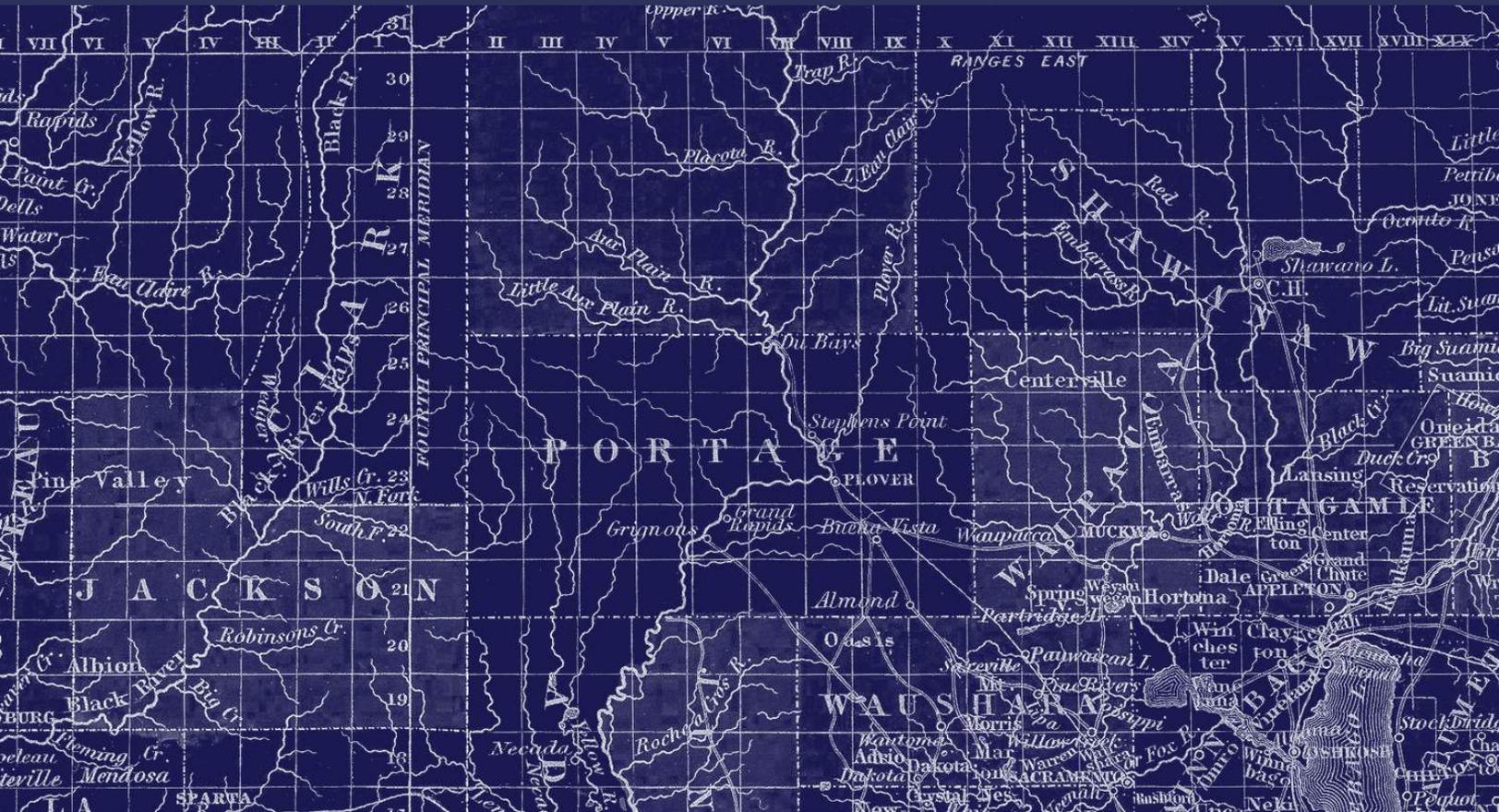




THE PEOPLE'S MAPS COMMISSION



Final Report and Maps of the People's Maps Commission

Legislative redistricting maps prepared through a nonpartisan process by Commissioners selected from each of Wisconsin's eight congressional districts, emphasizing: **transparency, robust public participation, independence, outstanding expert assistance, and attention to all applicable legal criteria.**



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PREFACE

This Report summarizes the work of the People's Maps Commission of Wisconsin (“the Commission”). It presents the three sets of legislative redistricting maps proposed by the Commission. It also includes a description of the methodology used by the Commission to prepare the maps and an analysis of the maps.*

The work process used by the Commission and its resulting work product – the proposed legislative redistricting maps in Section II of this report – reflect rigorous adherence to the following five guidelines:

1. Follow the Law – The Commission adhered to all applicable state and federal legal requirements for preparing redistricting maps.
2. Transparency – The Commission’s work has been open to repeated public review and comment.
3. Robust Public Participation – The Commission promoted public hearings and input across every legislative district in the State. Over the past 12 months, the Commission heard from over 1,800 residents from 68 counties and 321 municipalities.
4. Utilization of Outstanding Nonpartisan Expertise – The Commission chose to work with Associate Professor Moon Duchin, Ph.D., and the Metric Geometry and Gerrymandering Group (MGGG) Redistricting Lab from Tufts University because of their nationally recognized expertise on legislative redistricting matters and their insistence that the Lab’s work be performed under the Commission’s direction on an independent, nonpartisan basis.
5. Nonpartisan Independence – From its formation by executive order in January 2020 to its final mapping work product, the Commission has adhered to an independent, nonpartisan approach free of loyalty to any client or influence from any political party or partisan perspective.

The Commission has been resolute in embodying its name: The PEOPLE’s Maps Commission.

*This Report with the Commission’s proposed redistricting maps will be available publicly on the Commission’s website, www.wisconsin.gov/peoplesmaps, as well as on the Wisconsin Department of Administration’s website at www.doa.wi.gov/Pages/PMC-Report.aspx

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I. REPORT

SECTION A - People's Maps Commission

1. Background

The Wisconsin Constitution makes the Legislature responsible for passing new electoral district maps (“redistricting maps”) for the state Assembly, state Senate, and Federal Congressional Districts every 10 years to reflect the most recent census data. The redistricting maps are then presented to the Governor for approval or veto. If the Legislative and Executive branches are unable to agree on redistricting maps, historically the state or federal courts have determined the outcome.

Preparation of the Commission’s redistricting maps for the current decennial cycle began in 2021 using the results of the 2020 census data that were finally released in mid-August, 2021. This Report and the proposed redistricting maps (set forth below in Section II) are the culmination of the Commission’s work.

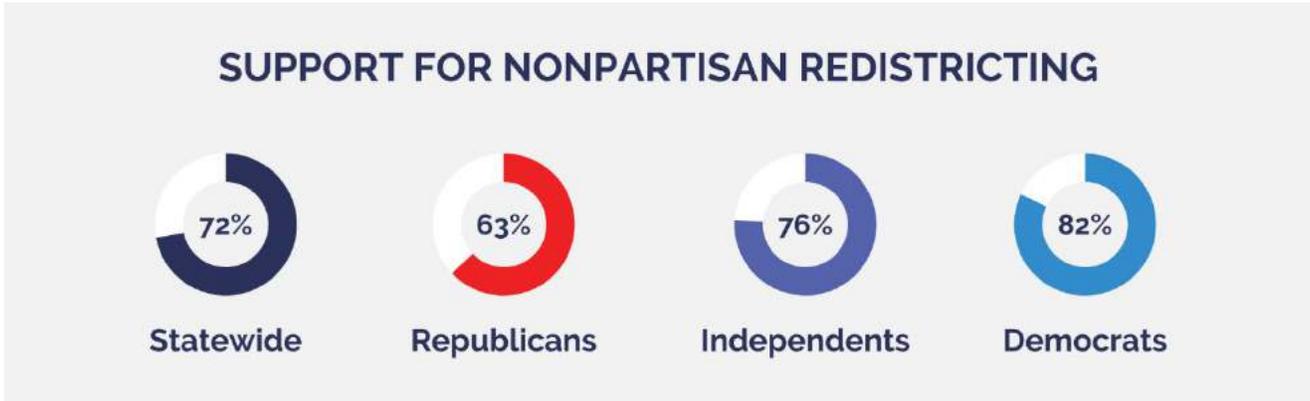
Extensive information about the Commission, its public meetings and mapping work, and the redistricting process generally, is publicly available on its website: www.wisconsin.gov/peoplesmaps. The Commission has also administered an interactive public web portal at <https://portal.wisconsin-mapping.org>.

2. Formation of the Independent Nonpartisan Commission

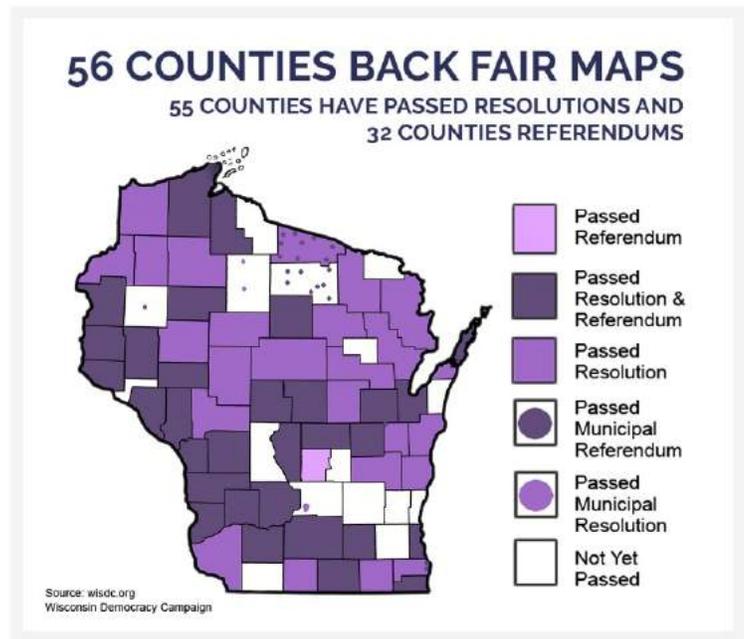
Following the 2011 redistricting process, Wisconsin became well-known for its politically gerrymandered maps that resulted from a secretive process. In response, the People’s Maps Commission was created by Executive Order #66 on January 27, 2020, pursuant to Wis. Stat. § 14.019. A copy of the Order is in the Appendix to this Report as [Ex. 1](#). By law, the Commission is formally attached to the Department of Administration. The Commission was created for the reasons succinctly summarized in the recitals to the Executive Order, which include the prevention of voter disenfranchisement through equitable, accurate, legally correct redistricting maps prepared without any partisan political bias.

The core objective of the Commission has been to carry out the overwhelming preference among Wisconsin voters that the redistricting maps be prepared by a nonpartisan committee or commission.

As stated in the Executive Order, the core objective of the Commission has been to carry out the overwhelming preference among Wisconsin voters that the redistricting maps be prepared by a nonpartisan committee or commission. A Marquette Law School Poll in 2019 reflected 72% statewide support for nonpartisan redistricting, including 63% of Republicans, 76% of Independents, and 82% of Democrats ¹.



When the Executive Order was issued in early 2020, 50 of Wisconsin's 72 counties – containing approximately 78% of the state's population – had passed referendums or resolutions calling for nonpartisan redistricting. (See Appendix [Ex. 1](#), Recital #8) Since then, additional counties have voted in favor of the nonpartisan process, pushing the total to 56 out of the state's 72 counties.



(See Appendix [Ex. 2](#), from https://www.wisdc.org/images/images/redistricting/FairMapsCounties_ResRefs56-32-purple-muni-medium.jpg). No county has held a referendum that failed to pass by a significant majority.

¹ <https://www.marquette.edu/news-center/2019/new-marquette-law-school-poll-finds-some-issues-less-divisive-amid-continuing-partisan-divide.php>

To ensure the nonpartisan nature, quality, diversity and broad geographic representation of the Committee, and to avoid contentions that any political party selected the members of the Commission for partisan advantage, the selection of the Commission was made independently by three prominent former Wisconsin appellate jurists: Janine Geske (former justice of the Wisconsin Supreme Court, appointed by Republican Governor Tommy Thompson); Joseph Troy (former Outagamie County Circuit Court judge where he served as the chief judge for the state’s circuit court judges, and later served on the Court of Appeals, including a term as the presiding judge of his district), and Paul Higginbotham (former municipal judge, circuit court judge, Court of Appeals judge, and adjunct professor at the UW Law School).

The panel of former appellate jurists selected the nine members of the Commission from 270 eligible applicants consistent with the guidance in the Executive Order that:

Commission members may not be elected officials, public officials, lobbyists, or political party officials [and] shall include: members from each of Wisconsin’s eight congressional districts. . . .

- Appendix [Ex. 1](#), p. 2, para. 1

The profiles of the selected members and information about their public meetings and other work on the Commission may be reviewed on the Commission website and is discussed further below. (See Appendix [Ex. 3](#)) The commissioners have served as unpaid volunteers.

The Commission worked hard for several months to lay the foundation to move forward as quickly as possible with developing equitable and accurate redistricting maps once the completed census was released. The Commission operated in a manner fully transparent to the public.

The idea of relying upon a nonpartisan Commission to propose new redistricting maps also finds support in the study conducted under the direction of the Wisconsin Supreme Court following its decision about redistricting in *Jensen v. Wisconsin Elections Board*, 2002 WI 13, ¶ 24, 249 Wis. 2d 706, 639 N.W. 2d 537 (*per curiam*). There, the Court established a process to study whether to amend Rule 809.70 of the Wisconsin Rules of Appellate Procedure with respect to exercising its original jurisdiction authority as to redistricting disputes and drawing redistricting maps when an impasse about maps is reached

between the Legislature and Governor. *Id.* The redistricting committee established by the Court consisted of five nonpartisan legal redistricting experts. That six-year process involved public hearings and resulted in an in-depth report. (See Appendix [Ex. 8](#)). That report stressed the importance of holding public hearings before a nonpartisan body which would help develop new maps.

The map-development process recommended by the five experts was similar to the one followed here by the Commission – grounded in public fact finding, transparency, and map drawing by a nonpartisan body. The most significant difference being that the map-drawing group recommended by the five redistricting experts consisted of court of appeals judges drawn from across the state rather than the lay members of this Commission drawn from across the state. The Court ultimately decided not to adopt the committee’s recommendations about changing Appellate Rule 809.70 (See Court Order No. 02-03 entered 1/30/2009) (See Appendix [Ex. 9](#)). It merits comment, however, that the prior study found that a nonpartisan body would be better suited than our state Supreme Court to engage in the time-consuming process of holding public hearings, conducting fact-finding, working openly with mapping experts, etc., essential to preparing quality nonpartisan legislative district maps after every 10-year census.

3. Commission Structure

From the pool of 270 eligible applicants, one commissioner was chosen by the three retired Wisconsin jurists from each of the eight Wisconsin congressional districts, and two from Congressional District 4. The resulting nine commissioners included representatives of African American, Latinx, and Native American populations and a mix of backgrounds including members drawn from education, business, medicine, administration, and community service.



At the first organizational meeting, the Commission selected a chairperson – Christopher Ford, M.D. – to promote efficiency. See Appendix [Ex. 3](#) and the Commission’s public website for more information about the members.

To further promote efficiency, the Commission has utilized the assistance of Howard Bellman, a Wisconsin resident, as a “process consultant.” Mr. Bellman has a diverse background ranging from being the past Secretary of the Wisconsin Department of Industry, Labor, and Human Relations, to decades spent as a lawyer overseeing mediation and arbitration of complex disputes. Like the Commissioners, he has served without compensation.

4. Comment On the Term “Fair Maps”

Early in its work, it became clear to the Commission that the word “fair” in the term “fair maps” frequently used at the public hearings held variable meanings to different people and groups.

As used by the Commission, the term is not intended to suggest the elevation of partisan fairness over other criteria. Rather, as used by the Commission, the term is consistent with its overarching goal of preparing new legislative district maps using the five lodestar guidelines detailed in the Preface to this report: (1) compliance with applicable legal requirements; (2) adherence to a “transparent” process; (3) promotion of robust public participation; (4) use of the best available expertise to assist with the technical task of carrying out the map-drawing under the Commission’s directions; and (5) adherence to an independent, nonpartisan process free of loyalty to a particular client, political party, or partisan perspective. In using these guidelines, coupled with the principles outlined in Executive Order #66, the Commission’s process was fair.

Respectfully, the Commission’s mapping process and work product are different than those of the various other groups advocating to have their proposed maps considered by the Legislature, Governor, or courts because only the Commission adhered to all five of the above guidelines in preparing its maps. No other group obtained public input for over a year from across the state, nor is so firmly rooted in nonpartisanship. The Commission and its mapping work product are unique in those regards for the Wisconsin redistricting task.

5. Public Hearings and Expert Presentations

The Commission held public hearings in each congressional district, and public meetings before and after each hearing for the purpose of discussing the results of each hearing. Because of the COVID pandemic, all of the Commission's hearings and meetings were virtual.

Schedule of Congressional District Hearings

10/01/2020	CD 8	Redistricting 101 (who, what, when, why, how)
10/29/2020	CD 5	2011 Wisconsin Redistricting
11/19/2020	CD 3	Methods of map drawing, software, and math of redistricting
01/14/2021	CD 4	Voting Rights Act and impact on minority groups
01/28/2021	CD 1	Other states and national perspective
02/11/2021	CD 7	Wisconsin Government perspective
02/25/2021	CD 6	Government staff and advocate perspective
03/11/2021	CD 2	Legal perspective

General agenda for each Congressional District Public Hearing

- Introduction of Commission members and background about the host district
- Expert presentations (See Appendix [Ex. 4](#))
- Questions from the Commissioners to the experts
- Statements and suggestions from the public regarding redistricting

6. Commission Goals

The Commission's goals included producing nonpartisan maps and documenting the process to achieve legally accurate maps for the people of Wisconsin. Achieving these goals required transparency, conversation, nonpartisanship, and consensus.

Objectives:

1. Listen to the people of Wisconsin to understand what the voters of this state want when it comes to drawing new electoral maps and the redistricting process.
2. Learn from experts to better understand the options for Wisconsin.
3. Educate the public on the process of redistricting and why it matters.
4. Formulate a process that would best lead to the preparation of redistricting maps that most accurately represent the state.

Deliverables:

1. Decide how the Commission would draw the maps.
 - a. Enumerate and prioritize the principles of map-drawing that would guide the Commission's work.
 - b. Determine the method or process of map-drawing the Commission would use to produce its maps.
 - c. Determine which experts the Commission would enlist to help draw fair maps.
2. Draw a set of electoral maps for Wisconsin, using the selected methods and experts. Draft maps would be published for public comment.
3. Produce a report summarizing the Commission's work.

The Commission has fulfilled each of its goals. In doing so, it has been mindful to proceed in accordance with the guidance established in Executive Order #66, that:

The proposed maps shall, whenever possible:

- a) Be free from partisan bias and partisan advantage;
- b) Avoid diluting or diminishing minority votes, including through the practices of "packing" or "cracking";
- c) Be compact and contiguous;
- d) Avoid splitting wards and municipalities;
- e) Retain the core population in each district;
- f) Maintain traditional communities of interest; and
- g) Prevent voter disenfranchisement.

(See Appendix [Ex. 1](#))

7. Decision Making

The Commission agreed to operate by consensus, meaning that there would be no dissent by any member in order for the Committee to be considered to have achieved consensus. Thus, no member could be outvoted. The Commission members agreed to refrain from blocking or withholding consensus unless they had serious reservations about the approach or solution. All preliminary agreements informally reached during negotiations and discussions were assumed to be tentative agreements until the Commission agreed to make them final agreements.

8. Expertise and MGGG Redistricting Lab Assistance

The expert presentations listed in the Appendix [Ex. 4](#), were arranged to better educate the commissioners and the public about redistricting. Presentations were provided by redistricting experts during the hearings conducted in each congressional district and those experts were also available to assist the Commission at meetings between the hearings and upon request.

In December 2020, after the first three public hearings, the Commission interviewed multiple academic teams for consultative assistance in the development of appropriate criteria for drawing non-partisan redistricting maps and for assistance in applying those criteria to the creation of preliminary maps using 2019 population-block data. The Commission ultimately chose the MGGG Redistricting Lab ([MGGG.org](https://mggg.org)) at Tufts University, led by Assistant Professor Moon Duchin. The MGGG Lab brought valuable expertise to the mapping task, while emphasizing and demanding a nonpartisan approach to its mapping engagement. The expertise of the MGGG Lab is reflected in its nonpartisan Advisory Board comprised of a mix of professionals with relevant expertise ranging from academics like UW-Madison distinguished Professor David Canon to state election officials and federal officials like John Abowd, chief scientist for the U.S. Census Bureau.

