



**Committee of Seventy
Written Testimony on Redistricting Reform
House State Government Committee Hearing
September 18, 2019**

Let me begin by thanking Majority Chair Everett and Minority Chair Boyle for taking up this issue of redistricting reform today. This hearing marks a major and welcome stride forward in this conversation. Thank you for your leadership, and we look forward to working with you.

As chair of the Pennsylvania Redistricting Reform Commission, I had the privilege of spending the better part of this year working with 12 other commission members to assess our current redistricting processes, survey reforms in other states, and—most important—hear the thoughts, opinions and concerns of over a thousand of Pennsylvanians from all across the Commonwealth. The final report was delivered to the Governor and leadership of the General Assembly on August 29 and includes the commission’s findings and a recommended process that we believe fits our unique history and the culture, geography, and system of governance in Pennsylvania.

I strongly recommend that the members of this committee consider the substance of this report in their deliberations in the coming weeks. With the time available today, I would like to highlight three elements of the commission’s work: **1)** The simple framework we used to organize our thinking; **2)** The frustration with the status quo we heard from Pennsylvanians, and their belief that we can do better; and **3)** The commission’s recommended process, one that we believe is well suited to Pennsylvania.

A simple framework

First, I’d recommend to you the three-part framework the Commission used for evaluating the redistricting process, comparing various reforms and proposals, and in soliciting feedback from citizens:

- **Who** should draw, revise, and approve the maps?
- **What** criteria, values, and goals should they follow?
- **How** can the process be structured to give all Pennsylvanians a voice in how their districts are drawn?

A trustworthy redistricting process requires all three elements to work together; if, for whatever reason, one area is less robust, the other two must be even stronger to ensure the integrity of the

process as a whole. For example, if map-drawers are less politically independent, their decisions should be bounded by stricter, enforceable criteria and higher degrees of public engagement, openness and transparency.

The more than 1,000 Pennsylvanians who provided feedback to the commission were asked to comment using this framework as well. Whether in person at our public meetings, or in online comments and surveys, across party identification, ethnicity, and gender, respondents were emphatic that the status quo is unsatisfactory in all three areas and that significant reform is needed across the board.

Public frustration with the status quo and desire for change

Who should draw the maps? *As much as possible, citizens, not politicians, should hold the pen that draws and revises election maps.*

Perhaps most striking was the nearly unanimous opinion that elected officials should not have the power to draw their political districts. Citizens understand that this creates a direct conflict of interest in the map-making process. For that reason, they consistently cited the need for a citizens commission as the “who” to draw maps. They did not always agree on how those citizens would be selected or what the qualifications should be. Some participants suggested that commission members be selected at random from a pool of qualified applicants while others allowed politicians a limited role in their appointment. With regard to citizen commissioners themselves, participants cited the need for integrity, commitment to public engagement, some degree of pre-existing competence or knowledge about the subject matter, and that they reflect the cultural and ethnic diversity of Pennsylvania.

What criteria should be used? *The criteria and values by which the maps are drawn should be clear, consistent and accountable.*

Our review of redistricting practices in the eight states that have reformed their practices in the last 20 years makes clear that there are a number of criteria that can be considered when drawing political maps. Not all can be prioritized equally, and some can even conflict with each other. The commission heard, above all, that the criteria used in Pennsylvania should be clearly defined to help ensure accountability. Compactness, contiguity, minimizing the splitting of political subdivisions (e.g., counties, municipalities, and school districts), population equality, and respect for communities of color were most frequently cited. Some who testified also pointed out that with ~2,600 local governments, Pennsylvania’s jurisdictions are a better proxy for “communities of interest” than in states where local government largely stops at the county level. Whatever the criteria, however,

many expressed their concern that explicit criteria are, on their own, insufficient to guard against abuse, as we've seen through multiple rounds of litigation over the state legislative maps. And this is why both the "who" and the "how" must be changed as well.

How should the process work? *The map-drawing process should be straightforward, open, and transparent.*

The public offered a great many suggestions as to how, step-by-step, the map-drawing process should work in Pennsylvania. Most of what we heard came down to a desire for the process to be straightforward, open and accessible, and transparent. The broadly shared sentiment is that the actual drawing of political maps has never taken place with meaningful public input and in the open for all to see and participate. Rather, our current boundaries have been drawn behind closed doors by a handful of powerful elected officials and their staff; and in the case of our congressional maps in 2018, by a single academic from California retained by the Supreme Court. In 2021, Pennsylvanians want a process where they have legitimate opportunities to provide input, both in person at public hearings across the state and through online surveys. This should include opportunities to provide initial feedback before any mapping plan is created and then directly on a first (or second or third) proposed plan.

Finally, in this next cycle every citizen in Pennsylvania will have access to the data and software to draw their own maps—and they expect this new ability to have a role in the formal process. Over 3,300 Pennsylvanians have now participated in Draw the Lines PA, the public mapping competition conducted by my organization these last two years, which demonstrates that Pennsylvanians are ready, willing and able to contribute—and certainly critique, if given the chance—election maps to the process.

The Commission's Model: A Plan for Pennsylvania

In considering all of the public comments received, lessons learned from recent reforms in other states, and legislation recently introduced in the General Assembly, the ultimate goal of the commission was to create a redistricting model that citizens would understand and trust. A detailed outline of the model we arrived at can be found in the final pages of the report, but I'll summarize it in the 'Who, What and How' framework as follows:

Who: Maps are drawn and revised by an appointed 11-member bi-partisan commission. Each major party would nominate 5 members (2 of their own party, two from the other major party, and one either third party or unaffiliated) and the Governor would appoint the 11th member as a nonvoting chair. Appointments would be subject to strict qualifications and disqualifications to

ensure a reasonable amount of political independence. In a process informed by public input and specific criteria, the Commission ultimately submits three possible maps to a bipartisan legislative body (either the General Assembly, a bipartisan subset, or the Legislative Reapportionment Commission), which chooses the final map.

What: Maps should be drawn in accordance with simple but strict criteria that make it more difficult to divide political jurisdictions and communities, more difficult to draw districts with the goal of advantaging one party or another, and to ensure that diverse populations across the Commonwealth have a reasonable ability to have their interests represented.

How: The maps should be drawn in a process that, at every turn, is transparent and open, and offers 21st century opportunities for public engagement.

One of the model's defining traits and part of what makes it Pennsylvanian is its intention to generate a mapping plan through consensus. Decision making by consensus has deep roots in Pennsylvania through our Quaker history and our moderate political culture, and we believe it is what citizens yearn for in these times of overheated partisanship. In our recommended model, the 11th commission member, appointed by the Governor to serve as a non-voting chair, is responsible for mediating discussion and building consensus among the other members. Important decisions should be made with super-majority votes. In the event a super-majority vote of the commission cannot be reached, ranked-choice voting—a consensus-oriented voting procedure—can be used as a backstop.

Pennsylvanians expect their representatives to act

We love football in this state. But lest we forget the obvious, like any sport football is great because both teams play by a set of rules that are clearly defined and understandable. If they don't, referees call foul, but otherwise the refs stay out of the game. This makes for a level playing field which, incidentally, is out in the open for all to see. When the clock runs out, people trust the final score because they trust the process.

Pennsylvanians deserve a redistricting process they can trust. Between the model recommended by this commission and other reform proposals backed by Fair Districts PA, Common Cause and others, there are many suitable answers to the who, what, and how of redistricting. Multiple bills already introduced but sitting in committee would, if passed, constitute monumental strides forward from the status quo.

But time is short. The Committee of Seventy urges the members of this committee to make every effort to coalesce bipartisan support behind a new, independent citizens commission for our

congressional maps, which can be done by statute and well before 2020 Census data would become available in 2021.

Tens of thousands of Pennsylvanians, many of whom have been rallied by Fair Districts PA, have lent their time, energy and personal resources to the cause of redistricting reform. They've spoken forcefully to their lack of trust in a process where elected officials draw political maps and insist that their representatives act to pass reform. Now is the time to act.

Thank you.

