Redistricting

Presented By:
David Mendez, Partner
Bickerstaff Heath Delgado Acosta LLP
Overview

- Texas Population Growth
- The 2020 Federal Census
- County Responsibilities
  - Redistricting process and time line
  - Election precinct adjustments
- Impact of Technology
# Population Growth and Projected Congressional Seats of Select States

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<thead>
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<tbody>
<tr>
<td>United States</td>
<td>308,745,538</td>
<td>327,167,434</td>
<td>18,409,329</td>
<td>6%</td>
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<tr>
<td>Texas</td>
<td>25,145,561</td>
<td>28,701,845</td>
<td>3,555,731</td>
<td>14%</td>
<td>3</td>
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<tr>
<td>Florida</td>
<td>18,801,310</td>
<td>21,299,325</td>
<td>2,494,745</td>
<td>13%</td>
<td>2</td>
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<tr>
<td>North Carolina</td>
<td>9,535,483</td>
<td>10,383,620</td>
<td>847,884</td>
<td>9%</td>
<td>1</td>
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<tr>
<td>Arizona</td>
<td>6,392,017</td>
<td>7,171,646</td>
<td>779,629</td>
<td>12%</td>
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<td>Colorado</td>
<td>5,029,196</td>
<td>5,695,564</td>
<td>666,368</td>
<td>13%</td>
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<tr>
<td>Oregon</td>
<td>3,831,074</td>
<td>4,190,713</td>
<td>359,638</td>
<td>9%</td>
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<tr>
<td>Montana</td>
<td>989,415</td>
<td>1,062,305</td>
<td>72,896</td>
<td>7%</td>
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<td>California</td>
<td>37,253,956</td>
<td>39,557,045</td>
<td>2,302,522</td>
<td>6%</td>
<td>0 to -1</td>
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<tr>
<td>Minnesota</td>
<td>5,303,925</td>
<td>5,611,179</td>
<td>307,254</td>
<td>6%</td>
<td>0 to -1</td>
</tr>
</tbody>
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Anticipated Gains/Losses in Reapportionment
2020 Population Projections
Based on 2018-2019 "Short-Term" Trend

State numbers reflect number of congressional house seats after change put into effect.

Based on Census Bureau estimates released 12/30/2019

Projected Percent Change of the Total Population, Texas Counties, 2010 to 2020

Source: U.S. Census Bureau, 2018 Population Estimates; Map prepared by Texas Demographic Center.
Figure 3: Population Change by Type of Driving Force in Counties in Texas, Metros (Population > 20,000), Towns (Population 2,500 to 20,000), and Rural Areas (Population < 2,500)

- Migration driven growth
- Natural increase driven growth
- Migration driven decline
- Natural decrease driven decline
- No population change

Source: U.S. Census Bureau, 2010 Census Data; Texas Demographic Center, 2018 Population Estimates
Figure 5: Trends in Aging by County 2010 to 2018

Source: U.S. Census Bureau, 2010 Census Data; Texas Demographic Center, 2018 Population Estimates
Census

- What is included in the Census?
- What are some of the issues raised?
- When will it be conducted?
- When will it be released?
- What is expected growth (Texas)?
Types of Population

- Total Population
- Voting Age Population
- Citizen Voting Age Population
- Spanish Surname Registered Voters (SSRV)
Controversies Surrounding Census 2020

Whether injecting questions about citizenship will chill response to the census

- The higher the population figures for a state such as Texas, the greater the impact on legislative representation.
- A significant undercount would adversely impact the potential amount of federal aid available to the state.
- A significant undercount would impact the ability to draw majority minority districts.

Information obtained from U.S. Census Bureau, Texas Demographic Center.
2020 Census Scheduled Events

APRIL 1
Census Day

APRIL 20 - 27
A final reminder postcard will be sent before a follow-up will occur in person.

DECEMBER
Apportionment counts delivered to the President

2020

MARCH 12-20
An invitation to respond online to the 2020 Census will be sent (some households will also receive paper questionnaires)

MARCH 16 - 24
A reminder letter will be sent from the U.S. Census Bureau

MARCH 26 - APRIL 3
If you haven’t responded yet, a reminder postcard will be sent

MAY
U.S. Census field staff (called enumerators) will visit households who have not yet completed the census.

