

A CITIZEN'S GUIDE TO REDISTRICTING IN OHIO



A report by the Electoral Innovation Lab

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ABOUT THE ELECTORAL INNOVATION LAB

The Electoral Innovation Lab (EIL) was founded in 2020 to build a national science of democracy reform using math, law, and practical strategies for change. EIL focuses on how electoral systems and reforms can work to repair and strengthen the connection between voters and government. In the service of reformers, government actors, and courts, the Lab seeks to make accessible the impacts of existing rules and policies, new legislative actions, reforms in voting rules and redistricting reform, and community strategies. The EIL takes a data-driven integrative approach that draws on mathematical, computational, natural, political, and social sciences. EIL maintains no interest in outcomes and is nonpartisan.

EIL welcomes practitioners, postdoctoral scholars, and undergraduate/graduate students to a laboratory environment designed to foster collaboration. EIL's workspace is distinguished by its interdisciplinary focus, deliberately nurturing a range of diverse approaches to address electoral challenges. This report was prepared in summer 2023. Summer participant backgrounds included computer science, data science, ecology, history, mathematics, mechanical engineering, philosophy, political science, public policy, and sociology. The summer team spent ten weeks in Princeton with professors and visiting scholars to investigate practical strategies for strengthening American democracy.

In addition to internal collaborative learning, EIL hosts leading voices in the field of democracy reform. The 2023 program featured public events and internal conversations with faculty from Princeton University, Harvard Law School, NYU School of Law, University of California-Irvine, Carnegie Mellon University, and the City University of New York; expert journalists; and nonpartisan reformers.

To learn more about this report, the Electoral Innovation Lab, or research and employment opportunities, email info@electoral-lab.org or visit www.electoral-lab.org.

FOREWORD

Ohio, like many states, has seen its share of gerrymandering. Throughout the state’s history, both Republicans and Democrats have sought to strengthen their parties’ electoral strength by drawing favorable state legislative and congressional maps. A key component in such partisan self-dealing is the ability of a party to exercise district-drawing power in an unchecked manner.

In Ohio, several attempts have been made to transfer the responsibility of district-drawing to a redistricting commission separate from the legislature. Major ballot reforms in 2015 and 2018 to the state legislative and congressional redistricting process became enshrined into the Ohio Constitution by wide popular margins, opening the possibility of a process that could lead to bipartisan cooperation and more representative maps. But power is not ceded willingly, and the post-2020-census redistricting process failed to meet expectations. In this decade, the Ohio Supreme Court held that the maps adopted were illegal gerrymanders by the Ohio Redistricting Commission and General Assembly. But because of restrictions in the state Constitution and time constraints, these maps could not be modified by the court and were used to conduct the 2022 election.

Now-retired Chief Justice Maureen O’Connor wrote in her concurring opinion in *League of Women Voters of Ohio vs. Ohio Redistricting Commission* that “Ohioans may opt to pursue further constitutional amendment to replace the current commission with a truly independent, nonpartisan commission that more effectively distances the redistricting process from partisan politics.” In this report, we review how such a commission could operate, and focus on a proposed ballot initiative to create the necessary constitutional mechanism. We also provide a resource for future independent commissioners to consult as they seek to improve the redistricting process in Ohio.

This report is intended to serve as an informational resource. We start with a review of how redistricting is done in the United States, including Ohio’s current system. Then we review lessons from recently formed independent commissions, using the Michigan and Colorado Independent Redistricting Commissions as examples, and take into consideration the unique features of Ohio and its laws and traditions. Next, we elaborate on key factors for a successful independent redistricting process, criteria for legislative and congressional districts, and best practices for commissioners in performing their work. The report offers perspectives for balancing the varied interests that arise to reflect the interests of Ohio’s political parties, communities, and individual voters.

Ohioans may opt to pursue further constitutional amendment to replace the current commission with a truly independent, nonpartisan commission that more effectively distances the redistricting process from partisan politics.

- Chief Justice Maureen O’Connor

EXECUTIVE SUMMARY

In Ohio and around the nation, redistricting is often controlled by partisan actors. Recent reforms have established a commission composed of elected officials and legislative appointees, whose work in 2021 and 2022 encountered considerable litigation and attempted judicial intervention. These conflicts revealed two major weaknesses in the state's redistricting process: the commission's lack of independence and the absence of clear judicial authority to remediate violations of law. In addition, extremely narrow legal criteria for maps potentially raise barriers to the representation of Ohio communities.

We review evidence of these weaknesses, as well as changes that would arise from a new proposed ballot initiative to establish a citizen-led independent commission. In the event of approval of such an initiative, we provide detail on the commission's effective operation and management, and we discuss key criteria arising in the preparation of new maps. Thus, we provide a roadmap that policymakers, advocates, and citizens can follow to improve the redistricting process in the future.

OVERVIEW OF REFORM RECOMMENDATIONS

1. **Empower an independent commission:** A genuinely independent commission will have full redistricting authority, should be composed of citizen commissioners from both major parties and independents, and should require multi-group approval to enact a plan.
2. **Consider communities of interest:** In designing maps, Ohioans and commissioners should identify key geographically-linked communities with shared interests that should be considered in map-drawing.
3. **Allow counties and cities to be split when appropriate:** Communities with shared interests do not always follow city and other governmental boundaries. In larger cities, a prohibition on splits can weaken the political power of disparate communities living within the area. Cities with populations much smaller than the district ideal should still generally remain whole.
4. **Increase the strength of checks and balances:** Ensure that the state Supreme Court has authority to prepare maps in the event of a partisan gerrymander. And while the Ohio Redistricting Commission should be set up for success, the state Supreme Court and retired state judges can provide oversight.

Finally, we provide demonstrative maps to illustrate what an independent redistricting process might produce.

CURRENT PROCESSES FOR OHIO REDISTRICTING

In 2015, Ohio voters approved a legislature-initiated constitutional amendment to establish rules and procedures for a bipartisan commission tasked with redrawing the General Assembly map after every census.

The Ohio Redistricting Commission is composed of seven members: the governor, state auditor, secretary of state, and two legislative appointees from each party.

The commission is guided by instructions to accurately represent Ohio's population, comply with federal law including the Voting Rights Act, and draw plans that would likely elect representatives in numbers approximately proportional to the statewide vote on a partisan basis.

The commission begins its work by evaluating proposals authored by the majority leaders in the state legislature. To adopt a state legislative district plan lasting ten years, the map must receive approval from at least two commission members of the minority party. The commission must follow the criteria outlined in the state constitution, emphasizing compactness and contiguity, while maintaining the integrity of political subdivisions. Public participation and feedback also play a role, including at least two hearings.

In 2018, Ohioans backed another legislature-initiated constitutional amendment, this time focused on congressional redistricting. This amendment did not take away the power of redistricting from the General Assembly, but it did impose new rules on Ohio legislators intended to encourage bipartisanship and limit partisan gerrymandering. The amendment requires a supermajority vote of 60% support in both chambers of the state legislature, including at least 50% each of Republicans and Democrats. Because of the difficulty of reaching a supermajoritarian bipartisan consensus, the amendment grants the Ohio Redistricting Commission the power to take over if the General Assembly fails.

Legislative maps enacted without bipartisan support last only four years, as opposed to the full decade. The maps produced by the commission are subject to review by the state Supreme Court, which has the power to order the commission to draw new maps if the proposed districts fail to adhere to the aforementioned criteria.

Although the commission is necessarily bipartisan, the governor, auditor, and secretary of state in Ohio have all belonged to the same political party in nine of the last 11 elections. Therefore, under the current constitution the commission can typically be expected to be organized with a five to two partisan margin. In the 2021 redistricting cycle, such a five-two margin favored Republicans.

For congressional districts, first the General Assembly attempts to draft a plan. If a bipartisan supermajority approves it, then it remains in effect for ten years. If they fail, responsibility shifts to the Ohio Redistricting Commission, which has the power to adopt a ten-year plan with a bipartisan vote. If the Commission fails to do so, the question returns to the General Assembly, which can approve a plan lasting for four years by a simple majority vote.

Under the current constitution the commission can typically be expected to be organized with a five to two partisan margin.

HISTORICAL BACKGROUND

FEDERAL LAW AND THE DEVELOPMENT OF VOTING RIGHTS

Each decennial federal census produces a determination of the number and location of persons throughout the United States. This determination sets in motion both congressional and legislative redistricting.

For congressional redistricting, a population-based formula determines the new allocation of congressional seats across the fifty states. This process, referred to as **reapportionment**, distributes a total of 435 seats in the U.S. House of Representatives. Since population distributions across the United States change over time, a state may gain or lose seats. Between 2010 to 2020, Ohio experienced a modest population increase, but at a lower rate relative to the nation overall. Consequently, in 2021 Ohio went from 16 to 15 congressional seats.

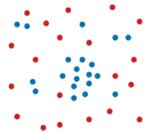
For state legislative redistricting in Ohio, new maps must be drawn each decade for 99 seats in the House of Representatives and 33 seats in the Senate. Each state senate district contains three state representative districts nested within it.

The process of redrawing district lines, whether congressional or legislative, is known as **redistricting**. Even if the number of seats remains unchanged, federal law requires that districts have near-equal population. Congressional districts must stay well within a narrow population range. Legislative districts are more flexible under federal law, and a 10% maximum difference between smallest and largest district is generally allowed. But in both cases, all election district boundaries must be reviewed.

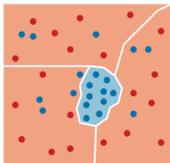
Redistricting can boost or diminish the representation of different groups, whether those groups are defined by party, race, or communities joined by common language, economic, or other legislative interests. The Ohio Constitution currently limits splitting counties and municipal corporations for legislative redistricting. For congressional districting, communities of “similar interests” may be preserved when splitting counties whose population exceeds the permissible range. In this situation the community’s influence may actually be diminished by being packed into a single district. In summary, under current law, the representation of communities of shared interests is largely unprotected.

The Constitution also requires that for state legislative redistricting the statewide proportion of districts must correspond closely to the statewide political party preferences of the voters of Ohio, based on election data from the prior decade. Finally, the constitution requires state legislative and congressional districts to be contiguous and compact.

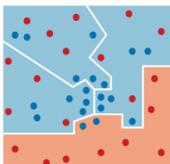
LINES MATTER: SAME VOTERS, DIFFERENT OUTCOMES



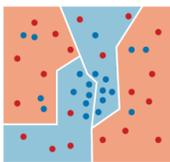
No District Lines
20 blue dots
20 red dots



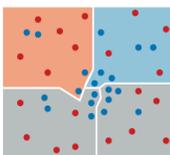
Red Gerrymander
1 blue district
3 red districts



Blue Gerrymander
3 blue districts
1 red district



Bipartisan Gerrymander
2 red districts
2 blue districts



Competitive Districting
2 competitive districts
1 red district
1 blue district

Redistricting is both a way to give and deny representation. Every line drawn requires a choice about who should be grouped together and who should be split apart.

