



Gila County Redistricting Advisory Committee



Chair:
Roberto Sanchez

Vice-Chair:
Gary L. Address

Members:
Robert Dalby
James M. Feezor
Thomas J. Moody
James Muhr
Robert W. Pastor

David K. Prechtel
Adelaido Rodriguez
Joseph Skamel
Loretta Stone
Michael Vogel

PURSUANT TO A.R.S. §38-431.02, THE GILA COUNTY REDISTRICTING ADVISORY COMMITTEE WILL HOLD AN OPEN MEETING AT THE GILA COUNTY ADMINISTRATION BUILDING, 610 E HWY 260, PAYSON, AZ. ONE OR MORE COMMITTEE MEMBERS MAY PARTICIPATE IN THE MEETING BY TELEPHONE CONFERENCE CALL OR BY INTERACTIVE TELEVISION VIDEO (ITV). ANY MEMBER OF THE PUBLIC IS WELCOME TO ATTEND THE MEETING OR PARTICIPATE VIA ITV. WHICH WILL BE AVAILABLE AT THE GILA COUNTY COURTHOUSE BOARD OF SUPERVISORS HEARING ROOM, 1400 E ASH STREET, GLOBE, AZ. THE AGENDA IS AS FOLLOWS:

GILA COUNTY REDISTRICTING ADVISORY COMMITTEE

REGULAR MEETING AND WORK SESSION

TUESDAY, JULY 19, 2011 - 5:30 P.M.

1. Call to Order/Pledge of Allegiance

2. Roll Call of Committee Members

3. Regular Meeting

- A. Presentation/Discussion/Action to approve minutes of the last Board Meeting. **(Chairman Sanchez)**
- B. Presentation/Discussion/Action regarding the Projected Redistricting Timeline and future of Committee Activities. **(Linda Eastlick)**

4. Work Session

- A. Presentation/Discussion regarding alternative mapping ideas. **(Tony Sissons)**
- B. Presentation/Discussion regarding study group process. **(Linda Eastlick)**

C. Study Group Work Sessions - Separate into study groups for discussion and evaluation of mapping alternatives and determination of next study group work session dates.

IF SPECIAL ACCOMMODATIONS ARE NEEDED, PLEASE CONTACT ELIZABETH MATA AT (928) 402-8709 AS EARLY AS POSSIBLE TO ARRANGE THE ACCOMMODATIONS. FOR TTY, PLEASE DIAL 7-1-1 TO REACH THE ARIZONA RELAY SERVICE AND ASK THE OPERATOR TO CONNECT YOU TO (928) 402-8709.

THE COMMITTEE MAY VOTE TO HOLD AN EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE ON ANY MATTER LISTED ON THE AGENDA PURSUANT TO A.R.S. §38-431.03(a)(3).

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.

GILA COUNTY REDISTRICTING ADVISORY COMMITTEE

MEETING MINUTES

Tuesday, July 19, 2011 at 5:30 PM

Call to Order/Pledge of Allegiance (Chairman Sanchez)

In Attendance:

RAC Chairman, Roberto Sanchez; RAC Vice Chairman, Gary Andress; RAC Committee Members: James Feezor, Thomas Moody, Adelaido Rodriguez, Joseph Skamel, Mike Vogel, RAC Alternates, Paul Bates, Bill Hibbert and RAC Alternates: Linda Pearce.

Also present: Elections Director Linda Eastlick, Elections Specialist David Rogers, voter Registration Supervisor Eric Mariscal, Elections Clerk Elizabeth Mata, Redistricting Consultant, Tony Sissons and Senior Analyst, Marci Rosenberg.

REGULAR MEETING

Presentation/Discussion/Action to approve minutes of the June 6, 2011 meeting (Chairman Sanchez)

A quorum of Committee Members was not present. Approval of minutes deferred until next meeting..

Presentation/Discussion/Action regarding the Projected Redistricting Timeline and future of Committee Activities (Linda Eastlick)

Study group objectives and the Projected Redistricting Timeline including the projected meeting scheduled were discussed.

WORK SESSION

Presentation/Discussion regarding alternative mapping ideas (Tony Sissons)

Redistricting consultant, Tony Sissons advised the Committee he was here to answer questions during the work sessions. Also discussed materials and information that he has seen and received which seem to indicate there is some confusion over what "racially polarized voting" means. He stated he felt the term has gone to the press without the press, or others, necessarily understanding the terminology.

His main point was that the determination that racially polarized voting exists does not mean that anybody is being discriminated against. Minority and non-minority populations tend to register with different political parties, coalesce behind different public policy issues and often support different candidates. The measurement is simply one of the factors that contribute to a determination of whether a newly drawn district must maintain the same minority resident proportions as it has under the current plan. The measurement is used to help make a determination as to whether a minority concentration in a particular district needs to be protected in terms of the new district in which it is

placed. The "Voting Rights Act" prohibits jurisdictions from drawing districts that damage minority voting strength and that is why we use this tool to help determine where politically affected minority populations are located and the extent to which we legally must provide protection in the plans that we draw.

