

Apportionment.US
FAQ for Media and Other Interested Parties
(Updated November 2010)

PURPOSE/BACKGROUND

1. What is this lawsuit hoping to achieve/accomplish?
A: The goal of this lawsuit is to achieve more equal representation in Congress for all Americans, and the only way to accomplish this outcome is to increase the size of the House of Representatives (“House”).
2. If the plaintiffs win the lawsuit, what would happen?
A: Plaintiffs are requesting that the Supreme Court declare the current law freezing the House at 435 members (2 U.S.C. 2a) unconstitutional, and require Congress to deliberate its future size in light of the “equal as is practicable” standard enshrined in the landmark case *Wesberry v. Sanders* (1964).
3. What is the legal basis for this lawsuit?
A: Supreme Court case law from the 1960s through the 1980s clearly established the principle of “one person, one vote” as it relates to ensuring voter equality for all. Unfortunately, this standard has only been applied at the individual state level and not for the nation as a whole. Significant voter inequality still exists at the national level, and will continue to get worse as the nation grows. In more common language, this means that some American citizens’ votes are worth less than others, which is a severe injustice. The aim of this lawsuit is to significantly reduce that inequity to a more appropriate level.
4. Where did this idea originate? Who is the driving force behind this effort?
A: The idea of expanding the House has been discussed for decades, but this particular effort began with Scott Scharpen, and Scott has been working closely with Michael Farris throughout the process.
5. What is Apportionment.US?
A: Apportionment.US is a non-profit 501c3 organization based in California, and is the entity coordinating the lawsuit and helping fundraise to pay for expenses in connection with the case. Its website is www.Apportionment.US.

APPORTIONMENT DATA

6. How bad is the inequality today?
A: The inequality today is severe and unjust. The primary measure that the Supreme Court has used to determine voter equality is to compare the largest and smallest districts. According to the 2000 census, Montana was the most under-represented and Wyoming was the most over-represented. In simple terms, it took 183 Montana voters to equal 100 Wyoming voters, which is grossly unfair. Using the math calculation as applied in the 1983 Supreme Court case *Karcher*

v. *Daggett*, the collective deviation of the largest and smallest districts from the “ideal” district size was 63.38%. Interestingly, the Court declared as unconstitutional a deviation of 0.6984% in *Karcher*, which is 9100% greater than the current deviation!

Table comparing the largest district (i.e., most under-represented) and the smallest district (i.e., most over-represented)

Largest vs. Smallest	Current (435 Reprs)	2,000 Reprs	Plan A (1,760 Reprs)	1,000 Reprs	Plan B (932 Reprs)	Other Option (658 Reprs)
Ratio	1.83 to 1	1.27 to 1	1.11 to 1	1.30 to 1	1.31 to 1	1.62 to 1
Deviation #	410,012		15,850		76,667	190,359
Deviation % (<i>Karcher</i> case)	63.38%	23.74%	9.91%	26.38%	25.39%	44.51%

“Ratio” compares the two districts head-to-head without respect to the “ideal” district size

“Deviation #” compares the two districts in terms of voters (variation from the “ideal” district size)

“Deviation %” compares the two districts in terms of percentage of voters (variation from the “ideal” district size)

7. Why does the lawsuit propose such seemingly random House membership numbers, rather than round numbers?

A: Because there are certain precise House sizes (using the 2000 census data) that yield more equity (i.e., lower deviation level) across congressional districts with a smaller number of House representatives. In other words, adding more congressmen do not necessarily increase the equity of representation, and in many cases, it becomes worse. For example, a House size of 1,000 has a maximum deviation of 26.4%, but a House size of 932 (one of two options proposed in this lawsuit) has a smaller maximum deviation of 25.4%. For further data, see the table above.

8. How does the current average district size compare with other Congresses?

A: The average district size has increased substantially since the first census of 1790.

1790 – 1 for every ~ 33,000

1910 – 1 for every ~ 210,000

2000 – 1 for every ~ 647,000

2010 – 1 for every ~ 710,000 (projected)

9. Won’t our practice of redistricting every 10 years (based on the census data) eventually tend toward evening out whatever inequalities exist today?

A: No. In fact, it’s very likely to get worse. Using the deviation percentage as applied in the *Karcher* case, here are the trends from the last 3 decennial census periods and the projected 2010 deviation:

1980 – approx. 57%

1990 – approx. 61%

2000 – approx. 63%

2010 – approx. 64%

POLITICAL ARGUMENTS/OBJECTIONS

10. How much money is this going to cost the American taxpayer?

A: House representatives and their staff currently account for a small fraction of 1% of the total Federal budget, so any increased costs will be comparatively small. Also, given the fact that each representative has 22 approved staff allocated to them (which is a large number!), it's very possible that the number of Federal employees (both reps and staffers) can remain nearly the same, but instead redistribute the employees to include more elected (and accountable) officials. The goal is to reduce the staff and increase the representation, allowing the representatives to be closer to the people they represent. Furthermore, pork-barrel spending will almost certainly decrease with a larger House, because it will be much more difficult to justify favoring one particular district over others, and this monetary savings alone will pay for any increased staff many times over.

11. Where would we fit/put everybody?

A: There are a number of reasonable options – a couple of examples: a) There are several federal office buildings in the immediate area of the House. Federal personnel from these agencies can be relocated to other areas. b) There are parking areas for House employees in the immediate area which could be the site for new House offices (with plenty of parking in basement garages). It is also important to note that current technology (e.g., email, electronic voting, web conferencing) greatly eases the logistical burden associated with a larger body of members.