The [MGGG Redistricting Lab](#) is an interdisciplinary research group at the Jonathan M. Tisch College of Civic Life at Tufts University under the direction of Moon Duchin, a Professor of Mathematics at Tufts. The team's expertise spans math, algorithms, software development, geography, and policy, with focus areas in redistricting, electoral reform, and differential privacy.

Since the Lab's founding in 2018, the team has engaged in cutting-edge research in the basic science and practically relevant applications of geometry, topology, and computing for redistricting. MGGG builds open-source tools and resources that create public access and analytical power for better understanding districts and their consequences. Flagship software projects include the free public mapping tool [Districtr](#) and the Markov chain package called [GerryChain](#).

In the 2021 redistricting cycle, the Lab is supporting nonpartisan redistricting work in many states. Public mapping partners include the Michigan Independent Citizens Redistricting Commission, the Alaska Redistricting Board, and the New Mexico Citizens Redistricting Committee. The Lab is also involved in plan evaluation or other data-

intensive work to support the Utah Independent Redistricting Commission and the Maryland Citizens Redistricting Commission.

The MGGG Lab’s free internet software tool “Districtr” was used by the public to submit Communities of Interest and suggested district maps to the Commission. The Districtr software tool was also used by the Commission in developing sample and preliminary district maps with 2019 block census data.

When the delayed 2020 census data became available in mid-August 2021, the Commission worked with the MGGG Lab in developing computer-generated sample maps (based on Commission criteria), which were then edited by the Commission with the assistance of Wyatt Pajtach, a UW System graduate in Geographical Information Systems (“GIS”). The work involved with preparing the final set of proposed redistricting maps submitted with this Report (See Section II) is discussed more below.

9. Subcommittees and Full Commission Public Meetings

Subcommittees were established to investigate best practices and make recommendations to the Commission. The subcommittees and their members are shown in Appendix [Ex. 5](#) along with the dates the Commission met for open discussion and review of recommendations. The subcommittees met regularly and were limited to four or fewer Commission members in order to comply with Wisconsin’s open meeting requirements.

10. Soliciting Public Input

Public input was solicited at each of the hearings held in the eight congressional districts. A portal was created for people to sign up to give up to three minutes of oral comments during the hearings. The portal also accepted written testimony. Over 1,800 residents provided written or oral comments. Communities of Interest (COI) maps with comments were also submitted to the Commission using the People’s Maps Commission (PMC) portal (<https://portal.wisconsin-mapping.org>). Over 1,100 COI maps and



comments were submitted and considered by the Commission from June 8 to July 31,

2021. These were then used to define the initial MGGG-generated COI heat map. This map was updated using submissions received through the previously announced cutoff date of September 3, 2021.

11. Summary of Public Hearings

The public hearing dates are listed in Appendix [Ex. 4](#). Information about the public submissions may be reviewed on the Commission’s above-referenced webpage and portal.



SECTION B - Redistricting Plan

1. Standards Prescribed by Law

Like all states, Wisconsin’s redistricting maps must comply with two central federal requirements: equal population and minority protection (the Voting Rights Act and Constitutional equal rights requirements). Congressional districts must be as quantitatively equal as possible. State legislative districts are subject to less stringent population balancing requirements, typically a maximum population deviation between the smallest and largest district of 10%.²

Wisconsin has eight congressional districts, 33 state Senate districts, and 99 State Assembly districts. Three Assembly districts are located within each state Senate district.

² *Evenwel v Abbott*, 136 S. Ct. 1120, 1124 (2016).

2. Population of Each New District

The 2020 census data used for redistricting was released by the U.S. Census Bureau in mid-August 2021. According to the 2020 census, the total reported population of Wisconsin is 5,893,718, suggesting the ideal state legislative and congressional district populations below.

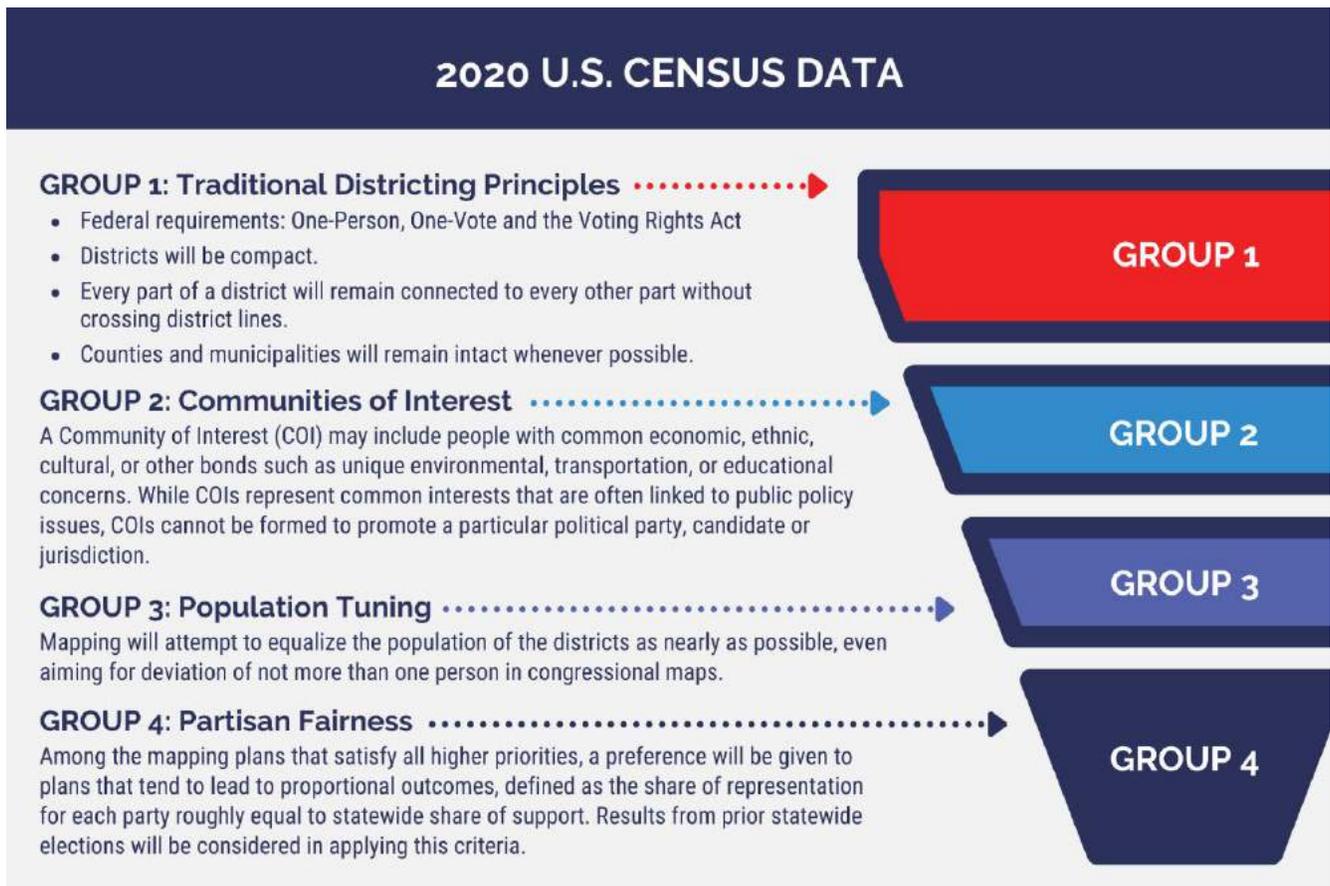
District Level	Ideal Population
Assembly	59,533
Senate	178,598
Congressional	736,715

3. Criteria Recommendations

At the outset of the mapping process, the Commission developed map-drawing criteria to assess the 2020 U.S. Census data. The process analyzed the census data in light of the four criteria groupings explained below. These criteria were developed by the Commission after hearing from over 1,800 residents, representing 68 counties and 321 municipalities, as well as considering the recommendations of redistricting experts. (See Appendix [Ex. 4](#))

On April 15, 2021, the Commission unanimously approved the criteria. The criteria are summarized in the diagram on the following page.

Prioritization of Mapping Criteria



Group 1 –

Contiguity- Contiguity is a traditional redistricting principle whereby every part of a district is connected to every other part, and all parts can be reached without crossing district lines. Contiguity across water is allowed when there are community ties between the land areas. Discontinuity is allowed when wards themselves are not contiguous.

Compactness- Compactness is another traditional redistricting principle, requiring districts to be as compact as possible. Districts should look reasonable to the eye. Compactness was scored mathematically by the Commission and its experts using multiple scoring systems.

Preserve Political Boundaries- Counties and municipalities should remain intact whenever possible. When comparing potential redistricting options, the Commission endeavored to favor those that split municipalities and counties into as few pieces as possible.

Group 2 –

Communities of Interest (COIs) - Communities of Interest are geographic areas or neighborhoods contained within a contiguous area on a map where residents share common interests and bonds that deserve consideration by elected representatives. A Community of Interest may include people with common economic, ethnic, cultural, or other bonds such as unique environmental, transportation, or educational concerns. While COIs represent common interests that are often linked to public policy issues, COI considerations should not promote a particular political party, candidate, or jurisdiction. Mapping plans that keep appropriately sized COIs intact were preferred. COI regions were the subject of extensive comments by the general public and were studied by the Commission to help make decisions about higher priorities (for example, which counties or municipalities to split).

The Commission encouraged the public to provide COI maps and comments using the Districtr.org program and submitting them through the Commission’s portal.

The public’s keen interest in having COIs considered by the Commission was demonstrated by the high level of comments about COIs the Commission received at the public hearings and by the large number of COI map submissions and comments the public provided through the PMC portal. The Commission acted on that interest and invested significant time and resources to considering COIs in its mapping work. Further information is set forth below at Section I.B.5. about the COI criteria in light of that high level of public interest and effort by the Commission.

Group 3 –

Population Balance (Population Tuning) - This criterion relates to the one person, one vote requirement that each representative at the same legislative level should have approximately the same number of constituents. The Commission has attempted to have closely equal numbers of people in each congressional district. For the state Assembly and Senate districts, the Commission aimed for an approximate one-percent balance between the largest and smallest district of each type and settled on a two-percent balance during the mapping process. Because the Commission prioritized Group 1 and 2 criteria over perfect population balance, there are some state districts in the Commission’s selected maps with variances between one and two percent.

Group 4 –

Partisan Fairness - Among the mapping plans that satisfy all above-mentioned priorities, a preference was given for plans that tend to lead to proportional outcomes, defined as the share of representation for each political party roughly equal to parties' statewide share of support. Responsiveness is a component of the proportionality criterion and considers the changing sentiments and circumstances felt by the electorate. If a map and subsequent election are more responsive, it is more sensitive to changes in the preferences of voters. Results from prior years of statewide elections were considered in assessment of this criterion.

Competitiveness of elections as an additional consideration

The Commission frequently heard from the public that non-competitive districts result in elected officials who are less responsive to their constituents, so the Commission felt that it would be preferable for its new maps to result in more competitive districts, whenever doing so would not require disregarding traditional map drawing criteria and applicable law. Fortunately, the input from prior redistricting cycles in Wisconsin and from present-day map drawing experts is that competitiveness will increase as a consequence of the way the Commission has applied the above criteria. The preference for proportionality in the partisan fairness criterion further enhances competitiveness. The Commission believes that an increase in competitiveness is an important outcome and benefit of its map-drawing process.

4. Datasets and Mapping Software

By May 2021, the Commission had completed public hearings in each of the eight congressional districts, had accumulated over 1,000 oral or written public comments for the redistricting maps and had finalized its map-drawing criteria. The Commission then began an iterative process with the MGGG Lab, applying the Commission criteria to sample computer-generated maps utilizing the then available 2010 census data. The Commission analyzed the sample maps and then made suggestions to the MGGG Lab to more effectively comply with the Commission's layered criteria, leading to several iterations of sample maps and discussion over several months. The resulting sample maps and analysis can be found at districtr.org/tag/pmc-districts. The analysis showed that the preliminary maps offered compactness, contiguity, compliance with the Voting Rights Act, preservation of county and municipal lines, population deviation, proportionality, and responsiveness.

-
- time in this work. These meetings produced drafts for consideration by the full Commission in public meetings.
- b) Three Assembly maps were drawn initially (two of which were edited from MGGG drafts and one edited from a public submission) with subsequent nesting and editing for the state Senate maps. Three congressional district maps were also chosen for editing from among public submissions. After data analysis by MGGG, these maps were reviewed and adjusted by the Commission and released for public comment on September 30, 2021.
 - c) Another round of editing then occurred based on public feedback and further expert evaluation from the MGGG lab. A fourth Congressional district map, edited from a MGGG sample was included for consideration.
 - d) The Commission next agreed upon two each of the edited Assembly and state Senate maps and three of the congressional district maps for further MGGG analysis. This analysis was reviewed at the Commission meeting of October 18, 2021, at which time drafts were approved by consensus for release to the public for further comment, taken until October 27, 2021.
 - e) Editing to respect new public comments and attempts to preserve COIs and municipalities continued even into the night of October 27, 2021. The resulting maps were sent again to MGGG for further analysis and review at the working Commission meeting of October 29, 2021, at which time one map for each of the Assembly, state Senate and Congressional districts, along with this Report, were adopted as final.
4. The Commission's final maps are submitted in Section II of this report. The maps and data analysis are summarized below and are posted on the Commission's website: www.wisconsin.gov/peoplesmaps.

5. Communities of Interest

As previously mentioned, Communities of Interest (COI) are geographic areas or neighborhoods contained within a contiguous area on a map where residents share common interests and bonds that deserve consideration by elected representatives. A COI is an organic community not predetermined by existing geographic or political boundaries or districts, despite some overlap with such existing boundaries. COIs may include people with common economic, ethnic, cultural, or other bonds such as unique environmental, transportation, or educational concerns. Based on the preponderance of public input referencing COI, the Commission has weighted COI as second in the order of criteria worthy of special consideration. In particular, COI regions were studied by the

Commission to help make decisions about application of higher priorities (i.e., which counties to split).

The Commission encouraged people to provide COI regions using the Districtr.org program and upload them on the Commission’s website. The MGGG Lab provided regular summaries of COI clusters assembled from public commentary submitted to the Commission from the launch of public input on February 11, 2021, through the end of August 2021.

The MGGG Lab provided summary descriptions of each COI cluster, accompanied by heatmaps showing where the corresponding areas of interest were located. The raw testimony that supports each cluster was also presented in reports to the Commission, and includes links from summary to tables, tables back to summary, and from individual table entries to the detail pages in the public portal. Approximately 1,100 COI maps and associated comments were submitted. A report summarizing these comments and the associated COI maps can be reviewed at the Commission website: www.wisconsin.gov/peoplesmaps.



The final Commission maps reflect its use of the COI data to influence decisions on higher priorities (Contiguity, Compactness, and Preservation of Political Boundaries). The Commission preserved communities of interest in districts where possible.

6. Methods of Statistical Analysis of the Maps

The Commission used several methods to analyze compliance with stated criteria and to evaluate the effects on proportionality and responsiveness of completed maps-

- a) Voting Rights Act (VRA)- The Commission, with expert consultation and data evaluation, ensured compliance of its maps with VRA requirements. After drawing districts with submitted Communities of Interest in mind, the Commission used past elections to ensure that minority candidates of choice were electable in certain districts.

-
- b) The Districtr map drawing software includes measures of population balance and contiguity built into the main application. Therefore, these metrics were visible to the Commission as maps were drawn. Additional features for directly obtaining measures of county splits, compactness, and for the examination of effects on proportionality were available for real time assessment of potential maps using the Districtr evaluation function.
 - c) The URL links (web addresses) of completed maps were emailed to the MGGG Lab for more comprehensive analysis. The Lab team provided prompt feedback to the Commission about measures of compactness, the effects of municipal splits added to county splits and a more in-depth description of the effects on proportionality and responsiveness. The feedback was quantified in tables comparing the metrics of the various maps drawn by the Commission to the currently enacted maps in use since the redistricting cycle following the 2010 census.

The quantification of most traditional redistricting criteria such as municipal and county splits is obvious and requires little explanation; the smaller the number, the better. Limiting the splitting of municipalities and counties was by far the most frequent request from the public at the hearings and in the website comments and COI maps and submissions.

Maximum population deviation was determined as the largest deviation from the ideal, expressed as a percentage of the ideal district population.

Contiguity and compactness are defined in the criteria section of this report. The Commission was alerted to areas of discontinuity, disconnected areas of a district, by the mapping software in real time, therefore minimizing this as an issue. Compactness can be defined as districts that look reasonable – are they relatively square or do they seem to ramble in multiple directions around the state? There are several ways to quantify and therefore compare compactness of plans. The MGGG Lab has researched and used for Commission maps the method of “cut edges,” which correlates well with the “eyeball” test. The cut edges measurement considers the plan as a whole and not as one particular district by counting the number of adjacent pairs of smaller population units that are separated into different districts in a plan. This can also be described as the “scissors complexity” of the district boundaries, or how much work one would need to do to cut the plan along the boundaries of the districts. A larger number of cut edges

suggests longer boundaries or more irregularly shaped districts. A lower number of cut edges is considered more compact.

Communities of interest data was provided by the public and compiled by the MGGG Lab into heat maps using clustering algorithms. This information was considered during the line-drawing process after maps were screened for good scores for compactness and contiguity and for minimal municipality/county splits and population deviation. Population deviation was again reviewed as lines were adjusted to maintain communities of interest.

The Commission was aware that the application of traditional and non-partisan redistricting criteria was likely to have positive effects on proportionality and competitiveness in comparison with partisan maps. The MGGG Lab provided a scientific and unbiased look at proportionality using ward-level election results of 14 historical elections and applied those ward-level results to the newly drawn and submitted Commission district maps. The newly drawn maps, using nonpartisan criteria, depict how prior election results would have shifted had the newly drawn district boundaries been in use. The number of winning districts of each political party can be quantified for each election. The outcome is considered to be more proportional as the percent of party winners across the whole state becomes more equal to the percent of total party vote across the whole state.

Responsiveness of Commission-submitted districts and maps were designated by the MGGG Lab as stable, moderately responsive, or highly responsive. One metric measured by MGGG was the number of districts won by each party at least once in the dataset of 14 elections, known as swing districts. The responsiveness of the map is more as the number of swing districts increases. Also, MGGG measured competitive districts as those where the parties each averaged between 47-53% of the total vote in the dataset. The degree of responsiveness of the map would also correlate with the number of competitive districts under this definition in the map.

The 14 past Wisconsin elections used for evaluation of proportionality and responsiveness were: Governor 2012, Senator 2012, Presidential 2012, Treasurer 2014, Secretary of State 2014, Attorney General 2014, Governor 2014, Senator 2016, Presidential 2016, Treasurer 2018, Secretary of State 2018, Attorney General 2018, Senator 2018, and Governor 2018.

II. PROPOSED LEGISLATIVE MAPS

In its efforts to draw districts free of partisanship, the Commission developed a process to draw district lines in accordance with applicable laws, pre-defined criteria, and, to the extent practicable, with the values expressed by citizens in their comments to the Commission. This is a complex problem to solve, and no map could address every value with total satisfaction.

The Commission created three maps for each of the Wisconsin Assembly, Senate and congressional districts. The Commission published these maps for public comment noting that the maps would be further edited to ensure compliance with the VRA. The three sets of legislative maps were then narrowed to two sets, each further refined to take input into account and ensure VRA compliance. One original Congressional map was eliminated, and another draft was added. The refined and additional maps were published for further public comment. Upon completion of the public comment period and MGGG Lab analysis, the Commission selected the maps from each set that gave best effect to the Commission's redistricting criteria, and worked those maps into final form after consideration of public comments. Those final maps are shown below in Section II. The two sets of lower-ranked maps are shown in the Appendix as [Ex. 7](#).

The Commission adhered to its above-stated process and criteria throughout the mapping process. The Commission did not refer to the voter-preference heatmap data while drawing district lines. While a diligent attempt was made to limit the shifting of populations from odd to even state Senate districts to minimize staggered term disenfranchisement in Senate district maps, that consideration did not negate giving effect to higher-weighted criteria. After district lines were finalized, MGGG assisted in renumbering districts to minimize staggered term disenfranchisement and maximize core population retention.