Mr. Sissons advised the Committee that the chief consultant for the county, Bruce Addelson, asked him to run these statistical analyses to help in gaining an understanding of the political and racial landscape of the county.

He then discussed the handout in the Board's packet stating that it is only in circumstances where we see racially polarized voting and we also see that the minorities in that district are very successful in electing candidates of their choice, that we legally have to maintain and not lower the percentage of minorities

The Committee and the consultant discussed additional questions surrounding the Voting =rights Act and racially polarized voting as well as Mr. Sissons analysis of the maps that will be discussed further in the Study Group sessions.

Tony and Marci agreed to stay for the Study Group sessions. (Tony stayed for the Supervisorial Study Group and Marci went into the College District Study Group.

Chairman Sanchez made the following comments:

We're now in our final stage in the Redistricting journey that we started. And it's time to add up all the input that has come in and add our own thought to them and to come up with some maps and suggestions for the Supervisors. The key to this important function is going to be team work. We need to work together all of us. And what we're going to do is we're going to review all of the submissions that were sent to Linda and like I said after reviewing we're going to need to come up with at least two formal suggestions to submit to the Supervisors. We've got to use our guidebooks and rules of principals that were given to us. We need to follow the guidelines of the two highly qualified consultants that we have, Tony and Bruce. I think they're doing an excellent job. For example Bruce says that we cannot dilute the Latino or Native American voting age population in Board of Supervisors 2 and 3. So we have to take that into consideration when we work the Supervisory area. And we need to meet the timelines that Linda gave us in that e-mail and that she talked about earlier. Our final drop dead date is going to be August 4th, so when we meet as a work group decide if you need to meet again. We have to have nine people agree to the recommendations that each Study Group recommends so that we can submit those alternatives to the Board of Supervisors.

Elections Director, Linda Eastlick added that Chairman Sanchez would be making the presentation to the Board of Supervisors as to what the Committee's mapping alternative choices were. Reminded the Committee that the Board of Supervisors has not had a chance to digest all the work the Committee has done, they have never seen any of the maps, they have only attended a couple of the meetings. So they will be going through the whole process at a work session after the Committee has made its report. Therefore, there is still a lot of ground for the Board to cover.

Committee members discussed their future involvement. Were told they would be done on August 4th because that is when the information is due for the August 15 Board meeting agenda. Also discussed the fact they are welcome to participate as citizens at any of the future public meetings be they Board meetings, Board work sessions, or any of the public meetings which will be held in Round 2.

Committee members asked if the Board could change the maps and were told it was quite likely given that some of the plans submitted will need tweaking and that the Board may wish to move things somewhat. Committee members asked if at any point the Board would create an illegal plan. Ms. Eastlick responded they can make changes, but that it would not make sense for the Board to create an illegal plan since the Board has no intention of submitting any illegal/retrogressive plan to the Department of Justice.

Mr. Sissons reminded the Committee that a strong public record of citizen input has been established for the Board to review. This public record may guard against the Board of Supervisors deciding to scrap everything submitted by the Committee and just drawing their own plan. Mr. Dalby made the statement that the Board had requested the Committee do the work and had if the Board would have wanted to do it themselves they would have done it."

The group discussed keeping track of the reasons plans were or were not selected.

The group discussed the fact that if State legislative/congressional boundaries conflict with County precincts boundaries those boundaries may have to be changed after we have approval for our plan from the Department of Justice but that should not create any serious problems for our overall map.

Study Group Work Sessions

The Committee broke up into two Study Groups:

Supervisory Study Group

Roberto Sanchez
Bob Dalby (not present)
James Muhr (not present)
Bob Pastor (not present)
Joe Skamel
Loretta Stone (not present)

College District Study Group

Gary Andress
Mac Feezor
Tom Moody
David Prechtel (not present)
Adelaido Rodriguez
Mike Vogel

The three RAC Alternate Members present participated in the Supervisory Study Group:

Paul Bates
Bob Hibbert
Linda Pearce
Christine Harrison (not present)
Marvin Mull (not present)

Detailed discussions and evaluation of the various maps submitted by the public ensued in each of the two Study Groups. Consultant Tony Sissons participated in the Supervisory Study Group and Marci Rosenberg participated in the College District Study Group.

Study Group Meetings Adjourned

A GUIDE TO ANALYSIS OF VOTING PATTERNS BY RACE OR ETHNICITY

Prepared by Tony Sissons, Principal, Research Advisory Services, Inc.

One of the common tests conducted to examine voting patterns in the context of the Voting Rights Act is known as a 'racially polarized voting analysis'. Let me first clear up two common misconceptions about this measurement tool.

