

Legislative Redistricting Reform in Illinois
*Why the Paul Simon Public Policy Institute Got Involved and the Proposal It
Developed*

By Mike Lawrence
PSPPI Director, 2004-2008

Illinois' approach to redrawing state legislative districts during the last three decades has been criticized and ridiculed – for good reasons.

It is a classic unintended consequence, one that adversely affects all the citizens of Illinois.

What happened and what can be done? Because it is a complicated subject, a question-and-answer format helps to address those questions.

Q: What are state legislative districts?

A: As you might surmise, they are the election jurisdictions from which we select those who will represent us in Springfield. Depending on how the districts are constructed, candidates from one party or the other could have a distinctive advantage based on voting patterns within the area in which they are campaigning.

Q: How often are they changed?

A: To comply with the U.S. Supreme Court's one-person, one-vote ruling in the 1960s, all 118 members of the Illinois House must represent approximately the same number of people. The same is true for all 59 members of the Illinois Senate. Obviously, population shifts occur over time; so, states across the nation are required to establish new districts that reflect the most recent federal census.

Q: What is the process in Illinois?

A: It is determined by the current constitution, fashioned by elected delegates and adopted by voters in 1970. The General Assembly and the governor are directed to form 59 Senate districts, each of which contains two House districts by June 30 of the year following the census. If they fail, a bipartisan commission is formed. The eight-member commission includes two appointees each from the House speaker, House minority leader, Senate president and Senate minority leader. If the commission also deadlocks, a lottery is held to determine the ninth member to serve as a tiebreaker. The Democratic and Republican leadership each submit a name. The secretary of state then uses a random selection method, such as choosing between two pieces of paper in a hat, to tip control of the redistricting process to either the Democrats or Republicans.

Q: Who is responsible for this goofiness?

A: Constitutional framers were focused on avoiding deadlocks – in other words, they wanted to see our elected officials approach redistricting responsibly. They were confident that the threat of surrendering total control to the opposite party would be sufficient to force compromise and bipartisan agreement. Neither party, they reasoned, would want to play Russian roulette in a matter this vital.

Q: Did it ever work?

A: Once, in 1971. However, it failed to work after the 1980, 1990 and 2000 censuses. In 1981, Democrats won the lottery and drew the districts for the next decade. In 1991, Republicans got lucky. In 2001, the Democrats scored again. Each of the empowered parties drew districts that maximized their chances for controlling the House and Senate.

Q: Were they limited at all?

A: Yes, the constitution required that districts be compact and contiguous – in addition to having roughly equal population. The federal Voting Rights Act also requires minority groups be treated fairly. Moreover, all redistricting plans could be subject to review by state and federal courts.

Q: So, where does the Simon institute enter the picture?

A: The institute has been working on redistricting reform for several years. It convened a bipartisan group of former legislators and key staff members who had been actively involved in redistricting for many years. Institute staff and graduate assistants, plus a redistricting expert from the National Conference of State Legislatures, researched redistricting laws and various methods used by states across the nation. After a series of meetings over several months, the group reached consensus that two alternative proposals be brought to the General Assembly leadership and membership for consideration.

Q: How would those proposals reform the system?

A: As we discussed earlier, the current process has given one party or the other absolute control based on the luck of the draw. It also has resulted in the creation of legislative districts that put residents of the same community into different legislative districts for strictly political reasons. Throughout the process, public involvement is almost non-existent. It is a private, crassly political undertaking.

Both alternatives would address those deficiencies. Each would require amending the state constitution, which would give Illinois voters a voice. Each alternative would provide a forum for public involvement soon after the turn-of-the-decade census is completed. Each would give a high priority to preserving city boundaries and other communities of interests. The most dramatic change would empower one or more masters, appointed in bipartisan fashion by the Illinois Supreme Court, to redistrict the state if the rest of the process produces nothing but a deadlock.

Q: How are these proposals similar? How do they differ?

A: Each proposal provides for the establishment of a bipartisan commission at the front of the process – instead of waiting, as the current process provides, until there is a legislative deadlock. The majority and minority leaders in the House and Senate would make two appointments each, thereby established an eight-member commission that is evenly balanced between the two political parties. The commission would be directed to hold public hearings and encouraged to propose redistricting plans for legislative consideration. Each proposal provides that the commission can accomplish redistricting if legislators fail to do so. Each proposal provides for appointment of one or more masters by the Supreme Court if the commission fails to reach agreement. The appointment is made by the chief justice and a justice who has been elected to the court under another party label.

There is, however, an essential difference between the proposals. One would track the current process by nesting two House districts within each Senate district. Under that system, a redistricting plan needs approval by simple majorities in the House and the Senate before advancing to the governor's desk. Moreover, the proposal would require approval by five of the eight commission members if the commission is empowered to act because of a legislative deadlock.

