

## History of Minnesota Legislative Redistricting

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November 2018

Between the 1850 census and the 1950 census, legislative redistricting was not completed on a regular cycle following a decennial census. Starting after the 1950 census, redistricting was regularly completed every decade following the national census. Although the courts decided cases affecting redistricting in the early half of the 1900's, the courts became much more involved in redistricting starting in 1950 and continue to be involved today.

The purpose of this memo is to review the procedure used for redistricting plans enacted in the past century: 1913 through 2012. A list of citations to district plans dating to 1860 is included at the end of this memo.

The substance of this memo is limited only to redistricting plans for the Minnesota state legislature. A review of redistricting procedures for Minnesota's congressional districts is included in a separate memo.

### 1913 Redistricting

The legislature enacted a redistricting plan in 1913, in response to the 1910 census. Laws 1913, [ch. 91](#). The law provided for 47 House districts and 22 Senate districts.

In 1914, the Minnesota Supreme Court upheld the 1913 redistricting law. *State v. Weatherill*, 125 Minn. 336, 147 N.W. 105 (1914). The plaintiffs made three claims that the law was invalid. First, the plaintiffs claimed that the legislature had no authority to redistrict in 1913 because the authority was only valid in the first biennium after a census. The court did not find this persuasive. The second claim was that certain parts of the state were not included in any Senate district. The court found that these defects were not a fatal flaw. The third claim was that the population of the districts was not equal throughout the state. The court stated the general rule for judicial review of redistricting plans follow as follows:

‘Perfect exactness in the apportionment according to the number of inhabitants is neither required nor possible. But there should be as close an approximation to exactness as possible, and this is the utmost limit for the exercise of legislative discretion. If there is such a wide and bold departure from the constitutional rule that it cannot be possibly justified by the exercise of any judgment or discretion, and that evinces an intention on the part of the Legislature to utterly ignore and disregard the rule of the Constitution in order to promote some other object than a constitutional apportionment, then the conclusion is inevitable that the Legislature did not use any judgment or discretion whatever.’

*Weatherill*, 125 Minn. at 342, 147 N.W. at 107, quoting *State ex rel. Attorney Gen. v. Cunningham*, 81 Wis. 440, 51 N.W. 724 (Wis. 1892). The court held that the districts were not an arbitrary departure from the general rule of equal representation and therefore upheld the law.

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<sup>1</sup> This memo is based on a memo written by Peter S. Wattson, former Senate Counsel.

After the 1940 census, a Minnesota citizen challenged the 1913 redistricting law in state court. *Smith v. Holm*, 220 Minn. 486, 486, 19 N.W.2d 914, 914 (1945). The plaintiff alleged that the districts established in 1913 had become unconstitutional because of the unequal population of the districts. The court reaffirmed the general rule as stated in *Weatherill*. Unless there was a violation of this rule in the enactment of the districts, a “mere change” in the population after the enactment does not render the law invalid. *Id.* at 916. The court determined, based on the validation of the plan in 1914, that there was no violation of the rule and mere population growth since that time did not invalidate the law.

## 1950 Redistricting

In 1958, Minnesota citizens filed suit in federal court alleging the 1913 legislative boundaries violated the 14<sup>th</sup> amendment because of grossly unequal population in the legislative districts. The citizens asked that the 1913 law be invalidated. The court noted that “substantial inequality” existed in the districts, but deferred to the legislature to allow the legislature the opportunity to reapportion the districts before court intervention. *Magraw v. Donovan*, 163 F.Supp. 184 (D. Minn. 1958).

In 1959, the legislature passed a redistricting plan that provided for 135 House districts and 67 Senate districts. The bill was signed into law. Laws 1959, Ex.Sess. ch. 45.

