

Creating City Council Districts



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The Need for a Districting System

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- If the commission decides that all or some members of the city council should be elected from wards (districts), then a method is needed to specify these district boundaries.
- This is necessary whether districts are used to elect a single member, or more than one member.

One Person, One Vote

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- In decisions dating made in 1962 and 1964 the United States Supreme Court made clear that the U.S. Constitution requires legislative districts to be “substantially equal in population.”
- In 1968 this principle was extended by the Court to apply to local governments

This Federal Standard Must Be Met

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City council districts designed for Newburgh **must** meet the one-person/one-vote Federal standard.

Newburgh's Current Districts do not Meet This Standard.

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- Current ward boundaries specified in the Newburgh city charter were made for the elect of members to the Orange County Board of Supervisors, before the County adopted its current charter-based separation of powers system of government
- Decades later, these wards are not equal in population, and therefore do not meet the one-person/ one-vote federal standard.

Wards or Districts Must Be Redefined Every Ten Years

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- Ward (or district) lines are established based upon U.S. Census population counts.
- In the years after district or ward lines are drawn to assure population equality, people move into, out of and within the city, over time making district populations unequal.
- Therefore, to continue to meet the one-person/one-vote standard, these lines have to be adjusted after every federal census.

Defining or Redefining Districts

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- Therefore, a process is needed to initially establish district boundaries, and redesign them every decade.
- This may be left to the City council,
or
- a special process may be established in the Charter to perform this task.

Districting by the Council

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- If the charter is silent, council districts will be designed by the Council, the city's legislative body, and adopted by local law.
- Even if the task is left to the Council, its choices may be constrained by the specification in the charter of principles for designing districts that go beyond federal requirements (e.g. compactness, communities of interest).

Districting by the Council

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Advantages

- Common practice
- Districting is fundamental to representation. In a democracy, the elected and accountable governing body should make key decisions like this one.

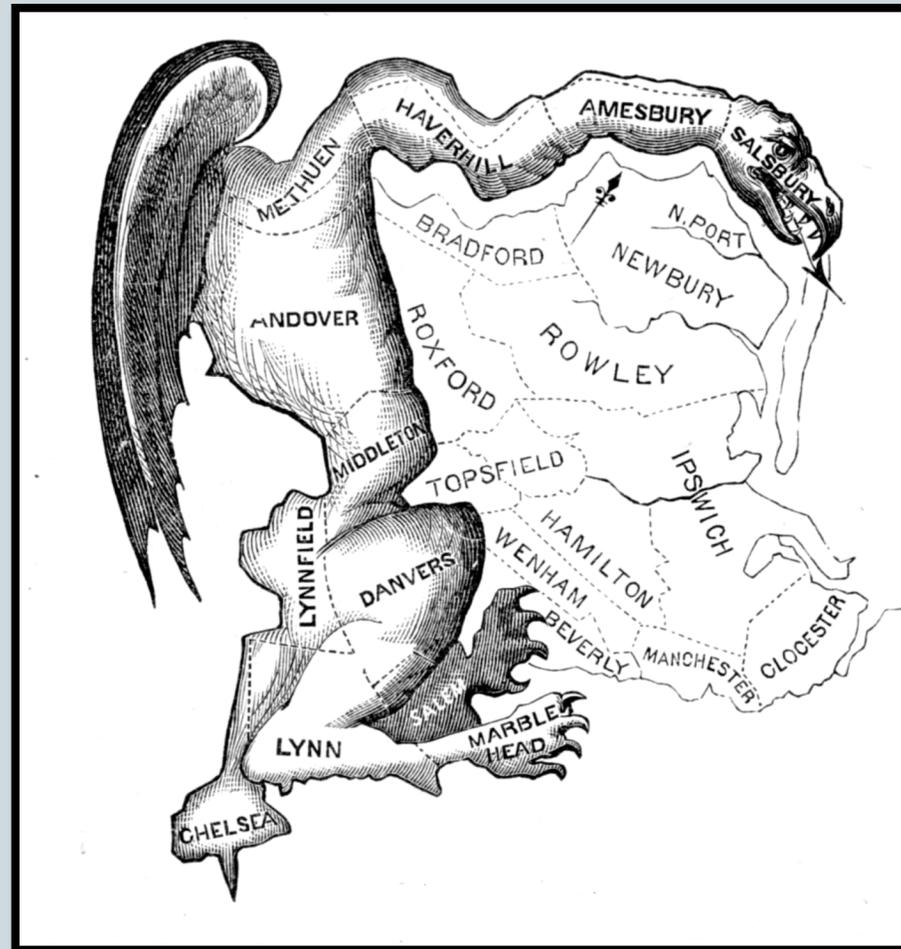
Disadvantages

- Legislators are self interested, and will design districts to assure their own political success.
- Legislative majorities will seek to advantage their own party in districting.
- This behavior undermines democracy, and public faith in democracy.

The Gerrymander

Designing Legislative Districts for Partisan Advantage

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Districting by a Commission Requirements

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- Independence of the Commission
- Size of Commission
- Appointing Authority
- Pool of Eligible People – Criteria for Service
- Leadership Selection
- Criteria
- Process and Timetable
- Finality of Decision

Independence of the Commission

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Commission independence mitigates the use of districting for partisan or incumbent advantage. It depends upon:

- It's mandated composition. (e.g. Must legislators serve as members?)
- Appointing authority or authorities
- Range of discretion in selecting members
- Leadership selection
- Criteria specified for districting in the charter
- Staffing
- Finality of Decision

Cities and Counties with Commission Process

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- The Commission Process is still the exception in local governments in New York
- We examined 8 cities and counties with such a process.
- Most of these commissions could not reasonably be characterized as “independent.”