1. That racially polarized voting is found to exist in various parts of Gila County is neither surprising nor alarming. Minority and non-minority populations tend to register with different political parties, coalesce behind different public policy issues, and often support different candidates. The measurement is simply one of the factors that contribute to a determination of whether a newly drawn district must maintain the same minority resident proportions as under the current plan.
2. The determination that racially polarized voting exists does not mean that anyone is being discriminated against.

The Voting Rights Act clearly prohibits jurisdictions from drawing new districts that damage minority voting strength. A racially polarized voting analysis is one tool that map drawers use to determine where politically effective minority populations live and the extent to which the Voting Rights Act legally requires protection of that current effectiveness.

Since public voting records do not indicate who voted for each candidate, or the racial category of the voter, the racial breakdown of any candidate's support is directly unknowable. However, most courts have accepted inferential analyses of precinct level election outcomes. The two commonly accepted techniques are 'homogenous precincts analysis' and 'bivariate ecological regression analysis'.

Homogenous precincts analysis simply involves examining the vote outcome for candidates in precincts that are overwhelmingly (90% or more) Anglo, and precincts that are overwhelmingly minority. If the Anglo precincts vote strongly for non-minority candidates and the minority precincts strongly support minority candidates, racially polarized voting in the neighborhoods making up the analysis area is judged to exist. Ideally, the situation should be examined over several election cycles to see if the polarized voting is structural, and not just the result of an occasional lost election. The main problem with this technique is that it is often difficult to find enough precincts that are almost exclusively minority, and as a contrast, almost exclusively non-minority.

The second technique, bivariate ecological regression analysis, is a statistical procedure that looks at the data from all precincts, not just ones with racially homogenous populations. The analysis looks at whether the *variation* in vote-share for a minority candidate, from precinct to precinct, is closely related to the *variation* in the proportion of minority residents in those precincts. In other words, does the support for a minority candidate increase as one looks at precincts with higher and higher proportions of

minority voters? If such a relationship is strong, polarized voting is assumed to exist in those precincts making up the analysis area.

The first step in conducting a **bivariate** (two variables used) **ecological** (data collected about groups rather than individuals) **regression analysis** (statistical procedure for examining how one variable affects another) is to calculate two sets of data about each voting precinct in the district being studied. The two variables are:

- Percent of the voting-age population that is of a minority race, origin or language. This variable is calculated from Census 2010 data.
- Percent of the vote received by the minority candidate. This is the 'dependent' variable in the analysis, and is calculated from election results.

The two variable values about each precinct are plotted as a single point on a graph. A point's position along the horizontal axis represents that precinct's percentage of minority residents. The point's height, or distance along the vertical axis, represents the percentage share of the total vote that was received by the minority candidate. The pattern of points is a visual indication of the nature of the relationship. A pattern of points that starts in the lower left corner of the graph and flows towards the upper right corner would indicate a positive relationship—the higher the percentage of minorities in a precinct, the greater the support for a minority candidate.

The statistical software program plots a 'best fit' single line through the pattern of points. The best fit line summarizes the point pattern into a single formula, or statistical equation representing the relationship. A numerical value representing the angle (or slope) of the best fit line is calculated to express the rate that support for minority candidates rises as the precinct minority proportion increases. The steeper the slope, the more racially polarized the vote.

The other factor to be considered is the *strength* of the relationship between the variables. The closer the individual precinct points are to the best fit line, the stronger the relationship. Actually, a best fit line can be drawn through even the most formless pattern of points. The slope of that line may be steep, shallow, or even flat (horizontal), depending on the aggregate amount of vertical variation. If the best fit line is steep, but the strength of the relationship is weak, it would be misleading to characterize that election as racially polarized.

Declaring an election to be racially polarized, then, requires finding a moderate-to-steeply sloped regression line, and a moderate-to-strong relationship, or correlation, between the relative presence of minority residents in a district and the voting outcome for minority candidates.

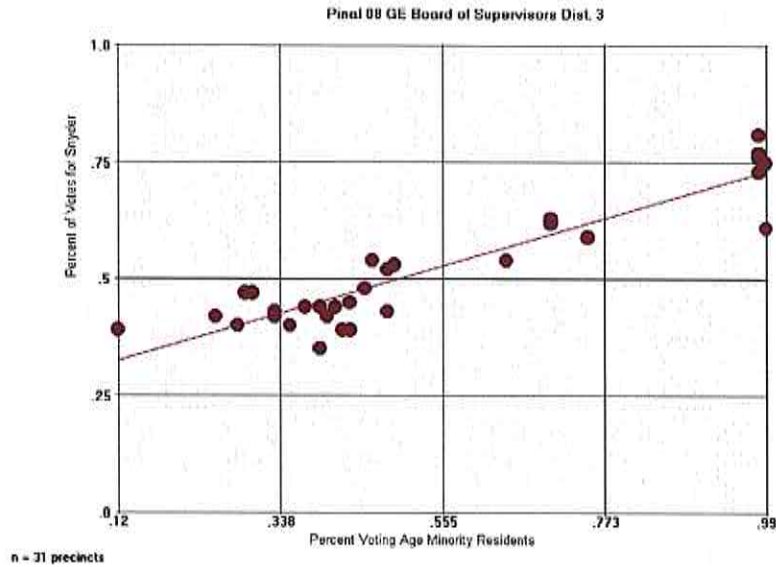
PINAL COUNTY GENERAL ELECTION 2008

County Supervisor District 3 (31 precincts)

