



# REDISTRICTING IN LOUISIANA PUBLIC SERVICE COMMISSION

**Educational Presentation**

December 15, 2010



# Overview

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- Introduction
  - What Is Redistricting?
  - Who Is Redistricted?
  - Why Redistrict?
- Legal Issues
  - State Law
  - Federal Law
- Timeline
- Census Data
- PSC Districts

# Introduction

- What is redistricting?
  - ▣ Apportionment: process of allocating seats in a legislature
  - ▣ Districting: process of drawing the lines of each district
- Districts - Geographical territories from which officials are elected

# Introduction

- Who is redistricted?
  - ▣ By the state legislature:
    - House and Senate (R.S. 24:35.5 and 35.1)
    - Congress (R.S. 18:1276)
    - Public Service Commission (R.S. 45:1161.4)
    - State Board of Elementary and Secondary Education (R.S. 17:2.2)
    - Courts (R.S. 13:101, 312, and 477)
    - Justices of the Peace (R.S. 13:2601-20)
  - ▣ Enacted by the state legislature as laws

# Introduction

- Who is redistricted?
  - ▣ Local districts are drawn by local legislative bodies
    - School Boards (R.S. 17:71.5)
    - Local Governing Authorities (R.S. 18:1922)
    - Municipalities (R.S. 33:1371)
    - Parish Governing Authorities (R.S. 33:1411)

# Introduction

- Why redistrict?
  - ▣ Apportionment of Congress: change in the number of districts
  - ▣ Specific Legal Requirements Involving Redistricting
    - Article III, Section 6 of the Constitution of Louisiana includes a duties and deadlines for legislative redistricting
    - Various statutes involving local districting bodies contain redistricting duties and deadlines
  - ▣ General Legal Requirements
    - Equal Protection
    - Voting Rights Act of 1965

# Legal Issues: Federal Law

- **Supremacy Clause** (Art. VI, Cl. 2. of the U.S. Const.)
  - ▣ This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

# Legal Issues: Federal Law

- Equal Population
  - ▣ One Person, One Vote
  - ▣ Population Equality—how is it measured?
    - Ideal Population—total state population divided by the no. of districts (U.S. House 2000: 638,425; State House 2000: 42,561)
    - Deviation—amount by which a single district's population differs from the ideal



# Legal Issues: Federal Law

## □ Equal Population

### ▣ Standards—Different standards for congress and state legislative districts

- Based on different legal provisions

- **Congress:** as nearly equal in population as practicable (*Wesberry v. Sanders*, 376 U.S. 1 (1964))

  - Based on Article I, Section 2 and 14th Amendment

    - “Representatives ... shall be apportioned among the ... states ... according to their respective numbers”

  - Deviation and overall range: as close to zero as possible

# Legal Issues: Federal Law

## □ Equal Population

### ▣ Standards—Different standards for congress and state legislative districts

#### ■ **State Legislatures:** "substantial equality of population among the various districts" (*Reynolds v. Sims*, 377 U.S. 533, 579 (1964))

- Based on the Equal Protection Clause of the 14th Amendment

- 10-Percent Standard: Generally, a legislative plan with an overall range of less than 10% is not enough to make a prima facie case of invidious discrimination under the 14th Amendment (*Brown v. Thompson*, 462 U.S. 835 (1983))

- Not a safe-harbor (*Larios v. Cox*, 300 F.Supp.2d 1320 (N.D. Ga.), *aff'd* 542 U.S. 947 (2004))

# Legal Issues: Federal Law

## □ Equal Population

- Equality of population must be the "overriding objective" of districting, and deviations from this principle are permissible only if incident to the effectuation of a rational state policy (*Reynolds v. Sims*, 377 U.S. 533, 579 (1964))
- State policies that have been referenced:
  - Allowing representation to political subdivisions
  - Compactness
  - Preserving cores of prior districts
  - Avoiding contests between incumbents

# Legal Issues: Federal Law

## □ Racial Gerrymandering

### ▣ What is "racial gerrymandering"?

- The "deliberate and arbitrary distortion of district boundaries . . . for [racial] purposes" ((*Shaw v. Reno*, 509 U.S. 630, 640 (1993))

### ▣ Initially, used to circumvent application of the 15th Amendment

### ▣ More recently, challenges made to districts drawn following the 1990 Census in an effort to maximize the number of minority districts

