Board of Apportionment Public Hearing

August 19, 2021, Meeting Minutes

Jonesboro, Arkansas

The Arkansas Board of Apportionment had a public hearing on August 19, 2021, in Carl R. Reng Student Union, Centennial Hall in Jonesboro, Arkansas. Public notice of this meeting was provided to media on July 15, 2021, and posted on the Board's calendar of events at: http://arkansasredistricting.org/events-calendar/.

Arkansas PBS streamed the meeting on its ARCAN platform. A recording of the meeting can be accessed at the following link: https://www.youtube.com/watch?v=xCR2EHs5RUY
A transcript of the meeting will be prepared by Cris Braswell, a court reporter with Bushman Court Reporting.

The Board's Redistricting Coordinator, Betty Dickey called the meeting to order at 6:00 p.m. All three members of the Board had their representatives in attendance, which includes Andres Rhodes from Governor Hutchinson's Office, Josh Bridges from the Secretary of State's Office, Brad Nye and Doug House from the Attorney General's Office, and Shelby Johnson State Geographic Information Systems (GIS) Officer

Redistrict Coordinator Dickey began to note the criteria that the Board will be working under Article 8 of the constitution, the Voter Rights amendment of 1965 and the Equal Protection clause noted one-person-one vote of the 14th amendment and balancing each of the legislative districts every ten years after the Federal Census so that they are substantially equal, which is generally plus, or minus, five percent deviation unless there is an impermissible violation of other criteria. Coordinator Dickey then noted that there are 100 House seats and 35 Senate seats. The House seats will be about 30,000 persons per district and 85,000 for the Senate seats.

Coordinator Dickey noted that the second criteria, Section 2 of the Voters Rights Amendment of 1965, prohibits discrimination based on race, color, or language minority. Justice Dickey further stated the third criteria is the Equal Protection Clause of the 14th Amendment which limits redrawing district boundaries based strictly on race.

Redistricting Coordinator Dickey stated that there are four geographic principals; The fourth being compactness, which refers to a round or square shape district and doesn't look like a salamander. The fifth criteria are contiguousness, which means having a common border with no islands or partial districts. The sixth criteria are to minimize splitting the political subdivision, communities of interest, commonalities, economic, social, political, cultural, ethnic, and religious interests. Justice Dickey stated the Seventh criteria is communities of interest that involve commonalties, economical, social, political, cultural, ethnic, or religious interests.

Justice Dickey then stated the eighth criteria is the continuity of representation and the inclination to not make incumbents run against each other. She acknowledged that this, in some cased, may not be possible, but it is a goal. Redistricting Coordinator Dickey then stated the ninth criteria is to minimize partisanship by not giving preferential treatment to one party or the other. Redistricting Coordinator Dickey noted the Rucho case is a case that was presented in 2019 and decides that these cases will get to state court and not federal court.

Justice Dickey then presented Arkansas State GIS Officer, Shelby Johnson to further talk about the maps.

Shelby Johnson announced his role as the State GIS Office and noted that he is in the Arkansas State Geographic Systems Office which is part of the Department of Transformation and Shared Services.

Shelby Johnson proceeded to note GIS's statutory responsibilities is to maintain statewide election precincts, state house, state senate, congressional districts, school board zone, justice of the peace districts, and municipal wards. Shelby noted that when GIS prepares for the 2020 census, if city gets a new territory, it can then become counted as being party of the city or county's total population. Shelby noted that the Board has been preparing diligently over the last several years for all the work, but the pandemic hit, and it became a major factor, exclusive factor in the delay of delivery of the 2020 census data.

Shelby noted that normally Arkansas would receive our census data very, very early in the year, and it the last decade, GIS received that census data in February of 2011. Shelby noted that this February, the board is still waiting. He noted that Thursday of last week, the Board has done about five of these public comment hearing around Arkansas and up until Tuesday, the estimated data that was based on the 2019 Community Survey Data which is a sampling from the Census Bureau. Shelby pointed out that the sampling data set is not a complete census, but it is a sample that includes information such as mortality, births, deaths, and the census forecast. Shelby pointed out that the maps being displayed that night are from the 2020 Census data released last Thursday and the Board of apportionment is almost ready to begin their work.

Shelby pointed out that the numbers being displayed are representatives of the county's population changes from April 1st, 2010, to April 1st, 2020. He asked the audience to pay attention to the darkest red colors, those are indicative of the counties where you have the most dramatic population decline. Shelby then pointed out that the shading goes to a lighter shade of red which also indicate decline, but not as much. Shelby noted that the chart begins to blend into neutral colors, which indicate a county that had steady population and neither dramatically declined or dramatically gained.

Shelby noted that the color palette then shifts into hues of blue and those shades of blue are indicative of counties that grew. Shelby pointed to Randolph County in Northeast Arkansas, over ten-year period grew by about 602 people, but the darker shades of Independence County in this region grew by 1,291. Shelby noted that the darkest shades of blue are indicative of counties in Arkansas which grew the most. Shelby noted that Arkansas if also following the national trends. He noted that nationally, if you are rural, you are becoming more rural and if you are urban, you are becoming more urban; population tends to follow opportunity.

