

Impact of HR2826: Municipal Elections

Maricopa County Community Network Meeting
September 11, 2013

HR 2826

- Before HR2826
- Review of the law
- Consolidation vs. Aligned
- Litigation: Tucson & Phoenix
- Implementation

Before HR 2826

What governed municipal election dates?

16-204. Declaration of statewide concern; consolidated election dates; definition

A. The legislature finds and determines that for the purposes of increasing voter participation and for decreasing the costs to the taxpayers it is a matter of statewide concern that all elections in this state be conducted on a limited number of days and, therefore, the legislature finds and declares that the holding of all elections on certain specific consolidated days is a matter of statewide concern. This section preempts all local laws, ordinances and charter provisions to the contrary.

B. For elections held before 2014 and notwithstanding any other law or any charter or ordinance of any county, city or town to the contrary, an election held for or on behalf of a county, city or town, a school district, a community college district or special districts organized pursuant to title 48, chapters 5, 6, 8, 10, 13 through 16 and 33 may only be held on the following dates:

1. Except for regular elections for candidates in a city or town with a population of one hundred seventy-five thousand or more persons, all elections, including recall elections and special elections to fill vacancies, shall be held on:
 - (a) The second Tuesday in March.
 - (b) The third Tuesday in May.
 - (c) The tenth Tuesday before the first Tuesday after the first Monday in November.
 - (d) The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.
2. For regular elections that are only for candidates in a city or town with a population of one hundred seventy-five thousand or more persons and not including recall elections and special elections to fill vacancies in those cities or towns, elections shall be held on:
 - (a) The tenth Tuesday before the first Tuesday after the first Monday in November.
 - (b) The first Tuesday after the first Monday in November.

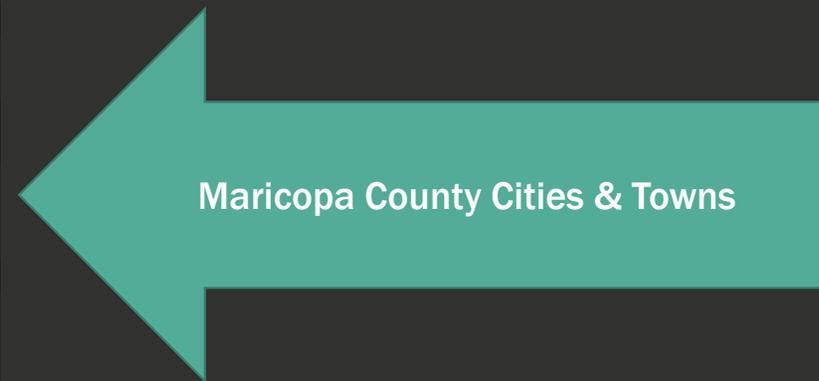
C. For elections held before 2014, for any city or town, including a charter city, that holds its regularly scheduled candidate elections in even-numbered years pursuant to subsection B, paragraph 2, the term of office for a member of the city council or for the office of mayor begins on or after the second Tuesday in January in the year following the election.



Population of less than 175,00

Population of more than 175,00

City or Town	Even Years	Odd Years
Apache Junction, City of (reg/rosters only)		March / May
Avondale, City of	August / November	
Buckeye, Town of (ALL MAIL)	March / May	
Carefree, Town of (ALL MAIL)		March / May
Cave Creek, Town of (ALL MAIL)		March / May
Chandler, City of	August / November	
El Mirage, City of	August / November	
Fountain Hills, Town of (ALL MAIL)	March / May	
Gila Bend, Town of		March / May
Glendale, City of	August / November	
Gilbert, Town of	August / November* <i>new 2012</i>	
Goodyear, City of (ALL MAIL)		March / May
Guadalupe, Town of		March / May
Litchfield Park, City of (ALL MAIL)	March / May	
Mesa, City of	August / November	
Paradise Valley, Town of (ALL MAIL)	March / May	
Phoenix, City of**		August / November
Peoria, City of	August / November	
Queen Creek, Town of (ALL MAIL)	March / May	
Scottsdale, City of	August / November	
Surprise, City of (ALL MAIL)		August / November
Tempe, City of	March / May	
Tolleson, City of		March / May
Wickenburg, Town of	August / November	
Youngtown, Town of	August / November* <i>new 2014</i>	
**City conducts their own elections		
HB 2826 all jurisdictions held on same day as the county effective 2014		



Maricopa County Cities & Towns

Even-numbered Fall Elections:

- Avondale
- Chandler
- El Mirage
- Glendale
- Gilbert
- Mesa
- Peoria
- Scottsdale
- Wickenburg
- Youngtown

Odd-numbered Fall Elections or Even-numbered Spring Elections:

These are the municipalities that would be impacted by HR 2826 because it would change when they are currently holding their elections:

- Apache Junction
- Buckeye
- Carefree
- Cave Creek
- Fountain Hills
- Gila Bend
- Goodyear*
- Guadalupe
- Litchfield Park
- Paradise Valley
- Phoenix*
- Queen Creek
- Surprise
- Tempe*
- Tolleson

*chartered

Review of the Law

“and only in even-numbered years”

E. Beginning with elections held in 2014 and later and notwithstanding any other law or any charter or ordinance to the contrary, a candidate election held for or on behalf of any political subdivision of this state other than a special election to fill a vacancy or a recall election may only be held on the following dates and only in even-numbered years:

1. The tenth Tuesday before the first Tuesday after the first Monday in November. If the political subdivision holds a primary or first election and a general or runoff election is either required or optional for that political subdivision, the first election shall be held on this date, without regard to whether the political subdivision designates the election a primary election, a first election, a preliminary election or any other descriptive term.
2. The first Tuesday after the first Monday in November. If the political subdivision holds a general election or a runoff election, the second election held shall be held on this date. If the political subdivision holds only a single election and no preliminary or primary or other election is ever held for the purpose of reducing the number of candidates, or receiving a partisan nomination or designation or for any other purpose for that political subdivision, the single election shall be held on this date.

Non-candidate elections still on standard four dates of any given year:

F. Beginning with elections held in 2014 and later that are not candidate elections, an election held for or on behalf of any political subdivision of this state, and including a special election to fill a vacancy or a recall election, may only be held on the following dates:

1. The second Tuesday in March.
2. The third Tuesday in May.
3. The tenth Tuesday before the first Tuesday after the first Monday in November.
4. The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.

G. Notwithstanding any other law, for an election administered by a county recorder or other officer in charge of elections on behalf of a city, town or school district and that is an all mail ballot election for that city, town or school district, the county recorder or other officer in charge of elections may use a unified ballot format that combines all of the issues applicable to the voters in the city, town or school district requesting the all mail ballot election.

Previous Discussion

- Last year, when the bill was going through the State Legislature, we discussed the language of the bill and speculated on potential impacts.
- Remember that initially the bill was to include all propositions/referendums/questions as well as the candidates.
- This was later modified to just candidates as the requirement.

E. BEGINNING WITH ELECTIONS HELD IN 2014 AND LATER AND NOTWITHSTANDING ANY OTHER LAW OR ANY CHARTER OR ORDINANCE TO THE CONTRARY, AN ELECTION HELD FOR OR ON BEHALF OF ANY POLITICAL SUBDIVISION OF THIS STATE OTHER THAN A SPECIAL ELECTION MAY ONLY BE HELD ON THE FOLLOWING DATES AND ONLY IN EVEN-NUMBERED YEARS:

1. THE TENTH TUESDAY BEFORE THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER. IF THE POLITICAL SUBDIVISION HOLDS A PRIMARY OR FIRST ELECTION AND A GENERAL OR RUNOFF ELECTION IS EITHER REQUIRED OR OPTIONAL FOR THAT POLITICAL SUBDIVISION, THE FIRST ELECTION SHALL BE HELD ON THIS DATE, WITHOUT REGARD TO WHETHER THE POLITICAL SUBDIVISION DESIGNATES THE ELECTION A PRIMARY ELECTION, A FIRST ELECTION, A PRELIMINARY ELECTION OR ANY OTHER DESCRIPTIVE TERM.

2. THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER. IF THE POLITICAL SUBDIVISION HOLDS A GENERAL ELECTION OR A RUNOFF ELECTION, THE SECOND ELECTION HELD SHALL BE HELD ON THIS DATE. IF THE POLITICAL SUBDIVISION HOLDS ONLY A SINGLE ELECTION AND NO PRELIMINARY OR PRIMARY OR OTHER ELECTION IS EVER HELD FOR THE PURPOSE OF REDUCING THE NUMBER OF CANDIDATES, OR RECEIVING A PARTISAN NOMINATION OR DESIGNATION OR FOR ANY OTHER PURPOSE FOR THAT POLITICAL SUBDIVISION, THE SINGLE ELECTION SHALL BE HELD ON THIS DATE. ANY BALLOT MEASURE, BALLOT QUESTION, BOND ELECTION OR ANY OTHER ISSUE TO BE VOTED ON BY THE ELECTORATE OF A POLITICAL SUBDIVISION AND THAT IS NOT AN ELECTION ON A CANDIDATE SHALL ALSO BE HELD ON THIS DATE.

F. FOR THE PURPOSES OF THIS SECTION, "POLITICAL SUBDIVISION" MEANS ANY GOVERNMENTAL ENTITY OPERATING UNDER THE AUTHORITY OF THIS STATE AND GOVERNED BY AN ELECTED BODY, INCLUDING A CITY, TOWN, COUNTY, SCHOOL DISTRICT, COMMUNITY COLLEGE DISTRICT OR ANY OTHER DISTRICT ORGANIZED UNDER STATE LAW BUT NOT INCLUDING A SPECIAL TAXING DISTRICT.

Concerns about the impact on the size of the ballot dominated the conversation

Concerns:

- Length of the ballot:
 - Voter access & use
 - Voter “roll-off” issue
 - Military voter impact?
- Quality control:
 - Ballot styles & assuring voters get all correct pages of a multi-paged ballot

Voter Access & Use

- A long ballot will cause voting issues for a large number of voters for a variety of reasons.
 - Voters with limited dexterity
 - Voters with attention deficit disorders
 - Voters with low vision (font size & spacing will be issues)
 - Voters using the audio function on the DREs
 - Language minority & low literacy voters

These types of issues did play out last year in another state that had changed ballot length statutes...

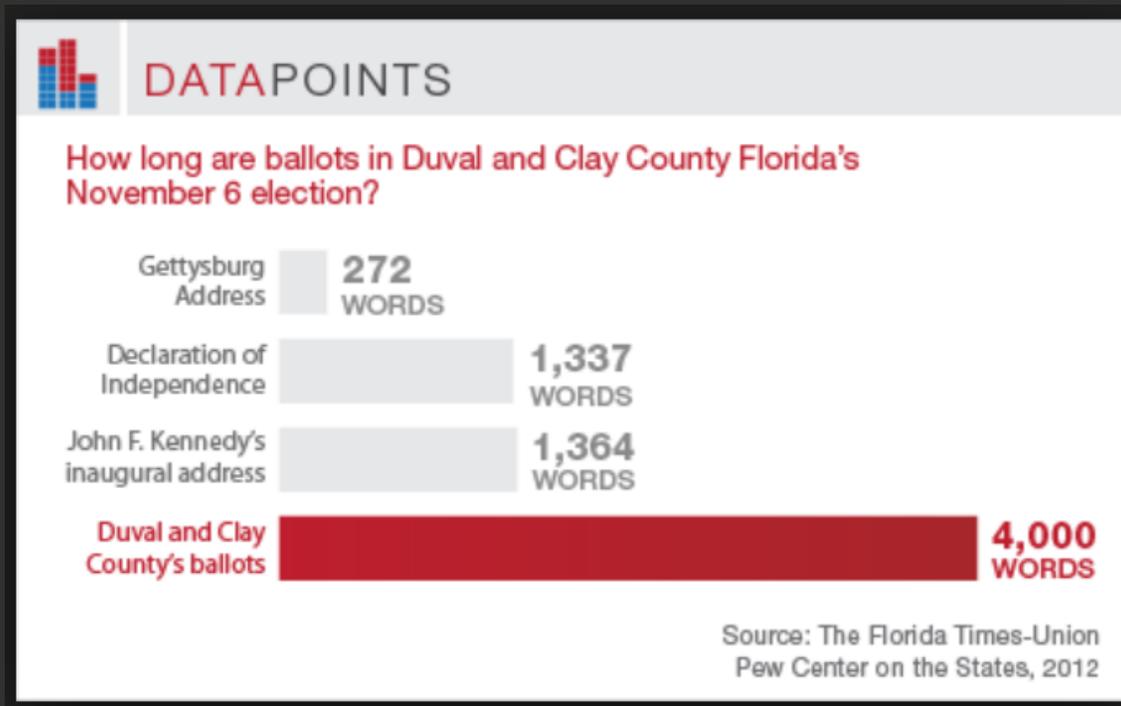
2012 Florida: Lengthy Constitutional Amendments it seems that lengthy ballots are an issue...



In this Nov. 3, 2012, photo, South Floridians stand in line during the last day of early voting in Miami. A judge extended early voting hours in one Florida county Sunday, Nov. 4, after Democrats sued to allow more time in a presidential battleground state where more than 4 million ballots have already been cast.

Alan Diaz/AP Photo

For comparison:



It is important to note that not all states have propositions and/or referendums on their ballots.

Some states have state & federal during the fall of even-numbered years, local & municipal in the fall of the odd-numbered years.

THE SHORT BALLOT

A Movement to Simplify Politics

I believe the Short Ballot is the key to the whole problem of the restoration of popular government in this country."

—WOODROW WILSON

1915

The National Short Ballot Organization
383 FOURTH AVENUE NEW YORK

Ballot Length

- The length of the ballot and its subsequent impact on the actions of the voter has been a contentious issue for almost a hundred years.
- Former President Woodrow Wilson championed the “Short Ballot” organization, indeed he was the President of that organization before becoming President of the United States –while President of Princeton University.