Gerrymandering occurs when key actors, whether legislators or commissioners, exploit the redistricting process to create an excessive advantage for one party, group, or individual candidate. Gerrymandering is common because legislators have an inherent interest in developing lines favorable to themselves and their peers. The establishment of the Ohio Redistricting Commission was an initial attempt to curb this form of self-dealing.

A BRIEF WALK THROUGH HISTORY

Ohio was admitted to the Union in 1803. Under the Constitution of 1802, the Ohio General Assembly redrew both state legislative and congressional districts, often more than twice per decade. These actions attracted conflict; for example in 1842 when Whig senators resigned en masse, thwarting a redistricting plan by preventing the Democratic-controlled chamber from achieving a quorum.

In 1851, however, the new Ohio Constitution removed the state legislative redistricting authority from the General Assembly and gave the power to the apportionment board, a body composed of the governor, auditor, and secretary of state. In 1903, Ohioans approved the Hanna Amendment, which provided that every county have at least one representative in the House, irrespective of its population. This amendment assured that Ohio state legislative districts would be malapportioned, with votes in sparsely populated counties given more weight than votes in more populous counties.

Across the country, both state legislative and congressional redistricting were transformed in the 1960s by the U.S. Supreme Court. Relying on the doctrine of “one person, one vote,” the Court ruled that all state legislative districts must have roughly equal populations. (In 2012, this requirement was loosened slightly, in *Tennant v. Jefferson County Commission*.) In response, the Ohio General Assembly proposed and the voters approved in 1967 an amendment to the Ohio Constitution to expand the apportionment board, which had responsibility for state legislative redistricting, from three members to five members by adding two members appointed by legislators. The 1967 amendment did not make any changes to congressional redistricting.

Equal population requirements, however, are insufficient protection for voting groups, so despite these changes, the drawing of partisan and otherwise discriminatory maps was still possible. Both Republicans and Democrats in Ohio used control of the apportionment board in subsequent decades to implement single-party control over drawing the state’s legislative districts. On multiple occasions, the League of Women Voters and other citizen-led groups sought to enact redistricting reform constitutional amendments by voter initiative, which either failed to qualify for the ballot or were not approved by voters.

Finally, in 2014, then-Representatives Vern Sykes and Matt Huffman authored a constitutional amendment to reform state legislative redistricting. On November 3, 2015, 71% of Ohio voters approved the measure, codified as Article XI of the Ohio Constitution. The amendment established the bipartisan Ohio Redistricting Commission to draw legislative maps, and imposed new standards on the commission, ostensibly to end partisan gerrymandering.

The General Assembly retained control over congressional redistricting until 2018, when another amendment was passed by Ohioans. The measure, now Article XIX of the state constitution, established new guidelines and processes. While the General Assembly retained the ability to prepare a first draft map, passage required a bipartisan legislative supermajority. The amendment also included a role for the Ohio Redistricting Commission if the General Assembly could not meet the new bipartisan standards.

DIFFICULTIES IN OHIO REDISTRICTING IN 2021-2022

2020 CENSUS DELAYS AND REDISTRICTING TIMELINE

Legislative and congressional redistricting in Ohio were to follow a timeline specified in Articles XI and XIX of the state constitution, requiring that state legislative maps be adopted by September 1, 2021 and congressional districts by September 30, 2021. The Census Bureau had been expected to release data necessary for redistricting on March 31, 2021, but the COVID-19 pandemic delayed publication to September.

STATE LEGISLATIVE REDISTRICTING

On September 15, 2021 the Ohio Redistricting Commission approved the first set of maps for the state's 33 Senate districts and 99 House districts. These maps were passed along partisan lines and therefore, according to the law, would only last four as opposed to ten years.

Subsequently three lawsuits challenging these maps were filed: *League of Women Voters of Ohio v. Ohio Redistricting Commission* (September 23), *Bennett v. Ohio Redistricting Commission* (September 24), and *Ohio Organizing Collaborative v. Ohio Redistricting Commission* (September 27). The plaintiffs in these cases included a good governance and Black-led organization, the A. Philip Randolph Institute (*League*), Democratic voters (*Bennett*), and minority voters and civil rights organizations (*Ohio Organizing Collaborative*). All three alleged that the maps were unconstitutional partisan gerrymanders favoring Republicans. The cases were consolidated by the Court, which heard oral argument on December 8, 2021.

On January 12, 2022 the Ohio Supreme Court struck down the state legislative maps and instructed the commission to prepare new districts. Ten days later, the commission adopted a new plan. Again plaintiffs objected to these plans, arguing that they continued to favor Republicans and violated the state constitution's proportionality requirement. Multiple quantitative analyses supported this claim.

On February 7, the Court agreed, rejecting the commission's proposals. The new maps, the Court found, attempted to "preserve as much partisan favoritism as could be salvaged from the [previously] invalidated plan." To accelerate the process and make more explicit its standards, the court ruled that any competitive districts "must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share."

The court granted the commission another ten days to draft a new map. Failing to meet the court's timeline, the commission passed a new map on February 24, without involvement or support from Democratic members. The commission's new map increased the number of competitive districts, largely by weakening the partisan lean in heavily Democratic districts.

The maps were challenged again, and on March 17, 2022, the court found that this third set of maps again violated constitutional standards that forbade favoring or disfavoring a political party. Again the court held that the commission had failed to establish roughly

proportional representation. Under the plan, the court found, “there are 19 House districts and seven Senate districts—43% of all Democratic-leaning districts—that have Democratic vote shares between 50 and 52%,” at the same time there were no Republican-leaning districts “with a vote share less than 52.7%.” This meant while on paper the map was more competitive, it actually created more districts for Republicans that were relatively secure. Accordingly, the Ohio Supreme Court ruled these proposals unconstitutional and ordered the commission to submit a new map by March 29. A fourth as well as fifth set of maps were submitted, litigated, and rejected on the same grounds on April 14 and on May 25.

This back-and-forth between the Ohio Supreme Court and the commission continued. The Court explained that according to Article XI, Section 9(D)(1) of the state constitution, it could not draw new maps itself or appoint a special master to do so, even while the commission refused to make the necessary revisions.

On May 28, 2022, a federal court intervened, ordering that, in light of the upcoming elections, time had run out. They ordered the 2022 election to be held using the Second Revised Map.

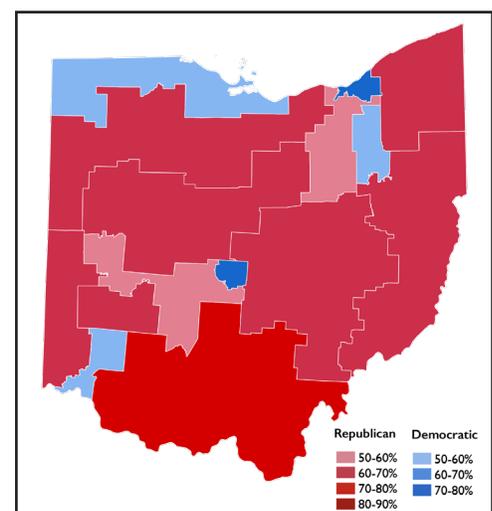
In the resulting state House elections of November 8, 2022, the total vote across all candidates was 58.8% Republican and 39.9% Democratic, leading to the election of 67 Republicans (67.7% of seats) and 32 Democrats (32.3% of seats). In odd-numbered state Senate districts, the vote totals were 57.4% Republican, 42.2% Democratic, electing 11 (64.7%) Republicans and six (35.2%) Democrats. These outcomes fell outside the constitutional requirement of statewide proportionality.

CONGRESSIONAL REDISTRICTING

In its initial attempt at preparing the congressional map, the General Assembly failed to reach the requisite bipartisan supermajority. Consequently, responsibility for bipartisan redistricting fell to the commission, which also failed.

On November 20, 2021, the General Assembly passed its first congressional maps along partisan lines. Two days later, a group of citizens challenged the plan in the Ohio Supreme Court case *Adams v. DeWine*, alleging that the map “unduly” favored Republicans, violating Article XIX of the state constitution. Soon after, another suit, *League of Women Voters of Ohio v. DeWine*, was filed, making similar claims and arguing that the plan adopted by the legislature unnecessarily split counties and communities. The state Supreme Court consolidated these cases and on January 14, 2022, ruled for

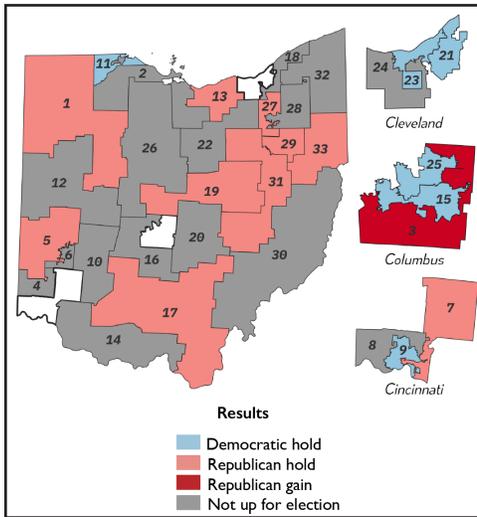
CONGRESSIONAL ELECTIONS 2022



Votes: 56% R, 44% D Seats: 10 R (67%), 5 D (33%)

Credit: Wikimedia Commons

STATE SENATE ELECTIONS 2022



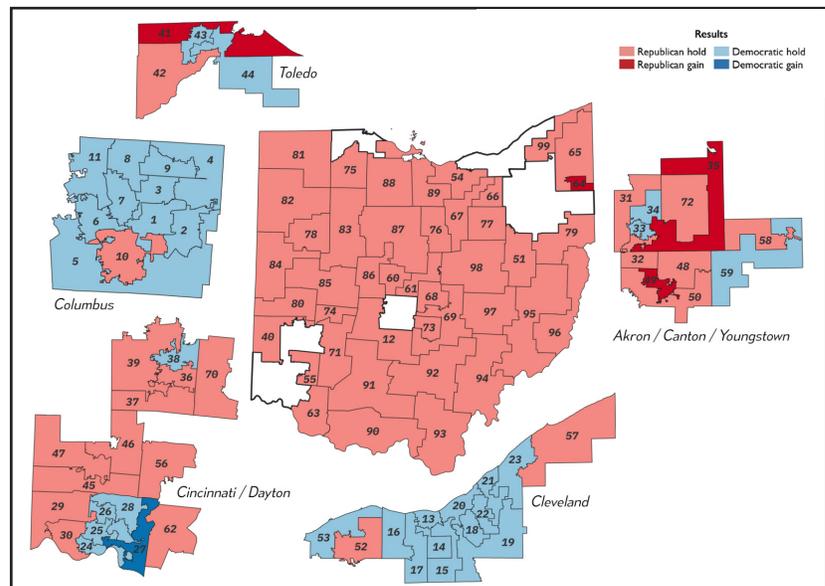
Votes: 57% R, 42% D Seats: 11 R (65%), 6 D (35%)
 Credit: Wikimedia Commons

plaintiffs, finding the map to be in violation of Article XIX, Sections 1(C)(3)(a) and (b) of the Ohio Constitution.