## 1960 Redistricting

In 1964, a challenge to the 1959 legislative plan was brought in federal district court alleging a violation of the equal protection provisions of the 14<sup>th</sup> amendment<sup>2</sup> and Minnesota’s constitutional equal apportionment requirements. The court focused on equality of representation and the “one person, one vote” concept in invalidating the 1959 law. The courts left it to the legislature to redraw the districts in the upcoming session. *Honsey v. Donovan*, 236 F. Supp. 8, 10 (D. Minn. 1964)

In 1965, the legislature passed a redistricting plan, S.F. No. 102, which called for 135 House districts and 67 Senate districts. S.F. 102 was sent to Governor Rolvaag on May 20, 1965. The governor vetoed the bill on May 24, 1965.<sup>3</sup>

Citizens and members of the House of Representatives challenged the veto in state court, alleging that the governor did not have the authority to veto the bill. The court disagreed and upheld the veto. *Duxbury v. Donovan*, 272 Minn. 424, 138 N.W.2d 692 (Nov. 26, 1965).

During the 1966 extra session, the legislature passed two redistricting plans, both of which called for 135 House districts and 67 Senate districts. The first plan, S.F. No. 2, was sent to Governor Rolvaag on May 9, 1966. The governor vetoed the bill on May 11<sup>4</sup>. The second plan, S.F. No. 6,

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<sup>2</sup> Between the *McGraw* decision in 1958 and the 1964 challenge, the US Supreme Court issued a series of decisions on the federal constitutional requirements for redistricting. These cases established the right of an eligible voter to bring a suit challenging the denial of equal protection under the 14<sup>th</sup> amendment when related to redistricting. After these opinions, substantially equal representation for all citizens of a state was required in redistricting.

<sup>3</sup> Veto letter: [https://www.leg.state.mn.us/archive/vetoes/1965veto\\_SF102.pdf](https://www.leg.state.mn.us/archive/vetoes/1965veto_SF102.pdf)

<sup>4</sup> Veto letter: [https://www.leg.state.mn.us/archive/vetoes/1966\\_sp1veto\\_SF2.pdf](https://www.leg.state.mn.us/archive/vetoes/1966_sp1veto_SF2.pdf)

was sent to Governor Rolvaag on May 18, 1966, and was signed by the governor on May 20. Laws 1966, Ex. Sess. [Ch. 1.](#)

## 1970 Redistricting

In 1971, the House passed a redistricting plan in H.F. No. 2531, but it was not passed by the Senate. In the 1971 extra session, H.F. No. 76 was passed by both bodies. H.F. No. 76 called for 135 House districts and 67 Senate districts. The bill included a legislative policy statement explaining the legislature's intent to maintain an odd-number of districts in each body. Because the plan called for an odd number of House districts meant that certain Senate districts (historically in the city of Minneapolis) contained multimember House districts, which had been the state's practice for several preceding decades.

The bill was sent to Governor Wendell Anderson on October 29, 1971. Both bodies of the legislature adjourned sine die on October 30. The governor pocket vetoed the bill on November 1, 1971.<sup>5</sup>

During the 1971 regular and extra session, a redistricting lawsuit was pending in federal court. In April of 1971, the plaintiffs in this lawsuit challenged the 1966 redistricting law and asked the court to declare the law unconstitutional.

On November 15, after the legislature had adjourned sine die, the federal district court issued an order finding that it had jurisdiction over the lawsuit and that the legislative plan in place was constitutionally defective and did not meet the standards of the US Constitution. Since the legislature adjourned sine die and would not convene again until after the 1972 election, the court determined it should adopt a plan for the 1972 election. In the same order, the court declared the existing legislative plan invalid. The memo that accompanied this order indicated the court's preference to reduce the size of both houses of the legislature, but ordered briefs and arguments on the issue. *Beens v. Erdahl*, No. 4-71-Civil 151 (D. Minn. Nov. 15, 1971).

On November 26, the court issued two orders. The first provided formatting requirements to be used by any party submitting redistricting plans to the court. The second order established the basic criteria the court would use in adopting a redistricting plan.<sup>6</sup> *Beens v. Erdahl*, No. 4-71-Civil 151 (D. Minn. Nov. 26, 1971).

