

Reapportionment the 1981 version

by Susan M. Presti

"From 1952 until 1962, six contiguous North Carolina mountain counties were located in six separate congressional districts . . ."

"In 1962 a district was created which included coastal plain, mountains, and piedmont (counties). The district stretched 200 miles along the Virginia border, but was only 20 miles wide."¹

Reapportionment² — the redrawing of electoral district lines based on the results of each decennial census — looms as one of the most important tasks facing the 1981 General Assembly. National population shifts and those within North Carolina during the past decade could result in significant changes for the state. When the final results of the 1980 census are released, the state may gain a twelfth congressional seat; within the state the power balance between the coastal, piedmont, and mountain districts may be upset. "(Reapportionment) will be, in my opinion, the key issue of this General Assembly," says Alex K. Brock, director of the State Board of Elections.³

Historically, the power to reapportion has been wielded in a highly political fashion. The majority party in a state legislature has traditionally sought to limit the minority party's influence by drawing grossly misshapen districts. In 1812, Massachusetts Governor Elbridge Gerry approved a reapportionment plan in which one district was so distorted it resembled a salamander. Such legislative legerdemain has thereafter been referred to as "gerrymandering."

Throughout the 1920s, as more of the country's rural population migrated to cities and as political machinations continued to dominate reapportionment decisions, electoral districts within individual states grew to increasingly disparate sizes. In 1946, for example, Cook County, Illinois, contained 914,000 citizens while a downstate district had only 112,000.

In *Baker v. Carr* (1962), the U.S. Supreme Court established judicial jurisdiction over questions of reapportionment. A series of landmark decisions followed, known as the "one person, one vote" rulings, in which the Supreme Court began to redress electoral district imbalance stemming from many types of discrimination — political, racial, sexual, ethnic, rural-urban, etc. These rulings, combined with regulations included in federal and state policies, have created a complex set of criteria for reapportioning.

Because the profusion of new regulations has complicated the reapportionment process, many states have turned to computers and independent commissions as the most practical means of redrawing electoral districts. For the 1981 reapportionment, several states are relying extensively on computers. The New York Legislative Task Force on Reapportionment has spent almost \$1 million on a computer package.⁴ California, Oklahoma, Minnesota, Illinois, New Mexico, Indiana, Texas, Michigan, and many other states are expected to use computers for sophisticated mathematical analyses of proposed districts.

Seventeen states have utilized independent

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commissions rather than depending exclusively on their legislatures. Eleven states use independent commissions for actual apportionment; six use them in an advisory capacity or as a fallback unit in case the state legislature cannot develop a suitable plan. Legislation now before Congress would vest all responsibility for congressional reapportionment in independent commissions that would be established in each state.

The North Carolina Experience

Factors unique to North Carolina also complicate the reapportionment process. As the Piedmont counties grow, for example, they are becoming so large that they cannot be grouped easily with contiguous neighbors to form electoral districts. Their combined populations are too large. (Electoral districts must be composed of counties with contiguous borders.) The North Carolina Constitution prohibits the division of counties into smaller units for the purpose of redistricting state electoral zones. This restriction may create problems for redistricting the Piedmont, problems that will carry over to congressional reapportionment. There is no federal law preventing a smaller unit — for example, a township — from being used as the primary building block of congressional districts, but North Carolina has a long history of refusing to break county boundaries for representational purposes.

In addition to the demands of equal population, any redistricting plan in North Carolina must meet the demands of equal representation. Republican, minority, rural, and liberal voters — usually concentrated in specific parts of the state — should be districted so that their votes can have a fair expression, not gerrymandered in such a way as to undermine their strength. One further complication for North Carolina is the Voting Rights Act of 1965. Because of past evidence of voting discrimination in 39 counties, the Act requires that any reapportionment affecting these counties must be approved by the U.S. Attorney General. He must determine that “the plan in question does not have the purpose or intent of abridging the right to vote on account of race or color,” says

David Hunter of the Justice Department’s Voting Rights Section. If the Attorney General rejects a North Carolina reapportionment proposal, a new plan has to be developed.

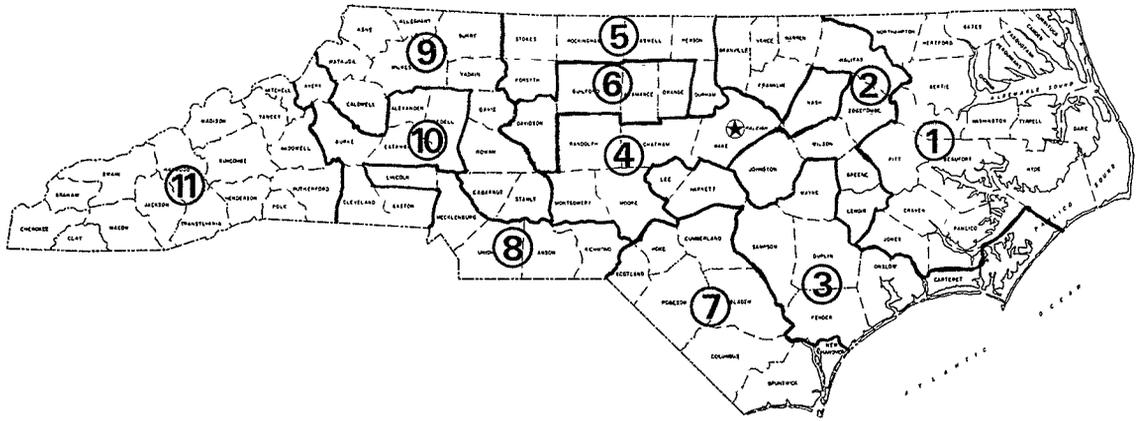
Court decisions in the 1960s forced the General Assembly to develop new plans for North Carolina. In both 1965 and 1966, a U.S. District Court rejected the state’s reapportionment. Finally in 1967, the courts accepted the legislature’s plan. In 1971, the Justice Department successfully challenged portions of the redistricting that affected the 39 counties cited in the 1965 Voting Rights Act. The redistricting of the unaffected 61 counties was allowed to stand.

