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IN THE SUPREME COURT OF WISCONSIN

No. 2023AP1399

REBECCA CLARKE, RUBEN ANTHONY, TERRY DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD, CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE KIRST, SELIKA LAWTON, FABIAN MALDONADO, ANNEMARIE MCCLELLAN, JAMES MCNETT, BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS, NATHANIEL SLACK, MARY SMITH-JOHNSON, DENISE (DEE) SWEET, AND GABRIELLE YOUNG,

Petitioners,

GOVERNOR TONY EVERS, IN HIS OFFICIAL CAPACITY; NATHAN ATKINSON, STEPHEN JOSEPH WRIGHT, GARY KRENZ, SARAH J. HAMILTON, JEAN-LUC THIFFEAULT, SOMESH JHA, JOANNE KANE, AND LEAH DUDLEY,

Intervenors-Petitioners

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS, ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN S. JACOBS, MARGE BOSTELMANN, AND CARRIE RIEPL, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION; MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS THE ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION; SENATOR ANDRÉ JACQUE, SENATOR TIM CARPENTER, SENATOR ROB HUTTON, SENATOR CHRIS LARSON, SENATOR DEVIN LEMAHIEU, SENATOR STEPHEN L. NASS, SENATOR JOHN JAGLER, SENATOR MARK SPREITZER, SENATOR HOWARD L. MARKLEIN, SENATOR RACHAEL CABRAL-GUEVARA, SENATOR VAN H. WANGGAARD, SENATOR JESSE L. JAMES, SENATOR ROMAINE ROBERT QUINN, SENATOR DIANNE H. HESSELBEIN, SENATOR CORY TOMCZYK, SENATOR JEFF SMITH, AND SENATOR CHRIS KAPENGA, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN SENATE,

Respondents,

WISCONSIN LEGISLATURE; BILLIE JOHNSON, CHRIS GOEBEL, ED PERKINS, ERIC O'KEEFE, JOE SANFELIPPO, TERRY MOULTON, ROBERT JENSEN, RON ZAHN, RUTH ELMER, AND RUTH STRECK,

Intervenors-Respondents.

PETITIONERS' APPENDIX IN SUPPORT OF REMEDIAL MAPS

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CERTIFICATION BY ATTORNEY

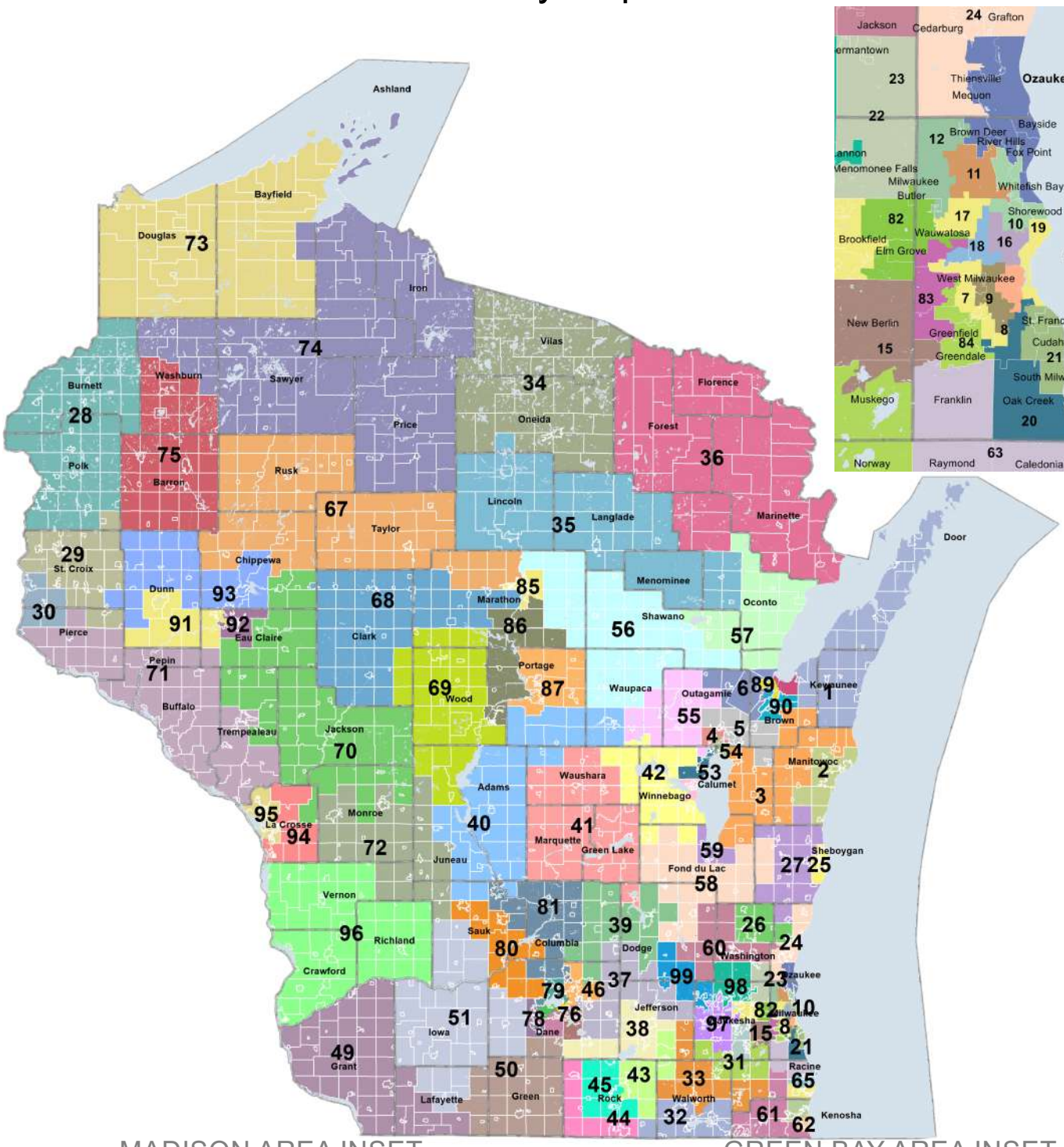
I hereby certify that filed with this brief is an appendix that complies with s. 809.19(2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23 (3) (a) or (b); and (4) portions the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

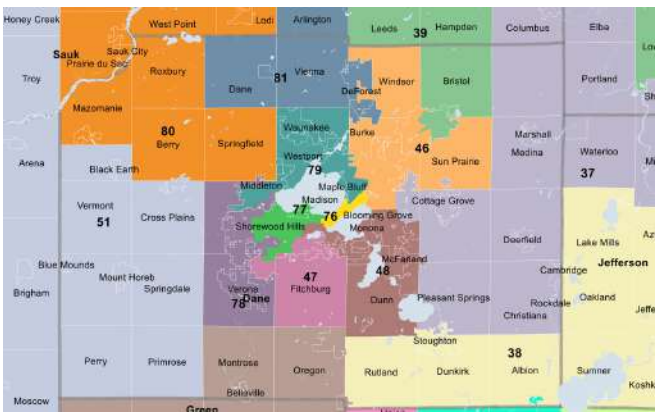
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Clarke Petitioners' Assembly Map

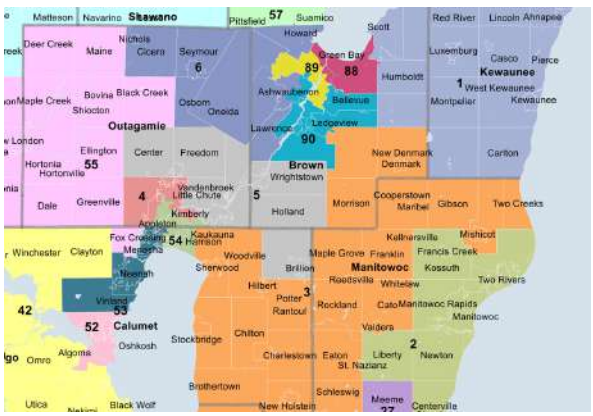


MILWAUKEE AREA INSET

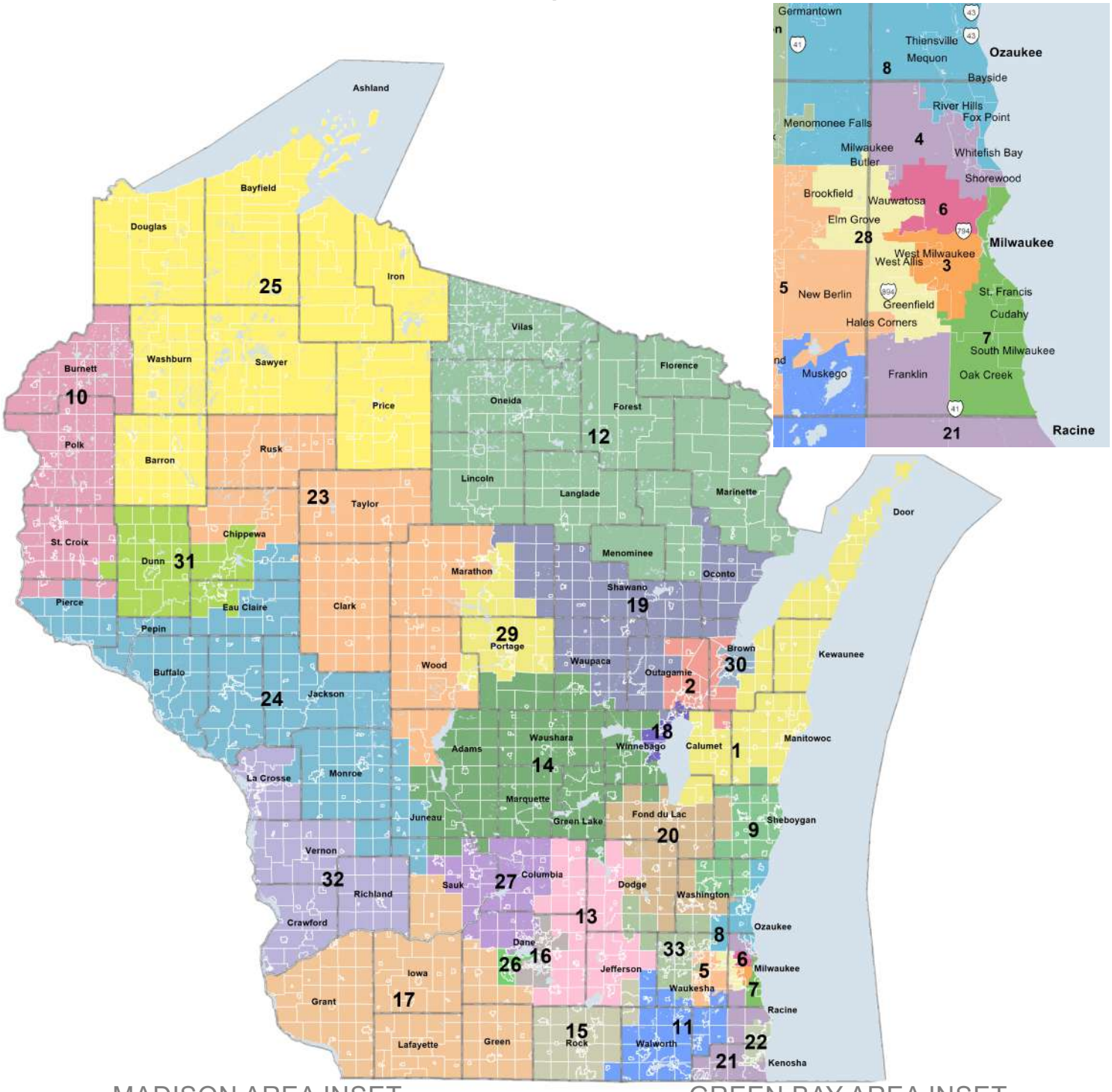
MADISON AREA INSET



GREEN BAY AREA INSET



Clarke Petitioners' Senate Map



Evaluation of the Clarke Legislative Plans in Wisconsin

Christopher Warshaw*

January 11, 2024

*Professor, Department of Political Science, George Washington University. warshaw@gwu.edu. Note that the analyses and views in this report are my own, and do not represent the views of George Washington University.

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1 Introduction and Executive Summary

My name is Christopher Warshaw. I am a Professor of Political Science at George Washington University. I have been asked by counsel representing the petitioners in this case to analyze relevant data and provide my expert opinions about whether the Clarke petitioners' Assembly and Senate plans (hereafter Clarke Assembly and Senate plans) satisfy the requirements for population equality, minimizing splits of political subdivisions, contiguity, compactness, nesting, and political neutrality discussed in the Court's December 22, 2023 decision, *Clarke v. Wis. Elections Comm'n*, 2023 WI 79. I find that the Clarke plans satisfy each of these requirements.

This report evaluates the Clarke Assembly and Senate plans based on the criteria in the Court's decision and the memorandum from the Court's consultants. The summary of findings is as-follows:

1. The Clarke plans meet the standard of population equality.
2. The Clarke plans have fewer county splits than any of the plans in effect between 1992 and 2022. There are also similar or fewer numbers of municipal splits than earlier plans. They split only a single Town of Madison ward that no longer exists.
3. The Clarke plans meet the requirement for contiguity.
4. The Clarke plans are more compact than any of the 2011 or 2022 plans.
5. The Clarke plans comply with the requirement that no Assembly district cross the boundaries of a Senate district (i.e., that 3 Assembly districts be "nested" within each Senate district).
6. The Clarke plans are not "designed to advantage one political party over another" or to "privilege one party over another." Clarke, 2023 WI 79, ¶70-71. Rather, the Clarke plans treat Wisconsin voters with political neutrality and satisfy the democratic norm that when a political party wins more than half the votes, they are likely to receive a majority of the seats ("a majority of the people of a State" should reasonably be able to "elect a majority" in "a society ostensibly grounded on representative government" (*Reynolds* v. *Sims*, 377 U.S. 533, 565 (1964))).

2 Qualifications, Publications and Compensation

My Ph.D. is in Political Science, from Stanford University, where my graduate training included courses in political science and statistics. I also have a J.D. from Stanford

Law School. My academic research focuses on public opinion, representation, elections, and polarization in American Politics. I have written over 25 peer reviewed papers on these topics. Moreover, I have written multiple papers that focus on elections and four articles that focus specifically on redistricting. I also have written a book that includes an extensive analysis on the causes and consequences of partisan gerrymandering in state governments.

My curriculum vitae is attached to this report. All publications that I have authored and published appear in my curriculum vitae. My work is published or forthcoming in peer-reviewed journals such as: *Nature Communications*, the *American Political Science Review*, the *American Journal of Political Science*, the *Journal of Politics*, *Political Analysis*, *Political Science Research and Methods*, the *British Journal of Political Science*, the *Annual Review of Political Science*, *Political Behavior*, *Legislative Studies Quarterly*, *Science Advances*, *Scientific Data*, the *Election Law Journal*, *Nature Energy*, *Public Choice*, and edited volumes from Cambridge University Press and Oxford University Press. My book entitled *Dynamic Democracy: Public Opinion, Elections, and Policy Making in the American States* was published by the University of Chicago Press in 2022. My non-academic writing has been published in the *New York Times* and the *Washington Post*. My work has also been discussed in the *Economist* and many other prominent media outlets.

My opinions in this case are based on the knowledge I have amassed over my education, training and experience, including a detailed review of the relevant academic literature. They also follow from statistical analysis of the following data:

- Wisconsin's Legislative Plans: I downloaded Block Assignment files of Wisconsin's 2011 and 2022 legislative plans from the U.S. Census. Petitioners' counsel gave me block assignment files for the Governor's plans in the Johnson II litigation and the Clarke plans.

- In order to calculate population equality for the 2022 and 2024 plans, I relied on the "2020 Wisconsin Blocks without Water" file from the Wisconsin Legislative Technology Services Bureau ("LTSB"). This file contains the populations for each block based on the 2020 Census. For earlier plans, I relied on previous legislative and expert reports, which are discussed below.

- For political subdivision splits, I relied on the county and municipal codes in the "2020 Wisconsin Blocks without Water" file from the LTSB. I used block crosswalks from the U.S. Census to translate the 2010 blocks in the 2011 plans to 2020 blocks in the "2020 Wisconsin Blocks without Water" file.

- In order to assess contiguity, I relied on the Maptitude software program, a redistricting program commonly used by state legislatures, commissions, and local governments charged with redistricting.

- To calculate compactness scores, I used the open source software program, R, with the `redistmetrics` package, along with the "2020 Wisconsin Blocks without Water" file. I used block crosswalks from the U.S. Census to translate the 2010 blocks in the 2011 plans to 2020 blocks in the "2020 Wisconsin Blocks without Water" file. This ensures that each compactness score uses the same underlying geographical data, and thus removes water in identical ways.

- In order to examine the partisan neutrality of state legislative plans, I examined:

  - Precinct-level data on recent statewide Wisconsin elections: I use precinct-level data on Wisconsin's recent statewide elections from the LTSB.

  - Estimates of the partisan bias in previous state legislative elections: As part of my peer reviewed academic research, I have estimated the partisan bias of districting plans used in previous state legislative elections around the country over the past five decades and I updated these estimates through 2022 for this report (Stephanopoulos and Warshaw 2020).

  - The PlanScore website: PlanScore is an open source website that enables people to score maps for their partisan features. I am on the social science advisory team for PlanScore.

I have previously provided expert reports in eleven redistricting-related cases. My expert testimony was found to be admissible and credible in each of these cases that reached a decision on the merits and was extensively cited by the judges in many of their decisions.

- Between 2017 and 2019, I provided reports for *League of Women Voters of Pennsylvania v. Commonwealth of Pennsylvania*, No. 159 MM 2017 (Pa. 2017-2018); *League of Women Voters of Michigan v. Johnson*, No. 2:17-cv-14148 (E.D. Mich 2018); and *APRI et al. v. Smith et al.*, No. 1:18-cv-357 (S.D. Ohio 2018).

- Between 2021 and 2023, I provided reports in *League of Women Voters v. Ohio Redistricting Commission*, No. 2021-1193 (Ohio 2022); *League of Women Voters v. Kent County Apportionment Commission*, No. 163952 (Mich. 2021); *League of Women Voters of Ohio v. Ohio Redistricting Commission*, No. 2021-144 (Ohio

2021-22); *League of Women Voters of Michigan v. Michigan Independent Citizens Redistricting Commission*, No. 164022 (Mich. 2022); *Rivera* et al. *v. Schwab*, No. 2022-CV-000089 (Kan. Dist. Ct. Wyandotte Cnty. 2022); *Benninghoff v. 2021 Legislative Reapportionment Commission*, No. 11 MM 2022 (Pa. 2022); *BVM (Black Voters Matter) Capacity Building Institute, Inc., et al. v. Cord Byrd, in his official capacity as Florida Secretary of State, et. al.*, No. 2022-ca-000666 (Fla. 2d Cir. 2023); *Republican Party of New Mexico* v. *Oliver*, NO. S-1-SC-40146.

I also recently provided testimony to Pennsylvania's Bipartisan Reapportionment Commission about the partisan fairness of its Assembly plan. In addition, I have provided expert testimony and reports in several cases related to the U.S. Census: *State of New York et al. v. United States Department of Commerce*, 18-cv-2921 (S.D.N.Y.), *New York v. Trump*; *Common Cause v. Trump*, 20-cv-2023 (D.D.C.), and *La Union Del Pueblo Entero (LUPE) v. Trump*, 19-2710 (D. Md.).

I am being compensated at a rate of $425 per hour. My compensation is no way contingent on the conclusions I reach in this report. The opinions in this report are my own, and do not represent the views of George Washington University.

3 Population Equality

The Court's decision stated that districting plans must ensure compliance with population equality requirements (¶64 at p. 43). As discussed in the Legislative Reference Bureau's October 20, 2021 report,[1] the ideal population for each district is calculated by dividing the total population of the state by the number of legislative districts. According to the 2020 U.S. Census, Wisconsin's total population is 5,893,718. Because Wisconsin has 33 Senate districts and 99 Assembly districts, the ideal population for each Senate district is 178,598 and the ideal population for each Assembly district is 59,533.

Table 1 presents the population equality scores for the 1992, 2002, 2011, and 2022 plans.[2] It shows the maximum range of deviation and the average deviations (both shown as a percentage of the ideal population for each district). The Clarke Assembly plan has a range of deviation between the most over- and under- populated districts of .92%,

1. See http://tinyurl.com/y6jheett.

2. I calculated these statistics for the 2022 and Clarke plans. The data for the 1992, 2002, and 2011 plans use the appropriate Census year and are based on Professor Keith Gaddie in his 12/13/11 report at p. 12. Professor Gaddie served as an expert for the Wisconsin Government Accountability Board in *Baldus* v. *Gov't Accountability Bd.* I obtained the average deviations in the 2011 plan from the Wisconsin Legislatures' analysis at: https://docs.legis.wisconsin.gov/2011/related/rd. Certain metrics are noted as "not available" because that is how Professor Gaddie reported them.

Plan	Average deviations	Range of deviation
1992 Assembly Plan	Not available	0.91%
2002 Assembly Plan	Not available	1.59%
2011 Assembly Plan	0.16%	0.76%
2022 Gov's Assembly Plan (adopted *Johnson II*)	0.47%	1.88%
2022 Assembly Plan (adopted *Johnson III*)	0.19%	0.76%
2024 Assembly Clarke Plan	0.23%	0.92%
1992 Senate Plan	Not available	0.52%
2002 Senate Plan	Not available	0.98%
2011 Senate Plan	0.09%	0.62%
2022 Gov's Senate Plan (adopted *Johnson II*)	0.25%	1.21%
2022 Senate Plan (adopted *Johnson III*)	0.10%	0.57%
2024 Senate Clarke Plan	0.14%	0.65%

Table 1: Population Equality Metrics

while the Clarke Senate plan has a range of deviation of .65%. Both Clarke plans have population deviations that are very similar to the 2011 and 2022 plans. This indicates that the Clarke plans are consistent with prior Wisconsin maps—both court-imposed and legislatively adopted. They are also lower than the population deviations in most other states' legislative plans in 2022.[3] Appendix A and the attached machine readable file provide a district-by-district enumeration of the populations and the difference between the actual and ideal population.

4 Splits of political subdivisions

Each Assembly districts in the Clarke Assembly map satisfies the requirement that it be bounded by county, town, or ward lines. That is, the exterior boundaries of each district sit atop a boundary line of either a county, town, or ward. In its decision, the Court stated that it will consider "the extent to which Assembly districts split counties, towns, and wards." (¶66 at p. 45). As a result, the Court's consultants requested the number of counties or other units that are split, and the total number of split pieces for each type of unit.

3. See NCSL's 2020 Redistricting Deviation Table at https://www.ncsl.org/elections-and-campaigns/2020-redistricting-deviation-table.

4.1 County Splits

First, I examine county splits on each plan. Table 2 shows the number of counties split by each plan, the total splits,[4] and the total number of unique split district * county intersections.[5] It indicates that the Clarke plans have fewer county splits (across all three metrics) than any of the previous plans. For instance, the Clarke Senate plan splits 34 counties whereas the 2022 Senate plan split 42 counties. Appendix B provides the details on which counties are split by the Clarke plan and how many times each is split.[6]

Plan	Counties Split	Total Splits	Split District-County Intersections
1992 Assembly Plan	47	NA	NA
2002 Assembly Plan	51	NA	NA
2011 Assembly Plan	58	177	235
2022 Gov's Assembly Plan (adopted *Johnson II*)	53	177	230
2022 Assembly Plan (adopted *Johnson III*)	53	159	212
2024 Assembly Clarke Plan	44	152	196
1992 Senate Plan	35	NA	NA
2002 Senate Plan	42	NA	NA
2011 Senate Plan	47	88	135
2022 Gov's Senate Plan (adopted *Johnson II*)	45	92	137
2022 Senate Plan (adopted *Johnson III*)	42	73	115
2024 Senate Clarke Plan	34	73	107

Table 2: County Splits

4. This unit is similar to the statistic in Dave's Redistricting App, https://davesredistricting.org, which reports that counties "are split a total of xx times."

5. The tallies for the 1992 and 2002 plans are from Professor Gaddie's 12/13/11 report at p. 16. I calculated county splits for the 2011, 2022, and 2024 plans in the software program R. My tallies of county splits for the 2022 plan exactly match the numbers reported by the legislator's expert Thomas M. Bryan in his 12/15/21 report at p. 18 (see https://www.wicourts.gov/courts/supreme/origact/docs/expertrepbryan.pdf). They also match the Legislative Reference Bureau's October 20, 2021 report. In addition, my tallies of 2011 plan's county splits nearly exactly match the numbers in Gaddie and Bryan's reports, which are both based on a report from Wisconsin's Legislative Reference Bureau. The only difference is that I find that the 2011 Senate plan had 47 splits whereas the Legislative Reference Bureau found it had 46 splits.

6. Notably, in the Clarke Senate map, Monroe County is split by a single zero-population Census Block (550819508004054) that is part of the Village of Ontario, whose population is all in Vernon County. Excluding that split, the Clarke Senate map splits just 33 counties.

4.2 Municipal Splits

Next, I examine municipal splits on each plan. Table 3 shows the number of municipalities split by each plan as well as the total splits for each type of municipal unit.[7] It indicates that the Clarke plans have similar or fewer municipal splits than any of the earlier plans. In particular, they split fewer towns than the 2022 plans. Appendix B shows which municipalities are split by the Clarke plan and how many times each is split.

Plan	Municipalities Split	Total Splits	Split District-Munic. Intersections
1992 Assembly Plan	72	NA	NA
2002 Assembly Plan	50	NA	NA
2011 Assembly Plan	62	NA	NA
2022 Gov's Assembly Plan (adopted *Johnson II*)	115	181	296
2022 Assembly Plan (adopted *Johnson III*)	52	83	135
Cities	25	55	
Towns	16	16	
Villages	11	12	
2024 Assembly Clarke Plan	45	77	122
Cities	22	51	
Towns	10	13	
Villages	13	13	
1992 Senate Plan	45	NA	NA
2002 Senate Plan	24	NA	NA
2011 Senate Plan	37	NA	NA
2022 Gov's Senate Plan (adopted *Johnson II*)	76	95	171
2022 Senate Plan (adopted *Johnson III*)	31	38	69
Cities	17	24	
Towns	8	8	
Villages	6	6	
2024 Senate Clarke Plan	29	38	67
Cities	16	24	
Towns	6	7	
Villages	7	7	

Table 3: Municipal Splits

7. Municipal boundaries have changed over time which makes the calculations for earlier plans challenging to reproduce. As a result, the tallies for the 1992, 2002, and 2011 plans are from Keith Gaddie's 12/13/11 report at p. 16. I calculated municipal splits in the 2022 plans and the 2024 Clarke plans. To calculate municipal splits, I used the "COUSUBFP" field in the "LTSB 2020 Blocks without Water" file. It is necessary to use this field, and not the MCD FIPS field, because a number of Wisconsin municipalities cross county lines and thus the same municipality will have more than one FIPS code in those circumstances. My counts of municipal splits for the 2022 plans are nearly identical to the numbers reported by the legislator's expert Thomas M. Bryan in his 12/15/21 report. My tallies for the Clarke plan are very similar to the numbers of municipal splits reported by the open source Dave's Redistricting App, https://davesredistricting.org/join/6bf13a81-9687-4047-b03b-cd2695cad61c/ and https://davesredistricting.org/join/8eed22d4-b1cd-4397-801c-d899d858758b.

One area that warrants discussion is the La Crosse area (see Figure 1). In the current Assembly plan, the City of La Crosse (population 52,680) is wholly contained within Assembly District 95, while the Town of Shelby (population 4,804) is split between Districts 94 and 95. The municipalities in the La Crosse area have complex boundaries, with a cascade of interlocking noncontiguous municipal islands. As the image below illustrates, the Town of Shelby has island territory within the City of La Crosse, which has island territory in (and contains island territory of) the Town of Medary, which in turn has island territory in the City of Onalaska, which contains island territory of the Town of Onalaska, which has island territory in the Town of Holmen, which has island territory of the Town of Holland. Together, these communities landlock the Town of Campbell, which borders the Mississippi River. These municipalities (and their total populations) are shown in Figure 1.

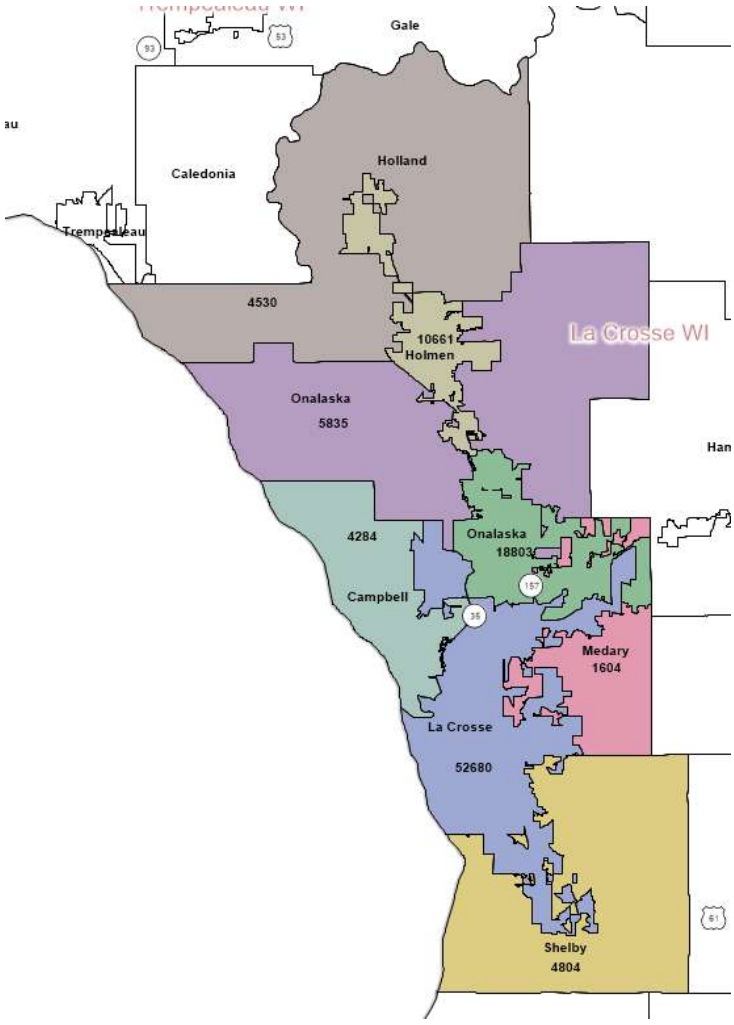


Figure 1: LaCrosse Area

If all these municipalities were kept whole in an Assembly district, its population would be 103,201—well beyond the maximum allowable population. It is thus necessary to split this block of interlocking municipalities somehow. Consistent with the Court's stated preference for seeking to preserve smaller political subdivisions where possible, Clarke, 2023 WI 79 ¶66, the Clarke Assembly plan splits the largest city in the group—the City of La Crosse. By doing so, the Clarke Assembly plan keeps the remaining smaller cities and towns whole, assigning the southern portion of the City of La Crosse, the town of Shelby, and other La Crosse County municipalities to District 94 and the other municipalities shown above to District 95.

4.3 Ward Splits

The Clarke maps split only a single ward—Town of Madison Ward 3. The Town of Madison no longer exists—it was absorbed into the Cities of Madison and Fitchburg as part of a long process that finalized on October 31, 2022.[8] Because the Town (and its wards) were still a part of the 2020 LTSB redistricting dataset, I report this ward "split." But it has no real-world consequences because the portions of former Town of Madison Ward 3—a noncontiguous ward with distant, separate pieces—that the Clarke maps split are now each their own City of Madison wards.[9] Former Town of Madison Ward 3 had a complicated geography—noncontiguous pieces of it were contained within the interior of City of Madison Ward 91, which in turn had pieces of Town of Middleton Ward 8 within it. Decoupling these by "splitting" the Town of Madison ward that no longer exists permits a more cohesive, compact district. These interlocking wards are shown in Figure 2, with Town of Madison Ward 3 in green, City of Madison ward 91 in pink, and Town of Middleton Ward 8 in purple.

Splitting Town of Madison Ward 3 does not alter the fact that the affected districts, Clarke Assembly Districts 47 and 78—are bounded by county, town, or ward lines. The ward was noncontiguous, and its pieces are in the interior areas of both districts. The districts themselves are thus still bounded by county, town, or ward lines. Notably, the Clarke maps ensure that the pieces of the Town of Madison that have been absorbed into Fitchburg (as opposed to the City of Madison) are assigned to Fitchburg's Assembly and Senate districts, thus Fitchburg is kept whole both according to the 2020 LTSB dataset and by its boundaries today.[10]

8. Town of Madison Attachment, City of Fitchburg, https://www.fitchburgwi.gov/2691/Town-of-Madison-Attachment. In addition, the town of Blooming Grove will be attached to the City of Madison in 2027 (see https://www.cityofmadison.com/city-hall/town-of-blooming-grove/timeline).

9. LTSB, July 2023 Municipal Wards

10. Town of Madison Attachment, City of Fitchburg map, https://fitchburgwi.maps.arcgis.com/apps/

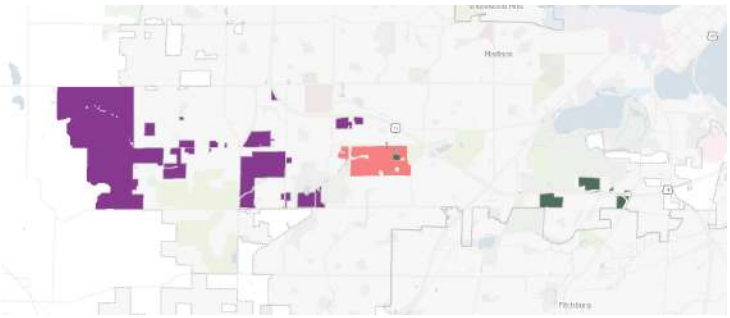


Figure 2: Geography in the area of the former Town of Madison Ward 3

5 Contiguity

In its decision, the Court stated that districts should be "composed of contiguous territory (¶65 at p. 44). As a result, the Court's consultants requested data on whether there are non-contiguous units, which these are and into how many pieces each unit is being divided. They also asked for a rationale based on a valid state interest for each instance (e.g., "A district can still be contiguous if it contains territory with portions of land separated by water." ¶27 at p. 19.)

I assessed the Clarke plans' compliance with the contiguity requirement using reports and tools from the software program Maptitude. Maptitude generates a Contiguity Report that lists the "Number of Distinct Areas" for each district. Because the parties have agreed to use the "2020 Wisconsin Blocks without Water" LTSB file for submitting remedial plans, the "water" census blocks that link the districts' land areas to their islands located in Wisconsin's major bodies of water (e.g., Lake Superior, Lake Michigan, Green Bay, Lake Winnebago) are unassigned, and thus Maptitude reports these islands as "distinct areas" within the district. Maptitude also reports districts that contain "touchpoint" contiguity features as "distinct areas." I examined each district in which Maptitude reported more than 1 "distinct area" to ensure the districts complied with the Court's definition of contiguity. Maptitude has a feature that allows the user to view each "distinct area" it identifies. I did so to confirm that the Clarke plans comply with the Court's definition of contiguity, which allow for water and touchpoint contiguity.

In the Clarke Assembly map, the following districts have island territory surrounded by water (with the number of such islands in parenthesis): District 1 (16), District 21 (1), District 36 (1), District 42 (1), District 52 (1), District 57 (3), District 73 (5), District 74 (18), and District 88 (1). In the Clarke Senate map, the following districts have island territory surrounded by water (with the numbers of such islands in parenthesis):

instant/lookup/index.html?appid=80c7695c746344ef974d6af23cf218d8.

District 1 (16), District 7 (1), District 12 (1), District 14 (1), District 18 (1), District 19 (3), District 25 (23), and District 30 (1). One district in both the Clarke Assembly and Senate plans (Clarke Assembly District 54 and Senate District 18) have a single instance of "touchpoint" contiguity. The districts follow the boundary separating the Town of Buchanan from the Village of Combined Locks in Outagamie County. The Town of Buchanan has a zero-population Census Block that is part of its territory (included in Town of Buchanan Ward 7), that is connected at touch point. To avoid splitting Ward 7, which contains the territory on both sides of the "touchpoint," the Clarke Assembly and Senate maps include that territory within Assembly District 54 and Senate District 18, as shown below. Doing so does not affect the compactness of the districts in a measurable way.

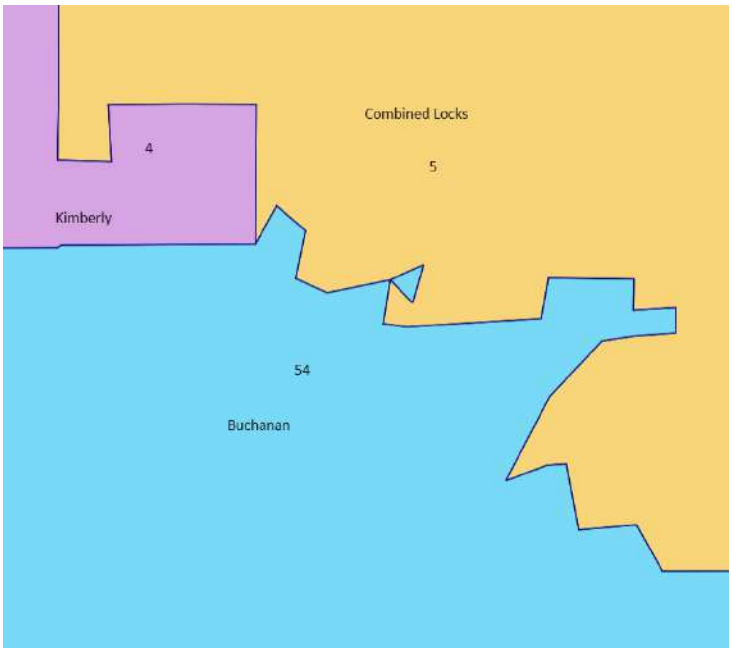


Figure 3: Buchanan Area

I find that the Clarke plans satisfy the contiguity requirement. A detailed enumeration of each district with island territory/water contiguity and the explanation is contained in Appendix C.

6 Compactness

The Court's decision states that districts should be "formed in as compact a manner as practicable" (¶65 at p. 44). As a result, the Court's consultants requested data on compactness metrics for each plan as well as detailed data for each district. My analysis

focuses on two commonly used compactness metrics to evaluate the compactness of the plans. First, the Polsby-Popper measure is the ratio of the area of the district to the area of a circle whose circumference is equal to the perimeter of the district (See Ansolabehere and Palmer (2016) for more details). Second, the Reock Score is the ratio of the area of the district to the area of a minimum bounding circle that encloses the district's geometry. Each of these metrics falls within the range of [0,1] and a score closer to 1 indicates a more compact district. Table 4 shows compactness metrics for the various plans.[11] It indicates that the Clarke plans are more compact than the 2011 or 2022 plans on both metrics. Thus, they meet the requirement to be "formed in as compact a manner as practicable." Appendix D and the attached machine readable file provides the scores for each district on the Clarke plan.

Plan	Polsby-Popper	Reock
2002 Assembly Plan	0.29	0.41
2011 Assembly Plan	0.231	0.392
2022 Gov's Assembly Plan (adopted *Johnson II*)	0.250	0.400
2022 Assembly Plan (adopted *Johnson III*)	0.243	0.382
2024 Assembly Clarke Plan	0.302	0.406
2011 Senate Plan	0.200	0.403
2022 Gov's Senate Plan (adopted *Johnson II*)	0.216	0.394
2022 Senate Plan (adopted *Johnson III*)	0.224	0.397
2024 Senate Clarke Plan	0.253	0.404

Table 4: Compactness Metrics

The Polsby-Popper score decreases as the length of a district's perimeter is increased. As a result, the metric is sensitive to districts with water boundaries, which are not generally straight lines. In addition, Wisconsin has many municipalities and wards with jagged or meandering boundaries. Where these municipalities or wards form the outer boundaries of a district, its Polsby-Popper score will necessarily decrease—even as the

11. The scores for the 2002 plan are from Keith Gaddie's 12/13/11 report at p. 18. This report did not contain scores for the 2002 Senate plan. I calculated compactness scores for the 2011 plans, 2022 plans, and the Clarke plans using the open source software program, R, with the `redistmetrics` package. I also verified the scores using two open source websites: Dave Redistricting App and PlanScore.org, and obtained nearly identical scores there. My compactness scores for the 2011 and 2022 plans are also very similar to those reported by the legislator's expert Thomas M. Bryan in his 12/15/21 report on p. 33 and the Legislative Reference Bureau's October 20, 2021 report. Finally, my scores for the Governor's plans in the *Johnson* litigation are nearly identical to those in Professor Jeanne Clelland's 12/15/2021 report at p. 12-13 (see https://www.wicourts.gov/courts/supreme/origact/docs/expertrepclelland.pdf). Minor differences could stem from the fact that I merged the 2011, 2022, and 2024 plans with the "2020 Wisconsin Blocks without Water" from the LTSB to ensure they used the same underlying geographical data, and thus remove water in identical ways.

Reock score (which focuses on the district's area) stays relatively constant. That is, in Wisconsin, a plan's Polsby-Popper score may increase as its adherence to municipal and ward boundaries decreases. Some caution is thus warranted when interpreting this particular metric. An illustrative example is provided below. The Clarke Assembly plan adheres to the western boundary of the City of Kenosha with the Village of Bristol and the Town of Paris—a border that is quite irregular. By adhering to this boundary, instead of assigning the irregularly shaped City of Kenosha wards to District 61, the Clarke Assembly plan avoids adding a split to the City of Kenosha. Doing so, however, lowers the district's Polsby-Popper score. Notably, however, the Clarke plans reduce municipal splits compared to the current plans while improving the Polsby-Popper scores.

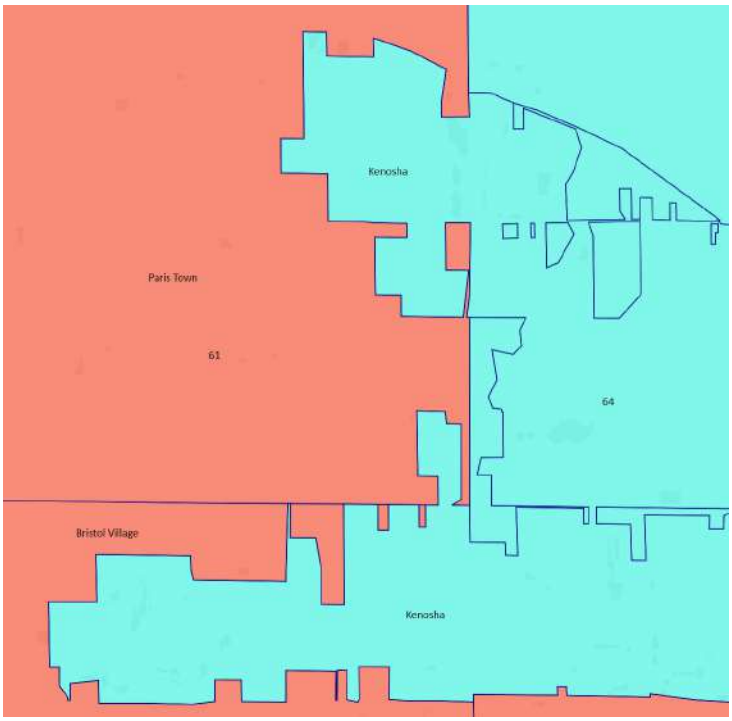


Figure 4: Kenosha Area

7 Nesting of Assembly Districts within Senate District

The Clarke maps comply with the requirement that no Assembly district cross the boundaries of a Senate district. Each Senate district in the Clarke map wholly contains three Assembly districts.

8 Political Neutrality

The Court's order stated that Clarke plans should maintain political neutrality in the drawing of maps (¶70 at p.47). There are a number of approaches that have been developed by scholars to measure political neutrality in a districting plan. These approaches focus on asymmetries in the efficiency of the vote–seat relationships of the two parties (McGhee 2017). Much of the recent literature has focused on a handful of related approaches:

- **Efficiency Gap**: The *efficiency gap* (EG) measures the number of each party's inefficient votes in each election. It is defined as the difference between the parties' respective inefficient votes, divided by the total number of votes cast in the election (Stephanopoulos and McGhee 2015, 831; see also McGhee 2014, 2017). All of the losing party's votes are inefficient if they lose the election. When a party wins an election, the inefficient votes are those above the 50%+1 vote margin needed to win.[12] The efficiency gap mathematically captures the packing and cracking that are at the heart of partisan gerrymanders (Buzas and Warrington 2021). It measures the extra seats one party wins over and above what would be expected if neither party were advantaged in the translation of votes to seats (i.e., if they had the same number of inefficient votes).

- **Declination**: The *declination* metric treats asymmetry in the vote distribution as indicative of partisan bias in a districting plan (Warrington 2018b, 2018a). In a politically neutral plan, if all the districts in a plan are lined up from the least Democratic to the most Democratic, the mid-point of the line formed by one party's seats should be about as far from the 50 percent threshold for victory on average as the other party's (McGhee 2018).[13] The declination produces a number between -1

12. The efficiency gap formula can be written as:

$$EG = S_D^{margin} - 2 * V_D^{margin} \quad (1)$$

where S_D^{margin} is the Democratic Party's seat margin (the seat share minus 0.5) and V_D^{margin} is the Democratic Party's vote margin. V_D^{margin} is calculated by aggregating the raw votes for Democratic candidates across all districts, dividing by the total raw vote cast across all districts, and subtracting 0.5 (McGhee 2017, 11–12).

13. More technically, declination suggests that in a politically neutral map, the angles of the lines (θ_D and θ_R) between the mean across all districts and the point on the 50% line between the mass of points representing each party will be roughly equal. When they deviate from each other, the smaller angle (θ_R in the case of Wisconsin) will generally identify the favored party. To capture this idea, declination takes the difference between those two angles (θ_D and θ_R) and divides by $\pi/2$ to convert the result from radians to fractions of 90 degrees.[14] Warrington (2018b) suggests a further adjustment to account for differences in the number of seats across legislative chambers. This adjustment uses this equation: $\hat{\delta} = \delta$

and 1.

- **Mean-Median Difference**: The *mean-median difference* is the difference between a party's vote share in the median district and their average vote share across all districts. If the party wins more votes in the median district than in the average district, they have an advantage in the translation of votes to seats (Krasno et al. 2018; Best et al. 2017; Wang 2016). In statistics, comparing a dataset's mean and median is a common statistical analysis used to assess skews in the data and detect asymmetries (Brennan Center 2017).

- **Partisan Symmetry**: *Partisan symmetry* is easiest to understand at an aggregate vote share of 0.5—a party that receives half the vote ought to receive half the seats—but a similar logic can apply across the vote-seat curve that traces out how seat shares change as vote shares rise and fall. For example, if a party receives a vote share of 0.57 and a seat share of 0.64, the opposing party should also expect to receive a seat share of 0.64 if it were to receive a vote share of 0.57. An unbiased system means that for V share of the votes a party should receive S share of the seats, and this should be true for all parties and vote percentages (Niemi and Deegan 1978; Gelman and King 1994; McGhee 2014; Katz, King, and Rosenblatt 2020). Gelman and King (1994, 536) propose two ways to measure partisan bias in the symmetry of the vote-seat curve. First, it can be measured using counter-factual election results in a range of statewide vote shares between .45 and .55. Second, it can be measured based on the seat share that each party receives when they split the statewide vote 50-50. In an unbiased system, each party should receive 50% of the seats in a tied statewide election.

All four of these measures of partisan neutrality are closely related both theoretically and empirically (McGhee 2017; Stephanopoulos and McGhee 2018). Broadly speaking, all of the metrics consider how votes between the two parties are distributed across districts (Warrington 2018a). For example, the efficiency gap is mathematically equivalent to partisan bias in tied statewide elections (Stephanopoulos and McGhee 2018). Also, the median-mean difference is similar to the symmetry metric, since any perfectly symmetric seats-votes curve will also have the same mean and median (McGhee 2017).

Second, each of the concepts are closely related empirically, particularly in states with competitive elections. The various measures have high correlations with one another. Moreover, most of the variation in the metrics can be summarized on a single latent

* ln(seats) / 2. I use this adjusted declination estimate in the analysis that follows.

dimension (Stephanopoulos and McGhee 2018; Stephanopoulos and Warshaw 2020). So, overall, while there may be occasional cases where the metrics disagree about the amount of bias in a particular plan (Buzas and Warrington 2021), the various metrics usually yield similar results for the degree of partisan bias in a districting plan (Nagle 2015). Where none of the metrics is an outlier and they all point in the same direction, we can draw a particularly robust conclusion.

Another benchmark for measuring the partisan bias in a districting plan is the percentage of districts likely to have competitive elections under that plan and the responsiveness of the plan to changes in voters' preferences (Cox and Katz 1999). There are a number of normative reasons to care about the number of competitive districts in a plan. First, competitiveness affects the responsiveness of a map as the two parties' statewide vote shares rise and fall. A plan with more competitive elections is likely to be more responsive to changes in voters' preferences than a plan with fewer competitive elections (McGhee 2014). An unresponsive map ensures that the bias in a districting plan toward the advantaged party is insulated against changes in voters' preferences, and thus is durable across multiple election cycles. Second, uncompetitive districts tend to protect incumbents from electoral consequences (Tufte 1973; Gelman and King 1994). This could harm political representation by making legislators less responsive and accountable to their constituents' preferences.

8.1 Assessment of Political Neutrality of Clarke Plan

In this section, I will evaluate the political neutrality of the Clarke maps. To do so, I assess prior election results within the district to assess how the district is likely to vote in future elections. Here, I use two complementary methodologies. First, I use a composite of the statewide elections over the past decade. Second, I use the open source PlanScore website.

8.1.1 Neutrality scores based on composite of previous statewide elections

First, I use a composite of previous statewide election results over the past five election cycles (2014-2022) re-aggregated to each map.[15] For each year, I estimate each party's vote share, seat share, and the average of the partisan bias metrics across races. I then

15. These include the following elections: 2014 Governor, 2014 Attorney General, 2014 Treasurer, 2014 Secretary of State, 2018 Governor, 2018 Attorney General, 2018 Treasurer, 2018 Secretary of State, 2022 Governor, 2022 Attorney General, 2022 Treasurer, 2022 Secretary of State, 2016 President, 2020 President, 2016 Senate, 2018 Senate, 2022 Senate. I weight the elections so that each year is given equal weight in the composite.

average them together to produce a composite result.

This composite index has a number of advantages over focusing on a single election to evaluate the new map. The composite index averages across 5 election cycles, which reduces variation due to electoral cycles. It also averages across 17 individual races, which reduces idiosyncratic variation due to incumbency (Jacobson 2015), variation in the local economy (Benedictis-Kessner and Warshaw 2020), and campaign effects (Sides, Vavreck, and Warshaw 2022). Due to the growing nationalization of elections, these statewide races are an excellent predictor of legislative races. Indeed, presidential election results are nearly perfectly correlated with legislative results in recent years (see, for instance, Table 3 in Jacobson 2021).

Metric	Value
Assembly Plan	
Republican Seat Share	52%
Efficiency Gap	-1.7%
Symmetry)	-2.0%
Mean-Median Diff	-1.6%
Declination	-.16
Senate Plan	
Republican Seat Share	52%
Efficiency Gap	-2.4%
Symmetry)	-3.3%
Mean-Median Diff	-1.8%
Declination	-.14

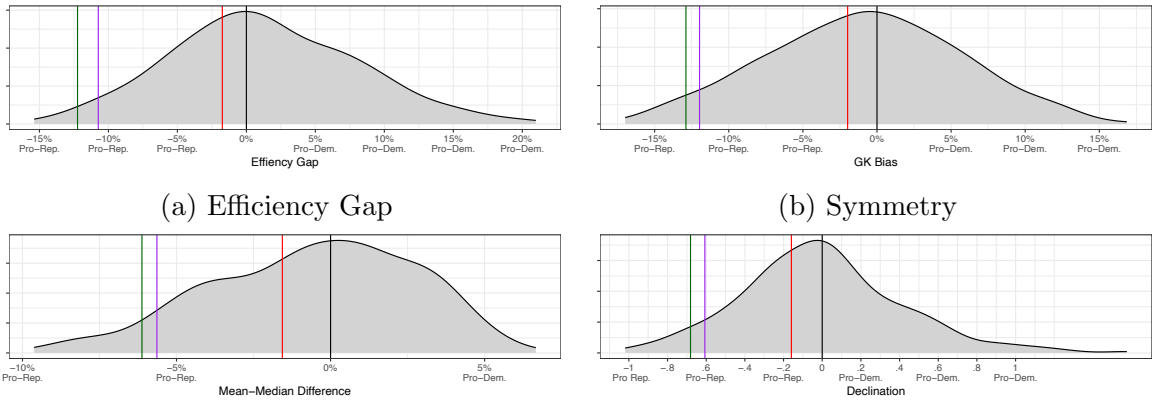
Table 5: Composite metrics for Clarke plans based on 17 statewide elections between 2014-2022. Negative values indicate pro-Republican bias and positive values indicate pro-Democratic bias.

In Table 5, I calculate political neutrality metrics for the Clarke maps.[16] In Figures 5-6, I also compare their partisan neutrality to other state house or state Senate plans around the country over the past 50 years. This helps us assess whether they are within the center of the distribution of previous plans.

On the Clarke Assembly plan, Republican won 52% of the seats based on the composite index with 50% of the vote. This leads to a slightly pro-Republican score for all four metrics of political neutrality. For instance, the Efficiency Gap is -1.7%. As Figure 5 shows, however, the Clarke Assembly plan is more politically neutral than the 2011 and 2022 plans on all four metrics.[17] It is also fairly close to the distribution of state house

16. In Appendix E, I break the results down for each of the past 17 statewide elections.

17. Herschlag, Ravier, and Mattingly (2017), Chen (2017), and Krasno et al. (2019) explain in detail that the partisan bias in the 2011 plans, and by extension the 2022 maps, cannot be explained by Wisconsin's



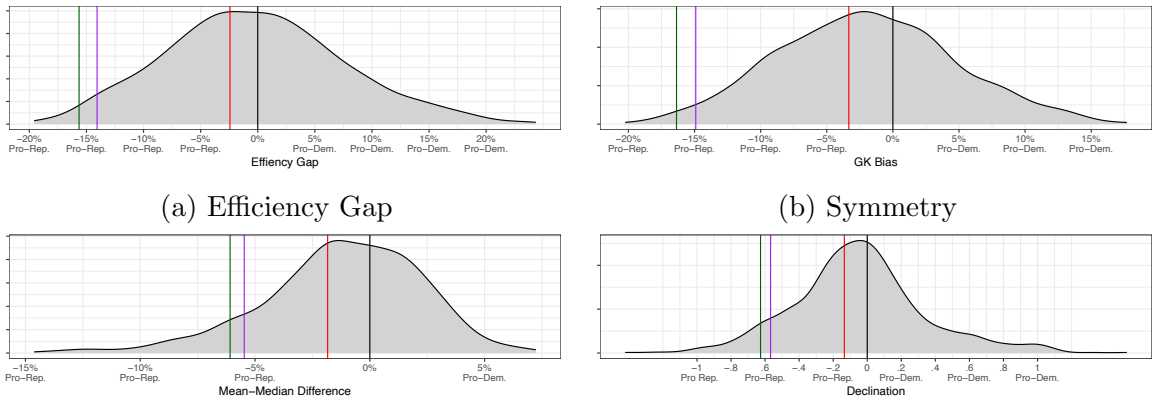
(a) Efficiency Gap (b) Symmetry

(c) Mean-Median Difference (d) Declination

Figure 5: Graphs of composite metrics for Clarke Assembly plan (in red) compared to enacted 2011 (in purple) and 2022 Wisconsin plans (in green), and previous plans across the country from 1972-2022.

plans across the United States from 1972-2022 (Stephanopoulos and Warshaw 2020).

On the Clarke Senate plan, Republican won 52% of the seats based on the composite index with 50% of the vote. Like on the Senate Plan, this leads to a slightly pro-Republican score for all four metrics of political neutrality. For instance, the Efficiency Gap is -2.4%. As Figure 6 shows, however, the Clarke Senate plan is more politically neutral than the 2011 and 2022 plans on all four metrics. It is also fairly close to the distribution of state senate plans across the United States from 1972-2022 (Stephanopoulos and Warshaw 2020).



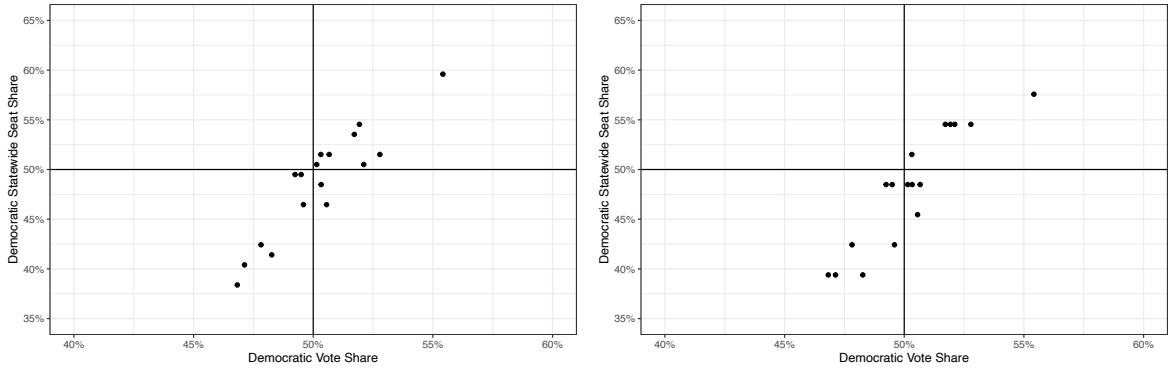
(a) Efficiency Gap (b) Symmetry

(c) Mean-Median Difference (d) Declination

Figure 6: Graphs of composite metrics for Clarke Senate plan (in red) compared to enacted 2011 (purple) and 2022 Wisconsin plans (green), and previous plans across the country from 1972-2022.

political geography.

This analysis indicates that the Clarke plans are relatively neutral compared to the universe of prior state legislative plans over the past 50 years. Moreover, Figure 7 shows that the party that wins the majority of votes usually wins the majority of the seats under the plans. In 15 of the past 17 statewide elections since 2014, the same party would have won the majority of the votes and the majority of the seats on the Assembly plan. In 13 of the past 17 statewide elections since 2014, the same party would have won the majority of the votes and the majority of the seats on the Senate plan.[18] Thus both plans satisfy the democratic norm that when a political party wins more than half the votes, they are likely to receive a majority of the seats ("a majority of the people of a State" should reasonably be able to "elect a majority" in "a society ostensibly grounded on representative government" (*Reynolds* v. *Sims*, 377 U.S. 533, 565 (1964))). The statewide seat share in both plans is also relatively responsiveness to changes in the statewide vote.



(a) Assembly Plan (b) Senate Plan

Figure 7: Relationship between statewide vote share and seat share on the Clarke Assembly and Senate plans for statewide elections between 2014-2022. The upper left and lower right quadrants of the graph show non-majoritarian outcomes.

8.1.2 Neutrality scores using PlanScore

Next, I evaluate the political neutrality of the Clarke plans using a predictive model from the open source PlanScore.org website.[19] PlanScore uses a statistical model of the relationship between districts' latent partisanship and legislative election outcomes (see Warshaw, McGhee, and Migurski 2022). This enables it to estimate district-level vote shares for a new map and the corresponding partisan gerrymandering metrics.[20] It then

18. In each instance in which the losing candidate won a majority of seats under the Clarke plans, that candidate was a Republican.

19. See https://planscore.org/plan.html?20240107T160658.379139574Z for the Clarke Assembly plan and https://planscore.org/plan.html?20240107T160706.576795714Z for the Clarke Senate plan.

20. See https://planscore.org/models/data/2022F/ for more details.

calculates various partisan bias metrics. For my analyses, I assume each district will be an open seat (ie., I do not input any information about incumbency). Because PlanScore is adding an additional element to the analysis—the "down ballot" dropoff effect for a given state (which is either neutral, Republican favoring, or Democratic favoring), it will necessarily report different scores for the various partisan bias metrics than the composite results based solely upon prior statewide elections, reported above.

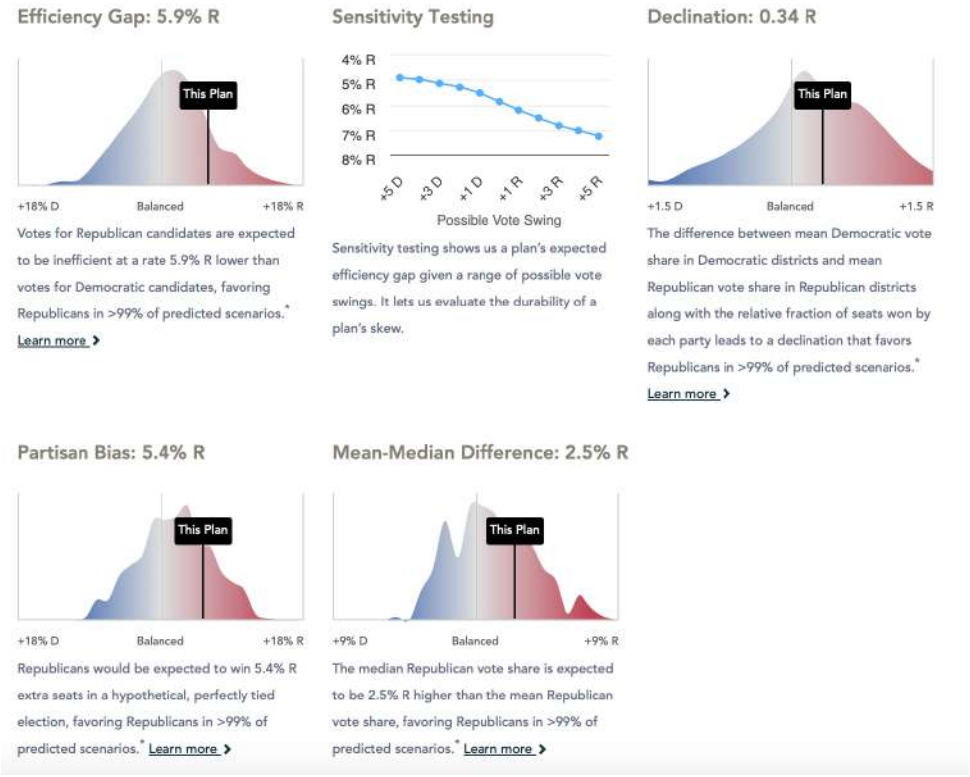


Figure 8: Graphs of PlanScore metrics for Clarke Assembly plan compared to previous plans from 1972-2022

PlanScore indicates that the Clarke Assembly plan has a pro-Republican efficiency gap of 5.9% (see Figure 8, which graphically illustrates this result of the Clarke Assembly plan compared to previous plans from 1972-2022[21]). This indicates that the Clarke plan continues to have a pro-Republican tilt, but it is more neutral than the 2022 plan.[22]

PlanScore indicates that the Clarke Senate plan has a pro-Republican efficiency gap of 6.7% (see Figure 9). Overall, the graphs show that the Clarke Senate plan has a small pro-Republican bias across all four metrics, but it more neutral than the 2022 plan, which PlanScore indicates had a large pro-Republican efficiency gap of 13.7%.[23]

21. Note that the PlanScore graphs are oriented so that pro-Republican scores have a positive value.
22. See https://planscore.org/plan.html?20240102T025339.641523856Z
23. See https://planscore.org/plan.html?20240104T200449.972536447Z.

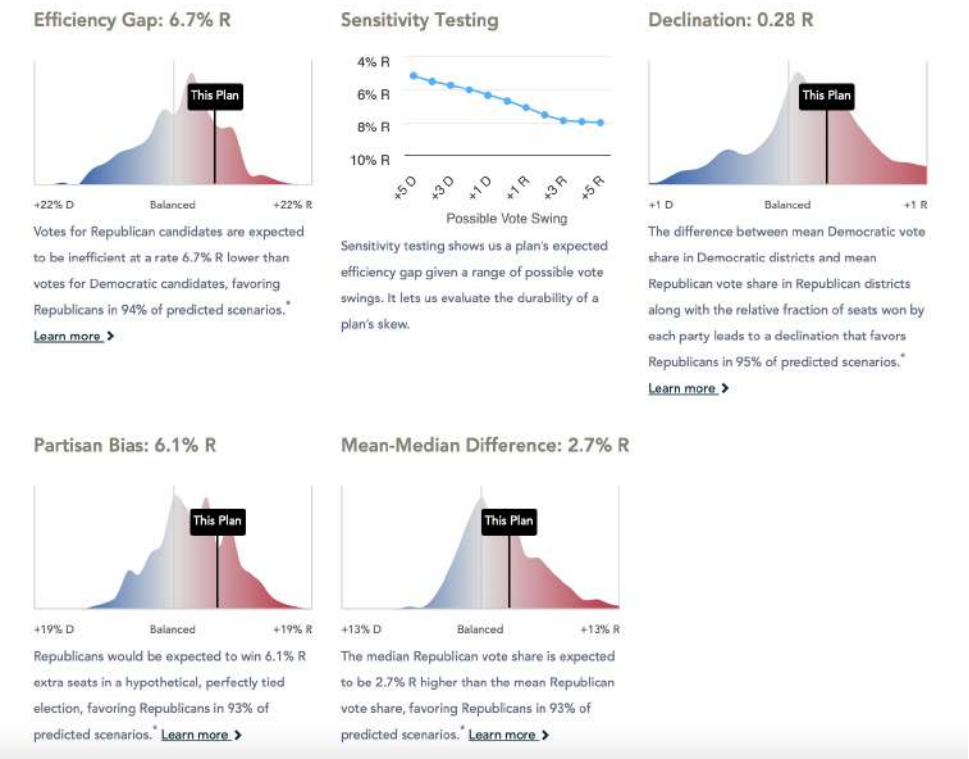


Figure 9: Graphs of PlanScore metrics for Clarke Senate plan compared to previous plans from 1972-2022

9 Conclusion

I find that the Clarke plans satisfy the requirements for population equality, political subdivision splits, contiguity, compactness, nesting, and political neutrality. They also meet these criteria far better than the enacted 2011 and 2022 plans.