Districting by a Commission:

Size of Commission

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- As few as five (Yonkers)
- As many as 15 (New York City).

Districting by Commission:

Appointing Authority Varies Greatly

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- Multiple appointing authorities are often used, involving legislative leadership, the Mayor or partisan caucuses of the legislative body.
- Single party dominance is commonly avoided by mandating partisan difference among appointees.
- Appointment may be by the Mayor (with advice and consent), legislative leaders, the legislative body, early selected members choose other members
- Some appointees may be ex officio (Mayor, legislative leaders, board of election members
- In Jamestown, Mayor, Council President, City Bar President, three Party heads submit names to City Clerk, who forwards them to the Mayor.

Districting by Commission: Characteristics of Eligible People

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- No educational requirements are specified in any city or county.
- New York City bars public servants, lobbyists and elected officials from serving.
- Ulster county requires the County Executive to widely solicit a pool of names, from which appointments must be made . Appointees must be county residents who are eligible to vote. They may not be public officers or employees. Geographic diversity is required.
- Buffalo must solicit nominations from citizens and community organizations.
- Albany requires “residents in such proportion as to represent the demographic composition of the city”.
- Broome county requires the inclusion of one local government representative and one League of Women Voters representative.
- Jamestown requires inclusion of one designee of the city bar association, three from parties, the Corp. Counsel, and the Clerk.
- Monroe County includes Election Commissioners ex officio.
- Four cities require City Council members/County legislators on the commission.

Districting by Commission: Leadership Selection

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- In three cities and one county the commission itself chooses its presiding officer (Jamestown, Buffalo and New York City). In Ulster's recent process, leadership was rotated.
- In Yonkers the Mayor designates the chair.
- In Broome, the chairman of the legislature selects commission chair.
- Remaining jurisdictions do not specify leadership selection.

Districting by Commission: Process and Timetable

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- Always begins a short amount of time after the new census data becomes available (ranging from two to six months).
- Most jurisdictions specify that the commission submit a report of their findings within a specified time following commission formation (e.g. 3 months).
 - Jamestown calls for the commission to “meet twice a month until a decision is rendered”.
 - New York City calls for a report “not less than one year before next election of city council”.
 - Yonkers make failure to file plan timely a basis for legal action by “any registered voter”
 - Ulster has elaborate provisions regarding failure to organize and act timely
- Some charter explicitly call for public hearings.
- Generally recommendations are submitted to the city council/county legislature for action.

Districting by Commission: Staffing

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- The Buffalo charter requires city departments to provide technical support and contemplates a city appropriation to allow it to carry out its duties.

Districting by a Commission: Criteria

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- All cities must adhere to the federal “one man, one vote” doctrine.
- New York City specifies the difference between the most populous and least populous district shall not exceed 10%.
- Jamestown, Buffalo, New York City, Ulster and Broome state the wards must be “compact”, meaning the variation between length and width of a district should be minimized.
- Two cities, New York and Buffalo, have stipulations that maintain areas with specific ethnic, social or racial ties.
- Ulster county requires consideration be give to municipal boundaries, defining geographic features and communities of interest, while partisan factors may not be formally considered.

Districting by a Commission: Finality of Decision

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- City Council/County legislature usually has final say.
- In Yonkers action is made specifically subject to mandatory referendum
- In Jamestown and Buffalo the mayor, in conjunction with the City Council, votes on the proposal.
- In New York City the proposal is adopted unless the City Council rejects it by a majority.
- In Yonkers , after receipt of report, if 60 day deadline for Council action is not met, City Clerk must offer the commission plan at referendum.

The Voting Rights Act

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- This Federal Law, first passed in 1965 and most recently renewed for 25 years in 2006, was designed to outlaw discrimination in voting procedures. It prohibits 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."

Port Chester – Voting Rights Act Litigation

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- The U.S. Department of Justice brought a lawsuit that successfully alleged that the at-large election system used there “for electing members of the Port Chester Board of Trustees results in Hispanic citizens having less opportunity than white citizens to participate in the political process and to elect candidates of their choice to the Port Chester Board of Trustees.”

(2008)

U. S. v. VILLAGE OF PORT CHESTER 06 Civ. 15173 (SCR) 2008 U.S. Dist. LEXIS 4914

Cumulative Voting in Port Chester

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- Port Chester chose to adopt cumulative voting rather than the use of single member districts, a remedy accepted by the Federal Courts as “curing” the Voting Rights problem caused by at-large election
- Voters were each given six votes. They were free to distribute their votes as they wished. A voter could give one vote to each of six candidates, or all six votes to one candidate, or any variant in-between.

Outcomes in Port Chester

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- One Hispanic person was elected.
- One independent candidate was elected (placing first)
- One Conservative Party nominee (not the nominee of any other party) was also elected.

Note: One study showed that 95% of voters used all six votes, and 34 percent of voters gave all their ballots to one person.

<http://www.scribd.com/doc/34680247/PC-Survey-Report-July20>

Port Chester : The Prospect of Further Litigation

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The Port Chester Village Board Voted 4-2 in February of 2011 to seek to appeal the Federal Court Ruling, but has thus far been denied standing to do so.

Questions?

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