The "SHORT BALLOT" principle is—

First—That only those offices should be elective which are important enough to attract (and deserve) public examination.

Second—That very few offices should be filled by election at one time, so as to permit adequate and unconfused public examination of the candidates, and so as to facilitate the free and intelligent making of original tickets by any voter for himself unaided by political specialists.



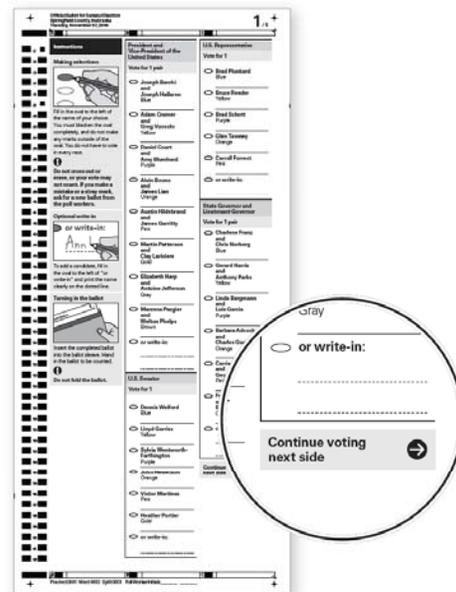
Ballot Usability

- The John D. and Catherine T. MacArthur Foundation & the Election Assistance Commission have contracted with the Civic Design group to produce some usability field guides including effective ballot designs.
- The guides are available online at www.civicdesigning.org



Ballot Usability

- There are suggested usability parameters that can help voters when there are long ballots to navigate.
- One tested improvement is to have the notice to turn ballot over on the final column:



Continue voting next side instruction is placed at the end of the last column on the page.

No. 05 Support process and navigation.

Put instructions where they are needed. Use page (or screen) numbering to show progress.

For electronic ballots, let voters change language or display options, with instructions available at any time.

Post easy-to-see instructions for both voting and moving around the polling place.

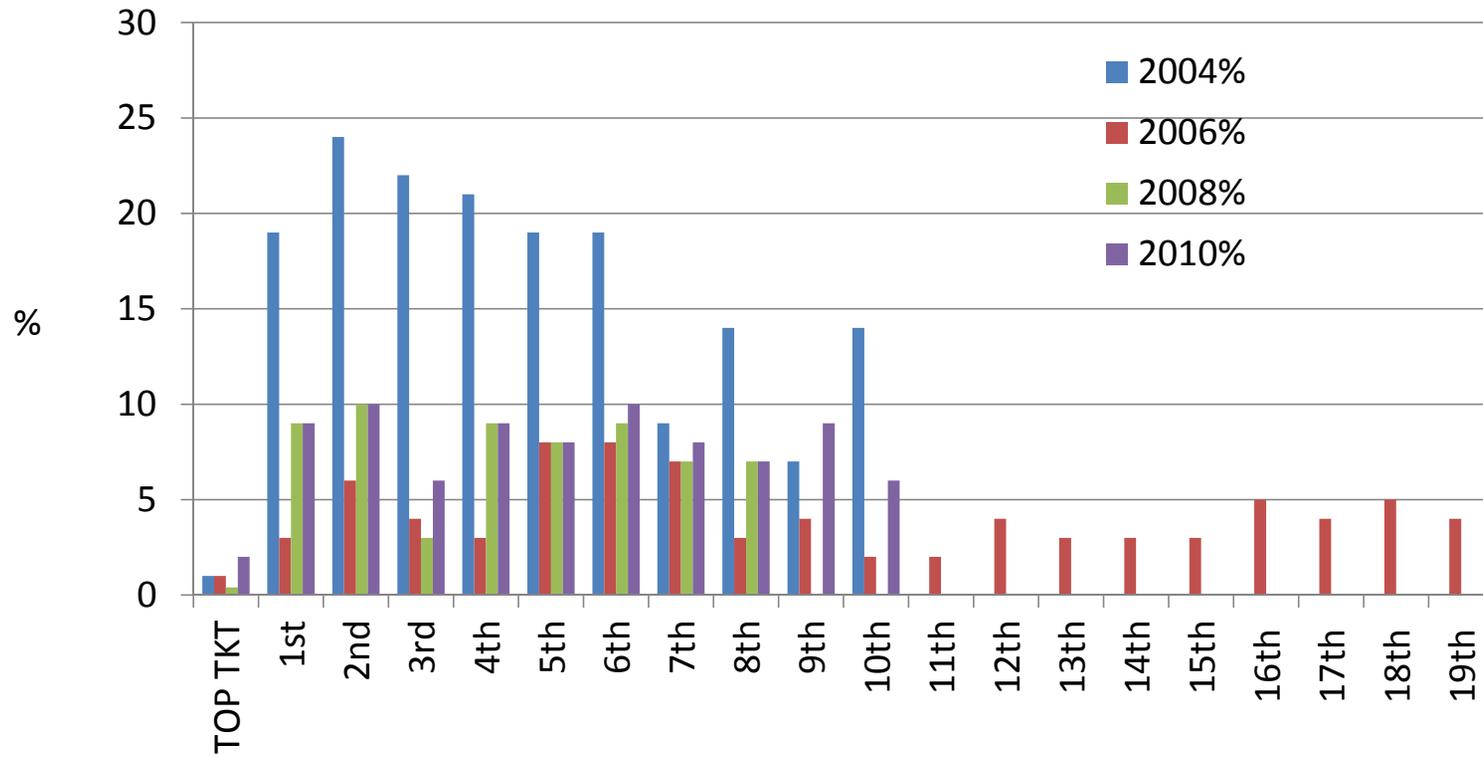
Analysis

- Last year we looked at voter roll-off/fatigue as a possible issue.
- In addition to reviewing how it impacts all voters, we used that standard to determine if lengthy ballots appear to disproportionately impact language minority voters in high-Hispanic surname precincts and Native American precincts.
- I've included that analysis here in full:

of Propositions on Ballot

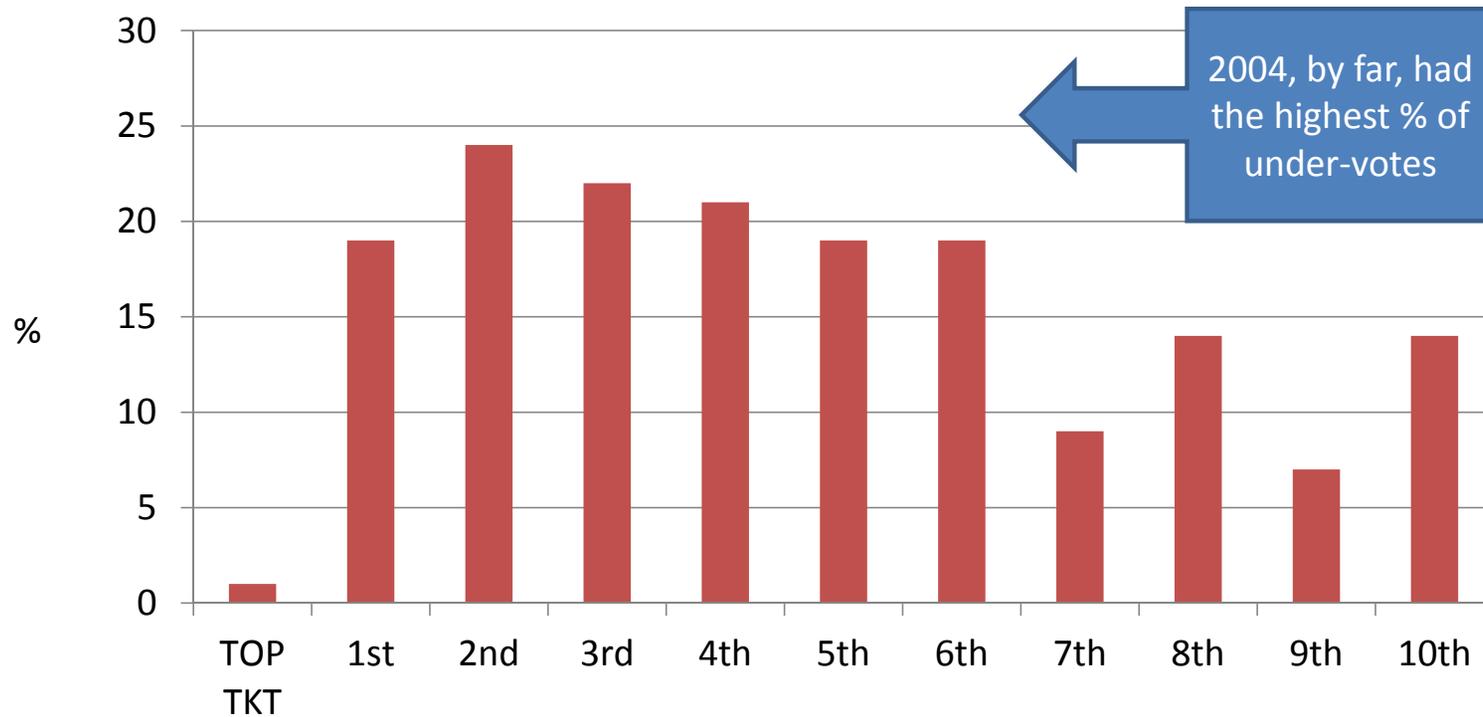
- 2004: 10
 - 2006: 19
 - 2008: 8
 - 2010: 10
-
- In order to compare, each year has the top ticket race listed and then each proposition in the order it occurred at the end of the ballot.

Under Vote Summary



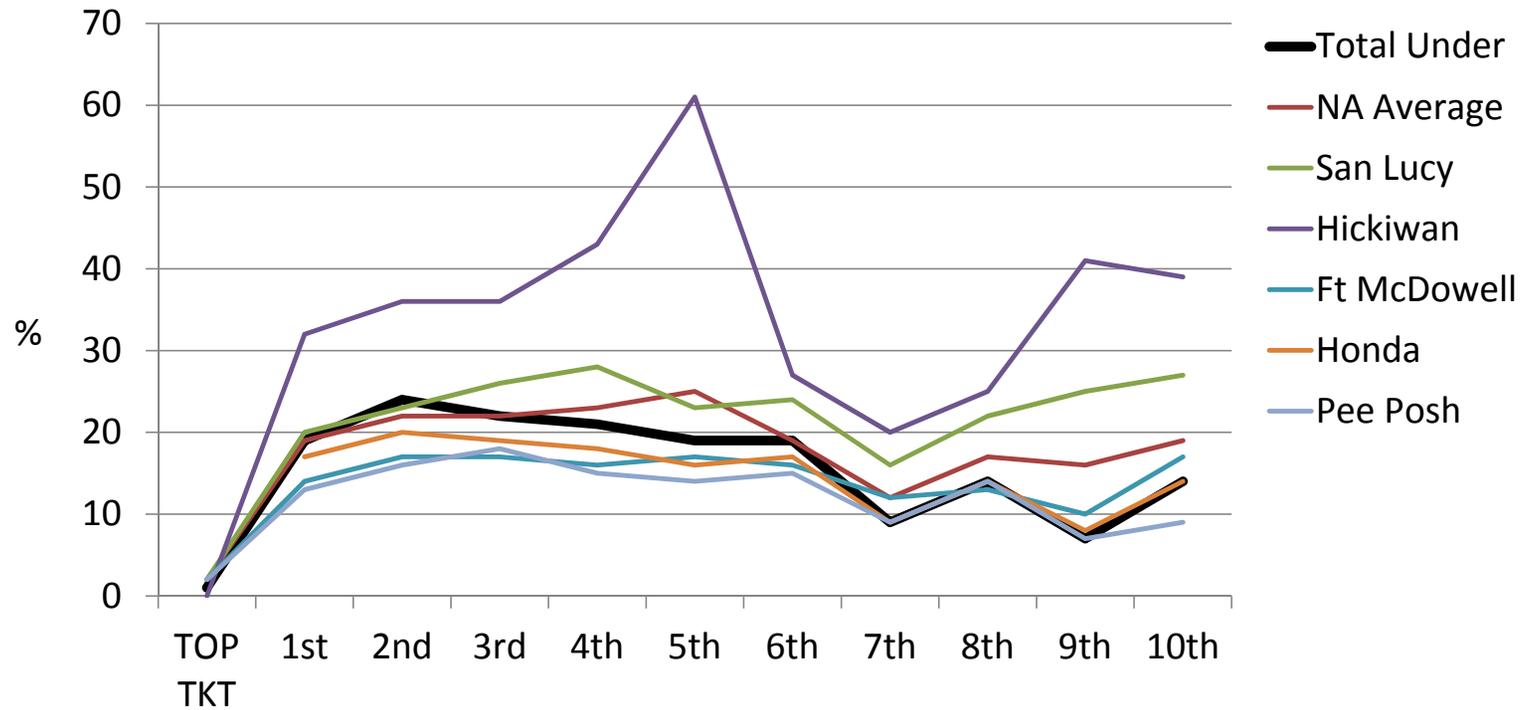
Top Race & Propositions at the Bottom of Ballot By Position