12. Do we really need MORE politicians?

A: No, we don't need more politicians, but the size of our nation does demand more representatives working on behalf of the people. Part of the problem today is that we have too much power concentrated in the hands of too few people. By increasing the House, it spreads the power into more people's hands, which is good for freedom, liberty and self-government.

13. How will Congress get anything done if we add more people to the decision-making mix? Won't we see more gridlock?

A: It's a well-known fact that most of the business of the House is performed in sub-committees, where only small numbers of representatives meet to discuss specific legislation and policy. Anybody watching C-SPAN knows that it's a rare moment when the entire House meets together, and even when it occurs, the speakers and topics are scripted beforehand. In fact, many representatives watch remotely from the comfort of their own office via TV monitors. In addition, representatives serve on multiple committees, and routinely send staffers to attend meetings given competing schedules and the sheer volume of work. Other reasonable outcomes from expanding the House include: a) more straight-forward legislation (toward the direction of state ballot initiatives and away from special-interest driven favoritism), b) longer

deliberation for each piece of legislation (avoids rushing through a bad piece of legislation) and c) less overall legislation being produced.

14. Didn't they confine the House to its current size because it was getting too large and unwieldy to do business?

A: Contrary to popular belief, the freezing of the House size was not an act of legislative efficiency but rather a political stalemate, following the 1920 census. In fact, the House actually passed a bill to increase their own size to 483 members after the 1920 census, but the Senate blocked the measure because senators from smaller/rural states didn't want to lose congressmen to larger/urban states (due to population shifts that took place since the 1910 census).

15. How do you anticipate the balance of power changing if you're successful? Who will be the winners and losers? What will a larger House do to the two-party system?

A: This is ultimately an effort concerned with achieving equality of representation across the country in all 50 states so that the American people are fairly represented in their government. This initiative is not driven by an attempt to gain an advantage for any particular political party. Arguments could be made that one entity (e.g., Democrat, Republican, 3rd party) stands to gain at the expense of the others, but it is simply not clear what the outcome will be.

Fundamentally, this is a statement of faith in self-government and the American citizen, which is the foundation of our Constitution and enshrined in the words "We the People."

16. How do you envision the transition from today's House to a larger House in the future (i.e., 'how do we get from here to there')?

A: There is no doubt that changing the status quo will create turmoil, uncertainty and 'change' in Congress. While we don't have the "How" questions answered, the ultimate result of this change is a government that equally represents the citizens of America. Any short-term pain during the transition is worth the long-term gain of fairness for all.

17. What are the unintended consequences of this change being implemented?

A: With any change, there are unintended consequences that cannot be defined ahead of time. What we DO know today are some of the negative consequences based on the current structure of freezing the House at 435 members. Examples of negative consequences with the status quo are: a) some citizen's votes are worth less than others, b) too much power is in the hands of too few people, c) excessive pork-barrel spending, d) lack of competition for House seats, e) significant financial resources required to run for office and f) excessive lobbyist activities and influence.

18. What will be the impact on lobbying and special interests?

A: It's not clear exactly how the special interest dynamic will change with a larger House. What is clear is that lobbyists have an easier time when the number of representatives being lobbied is smaller. In today's Congress, each vote is much more valuable, and thus easier to justify spending time and money wooing representatives. Based on this fact, we believe that special interests will be disadvantaged with a larger House, which would be good for America.

19. Wouldn't it just be simpler to keep the House size the same but elect higher quality candidates?

A: While higher quality candidates are always preferred, the founding fathers believed that the structure of government was vitally important to the protection of liberty. The idea of equal

representation for every voter in the House was one of the most critical commitments in the Constitution. Equality for citizens is impossible in an unequal House.

20. Aren't there other ways to effect change regarding the House (e.g., term limits, more defined accountability, gerrymander reform, lobbyist reform) instead of such a dramatic structural change that this lawsuit proposes?

A: Certainly many ideas have surfaced regarding how to reform government, but each idea carries with it strong partisan arguments for and against each idea. Some ideas and suggestions have been around for a long period of time, yet there's little effective action to show for it. Congress seems utterly unwilling to reform itself in a meaningful manner. Moreover, even if there were other areas of reform there is still no excuse for violating the principle of one-person, one-vote.

21. How would the additional House representatives get allocated?

A: These newly created reps would be allocated in the same way as when a state is awarded additional reps after each decennial census. However, if this lawsuit is successful, a constitutional standard of equality would ultimately be employed and the size of the House would inevitably vary after each Census so that assurance of equality is the long-term right of every voter.

22. How will this change impact the Electoral College?

A: A larger Electoral College will more closely reflect the popular vote.

23. If this decision drives a massive reapportionment, how many years (or election cycles) do you predict it will take?

A: The exact timing and methodology of any reapportionment will be up to the court and Congress to decide, but for every day in which inequality and unfairness of voting rights remains, America as a whole is cheated.

24. Isn't this the wrong time to pursue such a change? With all of the current crises the Congress and nation are facing, shouldn't we wait until the urgent issues are resolved? What harm is there in waiting for some other time?

A: One has to wonder if there will ever be a "good time" or a calmer political environment where it's optimal to take up such an issue as House reapportionment. While it's true that the nation is facing some significant challenges, it is no excuse to allow the continued injustice perpetrated on the American citizens living in Montana, South Dakota, Delaware, Utah and Mississippi. It is a reasonable assertion that righting the inequality and injustice will more quickly and effectively address the crises that our nation faces.