- *Shaw v. Reno* (Shaw I), 509 U.S. 630 (1993) (North Carolina); *U.S. v. Hays*, 515 U.S. 737 (1995) (Louisiana); *Miller v. Johnson*, 515 U.S. 900 (1995) (Georgia); *Bush v. Vera*, 517 U.S. 952 (1996) (Texas); *Shaw v. Hunt* (Shaw II), 517 U.S. 899 (1996) (North Carolina); *Lawyer v. Dept. of Justice*, 521 U.S. 567 (1997) (Florida)

# Legal Issues: Federal Law

- Racial Gerrymandering
  - ▣ Equal Protection Clause of the 14th Amendment
  - ▣ Courts attempt to balance constitutional interests:
    - no state shall purposefully discriminate against a person on the basis of race and
    - members of a minority group shall be free from discrimination in the electoral process

# Legal Issues: Federal Law

## □ Racial Gerrymandering

### ▣ What was the rationale in drawing district lines?

#### ■ Race-conscious redistricting is not *per se* unconstitutional

- "[T]he legislature is always aware of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors." (*Shaw v. Reno (Shaw I)*, 509 U.S. at 646)

#### ■ Consideration of race-neutral districting principles

- Compactness, contiguity, communities of interest, respect for political subdivisions, protection of core districts

# Legal Issues: Federal Law

- Racial Gerrymandering
  - ▣ If race is found to be the “predominant overriding factor,” strict scrutiny will apply
    - Where the legislature subordinates traditional race-neutral districting principles to racial considerations

# Legal Issues: Federal Law

- Racial Gerrymandering
  - ▣ What must a state prove for the plan to survive strict scrutiny?
    - A law narrowly tailored to serve a compelling state interest



# Legal Issues: Federal Law

## □ Discrimination Against Minorities

### ▣ The Voting Rights Act of 1965

#### ■ Section 5

- Prohibits the enforcement in a covered jurisdiction of any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage, until either:
  - A declaratory judgment is obtained from the U.S. District Court for the District of Columbia that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, or
  - It has been submitted to the Attorney General and the Attorney General has interposed no objection within a 60-day period following submission

# Legal Issues: Federal Law

## □ Discrimination Against Minorities

### ▣ The Voting Rights Act of 1965

#### ■ Section 5

- Louisiana is a covered jurisdiction, as are all of its political subdivisions
- Do not allow Retrogression
- “Any discriminatory purpose”
- No discriminatory effect
- No requirement to maximize minority representation

# Legal Issues: Federal Law

## □ Discrimination Against Minorities

### ▣ The Voting Rights Act of 1965

#### ■ Section 2

- Prohibits any state or political subdivision from imposing a voting qualification, standard, practice, or procedure that results in the denial or abridgment of any U.S. citizen's right to vote on account of race, color, or status as a member of a language minority group

# Legal Issues: Federal Law

## □ Discrimination Against Minorities

### ▣ The Voting Rights Act of 1965

#### ■ Section 2

- National standard
- No discriminatory effect
- *Gingles* preconditions (*Thornburg v. Gingles*, 478 U.S. 30 (1986))
  - Size and geographical compactness
  - Political cohesion
  - Majority votes as a bloc to defeat minority's preferred candidate
- Totality of the circumstances
- Districts in which a minority has a fair chance to win

# Timeline For Redistricting

\*indicates tentative date

! Indicates deadline

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- **December 31, 2010!**: President of the U.S. notified of the population of each state
- **January 2011**: State informed of the allocation of seats in the U.S. House of Representatives
- **January 19, 2011\***: Committee Hearing on Redistricting Rules & Census data
- **February 2, 2011\***: Census Data is delivered to the Legislature
- **February 15, 2011\***: Committee hearing on redistricting data

# Timeline For Redistricting (Cont.)

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- **February 17-March 1, 2011:** Public Hearings around the state

- February

- |                  |            |              |
|------------------|------------|--------------|
| □ Thursday, 17th | 10:00 a.m. | Northshore   |
| □ Thursday, 17th | 6:00 p.m.  | New Orleans  |
| □ Monday, 21st   | 10:00 a.m. | Houma        |
| □ Monday, 21st   | 6:00 p.m.  | Baton Rouge  |
| □ Tuesday, 22nd  | 10:00 a.m. | Lake Charles |
| □ Tuesday, 22nd  | 6:00 p.m.  | Lafayette    |
| □ Monday, 28th   | 6:00 p.m.  | Shreveport   |

