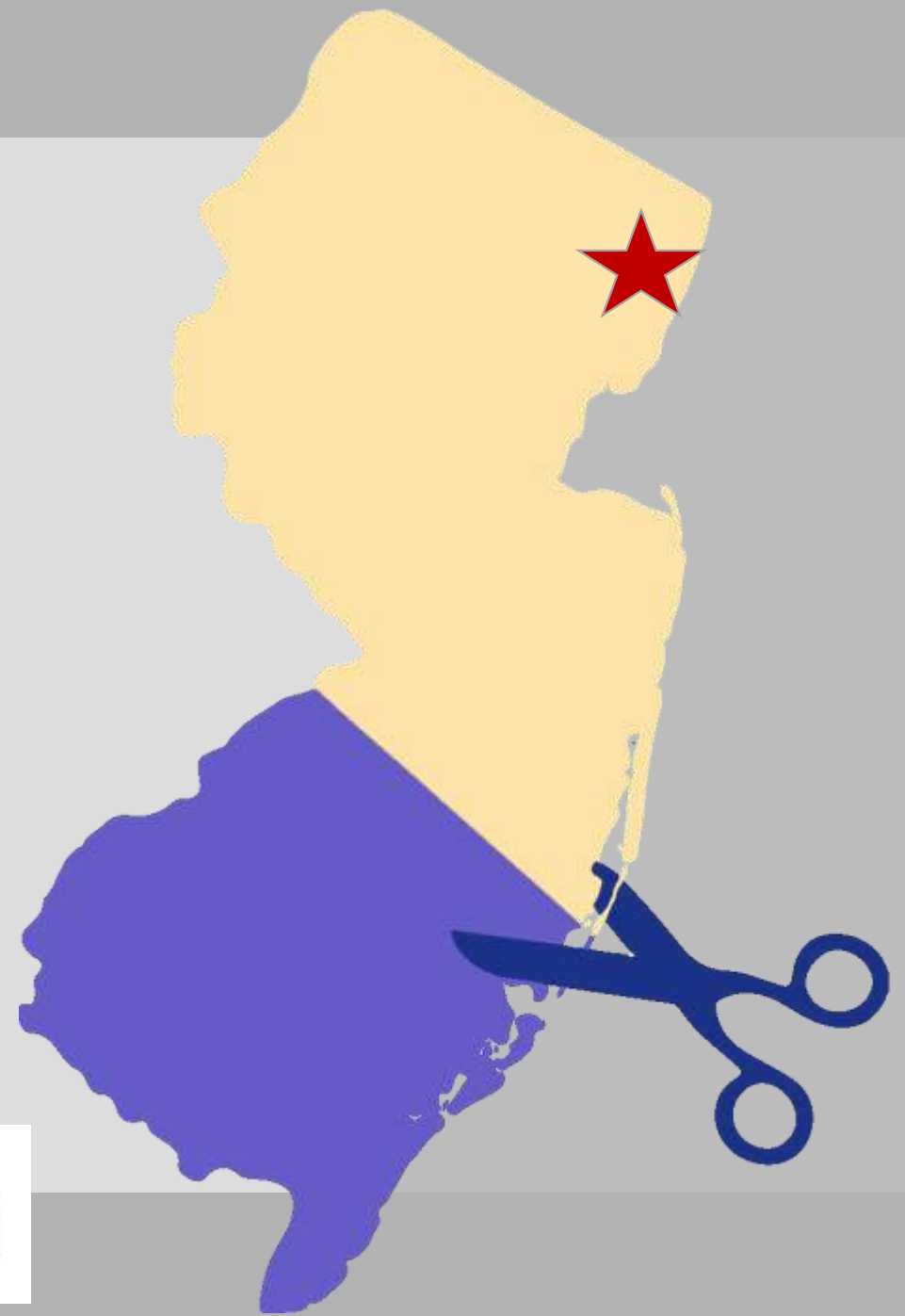


REDISTRICTING REFORM BEST PRACTICES FOR A FAIRER NEW JERSEY



LWV LEAGUE OF WOMEN VOTERS'
OF NEW JERSEY



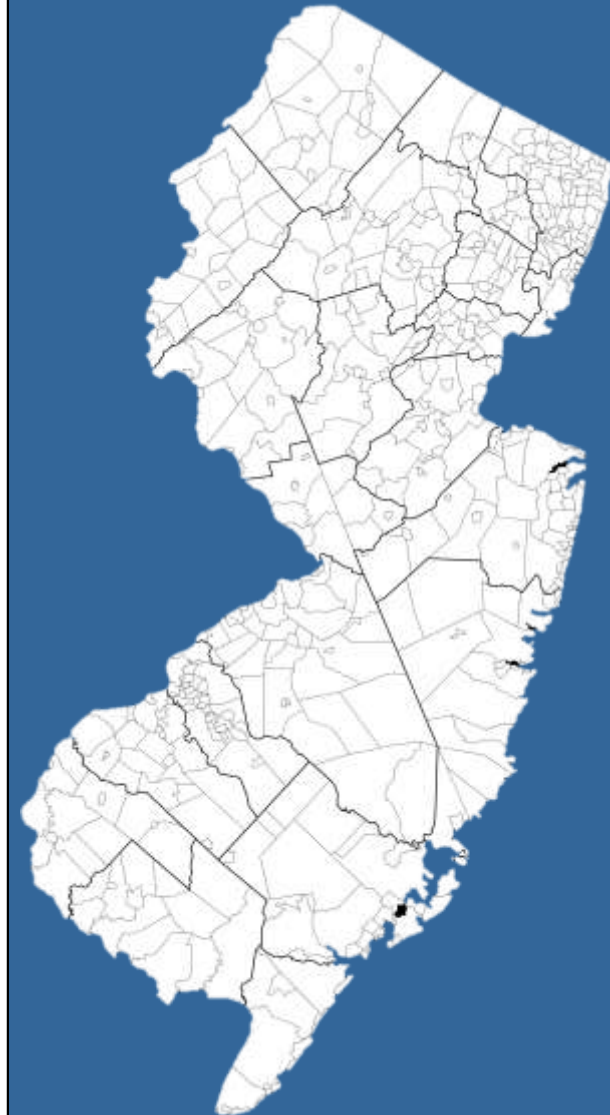
**FAIR
DISTRICTS
NEW JERSEY**
LWV LEAGUE OF
WOMEN VOTERS'

 **NETWORK For
RESPONSIBLE
PUBLIC POLICY**

 New Jersey
APPLESEED
Public Interest Law Center

Forum Overview:

- Redistricting 101: What It Is and Why It Matters
- Current Legislative Redistricting Process
- Reforms and Efforts in other States
- Redistricting Principles and Best Practices – Overview and Discussion
- Q&A