2004 Under Vote Summary



Top Race & Propositions at the Bottom of Ballot By Position

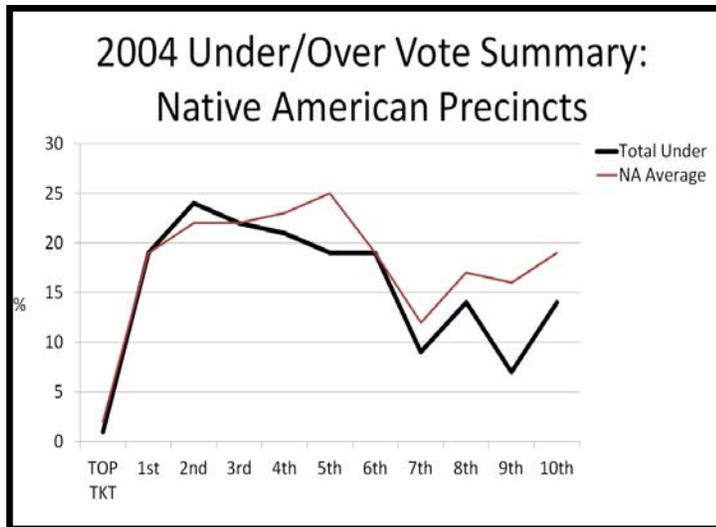
2004 Under/Over Vote Summary: Native American Precincts



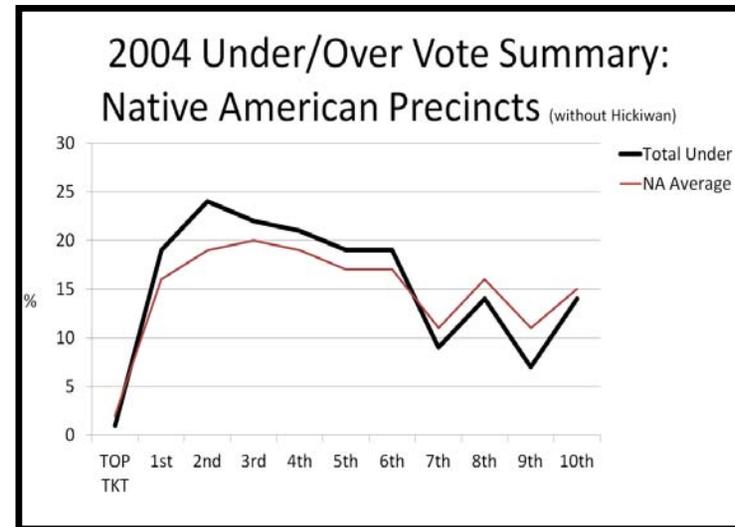
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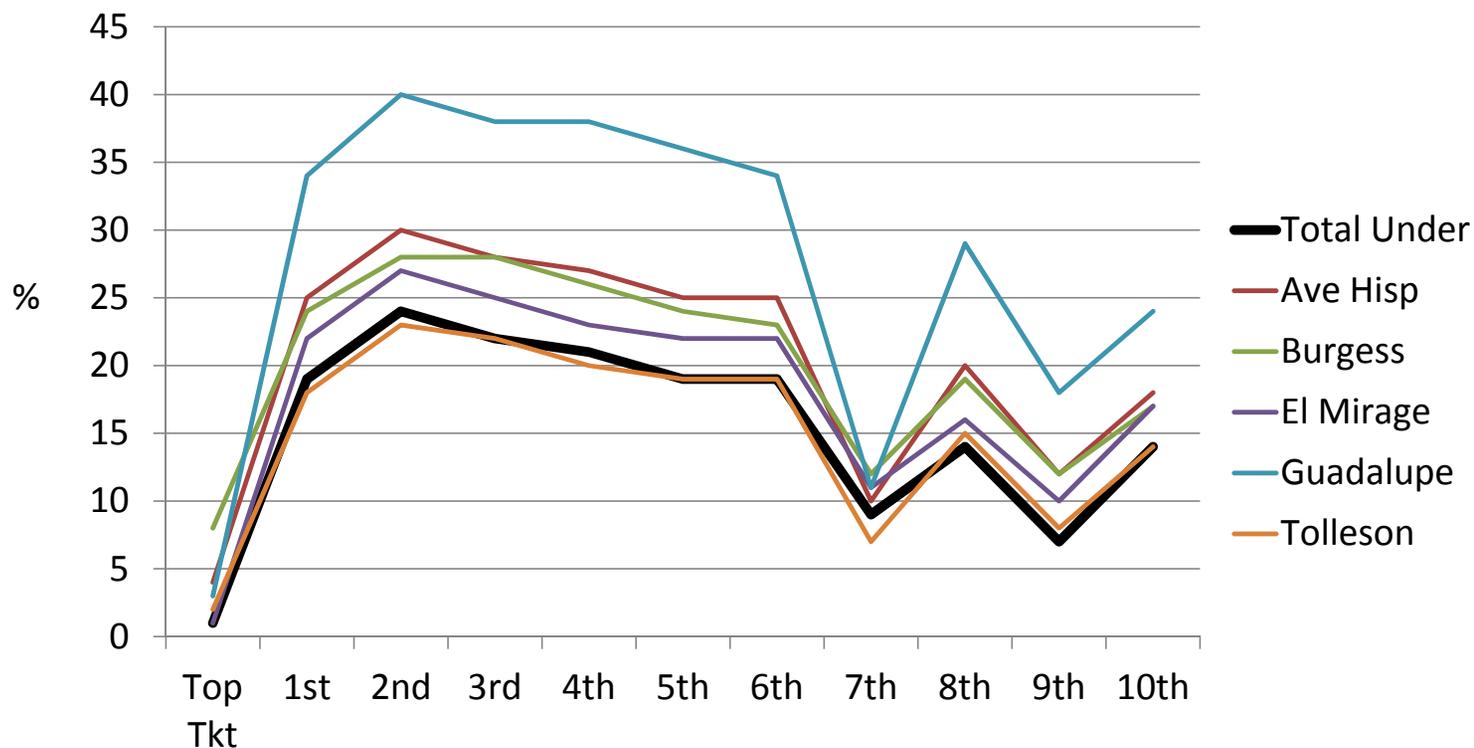
Full List



Without Hickiwan

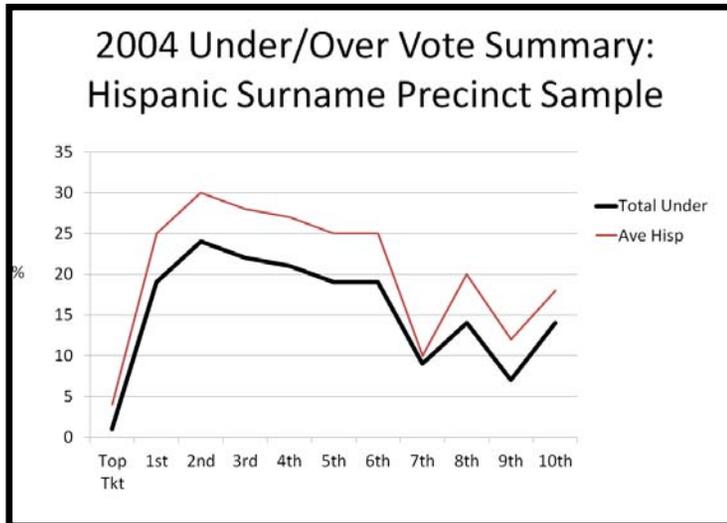


2004 Under/Over Vote Summary: Hispanic Surname Precinct Sample

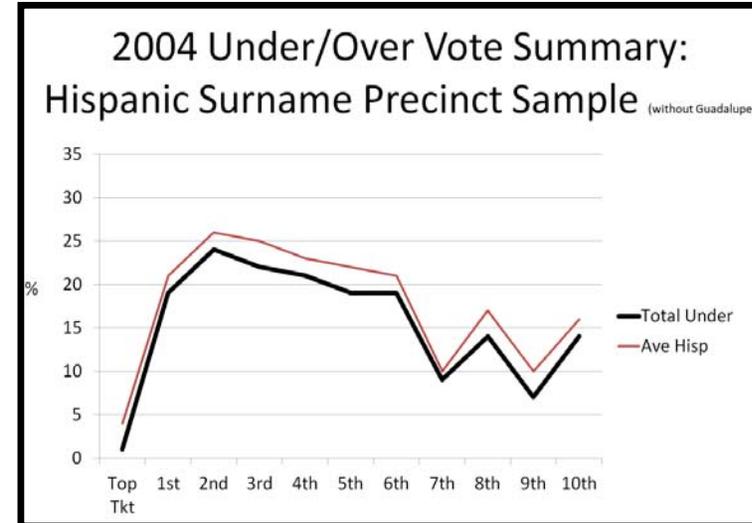


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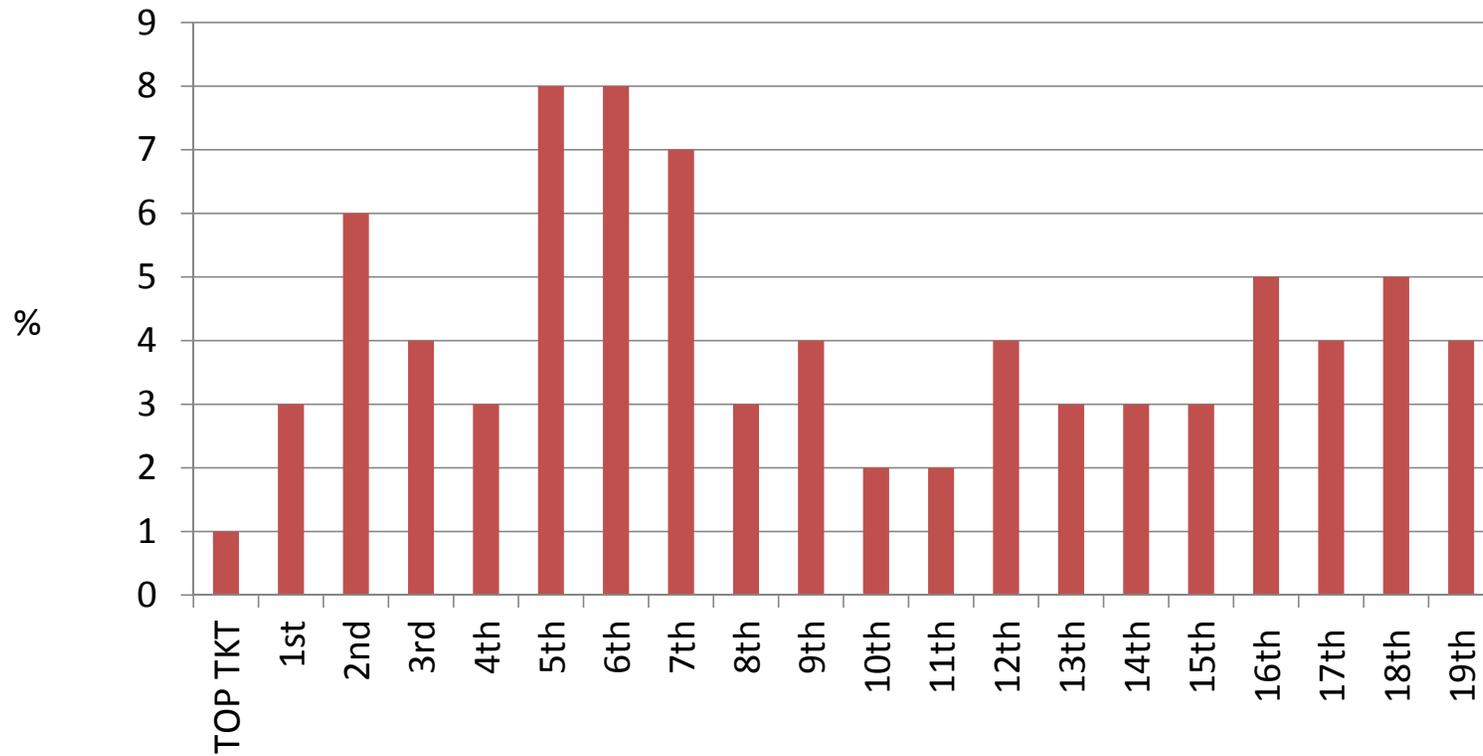
Full List



