

Minnesota Local Redistricting Cases: the 2000s

This page describes cases related to redistricting Minnesota local governments based on the 2000 census. As new petitions are filed and cases decided, we encourage you to send a message to tom.bottern@senate.mn that includes the citation, a hypertext link if available, and a brief description of the issues. If you have a paper copy of the petition or any significant orders, please mail it to Tom Bottern, Senate Counsel, 17 State Capitol, St. Paul, MN 55155, or fax it to 651-296-7747. As time allows, we will consolidate that information on this page.

Summaries of cases on legislative and congressional redistricting in the 50 states following the 2000 census may be found at: [Redistricting Cases: the 2000s](#).

Summaries of cases arising from the 1990 census may be found at: [Redistricting Cases: the 1990's](#). Names and contact information for redistricting experts in each of the 50 state legislatures are included with those summaries.

Many of the documents to which these summaries are linked are in portable document format (.pdf). You will need the Adobe® Acrobat® reader to view them. If you do not have it installed on your system, you may download it for free from the [Adobe](#) web site.

County Commissioner Districts

Aitkin County

Ashton v. Aitkin County Board of Commissioners, No. C6-02-000418 (9th Dist., Aitkin County, petition filed June 3, 2002)

The challenge to Aitkin County's adopted redistricting plan was denied.

Rice County

Ziols v. Rice County Board of Commissioners, [No. C8-02-884](#) (3rd Dist. Rice Co. Aug. 8, 2002)

Hilary Ziols, the president of the Northfield League of Women Voters, filed a [petition for mandamus](#) to require that the county board redraw new county commissioner districts adopted by the board on May 28, 2002, to make their populations more nearly equal. The plan adopted by the board, by a 3-2 vote, had an overall range of 16.4 percent. Another plan considered by the board had an overall range of 2.5 percent. On June 4, 2002, Judge Gerard W. Ring [ordered](#) that an [alternative writ of mandamus](#) be issued demanding that the county board redraw the districts or show cause at a hearing on June 10 why they did not. Following the hearing, faced with a deadline of June 18 for publishing the plan that candidates would run under, on June 12, 2002, the court [ordered](#) the 2002 election to go forward using the board's plan but reserved the right to finally decide at a later date the issues presented. On August 1, 2002, the court [ordered](#) the Rice County Board of Commissioners to "convene for the purpose of reconsidering the redistricting plan it adopted on May 28, 2002," and to adopt by October 1, 2002, a plan "that complies with statutory and constitutional mandates," to become effective for the 2004 elections. "If the Board adopts a plan other than the one with the most equal population representation among districts, then the Board must make specific findings to show why its decision was unavoidable." A [writ of mandamus](#) to that effect was issued on August 7. On August 13, 2002, the county board voted 3-2 to appeal the court's decision to the Minnesota Court of Appeals.

Ziols v. Rice County Board of Commissioners, [No. C3-02-1667](#) (Minn. App. May 20, 2003)

The Court of Appeals affirmed the decision of the district court. Judge Natalie Hudson, writing for the three-judge panel, opined that while the statute, Minn. Stat. § 375.025, subd. 1, "declares that no district shall vary more than 10% from the average population of all of the districts, unless this would result in a precinct being split . . . [t]his does not . . . mean that all population variations less than this 10% are acceptable." Slip op. at 10. The statute also requires that "Each district . . . shall be as nearly equal in population as possible." The failure of the county board to give a reason for not adopting one of the 12 other plans that were more equal in population was an abuse of its discretion. "[W]hile the board was not required to pick the plan with the lowest population deviation from the ideal, it must explicitly address all of the statutory factors, particularly equal population." Slip op. at 13.