On December 3, the court entered an order that the legislature should be reduced in size and divided into 35 Senate districts and 105 House districts. The court set the date for parties to submit plans in accordance with this order. *Beens v. Erdahl*, No. 4-71-Civil 151 (D. Minn. Dec. 3, 1971).

The court adopted a redistricting plan with 35 Senate districts and 105 House districts and relied on the criteria it set forth in its earlier order. [Beens v. Erdahl](#), 336 F.Supp. 715 (D. Minn. Jan. 25,

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<sup>5</sup> Veto letter: [https://www.leg.state.mn.us/archive/vetoes/1971\\_sp1veto\\_HF76.pdf](https://www.leg.state.mn.us/archive/vetoes/1971_sp1veto_HF76.pdf)

<sup>6</sup> The criteria were as follows: "... all districts were to be single member, compact and contiguous, and of equal population. It was also established that "minor deviations" not to exceed 2% would be considered if they facilitated the maintenance of political subdivision boundaries. No consideration was to be given to the residence of incumbent legislators or to the voting pattern of electors." *Beens v. Erdahl*, 336 F. Supp. 715, 719 (D. Minn.), vacated sub nom. *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 92 S. Ct. 1477, 32 L. Ed. 2d 1 (1972).

1972) rev'd sub nom. *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187 (Apr. 29, 1972).

The Minnesota Senate appealed this decision to the US Supreme Court, challenging the district court's ability to change the number of districts in contradiction of state law that required 135 House districts and 67 Senate districts. Additionally, the petitioners pointed to the fact that the parties to the lawsuit also opposed the change in the number of districts. The Supreme Court held that the lower court had no authority to so drastically change the number of districts and remanded the case to the lower court to proceed in a manner consistent with the Supreme Court's opinion. *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 200–01, 92 S. Ct. 1477, 1486, 32 L. Ed. 2d 1 (1972).

On remand, the federal district court established a new reapportionment plan with 134 House districts and 67 Senate districts.<sup>7</sup> The redistricting plan followed the same criteria from the November 26, 1971, order. *Beens v. Erdahl*, 349 F.Supp. 97 (D. Minn. June 2, 1972).

## 1980 Redistricting

In 1981, Minnesota citizens initiated a lawsuit challenging the apportionment of the legislative districts. The parties stipulated that the current apportionment contradicted Article 14 of the US Constitution, as well as Article 4, section 3, of the Minnesota Constitution.<sup>8</sup>

In 1982, the legislative redistricting plan in S.F. No. 1552 passed the Senate but died in the House committee. No legislative plan passed both bodies during that session. The regular legislative session adjourned on March 19, 1982.

On March 11, 1982, the Minnesota federal district court issued a reapportionment order for 134 House districts and 67 Senate districts. The districts were created pursuant to the criteria issued in an earlier court order. The court noted that redistricting is the responsibility of the legislature, but since the legislature failed to complete redistricting, the court must do so. *LaComb v. Growe*, 541 F. Supp. 160 (D. Minn. Mar. 11, 1982).

In 1983, the legislature enacted the court plan with a minor adjustment to the boundary between House districts 39A and 39B in South St. Paul. Laws 1983, [ch. 191](#).

## 1990 Redistricting

In 1991, the legislature adopted a concurrent resolution setting standards for legislative redistricting. Further, a statutory deadline for enacting a plan (25 weeks prior to the state primary) was enacted. S.F. No. 1571 passed both bodies and became Chapter 246. The bill provided for 135 House districts and 67 Senate districts. Laws 1991, [ch. 246](#). The bill was

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<sup>7</sup> The House was reduced in size by one district – from 135 to 134 – to allow for even nesting of two House districts within each Senate district.

<sup>8</sup> Article 4, section 3, of the Minnesota Constitution reads: "Census enumeration apportionment; congressional and legislative district boundaries; Senate districts. At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series."

presented to Governor Arne Carlson on May 24, 1991. The bill became law without the governor's signature.<sup>9</sup>

The Senate minority leader challenged the enacted legislative plan based on technical drafting errors that created districts that were not compact, contiguous, and not substantially equal in population. This challenge was consolidated with a challenge to the 1982 legislative plans. *Benson v. Growe*, No. 4-91-603 (D. Minn.) consol. with *Emison v. Growe*.