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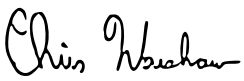
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I declare that the foregoing is correct to the best of my knowledge under penalty of perjury.



1/11/24

Appendix A: District-level metrics for population equality

This appendix and attached csv files show population data for the Clarke plans.

District	Population	Deviation	Percent Deviation
1	59444	-89	-0.15%
2	59678	145	0.24%
3	59648	115	0.19%
4	59676	143	0.24%
5	59611	78	0.13%
6	59814	281	0.47%
7	59576	43	0.07%
8	59362	-171	-0.29%
9	59598	65	0.11%
10	59503	-30	-0.05%
11	59565	32	0.05%
12	59351	-182	-0.31%
13	59749	216	0.36%
14	59424	-109	-0.18%
15	59513	-20	-0.03%
16	59714	181	0.30%
17	59435	-98	-0.16%
18	59346	-187	-0.31%
19	59320	-213	-0.36%
20	59286	-247	-0.42%
21	59602	69	0.12%
22	59685	152	0.26%
23	59399	-134	-0.22%
24	59370	-163	-0.27%
25	59801	268	0.45%
26	59698	165	0.28%
27	59776	243	0.41%
28	59438	-95	-0.16%
29	59439	-94	-0.16%
30	59469	-64	-0.11%
31	59282	-251	-0.42%
32	59688	155	0.26%
33	59314	-219	-0.37%
34	59520	-13	-0.02%
35	59339	-194	-0.33%
36	59444	-89	-0.15%
37	59657	124	0.21%
38	59267	-266	-0.45%
39	59329	-204	-0.34%
40	59289	-244	-0.41%
41	59339	-194	-0.33%
42	59796	263	0.44%
43	59569	36	0.06%
44	59601	68	0.11%
45	59570	37	0.06%
46	59310	-223	-0.38%
47	59338	-195	-0.33%
48	59473	-60	-0.10%
49	59532	-1	0.00%

Table A1: Populations for 2024 Clarke Assembly Plan (districts 1-49)

District	Population	Deviation	Percent Deviation
50	59568	35	0.06%
51	59299	-234	-0.39%
52	59335	-198	-0.33%
53	59328	-205	-0.34%
54	59603	70	0.12%
55	59515	-18	-0.03%
56	59784	251	0.42%
57	59645	112	0.19%
58	59779	246	0.41%
59	59265	-268	-0.45%
60	59743	210	0.35%
61	59795	262	0.44%
62	59340	-193	-0.32%
63	59485	-48	-0.08%
64	59347	-186	-0.31%
65	59523	-10	-0.02%
66	59712	179	0.30%
67	59357	-176	-0.30%
68	59377	-156	-0.26%
69	59651	118	0.20%
70	59758	225	0.38%
71	59532	-1	0.00%
72	59544	11	0.02%
73	59354	-179	-0.30%
74	59705	172	0.29%
75	59697	164	0.28%
76	59572	39	0.07%
77	59580	47	0.08%
78	59644	111	0.19%
79	59589	56	0.09%
80	59302	-231	-0.39%
81	59448	-85	-0.14%
82	59799	266	0.45%
83	59628	95	0.16%
84	59477	-56	-0.09%
85	59412	-121	-0.20%
86	59521	-12	-0.02%
87	59383	-150	-0.25%
88	59743	210	0.35%
89	59680	147	0.25%
90	59505	-28	-0.05%
91	59558	25	0.04%
92	59419	-114	-0.19%
93	59562	29	0.05%
94	59319	-214	-0.36%
95	59754	221	0.37%
96	59618	85	0.14%
97	59743	210	0.35%
98	59713	180	0.30%
99	59761	228	0.38%

Table A2: Populations for 2024 Clarke Assembly Plan (districts 50-99)

District	Population	Deviation	Percent Deviation
1	178770	172	0.10%
2	179101	503	0.28%
3	178536	-62	-0.03%
4	178419	-179	-0.10%
5	178686	88	0.05%
6	178495	-103	-0.06%
7	178208	-390	-0.22%
8	178454	-144	-0.08%
9	179275	677	0.38%
10	178346	-252	-0.14%
11	178284	-314	-0.18%
12	178303	-295	-0.17%
13	178253	-345	-0.19%
14	178424	-174	-0.10%
15	178740	142	0.08%
16	178121	-477	-0.27%
17	178399	-199	-0.11%
18	178266	-332	-0.19%
19	178944	346	0.19%
20	178787	189	0.11%
21	178620	22	0.01%
22	178582	-16	-0.01%
23	178385	-213	-0.12%
24	178834	236	0.13%
25	178756	158	0.09%
26	178796	198	0.11%
27	178339	-259	-0.14%
28	178904	306	0.17%
29	178316	-282	-0.16%
30	178928	330	0.18%
31	178539	-59	-0.03%
32	178691	93	0.05%
33	179217	619	0.35%

Table A3: Populations for 2024 Clarke Senate Plan

Appendix B: Political Subdivision-unit level metrics on splits

This appendix and attached csv files show splits data for the Clarke plans.

FIPS	County Name	Splits
55007	Bayfield	1
55009	Brown	7
55015	Calumet	3
55017	Chippewa	4
55019	Clark	1
55021	Columbia	5
55025	Dane	14
55027	Dodge	5
55033	Dunn	1
55035	Eau Claire	3
55039	Fond du Lac	4
55049	Iowa	2
55055	Jefferson	4
55057	Juneau	2
55059	Kenosha	3
55063	La Crosse	2
55065	Lafayette	2
55071	Manitowoc	2
55073	Marathon	5
55079	Milwaukee	17
55081	Monroe	2
55083	Oconto	2
55085	Oneida	1
55087	Outagamie	4
55089	Ozaukee	4
55093	Pierce	2
55095	Polk	2
55097	Portage	2
55101	Racine	5
55105	Rock	4
55109	St. Croix	2
55111	Sauk	5
55115	Shawano	1
55117	Sheboygan	2
55121	Trempealeau	1
55123	Vernon	1
55127	Walworth	3
55129	Washburn	1
55131	Washington	3
55133	Waukesha	9
55135	Waupaca	3
55137	Waushara	2
55139	Winnebago	3
55141	Wood	1

Table A4: County Splits for 2024 Clarke Assembly Plan

FIPS	Name	CTV	Splits
02375	Appleton	C	3
03425	Ashwaubenon	V	1
08350	Blooming Grove	T	2
10025	Brookfield	C	1
10375	Brown Deer	V	1
10750	Buchanan	T	1
11950	Caledonia	V	1
12225	Cambridge	V	1
13400	Cedarburg	T	1
17175	Cottage Grove	V	1
22300	Eau Claire	C	2
26982	Fox Crossing	V	1
27300	Franklin	C	1
28550	Geneva	T	1
31000	Green Bay	C	3
31175	Greenfield	C	3
32790	Harrison	V	1
37825	Janesville	C	1
39225	Kenosha	C	1
39650	Kimberly	V	1
40775	La Crosse	C	1
48000	Madison	C	7
48025	Madison	T	3
50825	Menasha	C	1
51150	Mequon	C	1
51400	Merton	T	1
51575	Middleton	C	1
51600	Middleton	T	1
53000	Milwaukee	C	13
54875	Mount Pleasant	V	1
55075	Mukwonago	T	1
55275	Muskego	C	1
60500	Oshkosh	C	1
63300	Pleasant Prairie	V	1
66000	Racine	C	1
66350	Raymond	V	1
73000	Sheboygan	T	1
77150	Stettin	T	1
78600	Sun Prairie	C	1
84250	Waukesha	C	2
84675	Wauwatosa	C	3
85300	West Allis	C	2
86025	Weston	V	1
87725	Windsor	V	1
88150	Wisconsin Dells	C	1

Table A5: Municipal Splits for 2024 Clarke Assembly Plan

FIPS	County Name	Splits
55009	Brown	3
55015	Calumet	2
55017	Chippewa	3
55021	Columbia	2
55025	Dane	5
55027	Dodge	3
55035	Eau Claire	1
55039	Fond du Lac	3
55055	Jefferson	3
55057	Juneau	2
55059	Kenosha	2
55063	La Crosse	1
55071	Manitowoc	1
55073	Marathon	2
55079	Milwaukee	7
55081	Monroe	1
55083	Oconto	1
55087	Outagamie	2
55089	Ozaukee	2
55093	Pierce	1
55095	Polk	1
55097	Portage	1
55101	Racine	2
55105	Rock	2
55109	St. Croix	1
55111	Sauk	4
55117	Sheboygan	1
55123	Vernon	1
55127	Walworth	1
55131	Washington	3
55133	Waukesha	5
55135	Waupaca	1
55139	Winnebago	2
55141	Wood	1

Table A6: County Splits for 2024 Clarke Senate Plan

FIPS	Name	CTV	Splits
02375	Appleton	C	1
03425	Ashwaubenon	V	1
08350	Blooming Grove	T	1
10025	Brookfield	C	1
10375	Brown Deer	V	1
10750	Buchanan	T	1
11950	Caledonia	V	1
13400	Cedarburg	T	1
17175	Cottage Grove	V	1
26982	Fox Crossing	V	1
27300	Franklin	C	1
31000	Green Bay	C	1
31175	Greenfield	C	2
32790	Harrison	V	1
39225	Kenosha	C	1
48000	Madison	C	3
48025	Madison	T	2
51575	Middleton	C	1
53000	Milwaukee	C	5
55075	Mukwonago	T	1
55275	Muskego	C	1
60500	Oshkosh	C	1
77150	Stettin	T	1
78600	Sun Prairie	C	1
84250	Waukesha	C	1
84675	Wauwatosa	C	2
85300	West Allis	C	1
87725	Windsor	V	1
88150	Wisconsin Dells	C	1

Table A7: Municipal Splits for 2024 Clarke Senate Plan

Appendix C: Detailed data on Clarke Plans Island Territory

Assembly District 1/Senate District 1

1. Washington Island
2. Gibraltar Island
3. Rock Island
4. Detroit Island
5. Plum Island
6. Snake Island
7. Hat Island
8. Pilot Island
9. Gravel Island
10. Sister Island (#1)
11. Sister Island (#2)
12. Fish Island
13. Hog Island
14. Fisherman's Shoal
15. Island South of Detroit Island, Washington Town, Census Block No. 5502391001001009
16. Island northeast of Washington Island, Washington Town, Census Block No. 550291001001002

Assembly District 21/Senate District 7

1. Island off South Milwaukee, Census Block No. 550791707002021

Assembly District 36/Senate District 12

1. Green Island

Assembly District 42/Senate District 14

1. Island off Black Wolf, Census Block No. 551390019002101

Assembly District 52/Senate District 18

1. Island off Asylum Point, Oshkosh, Census Block No. 551390016002006

Assembly District 57/Senate District 19

1. Long Tail Point Island (#1)
2. Long Tail Point Island (#2)
3. Island south of Little Tail Point, Suamico, Census Block No. 55090202032003

Assembly District 73/Senate District 25

1. Sand Island
2. Raspberry Island
3. York Island
4. Eagle Island
5. Interstate Island

Assembly District 74/Senate District 25

1. Madeline Island
2. Stockton Island
3. Outer Island
4. Oak Island
5. Basswood Island

6. Bear Island
7. Michigan Island
8. Cat Island
9. Manitou Island
10. Otter Island
11. Rocky Island
12. Hermit Island
13. Ironwood Island
14. South Twin Island
15. Devils Island
16. Long Island
17. North Twin Island
18. Gull Island

Assembly District 88/Senate District 30

1. Bay Beach Island

Appendix D: District-level metrics for compactness

This appendix and attached machine readable files show detailed district-level tables with compactness metrics for the Clarke plans.

District	Polsby-Popper	Reock
1	0.09	0.15
2	0.31	0.37
3	0.24	0.33
4	0.23	0.44
5	0.37	0.36
6	0.27	0.45
7	0.14	0.19
8	0.36	0.47
9	0.23	0.36
10	0.15	0.34
11	0.25	0.43
12	0.32	0.39
13	0.33	0.52
14	0.41	0.48
15	0.37	0.57
16	0.35	0.42
17	0.33	0.42
18	0.21	0.28
19	0.12	0.19
20	0.24	0.33
21	0.40	0.41
22	0.47	0.49
23	0.21	0.28
24	0.22	0.22
25	0.39	0.38
26	0.57	0.49
27	0.30	0.40
28	0.49	0.42
29	0.37	0.48
30	0.51	0.53
31	0.23	0.34
32	0.39	0.38
33	0.24	0.33
34	0.57	0.55
35	0.37	0.31
36	0.33	0.43
37	0.19	0.41
38	0.27	0.30
39	0.21	0.46
40	0.25	0.31
41	0.51	0.51
42	0.25	0.44
43	0.33	0.40
44	0.33	0.28
45	0.40	0.49
46	0.14	0.42
47	0.36	0.58
48	0.34	0.51
49	0.43	0.39

Table A8: Compactness Metrics for 2024 Clarke Assembly Plan (Districts 1-49)

District	Polsby-Popper	Reock
50	0.56	0.57
51	0.40	0.53
52	0.22	0.43
53	0.31	0.28
54	0.19	0.38
55	0.38	0.54
56	0.34	0.33
57	0.24	0.45
58	0.27	0.42
59	0.29	0.37
60	0.32	0.40
61	0.24	0.39
62	0.27	0.50
63	0.32	0.41
64	0.28	0.43
65	0.16	0.32
66	0.29	0.42
67	0.30	0.32
68	0.36	0.39
69	0.40	0.48
70	0.24	0.41
71	0.31	0.27
72	0.30	0.44
73	0.31	0.42
74	0.18	0.38
75	0.57	0.48
76	0.24	0.21
77	0.27	0.37
78	0.17	0.41
79	0.25	0.36
80	0.29	0.32
81	0.25	0.43
82	0.23	0.46
83	0.18	0.31
84	0.21	0.35
85	0.19	0.43
86	0.24	0.36
87	0.43	0.53
88	0.22	0.40
89	0.18	0.35
90	0.16	0.41
91	0.39	0.45
92	0.33	0.47
93	0.28	0.39
94	0.27	0.44
95	0.32	0.48
96	0.52	0.53
97	0.22	0.54
98	0.36	0.61
99	0.27	0.35

Table A9: Compactness Metrics for 2024 Clarke Assembly Plan (Districts 50-99)

District	Polsby-Popper	Reock
1	0.09	0.13
2	0.21	0.45
3	0.30	0.42
4	0.22	0.38
5	0.21	0.52
6	0.24	0.52
7	0.20	0.25
8	0.17	0.24
9	0.34	0.37
10	0.33	0.32
11	0.33	0.45
12	0.38	0.47
13	0.20	0.48
14	0.27	0.55
15	0.47	0.42
16	0.12	0.38
17	0.50	0.52
18	0.14	0.24
19	0.20	0.39
20	0.23	0.51
21	0.18	0.37
22	0.25	0.37
23	0.25	0.37
24	0.23	0.26
25	0.18	0.49
26	0.17	0.36
27	0.27	0.54
28	0.19	0.32
29	0.30	0.47
30	0.18	0.41
31	0.43	0.59
32	0.35	0.41
33	0.21	0.38

Table A10: Compactness Metrics for 2024 Clarke Senate Plan

Appendix E: Detailed statewide election metrics for Clarke plans

Election	Statewide_demshare	Demshare_seats	EG	Meanmedian	GK_Bias	Declination
ag_2014	0.47	0.38	-0.05	-0.03	-0.06	-0.34
ag_2018	0.50	0.48	-0.02	-0.02	-0.03	-0.16
ag_2022	0.51	0.52	0.00	-0.00	0.01	-0.09
gov_2014	0.47	0.40	-0.04	-0.03	-0.07	-0.27
gov_2018	0.51	0.46	-0.05	-0.02	-0.05	-0.27
gov_2022	0.52	0.54	0.00	-0.01	0.01	-0.08
pres_2016	0.50	0.46	-0.03	-0.02	-0.03	-0.18
pres_2020	0.50	0.52	0.01	-0.01	0.01	-0.04
sen_2016	0.48	0.41	-0.05	-0.02	-0.05	-0.31
sen_2018	0.55	0.60	-0.01	-0.02	-0.02	-0.16
sen_2022	0.49	0.49	0.01	-0.01	0.01	-0.07
sos_2014	0.52	0.55	0.01	-0.02	-0.05	-0.07
sos_2018	0.53	0.52	-0.04	-0.02	-0.02	-0.25
sos_2022	0.50	0.51	0.00	-0.01	0.01	-0.09
treas_2014	0.48	0.42	-0.03	-0.02	-0.04	-0.23
treas_2018	0.52	0.51	-0.04	-0.02	-0.01	-0.23
treas_2022	0.49	0.49	0.01	-0.01	-0.01	-0.05

Table A11: Composite Election Metrics for 2024 Clarke Assembly Plan

Election	Statewide_demshare	Demshare_seats	EG	Meanmedian	GK_Bias	Declination
ag_2014	0.47	0.39	-0.04	-0.02	-0.05	-0.19
ag_2018	0.50	0.48	-0.02	-0.02	-0.05	-0.11
ag_2022	0.51	0.48	-0.03	-0.02	-0.02	-0.17
gov_2014	0.47	0.39	-0.05	-0.03	-0.05	-0.21
gov_2018	0.51	0.45	-0.06	-0.03	-0.05	-0.23
gov_2022	0.52	0.55	0.01	-0.02	-0.02	-0.02
pres_2016	0.50	0.42	-0.07	-0.02	-0.05	-0.27
pres_2020	0.50	0.52	0.01	-0.01	-0.02	-0.02
sen_2016	0.48	0.39	-0.07	-0.03	-0.08	-0.29
sen_2018	0.55	0.58	-0.03	-0.02	-0.05	-0.20
sen_2022	0.49	0.48	-0.01	-0.02	-0.02	-0.08
sos_2014	0.52	0.55	0.01	-0.01	-0.02	-0.04
sos_2018	0.53	0.55	-0.01	-0.02	-0.05	-0.08
sos_2022	0.50	0.48	-0.02	-0.02	-0.02	-0.13
treas_2014	0.48	0.42	-0.03	-0.02	-0.02	-0.15
treas_2018	0.52	0.55	0.00	-0.01	-0.05	-0.03
treas_2022	0.49	0.48	-0.00	-0.02	-0.02	-0.07

Table A12: Composite Election Metrics for 2024 Clarke Senate Plan

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Publications

Book

"Dynamic Democracy: Public Opinion, Elections, and Policy Making in the American States." 2022. University of Chicago Press. (with Devin Caughey)

Peer Reviewed Articles

29. "How Partisanship in Cities Influences Housing Policy". Forthcoming. *American Journal of Political Science* (with Justin de Benedictis-Kessner and Dan Jones).

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9. "Incremental Democracy: The Policy Effects of Partisan Control of State Government." 2017. *Journal of Politics*. 79(4): 1342-1358. (with Devin Caughey and Yiqing Xu)
8. "Renewable energy policy design and framing influences public support in the United States." 2017. *Nature Energy*. 2(17107). (with Leah Stokes)
7. "Estimating Candidates' Political Orientation in a Polarized Congress." 2017. *Political Analysis*. 25(2): 167-187. (with Chris Tausanovitch)
6. "The Dynamics of State Policy Liberalism, 1936-2014." 2016. *American Journal of Political Science*. 60(4): 899-913. (with Devin Caughey)
5. "Mayoral Partisanship and Municipal Fiscal Policy." 2016. *Journal of Politics*. 78(4): 1124-1138. (with Justin de Benedictis-Kessner)
4. "Dynamic Estimation of Latent Opinion Using a Hierarchical Group-Level IRT Model." 2015. *Political Analysis*. 23(2): 197-211. (with Devin Caughey)
3. "Representation in Municipal Government." 2014. *American Political Science Review*. 108(3): 605-641. (with Chris Tausanovitch)
2. "Measuring Constituent Policy Preferences in Congress, State Legislatures and Cities." 2013. *Journal of Politics*. 75(2): 330-342. (with Chris Tausanovitch)
1. "How Should We Measure District-Level Public Opinion on Individual Issues?" 2012. *Journal of Politics*. 74(1): 203-219. (with Jonathan Rodden)

Editor Reviewed Articles in Journals and Law Reviews

5. "Non-Retrogression Without Law." Forthcoming. *University of Chicago Legal Forum*. (with Nicholas Stephanopoulos and Eric McGhee).
4. "A preference for constant costs." 2020. *Nature Climate Change*. News & Views. 10: 978–979
3. "Public Opinion in Subnational Politics." 2019. *Journal of Politics*. 81(1): 352-363. Editor reviewed for Symposium on Subnational Policymaking. (with Devin Caughey)
2. "Spatial variation in messaging effects." 2018. *Nature Climate Change*. News & Views. April, 2018.
1. "Business as Usual? Analyzing the Doctrinal Development of Environmental Standing Doctrine since 1976." 2011. *Harvard Law and Policy Review*. Volume 5.2. (with Gregory Wannier).

Book Chapters

5. "Elections and Parties in Environmental Politics." 2020. *Handbook on U.S. Environmental Policy*. David Konisky, ed. (with Parrish Bergquist)
4. "Latent Constructs in Public Opinion." 2018. *Oxford Handbook on Polling and Polling Methods*. R. Michael Alvarez and Lonna Atkeson, ed. Oxford: Oxford University Press.
3. "The Application of Big Data in Surveys to the Study of Elections, Public Opinion, and Representation." 2016. *Data Analytics in Social Science, Government, and Industry*. R. Michael Alvarez, ed. Cambridge: Cambridge University Press.
2. "The Political Economy of Expropriation and Privatization in the Oil Sector." 2012. *Oil and Governance: State-Owned Enterprises and the World Energy Supply*. David G. Victor, David Hults, and Mark Thurber, eds. Cambridge: Cambridge University Press.

1. "Democratization and Countermajoritarian Institutions: The Role of Power and Constitutional Design In Self-Enforcing Democracy." 2012. *Comparative Constitutional Design*. Cambridge: Cambridge University Press. (with Susan Alberts and Barry R. Weingast).

Policy Reports

1. "Reforming Baltimore's Mayoral Elections." 2020. Abell Foundation Report. `https://www.abell.org/publications/reforming-baltimores-mayoral-elections`

Articles Under Review

"The Effect of Fox News Channel on U.S. Elections: 2000-2020" (with Elliott Ash, Sergio Galletta, and Matteo Pinna).

Works in Progress

"Electoral Accountability for Ideological Extremism in American Elections" (with Devin Caughey)

"Gerrymandering in Local Governments" (with Yamil Valez)

"When Mass Opinion Goes to the Ballot Box: A National Assessment of State Level Issue Opinion and Ballot Initiative Results" (with Jonathan Robinson and John Sides)

"Inequalities in Participation, Voting, and Representation in Local Governments" (with Justin de Benedictis-Kessner and John Sides)

"The Ideology of State Party Platforms " (with Justin Phillips and Gerald Gamm)

Non-Academic Writing

"How Black and Latino people did in this last round of redistricting" *Washington Post*, Monkey Cage. October 7, 2022. (with Eric McGhee and Michal Migurski)

"Redistricting commissions draw fairer districts than politicians do" *Washington Post*, Monkey Cage. September 27, 2022. (with Eric McGhee and Michal Migurski)

"In many states with antiabortion laws, majorities favor abortion rights" *Washington Post*, Monkey Cage. June 25, 2022. (with Jake Grumbach)

"Here are six big takeaways from the 2020 elections." *Washington Post*, Monkey Cage. November 7, 2020. (with Emily Thorson)

"TV ads still win elections. And Democrats are buying a lot more of them." *Washington Post*. October 28, 2020. (with John Sides and Lynn Vavreck)

"How Local Covid Deaths Are Affecting Vote Choice." *New York Times*, Upshot. July 28, 2020. (with Lynn Vavreck)

"Allowing Only Older Americans to Vote by Mail Leads to Severe Racial Disparities." *Election Law Blog*. July 1, 2020.

"A coronavirus recession would hurt all kinds of Republican candidates – not just Trump." *Washington Post*, Monkey Cage. March 18, 2020. (with Justin de Benedictis-Kessner).

"The Supreme Court is deciding a gerrymandering case. Here's the social science that the Justices need to know." *Washington Post*, Monkey Cage. June 1, 2019.

"New research shows just how badly a citizenship question would hurt the 2020 Census." *Washington Post*, Monkey Cage. April 22, 2019. (with Matt Barreto, Matthew A. Baum, Bryce J. Dietrich, Rebecca Goldstein, and Maya Sen)

"G.O.P. Senators Might Not Realize It, but Not One State Supports the Health Bill." *New York Times*, Upshot. June 14, 2017. (with David Broockman)

Invited Talks

2023-2024: UC Berkeley, Penn State, University of Chicago

2022-2023: University of Colorado

2021-2022: American University

2020-2021: University of Maryland; Stony Brook University

2019-2020: Princeton; UC Berkeley

2018-2019: Stanford; Northeast Political Methodology Meeting at NYU; University of Maryland

2017-2018: USC PIPE Symposium on Studying Subnational Policy Making; BYU; University of Chicago Conference on Political Polarization

2016-2017: University of Virginia; UCLA

2015-2016: Washington University in St. Louis; Texas A&M; Arizona State University Conference on Campaigns, Elections and Representation

2014-2015: Yale; Columbia; Duke

2013-2014: Princeton; Boston University; Rochester University

2012-2013: MIT American Politics Conference; Columbia Representation Conference; Princeton Media & Politics Conference; Annual Meeting of the Society for Political Methodology

Grants

Robert Wood Johnson Foundation, 2022 ($70,000)

Russell Sage Foundation, 2019-2022 ($119,475)

GW UFF, 2019-2020 ($14,433)

MIT Elections Lab, 2019-2020 ($14,000)

Jeptha H. and Emily V. Wade Award, 2014-2016 ($59,686)

MIT Energy Institute (MITEI) Seed Grant, 2014-2016 ($137,147)

MIT SHASS Research Fund, 2012-2014 ($8,734)

Software

dgo: Dynamic Estimation of Group-Level Opinion. 2017. R package. `https://CRAN.R-project.org/package=dgo`. (with James Dunham and Devin Caughey)

Awards, Honors, and Fellowships

Shapiro Policy Research Scholar, George Washington Institute of Public Policy, 2019-2020; 2023-2024

OVPR Early Career Scholar at George Washington University, 2019.

APSA award for best journal article on State Politics & Policy in 2016.

Award for best paper on State Politics & Policy at the 2014 American Political Science Conference.

Graduate Fellowship, Dept. of Political Science, Stanford University, 2006-2012

David A. Wells Prize in Political Economy for Best Undergraduate Economics Thesis, Williams College, 2002

Phi Beta Kappa, Williams College, 2002

Teaching Experience

Instructor:

Democracy in America (GW), 2022, 2023

State and Local Politics (GW), 2023

Measurement Models (Graduate-level) (GW), 2020, 2024

Political Representation (Graduate-level) (GW), 2019

Elections (GW), 2018, 2019, 2021, 2022, 2023

Multi-level and Panel Models (Graduate-level) (GW), 2017, 2018, 2019, 2021, 2023

Public Opinion (GW), 2017

American Political Institutions (Graduate-level) (MIT), 2014, 2016

Public Opinion and Elections (MIT), 2016

Energy Policy (MIT), 2013

Democracy in America (MIT), 2013, 2014

Constitutional Law & Judicial Politics (MIT), 2013, 2015

Making Public Policy (MIT), 2012, 2014

Teaching Assistant:

Introduction to American Law (Stanford University), 2010

Judicial Politics and Constitutional Law (Stanford University), 2009

Political Economy of Energy Policy (Stanford University), 2008

Introduction to International Relations (Stanford University), 2008

Introduction to Public Policy (Stanford University), 2007

Introduction to Econometrics (Williams College), 2002

Graduate Advising

George Washington University:

Sara Bornstein (Dissertation committee chair)

Dickson Su (Dissertation committee chair)

Kerry Synan (Dissertation committee co-chair)

Jared Heern (Graduated in 2022, Dissertation committee member)

Alex Beck (Graduated in 2021, Dissertation committee chair)

Colin Emrich (Graduated in 2021, Dissertation committee member)

Massachusetts Institute of Technology:

Leah Stokes (Graduated in 2015, Dissertation committee member)

Krista Loose (2016, Dissertation committee member)

Tom O'Grady (2017, Dissertation committee member)

Justin de Benedictis-Kessner (2017, Dissertation committee member)

Alex Copulsky (2017, Masters thesis committee member)

James Dunham (2018, Dissertation committee member)

Parrish Bergquist (2018, Dissertation committee member)

Meg Goldberg (2019, Dissertation committee member)

University Service

George Washington University:

Member, CCAS Research Advisory Committee, 2023-

Member, Academic Program Review Committee, Sociology Dept., 2021

Coordinator, Graduate Political Science Admissions Committee, 2019-2023

Coordinator, American Politics Workshop, 2018-2020

Member, Methods Exam Committee, 2017-2020

Member, Graduate Political Science Admissions Committee, 2018-2019

Massachusetts Institute of Technology:

Member, Energy Education Task Force, 2012-2017

Parking and Transit Committee, 2013-2017

Member, Graduate Political Science Admissions Committee, 2013-2015

Faculty Fellow, Burchard Scholars, 2013-2015

Stanford University (as graduate student):

President, Stanford Environmental Law Society, 2009-2010

Executive Board Member, Stanford Environmental Law Society 2008-2010

Member, University Committee on Graduate Studies, 2007-2009

Member, University Library Committee, 2007-2008

President, Political Science Graduate Students Association, 2007-2008

Professional Service

Section Chair, Campaigns and Elections, Midwest Political Science Association Conference, 2023

Member, National Science Foundation, Accountable Institutions and Behavior Advisory Panel, 2022-

Member, Best Dissertation Committee, Urban Politics Section of the American Political Science Assoc., 2021

Section Chair, American Public Opinion, Midwest Political Science Association Conference, 2020

Lead Organizer, Local Political Economy APSA Pre-Conference at George Washington University, 2019

Member, Planning Committee, Cooperative Congressional Election Study (CCES), 2018

Member, Best Paper Committee, State Politics Section of the American Political Science Assoc., 2018

Editorial Board, Journal of Politics, 2017-18

Executive Committee, Urban Politics Section of the American Political Science Association, 2015-2017

Organizing Committee, Conference on Ideal Point Models at MIT, http://idealpoint.tahk.us, 2015

Member, Best Paper Committee, Urban Politics Section of the American Political Science Assoc., 2015

Reviewer: American Political Science Review, American Journal of Political Science, Journal of Politics, Political Analysis, Political Behavior, Econometrica, Quarterly Journal of Political Science, Legislative Studies Quarterly, Political Research Quarterly, American Politics Research, British Journal of Political Science, Journal of Law and Courts, Public Opinion Quarterly, Political Science Research and Methods, State Politics and Policy Quarterly, Journal of Experimental Political Science, Nature Climate Change, Urban Affairs Review, Journal of Health Politics, Policy and Law, Perspectives on Politics, Review of Economics and Statistics, Cambridge University Press

Consulting

Partisan Gerrymandering:

Expert, *Clarke v. Wis. Elections Comm'n*, 2023 WI 79, State Legislative districts

Expert, *Republican Party of New Mexico* v. *Oliver*, NO. S-1-SC-40146., Congressional districts

Expert, *Bvm (Black Voters Matter) Capacity Building Institute, Inc., et. al.* v. *Cord Byrd, in his official capacity as Florida Secretary of State, et. al.*, Case No. 2022-ca-000666 (2023), Congressional districts

Expert, *Alonzo et al.* v. *Schwab et al.*, 2022CV90 (consolidated into 2022CV89) (Wyandotte County Dist. Ct. Feb. 14, 2022), Congressional districts

Expert, *Benninghoff* vs. *Pennsylvania Legislative Reapportionment Commission*; and invited expert for the Pennsylvania Legislative Reapportionment Commission as it considered potential plans (2021-2022)

Expert, *League of Women Voters of Michigan* vs *Michigan Independent Citizens Redistricting Commission* (2022), State House Districts

Expert, *League of Women Voters of Ohio* v. *Ohio Redistricting Commission* (2021), Congressional districts

Expert, *League of Women Voters of Ohio* v. *Ohio Redistricting Commission* (2021), State Legislative Districts

Expert, *League of Women Voters* vs. *Kent County Apportionment Commission* (2021), County districting plan

Expert, *APRI et al.* v. *v. Smith et al.* (2018-2019), Congressional districts

Expert, *League of Women Voters of Michigan* v. *Johnson* (2018-2019), Congressional and state legislative districts

Expert, *League of Women Voters of Pennsylvania* v. *the Commonwealth of Pennsylvania* (2017-18), Congressional districts

Census:

Expert, *La Union del Pueblo Entero , et al.* v. *Trump*, Effect of Excluding Undocumented Immigrants from Census on Apportionment (2020)

Expert, *Common Cause et al.* v. *Trump*, Effect of Excluding Undocumented Immigrants from Census on Apportionment (2020)

Expert, *State of New York* v. *Trump*, Effect of Excluding Undocumented Immigrants from Census on Apportionment (2020)

Expert, *New York Immigration Coalition* v. *US Dept of Commerce* & *State of NY* v. *US Dept of Commerce*, Effects of Undercount on Census due to Citizenship Question (2018)

Policy Reports:

Consultant, *Abell Foundation*, Report on Potential Institutional Reforms for Baltimore's City Elections

Community Service

PlanScore: Social Science Advisory Team (2020-2024)

Sierra Club: National Board of Directors (2009-2015)

Last updated: January 11, 2024

Expert Report on Communities of Interest and Wisconsin's Legislative Districts

Aaron Weinschenk, Ph.D.
January 11, 2024

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Executive Summary

- The Clarke Petitioners' proposed Assembly and Senate districts appropriately preserve communities of interest where it is possible to do so without violating one of the legal requirements for drawing state legislative districts. The proposed districts reunite many significant communities of interest throughout the state that are split between Assembly and Senate districts in the current plans.

- In formulating my opinions, I have considered the communities of interest identified in my report that are capable of being evaluated by their respective geographic scope and population (e.g., a city or set of cities) and the degree to which they have been split across multiple districts in the current plans and in the Clark Petitioners' proposed plans. My analysis shows that the Clarke Petitioners' proposed plans include a higher percentage of each community of interest's population within a single district than under the current plans, and that more of the Clarke plans' proposed districts include 100% of a community of interest within a single district than in the current plan. Moreover, where the Clarke plans do divide communities of interest among more than one district, the communities of interest are spread across fewer districts than in the current plans.

- An in-depth analysis of a subset of Wisconsin's current legislative districts reveals that there are numerous concerns with how communities of interest are treated. The current plans split many communities of interest where it is possible to preserve them and is not necessary to satisfy one of the legal redistricting requirements, in violation of the preference for preserving communities of interest within the same district where possible. Examples of such concerns include:

    - The cities of Two Rivers and Manitowoc, which are closely connected in terms of their economic/tourism interests (i.e., maritime history), are split across two Assembly districts.
    - Split of numerous cities across multiple Assembly Districts, including Sheboygan, River Falls, Beloit, Whitewater, and Marshfield.
    - The Village of Howard is divided across two Assembly districts.
    - The split of the University of Wisconsin-Whitewater campus across two Assembly districts.
    - The split of "South Shore" communities, which have shared environmental and economic interests, across multiple Assembly districts (i.e., the City of South Milwaukee is not in the same Assembly district as St. Francis and Cudahy).
    - Neenah and Menasha, often called "the twin cities of the Fox Valley," are divided across multiple Assembly districts.
    - The combination of areas from distinct regions of Wisconsin into the same Assembly or Senate district (e.g., Driftless region and Central Sands region).
    - The division of the City of Superior and Douglas County, which have a shared interest in tourism, across multiple Assembly districts.
    - The split of Green County in the Driftless region across three Senate districts.
    - The division of the Combined Statistical Area of Appleton, Oshkosh, and Neenah across multiple Senate districts.
    - The split of the Combined Statistical Area of Stevens Point, Wisconsin Rapids, and Wausau across multiple Senate districts.
    - The Greater Green Bay area is trisected by Senate Districts 1, 2, and 30.

- The split of the Combined Statistical Area of Eau Claire, Menominee, and Chippewa Fall, often described as the "Golden triangle" region of Wisconsin, across three Senate districts.

- A comparison of the current Wisconsin maps and the proposed maps from the Clarke Petitioners indicates that the Clarke maps remedy community of interest concerns in the current maps and are far superior to the current plans from a community of interest standpoint.

Scope of Report and Qualifications

My name is Aaron Weinschenk. I have been retained by the legal counsel for the Petitioners in *Clarke v. Wisconsin Elections Commission*, currently pending before the Wisconsin Supreme Court, to investigate and provide an analysis of Wisconsin's existing legislative district maps and of the Clarke Petitioners' proposed remedial districts, with a particular focus on how the respective plans treat communities of interest. The purpose of this report is to: (i) identify the significant communities of interest in Wisconsin that are split among Assembly and/or Senate districts in the current maps and where splitting those communities of interest is undesirable and inappropriate; (ii) evaluate how the Assembly and Senate maps proposed by the Clarke Petitioners treat those same communities of interest and whether they preserve, rather than divide, those same communities of interest where possible; and (iii) provide the information identified by the Court-retained consultants, namely "the size and geographic location of any communities of interest identified and the degree to which these communities of interest have been split across multiple districts … [and] how [the parties] arrived at their definition and identification of communities of interest." (Dr. Bernard Grofman and Dr. Jonathan Cervas, Memorandum to the Court, Dec. 23, 2023) I note that it is neither practicable nor necessary to attempt to identify every possible community of interest in the State of Wisconsin. Rather, it is necessary for purposes of my analysis only to address those significant geographic communities of interest that are inappropriately divided among current districts and how the Clarke Petitioners' proposed plans treat those same communities of interest. I am conducting this analysis as a private citizen and am not speaking for my employer, nor am I conducting this work on university time, or using university resources.

I am a Full Professor and the Ben J. and Joyce Rosenberg Professor of Political Science at the University of Wisconsin-Green Bay, where I have been employed since 2013. Previously, I was an Associate Professor (with tenure) from 2017-2020 and an Assistant Professor from 2013-2017. I also serve as the Chair of Political Science, a position that I have held since 2018. I hold a Ph.D. (2013) and M.A. (2009) in Political Science from the University of Wisconsin-Milwaukee and B.A. and B.S. (both 2007) in Political Science and Public Administration from the University of Wisconsin-Green Bay. I have received additional training at the ICPSR (Inter-university Consortium for Political and Social Research) Summer Program in Quantitative Methods of Social Research at the University of Michigan (2010 & 2012) and the Stanford University Summer Institute in Political Psychology (2011). My academic research focuses on voting, campaigns and elections, political participation, public opinion, and political psychology. To date, I have published over 50 peer-reviewed scholarly articles in journals such as the *State Politics & Policy Quarterly, Political Research Quarterly, Political Behavior, American Politics Research, British Journal of Political Science, Social Science Quarterly, Journal of Elections, Public Opinion & Parties, The Forum: A Journal of Applied Research in Contemporary Politics, Electoral Studies,* and many others. I have also published a co-authored book (*A*

Citizen's Guide to U.S. Elections: Empowering Democracy in America, 2016) with Routledge Press. I teach courses on American Government and Politics, Public Policy, Congressional Politics & Policy, Political Science Research, and Urban Politics & Policy. In 2022, I was awarded the Founder's Award for Excellence in Scholarship at UW-Green Bay, which is the university's highest research award. My current curriculum vitae is included as Attachment A.

Much of my academic and applied work focuses specifically on the state of Wisconsin, which is where I have resided for my entire life. On the academic side, I have written numerous scholarly pieces about the state of Wisconsin (e.g., Holbrook, Thomas M., Terri Johnson, Clayton Clouse, and Aaron C. Weinschenk. 2013. "Elections and Political Parties in Wisconsin." In *Wisconsin Government and Politics*, 10th edition, Ed. Thomas M. Holbrook. McGraw Hill; Weinschenk, Aaron C. 2017. "Wisconsin's 8th Congressional district." *The Roads to Congress 2016*, Eds. Sean Foreman and Marcia Godwin. Palgrave Macmillan.). On the applied side, I have been involved in a variety of projects that focus on communities in Wisconsin. For example, I was one of the Principal Investigators for the Brown County LIFE (Leading Indicators for Excellence) Study in 2016, an extensive report that focused on measuring key conditions in the Brown County community across ten different sectors (e.g., health, environment, economy, civic engagement, etc.). I am also a frequent source for news media seeking comments about politics in the Badger State. My quotes have appeared in national and international outlets including *Governing Magazine*, *USA Today*, *The New York Times*, *The Washington Post*, *ABC News*, and *The Atlantic*, as well as in Wisconsin based outlets such as *Wisconsin Public Television, WTAQ, WFRV, Fox 11, NBC 26, Wisconsin Public Radio, Wisconsin State Journal,* and the *Green Bay Press Gazette*. I regularly give research presentations and talks about electoral politics throughout the state of Wisconsin (e.g., to the Chamber of Manitowoc County, City of Green Bay's Neighborhood Leadership Council, Public Policy Working Group of the Green Bay Chamber of Commerce, and League of Wisconsin Municipalities).

I am being compensated at a rate of $325 per hour. The conclusions in this report are in no way contingent upon my compensation.

Materials

My opinions are based on the technical and specialized knowledge I have gained through my education, training, and experiences. In conducting the analyses that follow, I considered the following materials:

- Information on the definition of communities of interest from the *Electoral Knowledge Network* and *The Brennan Center for Justice* (cited within the report).
- Maps of Wisconsin's current Assembly and Senate districts from Dave's Redistricting App website (https://davesredistricting.org/maps#home).
- 2020 U.S. Census population estimates for various communities discussed in this report (https://www.census.gov/quickfacts/).
- The Municipal Urban-Rural Classification System from Wisconsin's Office of Rural Health (https://worh.org/resources/data-maps/defining-rural-wisconsin/municipal-urban-rural-classification-system/)
- Primary source information from various communities discussed in the report, e.g., information from local government websites, university websites, tourism websites, local government comprehensive reports, local government resolutions, chamber of commerce websites, civic association websites, etc. (cited within the report).
- Articles from the peer-reviewed academic literature that are cited within the report.
- Alternative Wisconsin Assembly and Senate district maps provided by the Clarke Petitioners.
- Reports from Maptitude for Redistricting provided to me by counsel for the Clarke Petitioners regarding the number of districts and populations in communities of interest I identified in this report.

Introduction

Communities of interest have long been an important consideration when developing and evaluating legislative maps.[1] According to the *Electoral Knowledge Network,* "A 'community of interest' is rarely defined by statute but it is generally thought of as a group of individuals united by shared interests or values."[2] Most of the descriptions of communities of interest are quite similar. *The Brennan Center for Justice* describes communities of interest as "…groups of individuals who are likely to have similar legislative concerns, and who might therefore benefit from cohesive representation in the legislature." The *All About Redistricting* website, published by the Loyola Law School at Loyola Marymount University, defines communities of interest as "….a neighborhood, community, or group of people who have common policy concerns and would benefit from being maintained in a single district."[3] The *Electoral Knowledge Network* provides a concise summary of why communities of interest are important: "The rationale for recognising communities in redistricting is that electoral districts should be more than conglomerations of arbitrary, random groups of individuals. Districts should, as much as possible, be cohesive units with common interests related to representation. This makes a representative's job of articulating the interests of his or her constituency much easier."

In the analysis that follows, I examine communities of interest in a subset of Wisconsin Assembly and Senate districts. I examined Wisconsin's current districts using *Dave's Redistricting App* (this website shows district boundaries but also allows users to overlay cities, counties, etc. on the map) and, in doing so, identified a variety of instances where I believe there are important concerns with how the current Wisconsin legislative maps treat communities of interest (e.g., small cities or villages are split into multiple districts, a university is divided into two districts, municipalities that see themselves as having a shared identity are separated across multiple districts, etc.).[4] Throughout this report, I use primary source evidence (e.g., tourism websites, local government websites, information from civic associations, chamber of commerce websites, local government comprehensive plans, etc.) to illustrate the existence of different communities/interests and to highlight some concerning features of the current maps. These types of materials are useful because they are places where communities articulate their identities, interests, and aspirations (e.g., Khakzad, 2017; Jeffres & Lin, 2006).[5] I then provide an evaluation of how the districts proposed by the Clarke Petitioners treat communities of interest. Finally, as requested by the Court-appointed consultants, Drs. Grofman and Cervas, among the communities of interest discussed in this report, I identify the significant communities of interest in Wisconsin that are capable of being evaluated by their respective geographic scope and population, and the degree to which they have been split across multiple districts in the current plans and in the Clark Petitioners' proposed plans. Based on my analysis, my topline assessment is that the Clarke Petitioners' maps remedy the current plans' multiple divisions of significant communities of interest throughout the state, and that they appropriately respect and preserve those significant communities of interest.

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[1] For an overview of the role of communities of interest in different states, see: https://www.brennancenter.org/sites/default/files/analysis/6%20Communities%20of%20Interest.pdf. The term "communities of interest" appears to have first been mentioned by the U.S. Supreme Court in *Miller v. Johnson* 515 U.S. 900 (1995).

[2] https://aceproject.org/main/english/bd/bdb05c.htm

[3] https://redistricting.lls.edu/wp-content/uploads/Basics-English6.pdf

[4] https://davesredistricting.org/maps#viewmap::6a8a362d-0c59-4d81-aea3-28cba004b502

[5] Khakzad, S. (2018). "Promoting coastal communities through cultural tourism: the case of fishing communities in Brunswick County, North Carolina." *Journal of Heritage Tourism,* 13(5), 455-471. Leo W. Jeffres, Carolyn A. Lin. 2006. "Metropolitan Websites as Urban Communication" *Journal of Computer-Mediated Communication*, 11(4): 957–980.

ASSEMBLY DISTRICTS

1. Northeast Wisconsin: Manitowoc and Two Rivers (Current Wisconsin Assembly District 2)

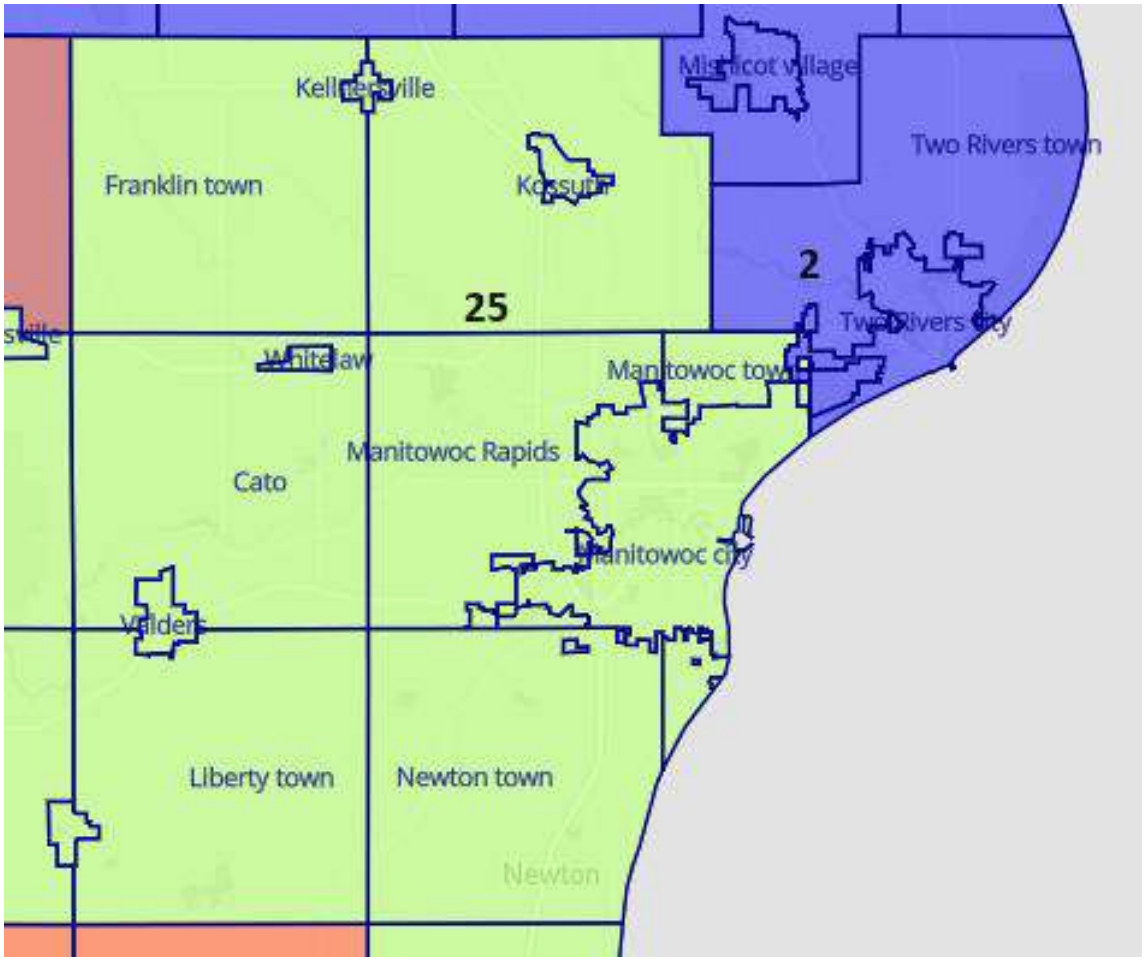
Wisconsin's 2nd Assembly district is located in northeastern Wisconsin. It extends west from Lake Michigan (i.e., the City of Two Rivers) to Wrightstown and then northwards to the City of De Pere (which is in the Greater Green Bay area).[6] From the standpoint of communities of interest, one concern is that the district includes the City of Two Rivers but not the City of Manitowoc (which is in the 25th Assembly district). Figure 1 provides a look at the split of these two communities in the current Assembly map. According to the 2020 U.S. Census, the City of Manitowoc had a population of 34,626 people and the City of Two Rivers had a population of 11,267 people. This means that the combined population would be 45,893 people. Importantly, the cities of Two Rivers and Manitowoc are closely connected in terms of their economic/tourism interests (i.e., maritime history). It is clear that the cities have a shared identity and work collaboratively on many issues. The *Manitowoc Area Visitor & Convention Bureau* literally hyphenates the community names (e.g., the first paragraph on their website says "Welcome to Manitowoc-Two Rivers") and refers to the two cities jointly (e.g., "Manitowoc-Two Rivers is a maritime treasure to visit as well as a wonderful place to live.").[7]

The two cities also have a shared visitors guide, where they work together to promote both places simultaneously.[8] In addition, the *Chamber of Manitowoc County* (which was developed in 1970) is based on the merger of the *Manitowoc Chamber* and the *Two Rivers Chamber*.[9] The clear link and collaboration between the two cities is also evident when it comes to transportation. While the City of Manitowoc owns and operates the transit system, Maritime Metro Transit[10], the system travels between the two cities (e.g., Route 1, which is also called "the Two Rivers route," provides service between Manitowoc and Two Rivers).[11] A look at the 2022 Comprehensive plan for the City of Two Rivers indicates that the two cities work together on common policy issues/concerns. For example, according to the plan, "Two Rivers, along with the City of Manitowoc, received an EPA Brownfields Assessment Grant in 2021 to assist with activities that will aid with redevelopment."[12]

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[6] https://www.greenbay.com/plan-your-visit/communities/de-pere/
[7] https://manitowoc.info
[8] https://www.exploretworivers.com/explore/page/two-riversmanitowoc-official-2023-visitors-guide
[9] See Appendix A (page A-56): https://www.manitowoc.org/DocumentCenter/View/33746/Manitowoc-Comprehensive-Plan-Appendices---Adopted-41723
[10] https://maritimemetro.org/about
[11] https://www.manitowoc.org/450/Route-1---Two-Rivers
[12] https://www.two-rivers.org/sites/default/files/fileattachments/community_development_services/page/5617/two_rivers_comprehesive_plan_-_draft_09122022.pdf

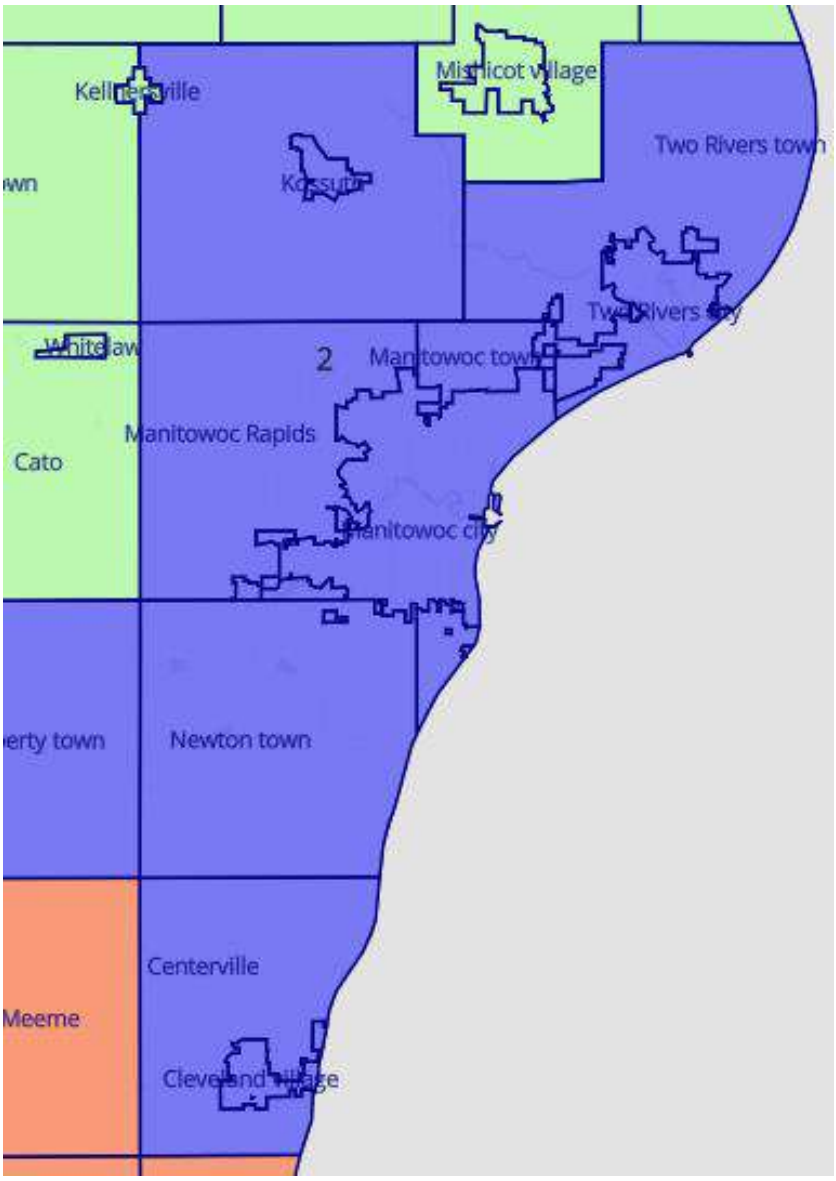
Figure 1: *Current Assembly map (from Dave's Redistricting App website) focusing on the cities of Manitowoc and Two Rivers, which are split between the 2nd and 25th Assembly districts*



Clarke Petitioners' Proposed Assembly District

The Clarke Petitioners' proposed 2nd Assembly District is shown in Figure 2 below. In contrast to the current Assembly map, the proposed 2nd district places the cities of Two Rivers and Manitowoc in the same district. As noted above, these two communities clearly see themselves as intimately connected and work together on various issues related to government services and policy concerns. It is also worth noting that the proposed district no longer includes the City of De Pere, which is typically seen as a suburb of Green Bay (De Pere is in the Clarke Petitioners' proposed 90th Assembly).[13]

***Figure 2**: Clarke Petitioners' Proposed 2nd Assembly District, which puts the cities of Two Rivers and Manitowoc in the same district*

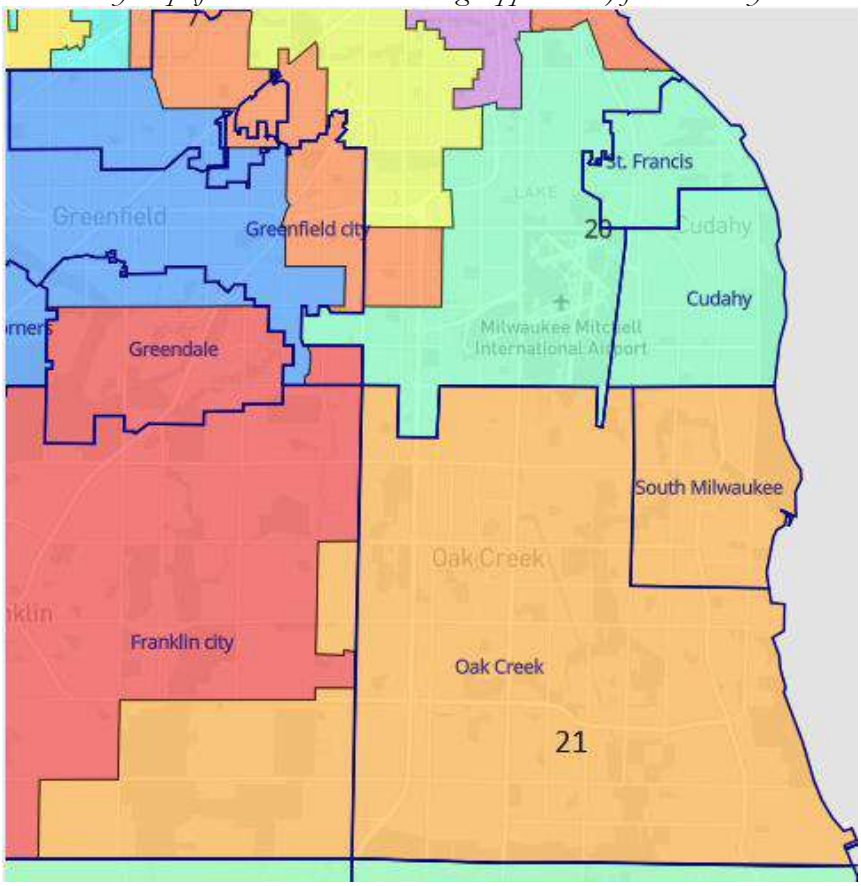


[13] https://www.wisconsinhistory.org/Records/Article/CS2459

2. Southeast Wisconsin: Southern Milwaukee County (Current Wisconsin Assembly District 21)

Wisconsin's 21st Assembly District is in southeastern Wisconsin. The district includes the southeast corner of Milwaukee County and includes the cities of Oak Creek and South Milwaukee. It is shown in Figure 3. From the standpoint of communities of interest, there are several concerns with this district. It would be useful to combine areas along the Lake Michigan shoreline (e.g., South Milwaukee) with other communities that are also along the lakeshore. For example, St. Francis and Cudahy, which both border Lake Michigan, could be joined with the City of South Milwaukee. These areas have an obvious shared interest in environmental conditions along the lake. They also have shared economic concerns, as evidenced by the *South Shore Chamber of Commerce,* which is "…a collaboration of businesses located in the Southeastern portion of Milwaukee County (also known as the South Shore). The SSCC is primarily comprised of, but not limited to, business members within and around the cities of St. Francis, Cudahy, and South Milwaukee."[14]

***Figure 3**: Current Assembly map (from Dave's Redistricting App website) for Assembly District 21*

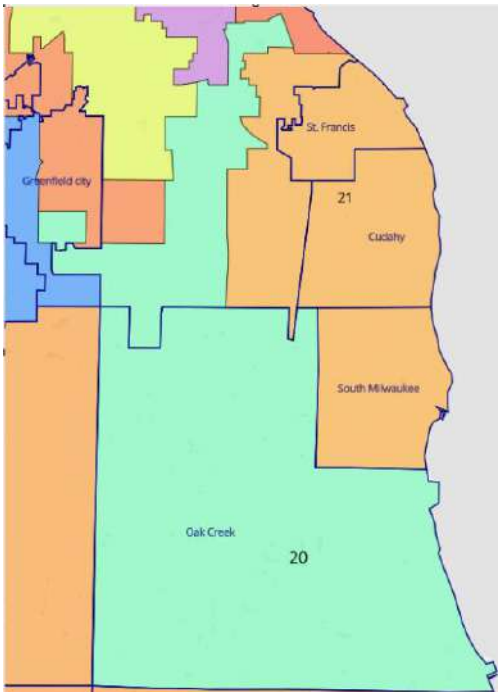


[14] https://ssccwi.com/about/

Clarke Petitioners' Proposed Assembly District

The 21st Assembly District proposed by the Clarke Petitioners includes the cities of St. Francis, Cudahy, and South Milwaukee. It is shown in Figure 4 below. It is noteworthy that "South Milwaukee, Cudahy and St. Francis each recently [2023] passed resolutions opposing Milwaukee's plan to replace a portion of I-794 with a surface street, saying it would adversely affect their residents."[15] It is clear that residents of these municipalities have common interests. Indeed, "Leaders of three South Shore communities voiced strong opposition to a plan under consideration that would remove a section of Interstate 794, saying the proposal would significantly increase traffic and drive times and would, among other issues, result in the loss of an important freeway flyer route for the Milwaukee County Transit System."[16] These communities collaborate in other ways as well. For example, there is a South Milwaukee/St. Francis Health Department, which is "the lead fiscal agency for an Environmental Health Consortium with Cudahy and St. Francis."[17] As a brief overview, "The Environmental Health Consortium (EHC) agreement was entered into by and between the municipal health departments of Cudahy, South Milwaukee, and St. Francis in 2002 to provide an Environmental Health Program for the participating municipalities."[18]

***Figure 4**: Clarke Petitioners' Proposed 21st Assembly District, which includes Cudahy, South Milwaukee, and St. Francis*

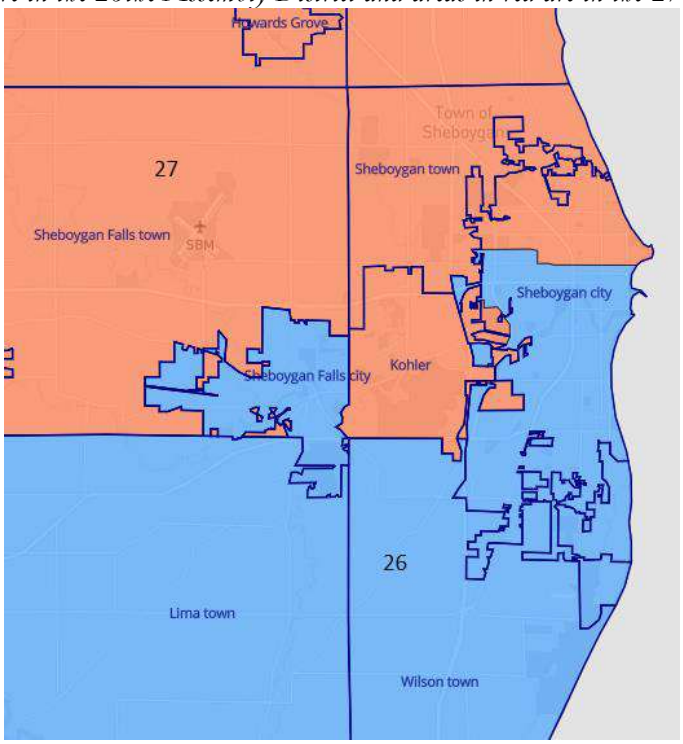


[15] https://www.jsonline.com/story/communities/south/2023/05/22/three-south-shore-communities-oppose-potential-deconstruction-of-i-794/70226225007/
[16] Ibid.
[17] https://www.southmilwaukee.gov/181/Health-Department
[18] https://healthspace.com/Clients/WI/EHC/Web.nsf/home.xsp#:~:text=The%20Environmental%20Health%20Consortium%20(EHC,Cudahy%2C%20South%20Milwaukee%20and%20St.

