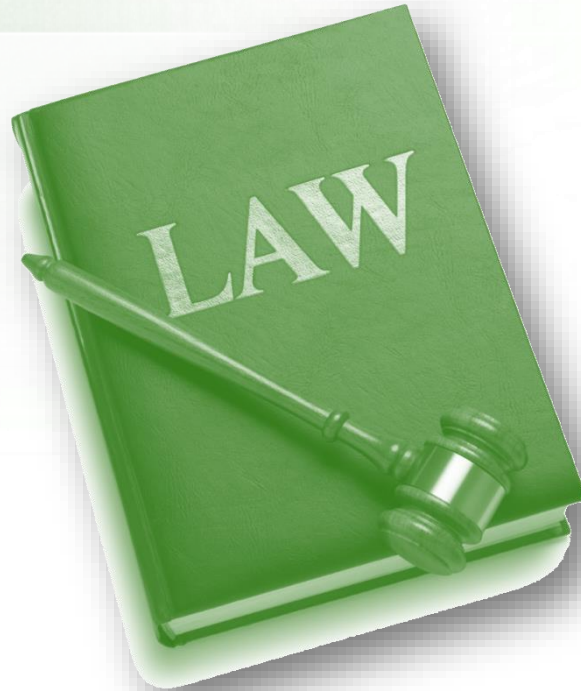


Redistricting of Texas Junior College District Boards Based on the Census 2020

Presented by:
David Mendez, Partner
Bickerstaff Heath Delgado Acosta LLP

Discussion Outline

- Review Legal Basis for Single Member Districts
- 2020 Census
- Obligation to Redistrict
- Timing of the Redistricting Project
- Other Legal Issues



Single Member Districts

Overview of the Law

Legal Basis for Junior College Single Member Districts Governance Structures

- Section 130.0821 – Countywide Community College
- Section 130.0822 – General Authority
- 3/4 Structure Commissioner Pct.
- District Specific Statutes (Texarkana, Blinn)
- Section 130.083 – Enlarged with Regents

Legal Authority to Adopt Single Member District Structure

- **Texas Education Code Section 130.0822** - Board of Trustees of a district may order that all or a majority of the trustees of the district be elected from single member districts
- No provision for submitting the question to voters
- must be adopted at least **120 days** before the date of an election using the structure
- All trustee positions up at initial election and after each redistricting

Legal Authority to Adopt Single Member District Structure (continued)

■ Irrevocable decision

- A decision to convert to single member districts (all single member or mixed) is irrevocable under the current legal structure
- If a district converts to any form of single member district structure, there is no legal authority that expressly authorizes it to go back to at-large.

Legal Authority to Adopt Single Member District Structure (continued)

- Continuing Redistricting Obligation
 - Upon release of decennial census and prior to first election of the district after such release.
 - Upon annexation of territory that causes the districts to become unbalanced.

Legal Authority to Adopt Single Member District Structure (continued)

- Impact on success of candidates of minority community
- Impact on future annexations:
 - Dilutive and Administrative
- Election administration and costs



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)?