Without Guadalupe

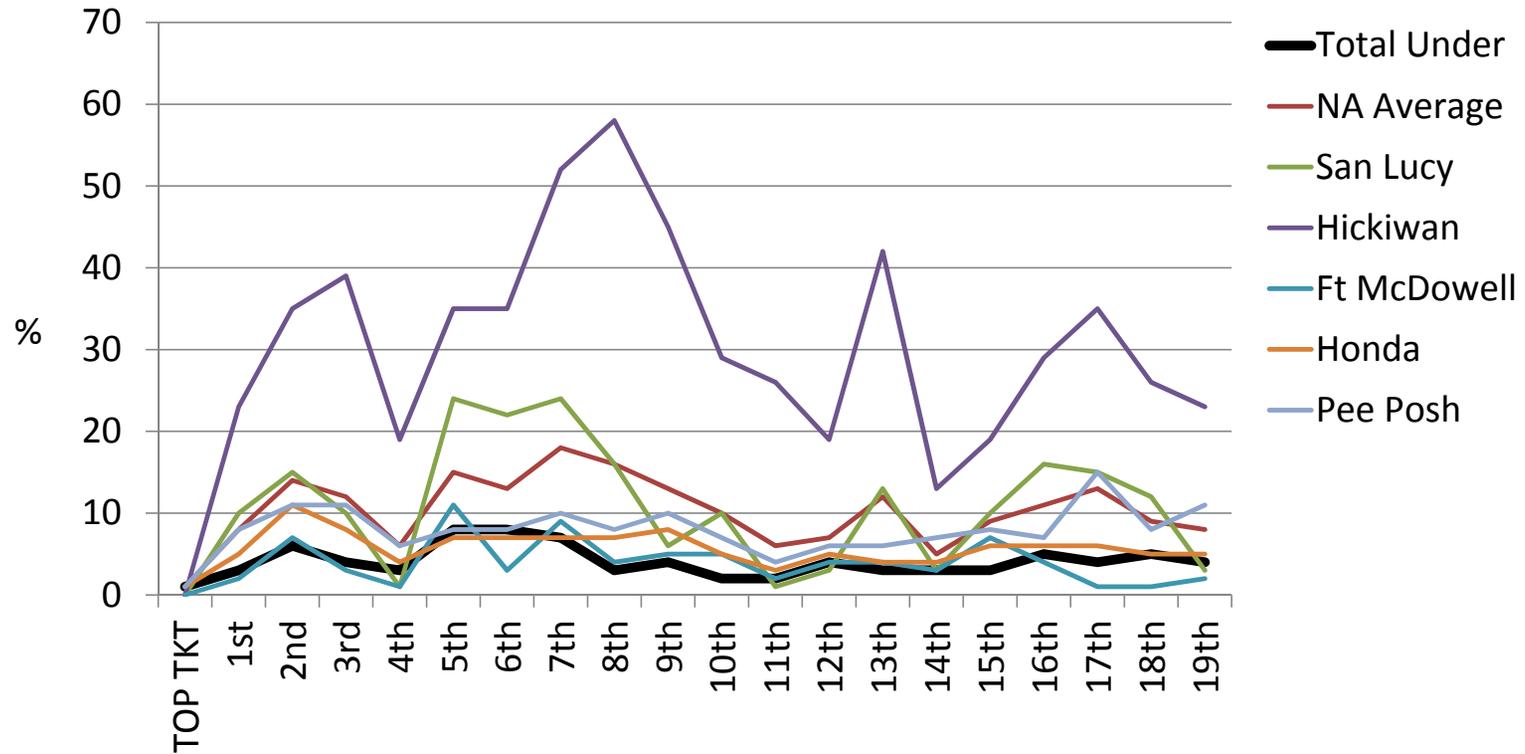


2006 Under Vote Summary



Top Race & Propositions at the Bottom of Ballot By Position

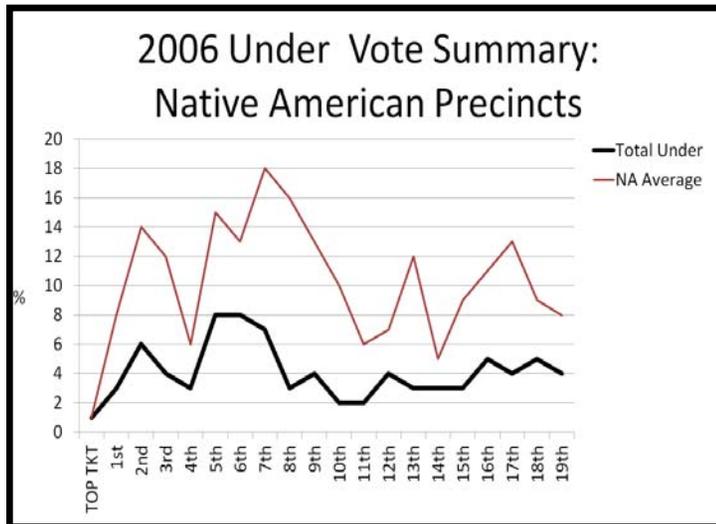
2006 Under Vote Summary: Native American Precincts



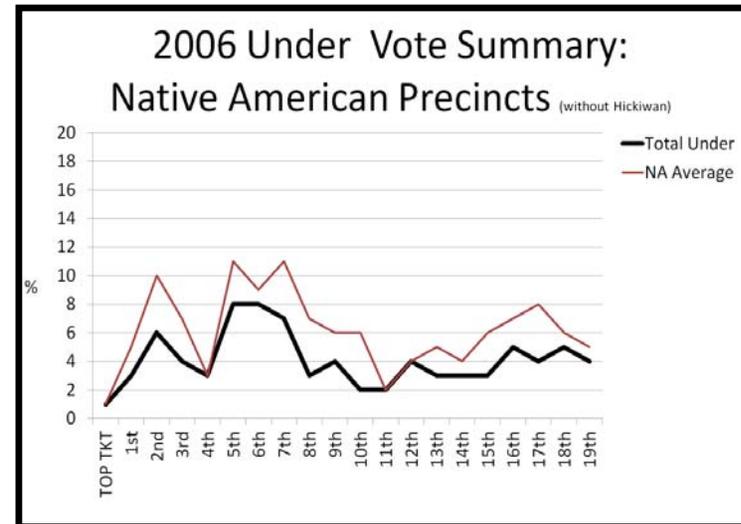
Top Race & Propositions at the Bottom of Ballot By Position

2006 Under Vote Summary: Native American Precincts

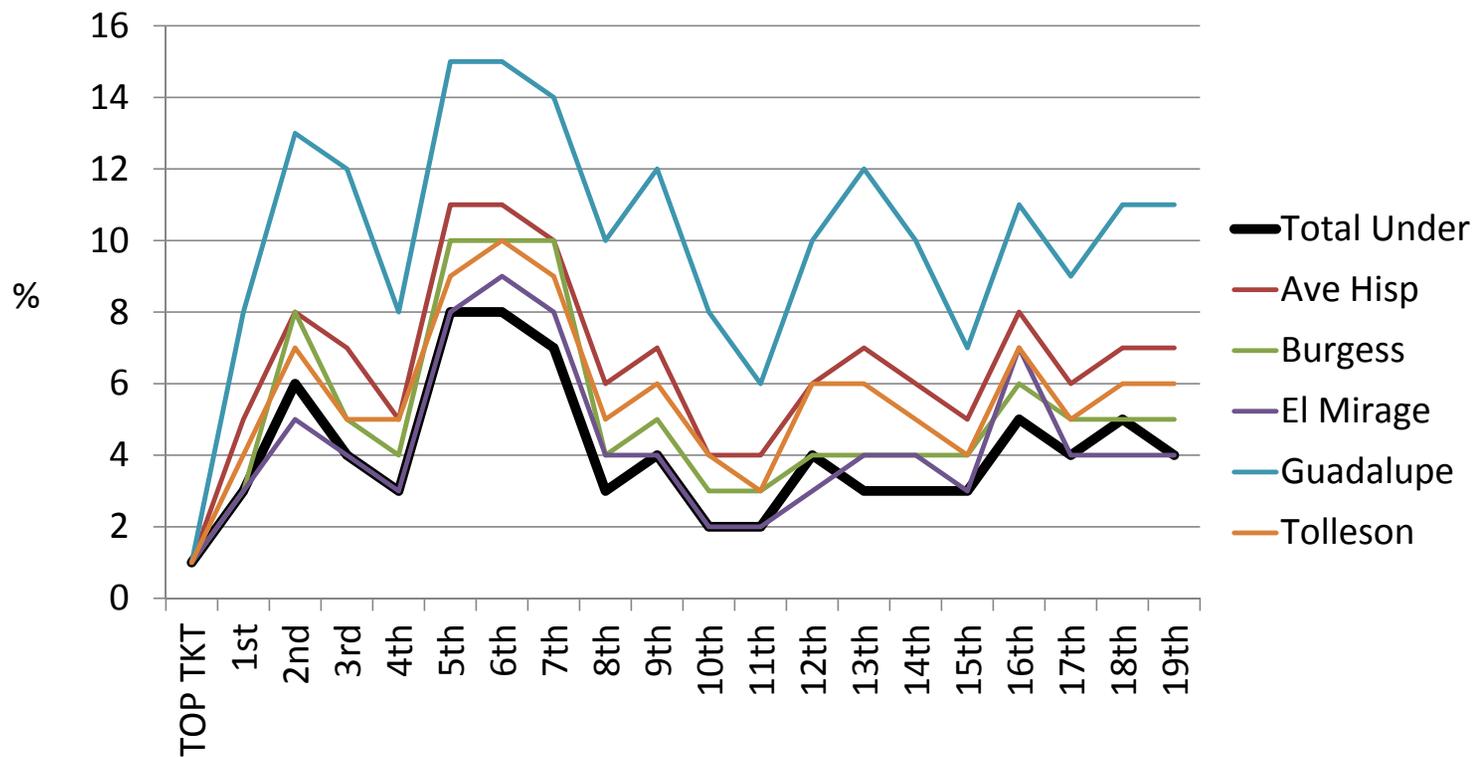
Full List



Without Hickiwan



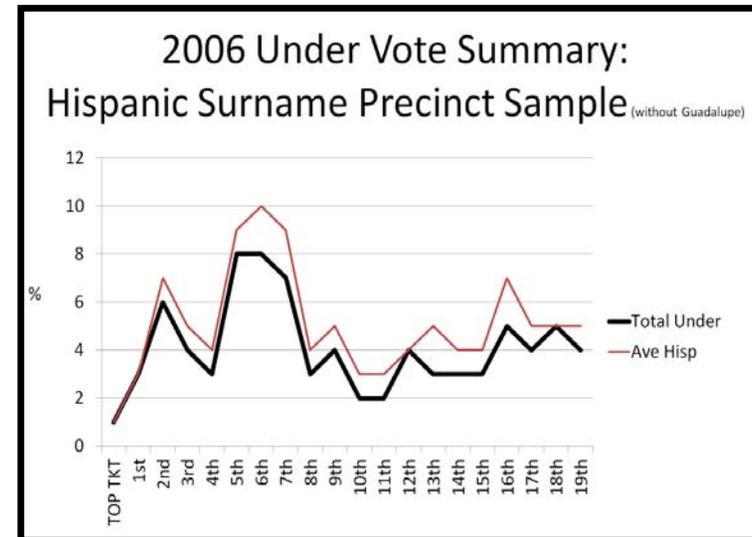
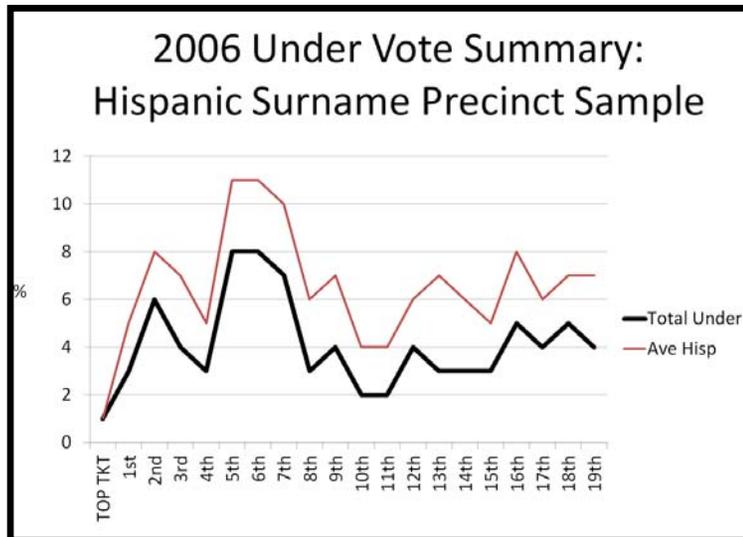
2006 Under Vote Summary: Hispanic Surname Precinct Sample



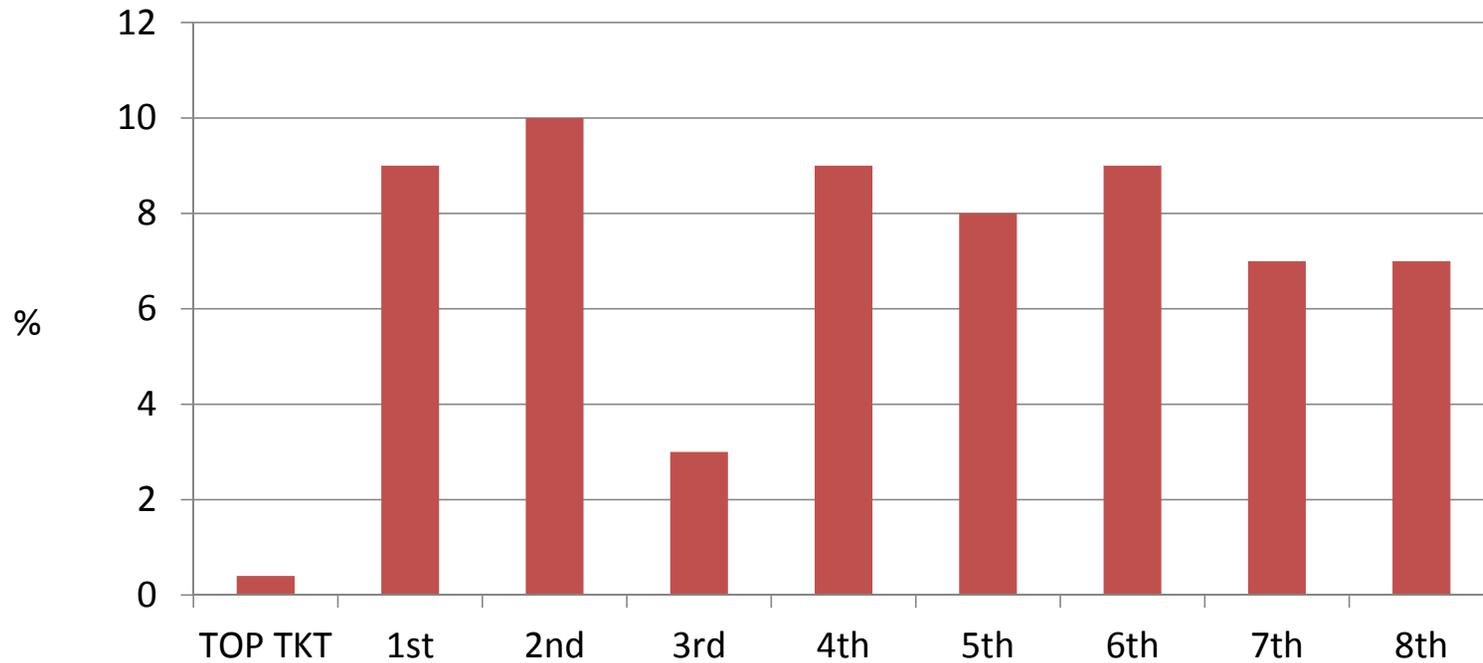
2006 Under Vote Summary: Hispanic Surname Precinct Sample