3. The Sheboygan Area (Current Wisconsin Assembly District 26)

Wisconsin's 26th Assembly District is located in eastern Wisconsin. The district is in southeastern Sheboygan County and includes part of the City of Sheboygan along with places such as the City of Sheboygan Falls, the Villages of Adell, Cedar Grove, Oostburg, and Random Lake. From the standpoint of communities of interest, it is a concern that the City of Sheboygan is split between the 26th Assembly district and the 27th Assembly district. This is shown in Figure 5. Sheboygan has a population of 49,945 (according to the 2020 U.S. Census) and it is clear that the City of Sheboygan has a unique economic history that is still relevant to residents today. As the *Wisconsin Historical Society* has noted, "As Sheboygan grew, industries began to take hold. Furniture, in particular, played an important role in shaping the local economy. By 1885, Sheboygan factories made so much furniture the city was known as 'Chair City.' The manufacturing of enamel-ware emerged in the 1880s in form of small kitchen utensils and large kitchen and bath fixtures, an industry that still employs the largest number of people."[19] City of Sheboygan residents clearly have common interests and would benefit from being within one district. For example, the Sheboygan City Council has approved resolutions aimed at the Wisconsin legislature and Governor (e.g., the "Just Fix It" resolution, urged "…the Governor and Legislature to agree on and pass a sustainable solution for road repairs across Wisconsin that includes a responsible level of bonding and adjusts our user fees to adequately and sustainably fund Wisconsin's multi-modal transportation system. These projects include the conversion of Highway 23 from two to four lanes.").[20]

Figure 5*: Current Assembly map (from Dave's Redistricting App website) focusing on the split of the City of Sheboygan (areas in blue are in the 26the Assembly District and areas in red are in the 27th Assembly District)*

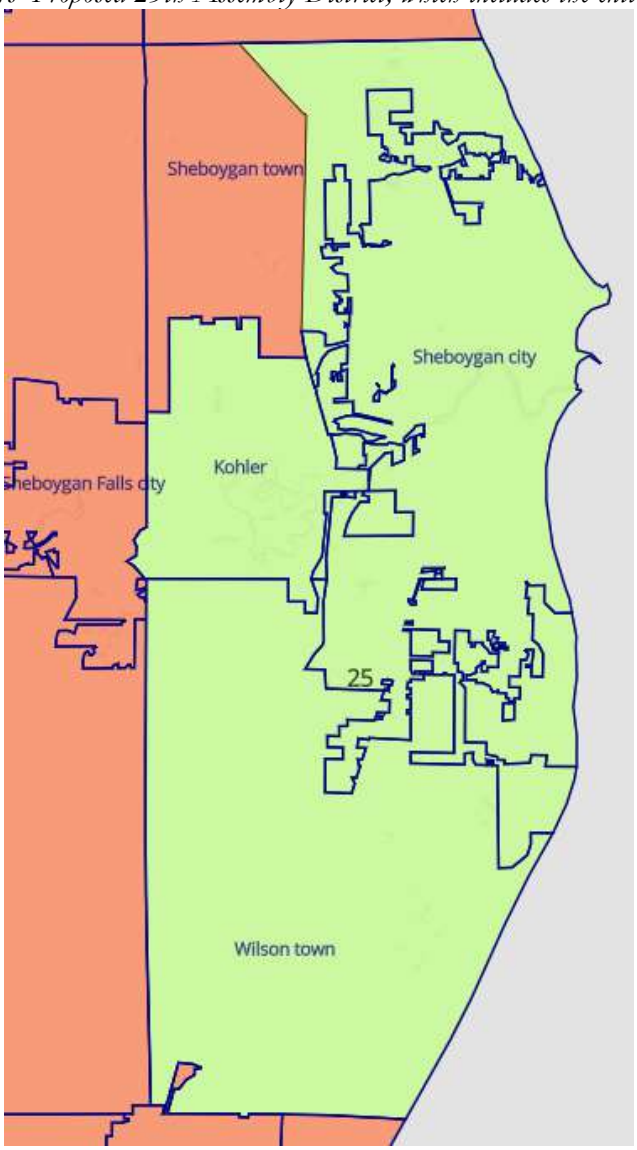


[19] https://www.wisconsinhistory.org/Records/Article/CS2391
[20] See: https://www.sheboyganwi.gov/ask-candidates-their-legislative-priorities/.

Clarke Petitioners' Proposed Assembly District

In contrast to the Wisconsin's current 26th Assembly District, the proposed Wisconsin Assembly District 25 from the Clarke Petitioners does not split the City of Sheboygan across two Assembly districts. The proposed district is shown in Figure 6 below. From the standpoint of political representation, it is important that cities are not split if possible. It is also worth noting that the City of Sheboygan and the Village of Kohler are in the same district, which makes sense given the collaboration that exists between these municipalities. For example, the Sheboygan Area Municipal Court serves the City of Sheboygan and Village of Kohler.[21]

***Figure 6**: Clarke Petitioners' Proposed 25th Assembly District, which includes the entirety of the City of Sheboygan*

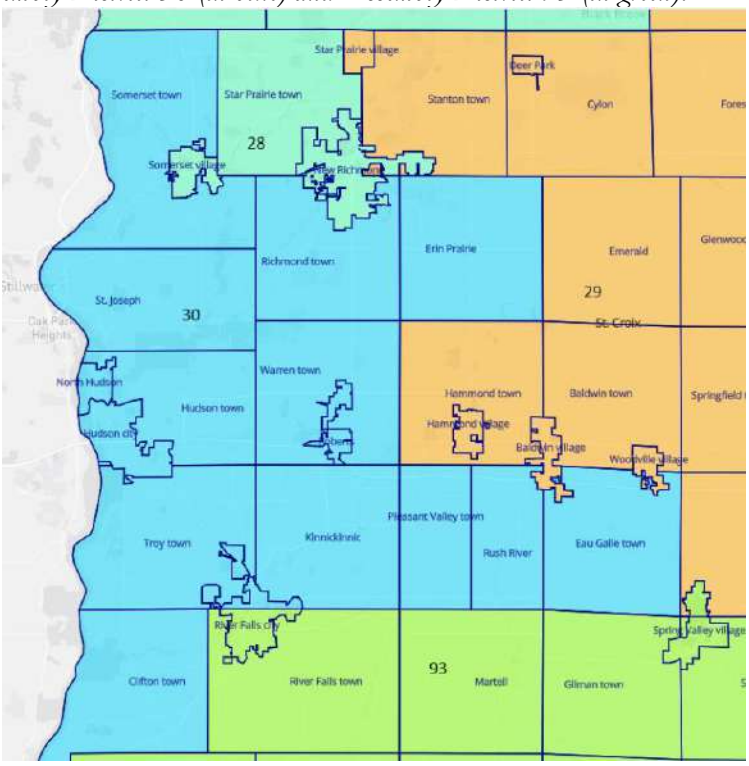


[21] https://www.sheboyganwi.gov/departments/municipal-court/

4. Northwestern Wisconsin: Hudson and River Falls (Current Wisconsin Assembly District 30)

Wisconsin's 30th Assembly district is in northwestern Wisconsin. It is shown in Figure 7. The district is made up of most of western St. Croix County and a portion of northwest Pierce County. It includes the City of Hudson and part of the City of River Falls. In terms of communities of interest, it is concerning that River Falls, which had a population of 16,182 as of the 2020 Census, is divided across two Assembly districts (the southern half of the city is in the 93rd Assembly district). It is clear that River Falls residents have shared interests that are relevant to the state legislature. Indeed, the River Falls City Council often passes resolutions that outline their legislative priorities for a given year. For example, in 2021, the City passed Resolution 6545, which noted that "the Common Council of the City of River Falls hereby supports the following legislative technical correction priorities: Allow Sharing Between Tax Increment Districts, Allow 10+ Year Financing, Modify Biennial Budgeting Process."[22] In addition, in April of 2023, they passed a resolution on their legislative priorities for 2023-24 (Resolution Number 6769).[23] In the resolution, the city lists a variety of topics that are relevant to the state legislature, such as its capital improvements, that it would like to see supported via state and federal budget initiatives (they list the following projects: Fire Station Improvements, Mann Valley Development, Kinni Corridor Plan Projects, Transportation Projects).

***Figure 7**: Current Assembly map (from Dave's Redistricting App website), which shows that the City of River Falls is split across Assembly District 30 (in blue) and Assembly District 93 (in green).*

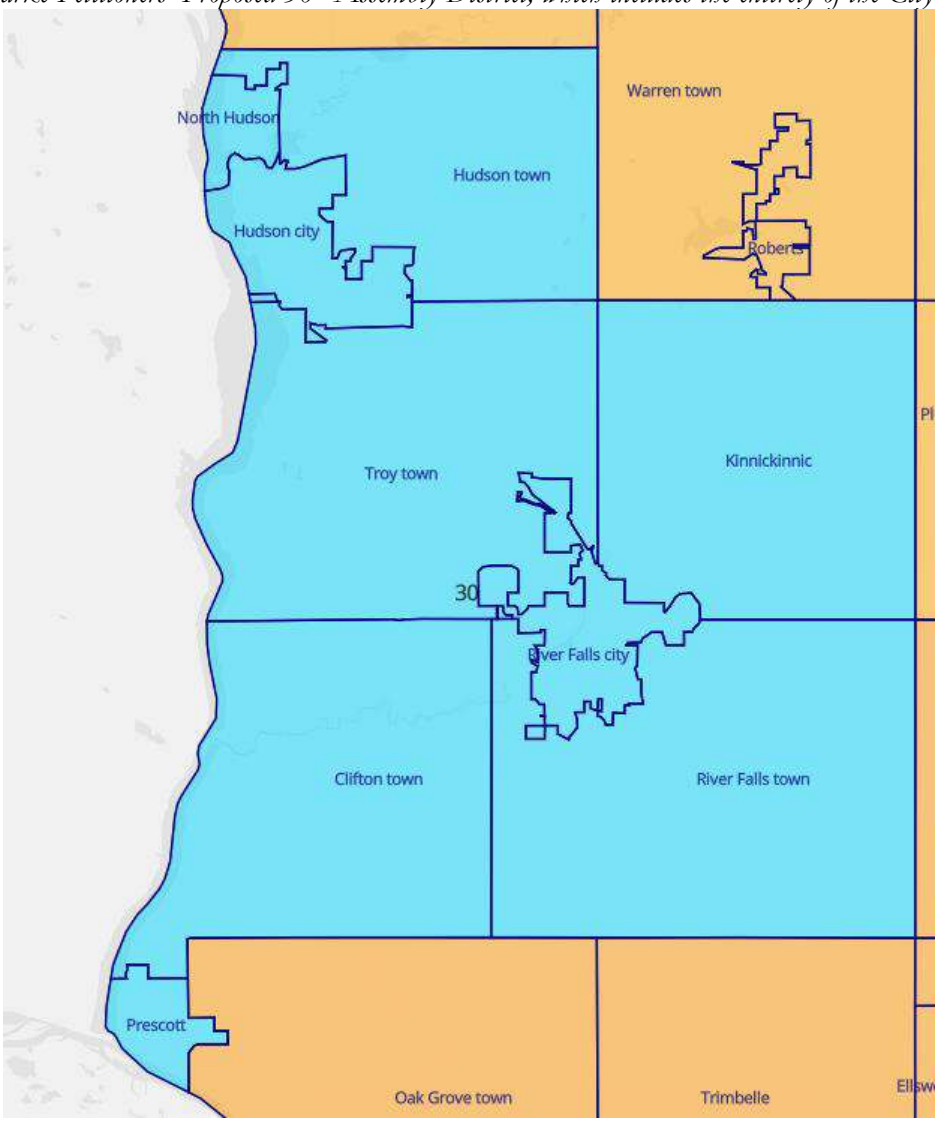


[22] https://rfmu.org/DocumentCenter/View/3541/Resolution-No-6545---2021-2022-Legislative-Priorities-?bidId=, https://www.rfcity.org/DocumentCenter/View/3569/legislative-priorities-85X11?bidId=.
[23] https://www.rfcity.org/DocumentCenter/View/5398/6769-RESOLUTION-SUPPORTING-2023-2024-LEGISLATIVE-PRIORITIES

Clarke Petitioners' Proposed Assembly District

The proposed district from the Clarke Petitioners remedies the concern about the City of River Falls. As shown in Figure 8, the city is now located in one Assembly district. The district also focuses on a more compact area around Hudson and River Falls. It makes sense for the entire City of River Falls to be the same district as Hudson. These two communities are clearly connected. For example, the *River Falls Journal* newspaper lists Hudson as one of the communities it covers.[24] In addition, both the City of Hudson and the City of River Falls are members of the *St. Croix Economic Development Corporation,* which indicates that they have shared economic interests.[25]

***Figure 8**: Clarke Petitioners' Proposed 30th Assembly District, which includes the entirety of the City of River Falls*



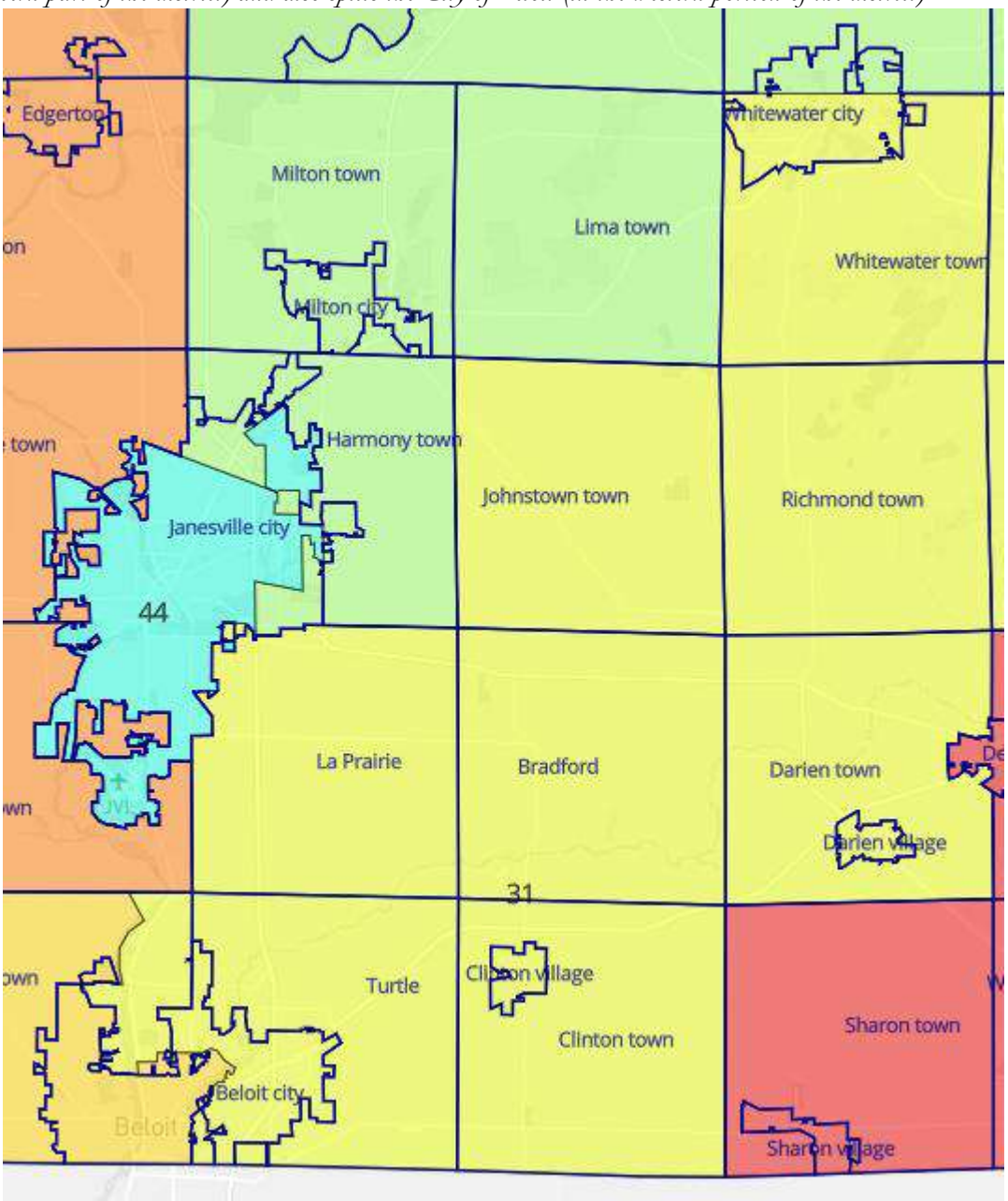
[24] https://www.riverfallsjournal.com
[25] https://stcroixedc.com/wp-content/uploads/2023/10/2022-Annual-Report.pdf

5. South Central Wisconsin: Beloit (Current Wisconsin Assembly District 31)

Wisconsin's 31st Assembly district is in southern Wisconsin (shown in Figure 9). The district is made up the southeast portion of Rock County and most of the northern half of Walworth County. From a communities of interest perspective, there are a few features of the district that stand out as concerns. First, the district contains part of the City of Beloit (the eastern portion). Beloit is split between the 31st Assembly district and the 45th Assembly district. As of the 2020 U.S. Census, the city had a population of 36,657 people. As a city, Beloit clearly has interests that are relevant to the state legislature. For example, the city's 2024 Proposed Operating Budget noted that "One issue that continues to be a hurdle for the City is state-imposed levy limits which were put in place in 2005."[26] Second, the 31st district includes the southern half of the City of Whitewater (the city's population is 14,889 according to the 2020 U.S. Census), and the southern half of the University of Wisconsin–Whitewater campus (the campus is only 400 acres in total).[27] Given research showing that cities have policy preferences (e.g., Tausanovitch & Warshaw, 2013), cities should not be divided across numerous districts if possible.[28] Actions taken by the Whitewater Common Council indicate that the city clearly has common interests and has sought support for those interests from the legislature. For example, in January 2023, the Whitewater Common Council "unanimously approved a resolution urging state lawmakers, including the Wisconsin State Legislature and Gov. Tony Evers, to review the state's system of funding for critical local services."[29] The split of a university so that it is represented by multiple state legislators is also problematic, as it may make it harder for members of that community to get their concerns addressed.[30] It is worth noting there are residence hall buildings on each side of the district split (i.e., it is not simply a small portion of the campus, such as a few storage buildings, that is split from the rest of the campus). For example, Tutt Hall and Wellers Hall are in the 33rd Assembly district while Starin Hall is in the 31st Assembly district.[31]

[26] http://gouda.beloitwi.gov/WebLink/0/edoc/82431/2024%20Proposed%20Operating%20Budget.pdf.
[27] https://www.uww.edu/documents/adminaffairs/fpm/Facilities%20welcome.pdf
[28] Tausanovitch, Chris, and Christopher Warshaw. 2013. "Measuring Constituent Policy Preferences in Congress, State Legislatures, and Cities." *Journal of Politics* 75(2): 330–342.
[29] https://fortatkinsononline.com/whitewater-council-urges-state-lawmakers-to-review-financial-systems/
[30] It is clear from the university's website that it sees itself as a community (see, e.g., for discussions of a university community: https://www.uww.edu/fye/freshmen/warhawk-welcome, https://www.uww.edu/uc/get-involved/warhawk-connection-center).
[31] https://www.uww.edu/documents/campus/uwwmap.pdf. Note that Starin Hall was renamed to Pulliam Hall in 2022 (https://royalpurplenews.com/36459/campus/starin-hall-renamed-to-pulliam-hall/#:~:text=UW%2DWhitewater%20held%20a%20commemorative,especially%20for%20people%20of%20color) but appears as Starin Hall on the campus map and Dave's Redistricting App website.

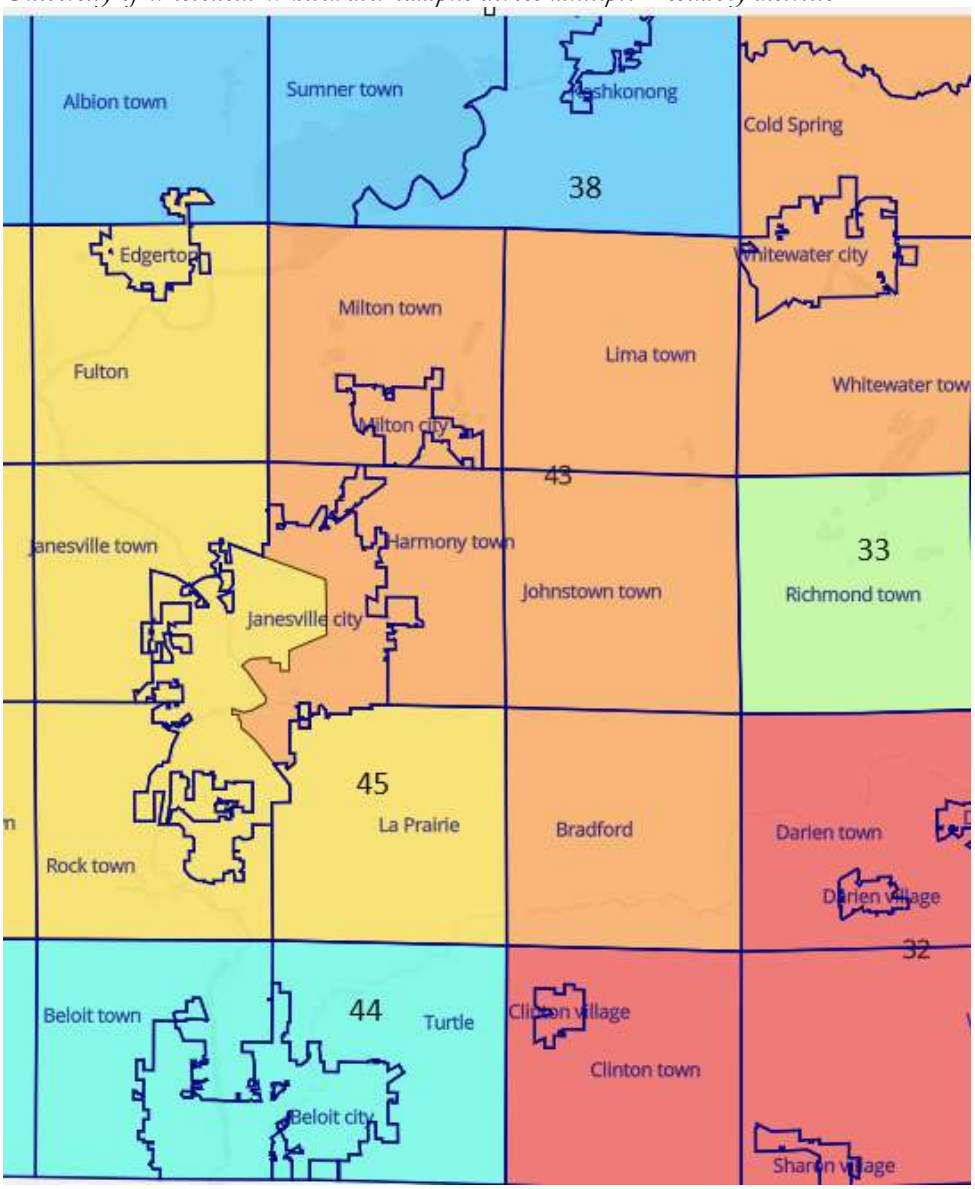
***Figure 9**: Current Assembly map (from Dave's Redistricting App website) showing the current boundaries for the 31st Assembly District, which splits the City of Whitewater and the University of Wisconsin-Whitewater campus (in the northern part of the district) and also splits the City of Beloit (in the western portion of the district)*



Clarke Petitioners' Proposed Assembly District

In the Clarke Petitioners' proposed map, the district that contains the City of Whitewater and the University of Wisconsin-Whitewater is Assembly District 43. It is shown in Figure 10 below. This proposed district does not split the City of Whitewater, nor does it split the University of Wisconsin-Whitewater campus. The fact that these communities are not divided is a valuable from the standpoint of political representation. The proposed district does not contain the City of Beloit—it is situated in the Clarke Petitioners' proposed 44th Assembly District and, notably, is not split across multiple districts.

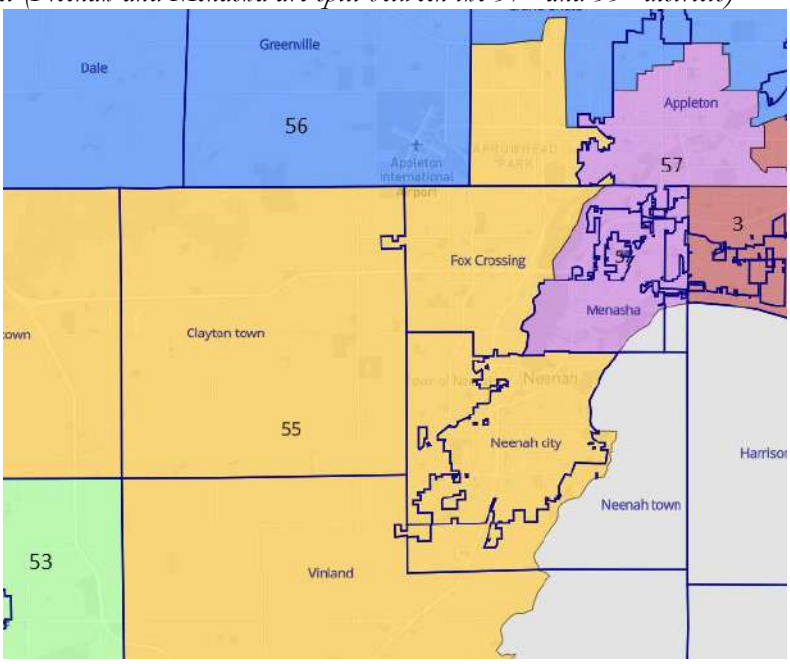
***Figure 10**: Clarke Petitioners' Proposed 43rd Assembly District, which does not split the City of Whitewater or the University of Wisconsin-Whitewater campus across multiple Assembly districts*



6. The Fox Valley: Neenah-Menasha (Current Wisconsin Assembly District 55 & 57)

Wisconsin's 55th and 57th Assembly districts are in eastern central Wisconsin. The 55th district is made up of most of the northern quarter of Winnebago County and also includes a portion of southern Outagamie County. It includes the City of Neenah along with western portions of the City of Appleton and the Village of Fox Crossing. From a communities of interest standpoint, it is concerning that the City of Menasha is not included in a district with Neenah (Menasha is in the 57th Assembly district). The district boundaries (and the split of Neenah-Menasha) are shown in Figure 11. The City of Menasha has a population of 18,268 as of the 2020 U.S. Census and the City of Neenah has a population of 27,319 as of the 2020 U.S. Census. The combined population of these two places would be 45,587 people. The two cities clearly have a shared identity and shared interests. In fact, they are often described as "the twin cities of the Fox Valley."[32] Despite the fact that they are technically separate municipalities, the cities are often referred to by the name "Neenah-Menasha." Indeed, many organizations use the hyphenated name, including the Neenah-Menasha Emergency Society (NMES), Neenah-Menasha St Vincent de Paul, Best Friends of Neenah-Menasha, and Neenah-Menasha Fire & Rescue.[33] The cities also collaborate on community events, such as the Neenah Menasha Community Fest, and government services, such as a shared municipal court (since 2002), the Neenah/Menasha Sewerage Commission (jointly created by the municipalities and sanitary districts), and the Neenah-Menasha Fire and Rescue (created in January 2003 by the consolidation of the City of Neenah Fire Department and the City of Menasha Fire Departments).[34]

***Figure 9**: Current Assembly map (from Dave's Redistricting App website) showing the current boundaries for the 57th Assembly District (Neenah and Menasha are split between the 57th and 55th districts)*

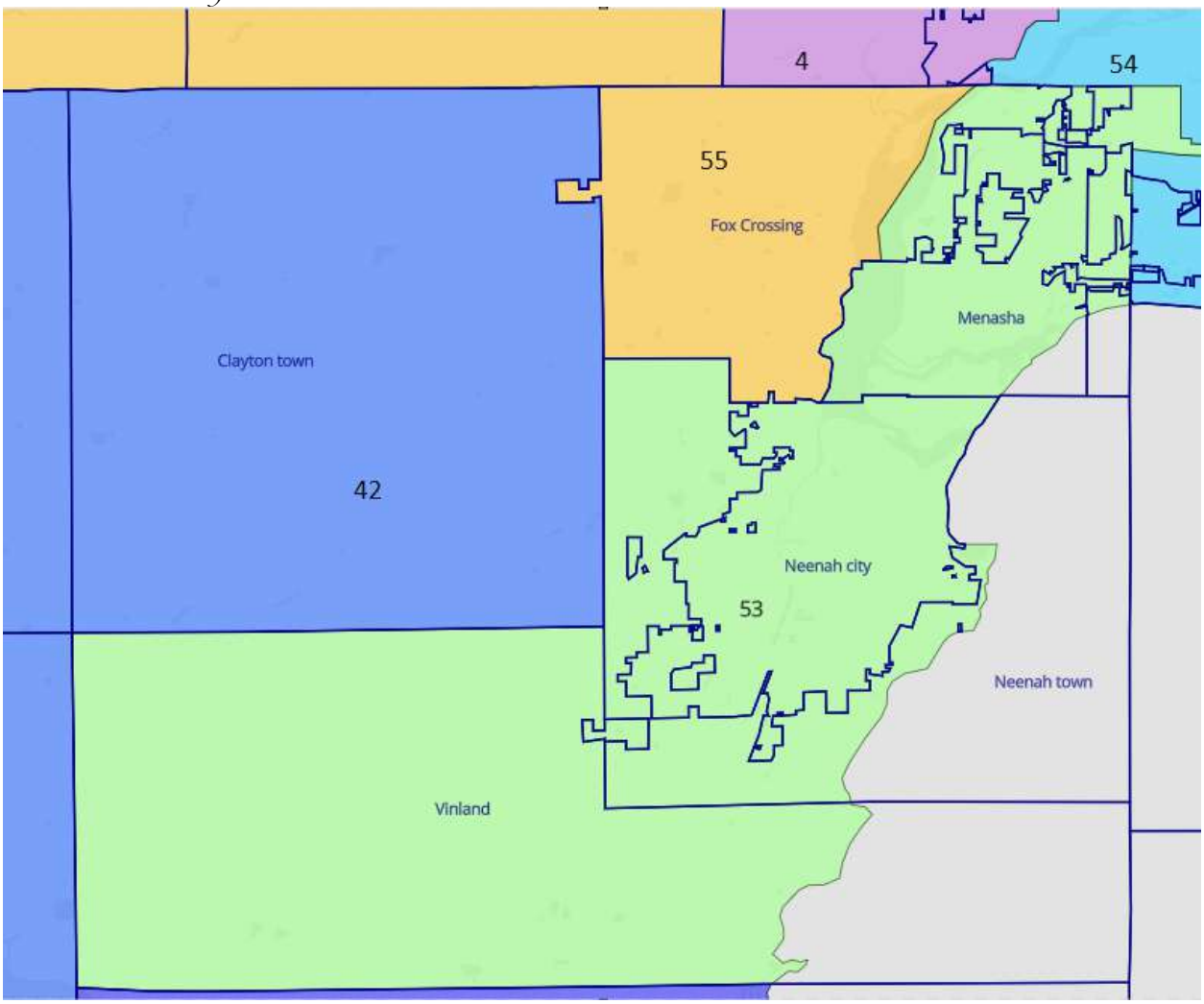


[32] https://www.minnesotahistoryshop.com/products/neenah-and-menasha-twin-cities-of-the-fox-valley
[33] https://www.nmesociety.org, https://www.mightycause.com/organization/St-Vincent-De-Paul-Council-Of-Neenah-Menasha, https://impactclub.com/charity/best-friends-of-neenah-menasha/, https://www.nmfire.org.
[34] https://www.nmcommunityfest.org, https://www.ecwrpc.org/wp-content/uploads/2020/04/City-of-Neenah-Comprehensive-Plan-Update-2040-Volume-1.pdf.

Clarke Petitioners' Proposed Assembly District

The 53rd district proposed by the Clarke Petitioners contains both the City of Neenah and the City of Menasha. The proposed district is shown in Figure 12. As noted above, these cities very clearly have a shared sense of place—this area is regularly referred to as "Neenah-Menasha." It is therefore valuable from the standpoint of representation that these two communities share an assembly district.

***Figure 12**: Clarke Petitioners' Proposed 53rd Assembly District, which includes the cities of Neenah and Menasha in the same Assembly district*

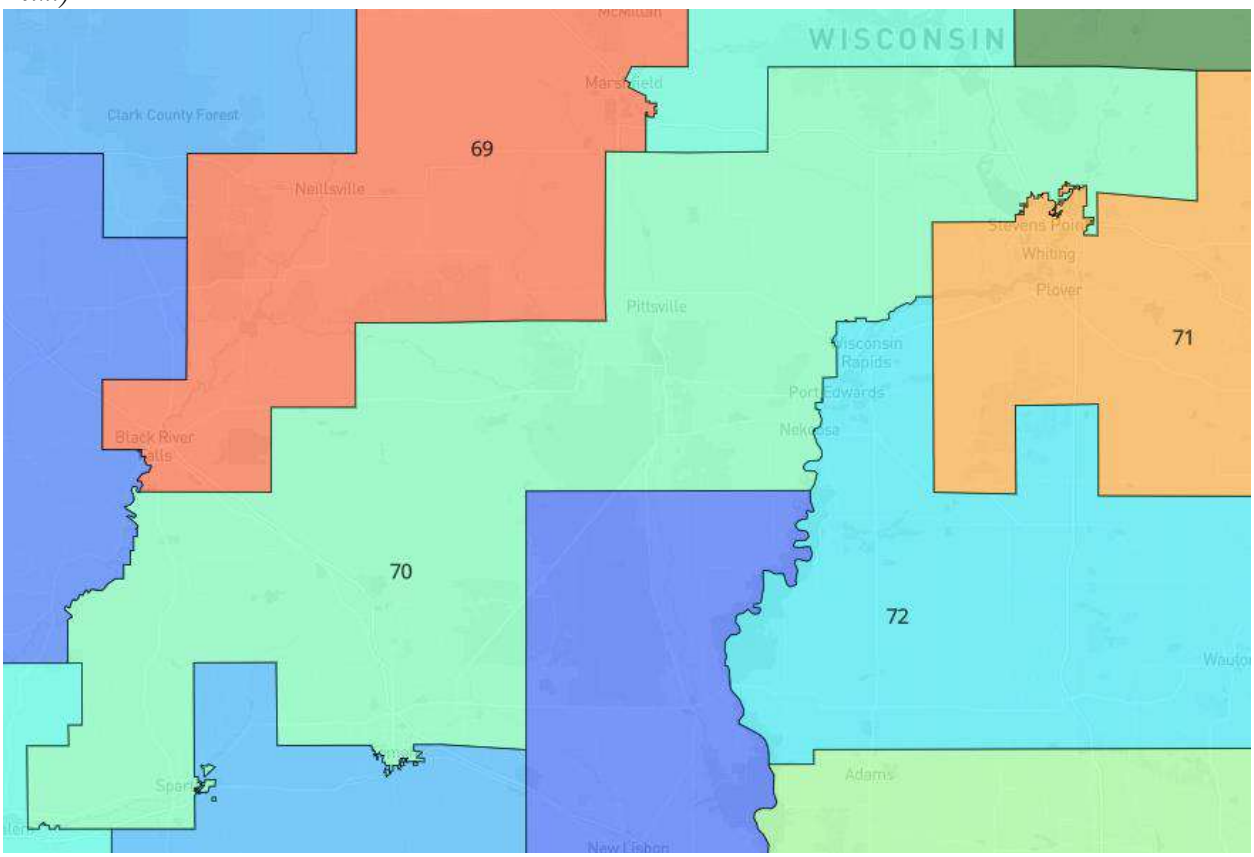


7. Central Wisconsin: Stevens Point and Portage County (Wisconsin Current Assembly District 70)

Wisconsin's 70th Assembly district stretches from central Wisconsin (i.e., the area just north of Stevens Point, though the City of Stevens Point is not in the district) to the western part of the state (just west of Sparta). The district is made up of the northern half of Monroe County, including the cities of Tomah and Sparta, most of Wood County, the eastern portion of Jackson County, the northwest corner of Portage County, and parts of northeast La Crosse County. Figure 13 shows the district boundaries. From a communities of interest standpoint, it is important to note that this district combines two regions of the state that have distinct identities. Indeed, the Sparta Area Chamber of Commerce describes Sparta in this way: "Sparta, Wisconsin is located in the driftless region of Wisconsin, nestled in the valleys of the Coulee Region. Just 30 minutes from La Crosse and 8 minutes from Fort McCoy, we offer a small town community."[35] In recent years, the driftless region has been working on promoting the area as a distinctive tourist destination that has unique features such as world-class trout fishing (some have referred to the driftless region as having a "trout economy" since studies show that trout angling brings ~1.6 billion dollars to the driftless area per year).[36] In contrast, many of the communities in the northwest part of Portage County are part of what is described as "the Stevens Point area." Indeed, the *Stevens Point Area Convention & Visitor Bureau* notes that "The Stevens Point Area is located in the heart of Wisconsin, at the crossroads of the Wisconsin River Valley and the Central Sands Region. The Stevens Point Area includes all of Portage County, Wisconsin."[37] It goes on to describe the area surrounding Stevens Point in the following way: "The countryside is dotted with small communities like Junction City, Almond, Rosholt, Nelsonville, Park Ridge, Whiting and Amherst Junction. The rural Lake DuBay area in northwestern Portage County offers many recreational opportunities and encompasses most of the townships of Eau Pleine, Hull and Dewey."[38] The *Stevens Point Area Convention & Visitor Bureau* is part of the *Central Wisconsin Tourism Association,* a partnership that also includes the *Wisconsin Rapids Area Convention & Visitors Bureau* and *Visit Marshfield* (i.e., the tourism entity in the Stevens Point area is not connected to tourism entities in the driftless region).

[35] https://www.bikesparta.com
[36] https://driftlesswisconsin.com, https://www.news8000.com/lifestyle/trout-economy-benefits-fishermen-jobs-in-driftless-region/article_cf48935e-746c-58e1-bb05-c232e936e466.html, https://www.jsonline.com/story/sports/outdoors/2017/05/06/trout-fishing-has-16-billion-annual-economic-impact-driftless-area/101254842/#:~:text=It%20found%20the%20total%20economic,lived%20outside%20the%20Driftless%20Area.
[37] https://www.stevenspointarea.com/plan-your-visit/about-the-area/#:~:text=The%20countryside%20is%20dotted%20with,Eau%20Pleine%2C%20Hull%20and%20Dewey.
[38] https://centralwisconsin.com/tours-in-central-wisconsin/

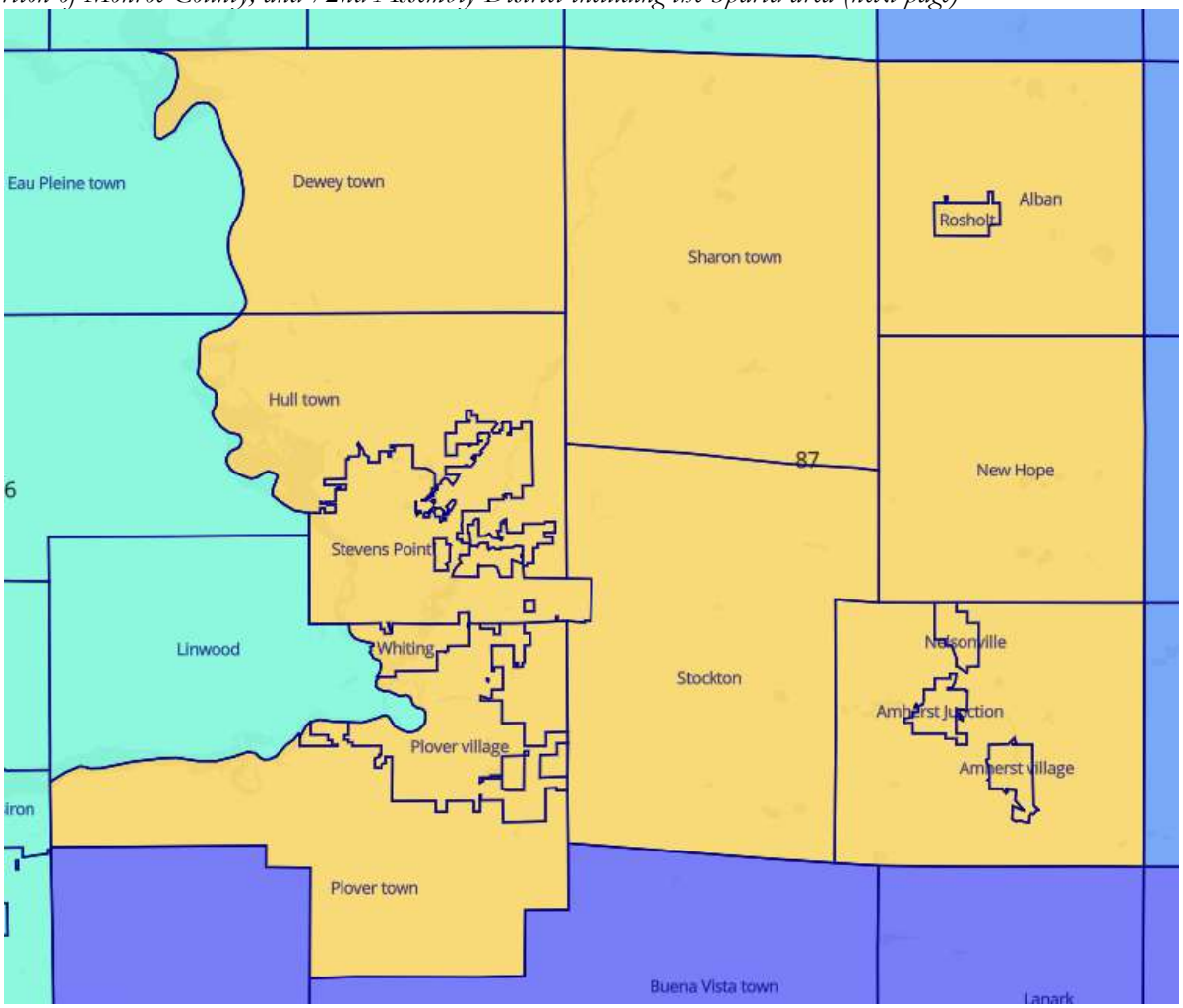
***Figure 13**: Current Assembly map (from Dave's Redistricting App website) showing the current boundaries for the 70th Assembly district (which stretches from just west of Sparta, Wisconsin to the area just north of the City of Stevens Point)*

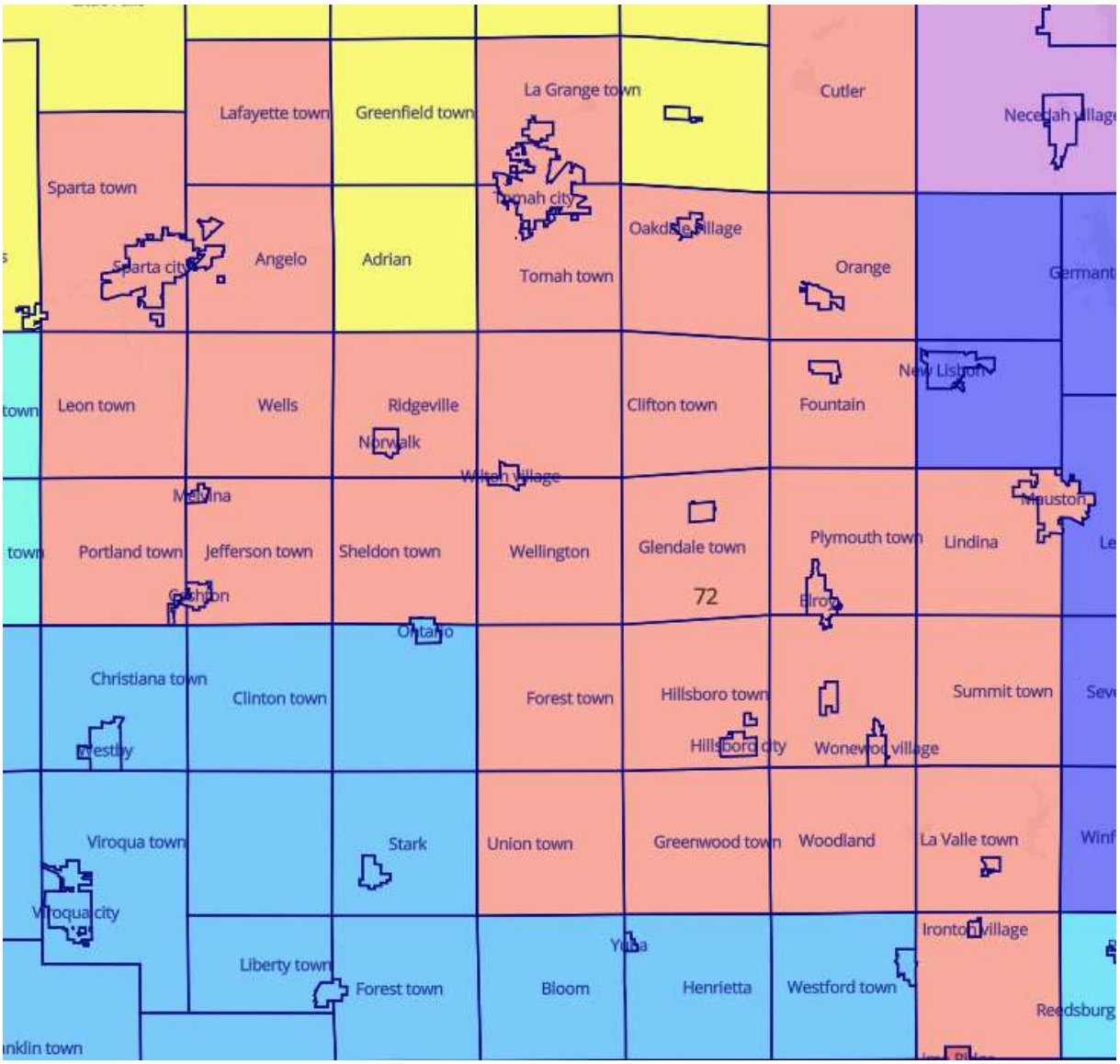


Clarke Petitioners' Proposed Assembly District

The Clarke Petitioners' proposed Assembly District 87 includes the City of Stevens Point and much of the area to the north and east of the city. The proposed district boundaries are shown in Figure 14. This district does not include areas to the west, such as Sparta and Tomah (both of those places are in the Clarke Petitioners' proposed 72nd Assembly District). In short, the proposed 87th Assembly district covers a fairly compact area surrounding Stevens Point.

***Figure 14**: Clarke Petitioners' Proposed 87th Assembly District, which includes much of the area north of Stevens Point in the same district as the City of Stevens Point as opposed to connecting the area north of Stevens Point with a portion of Monroe County, and 72nd Assembly District including the Sparta area (next page)*




Lafayette town
Greenfield town
La Grange town
Cutler
Sparta town
Sparta city
Angelo
Adrian
Tomah city
Tomah town
Orange
Leon town
Wells
Ridgeville
Norwalk
Clifton town
Fountain
New Lisbon
Portland town
Jefferson town
Sheldon town
Wellington
Glendale town
Plymouth town
Lindina
72
Christiana town
Clinton town
Forest town
Hillsboro town
Hillsboro city
Summit town
Viroqua town
Viroqua city
Stark
Union town
Greenwood town
Woodland
La Valle town
Liberty town
Forest town
Bloom
Henrietta
Westford town
Ironton village
Reedsburg

8. Northwest Wisconsin: Superior and Douglas County (Wisconsin Current Assembly District 73)

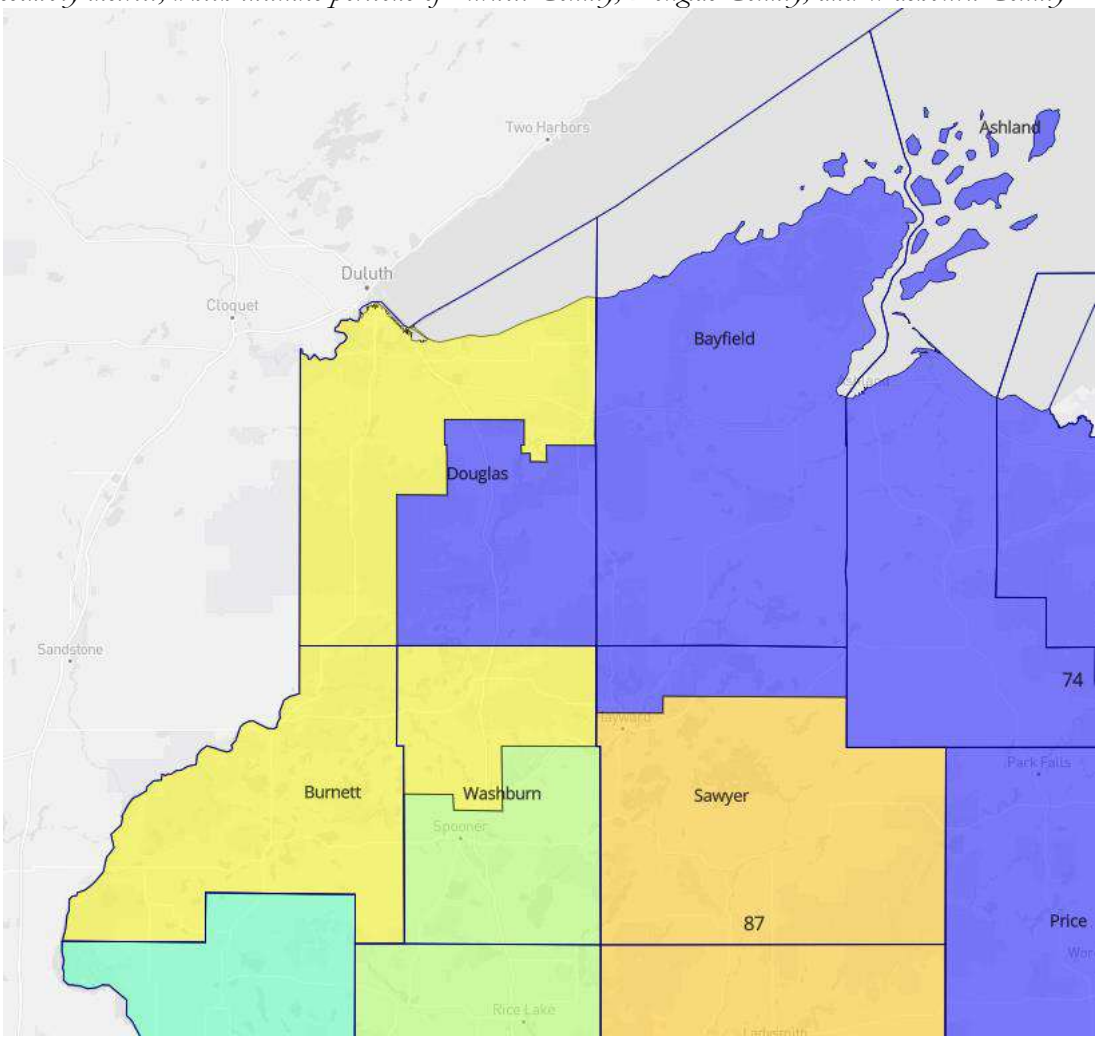
Wisconsin's 73rd Assembly District is in the northwest corner of the state (shown in Figure 15). The district is made up of all of Burnett County, western and northern Douglas County, and much of the northern half of Washburn County. The district contains the City of Superior and villages such as Grantsburg, Minong, Poplar, Siren, and Webster. In terms of communities of interest, it is noteworthy that the district includes the City of Superior in the north and then stretches around northwest Wisconsin to include areas from within Washburn and Burnett counties. A more compact area focusing on the Lake Superior shoreline would be useful from the standpoint of shared interests, given that many of the communities that exist along Lake Superior are united by an attachment to and affection for the resources of Lake Superior.[39] It is also noteworthy that about half of Douglas County (which is where the City of Superior is located) is included in Assembly District 74. As of the 2020 census, Douglas County's population was 44,295 people. The Chamber of Commerce in the area is called the *Superior-Douglas County Area Chamber of Commerce,* which clearly indicates that Douglas County has a strong link with the City of Superior and the area sees itself as having a shared interest in the economy.[40] The Chamber notes, for example, that "An elected board of directors oversees the overall organization as we aim to advance the general welfare and prosperity of the Superior-Douglas County region." In addition, a part of the Chamber (*Travel Superior, the Superior Douglas County Visitor Bureau*) "works to promote and market the Superior and Douglas County region as a premier travel destination."[41] Douglas County and the City of Superior have a common interest in tourism.

[39] For example, the Mayor of Bayfield recently noted that "The people of Bayfield have a very special connection to Lake Superior and all of our green spaces," https://www.cityofbayfield.com. See also: https://www.seagrant.wisc.edu/blog/lake-superior-love/.

[40] https://www.superiorchamber.org

[41] Ibid.

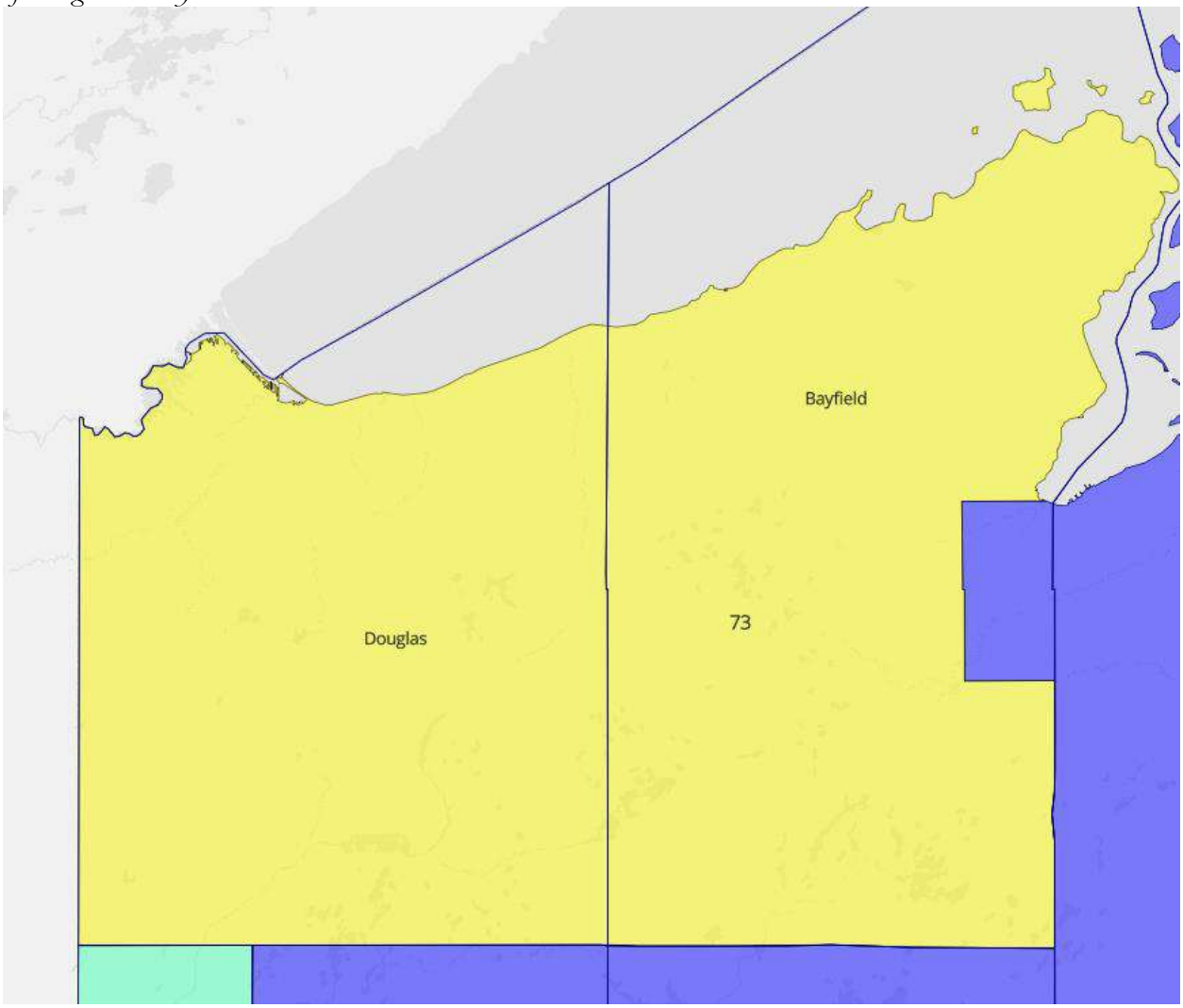
***Figure 15**: Current Assembly map (from Dave's Redistricting App website) showing the current boundaries for the 73rd Assembly district, which includes portions of Burnett County, Douglas County, and Washburn County*



Clarke Petitioners' Proposed Assembly District

Figure 16 shows the Clarke Petitioners' proposed 73rd Assembly district. Rather than splitting Douglas County, which has a strong connection to the City of Superior in the northern tip of the county, across two districts, the proposed district places Superior and all of Douglas County into the same district. The proposed district also joins the City of Superior with other communities that are located along the Lake Superior coastline such as Bayfield.

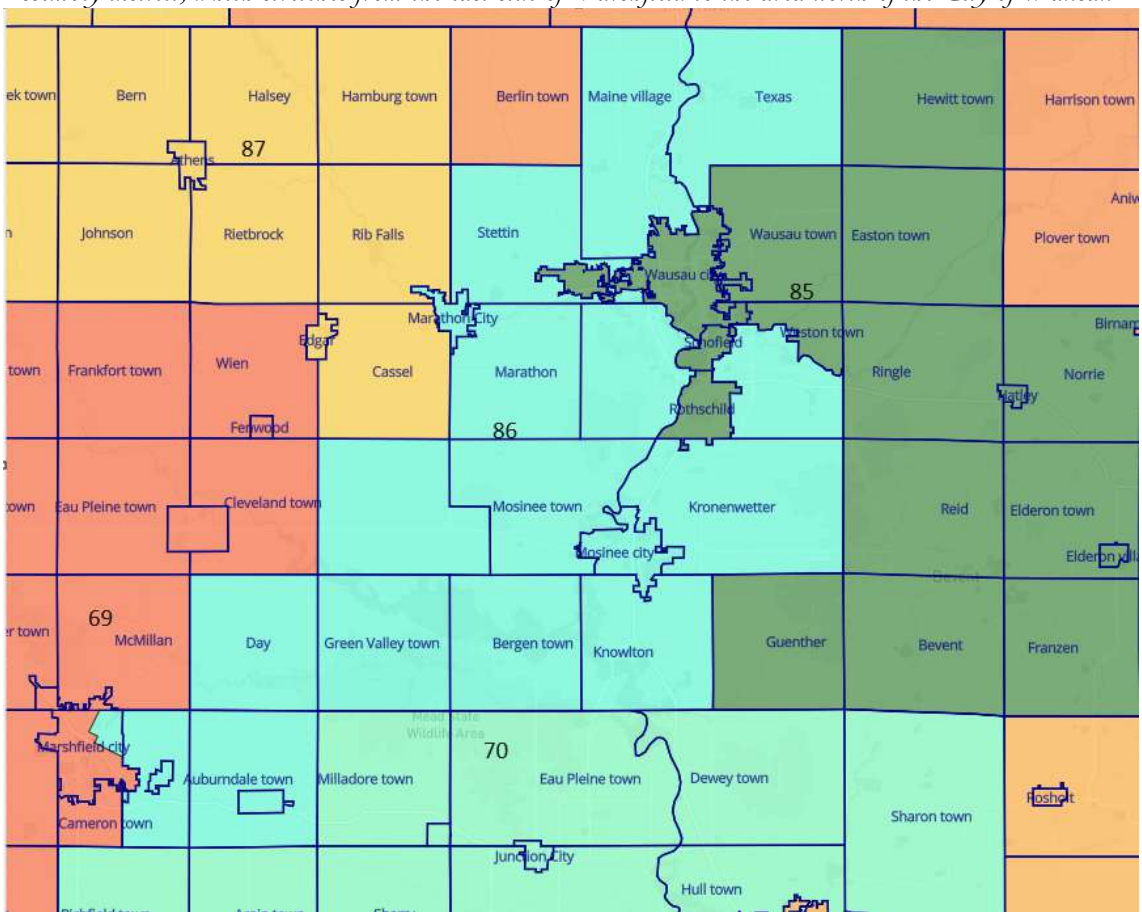
***Figure 16**: Clarke Petitioners' Proposed 73rd Assembly District, which keeps the City of Superior and the entirety of Douglas County in one district*



9. North Central Wisconsin: Marshfield (Wisconsin Current Assembly Districts 85 & 86)

Wisconsin's 86th Assembly district is situated in north/central Wisconsin and is shown in Figure 17. The district includes most of central Marathon County as well as portion of northern Wood County (including part of the City of Marshfield). In terms of communities of interest, it is concerning that the City of Marshfield is split between the 86th and 69th Assembly districts. As of the 2020 U.S. Census, the population of Marshfield was 18,929. As was the case with previous cities that have been discussed, it is clear that residents of the City of Marshfield have some shared concerns that are relevant to the state legislature (e.g., related to state aid and shared revenue).[42] It is also noteworthy that the district stretches from the eastern side of Marshfield all the way to the area immediately surrounding Wausau. Many of the smaller communities surrounding Wausau have a much stronger connection to the City of Wausau than they do to the City of Marshfield.[43]

Figure 17: *Current Assembly map (from Dave's Redistricting App website) showing the current boundaries for the 86th Assembly district, which stretches from the east side of Marshfield to the area north of the City of Wausau*



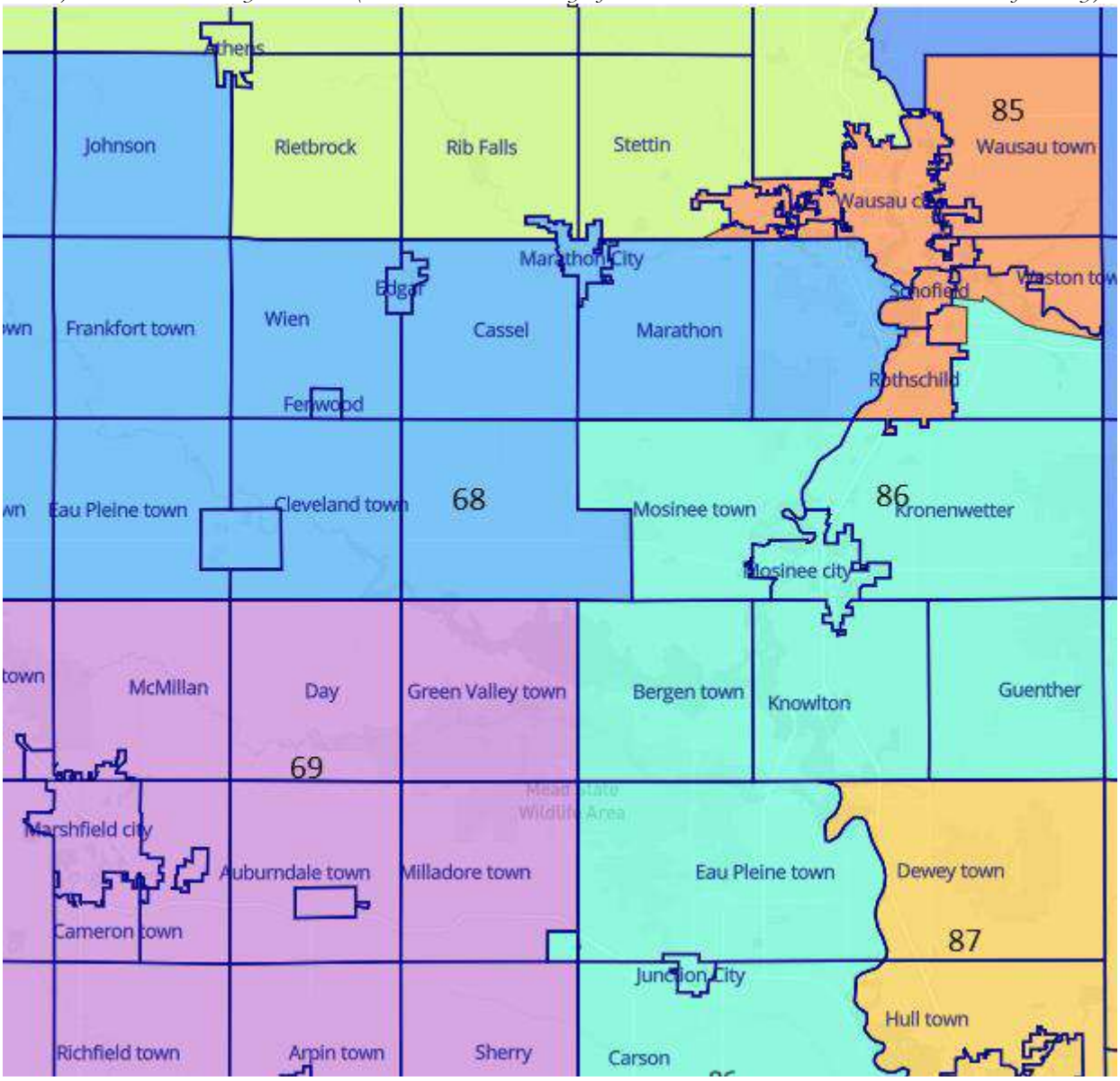
[42] For example, the City recently (December 2022) changed the fee schedule for Fire and EMS. According to the City's Fire Chief, "Much of the budgetary issues we are currently facing are due to a variety of factors such as limited State aid, decreasing State shared revenue, and tax levy limits versus increasing costs of personnel, equipment and operations." See: https://ci.marshfield.wi.us/news_detail_T58_R341.php.

[43] https://www.greaterwausau.org/communities/

Clarke Petitioners' Proposed Assembly Districts

In the Clarke Petitioners' proposed map, the City of Marshfield is located in the proposed 69th Assembly district (shown in Figure 18). Notably, the city is not split across two different Assembly districts. In addition, the Clarke Petitioners' proposed Assembly District 85 connects the City of Wausau with much of the area to the north and east of the City.