Population for Redistricting

Types of Population

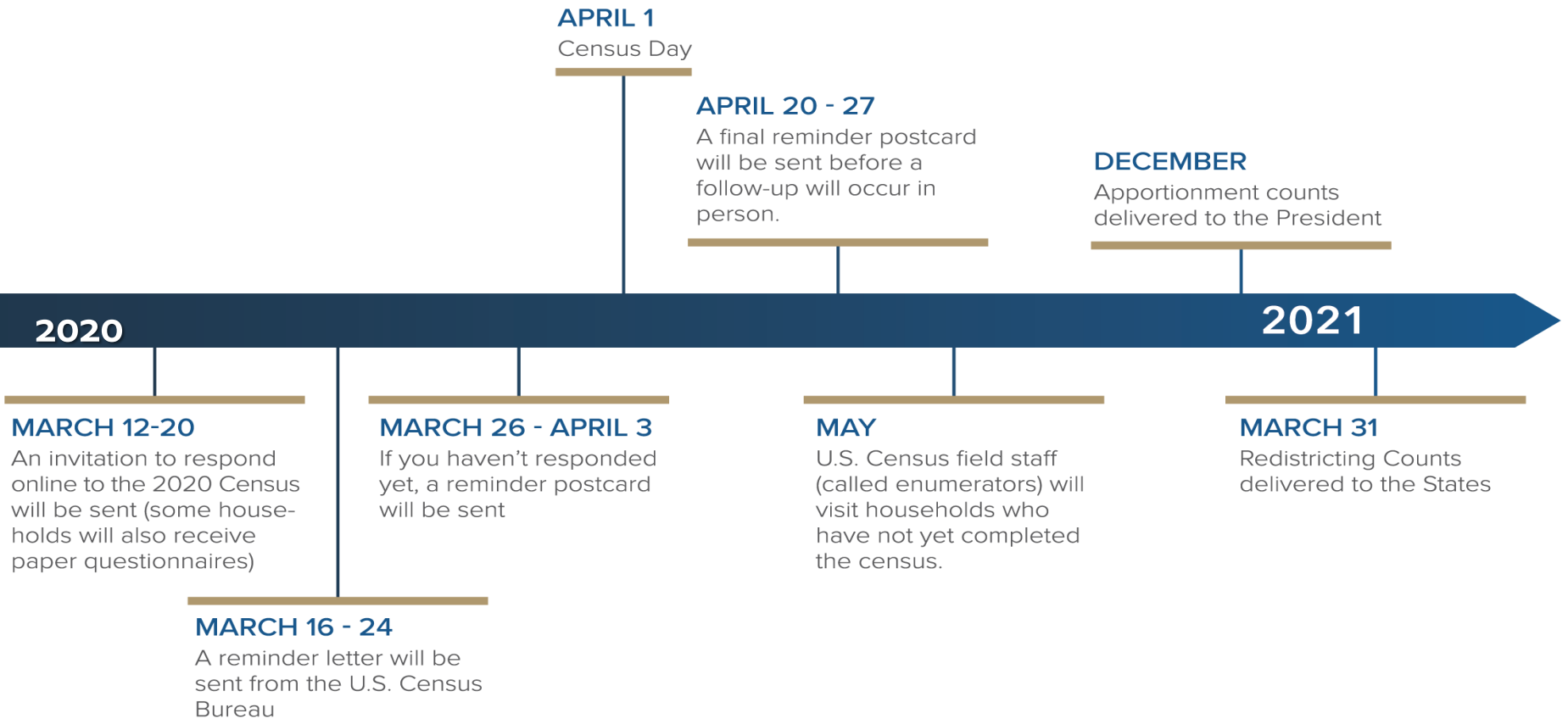
- Total Population
- Voting Age Population
- Citizen Voting Age Population
- Spanish Surname Registered Voters (SSRV)

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.