Despite the complexities of the task, the North Carolina General Assembly has not yet appointed any legislative committees to prepare for the pending reapportionment. Some preliminary work has been done in the state but has not been coordinated by the legislature. The General Assembly’s Division of General Research is preparing a reapportionment briefing book for legislators which will summarize pertinent court decisions, federal and state restrictions, and logistical questions on reapportionment. The state Office of Data Services has performed some computer runs on the preliminary census data. If requested by the legislature, the Office could provide computer services to aid in reapportioning the state. In 1971, no computers were used “at all,” according to Clyde Ball, then Legislative Services Officer.

The process the General Assembly will use to reapportion North Carolina in 1981 will not become clear until the General Assembly convenes. Rep. Liston Ramsey (D-Madison), in all likelihood the next speaker of the House, says that the process probably will be similar to that of 1971: a House committee will be established to redistrict the House, a Senate committee will be established to redistrict the Senate, and a joint committee will be established to reapportion congressional districts. Each committee will consider plans submitted by any legislator, and Rep. Ramsey already has invited North Carolina’s eleven congressmen to submit reapportionment plans to the General Assembly. Each committee will propose its final

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**Alex Brock, Director
State Board of Elections**



After the U.S. District Court rejected the state's reapportionment plan in 1965, the General Assembly developed a new one, which is shown above. Note the gerrymandering that remained: Nash County borders the rest of the Fourth District at a single point; the Second District wraps around the Fourth, and several other districts (especially the Eighth, Ninth, and Tenth) are distorted. In 1966, the U.S. District Court for the Middle District of North Carolina ruled on this plan:

"The tortuous lines which delineate the boundaries of many of the congressional districts under the proposed plan, the resulting lack of compactness and contiguity, and the failure to achieve equal representation for equal numbers of people as nearly as practicable compels us to hold that the congressional apportionment is constitutionally invalid." Drum v. Seawell, 250 F. Supp. 922,925 (M.D.N.C. 1966)

Because of approaching filing deadlines at the time of this decision, the configuration above stood for the 1966 elections. But the Court's rejection forced still another reapportionment. The plan developed in 1967 was finally accepted and stood until the 1970 census.

plan as a piece of legislation that must be ratified by both houses. (In 1971, the Senate accepted the proposed plan of the House and the House accepted the Senate's plan.)

According to Ramsey, the use of computers in the 1981 reapportionment "will be up to the chairmen of the various committees." And like 1971, apparently no serious consideration will be given to the idea of an independent reapportionment commission. Ramsey rejects the concept of an independent commission for North Carolina. "I expect the legislature to do it (reapportionment) because the Constitution says we shall do it," he says.

Citing the Constitution serves to disguise the fact that reapportionment still is perceived by many legislators and others as being the sole domain of state legislatures. Nationwide, politicians from both parties tend to see reapportionment as legitimate political booty. Larry Mead, a member of the Republican National Committee research staff, has said, "We want reapportionment to be fair, but the state legislatures are sovereign. Our job isn't to save ourselves but to build the party from the bottom up."⁵ Consequently, "the national drive by Republicans to control more statehouses by electing more Republican legislators in November is keyed to the upcoming reapportionment," writes Dan Pilcher.⁶

Rapid changes in reapportionment law over the last twenty years have increased the complexity of redistricting; rapid changes in reapportionment technology have increased the number of ways to develop redistricting plans. Despite these changes, North Carolina in 1981 will reapportion itself in much the same way it has in the past. "Reapportionment is a political process . . . and that's the way it should be," says Brock. □

FOOTNOTES

¹ Douglas Edward Markham, "Reapportionment in North Carolina," an honors thesis submitted to the political science faculty of the University of North Carolina at Chapel Hill, 1978 (portions published as "Reapportionment in North Carolina: Another Gerrymander in 1981?," *Carolina Politics*, January, 1979).

² In this article, "reapportionment" refers to both the reapportionment of North Carolina's congressional districts and the redistricting of electoral zones for the state legislature.

³ *Raleigh News and Observer*, September 25, 1980.

⁴ The expenditure to date, of which the state expects to recoup as much as 50 percent through time-sharing of computer services.

⁵ Janet Simons, "Reapportionment: Here it Comes Again," *State Legislatures*, November/December 1978.

⁶ Dan Pilcher, "Reapportionment: The New Ingredients," *State Legislatures*, April 1980.