



# Iowa General Assembly

## 2016 Legal Updates

Legislative Services Agency – Legal Services Division

[https://www.supremecourt.gov/opinions/15pdf/14-940\\_ed9g.pdf](https://www.supremecourt.gov/opinions/15pdf/14-940_ed9g.pdf)

**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### POPULATION REQUIREMENTS FOR REDISTRICTING

Filed by the United States Supreme Court

April 4, 2016

Evenwel v. Abbott

No. 14-940

[https://www.supremecourt.gov/opinions/15pdf/14-940\\_ed9g.pdf](https://www.supremecourt.gov/opinions/15pdf/14-940_ed9g.pdf)

**Background Facts and Procedure.** After the 2010 Federal Decennial Census, the Texas Legislature redrew its State Senate legislative districts using total population. At the time, Texas was subject to the preclearance requirements of the Federal Voting Rights Act and eventually an interim Senate redistricting map for the 2012 elections was drawn, based on total population, by the United States District Court for the Western District of Texas. In 2013, the Texas Legislature adopted the interim Senate map as the permanent Senate map. Plaintiffs, registered Texas voters, sued, claiming that the state legislative Senate map violated the one-person, one-vote principle of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution by using total population, and not voter population, in drawing districts of equal population. A three-judge federal district court dismissed the plaintiffs' complaint.

**Issue.** Does the Equal Protection clause of the Fourteenth Amendment of the United States Constitution require that state legislative redistricting take into account the number of voters rather than total population in creating state legislative districts of equal population?

**Holding.** The United States Supreme Court (Court) unanimously held (8-0) that a state or locality may draw its state and local legislative districts based on total population.

**Majority Opinion.** The Court held that constitutional history, judicial precedent, and historical state practice all demonstrate that apportioning legislative districts based on total population is permissible under the Equal Protection Clause of the Fourteenth Amendment. The majority opinion noted that “[i]t cannot be that the Fourteenth Amendment calls for the apportionment of congressional districts based on total population, but simultaneously prohibits States from apportioning their own legislative districts on the same basis.” While the Court failed to resolve the question of whether states may use voter-eligible population rather than total population in drawing districts that satisfy the constitutional one-person, one-vote requirement, the majority opinion noted that the one-person, one-vote guarantee and redistricting based upon total population serves both a state's interest in preventing the creation of districts of unequal population that dilute the voting strength of citizens in larger population districts and its interest in ensuring equality of representation.

**Concurring Opinions.** Two Justices concurred separately in the judgment of the Court. Justice Thomas concluded that states should be given wide latitude in selecting the population base for apportionment. Justice Alito argued that constitutional history regarding apportionment of members of Congress and the adoption of the Fourteenth Amendment does not clearly establish that total population should be constitutionally required for legislative redistricting.

**Impact on Iowa Law.** Iowa Code section 42.2 provides that the Legislative Services Agency shall use the population data obtained by Iowa from the United States Bureau of the Census under United States Pub. L. No. 94-171, for the purpose of preparing congressional and legislative redistricting plans. Based on this federal statute, the Census Bureau reports to each state total population and the population of persons 18 years of age and older, including population counts by race and ethnicity, for each geographic unit needed by that state for use in the redistricting process. As a

result, the Legislative Services Agency has always used total population counts provided by the Census Bureau for purposes of preparing proposed congressional and legislative redistricting plans. The Court's decision determined that the use of total population counts for legislative redistricting is constitutional.

*LSA Monitor*: Ed Cook, Legal Services (515) 281-3994