David Thornburgh
President and CEO, Committee of Seventy
Chair, Pennsylvania Redistricting Reform Commission



PENNSYLVANIA REDISTRICTING Reform Commission



A Report to the Governor and the Leadership of the General Assembly

August 29, 2019

Introduction and Letter from the Chair

August 2019

Dear Governor Wolf, President Pro Tempore of the Senate Scarnati, Speaker of the House of Representatives Turzai, Majority Leader of the Senate Corman, Majority Leader of the House of Representatives Cutler, Minority Leader of the Senate Costa, and Minority Leader of the House of Representatives Dermody:

As Chair of the Pennsylvania Redistricting Reform Commission, created by Executive Order of the Governor on November 29, 2018, it is my pleasure to present you with the Commission's final report and recommendations – approved by a unanimous vote of the Commission – for improving the way Pennsylvania draws congressional and state legislative district maps. Over the last 9 months, my fellow members and I had a special opportunity to hear the thoughts of almost 1,500 Pennsylvania citizens to understand their concerns and hopes about the redistricting process and how we can make it fairer and more participatory and transparent.

Many agree, from all points on the political spectrum, that the time for change has come. The rulings last year that re-drew our congressional maps have not fixed the flawed process that produced them. The existing structure for determining state legislative districts lacks transparency and includes limited public input. There is no clear sense of the values or criteria by which the boundaries are drawn.

Although our federal and state constitutions grant responsibility to the General Assembly for drawing congressional maps and to the Legislative Reapportionment Commission for state legislative maps, Pennsylvanians clearly want a greater say in how their districts are drawn. Over the last few years, thousands of citizens across the Commonwealth, led by Fair Districts PA and other groups, have engaged in spirited conversations and forums on how to make that happen.

It is heartening to know that Pennsylvanians from all walks of life are ready, willing and able to help tackle this core challenge to our democracy, and that the Governor and so many members of the General Assembly are also committed to a better way to draw our election maps.

I thank Governor Wolf for his leadership on this issue, and special thanks to the members of this Commission, a diverse group of public-spirited citizens and leaders from the General Assembly. Thanks as well to the staff of the Governor's Office and the Department of State for their help. Finally, enormous thanks to the staff of the Committee of Seventy, in particular Patrick Christmas, Committee of Seventy's Policy Director, whose superb organizational skills and judgment were critical to the success of this effort. Collectively, we look forward to providing sound, thorough, pragmatic counsel to the Governor and the General Assembly to make progress on this issue so essential to the public's faith and trust in the democratic process.

Sincerely,

David Thornburgh
President and CEO, Committee of Seventy
Chair, Pennsylvania Redistricting Reform Commission

The Pennsylvania Redistricting Reform Commission¹

David Thornburgh, Chair	President and CEO	Committee of Seventy
Dr. Lee Ann Banaszak	Department Head	Department of Political Science, Penn State University
Dr. Damary Bonilla-Rodriguez	Diversity, Equity, and Inclusion Manager	Girls, Inc.
Susan Carty	Former President	League of Women Voters of Pennsylvania
Kathy Dahlkemper	County Executive	Erie County
Charlie Dent	Senior Policy Advisor	DLA Piper
Amanda Holt	Commissioner	Lehigh County
Reverend Robert Johnson	Reverend	Tindley Temple United Methodist Church
Sharmain Matlock-Turner	President & CEO	Urban Affairs Coalition
Dr. Wesley Pegden	Associate Professor	Dept. of Mathematics, Carnegie Mellon University
Sen. Jay Costa	Minority Leader	PA Senate
Rep. Frank Dermody	Minority Leader	PA House
Jessica Myers	Policy Director	PA Department of State
*Senate Majority Leader (vacant)		
*House Majority Leader (vacant)		

*The Senate and House Majority Leaders declined to nominate members to the Commission. Their offices were kept apprised of the Commission's proceedings and deliberations.

¹ Refer to Appendix 2 for commission members' biographies. Appendices are available at <https://www.dos.pa.gov/VotingElections/Pages/Redistricting-Report-2019.aspx>.

Table of Contents

Introduction and Letter from the Chair	1
Table of Contents	3
Executive Summary	4
Redistricting and Gerrymandering	8
What Pennsylvanians Have to Say About Redistricting	10
Opportunities to Participate	10
Public Meetings	10
Online Comment	11
Online Survey	11
Summary of Public Feedback	11
Who Should Draw, Revise and Approve Maps?	12
What Criteria Should be Used?	14
How How Should the Process Work?	15
Other Related Considerations	17
Lessons Learned	18
Early Adopters (2000 – 2010)	19
The Second Wave (2010 – 2018)	20
The Next Wave (2019 –)	23
Recommendations	24
A Model for Pennsylvania	24

Executive Summary

Citizen Comment

“Because so many seats are considered ‘safe’, fewer and fewer citizens seek elected office. The most common name on the ballots across Pennsylvania is the following: ‘no candidate filed.’”

M.M., Lycoming County

Citizens of Pennsylvania are increasingly aware of and concerned about partisan gerrymandering. They are unhappy with the way congressional and state legislative districts divide their communities. They often feel that our political system, if not broken, is “fixed”— that it was built to serve the interests of those who work in it, not theirs. Pennsylvanians who offered input to the commission say they yearn for a fairer redistricting process – one that they can understand and trust; a process that makes decisions by consensus and by a set of simple and transparent rules, rather than by narrow partisan advantage.

Those are the messages the 13 members of the Commission heard repeatedly over the last nine months in the most comprehensive and systematic conversation ever held with Pennsylvania citizens about the issues of partisan gerrymandering and redistricting reform. These messages resonated in nine public meetings across the Commonwealth, attended by more than 600 citizens. The same sentiments were also repeated in public comments to the Commission website, and in a survey administered by one of the Commission members, Dr. Lee Ann Banaszak, Head of the Political Science Department at Penn State. All told, over 1,000 Pennsylvanians shared their thoughts with the Commission, either in person or online.

Those messages have also resonated in the halls of the state Capitol as well. Over the last two years, more than 150 members of the House and Senate have expressed their support for improving the redistricting process. Leadership from all four caucuses, Republican and Democrat, have indicated their willingness to consider a variety of legislative fixes to the challenge. But the clock is ticking. If Pennsylvania’s redistricting process is to change, it likely will need to occur in the next six months, before March 1, 2020, in order to prepare for the Census results that arrive in early 2021.

Accordingly, we must consider the central question addressed by this report: What should be done? What did the people who shared their thoughts with this Commission want to see in a redistricting process that would inspire their confidence and trust? It is true that relatively few citizens practice the art of public policy design. They are more fluent in what is wrong than how to make it right. But at the suggestion of Amanda Holt, a Republican Lehigh County Commissioner and a member of the Reform Commission, we heard valuable insights from the public centered around three important aspects of the redistricting process: Who? What? How? We asked: **Who** should draw, revise, and approve

the maps? **What** criteria, values, and goals should they follow? **How** can the process be structured to give all Pennsylvanians a voice in how their districts are drawn?

Consistently, the people of Pennsylvania we heard from shared these strong preferences:

Who Should Draw the Maps?

- As much as possible, citizens, not politicians, should hold the pen that draws and revises election maps.

What Criteria Should be Used?

- The criteria and values by which the maps are drawn should be clear, consistent and accountable.

How Should the Process Work?

- The map-drawing process should be straightforward, open, and transparent.

Armed with a consistent sense of how Pennsylvanians viewed this process and how it could be improved, the Commission also made good use of the redistricting models that have been developed in other states over the last 20 years. Remarkably, eight states have instituted new models of redistricting in that time, ranging from “blue” states like California to “red” states like Utah and Missouri. Another half dozen or so are actively considering major changes to their process. Clearly, citizens across the country have been calling for a fairer and more trustworthy redistricting. At this point Pennsylvania is lagging, not leading, the pack.

Even as it considered the work going on in other states, the Commission felt strongly that any model proposed for Pennsylvania should feel true to the Commonwealth’s distinctive history, culture, and sense of community. With a population deeply rooted in local communities and local representation, and with a deep respect for its own history and tradition, Pennsylvania has never blindly followed or replicated policies or processes developed in other states. The Commission members did our best to make sure our recommendations felt rooted in our own Pennsylvania experience. We did our best to design a Pennsylvania Plan true to the history and traditions of the Commonwealth.