The Commission selected the final maps guided by the assessment of the criteria provided by the MGGG Lab along with feedback from the public and data supporting VRA compliance. The MGGG summary of the chosen maps is shown in the table below. Various ways to view the maps are included in Section A-C below, and the maps are available in various file formats on the Commission's website: www.wisconsin.gov/peoplesmaps.

People's Maps Commission Selected Legislative and Congressional Maps Compared to Enacted Maps

Map	Maximum Population Deviation	# Split Counties*	County Pieces*	# split towns*	Town pieces*	Cut Edges (Compactness)*	Avg. Seats Over Proportionality	Party Lean	Competitive Districts	Swing Districts
<i>PMC Congressional</i>	1 person	10	22	33	70	618	0.5 R	55.5%R	22.3%	25.0%
<i>Enacted Congressional</i>	1 person	12	27	52	108	838	1.4 R	67.0% R	18.8%	12.5%
<i>PMC Senate</i>	0.74%	35	92	60	139	1577	2.1 R	56.5%R	22.7%	39.4%
<i>Enacted Senate</i>	0.37% (2010 pop.)	46	130	83	185	2078	3.9 R	61.5%R	16.5%	24.2%
<i>PMC Assembly</i>	0.96%	48	170	104	255	2687	3.8 R	53.6% R	15.8%	32.3%
<i>Enacted Assembly</i>	0.82% (2010 pop.)	58	229	119	298	3534	10.8 R	60.4% R	13.3%	24.2%

*lower numbers are better

On October 21, 2021, the majority party in the Legislature released proposed redistricting maps which would mostly maintain the 2011 enacted maps with minor adjustments. The links below are from the Princeton Gerrymandering Project, a national nonpartisan academic group that analyzes and grades redistricting maps across the country. The links below show the group's analysis and grades for the Legislature's proposed Assembly and state Senate maps and the Commission's second proposed Assembly and state Senate maps (which, with some changes, became the Commission's final Assembly and state Senate maps). The Princeton group's analysis shows that the Commission's maps are more compact, split fewer counties, and are more competitive and proportional. The Princeton group gave each of the Legislature's proposed maps an overall grade of "F", while assigning the Commission's proposed maps each an overall grade of "A."

Assembly

Legislature Proposed Assembly: <https://gerrymander.princeton.edu/redistricting-report-card?planId=recaaQlt0nQyOI7IB>

PMC Proposed Assembly: <https://gerrymander.princeton.edu/redistricting-report-card?planId=recwY6olZEbMYK7UN>

Senate

Legislature Proposed Senate: <https://gerrymander.princeton.edu/redistricting-report-card?planId=recc3zTUWYqdugsTR>

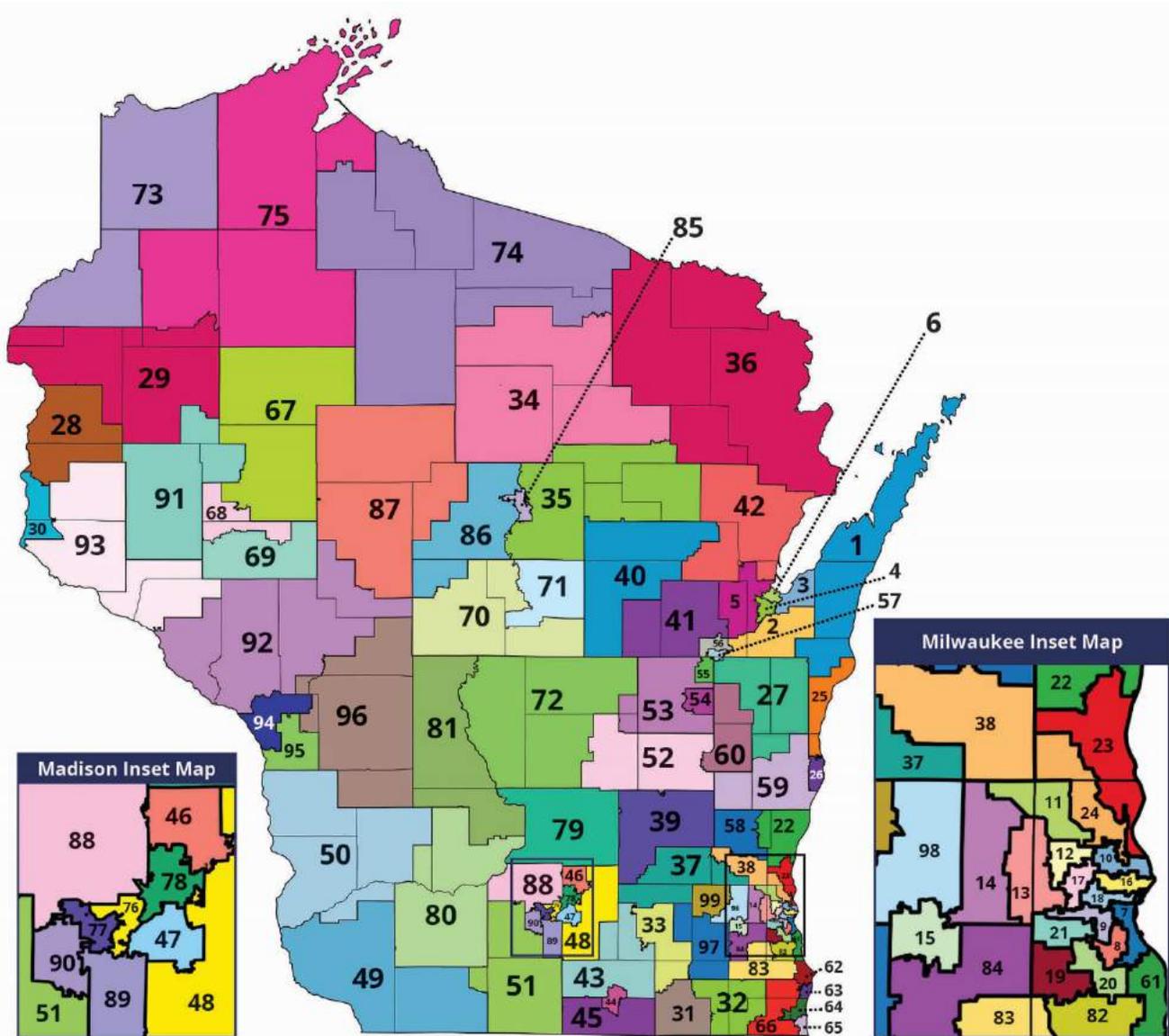
PMC Proposed Senate: <https://gerrymander.princeton.edu/redistricting-report-card?planId=reccwJFNwtQ2D6lmy>

SECTION A – Wisconsin State Assembly Districts

Districtr: <https://districtr.org/plan/73064>

Dave’s Redistricting App: <https://davesredistricting.org/join/9fe521b3-1844-4034-9f88-57409df8eb79>

1. Statewide Map



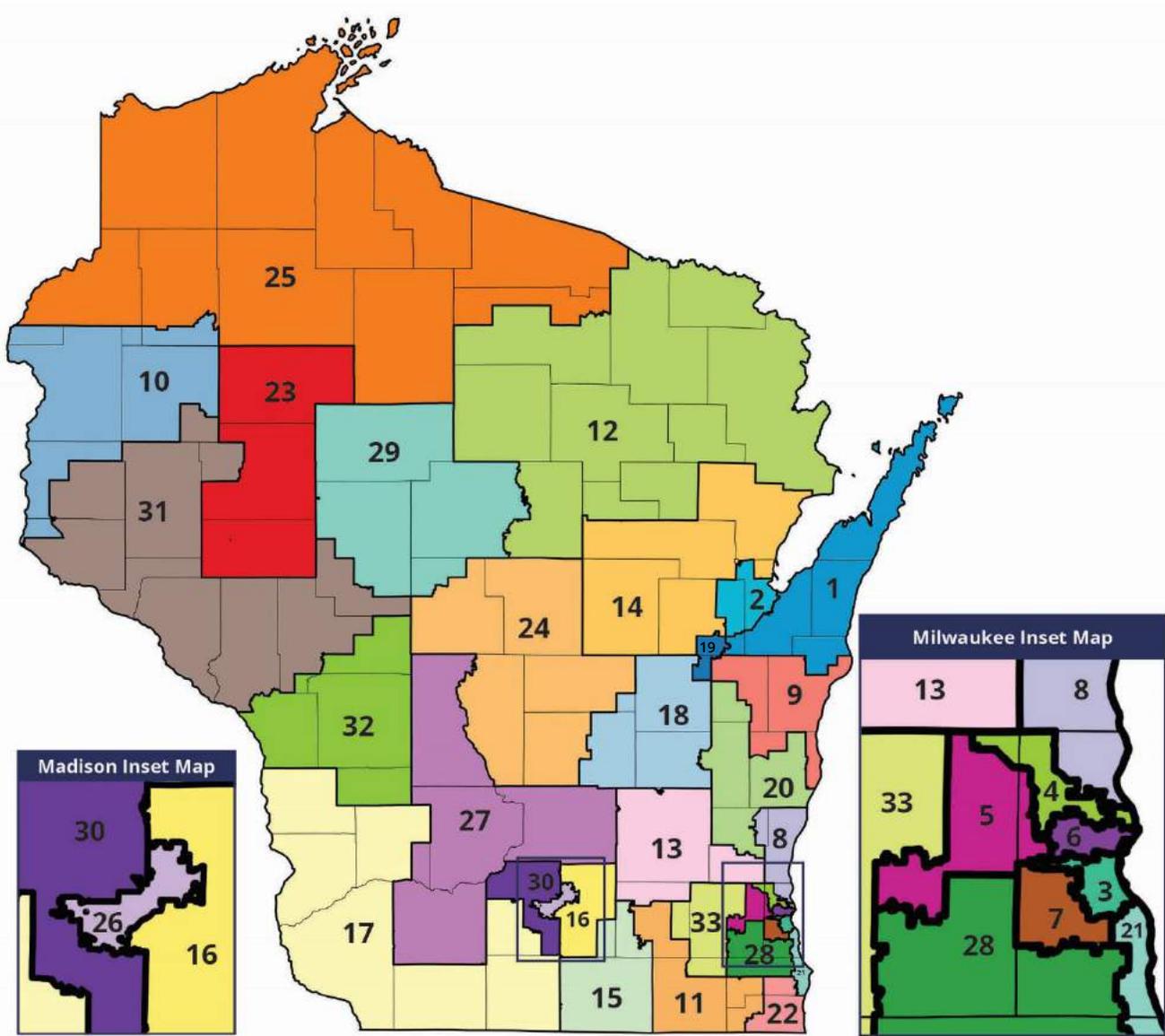
Assembly District Population																	
1	59,664	13	59,757	25	59,609	37	59,329	49	59,191	61	59,674	73	59,312	85	59,633	97	59,605
2	59,226	14	59,416	26	59,448	38	59,741	50	59,314	62	59,848	74	59,154	86	59,715	98	59,377
3	59,224	15	59,847	27	59,365	39	59,664	51	59,795	63	59,718	75	59,873	87	59,869	99	59,531
4	59,187	16	60,102	28	59,534	40	59,549	52	59,062	64	59,516	76	59,516	88	59,648		
5	59,269	17	59,961	29	59,686	41	59,298	53	59,288	65	59,653	77	59,480	89	59,642		
6	59,855	18	59,198	30	59,465	42	59,320	54	59,848	66	59,774	78	59,435	90	59,815		
7	59,969	19	59,160	31	59,447	43	59,627	55	59,116	67	59,605	79	59,828	91	59,667		
8	59,526	20	59,828	32	59,330	44	59,457	56	59,540	68	59,357	80	59,687	92	59,537		
9	59,653	21	59,874	33	59,232	45	59,531	57	59,266	69	59,386	81	59,474	93	59,808		
10	59,177	22	59,475	34	59,869	46	59,803	58	59,335	70	59,779	82	59,335	94	59,910		
11	59,106	23	59,315	35	59,533	47	59,445	59	59,497	71	59,758	83	59,819	95	59,163		
12	58,991	24	59,730	36	59,839	48	59,145	60	59,103	72	59,673	84	59,420	96	59,593		

SECTION B – Wisconsin State Senate Districts

Districtr: <https://districtr.org/plan/73063>

Dave’s Redistricting App: <https://davesredistricting.org/join/5d5723ae-4c61-44a4-b3da-1f3c8223ac3e>

1. Statewide Map

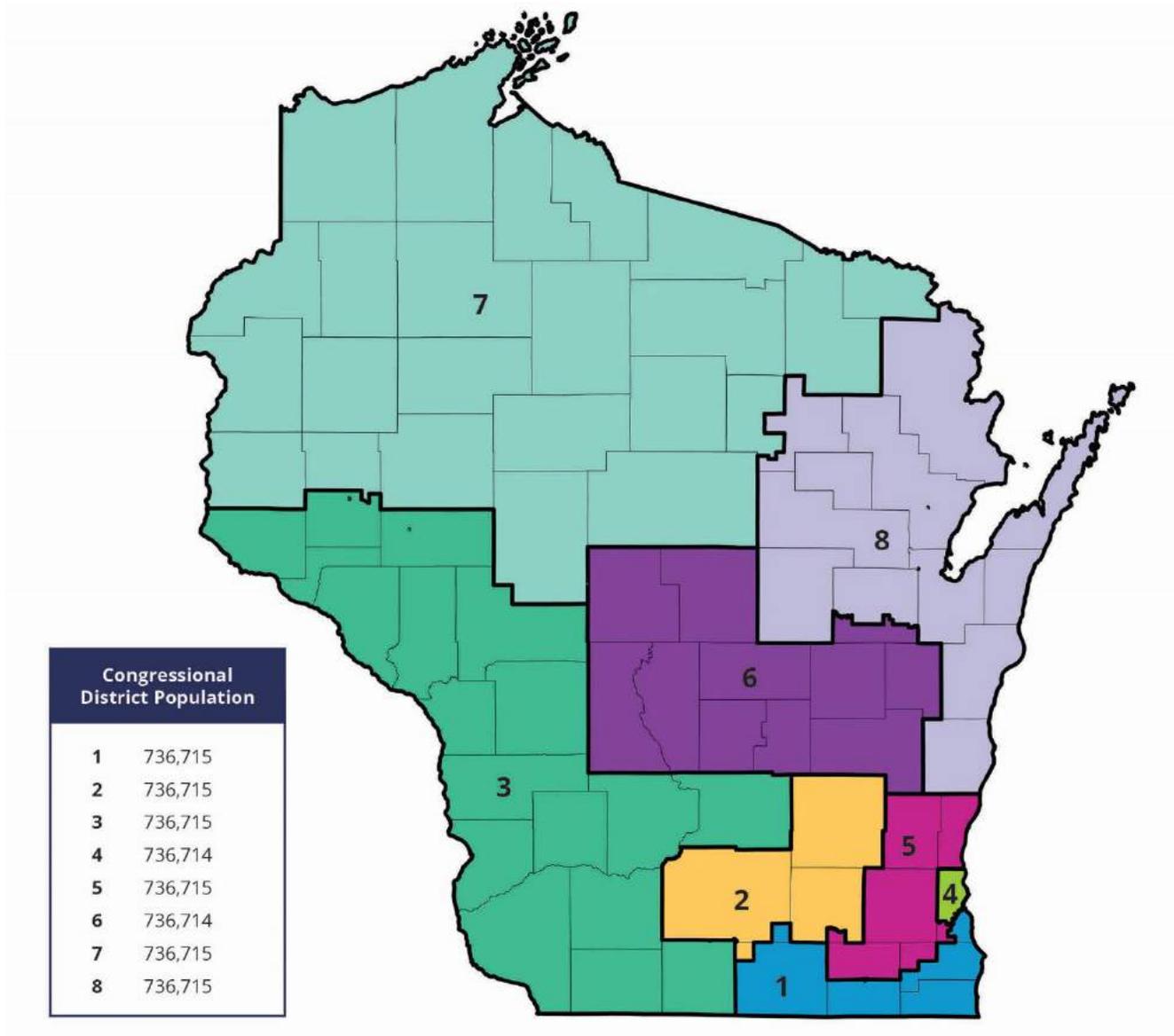


Senate District Population																		
1	178,114	5	179,020	9	178,422	13	178,734	17	178,300	21	179,240	25	178,339	29	179,217	33	178,513	
2	178,311	6	179,261	10	178,685	14	178,167	18	178,198	22	178,943	26	178,431	30	179,105			
3	179,148	7	178,862	11	178,009	15	178,615	19	177,922	23	178,348	27	178,989	31	179,012			
4	177,274	8	178,520	12	179,241	16	178,393	20	177,935	24	179,210	28	178,574	32	178,666			

SECTION C – Wisconsin’s Federal Congressional Districts

Dave’s Ristricting App³: <https://davesredistricting.org/join/86239ca8-7545-4f4f-8c02-20ada3ee4e28>

1. Statewide Map



³ Due to severely decreased functionality when maps are presented in block level detail, the PMC Congressional Map is not available in Districtr format.

Respectfully Submitted,

The People's Maps Commission

Dated: October 29, 2021

By: _____



Christopher Ford, M.D., Chairperson, and

Its other Members:

Elizabeth Tobias

Ruben Anthony

Annemarie McClellan

Benjamin Rangel

Susan Ranft

Melissa Prentice

Jason Bisonette

Anthony Phillips, M.D.

APPENDIX

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Exhibit 3 Commission Members	A5
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Exhibit 5 Subcommittees and Commission Meeting Dates	A9
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Exhibit 1 Governor Evers' Executive Order #66



EXECUTIVE ORDER #66

Relating to Creating the People's Maps Commission

WHEREAS, the Wisconsin Constitution requires new legislative and congressional district maps to be drawn following the federal census. The Constitution further requires the maps to be presented to the Governor for approval or veto;

WHEREAS, partisan gerrymandering disenfranchises voters, disproportionately undermines minority populations, and ultimately weakens our democracy by making it difficult to hold elected officials accountable;

WHEREAS, the maps created by 2011 Wisconsin Act 43 are some of the most gerrymandered, extreme maps in the United States;

WHEREAS, it is inevitable that in every redistricting, some voters will be moved from one district to another, but as a result of the maps created by 2011 Wisconsin Act 43, approximately 50 times more voters were moved to new districts than was necessary;

WHEREAS, the maps created by 2011 Wisconsin Act 43 were drafted in secret by private attorneys at taxpayer expense, passed with almost no public input, and resulted in years of litigation, costing taxpayers millions of dollars in legal fees;

WHEREAS, the people of Wisconsin – from Democrats to Independents to Republicans, and people in between and beyond – overwhelmingly reject this approach to redistricting;

WHEREAS, according to a Marquette Law School poll, more than 70 percent of voters prefer redistricting done by a nonpartisan commission;

WHEREAS, 50 of Wisconsin's 72 counties, which contain approximately 78 percent of Wisconsin's population, have passed resolutions or referenda supporting nonpartisan redistricting;

WHEREAS, to prevent partisan gerrymandering, states across the country are looking to these types of committees to assist the state in drawing fair electoral maps;

WHEREAS, to ensure the integrity of the process and the fairness of the maps, Wisconsin must look to the people, not politicians, to assist in drawing maps that fairly and accurately represent our state and its diverse population; and

WHEREAS, for a nonpartisan redistricting commission to be successful, it must rely on nonpartisan experts for guidance and provide a transparent and participatory process.

NOW, THEREFORE, I, TONY EVERS, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the laws of the State, specifically Section 14.019 of the Wisconsin Statutes, hereby order the following:

1. There is created the People's Maps Commission (Commission). Commission members may not be elected officials, public officials, lobbyists, or political party officials. Commission membership shall include: members from each of Wisconsin's eight congressional districts; members from communities of interest; and experts in nonpartisan redistricting.
2. The Commission shall hold at least one hearing in each of Wisconsin's eight congressional districts. The hearings shall provide information on the redistricting process and gather testimony and evidence from members of the public.
3. As soon as practicably possible after the 2020 Census data is made available to the State of Wisconsin, the Commission shall prepare proposed maps for the Legislature to consider. The proposed maps shall, whenever possible:
 - a. Be free from partisan bias and partisan advantage;
 - b. Avoid diluting or diminishing minority votes, including through the practices of "packing" or "cracking";
 - c. Be compact and contiguous;
 - d. Avoid splitting wards and municipalities;
 - e. Retain the core population in each district;
 - f. Maintain traditional communities of interest; and
 - g. Prevent voter disenfranchisement.
4. The Commission shall be attached to the Department of Administration.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this twenty-seventh day of January in the year of two thousand twenty.