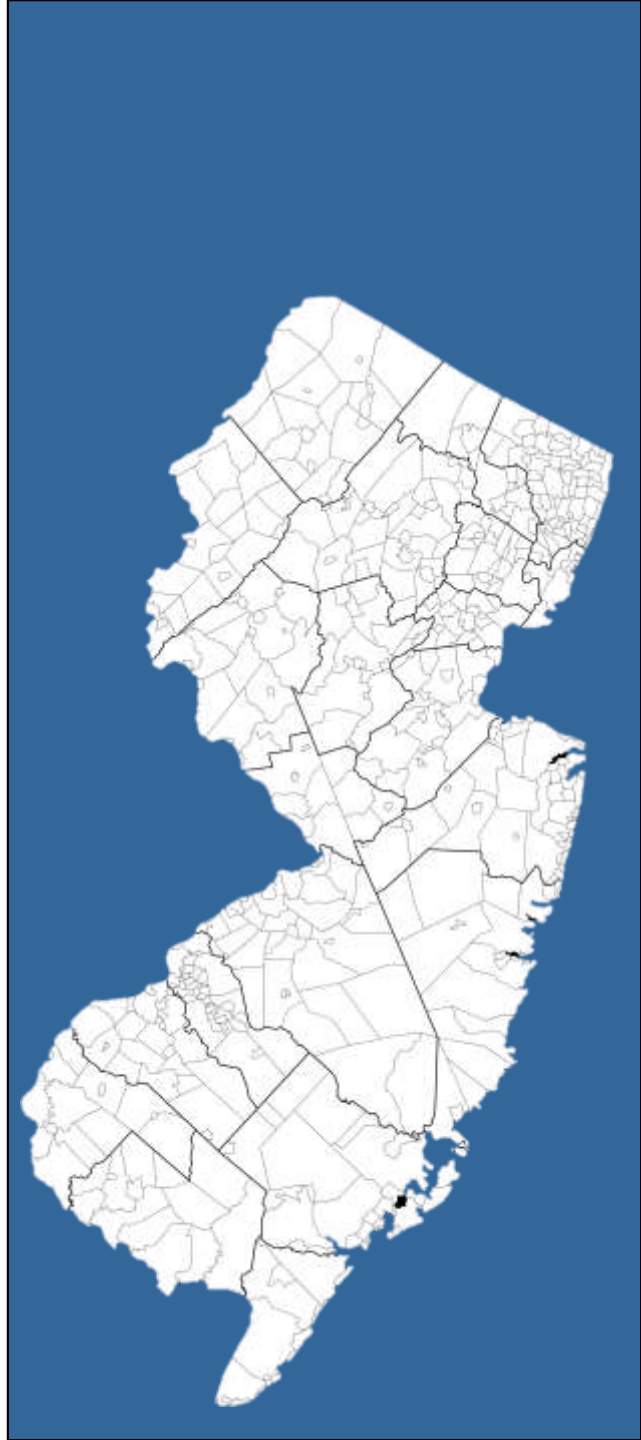


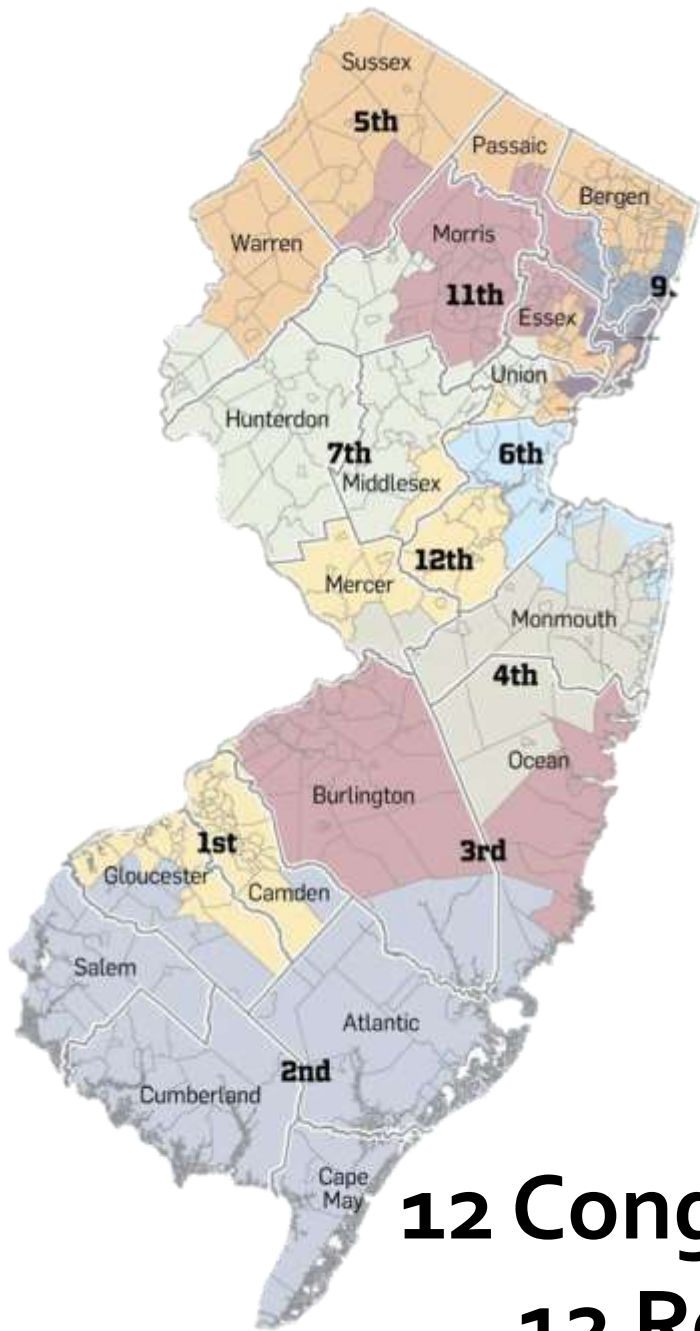
Redistricting

- Adjusting the districts that determine who represents us in government
 - Federal, state, local

Reapportionment

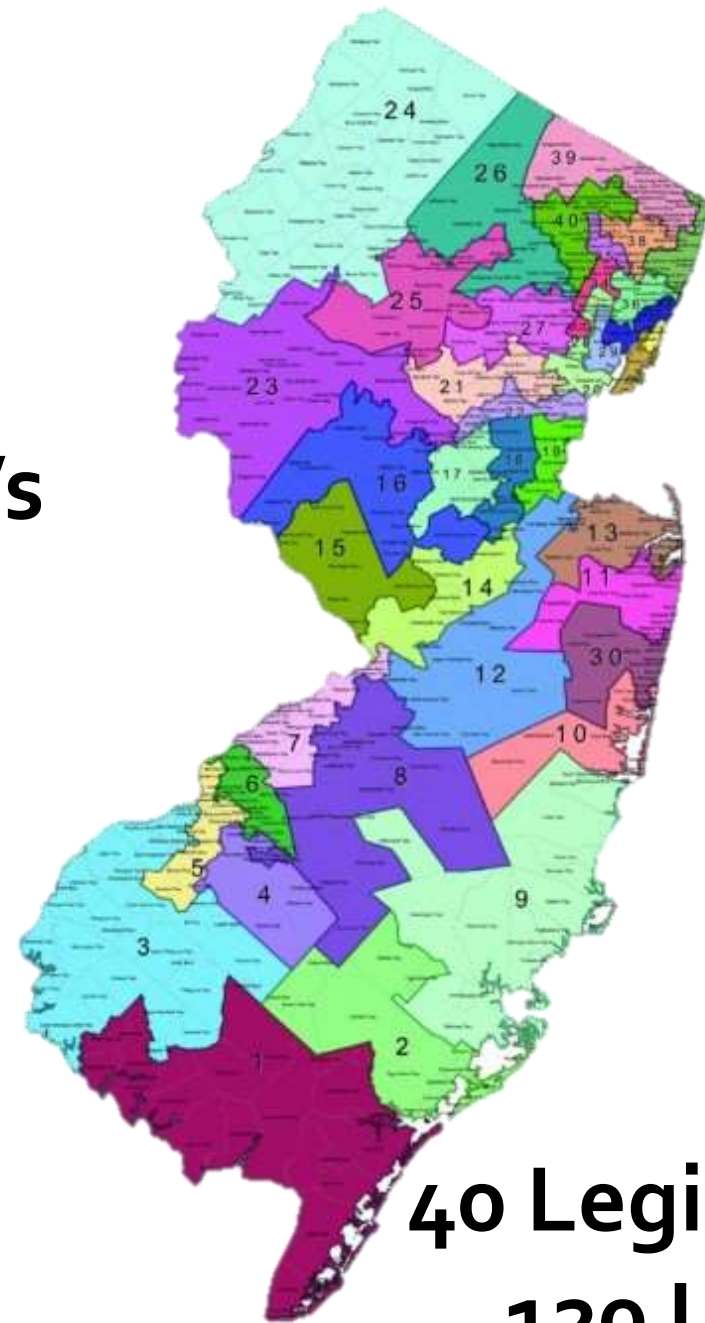
- Redistribution of seats in the US House of Representatives
 - based on changes in population, recorded by Census every 10 years
 - 435 seats total across 50 states





**12 Congressional =
12 Reps**

New Jersey's Districts



**Focus of
public forums**

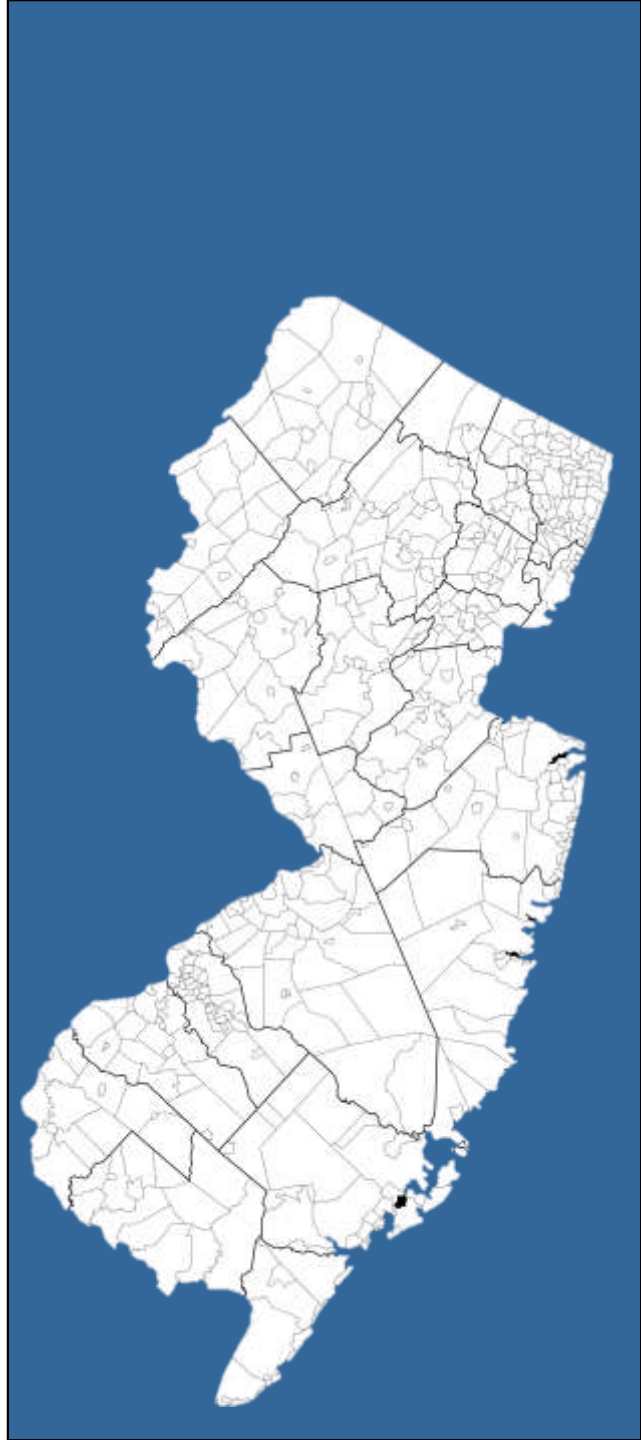
**40 Legislative =
120 Legislators**

Federal Constitutional Basis:

U.S. CONST. Art. I, § 4, cl. 1 (The "Elections" clause): "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof."

U.S.CONST, Art. I, §2, cl.3 (1787): "Representatives and direct Taxes shall be apportioned among several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons."

U.S. CONST. amend. XIV, §2 (1868): "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed."

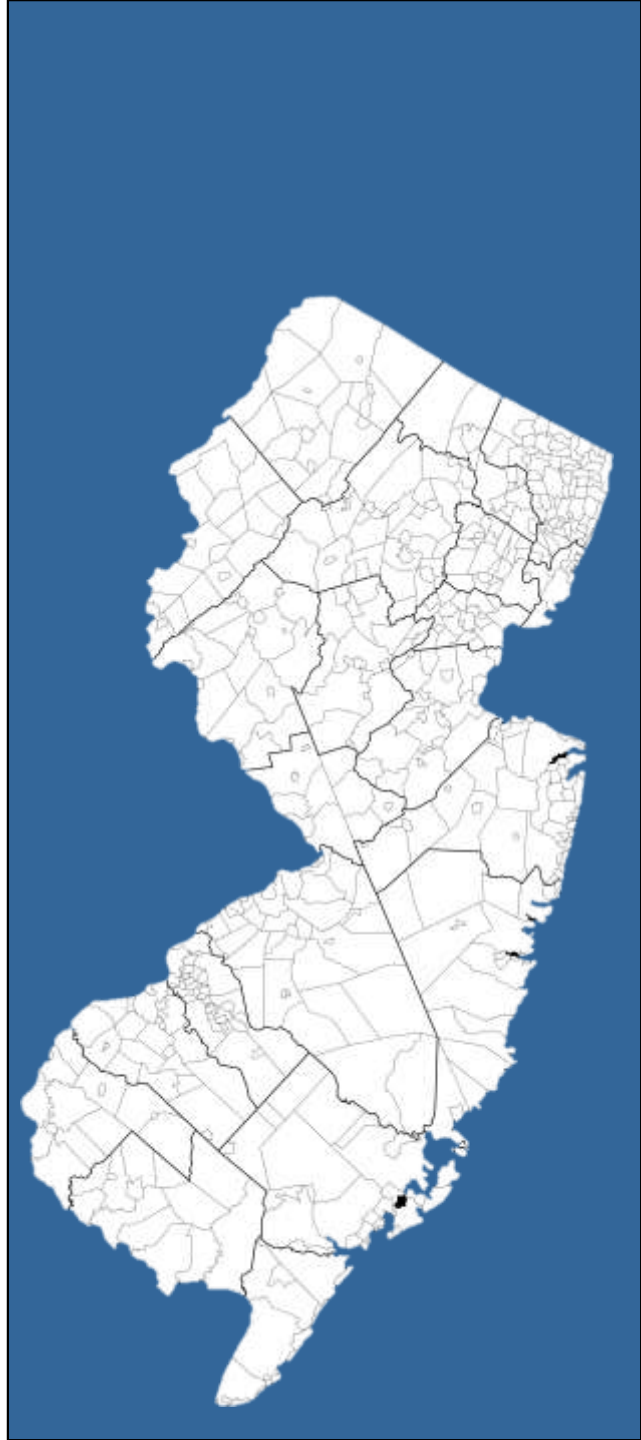


Other Relevant Federal Mandates:

U.S. CONT. amend. XV, §1: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by an State on account of race, color or previous condition of servitude.”

