

Losses of House Seats in Puerto Rico Statehood

Which states have the most to lose?

by Leon F. Bouvier and Dudley L. Poston, Jr.

On December 31, 2000, the Secretary of Commerce will deliver to the President the April 1, 2000 population counts for each of the fifty states. The President will then send to the Clerk of the House within ten days of the beginning of the next session of Congress the census counts for each of the fifty states as well as the number of representatives for each state. The apportionment procedure for determining the number of representatives assigned to each state is selected by Congress. Within fifteen days of the President's transmission, the Clerk of the House must inform the governors of the fifty states about the number of representatives they will have in the next Congress. Providing to the President an empirical basis for apportioning the House of Representatives is the principal reason and justification for conducting a decennial census. The requirement was written into the Constitution in 1787.

The major issue in determining distribution in the House of Representatives is equity. The apportionment method to be used in 2000 is the Method of Equal Proportions. Irrespective of the country's size, the number of House seats is 435. Partial representatives cannot be assigned to states, nor can representatives be given fractional votes. Apportionment methods differ principally in the way

they define equity. Our Constitution requires that every state be assigned at least one seat in the House. Hence, the first fifty seats are taken. The various apportionment methods specify how to divide the remaining 385 seats (see Poston, 1997, for more discussion).

Given the extensive discussions in recent decades in the Congress and elsewhere with respect to Puerto Rico becoming the 51st state of the United States, we ask in this paper (1) how many seats would Puerto Rico receive, and (2) which states would lose seats? Since it is unlikely that the House will increase its number of seats beyond 435, seat assignment is a zero-sum game. If one or more new states are added to the United States, there will not be an increase in the number of House seats. One exception to this "rule" occurred with the admission of Alaska and Hawaii

in the late 1950s. For one session of Congress there were 438 seats (one for Alaska and two for Hawaii). However, with the results from the next census in 1960 the House reverted back to its basic number of 435 seats. We doubt that this will occur again, that is, that Congress will allow a temporary increase of more seats for Puerto Rico prior to the 2000 (or later) census, and then revert back to 435 seats after the new census data are issued.

We inquire here about the implications for other states of accepting Puerto Rico as the 51st state. We rely on Census Bureau population projection data for the states and Puerto Rico for the year 2000. We first add Puerto Rico to the fifty states; each of the now 51 states automatically receives a seat; the remaining 384 seats are then allocated using the Equal Proportions method.

While widely-trumpeted statements have been made that Puerto Rico would finally have six voting members in the House of Representatives ... little has been said about who the losers would be.

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Puerto Rico will receive an additional five seats, for a total of six. While widely-trumpeted statements have been made that Puerto Rico would finally have six voting members of the House of Representatives (in addition to two voting senators), little has been said about who the losers would be. According to our application of the Equal Proportions apportionment method to population projection data from the Census Bureau, the six states that would lose representatives if Puerto Rico were added as the 51st state are California, Indiana, New York, Texas, Washington and Wisconsin.

Why has statehood for Puerto Rico become so important? An examination of its history, especially as it pertains to its relationship with the United States, may shed some light on this question. Article IX of the Treaty of Paris, which ended the Spanish-American War in 1898, recognized the authority of the U.S. Congress to provide for the political status of the inhabitants of Puerto Rico, as well as the Philippines and other lesser islands. According to the "Findings" developed for the current US House Bill, HR856,

Puerto Rico was ceded to the United States and came under this nation's sovereignty pursuant to the Treaty ending the Spanish-American War in 1898. Article IX of the Treaty recognized the authority of Congress to provide for the political status of the inhabitants of the territory. [Moreover], consistent with the establishment of United States nationality for inhabitants of Puerto Rico under the Treaty, Congress has exercised its powers under the Territorial Clause of the Constitution to provide by several statutes beginning in 1919, for the United States citizenship status of persons born in Puerto Rico....In 1950, Congress prescribed a procedure for instituting internal self-government for Puerto Rico pursuant to statutory authorization for a local constitution. A local constitution was approved by the people of Puerto Rico, and thereupon given effect in 1952. The approved constitution established the structure for constitutional government in respect of internal affairs without altering Puerto Rico's fundamental political, social, and economic relationship with the United States and without restricting the authority of Congress under the Territorial Clause to determine the application of Federal law to

Puerto Rico, resulting in the present "Commonwealth" structure for local self-government. The Commonwealth remains an unincorporated territory and does not have the status of "free association" with the United States as that status is defined under United States law or international practice.