In October 1991, a three-judge state court panel declared the enacted legislative plan unconstitutional. The state court panel announced its intention to draw a redistricting plan, based on the legislative plan, unless the legislature enacted a new plan.

On December 5, 1991, the federal court issued an injunction preventing the state court from taking further action. *Emison v. Growe*, No. 4-91-202 (D. Minn. Dec. 5, 1991).

On December 9, 1991, the state court issued a revised, corrected legislative plan, subject to the federal injunction. *Cotlow v. Growe*, No. C8-91-985, Findings of Fact, Conclusions of Law, and Order for Judgment on Legislative Redistricting (Minn. Spec. Redis. Panel Dec. 9, 1991).

On January 6, 1992, a special legislative session was convened. The legislature approved a plan for correcting the error-ridden legislative plan. See SF No. 1596; Laws 1992, ch. 358 (correcting Laws 1991, ch. 246).

On January 9, 1992, legislative districting plans were approved by the legislature and sent to the governor for approval.

On January 10, Governor Carlson vetoed the plan.<sup>10</sup> The very same day, the US Supreme Court lifted the injunction pending a state court overview of the plan.

The veto and the lifting of the injunction meant that the state court's legislative plan went into effect. *Cotlow v. Emison*, 502 U.S. 1022 (Jan. 10, 1992) (mem.).

On February 19, 1992, a three-judge federal court panel issued legislative plans that preempted the state court plans. *Emison v. Growe*, 782 F. Supp. 427 (D. Minn. Feb. 19, 1992).

In March 1992, the plans were appealed to the US Supreme Court. The state court plan was upheld for the legislative districts. Additional hearings on challenges to both the federal and state court plans were scheduled to occur after the 1992 election. *Growe v. Emison*, 112 S.Ct 5 1461 (Mar. 11, 1992) (Blackmun, J., in chambers).

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<sup>9</sup> Governor Carlson attempted to veto this bill, along with 14 others, but the bills were not returned to the house of origin within the three days prescribed by the state constitution. The court found the vetoes ineffective and the bills went into effect without the governor's signature. See [Seventy-Seventh Minnesota State Senate v. Carlson](#), 472 N.W.2d 99 (Minn. June 20, 1991); *Seventy-Seventh Minnesota State Senate v. Carlson*, No. C3-91-7547 (Dist. Ct., Ramsey Co., Aug. 2, 1991).

<sup>10</sup> Veto letter: [https://www.leg.state.mn.us/archive/vetoes/1992veto\\_ch358.pdf](https://www.leg.state.mn.us/archive/vetoes/1992veto_ch358.pdf)

In February of 1993, the US Supreme Court ruled unanimously that federal court overstepped its authority and should have deferred to legislature and state court processes. *Grove v. Emison*, 507 U.S. 25 (1993).

In 1994, the legislature enacted court-ordered legislative plan, with corrections. Laws 1994, [ch. 612](#). In 1997, portions of Moorhead Township were annexed by the City of Dilworth and were moved from one House district to another. Laws 1997, [ch. 44](#).

## 2000 Redistricting

On January 4, 2001, Minnesota citizens filed a lawsuit in state court alleging current districts were unconstitutional based on the 2000 census results. *Zachman, et al. v. Kiffmeyer, et al.*, No. C0-01-160.<sup>11</sup> Plaintiffs requested that the Court appoint a new three-judge special redistricting panel to hear and decide the case.

On January 11, the Cotlow plaintiffs from the 1990's case sought to have the three-judge panel's judgment reopened and current districts declared unconstitutional, based on the 2000 census results. This motion was redirected to the Minnesota Supreme Court, where the plaintiffs asked that the 1990 panel be renewed or a new panel be appointed. *Cotlow, et al. v. Grove, et al.*, No. C8-91-985.