In the same vein, we felt the Commission’s recommendations should be tempered by the realities of Pennsylvania’s structure of governance and political process. Many other states have some form of initiative process that gives voters direct access to the ballot to propose constitutional changes. Pennsylvania must rely on the good faith and hard work of its elected representatives to bring about any improvements in the “rules of the game” – in this case how election maps are drawn. Because any changes to current process would need to be approved by the General Assembly and the Governor – even if those changes ultimately go before the voters – it is critical that we consider the appropriate role those elected officials should play in any improved process. And as we heard from many public voices along the way, we were determined not to let the perfect stand in the way of the possible.

In this spirit of principled pragmatism, the Commission also decided to present its recommendations for fair redistricting in the form of a fully realized model rather than a disjointed collection of principles or features. In making this choice, we are suggesting that only a fully realized model can illustrate the tradeoffs, checks and balances inherent in a political process that involves the public as well as all three branches of state government. We also recognize that the political process that is now considering reform

Citizen Comment

“My township is a township of about 25,500 people. State representatives should have about 62,000 people in their district when you take the whole number of the state and divide it up by the whole number of representatives. So that might suggest that this township be a part of one state representative’s district. Instead, it has three state representatives.”

J. D., Luzerne County

may very well “part out” this model to take advantage of whatever ideas or features seem worthy of adoption. For instance, the recommendations around public engagement or transparency could be adopted by the Legislative Reapportionment Commission itself or determined by statute. But if features were to be pulled from the model, we hope there would be a recognition of the function each particular feature is intended to play, whether to check the power of individual political forces, to open up public access to the process, or to help encourage a consensus-driven approach.

We also recognized from the outset that we are working in real time. As we launched our tour across the Commonwealth, unprecedented grassroots energy, unleashed by government reform advocacy groups, was engaging thousands of Pennsylvanians in this previously obscure issue. Dozens of legislators were stepping forward to debate and support various legislative proposals addressing the same issues the Commission was considering. In June 2019, the US Supreme Court made clear that it would not weigh in on the issue of partisan gerrymandering. Whatever improvements to the redistricting process emerge in the next few months will be the product of the hard work of Pennsylvania citizens and lawmakers.

So what are the key features of the Commission’s recommended model?

Who Should Draw the Maps?

- Maps are drawn and revised by an 11-member commission appointed by the leaders of the General Assembly and the Governor subject to strict qualifications and disqualifications to assure a reasonable amount of political independence and avoid conflicts of interest. After a winnowing process, this Commission submits three maps to a bipartisan legislative body (either the General Assembly or a subset) from which the body would choose one in a bipartisan manner.

What Criteria Should be Used?

- Maps should be drawn in accordance with simple but strict criteria that make it more difficult to divide political jurisdictions and communities, that reduce opportunities to implement partisan objectives in drawing districts, and that ensure that diverse populations across the Commonwealth have a reasonable ability to have their political voices heard.

How Should the Process Work?

- The maps should be drawn in a process that is, at every turn, transparent and open, and offers 21st century opportunities for public engagement.

This model, it should be noted, is designed to apply, either in whole or in part, to both the congressional district mapping process and the legislative districting mapping process. We felt that it would be most useful to describe one model that feels as balanced, fair, accountable and responsive as we could imagine, and then leave it to the political process to determine which features or elements could be applied to either of these distinct processes. Certainly, we heard little along the trail that suggested citizens feel strongly one way about one process and another way about the other. What we did hear, over and over, is that citizens yearn for a redistricting process that is fair, transparent, and straightforward, and that minimizes the political self-interest that has overshadowed the process in the past.

A more detailed look at the Commission’s recommended model follows after a review of the background on the issue and the substantial public input the Commission received, as well as the lessons we learned from other states who have recently changed the way they draw election maps.

This recommendation, and this report, represent the best effort of a sincere, accomplished, diverse body of people who took considerable time from their own careers and families over the last 9 months to listen to their fellow Pennsylvanians, learn from other states, and suggest ways in which we can rebuild trust between elected officials and those they govern and are responsible to.

We live in times when trust in government has been shaken and many of the citizens we talked to noted that perceived partisan gerrymandering has played a part in undermining that trust. We firmly believe that a process like the one we have recommended can go a long way to restore that sense of trust – a trust on which the governance of our Commonwealth, and our entire democratic republic, depends.

Citizen Comment

“We have the tools to create incredibly detailed districts. You plug in the data, and you can tweak and predict these districts with such a fine degree of accuracy. The law tends to lag [behind] technology. We need the law to catch up to the technology. We cannot be trusted with this technology unless there are some very clear rules about how it’s used.”

J. C., Snyder County

Redistricting and Gerrymandering

Citizen Comment

“Legislative and congressional districts should not cut through municipalities, school districts, or counties unless there is some compelling reason. Those governmental entities typically have common interests and problems and their needs are best served by having one legislative and/or congressional representative.”

M. G., Allegheny County

Once a topic more commonly discussed only among political insiders, redistricting and gerrymandering has become a focus of conversations in living rooms, classrooms, and kitchens across Pennsylvania. Grassroots efforts from groups like Fair Districts PA (with over 40,000 supporters) has rallied thousands of vocal advocates for reform. The Draw The Lines PA public mapping competition spearheaded by the Committee of Seventy engaged over 3,300 people in drawing congressional maps.

Most significantly, during the 2018 legislative session in Pennsylvania, the General Assembly showed strong bipartisan support for redistricting reform. Of all the House bills circulated, the one with the most cosponsors (over 100) supported redistricting reform. The Senate held public hearings and then passed a redistricting reform bill.

Early American history clearly illustrates that election maps have political consequences. In 1788, Virginia Governor Patrick Henry used the strategy to try to engineer the defeat of his rival James Madison in a congressional race with James Monroe. In the early 19th century, Massachusetts Governor Elbridge Gerry drew an odd-shaped and politically motivated district. A political cartoonist thought it resembled a salamander – or Gerrymander – and the term quickly became shorthand for any political district that was manipulated to advantage one particular party or group over another.

Many suggest that gerrymandering takes a direct toll on voting and our ability to govern ourselves. They assert that the manipulation of congressional and state legislative district boundaries can lead to:

Elections with pre-determined results

- Post-election analyses and other evidence demonstrates that the way both major parties draw election maps can increase the likelihood of, if not guarantee, certain electoral outcomes. Some believe these districts contribute to, if not encourage, partisanship and gridlock by accentuating the role of the most fervent “base” voters during partisan primaries. There are numerous anecdotal examples of political districts drawn to protect incumbent legislators, in some cases by carving potential challengers out of a district.

Weak and inefficient representation

- A community split by political districts suffers weaker and more diffuse representation when local voters and other stakeholders are compelled

to engage multiple legislators on any given issue. It makes it more challenging for elected officials, with limited time and resources, to effectively serve communities of which they only represent a fragment. This leaves some jurisdictions, like Montgomery County in the recent past, divided between multiple districts yet without any representative living within their borders.

Diluted minority votes

- Minority communities (or other “communities of interest”) may be “cracked” into ineffective pockets or “packed” into districts to limit their voting impact to that one district. Either technique can weaken their voting power and make individual votes less significant, even with the protections secured through the Voting Rights Act of 1965.

U.S. Presidents from John F. Kennedy to Ronald Reagan to Barack Obama and millions of average voters along the way have decried the gerrymandering tactic. The system feels unfair when they sense that “politicians are picking voters and not the other way around.” Even just the perception of an abuse of power undermines the trust of citizens in the process.

Perhaps not coincidentally, trust in government today is at historic lows. A 2017 Gallup poll found only one in five Americans trust the federal government – a precipitous drop from the nearly 80 percent during the Eisenhower and Kennedy years. A 2018 Gallup poll noted that while state and local governments have fared better, trust has also declined as compared to earlier decades. Pennsylvania is not immune to this trend, as evidenced in both national and local polls. One Gallup poll found only 46 percent of Pennsylvanians have confidence in state government to handle problems, 47th in the country. According to Franklin and Marshall College’s Center for Public Opinion Research, in the past few years respondents have consistently flagged “government and politics” as the most important issue facing the state, far outdistancing schools, crime, jobs, or taxes.