TONY EVERS
Governor

By the Governor:


DOUGLAS LA FOLLETTE
Secretary of State

Exhibit 2 Map Depicting WI Counties Which Have Passed Resolutions and/or Referendums for Nonpartisan Redistricting (2021)

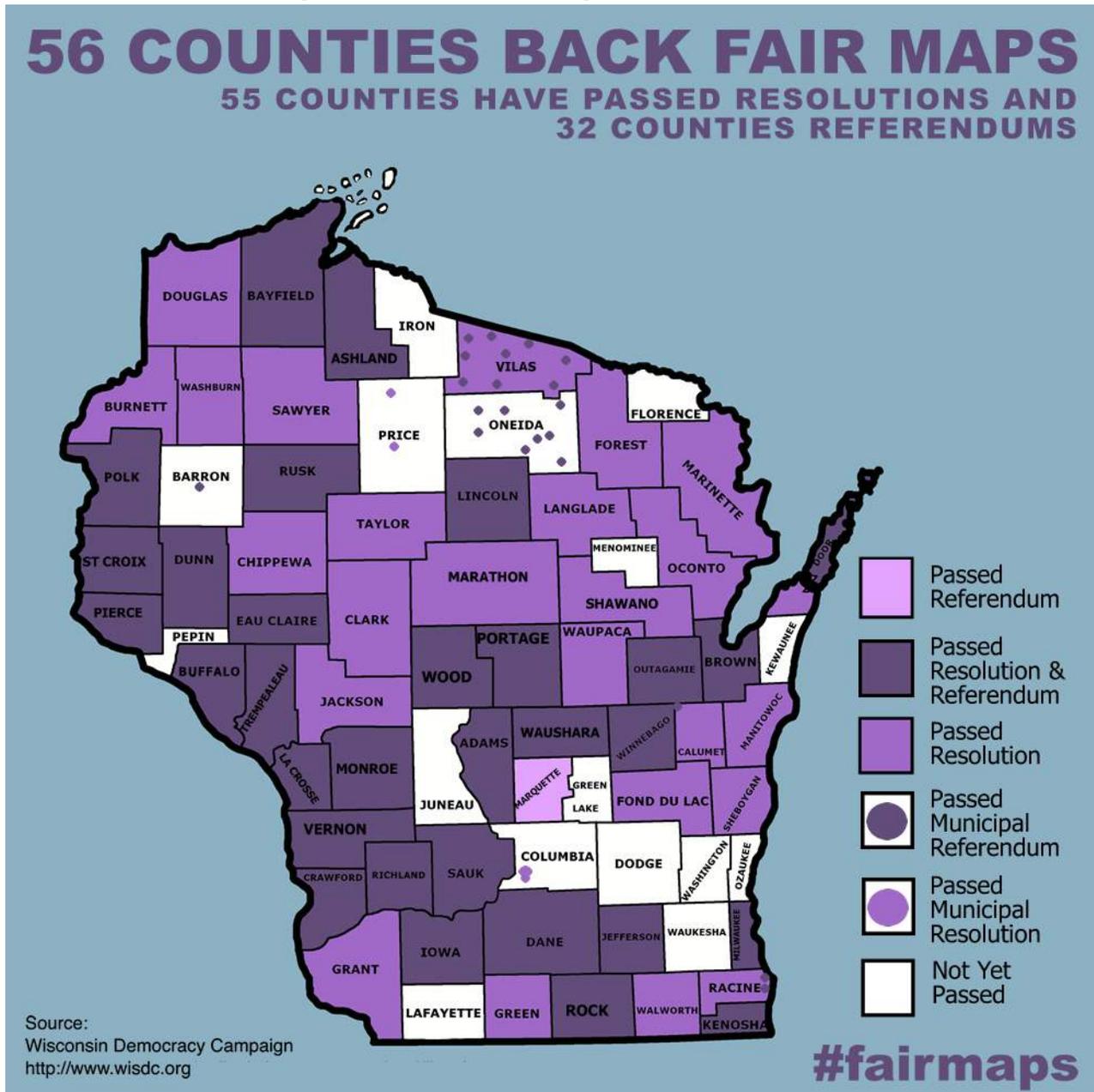


Exhibit 3 **Commission Members**

- 1) Christopher Ford (chairperson)- CD4, Emergency Room Physician
- 2) Elizabeth Tobias- CD1, Executive Assistant to Board of Education
- 3) Ruben Anthony- CD2, President and CEO of large community organization
- 4) Annemarie McClellan- CD3, Clinical Research and Manufacturing (retired)
- 5) Benjamin Rangel- CD4, High School Teacher of Government and History
- 6) Susan Ranft- CD5, Vice President, Global Human Resources for national HR group
- 7) Melissa Prentice- CD6, Librarian/Manager, Municipal Public Library
- 8) Jason Bisonette- CD7, Dean of Students for K-12 Tribal School
- 9) Anthony Phillips- CD8, Hematology and Oncology Physician (retired)

Exhibit 4 **Public Hearings and Expert Presentations**

Date	Cong. Dist.	Theme	Speakers
October 1, 2020	CD 8 Marinette, Menominee, Outagamie, Brown, Kewaunee Counties; Winneconne, New Holstein	Redistricting 101 (who, what, when, why, how)	<ul style="list-style-type: none"> ▪ Eric Holder- US Attorney General 2009-2015: Gerrymandering effects on Voting Rights ▪ Karen Nelson - Gerrymandering Effects specific to 8th Congressional District of Wisconsin ▪ Ruth Greenwood- Basics of Gerrymandering and Approaches to Nonpartisan Redistricting
October 29, 2020	CD 5 Waukesha, Jefferson, Whitewater, West Bend, Kewaskum	2011 Wisconsin redistricting Suggestions for Methods of Nonpartisan Redistricting	<ul style="list-style-type: none"> ▪ Keith Gaddie – Professor Univ of Oklahoma; voting rights and data consultant for counsel to the legislative majority ▪ Ken Mayer – Professor Univ of Wisconsin-Madison; expert witness for WI redistricting trials
November 19, 2020	CD 3 Dunn, Pierce, Trempealeau, Portage, La Crosse, Vernon, Crawford, Grant Counties; Tomah, Camp Douglas, Port Edwards	Methods of map drawing	<ul style="list-style-type: none"> ▪ Moon Duchin - Tufts Math Professor: Tools for mapping and defining communities of interest ▪ Jordan Ellenberg- UW Math Professor: Integrate math with gerrymandering
January 14, 2021	CD 4 Milwaukee, Brown Deer, Fox Point,	Voting Rights Act & Redistricting’s impact on minority groups	<ul style="list-style-type: none"> ▪ Rebecca Lopez – Lawyer at Godfrey & Kahn, support Latino outreach ▪ Tehassi Hill- Chairman, Oneida Nation

	Cudahy, South Milwaukee		<ul style="list-style-type: none"> James Hall, Jr – Lawyer at Hall, Burce & Olson. Active in NAACP and ACLU
January 28, 2021	CD 1 Racine, Kenosha, Janesville, Waukesha, Lake Geneva	Other States National Perspective	<ul style="list-style-type: none"> Katie Fahey – Founder/ED of The People. Led effort to get MI Redistricting Commission on the ballot Michael Li – Senior Counsel, The Brennan Center
February 11, 2021	CD 7 Douglas, Bayfield, Florence, Langlade, Marathon, Clark, St. Croix Counties; Bloomer, Pittsville, Necedah	Wisconsin Government perspective	<ul style="list-style-type: none"> Katie Rosenberg - Wausau Mayor, Peter Barca, Department of Revenue Secretary, former WI Assembly minority leader, 2010
February 25, 2021	CD 6 Columbia, Waushara, Marquette, Green Lake, Fond du Lac, Manitowoc, Sheboygan Counties; Oshkosh, Neenah, Mequon, Beaver Dam	Government staff and advocate perspective	<ul style="list-style-type: none"> Sue Ertmer– Winnebago Co Clerk Sachin Chheda – Fair Maps Project

March 11 2021	CD 2 Madison, Dodgeville, Darlington, Monroe, Beloit, Reedsburg	Legal perspective	<ul style="list-style-type: none"> ▪ Attorney Norm Eisen – Re-districting Litigation ▪ Rob Yablon - Professor UW Madison Law School, Voting rights Act
April 15 2021		Review of PMC Mapping Criteria	<ul style="list-style-type: none"> ▪ PMC ▪ Professor Moon Duchin

Exhibit 5 **Subcommittees and Commission Meeting Dates**

Subcommittee	Responsibility	Members
Action on Census (later combined with Map Drawing)	Assess the 2020 census data and census data from prior years. Work with the Line Drawers committee toward the end of our process to help synthesize raw data and potentially select software to assist in the process.	<ul style="list-style-type: none"> ▪ Commissioner Phillips ▪ Commissioner McClellan
Expert Selection	Identify expert or experts to assist the commission in the maps process. Will present information to the commission regarding experts and help reach out to/ vet candidates. Upon selection, will continue to work and communicate with experts throughout the process.	<ul style="list-style-type: none"> ▪ Commissioner Ranft ▪ Chairperson Ford
Line Drawers	Work with the census committee in creating our map. Vet software programs and methods to be utilized in map drawing. Ensure (via expert resources) the maps drawn keep intact communities of interest (to its best ability) as well as comply with Voting Rights Act parameters. Will work with experts and present to the commission updates	<ul style="list-style-type: none"> ▪ Commissioner Ford ▪ Commissioner Phillips ▪ Commissioner McClellan ▪ Commissioner Bisonette
Outreach and Engagement	Work to engage members of the community to help identify sentiments and promote PMC hearings. Will work to synthesize	<ul style="list-style-type: none"> ▪ Commissioner Rangel ▪ Commissioner Tobias

	public testimony data and present it to the commission	<ul style="list-style-type: none"> ▪ Commissioner Anthony
Project Management	Will work to update the Commission documentation and maintain a myopic view of commission progress and upcoming deadlines	<ul style="list-style-type: none"> ▪ Commissioner McClellan ▪ Commissioner Tobias
Community of Interest (COI)	Will help define our definition of communities of interest via public outreach and previous examples from commissions across the country. Will present info to the commission for an official definition to be voted upon and adopted.	<ul style="list-style-type: none"> ▪ Commissioner Ranft ▪ Commissioner Prentice
Document Drafting Subcommittee	Will create the final report of the recommended maps and outline the Commission methodology.	<ul style="list-style-type: none"> ▪ Commissioner Ranft ▪ Commissioner Prentice ▪ Commissioner Phillips ▪ Commissioner McClellan

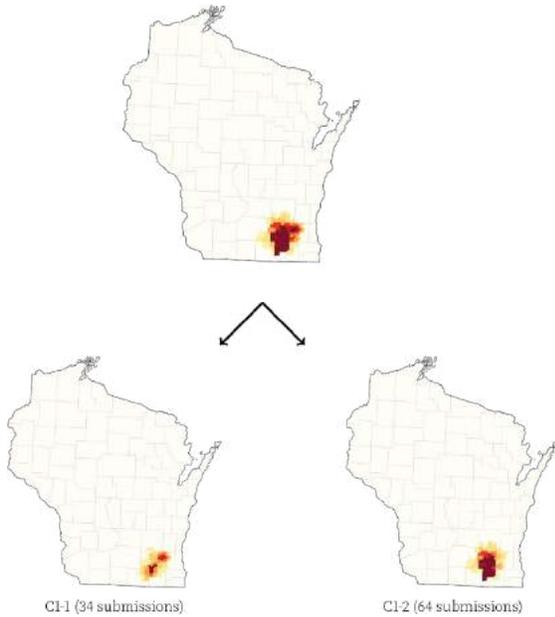
Full Commission Public Meetings

09/29/2020	03/16/2021	09/09/2021
10/20/2020	03/30/2021	09/23/2021
11/04/2020	04/15/2021	09/30/2021
11/27/2020	05/26/2021	10/14/2021
12/01/2020	06/29/2021	10/18/2021
12/20/2020	07/08/2021	10/29/2021
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02/17/2021	08/03/2021	
03/02/2021	08/11/2021	

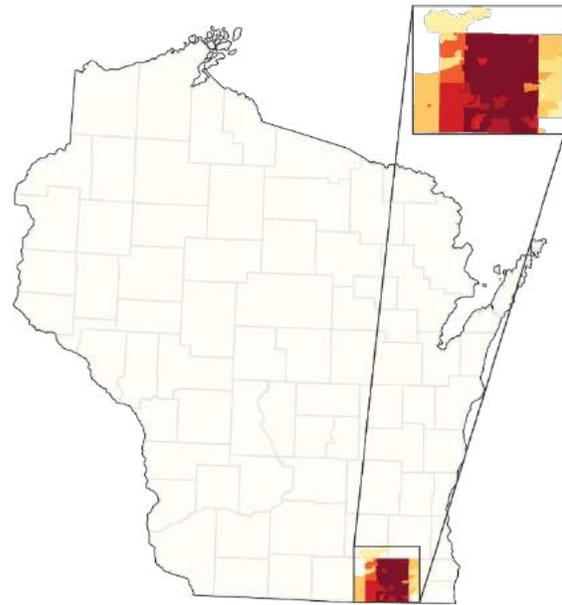
Exhibit 6 **Additional Communities of Interest Information**

The full report of Community of Interest clusters may be viewed here:

<https://evers.wi.gov/Documents/PMC/Wisconsin%20COI%20Report.pdf>



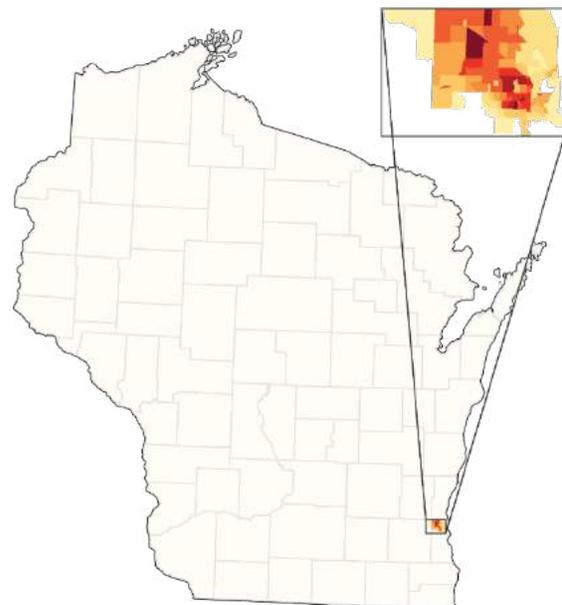
Cluster C1 - Whitewater
(98 Submissions)



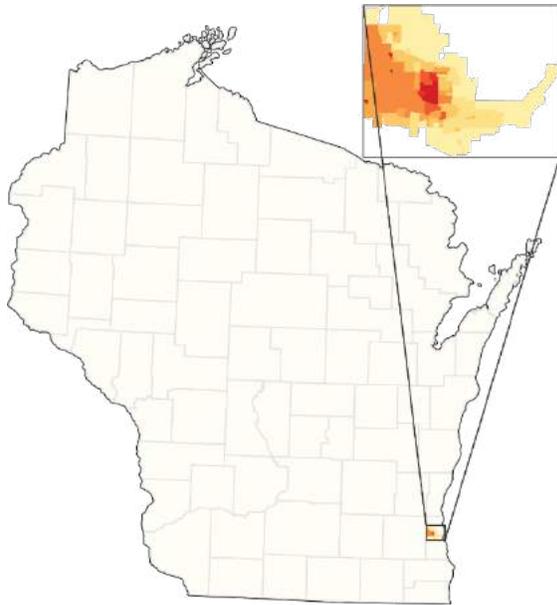
Cluster C2 - Walworth County
(37 Submissions)



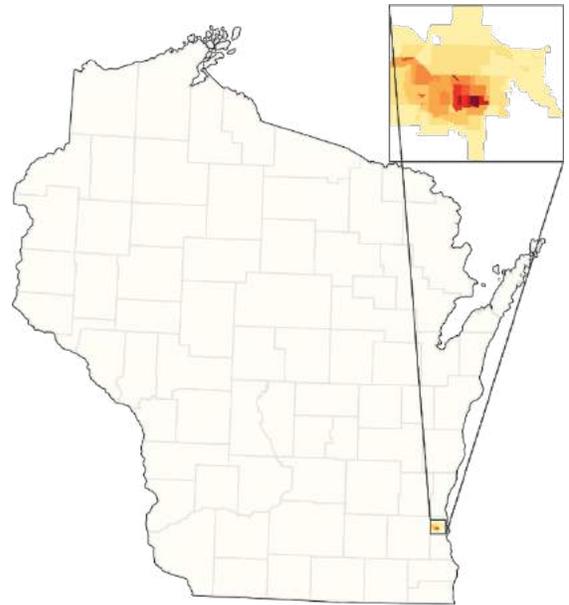
Cluster C3 - Beloit-Janesville and Delavan-Darien Area
(34 Submissions)



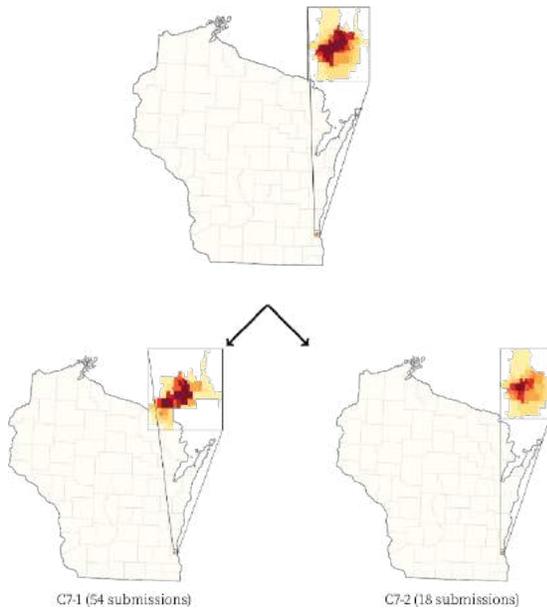
Cluster C4 - Brown Deer
(34 Submissions)



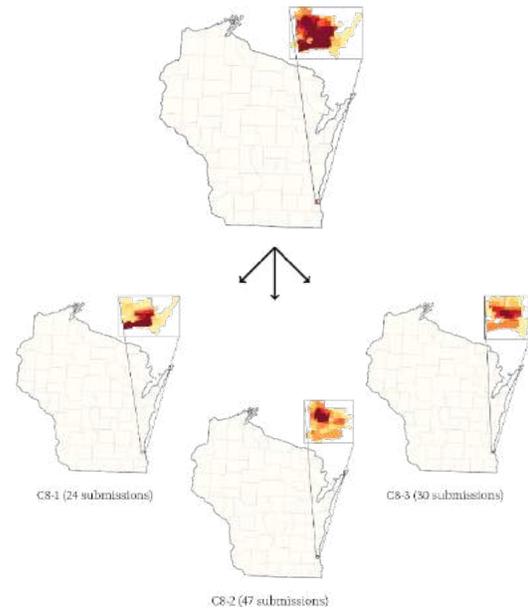
Cluster C5 - Wauwatosa
(11 Submissions)



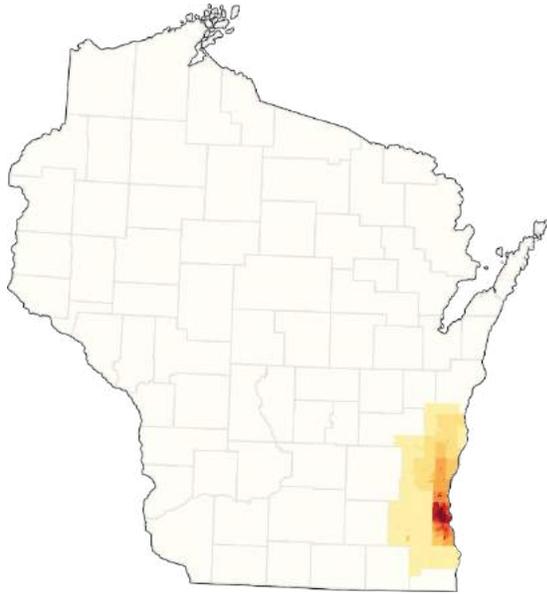
Cluster C6 - North Milwaukee
(17 Submissions)