- March

- |                |            |            |
|----------------|------------|------------|
| □ Tuesday, 1st | 10:00 a.m. | Monroe     |
| □ Tuesday, 1st | 6:00 p.m.  | Alexandria |



# Timeline For Redistricting (Cont.)

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- **March 17-18, 2011\***: Committee Hearings on draft plans
- **March 20–April 13, 2011\***: Proposed Extraordinary Session to establish new Legislative, Congressional, Supreme Court, Courts of Appeal, Public Service Commission, and Board of Elementary and Secondary Education (BESE) districts
- **April 25-June 23, 2011**: Regular Session
- **December 31, 2011!**: Article III, §6 deadline for the Legislature to redistrict itself
- **March 12-June 4, 2012**: Regular Session
- Dates related to the 2012 fall election cycle (except the Nov. 6, 2012, election date) are dependent upon the preclearance of Act No. 570 of the 2010 R.S. and are not included in this timeline

# Public Law 94-171

## Census Redistricting Data Program

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### **Two primary components:**

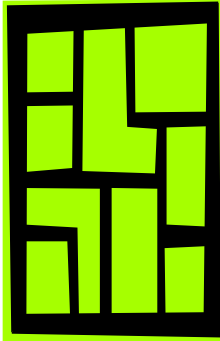
- Geography
- Population by Geographic Area



# Census Population is reported by Geographic Area

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- Parishes
  - Legislative districts
- Municipalities & Census Designated Places
  - Census Tracts
  - Voting Districts (Precincts)
  - Census Block Groups
  - Census Blocks



# Building Blocks For Legislatively Drawn Plans

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- The Legislature uses precincts as the building blocks for redistricting plans
- Parish Governing Authorities are required to use census block boundaries as the boundaries for precincts



# P.L. 94-171 Data Includes the Following Tabulations By Precinct

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- **Total Population**
- **Voting Age Population (over 18)**
- **Racial Data**

# Census Population Data

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- 263 Potential Categories of population for each census block. These categories are as follows:
  - Those Age 18 and Over (Voting Age Population/VAP)
  - Those under 18
  - Those of Hispanic or Latino origin
- 63 Potential Racial Categories: 5 single race categories: White, Black, American Indian, Asian, Native Hawaiian and Other Pacific Islander, and Some other Race. People may report being any combination of races up to all six.





# Public Service Commission

## Ideal District Population

\*The 2009 figure is based upon the 2009 Census Estimate. 2010 figure is based upon the Census Projection