The direct consequences of redistricting on our politics and system of governance can be significant and powerful. But perhaps as corrosive as any single effect is the pervasive sense that a fundamental democratic process can be manipulated for partisan or personal gain. The only way to ensure integrity in redistricting is to pursue a trustworthy process – one literally worthy of trust. People need to understand and experience a reliable redistricting process. Simply put, achieving trust in the process is essential to any effective redistricting reform.

Citizen Comment

“Competitiveness is important where practical. I realize that every district cannot be 50/50 each party and we do not want party affiliation to be used to determine any district. The process should naturally cause some competitive districts but never “purposely” protect a candidate or party.”

J. K., Northampton County

What Pennsylvanians Have to Say About Redistricting

An important goal of the Pennsylvania Redistricting Reform Commission was to engage Pennsylvanians across the Commonwealth in a conversation about how they and their communities should be represented and how districts should be drawn. The Commission created three opportunities for members of the public to present their concerns and ideas to the Commission: through oral and written testimony at a series of public meetings, via an online survey, and through an online feedback form. All told, 116 spoke at the public meetings attended by another 215 in the audience. Two hundred and forty individuals took the time to offer thoughts on an online comment form created by the commission, and 797 individuals completed an online survey distributed by the Commission and its members.

Opportunities to Participate

In carrying out its work described in the Executive Order, the Redistricting Reform Commission aimed to set a high standard for public engagement around the complex issue of redistricting. This included creating and encouraging more dialogue during public hearings and utilizing 21st-century mechanisms for public input. These efforts were well-received by the public and may be useful tools for enhancing public engagement during future “official” redistricting conversations.

Public Meetings

The Commission held a series of nine three-hour public meetings across the Commonwealth of Pennsylvania between April and June 2018. (While the Executive Order specified that six hearings should be held, the Commission decided to add three more to make sure that all parts of the state, particularly its rural areas, had convenient access to the public meetings.) The meetings took place in the evenings, from 4:00 – 7:00 pm in public meeting rooms located in Williamsport, Erie, Pittsburgh, Reading, Altoona, Philadelphia, Bethlehem, Wilkes-Barre, and Harrisburg. The public was notified of the hearings on the Commission’s website, and each meeting was advertised per the Sunshine Act. In addition, for each event, a press release was sent to local media and advisories were sent to local civic and community organizations, as well as to local elected officials. Attendees were encouraged to RSVP, but anyone who attended was invited to sign up to present oral testimony to the commission.

To encourage real conversation and dialogue, citizens who spoke with the Commission were seated with the members of the Commission. Commission Chair David Thornburgh asked only that each person providing testimony include their name, their hometown, and the names of their representatives in the Pennsylvania General Assembly. Otherwise, witnesses were not restricted in the scope of their testimony. Some were experts on the topic of redistricting, and others represented good governance and election advocacy groups; but there were just as many concerned citizens who, though not versed in the language of redistricting or gerrymandering, often had compelling stories to tell.

Several organizations chose to submit written testimony at the public meetings. That testimony can be found in Appendix 6.²

² Appendices are available at <https://www.dos.pa.gov/VotingElections/Pages/Redistricting-Report-2019.aspx>.

Online Comment

The public was also invited to provide comments using an online feedback form on the Governor’s website.³ This survey included three open-response questions around personal experiences with redistricting, who should draw maps, and what criteria should be prioritized when creating districts. A total of 240 responses were received from April to June 2019.

Online Survey

The Commission also invited public participation through a quantitative online survey created by Commission member Dr. Lee Ann Banaszak, Head of the Political Science Department at Penn State University. The initial survey was taken by 797 respondents. Information about the survey was provided to everyone who attended the public hearings, and it was also distributed by Commission members to their own networks and email lists. When it became clear from the responses to this initial survey that respondents were more likely to be white, female and leaned Democratic or Independent, Dr. Banaszak sent an identical survey to a panel of 105 Republican Pennsylvania voters recruited from the ongoing panels of a survey firm, and then the same survey to panels of Latinx and African American Pennsylvania voters from the same survey firm. (Since the data collection instruments varied between the sample populations, the results of the four surveys cannot be aggregated and are referred to separately). What is striking, however, is how consistently certain common themes run through all the respondents. For the survey instrument and a complete summary of survey findings, see Appendix 8.⁴

Summary of Public Feedback

The one overarching takeaway from all the feedback the Commission received is that the citizens of Pennsylvania believe the current redistricting processes need to be reformed, and that these reforms should be in place for the 2021 redistricting cycle. In summary, the public expressed the following concerns:

1. Politicians abuse their power when creating district maps;
2. They do so by manipulating the redistricting process in their favor; and
3. They do so out of the view of the public

³ A longer summary of comments the commission received via the online feedback form is available in Appendix 7 at <https://www.dos.pa.gov/VotingElections/Pages/Redistricting-Report-2019.aspx>.

⁴ Appendices are available at <https://www.dos.pa.gov/VotingElections/Pages/Redistricting-Report-2019.aspx>.

Citizen Comment

“The commission should seriously consider defining an impartial procedure which would draw districts completely impartially... Having people decide how to draw districts is unavoidably problematic.”

R. M., Lancaster County

Citizen Comment

“There should be elements of randomness in the selection of commission members, but also screening that would prevent participation by current or former lobbyists, legislators or political operatives, and would assess the fitness of candidates for understanding and performing the work with which they are tasked.”

R. L., Butler County

Although the public shared a wide range of opinions about the best methods for creating fairer maps, there seemed to be agreement around three general principles that would improve redistricting in Pennsylvania:

1. Politicians should not have complete control over redistricting.
2. The criteria used to create district maps should be clearly defined and measurable.
3. The goals and process of redistricting should be transparent to the public.

The Commission considered public testimony in the context of three critical questions: **Who** should draw, revise, and approve the maps? **What** criteria should be used to draw maps? And, **how** should the process work?

Who Should Draw, Revise and Approve Maps?

Most of the testimony regarding who should be involved in redistricting supported the creation of an independent citizens commission, and many pointed out that politicians should not be involved in the creation of district maps. This was true of those who testified at the public hearings, commented online, and responded to the online survey.

What is perhaps most striking about the **survey respondents** is how little they trust elected officials to draw maps, and how much trust they put in a citizens commission. By far, respondents from each of the four survey groups (the general population, Republicans, African Americans, and Latinx respondents) trusted a citizens commission most to draw redistricting maps. That choice was followed by support for either the PA Supreme Court or a formula generated by a computer to draw maps. Respondents generally trusted least a small group of elected officials or a single appointed state official.

Conservative, moderate and liberal survey respondents all state that they trusted above all a citizens commission to draw congressional and state legislative district maps. While the rankings of the PA Supreme Court, the General Assembly, and the Governor differ depending on ideology, these groups do not disagree about the importance of a citizens commission.

When **online respondents** were asked how the redistricting process has affected them or their community, they conveyed sentiments of distrust and frustration. Some feel that living in gerrymandered districts has meant that legislators were choosing their constituents, rather than the voters selecting their representatives. Voters are frustrated with uncontested races and districts in which only certain voting blocs are

needed to carry an election. The creation of uncompetitive districts was in turn described as creating legislative bodies that are unresponsive to constituents in their refusal to advance legislation with bipartisan and majority citizen support. These sentiments were echoed in some of the testimony received during the public hearings.

There was a general consensus in online comments that legislators should not be solely responsible for drawing district maps, because this is viewed as an inherent conflict of interest.

Online comments recommending a commission usually included a set of criteria for commission membership intended to reduce partisan manipulation. Some advocated for the commission to be partisan, with equal numbers of Democrats, Republicans, and independents. Many pointed to California's model for choosing redistricting commission members, while others endorsed the provisions of Pennsylvania House Bill 23.

