Hippert* case, as well as any other redistricting challenges filed based on the 2010 census. The appointment of the panel and further proceedings were stayed by the court because the legislature was still in session and still had time to enact a congressional redistricting plan. However, the same court order that provided for the stay also provided that if the court needed to take action quickly to complete the redistricting plans in order for them to be in place for the 2012 election, the stay could be lifted to allow the court to take prompt action. *Hippert v. Ritchie*, A11-152 (Minn. Feb. 14, 2011).

On April 11, 2011, H.F. No. 1426 was introduced. It passed both bodies in May and became Chapter 36. The bill was presented to Governor Mark Dayton on May 18, 2011. The governor vetoed the bill on May 19.¹⁰

On June 1, after the legislative session ended without an enacted redistricting plan, the Minnesota Supreme Court appointed a five-judge special redistricting panel to decide all matters in connection with the lawsuit. *Hippert v. Ritchie*, A11-152 (Minn. June 1, 2011).

On August 18, the court issued an order that allowed two groups of plaintiffs to intervene (*Martin* plaintiffs and *Britton* plaintiffs). *Hippert v. Ritchie*, A11-152 (Minn. Spec. Redis. Panel Aug. 18, 2011).

On September 13, 2011, the special redistricting panel ordered a series of public hearings throughout the state on the issue of redistricting. *Hippert v. Ritchie*, A11-152 (Minn. Spec. Redis. Panel, Sept. 13, 2011).

On November 4, the redistricting panel issued an order stating redistricting principles and requirements for plan submissions. In this order, the court indicated that it would only order the adoption of redistricting plans by the panel if the legislature and governor did not reach an agreement on redistricting by February 21, 2012. (This was the deadline for legislative action set by state law.) The order established detailed redistricting principles. *Hippert v. Ritchie*, No. A11-152 (Minn. Spec. Redis. Panel, Nov. 4, 2011).

The legislature did not approve a redistricting plan before the deadline, and as a result, the special redistricting panel issued its final order adopting a congressional redistricting plan on February 21, 2012. *Hippert v. Ritchie*, No. A11-152 (Minn. Spec. Redis. Panel, Feb. 21, 2012).

Citations to Congressional Redistricting Plans

Year	Seats	Law
1862	2	Gen. Laws 1862, ch. 64

¹⁰ Veto letter: https://www.leg.state.mn.us/archive/vetoes/2011veto_ch36.pdf

1872	3	Gen. Laws 1872, ch. 21
1891	7	Gen. Laws 1891, ch. 3
1901	9	Laws 1901, ch. 92
1913	10	Laws 1913, ch. 513
1933 ¹¹	9	Laws 1933, ch. 185
1961	8	Laws 1961, 2 Ex. Sess. ch. 2
1971	8	Laws 1971, ch. 897
1982	8	<i>LaComb v. Growe</i> , 541 F. Supp. 145 (D. Minn. Mar. 11, 1982) aff'd sub nom. <i>Orwoll v. LaComb</i> , 456 U.S. 966 (1982)
1992	8	<i>Cotlow v. Growe</i> , No. C8-91-985 (Minn. Spec. Redis. Panel, Apr. 15, 1992); Laws 1994, ch. 406
2002	8	Zachman v. Kiffmeyer , No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002)
2012	8	Hippert v. Ritchie , No. A11-152 (Minn. Spec. Redis. Panel, Feb. 21, 2012)

For more information: contact Alexis Stangl, Senate Counsel, at alexis.stangl@senate.mn or Matt Gehring, House Research legislative analyst, at Matt.Gehring@house.mn.

¹¹ At the 1932 election, there was no redistricting plan in place for the nine congressional seats so all nine congressmen members were elected at large. A plan was enacted in 1933.