David Snider (Anglo) 15,829 votes

Tom Hollenbach (Anglo) 14,332 votes

Plotted: % of votes cast for Snider v. % voting-age minority residents



Slope of regression line = 0.47 (moderate) For every percentage point increase in voting-age minority proportions, candidate Snider's vote share increased almost half a percentage point.

Coefficient of Determination (R^2) = 0.854 (very strong) Over 85 percent of the variation observed in candidate Snider's vote share is attributable to variation in precinct minority proportions.

Statistical conclusion: Racially-polarized voting is present.

BULLHEAD CITY ELECTIONS
Bullhead area precincts

2007 Special Election

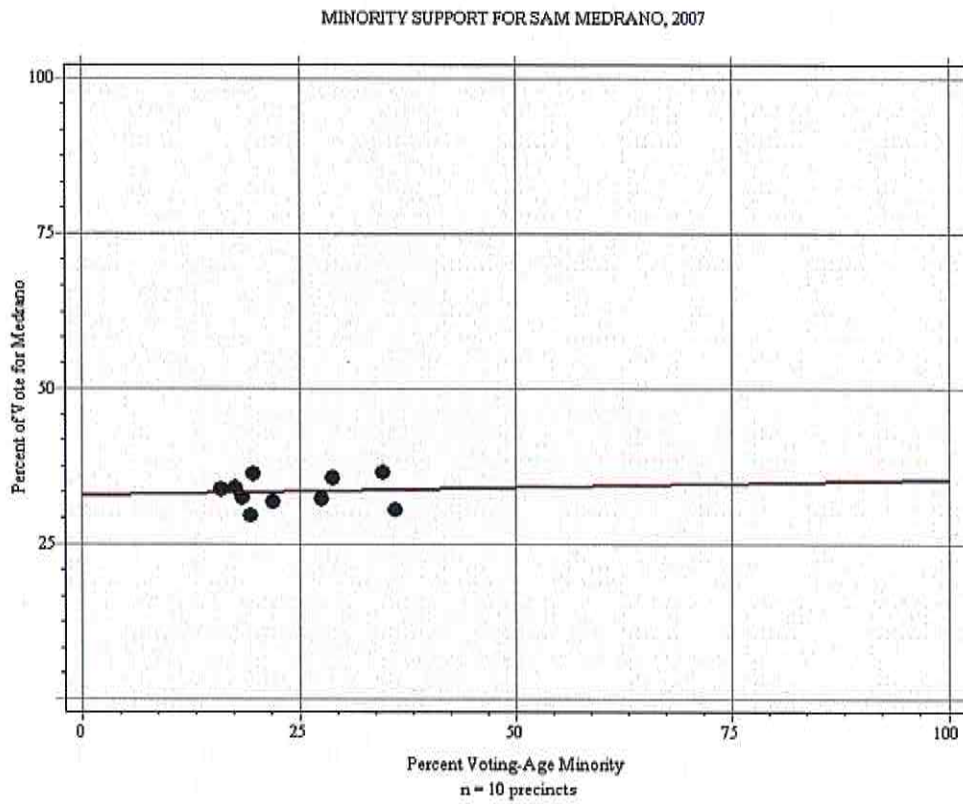
City of Bullhead City Council Seat, 2007

Sam Medrano, 1,863 votes

Kathy Bruck, 1,575 votes

Mike Lipshultz, 940 votes

John McClure, 1,172 votes



Slope = 0.02 (almost flat)

$R^2 = 0.0550$ (weak)