Shelby pointed out that GIS took the same data and cast it up against the current House Districts from 2011. He noted that GIS used the same color scheme and reiterated the population decline and population gain by color. Shelby stated that it is important that when we

look back at the previous Board of apportionment did in 2011 when creating the current districts had a balanced population. He added that the population variances amount districts were very low, and they had representation that was equal across all the districts in Arkansas. Shelby stated that in the past ten years, the population has shifted and changed and those colors and the numbers and stating that the districts are no longer within balance.

Shelby noted that he wanted to use an example of taking 100 House Districts and divide that number by the total population of Arkansas, which means each district should have about 30,115 persons in that House District. Shelby pointed out to District 56 to the far northeast corner of the state and pointed out that the district is about 2,733 below the target figure of 30,000. Shelby noted that the districts need to gain 2,700 to become more equal with all the other districts in Arkansas and to do that, the district must grow geographically in size to reach out and grab additional population.

Shelby noted that conversely, the districts that you see in the shades or hues of blue are too large. He noted that if you look at House District 59 in Craighead County, the House district is 1,884 above that target and means that it needs to shrink and share the population with its adjoining neighbors and become equal.

Shelby moved towards the Senate where he stated he has done the same analysis for the Senate districts and those figures. He mentions Senate District 22 which will need to expand in size to gain additional population because it is currently 13,000 below target. Shelby further noted that the target Senate district needs to be about 86,044 which would be the ideal population. He pointed out to Senate District 20 where there was modest growth in the Green County Paragould area and noted that now that district is 3,600 above target figure.

Shelby pointed out West of Eastern Arkansas and stated you can see Senate District 19 at about 1,000 below, so it needs to gain population. Shelby pointed out that one of the things you can't grab population from is Tennessee or Missouri, it must come from Arkansas, so Senate District 22 must grow West, or it must grow South to become an equal Senate District.

Justice Dickey thanked Shelby and opened the floor to comments.

Roger Kidd from Craighead County asked when will the line be drawn to complete the entire process.

Justice Dickey said sometime between September 30th and December 31st. She stated that the Board hopes it done in October so that the Governor, Attorney General, and Secretary of State can vote on it. She then noted that there is a 30-day waiting period, and she hopes to have the maps on the website and information out to you before the vote and afterwards. Justice Dickey then noted Arkansasredistricting.org and Arkansas.sos.gov and noted that there's a way to send those critiques in.

Unidentified Speaker pointed out to the previous slid, showing House district number, and stated he did not see District 58 and wonder where it was.

Shelby Johnson stated that unfortunately, the software ran out of real estate to write all the labels and that he did not have the numbers on that slide but referred him to the exhibits for actual numbers that show target variance and current population.

Unidentified Speaker noted he had a question for Shelby Johnson and asked if the 2020 data is son the website.

Shelby Johnson stated that the 2020 data is not available yet on the website. Shelby – the census issued that data, was a settlement with - - they were in a lawsuit with the State of Ohio. Shelby added the state of Ohio said we have constitutional mandate to complete our process sooner rather than you can deliver before September 30th. Shelby continued by noting that Bureau's settlement agreed to provide legacy data. The data the Board received now is the legacy format and it comes from five separate tables. Shelby pointed out that on of them is the map table and the other four tables are the population data tables.

Unidentified Speaker asked will it be September 30th or before that.

Shelby Johnson stated that the board is trying to push it out sooner and noted the difference between the legacy format and September 30th is the same its just the ease of use.

Asad Kahn from Craighead County asked if there will be more public hearing where public can view these maps that will be drawn and will the be discussed.

Justice Dickey stated this is the eighth of nine and the next meeting is next Tuesday night in Little Rock.

Asad Kahn asked if there will be a chance for the public to view these maps before they are finalized.

Justice Dickey stated yes.

Asad Khan asked if there will be more hearings like the current lists.

Justice Dickey stated there will not be more hearings like this, but there may be more after the maps are drawn and will be on the website.

Asad Khan noted that people will make comments on these sheets and asked if that is the only way they will be able to comment.

Justice Dickey noted that's not the only way and comments will be posted to the website, she noted that there will be other ways to contact the Board, and he will be able to see the provided maps before they are within a 30-day period after the principals vote on them. Justice Dickey then informed Mr. Khan that the Board plans to get as much information out to the public for as much input as you can give before the final map decision.

Robin Kukendall from Craighead County stated she had a follow up question from what Dr. Khan asked. She stated if the Board new its timeline, and new it would have the data by the 30th of September, would it be prudent to set up a schedule of public hearings to look at those maps when the Board has them.