42 U.S.C. §1973: “No voting qualification or prerequisite to voting or standard, practice or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees . . . [related to members of a language minority group.]”

Voting Rights Act of 1965, 52 U.S.C. §10301 et seq.



“One Person, One Vote”

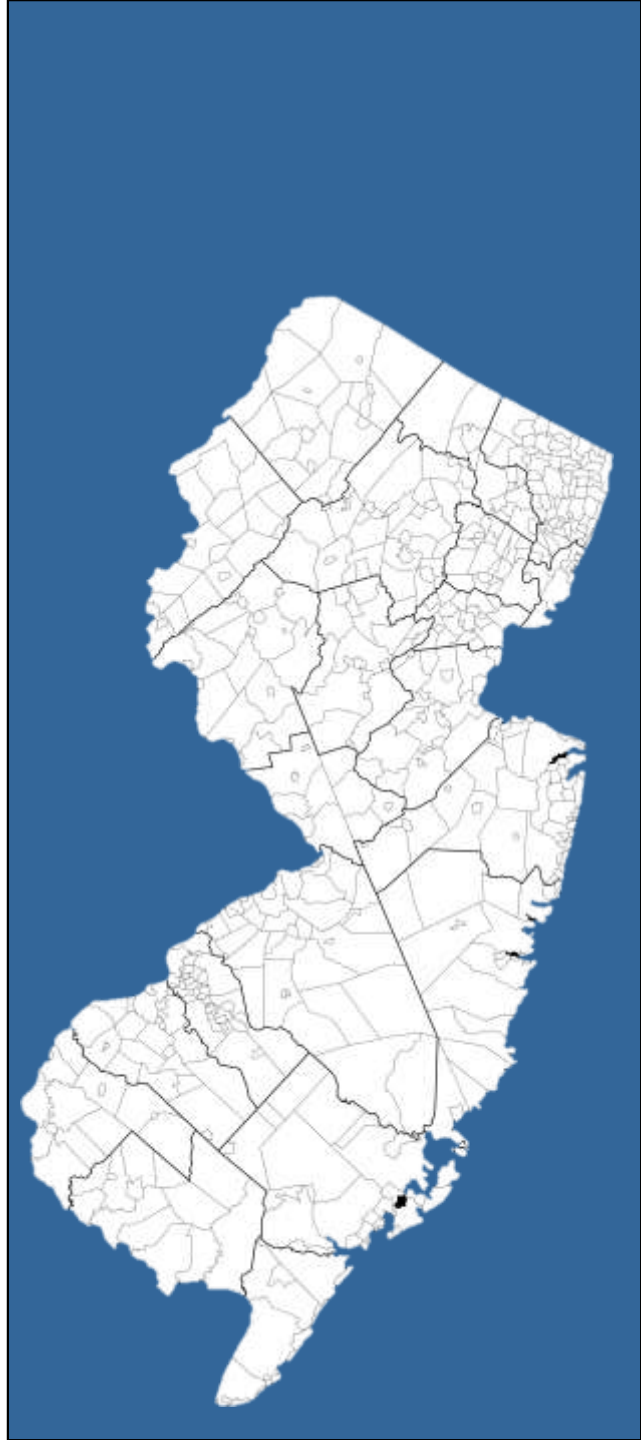
Colegrove v. Green, 328 U.S. 549 (1946) (reapportionment a political problem)

Gomillion v. Lightfoot, 364 U.S. 339 (1960)(racially discriminatory redistricting is within constitutional sphere and subject to court review)

Baker v. Carr, 369 U.S. 186 (1962)(state apportionment action deprived voters of equal protection; first time heard “malapportionment claim”)

Wesberry v. Sanders, 376 U.S. 1 (1964)(relying on Art.1, §2,, congressional districts must be drawn with equal populations)

Reynolds v. Simms, 377 U.S. 533 (1964)(EP clause requires that the seats in both houses of a state legislature must be apportioned on a population basis; “votes to be equally weighted”)

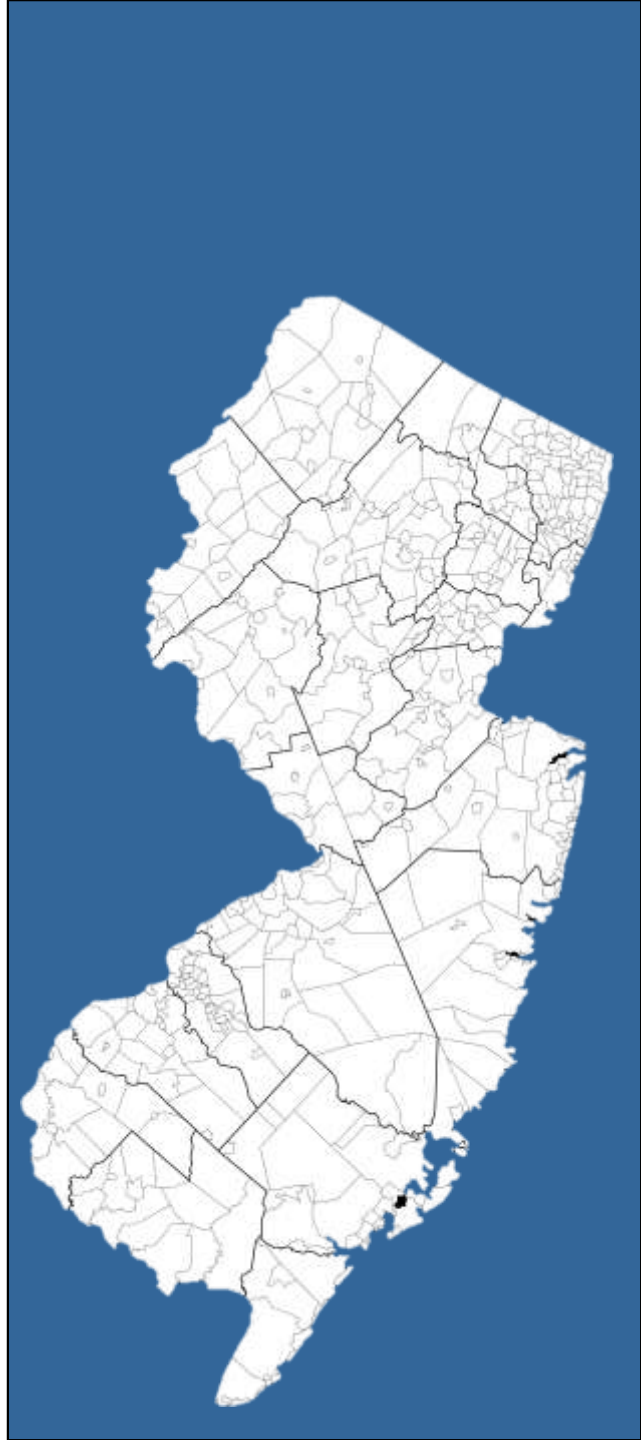


Legal Issues that have Emerged

---how “equal” must populations be? What countervailing factors may be considered? Brown v. Thomson, 462 U.S. 835 (1983)(less than 10% difference between districts, presumptive compliance with one person, one vote).

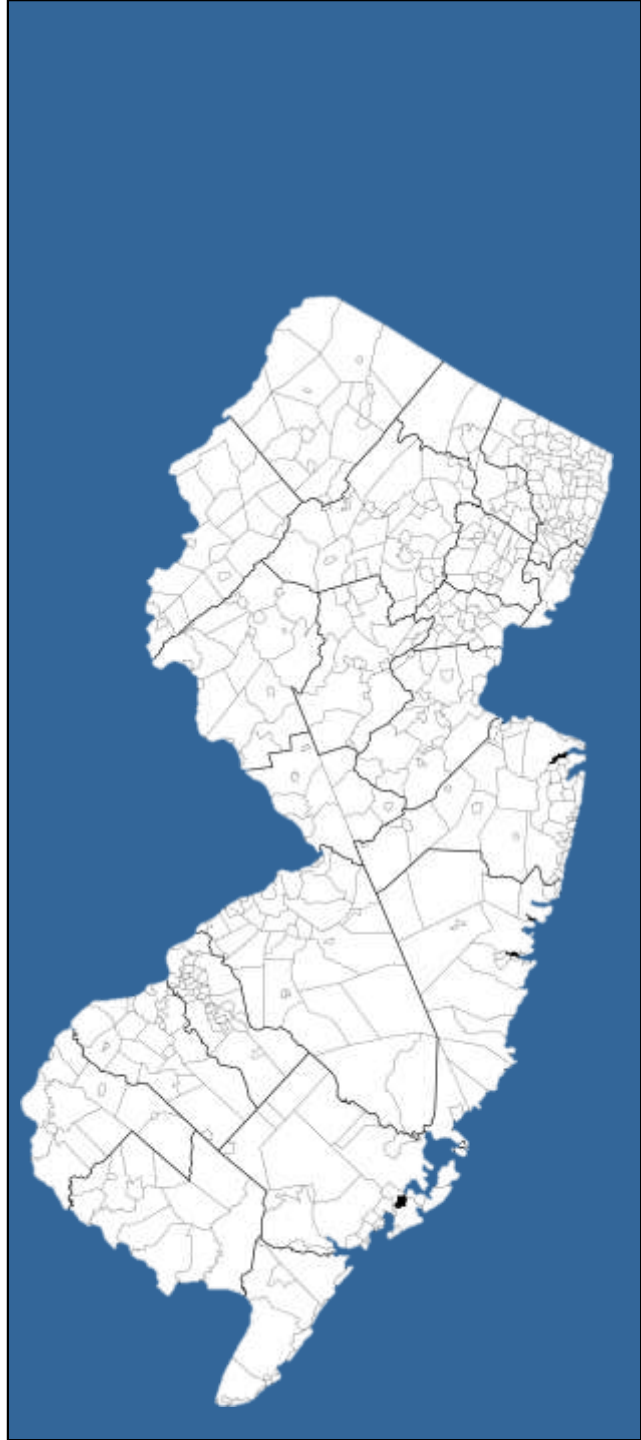
---fair representation of all residents v. equality among eligible voters; what population base must be equalized? Evenwell v. Abbott, 578 U.S. ___(2016)(not required to employ voter-eligible population)