The Court gave the legislature thirty days to produce a second set of maps. The legislature failed to meet this deadline. On March 2, 2022 the commission adopted revised maps, which became known as the “First Revised Maps”. New lawsuits, *Neiman v. LaRose* (March 21) and *League of Women Voters of Ohio v. Ohio Redistricting Commission II* (March 22, also known as “League II”), challenged the new plan. On July 19, 2022, the state Supreme Court rejected the commission’s plan. However, given time constraints, the state Supreme Court left the First Revised Maps in place for the 2022 congressional elections. In September 2023 plaintiffs asked the new court to dismiss the case, clearing the way for the plan to be used for the 2024 elections. Now, under current law, a replacement for the partisan, four-year plan must be prepared in time for 2026 elections.

During this process, Republican members of the Ohio Redistricting Commission and Ohio Legislature also petitioned the United States Supreme Court, claiming that the U.S. Constitution forbade state courts from reviewing legislative actions concerning congressional elections. This position is known as the Independent State Legislature theory, and had also been put forth by legislative leaders in other states. On June 27, 2023, in *Moore v. Harper*, the U.S. Supreme Court rejected this theory in a case from North Carolina, remanding the Ohio case to the state Supreme Court for its continued consideration.

STATE HOUSE ELECTIONS 2022



Votes: 59% R, 40% D
 Seats: 67 R (68%), 32 D (32%)
 Credit: Wikimedia Commons

INDEPENDENT REDISTRICTING COMMISSIONS: A NEW HOPE

In recent decades, citizens across the country have worked to reduce or remove the influence of politicians over the redistricting process. Independent, citizen-led redistricting commissions now are in place in diverse states from Alaska to Arizona, Colorado to Idaho, and Michigan to Montana. These states have successfully produced nonpartisan legislative and congressional districts in a transparent way that avoids extreme partisan outcomes. Such a mechanism is hypothetically possible in any state, but so far has only been established in states where citizens have the power to amend the state constitution by ballot initiative.

The most recent states to successfully establish an independent citizen-led commission were Colorado and Michigan in 2018. Like their predecessors in other states, these commissions possess full authority to draw both congressional and legislative districts. Independent commissions follow open procedures, conduct public hearings, and are bound by a clear set of criteria. The resulting maps are generally regarded as balanced from a partisan perspective, and have received grades of “A” or “B” from an independent and nonpartisan group, the Princeton Gerrymandering Project. Their success serves as a valuable example for Ohio.

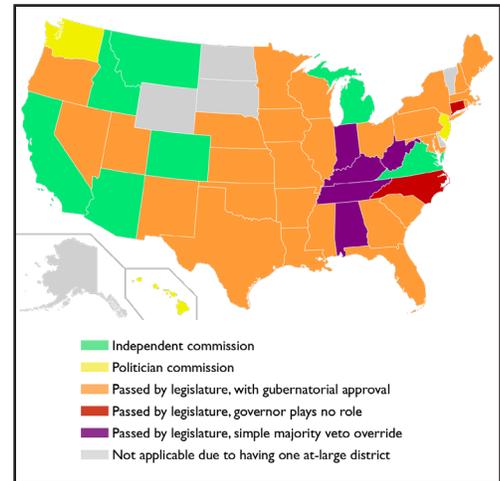
CHECKS AND BALANCES

The process of redistricting necessitates a risk of deadlock when mapmakers are unable to agree upon a district plan. A different, also undesirable risk arises when politicians have unchecked power to draw their own district lines, creating a self-reinforcing cycle of feedback. In both cases, traditional legislative systems are unable to cope with the collision of partisanship and redistricting.

Ohio’s current process does not make effective use of check-and-balance measures. For example, current law does not allow the Ohio Supreme Court to draw and implement legislative maps, nor has it been interpreted to give the court the power to draw congressional maps.

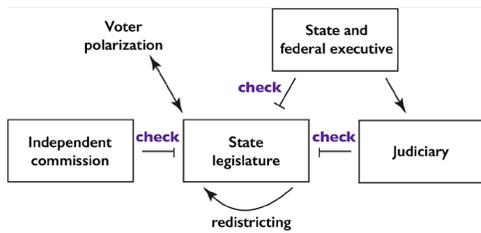
A change in the law to allocate review power to the state Supreme Court could prevent and shorten conflict. The significance of this authority is demonstrated by the outcomes of New York and Virginia redistricting in 2021. In New York, an advisory redistricting commission deadlocked, sending redistricting to the state legislature. The resulting map was ruled a partisan gerrymander in state court, leading to the drawing of a map by the court. These new court-ordered maps were found by numerous experts to be less biased than the ones originally proposed by the state legislature.

CONGRESSIONAL REDISTRICTING METHODS, POST-2020 CENSUS



Credit:Wikimedia Commons

An independent commission, state or federal courts, or the governor can constrain a legislature’s ability to manipulate electoral procedures.



CHECKS AND BALANCES ON REDISTRICTING

A legislature's power may be checked by a variety of factors, including the governor, courts, and in the case of redistricting, an independent commission. This diagram represents the various available mechanisms that together form a complex system to prevent runaway power in any one branch of government. In this figure "T" lines indicate power is being checked, single arrows indicate power is increasing, and double arrows indicate a feedback loop.

Source: Wang et al., A systems framework for remedying dysfunction in US democracy, *Proc. Nat'l. Acad. Sci.* (2021)

In another example, a hybrid politician-citizen commission in Virginia failed to reach an agreement at all. In this case the state Supreme Court did have power to take over the process. The resulting congressional and state legislative plans, drawn by a pair of bipartisan special masters, were deemed to be well-balanced between the parties while taking into account communities and splitting a small number of counties. In this case it was the commission decisionmaking mechanism that failed.

It is noteworthy that the 2023 *Moore v. Harper* U.S. Supreme Court decision affirmed the validity of safeguards, such as state courts and independent commissions, against unchecked state legislatures in the case of congressional redistricting. For Ohio, the *Moore* ruling preserved available mechanisms for reforming the congressional redistricting process via independent commissions and state courts.

Any one mechanism for restraining partisanship may itself be subject to partisanship. For example, governors may also have partisan interests, as can state courts. Such risks can be reduced by establishing a commission which is composed of Democrats, Republicans, and independents, by adopting procedures that promote cooperation while still providing a method to resolve impasses, and by giving courts clear authority to adjudicate remaining disputes.

LABORATORIES OF DEMOCRACY: EARLY ADOPTERS

The Arizona Independent Redistricting Commission, established in 2000, has worked through three redistricting cycles. Its creation through a ballot initiative was prompted by the failure of previous redistricting attempts to achieve bipartisan agreement or to meet the requirements of the Voting Rights Act. The Arizona Commission consists of two Republicans and two Democratic citizens (nominated by legislative leaders), who then choose one independent member, who also acts as chair, from a nomination pool. A noteworthy aspect of the commission is its clear objective to create competitive districts. Final maps are approved by a simple majority vote, placing the chair in a pivotal role. Consequently, that chair has often faced public scrutiny.

Although the Arizona Commission has a track record of successfully completing its work, conflict has arisen, often due to the pressure placed on the independent commissioner to break ties. During the 2001 redistricting cycle, the Arizona Commission's efforts received limited attention. However, in 2011, allegations of partisan bias by the independent commissioner emerged. The commission chair was impeached by the state legislature, only to be restored to the position

by the state supreme court. While 2021 was less controversial, the selection of the nonpartisan chair resulted in rancorous press coverage and accusations of partisan bias.

Newer independent commissions have modified the Arizona commission structure to include more than one nonpartisan commissioner. In these states, approval of final congressional and legislative maps requires a supermajority vote and support from both partisan and nonpartisan commissioners. The Michigan Independent Citizens Redistricting Commission follows such a plan, and is composed of four Democrats, four Republicans, and five commissioners unaffiliated with any political party. In Colorado, the two commissions (one responsible for congressional redistricting, one for legislative) have four Democrats, four Republicans, and four independents. Michigan and Colorado's commissions are largely modeled from California's example, which was championed by then-Governor Arnold Schwarzenegger. Passed statewide in 2008, the California commission was the first to have multiple nonpartisan commissioners.

Having a larger commission with a large number of independent members has been found to help, "ensure geographic, political, and ethnic diversity... [is] better in safeguarding against deadlock and the risk of rogue-actor effect by ensuring that no individual commissioner has an outsized say." (Brennan Center report, 2018). Interviews of former commission members and staff have also found that larger commissions incentivized negotiation and compromise, in contrast to single-tiebreaker models.

A larger commission size and supermajority rules help induce a collaborative atmosphere. However, the particular voting rule could overly empower party-affiliated commissioners. For example, in California, three commissioners from one party can block the final passage of a map. To date, such a scenario of partisan deadlock has not occurred in California or Michigan, the states with a multiparty-support requirement.

Today, selection of commissioners varies by state. The California Commission is formed through a multi-step selection process involving comprehensive applications, interviews, and randomization. The Michigan Commission is formed by random drawing from all applicants, with a mandate that the commissioners selected must reflect the racial and geographic diversity of the state. Whatever the selection process, commissioners have performed their task successfully with the help of legal and map-drawing expertise hired to carry out the technical components of their work.

SOME COMMISSION DESIGNS ARE WEAKER THAN OTHERS

Some commissions lack full independence from legislators. (1) Advisory boards in Iowa, New York, New Mexico, Utah, and Missouri provide suggested maps to the legislature, which can accept or reject them, or even draw its own maps. Some of these "dependent commissions" have had their work overridden, but the legislature's maps have been challenged or even overturned in state court. (2) Political commissions in New Jersey and Washington consist of elected officials or their representatives, raising concerns about potential biases or conflicts of interest. (3) Virginia's redistricting commission includes both legislative leaders as well as citizen commissioners. This commission failed to pass a map in 2021 and left it to the Virginia Supreme Court to complete the task.

LESSONS FOR OHIO

The failure of the Ohio Redistricting Commission to draw a representative and balanced redistricting plan can be largely attributed to two factors, insufficient independence from political parties, and the lack of effective remedial mechanisms.

Under the current process, Ohio is vulnerable to continued partisan gerrymanders and lack of community representation. The state legislative maps in Ohio were temporary, by order of a three-judge federal district court, and must be reviewed in advance of the 2024 election. And the congressional plan used in 2022, though it has been determined to be illegal, will be used again in 2024. In any event, new legislative and congressional maps will be necessary after 2024 because the current plans never received the bipartisan support required to pass a ten-year map.

The current commission structure allows one party's interests to prevail, and its governance effectively prevents judicial oversight. In other states, such oversight can compensate for commission failure, as occurred in Virginia.

The Ohio Constitution's current approach to limiting commission power has taken the form of restrictive criteria, such as a prohibition on splitting municipalities. Such restrictions have failed to prevent partisan gerrymandering, and make it more difficult to respect communities and partisan proportionality requirements. Reforms to the structure and decisionmaking process of the redistricting commission could potentially address the original motivation behind redistricting criteria without imposing undue inflexibility.