Racially polarized voting not present

GILA COUNTY - Percent Voting Age Total Minority of Resident-Proposed Maps

Plan Proposer	Plan Name	Type of Plan	Date recv'd	District 1		District 2		District 3		District 4		District 5	
				current	proposed	current	proposed	current	proposed	current	proposed	current	proposed
Cliff Potts	4/25/11	BOS	4/25	9.13%	15.31%	30.16%	14.68%	50.28%	60.66%				
Robert Benne	6/5/11	BOS	6/5	9.13%	8.88%	30.16%	34.65%	50.28%	45.14%				
Tom Moody	TJM02	CCD	6/7	8.97%	8.76%	10.91%	10.22%	23.12%	21.92%	35.12%	42.28%	76.31%	69.23%
Tom Moody	tjm01	BOS	6/7	9.13%	9.22%	30.16%	29.06%	50.28%	51.32%				
Cliff Potts	CP03	BOS	6/13	9.13%	8.24%	30.16%	41.22%	50.28%	39.86%				
Feezor	KLF01	CCD	6/16	8.97%	8.84%	10.91%	9.45%	23.12%	18.91%	35.12%	36.89%	76.31%	77.35%
Feezor	KLF04	BOS	6/16	9.13%	8.24%	30.16%	40.97%	50.28%	40.12%				
Feezor	KLF05	BOS	6/16	9.13%	9.66%	30.16%	40.97%	50.28%	38.11%				
Feezor	KLF06	BOS	6/16	9.13%	9.66%	30.16%	40.74%	50.28%	38.32%				
Feezor	KLF08	BOS	6/16	9.13%	8.68%	30.16%	40.29%	50.28%	40.47%				
Feezor	KLF09	BOS	6/16	9.13%	8.61%	30.16%	39.78%	50.28%	41.66%				
Feezor	KLF11	BOS	6/17	9.13%	9.22%	30.16%	36.27%	50.28%	43.65%				
Bob Dalbyre	RD S 02	BOS	6/17	9.13%	9.22%	30.16%	36.73%	50.28%	43.20%				
Feezor	klf12	BOS	6/17	9.13%	9.22%	30.16%	36.46%	50.28%	43.44%				
Feezor	KLF10	BOS	6/21	9.13%	8.38%	30.16%	40.29%	50.28%	40.44%				
Bob Dalbyre	RD C 01	CCD	6/21	8.97%	8.95%	10.91%	10.93%	23.12%	18.23%	35.12%	39.16%	76.31%	76.78%
Tom Moody	tjm06	CCD	6/22	8.97%	10.43%	10.91%	10.41%	23.12%	20.02%	35.12%	35.92%	76.31%	77.34%
Feezor	KLFSP06	BOS	6/23	9.13%	9.66%	30.16%	40.74%	50.28%	38.32%				
Feezor	KLFSP08	BOS	6/23	9.13%	8.68%	30.16%	40.29%	50.28%	40.47%				
Feezor	KLF02	CCD	6/23	8.97%	8.64%	10.91%	11.37%	23.12%	19.46%	35.12%	41.80%	76.31%	73.51%
Ellen Farnham	SEF01	BOS	6/23	9.13%	10.27%	30.16%	40.97%	50.28%	33.96%				
P. Branch	RB1	BOS	6/25	9.13%	8.66%	30.16%	23.22%	50.28%	59.19%				
Bob Dalbyre	Select	BOS	6/26	9.13%	9.22%	30.16%	31.51%	50.28%	48.52%	(possibly correctable at block level)			
Feezor	kfsp016	BOS	6/27	9.13%	9.22%	30.16%	31.66%	50.28%	48.61%	(possibly correctable at block level)			
AZ Bandit	blk01	BOS	7/11	9.13%	9.22%	30.16%	23.29%	50.28%	58.67%				
rhlnorover46	gary02	CCD	7/11	8.97%	9.36%	10.91%	11.05%	23.12%	19.51%	35.12%	39.98%	76.13%	76.69%
AZ Bandit	Select	CCD	7/12	8.97%	9.36%	10.91%	9.61%	23.12%	21.29%	35.12%	35.00%	76.31%	77.21%
Tonto Apache Tribe	TAT01	BOS	7/13	9.13%	9.13%	30.16%	36.50%	50.28%	43.91%				
Feezor	klf cc06b	CCD	7/17	8.97%	8.76%	10.91%	10.95%	23.12%	20.44%	35.12%	41.91%	76.13%	72.29%

WHAT DOES RACIALLY POLARIZED VOTING MEAN?

Prepared by Linda Eastlick, Director Gila County Department of Elections

Racially polarized voting means that voters tend to prefer candidates based on the race of the voter and the race of the candidate. It does not mean that voters of one race only vote for candidates of that race. Many minority candidates of choice are Anglo. Conversely, not all minority candidates are candidates of choice of the minority community. It does not mean that the Anglo population in one area is discriminating against the minority population in another area.

The existence of racially polarized voting is a conclusion reached after a great deal of analysis of voting pattern history. An overly simplified example follows:

In election after election it is observed that Precinct 41 and Precinct 58 always vote the opposite of one another:

Year	Candidate	Precinct 41	Precinct 58
2000	Candidate A	75%	25%
	Candidate B	30%	70%

Year	Candidate	Precinct 41	Precinct 58
2002	Candidate A	85%	55%
	Candidate B	20%	80%

Year	Candidate	Precinct 41	Precinct 58
2004	Candidate A	68%	32%
	Candidate B	28%	72%

This reflects "polarized" voting. This could be because Precinct 41 is a heavily Republican precinct and Precinct 58 is a heavily Democratic precinct. However, it can also be because Precinct 41 has a large minority population and Precinct 58 has a large Anglo population.