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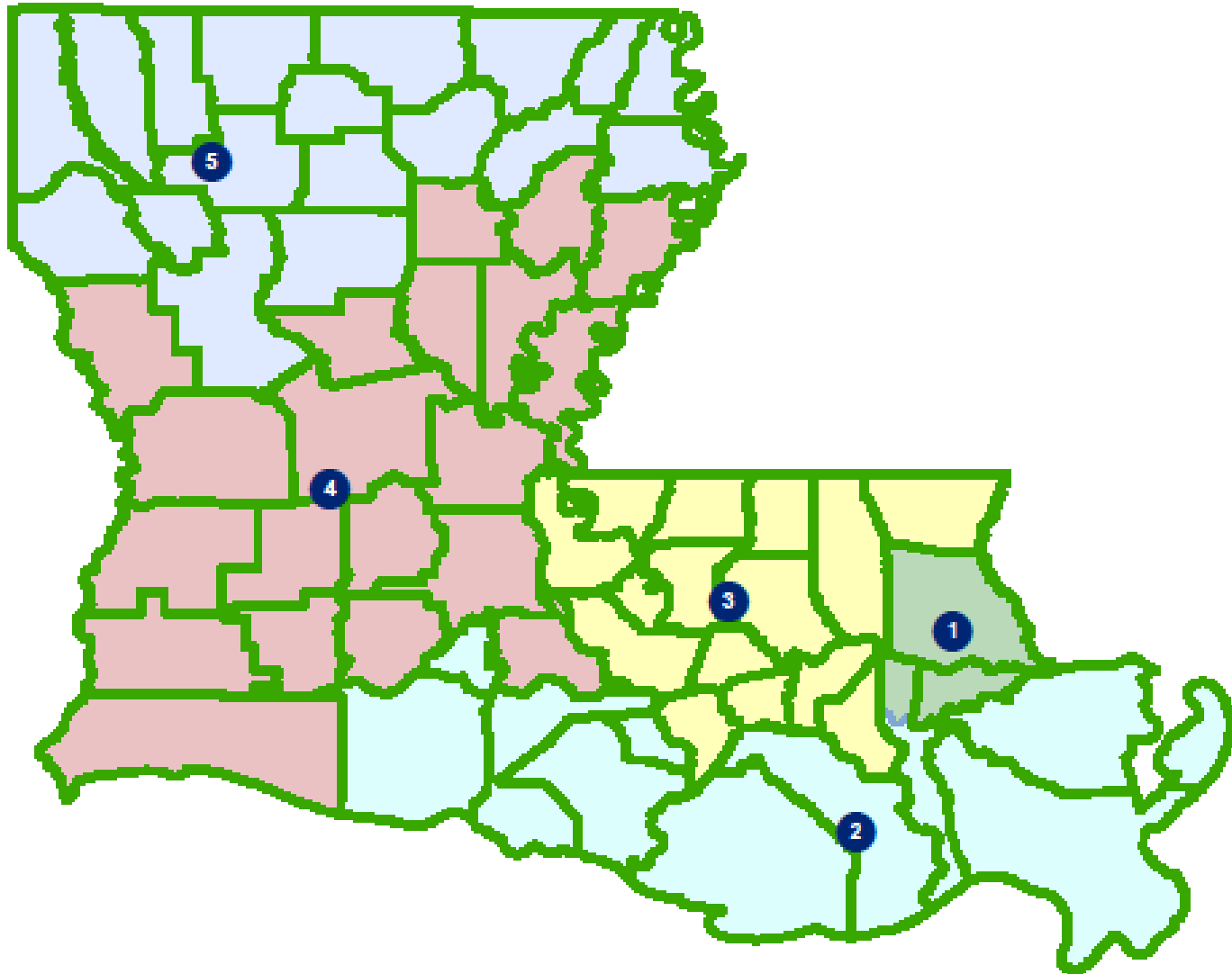
1990 Ideal: 843,994

