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DISTRICT FUNCTIONALITY ANALYSIS: ALABAMA HOUSE DISTRICT 32

M.V. Hood III, Ph.D.

April 25, 2017

Introduction

I was asked by counsel for the Alabama Legislature to perform a district functionality analysis for Alabama House District 32 as it would exist under a proposed redistricting plan to be put in place prior to the 2018 election cycle.

As presently configured, House District 32 serves as a minority ability to elect district. In this case specifically, it is a majority-black district being 57.0% African American.[1] The district is currently held by Representative Barbara Boyd, an African American Democrat. Representative Boyd has held this seat since 1994, being elected six times.[2] Since the 2002 redistricting Representative Boyd has faced opposition from a Republican challenger in 2002, 2006, and 2010. Over the same time span she has not faced any opposition in the Democratic Primary. One House election, in 2014, has occurred since the last redistricting cycle. In this cycle Representative Boyd had no Democratic primary challenger. In the general she did face opposition from an independent candidate, winning 69.5% of the vote.[3]

District 32 has successfully served as a minority ability to elect district for more than twenty years. Its current Representative, Barbara Boyd, has also been highly successful in her initial election, and subsequent reelection efforts. A key question, however, is how would District 32 perform if Representative Boyd did not run for reelection? Could this district continue to serve as a black ability to elect district in an open seat scenario? In order to answer this question I will perform a district functionality analysis for HD 32.

Data and Method

Because it is important to get a gauge on how District 32 would perform as an open seat, I am analyzing vote returns for two statewide races: the 2014 gubernatorial election and the 2016 presidential race. These two recent contests should give us a good idea concerning the degree of racially polarized voting that may be occurring within the borders of Alabama House District 32. In order to carry out my analyses of racial voting patterns I collected precinct-level vote returns for two election contests to be examined from the Alabama Secretary of State.[4] I also received precinct turnout data by race from the Secretary of State as well. Using these two pieces of data I can estimate the percentage of the black and white vote going to each of the two major party candidates in these contests.[5] I make use of two estimation methods commonly accepted for vote

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[1]In the previous redistricting cycle (2002-2010) HD 32 was 59.6% black VAP (Source: Alabama Legislative Reapportionment Office).
[2]The Alabama Legislature (http://state-al.capwiz.com/bio/id/1568).
[3]Representative Boyd did not face a Republican challenger in the 2014 general. Election data from the Alabama Secretary of State. Election Information.
(https://www.alabamavotes.gov/ElectionInfo/ElectionInfo2016.aspx?a=voters).
[4]Alabama Secretary of State. Elections Division Data Downloads. (www.alabamavotes.gov/ElectionsData.aspx).
[5]I would like to note that House District 32 contains a number of split precincts. While it is possible to calculate the racial percentages for the precinct splits, it is not possible to do so for the vote component of the analysis. The analysis I present, therefore, is forced to rely on whole precincts. As a consequence, the area analyzed is slightly larger, geographically, than the actual HD 32. Nevertheless, the estimates presented are still representative of voting patterns in the geographic vicinity of District 32.

dilution analyses where the same quantities of interests are required: ecological regression (ER) and ecological inference (EI).[6]

Results

The results of my analysis indicate high levels of racial polarization related to vote choice. Table 1 below details vote choice by race for the 2014 Alabama gubernatorial contest as it played out within the boundaries of House District 32. The ecological regression model results indicate that 100% of black voters cast a ballot for the Democratic candidate Griffith, as compared to 13.6% of white voters. The ecological inference results predict the black vote for Griffith to be 96.6%, with white support slightly higher at 16.4%. From these estimates one can conclude that more than 95% of black voters supported the Democratic candidate for governor in 2014, while more than 80% of white voters cast their ballot for the Republican candidate.