A PATH FORWARD

The redistricting process in Ohio in 2021 and 2022 was tumultuous, involved multiple state and federal lawsuits, and produced congressional and legislative maps that the Ohio Supreme Court found violated constitutional requirements. Though the reforms of 2015 and 2018 were devised to establish a less divisive redistricting process, this goal was not achieved. In 2022, Ohio was stuck in a quagmire: the state Supreme Court concluded that it lacked the power to draw new state legislative maps, while the commission and General Assembly refused to comply with the state Constitution and the Court's rulings.

As a way out of this situation, Ohio's law permits the use of citizen-initiated proposals to amend the state Constitution. Such measures require a simple majority vote for approval. (A recent attempt to raise the threshold for passage to 60% and make the process more difficult was rejected by Ohio voters in August 2023.)

A string of U.S. Supreme Court cases confirm that this approach is constitutional. In 1916, the U.S. Supreme Court ruling in *Ohio ex rel. Davis v. Hildebrant* affirmed the legality of citizen-led efforts to intervene in the legislative redistricting process. More recently, in 2015, the U.S. Supreme Court held in *Arizona State Legislature v. Arizona Independent Redistricting Commission* that citizen initiatives could be used to establish independent redistricting commissions. Finally, earlier this year, the Court affirmed in *Moore v. Harper* that citizens, governors, and state courts may continue to constrain state legislatures in the redistricting process for congressional elections.

The formation of a citizen-led independent redistricting commission has the potential to overcome defects in the current process, reduce litigation, and save Ohio taxpayers time and money.

AT A GLANCE: A REFORM PROPOSAL FOR THE 2024 BALLOT

In August 2023, the group Citizens Not Politicians submitted a draft ballot initiative to the Ohio Attorney General's office for the November 2024 election. If successful, the initiative would amend Articles XI and XIX of the Ohio Constitution to establish an independent citizen commission for legislative and congressional redistricting.

Qualifying for the ballot requires approval by the Attorney General, the Ballot Board, and the Secretary of State of Ohio. The proposed measure currently contains the following key provisions:

- Establishes a 15-member Ohio Citizens Redistricting Commission to draw state legislative and congressional district maps. The commission would be composed of five Republicans, five Democrats, and five members not affiliated with either party. No person is eligible to be a commission member, staffer or consultant if they or any immediate family member has, within the last six years, served as an elected official or been a candidate, staffer, or consultant for any elected or appointed federal, state or local office or political entity or a lobbyist.
- Establishes a supermajority requirement for votes from Democrats, Republicans, and nonpartisans to pass a plan. If agreement is not reached, an impasse-breaking procedure is invoked. If a map is challenged as a partisan gerrymander post-passage, the state Supreme Court has authority to review and, if necessary, appoint special masters to modify the plan. The special masters are to be appointed by retired judges.
- Requires an open and transparent redistricting process with extensive public input, data access, hearings and reporting requirements.
- Requires that new state legislative and congressional maps be drawn in time for 2026 elections, and does not allow any current maps to be used again. Subsequent redistrictings will occur in the year following the decennial census.

Key provisions for redistricting plans under the proposed measure include:

- Ban partisan gerrymandering by requiring the proportion of districts favoring each party closely match statewide voter preferences as expressed over recent elections.
- Ensure the functional ability of politically cohesive and geographically proximate racial, ethnic, and language minorities to elect candidates of their choice.
- Enable the preservation of communities of interest, but prohibit defining them based on political affiliations. Communities of interests broadly have shared interests and representational needs, which may include common ethnic, racial, social, cultural, geographic, environmental, socioeconomic, or historic identities or concerns. Communities must be physically contiguous and may cross city and/or county boundaries.
- Prohibit consideration of individual incumbents or candidates when drawing maps.

STATE-BY-STATE COMPARISON OF REDISTRICTING CRITERIA

Many of the criteria proposed for redistricting in Ohio have their roots in best practices found in other states. In the table below, we compare Ohio’s proposed criteria with those in other states. Only some states rank their redistricting criteria in priority order.

Ohio (Proposed)	Michigan	Colorado	California	Arizona
Ranked	Ranked	Unranked	Ranked	Unranked
Nesting and contiguity (1A)	Federal requirements (1A)	Federal requirements	Federal requirements (1A)	Federal requirements
Federal requirements (1B)	Equal population (1B)	Equal Population	Equal population (1B)	Equal population
Partisan proportionality (1C)	Contiguity (2)	Contiguity	Contiguity (2)	Compactness and Contiguity
Disregard incumbent address (1D)	Preserve communities of interest (3)	Preserve communities of interest and political boundaries	Preserve communities of interest and political boundaries (3)	Preserve communities of interest
Equal population (2)	Partisan fairness (4)	Compactness	Geographic Integrity within region of state (4)	Preserve political boundaries and geographic features
Consider communities of interest (3)	Do not favor/ disfavor incumbents (5)	Maximize competitive districts	Nested Districts (5)	Competitiveness
Flexible consideration of political boundaries (4)	Preserve political boundaries (6)	Do not favor/ disfavor incumbents	Do not favor/ disfavor incumbents (6)	Do not favor/ disfavor incumbents
	Compactness (7)			

PROPOSED CHANGES IN OHIO’S REDISTRICTING CRITERIA

Mapmakers start with clear basic federal constraints on their work: conforming to U.S. constitutional requirements of near-equal population, as well as compliance with the Voting Rights Act. These conditions are easily met, but they provide only modest constraints on the range of possible outcomes.

In addition to federal requirements, Ohio law establishes additional standards. Each one of the following sections describes the current criteria for districting, proposed changes in the 2024 ballot initiative, and additional discretionary actions a future independent commission might take.

The ballot initiative lists necessary conditions for district plans, designated in this report as criteria 1A, 1B, 1C, and 1D. Further criteria are listed in descending order of priority.

CRITERION 1A: NESTING AND CONTIGUITY

The current law:

Article XI, Section 4(A)

“Senate districts shall be composed of three contiguous house of representatives districts.”

Article XI, Section 3(B)(3)

“Every general assembly district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line.”

Article XIX, Section 2(B)(3)

“Every congressional district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line.”

The General Assembly must have nested districts. Each of the state Senate’s 33 districts must contain, in entirety, three districts of the state House, for a total of 99 Representatives.

Contiguity is defined as the property of all parts being connected as a single whole. Nearly every state requires state legislative districts to be contiguous, and contiguity is understood as a traditional redistricting principle by the U.S. Supreme Court. The boundary of each district must consist of a single non-intersecting continuous line. Therefore portions of a district must be connected by more than a single point. Two areas that touch at a corner are not considered contiguous.

It may sometimes be desirable to draw a district that is just barely contiguous in order to comply with other criteria. For example, in 2001, Arizona’s Commission prioritized providing the people of the Navajo Nation and those of the Hopi Reservation with two separate districts due to differences in political priorities (see sidebar).

Changes under the new initiative: None.

Discretionary Options: None

CRITERION 1B: FEDERAL REQUIREMENTS

The current law:

Article XI, Section 3(B)(2)

“Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law.”

Article XIX, Section 2(B)(1)

“The plan shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law, including federal laws protecting racial minority voting rights.”

Changes under the new initiative: None. No matter the mechanism Ohioans choose for their redistricting process, federal law must be followed, in particular the Voting Rights Act.

Discretionary options: None.

CRITERION 1C: PARTISAN PROPORTIONALITY

The current law:

Article XI, Section 6(B)

“The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.”

Article XIX, Section 1(C)(3)(a)

“The general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents.”

As currently written, Ohio’s Constitution calls for proportionality for state legislative districts, noting that the proportion of districts favoring one political party should correspond closely to its statewide popularity. The current requirement for legislative maps is rigid, and may force odd districts. Statewide, Ohio’s partisan balance is currently about 54% Republican and 46% Democratic. Based on population distributions and party-blind redistricting principles, a legislative map of the state House would usually result in between 53% and 59% Republican-leaning seats. In general, redistricting tends to produce maps that disproportionately favor the higher-performing party. For examples of proportional state legislative maps, see the Appendix.

Maintaining the partisan fairness requirement but providing an allowable range would improve the redistricting process. Emphasizing partisan fairness will help ensure overall opportunities for both parties relative to their level of support across Ohio, while leaving flexibility to address other priorities such as respecting communities.

Changes under the new initiative: The new initiative elevates partisan fairness to precede compactness and incumbency in priority. The proposed legislative proportionality

requirement allows flexibility to produce near-proportionality within a defined 3 percentage point range.

Discretionary options: As an added measure of fairness, commissioners may wish to supplement their work with other measures of partisan symmetry and competition. In the concept of partisan symmetry, if parties swap their vote shares, their seat shares should also exchange. For instance, if Democrats garnered 57% of votes and won a specific number of seats, if alternatively Republicans won the same vote share, they should also secure a similar seat count. This concept, akin to the “I cut, you choose” principle, ensures fairness.

Partisan bias cautions against minority control of state legislative bodies to prevent denying majority rights. Partisan bias is computed by determining a party’s seat share if both major parties were to obtain precisely 50% of total votes. For instance, if equal votes result in one party gaining 57% of seats and the other 43%, the partisan bias stands at 7%.

An additional danger of extreme partisan gerrymandering is the risk of an engineered supermajority. In the Ohio General Assembly, a supermajority of 60% of each chamber can propose constitutional amendments and override gubernatorial vetoes; with a two-thirds majority, state legislators can even declare legislation an emergency, thus avoiding a referendum. An artfully constructed gerrymander can confer supermajority powers on a party with only modest statewide majority support.

CRITERION 1D: TREATMENT OF INCUMBENCY

The current law:

Article XI makes no mention of incumbency.

Article XIX, Section 1(C)(3)(a)

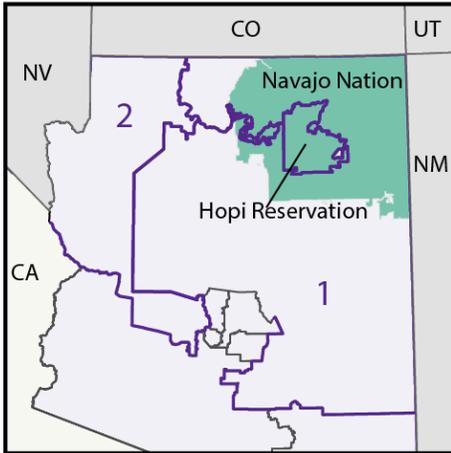
“The general assembly shall not pass a [congressional map] plan that unduly favors or disfavors a political party or its incumbents.”

The Ohio Redistricting Commission is not currently barred from considering incumbency when drawing state legislative maps, while the General Assembly is specifically instructed not to favor or disfavor incumbents when drawing congressional maps. The Ohio Constitution does not contain language specifying that state legislative or congressional districts be competitive.