--challenge district by district (voter dilution) or First Amendment (right of association) challenge to state map. Gill v. Whitford, 585 U.S. ___ (2018)(challenge to partisan gerrymandering, “cracking and packing” resulting in alleged “efficiency gap” requires injury as individual voter)



Why Redistricting Matters:

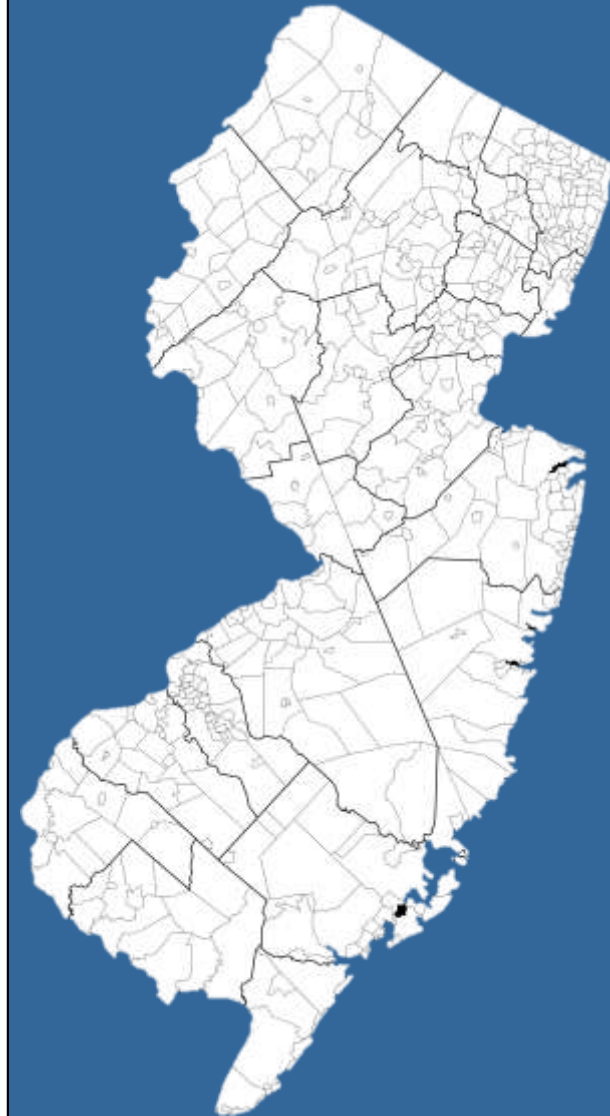
- A fundamental component of our democracy.
- How political power is redistributed across the state.
- How we ensure everyone is equally and fairly represented.
- How people's voices get heard (or don't get heard).
- How responsive politicians are to constituents' needs.
- How resources are distributed across communities.



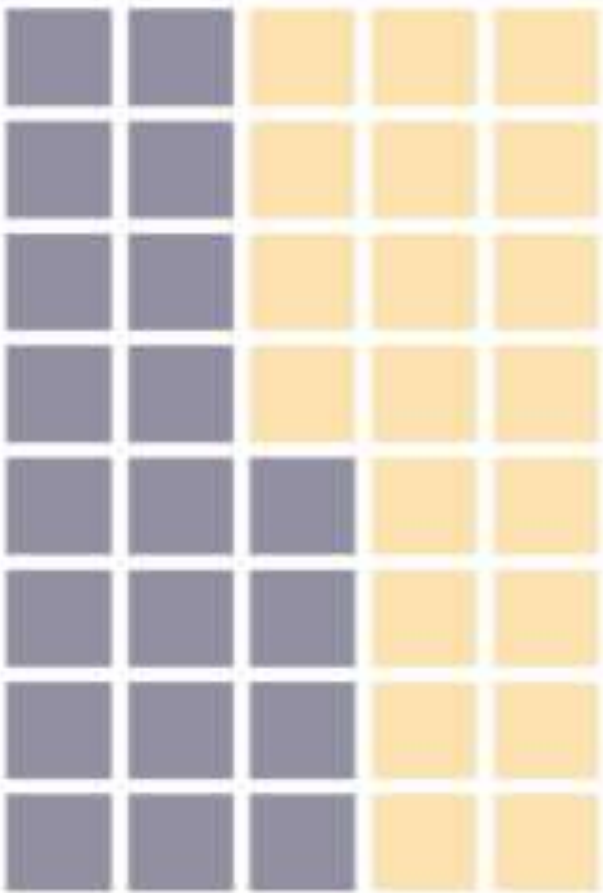
Importance of Public Participation:

- Knowledge of communities
- Knowledge of issues
- Gerrymandering-prevention

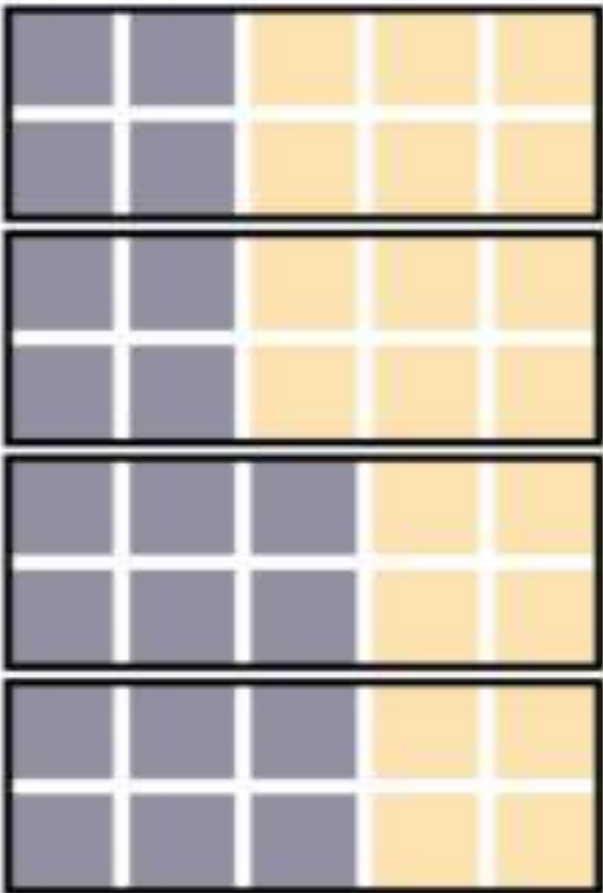
Voters should be picking their politicians,
and not the other way around!



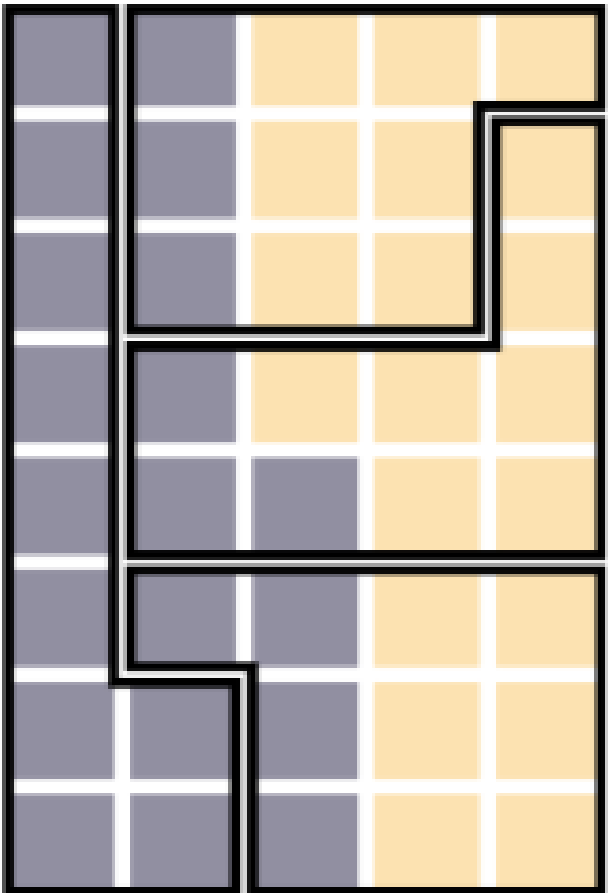
Gerrymandering – strategically redrawing district boundary lines to favor one group or political party over another



40 VOTING PRECINCTS
50% PURPLE
50% YELLOW



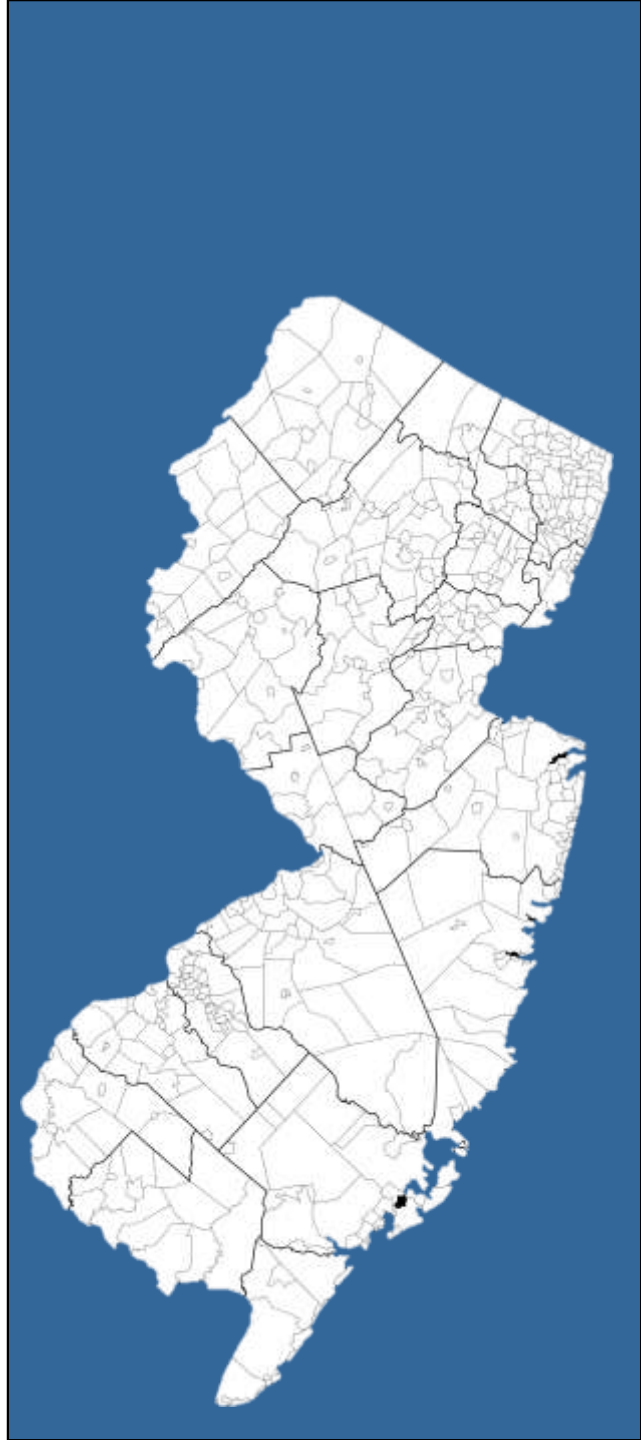
4 DISTRICTS
2 PURPLE
2 YELLOW



4 DISTRICTS
1 PURPLE
3 YELLOW

Gerrymandering

- Racial gerrymandering dilutes the voting power of communities of color and prevents them from electing candidates of their choice;
- Bipartisan gerrymandering leaves incumbents in place and less responsive to voters;
- Partisan gerrymandering permits increased polarization within parties and harms the opportunity of members of excluded parties, political organizations and their members from influencing policy