Since the Court of Appeals decided the case on state statutory grounds, it was not necessary to address federal constitutional questions. Nevertheless, Judge Hudson noted that the statutory limit of ten percent was calculated differently from the federal constitutional limit of ten percent: the statutory ten percent is a limit on the population deviation of a single district, whereas the constitutional ten percent is a limit on the sum of the deviations of the largest and the smallest districts. Slip op. at 11 n. 1. The largest district in the plan adopted by the board had a deviation of 9.2%, just within the 10% state statutory limit. But its smallest district had a deviation of -7.2%, for a total deviation of 16.4%, which exceeds the 10% federal constitutional limit and requires justification by the State. Slip op. at 11.

Ziols v. Rice County Board of Commissioners, No. _____ (3rd Dist. Freeborn Co., complaint filed _____, 2003)

On November 4, 2003, the Rice County Board re-adopted the plan by a vote of 4 to 1, while documenting the reasons why they had chosen the plan with the highest population deviation of the 13 plans submitted. Hilary Ziols sued again. A hearing before Judge James Broberg in Freeborn County District Court was scheduled for January 23, 2004.

Stevens County

Staples v. Stevens County Board of Commissioners, [No. CX-02-134](#) (8th Dist. Stevens Co. June 11, 2002)

The petition alleged that the redistricting plan passed by the county was not the “best option” available. It also raised a question whether 105 persons resided in Baker Township or the City of Morris. On May 28, 2002, Judge Gerald J. Seibel issued an [order to show cause](#) why the county board had not redistricted Stevens County as required by law. Stevens County [responded](#) on June 3 that, while the plan was not necessarily the one that made populations most equal, it did meet the ten-percent requirement, did not require any commissioners to run against each other, and was the will of the majority of the elected officials responsible for drawing the plan. Both parties agreed that the 105 persons should be counted as residents of the City of Morris. On June 11, 2002, the court’s [order](#) found the redistricting plan to be in compliance with Minn. Stat. § 375.025, whether the 105 people were counted in the city or in the township. The court said:

The petition for a writ of mandamus requiring the County to be redistricted is **DENIED**. The existing redistricting plan adopted by the County Board is both statutorily and constitutionally valid.

In its memorandum accompanying the [order](#), the court said:

The Court expresses no opinion whether the existing redistricting plan is, or is not, the best plan available. Since it was lawfully adopted by the county board, the existing plan must stand.

St. Louis County

Fay v. St. Louis County Board of Commissioners, [No. C5-02-601437](#) (6th Dist. St. Louis Co., July 24, 2002)

County Commissioner Joanne Fay challenged the county plan based on her assertion that the plan did not comply with the requirement of Minn. Stat. § 375.025, subd. 1, that “[n]o district shall vary in population more than ten percent from the average for all districts in the county, unless the result forces a voting precinct to be split.” The county had drawn new districts using the Census 2000 Redistricting Data provided to the State in March 2001. Commissioner District 5, according to the data used by the county, had a population of 31,277, which is 9.73 percent above the average district population of 28,647 persons. However, under the Census Bureau’s Count Question Resolution (CQR) program, the Census Bureau on January 25, 2002, had corrected the population count to move 599 persons residing in the Duluth city jail, which is located in Hermantown, from the city of Duluth to the city of Hermantown. Fay contended that the county should have included the 599 persons in Hermantown for the purpose of redistricting, which would have increased the population in District 5 to 31,876, which would have brought the district to 11.3 percent above the average. On June 5, 2002, Judge Terry Hallenbeck issued a [writ of mandamus](#) ordering the county board to show cause on June 25, 2002, why the court should not appoint a redistricting commission, order the board to draw a new plan, or itself draw a new plan that met the requirements of Minn. Stat. § 375.025. On July 1, 2002, the court issued [findings of fact, conclusions of law, and an order](#) that the plan violated Minn. Stat. § 375.025, subd. 1. In an accompanying memorandum, the court noted that both the county attorney and the county auditor had advised the board before it adopted the plan that “the plan likely did not comply with all applicable law.” [Slip op.](#) at 13. The court attached to its order an [informational addendum](#) on the treatment of adjustments to the census. The court issued a [writ of mandamus](#) commanding the county board to adopt a new plan that complied with the law within 30 days and instructing it to compute the ten percent population variance by adding the variation of the largest district to the variation of the smallest district. If the board failed to adopt a lawful plan within 30 days, the court would hold a hearing August 2, 2002, on whether to appoint a redistricting commission to do the job. On July 9, 2002, the board by [resolution](#) adopted a new plan with an overall range of just over eight percent. On July 17, 2002, Commissioner Joanne Fay filed a challenge to the July 9 plan based on the procedure whereby the plan was adopted and certain features of the plan. On July 24, 2002, the court issued orders: (1) [denying the county board’s motion to reconsider](#); (2) [temporarily enjoining](#) the county auditor from conducting an election of St. Louis County commissioners based on the plan adopted May 28; and (3) [declaring the July 9 plan presumptively valid](#) as meeting equal-population requirements, directing the county board to file the July 9 plan with the county auditor so that the November 2002 election could be held under it, cancelling the August 2 hearing, and saying that a hearing on Commissioner Fay’s challenge would be scheduled at a later date.