***Figure 18**: Clarke Petitioners' Proposed 69th (which contains the City of Marshfield in the northern part of the district) and 85th Assembly Districts (which contains the City of Wausau and areas to the north and east of the city)*



10. Northeastern Wisconsin: Brown County (Current Wisconsin Assembly District 89)

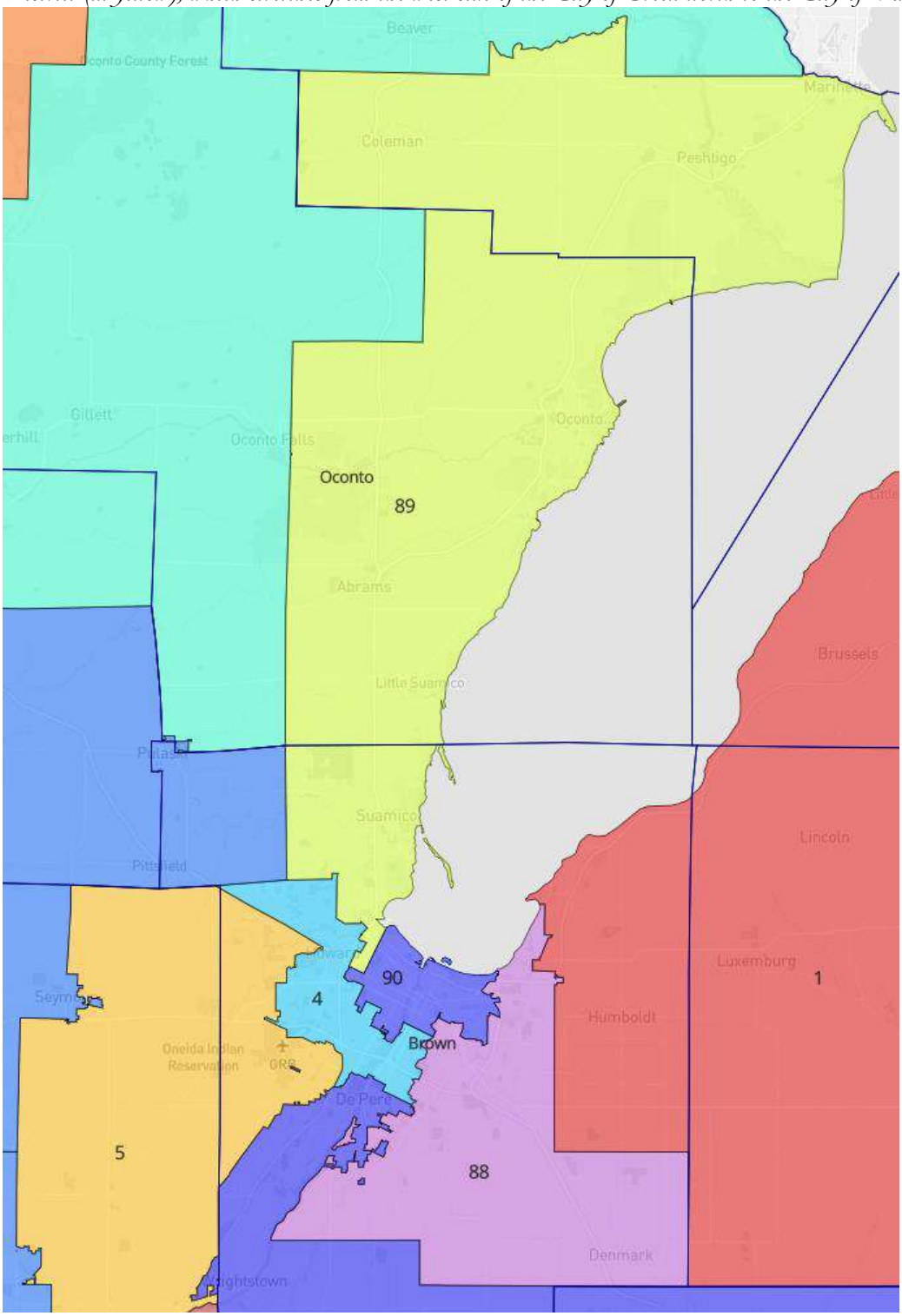
The 89th Assembly district is located in northeastern Wisconsin and covers the eastern half of Oconto County and portions of Marinette and Brown counties. The district boundaries are shown in Figure 19 below. There are several important concerns from the standpoint of communities of interest. First, the district includes a portion of the west side of the City of Green Bay and then extends north to include more rural areas in northern Wisconsin, including Oconto, Coleman, and Peshtigo.[44] In short, the district is comprised of a portion of an urbanized area and also many rural municipalities (e.g., The City of Oconto's webpage describes it in this way: "Oconto is considered to be by many the start of the true Wisconsin Northwoods..."). [45] While there may need to be some urban/rural combinations in Wisconsin given the state's geography and population density, a northern portion(s) of the district could be joined with other more rural areas in the northern part of Wisconsin. In addition, part of the City of Green Bay (which does need to be split given that its population is 107,114 according to the 2020 U.S. Census) could be combined with a community/communities in the Greater Green Bay Area. Many of the smaller villages and cities surrounding the City of Green Bay see themselves as part of the "Greater Green Bay area" and work together on tourism, especially related to the Green Bay Packers.[46] Second, the eastern half of the Village of Howard is in the 89th Assembly District while the western half is in the 4th Assembly District. This means that residents of the same small village (population of 19,950 according to the 2020 U.S. Census) may have to take their concerns to different state representatives depending on where they live.

[44] The Wisconsin Office of Rural Health provides an "Municipal Urban-Rural Classification" (MURC), which identifies the level of rurality of each of Wisconsin's cities, towns, and villages. Their "Simple Classification" map indicates that numerous municipalities within the 89th district are classified as rural (defined by Wisconsin Office of Rural Health as ≥ 25 miles from a population center—defined as ≥ 50,000 people—and having ≤ 9,999 residents), while others are classified as urban (defined by Wisconsin Office of Rural Health as <25 miles from a population center and ≥ 10,000 residents). For example, the City of Green Bay is classified as urban, while places like Peshtigo (city), Oconto (city), Pound (village), and Coleman (village) are classified as rural.

[45] https://cityofoconto.com/about-us/

[46] https://www.greenbay.com/plan-your-visit/communities/

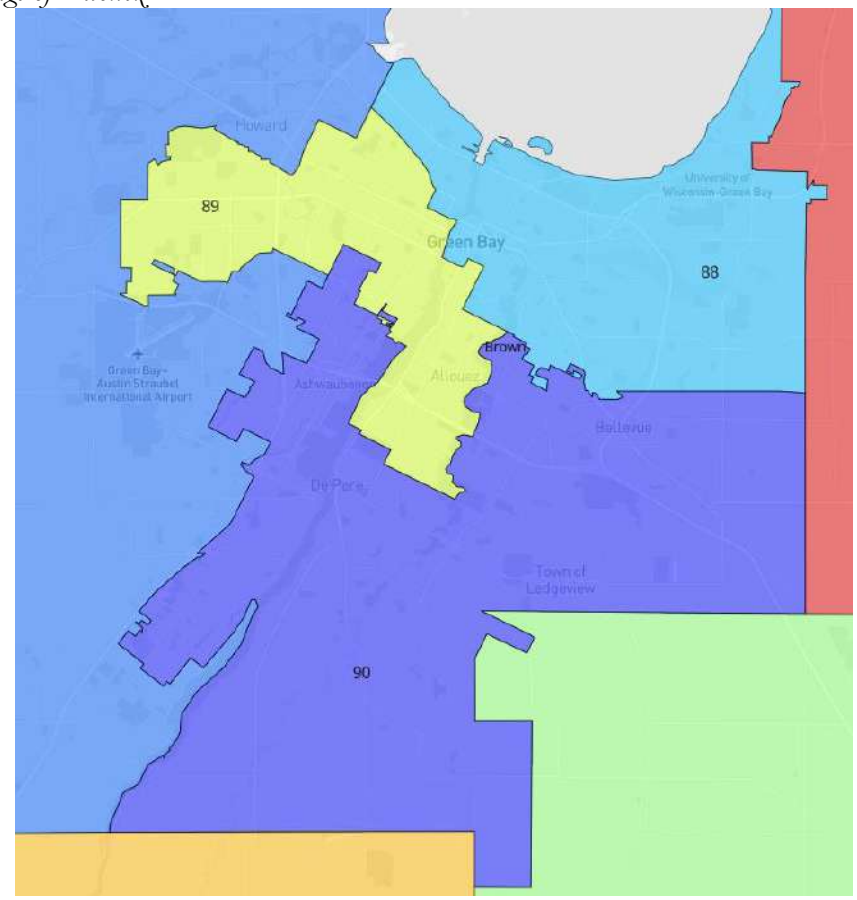
***Figure 19**: Current Assembly map (from Dave's Redistricting App website) showing the boundaries of the 89th Assembly District (in yellow), which stretches from the west side of the City of Green north to the City of Marinette*



Clarke Petitioners' Proposed Assembly District

The 89th Assembly District proposed by the Clarke Petitioners is concentrated in the Green Bay area (Figure 20 shows the proposed boundaries). In addition to including much of the west side of Green Bay, the proposed district includes the Village of Allouez (population of 14,156 as of the 2020 U.S. Census), which covers a small area (5.1 square miles in size according to the Village's website) just east of the Fox River. Allouez and Green Bay have strong connections. In fact, even though they are technically separate government entities, Allouez is described as "…Green Bay's oldest district, located directly east of the Fox River."[47] The two areas also have shared tourism interests. The *Discover Green Bay* website, which focuses on attracting people to the Greater Green Bay Area, describes the Village in this way: "If you want to be close enough to all the action during your visit, but not *right* in the midst of it, Allouez is the perfect place for you.").[48] The proposed district no longer combines in the same district a portion of the City of Green Bay and more northern rural areas. In addition, the district no longer includes a part of the Village of Howard. The Clarke Petitioners' proposed map locates Howard in District 6 (it is noteworthy that Howard is not split across multiple Assembly districts in the Clarke Petitioners' proposed map).

***Figure 20**: Clarke Petitioners' Proposed 89th Assembly District, which includes the west side of the City of Green Bay and the Village of Allouez*



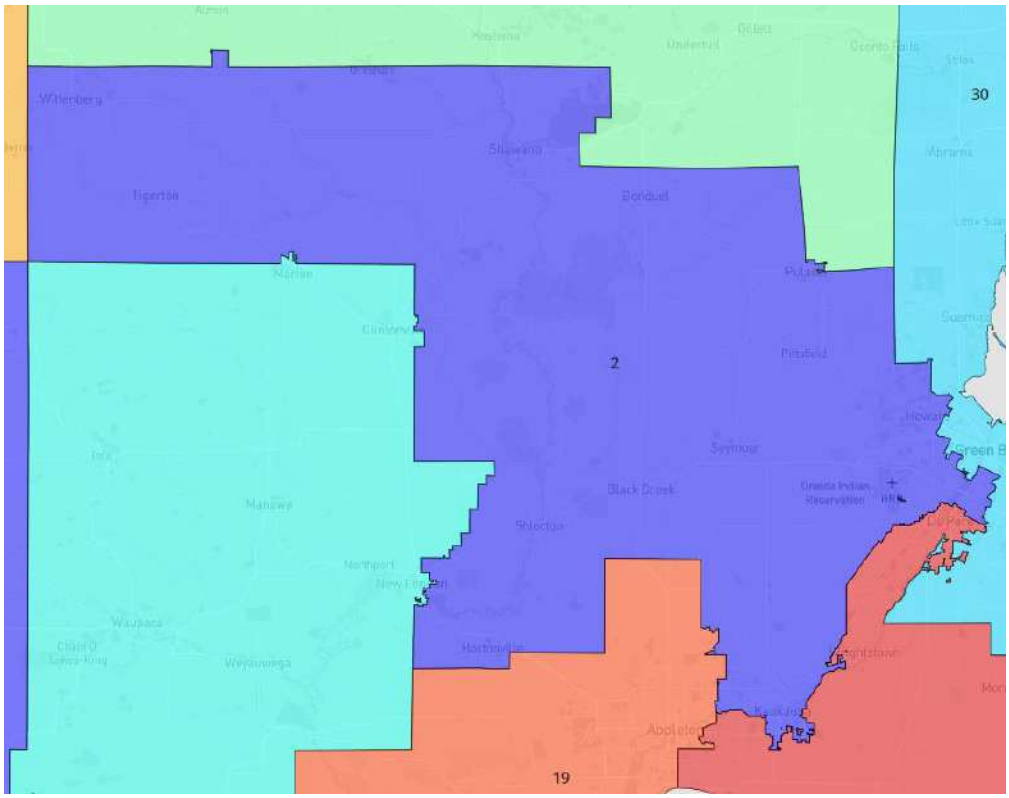
[47] https://www.greenbay.com/plan-your-visit/communities/allouez/
[48] https://www.greenbay.com/plan-your-visit/communities/allouez/#:~:text=If%20you%20want%20to%20be,minute%20drive%20from%20Lambeau%20Field

SENATE DISTRICTS

1. Northeast Wisconsin: the Fox Valley (Current Wisconsin Senate District 2)

The 2nd Senate District (shown in Figure 21) is in northeast Wisconsin and is made up of most of Shawano and Outagamie counties, as well as parts of Waupaca County and western Brown County. It includes the villages of Allouez and Ashwaubenon (Greater Green Bay Area) and the City of Kaukauna. In terms of communities of interest, it is notable that the 2nd Senate District spans from the Fox Valley (e.g., City of Kaukauna, Village of Little Chute) to parts of the Greater Green Bay area and then to more rural places in the north such Bowler, Wittenberg, Shawano, Gresham, and Bonduel, some of which are described as being in the "Northwoods" area of Wisconsin.[49] Although there is a clear link between areas in the Fox Valley and communities in the Greater Green Bay area (e.g., they have shared environmental concerns related to pollution/cleanup in the Fox River), there is not a strong association between communities in the Fox Valley[50] and areas in the more rural northern part of the 2nd district.[51]

***Figure 21**: Current Senate District 2 (from Dave's Redistricting App website), which stretches from Kaukauna (in the Fox Valley) to the Greater Green Bay area and then to more rural communities in the northern part of the district*

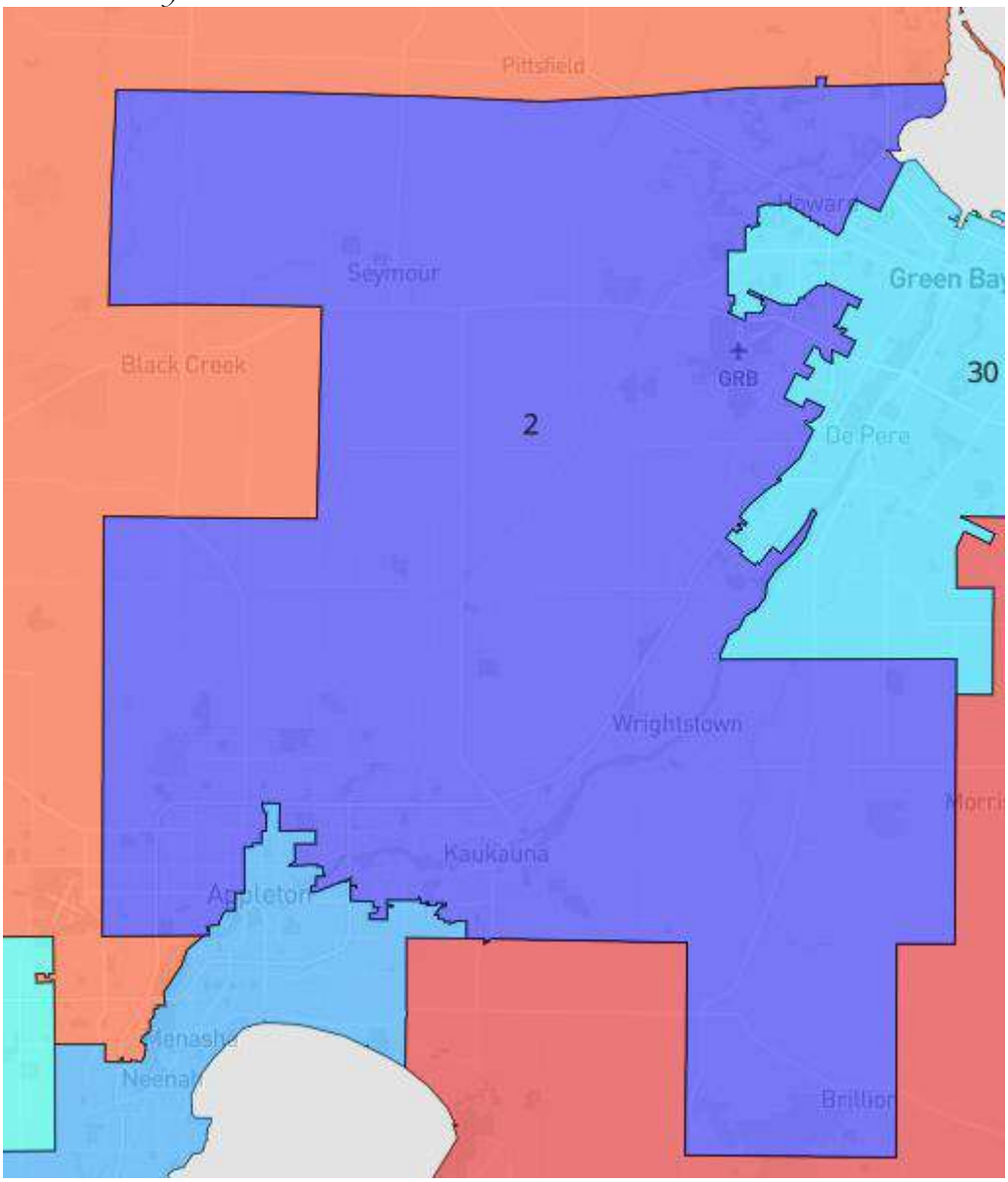


[49] https://www.foxcities.org/plan-your-visit/communities/, https://www.northstarcasinoresort.com.
[50] https://wisconsindot.gov/documents/projects/multimodal/conn2030/maps/foxvalley.pdf
[51] https://dnr.wisconsin.gov/topic/foxriver, https://kaukauna.gov/event/focus-on-the-fox-2/

Clarke Petitioners' Proposed Senate District

The 2nd Senate District proposed by the Clarke Petitioners focuses on a more concentrated area in the Fox River Valley area (shown in Figure 22). The district's northern edge stops at the Village of Howard (which is widely seen as a community in the Greater Green Bay area). The more rural communities that were in the 2nd District, such as Bowler, Wittenberg, Shawano, Gresham, and Bonduel, are now located in the Clarke Petitioners' proposed 17th Senate district, which is much more rural in nature and includes places like Oconto and Oconto Falls.

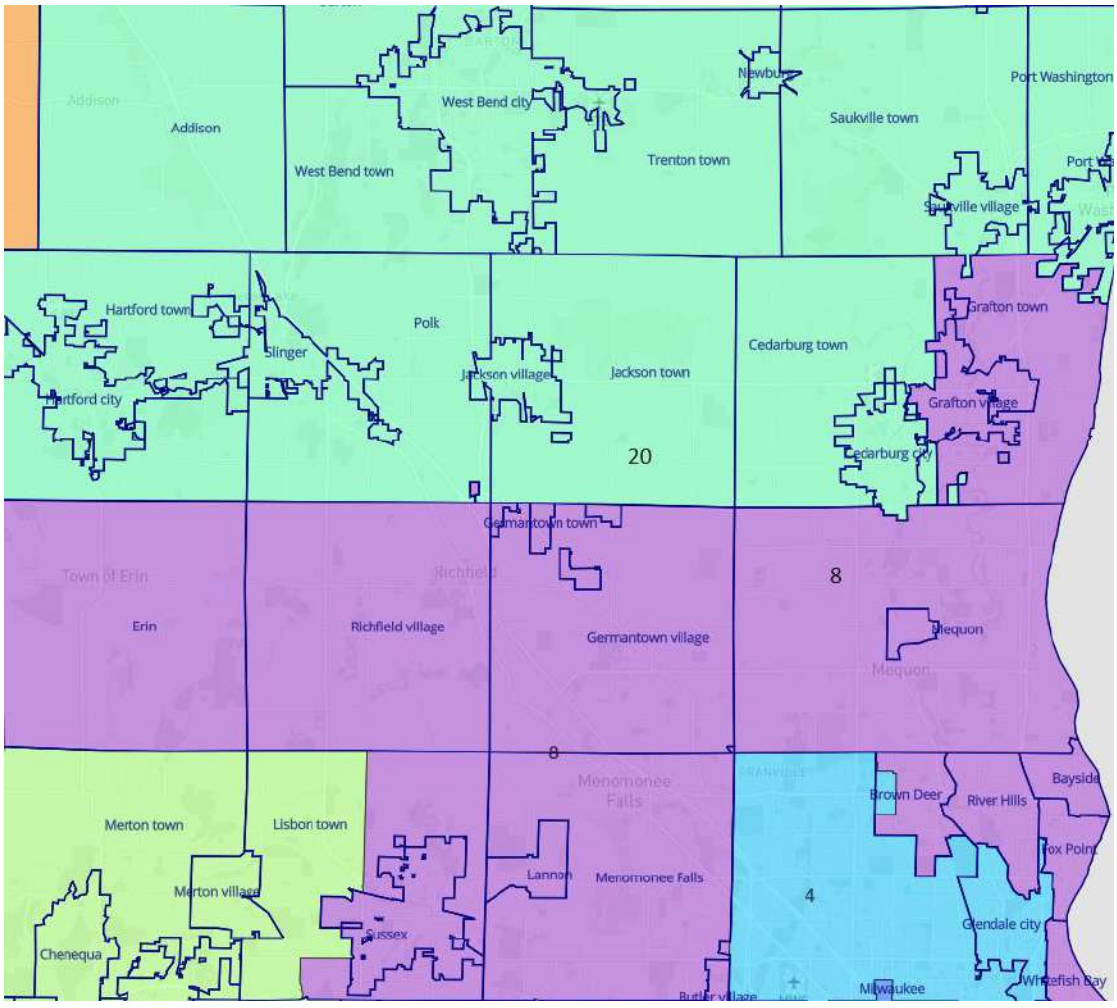
***Figure 22**: Clarke Petitioners' Proposed 2nd Senate District, which focuses more squarely on the Fox Valley area and the Greater Green Bay area*



2. Southeast Wisconsin: Western Milwaukee Suburbs (Current Wisconsin Senate District 8)

Wisconsin's 8th Senate District is located in southeast Wisconsin (shown in Figure 23). The district is made up of northeastern Milwaukee County, southern Ozaukee County, southern Washington County, and northeastern Waukesha County. It includes places like Germantown, Menominee Falls, Fox Point, Whitefish Bay, Grafton, Sussex, and Richfield. From a communities of interest perspective, it is noteworthy that the district extends to include many communities along the Lake Michigan shoreline to much more rural areas such as the Town of Erin.[52] From the standpoint of a shared natural resource, it would be useful for the district to focus on a more compact area along the lake. For example, it is notable that Grafton and Port Washington (which is currently in Senate District 20) are both involved in a lawsuit related to PFAS (per- and polyfluoroalkyl substances) in drinking water.[53]

***Figure 23**: Current Senate District 8*

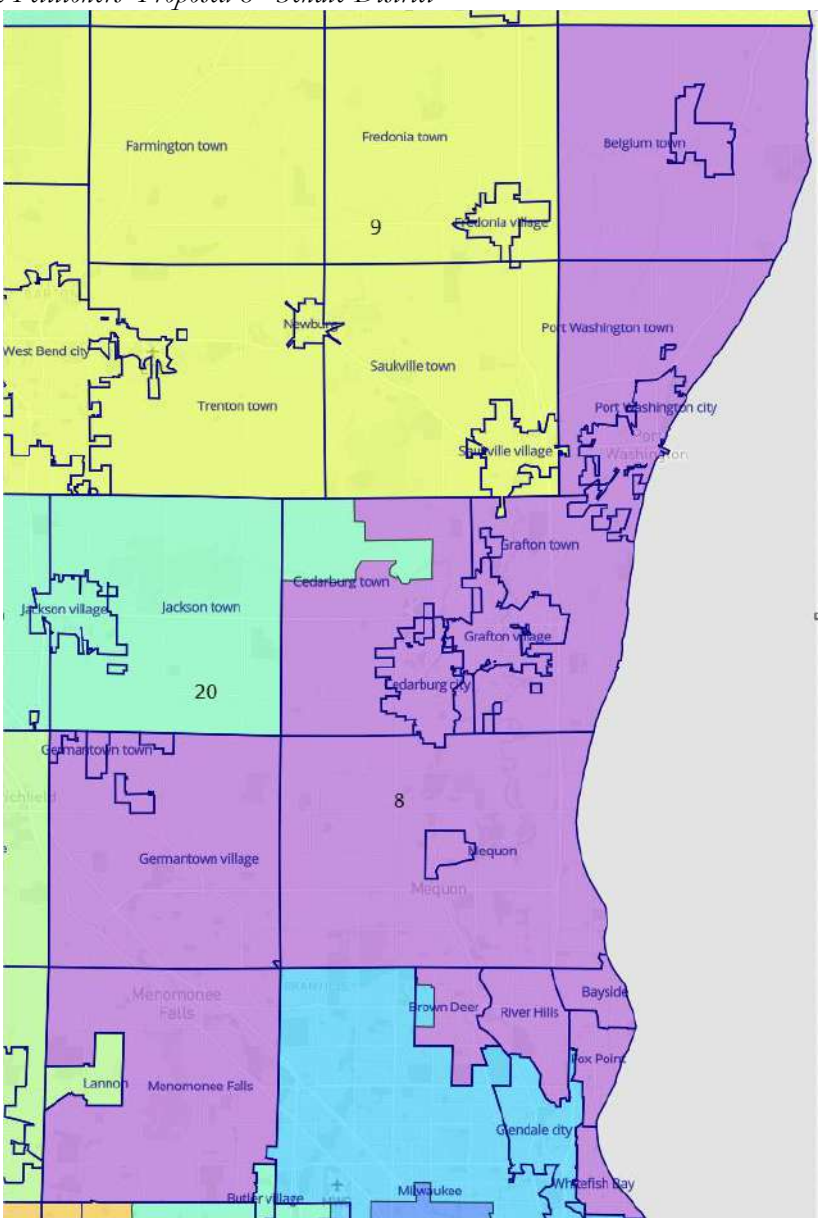


[52] https://emke.uwm.edu/entry/town-of-erin/
[53] https://www.ozaukeepress.com/content/village-could-receive-11m-pfas-settlements, https://www.ozaukeepress.com/content/port-expects-12-million-pfas-lawsuits

Clarke Petitioners' Proposed Senate District

The Clarke Petitioners' proposed 8th Senate District is shown in Figure 24. The proposed district no longer includes places like Sussex and Richfield (they are in the Clarke Petitioners' proposed 33rd Senate District). The proposed 8th Senate district now pairs Port Washington with other communities that are close to the lake, such as Grafton and Whitefish Bay. It is worth noting that there are strong links among many of these communities. For example, Port Washington and Grafton are both served by the *Ozaukee Press* newspaper.[54] In addition, Mequon, Port Washington, and Grafton are all part of *Ozaukee County Economic Development*.[55]

***Figure 24**: Clarke Petitioners' Proposed 8th Senate District*



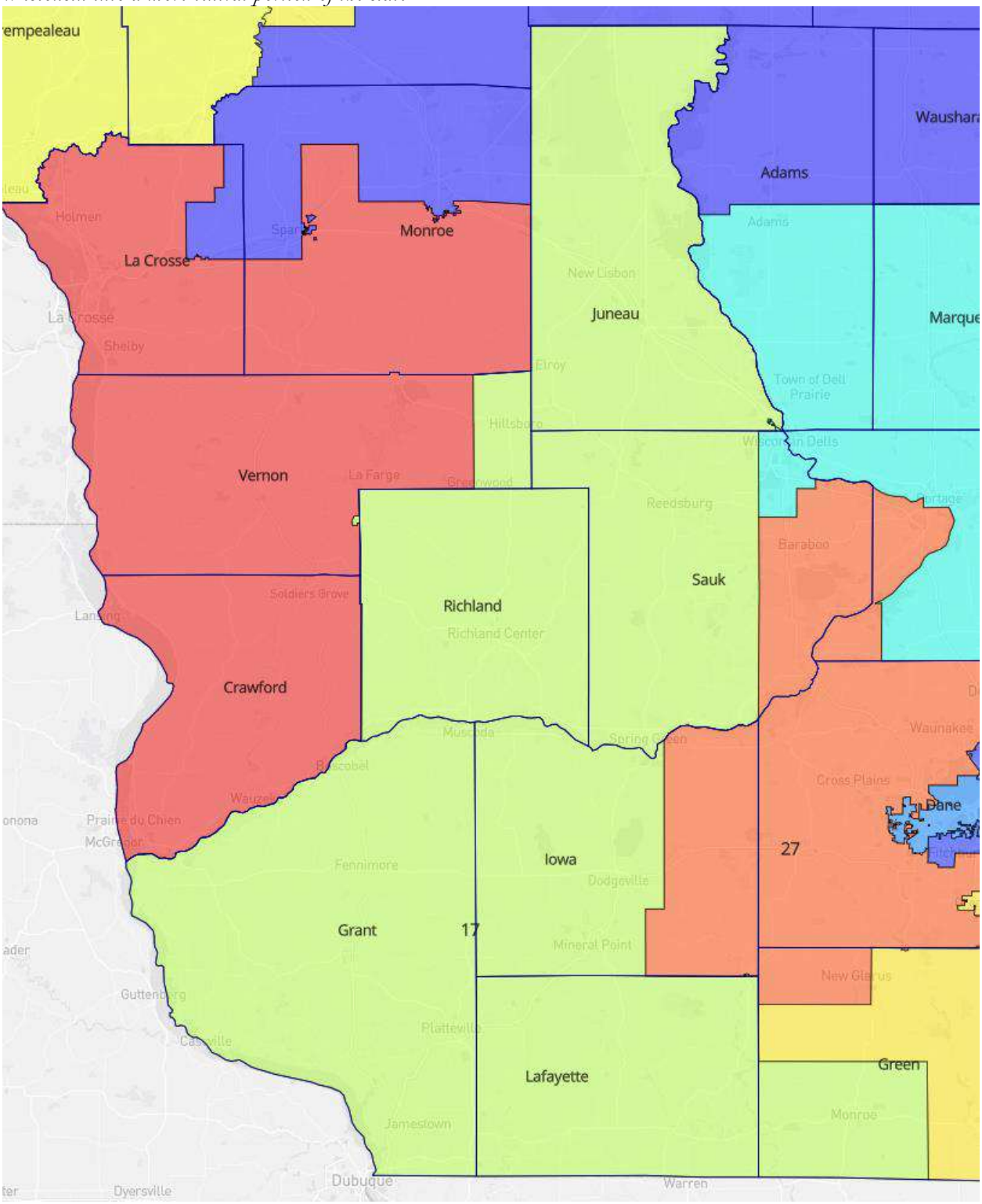
[54] https://www.ozaukeepress.com
[55] https://ozaukeebusiness.org/about/

3. Southwest Wisconsin: the Driftless region (Current Wisconsin Senate District 17)

Wisconsin Senate District 17 is located in southwest Wisconsin stretching toward central Wisconsin (shown in Figure 25). The district is made up of all of Grant, Lafayette, Juneau, and Richland counties, as well as most of Sauk County, western Iowa County, southwest Green County, and parts of eastern Vernon County. From a communities of interest standpoint, it is noteworthy the district extends from the southern part of Wisconsin to an area in the central part of the state (district shown in Figure 25). Rather than extend as far north as it does, the southern part of the district could be combined with areas to its east that are clearly within the Driftless region of Wisconsin.[56] For example, Green County (population of 37,093 as of the 2020 Census), which is within the Driftless region, is currently split across three Senate districts (15, 27, and 17).[57] Although the boundaries of the Driftless region of Wisconsin do not perfectly overlap with county boundaries, if possible it is valuable to include in the same Senate district areas that see themselves as part of a region. As was noted previously, the Driftless region of Wisconsin has worked on promoting the region as a unique tourist destination.[58] It is also noteworthy that this area of the state has the *Southwestern Wisconsin Regional Planning Commission,* which "works to build a resilient southwestern Wisconsin through the creation of economic diversity, support for innovation, and development of locally-led strategic initiatives implemented by collaborative partnerships grounded in common purpose."[59] As noted on their website, "The region of Southwestern Wisconsin is made up of Grant, Green, Iowa, Lafayette, and Richland counties. Most of the region is part of the Driftless Area, which is distinguishable by its deeply carved river valleys and scenic vistas. With a population of 146,594 and at a density of 39 persons per square mile, this part of the state is considered relatively rural."[60]

[56] https://www.driftlessangler.com/the-area
[57] https://www.driftlessangler.com/the-area
[58] https://driftlessareamag.com/unicdn/category/citytownpartner/wi-partners/greencountywi/
[59] https://www.swwrpc.org/about-us/mission
[60] https://www.swwrpc.org/region

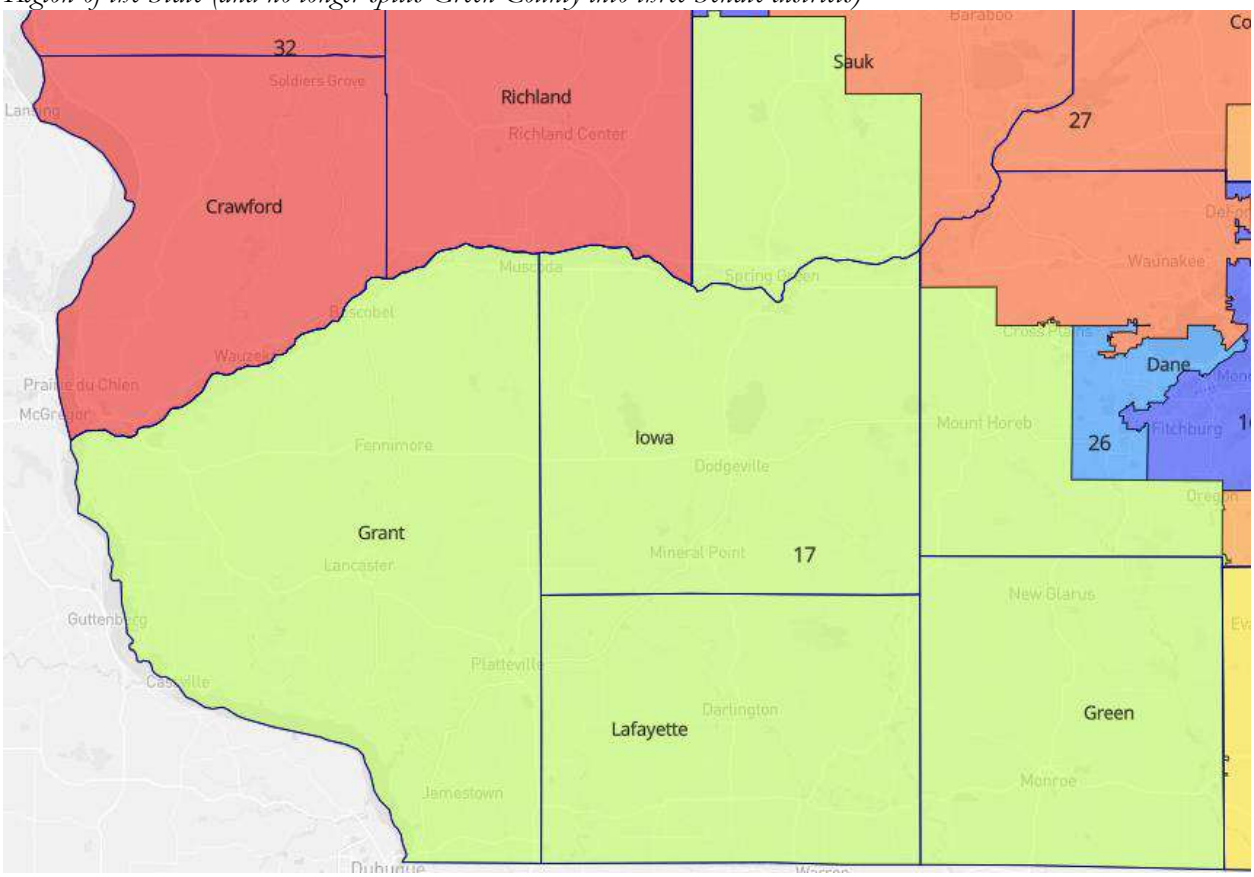
***Figure 25**: Current Senate District 17 (from Dave's Redistricting App website), which extends from southern Wisconsin into a more central portion of the state*



Clarke Petitioners' Proposed Senate District

Figure 26 shows the Clarke Petitioners' proposed 17th Senate District. The district is focused on a more compact area within the Driftless region of Wisconsin. It is noteworthy that the proposed district places all of Green County in the 17th District rather than splitting it up into three Senate districts. Previously, a portion of Green County, which describes itself as being "…known for its green rolling hills, highly productive farmland, and the small town flavor of its communities" was in a Senate district that also included parts of Janesville and Beloit.[61]

***Figure 26**: Clarke Petitioners' Proposed 17th Senate District, which focuses on a more compact area in the Driftless Region of the State (and no longer splits Green County into three Senate districts)*

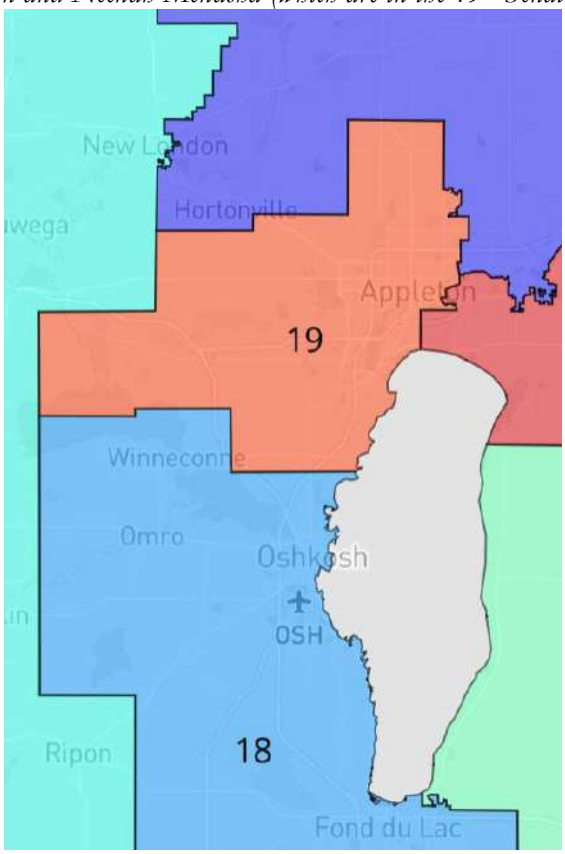


[61] https://www.greencountywi.org/317/Green-County-at-a-Glance

4. The Fox Valley: Oshkosh, Neenah-Menasha, and Appleton (Current Wisconsin Senate Districts 18 & 19)

Wisconsin's 19th Senate District is in eastern central Wisconsin (shown in Figure 27). It is made up of northern Winnebago County and southwest Outagamie County. It includes most of the City of Appleton and the cities of Menasha and Neenah. From a communities of interest perspective, it is valuable that Neenah and Menasha are in the same Senate district given the shared identity described earlier in the report. It is notable, though, that the Assembly district containing Oshkosh is not one of the three Assembly districts that makes up the 19th Senate District (Oshkosh is currently in Senate District 18). The *Fox Cities Regional Chamber Partnership* lists Outagamie, Calumet, and Winnebago (Oshkosh is the county seat) as its three counties. In addition, the *Office of Management and Budget* (OMB) has designed Appleton-Oshkosh-Neenah, WI as a Combined Statistical Area (CSA), which is defined as "a geographic entity consisting of two or more adjacent core-based statistical areas with employment interchange measures of at least 15%."[62] In short, there is a strong economic link between the Appleton, Oshkosh, and Neenah-Menasha communities.

***Figure 27**: Current Senate District 19 (from Dave's Redistricting App website) showing that Oshkosh is not in the same Senate District as Appleton and Neenah-Menasha (which are in the 19th Senate District)*

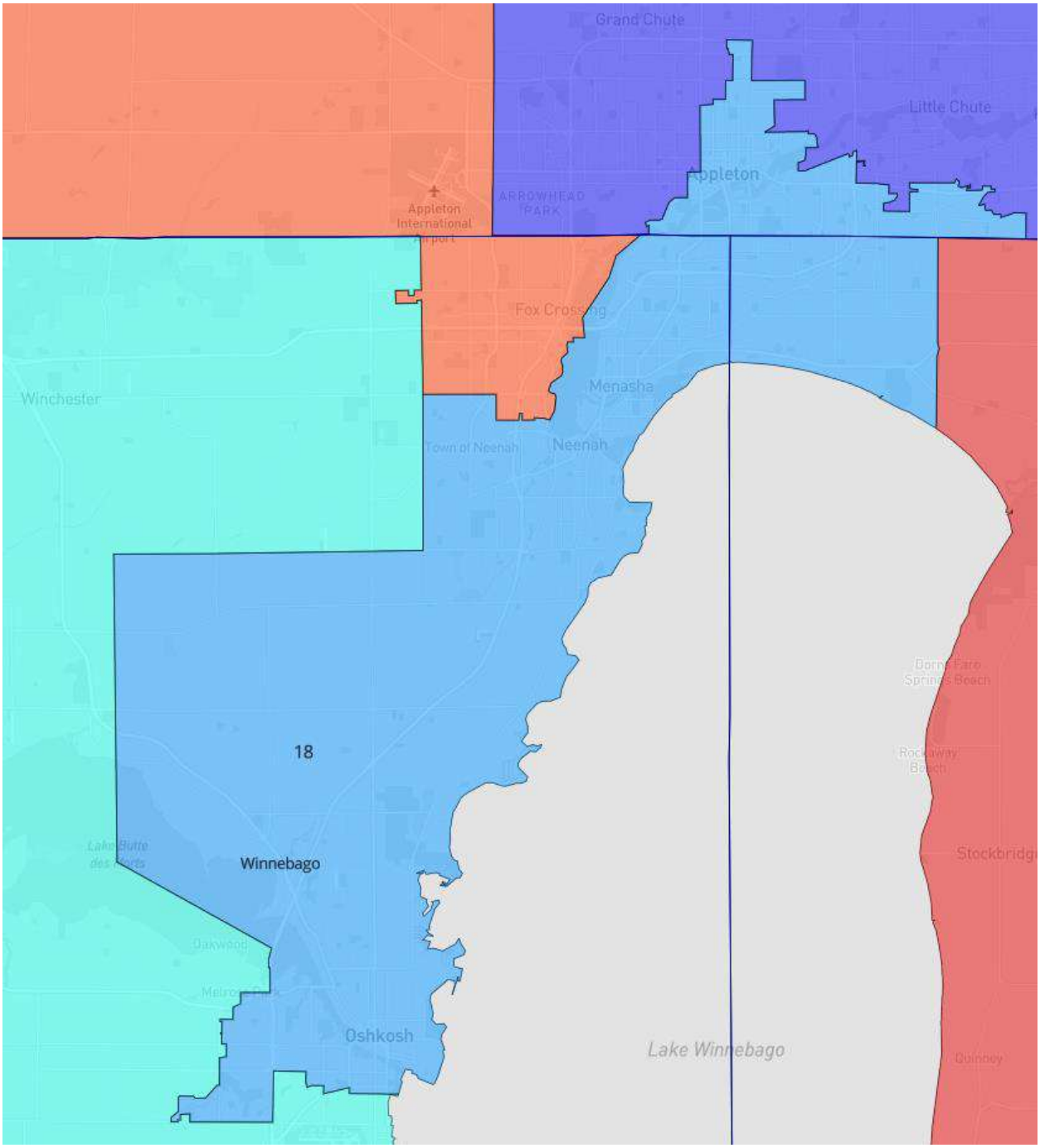


[62] https://www2.census.gov/geo/maps/econ/ec2012/csa/EC2012_330M200US118M.pdf, https://www.federalregister.gov/documents/2021/07/16/2021-15159/2020-standards-for-delineating-core-based-statistical-areas

Clarke Petitioners' Proposed Senate District

The Clarke Petitioners' proposed Senate District 18 is shown in Figure 28. This proposed district unifies the Oshkosh, Neenah-Menasha, and Appleton areas by including them in same Senate district. These cities are typically referred to as part of the "Fox Cities area" and, as noted above, make up one of Wisconsin's Combined Statistical Areas.

***Figure 28**: Clarke Petitioners' Proposed 18th Senate District, which includes Appleton, Neenah-Menasha, and Oshkosh*

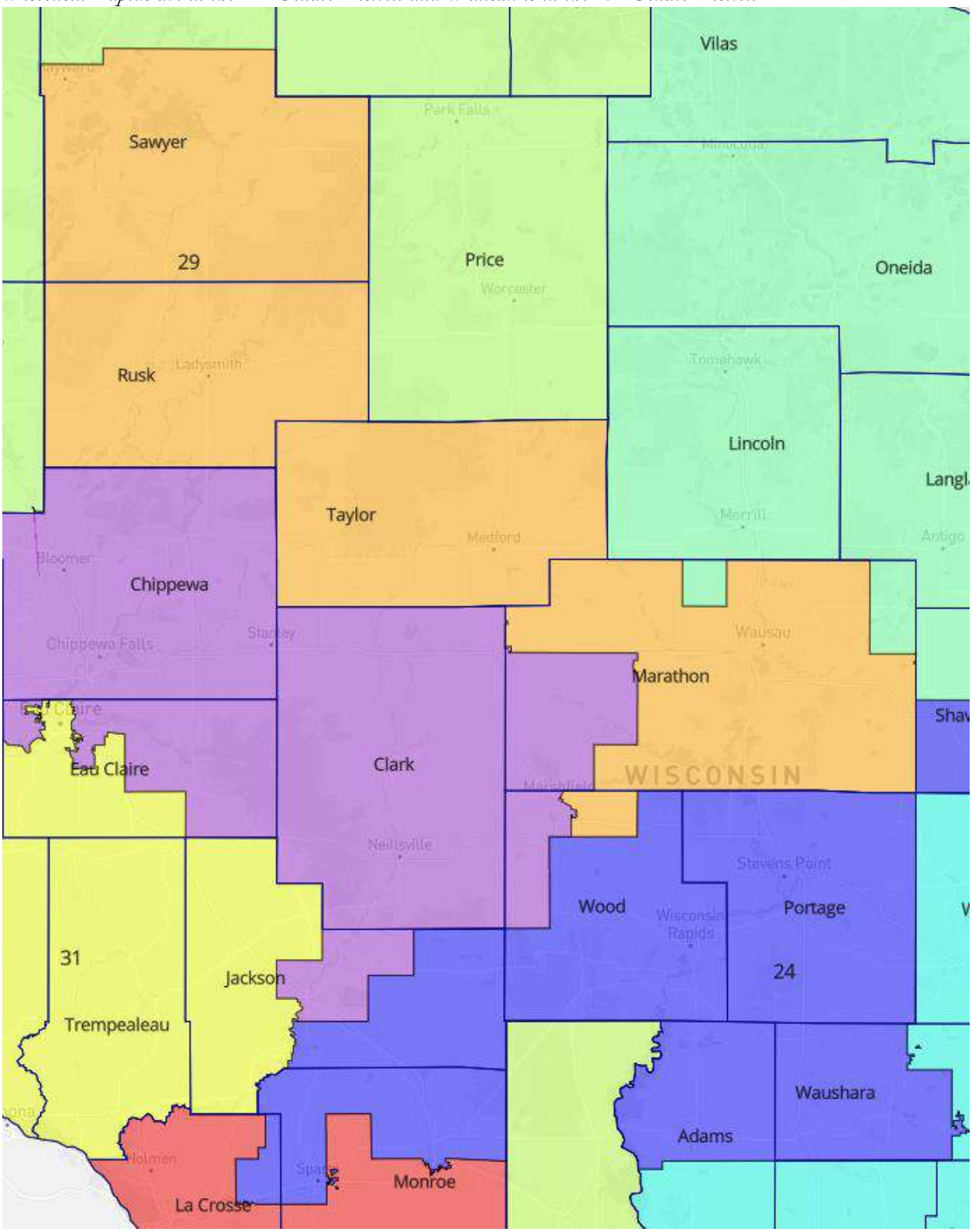


5. Central Wisconsin: Stevens Point, Wausau, and Wisconsin Rapids (Current Wisconsin Senate Districts 24 & 29)

Wisconsin's 24th Senate District is in central Wisconsin (shown in Figure 29). The district is made up of Portage County and most of Wood County. It also contains the northern half of Adams County, the western half of Waushara County, eastern Jackson County, and northern Monroe County. It contains the cities of Stevens Point and Wisconsin Rapids. From the view of communities of interest, it is noteworthy that the district does not include the Assembly district that contains Wausau. One of Wisconsin's Combined Statistical Areas is "Stevens Point-Wisconsin Rapids-Wausau."[63] As was noted above, according to the *Office of Management and Budget* (OMB), a Combined Statistical Area (CSA), is "a geographic entity consisting of two or more adjacent core-based statistical areas with employment interchange measures of at least 15%."[64] It is also worth noting that there are other strong connections between these areas rooted in their common economic history and industries. A recent (2023) local news article from the *Wausau Pilot & Review* noted, for example, that "From the moment the pineries opened for logging interests in the 1830s, the areas now known as Stevens Point and Wausau have been linked. Stevens, Point Brewery, and University of Wisconsin-Stevens Point all have connections to their northern neighbors that run deep in camaraderie, and sometimes, in fierce competition."[65] Stevens Point and Wausau have been described as "sister cities of the pinery."[66] Yet Wausau is in a senate district, District 29, that stretches all the way to Hayward in Sawyer County.

[63] https://www2.census.gov/geo/maps/econ/ec2012/csa/EC2012_330M200US554M.pdf
[64] https://www2.census.gov/geo/maps/econ/ec2012/csa/EC2012_330M200US118M.pdf, https://www.federalregister.gov/documents/2021/07/16/2021-15159/2020-standards-for-delineating-core-based-statistical-areas
[65] https://wausaupilotandreview.com/2023/09/16/history-speaks-to-look-at-connection-between-wausau-stevens-point/
[66] https://wausaupilotandreview.com/tag/stevens-point-and-wausau-sister-cities-of-the-pinery/

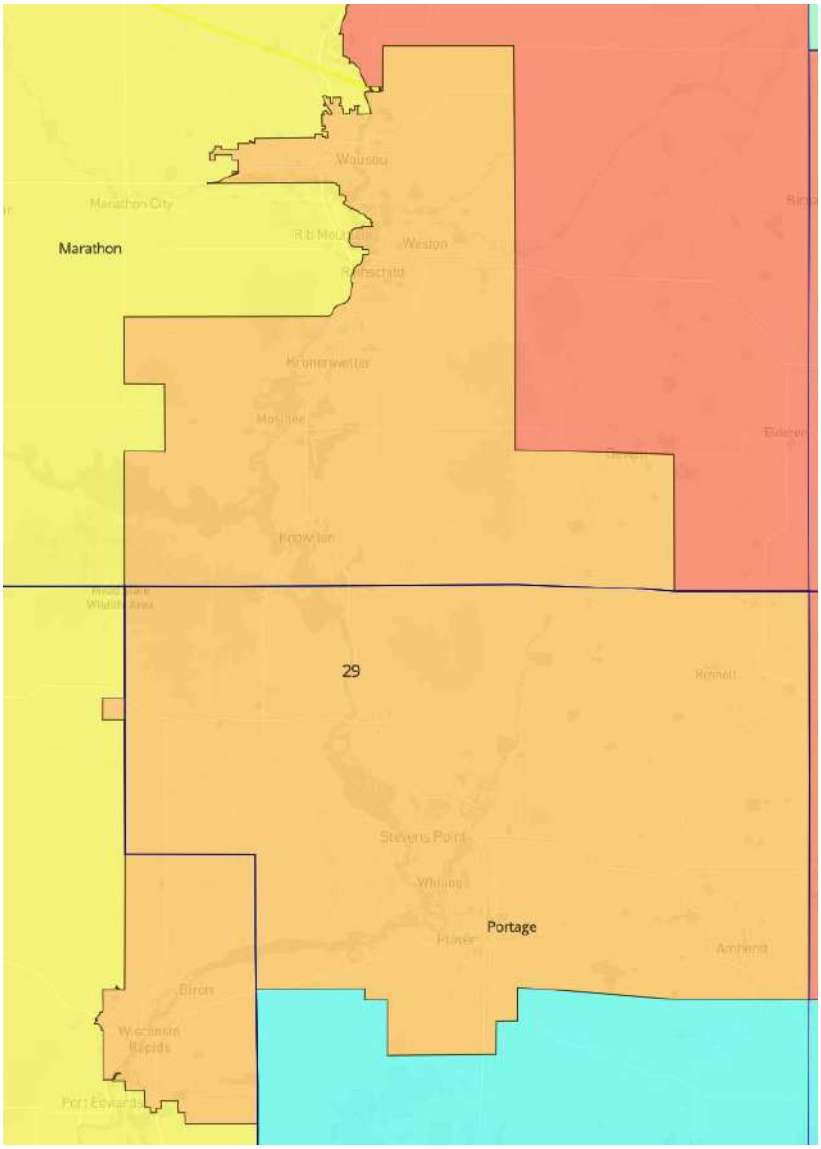
***Figure 29**: Current Senate District 24 (from Dave's Redistricting App website) showing that Stevens Point and Wisconsin Rapids are in the 24th Senate District and Wausau is in the 29th Senate District*



Clarke Petitioners' Proposed Senate District

Figure 30 shows the Clarke Petitioners' proposed Senate District 29. This proposed district unifies Stevens Point, Wausau, and Wisconsin Rapids by locating them within the same Senate district. It makes sense to place these cities in the same Senate district given that they make up a Combined Statistical Area in Wisconsin and their shared economic history and interests (e.g., logging and forest products).[67]

***Figure 30**: Clarke Petitioners' Proposed 29th Senate District, which includes Stevens Point, Wausau, and Wisconsin Rapids*



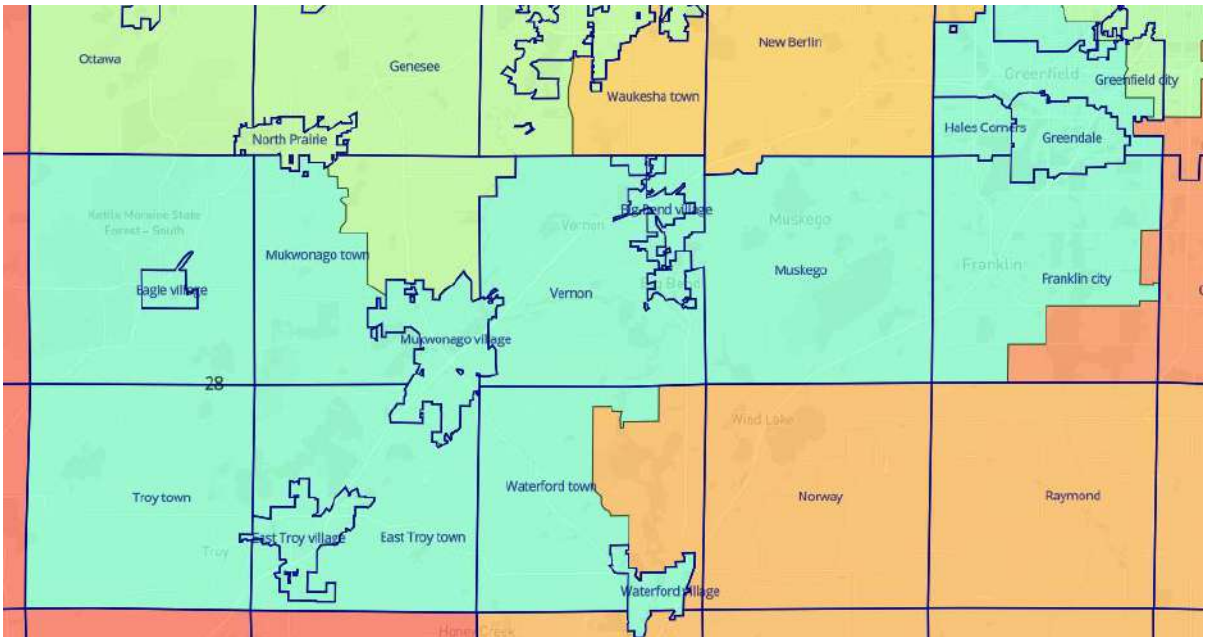
[67] https://www.wisconsinrapidstribune.com/story/money/2023/01/23/wisconsins-loggers-face-rising-costs-dwindling-workforce/69661825007/, https://www.wisconsinhistory.org/Records/Article/CS409

6. Southeast Wisconsin: Southwest Milwaukee County (Current Wisconsin Senate District 28)

Wisconsin's 28th Senate District is in southeast Wisconsin. It is shown in Figure 31. It is made up of southwest Milwaukee County, southern Waukesha County, northwest Racine County, and northeast Walworth County. It includes 10 wards of the City of Milwaukee, all of the city of Muskego, as well as most of the cities of Greenfield and Franklin, and the villages of East Troy, Eagle, Greendale, Hales Corners, Mukwonago, and Waterford. In terms of communities of interest, it is noteworthy that this district combines part of the City of Milwaukee and its suburban areas, such as Greenfield and Greendale, with much more rural areas to the west, such as the Village of Eagle. As noted in the 2020 *Greenfield Comprehensive Plan*, "Currently, no land in the City is in agricultural use. Because Greenfield is a first ring suburb of the City of Milwaukee, conversion of agricultural land to other uses occurred long ago. Furthermore, land in the City is far more valuable for development than continued farming activities."[68] In contrast, the Village of Eagle' 2017 Smart Growth Plan notes that "There is a community-wide desire to retain the 'rural atmosphere' of the area, as referenced in numerous community surveys."[69] The plan goes on to note that one of the goals of the Village is the "The preservation of productive agricultural lands" and that "…the preservation of agricultural areas…contributes immeasurably to the maintenance of the scenic beauty and cultural heritage of the Village."[70] The Village has also pointed out that "In many cases, smaller blocks of farmland are merely remnants of formerly larger blocks which have been subject to intrusion by urban residential development. This intrusion has resulted in significant urban-rural conflicts, including problems associated with the objection by residents of urban-type land subdivision developments to odors associated with farming operations…"[71] It is also worth mentioning that the 28th district splits some small communities. For example, the Town of Waterford is partially in the 28th Senate District and partially in the 21st Senate District.

[68] https://www.ci.greenfield.wi.us/DocumentCenter/View/4629/Greenfield-Comprehensive-Plan-text
[69] https://www.vi.eagle.wi.gov/wp-content/uploads/2017/04/SmartGrowth-VILLAGE-Chapter-4-11-12-09-Final-2.pdf
[70] Ibid.
[71] Ibid.

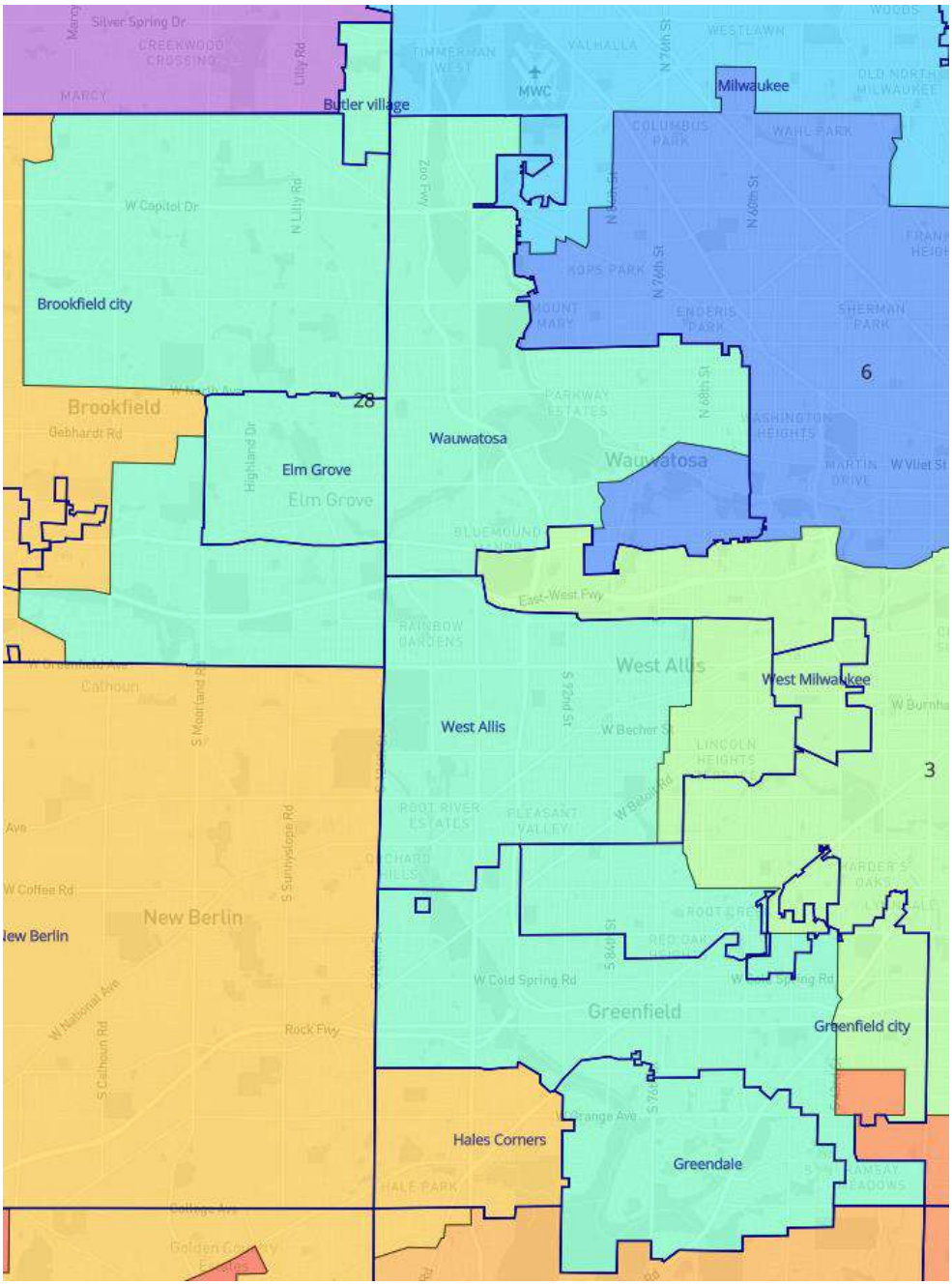
Figure 31: *Current Wisconsin Senate District 28 (from Dave's Redistricting App website), which combines suburban areas surrounding Milwaukee, such as Greenfield and Greendale, with more rural areas to the west, such as the Village of Eagle*



Clarke Petitioners' Proposed Senate District

The Clarke Petitioners' proposed 28th Senate District (shown in Figure 32) focuses on a more compact suburban area surrounding the Milwaukee area. The district includes Greenfield, Greendale, West Allis, and Elm Grove. The more rural areas to the west are now included in the Clarke Petitioners' proposed Senate District 11.