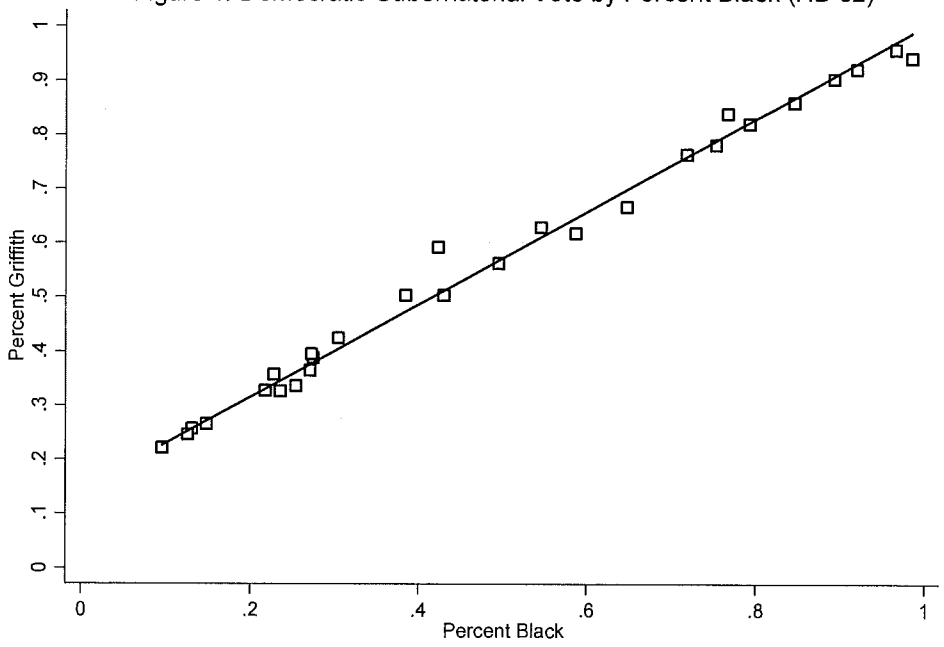
Table 1. 2014 Gubernatorial Vote by Race

	Ecological Regression		Ecological Inference	
	Bentley (R)	Griffith (D)	Bentley (R)	Griffith (D)
Black	0.0%	100.0%	3.4%	96.6%
White	86.4%	13.6%	83.6%	16.4%

The relationship between the percentage of black voters in a precinct and the percentage vote for the Democrat gubernatorial candidate in HD 32 is presented graphically in Figure 1 (shown below).

[6]See M.V. Hood III, Peter A. Morrison, and Thomas M. Bryan. 2017. "From Legal Theory to Practical Application: A How-To for Performing Vote Dilution Analyses." *Social Science Quarterly* for a discussion of these techniques, especially Appendix B: Techniques to Estimate Candidate Vote Shares by Race/Ethnicity (located online).

Figure 1. Democratic Gubernatorial Vote by Percent Black (HD 32)



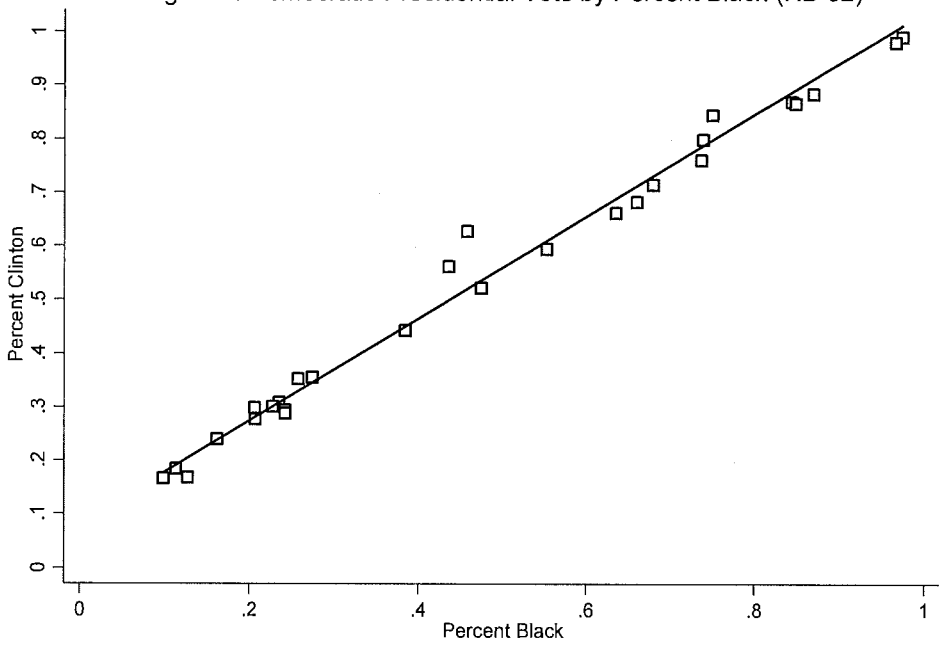
The results for the 2016 presidential contest reveal even higher levels of racially polarized voting as compared to 2014 gubernatorial race. In this case the model results reveal that 98-100% of black voters supported Democratic candidate Clinton. White support for Clinton is predicted to be between 7% and 11%. On the other side of the ledger black support for Trump is predicted to be no higher than 2%. White support for Trump ranged between 89% and 93%.