On March 2, the state Supreme Court denied the request to renew the 1990 redistricting panel, but granted a motion to appoint a new court panel to create new districts. The appointment of the panel was stayed until further order of the Chief Justice of the Minnesota Supreme Court. The stay was left in place to allow the legislature to take action. *Zachman, et al. v. Kiffmeyer, et al.*, No. C0-01-160; *Cotlow, et al. v. Grove, et al.*, No. C8-91-985.

In May of 2001, different versions of S.F. 2377 were passed the House and Senate. Conference committee members were appointed on May 21, 2001. The conference committee did not reach an agreement and was discharged for the interim. For the first time in Minnesota redistricting history, the legislation was drafted to refer to an electronically created map of the proposed new districts, rather than a narrative "metes-and-bounds" description of each district. The change was due, in part, to the availability of better technology for drawing maps, but also to reduce the risk of the types of technical drafting errors that plagued the description of Minnesota's districts in the 1990s.

On July 12, a five-judge state court panel was appointed. *Zachman v. Kiffmeyer*, No. C0-01-160, 629 N.W.2d 98 (Minn. July 12, 2001).

In October, the Cotlow plaintiffs and a number of state and federal officials were granted permission to intervene in the *Zachman* suit. *Zachman v. Kiffmeyer*, C0-01-160 (Minn. Spec. Redis. Panel, October 9, 2001).

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<sup>11</sup> For court orders related to this case, see the Minnesota Judicial Branch website on the 2001 special redistricting panel: <http://www.mncourts.gov/Media/Historic-High-Profile-Cases/Special-Redistricting-Panel-2001.aspx>.



In December 2001, the five-judge panel established the criteria for redistricting plans. [Zachman v. Kiffmeyer](#), No. C0-01-160 (Minn. December 11, 2001). The next month, the court issued an order requiring statewide public hearings.

On February 4, 2002, S.F. 2377 was returned to the conference committee. The committee again failed to reach agreement.

On March 19, 2002, the five-judge panel issued new legislative district boundaries. [Zachman v. Kiffmeyer](#), No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002).

In 2003, the legislature adjusted the boundary between House districts 45A and 45B. Laws 2003, 1 Sp. Sess. [ch. 16](#), § 13. In 2004, the legislature adjusted the boundary between House district 41A and 41B. Laws 2004, [ch. 170](#).

## 2010 Redistricting

On January 21, 2011, Minnesota citizens filed a challenge in state court alleging that the current legislative districts were unconstitutional based on the anticipated results of the 2010 census. [Hippert v. Ritchie](#), No. CV-11-433 (January 21, 2011).

On January 12, 2011, another group of Minnesota citizens filed a challenge in federal district court challenging the current legislative districts. An order to stay the matter was issued on Feb. 7, 2011. The stay was not lifted and the case was voluntarily dismissed on August 22, 2012. [Britton v. Ritchie](#), No. 11-cv-0093 PJS/AJB (D. Minn. Aug. 22, 2012).<sup>12</sup>

On February 14, 2011, the Minnesota Supreme Court appointed a three-judge panel to hear the [Hippert](#) case, as well as any other redistricting challenges filed based on the 2010 census. The appointment of the panel and further proceedings were stayed because the legislature was still in session and still had time to enact a legislative redistricting plan. However, if the court needed to take quick action to complete the redistricting plans in order for them to be in place for the 2012 election, the stay could be lifted and the court would be ready to quickly take action. [Hippert v. Ritchie](#), A11-152 (Minn. Feb. 14, 2011).

On April 11, 2011, H.F. No. 1425 was introduced. It passed both bodies in May and became Chapter 35. The bill was presented to Governor Mark Dayton on May 18, 2011. The governor vetoed the bill on May 19.<sup>13</sup>

On June 1, after the legislative session ended without an enacted redistricting plan, the Minnesota Supreme Court appointed a five-judge special redistricting panel to decide all matters in connection with the lawsuit. [Hippert v. Ritchie](#), A11-152 (Minn. June 1, 2011).