2020 Census Scheduled Events



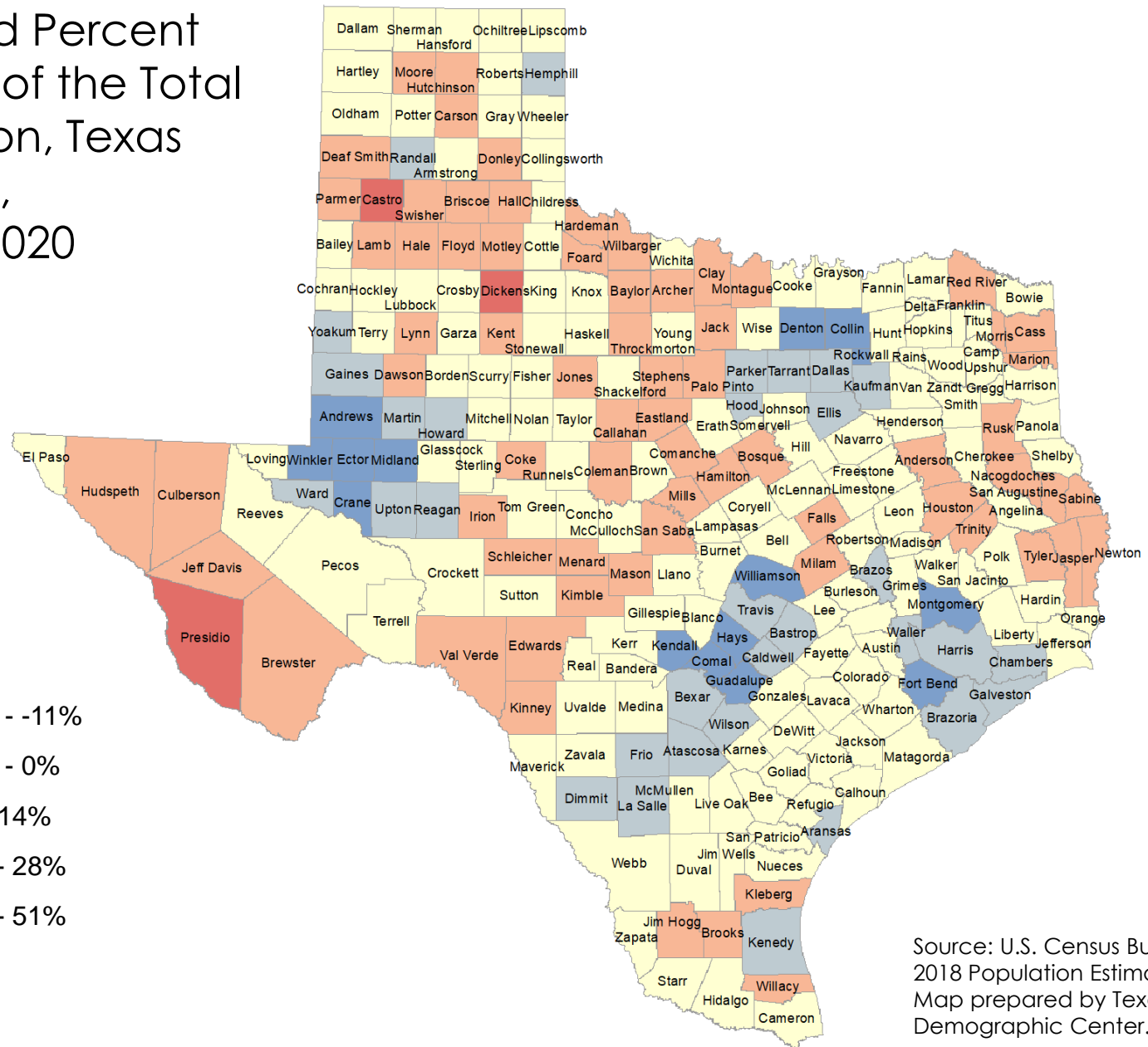
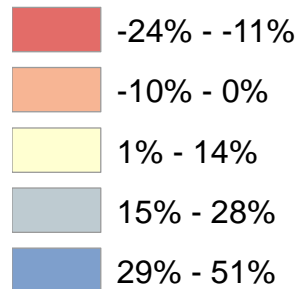
U.S. Census Bureau website

Population Growth and Projected Congressional Seats of Select States

	2010 Population	2018 Population	Numeric Change 2010-2018	Percent Change 2010-2018	Projected Congressional Seats Added
United States	308,745,538	327,167,434	18,409,329	6%	
Texas	25,145,561	28,701,845	3,555,731	14%	3
Florida	18,801,310	21,299,325	2,494,745	13%	2
North Carolina	9,535,483	10,383,620	847,884	9%	1
Arizona	6,392,017	7,171,646	779,358	12%	1
Colorado	5,029,196	5,695,564	666,248	13%	1
Oregon	3,831,074	4,190,713	359,638	9%	1
Montana	989,415	1,062,305	72,896	7%	1
California	37,253,956	39,557,045	2,302,522	6%	0 to -1
Minnesota	5,303,925	5,611,179	307,254	6%	0 to -1

Source: U.S. Census Bureau. 2000 and 2010 Census Count, 2018 Population Estimates; Brennan Center for Justice.

