



Redistricting Could Be Biggest Consequence of Midterm Elections

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Plan hinges on which party controls the legislature in 11

By David N. Bass | Carolina Journal



RALEIGH Forget jobs and health care. The most far-reaching effect of North Carolina's midterm elections could be which party gets to draw legislative and congressional districts next year.

The reason: Redistricting can go far in making or breaking a party's political fortunes. States are required to redraw their districts every decade to reflect population shifts documented in the census. If Tar Heel Republicans control the process this time around, it could be their ticket out of an electoral slump that dates back to Reconstruction.

But if Democrats who have a 30-20 majority in the Senate and 68-52 edge in the House maintain control, it could guarantee their command of state politics for the foreseeable future and strengthen their majorities in the state's congressional delegation. There are massive implications for the future, not least because the two parties seem so evenly matched, said Andy Taylor, chairman of the political science department at N.C. State University. The composition of a few districts could make a significant difference on which party is in control. That obviously ups the stakes considerably for this election.

Adding more spice to the mix, Republicans might take only one chamber of the General Assembly in November. That raises the chance of a split government having to draw lines that might not satisfy either party's legislative leadership. (North Carolina is one of five states that does not give its governor a veto over redistricting plans.)

The redistricting plan also could end up in federal or state court, as it has the past two times. Politics would be a factor then as well, because the state Supreme Court is evenly divided between the parties, with a seventh crucial swing vote up for grabs this fall.

A mighty pen

Aside from a handful of state and federal requirements, lawmakers can finagle district lines however they choose, giving the majority party enormous power.

Legislators are required to draw legislative and congressional districts that are contiguous meaning all parts touch and none are detached and each must have a roughly equal number of residents. In addition, state courts have shunned redistricting plans that splinter unnecessarily whole counties into multiple districts.

The federal Voting Rights Act also ties legislators hands by requiring them to draw some districts to grant racial and ethnic minorities greater voting power.

Beyond that, the majority party has wide latitude and the capacity to shut out the minority from the process. To top it off, advances in technology have made it possible to secure almost foolproof partisan advantage by drawing district lines down to the minutest detail.

It's a big chess game, said former N.C. Supreme Court Justice Bob Orr, and computers have only made it more sophisticated.

That's one of the reasons Republicans need to take at least one chamber of the legislature this November, Taylor said.

They would then have a veto on any redistricting plan, and as a result the Democrats would be forced to compromise quite a bit, he said.

Past is prologue

Republicans have tried to gain concessions in the past primarily through court challenges, with varying degrees of success.

After North Carolina gained a 12th congressional seat in the early 1990s, white residents filed suit claiming the district was unfairly gerrymandered on the basis of race. At the time, the district snaked along the Interstate 85 corridor from Gastonia to Durham, giving it

the appearance of a lightning bolt and prompting The Wall Street Journal to label it political pornography.

Legislators drew it as one of North Carolina's two minority-majority districts, a requirement under the Voting Rights Act that gives minorities an edge in certain districts.

After a series of unfavorable rulings at the U.S. Supreme Court, Democrats redrew the district several times throughout the 1990s until reaching its current version a fattened district stretching from Charlotte to Greensboro. Still, Democrats' 3-to-1 advantage in registered voters makes the 12th one of the most reliably liberal in the state.

Another instance of litigation came a decade ago when Republicans challenged Democrats' legislative redistricting plan. In 2002, the N.C. Supreme Court struck down the plan for violating the state constitution's prohibition of districts that splinter counties without cause.

At the time, Republicans had a 5-2 majority on the court, and the ruling fell along party lines. That led to charges of judicial partisanship.

In my own judgment, the North Carolina Supreme Court intervened in the redistricting battles in an extraordinarily partisan way after the last census, and there's no reason to think they would not be inclined to do so again, said Gene Nichol, a law professor and director of the University of North Carolina's Center on Poverty, Work & Opportunity.

Judicial races converted to nonpartisan in 2006, although the parties can still endorse and fund candidates. Republicans now have a 4-3 advantage on the court, but with GOP-supported Justice Edward Brady not running for re-election this year, Democrats could tip the balance of power.

It will unfold in an immensely partisan way, with both political parties recognizing the court is in the balance, Nichol said.

Lucky 14

Redistricting always entails a shift in congressional seats. Over the past four decades, Americans have migrated from the northeast and upper Midwest to the Sun Belt, causing states such as Michigan to lose seats and Texas to pick them up.

North Carolina gained new districts after the last two censuses, in the most recent case barely edging out Utah for a 13th seat.

Continuing population growth had led experts predict that the Tar Heel State would snag a hat trick and gain a seat in a third consecutive census. That looks less probable now, due largely to the economic slump beginning in 2007.

The Virginia-based political consulting firm Election Data Services estimates that North Carolina would just miss securing a seat. Another firm, Polidata, predicted in December that the state would come 75,000 residents short of the mark.

North Carolina has gained enough people to justify another congressional district, but other states, including Texas and Florida, have fared even better, said Mike Munger, chairman of the Department of Political Science at Duke University.

The general nationwide shift in population from blue states to red states should help Republicans at the federal level, Taylor said, especially in states where the GOP controls the legislature and, therefore, redistricting.

◆It means Electoral College votes in presidential elections. It means seats in the House,◆ he said.

Reform option

Government watchdogs from both parties back an overhaul of the redistricting process, but their attempts haven◆t gained steam. Bills have been introduced in both chambers of the legislature that would propose a constitutional amendment creating a bipartisan commission to draw district lines. None have been voted on.

The concern is that legislators responsible for drawing district lines occupy those districts or might run in them one day, creating a conflict of interest. Republicans point to the 13th Congressional District as an example.

Brad Miller, who has represented the 13th since its creation, formerly served in the state Senate and chaired the redistricting committee that drew the district◆s boundaries. He campaigned for the seat while still chairing the committee, until resigning as chairman, but not as a member of the committee, in April 2002, seven months before the election.

Redistricting is never a zero-sum game, though, because Republicans still benefit when Democrats gerrymander. To improve their chances in a given congressional district, for example, Democrats might have to siphon off friendly voters from neighboring districts, weakening their prospects.

◆Everything is a domino, which is one of the difficulties in drawing the districts if you◆re concerned about incumbent protection,◆

said Orr, who is now director of the North Carolina Institute for Constitutional Law.

Even so, due to the tenuous political atmosphere, now might be the best chance to take the decision out of politicians' hands and create an independent commission, Nichol said.

Since neither side knows which is going to control the legislature and who's going to control the North Carolina Supreme Court, it might be nice if both sides stepped back and [looked at] a less partisan method of deciding these issues, he said.

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