Table 2. 2016 Presidential Vote by Race

	Ecological Regression		Ecological Inference	
	Trump (R)	Clinton (D)	Trump (R)	Clinton (D)
Black	0.0%	100.0%	2.1%	97.9%
White	93.0%	7.0%	89.3%	10.7%

Figure 2 below plots the relationship between the percentage of black voters in a precinct and the Democratic vote for president in 2016 (subset for the area comprising House District 32).

Figure 2. Democratic Presidential Vote by Percent Black (HD 32)



Having analyzed black and white voting patterns for HD 32 using two recent statewide contests what can be concluded? Conservatively, the average black support for Democratic candidates in the geographic area comprising HD 32 is at least 98.6%. The average white support for the Republican candidate is 88.1%. Racially polarized voting patterns appear to be a prominent feature of HD 32.

From the analysis presented, a Democratic legislative candidate could expect to see little cross-over support from white voters in a general election. Given the current levels of racial polarization in the district, in order for HD 32 to effectively serve as a black opportunity to elect district the black voting age population would need to constitute a majority (considering some degree of fall off between black VAP and black voter turnout).

Discussion and Conclusion

In the recent case *Alabama Legislative Black Caucus v. Alabama* the U.S. Supreme Court ruled that, in relation to the use of race in redistricting, the pertinent question was to be found in Section 2, not Section 5, of the Voting Rights Act.[7] Specifically, the issue is not *how to maintain the present minority percentages in majority-minority districts, instead* the issue is *the extent to which* [the State] *must preserve existing minority percentages in order to maintain the minority's present ability to elect the candidate of its choice.*[8]

Using this guidance I have undertaken a prospective vote dilution analysis using prongs two and three of the standard *Gingles* test.[9] On the matter of the second prong it is clear that Alabama House District 32 is characterized by high levels of racially polarized voting. How can one prospectively apply the third prong to HD 32? It is a fact that this district has been represented by a black House member for six election cycles. Is this evidence that the candidate of choice for the minority community is not typically defeated by a majority white voting bloc; thus, there is no support for a Section 2 claim of minority vote dilution? In the present context this is not the germane question to ask. For this type of analysis the question must be asked prospectively, not retrospectively.[10] Given the known levels of racially polarized voting in HD 32, if the district is not constituted as a majority black district it is almost certain that in an open seat scenario the preferred candidate of the black community would be defeated by a majority of white voters.[11]

From a functional perspective, it is my conclusion that HD 32 would be unable to serve as a black ability to elect district if it contained less than a majority of black voting age constituents.

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[7]When Alabama redrew its legislative districts in 2012 the state was a covered jurisdiction under Section 5. At present, Section 5 is currently unenforceable.
[8]See *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. __ (2015). Page 4.
[9]See again M.V. Hood III, Peter A. Morrison, and Thomas M. Bryan. 2017. "From Legal Theory to Practical Application: A How-To for Performing Vote Dilution Analyses." *Social Science Quarterly* for a discussion of how to conduct a Section 2 vote dilution analysis.
[10]Of course, the same logic would apply retrospectively for HD 32 as well. Had the district not been a majority minority district, it is highly unlikely that Representative Boyd, or any other black candidate for that matter, could have been successfully elected to represent District 32.
[11]Although not binding in Alabama of course, a recent Texas federal district court decision offered a similar application of Section 2. In this case plaintiffs were challenging the state's congressional district plan. See *Perez v. Abbott* (SA-11-CV-360). March 10, 2017. Pages 47-58.

Declaration

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on April 25, 2017.

M.V. (Trey) Hood III

M.V. (Trey) Hood III, Ph.D.
Professor of Political Science
Director, SPIA Survey Research Center

Department of Political Science
School of Public and International Affairs
The University of Georgia
104 Baldwin Hall
Athens, GA 30602
Phone: (706) 583-0554
FAX: (706) 542-4421
E-mail: th@uga.edu