



Local Redistricting in Wisconsin

Law · Principles · Process

Staci Duros

Michael Gallagher

Joe Kreye

Overview

- Information on the Legislative Reference Bureau (LRB)
- Basic redistricting law and principles
- Local redistricting procedure and timeline

Legislative Reference Bureau

- Since 1901
- Nonpartisan and confidential legislative drafting services to legislators and others in state government with drafting privileges
- Nonpartisan and confidential research services to legislators, state and local government officials and agencies, and the public

REDISTRICTING IN WISCONSIN 2020

THE LRB GUIDEBOOK



Basic Redistricting Law and Principles

Terminology

- ***Reapportionment*** refers to (re)dividing the number of seats in the U.S. House of Representatives based on each state's portion of the national population.
- ***Redistricting*** is the process by which electoral district boundaries are redrawn periodically to adjust for shifts in population and to ensure proper representation for all potential voters in a given geographic area.

Federal Constitutional Requirements

“The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.”

U.S. Const. art. I, § 2, cl. 3.

Federal Constitutional Requirements

“Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State....”

-U.S. Const. amend. XIV, § 2.

Title 13 of the U.S. Code

Under Title 13 of the U.S. Code, Congress delegated the responsibility and management of the census to the U.S. Department of Commerce and its U.S. Census Bureau.

State Constitutional Requirements

“At its first session after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and assembly, according to the number of inhabitants.”

-Wis. Const. art. IV, § 3.

Federal Redistricting Requirements

- Equal population
- Minority protection

Equal Population

- Central principle for redistricting
- One person, one vote
- Statistical measurements:
 - Ideal population
 - Absolute deviation
 - Relative deviation
 - Overall range

Ideal Population

Ideal Population =

Total population of the unit being divided

Number of districts being created

Example

SENATE

$$\begin{array}{r} 5,854,594 \\ \hline 33 \\ = \\ 177,412 \end{array}$$

ASSEMBLY

$$\begin{array}{r} 5,854,594 \\ \hline 99 \\ = \\ 59,137 \end{array}$$

Absolute Deviation (AD)

$$AD = \text{Total population} - \text{Ideal population}$$

- Used to determine the extent to which a district is larger or smaller than the ideal district size.

Relative Deviation (RD)

$RD = \text{Absolute deviation} \div \text{ideal population}$

- NOTE - both AD and RD are used to assess equality of population at the district level.

Example

- If the ideal population per district is 100,000 and the actual population of a particular district is 99,000:
 - $AD = \text{Total population} - \text{Ideal population}$; so the district's **AD is -1,000.**
 - $RD = \text{Absolute deviation} \div \text{ideal population}$, so the district's **RD is -1 percent.**

Overall Range

- The difference in population between the smallest and the largest districts
- Used as a measurement to evaluate a redistricting plan as a whole, whether at the state or local level.

Example

- If the largest district's population is 101,000 and the smallest district's population is 98,000, the overall range is:
- One starts with the ideal population, which is 100,000; we know that the largest district is +1,000 and the smallest district is -2,000, so the **overall range**, ignoring “+” and “-” would be 3,000 people or **3 percent**.

Overall Range

- An overall range that is **less than 10 percent** is generally regarded as complying with the principle of one person, one vote.

Overall Range

“When drawing state and local legislative districts, jurisdictions are permitted to deviate somewhat from perfect population equality to accommodate traditional districting objectives, among them: preserving the integrity of political subdivisions, maintaining communities of interest, and creating geographic compactness. When the maximum population deviation between the largest and smallest district is less than 10 percent, a state or local legislative map presumptively complies with the one-person, one-vote rule.”

—U.S. Supreme Court

Constitutional Standards for Equal Population

- Congressional districts must be as “nearly equal in population as practicable” [*Wesberry v. Sanders*, 376 U.S. 1 (1964)]
- Strict enforcement - no level of population inequality is deemed too small for judicial challenge [*Karcher v. Daggett*, 462 U.S. 725 (1983)]

Constitutional Standards for Equal Population

- Legislative districts must be drawn with “substantial equality of the population,” [*Reynolds v. Sims*, 377 U.S. 533 (1964)].
- “Substantial equality” means an overall range of less than 10 percent from the ideal population, [*Brown v. Thompson*, 462 U.S. 835 (1983)].

Constitutional Standards for Equal Population

- Wisconsin has historically achieved a much stricter population deviation standard for its districts with an overall range of less than 2 percent [*AFL-CIO v. Elections Bd.*, 543 F. Supp. 630 (E.D.Wis. 1982)].
 - 1982 - 1.74 %
 - 1992 - 0.91 %
 - 2002 - 1.59 %
 - 2011 - 0.76 %

Protection of Minorities

- 1965 Voting Rights Act (VRA) enacted by Congress to remedy the inequality of opportunity given to racial and ethnic minorities to participate in elections.