All states are covered by the Voting Rights Act and any state (or county) with a significant minority population should run these analyses (also called vote dilution analyses or voting pattern analyses) to determine if polarized voting exists between areas with large minority populations and areas without large minority populations as well as to ensure that proposed redistricting plans are not retrogressive with regard to minority voting strength. (Retrogression is the act or process of deteriorating or declining or reducing). . If the analyses show results similar to the example above, this is then called "racially polarized voting". Numerous statistical analyses conducted by the redistricting consultants hired by the County reveal that a history of "polarized" voting does exist in Gila County.

According to *Thornburg v. Gingles* (the first Supreme Court case to interpret the 1982 amendments to the Voting Rights Act incorporating these types of tests), racially polarized voting is the "evidentiary linchpin" of a vote dilution claim. Section 5 (of the Voting Rights Act) regulations also point to "the extent to which voting in the jurisdiction is racially polarized" as one of the factors considered by the Attorney General in making preclearance determinations.

The Redistricting Folder: How the Federal Voting Rights Act Will Affect Arizona's Election Maps
By Tony Sissons and Bruce L. Adelson, Esq. ©Tony Sissons and Bruce L. Adelson, 2010 All Rights Reserved

The Fifteenth Amendment to the Constitution of the United States of America, ratified on February 3, 1870 – five years after the end of the Civil War – provided the right to vote to all citizens regardless of race, color or previous condition of servitude. The Amendment gave Congress the authority to make laws to enforce its voting mandate. Many years passed before Congress passed legislation to fulfill that duty. Finally, one hundred years after the Civil War ended and following five weeks of intense debate, Congress passed the Voting Rights Act of 1965.

Two parts of the Voting Rights Act should be well-known in Arizona:

- Section 2 of the Act applies everywhere in the United States and prohibits all political subdivisions from imposing any voting qualification or prerequisite to voting, or standard, practice, or procedure that has the purpose or effect of denying or abridging the right of any citizen of the United States to vote on account of race, color or membership in a language minority group. The U. S. Attorney General and any affected private citizen can sue to seek a court-ordered remedy for a Section 2 violation.
- Section 5 of the Act is perhaps the most familiar to Arizona officials. This section includes the requirement that in certain "covered jurisdictions," any changes to voting practices or procedures must be "precleared" before they can be implemented. Section 5 encompasses all or part of 16 states. Preclearance requires either a declaratory judgment from the U. S. District Court for the District of Columbia, or approval from the Civil Rights Division of the U. S. Department of Justice. To avoid the prohibitively high cost of litigating cases in Washington, D.C. , virtually all jurisdictions opt for DOJ consideration of their voting changes.

Sections 2 and 5 apply independently. A redistricting plan that has been precleared under Section 5 can still be challenged in court as violating Section 2.

Arizona is a covered jurisdiction under Section 5 – our state and all its political subdivisions must obtain preclearance for all voting system changes, including redistricting.

After a federal census, every jurisdiction that elects its governing officials from election districts or wards must redraw those districts to re-equalize population to comply with the 'one person, one vote' requirement of the U. S. Constitution. According to its web site, DOJ reviewed over 3,000 redistricting plans under Section 5 after the 2000 Census. Arizona's 2002 statewide legislative redistricting plan was one of the redistricting attempts that DOJ objected to, or blocked, during the last redistricting cycle.

In its application for preclearance, a jurisdiction must prove that the changes it proposes have neither the purpose nor the effect of diminishing the ability of minority voters to elect candidates of their choice. In effect, the jurisdiction is presumed guilty until it can demonstrate otherwise. If the jurisdiction cannot show that its proposed change will not discriminate against minority voters, DOJ will not approve the change. This is the fate that befell Arizona in May 2002. At that time, DOJ decided the Arizona Independent Redistricting Commission could not prove this absence of discrimination. The result - DOJ blocked the Commission from implementing its redistricting plan.

After receiving an application for preclearance, DOJ has 60 days to act. If DOJ does not respond within the proscribed time period, the jurisdiction can legally implement the change. Unfortunately for the thousands of jurisdictions covered by Section 5, DOJ almost never fails to respond within its 60-day period.

At any time during its Section 5 review, DOJ can ask for additional information by written request. Once DOJ sends its additional information request, the 60-day Section 5 clock stops and will not restart until the jurisdiction answers DOJ's request and provides DOJ what it wants. However, jurisdictions be warned! If you do not give DOJ what it asked for and do not satisfy its additional information request, DOJ can object to the proposed change, prevent its implementation, and effectively end the voting change's legal existence. This fate befell the Arizona Redistricting Commission in May 2002 when DOJ determined that the Commission had been unable to satisfy DOJ's earlier request for additional information. This failure essentially doomed the Commission's 2002 legislative redistricting map.