Politicians picking their voters

Ignoring the will of the people

Eliminating potential opposition

Running incumbents against each other

Carving incumbents out of their current district

Diluting groups' voting power

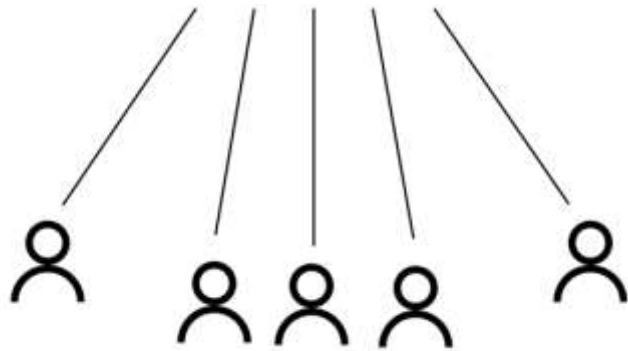
Skewing groups' voting power

Destroying public's trust in process

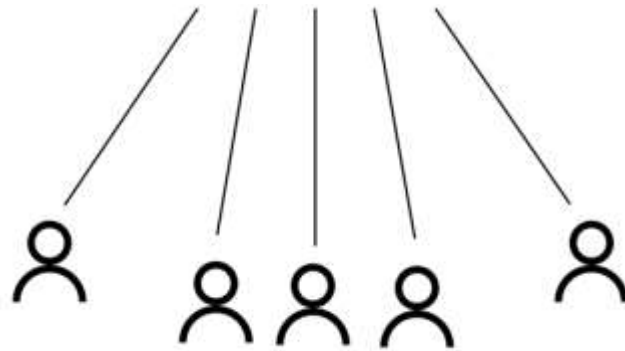
Legislative Redistricting in New Jersey:

- Ten Commissioners appointed by the two State party chairs by Nov. 15th in the year of the census

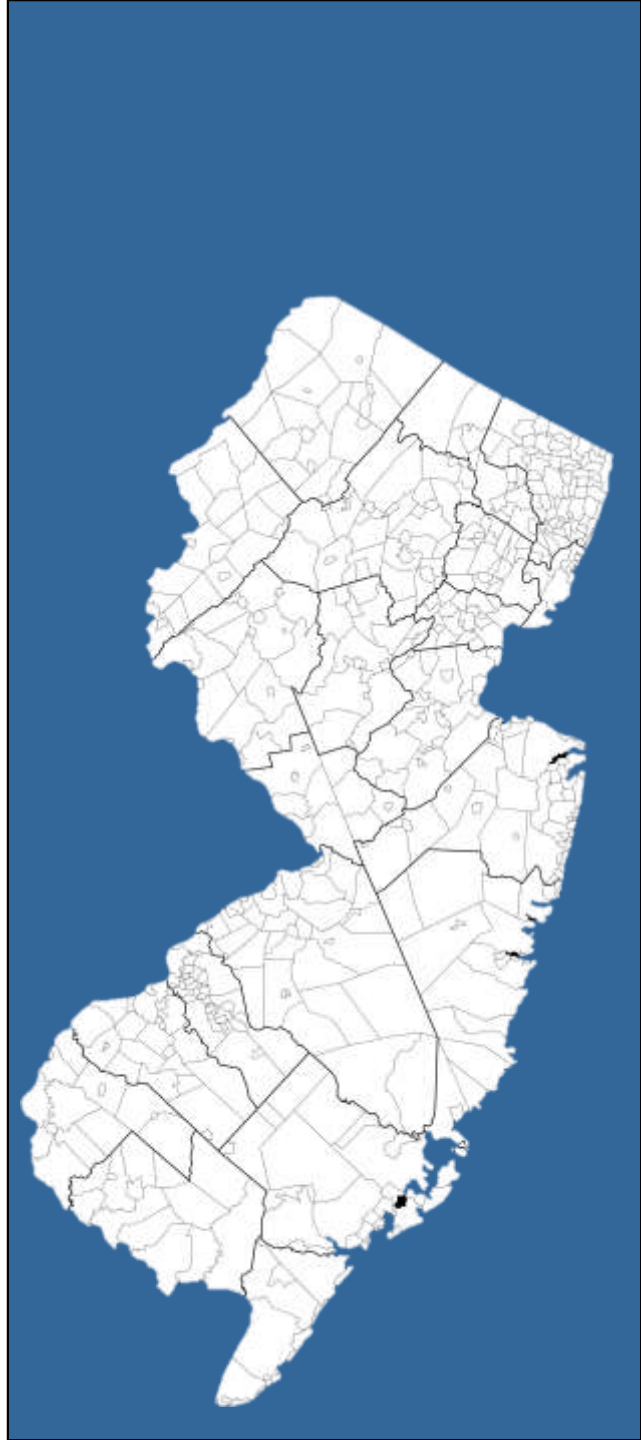
Republican State Party Chair



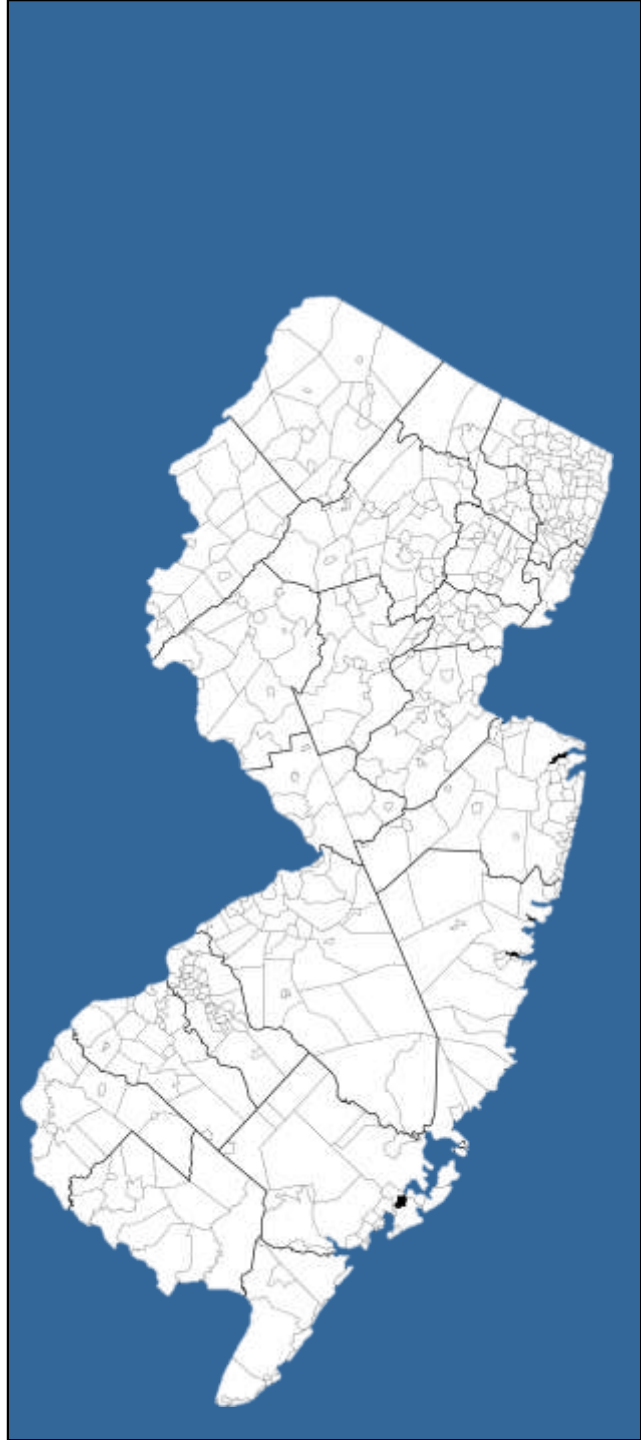
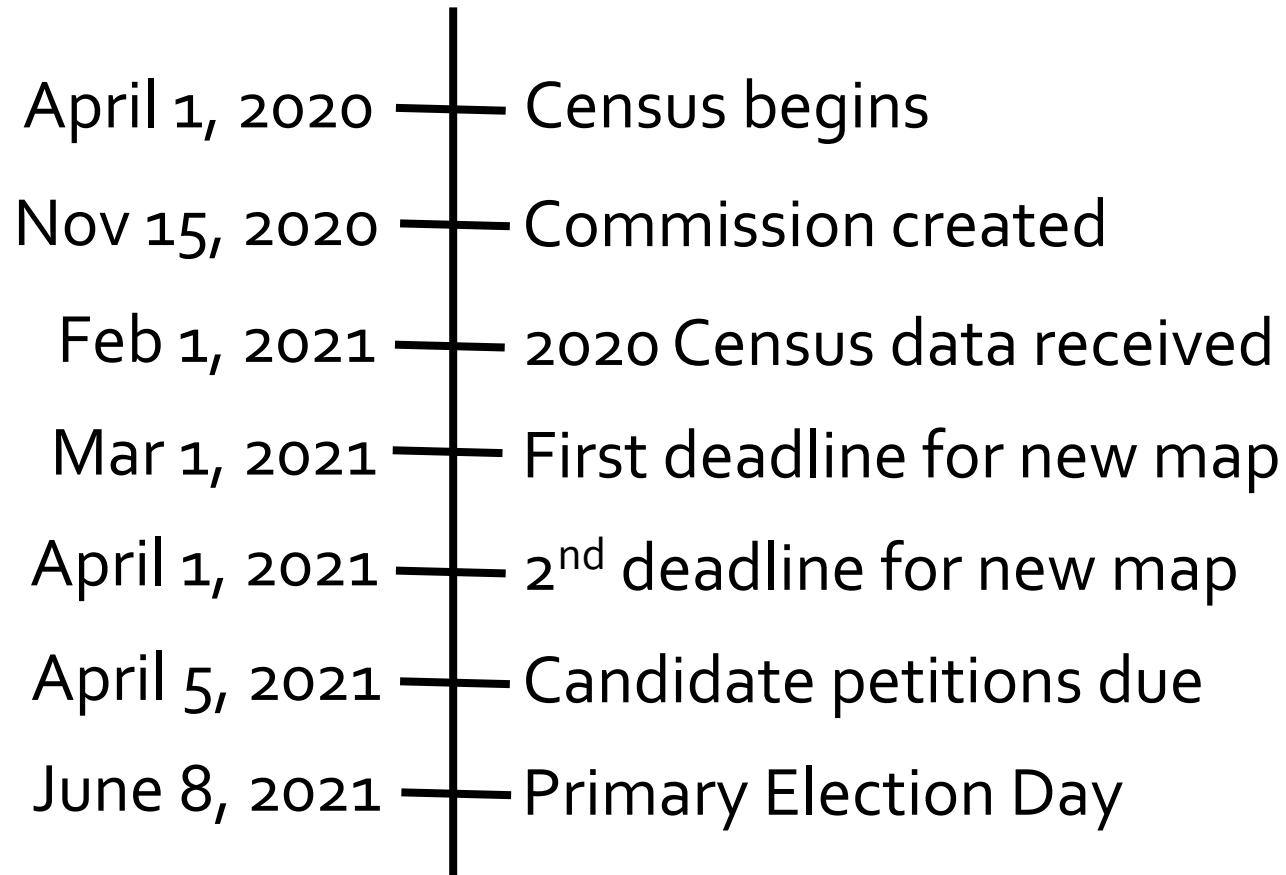
Democratic State Party Chair