Full List

Without Guadalupe

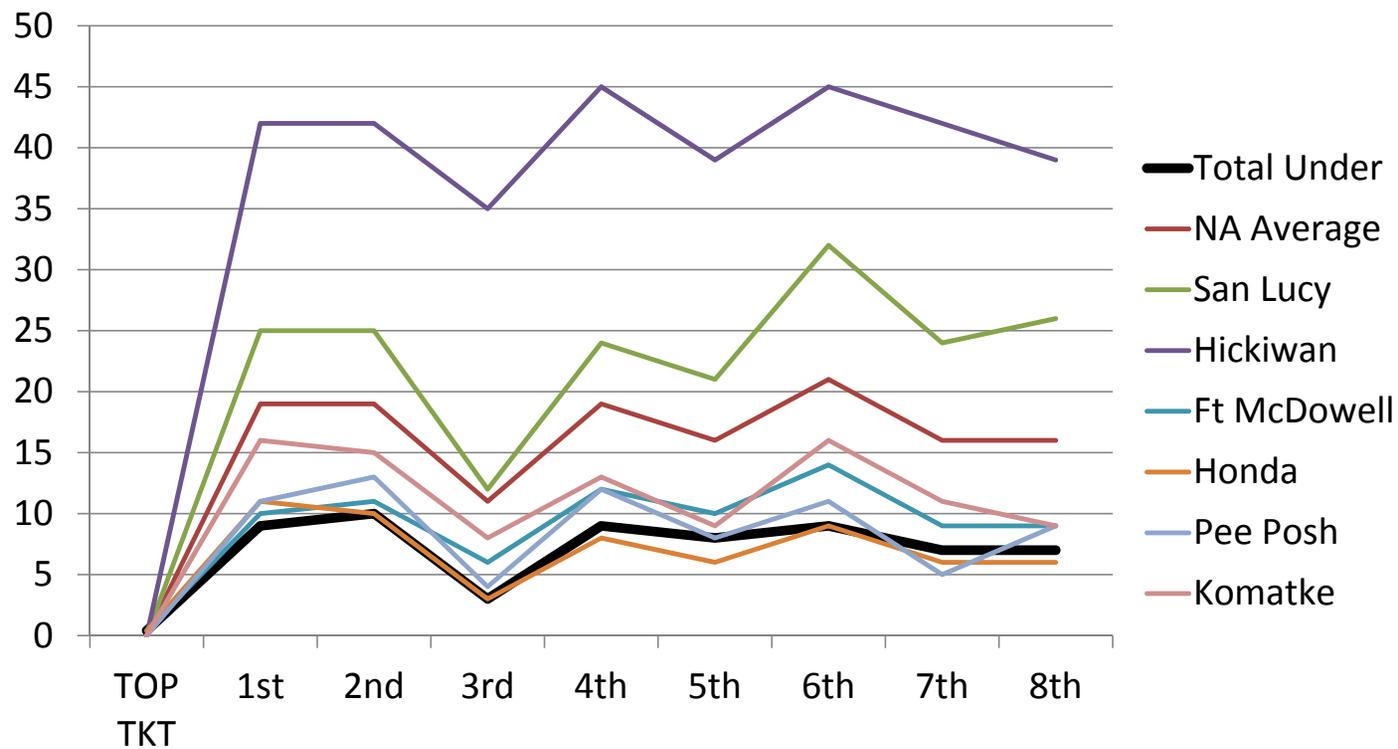


2008 Under Vote Summary



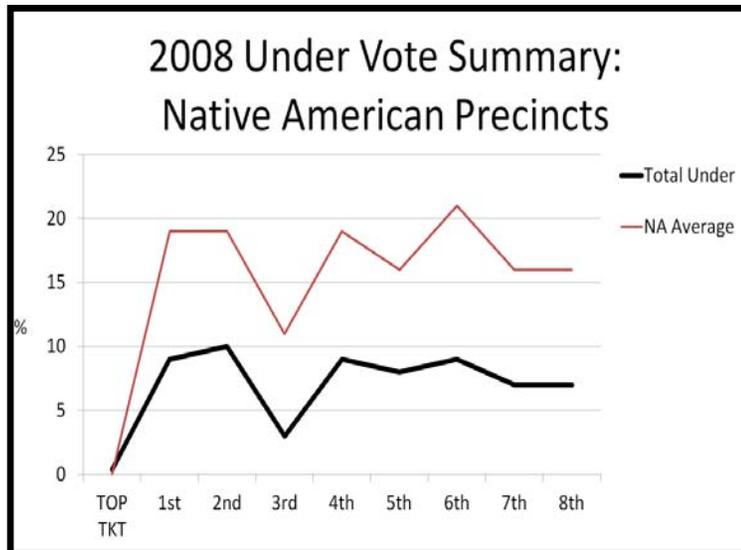
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2008 Under Vote Summary: Native American Precincts