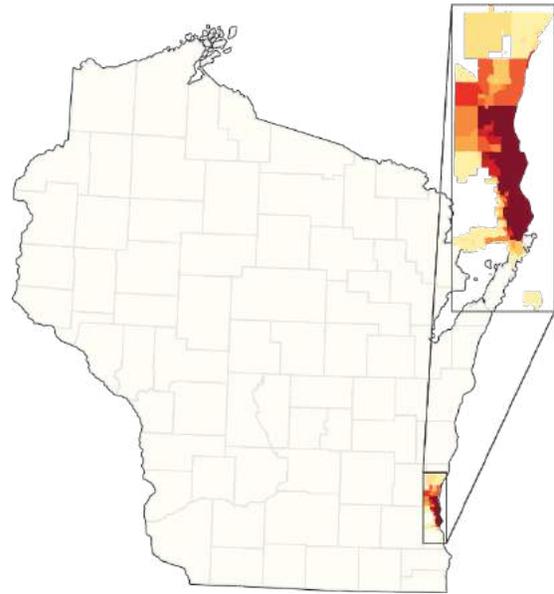
Cluster C7 - Sherman Park
(72 Submissions)



Cluster C8 - Washington Park
(101 Submissions)



Cluster C9 - Greater Milwaukee County
(11 Submissions)



Cluster C10 - Milwaukee Northshore
(103 Submissions)



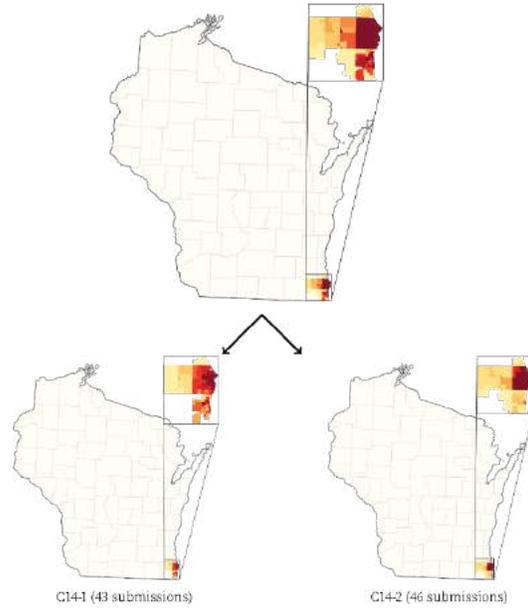
Cluster C11 - Waukesha-New Berlin
(16 Submissions)



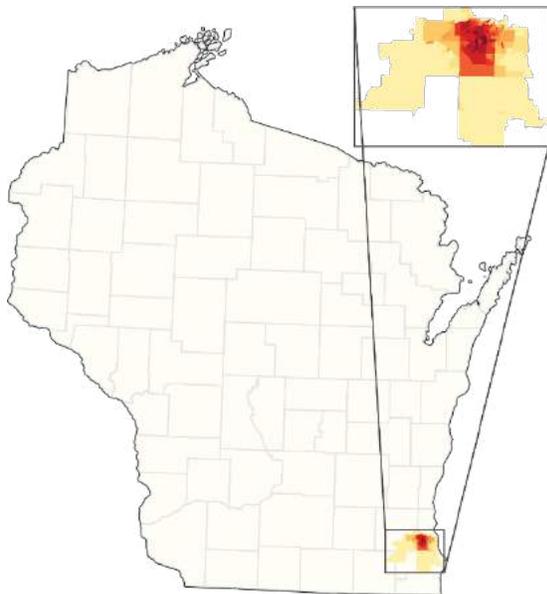
Cluster C12 - Germantown-Menomonee Falls
(15 Submissions)



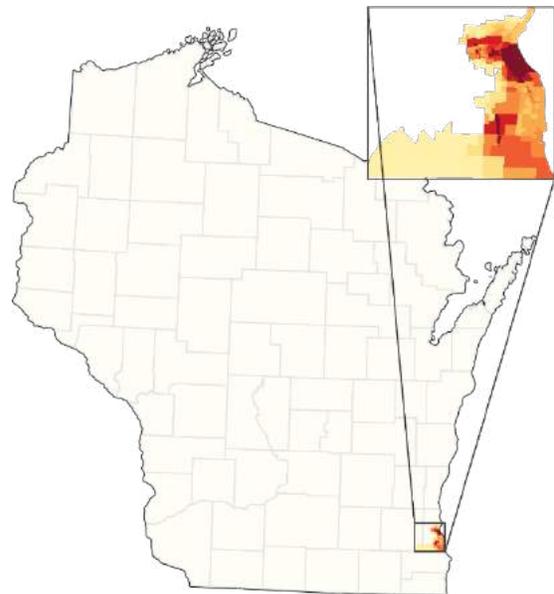
Cluster C13 - Kenosha-Racine
(7 Submissions)



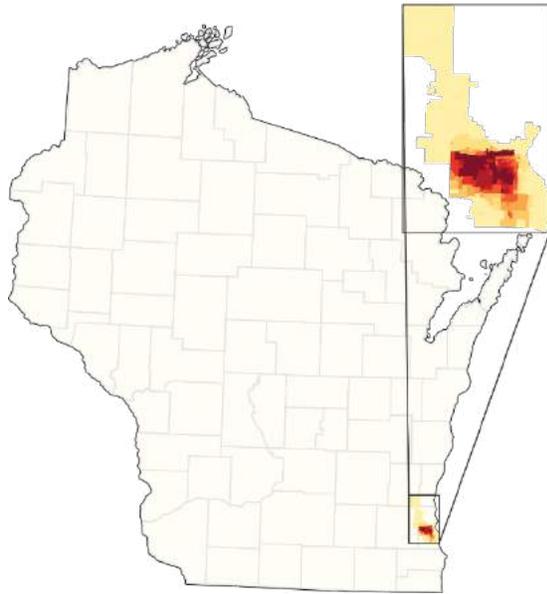
Cluster C14 - Kenosha
(89 Submissions)



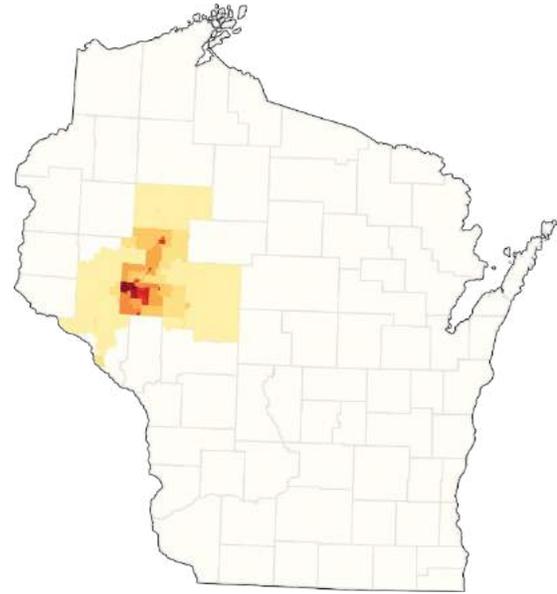
Cluster C15 - Southwest Milwaukee
(25 Submissions)



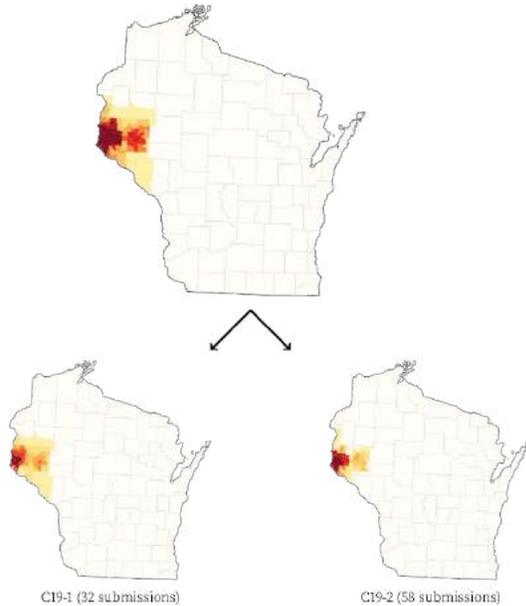
Cluster C16 - BayView-Near Southside
(39 Submissions)



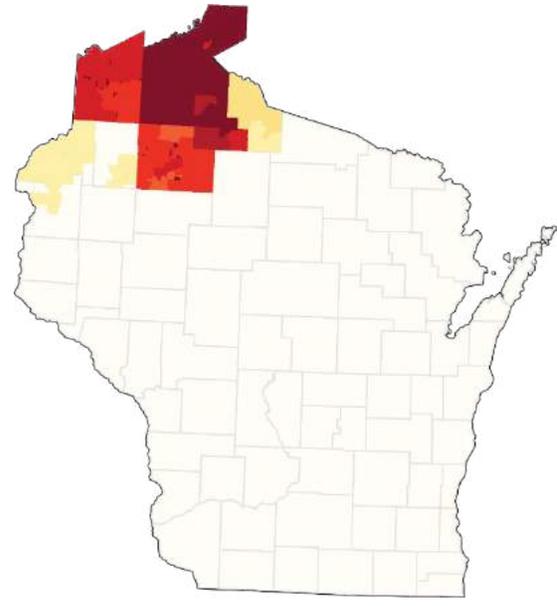
Cluster C17 - West Allis
(23 Submissions)



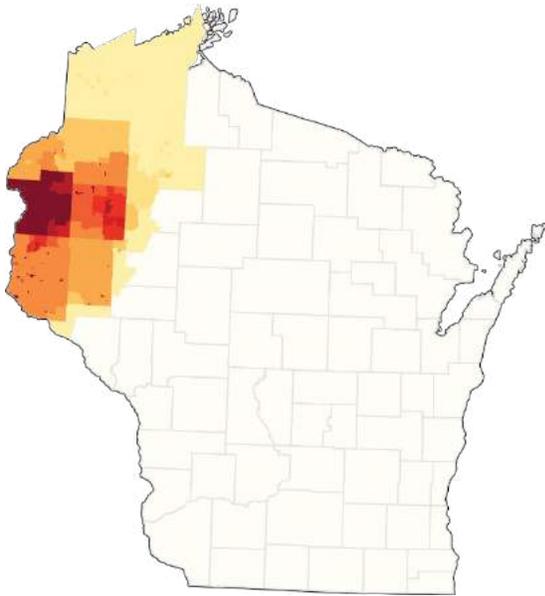
Cluster C18 - Eau Claire
(36 Submissions)



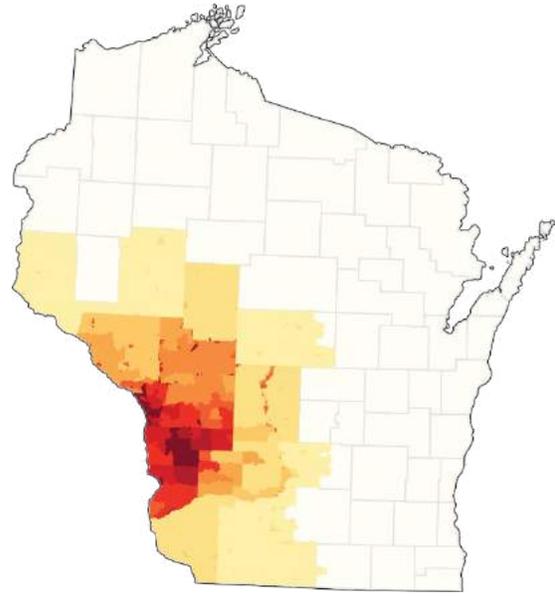
Cluster C19 - Western Wisconsin River Communities
(90 Submissions)



Cluster C20 - Lake Superior Areas
(20 Submissions)



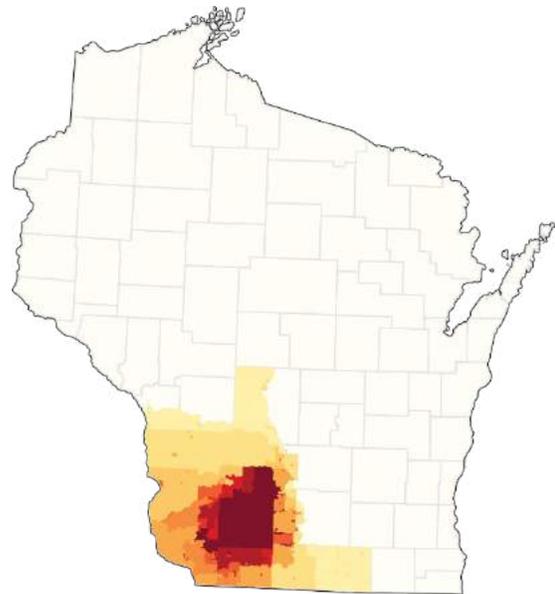
Cluster C21 - Western Wisconsin
(35 Submissions)



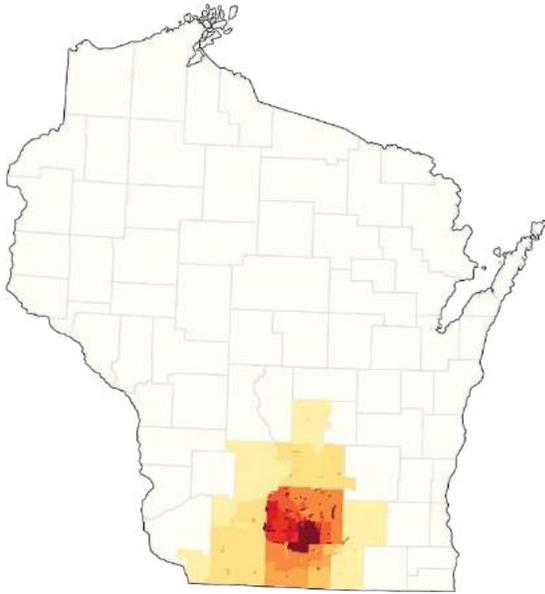
Cluster C22 - Northern Driftless Area
(26 Submissions)



Cluster C23 - Greater Baraboo
(4 Submissions)



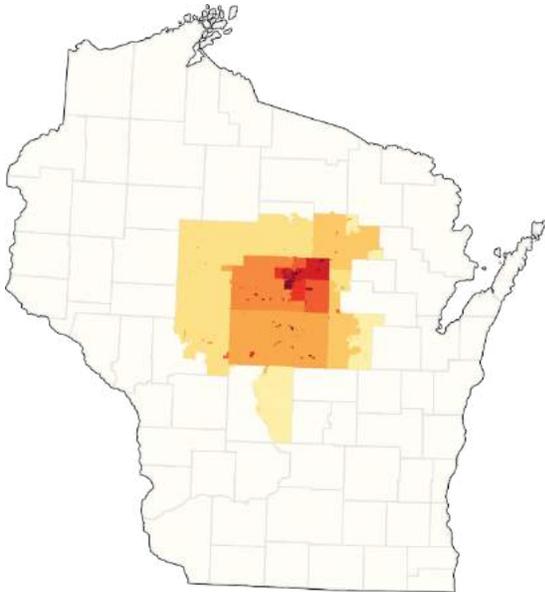
Cluster C24 - Iowa County Area
(26 Submissions)



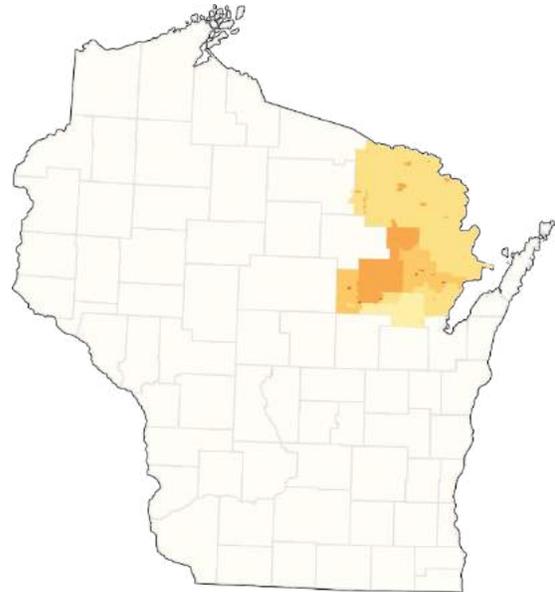
Cluster C25 - Madison Suburbs
(35 Submissions)



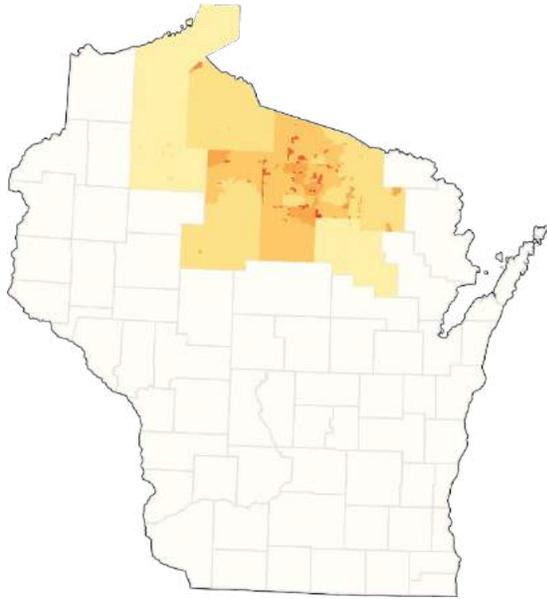
Cluster C26 - Greater Madison
(46 Submissions)



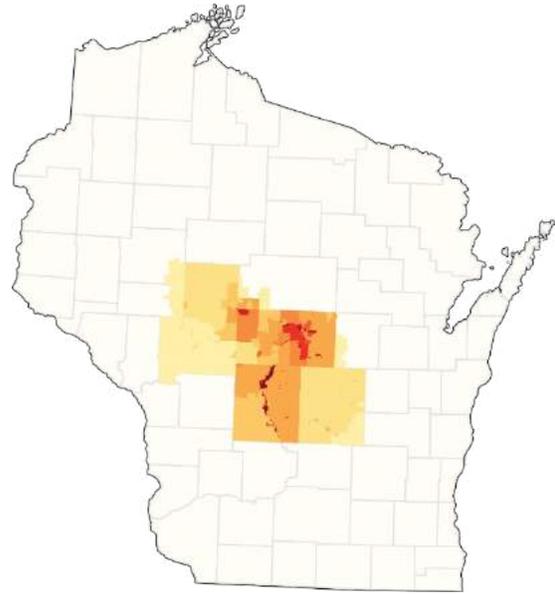
Cluster C27 - Wausau
(16 Submissions)



**Cluster C28 - Northeast Indigenous
Communities**
(7 Submissions)



Cluster C29 - Northwoods Rural Economy
(8 Submissions)



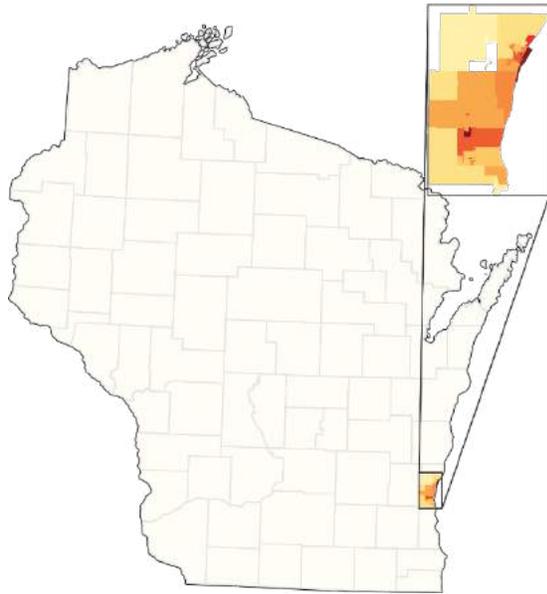
Cluster C30 - Central Wisconsin
(23 Submissions)



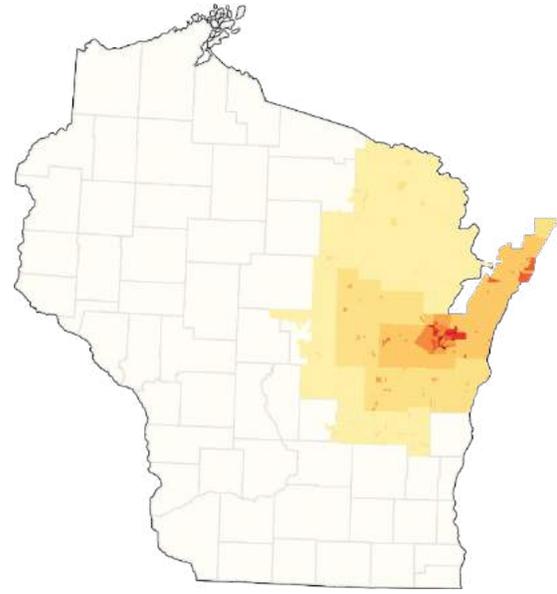
Cluster C31 - West Bend
(7 Submissions)



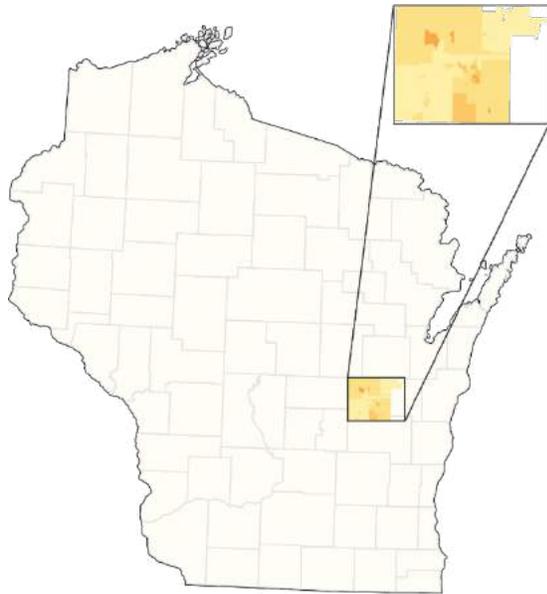
**Cluster C32 - Northern Door County
School Districts**
(14 Submissions)



Cluster C33 - Manitowoc and Shore Area
(21 Submissions)



Cluster C34 - Green Bay Area
(21 Submissions)



Cluster C35 - Oshkosh College Zone
(7 Submissions)



Cluster C36 - Suburban Appleton
(17 Submissions)

Exhibit 7 **The Commission’s Lower-Ranked Alternative Maps**

A first set of maps was released September 30, 2021 for public comment. Districtr links are available for each map below.

