



LEAGUE OF
WOMEN VOTERS®
OF KENTUCKY

Redistricting Kentucky

**A Guidebook for Citizen Participation
From the League of Women Voters of Kentucky**

December 2017

Redistricting is the process used to define the districts for seats in the United States House of Representatives and in state legislatures. Using a question-and-answer format, this Guidebook explains the current Kentucky redistricting rules, steps that can improve those rules, and ways that Kentucky citizens can work for those improvements.

If you have thoughts, questions or concerns about the ideas shared here, please share by writing to KentuckyLWV@gmail.com or to the League of Women Voters of Kentucky, Lang House, 115 South Ewing Avenue, Louisville, KY 40206.

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What is redistricting?

Redistricting is the process of changing the boundaries of congressional and state legislative districts each time a new federal census identifies population changes. For example, Kentucky has six members of the U.S. House of Representatives. Redistricting decides which part of the state will elect people to each U.S. House seat. Thirty-eight state Senate and 100 state House seats also serve districts established the same way. Kentucky's next redistricting will occur after the 2020 census.

Why is redistricting important?

District lines shape all citizens' opportunities to participate in their government. Redistricting can make it easier or harder:

- For voters to learn about candidates for legislative seats and engage in robust discussions about who can best serve their communities
- For citizens to communicate with their legislators once they take office
- For members of one party to compete against members of another for election
- For people of different racial and language backgrounds to elect candidates they prefer
- For various regions of a state (rural or urban, agricultural or industrial, areas experiencing economic growth and those seeing economic decline) to get their interests considered

The process used to set district lines can also provide important opportunities for citizens to participate in shaping their shared future. For example, the process for developing a redistricting plan can be public, transparent, and carried out at a pace that allows citizens to study the plans and communicate concerns and ideas. That kind of process can greatly enhance public confidence that the elections held in the resulting districts will allow full and fair participation by all citizens.

Why has redistricting become an issue of citizen concern?

Over recent decades, the United States has experienced increasing political polarization. In Congress and state legislatures, it has become less common for legislators to work across party lines. In elections for those bodies, it has become more common for seats to be seen as "safe" for a single party, which means there is little chance of a competitive race in the general election.

Today, there is widespread belief that redistricting allows legislators to choose their voters and maintain that polarization. A better redistricting process can help rebuild confidence in voters' ability to make the central decisions on who will govern them.

Some commentators argue that polarization has grown for other reasons. Some cite changes in our culture and our technology. Others note a rising pattern of polarized counties, with cities voting more and more heavily for one party and rural and suburban areas voting more and more intensely for the other. Improved redistricting methods may not be able to change all the factors in play.

Even noting those other possible factors, though, a better redistricting process can make a worthy contribution to public confidence and engagement. Working to make redistricting fairer, more collaborative, and more transparent is a worthwhile civic effort.

How does Kentucky redistricting currently work?

CENSUS DATA

Each redistricting takes place after the United States Census Bureau releases new data on the state's population. Current district boundaries are based on results of the 2010 census, and those boundaries will be redrawn after 2020 census counts are released in 2021.

LEGISLATION

Kentucky district lines are decided by passing state laws. That is, a bill must be filed, get majority votes in both General Assembly chambers, and must receive the Governor's signature. That approach is used for the U.S. House, the Kentucky Senate, and the Kentucky House of Representatives. The resulting lines must follow some key rules, discussed in the rest of this answer.

ONE PERSON, ONE VOTE

Districts must be very nearly equal in population so that votes have very nearly equal value. For U.S. House seats, the districts must be very close to precisely the same size. For Kentucky House and Senate seats, districts can vary just a little from identical size, with each one being within five percent of the ideal equal size. (The federal rule comes from U.S. Supreme Court rulings applying Article I, Section 2, of the U.S. Constitution, which governs congressional elections. The state rules reflect both federal rulings based on the Fourteenth Amendment and Kentucky Supreme Court decisions applying state constitutional provisions.)

MINORITY OPPORTUNITY

District lines must not dilute the votes of racial minority communities and must provide "districts of opportunity" that allow those communities a chance to select representatives of their choosing. That obligation comes from Section 2 of the federal Voting Rights Act.