2000 Ideal: 893,795

2009 Ideal: 898,415\*

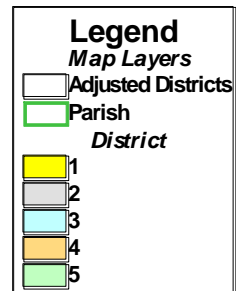
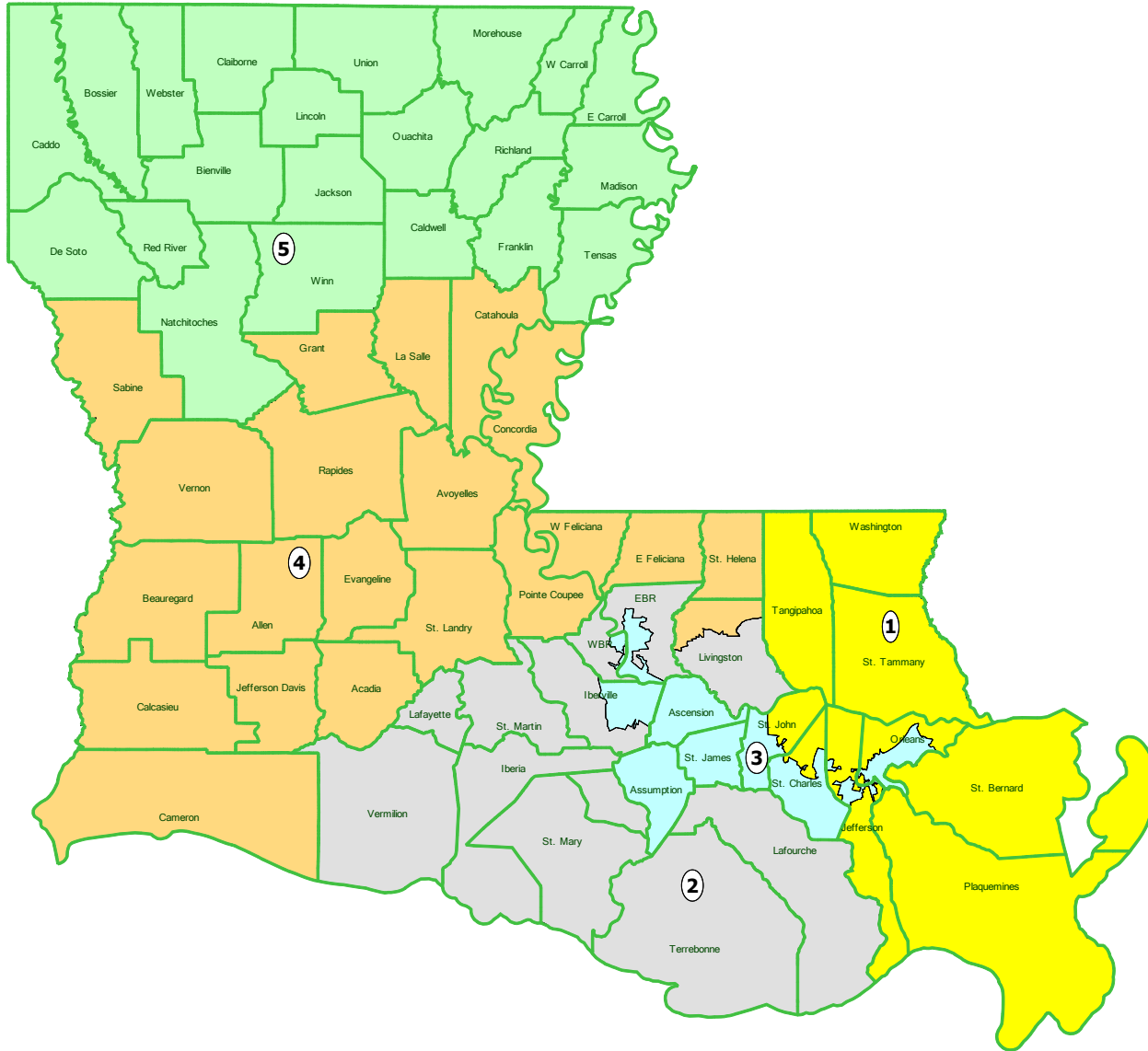
2010 Ideal: 922,535\*