- Commission receives Census Data in late Jan/early Feb
- Have 1 month to draw new district map
- Need 6 out of 10 Commissioners to approve final map

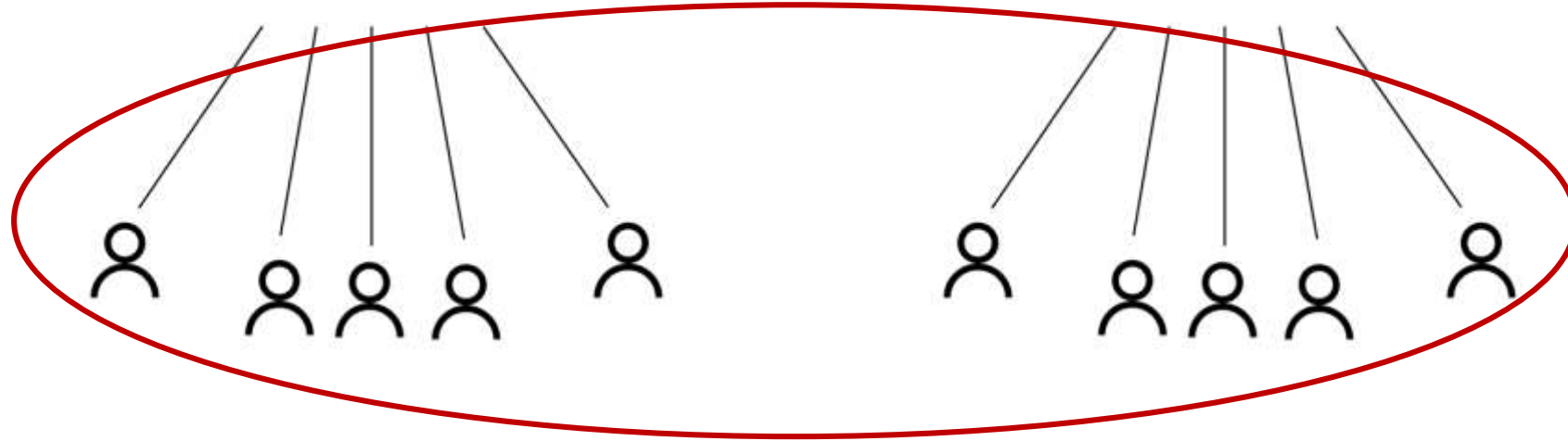


Timeline:



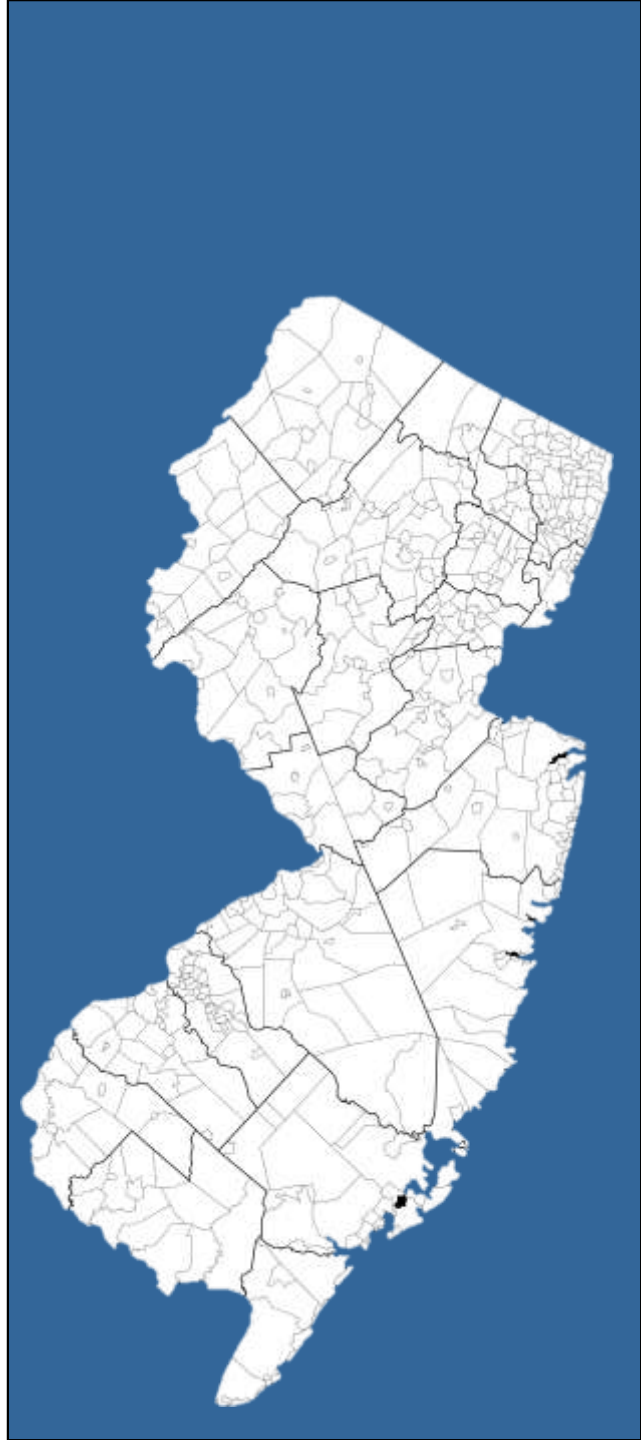
Republican State Party Chair

Democratic State Party Chair

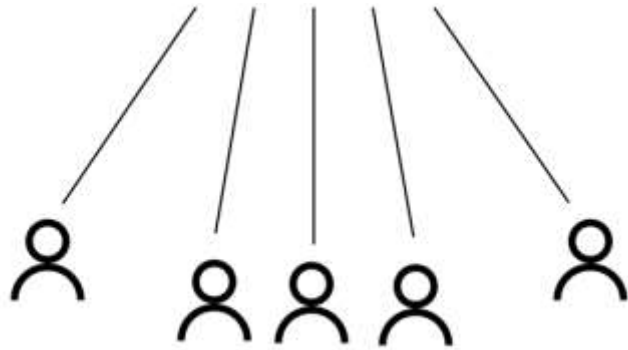


Issues:

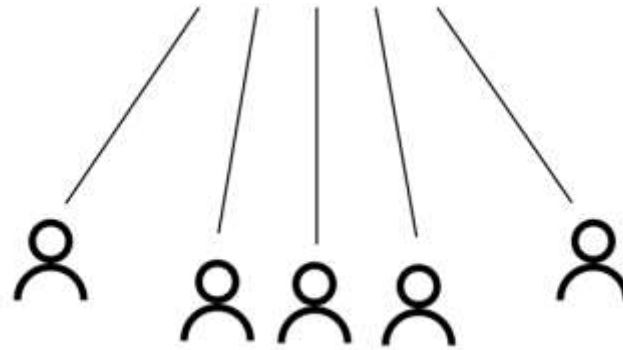
- Geographic diversity only requirement
- 1 month to draw new district map is not enough time
- Historically, unable to reach bipartisan agreement



Republican State Party Chair



Democratic State Party Chair



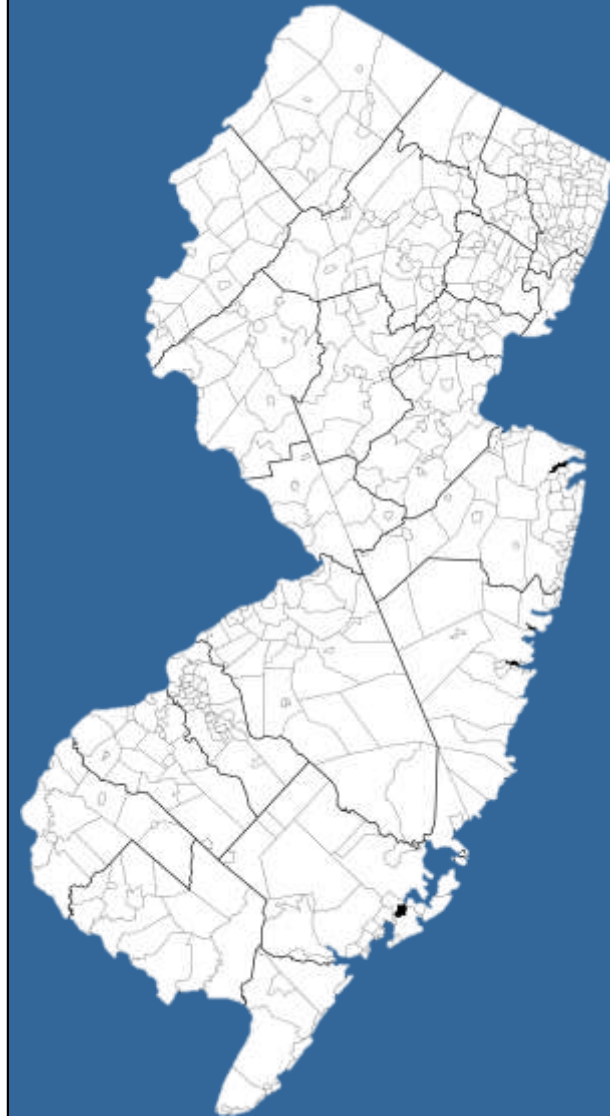
Issues:

- Geographic diversity only requirement
- 1 month to draw new district map is not enough time
- Historically, unable to reach bipartisan agreement



Additional Issues:

- > 40% of NJ registered voters - Unaffiliated
- Constitution has no requirement for public hearings
- Commission exempt from Open Public Meetings Act
- No reporting requirement – lack of transparency
- Only line-drawing rules that exist for Commissioners:
 - Abide by Constitution and Federal Law
 - Equal populations
 - Cannot split county or municipality unless population exceeds 1/40th of total population
 - Boundaries must be contiguous
 - Districts must be compact

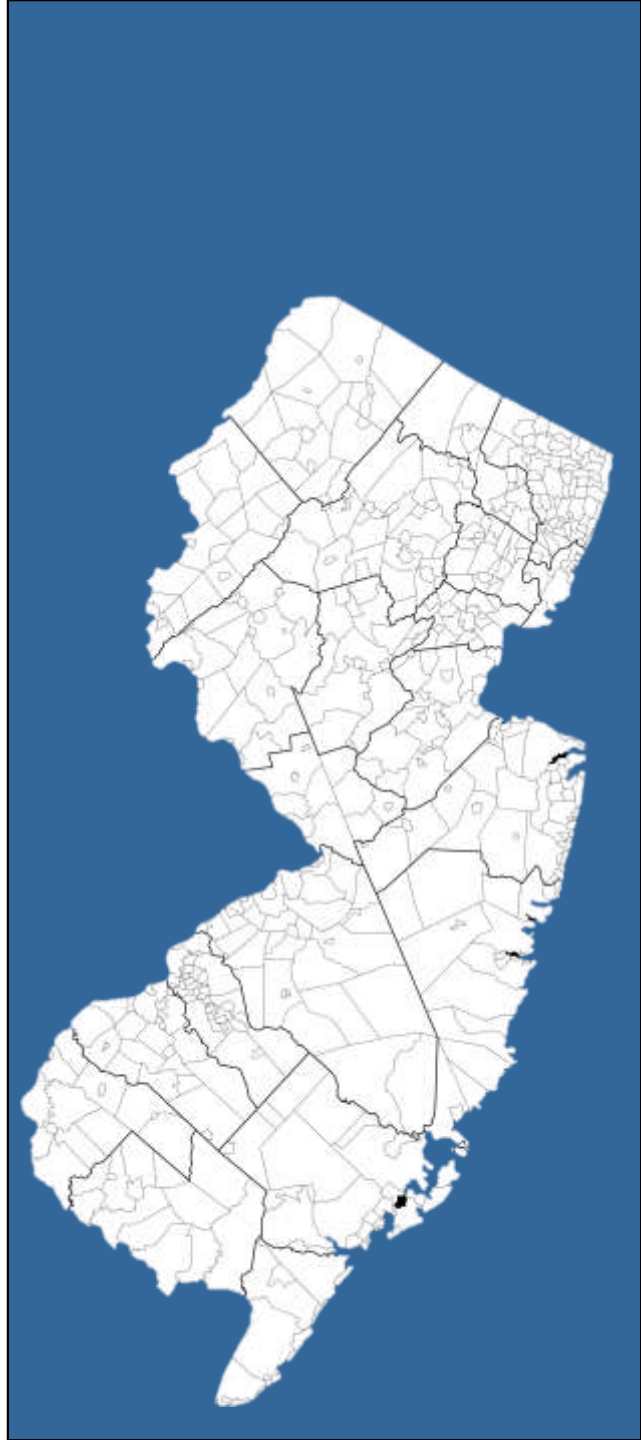


When no agreement is reached:

- Chief Justice of NJ Supreme Court appoints 11th member as a “tie-breaker”
 - Neutral member works with teams for one more month
 - Need 6 of the 11 Commissioners to approve new map

Issues:

- Not involved from beginning
- Too much power vested in one individual





REDISTRICTING MAP PRESERVES THE INCUMBENT ADVANTAGE

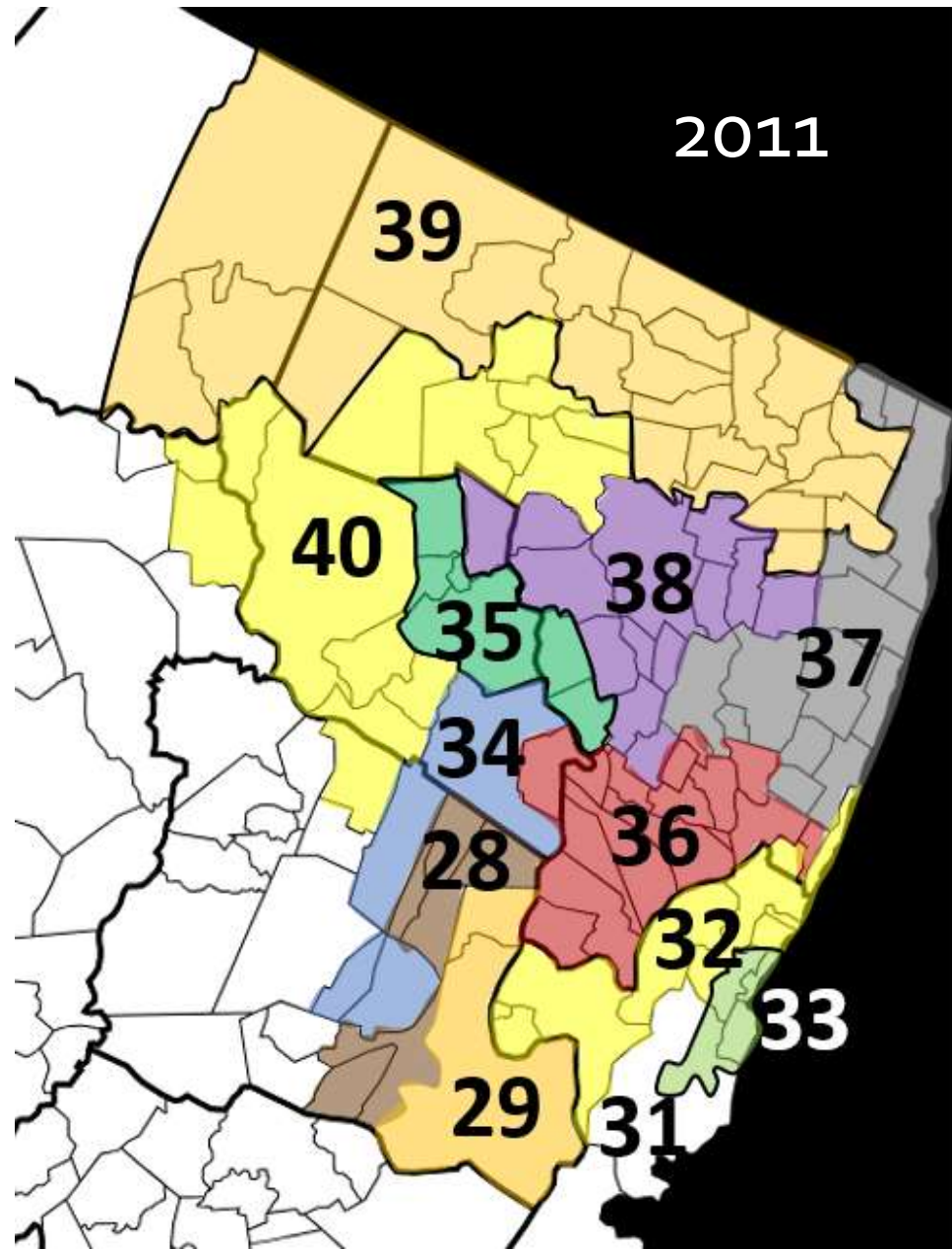
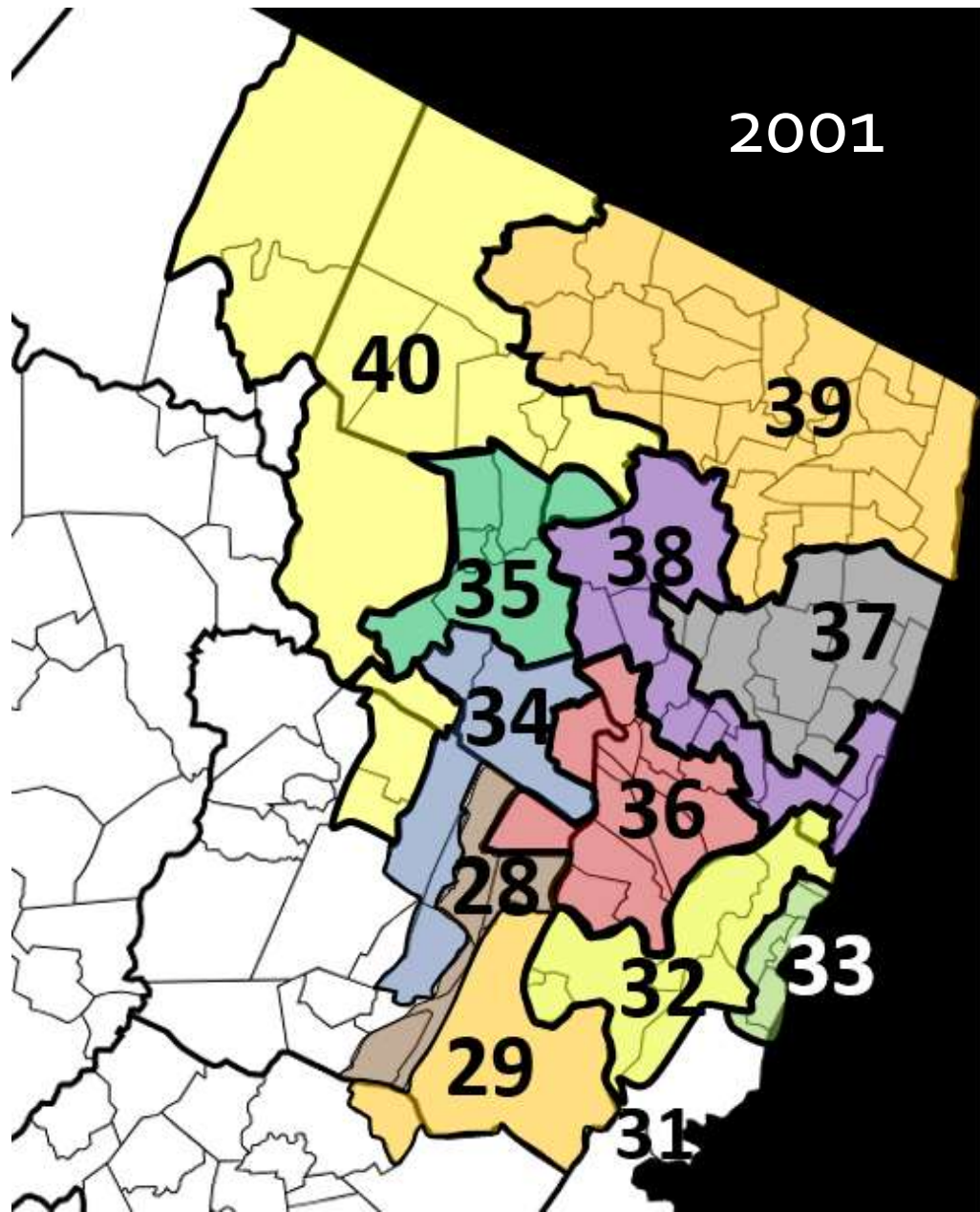
MARK J. MAGYAR | APRIL 4, 2011

In choosing the Democratic map, redistricting tie-breaker Alan Rosenthal opts for "continuity of representation."