COUNTY LINES

Districts for Kentucky Senate and House seats must not divide counties except when necessary to create equal districts (or districts within five percent of equal size). For U.S. House districts, there is no rule against dividing counties. The background on this rule is a bit tricky. The Kentucky Constitution says that counties may not be divided at all, but the U.S. Constitution requires districts of nearly equal size. The Kentucky Supreme Court had to rule on how Kentucky could obey the federal rule and then get as close as possible to obeying the state rule. The Court's solution is to require the fewest divisions that will allow districts within the five percent limit.

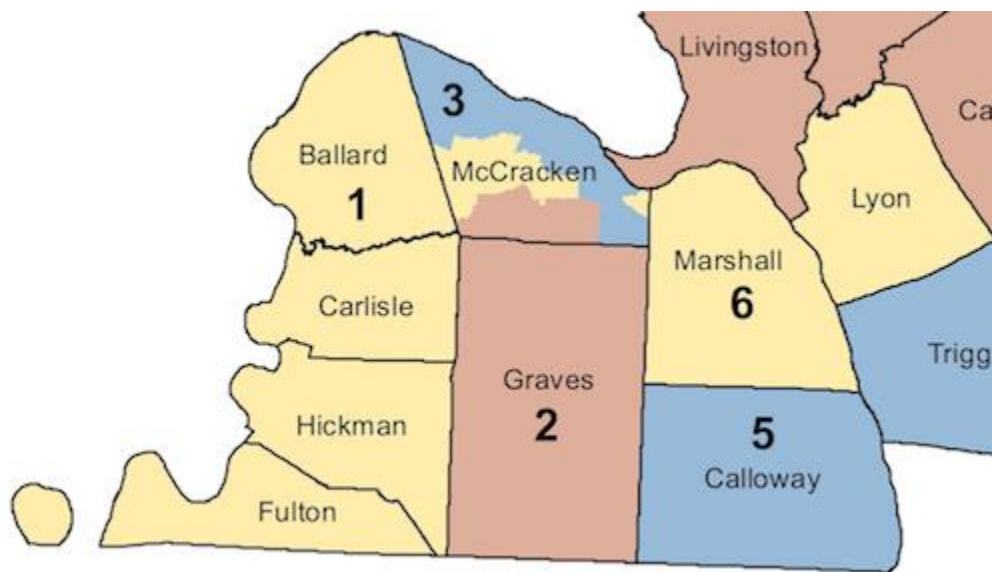
GEOGRAPHIC CONTIGUITY

For Kentucky Senate and House districts, the counties that form a district must be contiguous.

A Closer Look: Large Counties As Fair Game for Division

As already noted, Kentucky has a rule against dividing more counties than necessary. However, there is no rule about how many times a county can be divided once it's split the first time. In the 2010 census, 20 counties were so big that they had to be split into multiple congressional districts. For the Senate, three counties were big enough to be targeted that way.

For example, McCracken County had enough population for about one and a half House districts. In the map below, you can see that McCracken was divided not into two districts, but into four. District 1 includes four smaller counties and enough of McCracken to reach the needed size. District 2 contains Graves plus enough of McCracken to get the needed population. District 3 serves McCracken alone, and then District 6 has a sliver of McCracken added to Marshall and Lyon.



McCracken, in short, was used to solve the problem of three other districts that weren't quite large enough.

Within the same set of counties, one can imagine another way to draw districts of the right size. McCracken could have had one district of its own and one shared with Graves, and small sections of Graves could have been used to make Districts 1 and 6 the right size. However, under Kentucky rules, that option could not be considered. Dividing up Graves would mean dividing one more county than necessary.

Across the state, this rule frustrates residents of the larger counties. The rules set them up to be used to "top up" sets of smaller counties, and nearly guarantees that voters from the more urban areas of the state will be pulled into predominantly rural districts on a regular basis.

For some large counties, the process has an even deeper impact. Christian, Henderson, Hopkins, Jessamine, Laurel, Pike, Pulaski, and Scott County were divided in ways that left them no district that represents only their county's local interests.

How do other states do their redistricting?

The “All About Redistricting” website (redistricting.lls.edu/who.php) describes four broad approaches to this work.