Assembly 1: <https://districtr.org/plan/50213>

Assembly 2: <https://districtr.org/plan/52208>

Assembly 3: <https://districtr.org/plan/55944>

Senate 1: <https://districtr.org/plan/54514>

Senate 2: <https://districtr.org/plan/54587>

Senate 3: <https://districtr.org/plan/54637>

Congressional 1: <https://districtr.org/plan/54254>

Congressional 2: <https://districtr.org/plan/55125>

Congressional 3: <https://districtr.org/plan/54774>

A second set of refined legislative maps was released October 20, 2021 for public comment. At that time, one Congressional map was eliminated, and another added. Districtr links are available for each map below. Refined Assembly 2, Refined Senate 2, and Congressional 3 were further refined to become the final maps selected by the Commission, as set forth above in Section II.

Refined Assembly 1: <https://districtr.org/plan/63855>

Refined Assembly 2: <https://districtr.org/plan/67304>

Refined Senate 1: <https://districtr.org/plan/66430>

Refined Senate 2: <https://districtr.org/plan/63878>

Congressional 2: <https://districtr.org/plan/55125>

Congressional 3: <https://districtr.org/plan/54774>

Congressional 4: <https://districtr.org/plan/66476>

All draft maps are available in other formats at www.wisconsin.gov/peoplesmaps.

Exhibit 8 Redistricting Report to Wisconsin Supreme Court (2007)



Shirley S. Abrahamson
Chief Justice
Ann Walsh Bradley
N. Patrick Crooks
David T. Prosser, Jr.
Patience D. Roggensack
Louis B. Butler, Jr.
Annette K. Ziegler
Justices

Supreme Court of Wisconsin

16 EAST STATE CAPITOL
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
Facsimile (608) 267-0640
Web Site: www.wiscourts.gov

A. John Voelker
Director of State Courts

David R. Schunker
Clerk of Supreme Court

September 24, 2007

To: Interested Persons
(See attached list)

Re: *In the matter of the adoption of procedures for original action case involving state legislative redistricting*, Rules File No. 02-03

Greetings,

On February 26, 2003, this court voted to convene a committee to study and draft procedural rules that govern state legislative redistricting litigation in Wisconsin. On November 25, 2003, this court appointed a committee to review this court's opinion in Case No. 02-0057-OA, Jensen et al. v. Wisconsin Elections Bd., et. al, 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537, as well as to review the history of state legislative redistricting in Wisconsin, rules and procedures of other jurisdictions, including federal and state courts, and propose procedural court rules.

The committee has filed its report with the court, a copy of which is enclosed. This report has not yet been reviewed by the court.

We are now sending the report out for comment. Following the receipt of comments, the court will decide how to proceed further. For example, the court may propose changes to the report. The court may schedule and conduct a public hearing on the report (as drafted or with suggested changes) and hold an open administrative conference to discuss this matter in the coming months.

You are invited to provide a written comment to this report within 40 days of the date of this letter, if at all possible. Please feel free to pass this report and invitation to comment to whomever you think might be interested.

September 24, 2007
Page 2

Written comments should be directed to Susan Gray, c/o Office of the Director of State Courts, P.O. Box 1688, Madison, WI 53701-1688 (telephone: 608-266-6708) (email: susan.gray@wicourts.gov). A courtesy electronic copy of your response would be appreciated. Also, if you have specific questions or inquiries regarding this matter, they may also be directed to Susan Gray.

Very truly yours,

Shirley S. Abrahamson
Chief Justice

SSA/skg
Encl.

cc: Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Patience D. Roggensack
Justice Louis B. Butler, Jr.
Justice Annette K. Ziegler

PROPOSED DRAFT

(September 21, 2007)

The Courts and Redistricting in Wisconsin: A Proposal Wisconsin Supreme Court: Redistricting Committee

Introduction

This report to the Wisconsin Supreme Court consists of the following parts:

1. Background
2. Redistricting in Wisconsin
3. Principles of Redistricting
4. Development A Process for Court Consideration Following Legislative Impasse
5. Court Procedures following Legislative Impasse: A Recommendation
6. The Proposed Process and Time Line
7. Appendix

Background

The Chief Justice of the Wisconsin Supreme Court, Shirley Abrahamson, has asked us to draft procedural rules, setting out the process for how Wisconsin state courts should handle litigation that may arise during state legislative and congressional redistricting. If the Wisconsin Legislature *does not enact a redistricting plan* following the decennial census and *a lawsuit challenging the existing districting is filed*, courts are called upon to develop a districting map that provides for districts equal in population.

Because of a series of landmark U.S. Supreme Court decisions issued in the 1960s, states must redraw congressional and state legislative district lines after each census in order to ensure that districts have equal populations and to account for changes in congressional apportionment.¹ The next round of redistricting will take place in 2011-2012 after the 2010 decennial census conducted by the federal government.² The requirement of population equality means that whatever districts exist in 2010 will be, almost by presumption, unconstitutional as soon as the new census data are issued. Population increases, declines, and shifts will inevitably render district populations unequal.

Redistricting is an inherently political process, one which defines the nature of representative government. All of the stakeholders – political parties, incumbent legislators, civil rights coalitions, interest groups, watchdog organizations, labor unions,

¹ *Baker v. Carr* 369 U.S. 186 (1962); *Reynolds v. Sims* 377 U.S. 533 (1964); *Wesberry v. Sanders* 376 U.S. 1 (1964). Later decisions imposed a requirement of nearly absolute population equality for congressional districts, *Karcher v. Daggett* 462 U.S. 725 (1983). Larger population deviations are permitted for state legislative districts, *Mahon v. Howell* 404 U.S. 1201 (1971).

² Throughout this report, we use the term “legislative redistricting” to refer to the drawing of state legislative districts. “Congressional redistricting” refers to the drawing of U.S. House districts. “Reapportionment” refers to the allocation of congressional representatives to each state.

even individual voters – seek to draw districts in a way that helps their allies and puts their opponents at a disadvantage. The increasing sophistication of computer programs and Geographic Information Systems (GIS) makes it an easy task to draw alternative redistricting plans. The legal guidelines for redistricting – allowable population deviations, compactness, respect for political subdivisions and communities of interest, partisan fairness – are often ambiguous, and it is not clear how they should be applied, or whether they should apply at all. Criticisms of the process abound: incumbents draw safe districts that make them unbeatable; parties try to maximize the number of seats they are sure to win, and because of the inability of the Legislature to agree upon a plan, the courts are left with the task of drawing maps.³ We do not address the merits of alternative redistricting processes, as these are issues for the Legislature and the electorate to address.

Lawsuits have become a routine part of the redistricting process, in part because courts become involved when state legislatures or commissions are unable to come to agreement on redistricting plans, but also because litigants raise objections to whatever plans are implemented. According to the National Conference of State Legislatures, in the most recent round there were 150 lawsuits filed in 40 states challenging redistricting plans.⁴ At times there are multiple lawsuits filed simultaneously in state and federal court with plaintiffs often choosing whatever venue they think will be most sympathetic to their claims.

Most recently the issue has arisen of whether the Legislature can revise districting maps more than once in a decade. This was the situation in Colorado and Texas where a redistricted legislature revised the legislative maps to gain further partisan advantage. Colorado's second redistricting was a modification of a court drawn plan, a practice that had been done in Wisconsin. Colorado's redistricting was found unconstitutional by their state Supreme Court on the basis of a provision in their state constitution which was interpreted to mean that only one redistricting was permitted in a decade.⁵ This decision could have implications for Wisconsin because the Wisconsin state Legislature has revised districting drawn by the Wisconsin Supreme Court. Whether this is applied to Wisconsin will depend on whether Wisconsin's Supreme Court interprets a similar Wisconsin Constitutional provision as the Colorado court did in their Constitution.⁶ A further challenge to a second redistricting is the Texas case in which the U.S. Supreme Court affirmed the Texas redistricting, declaring that it did not violate the U.S.

³ Partisan redistricting – in which a party holding a legislative majority draws district lines to maximize the number of seats it controls – has a long history in Wisconsin. Theobald's authoritative account of Wisconsin's experience cited an account of the redistricting after the 1890 census: "the Democrats were in power and made the existing apportionment so as to get out of it as many Democratic districts as possible. Previous Republican legislatures had set the example. . ." H. Rupert Theobald, *Equal Representation: A Study of Legislative and Congressional Apportionment in Wisconsin*, Reprint from the 1970 *Blue Book*, p. 28.

⁴ See <http://www.ncsl.org/programs/legman/elect/law-article.htm>, last visited June 30, 2005.

⁵ *Salazar v. Davidson* 79 P. 3rd 1221, 1231 (2003)

⁶ See *State ex rel. Thomson v. Zimmerman* 262 Wis. 644 (1953) where the Court held a one-apportionment per federal census based upon the Wisconsin Constitution.

Constitution (*Henderson v. Perry*)⁷ Therefore, if the Wisconsin Supreme Court does not negate a legislative revision to the Court drawn maps based upon a state constitutional provision, it would reasonable to expect legislative revisions in a Court determined districting.

Redistricting in Wisconsin

In Wisconsin, legislative redistricting is the responsibility of the state Legislature,⁸ which must complete this process by the end of the first session after the census. Plans must be approved by a majority of both the Senate and Assembly, and are subject to a gubernatorial veto.⁹ Plans are also subject to legal challenge on the basis of either state or federal constitutional or statutory objections.¹⁰

But redistricting *must* occur: if the state government fails to enact a plan, it cannot conduct an election using the existing districts (because population shifts have almost certainly created unconstitutional population inequalities). At the same time, if the existing districts are invalid, there must be some way to create a new districting plan, even if the Legislature is deadlocked. Doing nothing is simply not an option.¹¹

It is at this point – after a legislative deadlock – that the third branch of government, the judiciary, becomes involved. If the political branches of government cannot act, it necessarily falls to judges to create a plan.

As a practical matter, we think that litigation after the 2010 census is likely. Although the Wisconsin Legislature has usually been able to draw congressional district lines without much ado, the legislative redistricting process has proven nearly impossible. The last time the Legislature completed the redistricting process without substantial judicial intervention was 1931. Federal judges drew state legislative districts in each of the past three rounds (1980s, 1990s, 2000s); the State Supreme Court drew the lines in the 1960s, and threatened to do so again in the 1970s, when a judicially imposed deadline finally prompted a stalled Legislature to broker a deal.¹²

⁷ *Henderson v. Perry* 548 U.S. _____ 126 S.Ct. 2594 (2006)

⁸ “the legislature shall apportion and district anew the members of the senate and assembly, according to the number of inhabitants.” Article IV §3.

⁹ *State ex rel. Reynolds v. Zimmerman* 22 Wis. 2d 544 (1964)

¹⁰ See <http://www.ncsl.org/programs/legman/elect/law-article.htm>, last visited June 30, 2005.

¹¹ Before the “reapportionment revolution,” doing nothing was, by contrast, common. States sometimes redrew districts after the census, but often did not. Wisconsin did not modify its legislative or congressional districts after the 1940 census. Tennessee, whose unequal districts were at the center of the 1962 case *Baker v. Carr*, had not redrawn state legislative districts since 1901.

¹² A. Clark Hagensick, “Wisconsin,” in *Reapportionment Politics: The History of Redistricting in the 50 States*, Leroy Hardy, Alan Heslop, and Stuart Anderson eds. (Beverly Hills: Sage Publications, 1981) recounts the events of the 1960s and 1970s. The primary cause of legislative deadlock was divided government. Judicial legislative plans were implemented by the State Supreme Court in *State ex rel. Reynolds v. Zimmerman* 22 Wis. 2d 544, 126 N.W. 2d 551 (1964),

Principles of Redistricting

Redistricting, following the decennial census, is primarily the task of the state Legislature (Wisconsin Constitution, Art. IV, §3), required to adjust districts so that they are equal in population, a U.S. Supreme Court mandate since the 1960s. (*Baker v. Carr*, *Reynolds v. Sims*, *Wesberry v. Sanders*) Although some justified population deviation is allowed for state legislative districts (*Mahan v. Howell*), congressional districts must be precisely equal in population (*Wells v. Rockefeller*).¹³ In 2002 court drawn state legislative districts in Wisconsin, the population deviation was 1.4% for the Assembly districts and 1% for the Senate districts.

Prior to the equal-population decisions of the 1960s, many states did not redraw their districts to account for population shifts resulting in inequality in representation. In Wisconsin the failure of the Legislature to redistrict after the 1940 census meant that considerable population shift was not reflected in the apportionment of the Legislature. In 1951 the Legislature did rectify the 20 year redistricting hiatus, redrawing the districts based upon population (the Rosenberry Act). An attempt in 1953 to include a non-population area factor in drawing Senate districts was invalidated by the state Supreme Court.¹⁴ For congressional districts, Wisconsin went from 1931 to 1963 without redrawing their boundaries with the largest and smallest districts varying by about 30 percent from the district population average.¹⁵

Besides population equality, districts must be drawn in accordance with the Wisconsin Constitutional requirements. (Wisconsin Constitution, Article IV, §§3, 4 and 5). Further, the U.S. Supreme Court has stated that districts drawn cannot discriminate against a minority and must be consistent with the Voting Rights Act. Within these parameters, the Legislature typically considers political impact in drawing districts. Conflict over political outcome is hard to avoid in drawing districts. Although the U.S. Supreme Court has nullified redrawn districts because of racial impacts and lack of population equality, it has never done so on the basis of political gerrymandering. Although at one time the U.S. Supreme Court indicated that the impact of redistricting on political parties was judiciable, more recently it has pulled back from that position. In *Vieth v. Jubelirer* (2004) four justices wrote that there were no "judicially discoverable

and by three judge federal panels in *Wisconsin State AFL-CIO et al. v. State Elections Boar, et al.*, 543 F. Supp. 630 (E.d. Wisconsin, 1982); *Prosser et al. v. State Elections Board et al.*, 793 F. Supp. 859 (W.D. Wisconsin 1992); *Baumgart et al. v. Wendleberger et al.* (E.D. Wisconsin, 2002). In the 1950s, the State Supreme Court invalidated a 1953 constitutional amendment requiring that the state Senate be apportioned on the basis of population and land area, *State ex rel. Thomson v. Zimmerman*, 264 Wis. 644, 60 N.W. 2d 416 (1953). No redistricting occurred in the 1940s.

¹³ *Mahan v. Howell* 404 U.S. 1201 (1971); *Wells v. Rockefeller* 394 U.S. 542 (1969)

¹⁴ A. Clarke Hagensick, "Wisconsin" in L.Hardy, A. Heslop, and S. Anderson, eds. *Reapportionment Politics*. Beverley Hills: Sage Publications, 1981. *State ex rel. Thomson v. Zimmerman* 264 Wis. 644 (1953).

¹⁵ Hagensick, p. 351.

and manageable standards” for the adjudication of claims of a partisan gerrymander.¹⁶ However, Justice Kennedy supported the majority in the case but wrote that it was possible that a legitimate standard could be proposed in a subsequent case. The reality is that the major forces behind redistricting are partisan and protection of incumbents. A few states, such as Iowa, have attempted to turn the task over to a non-partisan commission. However, removing the partisan elements is difficult.

The Court’s primary role has been to protect voting rights in reviewing the Legislature’s districting plans. Since the 1960s courts have reviewed districting to ensure that they meet the one person, one vote criterion and that minorities are protected, especially as specified in the federal 1965 Voting Rights Act. Cases have been easier to bring under this act since the 1982 amendments, eliminating the need to prove intent. Criteria for bringing redistricting discrimination cases were specified in *Thornburg v. Gingles* (large minority, political cohesive minority, and bloc voting by white majority usually defeated minority’s preferred candidate).¹⁷ However, the Court may be called upon to draw the districts itself if the Legislature is at an impasse. Failure to do this would leave a malapportioned system in place. In drawing the districts, the Court needs to avoid being involved prematurely and foreclosing legislative action. At the same time, the Court needs sufficient lead time prior to the next election to allow input of involved parties and to draw the districts.

Developing A Process for Court Consideration Following Legislative Impasse

Our goal is to untangle this process, by drafting clear rules that define the conditions in which plaintiffs can turn to the courts for relief and when they may initiate legal proceedings, and by establishing the process that the Court will use in drawing district lines in the event that the state Legislature is unable to do so.

We make three claims that are the foundation for this report. The first is that the state Legislature is the proper forum for redistricting because of an explicit constitutional assignment and because of the political nature of the process. As the branch of government most closely tied to the public, the Legislature is in the best position to make the necessary judgments.¹⁸ The second is that when the Legislature cannot enact a redistricting plan in time for the next election cycle, and where court intervention is necessary, the Wisconsin Supreme Court has the authority to hear cases under original jurisdiction. The third is that since redistricting is fundamentally a state responsibility, the state courts are the appropriate forum for these actions. The U.S. Supreme Court has recognized the primacy of state courts in redistricting, and under most conditions federal judges will defer to state actions that are already under way, or when a state has

¹⁶ *Vieth v. Jubelirer* 541 U.S. 267 (2004)

¹⁷ *Thornburg v. Gingles* 478 U.S. 30 (1986)

¹⁸ This does not mean that we necessarily endorse an explicitly partisan process, in which legislators draw lines themselves. The legislature is free to create alternative processes, such as nonpartisan commissions, independent agencies, or special committees. The key is that the legislature is the primary arena for making these decisions.

established a clear procedure for resolving legislative impasses. In the most recent affirmation of this principle, a unanimous Supreme Court held that federal courts should defer to state processes: “Absent evidence that . . . state branches will fail to timely perform that [redistricting] duty, a federal court must neither affirmatively obstruct state reapportionment nor permit federal litigation to be used to impede it.”¹⁹

The guidelines we propose would apply only when the state Legislature has been unable to complete the redistricting process in a timely fashion. If the Legislature does enact a valid plan, or has a reasonable prospect of doing so in time to allow local governments to fulfill their election administration functions, then the courts need not get involved. Moreover, we do not address the issue of lawsuits challenging a legislatively enacted plan, as might be filed under section 2 of the Voting Rights Act.

Court Procedure following Legislative Impasse: a Recommendation

Although the Wisconsin Supreme Court may exercise original jurisdiction in a matter of state-wide importance like redistricting, from a pragmatic standpoint it is not the best forum to engage in fact finding and draw the districts.²⁰ Moreover, given that whatever districting plan is devised may be subject to legal challenge, if the Supreme Court had drawn the plan there would be no forum for review.