In an [order](#) of September 3, 2003, Judge Hallenbeck ruled the July 9, 2002, plan invalid and appointed a five-member commission to draw a new plan within 90 days.

Fay v. St. Louis County Board of Commissioners, [No. A03-1443](#) (Minn. App. Feb. 10, 2004)

The redistricting commission drew a new plan, which the district court certified on December 22, 2003. The Court of Appeals affirmed the September 3, 2003, decision of the district court. In an opinion by Chief Judge Toussaint, the court said that the district court was correct in holding that Minn. Stat. § 375.025, subd. 1, imposed additional standards for population equality beyond the federal requirement that districts not differ in population by more than ten percent. The district court had also not erred in its conclusion that the St. Louis County Board had not articulated its basis for choosing Plan XI over other proffered plans that provided for districts that were more nearly equal in population than the districts in Plan XI.

Hofsommer v. St. Louis County Board of Commissioners, No. C2-02-101168 (6th Dist. St. Louis Co., [petition](#) filed June 3, 2002), *consol. with Fay v. St. Louis County Board of Commissioners*

The Vice Chairman of the Colvin Township Board of Supervisors petitioned the court for a writ of mandamus requiring the county board to redraw the districts adopted on May 28, 2002, to make the districts more equal in population and more compact, and to keep Colvin Township in District 6, where it had historically always been.

Wabasha County

The county failed to redistrict, leaving one district outside the 10 percent deviation. The petition for a writ of mandamus was filed to compel the county to redistrict. The court ordered the county to redistrict or show cause why they did not. The board chose to redistrict, bringing the districts into compliance with the requirements in Minn. Stat. § 375.025.

Waseca County

Application of Larson for a Writ of Mandamus, [No. C0-02-320](#) (3rd Dist. Waseca Co. June 20, 2002)

The [application for a writ of mandamus](#) alleged that the plan for county board districts adopted by the Waseca County Board was not “as regular and compact in form as practicable” nor “as nearly equal in population as possible,” and that District 2 varied in population more than ten percent from the average for all districts in the county, in violation of Minn. Stat. § 375.025. The [answer](#) of the county board, supported by the [affidavit of the county auditor](#), said there was good cause for District 2 to be more than ten percent larger than the ideal, including that its population included 1118 inmates of the federal prison in Waseca, who were prohibited from voting and unable to participate in civil and community affairs. On June 11, 2002, Judge Renee L. Worke issued an alternative [writ of mandamus](#) ordering the county board to either adopt a new plan in conformity with Minn. Stat. § 375.025 or show cause on June 21, 2002, why the previously adopted plan should not be revised. On June 18, 2002, the Waseca County Board adopted [plan E](#), a new redistricting plan that had not been presented to it previously. The new plan had each district within five percent of the average of all the commissioner districts, with the exception of one district that was three people over the five-percent standard. The plan did not resolve the commissioners’ concerns about counting federal prisoners when drawing redistricting plans, but the two petitioners agreed with it, though it was not the plan they had proposed, so it served the purpose of bringing the redistricting process in Waseca County to an end. On June 20, 2002, the [order](#) of Judge Worke approved the new plan, ordered the county auditor to publish the required election notices “as soon as possible and practicable, and no later than five days before July 2, 2002,” and struck the show cause hearing scheduled for June 21.