2021

MARCH 31
Redistricting Counts delivered to the States

U.S. Census Bureau website
Commissioner Court Responsibility

- Commissioner Precinct Rebalancing
- Justice Precincts
- Election Precinct Issues
  - Timing
  - Entities affected
Recent Court Cases

Basic Legal Principles that apply:
- One person – One vote
- Voting Rights Act Section 2
- Restrictions on Race-Based Redistricting ([Shaw v. Reno](https://example.com))
- State Election Law
Shelby County v. Holder
No. 12-96 (June 25, 2013)

- U.S. Supreme Court holds Voting Rights Act section 4(b) is unconstitutional
  - Section 4(b) is unconstitutional because it is based on outdated information
  - Section 4(b) defines who must comply with section 5 ("coverage")
  - Section 5 is the preclearance process
Evenwel v. Abbott

- In *Evenwel v. Abbott*, 136 S.Ct. 1120 (2016), one of the term’s most significant cases, the U.S. Supreme Court unanimously (Justices Thomas and Alito concurring) held that a state or locality may draw legislative districts based on total population and is not required to use a metric limited to persons eligible to vote.
One Person-One Vote

- Districts Must Have Relatively Equal Population

- While not a safe harbor, generally districts will meet constitutional requirements if they have no more than a 10 percent deviation.
Section 2 of the Voting Rights Act

- Section 2 prohibits election practices that discriminate on the basis of race or language minority status.
- Generally you need to avoid cracking or packing.
  - Cracking or fracturing is dividing a geographically compact group of minority voters to fragment their voting power.
  - Packing is concentrating minority voters in a single district when dividing them would permit the group to elect their candidates of choice in more than one district.
Section 2 Threshold Test

1. The minority group must be sufficiently large and geographically compact to be able to constitute a majority in a single-member district.

2. The minority group must be politically cohesive.

3. The white majority must vote as a bloc usually to defeat the minority choice.
**Shaw v. Reno**

- Race cannot be the predominant factor in the redistricting process to the subordination of traditional districting principles.

- Districts with odd shapes are not necessarily unconstitutional; however, a bizarre shape may be evidence that strongly suggests that race was the predominant factor driving the redistricting decision.
Proposed 2021 Time Line for County Redistricting

Initial Preparations

2021 Mar
Probable Census Release

Develop Plan

2021 Apr
Compile County Information

Overview of Process and Legal Issues
Adopt Rules, Criteria
Initial Assessment

2021 May
Review First Draft Plan

2021 Jun
Conduct Public Hearing

2021 Jul
Assessment of Plans & Public Comments

2021 Aug
Assessment & Adoption of Final Plan

Election Precincts

2021 Sep
October 1, 2021 Deadline to Make Changes to County Election Precincts Because of Redistricting

2021 Oct
Implementation*

2021 Nov

*Texas Election Code Chapter 276.006:
A change in the boundary of a political subdivision other than a county must be adopted 3 months prior to the election under that plan.
How to Redistrict - Steps

- Preparation of Local Data
- Initial Assessment
- Establishing Policies and Guidelines
- Traditional Districting Criteria
- Rebalancing to correct the population imbalance
- Develop Redistricting Plan(s)
- Present Illustrative Plans
- Public Participation
- Adopt New Plan
Justice of the Peace/Constable Review

- Reconfigure precincts or reduce
- Redraw based upon workload or convenience
- Statutory requirements for number of Justice Precincts
  - The Constitution provides that “any county that is divided into four or more precincts on November 2, 1999, shall continue to be divided into not less than four precincts.”
  - Article V, Section 18, Texas Constitution
Legal Consideration in Changes to Justice Precincts

- One person – one vote does **NOT** apply
- BUT Section 2 **DOES** apply
- Incumbents have Texas Constitutional rights
  - Finish term
  - Reasonable compensation
  - Furnish reasonable office, staff
County Election Precincts

- Must have polling locations in each precinct or use countywide vote centers.
- Must **NOT** cross into other jurisdictions (*see following list*).
- Will be adjusted **AFTER** Commissioner Precincts, Justice Precincts and Legislative Districts.
- Coordinate with city, school, water and special districts redistricting to create more efficient precincts.
State Law Issues: Election Precincts