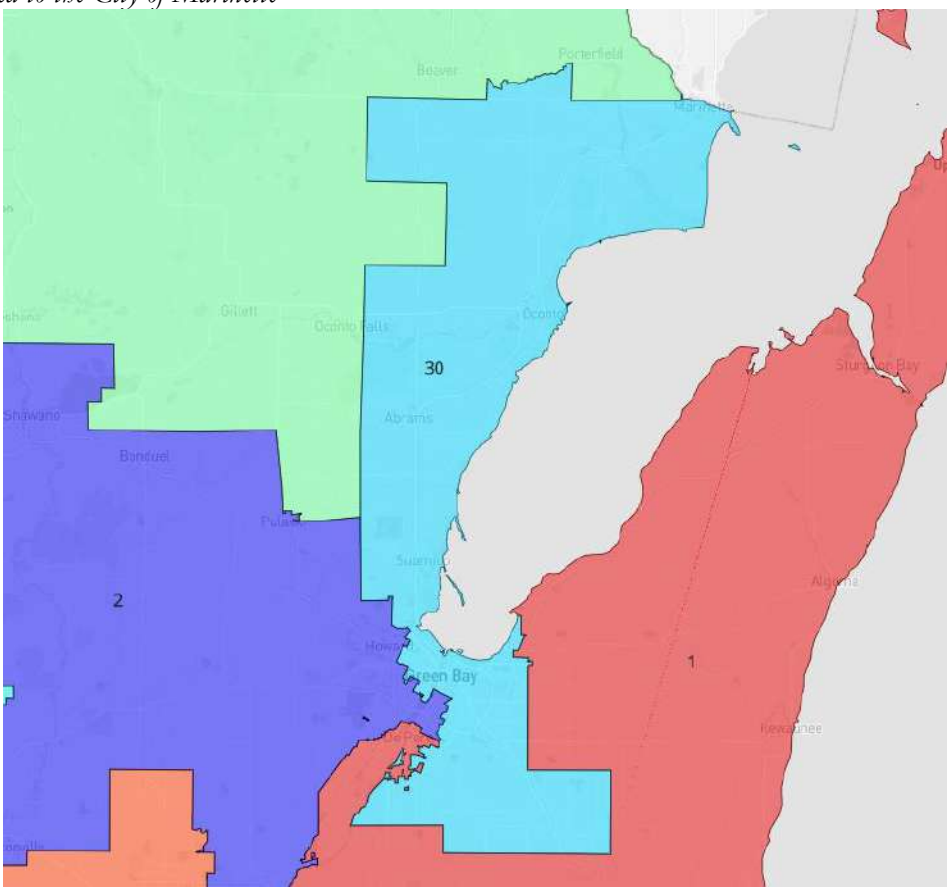
***Figure 32**: Clarke Petitioners' Proposed 28th Senate District, which focuses on suburban communities surrounding Milwaukee*



7. Northeast Wisconsin: the Green Bay Metropolitan Area (Current Wisconsin Senate Districts 1, 2, and 30)

Wisconsin's 30th Senate district is situated in northeastern Wisconsin (shown in Figure 33). The district includes portions of three counties: Brown County (eastern and northeastern sections of the county), Oconto County (an eastern portion of the county), and Marinette County (a southern portion of the county). From a communities of interest perspective, it is concerning that the Green Bay area is trisected by Senate districts 1, 2, and 30. The 30th Senate district includes downtown Green Bay but extends north to include much more rural areas in northern Wisconsin, including Oconto, Coleman, and Peshtigo.[72] Given the shared tourism and economic interests of communities in the Green Bay area, it would be useful for the area to be situated in a common Senate district. Indeed, it is clear that Green Bay and surrounding communities work together to develop the local economy (via the *Greater Green Bay Chamber*) and to facilitate tourism (via *Discover Green Bay*), especially related to the Green Bay Packers.[73]

***Figure 33**: Current Wisconsin Senate District 30 (from Dave's Redistricting App website), which stretches from the Green Bay area to the City of Marinette*



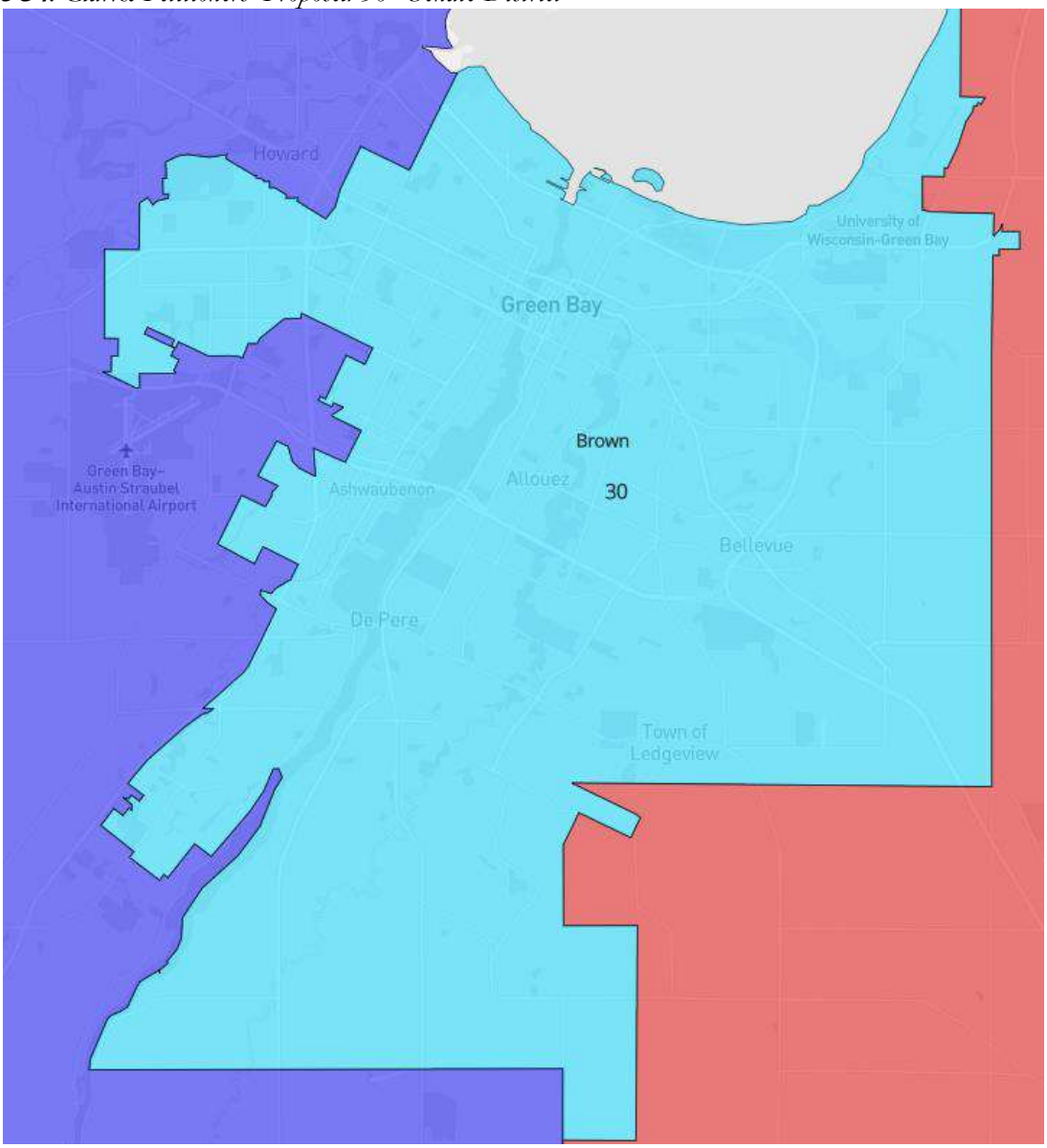
[72] The Wisconsin Office of Rural Health provides an "Municipal Urban-Rural Classification" (MURC), which identifies the level of rurality of each of Wisconsin's cities, towns, and villages. Their "Simple Classification" map indicates that the City of Green Bay is classified as urban, while places to the north like Peshtigo (city) and Oconto (city) are classified as rural.

[73] https://www.greatergbc.org and https://www.greenbay.com

Clarke Petitioners' Proposed Senate District

The proposed 30th Senate District from the Clarke Petitioners focuses on a fairly compact area surrounding the City of Green Bay. Rather than spanning from the City of Green Bay to more rural communities in the Northwoods area of Wisconsin, the proposed district focuses on the City of Green Bay (which is no longer split across multiple Senate Districts) and surrounding suburbs, such as Allouez, Ashwaubenon, De Pere, and Bellevue. These communities are commonly described as being part of the "Greater Green Bay Area."[74]

***Figure 34**: Clarke Petitioners' Proposed 30th Senate District*



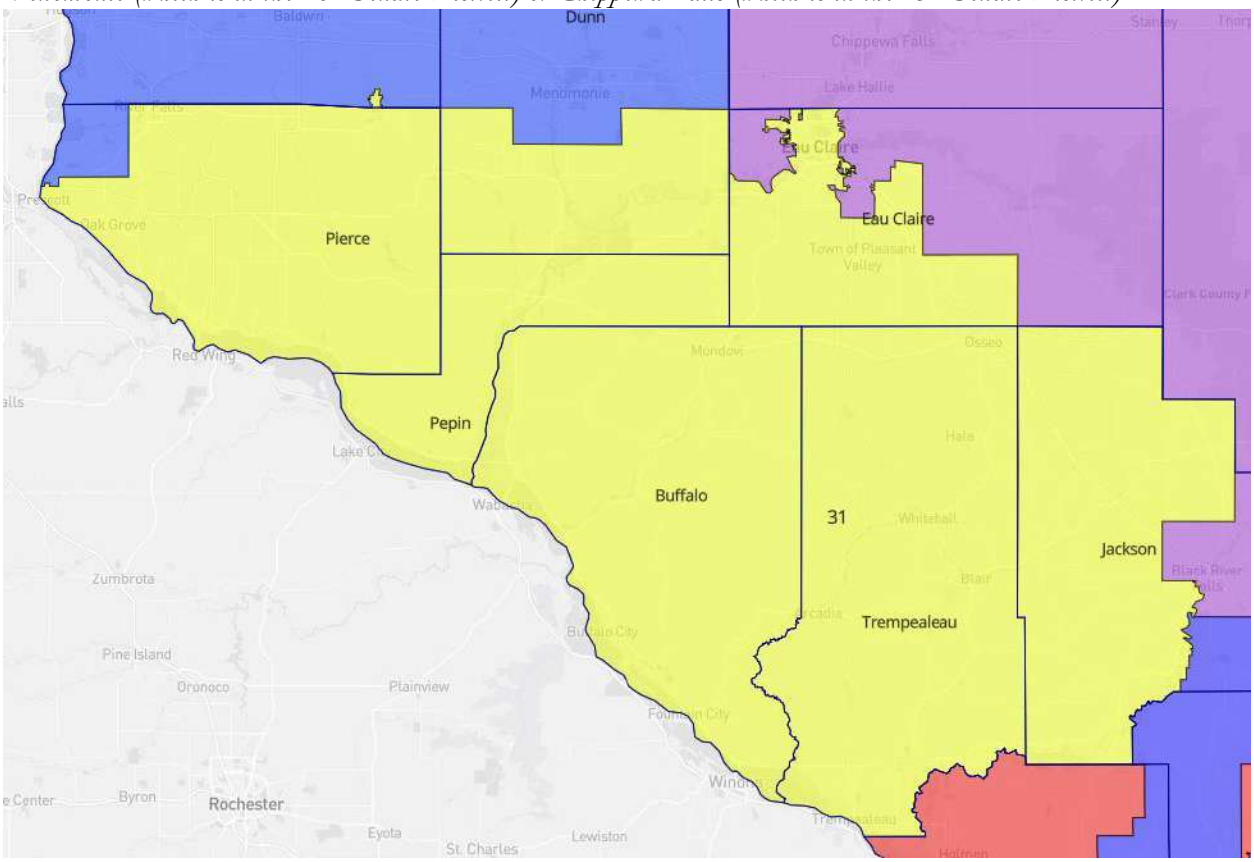
[74] https://www.greatergbc.org/about-the-region

8. Western Wisconsin: Eau Claire, Menomonie, and Chippewa Falls (Current Wisconsin Senate District 31)

Wisconsin's 31st Senate District is in western Wisconsin (shown in Figure 35). The district is made up of all of Buffalo, Pepin, and Trempealeau counties, most of Pierce County, as well as western Eau Claire County, western Jackson County, and part of Dunn County. The district includes a large portion of the city of Eau Claire. From the point of view of communities of interest, it is a concern that the district does not include the Assembly districts that contain the cities of Chippewa Falls and Menonomie. These areas have a number of strong connections and have been referred to as the state's "Golden Triangle."[75] A Wirtz (2017) notes, "The region, including Chippewa, Eau Claire and Dunn counties, forms a sideways triangle cut through by Interstate 94, a corridor of commercial activity interspersed with farmland running toward the Twin Cities. The term [Golden Triangle] foreshadowed the development of frac sand mining in the region; the tri-county area is home to a number of mines that harvest golden silica sand used in hydraulic fracturing of shale oil and natural gas wells across the country."[76] He goes on to note that "…Dunn County, anchored by Menonomie…is widely considered part of the Eau Claire metro thanks to proximity, its own UW campus and an uncongested freeway that makes for a quick commute in both directions to most of the triangle's 100,000 jobs."[77] It is worth pointing out that the "Eau Claire-Menomonie, WI" Combined Statistical Area includes Eau Claire, Menominee, and Chippewa Falls.[78] These areas connect in other ways as well. For example, there is a *Chippewa Valley Chamber Alliance* (made up of the chambers from Chippewa Falls, Eau Claire, and Menomonie) that holds the "Chippewa Valley Rally," where "Each year, business and community leaders from the Chippewa Falls, Eau Claire, and Menomonie areas meet with policymakers in Madison to discuss the Chippewa Valley's most critical economic issues."[79]

[75] https://www.minneapolisfed.org/article/2017/eau-claire-golden-triangle-regaining-its-luster
[76] Ibid.
[77] Ibid.
[78] https://www2.census.gov/geo/maps/econ/ec2012/csa/EC2012_330M200US232M.pdf
[79] https://www.eauclairechamber.org/2022/02/08/key-issues-2022-chippewa-valley-rally/

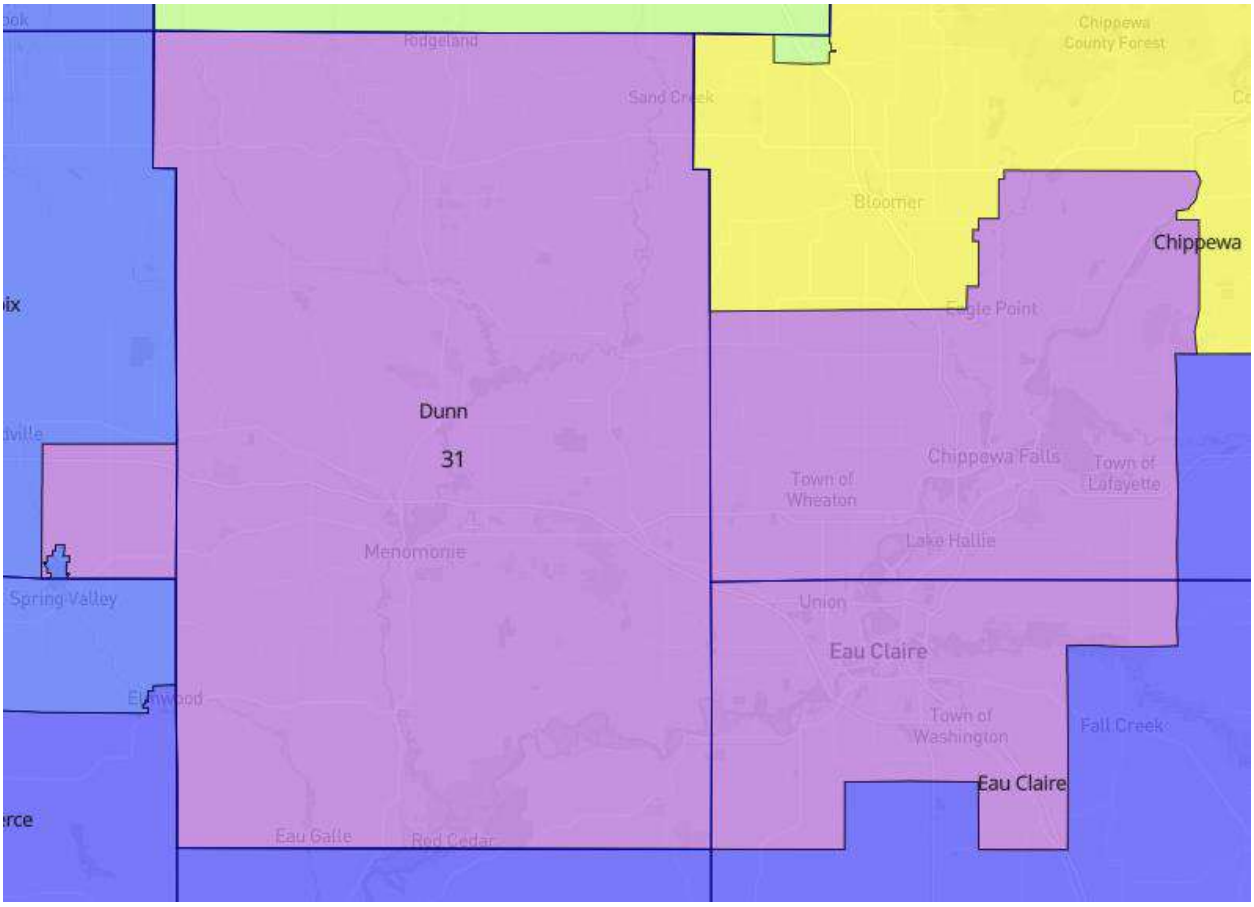
Figure 35: Current Senate District 31 (from Dave's Redistricting App website), which includes Eau Claire but not Menomonie (which is in the 10th Senate District) or Chippewa Falls (which is in the 23rd Senate District)



Clarke Petitioners' Proposed Senate District

Figure 36 shows the Clarke Petitioners' proposed 31st Senate District. From a communities of interest perspective, it is valuable that the proposed district locates Eau Claire, Menomonie, and Chippewa Falls in a shared Senate District. It makes sense to connect these areas given their shared economic interests. Indeed, this part of the state was designated as an agricultural enterprise area (AEA) in 2016 by the *Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP).*[80] According to DATCP, "The Golden Triangle agriculture enterprise area (AEA) is in the Chippewa Valley - an area between Eau Claire, Menomonie, and Chippewa Falls devoted to commercial and farmland activity. In 2015, a group of Eau Claire County farmers petitioned for the designation of the Golden Triangle AEA with the goals of promoting the agricultural economy and small-scale agriculture, using access to local city markets for local agricultural producers, and supporting farmland preservation."[81]

Figure 36: Clarke Petitioners' Proposed 31st Senate District, which includes Eau Claire, Menomonie, and Chippewa Falls



[80] https://datcp.wi.gov/Pages/News_Media/20200828AEASpotlightGoldenTriangle.aspx
[81] https://datcp.wi.gov/Documents/AEASnapshotGoldenTriangle.pdf

QUANTIFICATION OF COMMUNITY OF INTEREST SPLITS

Table 1 provides a list of the communities of interest identified in my report that are capable of being evaluated by their respective geographic scope and population (e.g., a city or set of cities) and the degree to which they have been split across multiple districts in the current plans and in the Clark Petitioners' proposed plans. More specifically, I list the municipality (or municipalities) within each community of interest, the total population, the Assembly and Senate districts that cover the communities of interest in both the current plans and the Clarke Petitioners' plans, and the percentage of the community of interest's population that is within each district. The final row of the table lists the total number of Assembly and Senate districts in both the current and Clarke Petitioners' plans that cross these communities of interest and the average percentage of the community of interest's population that is within each district for each plan. Based on the averages, it is clear that the Clarke Petitioners' proposed maps represent a substantial improvement over the existing plans when it comes to communities of interest.

In the current Assembly maps, the average percentage of the community of interest's population that is within each district is 28.00%. In contrast, in the Clarke Petitioners' proposed maps, the average percentage of the community of interest's population that is within each Assembly district is 36.84%. In the current Senate maps, the average percentage of the community of interest's population per Senate district is 43.75%. In the Clarke Petitioners' maps, the average percentage of the community of interest's population that is within each Senate district is 56.04%. It is also worth noting that there are more communities of interest in Table 1 where the Clarke plan includes 100% of the population of the COI within a single Assembly or Senate district compared to the current maps. Indeed, out of the 82 total districts in the current maps (50 Assembly and 32 Senate) identified in Table 1 that cross the COIs, just 4 contain 100% of the population of the COI. This amounts to 4.87% of districts. In the Clarke plan, out of the 63 total districts (38 Assembly and 25 Senate) that were identified as crossing the COIs, 17 of them contain 100% of the population of the COI. This amounts to 27% of the districts.

In instances where 100% of the population of a COI interest is not within the same district, it is noteworthy that the COIs in the Clarke plans are generally spread across fewer districts. There are a few instances where the current maps and Clarke Petitioners' plans are similar in terms of the number of districts that cross the COI, however, it is worth noting that the qualitative analyses in my report demonstrate that some groupings may be more sensible than others. For example, while the Fox Valley community of interest in Table 1 is split across the same number of Senate and Assembly districts in both the current maps and Clarke plan, the Clarke plan places Oshkosh in a Senate district along with Appleton and Neenah. This combination of places makes a good deal of sense given that Appleton-Oshkosh-Neenah, WI is a Combined Statistical Area and have shared economic concerns. This kind of contextual information is important when thinking about how to combine different places and should be considered alongside Table 1. In the few other cases where there are similar numbers of districts between the Clarke plan and the current maps, I note that the Clarke plan improves on the current plans by ensuring that there is a Senate district that contains the bulk of the relevant COI. For example, the Clarke proposed Senate District 30 corresponds to the Greater Green Bay area. Additionally, the Clarke proposed Senate District 28 focuses on the suburban areas to the west of Milwaukee.

Table 1: *Community of Interest and District Overlap: Current Maps & Clarke Maps*

Community of Interest	**Municipalities**	**Population**	**Current Maps (% in district)**	**Clarke Maps (% in district)**
Beloit (District 2 in Maptitude Report)	Beloit	36,657	AD31 (19.89%) AD45 (80.11%) SD11 (19.89%) SD15 (80.11%)	AD43 (100%) SD45 (100%)
Eau Claire/Chippewa Falls/Menomonie (District 3 in Maptitude Report)	Eau Claire, Chippewa Falls, Menomonie	100,995	AD29 (16.68%) AD67 (20.17%) AD68 (4.32%) AD91 (58.83%) AD93 (0.01%) SD10 (16.68%) SD23 (24.49%) SD31 (58.83%)	AD91 (43.54%) AD92 (39.72% AD93 (16.75%) SD31 (100%)
Fox Valley (District 4 in Maptitude Report)	Oshkosh, Oshkosh Town, Vinland, Neenah Town, Neenah, Menasha, Fox Crossing, Appleton, Grand Chute, Little Chute, Kimberly, Combined Locks, Kaukauna	278,424	AD3 (10.21%) AD5 (10.31%) AD53 (3.46%) AD54 (21.41%) AD55 (18.75%) AD56 (14.52%) AD57 (21.34%) SD1 (10.21%) SD2 (10.31%) SD18 (24.87%) SD19 (54.61%)	AD4 (22.72%) AD5 (12.79%) AD42 (3.78%) AD52 (22.59%) AD53 (21.16%) AD54 (12.61%) AD55 (4.36%) SD2 (35.51%) SD14 (3.78%) SD18 (56.35%) SD19 (4.36%)
Green Bay Metro Area (District 1 in Maptitude Report)	Green Bay, Bellevue, Allouez, Ledgeview, De Pere, Ashwaubenon, Hobart, Howard	218,868	AD1 (0.01%) AD2 (11.61%) AD4 (27.25%) AD5 (6.86%) AD88 (24.10%) AD89 (2.89%) AD90 (27.28%) SD1 (11.62%) SD2 (34.10%) SD30 (54.28%)	AD1 (0.01%) AD6 (19.05%) AD88 (27.30%) AD89 (27.27%) AD90 (26.38%) SD1 (0.01%) SD2 (19.05%) SD30 (80.94%)
Hudson/River Falls (District 5 in Maptitude Report)	Hudson, River Falls	30,937	AD30 (59.45%) AD93 (40.55%) SD10 (59.45%) SD31 (40.55%)	AD30 (100%) SD10 (100%)

Community of Interest	**Municipalities**	**Population**	**Current Maps (% in district)**	**Clarke Maps (% in district)**
Marshfield (District 6 in Maptitude Report)	Marshfield	18,929	AD69 (78.77%) AD86 (21.23%) SD23 (78.77%) SD29 (21.23%)	AD69 (100%) SD23 (100%)
Northern Milwaukee Suburbs (District 7 in Maptitude Report)	Whitefish Bay, Fox Point, Bayside, River Hills, Brown Deer, Mequon, Thiensville, Grafton Village, Grafton Town, Port Washington City	97,713	AD12 (1.61%) AD23 (60.77%) AD24 (24.98%) AD60 (12.64%) SD4 (1.61%) SD8 (85.75%) SD20 (12.64%)	AD12 (1.61%) AD23 (60.79%) AD24 (37.60%) SD4 (1.61%) SD8 (98.39%)
Sheboygan (District 8 in Maptitude Report)	Sheboygan	49,929	AD26 (62.76%) AD27 (37.24%) SD9 (100%)	AD25 (100%) SD9 (100%)
Southern Milwaukee County (District 9 in Maptitude Report)	St. Francis, Cudahy, South Milwaukee	48,160	AD20 (56.82%) AD21 (43.18%) SD7 (100%)	AD21 (100%) SD7 (100%)
Superior/Bayfield County (District 10 in Maptitude Report)	Douglas County, Bayfield County	60,512	AD73 (64.40%) AD74 (35.60%) SD25 (100%)	AD73 (98.09%) AD74 (1.91%) SD25 (100%)
Two Rivers/Manitowoc (District 11 in Maptitude Report)	Two Rivers, Manitowoc	45,897	AD2 (24.56%) AD25 (75.44%) SD1 (24.56%) SD9 (75.44%)	AD2 (100%) SD1 (100%)
Wausau/Stevens Point/Wisconsin Rapids (District 12 in Maptitude Report)	Wausau, Stevens Point, Wisconsin Rapids	84,537	AD71 (30.36%) AD72 (22.33%) AD85 (47.31%) SD24 (52.69%) SD29 (47.31%)	AD85 (47.31%) AD86 (22.33%) AD87 (30.36%) SD29 (100%)
Western Milwaukee County Suburbs (District 13 in Maptitude Report)	Wauwatosa, West Allis, Greenfield, Greendale, Hales Corners	169,089	AD7 (14.42%) AD12 (1.04%) AD13 (3.01%) AD14 (35.25%) AD15 (8.76%) AD18 (6.17%) AD82 (7.81%)	AD7 (14.42%) AD12 (1.04%) AD15 (4.57%) AD18 (6.17%) AD20 (1.21%) AD82 (13.83% AD83 (35.26%)

Community of Interest	**Municipalities**	**Population**	**Current Maps (% in district)**	**Clarke Maps (% in district)**
			AD84 (23.54%) SD3 (14.42%) SD4 (1.04%) SD5 (47.03%) SD6 (6.17%) SD28 (31.35%)	AD84 (23.50%) SD3 (14.42%) SD4 (1.04%) SD5 (4.57%) SD6 (6.17%) SD7 (1.21%) SD28 (72.60%)
Whitewater (District 14 in Maptitude Report)	Whitewater	14,889	AD31 (78.72%) AD33 (21.28%) SD11 (100%)	AD43 (100%) SD15 (100%)
			Total Assembly Districts: 50 **Avg. % / Assembly District: 28.00%** **Total Senate Districts: 32** **Avg. % / Senate District: 43.75%**	**Total Assembly Districts: 38** **Avg. % / Assembly District: 36.84%** **Total Senate Districts: 25** **Avg. % / Senate District: 56.04%**

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 11, 2024.



Aaron C. Weinschenk, Ph.D.

Appendix A

AARON C. WEINSCHENK

Curriculum Vita

ACADEMIC APPOINTMENTS

Ben J. and Joyce Rosenberg Professor of Political Science, University of Wisconsin-Green Bay, August 2020-*present*
Professor of Political Science, University of Wisconsin-Green Bay, June 2020-*present*
Associate Professor of Political Science (with tenure), University of Wisconsin-Green Bay, 2017-2020
Assistant Professor of Political Science, University of Wisconsin-Green Bay, 2013-2017

ADMINISTRATIVE APPOINTMENTS

Chair, Department of Political Science, August 2018-*present*

EDUCATION

Ph.D., Political Science, University of Wisconsin-Milwaukee (2013)
Exam Fields: American Politics and Public Administration & Policy

Stanford University Summer Institute in Political Psychology, 2011
ICPSR Summer Program in Quantitative Methods of Social Research, University of Michigan, 2010 & 2012

M.A., Political Science, University of Wisconsin-Milwaukee (2009)

B.A. & B.S., Political Science & Public Administration, University of Wisconsin-Green Bay (2007), Summa Cum Laude (*with distinction in the major*)

EDITORIAL POSITIONS

Guest Editor, *Personality and Individual Differences,* special issue on personality and politics, with Bert Bakker, Christopher Dawes, Gillian Finchilescu, and Robert Klemmensen, 2019

Member, Editorial Board, *Journal of Social and Political Psychology,* 2017-*present*

Member, Editorial Board, *Politics and the Life Sciences,* 2020-*present*

PEER REVIEWED BOOK

Panagopoulos, Costas and Aaron C. Weinschenk. 2016. *A Citizen's Guide to U.S. Elections: Empowering Democracy in America*. New York, NY: Routledge.

PEER REVIEWED ARTICLES

52. Shah, Paru, Aaron Weinschenk, and Zach Yiannias. Forthcoming. "Schoolhouse Rocked: Pandemic Politics and the Nationalization of School Board Elections." *State Politics & Policy Quarterly*.

51. Holbrook, Thomas, Amanda Heideman, and Aaron Weinschenk. Forthcoming. "Objective Conditions, Political Knowledge, and Perceptions of Electoral Competition in U.S. Mayoral Elections." *Social Science Quarterly*.

50. Kaden Paulson-Smith, David Nehlsen, Jacob Lau, Jared Knutson, Jake Wesner, Mackenzie Klug, Gage Beck, Brady Reinhard, and Aaron Weinschenk. Forthcoming. "The Politics of Words: A Survey Experiment on 'Defund the Police.'" *The Social Science Journal.*

49. Smith, Kevin, Aaron Weinschenk, and Costas Panagopoulos. Forthcoming. "On Pins and Needles: Anxiety, Politics, and the 2020 U.S. Presidential Election." *Journal of Elections, Public Opinion & Parties.*

48. Hebbelstrup Rye Rasmussen, Stig, Aaron Weinschenk, Christopher Dawes, Jacob v.B. Hjelmborg, and Robert Klemmensen. 2023. "Parental Transmission and the Importance of the (Noncausal) Effects of Education on Political Engagement: Missing the Forest for the Trees." *Social Psychological and Personality Science* 14(7): 854-864.

47. Panagopoulos, Costas and Aaron C. Weinschenk. 2022. "Health and Election Outcomes: Evidence from the 2020 U.S. Presidential Election." *Political Research Quarterly* 76(2): 712-24.

46. Weinschenk, Aaron, Christopher Dawes, Robert Klemmensen, and Stig Hebbelstrup Rye Rasmussen. Forthcoming. "Genes, Personality, and Political Behavior: A Replication and Extension Using Danish Twins." *Politics and the Life Sciences* 42(1): 4-16.

45. Weinschenk, Aaron. 2022. "The Nationalization of School Superintendent Elections." *Social Science Quarterly* 103(3): 597-606

44. Weinschenk, Aaron, and Costas Panagopoulos. 2022. "Attitudes and Perceptions about the 2020 Presidential Election and Turnout Intentions in the 2022 Midterms." *The Forum: A Journal of Applied Research in Contemporary Politics 20(2): 311-325*.

43. Weinschenk, Aaron, Stig Hebbelstrup Rye Rasmussen, Kaare Christensen, Christopher Dawes, and Robert Klemmensen. 2022. "The Five Factor Model of Personality and Heritability: Evidence from Denmark." *Personality and Individual Differences* 192: 111605.

42. Weinschenk, Aaron C. and Christopher T. Dawes. 2022. "Civic Education in High School and Voter Turnout in Adulthood." *British Journal of Political Science* 52(2): 934-948.

41. Weinschenk, Aaron C., Christopher T. Dawes, Stig Hebbelstrup Rye Rasmussen, and Robert Klemmensen. Forthcoming. "The Relationship Between Education and Political Knowledge: Evidence from Discordant Danish Twins." *Journal of Elections, Public Opinion & Parties.*

40. Weinschenk, Aaron, Costas Panagopoulos, and Sander van der Linden. 2021. "Democratic Norms, Social Projection, and False Consensus in the 2020 U.S. Presidential Election." *Journal of Political Marketing* 20(3-4): 255-268.

39. Hebbelstrup Rye Rasmussen, Stig, Aaron Weinschenk, Asbjørn Sonne Nørgaard, Jacob von Bornemann Hjelmborg, and Robert Klemmensen. 2021. "Educational Attainment Has a Causal Effect on Economic, But Not Social Ideology: Evidence from Discordant Twins." *Political Studies.* https://doi.org/10.1177/00323217211008788

38. Weinschenk, Aaron C. 2021. "Creating and Implementing an Undergraduate Research Lab in Political Science." *Journal of Political Science Education* 17: 284-296.

37. Weinschenk, Aaron, Christopher Dawes, Sven Oskarsson, Robert Klemmensen, and Asbjørn Sonne Nørgaard. 2021. "The Relationship Between Political Attitudes and Political Engagement: Evidence from Monozygotic Twins in the United States, Sweden, Germany, and Denmark." *Electoral Studies* 69: 102269.

36. Weinschenk, Aaron C., Christopher T. Dawes, and Sven Oskarsson. 2021. "Does Education Instill Civic Duty? Evidence from Monozygotic Twins in the United States and Sweden." *International Journal of Public Opinion Research* 33(1): 183-95.

35. Weinschenk, Aaron C. and Costas Panagopoulos. 2020. "Are Campaign Contributions Perceived as a Civic Duty? *The Social Science Journal.* DOI: 10.1080/03623319.2020.1809899.

34. Bell, Edward, Christopher Dawes, Aaron Weinschenk, Rainer Riemann, and Christian Kandler. 2020. "Patterns and Sources of the Association between Intelligence, Party Identification, and Political Orientations." *Intelligence* 81: 101457.

33. Weinschenk, Aaron C., Amanda Baker, Zoe Betancourt, Vanessa Depies, Nathan Erck, Quinne Herolt, Amanda Loehrke, Cameron Makurat, Hannah Malmberg, Clarice Martell, Jared Novitzke, Bradley Riddle, Tara Sellen, Leah Tauferner, and Emily Zilliox. 2020. "Have State Supreme Court Elections Nationalized?" *Justice System Journal* 41(4): 313-322.

32. Dawes, Christopher T., and Aaron C. Weinschenk. 2020. "On the Genetic Basis of Political Orientation." *Current Opinion in Behavioral Sciences* 34: 173-178.

31. Holbrook, Thomas M., and Aaron C. Weinschenk. 2020. "Information, Political Bias, and Public Perceptions of Local Conditions in U.S. Cities." *Political Research Quarterly* 73(1): 221-36.

30. Holbrook, Thomas M. and Aaron C. Weinschenk. 2020. "Are Perceptions of Local Conditions Rooted in Reality? Evidence from Two Large-Scale Local Surveys." *American Politics Research* 48(4): 467-74.

29. Devine, Christopher and Aaron C. Weinschenk. 2020. "Surrogate-in-Chief: Did Bill Clinton's Campaign Visits Help (or Hurt) Hillary Clinton in 2016?" *The Forum: A Journal of Applied Research in Contemporary Politics* 18(2): 177-95.

28. Weinschenk, Aaron C. and Christopher T. Dawes. 2020. "The Type of Student You Were in High School Predicts Voter Turnout in Adulthood." *Social Science Quarterly* 101(1): 269-284.

27. Weinschenk, Aaron C., Christopher T. Dawes, Christian Kandler, Edward Bell, and Rainer Riemann. 2019. "New Evidence on the Link Between Genes, Psychological Traits, and Political Engagement." *Politics and the Life Sciences* 38(1): 1-13.

26. Weinschenk, Aaron C. and Christopher T. Dawes. 2019. "Moral Foundations, System Justification, and Support for Trump in the 2016 Presidential Election." *The Forum: A Journal of Applied Research in Contemporary Politics* 17(2): 195-208.

25. Weinschenk, Aaron C., and Christopher T. Dawes. 2019. "The Genetic and Psychological Underpinnings of Generalized Social Trust." *Journal of Trust Research* 9(1): 47-65.

24. Weinschenk, Aaron C., and Christopher T. Dawes. 2019. "The Effect of Education on Political Knowledge: Evidence from Monozygotic Twins." *American Politics Research* 47(3): 530-548.

23. Weinschenk, Aaron C. 2019. "That's Why the Lady Lost to the Trump: Demographics and the 2016 Presidential Election." *Journal of Political Marketing* 18(1-2): 69-91.

22. Weinschenk, Aaron C., Costas Panagopoulos, Karly Drabot, and Sander van der Linden. 2018. "Gender and Social Conformity: Do Men and Women Respond Differently to Social Pressure to Vote?" *Social Influence* 13(2): 53-64.

21. Weinschenk, Aaron C., and Costas Panagopoulos. 2018. "The Dynamics of Voter Preferences in the 2016 Presidential Election." *The Forum: A Journal of Applied Research in Contemporary Politics* 16(1): 123-136.

20. Panagopoulos, Costas, Kyle Endres, and Aaron Weinschenk. 2018. "Preelection Poll Accuracy and Bias in the 2016 U.S. General Elections." *Journal of Elections, Public Opinion & Parties* 28(2): 157-172.

19. Weinschenk, Aaron C. and Christopher T. Dawes. 2018. "Genes, Personality Traits, and the Sense of Civic Duty." *American Politics Research* 46(1): 47-76.

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IN THE SUPREME COURT OF WISCONSIN

No. 2023AP1399

REBECCA CLARKE, RUBEN ANTHONY, TERRY DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD, CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE KIRST, SELIKA LAWTON, FABIAN MALDONADO, ANNEMARIE MCCLELLAN, JAMES MCNETT, BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS, NATHANIEL SLACK, MARY SMITH-JOHNSON, DENISE (DEE) SWEET, AND GABRIELLE YOUNG,

Petitioners,

GOVERNOR TONY EVERS, IN HIS OFFICIAL CAPACITY; NATHAN ATKINSON, STEPHEN JOSEPH WRIGHT, GARY KRENZ, SARAH J. HAMILTON, JEAN-LUC THIFFEAULT, SOMESH JHA, JOANNE KANE, AND LEAH DUDLEY,

Intervenors-Petitioners

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS, ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN S. JACOBS, MARGE BOSTELMANN, AND CARRIE RIEPL, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION; MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS THE ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION; SENATOR ANDRÉ JACQUE, SENATOR TIM CARPENTER, SENATOR ROB HUTTON, SENATOR CHRIS LARSON, SENATOR DEVIN LEMAHIEU, SENATOR STEPHEN L. NASS, SENATOR JOHN JAGLER, SENATOR MARK SPREITZER, SENATOR HOWARD L. MARKLEIN, SENATOR RACHAEL CABRAL-GUEVARA, SENATOR VAN H. WANGGAARD, SENATOR JESSE L. JAMES, SENATOR ROMAINE ROBERT QUINN, SENATOR DIANNE H. HESSELBEIN, SENATOR CORY TOMCZYK, SENATOR JEFF SMITH, AND SENATOR CHRIS KAPENGA, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN SENATE,

Respondents,

WISCONSIN LEGISLATURE; BILLIE JOHNSON, CHRIS GOEBEL, ED PERKINS, ERIC O'KEEFE, JOE SANFELIPPO, TERRY MOULTON, ROBERT JENSEN, RON ZAHN, RUTH ELMER, AND RUTH STRECK,

Intervenors-Respondents.

DECLARATION OF RONALD KEITH GADDIE

I, Ronald Keith Gaddie, declare as follows:

1. My name is Ronald Keith Gaddie.

2. I reside at 3801 Chamberlyne Way, Norman, Oklahoma.

3. I am currently Hoffman Endowed Chair and Professor of Political Science at Texas Christian University in Fort Worth, Texas. I was previously professor and chair of political science; professor and associate dean of architecture; and professor of journalism and also Presidential Professor at the University of Oklahoma. I have authored or coauthored over 20 books, including several books on elections, campaigns and voting rights including The Triumph of Voting Rights in the South and The Rise and Fall of the Voting Rights Act.

4. For 13 years I served as a redistricting and election law expert witness and consultant, working in numerous states and jurisdictions including in Wisconsin and have always been accepted as an expert when offered. Most recently, I served as an expert witness for the State of Wisconsin Government Accountability Board and testified at trial in *Baldus, et al. v. Members of the Government Accountability Board*, the federal court lawsuit challenging the state legislative districts adopted in 2011 Wisconsin Act 43.

5. I have submitted several briefs as *amicus curiae* to the United States Supreme Court on redistricting and voting rights matters, including recent litigation over partisan gerrymandering in Wisconsin.

6. I have examined the proposed Clarke Petitioners' Assembly and Senate maps on a series of criteria used to evaluate single-member district plans.

7. These criteria are the same criteria articulated by myself and other experts such as Prof. Kenneth Mayer in previous litigation as indicative of 'good' maps which serve the general (or public) interest while also satisfying the required legal criteria.

8. Experts in redistricting and voting rights are generally agreed on the technical measures of features such as competitiveness, compactness, not splitting political subdivisions, and other criteria. These criteria, already articulated by Prof. Mayer in previous litigation on this matter, are used here.

9. It is my conclusion that the proposed Clarke maps improve over the previous maps crafted by the Wisconsin Legislature (SB 621) and adopted by the Wisconsin Supreme Court (*Johnson v. Wisconsin Elections Commission*, 2022 WI 59) on five criteria examined:

a. The Clarke maps are more compact based on traditional and accepted measures of compactness.

b. The Clarke maps marginally improve instances of political subdivision splits, slightly reducing the total count.

c. The Clarke maps afford far greater partisan fairness, coming as close as one might practically achieve to political neutrality while crafting 'good government' single member district plans.

d. The Clarke maps slightly improve on overall competitiveness in the map, though both Democrats and Republicans generally enjoy 'safe' seats – roughly 15% of seats are 'highly' competitive in the proposed maps and the maps previously in effect but enjoined by the Court in its December 22, 2023 ruling.

e. The Clarke Maps afford a far more conventional 'responsiveness curve,' with the tipping point from Democratic majority to Republican majority running through the 50% marker. The 'S-

curve' found in responsive, good government maps is in greater evidence here than in past maps passed by the Wisconsin Legislature.

f. Similarly, the 'bias cliff' which locked in the partisan majorities in the previous plans (2011 Wisconsin Act 43 and the legislative districts adopted *in Johnson v. Wisconsin Elections* Commission) is not in evidence in the Clarke maps, which, when taken in conjunction with the improvement on critical good government criteria, can be taken as evidence of intent in the previous gerrymander (*see also Cox v. Larios*, 542 U.S. 947 2004, on the discernibility of partisan gerrymanders to the judicial eye).

10. In sum: the proposed Clarke maps, in remedying the legal defects in the legislative districts previously in force and enjoined by the Court, also improve on nearly all of the good government indicators in redistricting and results in a responsive, competitive mapping scheme for the Wisconsin Assembly and the Wisconsin Senate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 11, 2024.

Ronald Keith Gaddie
Ronald Keith Gaddie

KeyCite Yellow Flag - Negative Treatment
Amended by Baumgart v. Wendelberger, E.D.Wis., July 11, 2002

2002 WL 34127471
Only the Westlaw citation is currently available.
United States District Court,
E.D. Wisconsin.

James R. BAUMGART, Roger M. Breske, Brian T. Burke, Charles J. Chvala, Russell S. Decker, Jon Erpenbach, Gary R. George, Richard Grobschmidt, Dave Hansen, Robert Jauch, Mark Meyer, Rodney Moen, Gwendolynne S. Moore, Kimberly Plache, Fred A. Risser, Judy Robson, Kevin W. Shibilski, Robert D. Wirch, Spencer Black, James E. Kreuser, Gregory B. Huber, each individually and as members of the Wisconsin State Senate, Intervenor–Plaintiffs,
v.
Jeralyn WENDELBERGER, chairperson of the Wisconsin Elections Board, and each of its members in his or her official capacity, John P. Savage, David Halbrooks, R.J. Johnson, Brenda Lewison, Steven V. Ponto, John C. Schober, Christine Wiseman and Kevin J. Kennedy, its executive director, Defendants,
and
Scott R. JENSEN, in his capacity as the Speaker of the Wisconsin Assembly, and Mary E. Panzer, in her capacity as the Minority Leader of the Wisconsin Senate, Intervenor–Defendants.
Scott R. JENSEN, in his capacity as the Speaker of the Wisconsin Assembly, Mary E. Panzer, in her capacity as the Minority Leader of the Wisconsin Senate, Plaintiffs,
v.
Jeralyn WENDELBERGER, chairperson of the Wisconsin Elections Board, and each of its members in his or her official capacity, John P. Savage, David Halbrooks, R.J. Johnson, Brenda Lewison, Steven V. Ponto, John C. Schober. Christine Wiseman, Kevin J. Kennedy, its executive director, Defendants,
and
James R. BAUMGART, Roger M. Breske, Brian T. Burke, Charles J. Chvala, Russell S. Decker, Jon Erpenbach, Gary R. George, Richard Grobschmidt, Dave Hansen, Robert Jauch, Mark Meyer, Rodney Moen, Gwendolynne S. Moore, Kimberly Plache, Fred A. Risser, Judy Robson, Kevin W. Shibilski, Robert D. Wirch, Spencer Black, James E. Kreuser, Gregory B. Huber, each individually and as members of the Wisconsin State Senate, Intervenor–Defendants.

No. 01–C–0121, 02–C–0366.
|
May 30, 2002.

Attorneys and Law Firms

Daniel Kelly, Patrick J. Hodan, Reinhart Boerner Van Deuren, Eric M. McLeod, Gordon P. Giampietro, Michael Best & Friedrich, Milwaukee, WI, James R. Troupis, Raymond P. Taffora, Michael Best & Friedrich, Madison, WI, for Plaintiffs.

James E. Bartzen, Michael P. May, Sarah A. Zylstra, Boardman Suhr Curry & Field, Madison, WI, Randall L. Nash, O'Neil Cannon & Hollman, Milwaukee, WI, for Intervenor–Plaintiffs.

Before EASTERBROOK, Circuit Judge, STADTMUELLER, Chief District Judge, and CLEVERT, District Judge.

AMENDED MEMORANDUM OPINION AND ORDER

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PER CURIAM.

***1** These consolidated actions challenge the constitutionality of the current apportionment of Wisconsin Assembly and Senate districts and seek declaratory, injunctive and other relief under the Constitution and laws of the United States, including the Fourteenth Amendment, the Fifteenth Amendment, § 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973 and 42 U.S.C. § 1983, as well as the laws and Constitution of the State of Wisconsin.[1] Both sets of plaintiffs ask the court to declare that the existing apportionment of the Wisconsin Senate and Assembly is unconstitutional and invalid. Moreover, they seek an order enjoining the eight members of the Wisconsin Elections Board from taking any actions related to elections under the existing apportionment plan, and an order redistricting the State of Wisconsin into 99 Assembly and 33 Senate Districts. As a consequence, the parties urge the court to adopt a reapportionment plan and maps that they have proffered as a remedy for the malapportionment following the 2000 decennial census.

Chief Judge Joel M. Flaum of the Court of Appeals for the Seventh Circuit convened this panel and authorized it to hear both actions, pursuant to 28 U.S.C. § 2284, when the Wisconsin legislature failed to enact a plan of reapportionment. As a consequence, a trial on the merits was conducted on April 11 and April 12, 2002. For the reasons that follow, the court finds the existing Wisconsin Assembly and Senate districts violative of the "one person, one vote" standard articulated by *Reynolds v. Sims,* 377 U.S. 533, 555, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964), and will implement a reapportionment plan to remedy the defects in those districts.

PROCEDURAL HISTORY

These actions were initiated with the filing of a complaint on February 1, 2001, by a group of Wisconsin voters naming the Wisconsin Elections Board and its members as defendants. Those voters alleged that Wisconsin's federal congressional districts violated the "one-person, one vote" principle articulated in art. I, sec. 2 of the United States Constitution.[2] Two groups of state legislators then filed motions to intervene. The first, the Baumgart intervenors, represent the Democratic members of the Wisconsin Senate, while the second, the Jensen intervenors, represent the Republican leaders of the State Senate and State Assembly. The motions to intervene were granted in November 2001. Subsequently, several other groups and individuals filed motions to intervene. The motions of Senators Gwendolynne Moore and Gary George were granted, and the motions of the African–American Coalition for Empowerment, Citizens for Competitive Elections, and Wisconsin Manufacturers and Commerce Association were denied. However, they were named amicus curiae.

***2** On April 12, 2002, to remedy a possible jurisdictional defect, the Jensen intervenors filed a separate complaint (the "Jensen action") against the members of the Elections Board reasserting the state apportionment issues raised in the earlier case. The new filing, Case No. 02–C–0366, was assigned to Judge Clevert as a related case. Later that day, Chief Judge Flaum appointed Judges Easterbrook and Stadtmueller to the panel hearing the second case. The two cases were then consolidated, and the Baumgart intervenors intervened in the second action (02–C–0366).

BACKGROUND

The United States Census Bureau released its final 2000 census data on March 8, 2001, showing that Wisconsin's total population is 5,463,675. Dividing this population into ninety-nine equipopulous state assembly districts and thirty-three equipopulous senate districts would yield Assembly districts containing 54,179 persons and state senate districts containing 162,536 persons. However, populations in the existing state Senate and Assembly districts vary substantially from these numbers. For example, Senate District 6 deviates more than 22 percent from the perfect senate district numeric population, and Assembly District 18 deviates more than 26 percent from the perfect assembly district numeric population. All parties agree that as drawn, Wisconsin Senate and Assembly districts are unconstitutional.

DISCUSSION

The reapportionment of state legislative districts requires the balancing of several disparate goals. These are summarized below.

"The Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when

compared with votes of citizens living in other parts of the State." *Reynolds v. Sims,* 377 U.S. 533, 568, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). With respect to reapportionment, population equality is the "most elemental requirement of the Equal Protection Clause." *Connor v. Fitch,* 431 U.S. 407, 409, 97 S.Ct. 1828, 52 L.Ed.2d 465 (1977). *See also Chapman v. Meier,* 420 U.S. 1, 22, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975). However, the Supreme Court has not pronounced a threshold for a constitutionally acceptable level of deviation from absolute population equality. The three-judge panel that redistricted the State of Wisconsin in 1982 stated that population deviations should be of the *"de minimis"* variety, which it defined as below 2 percent. *AFL–CIO v. Elections Bd.,* 543 F.Supp. 630, 634 (E.D.Wis.1982).[3] The 1992 reapportionment panel noted that because the 1990 decennial census contained errors and was out of date by the time of trial, the court not need fall for the "fallacy of delusive exactness" in fashioning a plan, and that "below one percent [deviation in voting power] there are no legally or politically relevant degrees of perfection." *Prosser v. Elections Bd.,* 793 F.Supp. 859, 865–66 (W.D.Wis.1992).[4]

***3** Although population equality is the primary goal while constructing legislative districts, it is not the only one. In the context of Congressional redistricting plans, the Supreme Court has observed that "court-ordered districts are held to higher standards of population equality than legislative ones," but that "slight deviations are allowed" if supported by "historically significant state policy or unique features." *Abrams v. Johnson,* 521 U.S. 74, 98, 117 S.Ct. 1925, 138 L.Ed.2d 285 (1997) (internal citations omitted).

Historically, federal courts have accepted some deviation from perfect population equality to comply with "traditional" redistricting criteria. These criteria include retaining previous occupants in new legislative districts, known as "core retention," *see Karcher,* 462 U.S. 725, 740, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983); avoiding split municipalities, *see id.;* drawing districts that are as contiguous and compact as possible, *see id.;* respecting the requirements of the Voting Rights Act, 42 U.S.C. § 1973; maintaining traditional communities of interest, *see AFL–CIO,* 543 F.Supp. at 636; and avoiding the creation of partisan advantage, *see Prosser,* 793 F.Supp. at 867 (noting that "[j]udges should not select a plan that seeks partisan advantage"). Avoiding unnecessary pairing of incumbents, a criterion discussed by the Supreme Court in *Karcher,* 462 U.S. at 740, was expressly rejected by the 1982 Wisconsin reapportionment panel, *see AFL–CIO,* 543 F.Supp. at 638 (stating that the panel did not consider incumbent residency in drafting its plan).

Courts in Wisconsin have accepted some deviation from perfect population equality in view of two special considerations. The first involves senate elections. In Wisconsin, state senators have four year terms. State senators from even-numbered districts run for office in years corresponding to the presidential election cycle, and state senators from odd-numbered districts are elected during midterm elections. Thus, in midterm legislative election years such as 2002, if voters are shifted from odd to even senate districts, they will face a two-year delay in voting for state senators. Delays of this nature are referred to as "disenfranchisement." *See Prosser,* 793 F.Supp. at 866.

The second consideration is the avoidance of ward boundary splits and, where possible, municipal boundary splits. Article IV, section 4 of the Wisconsin Constitution provides that assembly districts are "to be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable." At one time this language was interpreted as prohibiting the creation of Assembly districts that crossed county lines. Indeed, in 1964 the Wisconsin Supreme Court declined to divide any counties when reapportioning the state, thereby creating a maximum population deviation of 76.2%. *See Wisconsin ex rel. Reynolds v. Zimmerman,* 23 Wis.2d 606, 623 (1964). Although avoiding the division of counties is no longer an inviolable principle, respect for the prerogatives of the Wisconsin Constitution dictate that wards and municipalities be kept whole where possible. This is in accord with the decisions of two earlier Wisconsin three judge panels. The 1982 and 1992 reapportionment panels did not divide any wards in their respective reapportionment plans, and the 1992 panel rejected a proposed plan that achieved 0% population deviation by splitting wards. *See Prosser,* 793 F.Supp. at 866.

***4** With these considerations in mind, we turn to the plans submitted in these cases. A total of sixteen plans were submitted to the court. The Jensen intervenors filed nine plans (variations on a theme with different standards of population equality), the Baumgart intervenors three, while Senator George, the African American Coalition for Empowerment, Citizens for Competitive Elections, and Wisconsin Manufacturers and Commerce each filed one. Of the multiple plans submitted by the Jensen and Baumgart intervenors, the court considered only two for each group, JP1 Alternate A (Alt A) and JP1 Alternate C (Alt C) for the Jensen

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intervenors, and Leg Dem B and Leg Dem C for the Baumgart intervenors.

The two Jensen intervenor plans—Alt A and Alt C—have the lowest levels of population deviation of any of the filed plans, with maximum deviations of .97 and 1.00%, respectively. Moreover, they have the highest levels of core retention, lowest levels of disenfranchisement, and highest levels of compactness of any of the plans submitted.

On the other hand, the partisan origins of the Jensen plans are evident. First, they pair a substantial number of Democratic incumbents, while several Republican incumbent pairs are pairs in name only, with one of each retiring or running for another office. Second, it appears that the Jensen Assembly plans are designed to move a number of incumbent Democrats into strongly Republican districts and either pack Democrats into as few districts as possible or divide them among strong Republican districts. On the Senate side, the Jensen plans include questionable splits on the county level in districts with Democrat incumbents, and appear to have been designed to ensure Republican control of the Senate.

The Baumgart plans are riddled with their own partisan marks. Leg Dem B and Leg Dem C divide the City of Madison into six districts radiating out from the Capitol in pizza slice fashion. The Leg Dem plans have higher levels of population deviation, lower levels of core retention, higher levels of disenfranchisement, and lower levels of compactness than the Alt A and Alt C plans, in part because they renumber the Senate districts in Milwaukee County (again for presumed partisan advantage).

Senator George's plan is identical to Leg Dem C in all but the southeastern corner of the state. His plan contains a substantial level of absolute population deviation (2.67% in his amended plan), and disenfranchises more voters than any of the above plans, also due to renumbering districts in Milwaukee County.

At trial, the parties pursued two issues vigorously: what effect, if any, does § 2 of the Voting Rights Act have on creation of legislative districts in Milwaukee, and how the court should determine the relative partisan fairness of the reapportionment plans filed in this case (with each side claiming that their plan struck the proper balance of partisan fairness).

The Voting Rights Act issues are the result of demographic changes that occurred in Milwaukee County since redistricting in 1992. The 1992 redistricting panel created five African–American majority-minority districts and one African–American minority influence district, along with one Latino majority-minority district. Over the subsequent decade, demographic trends resulted in the African–American influence district becoming a majority-minority district. Those same demographic trends resulted in at least one district having a greater than 80% African–American population.

***5** Under the Supreme Court's ruling in *Thornburg v. Gingles,* 478 U.S. 30, 106 S.Ct. 2752, 92 L.Ed.2d 25 (1986), extended to single-member districts in *Growe v. Emison,* 507 U.S. 25, 40–41, 113 S.Ct. 1075, 122 L.Ed.2d 388 (1993), three things must be present to warrant the consideration of race as the primary basis for drawing districts: first, the minority group must be "sufficiently large and geographically compact to constitute a majority in a single-member district"; second, the minority group must be "politically cohesive"; and third, the majority must "vote[ ] sufficiently as a bloc to enable it ... to defeat the minority's preferred candidate." 478 U.S. at 50–51.

The parties agree that the African–American community in the City of Milwaukee is large enough and compact enough to constitute a majority in several districts, and the parties share the view that African–Americans generally vote for Democrats. However, they disagree as to whether block voting occurs in the City of Milwaukee, and if so, what remedy should be applied.

The Jensen and Baumgart intervenors argued mutually contradictory positions with respect to whether § 2 of the Voting Rights Act should be considered in this case. The Jensen intervenors alleged that there was no evidence of block voting by whites in the City of Milwaukee, which, if correct would negate any justification under *Growe* for reliance upon race in constructing voting districts. However, the Jensen intervenors' expert, Bernard Grofman, testified by affidavit that the only way to respect communities of interest in Milwaukee is to draw district lines that create six African–American majority-minority districts, and avoid "packing" African–American votes. Indeed, the Jensen plans appear to have relied upon race as the basis for creating districts in the City of Milwaukee: a simple inspection of the Jensen plans of Milwaukee and the plans showing Milwaukee's minority population leads to the conclusion that the Jensen plans were crafted to chop the areas of Milwaukee with the highest African American populations and to balance those areas with

areas of greater white population from outer sections of the City of Milwaukee.

In contrast, the Baumgart intervenors presented expert testimony that all of the *Gingles* criteria were present in Wisconsin in general and the City of Milwaukee in particular, but that the Jensen plans divided the African–American population too thinly and would result in the inability of African–Americans to elect candidates of choice. The Baumgart intervenors' expert noted that a minority district requires an African–American voting age population of at least 60% to guarantee the election of candidates of choice, and that only their plans satisfied this criterion. Somewhat counterintuitively, the Baumgart intervenors' expert asserted that the court must reject the Jensen plans for failure initially to satisfy the *Gingles* factors (even though he urged the court to find that the Baumgart plans are consistent with *Gingles*).

***6** At the final hearing the parties debated the relative partisan impact of their plans. The Jensen intervenors contended that their plans were fair, using a "base-race" analysis, and resulted in "competitive" districts. The Baumgart intervenors in turn submitted that the Jensen plans were flawed because they packed the Democrats into a lesser number of districts and that the Jensen plans give the Republicans a five-seat majority in an even election.

Analysis reveals that the "base-race" method used by the Jensen intervenors is only as reliable as the elections chosen, and may be biased if special factors are present in the base-races used for the estimate. *See Prosser,* 793 F.Supp. at 868 (noting that the ground for using base-races was destroyed on cross examination, as the races chosen "were riven by special factors"). The three base-races relied upon by Jensen's expert were saturated with special factors: the 1998 gubernatorial election, paired three-time incumbent Tommy Thompson (possibly the most popular governor in Wisconsin's history) against political newcomer Ed Garvey; the 1996 secretary of state election, paired Doug LaFollette (a distant relative of Progressive icon "Fighting Bob" La Follette and former Governor Phillip La Follette) against Linda Cross; and the 2000 presidential election, perhaps the closest in this state's history. Moreover, the base-race analysis was determined merely by averaging the vote percentages for each candidate in all of the districts without considering differences in population between the districts, thus biasing the analysis in favor of underpopulated districts.

The Baumgart intervenors' method for analyzing political fairness was more sophisticated than the base-race method and is correct in the results found, namely, that even if the Democrats win a bare majority of votes, they will take less than 50% of the total number of seats in the Assembly. The problem with using this finding as the basis for a plan is that it does not take into account the difference between popular and legislative majorities, and the fact that, practically, there is no way to draw plans which use the traditional criteria and completely avoid this result. Theoretically, it would be possible to draw lines for Assembly districts that would assure that the party with the popular majority holds every seat in the Assembly. *See Prosser,* 793 F.Supp. at 864. However, Wisconsin Democrats tend to be found in high concentrations in certain areas of the state, and the only way to assure that the number of seats in the Assembly corresponds roughly to the percentage of votes cast would be at-large election of the entire Assembly, which neither side has advocated and would likely violate the Voting Rights Act.

Having found various unredeemable flaws in the various plans submitted by the parties, the court was forced to draft one of its own. As was done in 1992, a draft version of the plan was submitted to the parties for comment and analysis. The parties were allowed five days to analyze the draft and to comment to the court.

***7** The court undertook its redistricting endeavor in the most neutral way it could conceive—by taking the 1992 reapportionment plan as a template and adjusting it for population deviations. The process began with district adjustments in the southeastern corner of the state. That area was chosen for two reasons. First, Milwaukee County has experienced the state's greatest population loss over the past decade, while the region immediately to its west has experienced the greatest population growth. Thus, the greatest population deviation in the state lies within this area. Second, the parties devoted much of their trial time to discussing how their plans would affect Milwaukee County.[5]

When making the necessary changes to the boundaries of the existing districts, the court was guided by the neutral principles of maintaining municipal boundaries and uniting communities of interest. There was also an attempt to keep population deviation between districts as low as possible while respecting these principles.

As part of its efforts, the court had to decide whether to renumber the assembly districts in southeastern Wisconsin

to accommodate the migration of one entire district out of Milwaukee County. And there was an attempt to create physically compact senate districts and maintain communities of interest when making this decision.

Obviously, the process involved some subjective choices. For example, the court had to decide *which* communities to exclude from overpopulated districts and to include in underpopulated districts. Where possible, the court relied on affidavits supplied by the parties describing the natural communities of interest to direct these subjective choices. (Senator George's submissions provided particular guidance within Milwaukee County in this regard.)

Adherence to these criteria resulted in a plan containing five African–American majority assembly districts, one Latino majority assembly district, and one African–American "influence" assembly district. The racial and cultural minority populations in these districts appear sufficient to permit African–Americans and Latinos to elect candidates of choice. Hence, it was unnecessary to decide whether racially polarized voting occurs in southeastern Wisconsin (thereby necessitating the conscious creation of majority-minority districts pursuant to the Voting Rights Act).

The court's plan embodies a maximum population deviation of 1.48%, which is lower than the population deviation of the best of the Baumgart intervenors' plans and slightly higher than the population deviations of the Jensen intervenors' plans, and within the de minimis 2% threshold set by the *AFL–CIO* court. Presumably, because of the methodology used, the court's plan meets or exceeds the submissions of the parties and amici with respect to most traditional apportionment criteria. The average level of core retention is 76.7%, versus 73.9% for the Jensen plans and 74% for the Baumgart plans. The court plan splits 50 municipalities, as compared to 51 for the Jensen plans and 78 for the Baumgart plans. The number of voters disenfranchised with respect to Senate elections is 171,613, versus 206,428 for the Jensen plans and 303,606 for the Baumgart plans. District compactness levels are also higher than those for the Jensen and Baumgart plans, using the smallest circle and perimeter to area measures.[6] Finally, the court plan respects traditional communities of interest in the City of Milwaukee.

***8** Now, therefore,

IT IS ORDERED that the Wisconsin State legislative districts described in Chapter 4 of the Wisconsin Statutes (1999–2000) are declared unconstitutional.

IT IS FURTHER ORDERED that all elections to be held in the Wisconsin State legislative districts as described in Chapter 4 of the Wisconsin Statutes (1999–2000) are enjoined.

IT IS FURTHER ORDERED that the 99 Wisconsin State assembly districts described below are organized into 33 senate districts as follows:

I. SENATE DISTRICTS

First senate district: The combination of the 1st, 2nd and 3rd assembly districts.

Second senate district: The combination of the 4th, 5th, and 6th assembly districts.

Third senate district: The combination of the 7th, 8th, and 9th assembly districts.

Fourth senate district: The combination of the 10th, 11th, and 12th assembly districts.

Fifth senate district: The combination of the 13th, 14th, and 15th assembly districts.

Sixth senate district: The combination of the 16th, 17th, and 18th assembly districts.

Seventh senate district: The combination of the 19th, 20th, and 21st assembly districts.

Eighth senate district: The combination of the 22nd, 23rd, and 24th assembly districts.

Ninth senate district: The combination of the 25th, 26th, and 27th assembly districts.

Tenth senate district: The combination of the 28th, 29th, and 30th assembly districts.

Eleventh senate district: The combination of the 31st, 32nd, and 33rd assembly districts.

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Twelfth senate district: The combination of the 34th, 35th, and 36th assembly districts.

Thirteenth senate district: The combination of the 37th, 38th, and 39th assembly districts.

Fourteenth senate district: The combination of the 40th, 41st, and 42nd assembly districts.

Fifteenth senate district: The combination of the 43rd, 44th, and 45th assembly districts.

Sixteenth senate district: The combination of the 46th, 47th, and 48th assembly districts.

Seventeenth senate district: The combination of the 49th, 50th, and 51st assembly districts.

Eighteenth senate district: The combination of the 52nd, 53rd, and 54th assembly districts.

Nineteenth senate district: The combination of the 55th, 56th, and 57th assembly districts.

Twentieth senate district: The combination of the 58th, 59th, and 60th assembly districts.

Twenty–First senate district: The combination of the 61st, 62nd, and 63rd assembly districts.

Twenty–Second senate district: The combination of the 64th, 65th, and 66th assembly districts.

Twenty–Third senate district: The combination of the 67th, 68th, and 69th assembly districts.

Twenty–Fourth senate district: The combination of the 70th, 71st, and 72nd assembly districts.

Twenty–Fifth senate district: The combination of the 73rd, 74th, and 75th assembly districts.

Twenty–Sixth senate district: The combination of the 76th, 77th, and 78th assembly districts.

Twenty–Seventh senate district: The combination of the 79th, 80th, and 81st assembly districts.

***9** Twenty–Eighth senate district: The combination of the 82nd, 83rd, and 84th assembly districts.

Twenty–Ninth senate district: The combination of the 85th, 86th, and 87th assembly districts.

Thirtieth senate district: The combination of the 88th, 89th, and 90th assembly districts.

Thirty–First senate district: The combination of the 91st, 92nd, and 93rd assembly districts.

Thirty–Second senate district: The combination of the 94th, 95th, and 96th assembly districts.

Thirty–Third senate district: The combination of the 97th, 98th, and 99th assembly districts.

II. ASSEMBLY DISTRICTS

First assembly district. All of the following territory constitutes the first assembly district:

(1) Whole county. Door County.

(2) Brown County. That part of Brown County consisting of the towns of Green Bay, Humboldt, and Scott.

(3) Kewaunee County. That part of Kewaunee County consisting of all of the following:

(a) The towns of Ahnapee, Carlton, Casco, Lincoln, Luxemburg, Montpelier, Pierce, Red River, and West Kewaunee.