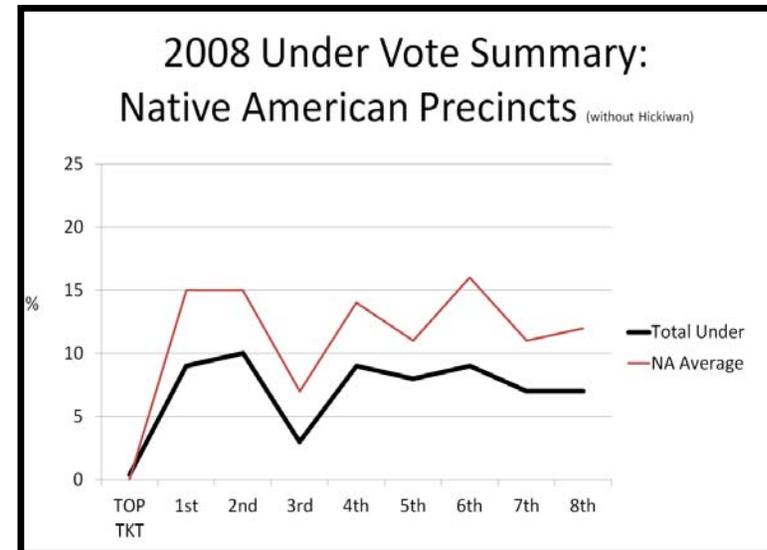


2008 Under Vote Summary: Native American Precincts

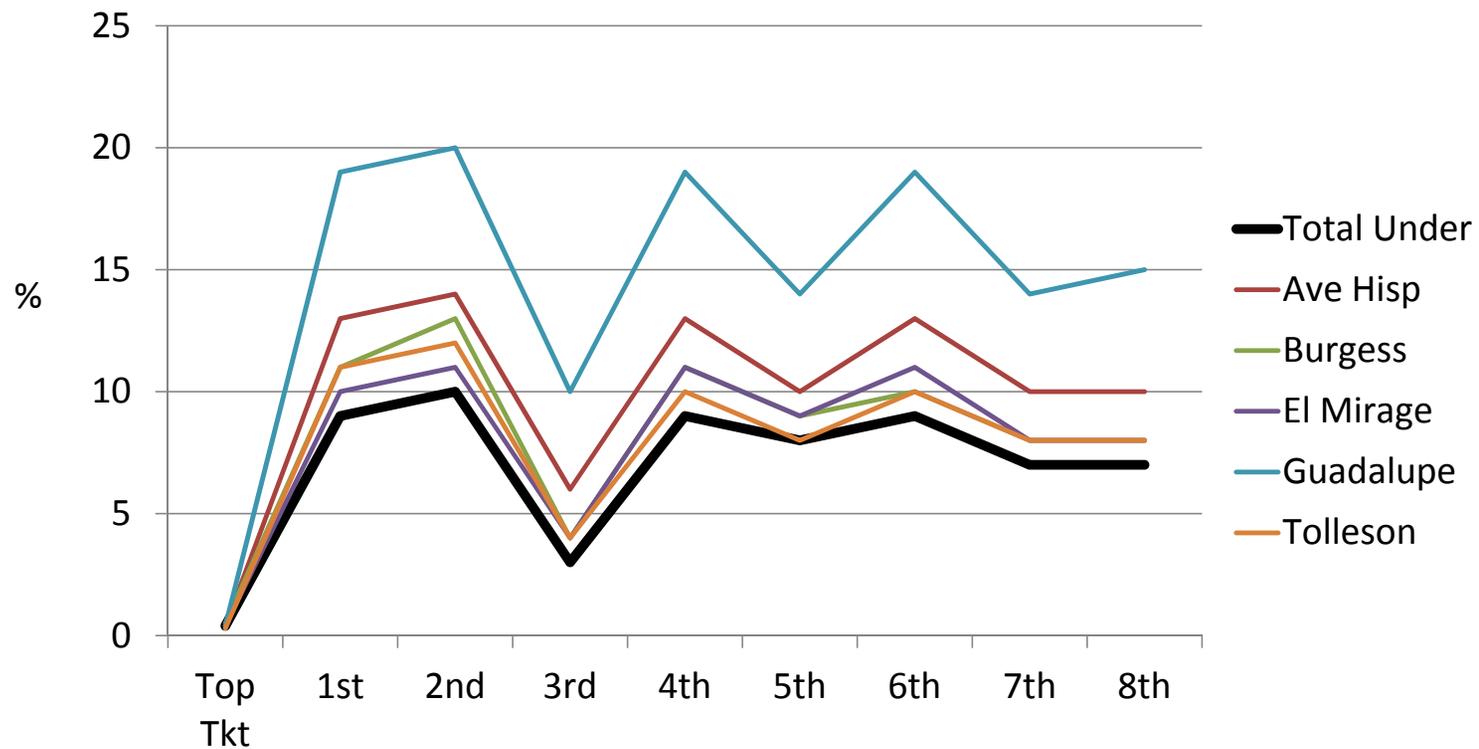
Full List



Without Hickiwan

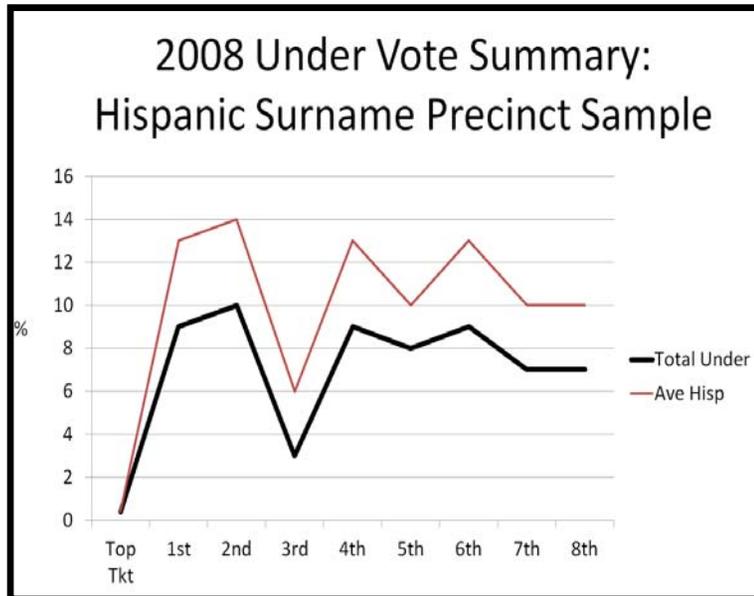


2008 Under Vote Summary: Hispanic Surname Precinct Sample

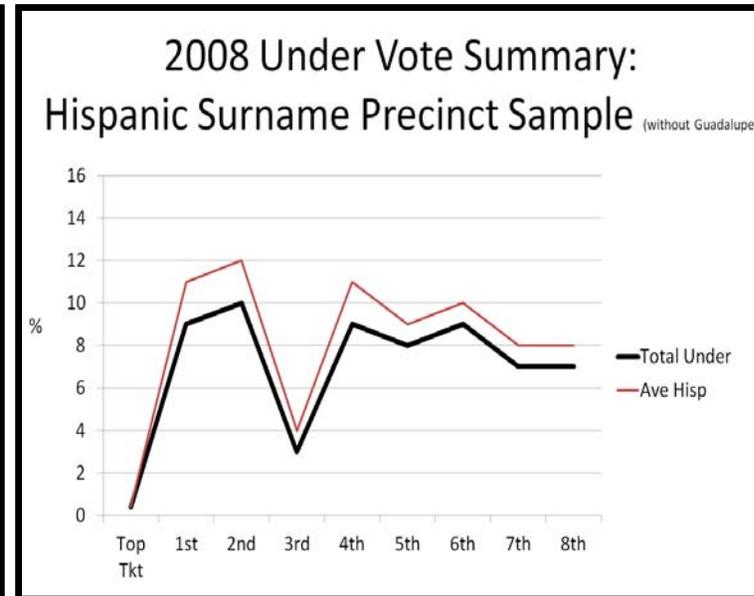


2008 Under Vote Summary: Hispanic Surname Precinct Sample

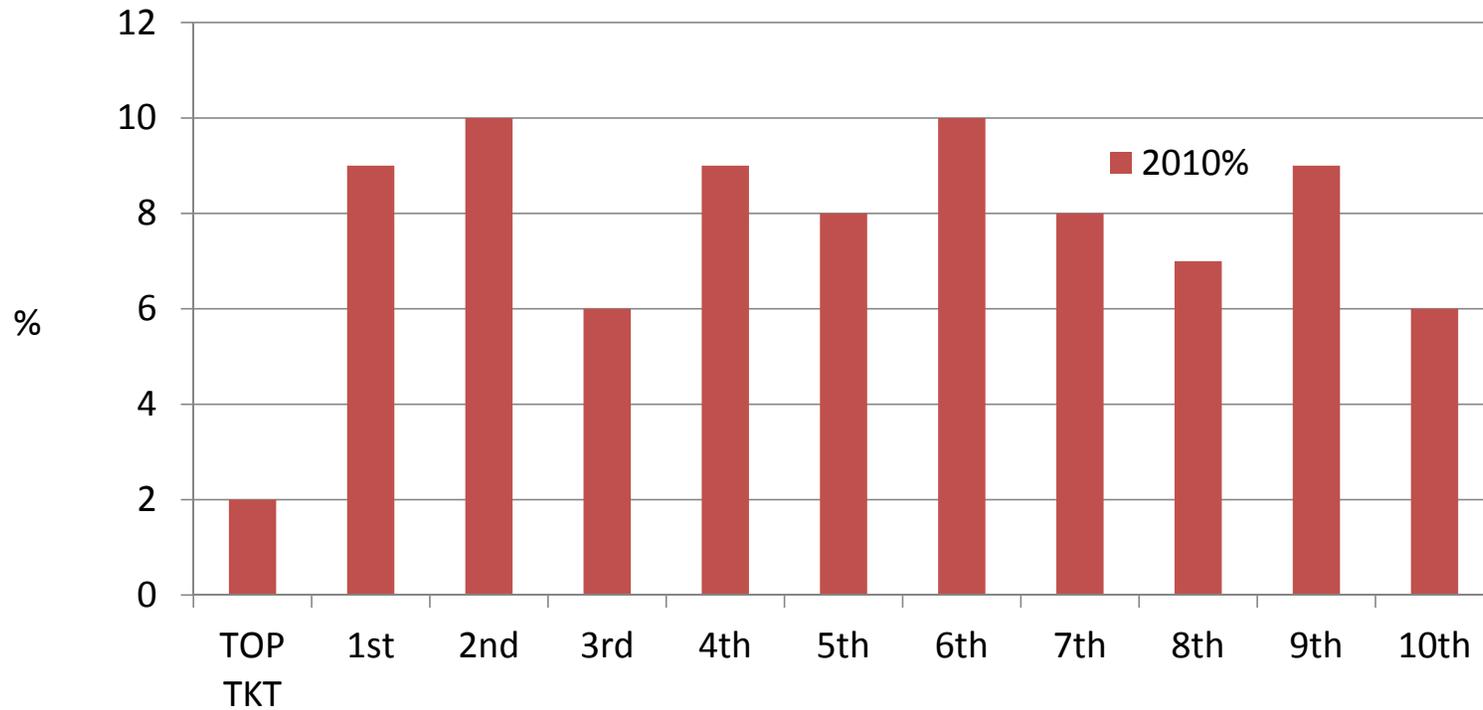
Full List



Without Guadalupe

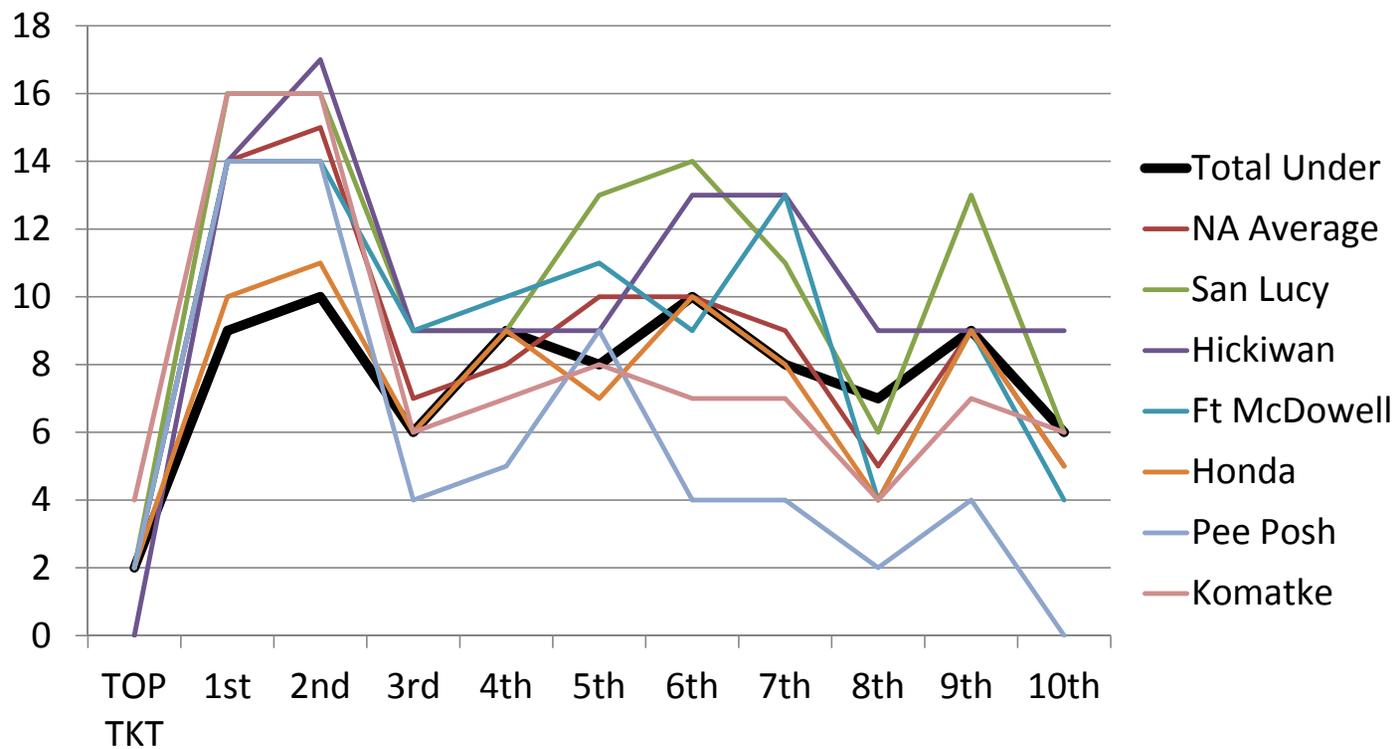


2010 Under Vote Summary



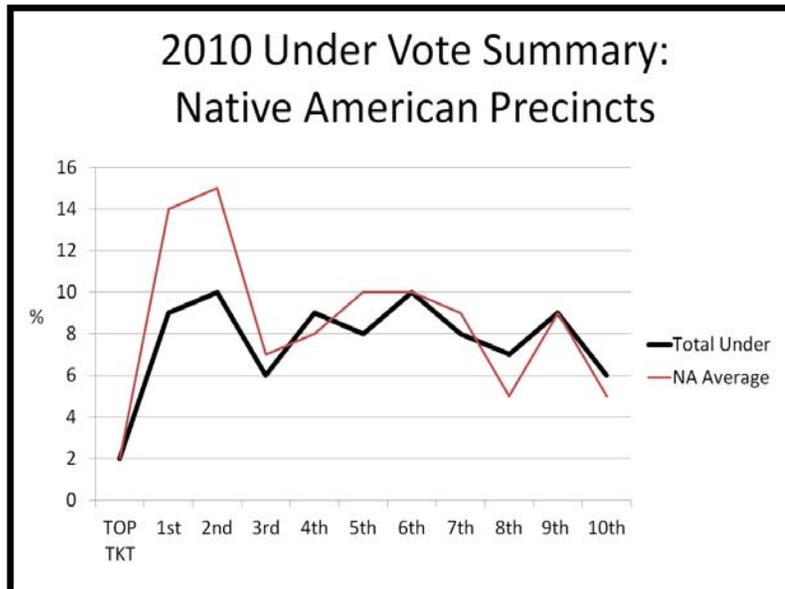
Top Race & Propositions at the Bottom of Ballot By Position