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<sup>12</sup> For filings and orders related to this case, see the Minnesota Judicial Branch website on the 2011 special redistricting panel: <http://www.mncourts.gov/Media/Historic-High-Profile-Cases/Special-Redistricting-Panel-2011.aspx>.

<sup>13</sup> Veto letter: [https://www.leg.state.mn.us/archive/vetoes/2011veto\\_ch35.pdf](https://www.leg.state.mn.us/archive/vetoes/2011veto_ch35.pdf)

On August 18, the court issued an order that allowed two groups of plaintiffs to intervene (*Martin* plaintiffs and *Britton* plaintiffs). [Hippert v. Ritchie](#), A11-152 (Minn. Spec. Redis. Panel Aug. 18, 2011).

On September 13, 2011, the special redistricting panel ordered a series of public hearings throughout the state on the issue of redistricting. [Hippert v. Ritchie](#), A11-152 (Minn. Spec. Redis. Panel, Sept. 13, 2011).

On November 4, the redistricting panel issued an order stating redistricting principles and requirements for plan submissions. In this order, the court indicated that it would only order the adopting of redistricting plans by the panel if the legislature and governor did not reach an agreement on redistricting by February 21, 2012. (This was the deadline for legislative action set by state law.) The order established detailed redistricting principles. [Hippert v. Ritchie](#), No. A11-152 (Minn. Spec. Redis. Panel, Nov. 4, 2011).

The legislature did not approve additional redistricting plans before the deadline, and as a result, the special redistricting panel issued its final order adopting a legislative redistricting plan on February 21, 2012. [Hippert v. Ritchie](#), No. A11-152 (Minn. Spec. Redis. Panel, Feb. 21, 2012).

In 2013, the legislature made two minor adjustments to the districts contained in the court plan. The boundary between House districts 39A and 39B was amended so that the House districts aligned with the boundaries of the City of Stillwater and Stillwater Township. The boundary between House districts 49A and 49B was amended to address a district boundary that bisected a large apartment complex in the City of Edina.<sup>14</sup> 2013 Laws, [ch. 131](#), article 2, sections 1 and 2.

### Citations to Legislative Redistricting Plans

Year	House Districts	Senate Districts	Enacted Redistricting Plan
1860	42	21	Gen. Laws 1860, <a href="#">ch. 73</a>
1866	47	22	See Gen. Laws 1866, <a href="#">ch. 4</a>
1871	106	41	See Gen. Laws 1871, <a href="#">ch. 20</a>
1881	106	47	See Gen. Laws 1881, <a href="#">ch. 128</a>
1889	114	54	See Gen. Laws 1889, <a href="#">ch. 2</a>
1897	119	63	Laws 1897, <a href="#">ch. 120</a>
1913	130	67	Laws 1913, <a href="#">ch. 91</a>
1959	135	67	Laws 1959, Ex.Sess. <a href="#">ch. 45</a>
1966	135	67	Laws 1966, Ex. Sess. <a href="#">Ch. 1</a>
1972	134	67	<a href="#">Beens v. Erdahl</a> , 349 F.Supp. 97 (D. Minn. June 2, 1972)
1983	134	67	<a href="#">LaComb v. Growe</a> , 541 F. Supp. 160 (D. Minn. Mar. 11, 1982); Laws 1983, <a href="#">ch. 191</a>
1992	134	67	<a href="#">Cotlow v. Growe</a> , No. C8-91-985, (Minn. Spec. Redis. Panel Dec. 9, 1991)

<sup>14</sup> The court-ordered district boundary followed a school district boundary line, which also bisected the apartment complex.



2002	134	67	<a href="#"><i>Zachman v. Kiffmeyer</i></a> , No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002)
2011	134	67	<a href="#"><i>Hippert v. Ritchie</i></a> , No. A11-152 (Minn. Spec. Redis. Panel Feb. 21, 2012)

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