REDISTRICTING BEFORE CREATION OF THE COMMISSION

Prior to 1960:

   Since statehood, the allocation of legislative seats in Idaho was largely based on county lines. In 1912 the Idaho Constitution was amended to allocate one state senator per county. From 1929 until 1965, there were 44 senators (one per county). The allocation of seats by county was a common practice in states, even though many states underwent substantial urbanization during this period.

The allocation of seats in the state House of Representatives appears to also be county-based, but with additional seats awarded to the more populous areas. From 1930 until 1965, the number of Representatives ranged between 58 and 79 but after 1950 the number was usually set at 59.

1960s:
        Hearne v. Smylie 377 US 563 (1964): one of the "trailer cases" to *Reynolds v. Sims*, requiring state legislative districts to comply with "one person, one vote" criteria and striking down the Idaho plan.

1970s:
        Summers v. Cenarussa 413 US 906 (1973): after 2 years of litigation, legislative plan overturned due to excessive variation (about 19%)

1980s:
        a. Two Idaho state senators had a fist fight in the senate stairwell over redistricting during legislative efforts to create a plan.

        b. This round of redistricting wound up in court three times (Hellar v. Cenarussa I,II, III) in which the legislative plan was struck down by the Idaho Supreme Court due to excessive population deviation. Ultimately, the state Supreme Court imposed a complex system involving floterial districts. See *Hellar v. Cenarussa 682 P2d 524 (1984).*

        c. The floterial plan required the legislature to expand to 126 seats (84 House, 42 Senate) that included at-large, multimember districts in some counties and 7 floterial districts, each of which involved regional "super-districts".

1990s:

        a. Floterials were still in place; Legislature devises plan with floterials and multimember districts. The plan was challenged in *Idaho Hispanic Caucus v. State of Idaho (1992)* contending Hispanic population in Canyon County was unnecessarily divided; federal court upheld plan.

        b. In 1994, Idaho passed a constitutional amendment creating the Independent Redistricting Commission. A key point is that this was initiated by the legislature **itself**. Over two-thirds of

the legislators voted to create the Commission, and 64% of the public voted for the constitutional amendment to establish the Commission,

REDISTRICTING AFTER CREATION OF THE COMMISSION

2001-2:

First redistricting Commission plan was struck down in *Smith v. Idaho Commission on Redistricting 136 Idaho 542 (2001)* and again in *Bingham County v, IRC 137 Idaho 870 (2002*). Both cases were struck down because the plans exceeded the 10 percent total deviation. Third plan came in just under 10 percent and was accepted.

2011-12:

a. The first Commission was highly contentious, and ultimately did not agree on a plan within the allotted period.

b. Second Commission was formed and approved a plan that was eventually overturned in *Twin Falls County v. ICR 137 Idaho 870 (2012*) because more counties were cut than necessary, compared to another plan that also met all other criteria. The Commission reconvened, made the requisite adjustments, and passed a new plan that was accepted by the Idaho Supreme Court.

For more, see: https://www.spokesman.com/stories/2011/sep/25/redistricting-in-idaho-historically-sore-subject/

A key conclusion is that, while the Commission has from time-to-time struggled and indeed has adopted plans that were eventually struck down, the history of redistricting by the Legislature itself was at least as contentious and unsuccessful in adopting plans that would survive judicial scrutiny. It is worth noting that NO STATE that has adopted an Independent Redistricting Commission has ever reverted to a system having the legislature redistrict itself.