Section 2 of the 1965 VRA

- Prohibits any state or political subdivision from imposing a “voting qualification or prerequisite to voting, or standard, practice or procedure to deny or abridge the right to vote on account of race or color.”

Section 2 of the 1965 VRA

- In 1975, the ban on voting qualifications or prerequisites was made permanent and coverage of the act was broadened to include members of language minority groups.
- In 1982, Section 2 was made to apply to any plan that results in discrimination against a member of a racial or language minority group, regardless of the intent of the plan's drafters.

Vote Dilution

- A redistricting map may be challenged if it splits up a race or language minority group and combines its members with a majority group, effectively limiting the ability of that minority group to elect a candidate of its choice. This is known as **vote dilution**.

Protection of Minorities in Practice

- A redistricting plan in which the voting strength of a minority group is diluted is most often challenged because the plan violates either Section 2 of the Voting Rights Act of 1965 or the equal protection clause of the Fourteenth Amendment (or sometimes both).

Other Redistricting Principles

Many states impose additional redistricting requirements, referred to generally as *traditional districting principles*.

- Compactness
- Contiguity
- Preserving communities of interest
- Preserving the unity of political subdivisions

Compactness

Minimize the distance between all parts of a district.



compact



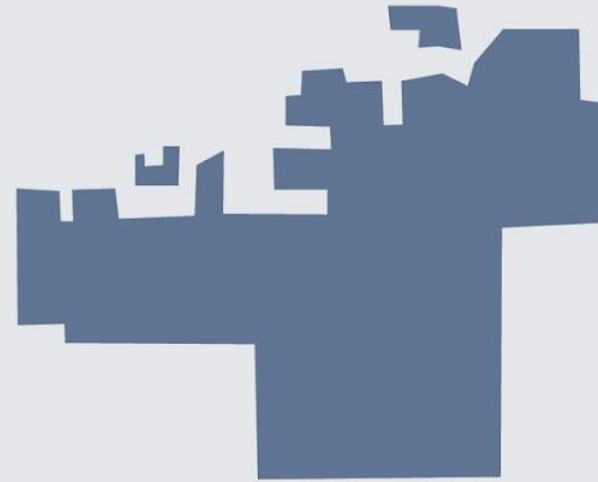
not compact

Contiguity

All areas within a district should be physically adjacent.



contiguous



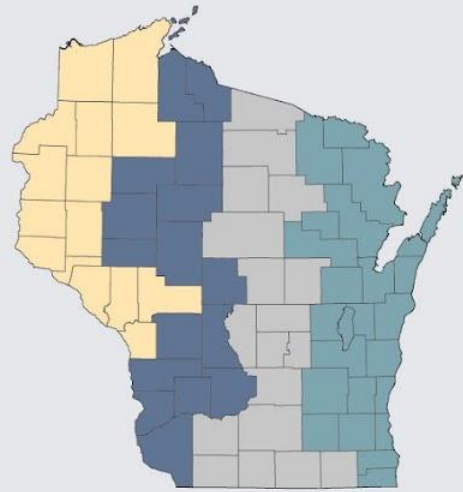
noncontiguous

Communities of Interest

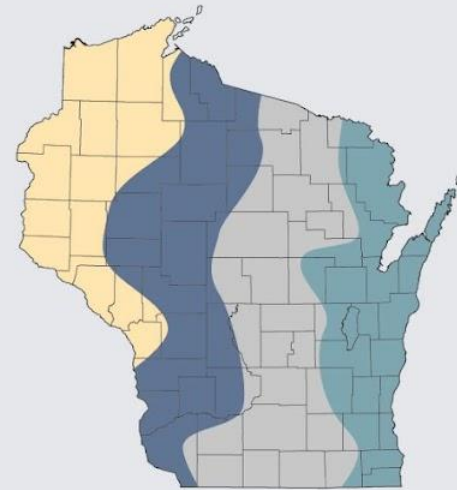
- The general principle that it is desirable to group like-minded or similar people so that they may elect a representative that reflects a common interest relevant to legislative representation.
- A community of interest must be viewed separately from those racial, ethnic, or linguistic groups who are protected by federal law.

Unity of political subdivisions

Avoid crossing county, city, or town boundaries when drawing districts.



subdivision unity



subdivision disunity

WI's Redistricting Requirements

- Article IV of the Wisconsin Constitution governs basic requirements.
 - Section 3 – requires the legislature after each census to “apportion and district anew the members of the senate and assembly, according to the number of inhabitants.”
 - Section 4 - requires assembly districts to be “bounded by county, precinct, town, or ward lines, to consist of contiguous territory, and be in as compact form as practicable.”
 - Section 5 - requires senate districts to be of “convenient contiguous territory.”