2010 Under Vote Summary: Native American Precincts

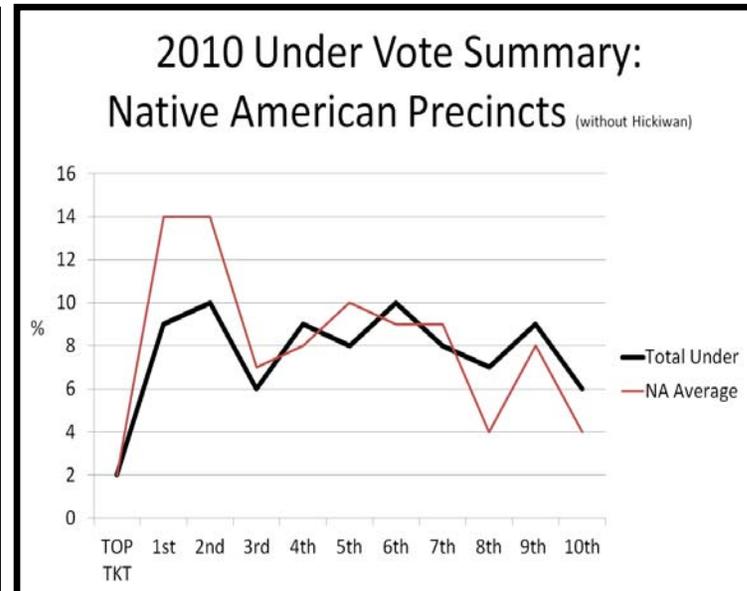


2010 Under Vote Summary: Native American Precincts

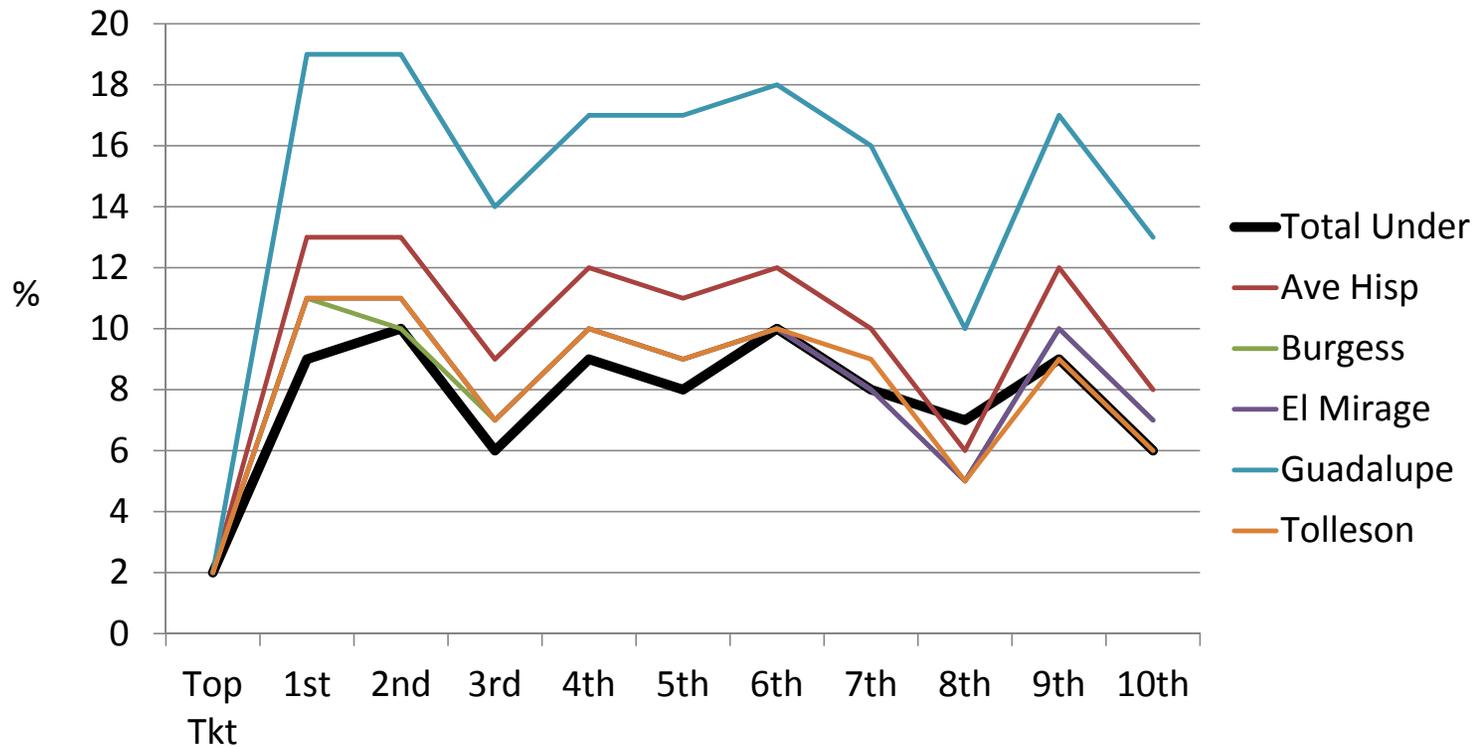
Full List



Without Hickiwan

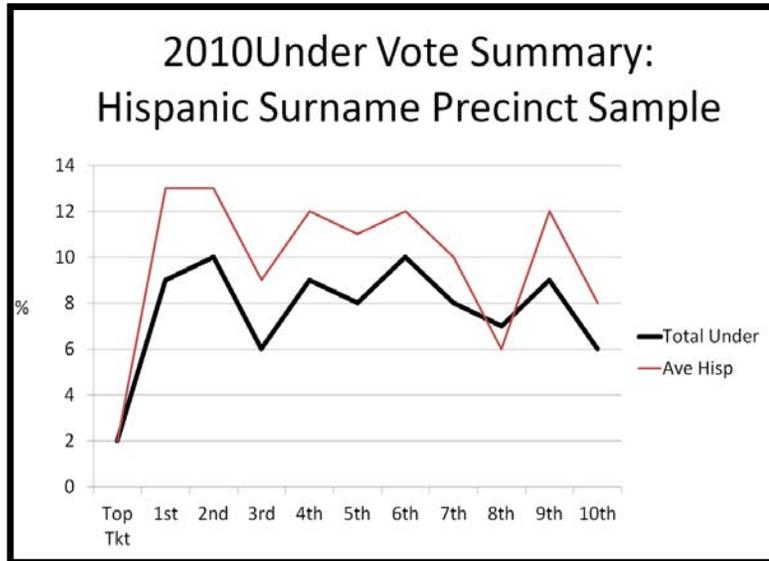


2010 Under Vote Summary: Hispanic Surname Precinct Sample

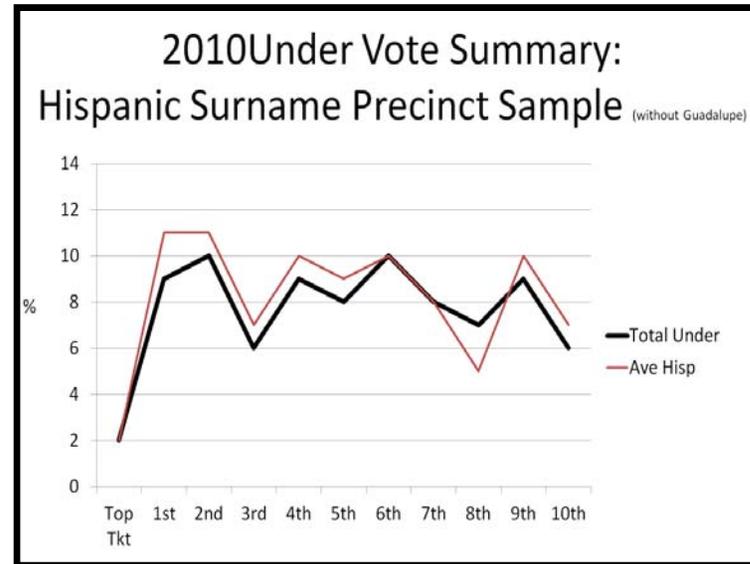


2010Under Vote Summary: Hispanic Surname Precinct Sample

Full List

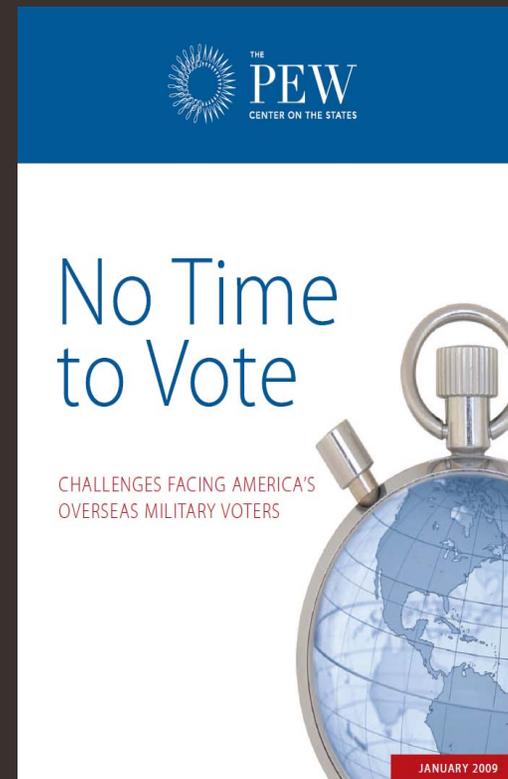


Without Guadalupe



Impact on Military & Overseas Voters?

- This legislation could have additional impacts on UOCAVA voters.
- Although the MOVE Act requires ballots to be sent 45 days prior (rather than 26), if the length is double or triple, will voters have enough time?

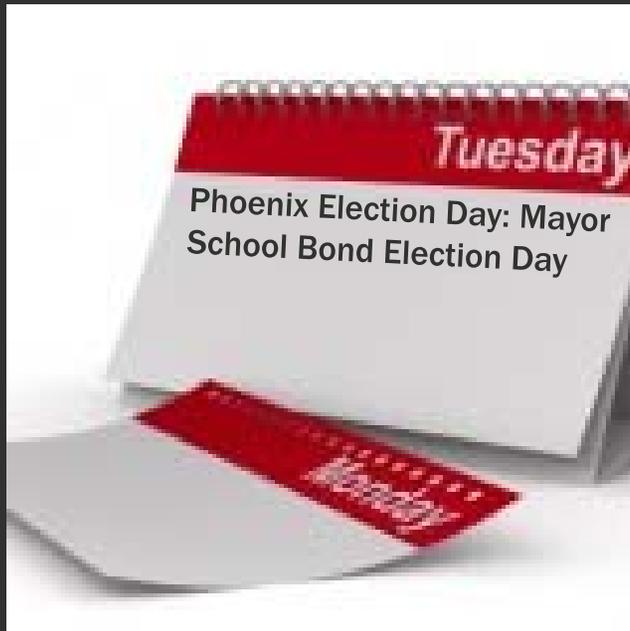


Consolidation vs. Aligned Elections

What's the difference?

Aligned vs. Consolidated Elections

Aligned Election



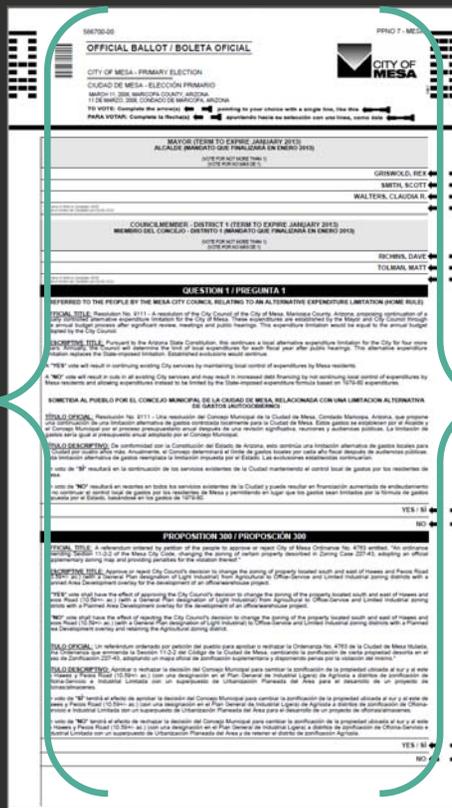
Consolidated Election



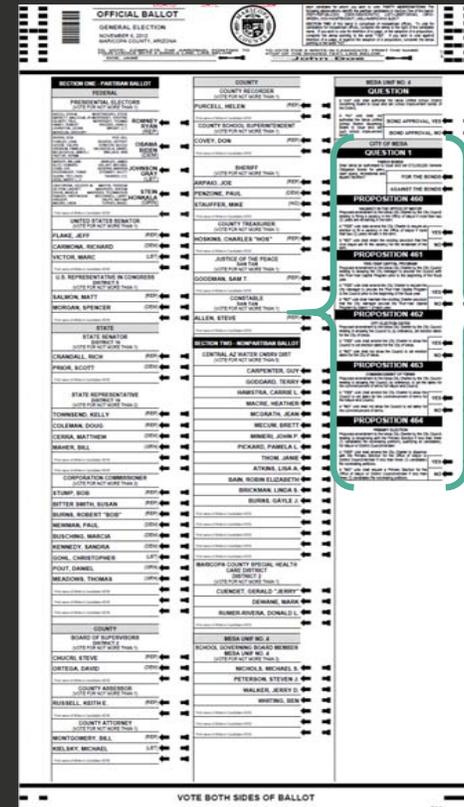
Aligned dates
have more than
one election
being
conducted

Aligned vs. Consolidated Elections

Aligned Election Ballot



Consolidated Election Ballot



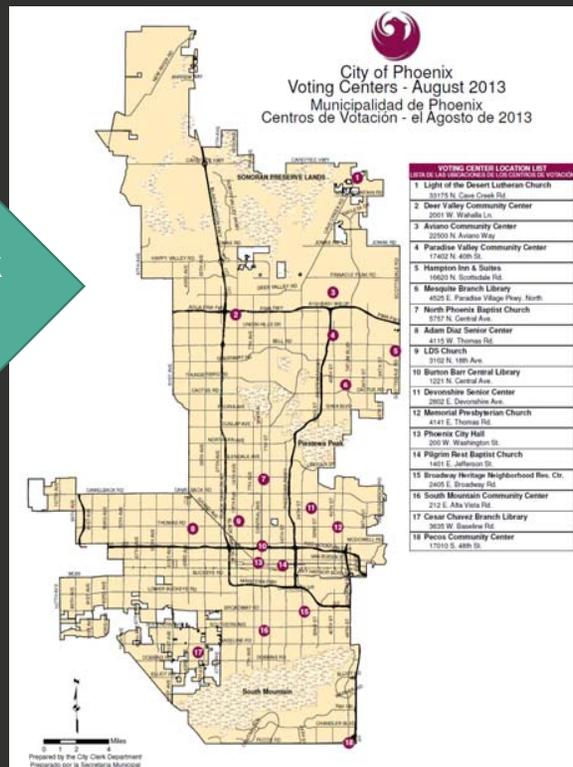
A consolidated ballot has all the jurisdictions and districts' races and questions on a single ballot.

Aligned has just one, but is voted on the same Election Day.

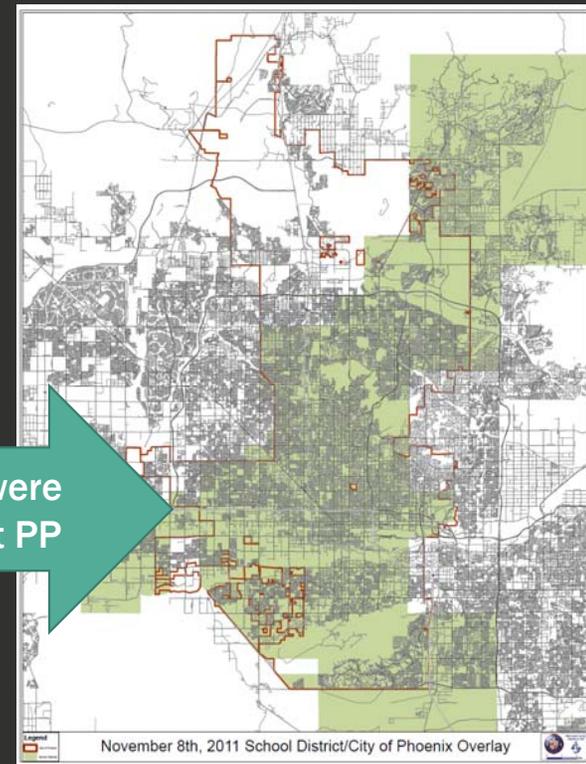
Aligned vs. Consolidated Elections

Aligned Municipal Election Polling Place(s): Same day, but voters potentially go to 2 PPs