The other proposal would drop the linkage between House and Senate districts. The House and the Senate would focus only on redistricting proposals affecting their own chambers. Extraordinary majorities – the institute proposed either three-fifths or two-thirds – would be required to adopt a plan. The governor would not be involved. This proposal, our group decided,

would enhance the chances for bipartisan approval in the General Assembly because it eliminates the possibility for stalemate between the House and Senate. If either the House or Senate – or both – are unable to reach accord, the commission would be empowered but the requirements for approval would differ because House and Senate districts are not linked. Approval of a House map would require support from at least three of the four House-appointed members, meaning it would need bipartisan backing. Adoption of a Senate map by the commission would require support from a majority of the Senate-appointed members.

Q: Do you think these proposals would increase the likelihood of the General Assembly itself accomplishing redistricting in a fair, reasonable manner?

A: Yes. Our bipartisan panel of seasoned experts concluded legislators would be frightened into cooperating by the prospect of having a Supreme Court-appointed master draw a plan. As legislators now see it, the current lottery system gives them a 50-50 chance of controlling the process. There would be far less predictability for lawmakers in both parties if a master were in charge.

Q: What makes your experts think a master would be fair?

A: The Supreme Court's reputation would be riding on the selection of someone of unassailable integrity and intelligence. Remember, too, that the appointment is made by justices elected from different parties. A master could avail himself or herself of state and national experts. He or she could well decide to design the map by a computer programmed to ignore political considerations.

Q: So why not just go to a computer-driven system like Iowa's?

A: The General Assembly would be unlikely to approve it. Legislators believe Illinois' redistricting plan should be tailored to the diversity and political dynamics of this state. Our experts believe either of our two alternatives would represent meaningful yet realistic reform.

Q: What has been the legislature's response to your alternatives?

A: The House, with bipartisan backing, approved in 2008 the alternative that would provide for separate House and Senate plans. House Speaker Michael J. Madigan was a key supporter. Then-Senate president Emil Jones spiked the proposal. In addition, it was clear that Republicans, even those who backed it in the House, did not totally embrace it. Among other things, they favored a two-thirds requirement in each chamber for adoption of a redistricting plan instead of the three-fifths that Madigan supported.

We were heartened by the progress. But, when it comes to getting the proposed amendment on the November 2010 ballot, we are back to square one. For the legislature to place it there, it will require bipartisan support in the Senate and again in the House.

Q: If the legislature balks, can the citizens put either of the institute's proposal or another reform measure on the ballot?

A: A strong argument can be made that the constitution, which generally does not allow citizen initiative, permits it for this type of legislative reform.

No redistricting system is perfect. But Illinois' system is embarrassing and counter to the public's interest. We need reform – whether it comes from the legislature or citizen activism.

Preamble to the Redistricting Proposal
Crafted Under the Auspices of the Paul Simon Public Policy Institute
February 5, 2007

The Paul Simon Public Policy Institute believes the state redistricting process needs meaningful reform. Moreover, it concerns the institute that a citizen initiative or a constitutional convention may focus on this issue rather than the General Assembly acting to reform this process.

As we know, the framers of the 1970 Constitution adopted the current tie-breaker mechanism to encourage the General Assembly to redistrict itself by law. Few, if any, thought the major players would allow the process to reach the “winner-take-all” phase. Yet, as we also know, it reached that point in 1981, 1991 and 2001. Because of the public view of this “winner take all” positioning and then the corresponding reports of legislative maps that allegedly maximize partisan advantages, the process and the institution have invited ridicule and criticism.

To have such a major matter handled by lot – rather than by legislative deliberation – has drawn criticism, prompted calls for reform and eroded respect for the institution. Several newspapers in the state have discussed making redistricting a priority on their editorial platforms. A referendum on whether to call a constitutional convention will be on the November 2008 ballot. Some individuals who favor such a convention – perhaps for other purposes – could use the redistricting issue to galvanize public opinion by billing it as an opportunity to shake up Springfield. Some of the elements for a perfect storm, which could wrest redistricting reform from the grip of those who best know all the facets of the process, are in place; indeed, an effective populist could seize upon any significant hostility to the powers-that-be – more than likely an issue totally unrelated to redistricting – to seek a redistricting amendment through the initiative route.

Many of us remember how the lame-duck pay raise was used in 1980 to press the Cutback Amendment and, despite our views on the merits of the proposal, we should be uneasy about how it came to fruition.

So, the institute brought together a bipartisan group of men and women who have been intimately involved with the current process to work with Mike Lawrence, John Jackson, Linda Reneè Baker and Matt Baughman from the institute staff. The group members are Paul Williams, Mike McClain, Eileen Lyons, Carter Hendren, MayeBeth Hadfield and David Gross. They have a good sense of political reality. They revere and love the institution. They believe reform by the Legislature itself makes sense governmentally and politically.

