

Redistricting Overview

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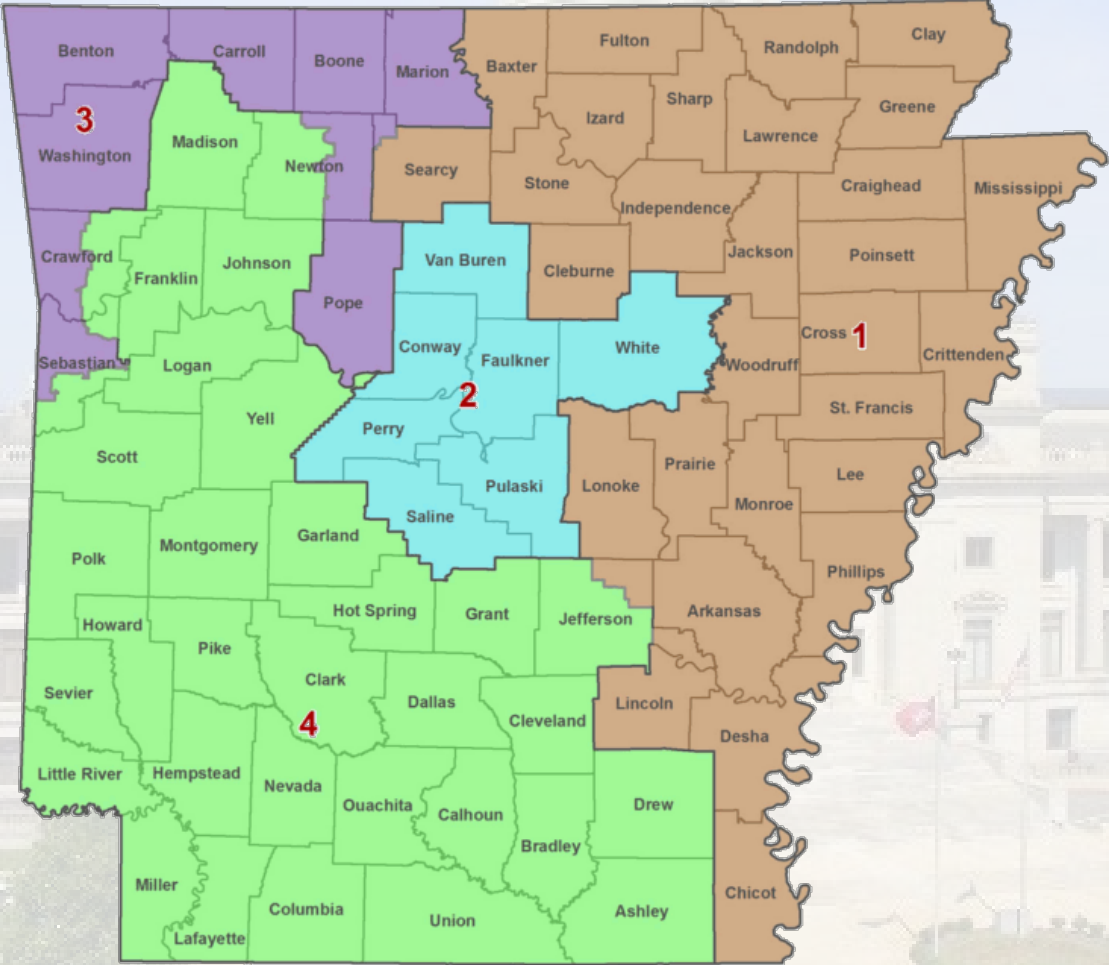
Role of the General Assembly

United States Congressional Redistricting

- Ark. Code Ann. § 7-2-101 establishes that Arkansas is divided into four (4) congressional districts and the responsibility for the delineation of congressional districts of substantially equal population is given to the Arkansas General Assembly.
- United States Census data is utilized to determine the population of Arkansas and its distribution across the state.



2011 Congressional Districts



- The following slides are the codified Congressional District Arkansas Code sections which show the format of redistricting legislation.



7-2-102. First Congressional District.

(a) The First Congressional District shall be composed of:

(1) The counties of Arkansas, Baxter, Chicot, Clay, Cleburne, Craighead, Crittenden, Cross, Desha, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Prairie, Poinsett, Randolph, St. Francis, Sharp, Stone, and Woodruff;

(2) The following voting districts of Jefferson County as they existed on January 1, 2011:

(A) 19 (Dunnington) voting district;

(B) P15 (Dudley Lake) voting district;

(C) 25 (Old River) voting district;

(D) 57 (Villemont) voting district;

(E) P91 (Roberts) voting district;

(F) P851 (Humphrey) voting district; and

(G) P862 (Humphrey) voting district; and

(3) The voting districts and voting precincts of Searcy County as they existed on January 1, 2011, that are not listed under § 7-2-104(a)(4).