At the **public hearings**, there was not a clear consensus on how a commission should be chosen, nor what qualifies someone to serve on the commission. Suggestions included:

- Select commission members randomly from a pool of qualified applicants.
- Politicians should not be involved in selecting commission members.
- Politicians' selection of commission members should be limited in some way.
- Commission members should not have a personal interest in the political outcome of district maps.
- Commission members should possess certain qualities, such as integrity, commitment to public engagement, and knowledge about the subject matter.
- Commission members should represent the cultural and ethnic diversity of Pennsylvania.

Some expressed an interest in removing human bias from the map drawing process by delegating the job to a computer program that could be entrusted with creating maps. This alternative was suggested as a way to ensure that the redistricting criteria are strictly followed and eliminate the possibility of bias. Others at the public hearings pointed out that an algorithm is designed by human beings and still reflects goals, values, and criteria, even if they are hidden and embedded in lines of code.

Several people during the public hearings testified on the need for a greater separation of powers in the redistricting process. This means the people drawing the map should not be the ones to review it, and that those who draw and review the map are not the ones who approve it. They suggested the first group would draw a map based on a clear set of rules and criteria. Then a second group would collect comments and determine appropriate modifications. Then a third body would approve the map. Several people who endorsed the creation of an independent citizens commission said that legislators' involvement on the third and final step would be acceptable.

Online comments also saw other measures to ensure checks on the process. For example:

- Allow the General Assembly or PA Supreme Court to approve final maps.
- Allow the General Assembly to make small changes to maps.

What Criteria Should be Used?

The majority of testifiers at the **public hearings** believe that redistricting criteria and objectives should be clearly defined. Many understood that the Pennsylvania Constitution sets the basic criteria for state legislative districts, but many also called for a better definition of the terms. Some online comments agreed that regardless of the criteria used, it must be clear and well-defined.

At the public hearings and through online comments, most wanted compact, contiguous districts that respect municipal boundaries while maintaining equal populations. In both forums, they emphasized the need to respect political boundaries (such as counties, municipalities, and school districts) more often than other criteria.

Online comments included communities of color and communities of interest among groups which should not be divided. Testimony at the public hearings about communities of interest was divided, because while there was agreement that communities of interest may represent important groupings of constituents, the danger of including it as a criterion is that it might be susceptible to abuse or misuse in order to create gerrymandered districts.

Several people at the public hearings noted that when political subdivisions have multiple representatives in higher levels of government, citizens as well as local government officials have a much harder time drawing attention to the issues they face. Online comments agreed, describing how their ability to organize around issues important to them is diminished when communities are split between political districts.

Many at the public hearings felt their local area was ignored by their representatives because they were divided into separate districts. Several online respondents concurred, sharing stories about being unable to effectively discuss community issues with friends and neighbors because of the divisions.

Respondents in the **online comments** feel that geographically distinct communities have distinct needs, and legislators should be equipped to deal with the concerns of a continuous community, rather than dividing them for partisan purposes.

After respect for political boundaries, those at the public hearings most frequently supported compactness, contiguity, equal population, respect for communities of color (in that order).

Survey respondents were asked to rank certain criteria in their order of importance to the process of redistricting. These are the criteria that would be used in the creation of district maps and to gauge their fairness. Respondents were asked about equal population, contiguity, compactness, reducing jurisdictional splits, creating competitive elections, minority representation, representing communities of interest, protecting incumbents and preserving a partisan advantage.

While there was variation in the rankings depending on the population surveyed, all survey respondent groups ranked equal population and contiguity as important criteria. The Latinx and African American panel respondents ranked minority representation within their top two, with contiguity third. The general group of respondents ranked compactness as the third most important criteria, but the Republican panel respondents ranked incumbency protection number three. By all groups except the African American and Latinx panel respondents, competitiveness was ranked in the middle, on average, above minority representation and representation of communities of interest. Respondents in all four surveys ranked party advantage last among the desired criteria.

Testimony at the public hearings about using political competitiveness was divided. Those who supported this as a criterion for political districts thought that it would lead to more proportional representation, combat gerrymandering, and improve voter turnout. Those who spoke out against using competitiveness as a criterion believed that it could be at odds with other criteria, since it could necessitate the splitting of political subdivisions or the creation of oddly shaped districts.

A small subset of online respondents expressed an interest in creating district maps that promote more competition and attempt to achieve partisan symmetry – that is, that the proportion of seats won by each party closely mirrors the proportion of voters in each party statewide.

How Should the Process Work?

It was clear, through public hearings and online comments, that the citizens of Pennsylvania want a more transparent process. Over half of those who testified on this subject at the public hearings mentioned it. While the online respondents' policy recommendations for achieving these objectives varied, those at the public hearings shared some common suggestions:

- Some advocated for more transparency around the goals of redistricting. Many shared the concern that the public currently has no idea what is trying to be achieved when districts are drawn. One suggested priorities and objectives be clearly explained to the public. This could mean generating multiple maps to illustrate the same problem in different ways to highlight various approaches.
- Some stressed the importance of transparency around what data is used to create the maps. There seemed to be agreement that only certain, predetermined data should be used to create districts, and that data should be made available to the public. (Most agreed that partisan voter data should not be used.)
- Several noted that the process of redistricting should be conducted in public, including the creation of district maps.

There was also testimony (at the public hearings and online) about the importance of public participation, including some form of public input. Suggestions for increasing public participation included:

- Make mapping tools available to the public and allow them to submit maps.
- Include public discussion on a small number of manageable decision points.

Citizen Comment

"It's important now more than ever to have minority input in creating new maps."

Anonymous comment from
online survey

-
- The redistricting commission should travel around the state collecting feedback.
 - Make public hearings participatory for the public and commission members.
 - Use digital tools to collect input.

Respondents to the **online survey** were asked about how important different types of citizen input is in the redistricting process. The groups were asked to state how important it is for citizens to be able to speak at a public hearing to those drawing the maps, submit comments to those drawing the maps, submit their own full or partial map, challenge a map they believe to be illegal, or vote to approve the map. They were also asked whether citizens should only share their thoughts through elected representatives. All four survey groups overwhelmingly supported voting to approve a map (Republican panel respondents were most likely to say this was very important) and reviewing or challenging a map you believe to be illegal. All four survey panels also generally stated that citizens speaking at a public hearing or submitting public comments were important or somewhat important. Respondents in all four surveys generally did not feel that citizens sharing their thoughts through elected representatives is an important way to provide feedback on redistricting.

Lastly, there were various testimonies during the public hearings about the need for improved enforcement when redistricting plans do not comply with the defined criteria. Several people stated that enforcement would be improved through the use of measurable standards – such as a mathematical measure of compactness. One said that the ability to apply and review objective standards will transcend partisan opinions and lead to accountability. These standards could be used in the creation of maps, as well as to verify that maps comply with the criteria before they are approved. Another noted that judicially enforceable standards would encourage compliance.

Other Related Considerations

During the public meetings, and in the online comments, Pennsylvanians mentioned several other reforms or issues that are worthy of note in this report.

- Several mentioned the need to ensure an accurate and complete **2021 census count** in Pennsylvania. This Commission also supports those efforts, as any redistricting plan relies on a good census count.
- A number were concerned about the **counting of incarcerated populations**. Pennsylvania is one of several states that counts prisoners in their place of incarceration rather than in their previous home address. Testifiers felt this practice needlessly shifts populations, and therefore representation. Some estimates indicate that it may artificially inflate the population in some rural political districts by as much as five percent of the population. Members of this Commission urge the Commonwealth to examine this practice carefully and consider changing the way incarcerated population is counted for purposes of redistricting so that it accurately counts citizens in their area of residence as indicated by Pennsylvania law.
- Several citizens mentioned their support for **open primaries** that would at least allow independent voters to vote in primary elections in Pennsylvania. Those who spoke in favor of this change suggested it would offer a way to bridge the partisan divide and help ensure that all voters matter and all votes count. This Commission chose not to offer an opinion on the open primaries issue as it deserves more time and research than the Commission had in its scope.