1. County Election Precincts Cannot Contain Territory From More Than One:
   - Commissioner precinct
   - Justice precinct
   - Congressional district
   - State senate district
   - State representative district
   - State Board of Education district

2. County participation in the Countywide Polling Place Program

3. County Election Precincts Have Population Requirements:
   - At least 100 but not more than 5,000 registered voters
   - County Under 100,000
     - Minimum reduces to 50 registered voters
   - County Under 50,000
     - Minimum under 50 with petition from 25 registered voters
   - Suspense voters shall not be included in the counts
Election Precincts

- Deadline to complete election precinct realignment is October 1st
- Submission of newly realigned election precincts to:
  - Secretary of State and Texas Legislative Council
  - Elections Administrator/Voter Registrar
- Coding of voters into realigned election precincts
- County can use technology to simplify process and reduce costs.
Counties Approved to Use the Countywide Polling Place Program (CWPP) for the November 5, 2019 Constitutional Amendment Election

- Populations more than 100K (6 slots available)
  - Bexar County
  - Comal County
  - Dallas County
  - Hays County
  - Tarrant County

- Populations less than 100K (4 slots available)
  - Atascosa County
  - Henderson County
  - Jones County
  - Kendall County

Texas Conference of Urban Counties' Members (RED)
Counties Designated “Successful” (unlimited slots) and Year Designated

- Aransas County (2016)
- Archer County (2019)*
- Bee County (2019)*
- Bee County (2019)
- Brazoria County (2015)
- Brazos County (2016)
- Callahan County (2014)
- Collin County (2013)
- Coryell County (2014)
- Deaf Smith County (2018)
- DeWitt County (2018)
- Eastland County (2013)
- Ector County (2016)
- Ellis County (2019)*
- Erath County (2012)
- Floyd County (2013)
- Fort Bend County (2016)
- Gaines County (2012)
- Galveston County (2012)
- Grayson County (2014)
- Gregg County (2017)
- Grimes County (2017)
- Guadalupe County (2017)
- Harris County (2019)*
- Hidalgo County (2018)
- Hood County (2015)
- Hopkins County (2015)
- Howard County (2019)*
- Jack County (2018)
- Jefferson County (2014)
- Kaufman County (2018)
- Lampasas County (2014)

The counties with an * are newly designated Successful counties.
Counties Designated “Successful” (unlimited slots) and Year Designated

- Lee County (2016)
- Lubbock County (2012)
- Madison County (2013)
- McLennan County (2015)
- Medina County (2016)
- Midland County (2012)
- Milam County (2016)
- Montague County (2015)
- Navarro County (2015)
- Nueces County (2017)
- Palo Pinto County (2016)
- Parker County (2015)
- Potter County (2016)
- Randall County (2014)
- Rusk County (2015)
- San Jacinto County (2016)
- San Patricio County (2018)
- Smith County (2015)
- Swisher County (2014)
- Taylor County (2015)
- Throckmorton County (2017)
- Tom Green County (2015)
- Travis County (2012)
- Upshur County (2017)
- Victoria County (2014)
- Wharton County (2015)
- Williamson County (2014)
- Wichita County (2018)
- Young County (2016)

The counties with an * are newly designated Successful counties.

Texas Conference of Urban Counties’ Members (RED) – 25 out of 35
Counties Should Insure That Process and Technology are Adequate to Meet the Unique Challenges of Urban Counties

- GIS and Redistricting Applications should be powerful enough to handle large data files.

- The county’s redistricting team should be accessible to commissioners and the necessary county departments by virtual meetings or otherwise to quickly and accurately update maps.

- The county’s redistricting process and resources should be able to handle the complexities that arise from redistricting by multiple overlapping jurisdictions.
**Process Overview**

**BEGIN: February 2021**

- Collect base data (GIS, boundaries, geocoding data)
- Work session & scheduling with Commissioners
- Census release – Initial Assessment
- Adopt guidelines and criteria
- Develop Illustrative Plan
- Review plans/modify illustrative plan
- Public input
- Analyze and report
- Adopt plan
- Adjust Election Precincts

**END: October 1st, 2021**
Redistricting

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