

Legislative Redistricting Board

By Bill Hobby

Since the mid-1960's, the Constitution has said that if the Legislature fails to redistrict itself in the first regular session after a federal census, the job will be done by the Legislative Redistricting Board (LRB). In fact, almost all legislative redistricting has been done by the LRB ever since it was created.

That has happened, not because the Legislature has been unwilling or unable to redistrict itself on time, but because of circumstances beyond the Legislature's control. Those circumstances have included a veto by the Governor and state and federal court decisions.

Since the LRB will likely play a part in the 1990's redistricting, it is worth taking a look at how it works. The LRB members are Lt. Gov. Bob Bullock, Speaker Gib Lewis, Attorney General Dan Morales, Comptroller John Sharp, and Land Commissioner Garry Mauro.

The two members of that board who have the greatest interest in the result are, obviously, the Lieutenant Governor and the Speaker. They are the ones who have to live with the results on a personal, day-to-day basis.

Typically each house redistricts itself and the other house passes the bill without amendment, or even much discussion.

But there have been times when paranoia has interfered with that logical and orderly process. At least once in the past the mutual suspicion was so great that the doors of the two chambers were opened so that the two presiding officers could see each other across the rotunda. In that way they coordinated final passage of the two bills by seeing to it that the gavels fell at the same moment. If the task does end up with the LRB, that same comity, or respect for the other presiding officer's position, will doubtless prevail. That means that each presiding officer redistricts his own house and supports the other's plan. That leaves each presider with the job of getting one more vote from among the other three.

That doesn't sound like too hard a job, but in 1981 it was harder than it looked. That year, the LRB redistricted the Senate because Governor Clements had vetoed the Senate bill. It redistricted the House because the state court had thrown out the House Bill because the court thought it cut too many county lines.

Speaker Billy Clayton and I had each been advised by our predecessors, on the basis of their experience in the 1970's, not to vote on the plan for either house until the board was ready to vote on both houses.

So Clayton and I produced plans for the respective houses, published the plans, took testimony, consulted with other board members, made the indicated changes, and still were one vote short. On the morning of the last day the board could meet, the matter was still unresolved. (The Constitution gives the LRB 90 days to do its work.) The board met in the morning, determined that the votes weren't there for either plan and recessed for an hour or so. And recessed. And recessed. Finally, early in the evening, the board met for the severalth time in the Senate Chamber. I told Billy that I had just gotten (Attorney General) Mark White's commitment.

Since both of us thought that commitment was good for about ten minutes, the board went ahead and voted out the Senate plan, even though the votes were not there for the House plan. Billy's House plan was voted out later in the evening.

Texas' judicial districts haven't been redrawn in over a century. They bear no relationship to population or case loads. Several law suits have attacked judicial elections on grounds of discrimination against minorities. Federal Judge Lucius Bunton in Midland even went so far as to order a hasty and ill-advised redistricting based on outdated figures. (He was reversed by the Fifth Circuit.)

Should the legislature not redraw judicial districts in Texas by 1993, the job will be done by the Judicial Districts Board added to the Constitution in 1985. The state's senior judges and lawyer appointed by the Governor and confirmed by the Senate make up the JDB.

This redistricting should substantially improve the administration of justice in Texas. (Hobby was Chairman of the Legislative Redistricting Board in 1981.)

Written in 1991.