We propose that in the event that the Legislature has failed to act (under bright-line circumstances that we outline below) and a case challenging the existing legislative districting is filed that a panel of Appeals Court judges be appointed to devise new legislative or congressional districts. In its work the Special Court will use the current districting as a starting point, making adjustment to meet the equal population criteria (Wisconsin Constitution, Article IV §3). In doing this, the Special Court shall make sure that the other constitutional criteria specified in the Wisconsin Constitution, Article IV §§ 4 and 5 and the Federal Voting Rights Act are met.

The panel would consist of 5 members, comprised as follows:

(a) the presiding judge of each of the four Appeals Court districts as of January 1, 2012. If the presiding judge of any Court recuses herself/himself, or is otherwise unable to serve, the next most-senior member of that Court will serve. If no Court of Appeals judge from that district is able to serve, a reserve court of appeals judge will be selected randomly from that district’s reserve judge pool first. If none are available, then among those judges eligible to be part of the reserve pool. If no reserve Court of Appeals judge or those eligible to be a reserve court judge is able to serve from that Court of Appeals district, then the panel’s member will be selected randomly from among the reserve circuit court judges in that district.

¹⁹ *Grove v. Emison*, 507 U.S. 25 (1992), 34.

²⁰ As an appellate court, the Supreme Court does not make initial findings of fact or hear testimony. The Wisconsin Constitution provides for the Supreme Court’s original jurisdiction in Article VII §3 (2).

(b) the fifth member of the panel will be randomly selected from a state-wide pool of reserve Court of Appeals judges. If none is available, then the selection will come from a random selection of those eligible to be in the reserve pool. If no reserve judge or those eligible to be a reserve court judge is able to serve, then the fifth member will be selected from a state-wide pool of reserve circuit court judges.

The Special Court shall have the authority to draw new district lines, based upon a delegation of authority by the Wisconsin Supreme Court. In drawing a new map or maps, the Special Court shall use the existing map as a baseline and make changes according to traditional redistricting criteria. These include population equality, contiguity, compactness, respect for political subdivisions and communities of interest, and adherence to Voting Rights Act requirements. The Special Court shall consider election returns and voting data only insofar as necessary to insure that a proposed map does not create undue partisan bias.

This Special Court has advantages over alternative arrangements.

Neutrality: We have noted the inherent partisan and political nature of the redistricting process. When the Legislature draws district lines, it is inevitable that political considerations enter in to their decisions. Even if the public or watchdog groups oppose the way that politicians draw maps, the pressure they bring is itself part of the political process. To date, the Supreme Court has deemed the partisan disputes arising out of redistricting a nonjusticiable “political question,” and has refused to overturn redistricting plans based on standards of political fairness.²¹

Judges have a different role in our government. They are charged with the duty of interpreting constitutional and legal language, and of adjudicating legal disputes. While judges may have a particular ideological stance or viewpoint about the proper methods of judicial interpretation, the expectation is that they will be neutral in political disputes. We expect the canons of judicial ethics and the judges’ oaths to uphold the law to minimize the partisan nature of their duties.

We do not claim that this Special Court will be perfectly neutral – indeed, given the nature of the redistricting process, we doubt that it is possible to devise a process that will satisfy all of the stakeholders.²² But a panel of experienced judges, selected automatically, is the best of the possible alternatives to legislative processes.

²¹ In *Vieth v. Jubelirer*, 541 U.S. 267 (2004), a four member plurality held that partisan gerrymandering presented a nonjusticiable question. A four member dissent argued that the question should be resolved by the courts. Justice Kennedy voted with the majority, but wrote a concurring opinion concluded that there may be some instances in which partisan bias could be so extreme as to warrant judicial intervention.

²² It is entirely possible, moreover, that even a perfectly neutral process can produce a map that has a political bias.

Geographic Balance: Wisconsin is not a homogeneous state, as it consists of large urban areas, exurbs and suburbs, medium size cities and suburbs, farmland, rural areas, small towns. Some parts of the state are strongly Republican, others reliably Democratic. Moreover, redistricting involves making decisions about communities of interest and representation, all of which assume a familiarity with the geographic and demographic characteristics of the state. By bringing in judges from across the state, we assure a broad range of experience and help insure that no one region or set of concerns will have a disproportionate effect.

By providing an automatic selection system, a biased selection process is avoided as is venue shopping by litigants. Additionally, the composition of the Special Court is geographically distributed, comprising five members, which is preferred to three in an earlier experience of Minnesota. Judges in the Appeals Courts have experience considering appeals and many have served in the more fact finding role as a circuit court judge.

The senior judge of the Special Court will act as chair. If two or more have equal seniority, the Special Court will select the chair from among them. The panel will function as a court. This Special Court will be able to call upon the services of non-partisan outside experts, such as the University of Wisconsin Applied Population Laboratory and Legislative Technology Services Bureau, and any other expertise that they wish to utilize. The Special Court will provide an opportunity for public comment on the proposed draft prior to its promulgation.

The Wisconsin Supreme Court has a second role in redistricting beyond its jurisdiction of redistricting congressional and state legislative seats in event of a legislative impasse. This role is to review redistricting to ensure that the resultant maps meet constitutional and statutory requirements, if any party with standing brings an action. This latter function is noted here but is not the focus of the redistricting rules being suggested for the court by this committee. However, this review function needs to be considered in establishing a mechanism for the court to draw districts. By having a panel independent of the Wisconsin Supreme Court draft the redistricting map, the Wisconsin Supreme Court would then be an appropriate forum to review challenges to the resulting district map. Thus the maps drawn by the Special Court shall be considered as binding. However, litigants may file for a review by the Wisconsin Supreme Court, which shall provide appellate review of the maps drawn.

We anticipate that federal courts will defer to this state-level process.²³

The Proposed Process and Time Line

In determining a reasonable date, which if the Legislature hasn't acted and a lawsuit has been filed an impasse will be declared, the Court needs to consider the first date on which the Legislature may consider redistricting, the reasonable period for the Legislature to act, and the date at which the task must be completed to allow candidates

²³ *Growe v. Emison* 507 U.S. 25 (1993)

to file their nomination papers. In reviewing the time line, the Redistricting Committee incorporated dates specified in the Wisconsin Statutes and time estimates by County Clerks that they need to complete local redistricting and the time they need to prepare the ballots for the next election.²⁴

Wisconsin Statutes (§59.10(3)(b);§5:15 (1)(b)) requires local governments to complete their redistricting prior to legislative action, allowing a 180 day period to do it. From the Redistricting Committee's survey, the latest date county clerks said was needed to finish the local level redistricting plan is September. Therefore, when the U.S Census Bureau provides the population figures on **March 1**, local government could be expected to have completed their task 180 days later, **September 2**. The Legislature may want to consider amending this law to allow the Legislature to begin consideration of redistricting prior to the completion of local government districts. Litigation, challenging the failure of the legislature to draw a redistricting plan, shall be in order on or after **January 2**. (For 2012, the date is Monday, January 2, 2012)

According to state law, the earliest day that nomination papers can be circulated is June 1 with the deadline for nominations specified as the 2nd Tuesday in July, which for 2012 is July 10, 2012. (Wisconsin Statutes §10.78 (1) and (2)). The next week--3rd Tuesday in July—the State Elections Board is required to notify the County Clerks of the list of candidates for the September primary (Wisconsin Statutes §10.06(h)). Therefore, in order to give candidates sufficient time to prepare nominations papers, the Redistricting Committee recommends that the Court consider the **1st Tuesday in May (May 1, 2012)** as the date that an impasse would be declared if the Legislature had not acted. On that date the plan developed by the Special Court would be declared the districting plan for the state for either the congressional districts or the state legislative districts or both. In establishing a firm date, the Legislature is informed of the date that the plans—state Legislature and congressional-- need to be in place and disputes over whether an impasse has occurred are avoided. The draft plan shall be available on the Web by 3:00 pm April 16. Individuals and groups will have 10 days to respond. On the **2nd Tuesday in May**, the State Elections Board sends a notice to the County Clerk notifying them of the September primary and the November general election (Wisconsin Statutes §10.72 (1)).

In order to give the Court sufficient time to receive input and draw the districts prior to **1st Tuesday in May (May 1, 2012)**, it will begin the process any time after **January 1 (2012)** if the Legislature has not developed its own plan for either the congressional districts, state legislative districts, or both. This would give the Legislature four months to act before Court consideration and give the Court four months to consider districts prior to the impasse date. To avoid premature filing of actions in the Court, the Court will accept filings anytime after **December 1 (2011)**. It is important to avoid Court action that could impede the Legislature, the primary locus for redistricting. The Court shall widely permit briefs, which must be filed with the Court by **April 1** to give the Court time to review them. Material submitted must be relevant, legible, and as concise

²⁴ The Committee sought input from County Clerks on their time line for local government reapportionment. A copy of the survey sent to the clerks appears in the Appendix to this report.

as practicable The Court shall decide who among the filers shall be permitted to make oral arguments.

The maps drawn by the Special Court will be considered binding as the districts under which elections will be conducted. Litigants may appeal the decision (s) of the Special Court to the Wisconsin Supreme Court, which shall exercise appellate jurisdiction.

Wisconsin Redistricting Committee

R. Booth Folwer, Political Science (Emeritus) -
UW-Madison

Donald Kotecki, Survey Research Center - St.
Norbert College

Kenneth Mayer, Political Science - UW -
Madison (co-chair)

Ed Miller, Political Science - UW Stevens Point
(co-chair)

Peter Rofes, Law School - Marquette
University

Appendix



Wisconsin Redistricting Committee

R. Booth Folwer, Political Science
(Emeritus) - UW-Madison
Donald Kotecki, Survey Research Center
- St. Norbert College
Kenneth Mayer, Political Science - UW -
Madison (co-chair)
Ed Miller, Political Science - UW
Stevens Point (co-chair)
Juliet Brodie, Law School - University of
Wisconsin
Peter Rofes, Law School - Marquette
University
Ron Weber, Political Science - UW -
Milwaukee

**2005 WISCONSIN SUPREME COURT
REDISTRICTING SURVEY**

The Wisconsin Supreme Court has appointed a committee to make recommendations to it regarding procedures that they would use if the 2010 redistricting involves the courts. To assist us in our task, we would appreciate it if you could answer a few questions for us. We are conducting this survey of Wisconsin County Clerks to determine county experiences with redistricting. If necessary please consult your files to assist in completing this questionnaire.

Q1. To begin with, did you receive population data by the statutory deadline of April 2, 2001?

Yes (Continue to Q1a) No (Skip to Q2)

Q1a. If no, when did you receive it?

(Check only one)

January March May
 February April June

Q2. When were the redistricting plans completed for your county and municipalities?

Month _____ Year _____

Q3. When do you believe would be the earliest date that your locality could have completed the redistricting process?

Month _____ Year _____

Q4. Which agency or organization drew the redistricting plans? (**Check all that apply**)

- A unit of city government (Please specify)

 A committee of the city or county council
 A special committee or unit established for the purpose of redrawing the lines
 Some other unit (Please briefly describe)

Q5. Did any of the redistricting efforts run into an impasse – that is, a dispute over the creation of wards and/or districts that delayed the final decision?

- Yes (**Continue to Q5a**) No (**Skip to Q6**)

Q5a. What was the main contributing factor that caused the impasse?

Q5b. How did you resolve the impasse to meet the 60-day (120-day) turn-around deadline? (Does your county have an established process for resolving disputes, or did you use ad hoc measures?)

Q6. Was any county or city plan challenged in Court?

- Yes (**Continue to Q6a**) No (**Skip to Q7**)

Q6a. What was the name of the case (if there was a decision), and were the plans revised in response to a court challenge?

- Q7. In your opinion, what is the number of days before the primary that would be the latest you could receive final state legislative districts, and still have sufficient time to prepare for the September primary election? **(Check one only)**
- 30 days 75 days 130 days
- 45 days 100 days
- 60 days 115 days
- Q8. Overall, what recommendations can you offer to better facilitate the redistricting process?
-

Q9. What is your current position and title?

Please contact Donald Kotecki, Director, St. Norbert College Survey Center (1-877-214-7183) or Julie Rich, Wisconsin Supreme Court (1-608-266-1880) if you have any questions or concerns about this study.

January 20, 2005

Dear County Clerks:

The Wisconsin Supreme Court has appointed a committee to study and draft procedural court rules that will govern state legislative redistricting litigation in Wisconsin. To assist the committee in its task, the committee members are seeking your input so that they will understand the practices at the county and city levels since local redistricting must be completed prior to redistricting at the state level.

The enclosed questionnaire was drafted by Donald Kotecki, Director of the St. Norbert College Survey Center, based upon issues raised by the Redistricting Committee. The St. Norbert Survey Center will tabulate the results. I would appreciate it if you could complete the questionnaire, returning it in the stamped self-addressed envelope included. If you have any questions, please direct them to Donald Kotecki (1-877-214-7183) or Julie Rich, Supreme Court Commissioner (1-608-266-7442).

Sincerely yours,

Shirley S. Abrahamson
Chief Justice

Results of the Survey

Friday, May 27, 2005

Q1: Did you receive population data by the statutory deadline of April 2, 2001?
All yes

Q2: When were the redistricting plans complete for your county and municipalities?

Small: September 2001
Small: October 2001
Small: August 2001
Medium: June 2001
Medium: Sept. 18, 2001
Medium: June 2001
Large: September 2001

Q3: When do you believe would be the earliest date that your locality could have completed the redistricting process?

Small: September 2001
Small: August 2001
Small: August 2001
Medium: June 2001
Medium: Sept. 1, 2001
Medium: June 2001
Large: September or October 2001

Q4: Which agency or organization drew the redistricting plans?

Small: A special committee or unit established for the purpose of drawing the lines
Small: A special committee or unit established for the purpose of drawing the lines
Small: A redistricting committee chaired by the county board chairman
Medium: A special committee or unit established for the purpose of drawing the lines
Medium: A committee of the city or county council; the North Central Wisconsin
Regional Planning Commission
Medium: A special committee or unit established for the purpose of drawing the lines
Large: A committee of the city or county council; a County Planning Commission and
Board of Supervisors committee

Q5: Did any of the redistricting efforts run into an impasse?

Small: No
Small: No
Small: No

Medium: No

Medium: Yes

Q5a: What was the main contributing factor that caused the impasse?
Town board / county board dispute

Q5b: How did you resolve the impasse?

The county board adopted the plan they chose

Medium: No

Large: No

Q6: Was any county or city plan challenged in court?

Small: No

Small: No

Small: No

Medium: No

Medium: Yes

Q6a: Name of case/decision: Town of Woodruff v. Oneida County; county plan was upheld

Medium: No

Large: No

Q7: In your opinion, what is the number of days before the primary that would be the latest you could receive final state legislative districts, and still have sufficient time to prepare for the September primary election?

Small: 100 days

Small: 45 days

Small: 130 days

Medium: 130 days

Medium: 75 days

Medium: 130 days

Large: 130 days

Q8: Overall, what recommendations can you offer to better facilitate the redistricting process?

Small: None

Small: Draw the lines more straight and uniform

Small: Keep the county all in one district to avoid the expense of additional ballots and poll-workers

Medium: none

Medium: Better town, city and county communication and cooperation

Medium: Fewer splits; overall

Large: The county board decides on redistricting when the outcome affects them – thinks redistricting should be handled by an impartial body not directly affected by the

outcome, such as the courts. Otherwise, is personally OK with the process.

Q9: Position and title:

Small: County clerk

Small: County clerk

Small: County clerk

Medium: County clerk; consulted with Land Information

Medium: County clerk

Medium: County clerk

Large: County senior planner; consulted with county clerk



Supreme Court of Wisconsin

16 EAST STATE CAPITOL
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Shirley S. Abrahamson
Chief Justice
Ann Walsh Bradley
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A. John Voelker
Director of State Courts
David R. Schanker
Clerk of Supreme Court

September 17, 2008

To: Interested Persons

Re: *In the matter of the adoption of procedures for original action case involving state legislative redistricting*, Rules File No. 02-03

Greetings,

On November 25, 2003, this court appointed a committee to review this court's opinion in Case No. 02-0057-OA, *Jensen v. Wisconsin Elections Bd.*, 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537, to review the history of state legislative redistricting in Wisconsin, and redistricting rules and procedures in other jurisdictions, including federal and state courts. The court authorized the committee, upon completion of its review, to propose procedural rules in the event an original action involving redistricting litigation was filed and accepted.

The committee's appointment resulted from the original action petition filed in this court in the *Jensen* case by Assembly Speaker Scott R. Jensen and Senate Minority Leader Mary E. Panzer, representing Assembly and Senate Republicans, seeking this court's involvement due to a legislative impasse. The original action petition filed in *Jensen* sought a declaration that the existing legislative districts were constitutionally invalid due to population shifts documented by the 2000 census. The petition requested this court to enjoin the Wisconsin Elections Board from conducting the 2002 elections using the existing districts.

Although the court found that the petition filed in the *Jensen* case warranted this court's original jurisdiction, it determined this court lacked procedures for redistricting litigation in the event of a legislative impasse resulting in a petition for an original action. The court's decision in the *Jensen* case said that this court's existing original jurisdiction procedures would have to be substantially modified to accommodate the case's requirements. *Id.* at ¶20. It explained that a "procedure would have to be devised and implemented, encompassing, at a minimum, deadlines for the development and submission of proposed plans, some form of fact-finding (if not a full-scale trial), legal briefing, public hearing, and decision." *Id.*

The *Jensen* decision stated, in part: "...to assure the availability of a forum in this court for future redistricting disputes, we will initiate rulemaking proceedings regarding procedures for original jurisdiction in redistricting cases." The timing of the request for the court to take original jurisdiction did not permit the court to exercise its original jurisdiction in a way to do substantial justice, and the dispute was ultimately resolved in federal court, where a case was already pending.

The *Jensen* decision indicated new procedures could include "provisions governing factfinding (by a commission or panel of special masters or otherwise); opportunity for public hearing and comment

September 17, 2008

Page 2

on proposed redistricting plans; established timetables for the factfinder, the public and the court to act; and if possible, measures by which to avoid the sort of federal-state court 'forum shopping' conflict presented [in this case]." Consequently, this court voted to convene a committee to study and draft procedural rules that govern state legislative redistricting litigation in Wisconsin.

The committee filed its initial report with the court in September 2007, which was distributed to interested parties and is available on the court's website. See <http://wicourts.gov/supreme/petitions/audio.htm>. The committee has now filed a supplemental memorandum, which supplements information in the committee's initial proposal and was drafted in response to public comment and questions asked by various justices during an open administrative conference held April 8, 2008. The committee's supplemental memorandum will also be available on the court's website. The supplemental memorandum addresses details of the committee's original proposal, which outlined procedures that could be implemented if:

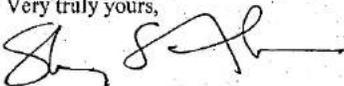
- 1) the Legislature is at an impasse in attempting to redraw legislative and congressional district boundaries; and
- 2) a party files a lawsuit asking the court to take original jurisdiction; and
- 3) the court agrees to grant the case; and
- 4) the court approves the procedures.

We are now sending the supplemental memorandum out for public comment. Following the receipt of comments, the court will decide how to proceed further. For example, the court may propose changes to the report. The court may schedule and conduct a public hearing on the memorandum (as drafted or with suggested changes) and may hold an open administrative conference to discuss this matter in the coming months.

You are invited to provide a written comment to this report by December 31, 2008. Please feel free to pass this report and invitation to comment to whomever you think might be interested.

Written comments should be directed to Susan Gray, c/o Office of the Director of State Courts, P.O. Box 1688, Madison, WI 53701-1688 (telephone: 608-266-6708) (email: susan.gray@wicourts.gov). A courtesy electronic copy of your response would be appreciated. Also, if you have specific questions or inquiries regarding this matter, they may also be directed to Susan Gray.