City Council Wards

Minneapolis

Kahn v. Griffin, [No. 03-CV-5037](#) (JRT-FLN) (D. Minn. Jul. 20, 2004)

Members of the Minneapolis city council were elected in 2001 for a four-year term, from districts drawn in 1992 based on the 1990 census. The districts were redrawn in 2002, based on the 2000 Census, but the city had not scheduled an election using the new districts until 2005. Plaintiff registered voters in Minneapolis filed suit in federal district court against the director of elections and members of the city council alleging that the districts violated the United States and Minnesota Constitutions as well as several state and local laws requiring that districts be redrawn every ten years following the U.S. Census. They asked the Court to order the city to hold new elections for city council based on the new boundaries "within a short time."

U.S. District Judge John R. Tunheim balanced the equities and ruled that the city's valid interest in maintaining four-year terms, regular elections, and stability and continuity in office, the settled expectations of voters and elected officials, and the costs of elections, outweighed the burden on voters of a three-year delay, once every 20 years, implementing districts that were more nearly equal in population.

As requested by plaintiffs, Judge Tunheim certified to the Minnesota Supreme Court the question of whether the Minnesota Constitution provided greater protection to the rights of voters than granted by federal law, so that the failure to hold prompt elections violated the Minnesota Constitution or statutes. (The summary and hypertext links are provided below.)

Johnson-Lee v. City of Minneapolis, [No. 02-1139](#) (JRT/FLN) (D. Minn. Sep. 30, 2004)

“Two Minneapolis City Council members and 14 citizens filed suit in Hennepin County District Court... charging that redistricting plans were racist and unfair. Council members Dean Zimmermann and Natalie Johnson Lee and the other plaintiffs complained that the commission that drew up the redistricting plan did not fully represent all political parties, particularly the Green and Independent [Independence] parties. According to the complaint, the new redistricting plan puts two council members - Zimmermann and Gary Schiff - in the same ward, meaning they would have to run against each other. The complaint also charged that the new districting plan for Ward 5 would mean that 83 percent of the voters would be African-American, creating a ‘super majority.’” *St. Paul Pioneer Press*, May 8, 2002.

U.S. District Judge John R. Tunheim ruled that the 2002 plan for City Council wards in the City of Minneapolis met the requirements of the Minneapolis city charter, § 2 of the Voting Rights Act of 1965, and the Fourteenth and Fifteenth Amendments to the U.S. Constitution. He concluded that, “the City’s plan passes all legal and constitutional tests and as such, it is a plan well done.”

Kahn v. Griffin, [No. A04-1646](#) (Minn. Aug. 11, 2005)

The Minnesota Supreme Court responded in the negative to the question certified by Judge Tunheim in *Kahn v. Griffin*, [No. 03-CV-5037](#) (JRT-FLN) (D. Minn. July 20, 2004). It found that, under these facts and circumstances, the failure to hold prompt elections did not unconstitutionally burden the right to vote, because the benefits of stability outweighed other considerations. It also found that Minn. Stat. § 204B.135, subd. 1, and 204B.14, subd. 1a, did not require the City of Minneapolis to hold special elections immediately following decennial redistricting.

Kahn v. Griffin, [No. 03-CV-5037](#) (JRT-FLN) (D. Minn. Sept. 8, 2005)

Upon receipt of the answer to his certified questions, Judge Tunheim dismissed the complaint.

Back to [Redistricting Local Governments](#)

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