(b) The qualified electors residing in the counties and portion of Jefferson County and Searcy County listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.



7-2-103. Second Congressional District.

(a) The Second Congressional District shall be composed of the counties of Conway, Faulkner, Perry, Pulaski, Saline, Van Buren, and White.

(b) The qualified electors residing in the counties listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.



7-2-104. Third Congressional District.

(a) The Third Congressional District shall be composed of:

- (1) The counties of Benton, Boone, Carroll, Marion, Pope, and Washington;
- (2) The voting districts and voting precincts of Crawford County as they existed on January 1, 2011, that are not listed under § 7-2-105(a)(2);
- (3) The following voting districts of Newton County as they existed on January 1, 2011:
 - (A) Big Creek voting district;
 - (B) Dogpatch voting district;
 - (C) Grove voting district;
 - (D) Hasty voting district;
 - (E) Polk voting district;
 - (F) Richland voting district; and
 - (G) White voting district;
- (4) The Prairie voting district of Searcy County as it existed on January 1, 2011; and
- (5) The voting districts and voting precincts of Sebastian County as they existed on January 1, 2011, that are not listed under § 7-2-105(a)(5).

(b) The qualified electors residing in the counties and portions of Crawford County, Newton County, Searcy County, and Sebastian County listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.



7-2-105. Fourth Congressional District.

(a) The Fourth Congressional District shall be composed of:

(1) The counties of Ashley, Bradley, Calhoun, Clark, Cleveland, Columbia, Dallas, Drew, Franklin, Garland, Grant, Hempstead, Hot Spring, Howard, Johnson, Lafayette, Little River, Logan, Madison, Miller, Montgomery, Nevada, Ouachita, Pike, Polk, Scott, Sevier, Union, and Yell;

(2) The following voting districts of Crawford County as they existed on January 1, 2011:

- (A) Alma # 1 voting district;
- (B) Alma # 4 voting district;
- (C) Bidville voting district;
- (D) Chester voting district;
- (E) Dean Springs voting district;
- (F) Dyer voting district;
- (G) Eagle Crest voting district;
- (H) Kibler voting district;
- (I) Locke voting district;
- (J) Mountain voting district;
- (K) Mulberry # 1 voting district;
- (L) Mulberry # 2 voting district;
- (M) Mulberry # 3 voting district;
- (N) Porter voting district;
- (O) Vine Prairie voting district;
- (P) Whitley voting district; and
- (Q) Winfrey voting district;

(3) The voting districts and voting precincts of Jefferson County as they existed on January 1, 2011, that are not listed under § 7-2-

102(a)(2);

(4) The voting districts and voting precincts of Newton County as they existed on January 1, 2011, that are not listed under § 7-2-

104(a)(3); and

(5) The following voting districts of Sebastian County as they existed on January 1, 2011:

- (A) 9-1-A voting district;
- (B) 9-1-B voting district;
- (C) 9-1-C voting district;
- (D) 9-1-D voting district;
- (E) 9-1-E voting district;
- (F) 9-1-Q voting district;
- (G) 9-2-E voting district;
- (H) 9-3-E voting district;
- (I) 9-3-F voting district;
- (J) 9-3-G voting district;
- (K) 9-3-H voting district;
- (L) 9-3-I voting district;
- (M) 9-3-J voting district;
- (N) 9-3-K voting district;
- (O) 9-3-L voting district; and
- (P) 9-3-M voting district.

(b) The qualified electors residing in the counties and portions of Crawford County, Jefferson County, Newton County, and Sebastian County listed under section (a) of this section shall elect one (1) member of the United States House of Representatives.



Legal Issues

- The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution has been interpreted by the United States Supreme Court to require the States to draw legislative districts so that each district is about the same size in population as the others.
- The leading issue for all court examinations of Congressional redistricting under Article 1, Section 2 of the US Constitution on the basis of reapportionment follows the “One person-One vote rule” established in Wesberry v. Sanders.
 - We hold that, construed in its historical context, the command of Art. I, § 2 that Representatives be chosen "by the People of the several States" means that, as nearly as is practicable, one man's vote in a congressional election is to be worth as much as another's. Wesberry v. Sanders, 376 U.S. 1, at 7-8 (1964).