District boundaries created by legislatures or non-independent commissions often serve the interests of incumbents (“incumbent gerrymandering”). Consideration of incumbency was a contested topic during the 2020 redistricting cycle for state legislative maps.

Changes under the new initiative: The proposed amendment would place a “prohibition on consideration of the place of residence of an incumbent elected official or candidate” in the drawing of both legislative and congressional maps.

As established by the initiative, the Ohio Redistricting Commission would be composed of citizens who are not elected officials, lobbyists, or their relatives or appointees. This restriction removes direct routes of undue influence and self-dealing.



ARIZONA CONTIGUITY

If necessary, two separate areas can sometimes be made into one contiguous district with a thin conjoining stretch.

In 2001, Arizona’s Redistricting Commission connected the Hopi Reservation to the 2nd Congressional District by a thin, contiguous stretch of land, only as wide as the Colorado River in some sections so that the Hopi Reservation and Navajo Nation could be assigned to different congressional districts

Source: U.S. Census

The Ohio Supreme Court concluded that the ban on considering incumbency and partisanship, does in fact, “bar plans that embody partisan favoritism or disfavoritism in excess of that degree—i.e., favoritism not warranted by legitimate, neutral criteria.”

In a map that reflects multiple priorities, some districts may be safe for incumbents. Incumbents bring institutional knowledge, and may be able to legislate more effectively. Other districts may be more competitive, promoting higher responsiveness to changes in voter sentiment.

Discretionary options: In the case of the incumbency criterion, a well-documented record of meetings, decisions, and internal or external communications can be used as proof against accusations that the commission considered incumbency in drawing its maps.

The commission can also take steps to avoid being influenced by outside stakeholders who may have an interest in securing the election of an incumbent. In particular, the commission should make it clear to its legal team, map-making consultants, and the public that incumbency will not be considered. Political interests may wish to promote the merits of existing districts and can still do so using the public hearing process.

CRITERION 2: EQUAL POPULATION

The current law:

Article XI, Section 3(B)(1)

“The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, and the population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in division (A) of this section. In no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation.”

Article XIX, Section 2(A)(2)

“The whole population of the state, as determined by the federal decennial census or, if the federal decennial census is unavailable, another basis as directed by the general assembly, shall be divided by the number of congressional districts apportioned to the state pursuant to Section 2 of Article I of the Constitution of the United States, and the quotient shall be the congressional ratio of representation for the next ten years.”

These requirements echo federal requirements for equal population under the one person, one vote doctrine.

Changes under the new initiative: None. No matter the mechanism Ohioans choose for their redistricting process, federal law must be followed. As before, equality of population has some limited flexibility for both state legislative and congressional districts.

Discretionary options: None.

CRITERION 3: CONSIDER COMMUNITIES OF INTEREST

The current law:

Article XI makes no mention of communities of interest.

Article XIX, Section 2, B(4)(a)

“Except as otherwise required by federal law, in a county that contains a population that exceeds the congressional ratio of representation... (a) If a municipal corporation or township located in that county contains a population that exceeds the congressional ratio of representation, the authority shall attempt to include a significant portion of that municipal corporation or township in a single district and may include in that district other municipal corporations or townships that are located in that county and whose residents have similar interests as the residents of the municipal corporation or township that contains a population that exceeds the congressional ratio of representation.”

At least 37 states make use of communities of interest (COI) when drawing legislative and congressional districts. (Chen et al., 2022). Making use of COIs in redistricting allows for groups of people with similar interests— economically, demographically, historically, linguistically, or otherwise—to be kept together within a district to give them influence. The definition of “communities of interest” varies greatly by state.

Under current law in Ohio, the representation of communities of shared interests both at the legislative and congressional levels is largely unprotected. Article XI, which specifies the procedures for legislative redistricting, makes no mention of communities of interest. Article XIX only encourages looking to communities of interest when a single municipal corporation or township within a single country is larger than the size of a single congressional district. In practice, such a provision only applies to one city, Columbus.

Changes under the new initiative: The proposed amendment to the Ohio Constitution requires that the independent redistricting commission “ensure equal functional ability of politically cohesive and geographically proximate racial, ethnic, and language minorities to elect candidates of their choice, and preserve communities of interest to the extent practicable.”

It also provides a clear definition of a community of interest as “an area where the record demonstrates the existence of communities of people with broadly shared interests and representational needs, including those that arise from common ethnic, racial, social, cultural, geographic, environmental, socioeconomic, or historic identities or concerns.”

Preserving communities of interest gives historically underrepresented communities an opportunity to gain representation for themselves. If a single community of interest votes as a unified bloc they can control the outcome of the election and have the opportunity to elect the candidate of their choice. This usually happens if they constitute between 35%

and 50% of a district’s population. However, not all communities of interest need to be this large. For example, they can include religious communities within a single city, such as the Muslim population in Dublin, OH.

Discretionary options: Defining communities of interest requires additional work by redistricting commissions and their staff. Specifically, commissions will need to conduct outreach and seek public input, as well as do their own research into communities. Through public hearings, citizens can provide testimony explaining where their communities are located and how their interests are relevant to legislative representation. The Commission can also incorporate technological tools such as Representable.org into its public feedback workflow.

Keeping a community whole may give it a means of representation. For a community to have such an influence, it would need to vote as a cohesive group. Communities may join in coalitions, so long as they are sufficiently powerful in the aggregate. If a community is split among districts, that community is said to be “cracked,” diluting its vote power. Likewise, splitting a city may lessen its electoral influence by spreading its residents across multiple districts. Rigorous metrics exist to quantify the degree to which a community or city is split (Chen et al., 2022).

Grouping residents with common interests into one district increases the incentive for an individual legislator to be more responsive to that community’s needs. However, this approach also creates more homogenous districts. In the extreme, a given group can be concentrated, or “packed,” into fewer overall districts, with the consequence of artificially reducing representation.

Similarly, as a city’s population starts to approach that of a whole congressional or legislative district, putting it entirely within one district limits its influence to that one district.

In practice, the commission can keep a municipality or community of interest whole in response to data analysis or public comment, and can choose to avoid splitting a community of interest that spans municipal boundaries. Technical staff can advise the Commission on the impacts of such decisions on representation.

CRITERION 4: REGARD FOR COMPACTNESS

The current law:

Article XI, Section 6(C)

“General assembly districts shall be compact.”

Article XIX, Section 2(B)

TARGET POPULATIONS FOR 2021 REDISTRICTING

Congressional District	State Senate District	State House District
786,630	357,559	119,186

“Every congressional district shall be compact.”

Compactness of district shape comes to mind as a desirable criterion even to someone new to redistricting. A typical citizen would be likely to accept districts with smooth boundaries and simple shapes, but not districts that snake their way across communities. Compactness can be measured in many ways, and the U.S. Supreme Court has considered compactness as a criterion in the district-making process. Most states necessitate some level of compactness in their districts.

Mathematically, compactness of a district can be quantified using a combination of its perimeter and area. For example, a circle has the smallest possible perimeter for a given amount of area. Both the Reock Score and the Polsby-Popper Score can be used to measure compactness. The **Reock** (pronounced “REE-ock”) score is defined as the ratio of a district’s area to the smallest circle that can be drawn around it. The **Polsby-Popper** score is the ratio of a district’s area to that of the largest possible shape with the same perimeter, i.e. a circle. Both scores always fall between 0.00 (least compact) to 1.00 (most compact).

Compactness is a key consideration in mapmaking, but should be considered in conjunction with other criteria of higher priority, such as adherence to federal law, partisan fairness, or representation of communities.

Changes under the new initiative: The new initiative makes no mention of compactness.

Discretionary options: The process of drawing a map that preserves existing communities of interest may serve as a natural barrier against the drawing of meandering districts. Conversely, unusual shapes are sometimes useful for honoring such communities. Commissioners may favor maps with greater compactness, which are easily calculated by technical consultants or by commissioners themselves. Dave’s Redistricting App, a free online resource for drawing redistricting maps, auto-calculates these measures for citizen created maps.

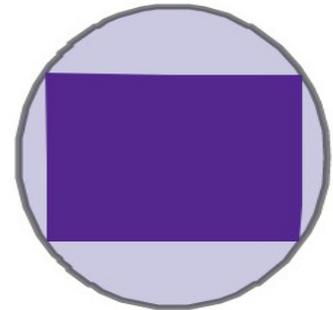
CRITERION 5: FLEXIBILITY IN RESPECTING MUNICIPAL/COUNTY BOUNDARIES

The current law:

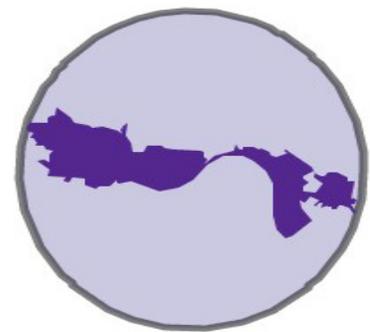
Article XI, Section 3(C)-(D)

“(C)(1) Proceeding in succession from the largest to the smallest, each county containing population greater than one hundred five

EXAMPLE REOCK SCORES



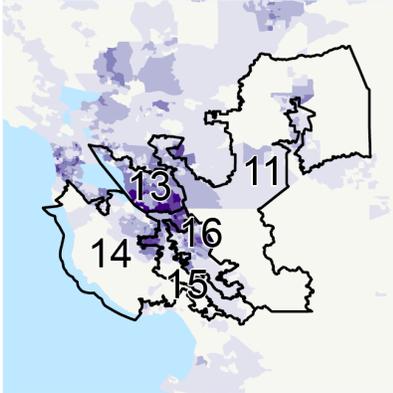
Ohio’s 77th State House District is highly compact (Reock=0.63)



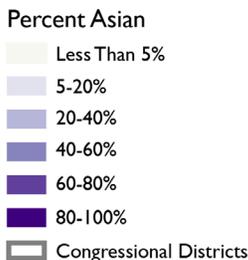
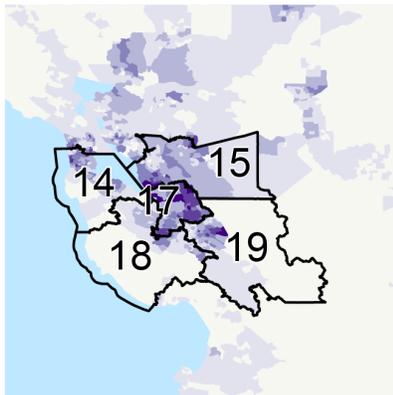
Ohio’s 24th State House District is not compact (Reock=0.18)

**THE CALIFORNIA COMMISSION
CREATED AN ASIAN-AMERICAN
OPPORTUNITY DISTRICT IN THE
BAY AREA**

Old Map:



New Map:



Sources: American Community Survey, U.S. Census, California Statewide Database

per cent of the ratio of representation in the house of representatives shall be divided into as many house of representatives districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.

(2) Each county containing population of not less than ninety-five per cent of the ratio of representation in the house of representatives nor more than one hundred five per cent of the ratio shall be designated a representative district.