City of Phoenix
Vote Centers

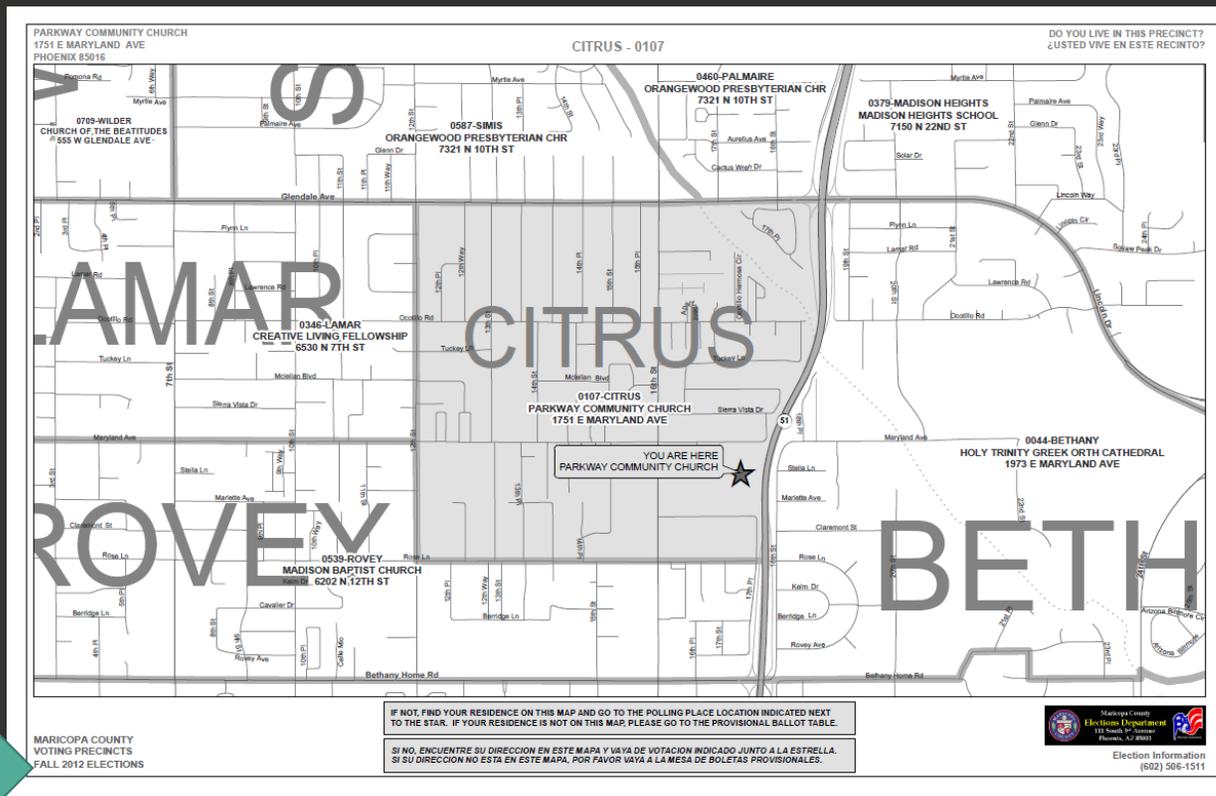


Green were
precinct PP

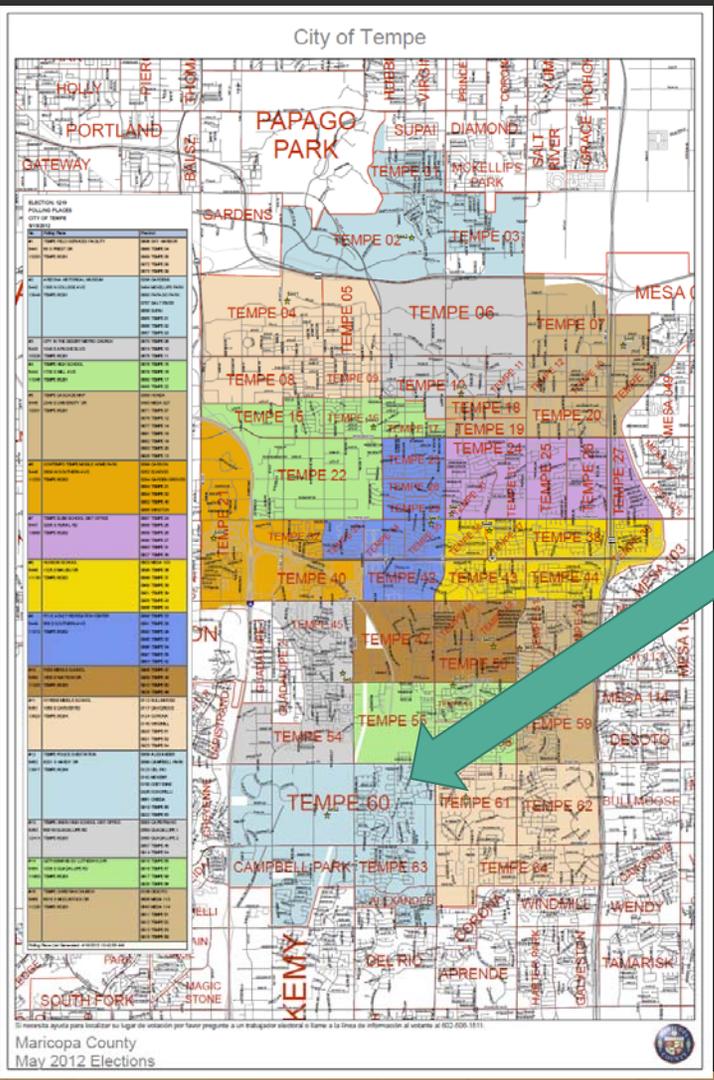


Aligned vs. Consolidated Elections

Consolidated Municipal Election Polling Place(s): Same day, same location, single board, single precinct:



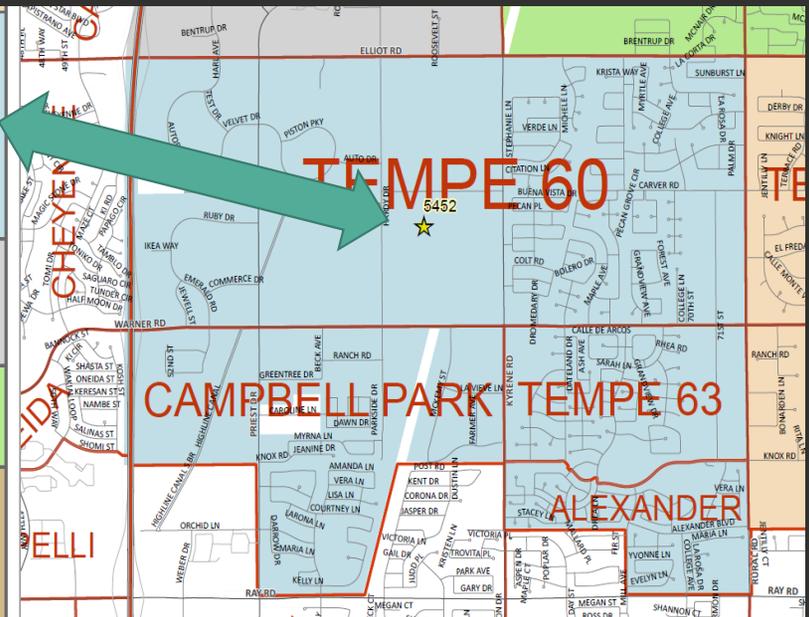
Even-numbered Fall

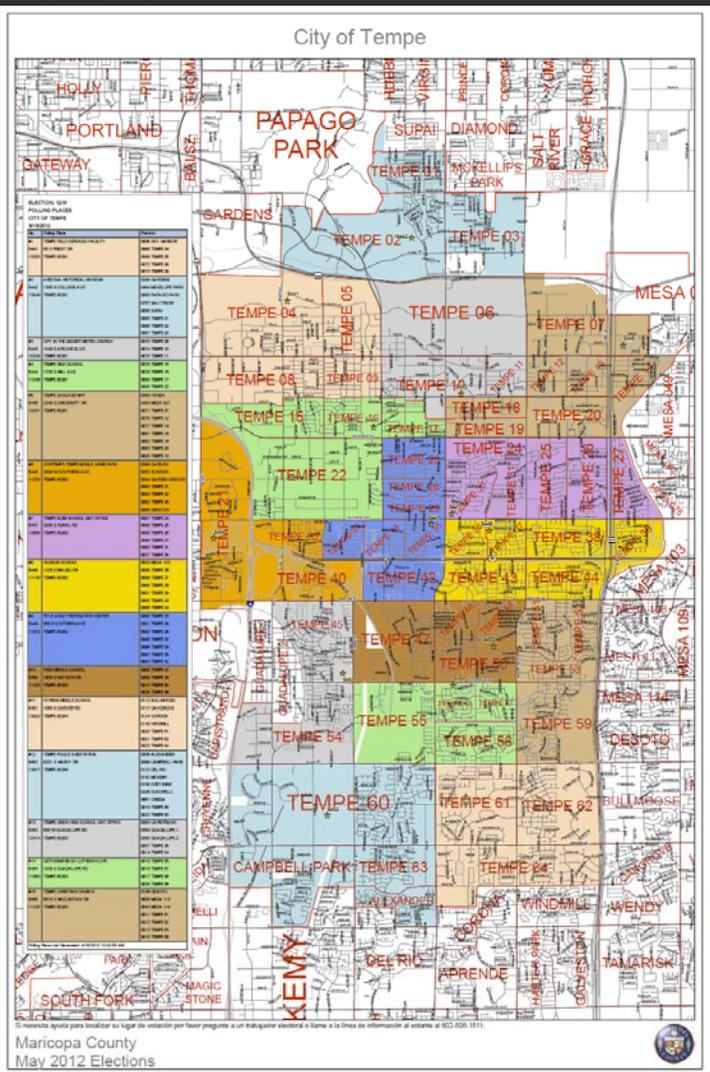


Consolidation

We also talk about consolidation of precincts, not just dates.

#12	TEMPE POLICE SUBSTATION	0009 ALEXANDER
5452	8201 S HARDY DR	0088 CAMPBELL PARK
13917	TEMPE 85284	0123 DEL RIO
		0142 MCKEY
		0150 CHEYENNE
		0426 KOKOPELLI
		0661 ONEIDA
		0919 TEMPE 60
		0922 TEMPE 63
	TEMPE UNION HIGH SCHOOL DIST OFFICE	0093 CAPISTRANO
5453	500 W GUADALUPE RD	0359 GUADALUPE 1
12414	TEMPE 85283	0360 GUADALUPE 2
		0907 TEMPE 45
		0914 TEMPE 54
#14	GETHSEMANE EV LUTHERAN CHR	0915 TEMPE 55
5454	1035 E GUADALUPE RD	0916 TEMPE 57
11883	TEMPE 85283	0917 TEMPE 58
		0925 TEMPE 56
#15	TEMPE CHRISTIAN CHURCH	0109 DESOTO
5455	5815 S MCCLINTOCK DR	0505 MESA 113
11230	TEMPE 85283	0543 MESA 114
		0911 TEMPE 51
		0912 TEMPE 52
		0913 TEMPE 53





Consolidation

This means that voters who had previously been voting in spring elections or those held in the fall of odd-numbered year elections they will no longer have consolidated polling locations.

Because the candidate elections will be held at the same time as the state & federal elections there will be a polling place allocated for every voting precinct.

Litigation

Arizona Consolidation Fight Goes to Court

By Doug Chapin on July 25, 2013

SHARE



[Image courtesy of dalecarnegiewayaz]

Last year, I wrote about a new law in Arizona which would consolidate all elections in even-numbered years as well as the debate in the Phoenix City Council about the impact of such a requirement.

Over a year later, a lawsuit challenging the bill is about to be heard. The Arizona Daily Star has the story:

Tucson and Phoenix will jointly ask Pima County Superior Court Judge James Marner to overturn a state law mandating all elections occur in even-numbered years.

The Legislature passed the bill in 2012 over the vehement opposition of most incorporated cities and towns across the state.

Supporters of the measure say the bill will increase voter turnout and save money since turnout is higher in even-numbered years when national and statewide offices are on the

In the news

- The election world was watching what was going on in Arizona with the consolidation legislation.

ARIZONA SUPERIOR COURT, PIMA COUNTY

8/13/13
13 AUG 13 AM 8:30

HON. JAMES E MARNER

CASE NO. C20126272

BY: R. ST. CLAIR, DEPUTY

DATE: August 12, 2013

CITY OF TUCSON
Plaintiff

VS.

STATE OF ARIZONA, ET AL.
Defendant(s)

RULING

IN CHAMBERS UNDER ADVISEMENT RULING

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On July 25–26, 2013, the Court held an evidentiary hearing in this case. The evidence included exhibits offered by both parties and admitted by the Court, testimony of Roger Randolph, Ray Valenzuela, Mario Paniagua, Dr. Zoltan Hajnal and Chris Meyer. The Court has reviewed exhibits in evidence and has considered the testimony of the witnesses.

The Court finds and concludes as follows:

I. FINDINGS OF FACT

1. Plaintiffs City of Tucson and City of Phoenix (hereinafter “the Cities”) are charter cities as provided by Article 13, Section 2 of the Arizona Constitution. Under this “home rule” provision, the Cities are empowered with the ability to determine the manner and means by which their governing officials are elected.

2. The charters of the Cities require that candidate elections be held on odd-numbered years. But for a few isolated exceptions, the Cities have a long history of holding their respective elections on odd-numbered years. Federal, State, County and several other elections in Arizona are held on even-numbered years.

3. During the Arizona legislature’s 2012 regular session, the legislature enacted HB 2826 which amended A.R.S. § 16-204. Governor Brewer signed HB 2826 on May 14, 2012. The Department of Justice pre-cleared HB 2826 on July 20, 2012. The statute, as amended, took effect on August 2, 2012.

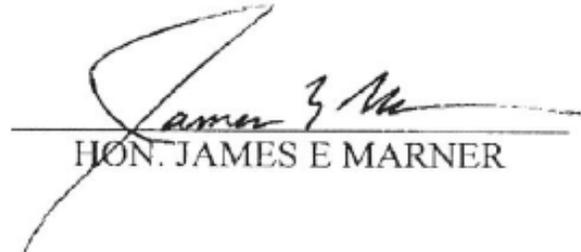
4. A.R.S. § 16-204, as amended, requires that, beginning in 2014, all cities conduct their first (primary or general) and second (general or runoff) elections for candidates for local office only on even-numbered years and only on the same days that the State holds its own primary and general elections for Federal/State/County,

Tucson & Phoenix

- In the case of the City of Tucson vs. The State of Arizona, both Tucson and Phoenix argued that they are empowered by their home rule provisions to determine the manner and means by which their officials are elected.
- They filed suit requesting a permanent injunction against the requirement.

IT IS ORDERED that the Cities' request for a permanent injunction enjoining the State of Arizona from requiring the City of Tucson and the City of Phoenix to comply with the candidate election scheduling requirements of A.R.S. § 16-204, as amended, is **GRANTED**.

IT IS FURTHER ORDERED that the City of Tucson and City of Phoenix are awarded their taxable costs.



HON. JAMES E. MARNER

- The Court granted the Cities the injunction so they are not required to hold their elections in the fall of the even-numbered years.
- Other home rule cities or towns would need to seek court approval, or a declaratory judgment, to be granted similar status.

ARIZONA CHARTER CITIES

AVONDALE
BISBEE
CASA GRANDE
CHANDLER
DOUGLAS
FLAGSTAFF
GLENDALE
GOODYEAR
HOLBROOK
MESA

NOGALES
PEORIA
PHOENIX
PRESCOTT
SCOTTSDALE
TEMPE
TUCSON
WINSLOW
YUMA

Declaratory Judgment

- The litigation specifically addresses Tucson and Phoenix, but other chartered cities may have the ability to see similar relief in a declaratory judgment by the court.

Implementation

The devil is in the details...

Terms

- For non-home rule cities and towns they will have to hold their elections now in the even numbered years.
- Those individuals who are currently in office however were elected for terms that would expire before the next election leaving offices vacant.
- In most cases those municipalities have opted to extend the term rather than truncate it or leave it vacant.

Partisan vs. Non-partisan

- There are also issues for the municipalities which hold non-partisan elections but will now be coupled with the partisan August primary.
- Voters are always able to select the non-partisan, municipal only ballot without selecting a party preferred ballot and this will continue.
- But what about the jurisdictions who want to do an all-mail election? What about PEVL voters?

All-Mail Elections

- Cities and Towns can still do all-mail elections.
- MCED is working out a mailing for unaffiliated/undeclared voters as a reminder that they need to select a ballot, it will mail around 90 days prior to the election.
- The voters who do not respond will get another mailing 33 days before the election as a reminder to select their ballot type.
- Voters who do not respond will not be mailed a ballot.

PEVL Voters in Standard Elections

- Voters who are on the PEVL will get the 90 days notice, undeclared/unaffiliated voters will be able to select the ballot type they would like.
- Voters who do not make a selection will not be mailed a ballot.
- Voters can go to the polls however and vote on Election Day.

Questions?