(b) The villages of Casco and Luxemburg.

(c) The cities of Algoma and Kewaunee.

Second assembly district. All of the following territory constitutes the 2nd assembly district:

(1) Brown County. That part of Brown County consisting of all of the following:

(a) The towns of Bellevue, Eaton, Glenmore, Ledgeview, New Denmark, Rockland, and Wrights town.

(b) The villages of Denmark and Wrights town.

(2) Kewaunee County. That part of Kewaunee County consisting of the town of Franklin.

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(3) Manitowoc County. That part of Manitowoc County consisting of all of the following:

(a) The towns of Cooperstown, Franklin, Gibson, Kossuth, Maple Grove, Mishicot, Two Creeks, and Two Rivers.

(b) The villages of Francis Creek, Kellnersville, Maribel, and Mishicot.

(c) The city of Two Rivers.

Third assembly district. All of the following territory constitutes the 3rd assembly district:

(1) Brown County. That part of Brown County consisting of the towns of Holland and Morrison.

(2) Calumet County. That part of Calumet County consisting of all of the following:

(a) The towns of Brillion, Chilton, Harrison, Stockbridge, and Woodville.

(b) The villages of Sherwood and Stock bridge.

(c) The cities of Brillion and Chilton.

(d) That part of the city of Appleton located in the county.

(e) That part of the city of Menasha located in the county.

(3) Outagamie County. That part of Outagamie County consisting of all of the following:

(a) The town of Buchanan.

(b) The villages of Combined Locks and Kimberly.

(c) That part of the village of Little Chute comprising wards 5, 6, 7, and 11.

(4) Winnebago County. That part of Winnebago County consisting of that part of the city of Appleton comprising wards 41 and 49.

Fourth assembly district. All of the following territory in Brown County constitutes the 4th assembly district:

***10** (1) The village of Allouez.

(2) That part of the village of Ashwaubenon comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12.

(3) The city of De Pere.

(4) That part of the city of Green Bay comprising ward 46.

Fifth assembly district. All of the following territory constitutes the 5th assembly district:

(1) Brown County. That part of Brown County consisting of all of the following:

(a) The towns of Hobart and Lawrence.

(b) That part of the village of Ashwaubenon comprising ward 9.

(c) That part of the city of Green Bay comprising wards 47, 48, and 49.

(2) Outagamie County. That part of Outagamie County consisting of all of the following:

(a) The towns of Black Creek, Cicero, Freedom, Kaukauna, Oneida, Osborn, Seymour, and Vandenbroek.

(b) The villages of Black Creek and Nichols.

(c) That part of the village of Little Chute comprising wards 1, 2, 4, 8, 9, 10, and 12.

(d) That part of the village of Howard located in the county.

(e) The cities of Kaukauna and Seymour.

(3) Shawano County. That part of Shawano County consisting of the town of Maple Grove.

Sixth assembly district. All of the following territory constitutes the 6th assembly district:

(1) Oconto County. That part of Oconto County consisting of all of the following:

(a) The towns of Abrams, Bagley, Brazeau, Breed, Gillett, How, Maple Valley, Morgan, Oconto Falls, Spruce, and Underhill.

(b) The village of Suring.

(c) The cities of Gillett and Oconto Falls.

(2) Outagamie County. That part of Outagamie County consisting of all of the following:

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(a) The towns of Bovina, Deer Creek, Ellington, Liberty, Maine, and Maple Creek.

(b) The villages of Bear Creek and Shiocton.

(3) Shawano County. That part of Shawano County consisting of all of the following:

(a) The towns of Angelica, Belle Plaine, Grant, Green Valley, Hartland, Herman, Lessor, Morris, Navarino, Pella, Richmond, Seneca, Washington, Waukechon, and Wescott.

(b) The villages of Bonduel, Bowler, Cecil, and Gresham.

(c) The city of Shawano.

(4) Waupaca County. That part of Waupaca County consisting of all of the following:

(a) The town of Matteson.

(b) The village of Embarrass.

Seventh assembly district. All of the following territory in Milwaukee County constitutes the 7th assembly district:

(1) That part of the city of Greenfield comprising wards 1, 2, 3, 4, 5, 8, 13, 14, 15, 16, 17, 18, 19, 20, and 21.

(2) That part of the city of Milwaukee comprising wards 184, 185, 186, 187, 188, 189, 190, 193, 194, 195, 196, 197, 198, 199, and 231.

Eighth assembly district. All of the following territory in Milwaukee County constitutes the 8th assembly district: that part of the city of Milwaukee comprising wards 63, 64, 132, 133, 134, 135, 139, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 291, 292, and 293.

Ninth assembly district. All of the following territory in Milwaukee County constitutes the 9th assembly district: that part of the city of Milwaukee comprising wards 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 182, 183, 200, 217, 218, 219, 220, 221, 242, 243, 244, 245, 246, 247, 248, 294, 295, and 296.

***11** Tenth assembly district. All of the following territory in Milwaukee County constitutes the 10th assembly district:

(1) That part of the city of Glendale comprising wards 1, 6, and 12.

(2) That part of the city of Milwaukee comprising wards 1, 2, 3, 11, 13, 16, 17, 19, 41, 48, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 157, 161, 164, 165, 166, 176, 177, and 178.

Eleventh assembly district. All of the following territory in Milwaukee County constitutes the 11th assembly district: that part of the city of Milwaukee comprising wards 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 18, 20, 21, 22, 23, 26, 27, 28, 78, 79, 80, 115, 156, 158, 159, 160, 162, and 163.

Twelfth assembly district. All of the following territory constitutes the 12th assembly district:

(1) Milwaukee County. That part of Milwaukee County consisting of all of the following:

(a) That part of the city of Milwaukee comprising wards 24, 25, 74, 75, 76, 77, 83, 148, 149, 151, 152, 153, 154, 155, 264, 266, 267, 268, 269, 270, 271, 272, and 273.

(b) That part of the city of Wauwatosa comprising wards 23 and 24.

(2) Waukesha County. That part of Waukesha County consisting of that part of the city of Milwaukee comprising ward 274.

Thirteenth assembly district. All of the following territory in Milwaukee County constitutes the 13th assembly district:

(1) The village of West Milwaukee.

(2) That part of the city of Milwaukee comprising wards 37, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 282, 283, 284, 285, 288, and 289.

(3) That part of the city of Wauwatosa comprising wards 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, and 15.

Fourteenth assembly district. All of the following territory constitutes the 14th assembly district:

(1) Milwaukee County. That part of Milwaukee County consisting of all of the following:

(a) That part of the city of Milwaukee comprising wards 286 and 287.

(b) That part of the city of Wauwatosa comprising wards 5, 6, 8, 9, 16, 17, 18, 19, 20, 21, and 22.

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(c) That part of the city of West Allis comprising wards 16, 17, 18, 28, 30, and 32.

(2) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) The village of Elm Grove.

(b) That part of the city of Brookfield comprising wards 1, 2, 3, 7, 9, 15, 23, and 24.

Fifteenth assembly district. All of the following territory in Milwaukee County constitutes the 15th assembly district:

(1) That part of the city of Milwaukee comprising wards 191 and 192.

(2) That part of the city of West Allis comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 31, and 33.

Sixteenth assembly district. All of the following territory in Milwaukee County constitutes the 16th assembly district: that part of the city of Milwaukee comprising wards 60, 61, 62, 65, 66, 70, 71, 72, 73, 105, 106, 107, 108, 109, 110, 111, 112, 174, 175, 179, 180, 297, 298, 299, 311, 312, 313, and 314.

***12** Seventeenth assembly district. All of the following territory in Milwaukee County constitutes the 17th assembly district: that part of the city of Milwaukee comprising wards 29, 30, 31, 32, 33, 34, 35, 36, 81, 82, 84, 113, 114, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 167, 168, 169, 170, and 171.

Eighteenth assembly district. All of the following territory in Milwaukee County constitutes the 18th assembly district: that part of the city of Milwaukee comprising wards 67, 68, 69, 126, 129, 130, 131, 172, 173, 181, 275, 276, 277, 278, 279, 280, 281, 290, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, and 310.

Nineteenth assembly district. All of the following territory in Milwaukee County constitutes the 19th assembly district: that part of the city of Milwaukee comprising wards 39, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 235, 236, 237, 238, 239, 240, 241, 251, 252, and 255.

Twentieth assembly district. All of the following territory in Milwaukee County constitutes the 20th assembly district:

(1) The cities of Cudahy and St. Francis.

(2) That part of the city of Milwaukee comprising wards 216, 222, 223, 224, 225, 226, 227, 228, 230, 233, 234, 249, 250, 253, 254, 256, and 257.

Twenty-first assembly district. All of the following territory in Milwaukee County constitutes the 21st assembly district:

(1) The cities of Oak Creek and South Milwaukee.

(2) That part of the city of Milwaukee comprising wards 229 and 232.

Twenty-second assembly district. All of the following territory in Milwaukee County constitutes the 22nd assembly district:

(1) The villages of Fox Point, River Hills, Shorewood, and Whitefish Bay.

(2) That part of the city of Glendale comprising wards 2, 3, 4, 5, 7, 8, 9, 10, and 11.

(3) That part of the city of Milwaukee comprising wards 38, 40, 147, and 150.

Twenty-third assembly district. All of the following territory constitutes the 23rd assembly district:

(1) Milwaukee County. That part of Milwaukee County consisting of all of the following:

(a) The village of Brown Deer.

(b) That part of the village of Bayside located in the county.

(c) That part of the city of Milwaukee comprising wards 258, 259, 260, 261, 262, 263, and 265.

(2) Ozaukee County. That part of Ozaukee County consisting of all of the following:

(a) The village of Thiensville.

(b) That part of the village of Bayside located in the county.

(c) That part of the city of Mequon comprising wards 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21.

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(3) Washington County. That part of Washington County consisting of that part of the city of Milwaukee comprising ward 262.

Twenty-fourth assembly district. All of the following territory constitutes the 24th assembly district:

(1) Washington County. That part of Washington County consisting of all of the following:

(a) The town of Germantown.

***13** (b) That part of the town of Richfield comprising wards 6, 7, 8, 11, 12, and 13.

(c) The village of Germantown.

(2) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) The village of Butler.

(b) That part of the village of Menomonee Falls comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 28, and 29.

Twenty-fifth assembly district. All of the following territory constitutes the 25th assembly district:

(1) Calumet County. That part of Calumet County consisting of all of the following:

(a) The town of Rantoul.

(b) The villages of Hilbert and Potter.

(2) Manitowoc County. That part of Manitowoc County consisting of all of the following:

(a) The towns of Cato, Centerville, Eaton, Liberty, Manitowoc, Manitowoc Rapids, Meeme, Newton, and Rockland.

(b) The villages of Cleveland, Reedsville, St. Nazianz, Valders, and Whitelaw.

(c) The city of Manitowoc.

Twenty-sixth assembly district. All of the following territory in Sheboygan County constitutes the 26th assembly district:

(1) That part of the town of Sheboygan comprising ward 2.

(2) The village of Kohler.

(3) The city of Sheboygan.

(4) That part of the city of Sheboygan Falls comprising ward 10.

Twenty-seventh assembly district. All of the following territory constitutes the 27th assembly district:

(1) Calumet County. That part of Calumet County consisting of all of the following:

(a) The towns of Brothertown, Charlestown, and New Holstein.

(b) The city of New Holstein.

(c) That part of the city of Kiel located in the county.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

(a) The towns of Calumet, Forest, and Marshfield.

(b) The villages of Mount Calvary and St. Cloud.

(3) Manitowoc County. That part of Manitowoc County consisting of all of the following:

(a) The town of Schleswig.

(b) That part of the city of Kiel located in the county.

(4) Sheboygan County. That part of Sheboygan County consisting of all of the following:

(a) The towns of Greenbush, Herman, Mosel, Plymouth, Rhine, Russell, and Sheboygan Falls.

(b) That part of the town of Sheboygan comprising wards 1, 3, 4, 5, 6, and 7.

(c) The villages of Elkhart Lake, Glenbeulah, and Howards Grove.

(d) The city of Plymouth.

(e) That part of the city of Sheboygan Falls comprising wards 1, 2, 3, 4, 5, 6, 7, 8, and 9.

Twenty-eighth assembly district. All of the following territory constitutes the 28th assembly district:

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(1) Burnett County. That part of Burnett County consisting of all of the following:

(a) The towns of Anderson, Daniels, Dewey, Grantsburg, La Follette, Lincoln, Meenon, Roosevelt, Siren, Trade Lake, West Marshland, and Wood River.

(b) The villages of Grantsburg, Siren, and Webster.

(2) Polk County. That part of Polk County consisting of all of the following:

***14** (a) The towns of Alden, Apple River, Balsam Lake, Black Brook, Bone Lake, Clam Falls, Clayton, Clear Lake, Eureka, Farmington, Garfield, Georgetown, Laketown, Lincoln, Lorain, Luck, Milltown, Osceola, St. Croix Falls, Sterling, and West Sweden.

(b) The villages of Balsam Lake, Centuria, Clayton, Clear Lake, Dresser, Frederic, Luck, Milltown, and Osceola.

(c) The cities of Amery and St. Croix Falls.

(3) St. Croix County. That part of St. Croix County consisting of all of the following:

(a) That part of the town of Somerset comprising wards 1, 3, 4, and 5.

(b) The village of Somerset.

Twenty-ninth assembly district. All of the following territory constitutes the 29th assembly district:

(1) Dunn County. That part of Dunn County consisting of all of the following:

(a) The towns of Lucas, Menomonie, and Stanton.

(b) The village of Knapp.

(c) The city of Menomonie.

(2) Pierce County. That part of Pierce County consisting of all of the following:

(a) The towns of Gilman and Spring Lake.

(b) The village of Elmwood.

(c) That part of the village of Spring Valley located in the county.

(3) St. Croix County. That part of St. Croix County consisting of all of the following:

(a) The towns of Baldwin, Cady, Cylon, Eau Galle, Emerald, Erin Prairie, Forest, Glenwood, Hammond, Kinnickinnic, Pleasant Valley, Richmond, Rush River, Springfield, Stanton, Star Prairie, and Warren.

(b) The villages of Baldwin, Deer Park, Hammond, Roberts, Star Prairie, Wilson, and Woodville.

(c) That part of the village of Spring Valley located in the county.

(d) The cities of Glenwood City and New Richmond.

Thirtieth assembly district. All of the following territory constitutes the 30th assembly district:

(1) Pierce County. That part of Pierce County consisting of all of the following:

(a) The towns of Clifton, Diamond Bluff, Oak Grove, River Falls, Trenton, and Trimbelle.

(b) The village of Ellsworth.

(c) The city of Prescott.

(d) That part of the city of River Falls located in the county.

(2) St. Croix County. That part of St. Croix County consisting of all of the following:

(a) The towns of Hudson, St. Joseph, and Troy.

(b) That part of the town of Somerset comprising ward 2.

(c) The village of North Hudson.

(d) The city of Hudson.

(e) That part of the city of River Falls located in the county.

Thirty-first assembly district. All of the following territory constitutes the 31st assembly district:

(1) Jefferson County. That part of Jefferson County consisting of all of the following:

(a) The towns of Cold Spring, Concord, Farmington, Hebron, Palmyra, and Sullivan.

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(b) The villages of Johnson Creek, Palmyra, and Sullivan.

(2) Walworth County. That part of Walworth County consisting of all of the following:

(a) The towns of Lafayette, La Grange, Spring Prairie, Sugar Creek, and Troy.

(b) The city of Elkhorn.

***15** (3) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) The towns of Eagle, Ottawa, and Summit.

(b) The villages of Dousman, Eagle, and Oconomowoc Lake.

(c) hat part of the city of Oconomowoc comprising wards 7, 8, 9, 10, 11, 12, and 13.

Thirty-second assembly district. All of the following territory constitutes the 32nd assembly district:

(1) Kenosha County. That part of Kenosha County consisting of the town of Wheat land.

(2) Walworth County. That part of Walworth County consisting of all of the following:

(a) The towns of Bloomfield, Darien, Delavan, Geneva, Linn, Lyons, Sharon, and Walworth.

(b) The villages of Darien, Fontana–on–Geneva Lake, Sharon, Walworth, and Williams Bay.

(c) That part of the village of Genoa City located in the county.

(d) The cities of Delavan and Lake Geneva.

Thirty-third assembly district. All of the following territory in Waukesha County constitutes the 33rd assembly district:

(1) The towns of Delafield and Geneses.

(2) That part of the town of Mukwonago comprising wards 1, 2, 4, 5, 6, 7, 8, 9, and 10.

(3) That part of the town of Waukesha comprising wards 3, 7, and 8.

(4) The villages of Chenequa, Hartland, Nashotah, North Prairie, and Wales.

(5) The city of Delafield.

(6) That part of the city of Pewaukee comprising ward 7.

(7) That part of the city of Waukesha comprising wards 8, 10, 11, 12, 13, 14, and 15.

Thirty-fourth assembly district. All of the following territory constitutes the 34th assembly district:

(1) Whole county. Vilas County.

(2) Oneida County. That part of Oneida County consisting of all of the following:

(a) The towns of Crescent, Enterprise, Hazelhurst, Lake Tomahawk, Minocqua, Monico, Newbold, Pelican, Piehl, Pine Lake, Schoepke, Stella, Sugar Camp, Three Lakes, and Woodruff.

(b) The city of Rhinelander.

Thirty-fifth assembly district. All of the following territory constitutes the 35th assembly district:

(1) Whole county. Lincoln County.

(2) Langlade County. That part of Langlade County consisting of all of the following:

(a) The towns of Ackley, Ainsworth, Antigo, Elcho, Neva, Norwood, Parrish, Peck, Rolling, Summit, Upham, and Vilas.

(b) The city of Antigo.

(3) Marathon County. That part of Marathon County consisting of all of the following:

(a) The towns of Halsey, Hamburg, Harrison, and Hewitt.

(b) The village of Athens.

(4) Oneida County. That part of Oneida County consisting of the towns of Cassian, Little Rice, Lynne, Nokomis, and Woodboro.

Thirty-sixth assembly district. All of the following territory constitutes the 36th assembly district:

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(1) Whole counties. Florence County, Forest County, and Menominee County.

(2) Langlade County. That part of Langlade County consisting of all of the following:

(a) The towns of Evergreen, Langlade, Polar, Price, and Wolf River.

***16** (b) The village of White Lake.

(3) Marathon County. That part of Marathon County consisting of all of the following:

(a) The town of Elderon.

(b) The village of Elderon.

(c) That part of the village of Birnamwood located in the county.

(4) Marinette County. That part of Marinette County consisting of all of the following:

(a) The towns of Amberg, Athelstane, Beecher, Dunbar, Goodman, Lake, Middle Inlet, Niagara, Pembine, Porterfield, Silver Cliff, Stephenson, Wagner, and Wausaukee.

(b) The villages of Crivitz and Wausaukee.

(c) The city of Niagara.

(5) Oconto County. That part of Oconto County consisting of the towns of Doty, Lakewood, Mountain, Riverview, and Townsend.

(6) Shawano County. That part of Shawano County consisting of all of the following:

(a) The towns of Almon, Aniwa, Bartelme, Birnamwood, Hutchins, Red Springs, and Wittenberg.

(b) The villages of Mattoon and Wittenberg.

(c) That part of the village of Birnamwood located in the county.

Thirty-seventh assembly district. All of the following territory constitutes the 37th assembly district:

(1) Dane County. That part of Dane County consisting of all of the following:

(a) The towns of Albion, Christiana, and Deerfield.

(b) The villages of Deerfield and Rochdale.

(c) That part of the village of Cambridge located in the county.

(2) Jefferson County. That part of Jefferson County consisting of all of the following:

(a) The towns of Aztalan, Jefferson, Koshkonong, Lake Mills, Milford, Oakland, Sumner, Waterloo, and Watertown.

(b) That part of the town of Ixonia comprising wards 1, 3, and 4.

(c) That part of the village of Cambridge located in the county.

(d) The cities of Fort Atkinson, Jefferson, Lake Mills, and Waterloo.

Thirty-eighth assembly district. All of the following territory constitutes the 38th assembly district:

(1) Columbia County. That part of Columbia County consisting of that part of the city of Columbus located in the county.

(2) Dodge County. That part of Dodge County consisting of all of the following:

(a) The towns of Ashippun, Clyman, Elba, Emmet, Hustisford, Lebanon, Lowell, Portland, and Shields.

(b) The villages of Clyman, Hustisford, Lowell, and Reeseville.

(c) That part of the city of Watertown located in the county.

(d) Dodge County. That part of Dodge County consisting of that part of the city of Columbus located in the county.

(3) Jefferson County. That part of Jefferson County consisting of all of the following:

(a) That part of the town of Ixonia comprising ward 2.

(b) That part of the city of Watertown located in the county.

(4) Waukesha County. That part of Waukesha County consisting of all of the following:

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(a) The town of Oconomowoc.

(b) The village of Lac La Belle.

(c) That part of the city of Oconomowoc comprising wards 1, 2, 3, 4, 5, and 6.

Thirty-ninth assembly district. All of the following territory constitutes the 39th assembly district:

***17** (1) Columbia County. That part of Columbia County consisting of that part of the village of Randolph located in the county.

(2) Dodge County. That part of Dodge County consisting of all of the following:

(a) The towns of Beaver Dam, Burnett, Calamus, Chester, Fox Lake, Herman, Hubbard, Leroy, Lomira, Oak Grove, Rubicon, Trenton, Westford, and Williams town.

(b) The villages of Brownsville, Iron Ridge, Kekoskee, Lomira, and Neosho.

(c) That part of the village of Randolph located in the county.

(d) The cities of Beaver Dam, Fox Lake, Horicon, Juneau, and Maxville.

Fortieth assembly district. All of the following territory constitutes the 40th assembly district:

(1) Outagamie County. That part of Outagamie County consisting of all of the following:

(a) The town of Hottonia.

(b) The village of Hortonville.

(c) That part of the city of New London located in the county.

(2) Shawano County. That part of Shawano County consisting of that part of the city of Marion located in the county.

(3) Waupaca County. That part of Waupaca County consisting of all of the following:

(a) The towns of Bear Creek, Caledonia, Dayton, Dupont, Farmington, Harrison, Helvetia, Iola, Larrabee, Lebanon, Lind, Little Wolf, Mukwa, Royalton, St. Lawrence, Scandinavia, Union, Waupaca, Weyauwega, and Wyoming.

(b) The villages of Big Falls, Iola, Ogdensburg, and Scandinavia.

(c) The cities of Clintonville, Manawa, Waupaca, and Weyauwega.

(d) That part of the city of Marion located in the county.

(e) That part of the city of New London located in the county.

Forty-first assembly district. All of the following territory constitutes the 41st assembly district:

(1) Whole county. Green Lake County.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

(a) The towns of Alto, Metomen, and Ripon.

(b) The villages of Brandon and Fair water.

(c) The city of Ripon.

(3) Marquette County. That part of Marquette County consisting of all of the following:

(a) The towns of Crystal Lake, Mecan, Neshkoro, and Newton.

(b) The village of Neshkoro.

(4) Waupaca County. That part of Waupaca County consisting of all of the following:

(a) The town of Fremont.

(b) The village of Fremont.

(5) Waushara County. That part of Waushara County consisting of all of the following:

(a) The towns of Aurora, Bloomfield, Coloma, Dakota, Leon, Marion, Mount Morris, Poysippi, Richford, Saxeville, Springwater, Warren, and Wautoma.

(b) The villages of Coloma, Lohrville, Redgranite, and Wild Rose.

(c) The city of Wautoma.

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(d) That part of the city of Berlin located in the county.

Forty-second assembly district. All of the following territory constitutes the 42nd assembly district:

(1) Adams County. That part of Adams County consisting of all of the following:

(a) The towns of Dell Prairie and New Haven.

***18** (b) That part of the city of Wisconsin Dells located in the county.

(2) Columbia County. That part of Columbia County consisting of all of the following:

(a) The towns of Caledonia, Fort Winnebago, Lewiston, Marcellon, Newport, and Wyocena.

(b) The villages of Pardeeville and Wyocena.

(c) The city of Portage.

(d) That part of the city of Wisconsin Dells located in the county.

(3) Marquette County. That part of Marquette County consisting of all of the following:

(a) The towns of Buffalo, Douglas, Harris, Montello, Moundville, Oxford, Packwaukee, Shields, and Westfield.

(b) The villages of Endeavor and Oxford.

(c) The city of Montello.

(4) Sauk County. That part of Sauk County consisting of all of the following:

(a) The towns of Baraboo, Delton, Fairfield, and Greenfield.

(b) The villages of Lake Delton and West Baraboo.

(c) The city of Baraboo.

(d) That part of the city of Wisconsin Dells located in the county.

Forty-third assembly district. All of the following territory constitutes the 43rd assembly district:

(1) Dane County. That part of Dane County consisting of that part of the city of Edgerton located in the county.

(2) Jefferson County. That part of Jefferson County consisting of that part of the city of Whitewater located in the county.

(3) Rock County. That part of Rock County consisting of all of the following:

(a) The towns of Avon, Beloit, Center, Fulton, Janesville, Lima, Milton, Newark, Plymouth, Porter, Rock, and Spring Valley.

(b) The villages of Footville and Orfordville.

(c) The city of Milton.

(d) That part of the city of Edgerton located in the county.

(4) Walworth County. That part of Walworth County consisting of all of the following:

(a) The town of Whitewater.

(b) That part of the city of Whitewater located in the county.

Forty-fourth assembly district. All of the following territory in Rock County constitutes the 44th assembly district: that part of the city of Janesville comprising wards 1, 2, 3, 4, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25.

Forty-fifth assembly district. All of the following territory constitutes the 45th assembly district:

(1) Rock County. That part of Rock County consisting of all of the following:

(a) The towns of Bradford, Clinton, Harmony, Johnstown, La Prairie, and Turtle.

(b) The village of Clinton.

(c) The city of Beloit.

(d) That part of the city of Janesville comprising wards 5, 6, and 12.

(2) Walworth County. That part of Walworth County consisting of the town of Richmond.

Forty-sixth assembly district. All of the following territory in Dane County constitutes the 46th assembly district:

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(1) The towns of Cottage Grove, Dunkirk, Pleasant Springs, Rutland, and Sun Prairie.

(2) That part of the town of Dunn comprising wards 1 and 7.

(3) The village of Cottage Grove.

(4) That part of the village of Oregon comprising wards 2, 3, and 4.

***19** (5) The cities of Stoughton and Sun Prairie.

Forty-seventh assembly district. All of the following territory constitutes the 47th assembly district:

(1) Columbia County. That part of Columbia County consisting of all of the following:

(a) The towns of Arlington, Columbus, Courtland, Dekorra, Fountain Prairie, Hampden, Leeds, Lodi, Lowville, Otsego, Pacific, Randolph, Scott, Springvale, and West Point.

(b) The villages of Arlington, Cambria, Doylestown, Fall River, Friesland, Poynette, and Rio.

(c) The city of Lodi.

(2) Dane County. That part of Dane County consisting of all of the following:

(a) The towns of Bristol, Dane, Mazomanie, Medina, Roxbury, Vienna, Windsor, and York.

(b) The villages of Dane, DeForest, and Marshall.

(3) Sauk County. That part of Sauk County consisting of all of the following:

(a) The town of Merrimac.

(b) The village of Merrimac.

Forty-eighth assembly district. All of the following territory in Dane County constitutes the 48th assembly district:

(1) The town of Blooming Grove.

(2) That part of the town of Dunn comprising wards 2, 3, 4, 5, and 6.

(3) The village of McFarland.

(4) The city of Monona.

(5) That part of the city of Madison comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 33, 55, and 56.

Forty-ninth assembly district. All of the following territory constitutes the 49th assembly district:

(1) Whole county. Grant County.

(2) Iowa County. That part of Iowa County consisting of all of the following:

(a) That part of the village of Livingston located in the county.

(b) That part of the village of Montfort located in the county.

(c) That part of the village of Muscoda located in the county.

(3) Lafayette County. That part of Lafayette County consisting of all of the following:

(a) The town of Benton.

(b) The village of Benton.

(c) That part of the village of Hazel Green located in the county.

(d) That part of the city of Cuba City located in the county.

(4) Richland County. That part of Richland County consisting of all of the following:

(a) The towns of Dayton, Eagle, Orion, and Richwood.

(b) The village of Boaz.

Fiftieth assembly district. All of the following territory constitutes the 50th assembly district:

(1) Whole county. Juneau County.

(2) Monroe County. That part of Monroe County consisting of all of the following:

(a) The towns of Clifton and Glendale.

(b) The village of Kendall.

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(3) Richland County. That part of Richland County consisting of all of the following:

(a) The towns of Marshall, Richland, Rockbridge, Westford, and Willow.

(b) That part of the village of Cazenovia located in the county.

(c) The city of Richland Center.

(4) Sauk County. That part of Sauk County consisting of all of the following:

(a) The towns of Dellona, Excelsior, Freedom, Ironton, La Valle, Reedsburg, Washington, Westfield, Winfield, and Woodland.

***20** (b) The villages of Ironton, La Valle, Lime Ridge, Loganville, North Freedom, and Rock Springs.

(c) That part of the village of Cazenovia located in the county.

(d) The city of Reedsburg.

Fifty-first assembly district. All of the following territory constitutes the 51st assembly district:

(1) Iowa County. That part of Iowa County consisting of all of the following:

(a) The towns of Arena, Brigham, Clyde, Dodgeville, Eden, Highland, Linden, Mifflin, Mineral Point, Moscow, Pulaski, Ridgeway, Waldwick, and Wyoming.

(b) The villages of Arena, Avoca, Barneveld, Cobb, Highland, Hollandale, Linden, Rewey, and Ridge way.

(c) That part of the village of Blanchardville located in the county.

(d) The cities of Dodgeville and Mineral Point.

(2) Lafayette County. That part of Lafayette County consisting of all of the following:

(a) The towns of Argyle, Belmont, Blanchard, Darlington, Elk Grove, Fayette, Gratiot, Kendall, Lamont, Monticello, New Diggings, Seymour, Shullsburg, White Oak Springs, Willow Springs, and Wiota.

(b) The villages of Argyle, Belmont, and Gratiot.

(c) That part of the village of Blanchardville located in the county.

(d) The cities of Darlington and Shullsburg.

(3) Richland County. That part of Richland County consisting of all of the following:

(a) The towns of Buena Vista and Ithaca.

(b) The village of Lone Rock.

(4) Sauk County. That part of Sauk County consisting of all of the following:

(a) The towns of Bear Creek, Franklin, Honey Creek, Prairie du Sac, Spring Green, Sumpter, and Troy.

(b) The villages of Plain, Prairie du Sac, Sauk City, and Spring Green.

Fifty-second assembly district. All of the following territory in Fond du Lac County constitutes the 52nd assembly district:

(1) The towns of Eldorado, Friendship, and Taycheedah.

(2) The village of North Fond du Lac.

(3) The city of Fond du Lac.

Fifty-third assembly district. All of the following territory constitutes the 53rd assembly district:

(1) Dodge County. That part of Dodge County consisting of that part of the city of Waupun located in the county.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

(a) The towns of Byron, Empire, Fond du Lac, Lamartine, Oakfield, Rosendale, Springvale, and Waupun.

(b) The villages of Oakfield and Rosendale.

(c) That part of the city of Waupun located in the county.

(3) Winnebago County. That part of Winnebago County consisting of all of the following:

(a) The towns of Algoma, Black Wolf, Nekimi, Nepeuskun, Omro, Oshkosh, Rushford, and Utica.

(b) The city of Omro.

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(c) That part of the city of Oshkosh comprising wards 3, 4, 5, 6, 7, and 9.

Fifty-fourth assembly district. All of the following territory in Winnebago County constitutes the 54th assembly district: that part of the city of Oshkosh comprising wards 1, 2, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33.

***21** Fifty-fifth assembly district. All of the following territory in Winnebago County constitutes the 55th assembly district:

(1) That part of the town of Menasha comprising wards 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13.

(2) The city of Neenah.

(3) That part of the city of Appleton comprising wards 38 and 39.

(4) That part of the city of Menasha located in the county.

Fifty-sixth assembly district. All of the following territory constitutes the 56th assembly district:

(1) Outagamie County. That part of Outagamie County consisting of all of the following:

(a) The towns of Center, Dale, Grand Chute, and Greenville.

(b) That part of the city of Appleton comprising wards 30, 31, and 32.

(2) Winnebago County. That part of Winnebago County consisting of all of the following:

(a) The towns of Clayton, Neenah, Poygan, Vinland, Winchester, Winneconne, and Wolf River.

(b) That part of the town of Menasha comprising wards 1 and 2.

(c) The village of Winneconne.

Fifty-seventh assembly district. All of the following territory in Outagamie County constitutes the 57th assembly district:

(1) That part of the village of Little Chute comprising ward 3.

(2) That part of the city of Appleton comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36, and 37.

Fifty-eighth assembly district. All of the following territory in Washington County constitutes the 58th assembly district:

(1) The towns of Addison, Jackson, and West Bend.

(2) That part of the town of Hartford comprising ward 5.

(3) That part of the town of Polk comprising wards 1, 2, 3, 4, 6, and 7.

(4) That part of the town of Trenton comprising wards 3 and 4.

(5) The villages of Jackson and Slinger.

(6) The city of West Bend.

Fifty-ninth assembly district. All of the following territory constitutes the 59th assembly district:

(1) Dodge County. That part of Dodge County consisting of all of the following:

(a) The town of Theresa.

(b) The village of Theresa.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

(a) The towns of Ashford, Auburn, Eden, and Osceola.

(b) The villages of Campbellsport and Eden.

(3) Ozaukee County. That part of Ozaukee County consisting of all of the following:

(a) The towns of Belgium and Fredonia.

(b) That part of the town of Saukville comprising ward 1.

(c) The villages of Belgium and Fredonia.

(4) Sheboygan County. That part of Sheboygan County consisting of all of the following:

(a) The towns of Holland, Lima, Lyndon, Mitchell, Scott, Sherman, and Wilson.

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(b) The villages of Adell, Cascade, Cedar Grove, Oostburg, Random Lake, and Waldo.

(5) Washington County. That part of Washington County consisting of all of the following:

(a) The towns of Barton, Farmington, Kewaskum, and Wayne.

***22** (b) The village of Kewaskum.

Sixtieth assembly district. All of the following territory constitutes the 60th assembly district:

(1) Ozaukee County. That part of Ozaukee County consisting of all of the following:

(a) The towns of Cedarburg, Grafton, and Port Washington.

(b) That part of the town of Saukville comprising wards 2, 3, 4, 5, and 6.

(c) The villages of Grafton and Sackville.

(d) That part of the village of Newburg located in the county.

(e) The cities of Cedarburg and Port Washington.

(f) That part of the city of Mequon comprising ward 2.

(2) Washington County. That part of Washington County consisting of all of the following:

(a) That part of the town of Trenton comprising wards 1, 2, 5, 6, and 7.

(b) That part of the village of Newburg located in the county.

Sixty-first assembly district. All of the following territory in Racine County constitutes the 61st assembly district:

(1) That part of the town of Mount Pleasant comprising ward 22.

(2) The villages of North Bay and Wind Point.

(3) That part of the city of Racine comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 27, 33, and 34.

Sixty-second assembly district. All of the following territory in Racine County constitutes the 62nd assembly district:

(1) That part of the town of Mount Pleasant comprising wards 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, and 23.

(2) The villages of Elmwood Park and Sturtevant.

(3) That part of the city of Racine comprising wards 8, 21, 23, 24, 25, 26, 28, 29, 30, 31, and 32.

Sixty-third assembly district. All of the following territory in Racine County constitutes the 63rd assembly district:

(1) The towns of Caledonia, Dover, Norway, Raymond, Rochester, and Yorkville.

(2) That part of the town of Mount Pleasant comprising wards 6, 8, 9, 13, and 15.

(3) The villages of Rochester and Union Grove.

Sixty-fourth assembly district. All of the following territory in Kenosha County constitutes the 64th assembly district:

(1) That part of the town of Somers comprising ward 8.

(2) That part of the city of Kenosha comprising wards 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 22, 29, 31, and 32.

Sixty-fifth assembly district. All of the following territory in Kenosha County constitutes the 65th assembly district:

(1) That part of the town of Bristol comprising ward 6.

(2) The village of Pleasant Prairie.

(3) That part of the city of Kenosha comprising wards 5, 6, 16, 17, 18, 23, 24, 25, 26, 27, 28, 30, 33, and 34.

Sixty-sixth assembly district. All of the following territory constitutes the 66th assembly district:

(1) Kenosha County. That part of Kenosha County consisting of all of the following:

(a) The towns of Brighton, Paris, Randall, and Salem.

(b) That part of the town of Bristol comprising wards 1, 2, 3, 4, 5, 7, and 8.

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***23** (c) That part of the town of Somers comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, and 12.

(d) The villages of Paddock Lake, Silver Lake, and Twin Lakes.

(e) That part of the village of Genoa City located in the county.

(2) Racine County. That part of Racine County consisting of all of the following:

(a) The town of Burlington.

(b) That part of the city of Burlington located in the county.

(3) Walworth County. That part of Walworth County consisting of that part of the city of Burlington located in the county.

Sixty-seventh assembly district. All of the following territory constitutes the 67th assembly district:

(1) Barron County. That part of Barron County consisting of all of the following:

(a) The towns of Dallas, Dovre, and Sioux Creek.

(b) The village of Dallas.

(c) That part of the village of New Auburn located in the county.

(2) Chippewa County. That part of Chippewa County consisting of all of the following:

(a) The towns of Anson, Arthur, Auburn, Birch Creek, Bloomer, Cleveland, Colburn, Cooks Valley, Eagle Point, Estella, Goetz, Howard, Lake Holcombe, Ruby, Sampson, Tilden, and Woodmohr.

(b) The village of Cadott.

(c) That part of the village of New Auburn located in the county.

(d) The cities of Bloomer, Chippewa Falls, and Cornell.

(3) Dunn County. That part of Dunn County consisting of all of the following:

(a) The towns of Colfax, Elk Mound, Grant, Hay River, New Haven, Otter Creek, Red Cedar, Sand Creek, Sheridan, Sherman, Spring Brook, Tainter, Tiffany, and Wilson.

(b) The villages of Boyceville, Colfax, Downing, Elk Mound, Ridgeland, and Wheeler.

Sixty-eighth assembly district. All of the following territory constitutes the 68th assembly district:

(1) Chippewa County. That part of Chippewa County consisting of all of the following:

(a) The towns of Hallie, Lafayette, and Wheaton.

(b) That part of the city of Eau Claire located in the county.

(2) Eau Claire County. That part of Eau Claire County consisting of all of the following:

(a) The towns of Lincoln, Ludington, Seymour, and Union.

(b) That part of the town of Washington comprising wards 9 and 13.

(c) The village of Fall Creek.

(d) That part of the city of Altoona comprising wards 8, 12, and 13.

(e) That part of the city of Eau Claire comprising wards 1, 7, 8, 9, 10, 11, 12, 13, 14, 19, 22, 23, 29, 34, 35, 36, and 37.

Sixty-ninth assembly district. All of the following territory constitutes the 69th assembly district:

(1) Chippewa County. That part of Chippewa County consisting of all of the following:

(a) The towns of Delmar, Edson, and Sigel.

(b) The village of Boyd.

(c) The city of Stanley.

(2) Clark County. That part of Clark County consisting of all of the following:

(a) The towns of Beaver, Butler, Colby, Eaton, Foster, Fremont, Grant, Green Grove, Hendren, Hewett, Hixon, Hoard, Longwood, Loyal, Lynn, Mayville, Mead, Mentor, Pine Valley, Reseburg, Seif, Sherman, Sherwood, Thorp, Unity, Warner, Washburn, Weston, Withee, Worden, and York.

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***24** (b) The villages of Curtiss, Granton, and Withee.

(c) That part of the village of Dorchester located in the county.

(d) That part of the village of Unity located in the county.

(e) The cities of Greenwood, Loyal, Neillsville, Owen, and Thorp.

(f) That part of the city of Abbotsford located in the county.

(g) That part of the city of Colby located in the county.

(3) Eau Claire County. That part of Eau Claire County consisting of the town of Wilson.

(4) Marathon County. That part of Marathon County consisting of all of the following:

(a) The towns of Brighton, Cleveland, Eau Pleine, Frankfort, Hull, McMillan, Spencer, and Wien.

(b) The villages of Edgar, Fenwood, Spencer, and Stratford.

(c) That part of the village of Dorchester located in the county.

(d) That part of the village of Unity located in the county.

(e) That part of the city of Abbotsford located in the county.

(f) That part of the city of Colby located in the county.

(5) Taylor County. That part of Taylor County consisting of the town of Taft.

(6) Wood County. That part of Wood County consisting of the town of Lincoln.

Seventieth assembly district. All of the following territory constitutes the 70th assembly district:

(1) Marathon County. That part of Marathon County consisting of that part of the city of Marshfield located in the county.

(2) Portage County. That part of Portage County consisting of all of the following:

(a) The towns of Carson, Dewey, Eau Pleine, Hull, Linwood, and Sharon.

(b) That part of the town of Grant comprising ward 3.

(c) That part of the town of Plover comprising wards 1 and 4.

(d) The village of Junction City.

(e) That part of the village of Milladore located in the county.

(3) Wood County. That part of Wood County consisting of all of the following:

(a) The towns of Arpin, Auburndale, Cameron, Cary, Cranmoor, Dexter, Hansen, Hiles, Marshfield, Milladore, Port Edwards, Remington, Richfield, Rock, Rudolph, Seneca, Sherry, Sigel, and Wood.

(b) The villages of Arpin, Auburndale, Hewitt, Rudolph, and Vesper.

(c) That part of the village of Milladore located in the county.

(d) The cities of Nekoosa and Pittsville.

(e) That part of the city of Marshfield located in the county.

Seventy-first assembly district. All of the following territory constitutes the 71st assembly district:

(1) Portage County. That part of Portage County consisting of all of the following:

(a) The towns of Almond, Amherst, Belmont, Buena Vista, Lanark, New Hope, Pine Grove, and Stockton.

(b) That part of the town of Plover comprising wards 2 and 3.

(c) The villages of Almond, Amherst, Amherst Junction, Nelsonville, Park Ridge, Plover, and Whiting.

(d) The city of Stevens Point.

(2) Waushara County. That part of Waushara County consisting of all of the following:

(a) The towns of Deerfield, Hancock, Oasis, Plainfield, and Rose.

***25** (b) The villages of Hancock and Plainfield.

Seventy-second assembly district. All of the following territory constitutes the 72nd assembly district:

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(1) Adams County. That part of Adams County consisting of all of the following:

(a) The towns of Adams, Big Flats, Colburn, Easton, Jackson, Leola, Lincoln, Monroe, New Chester, Preston, Quincy, Richfield, Rome, Springville, and Strongs Prairie.

(b) The village of Friendship.

(c) The city of Adams.

(2) Marquette County. That part of Marquette County consisting of all of the following:

(a) The town of Springfield.

(b) The village of Westfield.

(3) Portage County. That part of Portage County consisting of that part of the town of Grant comprising wards 1 and 2.

(4) Wood County. That part of Wood County consisting of all of the following:

(a) The towns of Grand Rapids and Saratoga.

(b) The villages of Biron and Port Edwards.

(c) The city of Wisconsin Rapids.

Seventy-third assembly district. All of the following territory constitutes the 73rd assembly district:

(1) Whole county. Douglas County.

(2) Burnett County. That part of Burnett County consisting of the towns of Blaine, Jackson, Oakland, Rusk, Sand Lake, Scott, Swiss, Union, and Webb Lake.

(3) Washburn County. That part of Washburn County consisting of all of the following:

(a) The towns of Bass Lake, Brooklyn, Casey, Chicog, Crystal, Evergreen, Frog Creek, Gull Lake, Minong, Springbrook, Stinnett, and Trego.

(b) The village of Mining.

Seventy-fourth assembly district. All of the following territory constitutes the 74th assembly district:

(1) Whole counties. Ashland County, Bayfield County, and Iron County.

(2) Sawyer County. That part of Sawyer County consisting of all of the following:

(a) The towns of Bass Lake, Couderay, Edgewater, Hayward, Hunter, Lenroot, Ojibwa, Radisson, Round Lake, Sand Lake, Spider Lake, and Winter.

(b) The villages of Couderay, Radisson, and Winter.

(c) The city of Hayward.

Seventy-fifth assembly district. All of the following territory constitutes the 75th assembly district:

(1) Barron County. That part of Barron County consisting of all of the following:

(a) The towns of Almena, Arland, Barron, Bear Lake, Cedar Lake, Chetek, Clinton, Crystal Lake, Cumberland, Doyle, Lakeland, Maple Grove, Maple Plain, Oak Grove, Prairie Farm, Prairie Lake, Rice Lake, Stanfold, Stanley, Sumner, Turtle Lake, and Vance Creek.

(b) The villages of Almena, Cameron, Haugen, and Prairie Farm.

(c) That part of the village of Turtle Lake located in the county.

(d) The cities of Barron, Chetek, Cumberland, and Rice Lake.

(2) Polk County. That part of Polk County consisting of all of the following:

(a) The towns of Beaver, Johnstown, and McKinley.

(b) That part of the village of Turtle Lake located in the county.

(3) Washburn County. That part of Washburn County consisting of all of the following:

***26** (a) The towns of Barronett, Bashaw, Beaver Brook, Birchwood, Long Lake, Madge, Sarona, Spooner, and Stone Lake.

(b) The village of Birchwood.

(c) The cities of Shell Lake and Spooner.

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Seventy-sixth assembly district. All of the following territory in Dane County constitutes the 76th assembly district:

(1) That part of the town of Madison comprising wards 2, 3, 4, and 6.

(2) That part of the city of Fitchburg comprising wards 1, 2, 3, 4, and 6.

(3) That part of the city of Madison comprising wards 48, 50, 58, 59, 60, 65, 66, 67, 68, 69, 72, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, and 94.

Seventy-seventh assembly district. All of the following territory in Dane County constitutes the 77th assembly district:

(1) The village of Shorewood Hills.

(2) That part of the city of Madison comprising wards 45, 46, 47, 61, 62, 63, 64, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 95, 96, and 97.

(3) That part of the city of Middleton comprising wards 2, 3, and 4.

Seventy-eighth assembly district. All of the following territory in Dane County constitutes the 78th assembly district:

(1) That part of the town of Madison comprising wards 1, 5, 7, 8, 9, 10, and 11.

(2) The village of Maple Bluff.

(3) That part of the city of Madison comprising wards 14, 15, 21, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 51, 52, 53, 54, and 57.

Seventy-ninth assembly district. All of the following territory in Dane County constitutes the 79th assembly district:

(1) The towns of Blue Mounds, Cross Plains, Middleton, Springdale, Vermont, and Verona.

(2) The villages of Blue Mounds and Mount Horeb.

(3) The city of Verona.

(4) That part of the city of Fitchburg comprising wards 5, 7, 8, 9, 10, 11, and 12.

(5) That part of the city of Madison comprising wards 82, 83, 98, and 99.

(6) That part of the city of Middleton comprising wards 1, 5, 6, 7, and 9.

Eightieth assembly district. All of the following territory constitutes the 80th assembly district:

(1) Whole county. Green County.

(2) Dane County. That part of Dane County consisting of all of the following:

(a) The towns of Montrose, Oregon, Perry, and Primrose.

(b) That part of the village of Oregon comprising wards 1, 5, 6, 7, and 8.

(c) That part of the village of Belleville located in the county.

(d) That part of the village of Brooklyn located in the county.

(3) Lafayette County. That part of Lafayette County consisting of all of the following:

(a) The town of Wayne.

(b) The village of South Wayne.

(4) Rock County. That part of Rock County consisting of all of the following:

(a) The towns of Magnolia and Union.

(b) The city of Evansville.

Eighty-first assembly district. All of the following territory in Dane County constitutes the 81st assembly district:

(1) The towns of Berry, Black Earth, Burke, Springfield, and Westport.

(2) The villages of Black Earth, Cross Plains, Mazomanie, and Waunakee.

***27** (3) That part of the city of Madison comprising wards 9, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, and 30.

(4) That part of the city of Middleton comprising ward 8.

Eighty-second assembly district. All of the following territory in Milwaukee County constitutes the 82nd assembly district:

(1) The village of Greendale.

(2) The city of Franklin.

(3) That part of the city of Greenfield comprising wards 6, 7, 9, 10, 11, and 12.

Eighty-third assembly district. All of the following territory constitutes the 83rd assembly district:

(1) Racine County. That part of Racine County consisting of all of the following:

(a) The town of Waterford.

(b) The village of Waterford.

(2) Walworth County. That part of Walworth County consisting of all of the following:

(a) The town of East Troy.

(b) The village of East Troy.

(c) That part of the village of Mukwonago located in the county.

(3) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) The town of Vernon.

(b) That part of the town of Mukwonago comprising ward 3.

(c) The village of Big Bend.

(d) That part of the village of Mukwonago located in the county.

(e) The city of Muskego.

Eighty-fourth assembly district. All of the following territory constitutes the 84th assembly district:

(1) Milwaukee County. That part of Milwaukee County consisting of the village of Hales Corners.

(2) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) That part of the town of Waukesha comprising wards 6, 9, 10, 11, and 12.

(b) The city of New Berlin.

(c) That part of the city of Waukesha comprising wards 25 and 26.

Eighty-fifth assembly district. All of the following territory constitutes the 85th assembly district:

(1) Marathon County. That part of Marathon County consisting of all of the following:

(a) The towns of Berlin, Easton, Maine, Norrie, Plover, Texas, and Wausau.

(b) The village of Brokaw.

(c) That part of the village of Rothschild comprising wards 1, 2, 3, and 4.

(d) The cities of Schofield and Wausau.

(2) Shawano County. That part of Shawano County consisting of the villages of Aniwa and Eland.

Eighty-sixth assembly district. All of the following territory constitutes the 86th assembly district:

(1) Marathon County. That part of Marathon County consisting of all of the following:

(a) The towns of Bergen, Bevent, Cassel, Day, Emmet, Franzen, Green Valley, Guenther, Knowlton, Kronenwetter, Marathon, Mosinee, Reid, Rib Falls, Rib Mountain, Rietbrock, Ringle, Stettin, and Weston.

(b) The villages of Hatley, Marathon City, and Weston.

(c) That part of the village of Rothschild comprising wards 5 and 6.

(d) The city of Mosinee.

(2) Portage County. That part of Portage County consisting of all of the following:

(a) The town of Alban.

(b) The village of Rosholt.

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***28** (3) Shawano County. That part of Shawano County consisting of all of the following:

(a) The towns of Fairbanks and Germania.

(b) The village of Tiverton.

Eighty-seventh assembly district. All of the following territory constitutes the 87th assembly district:

(1) Whole counties. Price County and Rusk County.

(2) Marathon County. That part of Marathon County consisting of the towns of Bern, Holton, and Johnson.

(3) Sawyer County. That part of Sawyer County consisting of all of the following:

(a) The towns of Draper, Meadowbrook, Meteor, and Weirgor.

(b) The village of Exeland.

(4) Taylor County. That part of Taylor County consisting of all of the following:

(a) The towns of Aurora, Browning, Chelsea, Cleveland, Deer Creek, Ford, Goodrich, Greenwood, Grover, Hammel, Holway, Jump River, Little Black, McKinley, Maplehurst, Medford, Molitor, Pershing, Rib Lake, Roosevelt, and Westboro.

(b) The villages of Gilman, Lublin, Rib Lake, and Stetsonville.

(c) The city of Medford.

Eighty-eighth assembly district. All of the following territory in Brown County constitutes the 88th assembly district: that part of the city of Green Bay comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, and 36.

Eighty-ninth assembly district. All of the following territory constitutes the 89th assembly district:

(1) Brown County. That part of Brown County consisting of all of the following:

(a) The town of Pittsfield.

(b) That part of the town of Suamico comprising wards 1, 2, 3, 4, 5, 6, 8, 9, and 10.

(c) That part of the village of Pulaski located in the county.

(2) Marinette County. That part of Marinette County consisting of all of the following:

(a) The towns of Beaver, Grover, Peshtigo, and Pound.

(b) The villages of Coleman and Pound.

(c) The cities of Marinette and Peshtigo.

(3) Oconto County. That part of Oconto County consisting of all of the following:

(a) The towns of Chase, Lena, Little River, Little Suamico, Oconto, Pensaukee, and Stiles.

(b) The village of Lena.

(c) That part of the village of Pulaski located in the county.

(d) The city of Conto.

(4) Shawano County. That part of Shawano County consisting of that part of the village of Pulaski located in the county.

Ninetieth assembly district. All of the following territory in Brown County constitutes the 90th assembly district:

(1) That part of the town of Suamico comprising ward 7.

(2) That part of the village of Howard located in the county.

(3) That part of the city of Green Bay comprising wards 25, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

Ninety-first assembly district. All of the following territory constitutes the 91st assembly district:

(1) Whole counties. Buffalo County and Trempealeau County.

(2) Jackson County. That part of Jackson County consisting of all of the following:

***29** (a) The town of Springfield.

(b) The village of Taylor.

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(3) Pepin County. That part of Pepin County consisting of all of the following:

(a) The towns of Durand, Frankfort, Pepin, Stockholm, Waterville, and Waubeek.

(b) The villages of Pepin and Stockholm.

(c) The city of Durand.

(4) Pierce County. That part of Pierce County consisting of all of the following:

(a) The towns of Ellsworth, El Paso, Hartland, Isabelle, Maiden Rock, Martell, Salem, and Union.

(b) The villages of Bay City, Maiden Rock, and Plum City.

Ninety-second assembly district. All of the following territory constitutes the 92nd assembly district:

(1) Clark County. That part of Clark County consisting of the towns of Dewhurst and Levis.

(2) Eau Claire County. That part of Eau Claire County consisting of all of the following:

(a) The towns of Bridge Creek and Fairchild.

(b) The village of Fairchild.

(c) The city of Augusta.

(3) Jackson County. That part of Jackson County consisting of all of the following:

(a) The towns of Adams, Albion, Alma, Bear Bluff, Brockway, City Point, Cleveland, Curran, Franklin, Garden Valley, Garfield, Hixton, Irving, Knapp, Komensky, Manchester, Melrose, Millston, North Bend, and North field.

(b) The villages of Alma Center, Hixton, Melrose, and Merrill an.

(c) The city of Black River Falls.

(4) Monroe County. That part of Monroe County consisting of all of the following:

(a) The towns of Adrian, Angelo, Byron, Grant, Greenfield, Lafayette, La Grange, Lincoln, Little Falls, New Lyme, Oakdale, Scott, Sparta, and Tomah.

(b) The villages of Oakdale, Warrens, and Wyeville.

(c) The cities of Sparta and Tomah.

Ninety-third assembly district. All of the following territory constitutes the 93rd assembly district:

(1) Dunn County. That part of Dunn County consisting of the towns of Dunn, Eau Galle, Peru, Rock Creek, and Weston.

(2) Eau Claire County. That part of Eau Claire County consisting of all of the following:

(a) The towns of Brunswick, Clear Creek, Drammen, Otter Creek, and Pleasant Valley.

(b) That part of the town of Washington comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12.

(c) That part of the city of Altoona comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 10, and 11.

(d) That part of the city of Eau Claire comprising wards 2, 3, 4, 5, 6, 15, 17, 18, 20, 21, 25, 26, 27, 28, 30, 31, 32, 33, 38, and 39.

(3) Pepin County. That part of Pepin County consisting of the towns of Albany and Lima.

(4) Pierce County. That part of Pierce County consisting of the town of Rock Elm.

Ninety-fourth assembly district. All of the following territory constitutes the 94th assembly district:

(1) La Crosse County. That part of La Crosse County consisting of all of the following:

(a) The towns of Bangor, Barre, Burns, Campbell, Farmington, Greenfield, Hamilton, Holland, Medary, Onalaska, and Washington.

***30** (b) That part of the town of Shelby comprising wards 2 and 3.

(c) The villages of Bangor, Holmen, and West Salem.

(d) That part of the village of Rockland located in the county.

(e) The city of Onalaska.

(2) Monroe County. That part of Monroe County consisting of all of the following:

(a) The towns of Leon and Portland.

(b) The village of Melvin.

(c) That part of the village of Rockland located in the county.

Ninety-fifth assembly district. All of the following territory in La Crosse County constitutes the 95th assembly district:

(1) That part of the town of Shelby comprising wards 1, 4, 5, and 6.

(2) The city of La Crosse.

Ninety-sixth assembly district. All of the following territory constitutes the 96th assembly district:

(1) Whole counties. Crawford County and Vernon County.

(2) Monroe County. That part of Monroe County consisting of all of the following:

(a) The towns of Jefferson, Ridgeville, Sheldon, Wellington, Wells, and Wilton.

(b) The villages of Cashton, Norwalk, and Wilton.

(3) Richland County. That part of Richland County consisting of all of the following:

(a) The towns of Akan, Bloom, Forest, Henrietta, and Sylvan.

(b) The village of Yuba.

(c) That part of the village of Viola located in the county.

Ninety-seventh assembly district. All of the following territory in Waukesha County constitutes the 97th assembly district:

(1) That part of the town of Waukesha comprising wards 1, 2, 4, and 5.

(2) That part of the city of Waukesha comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38.

Ninety-eighth assembly district. All of the following territory in Waukesha County constitutes the 98th assembly district:

(1) The town of Brookfield.

(2) That part of the town of Lisbon comprising wards 4, 5, 6, and 7.

(3) The village of Pewaukee.

(4) That part of the village of Sussex comprising ward 12.

(5) That part of the city of Brookfield comprising wards 4, 5, 6, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22.

(6) That part of the city of Pewaukee comprising wards 1, 2, 3, 4, 5, 6, 8, 9, and 10.

Ninety-ninth assembly district. All of the following territory constitutes the 99th assembly district:

(1) Dodge County. That part of Dodge County consisting of that part of the city of Hartford located in the county.

(2) Washington County. That part of Washington County consisting of all of the following:

(a) The town of Erin.

(b) That part of the town of Hartford comprising wards 1, 2, 3, 4, and 6.

(c) That part of the town of Polk comprising ward 5.

(d) That part of the town of Richfield comprising wards 1, 2, 3, 4, 5, 9, and 10.

(e) That part of the city of Hartford located in the county.

(3) Waukesha County. That part of Waukesha County consisting of all of the following:

***31** (a) The town of Merton.

(b) That part of the town of Lisbon comprising wards 1, 2, 3, 8, 9, 10, 11, and 12.

(c) The villages of Lannon and Merton.

(d) That part of the village of Menominee Falls comprising wards 18, 24, 25, 26, and 27.

(e) That part of the village of Sussex comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

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All Citations

Not Reported in F.Supp.2d, 2002 WL 34127471

Footnotes

1 The complaint also sought reapportionment of Wisconsin's congressional districts, as the 2000 census resulted in Wisconsin losing one of its nine seats in congress. However, during the pendency of this case, the Wisconsin Legislature passed, and Governor Scott McCallum signed, a bill reapportioning the congressional districts, and the congressional portion of this case became moot on April 11, 2002 (the day on which the trial in the state legislative portion of this case began).

2 Case No. 01–C–0121 was randomly assigned to Senior District Judge John W. Reynolds. Pursuant to 28 U.S.C. § 2284, Chief Judge Flaum named Circuit Judge Frank H. Easterbrook and Chief District Judge J.P. Stadtmueller to a three-judge panel to hear the case. The case was subsequently reassigned, pursuant to General L.R. 3.1, to District Judge C.N. Clevert.

3 In contrast, Congressional redistricting may create a much more rigorous standard for “de minimis” population deviations. *See Vieth v. Pennsylvania,* No. 1:CV–01–2439, 2002 U.S. Dist. LEXIS 6188 at *15 (M.D. Penn. April 8, 2002) (finding plan creating Congressional districts unconstitutional because the most- and least-populous districts differed in population by nineteen persons.)

4 The *Prosser* Court noted that the parties refer to both the maximum deviation, which is the difference in population between the least and the most populous district divided by the mean population of all districts, as well as the average by which the districts deviate from the average population.

5 The population shifts in the area necessitated the elimination of one assembly district in Milwaukee County and the creation of one assembly district in the high-growth area west of the county.

6 The court's plan is also superior to all plans submitted by amici with respect to the traditional redistricting criteria.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CARLENE BECHEN, ELVIRA BUMPUS, RONALD BIENDSEI, LESLIE W. DAVIS, III, BRETT ECKSTEIN, GEORGIA ROGERS, RICHARD KRESBACH, ROCHELLE MOORE, AMY RISSEEUW, JUDY ROBSON, JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN and CINDY BARBERA,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE, and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY,

Intervenor-Defendants

Case No. 11-C-562
JPS-DPW-RMD

VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,

Defendants.

Case No. 11-CV-1011 JPS-DPW-RMD

Defendants' Brief in Support of Their Motion for Summary Judgment on Counts 2-6 and 8 As Alleged by the *Baldus* Plaintiffs, Counts 4 and 5 As Alleged by the *Baldwin* Intervenor-Plaintiffs and the Single Count As Alleged by the Consolidated *Voces De La Frontera* Plaintiffs

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ARGUMENT

I. Political Gerrymandering (Counts 2, 4, 5 and 8)

In order to prevail on their political gerrymandering claims, plaintiffs and intervenor-plaintiffs bear the burden of doing what neither the U.S. Supreme Court, nor any other lower federal court or plaintiff has been able to do: identify a workable standard for determining when political gerrymandering is so extreme that it infringes upon plaintiffs' constitutional rights. The question is not whether there is a test for identifying whether politics influenced a districting plan—it always does and there is nothing unusual or wrong in this, constitutionally or otherwise. "[P]artisan districting is a lawful and common practice." *Vieth v. Jubelirer*, 541 U.S. 267, 286 (2004) (plurality). The question is at what point political gerrymandering infringes on constitutional rights. And to answer that question, one must first develop a manageable, workable standard for identifying that point. The U. S. Supreme Court has yet to figure out *what* constitutional rights are implicated by extreme political gerrymandering let alone *when* those rights are implicated. As a result, political gerrymandering claims are "justiciable *in principle*, but also currently unsolveable." *Radogno v. Ill. State Bd. of Elections*, 2011 WL 5025251, at *6 (N.D. Ill. Oct. 21, 2011). In over a quarter century, no litigant has been able solve this problem; plaintiffs do no better here.

A. Counts 2, 4, 5 and 8 Are All Political Gerrymandering Claims

Although plaintiffs designate only one of their eight counts as a political gerrymandering claim (count 5), counts 2, 4, 5 and 8 all (taken as a whole) constitute a political gerrymandering claim.[1] If counts 2, 4 and 8 are not part of a political gerrymandering claim, then they are nothing; the allegations asserted in support of each of these counts do not support any other kind of claim within this Court's jurisdiction.

[1] Intervenor-Plaintiffs have asserted claims that are redundant with counts 4 and 5 of the Second Amended Complaint. *Int-Plts' Cmplt.*, dkt # 67. Thus, their claims are also challenged here.

Count 2 is titled "the legislation does not recognize local government boundaries" and in support of this claim, plaintiffs allege that "[t]he 2011 legislative districts unconstitutionally fail to minimize the splitting of counties and political subdivisions, ignoring Wisconsin's long-established policy to maintain their integrity." *Sec. Am. Compl*, dkt. # 58, ¶ 38. Count 4 is titled "Congressional Districts are not compact and fail to preserve communities of interest" and in support of this count, plaintiffs allege that certain federal congressional districts are not compact while others allegedly divide communities of interest. *Sec. Am. Compl*, dkt. # 58, ¶¶ 50-55. Count 8 is "[n]ew congressional and legislative districts are not justified by any legitimate state interest" and the supporting allegations charge that "[t]he state failed to take into account the well-established principles of compactness, maintaining communities of interest and preserving core populations from prior districts in establishing new district boundaries," and "[t]here is no apolitical state interest that justifies the new congressional and legislative districts." *Sec. Am. Compl*, dkt. # 58, ¶¶ 89, 92.[2]

The U.S. Constitution does not mandate compactness, core population retention, or community of interest retention in legislative or congressional redistricting; thus, a claim that a redistricting plan does not advance any of these interests does not state a claim under the U.S. Constitution. Moreover, although the Wisconsin Constitution does require that state assembly districts be "bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable," Wis. Const. Art. 4, § 4, and that state senate districts be comprised of whole assembly districts and "convenient contiguous territory," Wis. Const., Art. 4, § 5, this Court lacks jurisdiction to entertain any claim that these provisions have been violated. Finally, the Wisconsin

[2] Defendants of course dispute the merits of these allegations and will show at trial that 2011 Wisconsin Acts 43 and 44 ("Acts 43" and "44") set forth districts that are compact, do not unduly break up communities of interest and maintain core populations better than court drawn plans have done in the past.

Constitution provides no standards for *federal* congressional districts, and accordingly there can be no claim that Act 44 violates the Wisconsin Constitution.

1. The U.S. Constitution Does Not Mandate Compactness, Contiguity or Respect for Communities of Interest or Political Subdivisions

"[C]ompactness, contiguity, and respect for political subdivisions … are important not because they are constitutionally required—*they are not*—but because they are objective factors that may serve to defeat a claim [of unconstitutional redistricting]" *Shaw v. Reno*, 509 U.S. 630, 647 (1993) (citing *Gaffney v. Cummings,* 412 U.S. 735, 752, n. 18 (1973) (emphasis supplied)).[3] These objective principles are simply legitimate goals that can be used to justify variances from perfect population equality. So long as states respect actual constitutional requirements, they are free to pursue their own priorities as they develop new legislative district maps. "[I]t is the province of the state legislature to determine and apply redistricting priorities, so long as they do not conflict with constitutional mandates." *Graham v. Thornburgh*, 207 F.Supp.2d 1280, 1296 (D. Kan. 2002).