We note that with regard to this last point there appear to be some translation difficulties between English and Spanish on the meaning of "free association." Some of this lies at the proposed minor changes in the meaning of "commonwealth" as it is currently being discussed.

What is the status of recent and current activities on this topic in Puerto Rico? First, in 1989, President George Bush urged Congress to take the necessary steps to authorize a federally recognized process allowing the people of Puerto Rico to freely express their wishes regarding their future political status in a congressionally recognized referendum, a step in the process of self-determination.

On November 14, 1994, Puerto Rico conducted a plebiscite initiated under local law on its political status. However, none of the three political status propositions received a majority of the votes cast. The results were 49 percent for commonwealth status, 46 percent for statehood, and about 5 percent for independence.

On January 23, 1997, the Puerto Rico legislature enacted Concurrent Resolution 2 which requested the U.S. Congress "...to respond to the democratic aspirations of the American citizens of Puerto Rico" by approving legislation authorizing "...a plebiscite sponsored by the Federal government to be held no later than 1998." The Resolution further stated that:

"[f]ull self-government for Puerto Rico is attainable only through establishment of a political status which is based on either separate Puerto Rican sovereignty and nationality or full and equal United States nationality and citizenship through membership in the Union and under which Puerto Rico is no longer an unincorporated territory subject to the plenary authority of Congress arising from the Territorial Clause."

In recognition of the significant level of local self-government which has been attained by Puerto Rico, and the responsibility of the Federal

government to enable the people of the territory to freely express their wishes regarding their political status and to achieve full self-government, this Act was adopted with a commitment to encourage the development and implementation of procedures through which the permanent political status of the people of Puerto Rico can be determined.

What is the process that must be followed by Puerto Rico in its quest for self-government? A referendum on Puerto Rico's political status needs to be held not later than December 31, 1998. The approval of a status option must be by a majority of the valid votes cast. The referendum shall consist of the approval of one of the three options presented on the ballot, namely, commonwealth, statehood or independence.

With respect to the transition, within 180 days of the receipt of the results of the referendum from Puerto Rico certifying approval of a choice of full self-government, the President shall develop and submit to Congress legislation for a transition plan of not more than 10 years which leads to full self-government for Puerto Rico that is consistent with the terms of this Act and results of the referendum.

In the event of a vote in favor of statehood, the President shall include in the transition plan proposals and incentives to increase the opportunities of the people of Puerto Rico to learn, read, write and understand English fully. The transition plan should promote the usage of English by the citizens of Puerto Rico. Not later than 180 days after the enactment of an Act pursuant to the transition to full self-government for Puerto Rico as approved in the initial decision referendum, another referendum shall be held under the applicable provisions of Puerto Rico's electoral laws on the question of the approval of the terms of implementation for full self-government. Approval must be by a majority of the valid votes cast.

To ensure that the Congress is able on a continuing basis to exercise its Territorial Clause powers with due regard to the wishes of the people of Puerto Rico, in the event that a referendum does not result in a majority vote for separate sovereignty or statehood, there is authorized to be further referenda in accordance with this Act, but not less than once every ten years.

Our discussion above has been taken almost verbatim from Congressional Act HR856. It goes

without saying that either statehood or sovereignty is expected to come out victorious. At any rate, either during the last decade of this century or the first decade of the next, Puerto Rico's political status will be changed. Given the small proportion favoring independence in earlier referenda, it is likely that statehood will be the winner.

At the beginning of this paper we asked about the other states. We pointed out that if Puerto Rico is added as the 51st state in the year 2000, six states will lose one House member: California, Indiana, New York, Texas, Washington and Wisconsin. When we make adjustments to the 2000 population projection numbers based on larger numbers of illegal immigrants in the U.S. and on some other issues (for a general discussion of these matters see Poston et al, 1997), the end result is the same: six states will lose House seats if Puerto Rico is added as the 51st state. Moreover, irrespective of the different methods and adjustments used, California, Indiana, Texas and Washington will always lose one seat each. In two of our alternative projections, Minnesota and Missouri will each lose one seat, whereas in another projection, New York and Wisconsin will each lose a seat.

Once such information becomes widely known it will be interesting to see if the representatives from these states, especially those from California, Indiana, Texas and Washington — the losing states under our scenarios — alter their voting behavior on the issue of statehood for Puerto Rico. Seat assignment is a zero-sum situation. If Puerto Rico (or, for that matter, Washington, D.C.) becomes a state, some of the fifty states must necessarily lose seats. In any event, the years ahead may well be interesting ones, especially with respect to the kinds of political and demographic issues raised here.

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