

Redistricting in the MDN States

Justin Levitt



**ILLINOIS
(status quo)**

KEY POINTS:

The state legislature draws congressional districts, subject only to federal constitutional and statutory limitations. The legislature also has the first opportunity to draw state legislative districts, but if it cannot agree on a plan, a backup commission with a random tiebreaking vote will draw the lines.

Article IV of the Illinois Constitution governs redistricting. In the 2001 cycle, control was divided, with a Republican Governor, a Senate controlled by Republicans, and a House controlled by Democrats. The state legislative redistricting process deadlocked, and control fell to the backup commission, controlled by Democrats after the random draw of a Democratic tiebreaking commissioner.

PROCESS:

Congressional districts are currently drawn by the state legislature, subject only to federal constitutional and statutory limitations.

For state legislative districts, the state legislature is responsible for producing a plan, but if it cannot do so by June 30, 2011, control will fall to an eight-member commission. The House and Senate majority and minority leaders each choose one legislator and one non-legislator to serve on the commission. If those eight cannot agree on a plan (by majority vote) by August 10, 2011, the Supreme Court submits two individuals from different political parties to the Secretary of State, and the Secretary of State will randomly choose one of the two to serve as a tiebreaker on the commission. The commission's plan must be adopted by October 5, 2011. The Illinois Supreme Court may review adopted plans, but will not issue plans of its own; in the event that a plan is declared invalid, the commission must make another attempt.

- **Independence from Legislators:** Even if the backup commission assumes control, eight of the commissioners are directly selected by legislators (indeed, four are themselves legislators). The tiebreaking commissioner is independent in that he or she is chosen by a non-legislative body, but the Supreme Court may nominate legislators for that position, or those beholden to legislators.
- **Partisan Balance:** The backup commission begins with a balanced partisan composition. If it deadlocks, the tiebreaking commissioner is likely to be affiliated with one of the two major parties, which allows one party a majority, and therefore control of the redistricting process. This theoretically has the potential to foster decisionmaking with a partisan balance, to avoid the random selection of an adverse tiebreaker; in practice, both parties have preferred to take a chance on the random draw.
- **Minority Participation:** There are no specific provisions for reflecting diversity in the commission's membership, and the commission's relatively 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:** State legislative 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 currently drawn by the state legislature, subject only to federal constitutional and statutory limitations.

State legislative districts must be contiguous and reasonably compact, and follow the federal standard of “substantially equal” population (which in any event must be within a 10% spread from largest district to smallest). Otherwise, there are no restrictions on the way in which districts may be drawn.

- **Population Equality:** The current criteria allow substantial population disparity; some residents’ votes may be more valuable than others. There is also no express provision to determine whether the state must rely on the count conducted by the federal census (which counts incarcerated persons where they are incarcerated).
- **Minority Rights:** Courts have suggested that the provision of the Illinois Constitution requiring free and equal elections may prohibit vote dilution on the basis of race, independent from the protections of federal law, but the suggestion has not been further explained.
- **Compactness:** There is a general requirement that districts be reasonably compact. Courts have suggested that obvious deviations from a reasonably compact standard should be justified by some neutral principle, but have not further enforced this suggestion.
- **District Competition:** There is no provision encouraging or discouraging competition within a district.
- **Statewide Partisan Balance:** The partisan structure of the backup commission theoretically has the potential to foster decisionmaking with a partisan balance, to avoid the random selection of an adverse tiebreaker. In practice, both parties have preferred to take a chance on the random draw, and the winners have generally drawn districts favorable to the party controlling the commission.
- **Preservation of Political Boundaries:** There is no provision encouraging or discouraging preservation of political boundaries.
- **Communities of Interest:** There is no provision expressly concerning communities of interest.
- **Nesting:** Each state Senate district must comprise two House of Representatives districts, tying each house’s districts to the other.
- **Incumbent Residence:** The current criteria do not prohibit those drawing the lines from considering the residences of incumbents, allowing intentional harm (or benefit) to individual legislators, but also reducing the likelihood of unintentional impact on incumbents.