Because preserving compactness, contiguity, communities of interest and/or local government subdivisions are not federal constitutional mandates, *Shaw*, 509 U.S. at 647; *Gaffney,* 412 U.S. at 752, n. 18, there is no such thing as a viable, free-standing claim for lack of compactness, lack of contiguity or failure to maintain communities of interest or core populations under the U.S. Constitution. *See*, *e.g.*, *Gorrell v. O'Malley*, 2012 WL 226919 (D. Md. Jan. 19, 2012) ("dismiss[ing] with prejudice" a claim that alleged failure to preserve communities of interest because it "alleges no constitutional violation"). So plaintiffs have no claim that the mere lack of compactness, failure to maintain

[3] *See also Graham v. Thornburgh*, 207 F.Supp.2d 1280, 1296 (D. Kan. 2002) (no constitutional right to have one's particular community of interest contained within single congressional district).

communities of interest or failure to maintain contiguous districts violates the U.S. Constitution.

2. This Court Does Not Have Jurisdiction To Decide Claims Based on Wisconsin Constitution, Art. IV, §§ 4 or 5

It is true that the Wisconsin Constitution mandates that state senate and assembly districts be compact, contiguous and that they respect local governmental boundaries (though it says nothing about *congressional* districts). *See* Wisconsin Const., Art. IV, §§ 4 or 5.[4] But the U.S. Constitution says this Court lacks jurisdiction to entertain any claim that these requirements have been violated.

"[A] federal suit against state officials on the basis of state law contravenes the Eleventh Amendment when-as here-the relief sought…has an impact directly on the State itself." *Pennhurst State School & Hosp. v. Halderman,* 465 U.S. 89, 117 (1984). A State's sovereign immunity extends to its agencies, *id.* at 100; *see, e.g.*, *Hirsh v. Justices of the Supreme Court of the State of Cal.,* 67 F.3d 708, 715 (9th Cir. 1995), and to "a suit against a state official in his or her official capacity" because such a suit "is no different than a suit against the State itself." *Will v. Mich. Dep't of State Police,* 491 U.S. 58, 71 (1989). Although a narrow exception to the general rule of sovereign immunity was carved out in *Ex parte Young*, 209 U.S. 123 (1908) permitting plaintiffs to seek certain prospective equitable relief against state officials for violations of federal law,[5] this exception does not extend to claims alleging violations of state law by state officers. *Pennhurst*, 465 U.S. at 121; *Komyatti v. Bayh*, 96 F.3d 955, 959 (7th Cir. 1996).

[4] As noted above, the Wisconsin Constitution provides no contiguity, compactness, community of interest or local political subdivision related requirements for federal congressional districting. Accordingly, any allegations that Act 44, which governs Wisconsin's federal congressional districts, sets forth congressional districts that are insufficiently contiguous, insufficiently compact and/or improperly divides communities of interest or local political subdivisions does not state a claim under the Wisconsin Constitution.

[5] The Eleventh Amendment does not bar suits against a state official when the suit seeks prospective injunctive relief to "end a continuing violation of federal law," something not present here. *Seminole Tribe of Fla. v. Florida,* 517 U.S. 44, 73 (1996) (quoting *Green v. Mansour,* 474 U.S. 64, 78 (1985)).

This rule is central to the principles of federalism: "It is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law." *Pennhurst*, 465 U.S. at 106. Therefore, federal courts "do not have authority to enjoin state officials from violating state law." *Froehlich v. Wis. Dep't of Corrections*, 196 F.3d 800, 802 (7th Cir. 1999). Instead, where a plaintiff seeks relief for such a breach of state law, they must present their claims in state court. *See, e.g.*, *Shegog v. Bd. of Educ. of City of Chicago*, 194 F.3d 836, 838 (7th Cir. 1999).[6] The mere fact that the state law questions may be pendant to federal law questions is of no consequence: "[N]either pendant jurisdiction nor any other basis of jurisdiction may override the Eleventh Amendment." *Pennhurst*, 465 U.S. at 121.

A state's sovereign immunity is not simply a limitation on specific forms of relief; it is a jurisdictional bar and it "applies regardless of the nature of the relief sought." *Pennhurst*, 465 U.S. at 100. It applies not only to claimed breaches of state statutory requirements, but also to claimed breaches of the state's constitution, *see, e.g.*, *Bricklayers Union Local 21 v. Edgar*, 922 F. Supp. 100, 109 (N.D. Ill. 1996), and to complaints seeking only declaratory judgment. *See, e.g.*, *Benning v. Bd. of Regents of Regency Universities*, 928 F.2d 775, 778 (7th Cir. 1991).

Because this Court does not have jurisdiction to hear a claim that either Act 43 or 44 violates the Wisconsin Constitution, and because lack of compactness, contiguity, respect for communities of interest or respect for political subdivisions does not state a free-standing claim for a violation of the U.S. Constitution, counts 2, 4 and 8 must either be dismissed for failure to state a claim on which relief can be granted and lack of jurisdiction, or construed, along with count 5, as claims charging political gerrymandering—and then be dismissed for the reasons set forth below.

[6] "A State's constitutional interest in immunity encompasses not merely *whether* it may be sued, but *where* it may be sued." *Pennhurst*, 465 U.S. at 99 (emphasis in original).

B. Political Gerrymandering Claims Are Only Justiciable in Theory

Plaintiffs are no doubt eager to categorize their claims as something other than political gerrymandering given the state of the law governing such claims. Any discussion about the viability of political gerrymandering claims must start with the three seminal cases of *Davis v. Bandemer*, 478 U.S. 109 (1986), *Veith v. Jubelirer*, 541 U.S. 267 (2004) and *League of United Latin American Citizens (LULAC) v. Perry*, 548 U.S. 399 (2006). The net result of these cases is that political gerrymandering claims remain justiciable only in theory and any party attempting to make out a viable claim faces a burden that at least four U.S. Supreme Court justices have determined is impossible to meet: identify a standard for assessing such claims that is both judicially discernible (relevant to a constitutional violation) and manageable in its application. Plaintiffs propose no standard that even attempts to solve this perplexing conundrum.

1. *Davis v. Bandemer*

Bandemer was the first of a trio of seminal opinions in which the Supreme Court considered whether a claim of political gerrymandering presents a justiciable controversy, or instead a nonjusticiable political question. 478 U.S. at 119-27. Among the historically recognized circumstances that might lead to the conclusion that an issue presents a non-justiciable political question are "a textually demonstrable constitutional commitment of the issue to a coordinate political department" or a "lack of judicially discoverable and manageable standards for resolving it." *Id*. at 121 (quoting *Baker v. Carr*, 369 U.S. 186, 217 (1962)).

A majority of the Court (5 justices) found that an excessively partisan gerrymander would present a justiciable controversy; however, they could not agree on what standards would govern. *Id*. at 121-31, 138-41, 161-78.[7] A four-justice plurality articulated a two- part test for determining whether political influence on a redistricting

[7] The three other justices concluded that political gerrymandering claims presented non-justiciable political questions. *Id*. at 144-61.

plan violated the Equal Protection Clause. *Id*. at 119-27. Under this test, a plaintiff would need to prove both (1) "intentional discrimination against an identifiable political group" and (2) "actual discriminatory effect on that group." *Id*. Although the first element would prove easily met given the plurality's recognition that "[a]s long as redistricting is done by a legislature, it should not be very difficult to prove that the likely political consequences of the reapportionment were intended," *id*. at 130, the second element has proved unattainable.

In defining what kind of "discriminatory effect" would be sufficient to implicate equal protection rights, the plurality noted that prior jurisprudence had "clearly foreclose[d] any claim that the Constitution requires proportional representation or that legislatures in reapportioning must draw district lines to come as near as possible to allocating seats to the contending parties in proportion to what their anticipated statewide vote will be." *Id*. at 130 (citations omitted). Reasoning that "[a]n individual or group of individuals who votes for a losing candidate is usually deemed to be adequately represented by the winning candidate and to have as much opportunity to influence that candidate as other voters in the district," *id*. at 132, the plurality held that for challenges to individual districts "th[e] inquiry focuses on the opportunity of members of the group to participate in party deliberations, in the slating and nomination of candidates, their opportunity to register and vote, and hence their chance to directly influence the election returns and to secure the attention of the winning candidate," *id*. at 133, while the inquiry applicable to statewide challenges "centers on the voters' direct or indirect influence on the elections of the state legislature." *Id*. at 133.

This four-justice plurality also rejected a multi-factor test, proposed by Justice Powell in dissent, under which factors such as the nature of the legislative proceedings, the intent behind the redistricting, the shapes of the districts and their conformity to local political boundaries and statistical evidence of vote dilution. *Id*. at 138. It reasoned that the proposed test suffered from the flaws that a redistricting plan could be found

unconstitutional with only a showing of partisan intent and no showing of consistent partisan disadvantage at the polls, *id*. at 138-39, that a redistricting plan could also be found to violate equal protection rights simply by virtue of a lack of proportionate election result, *id*. at 140, and that it too readily invites judicial interference into "the most political of legislative functions." *Id*. at 142-43.

2. Veith v. Jubelirer

For the next eighteen years, the holding in *Bandemer* "served almost exclusively as an invitation to litigation without much prospect for redress." *Vieth*, 541 U.S. at 267 (plurality) (quoting S. Issacharoff, P. Karlan & R. Pildes, The Law of Democracy 886 (rev. 2d ed 2002)). Rather than attempting to develop the elusive standard that the U.S. Supreme Court was unable to articulate, lower courts simply applied—or attempted to apply—the *Bandemer* four-justice plurality test with the nearly invariable[8] result that courts refused to intervene. *Id*. at 279. Accordingly, in 2004, the U.S. Supreme Court reasoned that "[e]ighteen years of judicial effort with virtually nothing to show for it" justified revisiting the question whether political gerrymandering claims are justiciable. *Id*. at 281. Five justices agreed that neither the *Bandemer* plurality test, nor any other test that had been proposed, set forth a workable standard for evaluating political gerrymandering claims. *Id*. at 281-301 (four justice plurality); 308 (one justice concurrence noting agreement with plurality's demonstration of all tests proposed to date).

However, these five justices split 4-1 on the question of whether anyone *ever* could come up with a judicially discernible and manageable standard for identifying when a political gerrymander is so severe that it is *per se* unconstitutional. The four justice plurality held that it was an impossible task, *id*. at 306, while Justice Kennedy, concurring and acknowledging that the plurality had correctly demonstrated the

[8] In a single case, preliminary relief was granted but it did not involve the drawing of district lines. *Veith*, 541 U.S. at 279-80.

shortcomings of the other standards considered to date, refused to foreclose the possibility that such a standard might be discovered in the future. *Id*. at 311.[9]

Although Justice Kennedy acknowledged that he himself could not figure out what the appropriate standard ought to be, he outlined the parameters a standard would need to meet in order to qualify: "[I]n another case[,] a standard might emerge that suitably demonstrates how an apportionment's de facto incorporation of partisan classifications burdens rights of fair and effective representation (and so establishes the classification is unrelated to the aims of apportionment and thus is used in an impermissible fashion)." *Id*. at 312. Yet he acknowledged that "[b]ecause there are yet no agreed upon substantive principles of fairness in districting, [there is] no basis on which to define clear, manageable and politically neutral standards for measuring the particular burden a given partisan classification imposes on representational rights." *Id*. at 307-08. The burden of both identifying those substantive principles and coming up with manageable and politically neutral test rest with the party asserting a political gerrymandering claim. *Id*. at 313. In this case, that is the plaintiffs.

Because any plaintiff attempting to pursue a political gerrymandering claim must come up with an appropriate test, the various and sundry reasons for the Court's rejection of so many previously proposed standards remain highly relevant to an analysis of a new proposed test. The four justice plurality, plus Justice Kennedy in concurrence, found each of the following tests to be improper for the following reasons:

The *Bandemer* Four-Justice Plurality Test: The two-part "intent plus effect" test in *Bandemer* was rejected because the second element had proven to be unmanageable over time. *Id*. at 282-84 (citing long line of lower court opinions and law review articles chronicling the legacy of "puzzlement and consternation" of the *Bandemer* plurality test).

[9] "When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five justices, the holding of the Court may be viewed as that position taken by those Members who concurred in the judgment on the narrowest grounds." *Marks v. United State*, 430 U.S. 188, 193 (1977). Accordingly, Justice Kennedy's concurrence on this point is controlling.

Vieth Appellants' Proposed Test: The test proposed in *Vieth*, which was comprised of a "predominant intent" first prong and a second prong which tested for partisan effect using a two-part test which would be satisfied when "'(1) the plaintiffs show that the districts systematically 'pack' and 'crack' the rival party voters and (2) the court's examination of the 'totality of circumstances' confirms that the map can thwart the plaintiffs' ability to translate a majority of the vote into a majority of seats,'" *id*. at 286-87 (quoting appellants' brief), was rejected as both unmanageable and not judicially discernible. *Id*. at 284-90.[10]

Although the "predominant intent" standard is used to test for racial gerrymandering, the Court held that the standard did not readily translate to political gerrymandering:

> Determining whether the shape of a particular district is so substantially affected by the presence of a rare and constitutionally suspect motive as to invalidate it is quite different from determining whether it is so substantially affected by the excess of an ordinary and lawful motive as to invalidate it.… [T]he fact that partisan districting is a lawful and common practice means that there is almost always room for an election-impeding lawsuit contending that partisan advantage was the predominant motivation; not so for claims of racial gerrymandering.

Id. at 286. The proposed effects test was also rejected for a number of reasons, one of which is that it didn't actually test for a constitutional violation, *see id*. at 288 (constitution "guarantees equal protection of the law to persons, not equal representation in government to equivalently sized groups"), and another of which was that the standard was deemed unworkable given the near impossibility of identifying voter political affiliation on a state-wide basis; using past statewide election results was held insufficient

[10] Although the proposed test was loosely based on standards developed under the Voting Rights Act, the Court noted numerous substantive difference between racial and political gerrymandering that rendered improper attempts to coopt standards from the racial discrimination context: political persuasion is not always readily discernible, it is not always static and most critically, it is not a suspect classification under the Equal Protection clause and therefore, it does not trigger strict scrutiny analysis. *Id.*

as it would require adherence to the fiction that the only factor determining voting behavior is political affiliation. *Id*. at 288-89.

Powell *Bandemer* Test: The test proposed by Justice Powell in his *Bandemer* dissent, which was described as "essentially a totality-of-the circumstances analysis, where all conceivable factors, none of which is dispositive, are weighed with an eye to ascertaining whether the particular gerrymander has gone too far—or in Justice Powell's terminology, whether it is not 'fair,'" was again rejected as insufficiently definite. *Id*. at 291 ("[s]ome criterion more solid and more demonstrably met than that seems … necessary to enable the state legislatures to discern the limits of their districting discretion").

Stevens Dissent Test: Justice Stevens' proposal—that challenges to individual districts[11] could be evaluated on principles derived from the racial gerrymandering context—was rejected again based on the reasoning that co-opting racial gerrymandering standards is not appropriate because they are premised on the strict scrutiny triggered by the use of racial classifications; in contrast, political classifications are not constitutionally suspect and as such, their use does not trigger strict scrutiny. *Id*. at 293 ("[s]etting out to segregate voters by race is unlawful and hence rare, and setting out to segregate them by political affiliation is (so long as one doesn't go too far) lawful and hence, ordinary"). It was also rejected because it did not actually test for constitutional harms: "[T]he mere fact that there exist standards which this Court could apply … does not mean that those standards are discernible in the Constitution[;] [t]his Court may not willy-nilly apply standards—even manageable standards—having no relation to Constitutional harms." *Id*. at 294-95.

[11] Justice Stevens found that the appellants lacked standing to make out a state-wide political gerrymandering claim. *Id*. at 328, 331-35.

Souter Dissent Test: In his dissent, Justice Souter, with whom Justice Ginsberg joined, set forth a five-part burden shifting test.[12] Although the Court acknowledged that a five-part test would seem at first blush to be "eminently scientific," it found the last four steps of the test require "a quantifying judgment that is unguided and ill suited to the development of judicial standards." *Id*. at 296. The proposed test would have courts evaluate whether the legislature disregarded traditional redistricting principles without specifying how much disregard would suffice; courts would be tasked with analyzing the correlations between deviations from traditional principles and the distribution of the allegedly disadvantaged political group without specifying how many correlations would be enough; and the test would require courts to determine whether there was an intent to "pack and crack" the group without specifying how many legislators must have had this intent or whether this intent needs to be a predominant intent, an exclusive intent or simply some form of intent. *Id*.

Moreover, no guidance was provided regarding how the five factors were to be weighed—instead, Justice Souter proposed allowing lower courts to work it out on a case by case basis. *Id.* at 348-49. The Court rejected this proposal, noting "the devil lurks precisely in such detail[;] [t]he central problem is determining *when* political gerrymandering has gone too far." *Id*. at 296 (emphasis added). "It does not solve that problem to break down the original unanswerable question (How much political motivation and effect is too much?) into four more discrete but equally unanswerable questions." *Id*. at 296-97. Finally, the Court also again noted that Justice Souter's

[12] "Under Justice Souter's proposed standard, in order to challenge a particular district, a plaintiff must show (1) that he is a member of a 'cohesive political group'; (2) 'that the district of his residence ... paid little or no heed' to traditional districting principles; (3) that there were 'specific correlations between the district's deviations from traditional districting principles and the distribution of the population of his group'; (4) that a hypothetical district exists which includes the plaintiff's residence, remedies the packing or cracking of the plaintiff's group, and deviates less from traditional districting principles; and (5) that 'the defendants acted intentionally to manipulate the shape of the district in order to pack or crack his group.'" *Veith*, 541 U.S. at 295-96. "When those showings have been made, the burden would shift to the defendants to justify the district "by reference to objectives other than naked partisan advantage." *Id*. at 296.

proposal, too, suffered from a lack of judicial discernibility: "[w]e do not know the precise constitutional deprivation his test is designed to identify and prevent." *Id*. at 297

Breyer Dissent Test: Justice Breyer concluded that the Court ought to be testing for "the *unjustified* use of political factors to entrench a minority in power." *Id* at 356-60. However, instead of offering a test for measuring whether this standard has been met, he offered a list of "indicia of abuse" and provided three example scenarios, one of which, he indicated *would* amount to an unconstitutional political gerrymander, while the other two simply *could*; no indication is given as to what might tip the scales in the latter two scenarios. *Id*. at 365-66. The Court found fault with both the indicia and scenarios: "Each scenario suffers from at least one of the problems we have previously identified, most notably the difficulties of assessing partisan strength statewide and ascertaining whether an entire statewide plan is motivated by political or neutral justifications." *Id*. at 300. In sum, the Court concluded "we neither know precisely what Justice Breyer is testing for, nor precisely what fails the test." *Id*.

3. *League of United Latin American Citizens v. Perry*

Because five of the *Vieth* justices expressed belief in a theoretical, but undefined, justiciable political gerrymandering claim, plaintiffs have continued asserting such claims, although their efforts have invariably failed. Accordingly, two years after *Vieth*, the U.S. Supreme Court took up the political gerrymandering issue again in *League of United Latin American Citizens v. Perry*, 548 U.S. 399 (2006). But this case did nothing to clarify the law. The Court declined to take up the justiciability issue and once again, there was no majority opinion regarding what would be an appropriate test.

Writing for a plurality of the Court, Justice Kennedy rejected the appellants' argument that mid-decennial redistricting solely motivated by partisan objectives should be held unconstitutional. *Id*. at 416-23. In so doing, he criticized the test for glossing over the distinction between the motive for the decision to redistrict and the motive for

each of the lines drawn and noted that "[e]valuating the legality of acts arising out of mixed motives can be complex…[and] [w]hen the actor is a legislature and the act is a composite of manifold choices, the task can be even more daunting." *Id*. at 417-18. Even more fundamentally, Justice Kennedy noted that the proposed test ignored one half of the equation: "a successful claim attempting to identify unconstitutional acts of partisan gerrymandering must do what appellants' sole-motivation theory explicitly disavows: show a burden, as measured by a reliable standard, on the complainants' representational rights." *Id*. at 418.

The U.S. District Court for the Northern District of Illinois recently summarized the current state of the law on political gerrymandering:

> [T]he point that we draw from these cases is that political gerrymandering claims remain justiciable in principle but are currently "unsolvable" based on the absence of any workable standard for addressing them. The crucial theoretical problem is that partisanship will *always* play *some* role in the redistricting process. As a matter of fact, the use of partisan considerations is inevitable; as a matter of law, the practice is constitutionally acceptable. The relevant question is not whether a partisan gerrymander has occurred, but whether it is so excessive or burdensome as to rise to the level of an actionable equal-protection violation. How much is too much, and why?

Radogno v. Illinois State Bd. of Elections, 2011 WL 5868225, *2 (N.D. Ill. 2011) (emphasis in original; citations omitted).

C. Plaintiffs' "Least-Change" Theory is Not a Workable, Judicially Discernible Standard For Identifying Unconstitutional Political Gerrymandering

Although plaintiffs failed to articulate a standard by which they propose political gerrymandering claims ought to be measured in their Second Amended Complaint, and thus their claims ought to be dismissed on this basis alone, *Vieth*, 541 U.S. at 313 ("appellants' complaint alleges no impermissible use of political classifications and so states no valid claim on which relief may be granted") (Kennedy, J., concurring), they did propose a "least change" standard in responding to Intervenor-Defendants' Motion for Judgment on the Pleadings:

> Plaintiffs propose a burden-shifting standard triggered by the state's imposition of new boundaries that move significantly more people than necessary to cure population imbalances. The objective fact of excess movement, if not unjustified by traditional redistricting criteria, puts the burden on defendants to offer more than a purely partisan justification for moving so many people, especially where doing so divides communities of interest.

Plts.' Br. In Opp. To Mot. For Judg. On Pleadings, dkt. # 105, at 3-4. This proposed test fails on nearly every level. *See generally Intervenor-Defs' Reply Br. In Supp. Of Mot. For Judg. On Pleadings*, dkt. # 115, at 6-16.

1. Plaintiffs' "Least Change" Test is Not Judicially Discernible

The most glaring error with plaintiffs' proposed "least change" test is that it is not judicially discernible—it does not test for or identify constitutional violations. "[A] successful claim attempting to identify unconstitutional acts of partisan gerrymandering must … show a burden, as measured by a reliable standard, on the complainants' representational rights." *LULAC*, 548 U.S. at 418 (Kennedy, J., plurality opinion).

Plaintiffs have made no effort to even identify what representational rights[13] they believe are compromised when a person is moved from one district to another. As explained by the intervenor-defendants, "[t]he plaintiffs make no effort to say what makes the old lines sacrosanct[;] [i]ndeed, nothing in the United States Constitution requires that the new Congressional district be 80% or 90% identical to the old ones or gives any voter in Whitefish Bay the right to forever live in the 5th Congressional District, rather than to find his or her village now located in the 4th." *Intervenor-Defs' Reply Br. In Supp. Of Mot. For Judg. On Pleadings*, dkt. # 115, at 4. There is simply no basis for a legal presumption that being in one district rather than another compromises a voter's power to influence the political process.[14]

[13] Representational rights relate to an individual's opportunity to register, vote, participate in party deliberations and in slating or nominating of candidates and to engage in other activities that directly influence the election returns and can be used to secure the attention of the winning candidate. *Bandemer*, 478 U.S. at 133 (plurality).

[14] Plaintiffs make a fleeting attempt to tether their political gerrymandering claim to the First Amendment, rather than the Equal Protection clause. Plts.' Br. In Opp. To Mot. For Judg. On Pleadings, dkt. # 105, at

Not only does plaintiffs' proposed standard fail to test for any infringement on representational rights, it doesn't even test for political gerrymandering. Although Justice Kennedy noted that "[a] determination that a gerrymander violates the law must rest on something more than the conclusion that political classifications were applied," *Vieth*, 541 U.S. at 307 (Kennedy, J., concurring), surely a political gerrymandering claim must at a minimum start there. *See Vieth*, 541 U.S. at 286 (key issue is "whether [a plan] is so substantially affected by an excess of an ordinary and lawful motive as to invalidate it"). Plaintiffs' standard does not even point to the existence of an unlawful motive, much less an excess of it: they propose measuring whether political motivations are excessive using a test that does not require a showing of any political motivation at all. Further, plaintiffs' test completely fails to test for partisan effect. *See Bandemer*, 478 U.S. at 138-39 (rejecting Powell dissent test on the ground that it would allow redistricting plan to be found unconstitutional without any showing of partisan disadvantage).

Without saying so, plaintiffs appear to assume that if legislative discretion is curtailed, the net result will be legislative districts that are less likely to benefit one political party over the other. But their test would not necessarily minimize partisan

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19-21. They premise this effort on dicta from Justice Kennedy's concurrence in *Vieth* indicating that the First Amendment may provide a basis on which a political gerrymandering standard might be based. *Id*. at 19-20 (quoting *Vieth*, 541 U.S. at 315 (Kennedy, J., concurring)). However, Justice Kennedy was alone in expressing this sentiment and this expression was not part of the narrowest grounds for the judgment and thus, not controlling. *See Marks,* 430 U.S.at 193. To the contrary, the four-justice plurality rejected the notion nearly out of hand. *Vieth*, 541 U,S, at 293 ("[o]nly an equal protection claim is before us in the present case—perhaps for the very good reason that a First Amendment claim, if it were sustained, would render unlawful *all* consideration of political affiliation in districting, just as it renders unlawful *all* consideration of political affiliation in hiring for non-policy-level government jobs").

But even were there more solid legal footing for plaintiffs' argument, the specific theory they propose is founded on an improper mishmash of First Amendment principles. The thrust of plaintiffs' First Amendment theory is that "[a] political candidate with less chance of winning an election will usually receive less in campaign contributions, a form of political speech, than a candidate with a greater chance of winning[;] [a]ccordingly, the new districts impair the ability of Democratic candidates or donors to raise campaign contributions and thereby engage in political speech." *Sec. Am. Compl*., dkt. # 58, at ¶ 67. This does not identify a burden on or impairment of a constitutionally protected right but rather simply asserts that the legislation (arguably) could impact donor's motivation to exercise such rights. If plaintiffs were correct that any legislation that might impact a campaign donor's motive to make a contribution could give rise to a strict scrutiny First Amendment challenge, there would be no legislation in this country safe from such an attack.

advantage so much as call for a constitutional mandate that any partisan advantage incorporated in the most recent districting scheme be forever entrenched. Plaintiffs offer no explanation why redistricting plans adopted after the 2000 census should be regarded as some kind of paragon of neutrality that ought to forever be preserved. If a highly partisan map were enacted shortly after the 2000 census, plaintiffs' test would almost certainly bar a 2010 plan aimed at neutralizing this past partisan advantage. Plaintiffs' proposed test rests on the erroneous legal proposition that core retention is a constitutional mandate. It isn't—not under the U.S. Constitution nor under the Wisconsin Constitution. *Shaw*, 509 U.S. at 647; Wisconsin Const., Art. IV, §§ 4-5.

In proposing a standard that could describe an unconstitutional gerrymander without evidence of either unconstitutionality or a political gerrymander, plaintiffs appear to have been guided not by constitutional standards but by what they thought they might be able to prove later. In this case, the legislative districts are not especially partisan, and knowing this[15] plaintiffs propose a threshold that is even less constitutionally-related than all those previously proposed and rejected. "[T]he mere fact that there exist standards which this Court could apply … does not mean that those standards are discernible in the Constitution[;] [federal courts] may not willy-nilly apply standards—even manageable standards—having no relation to Constitutional harms." *Vieth*, 541 U.S. at 294-95. Plaintiffs' proposed "least change" test fails for the simple reason that it has no relation to any Constitutional harm.

2. Plaintiffs' "Least Change" Test is Not Manageable

Not only must plaintiffs' proposed standard be rejected for its failure to test for violations of any recognized constitutional right, it also must be rejected as it is no more manageable than the multi-factor tests that the U.S. Supreme Court has rejected in the

[15] In their recent discovery production, intervenor-plaintiffs turned over an email reflecting that the initial reaction to the congressional redistricting plan of Democratic Representative Ron Kind's Chief of Staff was that "[t]he map isn't too unreasonable." PFOF No. 1.

past. Plaintiffs simply shoved most of the uncertainty and lack of precision into the second half of their test, which, conveniently for them, lands on the defendants.[16] Under their proposed test, the burden would shift to the defendants to justify any population changes beyond those necessary to cure population imbalances, "especially where [the change] divides communities and communities of interest." *Plts.' Br. In Opp. To Mot. For Judg. On Pleadings*, dkt. # 105, at 3-4.

But what are the legitimate factors that can be used to justify "unnecessary" shifts? How are they to be weighed? What happens in mixed motive situations? At what point is there too much political motive? If mixed motive situations are always constitutional, how is this test functionally different from the sole motivation tests the Supreme Court has rejected in the past? When district lines are moved more than is necessary to equalize populations, which lines were moved necessarily and which were moved unnecessarily?[17] What is the meaning of the "especially where doing so divides communities and communities of interest" clause plaintiffs have crafted? Will different standards apply in that situation? If so, what are they? Does the reference to "traditional redistricting criteria" in the test include political considerations in light of the U.S. Supreme Court's recognition that such considerations are both lawful and ordinary? *See Vieth*, 541 U.S. 293. If not, why not?

As the intervenor-defendants noted, plaintiffs proposed that expert witnesses will work out some of the details as to how this test would work objectively later. *Plts.' Br. In Opp. To Mot. For Judg. On Pleadings,* dkt. # 105, at 18, n. 7. However, expert witnesses

[16] Even the initial part of plaintiffs' proposed test is unmanageable as it requires a showing that new boundaries have moved "significantly" more people than necessary to cure population imbalances. Plaintiffs do not indicate how many people qualify as "significantly more."

[17] In the event that a district needs to lose 20,000 citizens, plaintiffs have indicated that the state can lawfully use politics in choosing whether to move people out to the north, south, east or west. *Id*. at 17. Assuming this is true, if the state has a political motive for moving 20,000 people out at a northern border but has non-political motives for moving out another 20,000 out via a western border and moving a different 20,000 in through an eastern border is this constitutional? If not, why is that same politically motivated 20,000 person shift on the northern border constitutional when not accompanied by a non-partisan shift elsewhere but suddenly converted into a constitutional violation when so accompanied?

are retained by the parties and will invariably not agree on what those legitimate and objective standards are. Moreover, if there really *are* such objective tests that expert witnesses will be able to apply in the future, they are noticeable by their absence from the plaintiffs' proposed standard. Despite plaintiffs protestations that their test is not a totality of the circumstances test, it inevitably is and it necessarily fails for the reasons that all prior totality of the circumstances tests have failed: it is simply not judicially manageable.

3. Plaintiffs' "Least Change" Test Violates The Allocation of Powers Set Forth in The Wisconsin Constitution

Finally, but equally important, is that plaintiffs' test, if adopted, would work an unprecedented shift in the locus of responsibility for legislative and congressional redistricting. "Redistricting is 'primarily the duty and responsibility of the State.'" *Perry v. Perez*, 565 U.S. ___, 2012 WL 162610, at *2 (Jan. 20, 2012) (quoting *Chapman v. Meier,* 420 U.S. 1, 27 (1975)). "That the federal courts sometimes are required to order legislative redistricting…does not shift the primary locus of responsibility." *LULAC*, 548 U.S. at 415 (plurality). Both the U.S. Constitution and the Wisconsin Constitution vest in the state legislature responsibility for legislative and congressional redistricting. U.S. Constitution, Art. I, § 4; Wis. Const., Art. IV, § 3.

The "least change" test that plaintiffs propose not only fails to test for constitutional violations, it would actually work a constitutional infringement by shifting an unwarranted degree of oversight to the federal judiciary. State legislatures have always been free to redistrict by drawing maps anew, bounded only by the limitations that it make a good faith effort to create districts of equal population and refrain from drawing lines in a manner that would violate the Voting Rights Acts. *See Prosser v. Elections Bd.*, 793 F.Supp. 859, 865 (W.D. Wis. 1992) (when reviewing legislative plan, courts role is limited to determining whether it is constitutional, not whether it is the best plan). "Least change" would effectively bar state legislatures from drawing maps anew

and would permit them to tweak the edges only insofar as the judiciary, in its unbounded discretion, deemed the changes "legitimate."

Although plaintiffs will no doubt attempt to deny it, the plan they have proposed subjects every detail of a legislative and congressional redistricting plan to judicial oversight and demands that states account to the federal judiciary for every move made: every shift must be justified by some judicially defined "legitimate" object, whether it be equalizing population totals or some other yet-to-be-defined legitimate purpose. Plaintiffs will no doubt protest that states able to avoid changing district lines more than necessary to accomplish population equality will not be subject to judicial review at all. But this situation is likely to prove rare and in any event, the argument misses the point. A standard that prevents a state legislature from exercising discretion constitutionally delegated to it on the front end is just as objectionable as a standard that curtails such discretion at a later point.

The constitutional allocation of powers confirms that the discretion of state legislatures to define where and why legislative districts are drawn is bounded only by the limitation that it not be used in a manner that violates individual constitutional or statutory rights. "Least change" flips this presumption and implies that state legislatures have no discretion in redistricting except insofar as the judiciary approves it. A test that too readily invites judicial interference into "the most political of legislative functions" is unwelcome and unacceptable, *Bandemer*, 478 U.S. at 143 (plurality) and "[a] decision ordering the correction of all election district lines drawn for partisan reasons would commit federal and state courts to unprecedented intervention in the American political process." *Vieth*, 541 U.S. at 306 (Kennedy, J., concurring). Unless and until a court finds a constitutional or statutory violation, it has no constitutionally appropriate role in the redistricting process. *Perry*, 565 U.S. ___, 2012 WL 162610, at *5 ("[i]n the absence of any legal flaw in this respect in the State's plan, the District Court had no basis to modify that plan").

II. Voting Rights Act (Count 6)

Count 6 of plaintiffs' Second Amended Complaint claims that Act 43 violates Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. *Sec. Am. Compl*, dkt. # 58, ¶¶ 72-79. They say that (1) African Americans comprise a sufficiently large and geographically compact group to constitute a majority of the voting age population in seven assembly districts, but Act 43 creates only six, *id*., ¶ 76(b), and (2) Latino populations comprise a sufficiently large and geographically compact group to constitute a majority of the voting age citizens of one assembly district, but that Act 43 creates no such districts, *id*., ¶ 77(b). (The single claim asserted by consolidated plaintiffs, Voces de la Frontera, Inc., et al, is redundant with plaintiffs' Section 2 claim as it relates to the non-existence of an assembly districts with a Latino majority. *See Voces Compl*., dkt. #1, Case No. 11-cv-1011, ¶ 1, 27-33.)

The Supreme Court has established three "necessary preconditions" a minority group must show to make out a claim under Section 2 of the Voting Rights Act. A minority group must prove (1) that it is "sufficiently large and geographically compact to constitute a majority in a single-member district";[18] (2) that it is also "politically cohesive"; and (3) that the "white majority votes sufficiently as a bloc to enable it — in the absence of special circumstances, such as the minority candidate running unopposed, . . . to defeat the minority's preferred candidate." *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986); *see also Growe v. Emison,* 507 U. S. 25, 40–41 (1993) (holding that these factors are required in Section 2 cases involving single-member districts).[19]

[18] To establish the first *Gingles* precondition, "plaintiffs typically have been required to propose hypothetical redistricting schemes and present them to the district court in the form of illustrative plans." *Fairley v. Hattiesburg*, 584 F.3d 660, 669 (5th Cir. 2009).

[19] In the event, but only in the event, that these three "necessary preconditions" are established may a court move on to the second part of the test for evaluating Section 2 claims—a "totality-of-the-circumstances" analysis to determine whether the plan impairs the ability of the minority voters to participate equally in the political process. *See Johnson v. De Grandy*, 512 U.S. 997, 1013 (1994).

Plaintiffs cannot meet the first *Gingles* precondition with respect to their claim that Act 43 violates the Voting Rights Act by not creating a seventh African American majority assembly district. The plaintiffs' own expert admitted the African American population is not large enough to create a seventh majority-minority Assembly district:

> Q. Given your analysis of the six African American districts, is there a large enough minority population in that area to create a seventh African American majority-minority district?
>
> A. I don't believe there is.

PFOF No. 2. Plaintiffs' claim regarding the absence of a Latino majority district also necessarily fails as plaintiffs cannot meet the third *Gingles* precondition; there is no evidence that non-minority bloc voting usually thwarts election of the minority's preferred candidate. *Gingles*, 478 U.S. at 51.

A. The VRA claim relating to the African American Districts Fails Under The First *Gingles* Factor

Prior to the enactment of Act 43, Wisconsin's legislative districts were the by-product of a court-drawn map. PFOF No. 3; *Baumgart et al. v. Wendelberger et al.*, Case No. 01-C-0121 (E.D. Wis. 2002). Under that plan, there were two state senate districts with African American majorities (senate districts 4 and 6) and five assembly districts with African American majorities (assembly districts 10, 11, 16, 17 and 18). PFOF No.4. Under the court drawn plan, a sixth assembly district—assembly district 12—began the decade with a 32.77% African American voting age population and ended the decade at 48.99%, never quite reaching a majority African American voting age population. PFOF No. 5.

Act 43 shifted the lines of assembly district 12 to encompass additional African American voters, thereby creating a sixth African American Assembly District. PFOF No. 6. The following table illustrates the continued African American voting strength in

all of the Senate and Assembly Districts at issue and the improved strength in assembly district 12 as a result of Act 43:

African American Assembly District Voting Age Populations			
Assembly Districts	**2002 Under Court-Drawn Map**	**2010 At Time of Census**	**Under Act 43**
AD10	67.08%	67.43%	61.79%
AD11	62.85%	75.84%	61.94%
AD12	***32.77%***	***48.99%***	***51.48%***
AD16	60.45%	55.87%	61.34%
AD17	61.88%	74.11%	61.33%
AD18	56.70%	58.85%	60.43%

PFOF No. 7. Act 43 not only maintains the five majority African American Assembly Districts, but adds a sixth district as well. PFOF No. 8.

Plaintiffs claim that the Act violates Section 2 of the Voting Rights Act because it fails to create a seventh African American majority assembly district. *Sec. Am. Compl*, dkt. # 58, ¶ 76. But there is not, and never was, a factual basis for the plaintiffs' allegation that "African Americans comprise a sufficiently large and geographically compact group to constitute a majority of the voting age population in at least seven assembly districts." *Id*., ¶ 76(b); *see also* PFOF Nos. 2, 9-10. Plaintiffs' own expert, Dr. Kenneth Mayer, has concluded that two Senate Districts and six Assembly Districts that have a majority voting age African American population is the optimum result for purposes of African American voting strength. PFOF No. 9. Dr. Mayer's expert report notes that even if the African American population in assembly districts 10, 11, 16, 17 and 18 were to be reduced and redistributed so that each of the five districts had exactly 55% African American voting age population, "the numbers are not large enough to create a 7th majority-minority African-American Assembly district." PFOF No. 10.

Plaintiffs' inability to show that there ever could have been a seventh African American assembly district means that they cannot meet the first prong of *Gingles* and their claim should therefore be dismissed. Plaintiffs cannot identify a group "sufficiently large and geographically compact to constitute a majority in [an additional] single-member district." *Gingles*, 478 U.S. at 50. At best, the numbers may (or may not be) enough to create a separate "influence district," but this does not create a claim under the Voting Rights Act. *Bartlett v. Strickland*, 556 U.S. 1, 13 (2009) (Kennedy, J.) (internal citations omitted).[20] Accordingly, count 6 must be dismissed with respect to the African American district allegations.

B. The VRA Claim Relating To The Absence Of A Latino District Fails Under The Third *Gingles* Factor

Act 43 also improves upon the 2002 court-drawn map with regard to the voting strength of Wisconsin's Latino population. Under Act 43, nearly a quarter of the entire Wisconsin Latino population is located within one heavily Latino-populated senate district, senate district 3, with the majority of the Latino population in assembly districts 8 and 9. PFOF No. 11. The 2002 court plan created only one majority Latino population assembly district, assembly district 8, with a total Latino population of 62.14% and a voting age Latino population of 58.34%. PFOF No. 12. The second largest Latino population district, assembly district 9, had a total Latino population of only 28.42% and a voting age Latino population of just 22.94%. PFOF No. 13. The table below shows the Latino population changes reflected by the 2010 census and how Act 43 made adjustments to improve Latino voter influence:

[20] "It is appropriate to review the terminology often used to describe various features of election districts in relation to the requirements of the Voting Rights Act. In majority minority districts, a minority group composes a numerical, working majority of the voting-age population. Under present doctrine, §2 can require the creation of these districts. At the other end of the spectrum are influence districts, in which a minority group can influence the outcome of an election even if its preferred candidate cannot be elected. This Court has held that §2 does not require the creation of influence districts." *Bartlett v. Strickland*, 556 U.S. 1 (Kennedy, J.).

Latino Assembly District Voting Age Populations			
Assembly Districts	**2002 Under Court-Drawn Map**	**2010 At Time of Census**	**Under Act 43**
AD8	58.34%	65.50%	60.52%
AD9	***22.94%***	***46.18%***	***54.03%***

PFOF No. 14.[21]

Notwithstanding this, plaintiffs attempt to make out a claim under Section 2 of the Voting Rights Act based on how the line was drawn between assembly districts 8 and 9. However, their claim fails because they cannot show that non-minority bloc voting thwarts the election of their preferred candidate as required under *Gingles*. 478 U.S. at 51. Under the 2002 court plan, assembly district 8 has been continuously represented by a Latino member. PFOF No. 15. Under the 2002 court plan, assembly district 9 was continuously represented by the same non-Latino Assembly member since the plan was put in place. PFOF No. 16. Compared to the assembly district 9 created under the 2002 court plan, assembly district 9 under Act 43 provides an increased opportunity for the success of a candidate of choice of the Latino community, given the increase in the Latino population there. PFOF No. 14-16.

Plaintiffs ignore the Assembly election results and look to election contests in other areas. Their expert, Dr. Mayer, focuses on elections outside of assembly district 8 (including two state-wide elections and four county-wide elections) while excluding the very assembly races at issue. PFOF No. 17. But Dr. Meyer skips over a critical fact—the Latino candidate won a majority of those races. PFOF No. 18.[22]

[21] The plaintiffs, to the contrary, claim that the citizen voting age population in AD9 does not reach 50%.

[22] After expert deadlines passed and after expert reports were exchanged, plaintiffs attempted to remedy this problem by producing an "ecological inference run" relating to individual wards, or portions of wards, created in 2002 in the area that is now covered by assembly districts 8 and 9. PFOF No. 19. But that type of exogenous data should only be used if there is not sufficient data available from the actual district at issue. Looking to wards, or portions of wards, or aldermanic districts would only be necessary to the extent that there was no adequate information from the Assembly District itself. PFOF No. 20. Those aldermanic elections are non-partisan and pose particular problems for the election of minority candidates. PFOF No. 21.

Plaintiffs cannot show, as a necessary precondition to their Voting Rights Act claim, that non-minority voters are voting as a bloc to thwart the election of the Latino candidate in assembly district 8. *Gingles*, 478 U.S. at 51. Accordingly, Count 6 must be dismissed with respect to the Latino district claims, and the Complaint of the consolidated *Voces De La Frontera* plaintiffs must be dismissed as well.

III. Delayed Voting (Count 3)

Plaintiffs' third claim is that Act 43's "Legislative Districts Unnecessarily Disenfranchise 300,000 Wisconsin Citizens." *Sec. Am. Compl*, dkt. # 58, Third Claim. Plaintiffs allege that voters who are shifted from even to odd senate districts "will face a two-year delay in electing their state senator; [t]hey are disenfranchised, unnecessarily and unconstitutionally, by being deprived of the opportunity to vote, as the Wisconsin Constitution requires, every four years for a senator to represent them." *Id*., ¶ 45 (emphasis added).

This claim fails for several reasons: (a) the Wisconsin Supreme Court has rejected this type of claim (and the *Penhurst* doctrine bars it anyway); (b) it is based on case law vacated by the United States Supreme Court; and (c) under Act 43, the percentage of the population that will wait an additional two years between senate elections is lower than the percentage of the population delayed under the 1982, 1992, and 2002 court plans.

Reapportionment that causes such "delayed voting" does not violate the Wisconsin Constitution. The Wisconsin Supreme Court rejected this argument more than one hundred years ago:

> The complaint charges that the senate districts are so numbered in chapter 482 that large numbers of electors who were last permitted to vote for senators in 1888 cannot do so again until 1894, while other large numbers of electors who voted for senators in 1890 may again do so in 1892. This is alleged as a reason why the act is invalid. The court finds in the constitution no authority conferred upon it to interfere with the numbering of the senate districts. In that respect the power of the legislature is absolute.

State ex rel. Attorney General v. Cunningham, 81 Wis. 440, 468, 51 N.W. 724 (1892).[23]

Plaintiffs rely on *Republican Party of Wisconsin v. Elections Board*, 585 F.Supp. 603 (E.D. Wis. 1984), *vacated* 469 U.S. 1081 (1984). But that decision is of no precedential value; it was vacated by the United States Supreme Court. *Cf. O'Connor v. Donaldson*, 422 U.S. 563, 577, n. 2 (1975) ("Of necessity our decision vacating the judgment of the Court of Appeals deprives that court's opinion of precedential effect ...); A decision that has been vacated and remanded, with directions to dismiss, does not have "any legal consequences." *United States v. Munsingwear, Inc*., 340 U.S. 36, 38 (1950).

A brief history of the 1980s redistricting litigation is in order, and begins with *Wisconsin State AFL-CIO v. Elections Board*, 543 F.Supp. 630, 659 (E.D. Wis. 1982). There, the court discussed the issue of delayed voting:

> We were mindful of the fact that the fall elections only call for the election of Senators presently holding odd numbered Senate seats. Consequently, the residents of Wisconsin presently living in even numbered Senate districts will not be electing Senators under our plan until 1984. To minimize the number of people affected by our plan as it relates to Senate districts, we have tried, as much as possible consistent with the principle of one person, one vote, to use even numbers for the Senate districts in our plan that roughly correspond to areas assigned to even numbered districts in the 1972 act.

Id. at 659.

Later, certain intervenors argued in a June 15, 1982 motion that the court plan contained "serious errors" because it delayed the voting opportunity for 713,225 Wisconsin residents. *Id*.; PFOF No. 39. Noting that the argument "may have some emotional appeal," the court nevertheless rejected it, calling it "a house of cards that collapses when exposed to even the gentle breeze of cursory analysis." *Id*. The court

[23] "At one time, Assembly districts which divided counties were held unconstitutional in Wisconsin except where a county was entitled to more than one state Representative." *Wisconsin State AFL-CIO v. Elections Bd*., 543 F.Supp. 630,635 (E.D. Wis. 1982) (citing *State ex rel. Attorney General v. Cunningham*, 81 Wis. 440, 468, 51 N.W. 724 (1892)). Given the unacceptable population deviations that can be caused by the Wisconsin constitutional provisions relating to county lines, those constitutional provisions have been viewed as "nugatory." *Id*. (citing 58 Op. Atty. Gen. 88 (1969)).

found the argument to be contrary to Wisconsin law (citing an opinion of the Wisconsin Attorney General) and contrary to "common sense." *Id.*[24]

The Wisconsin Legislature enacted a new redistricting plan via 1983 Wisconsin Act 29, and in a subsequent opinion the court reiterated that the "temporary disenfranchisement that occurred in Wisconsin under the '82 Court Plan (the result, of course, would have been the same if the Legislature had acted in '82) did not run afoul of the Constitution." *Republican Party*, 585 F.Supp. at 606. The court found the *additional* "temporary disenfranchisement" of 173,976 people—that is, on top of those delayed by the court's earlier plan—to be impermissible. *Id*. at 605-606. The court said, however, that "had the Legislature enacted a reapportionment plan similar to its '83 effort before the November 1982 elections, we would have no trouble sustaining its validity against a constitutional challenge." *Id*.

This is largely academic, because the U.S. Supreme Court soon entered a stay of the court's ruling and the 1983 Legislative plan went into effect. *See* Docket, Case No. 82-C-0113 at Nos. 122-126. The Supreme Court ultimately vacated the *Republican Party* decision and ordered that the case be dismissed. *Id.* The court's opinion in *Republican Party* is, in fact and in law, a nullity. *Republican Party* was decided on May 25, 1984 by the three-judge panel; five days later the Wisconsin Elections Board appealed to the U.S. Supreme Court. *Id*., Dkt. Nos. 117, 122. The matter was referred by Justice John Paul Stevens to the Court, and by order dated June 8, 1984, the Court stayed the mandate of the three-judge panel. *Id*., Dkt. No. 123. The Supreme Court then denied a motion to vacate the stay. *Id*., Dkt. No. 124. Soon thereafter, the Supreme Court vacated the

[24] The court nevertheless assigned different numbers to a number of Senate districts, noting that some corrections could be made, and included numbering changes requested by other parties to make the plan "more consistent with the numbering system used in 1972." *Wisconsin State AFL-CIO v. Elections Board*, 543 F.Supp. 630, 659 (E.D. Wis. 1982). The decision itself does not identify the ultimate number of delayed voters caused by the final renumbering, but contemporaneous news articles indicate that the 1982 court plan ultimately would have delayed 529,293 persons. *See* Ron Elving and Margo Huston, "La Follette plans quick appeal on redistricting," *Milw. Journal*, May 27, 1984, at A1, A12; PFOF No. 40.

judgment itself, and ordered the three judge panel to dismiss the case. *Id*., Dkt. Nos. 125-126. *See also Wisconsin Elections Bd. v. Republican Party of Wisconsin*, 469 U.S. 1081 (1984).

The Supreme Court's order meant that the maps drawn by the Legislature—not the maps drawn by the three-judge panel—were used in the Fall 1984 elections for all 99 State Assembly seats and 17 State Senate seats. *See* "Ruling against redistricting set aside by Supreme Court," *Wisconsin State Journal*, at Section 4 and Page 5, December 11, 1984 (noting that the three-judge panel's opinion relating to delayed voting had been nullified by the Supreme Court, and that the Legislature's maps were always used); "Court OKs Dem remap," *Wisconsin State Journal*, June 8, 1984 at 1. The Legislatively drawn maps—reflected in 1983 Wisconsin Act 29—governed all elections in the State. *See* Wisconsin Blue Book 1985-1986 at pg. 300 ("Prior to the enactment of 1983 Wisconsin Act 29, legislative districts were reapportioned by order of the U.S. District Court for the Eastern District of Wisconsin, June 17, 1982 .... Since July 1983, Wisconsin Act 29 has governed all legislative elections.").[25]

The delayed voting under both the 1982 court plan and the 1983 Legislative plan is not extraordinary. In 1992, the court plan moved 257,000 people (approximately 5.25 % of the population) into districts where they would wait six years for an opportunity to vote for state senator. PFOF No. 22. In 2002, the court plan moved 171,163 people (approximately 3.14 % of the population). PFOF No. 23. Act 43 appeared initially to cause a six-year wait for 299,704 persons (5.26% of the population). PFOF No. 24. Some 164,843 of those, however, live in districts where a special election was held in

[25] The 1983 Legislative maps were introduced via Assembly Bill 1 on July 11, 1983. PFOF No. 28. A single public hearing was held that same day. *Id*. The Democratic Assembly passed the bill on July 13, the Democratic Senate did so on July 14, and the Democratic Governor signed it into law on July 15. *Id*. The Governor vetoed an earlier plan that was inserted into the state budget bill by the Democratic caucus—without public hearing—four weeks prior. PFOF No. 38.

2011, and therefore only 134,845 persons (2.37 % of the population) will be subject to a six-year wait. PFOF No. 25.

This 2.37 % of the population that will wait an additional two-years between senate elections under Act 43, therefore, is lower than the percentage effected by the 1982, 1992, and 2002 court plans.[26] It is also lower than percentages advocated in 2002 by Plaintiffs' current expert, Professor Mayer, who supported four different maps that had proportionally greater delayed voting (from 5.27 % - 5.67% of the population) than does Act 43. PFOF No. 26. And it compares favorably with plans enacted in other states this redistricting cycle—including Oklahoma, Oregon, Ohio, Missouri, and California—which range from 3.02% in Oregon to 10.66% in California. PFOF No. 27. Accounting for the 2011 special elections, Wisconsin actually has a lower percentage of delayed voters than any of these other states. *See id*.

CONCLUSION

For the foregoing reasons, defendants are entitled to judgment as a matter of law on the *Baldus* plaintiffs' counts 2-6 and 8, the redundant counts 4 and 5 of the intervenor *Baldwin* plaintiffs and the single count of consolidated *Voces De La Frontera* plaintiffs. Counts 2, 4, 5 and 8 are political gerrymandering claims which necessarily fail as plaintiffs have failed to identify a workable, judicially discernible standard for evaluating them. Count 6 necessarily fails with respect to the alleged absence of a seventh African-American majority assembly district under the first *Gingles* factor while the third *Gingles* factor dooms it with respect to the alleged absence of a Latino majority district. Accordingly, the *Voces De La Frontera* claim fails as well. Count 3 fails as it is both unsupported under the law and unsubstantiated by the facts.

[26] The fact that court-drawn maps cause similar delays is not surprising. "Courts that have addressed equal protection claims brought by voters who were temporarily disenfranchised after a reapportionment have consistently applied rational-basis review." *Donatelli v. Mitchell*, 2 F.3d 508, 515 (3rd Cir. 1993); *accord Republican Party of Oregon v. Keisling*, 959 F.2d 144 (9th Cir. 1992) (holding that a temporary dilution of voting power that does not unduly burden a particular group does not violate the equal protection clause).

Dated this 10th day of February, 2012.

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2022 WL 1951609 (N.Y.Sup.), 2022 N.Y. Slip Op. 31471(U) (Trial Order)
Supreme Court of New York.
Steuben County

**1 Tim HARKENRIDER, Guy C. Brought, Lawrence Canning, Patricia Clarino, George Dooher, Jr., Steven Evans, Linda Fanton, Jerry Fishman, Jay Frantz, Lawrence Garvey, Alan Newphew, Susan Rowley, Josephine Thomas, and Marianne Volante, Petitioners,

v.

Governor Kathy HOCHUL, Lieutenant Governor and President of the Senate Brian A. Benjamin, Senate Majority Leader and President Pro Tempore of the Senate Andrea Stewart-Cousins, Speaker of the Assembly Carl Heastie, New York State Board of Elections, and The New York State Legislative Task Force on Demographic Research and Reapportionment, Respondents.

No. E2022-0116CV.
May 20, 2022.

Decision and Order

Hon. Patrick F. McAllister, Acting Supreme Court Justice.

*1 [This opinion is uncorrected and not selected for official publication.]

Special Master Dr. Jonathan Cervas is releasing a report that will provide you with much detail concerning the process used to draw the redistricting maps. A court rarely explains the reasoning and rationale behind an order. However, a single order rarely directly impacts millions of people. Therefore, the court will also explain parts of the process as well, because so many of you have expressed concern.

First of all the court would like to thank the many New Yorkers who submitted maps and the thousands who responded during the various public comment times, including those comments given before the Independent Redistricting Commission (IRC), at the in-person hearing before this court, and the written submissions. The fact that many of you were concerned enough to drive for hours to get to the courthouse was impressive and demonstrated how concerned you were about your various communities. All of these maps and comments **2 (there were approximately 3,000 submissions earlier this week) were reviewed by the court and special master. What was clear was that many people are concerned that the maps permit free and fair elections. The court is confident this has been accomplished.

There were several common misconceptions that appeared in many of the public comments which the court feels need to be addressed. Some were negative with respect to the court, some with respect to the special master, some as to the process, and others were just misconceptions.

The court would first like to correct the misconception that the court's redistricting maps are a Republican gerrymander. All three courts that reviewed this matter came to the same conclusion that the Respondents had unconstitutionally produced gerrymandered maps. The fact is that Petitioners/Republicans were successful in proving those maps were gerrymandered. However, the result is not that the Petitioners/Republicans now get to draw their own gerrymandered maps. This is not a situation where to the victor goes the spoils. The result is simply that Petitioners get to have neutral maps drawn by an independent special master as approved by the court. Unfortunately some people have encouraged the public to believe that now the court gets to create its own gerrymandered maps that favor Republicans. Such could not be further from the truth. The court is not

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politically biased. Yes, the trial judge was elected as a Republican, and the justices on the Court of Appeals were appointed by Democrats. The reason all three courts came to the same conclusion was because the courts applied the applicable rules of law in as fair and impartial a manner as possible.

The 2012 congressional map was drawn by a judge with the aid of a special master. That map was fair and impartial. That map resulted in eight Republicans currently being elected to Congress and over the last ten years sometimes more than eight Republicans were elected. The congressional map that was found to be gerrymandered would have only favored four Republicans being elected. The fact that this map will likely result in more than four Republicans being elected to Congress does not mean or indicate in anyway that this map is gerrymandered to favor Republicans. What this map does do is create eight competitive districts in which either party has a reasonable chance to win and three districts in which the Republicans will likely win. On the other hand the Democrats have 15 safe districts. For Republicans to repeat eight members in congress from New York in 2022 will require that they win over half of the competitive districts.

***2** There is an index (Plan Score) that has been developed to determine whether or not a map favors one party or another. The proposed map that was released on May 16, 2022 had a score on that index of 0.01. A score of zero means the map is perfectly neutral. The court has made a few minor adjustments to that map to accommodate several concerns that were raised by the public, but the court believes the maps remain almost perfectly neutral, meaning the maps do not favor or disfavor any political party.

The court would next like to correct another misconception that showed up frequently in ****3** the comments with regard to this process being rushed and why the court did not simply use one of the prior maps for this election cycle. The simple answer is there were no maps that could be used.

The 2012 Congressional maps are no longer constitutional. They had 27 districts and New York is now only entitled to 26 districts. Therefore the court could not keep the same districts that were used these last 10 years because the voters of one district would be totally unrepresented. Thus new maps had to be created so that these voters would have a representative. Likewise, the 2012 Senate Maps are now unconstitutionally malapportioned. A look at the new map shows there are now two more Senate districts downstate than there were for the last 10 years. This is due to population shifts in the last 10 years. So once again the court could not simply use the 2012 districts. The court understands that you have become accustomed to a certain representative and if you are no longer in his/her district you feel disenfranchised. However, the boundaries absolutely had to be moved. The court did not have the option of just using those old district boundaries.

The two 2022 IRC maps were never enacted. The court and the special master did consider those maps when constructing the new maps, but the court did not find it appropriate to adopt one of those maps to be the base for this year's Congressional and/or Senate maps, primarily because to chose one would mean the court would have to favor either the Democrat proposed IRC maps or the Republican proposed IRC maps. There was no bipartisan IRC maps. Therefore the court thought it best to develop unbiased independent maps.

Finally, the court could not use the maps enacted by the Legislature in 2022, because all three levels of the New York courts found those maps to be unconstitutional.

The time frame for developing new maps was less than ideal, not by choice but by necessity. The court worked with the Board of Elections to develop the maximum amount of time for creation of the new maps and still allow sufficient time for the Board of Elections to be able to conduct elections. Between gathering signatures, challenges to signatures, certifying candidates, mailing out overseas and military ballots, holding primary elections, and everything that has to happen before the primary and before the general election the court and the Board of Elections constructed about the only election calendar time frame that would work.

Frankly it was remarkable that special master Cervas was able to create both the Congressional and State Senate maps in such a short period of time. He and his team are to be commended.

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The court would also like to briefly address the criticism that the new maps discriminated against Democrats by placing two incumbents into the same district. The constitution specifically prohibits new maps from being used to ensure a candidate's reelection or to prevent a candidate's reelection. To ensure no bias was shown either way neither the court nor the special master received any information concerning where any candidate or **4 potential candidate lives prior to the development of the maps. Since the release of the maps several of you have informed the court and the special master where your candidate lives. Location of a candidate received zero consideration from the court. No district was designed to pit one candidate against another. In any event in New York a candidate is not required to live in his or her district. Thus, these maps do not prohibit an incumbent from running in an adjoining district.

*3 To those who expressed concern that the Special Master, Dr. Jonathan Cervas was too inexperienced or too unfamiliar with New York to be the special master the court makes the following comment:

> Dr. Cervas has solid credentials in redistricting matters. He established a team which included amongst others, Dr. Bernard Grofman. Dr. Grofman is widely considered one of the leading experts in redistricting and has now worked on New York's redistricting in three separate decades. Dr. Cervas also has working under him several assistants born and raised in New York. New Yorkers should be very thankful that Dr. Cervas was willing to take on this task.

Another voiced concern involved moving district boundaries and maintaining cores of districts. Maintaining cores of districts is an important part of the constitution. However, when the court must eliminate a district as was required with the congressional map or move two senate districts from upstate to downstate because of population shifts, district lines must change significantly.

From the comments it appears many citizens think that when drawing maps the court must start with and identify communities of interest and create districts around those cores — then fill-in such a district with whatever is left over with anyone else. New York has so many geographic regions and communities that the “what's left” often times is a massive meandering district or districts. It is impossible primarily because of the geography of New York. The special master and the court either need to start on the eastern tip of Long Island and proceed westward across Long Island to the city and then expand northward and westward, or the court could start near Niagra Falls and proceed eastward and southward. In either case you have to start populating your districts from your starting point. The law requires exactly equal population in each district. So if a district is already half or two-thirds populated before reaching a given community there is often nothing that can be done but to split the geographic region or community. It is not because the court wants to split up the region or community but because the law does not permit unequal populations within districts.

Some comments voiced concerns about multiple primaries diluting the voter turnout. As explained above, this court had no choice but to move the primary to August. The governor and legislature have the prerogative to move the June primary to August so that there was just one primary, but to do so would affect the candidates for supreme court positions in November.

**5 Attached are the maps that this court hereby certifies as being the 2022 Congressional and 2022 New York State Senate maps. The court will instruct LATFOR to review the maps for compliance with block-on-border and town-on-border compliance and to certify to the New York State Board of Elections the precincts, districts, etc. for each Congressional and State Senate district. If LATFOR finds any technical violations it is instructed to inform the court so that appropriate modifications can be made.

NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

*4 **ORDERED, ADJUDGED, and DECREED** that the attached maps be, and hereby are certified as being the official approved 2022 Congressional map and the 2022 State Senate map; and it

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ORDERED, ADJUDGED, and DECREED that LATFOR be and hereby is directed to review the maps for the purpose of determining compliance with the block-on-border and town-on-border rules and then to certify to the New York State Board of Elections the precincts, districts, etc. for each Congressional and New York State Senate district; and it is further

ORDERED, ADJUDGED, and DECREED that in the event LATFOR determines there to be some technical violation of one of these rules that LATFOR immediately notify the court of the violation so that appropriate corrective action can be taken by the court; and it is I further

ORDERED, ADJUDGED, and DECREED that Dr. Jonathan Cervas provide to LATFOR and the New York State Board of Elections files of these maps in a usable format.

Dated: May 20, 2022

ENTER

<<signature>>

Hon. Patrick FY McAllister

Acting Supreme Court Justice

****6 Report of the Special Master**

May 20, 2022

Jonathan Cervas

Special Master

Harkenrider v. Hochul

****7 Jonathan Cervas Short Bio**

I am a postdoctoral fellow at Carnegie Mellon Univeristy in the Institute for Politics and Strategy. I have been involved in drawing maps for three federal courts in voting rights and redistricting cases. Three cases involved questions related to the Voting Rights Act and the U.S. Constitution. In *Navajo Nation v. San Juan County, UT*, D.C. No. 2:12-CV-00039-RJS (2018), the district court ruled that the election districts for school board and county commission violated the Fourteenth Amendment to the United States Constitution. After the court rejected the county's remedial map, the court retained Prof. Bernard Grofman as special master. I was employed as assistant to the special master and helped to prepare remedial maps. The court selected the illustrative maps I helped prepare for immediate use in the next election. These maps were upheld by the Tenth Circuit Court of Appeals Navajo *Nation v. San Juan County*, No.18-4005 (10th Cir. 2019). In *Bethune-Hill v. Virginia State Bd. of Elections*, 141 F. Supp. 3d 505 (ED Va. 2015) the federal court ruled that twelve of Virginia's 100 House of Delegates districts were unconstitutional gerrymanders under precedent set in *Shaw v. Reno* 509 US 630 (1993). Eventually reaching the United States Supreme Court (SCOTUS) the first time, the court remanded *Bethune-Hill v. Virginia State Board of Elections*, 580 U.S. _____ (2017). The district court then ruled eleven of the twelve districts were unconstitutional racial gerrymanders and ordered them redrawn. *Bethune-Hill v. Virginia State Bd. of Elections*, 326 F. Supp. 3d 128 (2018). The district court retained Prof. Grofman as special master. I worked with Prof. Grofman as assistant to the special master. Together we created ten map modules; three in Norfolk, two in the peninsula area, three in Petersburg, and two in Richmond. The court selected module combinations that adjusted the boundaries of twenty-five districts. The case was heard for a second time on appeal to SCOTUS, who remanded on standing. *Virginia House of Delegates v. Bethune-Hill*, 587 U.S. _____ (2019). These districts were used in the 2019 election,

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and because of census delays, again used in 2021. In *Wright v. Sumter County Board of Elections and Registration* (1:14-CV-42 (WLS) U.S. District Court, Middle District of Georgia (2020)), the district court ruled that Sumter County's voting districts diluted the voting power of Blacks in violation of section 2 of the Voting Rights Act. The court retained Prof. Grofman in his capacity as special master. I again served as assistant to the special master. Working with Prof. Grofman I helped craft four seven-district illustrative plans and one five-district illustrative plan. The court choose one of the plans I helped to prepare. Defendants appealed to the eleventh circuit court, who reviewed the entire record and found the district court did not err in concluding a section 2 violation and that the special master "expressly found an easily achievable remedy available". *Wright v. Sumter County Board of Elections and Registration*, No. 15-13628 at 45 (11th Cir. 2020). In July of 2021, I entered into contract with the Pennsyvlania Legislative Reapportionment Commission to provide consulting work relating to the creation of the PA state House of Representatives and PA Senate districts to be used during elections held between 2022 and 2030. This work involved numerous aspects of the reapportionment process, not limited to map drawing. The maps drafted by the commission passed with a bi-partisan vote on February 4, 2022. The Pennsylvania Supreme Court unimously affirmed the final reapportionment plan. My work with the commission is ongoing.

