163 years of power, people and partisanship

By: David Schultz  February 16, 2021

Editor’s Note: This is the first of a two-part examination of redistricting in Minnesota. Next week, the column will examine reapportioning during the 2000s, highlight the challenges of divided government following the 2010 elections, and offer a preview of the 2021-2022 redistricting.

The history of Minnesota’s reapportionment process is a tale of partisanship, changing demographics, conflict of interests, judicial intervention, and the battle for political supremacy. It is the essence of what power politics is all about when the political stakes are high.

Redistricting or reapportionment of Minnesota’s legislative and congressional seats is the constitutionally mandated redrawing of district lines once every 10 years after the census. The task of redistricting falls to the state Legislature and the governor. Legislators get to select their voters. Creating these lines is significant for they determine the political boundaries for all of the 201 legislative and the current eight congressional districts in the state.

The political fate of candidates for these offices and control of the Legislature often rests with how the lines are drawn. Put more or fewer DFLers or Republicans in a district and it will tip the electoral outcome. Construct the right district and it will favor incumbents over challengers. Or draw a line to enable more rural, suburban, or urban districts then a particular region has more power. Redistricting can determine the balance of power.

In 2021 and 2022, DFL Gov. Tim Walz will confront a divided state Legislature with the Senate controlled by the Republicans and the House by the Democrats. Alone this split government would be a recipe for political conflict, especially after a raucous 2020 election.
revealed a deeply divided nation and state, with Minnesota remaining the only one where its two chambers are in control of different parties. But with Minnesota likely to lose a congressional seat because its population has not grown as rapidly as some other states, the fight will be even more intense as the question will be which of the eight seats — with four each held by the Democrats and Republicans — will be eliminated and which incumbent will be out of a job.

Given all this, it is more likely than not that yet again in 2021 or 2022 the congressional and state legislative districts will be drawn by the courts.

**Minnesota's early years to the 1960s**

From the early days of Minnesota history reapportionment has been about political power. The original 1858 Constitution in Article IV, section 2 called for the House and Senate lines to be drawn to reflect population. Because Minnesota was rapidly growing, a special mid-decade census beginning in 1865 was called for in Article IV, sections 23 and 24 to record it. This mid-decade census and redistricting never occurred, and a 1964 constitutional amendment making it optional remains on the books.

From statehood until 1913 redistricting in Minnesota occurred regularly because new legislative and congressional seats could be added without taking any away. But after that date the growing urban and decreasing rural populations forced the latter to give up seats to the former. Instead of complying, the Republican Legislature simply refused to redraw the lines in an effort to insulate rural power from changing demographics. The Minnesota Supreme Court endorsed this practice. In the 1914 Meigham v. Weatherall it ruled that so long as the Legislature made a good-faith effort to undertake a fair apportionment, uniformity of population was not required. Then in its 1945 Smith v. Holm the court ruled that a once valid reapportionment plan was not invalid simply due to shifts in population.

Between the 1910 census, which was the basis for the 1913 districting plan, and 1950, Minnesota's population had increased 44%. In 1957 the largest state Senate district had a population of 153,455, and the smallest 16,878. For the House, the largest was 107,246, and the smallest 7,290. The 1913 plan still favored rural Minnesota and a Legislature dominated by leaders from greater Minnesota had no incentive to redraw lines to weaken their power.

But in 1958 a U.S. district court in Magraw v. Donovan was asked to rule that Minnesota's districting plan from 1913 was unconstitutional. The court did not invalidate the plan, but instead deferred to the Legislature to address the problem. This forced in 1959 the first redistricting since 1913. The lines were drawn by a theoretically nonpartisan Legislature (legislative elections were nonpartisan from 1914 to 1973) that in reality was controlled by Republicans in the Senate and Democrats in the House. It significantly moved legislative seats closer to equality of population, but in the House the largest urban district had seven times the population as the smallest rural one. This new legislative map, effective for 1962, shifted 11 House and five and one-half Senate seats from rural to more urban and suburban Twin Cities dominance. In the next election, Republicans won all these seats.
Redistricting from the 1960s to 1980s

The U.S. Supreme Court’s 1964 Reynolds v. Sims decision mandating that reapportionment reflect a "one-person, one-vote" standard made a profound impact on redistricting across the country as well as in Minnesota. It declared that districts had to be nearly as equal in population as possible. At the congressional level the Court eventually ruled that mathematical equality was mandated, but for state legislative seats, some deviance from pure population equality was permitted in order to respect other traditional redistricting criteria such as compactness and contiguity of a district, promoting communities of interest, and minimizing the dividing up of local government boundaries.