Citizen Comment

“No one would suggest that a referee needs to be disinterested in the sport but all of us know it’s inappropriate for anyone to referee their own game. We all have opinions about politics and policy, but it should be obvious that the people whose careers depend on the way districts are drawn should not be the ones drawing the lines or choosing the people who draw the lines.”

C. K., Dauphin County

Lessons from Other States

Citizen Comment

“My county has been carved up by both parties over the years to give candidates of one party or the other a safe district. Even the most recent redistricting by the Supreme Court split the county, a school district, and at least one municipality between two Congressional Districts.”

J. E., Centre County

The Commission was also asked to review the experience of other states and how they had considered ways to improve the process of drawing congressional and state legislative district maps. The Commission chose to focus on those states who have changed their process within the last two decades. Since 2000, there has been a growing wave of interest at the state level in revisiting and reforming the process by which political districts are drawn and approved. Eight states have changed their process since 2000, and as one indicator of how the movement has accelerated, five states in 2018 alone made changes to their redistricting process. In several other states, including New Hampshire, Virginia, North Carolina, and Maryland, change may be on the horizon as well.

Lessons Learned

Answering the simple question “which of these models works best” is more than complicated – beginning with the assumption that there is a simple way to define the terms. Furthermore, the California and Arizona models have only been in place for one round of redistricting. The others remain untested until after the 2020 Census. Nonetheless, these models have been thoroughly debated in public view by academics, political scientists, politicians, journalists, and voters. Those that have been subject to referenda also passed the ultimate public test, suggesting that voters have sufficient faith and trust in the integrity of the process to voice their approval.

Although there is no universally accepted formula for creating election maps, there are several commonalities among the states we reviewed. All the reform states codified the criteria that must be used to create the maps. The criteria were largely consistent, except that three of the eight states include measures of competitiveness or partisan symmetry. This is a notable difference because partisan data must be used to measure competitiveness, and there is a clear desire to remove partisanship from the redistricting in Pennsylvania, as we saw in the public feedback the commission received. The three states that allow the use of partisan data were also states with citizen-initiated ballot issues.

We also found that in all the eight states we reviewed, the reforms have aimed to create a process that is less overtly partisan by limiting the direct involvement of politicians. Among the six citizen-led ballot initiatives that led to reform since 2000 (Arizona, California, Colorado, Michigan, Missouri and Utah), four (Arizona, California, Colorado and Michigan) do not allow politicians to make the final selection of

commission members. This is illustrative of the inherent distrust that citizens have in politicians' ability to draw fair districts. It was also common in the citizen initiative states to remove legislators from the process of approving final redistricting plans. Four of the six states with citizen-led ballot initiatives – Arizona, California, Colorado, and Michigan – completely remove the legislature from the process of creating and adopting a redistricting plan. All told, four of the eight states are still beholden to a legislative approval process.

The patterns we highlight among the eight reform states seem to indicate that Pennsylvania's reforms should be more in line with the states where constitutional changes are initiated by legislators, rather than citizens. That is, Pennsylvania reforms would not remove legislators entirely from the redistricting process but should bar the use of partisan political data.

Summaries of the eight states we examined follow, and charts that allow for quick comparison of their relevant features are included in Appendix 9.⁵

Early Adopters (2000 - 2010)

If you consider that the recent movement to reform how election maps are drawn began about 20 years ago, two states clearly set a precedent for those that followed. Citizen initiatives in Arizona and California drew national attention to the mounting call for reform, and the models for redistricting adopted in those states quickly became benchmarks among advocates for change. Arizona was first to reform its redistricting process in 2000 through a citizen-led ballot initiative to change the state's constitution in 2000. The Arizona case is also significant because the Arizona legislature sued to block the use of the independent commission. In 2015, the U.S. Supreme Court ruled against the legislature and upheld the right of Arizona voters to place the authority to draw election districts in the hands of an independent redistricting commission. California followed Arizona at the end of the decade with a pair of citizen initiatives in 2008 and 2010. Both states have been heralded for instituting independent redistricting commissions and adopting standard criteria for congressional and state legislative districts. In both cases, a process for selecting the commission members was created to safeguard the independence of the commission, and nonpartisan criteria were established for the districts in order to protect the integrity of the map drawing process.

Citizen Comment

"I know that weird lines can produce a lot of confusion in voters. 'Which district am I in? Who do I go to?' It makes regional coordination much harder. There have been studies that have shown that it makes it harder for local businesses to effectively represent their interests."

J. C., Snyder County

⁵ Appendices are available at <https://www.dos.pa.gov/VotingElections/Pages/Redistricting-Report-2019.aspx>.

Arizona

In Arizona, the five members of the independent redistricting commission are selected using a process that involves the state Commission on Appellate Court Appointments. Unfortunately, despite the selection process being designed to remove partisan maneuvering from redistricting, there has been some recent controversy over partisan appointments to the Appellate Court commission, which is tasked with selecting the initial pool of nominees to the redistricting commission. Arizona is also one of the states where the law says that competitive districts should be favored where doing so would not detract from meeting the primary requirements that districts be contiguous, compact, respect communities of interest and follow political boundaries. Because Arizona uses competitiveness as a redistricting criterion, the redistricting commission is allowed to use party registration and voting history data in some phases of the mapping process, while other states prohibit the use of partisan voter data.

California

California's independent redistricting commission is notably larger than Arizona's, with 14 members. The restrictions on who can serve are more stringent, since they apply not only to commissioners, but also to their family members. The selection process is similar to Arizona in that it relies on a non-legislative office, the California Bureau of State Audits, to help select commissioners, half of whom are ultimately chosen at random. One notable feature of how the process was implemented after the 2010 Census is that the commission was exhaustive in its pursuit of public comment during the 2011 redistricting process. The commission went to great lengths to gather public input through extensive public meetings, and a variety of electronic platforms. Although it was not a defining feature of the state's reforms as they were written, the commission's efforts to engage transparently with the public during the 2011 redistricting cycle is considered an essential feature of the California model.

The Second Wave (2010 – 2018)

Following in the path of Arizona and California, successful redistricting reform efforts have favored the creation of independent commissions and appointed citizen commissions. New York's process was reformed in 2014, followed by Ohio in 2015, and then a wave of five states in 2018 – Colorado, Michigan, Missouri, Ohio (again), and Utah. In each of these states, voters were given the chance to voice their approval of their state's reform measures, either because the proposal was initiated by a citizen-led ballot initiative, or because the constitutional change required their approval to become law. In all five states, the voters' support for reform was bipartisan. Across the country, as in Pennsylvania, the call for redistricting reform crosses partisan lines.

For Pennsylvania, it is relevant to distinguish between the states in this wave where redistricting reform was passed by a legislatively referred constitutional amendment and the states where reform was passed by citizen ballot initiative. In Ohio and New York, the processes defer more to the existing legislative bodies.

New York

It appears that the architects of New York’s redistricting process, passed in 2014, were trying to strike a balance between public desire for an independent redistricting commission and the legislature’s interest in retaining control over the final district maps. Unlike the states that use a nonpartisan third party to help select commission members, the redistricting commission in New York will be filled by politicians’ appointees. And even though the commission members themselves cannot be elected officials, lobbyists, employees of the legislature, or party officials, the district maps are ultimately approved by the state legislature as a bill subject to the governor’s veto. Countering the potential for partisan bias in the creation of the maps, New York requires more votes to approve a plan when one party controls both chambers or when the commission vote is split along party lines.

Due to the involvement of the legislature, New York will provide a test of whether the “who” of redistricting can be made less relevant in light of strong (and enforceable) redistricting criteria and robust rules around transparency. For example, all districts are required to preserve minority rights, be equally populated, and consist of compact and contiguous territory; plus, districts must not be drawn to discourage competition or to favor particular candidates or parties. Even if these rules are not followed, the maps and data must still be presented at public hearings, and the findings from the hearings must be submitted to the legislature along with the redistricting plan. This could serve as a check on the process to counter the partisan commissioners’ inclinations to game the system in their favor.