(3) The remaining territory of the state shall be divided into representative districts by combining the areas of counties, municipal corporations, and townships. Where feasible, no county shall be split more than once...

(D)(2) Representative districts shall be drawn so as to split the smallest possible number of municipal corporations and townships whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.”

Article XI, Section 4(B)(2)

“Counties having less than one senate ratio of representation, but at least one house of representatives ratio of representation, shall be part of only one senate district.”

Article XIX, Section 2(B)(4)(a)-(b)

“(4) Except as otherwise required by federal law, in a county that contains a population that exceeds the congressional ratio of representation, the authority drawing the districts shall take the first of the following actions that applies to that county:

(a) If a municipal corporation or township located in that county contains a population that exceeds the congressional ratio of representation, the authority shall attempt to include a significant portion of that municipal corporation or township in a single district and may include in that district other municipal corporations or townships that are located in that county and whose residents have similar interests as the residents of the municipal corporation or township that contains a population that exceeds the congressional ratio of representation...

(b) If one municipal corporation or township in that county contains a population of not less than one hundred thousand and not more than the congressional ratio of representation, that municipal corporation or township shall not be split. If that county contains two or more such municipal corporations or townships, only the most populous of those municipal corporations or townships shall not be split.”

The Ohio Constitution provides special considerations for municipal boundaries in the drawing of both congressional and legislative districts.

Many states have constraints regarding the splitting of cities, counties, or other administrative boundaries. 34 states have laws concerning administrative boundaries in drawing legislative districts, while 15 states have similar language concerning congressional districts. (All About Redistricting, 2023). Even among these states, current Ohio law is exceptionally specific in its constitutional language concerning political boundaries and particularly the splitting of municipalities.

Implications for Legislative Redistricting

Legislative districting likewise currently has detailed requirements for splitting as few cities (“municipal corporations”), townships, and counties as possible, with special attention to those units whose population is at least half that of the ideal average district. Such units should be split as few times as possible. If a county’s population is close enough to the ideal average for a district, a district should be drawn to contain that county alone and in full,

Implications for Congressional Redistricting

In practice, clauses found in the current Article XIX affect three municipalities: Cincinnati, Cleveland, and Columbus. Columbus, with a 2020 census population of 905,748, is larger than one congressional district, so it must be split. However, it may only be split once, and a “significant portion” of Columbus must be included in one district. Cincinnati and Cleveland are larger than 100,000 inhabitants and smaller than a congressional district. Therefore, under current law Cincinnati and Cleveland cannot be split.

The current constraints concerning municipal boundaries have the effect of packing Cleveland and most of Columbus into two highly Democratic congressional districts. In order to simultaneously meet these constraints and the partisan proportionality requirement, district boundaries may take a convoluted appearance. Preserving municipalities also may not allow full consideration of communities.

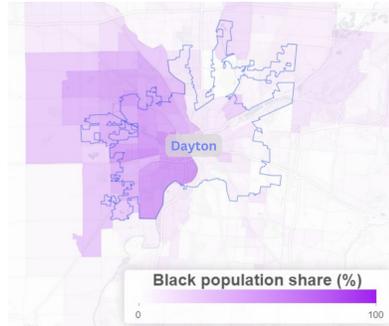
Changes under the new initiative: The new initiative removes explicit requirements to maintain municipal and county boundaries. For both state legislative and congressional redistricting, relaxing city-splitting constraints will create better conditions to meet other redistricting criteria such as partisan fairness, competitive districts, and preservation of communities of interest. For an example of a congressional plan that meets these criteria, see the map on page 32.



RECOMMENDED TOOLS

Free, open-access tools are available for creating maps of communities of interest. For example, Representable.org is available to organizations to gather community maps along with information about shared interests. These data can then be made publicly available to map drawers, journalists, analysts, and activists to create and evaluate proposed district maps.

WEST DAYTON COMMUNITY OF INTEREST



West Dayton is a historic black neighborhood. This is an illustrative example because the city boundaries do not correspond with the community, which extends beyond Dayton's city limits.

By itself, the relaxation of constraints hypothetically allows the “cracking” into multiple districts of large cities or other communities. Pieces of a large city could be combined with suburban and exurban voters to create a district safe for either party, depending on the proportions. For example, Columbus is a Democratic-leaning area surrounded by Republican-leaning areas. In the absence of constraints on splitting administrative entities, it may even be possible to create a plan with no Democratic-leaning districts in Central Ohio.

This risk is addressed by other criteria such as partisan fairness and the preservation of communities of interest. It can also be addressed by including city and town boundaries as communities themselves deserving of preservation. The proposed initiative classifies counties, municipal corporations, and townships as a community of interest that should be protected. These communities are to be compared with the “representational needs” of other communities that have geographic overlap. This allows for commissioners to exercise discretion. They can view a town as a unified community, or divide it into smaller communities that have shared representational goals. This is especially important for state legislative districts, where a community of interest is more likely to gain representation.

Discretionary options: The proposed amendment gives the commission broad discretion to determine and preserve the possibility of representation for relevant communities of interests in Ohio. The Ohio Redistricting Commission will still be able to draw districts that respect county and municipal, and sub-municipal boundaries, so long as the preservation of these units do not conflict with other criteria and communities of interest.

WHAT COMES AFTER PASSAGE: IMPLEMENTING AN EFFECTIVE COMMISSION

If the constitutional amendment is adopted by Ohioans in November 2024, the commission must get to work quickly. It will face the task of drawing new congressional and legislative maps for the 2026 election. The success of the commission will depend on a variety of formal and informal processes that are within its discretion to establish.

This section details processes and challenges that face commissioners as they fulfill their responsibilities.

ESTABLISH A GOVERNMENT AGENCY TO SUPPORT THE COMMISSION

An initial responsibility of the Ohio Redistricting Commission is to establish an autonomous government agency. The commission holds the power to determine the necessary technical services, while further assistance may be provided by the Ohio Department of Administrative Services. The commission's budget should be set and fully funded at least two years in advance of their redistricting work to ensure that it has adequate resources.

HIRE STAFF

For the commission to effectively begin its work, it must undertake several crucial hiring processes:

- Appoint an Executive Director (ED) who will support the commission in managing its operations, facilitating hearings, and overseeing day-to-day activities. The ED should possess experience in state government, familiarity with relevant agencies and groups, and preferably, knowledge in redistricting.
- Retain legal counsel, preferably with expertise in the Voting Rights Act, to handle legal matters and potential court challenges. Additionally, a separate general counsel should be recruited to address other issues that may arise during the commission's daily functions.
- Engage professionals to assist with technical aspects and map creation. The commission should actively participate in drafting the request for proposals early in the process and consider firms with minimal partisan bias, or working with individuals who have previously served as special masters retained by courts, or academics.
- Ensure that all hired entities, including consulting firms, adhere to conflict of interest standards and are committed to working under the commission's guidance. During the hiring process, commissioners should inquire about the firm's perspective on various criteria, their envisioned role, and how they will manage competing interests or directions.
- Hire a Public Relations (PR) manager with expertise in traditional and social media. This manager will be responsible for handling public communication, coordinating outreach with community groups and constituents, and effectively conveying the

commission's work to the public. It is essential for the PR manager to prioritize outreach across all regions in the state and among historically underrepresented communities. The manager will be assisted by a staff with similar expertise.

ONBOARD COMMISSIONERS

While prior expert knowledge of redistricting is not required of commissioners, once selected they should learn to appreciate its most essential components. Training should come soon after the commissioners' appointment.

By the end of training, commissioners should have a grasp of basic redistricting issues. Training should be provided by redistricting experts:

- **Census information:** Proficiency in the Census and its data should be instructed by an expert familiar with redistricting.
- **Voting Rights Act (VRA) compliance:** All district maps must comply with this federal law (see Historical Background: Federal Law and Development of Voting Rights). Commissioners must comprehend key elements of the VRA and effectively work with their VRA counsel.
- **Ohio criteria:** Commissioners should have functional knowledge of the redistricting criteria established in Ohio law, and the concurrent trade-offs. For example, a racial or community group covered by the Voting Rights Act may span a geographic region that is not compact, or which crosses a city or county boundary.
- **Software training:** As a tutorial on the challenges of meeting multiple criteria, commissioners should be made comfortable practicing these skills using free software such as Dave's Redistricting App, which is used by both professionals and hobbyists. Training should include strategies to detect when the criteria are being manipulated for both explicit and hidden partisan advantage.
- **Hearings and public meetings:** Commissioners should receive training to properly conduct and manage hearings and large public meetings. Resources like Robert's Rules of Order can help provide an organizing framework. Past and present commissioners from other states are also a valuable source of advice.
- **Logistics:** The commission should clearly determine meeting locations, methods for public notification and inclusion, hearing locations and times, and necessary security. Meetings should be compliant with the Ohio Open Meetings Act. Commissioners should be aware of immediate and potential logistical, financial, and personal demands. A state employee may conduct this portion of the training.

BUILD TRUST AND COLLABORATION

Building a cooperative atmosphere will facilitate a smooth process and reduce the potential for conflicts. It is highly recommended for the commissioners to implement well-defined procedures that foster trust, openness, and bipartisanship/nonpartisanship. This approach is essential for promoting effective deliberation and assuring the public of the commission's integrity.

Other commissions have found ways to promote social cohesion among commissioners. Be creative; carpools and meals on the road provide opportunities for cross-partisanship. Do this within the bounds of the Ohio Open Meetings Act and avoid any discussions related to the commission's work during such informal gatherings. It may also be desirable to engage a professional team-building consultant for conflict resolution and trust-building exercises.

During meetings, to avoid factionalization, it may be desirable to seat commissioners in a varied order during meetings, hearings, or official events, and to avoid seating by partisan groups.

ENGAGE AND EDUCATE CITIZENS

The commission is responsible for informing the public about the redistricting process and its purpose. Outreach is essential to align the process with public priorities and boost the commission's credibility. The commission should create a media plan to be executed by the Public Relations manager. The plan should enable public comments, provide access to hearings, and offer online maps and data to engage communities across the state.

To ensure a truly representative redistricting process in Ohio, the newly formed commission can adopt a multi-pronged approach. Firstly, offer the public an informative online course, led by experts from Ohio's public universities, to educate citizens about the intricacies of redistricting, the commission's responsibilities, and the specific timelines involved. This course would serve as a foundation for broader public engagement.

Despite sounding technical, the nuts and bolts of redistricting are accessible to anyone with an internet connection. To empower citizens with knowledge and tools, the commission can create and disseminate a well-curated collection of resources that detail the nuances of redistricting. This could include explanatory videos, articles, and infographics, making information accessible to individuals of all backgrounds. Moreover, leveraging user-friendly tools like Dave's Redistricting App can enable citizens to engage directly by analyzing data and contributing their own map proposals.

To encourage transparency and dialogue, the commission should organize a series of public hearings at accessible venues such as high schools, universities, and libraries. These hearings should be equipped with guidelines for public comments, encouraging succinct and informative statements. Visual aids, especially maps, can enrich discussions and help the commission better understand citizens' perspectives. Additionally, presenting free technical tools can reduce the commission's workload later when it reviews public input.