INDEPENDENT REDISTRICTING COMMISSIONS

Commissions draw the district maps in Alaska, Arizona, California, Idaho, Montana, and Washington. The commissions are considered independent because the rules limit the direct participation of elected officials.

POLITICAL COMMISSIONS

State legislative districts are drawn by political commissions in Arkansas, Colorado, Hawaii, Missouri, New Jersey, Ohio, and Pennsylvania. In Hawaii and New Jersey, political commissions also create Congressional districts. They are counted as political because elected officials are commission members.

LEGISLATIVE ACTION

In five states, the legislature decides on redistricting on its own. The governor’s consent is not needed in Connecticut, Florida, Maryland, Mississippi, and North Carolina, which decide by joint resolution rather than by passing a bill. Connecticut also requires a two-thirds vote rather than a simple majority.

LEGISLATIVE ACTION

Like Kentucky, most states have redistricting done mainly by majority votes of their legislative bodies, plus the governor’s signature. Maine requires a two-thirds vote rather than a simple majority.

INDEPENDENT COMMISSION	POLITICAL COMMISSION	LEGISLATURE ALONE	LEGISLATURE AND GOVERNOR		
Alaska	Arkansas	Connecticut	Alabama	Michigan	South Carolina
Arizona	Colorado	Florida	Delaware	Minnesota	South Dakota
California	Hawaii	Maryland	Georgia	Nebraska	Tennessee
Idaho	Missouri	Mississippi	Illinois	Nevada	Texas
Montana	New Jersey	North Carolina	Indiana	New Hampshire	Utah
Washington	Ohio		Iowa	New Mexico	Vermont
	Pennsylvania		Kansas	New York	Virginia
			Kentucky	North Dakota	West Virginia
			Louisiana	Oklahoma	Wisconsin
			Maine	Oregon	Wyoming
			Massachusetts	Rhode Island	

What redistricting approach does the national League of Women Voters recommend?

In June 2016, by concurrence, the national League adopted a Statement of Position on Redistricting, supporting the use of independent commissions to make redistricting decisions and making recommendations on how those commissions should set boundaries. The full Statement is available at lwv.org/content/election-process.

STANDARDS FOR HOW INDEPENDENT COMMISSIONS DO THEIR WORK

The League Statement of Position recommends these standards for commission operations:

- The commission should be independent, not needing legislative approval of its decisions
- Commission membership should reflect the state’s diversity and include citizens at large, representatives of public interest groups, and members of minority groups
- The commission should work through public hearings, accomplishing redistricting in an open, unbiased manner with citizen participation and access at all levels and steps of the process, and operating under open meetings laws
- The commission should need more than a simple majority vote to adopt any redistricting plan
- Remedial provisions should be established in case the commission fails to enact a plan
- Challenges to redistricting plans should be decided by the courts, and the courts should have power to require adjustments if legal standards have not been met and to require the commission to act on a specific schedule
- Time limits should be set for when those court challenges can be filed
- Prompt court rulings on those challenges should be required

STANDARDS FOR DISTRICT BOUNDARIES

The League Statement of Position also recommends rules for the commission’s final decisions that:

REQUIRE	<ul style="list-style-type: none"> ✓ Substantially equal population ✓ Geographic contiguity ✓ Effective representation of racial and linguistic minorities
PROVIDE TO EXTENT POSSIBLE	<ul style="list-style-type: none"> ✓ Promotion of partisan fairness ✓ Preservation and protection of “communities of interest” ✓ Respect for boundaries of municipalities and counties
POSSIBLY ALLOW CONSIDERATION OF	<ul style="list-style-type: none"> ✓ Compactness ✓ Competitiveness
EXPLICITLY REJECT	<ul style="list-style-type: none"> ✗ Protection of incumbents, through devices like considering an incumbent’s address ✗ Preferential treatment for a political party, through such maneuvers as considering party affiliation, voting history, and candidate residence.

Can Kentucky create an independent redistricting commission?

Yes, by constitutional amendment.

Section 33 of the Kentucky Constitution currently provides for the General Assembly to divide the state into state Senate and House districts, but that can be changed.

Each proposed amendment to the Kentucky Constitution needs a three-fifths vote from the state Senate and House and then ratification by a majority of voters in a statewide election. Some states allow constitutional amendments to be placed on the ballot by petitions from the people, but Kentucky requires amendments to begin in the legislature.