Justice Dickey stated that it would be nice if the Board knew that they could get, he maps drawn within a shorter period of time and the Board will schedule times if it can, but they will be on the website. She noted that after the vote, there will be a 30-day period, and noted that the Board is giving as much information as it can get, but it has been challenging to schedule these nine hearings.

Justice Dickey stated she was in Fort Smith Tuesday night, and she would finish in Little Rock next Tuesday.

Robin Kuykendall noted if the public knows when the data is going to be accessible to the public, because she suggests it needs to be part of the hearing process.

Judge Griffin of Independence County stated that his main concern is that he has four representatives in his county, and he announced that he is not running for county judge, but if there should be a vacancy in the current core area, he does intent to run. He noted that he is concerned that he might get pushed out.

Senator Mark Pryor thanked Justice Dickey for her service and pointed out that redistricting is really core to democracy and the whole system of government and it will have a huge impact on Arkansas for the next ten years. Senator Pryor stated that he was in the State legislature from 1991-1994 and he was subject to redistricting, then noted he was the Attorney General from 1999 into 2003 and noted he was on the Board of Apportionment back then. He continued by noting his tenure in the U.S. Senate for 12 years, and during that time he spoke to four nominees for the U.S. Supreme Court and asked them about redistricting because of its importance to the country and the State, and if the Board gets it right, it should not allow gerrymandering.

Senator Pryor stated 20 years ago, when he was on the board, it was Governor Huckabee and Sharon Priest as Secretary of State, so two democrats and a Republican. He noted that all the staffs were great, and they did a great job working hard together.

Justice Dickey thanked him.

Mark Pryor noted he had a couple of comments and noted that the Board does not want to see a court challenge at the end of it all. He suggested that the two main things that should be the biggest concern would be racial gerrymandering and political partisan gerrymandering. He stated that partisan gerrymandering might not be a huge issue right now because the State is very red right now. Mary Pryor stated that racial gerrymandering is a huge issue, and he knows the supreme court pays very close attention to that.

Mary Pryor pointed out that looking at the numbers, it seems the African American population stayed about the same, so he noted that there's no need to either increase or decrease the number of majority-minority districts. He noted that creating districts that are substantially equally is very important, as well as geography, contiguity, and compactness. Mary Pryor noted that he believes it is very important to avoid a court challenge and a loss in court and to avoid salamander type districts that go out and grab little neighborhoods or towns. Mark Pryor reiterated Justice Dickey by mentioned you can protect incumbency, which is legal, and he noted that he believes it is good. He noted that protecting agricultural communities of interests makes sense.

Mark Pryor continued by stating that 20 years ago, his Board of Apportionment tried very hard to preserve county lines and city limits and noted that the board must try to get everything down to as close as to equal as possible.

Mark Pryor stated that the last thing he wanted to note is that the Apportionment Board is under tremendous pressure here and they get it, he also stated that there are people trying to influence these decisions for their own agenda and their own purposes. He noted this is a time to do good by the state. He followed up by saying that redrawing district here for ten y ears will

have a huge impact on Arkansas for the next decade. He then stated that no one knows the community better than the people in the current room. He noted that voter should pick their leaders and leaders should not pick their voters.

Justice Dickey thanked Mark Pryor.

Mike Teal from Paragould asked does the board know if there will be a total gain or loss in the total population for Arkansas and noted he was thinking about federal money.

Shelby Johnson pointed out that in 2010 the population was 2.9 million statewide and in 2020 the population is 3,115,028 and stated that the State did have a little bit of growth. He noted that what we have seen more so in that map was illustrated is the shift in state population.

Zacharia Carlson from Craighead count stated it sort of stood alone with the 50 percent increase, but he thinks the next one was a 20 percent increase over the population target. He stated that it's in a cluster of small districts trying to spread population. Zacharia followed up by asking the board if they are thinking about how they are going to address that challenge for the district as compared to the rest of the State where all the districts seem to be growing.

Unidentified Speaker noted they cannot answer that.

Justice Dickey responded by noting that it's a steep hill to climb. She noted particularly in the red districts and its going to take the geniuses of the board to navigate that, as well as representatives from all the principals to work through it with their own maps. She then noted that some of these criteria, and some negotiations, as far as precincts lines and county lines listed, but it will not be easy and stated that is why the Board cannot finish it in two weeks.

Shunquette Cunningham from Craighead County stated that Jonesboro has experienced a great population increase and her concern is that increase has come with an influx of nonwhite individuals and noted that the boards criteria of six and seven really hit home. She noted that especially in her area where there is a great splitting in political subdivisions. She added by following up with Senator Pryor's majority/minority affinity and stated that the districts are well represented and inclusive of the maps and communities, especially North County areas.

Justice Dickey noted that preserving communities of interests is a goal and noted that the Board can't put all of the rural areas together because the Board is under the constraints of us substantially equal population for these districts. She noted that it's a big challenge and the first three criteria are all important goals.

Justice Dickey then adjourned the meeting with no further comment.