***5 **8 1**. In *Harkenrider v. Hochul* (2022), the State of New York Supreme Court ruled that the congressional and state senate plan passed by the Legislature and signed by the Governor had bypassed the Redistricting Commission and thus were not enacted through a constitutionally valid process. For the congressional plan, the Court also held that the Respondents "engaged in prohibited gerrymandering when creating the districts" (2022.03.21 [243] Harkenrider v. Hochul DECISION and ORDER at 1). The findings that there were no constitutional maps for either New York's Congressional delegation or for the New York State Senate triggered the new provision of the State Constitution that shifted the burden to state courts to specify a process for creating constitutional maps for each body. On April 18, 2022, I was asked by Judge and Acting Supreme Court Justice Patrick McAllister to serve as Special Master in preparing a remedial plan for the New York congressional delegation to be considered by the Court; after the State of New York Court of Appeals heard the case on appeal, my responsibilities were extended by Justice McAllister to include preparing a remedial plan for the state senate for the Court's consideration on April 27, 2022.

2. In proposing maps for the Court's consideration, Justice McAllister Court instructed me to fully adhere to all the provisions of the New York State Constitution, such as the strict equal population requirement for Congress and the block-on-the-border rule and town-on-the border rule for the state senate. [1] In my map making I avoided fragmenting existing political subunits such as counties and cities and I sought to draw districts that were reasonably compact. I was also instructed by the Court to draw proposed maps in a fashion that was blind to the location of incumbents and I followed that injunction. **The predominant motive of these proposed maps was to fully comply with federal and state law**. Race-based districting is strictly prohibited by the U.S. constitution, and therefore I did not use race as a preponderant criterion. Later in this Report, I discuss in more detail how I dealt with each of the many relevant provisions in the New York Constitution, including the one dealing with communities of interest.

[1] The latter rules are found in Article III, section 4 (c).

3. The failure of the Commission to agree on lawful maps and the time consumed by subsequent litigation meant that, even after an initial postponement of the date for the primaries, the Court was operating under extremely severe time constraints. The Court provided a timetable for my work which included deadlines for submission of comments and expert witness reports to me and the Court, a deadline for the dissemination of a preliminary proposal and report, deadlines for submission of comments and expert witness reports pertaining to this preliminary proposal, and a deadline for the preparation and dissemination of a final map adopted by the Court.

4. The urgency of the tasks confronting me, the great volume of suggestions made to the Court (and previously to the Redistricting Commission), and the time pressure made it impossible for a single individual to do everything that was needful. I employed research assistants to whose work I am greatly ****9** indebted (Marissa Zanfardino [2]; Jason Fierman [3], and Zachary Griggy [4]) to work under my direction. In addition, with the approval of the Court, I brought in the distinguished redistricting

scholar, Bernard Grofman (University of California, Irvine), as a consultant. I had previously worked with him in other cases where Grofman had been the Special Master.[5] All decisions as to what recommendations were to be given to the Court vis-a-vis proposed remedial maps were ones made by me.

2 Zanfardino completed her JD from New York Law School in 2022. She is currently a Legal Fellow at the New York Census and Redistricting Institute. Zanfardino graduated from Tulane University in 2019 with a bachelor's degree in Economics and Sociology. She is a lifelong New York resident, living in Massapequa, Brooklyn, and Manhattan at various stages.

3 Fierman graduated from The George Washington University with a bachelor's degree in Political Science and Criminal Justice in 2011, and from George Mason University with an MPA in 2016. Fierman has worked as an associate at Princeton University working on issues of redistricting and as a consultant at DailyKos working on elections. Fierman grew up in Westchester, NY.

4 Griggy is an undergraduate at the University of California, Irvine. He is expected to graduate in 2023 with a degree in Political Science and Urban Studies. He previously worked as an assistant to the Special Master and has assisted in the map-drawing process for several remedial court maps.

5 Grofman was indispensable in drafting this report and in his consultation throughout the process of producing these maps. Grofman taught for six years at SUNY Stony Brook before he took a tenured position at the University of California, Irvine. He also spent a full academic year as a Straus Fellow at New York University Law School and two other academic quarters as a visiting scholar there. Some time ago, in two different decades, Grofman was chosen by federal courts as a senior consultant on New York redistricting (Congress and state legislature). He also once served as a consultant on New York City redistricting for a redistricting commission. Over the past seven years, Grofman's work as a Special Master or senior consultant to federal or state courts has been in southern and western states, including North Carolina (Congress), Virginia (Congress and state legislature), Georgia (local districting), and Utah (local redistricting). In the past he has been a consultant to both political parties and to minority legal groups as well as to the U.S. Department of Justice.

***6 5**. I did not begin my map drawing process *de novo*. There was a considerable volume of information and public comment that had been compiled by the Redistricting Commission that I was able to draw upon. In preparing my preliminary proposed maps for the Court, I (with the help of my research assistants) poured over thousands of pages of court records and testimony that was presented to the Redistricting Commission. In addition, I reviewed the several hundred submissions of testimony via email or through the court docket that came after or just before my appointment, along with several dozen complete or near complete plans directly submitted to me. While I received roughly two dozen congressional map submissions that were fully compliant with one-person, one-vote, relatively few senate maps were submitted that fully satisfied the strict block-on-border and town-on-border rules for equalizing population. Among those, several appear to build off one ****10** another. I borrowed pieces of maps as the base of both the congressional and senate map, but adopted no map in full. And I had available to me the maps enacted in 2012, along with plans proposed by the Redistricting Commission. I also benefited from hearing in person from around 30 citizens in Bath, NY on May 6, 2022. Because of these inputs, I was able to complete my task of preparing a proposed map for the Court in the time frame required. In so doing, I looked for good ideas from the many submissions by concerned citizens and groups and, to the extent feasible given the time constraints, incorporated them when they allowed for integration into a complete map drawn fully according to constitutional principles. I evaluated suggestions based on the merits of the proposal not on who (or which political party) was suggesting the change.

6. To the extent feasible given the severe time constraints, in addition to the considerable body of information previously integrated into the initial map-making process, the Court solicited further comments from the public and concerned groups on the proposed preliminary maps. After the dissemination of a map on May 16, 2022, I was pleased to receive additional extensive input from the public and concerned groups, most of which was specifically directed to the proposed maps. This feedback included over 800 e-mails and messages directed at me through social media. Additionally, I estimate that over 3,000 comments

were submitted to the Court directly, pursuant to the Court's stipulation of time periods to receive suggestions for map revisions and briefs or expert witness reports. [6] My team and I read all these suggestions and they were organized and categorized by my research assistants. With respect to these comments, of necessity, the ones to which I paid the greatest attention were those which the political scientists Peter Miller and Bernard Grofman refer to as *mappable suggestions*, i.e., ones that were based on the existing map proposals and made specific suggestions for how changes could be made to improve them. [7]

6 I want to extend a debt of gratitude to the Court staff, especially Brenda Wise, for receiving and promptly posting submissions to the court docket.

7 Miller, Peter, and Bernard Grofman. 2018. "Public Hearings and Congressional Redistricting: Evidence from the Western United States 2011-2012." *Election Law Journal: Rules, Politics, and Policy* 17(1): 21-38. http://www.liebertpub.com/doi/10.1089/elj.2016.0425.

7. At this stage of the map-making process my attention was focused on suggestions for changes in the proposed maps that involved the treatment of particular communities of interest. However, in a number of cases, either the submission was not sufficiently well articulated in a mappable way as to allow consideration of how its ideas it might be incorporated into the proposed maps, or submissions proposed changes that were inconsistent with changes proposed in other submissions so as to suggest a lack of public consensus on where particular communities of interest were located. Some submissions were simply infeasible to implement without ripple effects that would force dramatic changes in the maps, affect other constitutional criteria, or suggestions were infeasible in practice because of the very binding population equality constraints imposed by the New York Constitution. Also, suggestions to reconfigure the map to benefit the reelection chances of a particular party or incumbent or to unpair particular incumbents were disregarded as inappropriate in a map drawing process entirely based on the good government strictures embedded in the Redistricting Amendment to the New ****11** York State Constitution, and the requirement that maps neither favor nor disfavor any political party or incumbent. However, as before, I evaluated suggestions based on the merits of the proposal, not on who (or which political party) was suggesting the change. In particular, if a change was advocated to unify neighborhoods or for community of interest reasons and had few or no partisan consequences and it was feasible to implement, I examined it very carefully and sometimes proposed it to the Court for adoption in the final map (see discussion of changes from the preliminary map to the final map discussed at the end of the report).

***7 8**. The preliminary maps were each accompanied by a one-page report highlighting its key features. In this Report I describe the criteria used in devising a constitutional map and review the key features of the final map adopted by the Court. At the end of this Report, I also identify some issues having to do with communities of interest that were brought to the Court's attention in multiple submissions, and discuss how those suggestions for improvement were dealt with in the final revisions to the initial proposed maps.

9. Any constitutional map requires the satisfaction of the multiple criteria laid out in the New York State Constitution that are not fully consistent with one another and that necessarily require tradeoffs. Because of this fact there cannot be a "perfect" map. The New York State Constitution does not clearly rank order criteria. Here we list them in the order given in the Constitution. [8]

8 Our federal system of government places criteria found in the U.S. Constitution as highest priorities, federal law next, and then provisions of the state constitution and state law.

9A. VOTING RIGHTS.

"(1) When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or

minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice."

In map drawing I have adhered to the instructions for treatment of minority groups laid down in the New York State constitution. I have taken the groups whose rights need be paid special attention to be the same racial and linguistic minorities that are identified by the U.S. Congress in the Voting Rights Act of 1965 and in its subsequent amendments. Other groups I consider under the category of communities of interest. In New York, the largest minority groups — African-Americans, those of Spanish heritage, and Asian-Americans — are almost always highly geographically concentrated. Even in a completely race blind process there will be many districts (both for Congress and especially for the State Senate) that have a large minority population, ****12** and these demographic and geographic realities are fully reflected in the maps that I drew for the Court. I did not use race as a preponderant criterion. As indicated earlier, the standard good government criteria laid down in the New York State Constitution were the dominant considerations in my map-making. [9]

[9] Time did not permit a full analysis of the Section 2 VRA factors. However, (a) in order to bring a Section 2 claim it must be demonstrated that an additional compact 50%+ citizen voting age district can be created (*Bartlett v. Strickland*, 556 U.S. 1, 2009), and (b) any requirement to create a 50%+ citizen voting age district can be rebutted by a showing that the challenged district also gives minorities a realistic equal opportunity to elect candidates of choice. The Court maps contain so many districts with substantial minority populations whose candidate of choice is likely to be able to win primary victories and then go on to win general elections with non-Hispanic White crossover support in districts that are very heavily Democratic in political leaning that litigants would be unlikely to be able to satisfy the *Gingles* requirement that the candidate of choice of the minority community would be expected to regularly lose in the reconfigured district. It is the rights of minority communities, not the rights to office of individual candidates that are protected. This view of the potential for a successful Section 2 challenge to the Court imposed remedial maps is shared by Professor Grofman. Let me reiterate, however, that race was not a preponderant motive in my line drawing; rather, the heavily minority districts I have drawn simply reflect the population concentrations visible to citizens of the state New York or to someone who has studied demographic information about the state. ****13** the New York standard is plus or minus one-person. This is a very demanding standard, especially in New York City where precincts (and blocks) are often rather large. As a consequence, satisfying New York's congressional one person, one vote requirement can force some irregularity in a district perimeter and may limit the potential for fully incorporating particular neighborhoods or communities of interest in a single district.

9B. EQUAL POPULATION.

***8** "(2) To the extent practicable, districts shall contain as nearly as may be an equal number of inhabitants. For each district that deviates from this requirement, the commission shall provide a specific public explanation as to why such deviation exists."

"(6) In drawing senate districts, towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants. The requirements that senate districts not divide counties or towns, as well as the 'block-on-border' and 'town-on-border' rules, shall remain in effect."

While the language in (2) above suggests that the New York State constitutional standard for equal population is essentially the same as that in the federal constitution (as interpreted by federal courts), that is wrong. There are other more specific requirements for population equality laid down elsewhere in the NY Constitution that make it much harder to satisfy one person, one vote standards in New York than is the case in other states.

In particular, while federal case law allows for some deviations from perfect equality for Congress when there is compelling justification (with plans with a total population deviation of less than 0.75% sometimes found acceptable)

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Similarly, while federal case law generally allows for a total population deviation of plus or minus five percent, and relatively few states require more restricting population constraints than those laid down in federal law, and even when they do, do not require perfect population equality, the block-on-border and town-on-border rules (see (6) above) force very strict population constraints on most of the districts. For example, in New York City all of the Senate districts within NYC must essentially be identical in population. [10]

10 The block-on-border rule requires any district that includes only part of a city to have exactly the same population as every other district in that city. The 'town-on-border' rule requires population to be balanced between districts found in the same county, by ensuring that no town or city can be moved to an adjacent district which would lower the deviation between the two. These requirements are mandated by the text of the constitution and by state case law.

9C. CONTIGUITY.

"(3) Each district shall consist of contiguous territory."

The mathematical definition of contiguity is straightforward: "Is it possible to proceed from any part of the district to any other party of the district without leaving the district?" I have sought, however, to avoid contiguity that is only "technical," i.e., generated only at a point or only via a ****14** narrow wedge or a thin string of connecting blocks, [11] or contiguity that is not *functional contiguity*. [12]

11 For example, one of the several problems with the way in which Congressional District 10 was configured in the unconstitutional map was that it achieved contiguity only in a very ill-compact way.
District 10 in Legislative Proposal and in Court Map
NOTE: See pdf for map

12 *Functional contiguity* is generally taken to require that there be a way to traverse the district on foot or by car that does not require using a boat (or an airplane). As I note in identifying changes in the preliminary map later in the Report, one change that the Court did make at my recommendation was to ensure functional contiguity over water in District 17. (I am indebted to Steven Dunn for calling that issue to my attention.) There are, however, some states in which contiguity by water is permitted, but I prefer to avoid that option if possible.

9D. COMPACTNESS.

***9** "(4) Each district shall be as compact in form as practicable."

****15** Standard measures of compactness are defined in terms of area or perimeter and these can be measured in various ways, but two standard measures are *Polsby-Popper* (for area) and *Reock* (for perimeter). [13] There is no dispute that the Court maps are compact on both measures, and more compact (and in the case of the congressional map, much more compact) than the maps found unconstitutional. (See summary table in section 10).

13 See e.g., Niemi, Richard G., Bernard Grofman, Carl Carlucci, and Thomas Hofeller. 1990. "Measuring compactness and the role of a compactness standard in a test for partisan and racial gerrymandering." Journal of Politics, 52(4):1155-1181. This essay, written from a purely academic and non-partisan point of view, has one co-author who would be regarded as a Republican expert and another who would be regarded as a Democratic expert.

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9E. COMPETITION, PARTISAN OR INCUMBENT BIAS, DISTRICT CORES, PRE-EXISTING POLITICAL SUBDIVISIONS, AND COMMUNITIES OF INTEREST

"(5) Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The commission shall consider the maintenance of cores of existing districts, of pre-existing political subdivisions, including counties, cities, and towns, and of communities of interest."

I discuss each of these clauses separately below.

9E1. RESPONSIVENESS AND POLITICAL COMPETITION.

Representative democracy requires elections that are free, open, and equal, with representatives ultimately accountable to the voters for their actions in office. One way in which such accountability is assured is in limiting the duration of office holding so that the will of the people is repeatedly assessed. Another way in which responsiveness is fostered is to have districts that are sufficiently competitive that they might realistically change in outcome in response to a change in voter preferences. In the U.S., since early in the Republic, elections are mediated by political parties serving as gatekeepers to organize voters for collective action. In the maps I drew for the Court's consideration, I reviewed whether those maps allowed for state-wide partisan outcomes to be responsive to changes in voter preferences by having a reasonable number of politically competitive districts.

Future election outcomes are hypothetical, and no crystal ball exists to perfectly predict elections, and political contexts change over time. Nonetheless, plausible expectations can be developed about which districts might be politically competitive in future elections by projecting past elections into the new districts. Political polarization has made outcomes more predictable and party orientation and vote choice more stable. Of course, projections can depend on which elections are incorporated into the model. I preferred data averaged from the presidential elections of 2016 and 2020. Political scientists have found that increasingly, congressional elections tend to mirror presidential ones, and even state elections are ****16** increasingly affected by national forces. For comparison purposes, I also examined projections based on a composite of 6 statewide elections over the period 2016-2020(President 2016, U.S. Senate 2016, U.S. Senate 2018, Governor 2018, Attorney General 2018, President 2020). Because this set includes several rather idiosyncratic elections won overwhelmingly by the Democratic candidate, it shows projected outcomes to be more Democratic leaning that is the case for the presidential elections. Conclusions as to competition can also vary depending on exactly how a competitive district is defined. I use a definition that is standard in the political science literature: an average (of past recent elections) with a two-party vote share between 45% and 55%. Both the congressional and state senate maps have a substantial number of competitive seats (far more than in the unconstitutional maps) and are going to be responsive to the public will. Exact comparisons are provided in the Table in numbered section 10 of this Report and in the one page summary document released simultaneously with the new map and this Report.

9E2 PARTISAN OR INCUMBENT BIAS

***10** Neither the proposed maps nor the final maps adopted by the Court were "drawn … for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties." (emphasis added) This statement cannot be a matter of dispute. I served the Court as a non-partisan expert. These maps were drawn blind to the homes of incumbents, using the good government criteria set down in the New York State Constitution.

Most of the attention has been devoted to the congressional map. As far as I can judge, the issues raised vis-a-vis the Senate map almost all have to do with the configuration of particular districts in terms of communities, so I will only focus on the congressional map with respect to partisanship. The Petitioners claim that the congressional plan does not give Republicans enough districts, while Respondents complain that the map does not allow them to keep the expected gains in congressional seats given to them by the map found unconstitutional, and incumbents complain about reconfiguring of their districts or about pairings.

There are many metrics that can be used to evaluate partisan neutrality. Most of these indicators show a slight Republican bias to the Court's congressional map, although a few show a pro-Democratic bias, and some essentially no statistically significant bias at all. Since this Report is not a Ph.D. dissertation, I will not try to explicate why measures for partisan gerrymandering such as seats *bias, votes bias, declination*, the *efficiency gap*, the *mean minus median gap*, and various results based on ensembles using particular instructions to a computer using a limited set of criteria and parameters that give specific weight to each criteria and can not reach the threshold levels of population equality to be completely unbiased do not give the exact same answers. Suffice it to note that some of these metrics can be unreliable in a state like New York where one party is dominant [14] ; they work best in states in evaluating gerrymandering in states that are competitive at the state-wide level.

[14] Nagle, John F., and Alec Ramsay. 2021. "On Measuring Two-Party Partisan Bias in Unbalanced States." Election Law Journal: Rules, Politics, and Policy 20(1): 116-38. https://www.liebertpub.com/doi/10.1089/elj.2020.0674.

****17** To the extent that we find pro-Republican bias in New York even in maps drawn by Democrats, Democratic voting strength is inefficiently distributed largely because of highly concentrated Democratic voting strength in almost all of New York City - that is, Democrats can be expected to win around 90% of the votes in districts centered in New York City, but the most overwhelmingly Republican districts will only reach around 60%. Common sense tells us that this lopsided difference will necessarily penalize Democrats in their translations of votes into seats.

The average Democratic congressional winner projected in the Court map (based on past presidential elections averaged in 2016 and 2020) are expected to win with 70% of the vote and the average Republican winner projected to win with only 56% of the vote. But it is equally clear that this is an overwhelmingly Democratic leaning state in terms of recent statewide elections (Democratic presidential candidates average 61.75% of the statewide Democratic vote, compared with 38.25% Republican vote); accordingly, non-dilutive treatment of the two parties argues that this fact should be reflected in the congressional and legislative maps. The second simple point I would make is that the maps I proposed have a substantial proportion of competitive seats. In a good year for Republicans, the Republicans can pick up seats; in a more typical Democratic year, it is likely that seats will remain in the hands of the incumbent party in the district, though now, because of an eliminated upstate district, there is one less congressional district being held by a Republican.

***11** I show below the *Plan Score* evaluations of the final congressional map and the final Senate map (Results for the preliminary maps are essentially identical.) *Plan Score* is a project of the Campaign Legal Center, a nonpartisan organization, whose stated goal is to advance democracy though law.

Congress:

NOTE: See pdf for map

View PlanScore here:

https://planscore.campaignlegal.org/plan.html?20220520T183242.680480746Z

Senate:

****18** NOTE: See pdf for map

View PlanScore here:

https://planscore.campaignlegal.org/plan.html72 022 0521T024453.892105205Z

The Plan Score evaluations find the final Court maps to be almost perfectly politically neutral for both the congressional and the state senate plans.

9E3 CORES OF EXISTING DISTRICTS.

After the 2020 census, state specific shifts in relative population share meant that New York lost one of its congressional districts. Moreover, the regional distribution of population within the State of New York has changed, with upstate losing population relative to downstate - requiring a shift that is roughly the equivalent of one full congressional seat. As a consequence, direct comparisons between the 2012 congressional map and any 2022 proposed congressional maps can be quite misleading.

Similarly, loss of population upstate relative to downstate led to a loss of two Senate seats upstate. As a consequence, direct comparisons between the 2012 State Senate map and any proposed 2022 State Senate maps can also be quite misleading. Moreover, the 2012 State Senate map was drawn with partisan goals as thus comparisons to a map satisfying the new constitutional requirements for State Senate maps can be misleading on that ground alone.

Nonetheless, despite population shifts, core retention was actually quite high. According to the analysis done by Sean Trende, congressional core retention in the preliminary congressional map was 70.9% and that percentage should not be expected to change drastically in the final map.[15] I take this ****19** to be clear evidence that despite all the changes made in the Court drawn congressional map to improve compactness and limit county and city cuts, the Court's Congressional map clearly takes core retention into consideration — which is all that is required by the language of the New York State Constitution.

15 See 2022.05.18 [646] Harkenrider v. Hochul - Moskowitz Aff Ex. 2 SUPPLEMENTAL REPORT OF SEAN P. TRENDE ON THE SPECIAL MASTER'S PROPOSED CONGRESSIONAL MAP May 18, 2022.) Professor Trende's map, which is tilted toward Republicans, has 73.3% core retention. At the level of individual districts, Professor Trende's map has a higher core retention in 11 districts; the proposed map has higher core retention in 9 districts; and 6 districts are ties.

9E4 PRE-EXISTING POLITICAL SUBDIVISIONS

Very specific population equality provisions in the New York Constitution are completely inflexible and therefore were given the most weight. Among the factors listed in the New York constitution, I regard maintenance of pre-existing political subdivisions as an important consideration.

Some comments have objected to the apparent weight I gave to political subdivision boundaries. But there are what I believe to be six strong reasons why maintenance of these borders should be an important consideration in good government map-making.

***12** First, there can be no disagreement that the constitutional amendment on redistricting was intended to limit the potential for partisan gerrymandering.

> "The People of the State of New York have spoken clearly. … [I]n the 2014 Constitutional Amendment not only did the People include language to prevent gerrymandering, but they also set forth a process to attain bipartisan redistricting maps." (2022.03.21 [243] Harkenrider v. Hochul DECISION and ORDER at 10)

(1) While maintaining pre-existing county and city borders is not a guarantee against gerrymandering, since what I (and Bernard Grofman) have called "stealth gerrymandering" i.e., plans that adhere closely with traditional redistricting criteria but nonetheless are carefully to still egregiously favor one party

over another, [16] still remain possible, imposing a rule limiting county and city cuts makes it harder to gerrymander.

16 Cervas, Jonathan R., and Bernard Grofman. 2020. "Tools for Identifying Partisan Gerrymandering with an Application to Congressional Districting in Pennsylvania." *Political Geography* 76: 102069.

(2) If we treat jurisdictional boundaries as non-constraining and allow maps to wander, it becomes easy for mapmakers to make claims that they are simply preserving communities of interest as a mask for what is actually partisan or incumbency preservation gerrymandering. As I note in our discussion of the community of interest criterion below, there is a certain looseness to the concept, except when communities are defined in racial or linguistic terms. But thinking of communities of interest only in racial or linguistic terms brings me to another compelling reason to maintain county and municipal boundaries.

(3) Political subunits are *cognizable* to ordinary citizens, to use Professor Bernard Grofman's terminology, because they have a clear geographic location that is usually marked by signage, often including that on road or parkway exits, and a long-standing history. In thinking ****20** about what is where, political subunits are a natural way to demarcate space. [17]

17 Chen, Sandra J. et al. 2022. "Turning Communities Of Interest Into A Rigorous Standard For Fair Districting." *Stanford Journal of Civil Rights and Civil Liberties* 18: 101-89, provides a brief discussion of the idea of cognizability.

(4) Prioritizing respect for fixed and known boundaries immediately renders highly implausible any claim that race was a preponderant motive in the way in which maps were drawn, and thus limits the potential for a constitutional challenge to a map under the *Shaw v. Reno* (509 U.S. 630, 1993) constitutionally rooted prohibition of "race serving as a preponderant motive" in the line drawing process.

(5) Units, such as cities and counties, are units of governance and thus have an inherent political relevance.

(6) Relatedly, units such as cities and counties are also cognizable communities and can readily be viewed as themselves communities of interest in that residents of such units have interests in common.

Of course, given strict 'one-person, one-vote' requirements in both the congressional and senate maps, some political subdivisions will have to be divided. Nonetheless in the congressional map I have sought to limit the number of county splits to near to N-1, where N is the number of constituencies. [18] Similarly, in the Senate map I have sought to limit the number of municipality splits to no more than one per district. But, given the geography and the size of the different cities, completely eliminating all municipality splits is simply impossible.

18 It can be shown mathematically that N-1 is the lowest mathematically feasible number of splits except where there are whole counties or cities or aggregates of cities and counties that exactly meet population requirements. This result has been shown by Professor Grofman and demonstrated in a mathematically elegant fashion by Professor John Nagle (personal communication).

9E5 COMMUNITIES OF INTEREST

***13** Communities of interests are notoriously difficult to precisely define. [19] Even within a specific minority community there may be issues of what are the boundaries of particular neighborhoods and which neighborhoods most appropriately belong together. In reading through testimony submitted to the IRC or to the special master about communities of interest, some

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testimony has been contradictory, and the same tends to be true in other jurisdictions with which I am familiar. Also, while there are certainly historic communities, community definitions can be constantly evolving, especially as the racial or ethnic population of neighborhoods changes. Since communities of interest are often smaller than a single Congressional district or even a State Senate district, some combining of communities of interest will be **21 necessary. Finding the appropriate communities to combine is often more art than science and there will almost never be one absolutely correct answer, especially given the other constraints that need to be satisfied for a constitutional map.

19 See discussion in Chen, Sandra J. et al. 2022. "Turning Communities Of Interest Into A Rigorous Standard For Fair Districting." *Stanford Journal of Civil Rights and Civil Liberties* 18: 101-89, and references therein.

10. Below is a summary chart showing key features of the Court's final congressional map and the Court's final Senate map, with a comparison to the corresponding unconstitutional maps.

CONGRESS	Court Map	Legislative Proposal
Number of Counties Split	**16**	34
Total Number of County Splits	**26**	56
Reock Compactness	**41**	32
Polsby-Popper Compactness	**35**	25
Competitive Districts [20]	**8**	3

For splits, lower is better. For compactness and competitive districts, higher numbers are better.

20 As measured using the 2016/2020 Presidential election PVI on DRA; districts between 45% and 55%.

SENATE	Special Master Proposal	Legislative Proposal
Number of Counties Split	**25**	30
Total Number of County Splits	**66**	71
Reock Compactness	**39**	35
Polsby-Popper Compactness	**34**	28
Competitive District	**12**	6

For splits, lower is better. For compactness and competitive districts, higher numbers are better.

**22

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11. CHANGES TO PROPOSED MAPS

I was very pleased to see the high level of civic engagement and interest reflected in the volume of comments this Court (and the Redistricting Commission earlier) had received, and particularly pleased with the many suggestions for improvements in the preliminary maps I prepared for the Court. And I sought to be very responsive to citizen concerns in my recommendations to the Court for the shape of the final maps. But there are several realities that must be understood that made it impossible to incorporate most of the suggestions.

First, some of those suggestions were mutually contradictory.

Second, while I was quite successful in limiting the number of counties and cities that were split, some splits are simply inevitable given the geography of the state and the population constraints, and the need to take into account other of the multiple competing criteria for redistricting identified in the state constitution that I listed earlier in this Report. I can assure you that if yours was one of these units that were split it was not because of any kind of animus but was essentially due to the mathematical necessity of splitting some units, though I have tried especially hard to limit splits of smaller units. [21]

21 Professor Bernard Grofman has joked that there are so many different criteria that a Special Master must pay attention to that it's like being asked to simultaneously juggle things as diverse as tires, tea pots, and burning torches, with some pennies to juggle (population equality constraints) thrown in for good measure.

****23** Third, under federal law, it is unconstitutional for race to be a preponderant motive in redistricting, and I did not do so. Some of the changes that were proposed involved moving pockets of concentrated minority populations from one district to another simply to increase minority influence without a clear justification in terms of unifying long-established geographically defined neighborhoods and communities.

***14** Fourth, changes to a proposed map needed to be geographically feasible in terms of changes to the proposed map that reflects the spirit and rules set out in the constitution.

Fifth, perhaps, most importantly, any change has a ripple effect that can force substantial redrawing of lines. In particular, even small changes in one part of the map can force more substantial changes overall due to the strict population constraints in the New York State Constitution.

Finally, and relatedly, changes which seem desirable from the standpoint of one community of interest may have fewer desirable consequences for other communities of interest.

Nonetheless, despite the important caveats in the paragraphs above about why it was simply impossible to address all the public's concerns, I am pleased to report that I was able to incorporate into the final maps a very large proportion of the most serious and most often repeated suggestions about changes needed in the preliminary maps. Below I have sought to explain my reasons for key changes I did or did not make - often involving a hard choice between two options, each of which could be supported with good reasons. There are 28 proposed changes that had some substantial support that I reference below. Of these 28 changes, I was able to adopt in whole or in part 21.

My preliminary proposed maps were informed by testimony before the Redistricting Commission, evidence in the court record, and suggestions given directly to me prior to my drafting of a preliminary map. But I find the present round of citizen submissions of particular usefulness to me as a mapmaker, since they were directly offering what they believe to be improving changes in a map whose main features were likely to be adopted by the Court. Having a map to work from allows the public to be better informed about how their recommendations might be made compatible with concerns of other citizens and groups in a lawful map.

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Several changes to the Proposed Maps have been made based on the comments of citizens and interest groups. I am thankful for the time invested by those citizens in helping me to identify areas for improvement from the Proposed map I delivered to the court on May 16, 2022. I provide in the following section reasons why some suggested changes were or were not made in the revised map.

CONGRESSIONAL MAP

NEW YORK CITY

11A. BROOKLYN - BEDFORD-STUYVESANT

****24** In the draft congressional map, I inadvertently split the community of Bedford-Stuyvesant while trying to create compact, legally compliant districts in Brooklyn. In the final version of the map, I have placed this community in full in district 8. Bedford-Stuyvesant is now the core of district 8, as has historically been the case.

11B. BROOKLYN - CROWN HEIGHTS

In the draft congressional map, I inadvertently split the community of Crown Heights while trying to create compact, legally compliant districts in Brooklyn. In the final version of the map, I have placed this community in full in district 9. Crown Heights is now the core of district 9, as has historically been the case.

11C. SUNSET PARK, MANHATTAN CHINATOWN, RED HOOK

Several changes from the proposed map were made to Congressional District 10 to reflect numerous public comments concerning preserving communities of interest. There were many comments about maintaining the community of interest between Manhattan Chinatown, the Lower East Side, Sunset Park, and Red Hook within one congressional district. More specifically, many comments cited to the language in the federal case Diaz v. Silver, 978 F. Supp. 96 (E.D.N.Y)(per curiam), aff'd, 522 U.S. 801 (1997), which recognized that Manhattan Chinatown and Brooklyn's Sunset Park were a community of interest and should be kept together within the then 12th Congressional District. This configuration has been followed in the last two redistricting cycles. The Unity Map Coalition, APA Voice Redistricting Task Force, Common Cause New York, as well as many other members of the public, provided comments concerning the maintenance of this community of interest. There were also many comments about including Red Hook, Carroll Gardens, Gowanus, and Sunset Park within one congressional district, which is also reflected in Congressional District 10. Comments also requested to keep Park Slope with Red Hook, which was also reflected in the congressional map. While many comments addressed maintaining Red Hook, Sunset Park, and Manhattan Chinatown in Congressional District 7 with Bushwick and Williamsburg, this was not possible given the population constraints.

11D. MANHATTAN

***15** There are clearly multiple ways in which communities on Manhattan Island are conceptualized. One conceptualization is the east side and the west side, with the focus on Central Park as a divider. Others have said that they appreciate the way my proposed map creates upper, middle, and lower Manhattan districts, which is another common way to think about NYC in spatial terms. And other observations were that Central Park is an area that, rather than being seen as a barrier, can be viewed as a green space for shared activities that unite uptown Manhattan. Moreover, the proposed uptown congressional district includes more than just areas bordering on Central Park for which the East Side versus West Side distinction may be most relevant. Furthermore, looking at Manhattan as a whole, the East Side versus West Side distinction tends to break down as we move further south. Also, even the areas of the city bordering on opposite sides of Central Park do not appear to be as strongly distinguished in terms of economic and demographic differences as they once were. Thus, while this is a hard choice, I do not

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find a compelling **25 community of interest argument for changing the configurations of Manhattan congressional districts in the proposed map.

HE. NORTH BRONX/WESTCHESTER - CO-OP CITY

There is conflicting testimony as to the appropriate portion of the Bronx that would be included in district 16. All former parts of district 16 cannot be included because of population constraints. Co-Op City, which was previously in Congressional District 16, had to be moved out of the 16th because the population loss in upstate required CD 16 to take in more population to the north. Unfortunately, even though many hundreds of citizens sent me requests for Co-Op City to be placed into the 16th CD, this is not possible given the constraints imposed by the combination of population and other criteria. I am pleased to note that Co-Op City is maintained wholly within Congressional District 14, an adjacent district that is also majority-minority in character.

11F. BROOKLYN - BENSONHURST

In the proposed congressional map, Bensonhurst was inadvertently divided between two congressional districts. Bensonhurst is now united in Congressional District 11. This reflects comments about keeping Bensonhurst whole and within Congressional District 11.

11G. BROOKLYN - BENSONHURST, BATH BEACH, NEW UTRECHT

The area of south Brooklyn was unintentionally divided in the proposed congressional map. Numerous comments were made about keeping the South Brooklyn areas of Bensonhurst, Bath Beach, and New Utrecht together in one congressional district and uniting these areas with Staten Island. I made changes to reflect these comments and now unite Bay Ridge, New Utrecht, Bensonhurst, and Bath Beach in CD 11 with Staten Island.

11H. QUEENS - BAYSIDE

Several comments related to the neighborhood of Bayside being included in Congressional District 6 instead of Congressional District 3 on the proposed map. Given population constraints, including all of Bayside in CD 6 is not possible. However, I have taken the suggestion of APA Voice and added the southern portion by making population exchanges.

LONG ISLAND

11I. LONG ISLAND COMMUNITIES

Several changes were made to Long Island districts in both the Senate and Congressional maps. Testimony by the League of Women Voters Long Island chapter, and others, suggested that splitting Long Island in a way that respects the north shore and south shore communities would be more appropriate. The congressional map now reflects that change.

**26 11J. NASSAU/QUEENS COUNTY BORDER

Common Cause reported that there was community activist sentiment for Congressional District 5 not to cross the Nassau County border. This feature is maintained in the final congressional map.

11K. WESTBURY/NEW CASSEL

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Although there were numerous comments about including Westbury and New Cassel with Hempstead within a congressional district, Westbury and New Cassel were not included in Congressional District 4 in order to maintain the district within the city line.

UPSTATE

11L. DISTRICT 17 - CONTIGUITY

Rockland County was inadvertently left discontiguous in the Proposed congressional map. The city of Greenburgh is now split in such a way that the Mario M. Cuomo Bridge connects Rockland to the rest of CD 17. I thank Steve Dunn for bringing this error to my attention.

11M. CAPITAL REGION

***16** Congressional District 20, which is centered on the capital city of Albany, initially did not include the culturally and economically connected city of Saratoga Springs. In the final Court map, all of Saratoga County is included, along with the city of Troy in Rensselaer County. I was not able to include Amsterdam given population constraints and the requirement to consider county subdivision boundaries.

11N. ERIE COUNTY THREE WAY SPLIT

Several changes have been made to Erie County. First, objections to the additional split of Erie County have been corrected in the congressional map. Erie County now consists of parts of CD 23 and 26. CD 24 now includes the more rural parts of Niagara County. This configuration better reflects the map submissions made to me and the testimony I have received since the release of the Proposed maps.

11O. KINGSTON CITY SPLIT

Some cities are necessarily split in the process of equalizing the population between districts. The Court map minimizes the impacted cities by only splitting one city in each district (in accordance with N-1 splitting criteria laid out above, and in the preservation of political sub-divisions). The residents of Kingston were clear about the particular harm splitting their community would cause, and therefore I maintained the entirety of Kingston in the final map.

****27 SENATE**

NEW YORK CITY

11P. BROOKYLN - BENSONHURST/SUNSET PARK

In the final senate map, changes were made to reflect numerous testimony about keeping the neighborhoods of Sunset Park and Bensonhurst whole and together in one Senate District. This comment was received by APA Voice Redistricting Task Force, The Unity Map Coalition, Common Cause, as well as many other individuals. This is reflected in Senate District 17.

11Q. BROOKLYN - BAY RIDGE

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Bay Ridge was unintentionally split in the proposed State Senate map. Several comments were made about keeping Bay Ridge whole within a Senate District. The Senate map changes reflect these comments and keep Bay Ridge whole and with Dyker Heights within Senate District 26.

11R. BROOKLYN - PARK SLOPE

In the proposed map, I inadvertently excluded a northern triangular portion of Park Slope from other districts that contained the Park Slope neighborhood. Given the difficulties in obtaining equal population in these highly dense areas, I was unable to unite this portion of the neighborhood.

11S. QUEENS - BAYSIDE, OAKLAND GARDENS, AUBORNDALE

Several comments related to the neighborhoods of Bayside, Oakland Gardens, and Auburdale being included in Senate District 16 instead of Senate District 11. To keep neighborhoods together, comments also reflected requests to add part of the "Hillside Corridor" to Senate District 11 instead of its inclusion in proposed Senate District 16. These comments are reflected in written submissions from APA Voice Redistricting Task Force, The Unity Map Coalition, and Common Cause. I prioritized written comments to make changes to the map to include more of Bayside, Oakland Gardens, and Auburdale into senate district 16 while including areas of what is classified as the "Hillside Corridor" into Senate District 11.

11T. QUEENS - RICHMOND HILL/OZONE PARK

Numerous comments requested the inclusion of more of Richmond Hill within Senate District 15 with Ozone Park. I changed Senate District 15 to reflect these comments. I was not, however, able to get all of South Ozone Park into Senate District 15 due to population constraints. These district changes were made in an effort to preserve neighborhood boundaries as best as possible. Unfortunately, Forest Hills is slightly split in this new configuration.

11U. QUEENS - WOODSIDE/ELMHURST

***17 **28** Numerous statements from APA Voice Redistricting Task Force provided support for keeping Woodside and Elmhurst together in Senate District 15. Based on this testimony, I made the decision to unite these two communities and maintain Senate District 15.

11V. NORTH BRONX/WESTCHESTER - CO-OP CITY

I was able to follow the guidance of numerous testimony regarding the North Bronx/Westchester region, proposing uniting the neighborhoods of Co-Op City, Edenwald, and Williamsbridge with Mount Vernon, Eastchester, and Wakefield in one senate district. This is now achieved in Senate District 36.

LONG ISLAND

11W. SENATE DISTRICT 4

According to Article III, Section 4(c)(1) of the New York Constitution, when drawing district lines one must "…consider whether such lines would result in the denial or abridgment of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights." Here, following the injunctions of the State Constitution to respect communities of interest (NYS Const. Art. III, Section 4(c)(5)) and to not draw districts that

would result in the denial or abridgement of racial or language minority voting rights, the final map includes a district similar to one suggested by Common Cause. [22]

22 Whether failing to create this district would be a federal Voting Rights Act violation is unclear, as federal law on whether or not the Voting Rights Act applies to combined minority groups is currently unsettled. In any case, we have relied on state law, not federal law here.

11X. LAKEVIEW/ROCKVILLE CENTRE

In the proposed state Senate map, Lakeview was inadvertently divided. I have made a change to keep Lakeview whole in Senate District 6. Rockville Centre is also kept whole in a senate district, as requested by public feedback to the preliminary map.

11Y. WESTBURY/NEW CASSEL

There were numerous comments about including Westbury and New Cassel with Hempstead in a district. The map was changed such that it includes this community of interest in Senate District 6.

UPSTATE

11Z. SYRACUSE/AUBURN

****29** There were many requests to keep Auburn and Syracuse together in one senate district. Comments highlighted the shared interests of Cayuga County and Onondaga County. I changed the Syracuse area to reflect this and keep these two cities together within Senate District 48. Cayuga County is kept whole within Senate District 48.

11AA. UTICA/ROME

There were also numerous requests to keep the cities of Utica and Rome together in one district. This change is reflected in Senate District 53 that unites these two cities.

11AB. BUFFALO

In the proposed map, I inadvertently split the city of Buffalo to join it with the more rural area of Erie County. There were comments that the previous split between a more urban district and a more rural district did not respect neighborhood interests. The configuration has been changed to provide a clearer separation between more urban and rural populations of the county.

11AC. ROCHESTER

At least one group has questioned the split in the senate map of Rochester. However, for Senate Districts 55 and 56, the maps submitted by the Petitioners and the Respondents each had identical lines and I saw no reason to not propose that same configuration to the Court for the final map.

11AD. GREENE/COLUMBIA

***18** I received testimony that requested to join Greene and Columbia Counties in the senate map. I have made a change in the final map to reflect this.

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**30 2022 NY Congressional Court Ordered Map

Jonathan Cervas, Carnegie Mellon University

NOTE: See pdf for map

View Here: https://davesredistricting.org/ioin/a3a223ed-54cf-4b54-8ea3-6f9312d7c405

	Court Map	Legislative Proposal
Number of Counties Split	**16**	34
Total Number of County Splits	**26**	56
Reock Compactness	**41**	32
Polsby-Popper Compactness	**35**	25
Competitive Districts [1]	**8**	3

For splits, lower is better. For compactness and competitive districts, higher numbers are better.

[1] As measured using the 2016/2020 Presidential election PVI on DRA; districts between 45% and 55%.

**31 2022 NY Senate Court Ordered Map

Jonathan Cervas, Carnegie Mellon University

View Here: https://davesredistrictina.org/join/db25a7a8-477a-4443-bc68-9a157f9b2cc8

	Court Map	Legislative Proposal
Number of Counties Split	**25**	30
Total Number of County Splits	**66**	71
Reock Compactness	**39**	35
Polsby-Popper Compactness	**34**	28
Competitive Districts [1]	**12**	6

For splits, lower is better. For compactness and competitive districts, higher numbers are better.

[1] As measured using the 2016/2020 Presidential election PVI on DRA; districts between 45% and 55%.

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Senate district numbers are provisional and based on an attempt to match the 2012-2020 map numbering as closely as possible. Because of relative population loss, two districts have been shifted and there are necessary changes throughout the state to reflect the population changes.

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United States District Court, M.D. Louisiana.

TERREBONNE BRANCH NAACP, et al., Plaintiffs,

v.

Piyush ("Bobby") JINDAL, the Governor of the State of Louisiana, in his official capacity, et al., Defendants.

Civil Action. No. 3:14-cv-69-JJB-EWD
|
Signed 04/29/2019

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Special Master's Report and Recommended Remedy

David Ely, Special Master

***1** On March 15, 2019, in the United States District Court for the Middle District of Louisiana, the Honorable Shelly D. Dick, Chief Judge for the Middle District of Louisiana, (hereinafter "the Court") conditionally appointed me as Special Master in the above captioned case.[1] On April 3, 2019, the Court confirmed the appointment[2]. The Court's 385 Order, (hereinafter "the Order") directed the Special Master, by April 22, 2019, to submit "a Report and Recommendation proposing a legally sound remedy that conforms to this Court's previous *Ruling* of August 17, 2017[3] and complies with the Federal and State Constitutions and the Voting Rights Act." Herein provided is the Recommended Remedy and Report called for in the Court's Order.

Exhibit 1 presents maps for the recommended Remedial Districts (Special Master's Plan 2). Exhibit 2 presents maps for the other three plans considered; Special Master's Plan 1, and Plaintiffs' Illustrative and Alternative Plans. Exhibit 3 presents Population, Voting Age Population, Citizen Voting Age Population, Registration, and Voting statistics for the four considered plans. Exhibit 4 presents maps and statistical breakdown of the Parish Council Districts for Terrebonne Parish. Exhibit 5 presents a population density map of Terrebonne Parish. Exhibit 6 presents Reock and Polsby-Popper compactness scores for the Special Master's Plans, the Plaintiffs' Illustrative and Alternative Plans, and the Terrebonne Parish Council Districts. Exhibit 7 presents tables showing the distributions of Terrebonne Parish Council Districts' population among the Districts in the Special Masters Plans. Exhibit 8 provides Post-Election Statistics for Elections in November 2014, November 2018, and December 2018.

Background and Process

On August 17, 2017, the Court found that the at-large voting system for the 32nd Judicial District Court ("32nd JDC") had both a discriminatory purpose and effect. Specifically, the Court found that elections were characterized by Racially Polarized Voting, that black eligible voters were sufficiently numerous and compact to form the majority of a potential single member district, and that the majority black district in the Plaintiffs' Illustrative plan adheres to traditional districting principles. The districting principles examined were Shape, Contiguity, Population Equality, Communities of Interest, Political Subdivisions (precincts), Incumbent Protection, and Preserving Minority Voting Strength. The Court did not examine the potential effectiveness of the black majority district but stated that it might be considered at the remedial stage.

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The Court's Order appointing the Special Master includes an instruction that the proposed remedy should conform to the August 17, 2017 ruling. Therefore, the Special Master incorporates the Court's findings regarding the compactness and community of interest of the black communities included in Plaintiffs' Illustrative District 1 while additionally examining all five districts in potential remedial plans based on the districting principles listed above. The Special Master analyzed the Plaintiffs' Illustrative and Alternative proposals, and created and analyzed two additional plans, referred to as Special Masters Plans 1 and 2.

Findings

***2** The Special Master reviewed remedial briefings by the parties as well as trial transcripts, expert reports, deposition transcripts, and a variety of data and documents provided by the parties and their experts. This examination led to a set of findings that guided the evaluation and drafting of potential remedial plans, and the eventual selection of a recommendation. These findings are listed here and are discussed below.

1. A single member district election system including a majority black district is the most appropriate remedy.

2. Population equality should be evaluated based on 2010 Census total population.

3. Preserving minority voting strength, potential effectiveness, and compliance with the Voting Rights Act should be evaluated with data reflecting Any Part Black Voting Age Population (VAP), Black Citizen VAP, Black Registered Voters, and Black Voters who Voted, each as a share of the corresponding Totals.

4. Shape and compactness of districts must be considered relative to local geography and population distribution. Terrebonne Parish presents significant challenges in this regard.

5. The Parish Council Districts are relevant to the consideration of shapes, communities of interest, political subdivisions, and the potential effectiveness of remedial plans.

6. Precinct splits are acceptable to comply with other criteria but should be avoided to the extent possible.

7. Each of the four plans considered includes a majority black district which generally complies with traditional redistricting criteria.

8. The majority black district in each plan is likely to provide an effective remedy by providing black residents an equitable opportunity to elect candidates of their choice.

9. The Plaintiffs' Illustrative Plan splits precincts more than is necessary.

10. The Plaintiffs' Illustrative and Alternative Plans each combine distant and not well-connected communities in District 3.

11. The Special Master's Plan 1 and Plan 2 include the same communities in District 1 as the Plaintiffs' Illustrative and Alternative Plans while minimizing precinct splits and respecting communities of interest in the other four Districts.

12. The Special Master's Plan 2 is recommended as the most straightforward and recognizable option due to its respect for the Parish Council Districts and of the community groupings in those Districts.

Appropriate Remedy

A single member district election system is the most common remedy for an at-large election system that has been found to violate the Voting Rights Act. No party in this matter has suggested any alternative remedy. When the three Gingles preconditions are satisfied, a majority minority district is generally required.

> "If a State has good reason to think that all the "*Gingles* preconditions" are met, then so too it has good reason to believe that § 2 requires drawing a majority-minority district."[4]

Appropriate Data

In order to construct and evaluate potential remedial districting plans it is necessary use several types of data. In order to comply with the equal population requirement, it is necessary to determine the total population of each district according to the most recent decennial census. This

is the only data that is typically used to determine the size of districts. In order to evaluate compliance with the Voting Rights Act, protection of minority voting strength, and the potential effectiveness of remedial districts, additional data is required. Census enumeration includes multiple racial and ethnic categories for the Population and for Voting Age Population. OMB provided guidance for allocation of various combinations for the purpose of civil (and voting) rights monitoring and enforcement as follows:

***3** • Responses in the five single race categories are not allocated.

• Responses that combine one minority race and white are allocated to the minority race.

• Responses that include two or more minority races are allocated as follows:

  • If the enforcement action is in response to a complaint, allocate to the race that the complainant alleges the discrimination was based on.

  • If the enforcement action requires assessing disparate impact or discriminatory patterns, analyze the patterns based on alternative allocations to each of the minority groups.[5]

In this matter, the action is in response to a complaint of discrimination against black voters and residents of the 32nd JDC, so the allocation of all race responses which include black (Any Part Black) is appropriate for analysis.

Since only citizens are eligible to vote, it is typical in Voting Rights matters to examine the minority group's share of Citizen Voting Age Population (CVAP). This data is not included in the census enumeration but is available from the American Community Survey.[6]

Registration and Voting data are often included in the evaluation of minority voting strength and the potential effectiveness of Remedial Districts. The State of Louisiana provides precinct level Post-Election Statistics which include registered voters and voters who voted by race for each statewide election. This report examines registered voters in November 2014 and November 2018, as well as voters who voted in the General Elections in November 2014 and 2018 and the runoff election in December 2018[7]. The runoff election is included to examine the effects of low voter turnout on the composition of voters in majority black districts.

These data elements form the basis for statistical tables for each district in each districting plan under consideration which are included in Exhibits 3 and 4. An examination of these tables confirms that each of the potential remedial plans has a total population deviation under 10% and therefore meet the equal population requirement.

District Shape and Compactness.

The Court's August 2017 ruling includes a partial quote "... A district is sufficiently compact if it allows for representation. A district would not be sufficiently compact if it was so convoluted that there was no sense of community, that is, if its members and its representative could not easily tell who actually lived in the district."[8] The ruling discusses representational features of Plaintiffs' Illustrative District 1, but much of the district shape analysis is based on mathematical compactness scores, specifically the "Reock" and "Polsby-Popper" scores. However, these measures ignore the population distribution and the road network connecting communities within districts. Their interpretation and comparisons are often based on an assumption of a generally uniform population density and a regular road pattern throughout the jurisdiction.

***4** To assess the reliability of these scores, the weight that they should be given, and appropriate comparisons, the Special Master examined the geographical distribution of population and roads within Terrebonne Parish. A map of population density with roads is shown in Exhibit 5. As this map demonstrates, although the Parish as a whole is a fairly simple shape, the populated area is much more irregular, especially when considered with respect to the roads. There is a core of dense population in Houma and Bayou Cane, with the remaining population primarily located along a number of highways which connect Houma with outlying areas. Also shown on the population density map is an outline labeled "Population Regions" which divides the Parish into two regions. These regions can be measured in the same way as a districting plan. The following table shows the populations and compactness measures of these two areas.

Region	Population	Reock	Polsby/Poppe

1	1115400	0.23	0.08
2	320	0.54	0.19

Region 1 contains 99.7% of the parish population. This means that all single member districts would need to get virtually all their population from within region 1. For representational purposes, compactness only matters for the portion of districts in region 1. This table also illustrates the misleading nature of these compactness measures. Although a single border separates and is shared by both regions, region 2 has compactness scores which are more than double the compactness scores for region 1. To the extent that comparison of compactness measures is meaningful, the scores for region 1 and districts largely within region 1 are the most appropriate for comparison. The locally designed districts which represent this population are the Parish Council and the very similar School Board Districts.
The compactness scores for each of the potential Remedial plans under consideration as well as the current Parish Council districts are shown in Exhibit 6. An examination of these scores indicate the majority minority districts in the four plans under consideration have a minimum score of .20 (Reock) and .08 (Polsby-Popper). These scores are very similar to the scores for Region 1 and are comparable to several of the Parish Council districts. A much more meaningful analysis is a practical examination of the representational aspects of compactness.

All four potential remedial plans include a majority black district with the same communities in Schriever, Gray, and Houma as well as nearby areas. The same communities are also grouped in Districts 1 and 2 for Parish Council and School Board. Multiple elections have been held in Districts 1 and 2 and they provide representation to these communities. Districts 1 and 2 meet in central Houma and share that community. Because there are only 5 Judges elected from the 32nd JDC while the Parish Council and School Board each have 9 members, each remedial plan district will have nearly twice the population of those districts and will need to combine more local communities. Combining most of Parish Council Districts 1 and 2 creates a remedial district that will be readily recognizable and functional for the residents of these communities, thus meeting the definition of "sufficiently compact" as given in the Court's August 2017 Ruling.

Precincts

Precinct boundaries are discussed extensively in the Trial Record, especially in expert testimony. In the August 2017 Ruling, the Court found that "the Illustrative Plan adequately minimizes precinct splits."[9] Mr. Hefner testified that Parishes regularly change precincts following a census and that these changes often disregard Judicial District boundaries[10]. This implies that any respect for precinct boundaries now will likely only have a short-term effect, and that it is not an important consideration for local officials when creating precincts. For Remedial purposes however a somewhat different analysis is appropriate. Respecting existing precinct lines serves two relevant purposes, especially for the initial election in the remedial districts. One is to aid officials in election administration, and the other is to aid voters in recognizing the district in which they are eligible to vote. Both relate to the fact that splitting a precinct into multiple new districts requires an identification of the correct district assignment for each address within that precinct, rather than using the current known precinct assignment to determine district assignments. This can be a source of both confusion and error in the implementation of the remedy. Therefore, a remedial plan should minimize precinct splits, even at the expense of other districting criteria, unless they relate to the remedial purpose of the plan.

***5** Plaintiffs' Alternative Plan does not split any precincts while Plaintiffs' Illustrative Plan splits 11 precincts. Many of the precinct splits were created in order to improve the compactness of District 1 while a few were created to include local areas which are in precincts that also include significant population in other areas.

Special Masters Plan 1 District 1 was created to include largely the same local areas as the Illustrative Plan District 1 while minimizing the splitting of precincts. Special Masters Plan 1 District 1 contains 91.3% of the population and 96.7% of the black population of Illustrative District 1 but splits only 3 precincts. Two precincts are split in Schriever along Highway 24 to include local areas which are in Illustrative District 1, while one precinct is split south of Houma for contiguity purposes. Two additional precincts are split, one split between Districts 4 and 5 along the Houma city boundary

and one split between Districts 3 and 5 along Highway 24, to balance the populations of these districts.

Special Master's Plan 2 District 1 is identical to District 1 in the Plaintiffs' Alternative Plan and does not split any precincts. There is one precinct split in Plan 2 between Districts 4 and 5 for population balance.

Cities and Places

Terrebonne Parish has only one incorporated city, the City of Houma, which has a 2010 Census population of 33,807. This is greater than the population of one district in a five district plan, so it will be split in any remedial plan. Although Houma is an incorporated city it does not have a separate municipal government but is part of the Terrebonne Parish Consolidated Government. There are also ten Census Designated Places (CDP). CDPs are useful for statistical analysis but the boundaries generally do not represent any official entity. The Special Master determined that these boundaries are not generally reflected in precinct or Parish Council District boundaries. For example, the CDP of Gray is divided among four precincts, three of which include areas outside of the CDP boundaries. In fact, all ten of the CDPs include portions of precincts which are only partially within the CDP boundaries. Similarly, the CDPs of Schriever, Gray, Bayou Cane, and Bayou Blue are divided between at least 2 Parish Council Districts. For these reasons the Special Master uses the CDPs as descriptive tools when examining communities of interest but does not consider them to be "political subdivisions" or evaluate remedial plans based on respect for CDP boundaries.

Parish Council and School Board Districts.

Parish Council and School Board Districts, like precincts, are political subdivisions of Terrebonne Parish and the Special Master does evaluate remedial plans on this basis. They are also important in the consideration of communities of interest and their treatment in the proposed remedial plans is discussed in that section below.

Communities of Interest

The Special Master defines communities of interest as reflecting some characteristic that has an impact on the representational interests or priorities of voters, or on the way voters interact with each other to elect or communicate with a representative. In the case of judicial elections, the organization and interaction of voters, as well as the priorities of voters in evaluating the qualifications among candidates are especially important. In the August 2017 Ruling the Court found that a community of interest exists among the black communities in or around Schriever, Gray, and Houma based on three factors.[11] The first was a common bond, demonstrated by regular interaction in daily life, civic organization, and communication by television and newspapers. The second was common socio-economic characteristics which are likely to affect the priorities and preferences of voters. The third was the existence of other electoral districts that combine the communities. This community of interest is reflected in District 1 in each of the proposed remedial plans with only minor variation. The Court's finding is consistent with the Special Master's understanding of communities of interest and is binding on the evaluation of remedial districts, so no further examination of District 1 is needed. The Special Master extends a similar analysis to the remaining districts. This analysis focuses on three primary factors that are available from the record in this case. The first is the treatment of Parish Council and School Board Districts as shown in Exhibit 7. These districts are relevant themselves as they reflect an existing organization and interaction of voters in election campaigns as well as communication with representatives. In addition, these districts reflect local decisions about other communities of interest in their formation. The second is population distribution relative to the CDPs which are likely to represent opportunities for local interaction of voters. The third is population distribution relative to the highways that connect different areas of the parish. Each plan is discussed below.

***6** Plaintiffs Illustrative Plan District 2 contains population from Houma, Bayou Cane, and Gray. These communities are in close proximity and are relatively well connected. The population includes essentially all of Parish Council District 6 with significant population from Council Districts 3, 4, and 7. This configuration is reasonably compatible with communities of interest as described above. District 3 includes population from the communities of Schriever, Houma, Chauvin, and Dulac. Dulac and Chauvin are widely separated from Shriever at opposite ends of the highway network. The population is also divided into the southern portions of Council Districts 7 and 8, and the northern or northwestern portions of Council Districts 2 and 4. This District does not reflect communities of interest in an

acceptable manner. District 4 includes population from the communities of Houma, Bayou Cane, Bayou Blue, and Gray. These communities are located in close proximity and are well connected by the highway network. The population is primarily located in Council Districts 3 and 5 with some population from the adjacent portion of Council District 4. This District is reasonably consistent with communities of interest. District 5 includes population from the communities of Houma, Bayou Cane, Bayou Blue, Presquille, Bourg, and Montegut. These communities are either located in close proximity in the central part of the parish or are located along a single highway leading southeast from Houma. The District includes almost all of Council District 9 with additional population from adjacent portions of Council Districts 1, 5, and 8. This District is reasonably consistent with communities of interest. Because of District 3, this plan does not adequately respect communities of interest.

The Special Master designed Plan 1 to correct the significant community of interest problems with District 3 in the Illustrative Plan. Special Master's Plan 1 District 2 includes populations from the communities of Bayou Cane, Bayou Blue, and Gray. These communities are located in close proximity and are well connected. The District includes all of Council District 3 with additional population from the adjacent portions of Council Districts 4 and 5. This District is consistent with communities of interest. District 3 includes population from the communities of Schriever and Houma. These communities are well connected, although somewhat separated. The District includes all of Council District 6 with additional population from nearby portions of Council Districts 2, 4 and 7. This District is reasonably consistent with communities of interest. District 4 includes population from the communities of Bayou Cane, Bayou Blue, Houma, Presquille, and Bourg. These communities are located in close proximity and are well connected. The District includes most of Council District 5 with additional population from adjacent portions of Council Districts 1, 8, and 9. This District is consistent with communities of interest. District 5 includes populations from the communities Bourg, Montegut, Chauvin, and Dulac as well as other areas to the south of Houma. These communities are all located along highways leading south and southeast from Houma and are reasonably well connected. The District includes adjacent portions of Council Districts 7, 8, and 9. This District, and the plan as a whole, are consistent with communities of interest.

Plaintiff's Alternative Plan District 3, like District 3 in the Illustrative Plan, combines Schriever, in the northern portion of Council District 4, with populations in Council Districts 7, 8, and 9 to the south of Houma and the opposite end of the highway network. Special Master's Plan 2 was designed to correct this problem as well as to follow the Council Districts' grouping of communities to the extent possible.

Special Master's Plan 2 District 2 includes population from Schriever, Gray, Bayou Cane and Bayou Blue. These communities are in close proximity and are well connected. The District includes all of Council District 4 and most of Council District 3. This District is consistent with communities of interest. District 3 includes population from Houma and Dulac as well as areas to the west and to the south of Houma. The District includes all of Council District 6 and most of District 7. This District is consistent with communities of interest. District 4 includes population from the communities of Bayou Cane, Houma, Bayou Blue, and Bourg. The District includes all of Council District 5 as well as adjacent portions of Council Districts 3 and 9. This District is consistent with communities of interest. District 5 includes population from the communities of Houma, Presquille, Chauvin, and Montegut which are well connected by highways. The District includes all of Council District 8 as well as adjacent portions of Council Districts 1, 7, and 9. This District, and the plan as a whole, are consistent with communities of interest. Each District in Plan 2 contains one whole Council District. Each of the four Council Districts which are split are only divided between two Plan 2 Districts.

Protection of Minority Voting Rights and Remedial Effectiveness

***7** Each of the proposed remedial plans includes a district which is intended to protect minority voting rights and remedy the vote dilution found in the at-large elections scheme. In each of these districts there is a black majority of Voting Age Population. In each of these districts the black share of registered voters is approximately 56 percent. In each of these districts the black share of voters who voted in the November 2014 election was over 58%, and in the November 2018 election was over 55%. Even in the low turnout runoff election in December 2018, the black share of voters who voted was over 53%. These statistics demonstrate that the black majority district in each of these plans would provide a very realistic opportunity for the black community to elect their preferred candidates. These districts also represent most of the same population included in Parish Council Districts 1 and 2, both of which have proven effective in providing

the black community an equitable opportunity to elect their preferred candidates to the Parish Council and School Board.

Summary and Conclusion.

The Special Master has analyzed four potential remedial districting plans. Each of the plans has been found to include a black majority district which should protect minority voting rights and provide an effective remedy to the vote dilution found in the at-large election of Judges in the 32nd JDC. Each of these districts is sufficiently compact. Each of the plans is in compliance with the equal population standards. The Plaintiffs' Illustrative Plan was found to split precincts to a greater extent than was necessary or desirable for a remedial plan. Both the Illustrative and Alternative Plans were found to be at least partially inconsistent with communities of interest in areas outside of the majority-minority district. Both Special Master's Plans 1 and 2 were found to be consistent with traditional redistricting criteria and therefore to be acceptable choices for a remedial plan. Because the design of Plan 2 is based on the Parish Council districts, the consistent grouping of communities should allow for easier election administration and less confusion among voters in the initial election by district. Therefore, the Special Master recommends the use of Plan 2 for the election of Judges by district to the 32nd JDC.

All Citations

Not Reported in Fed. Supp., 2019 WL 4398509

Footnotes

1 Rec. Doc. No. 385

2 Rec. Doc. No. 391

3 Rec. Doc. No. 289

4 Cooper v. Harris, 581 U.S. ——, 137 S.Ct. 1455, 1470, 197 L.Ed.2d 837 (2017)

5 OMB Bulletin No.00-02 (2000)

6 Data obtained from Plaintiffs' expert Mr. Cooper was used for Population, VAP, and CVAP.

7 https://www.sos.la.gov/ElectionsAndVoting/Pages/PostElectionStatisticsStatewide.aspx. Note that turnout is shown by precinct, so parish-wide turnout rates are inappropriate for examining turnout in proposed districts. For split precincts, data was allocated according to the distribution of black and non-black VAP.

8 Rec. Doc. No. 289 at 22 (citations omitted)

9 Rec Doc 289 at 30.

10 Trial Transcript Day 7 at 81

11 Rec. Doc. 289 at 28

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