If DOJ rejects any portion of a redistricting plan, the jurisdiction has four choices: (1) remedy the objections and resubmit; (2) ask for reconsideration based upon new data or evidence; (3) continue to use the existing voting method or plan and risk litigation, which could include a lawsuit filed by the U. S. Attorney General; or (4) ask a federal court for permission to use an interim plan for one election cycle. That court will likely want to be satisfied that the interim plan does not contain elements objected to by DOJ. Jurisdictions cannot appeal DOJ Section 5 decisions. They are FINAL JUDGMENTS, so going to court for approval of an interim plan is not an end around past DOJ. It can only be a relatively quick attempt to get some plan in place before an impending election.

A brief examination of the preceding four choices may prove instructive.

Jurisdictions rarely succeed with choice number 2. Number 3 is legally foolhardy and is not recommended. Number 4 can make sense if the jurisdiction is somehow unable or unwilling to go back to DOJ. However, this choice opens the jurisdiction up to unpredictable litigation costs and consequences. The best solution is Number 1 - Fix the legal problems with the submission and resubmit to DOJ.

Arizona jurisdictions will need to design their public redistricting processes with an eye to receiving preclearance before the date that candidates take out nominating petitions for the 2012 Primary Election. Before any election, of course, candidates need to know the boundaries of the districts they wish to represent.

Now, move from process to analysis. In the context of redistricting, what does it mean to avoid abridging minority voters right to vote?

Broadly speaking, the largest component of minority voting success is 'relative density' – in a given district, how does the proportion of minority voters stack up against the proportion of non-minority voters? When a new district, or whole new plan, is drawn, are minority voters still able to achieve the voting success they had under the old plan, or will there be fewer minorities in a district, such that their power to elect candidates of their choice has been diminished by the change?

The lessening of minority electoral strength through official acts of government, either deliberate or unintended, is called retrogression. Whether retrogression is done intentionally or is simply a consequence of the change doesn't matter legally; both are prohibited by Sections 2 and 5.

Two things are important to note here: (1) the Voting Rights Act does not require or reward improvement in minority voting strength; it just prohibits retrogression and (2) the jurisdiction submitting a redistricting plan for preclearance has the obligation to prove that the plan has neither retrogressive purpose nor retrogressive effect. The latter will be a challenge, involving analysis of past election data, census demographics at the precinct or block level, and other relevant data, statistics, materials, and policies.

Like many things in law and politics, there is much more to finding or measuring retrogression than the simple proportionality implied above. The nuances run very deep, and require detailed analysis of the 'totality of circumstances.'

The U. S. Supreme Court used that term to describe a number of factors that courts and DOJ must consider in determining whether Section 2 has been violated by the proposed districts in a plan.

Those factors include whether racially polarized voting exists; whether there is a history of official racial discrimination in voting, or discrimination in education, employment or health that hinders effective participation in voting; whether the jurisdiction has used voting practices that are known to further the likelihood of discrimination; whether past political campaigns have used appeals to racial intolerance; the extent to which minority candidates, or candidates of choice of minority voters, have been elected; and whether elected officials have been responsive to the social, cultural and economic needs of minority citizens.

Many jurisdictions are probably thinking that nothing needs to be done until the Census population data arrives next spring, 2011. However, there are at least eleven major tasks that jurisdictions can undertake now to improve their chances of an on-time and successful redistricting process. Those tasks are:

- (a) Conduct a detailed demographic analysis of neighborhoods, with emphasis on geographic variation in socio-economic characteristics.
- (b) Identify and map 'communities of interest.'
- (c) Digitize the precinct maps used in each election during the decade.
- (d) Create a computerized database or spreadsheet of election canvass results from past elections.
- (e) Identify the race and ethnicity of each candidate who ran in any election within the jurisdiction.
- (f) Assemble a directory of citizens and community organizations to invite to participate in the public process.
- (g) Develop a detailed redistricting process plan.
- (h) Make a preliminary assessment of the extent of polarized voting within the jurisdiction.
- (i) Prepare a complete inventory of all of the preclearance applications submitted by the jurisdiction during the decade, or since the last election districts plan was precleared.
- (j) Build a written record to document all pre-redistricting activities.
- (k) Conduct a pre-redistricting compliance analysis to uncover unknown Section 5 and other federal issues, such as previously unprecleared voting changes and insufficient minority language election information programs.

For the first time in the history of the Voting Rights Act, a Democratic presidential administration will be responsible for enforcing federal voting laws when redistricting begins. The Obama DOJ is operating much differently than its immediate predecessor when it comes to such enforcement.

Historically, each president brings his law enforcement priorities into office, as President Obama has done. His perspective as the only American president to litigate federal voting cases prior to his election is unique and brings with it consequences for Arizona jurisdictions as they contemplate the path to preclearance of their next redistricting maps. The present DOJ has a different approach to enforcing and interpreting the Voting Rights Act and issuing Section 5 objections, as exemplified by DOJ's brand new guidelines for the preclearance review process.

