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Mid-Decade Congressional Redistricting: Key Issues

States typically begin their congressional redistricting processes following the decennial U.S. census and apportionment, at which point states with multiple House seats draw congressional district boundaries to account for population changes in the intervening decade. After redistricting plans are enacted, states may face legal challenges regarding elements of their plans; these lawsuits can continue for a number of years and result in courts approving subsequent modifications to states' congressional district maps. Aside from these court-ordered redistricting efforts, states have not typically undergone significant redistricting efforts until after the next decennial census, though there are some recent and ongoing examples.

In 2025 and 2026, lawmakers in a number of states (including California, Missouri, North Carolina, Ohio, Texas, and Utah) have redrawn their congressional district maps ahead of the 2030 Census; others have demonstrated an interest in doing so. This practice is often referred to as *mid-decade redistricting*. Mid-decade redistricting is prohibited by neither the U.S. Constitution nor federal law.

Congressional Apportionment and Redistricting Background

Article I, Section 2, of the U.S. Constitution, as amended by Section 2 of the Fourteenth Amendment, requires that representation in the House of Representatives is based on state population size, as determined by a national census conducted within each 10-year period. Dividing House seats among the 50 states is referred to as *apportionment*; determining where district boundaries exist within a state is referred to as *redistricting*. The Constitution does not specify how House seats are to be distributed within each state, but it does limit the number of Representatives to no more than one for every 30,000 persons, provided that each state receives at least one Representative.

States largely set, and can potentially revise, their own practices for redistricting, including its timing, and mid-decade redistricting may be permitted under current state constitutions or laws. Several states, including, for example, North Carolina, Massachusetts, and Pennsylvania, currently prohibit mid-decade redistricting for the state legislature, but do not have similar constitutional or statutory provisions addressing congressional mid-decade redistricting. In some states, mid-decade congressional redistricting is generally not considered as part of the regular redistricting process, but there may be special circumstances under which it can occur. Other states may have general prohibitions on mid-decade redistricting. New York, for example, currently has an explicit prohibition on mid-decade congressional redistricting unless modified pursuant to court order; state law in Tennessee specifies that "[congressional] districts may not be changed between apportionments."

Congress has, at times, considered legislation on the timing and frequency of redistricting stemming from its authority under the Elections Clause of the U.S. Constitution in Article I, Section 4. The Elections Clause provides to the states the initial and principal authority to administer elections within their jurisdictions, but also provides Congress with the authority to "override" state laws to regulate federal elections.

In the 1800s and early 1900s, for example, Congress passed laws each decade specifically authorizing each census and apportionment, as well as related administrative details. These decennial bills sometimes included certain standards for congressional districts, such as population equality or geographic compactness. In 1967, Congress required that all Members be elected from *single-member districts* (2 U.S.C. §2c). Federal law related to the census process is found in Title 13 of the *U.S. Code*, and two key statutes affecting apportionment today are the Permanent Apportionment Act of 1929 and the Apportionment Act of 1941.

Overview of Legal Framework for Congressional Redistricting

While state constitutions and laws govern most of the congressional redistricting process, congressional redistricting maps must comport with the U.S. Constitution and federal law, as interpreted by the Supreme Court. Since the 1960s, the Court has issued a series of rulings that have significantly shaped how congressional districts are drawn. In sum, congressional districts must comply with the constitutional standards of population equality and equal protection, and comply with statutory standards set forth in Section 2 of the Voting Rights Act of 1965 (VRA).

Population Equality Standard

The Supreme Court has interpreted the Constitution to require that each congressional district within a state contain an approximately equal number of persons. In a 1964 ruling, *Wesberry v. Sanders*, the Court interpreted Article I, Section 2, which provides that Representatives be chosen "by the People of the several States," to mean that "as nearly as is practicable[,] one man's vote in a congressional election is to be worth as much as another's." This requirement is sometimes called the "population equality standard" or the principle of one person, one vote.

Equal Protection Standard

Congressional redistricting maps must conform to standards of equal protection under the Fourteenth Amendment. According to the Supreme Court, if race is the predominant factor in the drawing of district lines above other traditional redistricting considerations—such as compactness and contiguity—then courts must apply a "strict scrutiny"

standard of review. To withstand strict scrutiny in this context, the state must demonstrate that it had a compelling governmental interest in creating a majority-minority district and the redistricting plan was narrowly tailored to further that compelling interest. A "majority-minority" district is one in which a racial or language minority group comprises a voting majority, and can be required under the VRA in certain instances, as discussed below. The Supreme Court is currently considering the case of *Louisiana v. Callais*, which may clarify when a "state's intentional creation of a second majority-minority congressional district violates the Fourteenth or Fifteenth Amendments." A decision in this case is expected by the end of June.