# Public Service Commission Districts (80s)





# Public Service Commission Districts (90s)

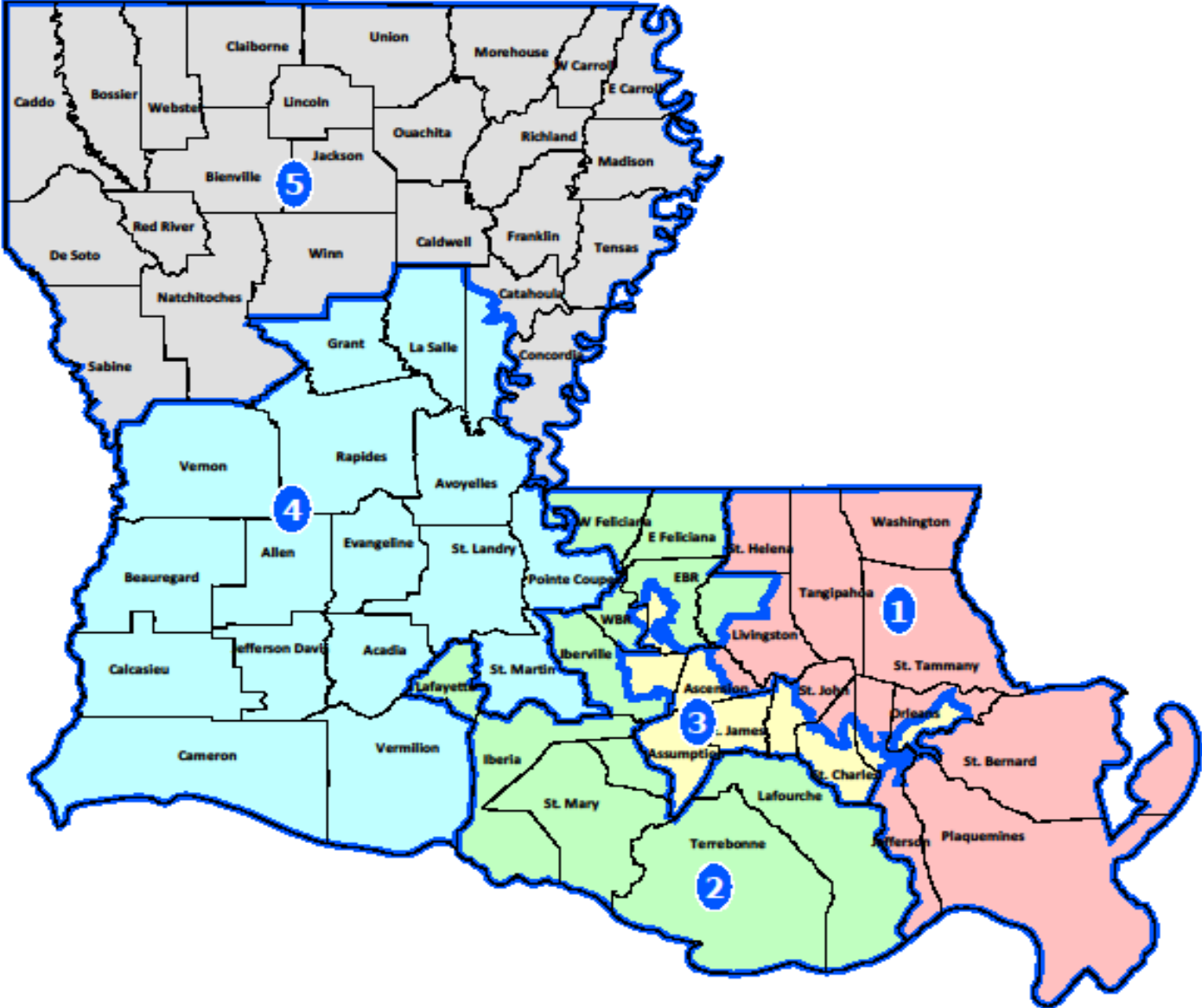


## PSC Malapportionment Statistics (90s Plan with 2000 Census)

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<b>District</b>	<b>Population</b>	<b>Ideal</b>	<b>Difference</b>	<b>Deviation</b>
District 1	915,682	893,795	21,887	2.449%
District 2	931,311	893,795,	37,516	4.197%
District 3	864,722	893,795	-29,073	-3.253%
District 4	887,401	893,795	-6,394	-0.715%
District 5	869,860	893,795	-23,935	-2.678%
Relative Range:		-3.25% to 4.20%		
Relative Overall Range:		7.45%		

# PSC Districts



## PSC Statistics (2000s Plan with 2000 Census)

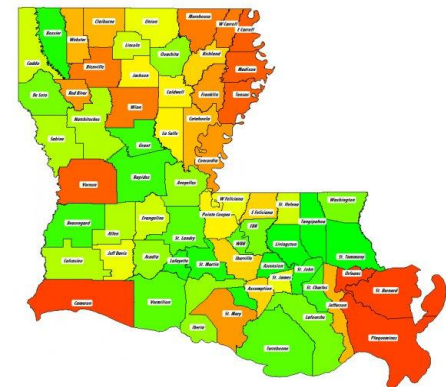
<b>District</b>	<b>Population</b>	<b>Ideal</b>	<b>Difference</b>	<b>Deviation</b>
District 1	933,299	893,795	39,504	4.420%
District 2	885,461	893,795	-8,334	-0.932%
District 3	883,396	893,795	-10,399	-1.163%
District 4	849,335	893,795	-44,460	-4.974%
District 5	917,485	893,795	23,690	2.650%
Relative Range:	-4.97% to 4.42%			
Relative Overall Range:	9.39%			



To get more information regarding the Louisiana House of Representatives redistricting process go to:

[http://house.louisiana.gov/H\\_Redistricting2011](http://house.louisiana.gov/H_Redistricting2011)

Like “Louisiana House of Representatives Redistricting” on Facebook



# Key Contacts

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## House & Governmental Affairs Committee

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- ▣ Alfred Speer Clerk of the House  
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