If an amendment can be placed on the ballot and approved no later than 2020, it can create a commission process for use with 2020 census data for redistricting in 2021 or 2022.

How can citizens help an independent commission happen?

The first major step is building legislative support for a constitutional amendment. That work can be done in the classic ways: through conversations and written communication with legislators. Phone calls, e-mails, office visits, town hall participation, and other kinds of meetings can all help. Recruiting others to also communicate can also build up legislative interest. Recruitment can be done by talking to individuals, holding educational meetings, writing letters to local papers, using social media, and through other strategies that move an issue onto the state agenda.

Once there is legislative support to propose an amendment, active citizens will want to check the proposed language and then advocate for the needed votes in the state House and state Senate.

Next, when the amendment goes on the ballot, there will need to be statewide advocacy for its passage.

Finally, once the amendment is added to the Constitution, implementation will also need attention, checking that effective members are chosen for the commission, staff and budget support are available, and the work is done in a timely and transparent fashion.

Short of a constitutional amendment for an independent commission, how else can Kentucky redistricting be improved?

Until the constitution is amended, the General Assembly will continue to be responsible for redistricting by legislation.

The General Assembly can approach that work in ways that invite public input and build confidence in the fairness of the resulting boundaries. Key elements to consider include:

- 1. Input:** The General Assembly can seek out citizen opinions, holding hearings where they can speak and publicizing opportunities to comment by letter, e-mail, and other modes of communication.
- 2. Scheduling:** The General Assembly can set and keep a schedule for redistricting that provides ample time for public hearings and citizen input. For example, interim committee meetings held before the 2022 regular session can allow those discussions to begin as soon as the 2020 Census data is released.
- 3. Broad Support:** The General Assembly can seek a redistricting plan that can pass with bipartisan support and with substantially more than simple majority vote.
- 4. Standards for District Boundaries:** The General Assembly can commit to developing district boundaries that fit the standards that the League recommends for commission-written plans. Those expectations are shown in the chart on at the bottom of page 5.
- 5. Filing Deadlines:** Current rules require candidates to file in late January to run for the newly drawn districts. Moving that deadline to March would remove much of the pressure to complete the redistricting in the early weeks of the legislative session.

The Governor, empowered to sign or veto redistricting plans, can also press for a process that includes these elements.

How can citizens contribute to better Kentucky redistricting?

First, you can learn more about the process by:

- Reading up on how redistricting is done here and elsewhere, including the sources listed at the end of this report
- Studying Kentucky geography and demographics
- Exploring Kentucky's current district maps, available at www.lrc.ky.gov/gis/maps.htm

Second, you can build wider understanding of the issues by:

- Talking with friends and neighbors about the issue
- Raising the issue with civic organizations to which you belong

Third, you can urge elected official and candidates to improve the process by:

- Asking them to support an independent commission
- Asking them to support five other changes proposed in the previous question

Finally, you can participate actively when the redistricting work begins in earnest. Whether a new commission does the work or the General Assembly is still responsible, you can attend the meetings, read the bills and media coverage of the work, and make your voice heard.

Can computer programs fix redistricting?

Maybe, but with no guarantees.

Redistricting based on the 2010 census made more use of computers than any previous year—and resulted in more complicated-looking districts. Bluntly, it looks like the computer options served mainly to increase manipulation, not reduce it, in the most recent ten-year redistricting.

Computer use would be simple if contiguous districts of equal size were the only goal.

Computer use is harder because racial and linguistic minority opportunities also need to be factored in, and because partisan fairness, city and county boundaries, and other “communities of interest” need consideration. It may be possible to write programs that can do all of that work, but it certainly is not as easy as creating districts that simply have equal population.

Can the United States Supreme Court fix redistricting?

Possibly.

