

Redistricting in Ohio

Justin Levitt



OHIO
(status quo)

KEY POINTS:

The general assembly currently draws congressional districts, subject only to federal constitutional and statutory limitations. State legislative districts are drawn by a five-person partisan commission created in 1967, with few constraints other than an emphasis on preserving whole political units.

Article XI of the Ohio Constitution governs redistricting. In the 2001 cycle, the process was subject to Republican control for both congressional and state legislative districts, although delays in the congressional districting process forced the legislature to pass a plan with a 2/3 supermajority.

PROCESS:

Congressional districts are currently drawn by the general assembly, subject only to federal constitutional and statutory limitations. A six-person advisory commission advises the general assembly in this process; the House and Senate majority leaders each choose two legislators and one non-legislator to serve. No more than two of the three advisors chosen by each majority leader may be members of the same party.

For state legislative districts, redistricting authority is vested in a five-member commission. The Governor, Secretary of State, and State Auditor are members of the commission. The remaining two appointments are selected jointly: one by the speaker of the House in concert with his party's leader in the Senate; the other by the House minority leader along with his party's leader in the Senate. A majority vote is required to adopt a plan. Plans must be adopted by October 1, 2011. The Ohio Supreme Court may review adopted plans, but may not issue plans of its own; in the event that a plan is declared invalid, the commission must make another attempt.

- **Independence from Legislators:** Three commissioners are independent from legislators only in that they are separately elected, but may well accede to legislators' wishes. The other two commissioners are directly selected by legislators.
- **Partisan Balance:** With an odd number of commissioners, each with partisan affiliation, the process is designed to allow one party a majority, and therefore control of the redistricting process.
- **Minority Participation:** There are no specific provisions for reflecting diversity in the commission's membership, and the commission's small size makes such diversity difficult to ensure.
- **Public Input:** There are no specific provisions for the public to present or comment on plans.
- **Timing:** General assembly districts may not be drawn more than once per decade; there is no similar prohibition on redrawing congressional districts.

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CRITERIA:

Congressional districts are subject only to federal constitutional and statutory limitations.

State legislative districts must be contiguous and compact, and follow the federal standard of “substantially equal” population (which in any event must be within 5% above or below the mean population).

Districts must preserve whole political units -- counties, townships, municipalities, and wards, in that order – where feasible. For counties sufficiently populous to contain entire districts, such districts must be created wholly within the county, and any remaining territory in the county must be contained in only one district. Where it is not possible to preserve political units whole, only one unit may be divided between two districts.

- **Population Equality:** The current criteria allow substantial population disparity; some residents’ votes may be more valuable than others. There is also a preference for the count conducted by the federal census (which counts incarcerated persons where they are incarcerated), though if census data is “unavailable,” the general assembly may choose another basis for determining the population.
- **Minority Rights:** There are no provisions for minority rights other than federal law.
- **Compactness:** Other than the requirement that districts be wholly contained within a single county where possible, there is a general requirement that districts be compact. This requirement, however, is not further defined and may be difficult to enforce.
- **District Competition:** There is no provision encouraging or discouraging competition within a district.
- **Statewide Partisan Balance:** The partisan structure creates an incentive to generate statewide results favorable to the party controlling the commission. Also, research suggests that minimizing the division of counties may result in Ohio in a statewide partisan imbalance favoring Republicans.
- **Preservation of Political Boundaries:** The current criteria emphasize the preservation of political units, and particularly the minimal division of counties. Research suggests that this emphasis may result in Ohio in a statewide partisan imbalance. Moreover, to the extent that communities of common interest bridge political boundaries, this may limit the opportunity to accommodate such communities.
- **Communities of Interest:** There is no provision expressly concerning communities of interest.
- **Nesting:** Each state Senate district must comprise three House of Representatives districts. This ties each house’s districts to the other, but may produce unintended consequences with respect to population disparities. For example, depending on the concentration of Ohio’s population, minimizing county divisions within a particular state senate district may lead to state house districts with fairly substantial population disparities.
- **Incumbent Residence:** The current criteria do not prohibit commissioners from considering the residences of incumbents, allowing intentional harm (or benefit) to individual legislators, but also reducing the likelihood of unintentional impact on incumbents.