To manage public input efficiently, the commission should establish clear guidelines for handling emails, social media feedback, and public testimonies. This approach ensures that the commission can sift through the influx of information while maintaining an open and accountable process. Through educational initiatives, engagement programs, and accessible resources, the commission can lay

the groundwork for a redistricting process that authentically represents the diverse voices and interests of Ohioans - and make its own work go more smoothly.

Partisan or incumbent interests can manipulate the process of public comment by presenting themselves as citizen groups. Distinguishing between authentic grassroots efforts and those orchestrated by specific interest groups, often referred to as “astroturf” groups is crucial. In this context, the commission needs to be equipped to handle a substantial influx of comments and allocate sufficient resources to effectively evaluate this valuable input. Looking at the experiences of redistricting cycles in various states, it becomes evident that thousands of non-genuine public comments can be generated, underscoring the need for a well-prepared approach.

TRANSPARENCY AND ACCOUNTABILITY

Transparency is key, both as an internal check against bias and a public watchdog tool. The commission can use technology to allow public observation of the hearings, preserve relevant records, and publish proposed redistricting plans with accompanying materials. Transparency may also reduce the threat of future legal challenges

Transparency can be implemented through a multistep plan.

- The commission chairs should issue a statement of intent, ethical code of conduct, and procedural standards for commissioners and staff at its first meeting to emphasize transparency and bipartisan collaboration.
- Consultants can conduct a demonstration of how they would follow commission instructions to draw district lines on a publicly visible screen. While time-consuming, previous commissions used this approach to show the public the nuances of drawing districts.
- Every public meeting and hearing should be transcribed, recorded, and live streamed.
- The commission should build a web platform with an Ohio government URL to serve as a repository for all relevant information produced by the commission. The web platform can provide an opportunity for citizen input on par with in-person hearings. Sections on the website should include, but are not limited to:
 - Biographies of each commissioner.
 - Contact information with guidelines for submitting non-anonymous feedback, information, and comments.
 - Meeting notes, agendas, and documentation of all correspondence and information subject to the Ohio Public Records Act.
 - An integrated platform where citizens can view official maps and search for their respective congressional and legislative districts.

- An integrated mapping platform such as Representable, where citizens can suggest communities of interest.
- Copies of codes of conduct, civility pledges, press releases, audio recordings, contracts, and consultancy information.
- Budget allocations and expenditures.
- Video and audio archives of meetings, public hearings, and other relevant recordings.
- The commission can also use social media to its advantage, such as adopting an Instagram, Threads, BlueSky, or Twitter.com hashtag to track public reactions. This hashtag can also be used to track public comment.
- Provide multilingual resources on the commission website where feasible and where required by the Voting Rights Act, section 203.

The comment process should be managed to maximize the likelihood of a complete and accurate accounting of public views.

- Proposals submitted by representatives of a particular political party can be posted for public review and comment. The representatives can then respond to feedback. Responses to comments can provide insight and help judge whether a particular proposal is pretextual.
- Comments from major communities of interest should be encouraged, such as perspectives on the division of their geographic area.
- The commission can arrange a system to manage and analyze public comment. The commission should record and tag all comments in a database based on which practice they address (for example partisan fairness or communities of interest), the region they address, and the citizen or group responsible for the comment.
- The system should also have a mechanism to indicate the frequency of a particular comment or similar comments. Such an approach can help organize a large number of comments and bring more comments to light. The database of comments should be available to the public to promote communal knowledge and impose an extra layer of transparency.
- The database of comments should be publicly available.

INFORMAL INFLUENCE

A more difficult proposition may be avoiding attempts at exerting influence through informal channels. These could include, but are not limited to, conversations with social acquaintances, direct overtures from legislators, pressure from co-workers, or targeted advertising. As it may be impossible to avoid all such interactions, the Commission should set internal guidelines that require any such attempts be recorded in the event of future legal or reputational challenges.



PRACTICE DRAWING MAPS

- Commissioners should practice drawing maps during training.
- Commissioners may want to draw draft maps on their own using free tools like Dave's Redistricting App, Districtr, and DistrictBuilder which can analyze partisanship and other important measures.

LEARN TO DRAW MAPS

A key task for the Ohio Redistricting Commission is reaching an agreement on its process for researching, drafting, and finalizing maps. With the help of technical staff, the commission can follow several practices to facilitate its work.

- Commissioners should practice drawing maps with tools like Dave's Redistricting App, which can assess factors like partisanship. Afterward, they can pass their preliminary maps to staff, along with guidelines for further adjustments. Staff can then use advanced software (e.g. ESRI or Maptitude) to ensure compliance with population equality and state and federal regulations.
- Maps should be compliant with the Voting Rights Act, including avoiding racial vote dilution and ensuring an appropriate number of minority opportunity districts.
- Establish transparent procedures for the drafting and revising process.
- All maps should consider communities of interest. These should be defined following a period of public comments but before the drafting of first maps, to prevent their use as retroactive justifications.

Evaluate map drafts with a mutually agreed-upon set of statistical measures for partisan advantage and balance. These statistical measures should be decided before maps are drawn.

CONCLUSION

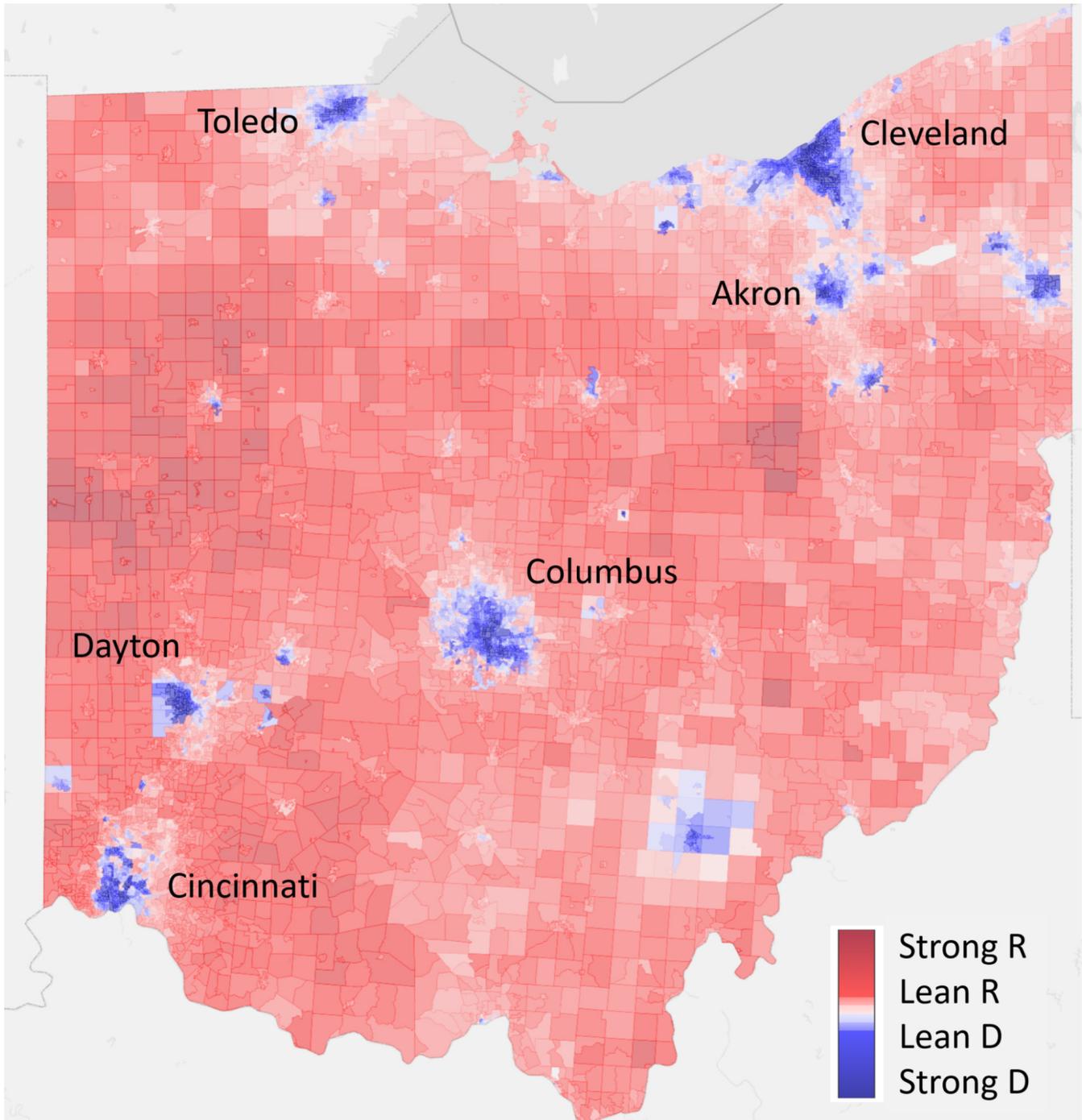
In the coming years, Ohioans have an opportunity to reform their state's Constitution to ensure a fair, independent redistricting process for both congressional and legislative districts. The new proposal for the creation of a 15-member commission takes advantage of lessons from independent commissions in other states, including recently created commissions in Michigan and Colorado. It would prevent partisan gerrymandering and facilitate the representation of communities around the state.

A more independent structure, featuring representation from Democrats, Republicans, and independents from diverse geographic backgrounds would empower Ohio citizens to have greater control over the redistricting process. The new initiative contains provisions that adapt successful reforms from around the nation to the laws, communities, and political culture of the Buckeye State.

