



Changes to County Redistricting Requirements

By law, all counties must review their commissioner district boundaries after each federal census to ensure the districts are as equal in population as possible. Traditionally, this review occurred in the year following the federal census and had to be completed by September 30. However, significant delays in availability of population data from the 2020 Census due to the COVID-19 pandemic will make it impossible for counties to conduct this mandated review by the statutory deadline in 2021. A bill (HB21-1047) enacted in the recent legislative session attempts to correct this issue by making a number of important changes to the county redistricting statute – including the timing of this mandated review.

HB21-1047, Concerning the Drawing of Voting Districts by County Governments

As introduced, HB 1047 was intended to apply some of the anti-gerrymandering provisions in voter-approved Amendments Y and Z to counties that have county commissioner districts where at least one commissioner is not elected by the voters of the whole county (currently only three counties - Arapahoe, El Paso and Weld - meet this standard and are subject to these provisions). Once the anti-gerrymandering provisions of the bill were agreed to in principle by the affected counties, a decision was made to further amend the bill to address the difficulties in meeting the statutory deadline for county redistricting.

REVISED Statutory Requirements for County Redistricting

CRS 30-10-306(1): “In no event shall there be more than **five percent deviation** between the most populous and the least populous district in each county, at the time such district boundaries are adopted.” (*Emphasis added*)

Previously, the statute merely stated that the commissioner districts had to be “as nearly equal in population as possible,” but there were no specific numeric requirements.

CRS 30-10-306(4): “...after each federal census of the United States, each commissioner district must be established, revised, or altered to assure that such districts are as nearly equal in population as possible based on the redistricting population data prepared by staff of the Legislative Council and Office of Legislative Legal Services, or any successor offices, in accordance with Section 2-2-902. The establishment, revision, or alteration of districts required by this subsection (4) must be completed by September 30 of the **SECOND** odd-numbered year following such census.” (*Emphasis added*)

Previously, counties had to complete the redistricting by the first odd-numbered year following the census. **So instead of having to complete the redistricting by September 30, 2021, counties now have until September 30, 2023.**

CRS 30-10-306(4) – cont’d: “If a district is revised or altered in accordance with this subsection (4) in a manner that excludes the residence of a county commissioner elected to represent the district, the county commissioner remains eligible and may continue to hold the office of county commissioner until his or her term of office expires.”

This language prevents a sitting commissioner from being “redistricted out” of his or her commissioner district.

Data Resources

Population Numbers

The Demography Office in the Colorado Department of Local Affairs has traditionally assisted counties in their analysis of census data and redistricting efforts. HB 1047 now charges Legislative Council and the Office of Legislative Legal Services with preparing the redistricting population data that counties will rely on. It is expected that the Demography Office will remain a key resource for counties, however, as they work on analyzing new population data for a host of other planning and programmatic activities. Once available, the population information will be made available on Legislative Council’s website (leg.colorado.gov/agencies/legislative-council-staff/research-publications) and the Demography Office’s main page at demography.dola.colorado.gov.

Incarcerated Population Numbers

Historically, counties have been statutorily required to subtract incarcerated populations (using annual statistical reports from the Colorado Department of Corrections and Federal Bureau of Prisons) from the county population totals prior to redistricting. Under HB 1047, that requirement no longer exists in statute. Instead, Legislative Council is now responsible for re-allocating incarcerated population numbers – basically they will reassign them to their last-known home address (i.e., where they were living prior to incarceration) for purposes of redistricting.

However, Legislative Council is **not** required to re-allocate incarcerated populations in *federal* penitentiaries. This means that counties with federal prison facilities (Fremont and Jefferson) will not have their incarcerated populations “subtracted” from their population totals. CCI is working with Legislative Council and the affected counties on a possible solution prior to the 2023 county redistricting work.

Previously, counties were required to subtract incarcerated populations from their total population for purposes of redistricting. Legislative Council is now responsible for re-allocating incarcerated populations in **state** prisons back to their previous residences.

Who should be involved in redistricting?

Timely and equitable redistricting requires a wide array of skill sets and institutional knowledge. While approaches to redistricting will vary from county to county, it is advisable to at least consider including the following individuals on your redistricting team/project:

- County Commissioners
- County Manager/Administrator
- County Clerk & Recorder/Election Officials
- County GIS/Land Use Staff
- County Attorney