Ohio

The new redistricting process in Ohio is among the more convoluted examples presented here, but it may also be illustrative for Pennsylvania, because it provides an example of a multi-phased reform effort. The first set of Ohio reforms passed in 2015 created an appointed commission for drawing state legislative districts, and then a second set of reforms were applied to the process for drawing congressional districts in 2018. Unlike other states, Ohio does not prohibit partisan officials from serving on the commission; members include the governor, state auditor, secretary of state, and four legislative appointees. Ohio’s model is also interesting because the process for congressional redistricting incorporates the commission created in 2015 for state legislative redistricting but does not grant it full authority over the process. Instead, congressional redistricting is a hybrid process that only involves the redistricting commission once the legislature fails to pass a redistricting plan.

Missouri

Missouri’s process may also be instructive to reform efforts in Pennsylvania, because it does not eliminate the state’s existing legislative apportionment commissions. Instead, the Missouri reforms restrict the choices presented to those bodies by a new non-partisan state demographer, who is responsible for creating the maps for the commissions’ consideration. So, while there are no new limitations on partisan makeup of the existing commissions, the position of state demographer is meant to be strictly nonpartisan. Like California, Missouri uses the help of the state auditor’s office to select candidates for the demographer position. It also could be instructive to note that Missouri, like Ohio in its first round of reforms, only changed the process for creating state legislative districts, not for congressional districts.

Citizen Comment

“It’s time for voters to elect their representatives not our representatives choosing their voters.”

S. T., Berks County

Colorado

Colorado employs nonpartisan staff who are separate from the redistricting commission to draw congressional district maps for the commission’s consideration. (The process does not apply to the state’s legislative districts.) Colorado’s process is a good example of transparency and public input, because public debate and feedback are key elements of the map drawing and approval process. First, the preliminary map created by the commission’s nonpartisan staff is made available for public comment. Subsequent plans are then created using feedback from the public and commission members. This model also divests the authority to draw and approve redistricting plans from a single group without requiring approval from the legislature, and makes discussion around modifications to the preliminary map a matter of public discussion. Moreover, the commission is required to hold public hearings in each congressional district (of which there are currently seven).

Michigan

Michigan’s model is similar to California in two key ways. First, the 13-member redistricting commission members are chosen using a structured random selection process. The Secretary of State’s office receives applications to serve on the commission and narrows the pool of applicants. Then state legislative leaders strike a limited number of applicants from the pool, and the Secretary of State selects the commission members at random. Secondly, Michigan’s model follows California in the way it employs rank order in the application of the criteria used to create district maps, which no other recent reform state does. Michigan takes it a step further by incorporating a rank order vote into the process that commissioners must follow to approve the final redistricting plan when the required number of straight votes are not met. The way the commission votes to approve a map is an important consideration here, since the commission’s decision is not subject to additional legislative approval.

Utah

Utah can be grouped with Missouri as one of the two states where a citizen-led ballot initiative did not lead to the creation of an independent citizens commission. Instead, commissioners are appointed by elected officials like in New York, Ohio and Missouri. However, unlike the states just mentioned, there seems to be a lack of safeguards in place to ensure that the commission’s maps are duly considered for approval by the state legislature, which has the ultimate authority to approve

redistricting plans. In Utah, the legislature may approve or reject a plan from the commission, and they may create and approve alternate plans if they reject the commission's plan. Thus, due to its limited authority, the Utah commission could be considered merely an advisory commission. However, when the legislature creates its own maps, they must still comply with the district criteria enacted with the reforms and publish an explanation for why the enacted maps are better. And, like four of the other states reviewed previously, maps cannot be created using partisan data, such as voters' party affiliation, partisan election results, voting records, or incumbents' addresses. This is intended to prevent the use of that data to create gerrymandered districts, and is one way to balance the prominent role of the legislature in Utah's redistricting process.

The Next Wave (2019 –)

Given the recent wave of reforms, it is no surprise that Pennsylvania is not the only state currently considering changes to its redistricting laws. Maryland, New Hampshire, North Carolina and Virginia are all actively considering how to overhaul their redistricting processes.

Maryland has a longstanding reputation for being one of the worst gerrymandered states in the country, with congressional districts drawn to heavily favor Democrats over Republicans. Maryland Governor Larry Hogan established a commission to look at the issue of redistricting there in 2015, and this past year no fewer than 10 bills were introduced related to redistricting. Most of them attempted to establish bipartisan redistricting commissions, but none were passed by the Democrat-controlled state legislature.

In **New Hampshire**, the state legislature passed a bill in June to create a 15-member redistricting commission for creating congressional and state legislative districts. Interestingly, the commission would have comprised citizens appointed by elected officials from a different political party. (For example, the Democratic leaders would have chosen the commission's Republican members.) The commission would have been responsible for creating maps and submitting them to the state's legislative leaders for approval. The bill was vetoed by Governor John Sununu in early August 2019, although observers are waiting to see if the legislature has the votes to override his veto.

North Carolina has a long and storied history of gerrymandering, including protracted legal battles. There have been at least six measures introduced this legislative session that attempt to change redistricting, including three constitutional amendments. A federal legal battle ended when the US Supreme Court declined to intervene on the issue of partisan gerrymandering, but plaintiffs are now turning to the state Supreme Court, in a turn of events not dissimilar to Pennsylvania.

In **Virginia**, a proposed constitutional amendment was passed this session to create a 16-member bipartisan advisory commission for creating election maps. It will have to pass again in the following session, and then be approved by voters at the ballot box.

Recommendations

Citizen Comment

“I notice too many offices run unopposed because when one party has a lock on the election any other parties know it is an exercise in futility to even spend the money it takes to run. So I feel gerrymandering negatively impacts our choices.”

C. B., Wyoming County

A Model for Pennsylvania

After evaluating citizen input, reviewing and learning from the recent experiences of other states, and considering legislation that has been drafted and considered in the General Assembly over the last few years, members of the Reform Commission determined that it would be most useful to construct its own model for consideration by the Governor and members of the General Assembly.

It is presented as a full model, rather than a collection of component parts, because the various features of the model work together to balance the desire for an independent (or at least decidedly less partisan) process with the appropriate amount of legislative involvement.

In doing so, we also recognize that this model is not the only viable option for Pennsylvania; its features could be implemented in any number of ways to reach similar desired outcomes. There are many trustworthy ways to draw election maps. We also anticipate and embrace the idea that there may be elements of our preferred model that could be used in whole or in part in another legislative vehicle.

Using the Who, What, and How framework, the Commission’s recommended model looks like this:

Who

- Maps are drawn and revised by an 11-member bi-partisan commission appointed through a public process by the leaders of the General Assembly and the Governor, subject to strict qualifications and disqualifications to ensure a reasonable amount of political independence. The Commission submits three possible maps to a bipartisan legislative body (either the General Assembly, a bipartisan subset, or the Legislative Reapportionment Commission), which chooses the final map.

What

- Maps should be drawn in accordance with simple but strict criteria that make it more difficult to divide political jurisdictions and communities, more difficult to draw districts with the goal of advantaging one party or another, and to ensure that diverse populations across the Commonwealth have a reasonable ability to have their interests represented.

How

- The maps should be drawn in a process that, at every turn, is transparent and open, and offers 21st century opportunities for public engagement.

To illustrate how this redistricting model would work, it might also be helpful to see it flow through a three-step process, which is described below with commentary that should help explain the choices that we made and why we made them.

Step 1: An eleven member citizens commission is appointed to draw and revise maps.

- Five members are appointed by Republican leadership of the General Assembly, and five by Democratic leadership, and the Governor appoints the 11th member as a non-voting Chair. As a non-voting Chair, the Governor’s appointee is intended to play the role of consensus builder and mediator. Each of these appointments should be based on the ability of the individual to do the job well, and should be subject to a strict set of disqualifications intended to weed out nominees whose political self-interests are strong and readily apparent. The following would be ineligible for consideration:

- anyone who has held public office at the Federal or State level or elective judicial office in the Commonwealth;
- anyone who has been registered as a lobbyist;
- anyone who has held a staff position in support of any such officials.

To guard against an individual resigning his or her post just prior to the nomination process, these disqualifications should extend back five years from the date of appointment.