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)

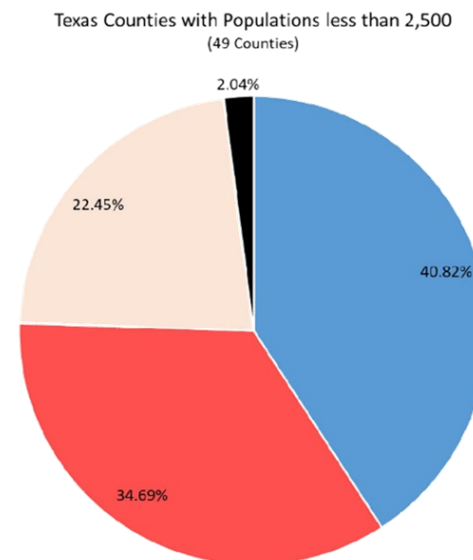
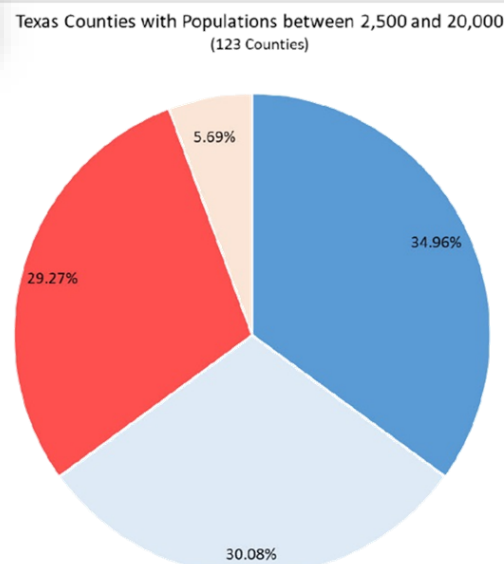