The Civil Rights Division of DOJ, responsible for federal voting rights enforcement, has added over 100 new staff in 2010. DOJ will be ready for Arizona submissions. DOJ knows Arizona's redistricting history very well. Its files are replete with information about Arizona's past failures concerning the redistricting process. Arizona jurisdictions would be wise to dedicate resources toward getting ready to avoid the past's unfortunate results and unpleasant encounters with the U.S. Department of Justice. Starting now. The eleven tasks above will be a good place to start.

Tony Sissons is a political demographer, expert witness and redistricting consultant. His firm, Research Advisory Services, has managed 17 successful redistricting processes.

Bruce L. Adelson, Esq., is a former U.S. Department of Justice Senior Attorney. He was DOJ's team leader for reviewing and blocking Arizona's 2002 legislative redistricting plan. A nationally recognized expert on federal voting laws and the U.S. Department of Justice, he is now CEO of Federal Compliance Consulting LLC.

Redistricting and the Voting Rights Act

Linda Eastlick

Voting Rights Act of 1965

- › Landmark legislation which outlawed discriminatory voting practices
- › Established extensive Federal oversight of voting

Voting Rights Act of 1965

› SECTION 2

Prohibits imposing any "voting qualification or prerequisite to voting, or standard, practice, or procedure...to deny or abridge the right of any citizen of the United States to vote on account of race or color"

Voting Rights Act of 1965

Forbids any voting standard, practice, or procedure from having the effect of reducing the opportunity of members of a covered minority to participate in the political process and to elect representatives of their choice

Voting Rights Act of 1965

Prohibits practices resulting in

Cracking
Stacking
Packing

Voting Rights Act of 1965

"Cracking"

Fragmenting concentrations of minority populations and dispersing them among other districts to dilute minority opportunity to elect candidates of their choice.

Voting Rights Act of 1965

"Stacking"

Combining concentrations of minority populations with greater concentrations of white population to prevent minority opportunities to elect candidates of their choice

Voting Rights Act of 1965

"Packing"

Over-concentrating minorities in as few districts as possible to minimize the number of districts in which minorities constitute a numerical majority.

Voting Rights Act of 1965

› SECTION 5

Requires "preclearance" in jurisdictions with a history of discriminatory voting practices

Voting Rights Act of 1965

What does that mean?

A jurisdiction covered by Section 5 cannot implement ANY voting change without Department of Justice approval.

Voting Rights Act of 1965

Why does it matter?

Because the entire State of Arizona is a covered jurisdiction

Voting Rights Act of 1965

How does that relate to Redistricting?

- ✓ Redistricting is a voting change
- ✓ Redistricting Plan is subject to DOJ review
- ✓ Plan cannot be implemented without DOJ approval

GILA COUNTY
PROJECTED REDISTRICTING TIMELINE - July 13, 2011
Board of Supervisors and Community College

First round of Public Meetings for both Supervisorial and College Districts	June 8 thru July 6, 2011
Committee reviews public input, consultant analyses, and prepares ideas/recommendations for the Board	June thru July, 2011
Consultants perform analyses and create DOJ submission	July/August/September, 2011
Citizen plans/comments due	July 15, 2011
Committee/Study Groups meet to finalize recommendations	July 19 thru July 29, 2011
Committee sends mapping suggestions to Research Advisory Services for analysis	July 19-July 26, 2011
Research Advisory Services to have all mapping suggestions evaluated and back to committee	July 28-29, 2011
Committee meets, to decide what will be submitted to Board	July 29, 2011
Committee provides final recommendations for Board Agenda submission	August 4, 2011
Committee presents recommendations at Board meeting (invite College Board)	August 15, 2011
Board discusses mapping plan alternatives at Work Session	August 23, 2011
Board approves mapping plan alternatives to be published and presented at second round of public meetings	September 6, 2011
Maps advertized in newspapers, website, other media	September 6-20, 2011
Second round of public meetings to present mapping plan alternatives - (BOS invited attend)	September 6-20, 2011
Citizen comments due	September 20, 2011
Board approves final supervisorial and college district mapping plans	October 4, 2011
Plans submitted to DOJ	October 6, 2011
Plans approved by DOJ	December 6, 2011
Recorder makes voter registration changes required by Board approved maps	October/ November/December, 2011
State Redistricting Commission finalizes legislative and congressional districts	October 31, 2011
Staff and consultants revise mapping boundaries as required by State plan and present to Board for approval	November 1-10, 2011
Revised mapping plans submitted for Board Approval	November 15, 2011
Revised plans submitted to DOJ	November 16, 2011
Revised plans approved by DOJ	January 16, 2012
Recorder finalizes voter registration changes necessitated by State plan changes	December, 2011/January, 2012
Presidential Preference Election	February, 2012

* Board of Supervisors 2011 meeting dates: August 2, August 15, August 23 (work session), September 6, September 16 (work session), September 20, October 4, October 11 (work session), October 18, November 1, November 8, (work session), November 15, December 6, December 13 (work session), December 20, 2011