- The legislative leaders of the two major parties would each select four members from the two major political parties, but no more than two registered with the same political party (i.e. Republicans and Democrats would each select two registered Republicans, two registered Democrats, and one unaffiliated or third party member.)

This would require each major party to nominate at least two from the opposing party. Even acknowledging that both “sides” would likely nominate sympathetic members of the other party, we still believe that adds another degree of useful separation from blatant partisan self-interest. Again, to ensure against any convenient conversions, we suggested that those considered for service would have to have been registered in the same political party for the last five years.

Citizen Comment

“Creating districts in a manner that ensures fair and just representation is fundamental to the motivation and ability of citizens to participate in the democratic process.”

**Anonymous comment from
online survey**

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- In making appointments to the Citizens Commission, the Majority and Minority leaders, and the Governor should reasonably reflect the geographic, gender, and racial diversity of this Commonwealth.

Step 2: The Commission solicits public input and drafts an initial set of five maps according to specific criteria. Then, after holding a second set of public hearings, the Commission narrows the set of maps to three.

- The Commission holds initial public meetings and solicits online public comment to understand the values, goals, and proposed changes citizens would like to see reflected in a new set of maps.
- To give it the necessary capacity and independence, the Commission should be able to hire its own staff or consultants to aid in the map-drawing process. It should also be required to accept maps submitted by any citizen of Pennsylvania, and all submissions should be made available for public review and comment. As the 3,300 Pennsylvanians who have participated in the Draw the Lines PA initiative have demonstrated, the technology has evolved to the point where election map-drawing is accessible to a wide range of Pennsylvanians.
- Requiring that the Commission identify five maps improves transparency and trust by illustrating that there are multiple ways to comply with the rules.
- The five maps should be drawn based on public input and specific criteria. We chose these criteria because a) they are already expressed in the Pennsylvania Constitution for the state legislative map-drawing process; b) they were cited frequently in the Commission's public meetings and in the online comments and; c) they are more measurable and accountable than other criteria that were considered. These include:
 - All districts should be compact and contiguous, and political jurisdictions should only be split when absolutely necessary. These are the requirements set forth in Article II Section 16 of the Pennsylvania Constitution for the state legislative districts and we believe they should be the foundation for all maps, both legislative and congressional. The Commission should be required to provide mathematical measures of compactness, contiguity and the number of political jurisdictions split for every map submitted so that the public can examine the degree to which these maps are the best possible that meet these criteria.
 - Counties, cities, townships, boroughs, and wards should only be divided to meet the maximum population deviation permissible, which would be determined in the legislation. Furthermore, districts should be drawn with the fewest number of divisions to counties, municipalities, and wards within the maximum population deviation permissible, and the Commission should provide a written justification for each division in the map. Finally, no Election District (voting precinct) should be divided in forming a district. Both of these relate to one of the most consistent frustrations we heard over and over from citizens about when districts divide community jurisdictions. It's also worth noting that in Pennsylvania, with roughly 2,600 units of local government, local jurisdictions more accurately capture a "community of interest" than in other states like Maryland where local government stops at the county level. This is why splitting those community jurisdictions should be kept to a bare minimum.
 - The districts should adequately reflect and protect the interests of racial minorities in the Commonwealth. We suggested one of two alternative approaches to achieve this goal:

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- The districts should provide racial minorities with an equal opportunity to participate in the political process and shall not dilute or diminish their ability to elect candidates of choice whether alone or in coalition with others. This would define a more precise standard for Pennsylvania that would supplement any federal mandates.
 - Nothing in these requirements shall be construed to require or permit any districting policy or action that is contrary to the Voting Rights Act of 1965, as interpreted by the United States Supreme Court and other courts with jurisdiction. This is a broader criterion that acknowledges the need to respect the requirements of the Voting Rights Act – whose interpretation is not easy for the lay audience to understand – without requiring a separate state standard.
 - To further safeguard the process from partisan manipulation, in drawing these maps the commission should not be able to consider:
 - Addresses of any individual.
 - Political affiliation of registered voters.
 - Previous election results, unless required by Federal law.
 - In addition, any data used or considered by the Commission, including the Census Data, should be released to the public prior to its use or consideration. To make the maps more understandable and accessible to citizens, each map should be also accompanied by a short narrative explaining the value or goals the map reflects and provide mathematical measures of the map’s compactness, contiguity, and number of jurisdictional splits. To ensure 21st century transparency, the Commission should use modern and frequently used communication platforms. Currently, these include an easy to find website that includes all data used in the process, mapping software, public hearing video and transcripts, online feedback/survey, as well as initial and subsequent maps approved.
 - In keeping with our interest in encouraging a consensus-driven process, we believe that seven votes from the 10 voting members should be necessary for approval. With four of the 10 voting members from each major party, this would require each “interest” to sway three more votes from among the other six.
 - If the Commission is unable to reach a consensus on the set of five maps, then each member or group of members may propose one map with a written explanation, and the Commission should use ranked choice voting or some other consensus-driven process to determine the set of five.

Citizen Comment

“One person, one vote: compactness, contiguity, community of interest, in that order.”

C. S., Philadelphia County

Citizen Comment

“My district was one of the worst as far as gerrymandered boundaries. It snaked around the counties until it was recently redrawn. However, I’m afraid now that it will go back to being redrawn unfairly again if we do not elect a fair commission to draw the lines come 2020.”

A. J., Chester County

Step 3: The Commission then narrows the set of five maps to a set of three (again based on the process described above) and submits the set of three to the legislative body, which chooses one.

- The “legislative body” could be the Legislative Reapportionment Commission, some other bi-partisan subset of the General Assembly (e.g. the Majority and Minority Leadership from both the House and Senate), or the General Assembly as a whole. If the legislative body is the General Assembly as a whole, a super majority vote in both the House and Senate should be used to approve the final map. Again, we felt strongly that the process must continue to require at least bipartisan approval, if not consensus.
- The Legislative body must choose one of the three maps, without making any additions, subtractions or changes. We believe that this limited choice approach strengthens the role of the Citizens Commission and minimizes the opportunity for partisan maneuvering that has too often characterized maps drawn in the past.
- If the legislative body cannot agree on one of the three maps within a reasonable period of time, the power to approve reverts to the Citizens Commission, which would use a super-majority vote, ranked choice voting, or some other consensus-driven decision process (one that they would agree upon and share publicly) to select a map with bipartisan support.

It has been 51 years since Pennsylvania voters, through the Constitutional Convention of 1967-68, revised the redistricting process. The creation of the Legislative Reapportionment Commission (LRC) served as an innovative model for redistricting, when few states in the mid-60s had any structure built around the redistricting process. The Governor and the leadership of the General Assembly, as well as the elected members of the Constitutional Convention, deserve great credit for their vision and foresight in 1968.

Conclusion

Today, in a time of hyper-partisanship, Pennsylvania has shown a united voice around redistricting, which crosses party lines. Legislators, advocates, and voters of the Commonwealth agree redistricting reform is needed in 2019.

Now is the time for a fundamental re-examination of Pennsylvania's process for drawing political maps. Technology has emerged as a powerful force in the process and political pressures are stronger than ever. Once again, legislative leaders are poised to address these modern-day challenges by implementing innovative redistricting reforms uniquely designed to reflect Pennsylvania.

The Pennsylvania Redistricting Reform Commission strongly believes these reforms should epitomize principles designed to instill public trust in the revised process:

1. Politicians should not have complete control over redistricting.
2. The criteria used to create district maps should be clearly defined and measurable.
3. The goals and methods for redistricting should be transparent to the public.

In the last 9 months, this Commission heard citizens express their frustration and desire for change. Citizens yearn for political leaders and a political process that can unite, rather than divide, and in doing so strengthen the fragile ties between the governed and those that govern.

Pennsylvanians are looking to the General Assembly and Governor to implement a redistricting process they can understand and trust. In 19 short months, the unveiling of the census data will mark the commencement of another redistricting cycle. The people are counting on the General Assembly and Governor to ensure this launch incorporates a reformed redistricting process worthy of their trust.