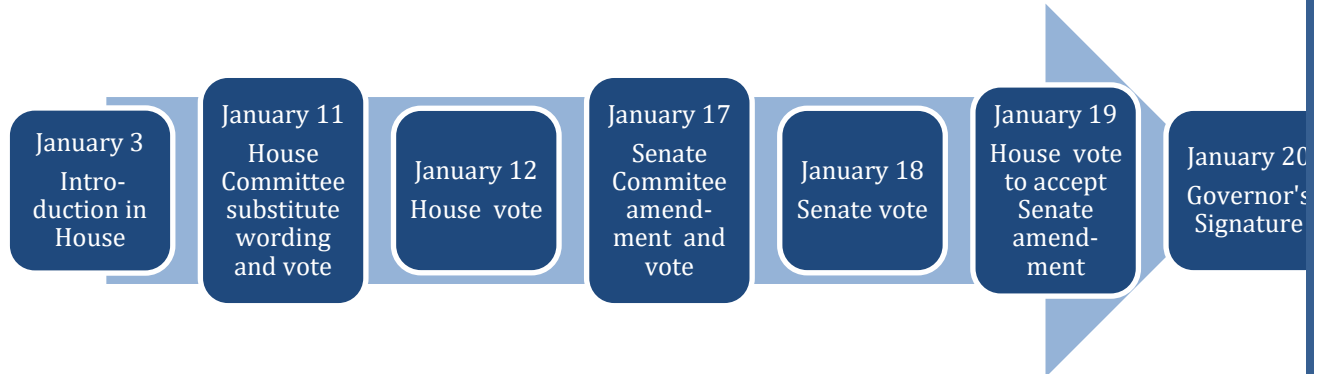
Gill v. Whitford is a Wisconsin lawsuit opposing that state’s sharply pro-Republican gerrymandering and proposing an equity test that considers the difference between total votes cast and total seats won. A victory in that case could make partisan gerrymandering harder. The United States Supreme Court heard the case in the fall of 2017 with a ruling expected in the spring or early summer of 2018.

Benisek v. Lamone is a Maryland lawsuit arguing that sharply pro-Democratic gerrymandering in that state has violated voters’ constitutional rights to freedom of speech and association. A victory in that case could curtail some of the big-data super-gerrymandering seen around the country. As of December 2017, the United States Supreme Court has agreed to hear an appeal in that case as well.

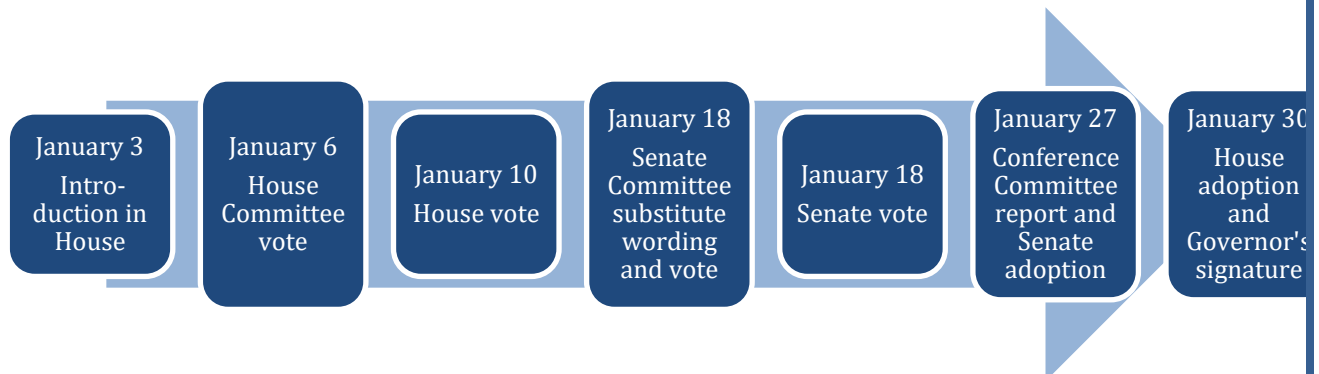
A Closer Look: The Pace of Recent Redistricting

In January 2012, two redistricting bills were both approved in a matter of weeks.

