

## Reapportionment 101 (2020)

Every ten years, following the release of the U.S. Census data, Vermont statutes require reapportionment of Vermont's House and Senate districts to achieve substantially equal representation in the House and Senate districts. The legislature established the seven-member Legislative Apportionment (LAB) to take the first steps in this process every 10 years. The LAB has just recently been reconstituted and is organizing to start its statutory duties to draw up proposed changes to House and Senate district lines as needed to reflect the results of the 2020 Census when published and thus preserve the principle of substantial equality of representation.

The LAB has seven members. Each of the three major political parties chose a member; Governor Scott appointed one member from each party and the Chief Justice of the Vermont Supreme Court appointed the Board's Chair. The Board's meetings are open to the public and its records are public records. The members are Ed Adrian, Susan Borden, Tom Koch, Mary Houghton, Jeremy Hansen, Rob Roper and Tom Little. The LAB expects to establish a website shortly, where notices of LAB meetings will be posted, along with meeting minutes and other resources.

The Board's methodology is to look at each legislative district's percentage deviation from the "apportionment standard," which is the state's total population divided by the number of districts in each of the Senate and House. In 2010, the apportionment standard for a single-member House district was 4,172 residents (Vermont's then population of 625,741 ÷ 150 House seats), or 8,344 for a two-member House district. The standard for a single-member Senate district was 20,858 residents.

Looking at the 2010 Census data, each district had a positive or negative *deviation percentage*. For example, a House district with a population of 4,518 had 346 residents over the apportionment standard, and a deviation of +8.29. A district with a population of 3,988 had 184 residents under the standard, a deviation of -4.41. The difference between the district with the highest positive deviation and the lowest negative deviation is the "overall deviation" of the Vermont House apportionment. The Census data also establish a deviation percentage for each of the current Senate districts. To the extent that a district has a significant negative or positive deviation, it is over- or under-represented.

The law requires House and Senate districts to have "minimum" deviation percentages. The law does not define "minimum," but Vermont and U.S. Supreme Court decisions tell us an overall deviation under 10% is presumptively constitutional and one somewhat greater than 16% may be problematic. As an example, the overall deviation in the House reapportionment plan enacted in 2002 was 18.99%, and the Senate's was 14.73%.

In addition to the overall deviation, the Board is guided by three policies: (1) preservation of existing political subdivision lines; (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties and common interests; and (3) use of compact and contiguous territory. When ruling on a challenge to a redistricting plan, the courts give significant weight to these non-numerical factors. Avoiding putting a steep mountain in the middle of a multi-town district may yield district lines that are not intuitive from looking at a flat map of the state. The Vermont Constitution also directs that in setting the Senate district lines we should adhere to county boundaries. (Yet Washington and Rutland Counties are the only Senate districts where the county lines and the district lines are the same.)

In 2010, the LAB's initial look showed that 24 of the 109 House districts (single and two-member districts) had positive or negative deviations that were in the double digits. The LAB focused on those districts, but "fixing" them involved adjusting the boundaries of one or more adjoining districts, causing a ripple effect.

The Board must complete its House and Senate redistricting reports and proposed new district maps by August 2021. The House and Senate will have the 2022 legislative session to review the LAB proposed redistricting maps and adopt and enact final maps.

Feelings can run high when discussing and debating legislative district boundaries, and we can expect spirited discussions at the LAB meetings. The Board will give the members of the General Assembly the data and other resources they will need to make fair and informed decisions to achieve the equality of representation guaranteed by law.

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Thomas A. Little

Chair, Legislative Apportionment Board