In a series of meetings last year and early this year in Springfield and Carbondale, this group has spent hundreds of man hours – “pro bono” – trying to frame a process that would meet the legal requirements, contain elements that would restore public trust in the process and serve the public interest. As the legislative leaders can appreciate, this has been a difficult, demanding exercise.

None of the participants has embraced either of the scenarios we have asked them to share with the legislative leaders; yet, they have reached a consensus that they are worthy of taking to the leaders for assessment and feedback.

The institute deeply appreciates the extraordinary time and thought devoted to this matter by our bipartisan group of redistricting alumni, and we anticipate thoughtful, constructive responses from the leaders.

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**Update to the Redistricting Proposal of the Paul Simon Public Policy Institute
Review & Preview Newsletter Article
August 2008**

The alumni who gathered on the Carbondale campus two years ago were not educated at Southern Illinois University. They were graduates of the hard-knocks school known as the Illinois General Assembly, and they agreed to help the institute address the most contentious, political process in which politicians become engaged: the mapping of districts from which legislators are elected.

Thanks to their experience and willingness to put statesmanship above partisanship during sessions in Springfield and Carbondale, the institute was able to fashion and advance through the Illinois House a significant redistricting reform that would replace a widely criticized and ridiculed process that has allowed the luck of the draw – literally – to give one party control over mapmaking during each of the last three decades.

Among those who worked with the institute were Michael McClain, who was the House Democrats' point person for redistricting in 1981; Carter Hendren, long-time chief of staff for Senate Republicans; Republican Eileen Lyons and Democrat Paul Williams, who were well-respected members of the House; David Gross, who served as a key member of the Senate Democratic staff, and MayeBeth Hadfield, who was a lawyer on the Senate Republican staff.

Mike Lawrence, institute director, chaired the sessions. Other institute staffers – Matt Baughman, assistant director; John Jackson, visiting professor, and Linda Renee Baker, university professor – were heavily engaged.

Under the current constitution, the lottery comes into play when the House, the Senate and the governor are unable to agree on the new districts required after each federal census. That happened in 1981, 1991 and 2001. The institute's proposal, which won overwhelming bipartisan support in clearing the House, would resolve a stalemate by having two state Supreme Court justices – one a Democrat and the other a Republican – appoint one or more knowledgeable, fair-minded people as special masters to put together maps for the House and Senate. Other provisions would make the entire redistricting process more open and more likely to produce bipartisan agreements in the legislature itself.

The proposal did not receive a hearing in the Senate before the deadline for submitting it to voters on the November 2008 ballot. However, members in each legislative caucus said they would be interested in working with the institute to win the necessary General Assembly support to place the measure – or a modified version of it – on the 2010 ballot. If it is approved by the Legislature and by voters, the new process would be effective for the next redistricting round in 2011.

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Learn more about HJRCA0044 and its amendments online at:

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=51&GA=95&DocTypeId=HJRCA&DocNum=0044&GAID=9&LegID=38550&SpecSess=&Session=>

The Paul Simon Public Policy Institute Redistricting Proposal

Scenario 1: Nesting (Two House districts within one Senate district)

- Eight-member, bipartisan commission
 - Two appointments for each leader
 - Begins work after receiving census numbers
 - Holds hearings and accepts proposed maps from political parties and others
 - Directed but not mandated to produce a map by May 31
- Nothing in this scenario precludes General Assembly approving a map at any point irrespective of commission activity
- The legislature has until July 1 to approve a map by constitutional majorities in each chamber
- If the legislature does not meet the July 1 deadline, the commission has until July 31 to approve a map
- If the commission does not meet the July 31 deadline, a court master is appointed jointly by the chief justice of the Supreme Court and a justice selected by court members from the opposite party
- The master draws the map

Scenario 2: De-nesting (No requirement for House and Senate districts to be aligned)

- Eight-member, bipartisan commission
 - Two appointments for each leader
 - Begins work after receiving census numbers
 - Holds hearings and accepts proposed maps from political parties and others
 - Directed but not mandated to produce a map by May 31
- Nothing in this scenario precludes the House and/or Senate from approving maps at any point irrespective of commission activity.
- Senate and House maps drawn separately
 - Senate map approved by Senate only and House map by House only
 - Approved by resolutions
 - Governor not involved
 - Majorities of either three-fifths or two-thirds required
- If no agreement by July 1, the commission has 30 days to approve a map
 - Three out of four House-appointed commissioners must agree on a House map
 - Three out of four Senate-appointed commissioners must agree on a Senate map
- If the commission fails to approve one or both maps by July 31, a master is appointed to draw either a House map or a Senate map or both
 - The master is appointed jointly by the chief justice of the Supreme Court and a justice selected by court members from the opposite party.

Criteria

- Criteria reflecting the Voting Rights Act and U.S. Supreme Court decisions would be included in the proposed constitutional amendment
 - Could address such concerns as preserving political boundaries and discounting partisan considerations.