2012 House Bill 1: Districts For The Kentucky House And Senate Approved In 18 Days



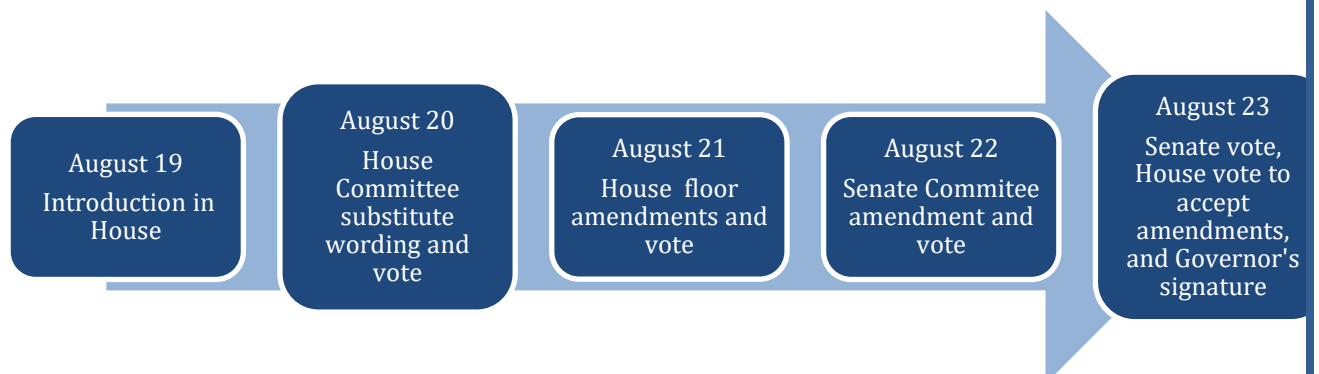
2012 House Bill 2: Districts For United States House Of Representatives Approved In 28 Days



In April 2012, the Kentucky Supreme Court invalidated House Bill 1. The Court found that the state legislative districts varied from the ideal size by more than 5% and that too many counties had been divided.

That led to a special session in August 2013, during which a new House Bill 1 was passed in a single week.

2013 House Bill 1 In Special Session: Districts For The Kentucky House And Senate Set In Five Days



Why was the work done so quickly? In 2012, a key rationale was the candidates needed to file to run for the seats at end of January, and the districts need to be settled before the deadline. In 2013, a major goal was to limit the days of the special session to reduce the expense to taxpayers.

Where can citizens learn more about redistricting?

Here are some websites that League members found very useful as they worked on this Guidebook:

- Ballotpedia.org provides an online encyclopedia of American politics and elections, with redistricting analysis at ballotpedia.org/Redistricting
- The Brennan Center for Justice offers research and legal analysis on an array of issues, with redistricting at www.brennancenter.org/issues/redistricting
- Common Cause describes each state's redistricting process and shares updates on court rulings and state-level strategies at www.commoncause.org/issues/voting-and-elections/redistricting
- Kentucky's current and past legislative district maps are available for download and study at www.lrc.ky.gov/gis/maps.htm
- The League of Women Voters of the United States shares a wealth of information on redistricting at www.lwv.org/voting-rights/redistricting

The following specific publications provide valuable insights:

- *Legislative Research Commission v. Fletcher* is the Kentucky Supreme Court's official decision on the 2012 state redistricting, giving key requirements for future Kentucky redistricting at tinyurl.com/RedistKyCase
- *When the People Draw the Lines: An Examination of the California Citizens Redistricting Commission* analyses of the state's commission experience at tinyurl.com/RedistPeopleDraw
- *Shining a Light: Redistricting Lessons Learned in 2011* shares work done by League chapters across the country to strengthen redistricting after the 2010 census at tinyurl.com/RedistShiningLight
- The League of Women Voters of the United States' amicus brief to the United States Supreme Court in the *Gill v. Whitford* case offers legal reasoning for better, less-partisan redistricting methods at tinyurl.com/RedistLWVGill

These brief video descriptions of gerrymandering provide accessible explanations of the problem (with the note that the League does not endorse any of the advertisements included with the videos):

- Arnold Schwarzenegger, former Governor of California, explains his campaign to end gerrymandering and argues for U.S. Supreme Court action to solve the problem (3:23 min) tinyurl.com/RedistSchwartz
- The PBS Newshour describes North Carolina and Maryland redistricting and discusses pros and cons of establishing nonpartisan commissions (10:34 min) tinyurl.com/RedistNewshour
- The Washington Post shares "What is Gerrymandering?" (2:42 min), a helpful demonstration of how a population can be divided different ways to get different election outcomes at tinyurl.com/RedistWhat

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