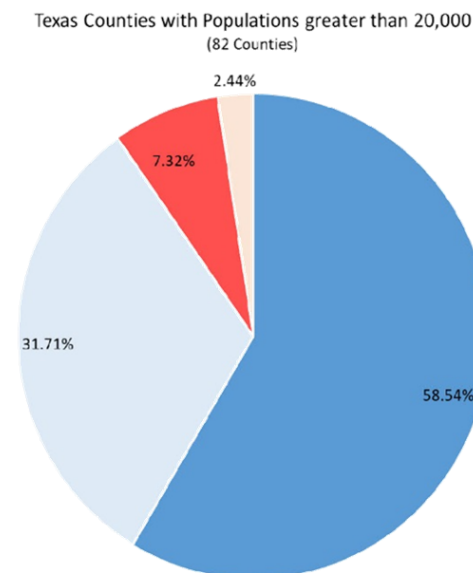
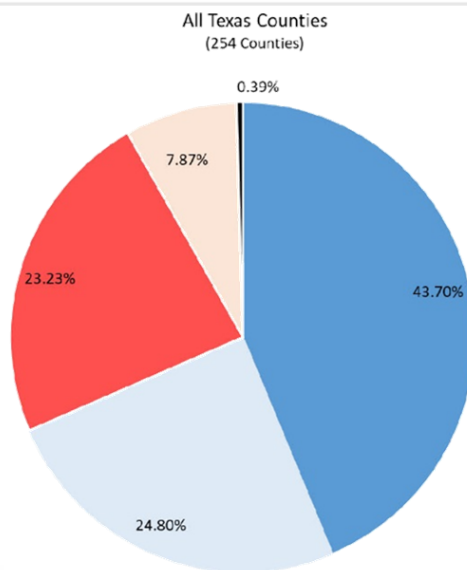
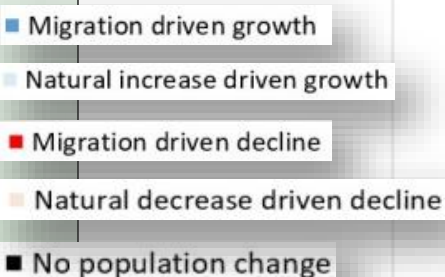
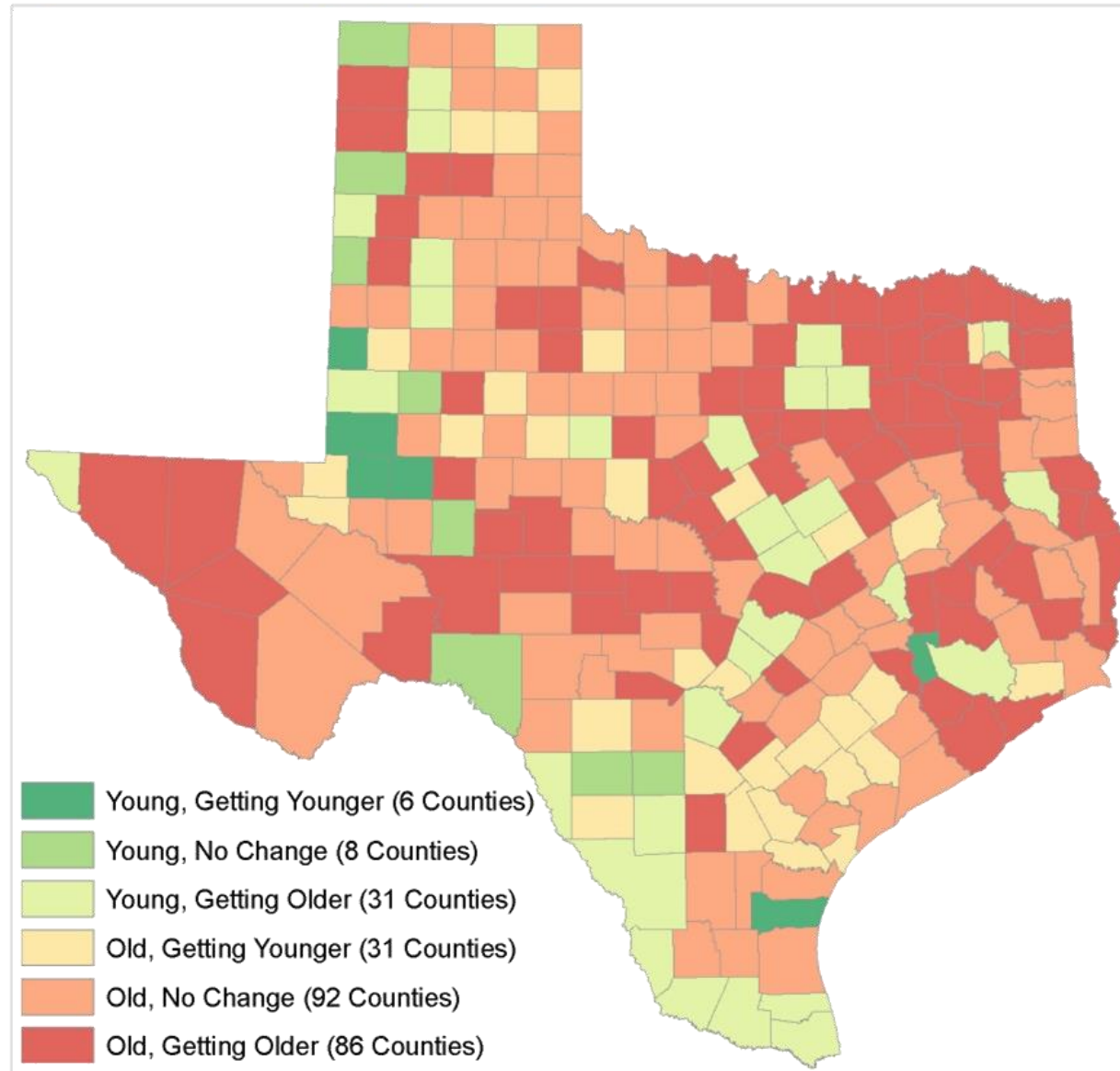