APPENDIX

THE POLITICAL GEOGRAPHY OF OHIO

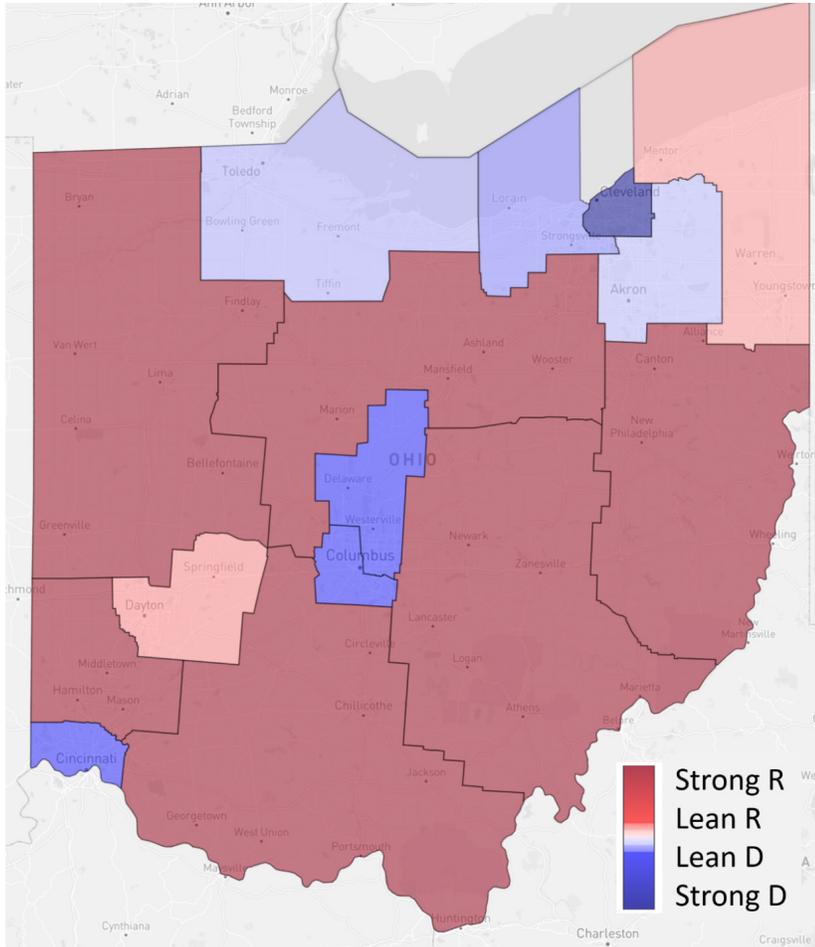
A precinct-level map of Ohio's voting patterns, 2016-2020. Municipalities with populations of greater than 100,000 are labeled.



Credit: Dave's Redistricting App, Mapbox

DEMONSTRATIVE MAPS

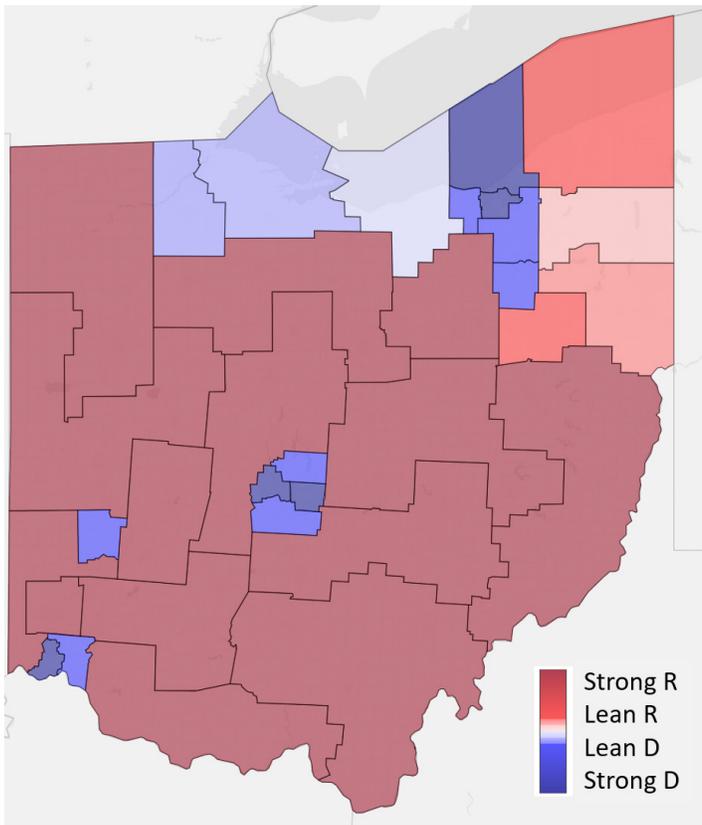
The following maps show examples of district plans that comply with proportionality requirements under the proposed initiative. It should be noted that each of these maps represents just one out of many possible compliant maps. Any approved plans would have to be shaped by commission deliberations and public input.



Ohio U.S. House

- 6 strong Republican districts
- 2 lean Republican districts
- 3 lean Democratic districts
- 4 strong Democratic districts

Overall: 8 R, 7 D (53% R)



Ohio Senate

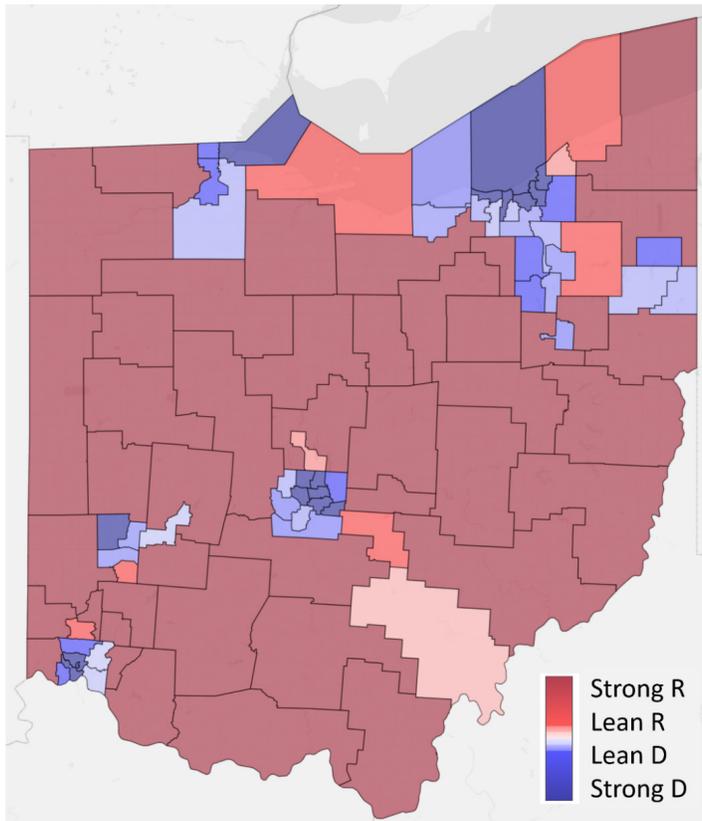
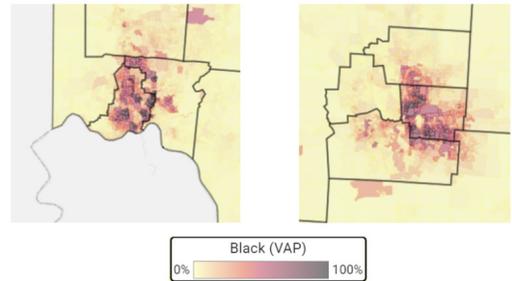
16 strong Republican districts
 2 lean Republican districts
 3 lean Democratic districts
 12 strong Democratic districts

Overall: 18 R, 15 D (55% R)

Ability-to-elect Black districts

Cincinnati

Columbus



Ohio House

49 strong Republican districts
 3 lean Republican districts
 22 lean Democratic districts
 25 strong Democratic districts

Overall: 52 R, 47 D (53% R)

Note: Ohio's state House districts must be nested, three to each Senate district. The above maps (courtesy of Faris El Akbani) do not nest and represent separate demonstrative examples

CONTRIBUTORS

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Noah Bardash is currently a Master's in Public Affairs student at the School of Public and International Affairs at Princeton University. His research for this project was done in residence at the Moritz College of Law at Ohio State University. In his home state of Virginia he has served as a chief of staff in the General Assembly and led voter registration efforts. He is a fan of democracy, walking, and sweet potatoes.

Grace Geier is a native of Shaker Heights and is currently studying sociology and media at Stanford University. Before joining EIL, she spent the year tracking election integrity at the Freeman Spogli Institute and completing a research fellowship through the Stanford Women's Community Center. Grace is passionate about racial justice, money in politics, and ethical journalism. She is excited to extend her commitments and skills to advocate fair political representation and strengthen democratic principles in her time at EIL.

Hayden Goldberg is a student in the Masters of Science in Social Science of the Internet at Oxford University. His family grew up in Ann Arbor, Michigan and State College, Pennsylvania, but as a recent graduate of the University of Washington, he now confronts a dilemma as his alma mater joins the Big 10. Hayden spends his free time running, rowing, and cycling, and thinking about voting rights.

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Prof. **Sam Wang** is founder and director of the Electoral Innovation Lab. A native of Cincinnati, his childhood was spent in Ohio and Indiana. He has published articles on redistricting and democracy in the Stanford Law Review, Election Law Journal, and the University of Pennsylvania Journal of Constitutional Law. He teaches neuroscience at Princeton University and is a faculty associate in Law@Princeton and the Center for Statistics and Machine Learning. In 2021 and 2022, he served as nonpartisan technical advisor to the New Jersey Redistricting Commission and the New Jersey Apportionment Commission. He and his family have recently acquired a third dog.

READINGS AND RESOURCES

Readings

Brennan Center for Justice, [Redistricting Commissions: What Works](#) (Jul. 25, 2018)

Sandra J. Chen, Samuel S.-H. Wang, Bernard Grofman, Richard F. Ober, Jr., Kyle T. Barnes, & Jonathan R. Cervas, [Turning Communities of Interest Into a Rigorous Standard for Fair Redistricting](#), 18 *Stanford Journal of Civil Rights and Civil Liberties* 101, 134-137 (2022)

[League of Women Voters of Ohio v. Ohio Redistricting Commission](#), 167 Ohio St. 3d 255, 297 (2022) Former Ohio Supreme Court Chief Justice O'Connor's concurring opinion reviews the possible impact of an independent citizen redistricting commission.

[Moore v. Harper](#), 143 S.Ct. 2065 (2023). This Supreme Court decision ruled against the Independent State Legislature Theory, maintaining the possibility of legal constraints on state legislative power.

[Gonidakis v. LaRose](#), 599 F. Supp. 3d 642 (S.D. Ohio 2022). This federal court decision allowed the Second Revised Maps for the General Assembly to be used in the 2022 election, despite the Ohio Supreme Court ruling them illegal.

[Huffman v. Neiman](#), 143 S.Ct. 2687 (mem) (2023) (cert. granted, vacating judgment). This United States Supreme Court case sent a lawsuit involving congressional redistricting back to the Ohio Supreme Court in light of [Moore v. Harper](#).

Steinglass, Steven H., and Gino J. Scarselli. [The Ohio State Constitution](#). Second edition, Oxford University Press, 2022.

Frank Strigari, [Ohio's Season of all Seasons: A History of Redistricting and What the Future Holds](#) (Ohio Lawyer March 2021).

Samuel S.-H. Wang, [Three Tests for Practical Evaluation of Partisan Gerrymandering](#), 68 *Stanford Law Review* 1263 (2016).

Online Resources

Princeton Gerrymandering Project, <https://gerrymander.princeton.edu>. Nonpartisan analysis and scoring of redistricting plans in all fifty states.

All About Redistricting, <https://redistricting.ills.edu/>. A comprehensive site describing redistricting practices in all fifty states.

Public Software

Dave's Redistricting App, <https://davesredistricting.org>. A free resource for public map-drawing.

Districtr, <https://districtr.org>. A free browser-based tool for drawing districts and mapping your community.

DistrictBuilder, <https://www.districtbuilder.org>. A free and open source redistricting tool.

Representable, <https://representable.org>. A free source for reporting communities of interest.