After Reynolds in 1965 both Minnesota both of the ostensibly nonpartisan legislative houses were controlled by Republicans and they adopted a new plan promptly vetoed by the DFL Governor Karl Rolvaag. The Senate challenged the veto but the Minnesota Supreme Court upheld it and a special session in 1966 drew a new plan shifting nine House and four and one-half Senate seats to the metro suburbs. The Republicans won most of these seats in the next election.

The 1970 census forced another redrawing of district lines. The Republican-controlled Legislature and DFL Gov. Wendell Anderson could not agree on a plan and the task fell to the federal courts to draw the lines. In order to achieve population parity, the district court cut the size of the Legislature by nearly one-fourth, prompting the U.S. Supreme Court to overrule that action, retaining the 67-seat Senate and 134-seat House. The plan adopted in 1972 by the court moved five more Senate and ten more House seats to the metro area. Now half of all state legislative seats were in the Twin Cities area. The population deviance was less than 2% and analysis by independent scholar such as University of Minnesota professor Charlie Backstrom found the plan to be fair to both parties despite protests by Republicans that it favored the DFL. With this plan the DFL gained control of Legislature in the first party-endorsed elections since 1913.

Angered by perceptions that the redistricting process had become too partisan and contentious, Minnesotans went to the polls in 1980 to vote on a constitutional amendment to create a special nine-member commission that would do reapportionment instead of the Legislature. While 58% of those voting on the amendment approved it, it fell 3,000 votes shy of an absolute majority of all voters in that election, thereby causing it to fail.

Following the 1980 census the DFL controlled both legislative houses and Independent-Republican Al Quie was governor. Again, partisan disputes led the courts to draw the district lines in 1981 as two parties quarreled and failed even to reach agreement on a plan. In this plan one saw further erosion of rural interests as yet even more seats moved toward the Twin Cities. In the 1982 elections the DFL retained control of the Legislature and picked up the governorship with Rudy Perpich.

The 1990s: Saga of the failed veto

The legislative redistricting following the 1990 census is the only one in recent times that was not completely drawn by the courts. Although even with the plan the judiciary had a major role in it. In 1990 Republican Arne Carlson was elected governor. In January a suit was filed in Hennepin County asking that the courts take over the redistricting. Then in March a suit was filed in federal court contending that any plan adopted by the Legislature would discriminate against minorities.

On May 18, 1991, the DFL Legislature adopted a redistricting plan and Carlson vetoed it — belatedly. His veto came after the constitutional deadline to do that due to his miscalculation in the time he had. In August a Ramsey County judge declared the veto invalid. The governor did not appeal the decision but the Republican Party filed suit in federal court and the case was joined with the one filed in March. In October a state court ruled the DFL plan
unconstitutional due to errors but it then used this plan to draft its own which it released in November. But then in December a federal court issued an injunction preventing the state court plan from being used in the 1992 elections. It also enjoined the Legislature from drafting a new plan.

In January, 1992 a special legislative session was called to correct the errors in the previous plans created by DFL. Carlson vetoed the plan on January 11, but the day before on January 10, the U.S. Supreme Court overturned the stay on the plan developed in state court. It appeared that the battle was over — but no. In February 1992 a U.S. district court declared the state plan violated minority interests and was unconstitutional. It then imposed its own redistricting plan for the 1992 elections.

However, in March, upon appeal from Secretary of State Joan Growe and the DFL the U.S. Supreme Court ruled in favor of the state court plan for the legislative races and the federal plan for the congressional ones. These were the plans used in the 1992 elections. But in 1993 the Supreme Court ruled in Growe v. Emison that the state redistricting plan drawn by the state judges for both the legislative and congressional races, and which were very similar to the ones created by the DFL Legislature, were valid and would be used. In so ruling the decision effectively changed the boundaries for a couple of congressional districts but the Court did not invalid any 1992 results. Finally, the Emison decision set major national precedent for redistricting, establishing the principle that state courts should be given a chance to draw redistricting plans before the federal courts intervene.

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