Figure 5: Trends in Aging by County 2010 to 2018

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

Redistricting Obligations



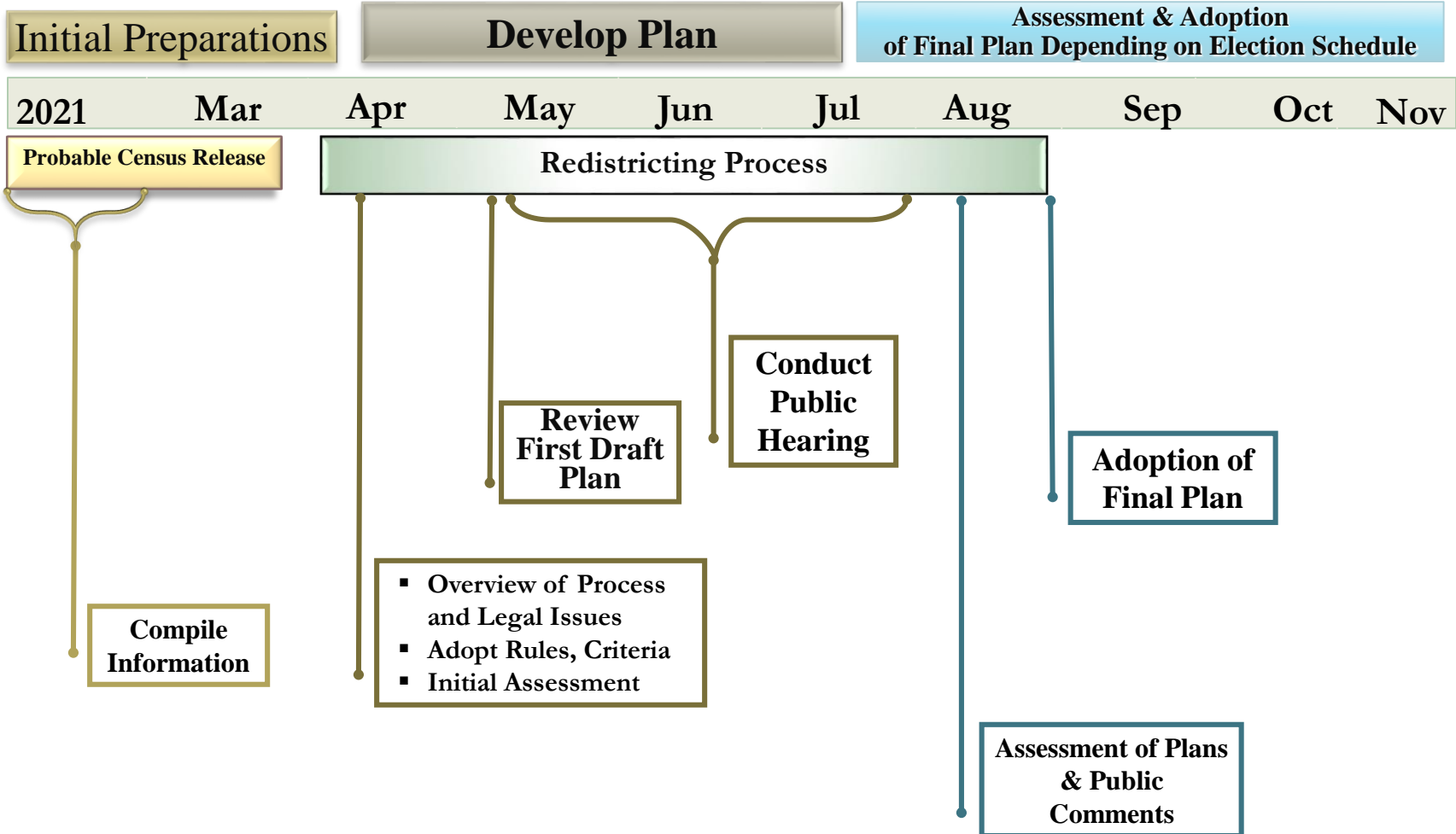
Redistricting Obligation

- Texas Community College Districts with single member trustee districts must assess population imbalance upon release of 2020 Census and redistrict to correct imbalance
- The census data will be released by April 1, 2021