Local Redistricting Law and Process

The official publication
of Public Law 94-171
population data for
Wisconsin is released.



Municipalities enact an
ordinance or resolution to
establish ward boundaries.



60 DAYS

But no later than July 1, 2021

60 DAYS

60 DAYS

County boards adopt a
preliminary county
supervisory district plan.



Counties adopt final
supervisory district plans
and municipalities adjust
aldermanic districts.



Phase I: Tentative County Supervisory Plans

- Within 60 days after the official publication of P.L. 94-171 data “but no later than July 1 following the year of each decennial census [i.e. July 1, 2021],” the county board is required to adopt a preliminary county supervisory district plan. (Wis. Stat. § 59.10 (3) (b) 1.)

Adopting a Tentative County Supervisory Plan (Wis. Stat. § 59.10 (3) (b) 1.)

In proposing a tentative county supervisory district plan, the county board must:

- Solicit suggestions from municipalities.
- Hold a public hearing, after which the plan may be amended.
- Provide a copy of the plan once adopted to each municipality in the county, and written notice to each affected municipality, if the division of a municipality is sought.

Adopting a Tentative County Supervisory Plan (Wis. Stat. § 59.10 (3) (b) 1.)

Each tentative plan must satisfy all of the following:

- The number of districts must equal the number of supervisors.
- Districts must be substantially equal in population.
- Districts must generally consist of whole wards or municipalities.
- Territory within each district must be contiguous, except for island territory.

Phase 2: Municipalities Adjust Ward Boundaries

- After receiving the tentative supervisory district plan, municipalities have 60 days to adjust ward boundaries. (Wis. Stat. § 5.15 (1) (b))

Wards: The Building Blocks of Election Districts

- Governed by section 5.15 of the Wisconsin Statutes
- Building blocks from which all election districts are created
 - Intended to be as permanent as possible
 - Referred to by the Census Bureau as “voting districts”
 - Not election districts—not subject to equal population requirements
- Required for municipalities with a population of at least 1,000
- Under 1,000, may, but not required to divide into wards

Rules for Creating Wards (Wis. Stat. § 5.15)

Wards must:

- Be comprised of whole census blocks, subject to exceptions.
- To suit the convenience of the voters, be kept compact and observe the community of interest of existing neighborhoods and other settlements.
- Be comprised of contiguous territory.
- Comply with the population ranges specified by law, and, when created, contain a population at a convenient point within the applicable range.
- Lie entirely within one municipality and one county.
- Be designated by consecutive, unique whole numbers beginning with the number “one.”

Ward Population Ranges (Wis. Stat. § 5.15 (2)(b))

Population of Municipality	Ward Population Range
Cities over 150,000	1,000 to 4,000
Cities 39,000 to 149,999	800 to 3,200
Cities, villages, or towns	
10,000 to 38,999	600 to 2,100
1,000 to 9,999	300 to 1,000
Fewer than 1,000	No division required

Adjusting Ward Boundaries (Wis. Stat. § 5.15)

Wards boundaries may require adjustment to:

- Reflect changes in population.
- Reflect changes in minority population.
- Reflect changes in municipal boundaries.
- Facilitate the establishment of county supervisory districts of equal population.
- Facilitate the creation of aldermanic districts of equal population.
- Accommodate a legislative redistricting plan. (2011 Wisconsin Act 39)

Phase 3: Counties Adopt Final Supervisory Districts; Cities Set Aldermanic Districts

- Within 60 days after every municipality in a county adjusts its wards, the county board is required to conduct a second public hearing after which it adopts a final supervisory district plan and numbers each supervisory district. (Wis. Stat. § 59.10 (3) (b) 2.)
- Within 60 days after its wards have been readjusted, the common council of each city not electing its common council at large is required to redistrict the boundaries of its aldermanic districts. An ordinance must be adopted by “a majority vote of all the members of the council.” (Wis. Stat. § 62.08 (1))

2021 Local Redistricting Timeline

Requirement	Completion By
P.L. 94-171 file received and published	March 31, 2021
Counties adopt tentative supervisory plans	May 30, 2021
Municipalities adjust ward boundaries	July 29, 2021
Counties establish supervisory districts	September 27, 2021
Cities establish aldermanic districts	September 27, 2021

2022 Election Timeline

- December 1, 2021—Nomination papers circulated for spring primary
- January 4, 2022—Deadline for filing nomination papers for spring primary
- February 15, 2022—Spring primary
- April 5, 2022—Spring election
- April 15, 2022—Nomination papers circulated for partisan primary
- June 1, 2022—Deadline for filing nomination papers for partisan primary
- August 9, 2022—Partisan primary
- November 8, 2022—General election



Questions?