Very truly yours,



Shirley S. Abrahamson
Chief Justice

SSA/ck/skg
Enclosure

cc: Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Patience Drake Roggensack
Justice Annette Kingsland Ziegler
Justice Michael J. Gableman

Memorandum

To: Wisconsin Supreme Court

From: Redistricting Committee

R. Booth Fowler, Political Science (Emeritus) – UW-Madison
Donald Kotecki, Survey Research Center – St. Norbert College
Kenneth Mayer, Political Science – UW – Madison (co-chair)
Ed Miller, Political Science – UW-Stevens Point (co-chair)
Peter Rofes, Law School – Marquette University

Date: September 12, 2008

Subject: Responses to Issues Raised at Court's Conference on April 8, 2008

The Redistricting Committee, appointed by the Wisconsin Supreme Court, filed a Report in September, 2007, suggesting procedures to the Court for handling redistricting by the Court *if the Wisconsin Legislature and the governor fail to agree on a redistricting plan (s)* for congressional or state legislative districts following the Census's decennial release of population data and the *Supreme Court decides to accept original jurisdiction in the matter*. Following the submission of the committee's Report, the Supreme Court published the plan on its Website, inviting comments. Subsequent to receiving several responses, including those from both major political parties, the Supreme Court held a conference. At the conference, the Redistricting Committee was asked to review its recommendations in light of the submissions and to clarify several issues. The discussion below represents that response. An article by Nathaniel Persily, published in *The George Washington Law Review*, elaborates on many of the points in the court redistricting process we suggested, including an evaluation of some options.¹ We have enclosed a copy of Persily's law review article.

1. **Selection of Court of Appeals Judges to serve on the Panel of Referees Chosen for Redistricting.** In the original draft of our Report, we recommended that judges be selected from each district in order of seniority on the district's bench to serve on the Panel of Referees Chosen For Redistricting (Panel). If a judge declined to serve, the judge next in seniority would serve. We proposed this as a neutral method of selection. However, in the Committee's backup plan if no justice on one of the courts could serve, we recommended random selection from the reserve judge pool in that district. Based upon the input received by the Supreme Court and submissions to the Court on our Report, we believe it is reasonable to extend the *random selection* system to the *initial selection* of the judge from each district. This would maintain the geographic distribution and the neutral selection principles we recommended. It would also eliminate knowledge of the specific composition of the panel early in the legislative process to avoid legislators using that knowledge as a basis for deadlocking the process. The Supreme Court's adopted process should not discourage the Wisconsin Legislature from drawing the districts since the lawmaking body is the principal redistricting institution. The judiciary's roles are to act as a backup process to draw districts if a legislative impasse should occur and to review plans for constitutional and discriminatory issues.

2. **Consolidation of Dates.** Two dates for the initiation of the Panel process are in our document—December 1 for the filing of action and briefs and after January 1 (or phased on or after January 2) for the action of the Panel. A submission to the Supreme Court in reaction to the Report thought the inclusion of two different dates was in error. However, one was intended to be the beginning date for input to the Panel while the second the beginning of review by the Panel, following the Supreme Court's acceptance of original jurisdiction. Nonetheless, given potential confusion, it is reasonable to consolidate the two dates and indicate that both briefs and Panel's review can start anytime after January 1 and the Supreme Court acceptance of original jurisdiction. Further, the January 2 date can also specify when each district must have randomly selected the judge to serve on the Panel.

3. **Existing Districts as Starting Point.** A question was raised in a few submissions regarding why the report recommends that the Panel begin its redistricting effort with the existing districts rather than just totally redraw the state's legislative and/or congressional districts if the legislature fails to develop a plan (s). The Redistricting Committee stresses that redistricting is primarily a legislative and not a court function. However *in absence of a statute creating a backup mechanism* for redistricting if the legislative process is deadlocked, the precedent is that the job falls to the judicial branch. Thus, the intent of the process proposed is NOT to substitute the court's judgment for that of the legislature, rather it is simply to make marginal alterations in the existing districts to ensure that districts meet the U.S. Supreme Court's requirement that districts be equal in population. This we view as a more neutral approach and one that also minimizes the Panel's work than having the Panel draw new legislative and congressional district maps, ignoring existing districts.

The Redistricting Committee is not proposing any additional criteria for the division of the state into districts from those specified in the Wisconsin Constitution. (Article IV §§3, 4, and 5) and the Federal Voting Rights Act.

4. **Case Filed and Panel following Rules of Civil Procedures.** A further question raised was how the Panel would conduct business. The Redistricting Report notes that before the Panel can act, a case must be filed and accepted. In this situation as in others, courts cannot act unless a real dispute is filed. The Supreme Court will have to decide whether to accept original jurisdiction in such a case. If the Supreme Court decides against accepting jurisdiction, it is likely that Wisconsin's redistricting plan (s) will be developed by the Federal Court as it did in 1992 and 2002. Additionally, although the draft report is silent on the operation of the Panel, the intention is that it will act like a court, applying the regular rules of Civil Procedures. This is similar to procedures used by the Federal Court in considering Wisconsin redistricting in 2001. (*Arrington, et al., v. Elections Board*) and the Special Masters in the California case in 1992 (*Wilson v. Eu, et al. and the California Assembly, et al.*)²

5. **Legislature Technical Services Bureau.** The Supreme Court requested that we inform it on possible charge backs to the Court of the Legislative Technical Services Bureau (LTSB), acting as staff assistance. Information from the LTSB is that there will not be a charge back to the Court. With modern computer software, the Legislative Technical Services Bureau can provide the Court with alternative redistricting maps using a short time line.

Contingent upon approval by legislative leaders, LTSB will provide technical support to the Panel, setting up hardware and software, and providing some training in its use. The LTSB will also be willing to provide ongoing support, assisting with the task of drawing maps although the task of evaluating the maps, especially ensuring that there is no regression in minority voting power, is a bit trickier and would rely on the Panel's judgment.

It will not take long to create a map. More time is needed to evaluate several alternative maps that might be created. The process could take 2 weeks, or it might take longer, depending on what it takes to get agreement from the Panel on a map. There is precedent for LTSB involvement as they assisted the 3-member federal courts that drew the maps in 2002 and 1992.

The Panel could decide to use other groups, such as the University of Wisconsin-Extension's Population Lab or UW's Land Information Computer Graphics Facility, to provide technical support or other consultants to evaluate the maps drawn. However, if the Panel decides to use a private firm to assist it, the cost could be significant as these firms commonly charge \$150/person hour.

6. **Other States and their Judiciary.** At the judicial conference, the Wisconsin Supreme Court requested summary information on other states. This information is attached. Both Minnesota and California used judges to constitute a judicial panel to do redistricting when there was a legislative impasse. Minnesota used sitting judges while California used retired judges. [The judicial panel drew the California districts after the 1990 Census. In 2001, the Legislature was able to draw the map. Proposition 77, considered in 2005, to permanently set up a judicial panel to draw districts was defeated by the voters. An initiative, creating a Citizen Redistricting Committee to redistrict the state, will be before the California electorate in November 2008]. In Minnesota, the Chief Justice of the Supreme Court appointed five judges to serve on their special redistricting panel. The Panel used the Rules of Civil Procedures, modified to meet their mandates and timeline. A summary of other state court actions can be found in the Appendix to this memo.

Outline for the Establishment of Wisconsin Supreme Court Rules

1. Prior to January 2 following the year in which the Census Bureau provides population data for redistricting (e.g. 2012), each Court of Appeals district shall select one of its members by lot. If the judge selected declines to serve, then a second lot shall be conducted to select a judge. If no Court of Appeals judge from a district is available to serve, then the district Court of Appeals will randomly select a judge from that district's reserve judge pool. If none is available to serve then the random selection will be from those judges eligible to be part of the reserve pool. If neither a reserve judge nor those eligible to part of the reserve pool is available, then the district's representative on the Panel will be randomly selected from among reserve circuit court judges in that district.

A fifth judge will be selected randomly for the Panel from a state-wide pool of reserve Court of Appeals judges. If none is available, then the selection will come from a random selection of those eligible to be in the reserve pool. If no reserve judge or those eligible to be a reserve appeals court judge is able to serve, then the fifth member will be randomly selected from a state-wide pool of reserve circuit court judges.

2. If the legislature fails to enact either a congressional or state legislative redistricting plan and a case is filed challenging the constitutionality of the existing district arrangement, which has been accepted by the Supreme Court based upon its original jurisdiction, the Panel will accept briefs from parties to the case and amicus briefs from other parties on or after January 2 of the year following the year that the U.S Census provides population data to be used in districting. Material submitted must be relevant, legible, and as concise as practicable. The Panel shall first determine whether the existing districts violate population equality and/or minority voting rights. If there is an affirmative finding that a violation has occurred, the Panel shall draft a redistricting plan. In its consideration, the Panel shall follow regular rules of Civil Procedure. On April 16 by 3:00 pm, the Panel's proposed plan shall be available on the Web. Individuals and groups will have 7 days to comment. If the legislature fails to enact a redistricting plan by May 1 of that year, then a legislative impasse will be affirmed by the Panel and the Panel's plan will be submitted to the Supreme Court.

The Supreme Court will then review the plan and decide on adopting, modifying, or rejecting the Panel's plan (s). The Supreme Court's decision will be made by May 15.

In developing a plan, the Panel shall begin with the currently drawn districts and make modifications in accordance with the Wisconsin Constitution's requirements (Article IV §§3, 4, and 5). The Panel shall also ensure that the map(s) do not violate Federal Voting Rights Act requirements.

3. The Report recommended that the Panel be precluded from using election returns in drawing the maps, except to ensure that the Voting Rights Act is not

violated. However, we have reconsidered this stricture and conclude that this may be difficult and that the Panel should not be restricted in what evidence can be used. Our goal of encouraging neutrality would more appropriately be implemented by relying on Panel's adherence to judicial ethics' impartiality obligation. We noted that in the 2001 California redistricting case, where Special Masters (who were retired judges) were appointed by the California Supreme Court, partisan data was not used either in drawing the districts or in reviewing the proposed districts for either fairness or competitiveness. The Special Masters indicated that they had no instructions from the Supreme Court to evaluate districts for competitiveness and to evaluate using some "fairness" test would be incomplete and "offer conflicting guidelines as to future electoral behavior."

4. The Panel will be able to request help in drawing the map(s) from the State Legislative Technical Services Bureau (LTSB) or any other unit it feels would be useful to its work.

Contingent upon approval by Legislative leaders, LTSB will provide technical support to the Panel, setting up hardware and software, and providing some training in its use. The LTSB will also be willing to provide ongoing support, assisting with the task of drawing maps although the task of evaluating the maps, especially ensuring that there is no regression in minority voting power, is a bit trickier and would rely on the Panel judgment.

It will not take long to create a map. More time is needed to evaluate several alternative maps that might be created. The process could take 2 weeks, or it might take longer, depending on what it takes to get agreement from the panel on a map. There is precedent for LTSB involvement as they assisted the 3-member federal courts that drew the maps in 2002 and 1992.

Redistricting Action Procedure

When a redistricting action is filed in the Wisconsin Supreme Court in anticipation of, or following, a legislative deadlock, and the Supreme Court, accepts original jurisdiction, the Supreme Court shall appoint a panel of judges of the Wisconsin Court of Appeals to act as a Panel of Referees Chosen for Redistricting (Panel) to devise new legislative or congressional districts. The Panel shall be composed of five members with one selected from each of the four Courts of Appeal and one from the Court of Appeals reserve judge panel. If one of these groups cannot find a judge to serve, a secondary pool is provided for in the Report.

The senior judge of the Special Panel will act as chair. The Panel will have the authority to call upon the services of non-partisan outside experts, such as the Legislature Technical Services Bureau (LTSB), and will provide an opportunity for public comment on the proposed draft prior to its promulgation.

Scheduling Conference

The Panel of Referees Chosen for Redistricting (Panel) will hold a scheduling conference within 10 days of the filing of the action and acceptance by the Wisconsin's Supreme Court as an original action. At the scheduling conference, the Panel will:

- Determine Guidelines for Motions
- Set deadlines for submission of materials;
- Determine the form and extent of discovery and set time limits for completion;
- Define the issues and determine if they can be simplified;
- Determine the necessity or desirability of amending the pleadings;
- Determine whether parties can reach stipulations of fact or agree to the identity or authenticity of documents;
- Determine the time limits and other regulations to govern briefing;
- Set a date for a hearing;
- Consider any other matters to aid in disposition.

Following the scheduling conference, the Special Panel will file a scheduling order with the Supreme Court.

Hearing

The Panel shall conduct the hearing as the trial of a civil action to the court. Except as otherwise provided herein or by the Panel, the rules of civil procedure and evidence shall be followed. The Panel shall obtain the services of a court reporter to make a verbatim record of the proceedings, as provided in SCR 71.01 to 71.03.

On **April 16** by 3:00 p.m., the Panel shall file with the Supreme Court (and post to the Web) a preliminary report setting forth new district lines.

Public Comment

Following the filing of the preliminary report, there will be a period of 7 days during which the Panel will accept public comment on the proposed redistricting.

Following the expiration of the 7-day public comment period, the Panel shall file its final report with the Supreme Court on May 1 if the legislature has not enacted a redistricting plan.

Appeal

Within 5 days after the Panel files its final report, any party may file objections with the Supreme Court. The Court reviews the report and any objections filed and may adopt, reject, or modify the report's findings and recommendations. The Supreme Court's decision will be made by May 1 and the map (s) will be considered those for the upcoming legislative elections. If an appeal, based upon statutory or constitutional grounds, is then filed, the case proceeds as a civil appeal to the Supreme Court.

Anticipated Timeline

March 1	U.S. Census figures released
Sept. 2	Local governments complete redistricting (per §§ 59.10(3)(b); 5.15(1)(b))
Jan. 2	First day Supreme Court will accept filings on redistricting
Jan. 2 or After	Panel begins process after the Supreme Court has accepted original jurisdiction
Apr. 1	Deadline for Briefs
Apr. 16	Preliminary Report filed with the Supreme Court and posted to the Web
April 16-23	Public Comment Period on Panel's Report
May 1	Deadline for Panel's Final Report
May 1	Date impasse would be declared if legislature has not acted
May 15	Date Supreme Court must accept, reject, or modify Panel's plan (s)

June 1	First day election nomination papers circulated
July 10	Deadline for nominations
July 17	Deadline for State Elections Board to notify County Clerks of list of candidates for September primary

Notes

¹ Nathan Persily. 2005. "When Judges Carve Democracies: A Primer on Court-Drawn Redistricting Plans." *The George Washington Law Review*. 73: (5/6): 1131-1165 (August).

² For the Special Masters Report on California Redistricting see <http://igs.berkeley.edu/library/reapp90-report/final-I.html>; <http://igs.berkeley.edu/library/reapp90-report/final-II.html>; <http://igs.berkeley.edu/library/reapp90-report/final-III.html> and <http://igs.berkeley.edu/library/reapp90-report/final-IV.html>

APPENDIX

Relevant State Court actions regarding redistricting for the 2000 Census^{2,2}

I. State Courts creating their own plans

Maine	The Maine Supreme Court created a congressional plan following the legislature's failure to do so.	<i>In re Apportionment of the State Senate and US Congressional Districts</i> , 2003 ME 86 (July 2, 2003).
Minnesota	The Minnesota Supreme Court appointed a Special Redistricting Panel composed of Minnesota judges to release a plan if the legislature failed to do so, which it did on March 29, 2002.	<i>Zachman, et al. V Kiffmeyer</i> , No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002)
New Mexico	A New Mexico district court created a plan after the governor vetoed a legislative plan. The plan was a combination of two submitted plans.	<i>Jepsen v. Vigil-Giron</i> , No. D0101 CV 2001 02177 (1 st Jud. Dist. Santa Fe Co. Jan. 24, 2002)

North Carolina	A Superior Court Judge created a plan to supplant the unconstitutional plans of both the House and Senate. His plan is upheld on multiple appeals.	<i>Stephenson v Bartlett</i> , No. 94PA02-2 (N.C. July 16, 2003)
Oklahoma	A state district court drew the congressional districts after the legislature failed to do so.	<i>Alexander v. Taylor</i> , No. 97836 (Okla. June 25, 2002).

II. State Courts appointing an Expert to create a plan

Idaho	The first two plans were sent back to the legislatively appointed commission. The third commission plan was upheld on the Special Master's recommendation.	<i>Smith v Idaho Commission on Redistricting</i> , 136 Idaho 542, 38 P.3d 121 (Idaho Nov. 29, 2001); <i>Bingham County v Comm'n for Reapportionment</i> , 137 Idaho 870, 55 P.3d 863 (Idaho Mar. 1, 2002); <i>Bonneville County v Ysursa</i> 2005 Opinion No 138 (Idaho Dec. 28, 2005)
Maryland	The court followed the Special Master's objection and used technical consultants to build a new plan	<i>In the Matter of Legislative Districting of the State</i> Misc No 19 Sept Term 2001 (Md. App. Mar. 1, 2002); <i>In the Matter of Legislative Redistricting of the State</i> , Misc. Nos. 19, 20, 22, 23, 24, 25, 26, 27, 28.29, 30, 31, 32, 33, 34, September Term 2001 (Md. App. Aug. 26, 2002)

New Hampshire	The New Hampshire Supreme Court set a statutory filing period; upon the legislature's failure to meet this, the court hired an expert to create an acceptable plan.	<i>Below v. Gardner</i> , No. 2002-0243, 148 N.H. 1 (N.H. June 24, 2002) <i>Burling v. Chandler</i> , No. 2002-0210, 148 N.H. 143 (N.H. July 26, 2002)
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III. State Courts rejecting redistricting plans and sending them back to commissions

Alaska	<i>In re 2001 Redistricting Cases v. Redistricting Board</i> , No. 3AN-01-8914CI (3 rd Dist. Anchorage, Feb. 1, 2002)
Arizona	<i>Arizona Minority Coalition for Fair Redistricting v. Arizona Independent Redistricting Commission</i> , No. CV 2002-004380, and <i>Ricarte v. Arizona Independent Redistricting Commission</i> , No. CV 2002-004882 (Superior Court, Maricopa Co., Jan. 16, 2004), <i>aff'd in part, rev'd in part, & remanded</i> , No. 1CA-CV 04-0061 (Az. App. Oct. 18, 2005)
Colorado	<i>In re Reapportionment of the Colorado General Assembly</i> , No. 01SA386 (Colo. Jan. 28, 2002)

Other

Pennsylvania	Political Gerrymandering claims found non-justiciable.	<i>Vieth v. Pennsylvania</i> , No. 1:CV-01-2439, 241 F. Supp.2d 478 (M.D. Pa. Jan. 24, 2003), <i>aff'd sub nom. Vieth v. Jubelirer</i> , No. 02-1580 (U.S. Apr. 28, 2004)
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1. Compiled by Wyatt Stoffa, 10 June 2008. Summer Intern to the Commissioners of the Wisconsin Supreme Court.
2. See <http://www.senate.mn/departments/scr/redsum2000/resum2000.htm#NY> and <http://www.csg.org/pubs/Documents/BOS2005-LegislativeRedistricting.pdf>

SUPREME COURT OF WISCONSIN

No. 02-03

In the matter of the adoption of procedures for
original action cases involving state
legislative redistricting

FILED

JAN 30, 2009

David R. Schanker
Clerk of Supreme Court
Madison, WI

On November 25, 2003, this court appointed a committee to review the opinion in Case No. 02-0057-OA, Jensen v. Wisconsin Elections Bd., 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537. The court directed that committee to review Wisconsin state legislative redistricting history, redistricting rules and procedures in other jurisdictions, and to propose procedural rules in the event that due to legislative impasse, an original action challenging existing districts would be filed and accepted.

The committee filed its initial report with the court in September 2007. The court received comments from interested persons. On April 8, 2008, the court held an open administrative conference to discuss the report and comments received. It requested the committee to prepare a supplemental memorandum, which the committee filed on September 12, 2008. The court invited comments and scheduled two open administrative conferences to discuss the matter further. The conferences were set for January 22, 2009, and February 20, 2009.

At the January 22, 2009, open administrative conference, the court discussed the committee's report, supplemental memorandum, and comments it received. The majority of the court voted in favor of a motion not to invoke the court's rule-making authority and not to entertain a rules petition from the committee for the adoption of procedures in the event an action is filed in a state court involving state legislative redistricting.¹ The entire court expressed its appreciation and thanked the committee for its work over the years. The court discharged the committee of further duties in this matter. Therefore,

IT IS ORDERED the matter of the adoption of procedures for original action cases involving state legislative redistricting is hereby dismissed. No further action will be taken.

IT IS FURTHER ORDERED that the open administrative conference scheduled for February 20, 2009, to discuss this matter is hereby cancelled.

Dated at Madison, Wisconsin, this 30th day of January, 2009.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

¹ Chief Justice Abrahamson, Justice Bradley, and Justice Crooks dissented.

**THE PEOPLE'S
MAPS COMMISSION**



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