Timing of the Redistricting Project



Proposed 2021 Time Line for Redistricting

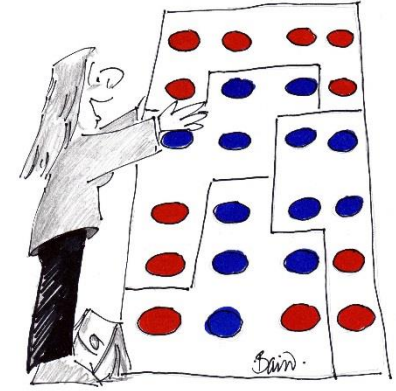


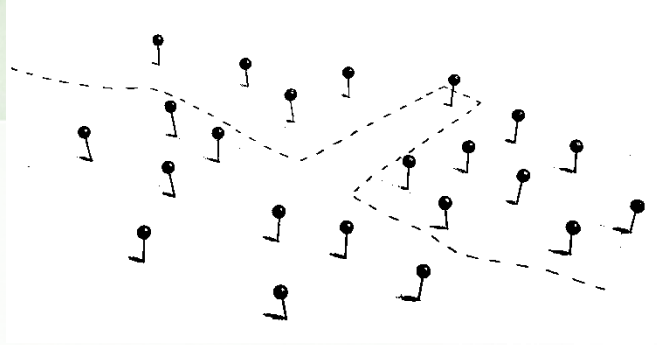
*Texas Election Code Chapter 276.006:

A change in the boundary of a political subdivisions other than a county must be adopted 3 months prior to the election under than plan.

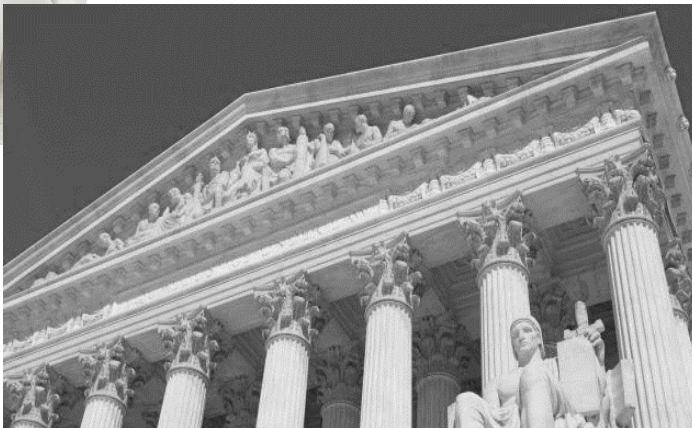
How to Redistrict - Steps

- 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





Law of Redistricting



Law of Redistricting

- Basic Legal Principles that apply:
 - One person – One vote
 - VRA Section 2
 - Restrictions on Race-Based Redistricting (Shaw v. Reno)
 - 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 Requirement

- Constitutional principle applies to Community College District's single member districts
- While not a safe harbor, generally districts will meet constitutional requirements if they have no more than a **10 percent** deviation.

One Person – One Vote Requirement

Section 130.0822

- Not later than the 90th day before the day of the first regular junior college district trustee election at which trustees may officially recognize and act on the last preceding federal census, the board shall re-divide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than 10 percent.

Requirements Under Voting Rights Act of 1965

- Section 2 Coverage – Applicable nationwide
 - creates cause of action for violation of electoral rights
- Section 2 standard is discrimination
- Under Section 2 a change is not necessary

The Standard for Proving a Section 2 Claim

- In order to maintain a section 2 suit a plaintiff must meet a three-part threshold standard. Specifically, the plaintiff must prove:
 1. That the minority group is sufficiently large and geographically compact to be able to constitute a majority of the citizen-voting-age population in a potential single-member district
 2. That the minority group is politically cohesive
 3. That the white majority votes a bloc to enable it—in the absence of special circumstances—usually to defeat the minority's preferred candidate

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.