Legal Issues (Cont'd)

- The state must show that any population deviation is justified by some particular governmental reason.
- Population variance between the 4 congressional districts is one of the potential areas for legal challenge in redistricting. Keeping the variance below 1% is a general standard that some use, but that is not a “safe harbor” and the Census Bureau notes that the goal is for a district to be as equal in population to all other districts as practicable.



Legal Issues (Cont'd)

- Gerrymander – A term of art to describe a plan or a district intentionally drawn to give one group or party advantage over another.
- The United States Supreme Court has heard numerous cases involving gerrymandering for partisan reasons, however, the Court has concluded, most recently in Rucho v. Common Cause, 139 S.Ct. 2484, (2019), that partisan gerrymandering is non-justiciable.
 - We conclude that partisan 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. “[J]udicial action must be governed by standard, by rule,” and must be “principled, rational, and based upon reasoned distinctions” found in the Constitution or laws. Vieth, 541 U. S., at 278, 279 (plurality opinion). Judicial review of partisan gerrymandering does not meet those basic requirements.
- Other types of cases involving gerrymandering may be justiciable in Federal Court if they violate the Equal Protection Clause of the Fourteenth Amendment or the Voting Rights Act of 1965.



Traditional Redistricting Principles (or Criteria)

- **Compactness:** Having the minimum distance between all the parts of a constituency (a circle, square or a hexagon is the most compact district).
- **Contiguity:** All parts of a district being connected at some point with the rest of the district.
- **Preservation of counties and other political subdivisions:** This refers to not crossing county, city, or town, boundaries when drawing districts.
- **Preservation of communities of interest:** Geographical areas, such as neighborhoods of a city or regions of a state, where the residents have common political interests that do not necessarily coincide with the boundaries of a political subdivision, such as a city or county.
- **Preservation of cores of prior districts:** This refers to maintaining districts as previously drawn, to the extent possible.
- **Avoiding pairing incumbents:** This refers to avoiding districts that would create contests between incumbents.



Redistricting Principles (Cont'd)

- **Compliance with the Equal Protection Clause of the Fourteenth Amendment:** Courts have held that the Equal Protection Clause of the Fourteenth Amendment means that mapmakers cannot draw districts based solely or primarily on race. The U.S. Supreme Court has held that districts should not be defined exclusively by race, although it is permissible to take race into account while drawing district boundaries. There are exceptions for drawing or adjusting a district based on racial considerations in order to avoid a violation of the Voting Rights Act.
- **Compliance with the Voting Rights Act of 1965 (VRA):** In addition to equal population as the primary goal and the Fourteenth Amendment's prohibition against intentional discrimination, the VRA prohibits any practice or procedure that has a discriminatory effect on racial or language minorities.



Confidentiality

- The confidentiality you are accustomed to in the drafting and research process may not be available in a court challenge.
- Comments or written documents you provide to staff, your colleagues, or other state officials may be discoverable in the event of a legal challenge.
- This could include emails, text messages, conversations with staff, or other information related to the mapping process.
- However, as stated above, absent any litigation on the matter, Bureau staff will continue to keep your drafts confidential and not be shared without your approval.



General Information Regarding Apportionment and Redistricting of the Arkansas House of Representatives and the Arkansas Senate

- The Board of Apportionment is responsible for redistricting the seats for the Arkansas House of Representatives and the Arkansas Senate.
- Article 8 of the Arkansas Constitution creates the Board of Apportionment, prescribes the Board's duties, and sets out the redistricting process.
- The Board of Apportionment is made up of the Governor, Secretary of State and Attorney General.
- The Board of Apportionment will hold public meetings regarding the proposed plans prior to adoption.
- The website for the board is: arkansasredistricting.org
- The Board of Apportionment is holding meetings across the state and the list of these events is found on the website under the events calendar.



Census Data

- The official release date of the 2020 Census data is September 30, 2021.
- The raw 2020 Census data was available to our vendor on August 12th and is currently being processed.
- The 2020 Census data should be available for use in early September.



Procedural Information

- Once the census data is processed by our vendor, members of the General Assembly will be able to meet with Lori Bowen, Michelle Davenport, or Matthew Miller of the Bureau to request a map be drawn with their recommendations for the boundaries of the four congressional districts.
- Once the member approves the map, the information will be transmitted to Michelle Davenport for a bill to be drafted reflecting the boundaries of the congressional districts.



Important Contacts

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- Michelle Davenport- BLR Legal Research and Drafting Services, (501) 537-9126, MAC – L-504, davenportm@blr.arkansas.gov
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