Section 2 of the VRA

Congressional district boundaries in every state are required to comply with Section 2 of the VRA, which is codified at 52 U.S.C. §10301. Section 2 prohibits discriminatory voting procedures based on race, color, or membership in a language minority, including minority vote dilution. Minority vote dilution is the diminishing or weakening of minority voting power. Under certain circumstances, the Supreme Court has determined that Section 2 may require the creation of one or more "majority-minority" districts in a redistricting map. The creation of such districts can avoid minority vote dilution by helping ensure that racial or language minority groups are not submerged into the majority and, thereby, denied an equal opportunity to elect candidates of choice.

Prior Mid-Decade Redistricting Examples

Mid-decade congressional redistricting was not uncommon during the 19th century, but it rarely occurred during the 20th century. In both 1804 and 1808, New York drew new congressional district boundaries unrelated to any population shifts, which some scholars view as the first example of mid-decade congressional redistricting in the United States. One analysis found that at least one state redrew its congressional boundaries in every year between 1872 and 1896. Ohio drew congressional district boundaries seven times between 1878 and 1892, conducting five consecutive House elections under different district maps. Not all states engaged in such frequent redistricting; Connecticut, for example, kept the same congressional districts for 70 years, spanning 1841-1912.

Since the 2000 census, there has been renewed mid-decade congressional redistricting activity by states. One widely known example of mid-decade redistricting occurred in Texas in 2003, when the state legislature redrew initial congressional boundaries that were adopted by a federal court in 2001. The Texas mid-decade redistricting resulted in a 2006 Supreme Court case, discussed below. Other states, including Colorado and Georgia, also engaged in additional attempts to redistrict following the 2000 census. After these developments, and as discussed below, some Members of Congress began introducing legislation related to mid-decade redistricting, generally proposing bills that would prohibit states from undergoing more than one redistricting following each decennial census.

Related Supreme Court Activity

In a 2006 decision, *League of United Latin American Citizens v. Perry*, the Supreme Court considered, among other things, whether the Texas legislature violated the population equality and equal protection standards by redistricting mid-decade for partisan purposes. In a plurality opinion, Justice Kennedy, joined by Justices Souter and Ginsburg, determined that the claim that the legislature's decision "to override a valid, court-drawn plan mid-decade" was unconstitutional partisan gerrymandering was insufficiently "suspect to give shape to a reliable standard" for ascertaining a constitutional violation. Writing separately, Justice Kennedy emphasized that the Constitution and federal law do not prohibit mid-decade congressional redistricting.

Recent Congressional Proposals

Since the mid-2000s, approximately 70 bills have been introduced in Congress that would prohibit states from carrying out more than one congressional redistricting after each decennial census and apportionment. Ten such bills, H.R. 4358, H.R. 4632, H.R. 4889, H.R. 5426, H.R. 5449/S. 2885, H.R. 5837, H.R. 5879, H.R. 7167, and H.R. 7219, have been introduced in the 119th Congress to date, with some introduced by Members of each party. Similar legislation in previous Congresses has included the John Tanner Fairness and Independence in Redistricting Act (112th-117th Congresses; introduced as the John Tanner and Jim Cooper Fairness and Independence in Redistricting Act in the 118th Congress) and the Coretta Scott King Mid-Decade Redistricting Prohibition Act (113th-114th and 116th-118th Congresses). Some broader redistricting reform or election administration bills have also included prohibitions on mid-decade redistricting, including the Fair Representation Act (115th-119th Congresses), For the People Act (116th-117th Congresses), and Freedom to Vote Act (117th-118th Congresses). Bills like these may contain exceptions that would allow certain subsequent changes to congressional districts to be made without being considered violations of their general prohibitions. For example, many of these proposals would not consider court-ordered district modifications as mid-decade redistricting. Technical adjustments may also be permitted as another exception.

Although the aforementioned bills have sought to prohibit states from mid-decade congressional redistricting, there are also other ways in which federal legislation could affect states' ability to redraw congressional boundaries. Congress could also require states to conduct mid-decade redistricting; one such bill, H.R. 4798, has been introduced in the 119th Congress to date. Legislation might regulate when or how often redistricting can occur, or specify reasons why or conditions under which a state could engage in a subsequent redistricting. Congress could, for example, consider legislation modifying the timeline for the decennial census and apportionment, or establish deadlines by which states must complete their redistricting processes.

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