Adopt Criteria

- Identifiable boundaries
- Maintaining communities of interest and neighborhoods
- Using whole voting precincts
- Basing plan on existing districts
- Adopting districts of relatively equal size
- Drawing districts that are compact and contiguous
- Keeping existing representatives in their districts
- Narrowly tailoring plan to comply with the VRA

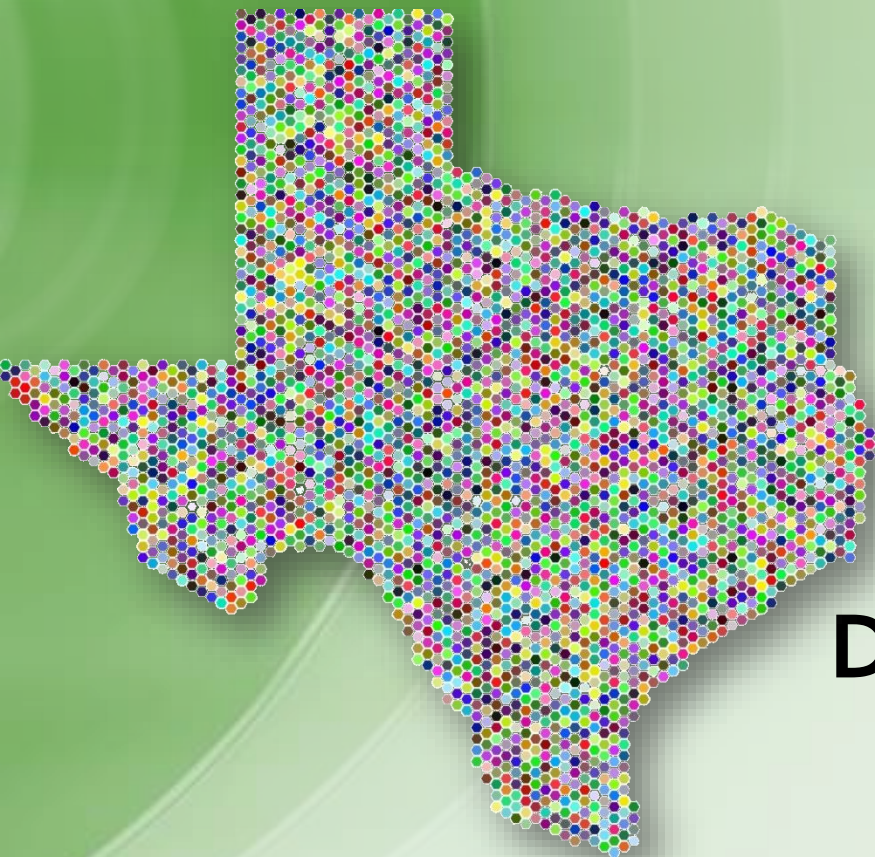
Adopt Redistricting Guidelines

Proposed Plans:

- Submitted in writing and be legible
- Show all demographic and racial categories based upon the 2020 Census
- Plans should redistrict the entire jurisdiction
- Plans should conform to the criteria
- Comments must be submitted in writing and be legible
- Comments and proposed plans must include person's full name and home address and provide a phone number and, if available, an email address
- All comments and proposed plans must be submitted to the governing body by the close of the public hearing

Other Practical Considerations

- All Trustees are up for re-election after redistricting **unless** the Trustees invoke provisions to allow them to serve out the remainder of their terms.
- The adopted plan must be in effect **three months** prior to the first election on that plan.
- Also, since Counties must have election precincts reconfigured by October 1st in the redistricting year it would be advantageous for the Community College District to have completed its redistricting in order for the new plan to be utilized during the readjustment of election precincts.



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