Redistricting tie-breaker Alan Rosenthal's decision to support a legislative redistricting map drawn up by Democratic commission members can be summed up in two words: *status quo*.

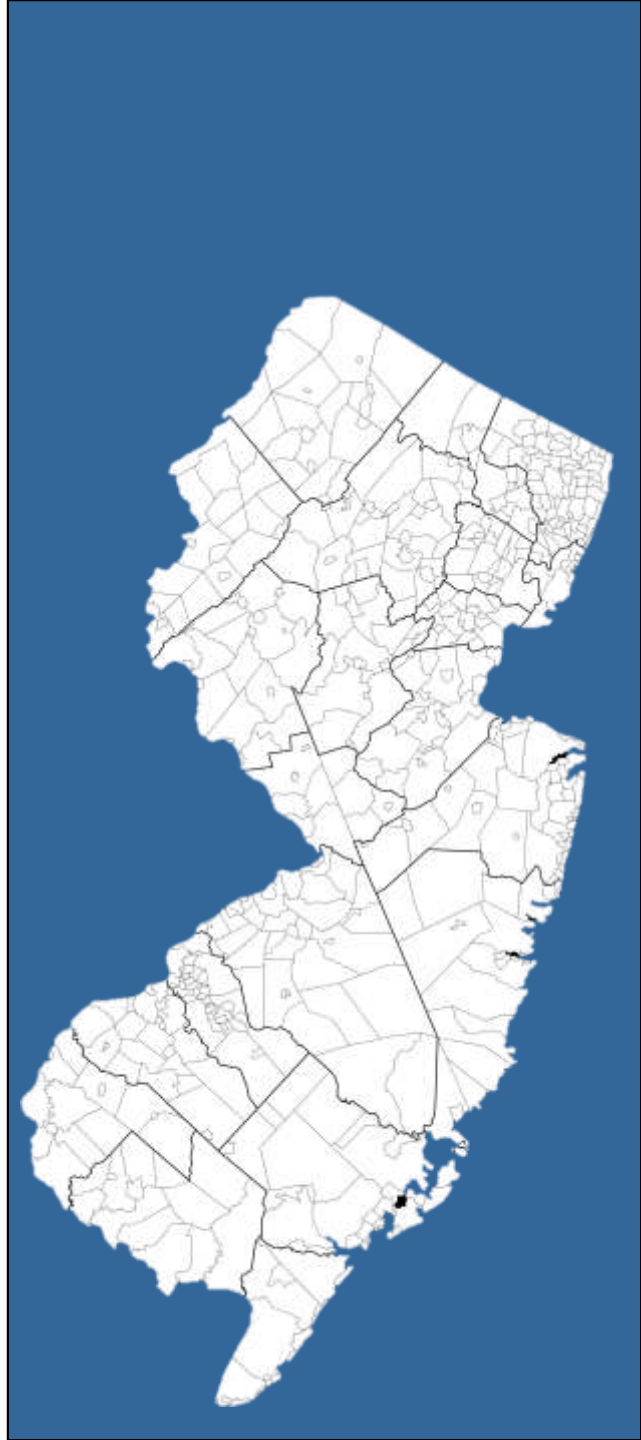
Rosenthal's decision yesterday makes it likely not only that Democrats will continue to hold their majorities in both the state Senate and the state Assembly in next November's election, but also that 90 percent of incumbent legislators will be reelected with relatively little difficulty.

Rosenthal, the Rutgers University political scientist who was chosen to serve as the Legislative Redistricting Commission's 11th member, made clear at a public hearing shortly after accepting appointment as the neutral tie-breaker, that one of his top priorities was maintaining "continuity of representation" -- a priority he listed ahead of increasing minority representation or creating more competitive districts.



Amending the State Constitution through a Ballot Question

- Goal: Redistricting Reform question on November 2019 ballot

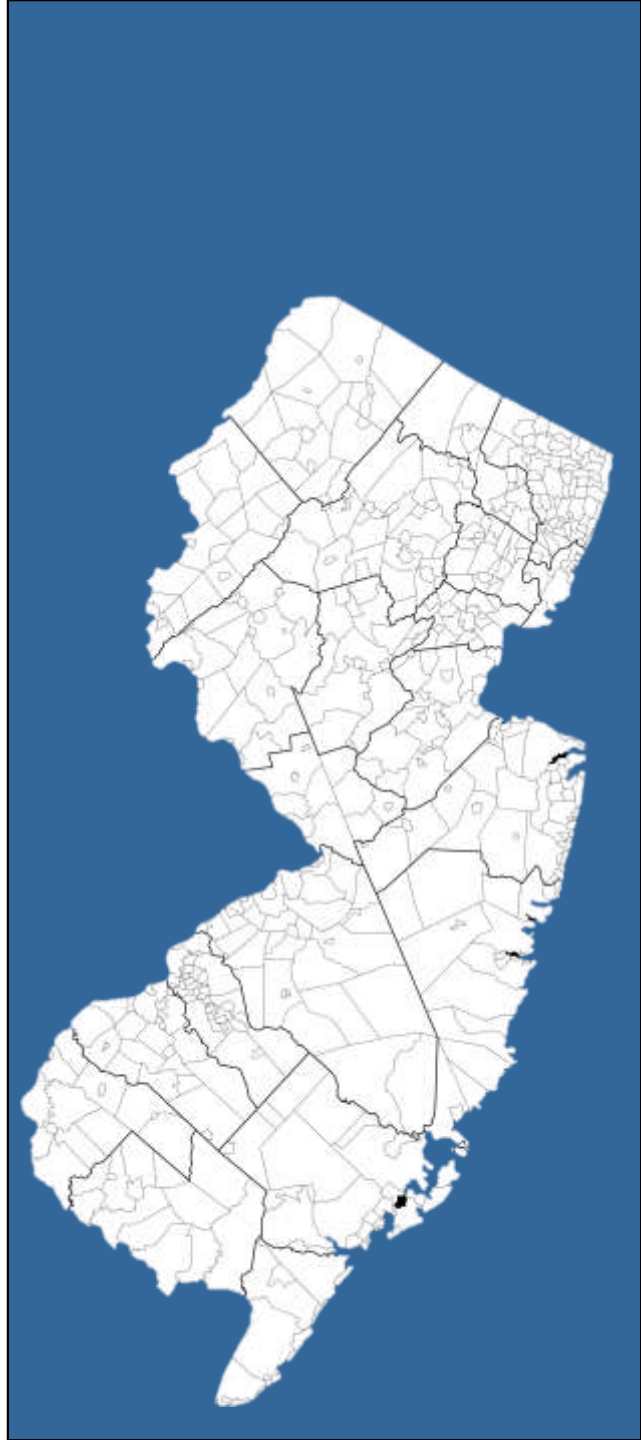


Redistricting Reform Best Practices for a Fairer New Jersey:

What are other states doing?

What are some redistricting best practices?

What is possible in New Jersey?



State	How Created	Year Created	Bill/Initiative	Citation
Alaska	Legislative Referral	1998	L.R. No. 74/H.J.R. No. 44	Alaska Const. Art. VI, § 8
Arizona	Citizens' Initiative	2000	Proposition 106	Ariz. Const. Art. 4, § 1, Pt. 2
Arkansas	Citizens' Initiative	1956	Proposed Amend. 48	Ark. Const. Art. 8, § 1
California	Citizens' Initiative	2008	Proposition 11	Cal. Const. Art. 21, § 2
Colorado	Citizens' Initiative/ replaced by Legislative Referral	1974/2018	Ballot Measure 9/Amendment Z	Colo. Const. Art. 5, § 48 (amended by Amendment Z)
Hawaii	Legislative Referral	1992	HB 2322	Haw. Const. Art. 4, § 2
Idaho	Legislative Referral	1994	S.J.R. No. 105	Idaho Const. Art. III, § 2(2)
Michigan	Citizens' Initiative	2018	Ballot Measure 18-2	
Missouri[1]	Legislative Referral/amended by 2018 Citizens' Initiative	1966/2018	Amendment 3/Amendment 1	Mo. Const. Art. III, § 2 (House), § 7 (Senate); as amended by Amendment 1
Montana	Constitutional Convention/Legislative Referral	1972/1984	Constitution, p. 1092-93/1984 Measure C-14	Mont. Const. Art. V, § 14; more from the Secretary of State's office
New Jersey	Legislative Referral	1966	Public Question No. 1	N.J. Const. Art. IV, § 3, ¶ 1
Ohio	Legislative Referral	2015	HJR 12 (2014); Issue 1	OH Const. Art. XI, § 1
Pennsylvania	Legislative Referral	1968 (last amended 2001)	Adopted as part of 1968 State Constitution	PA Const. Art. 2, § 17
Washington	Legislative Referral	1983	SJR 103 (1983)	WA Const. Art. 2, § 43

Reform in California (passed in 2008):

- Created an independent, citizen-led commission made up of: 5 Democrats, 5 Republicans and 4 Unaffiliated/3rd-party voters
- Citizen applicants vetted by panel of non-partisan state Auditors
- Ineligibility includes: sitting legislators, voters who plan to run for office in the next decade, lobbyists, staff of elected officials, relatives of state or federal elected officials, large campaign donors
- Members from each group must agree on a final map in order for it to take effect – cross-partisan cooperation required
- Partisan data and voting records cannot be considered

Reforms Approved by Voters in Nov. 2018:

- **Missouri:** a nonpartisan demographer, instead of Governor's appointees, will draw the map. Line-drawing criteria expanded to include protection for communities of color and "partisan fairness and competitiveness"
- **Colorado:** established a 12-member independent redistricting commission comprised of 4 Democrats, 4 Republicans and 4 Unaffiliated, chosen by retired judges. Must attempt to preserve communities of interest and keep counties and cities whole.
- **Michigan:** established a 13-member independent redistricting commission that includes Unaffiliated voters and requires at least 10 public hearings
- **Utah:** established a 7-member advisory commission of political appointees to draw and approve a new map before sending it to the Legislature for final approval

Reform in Ohio (passed in 2015):

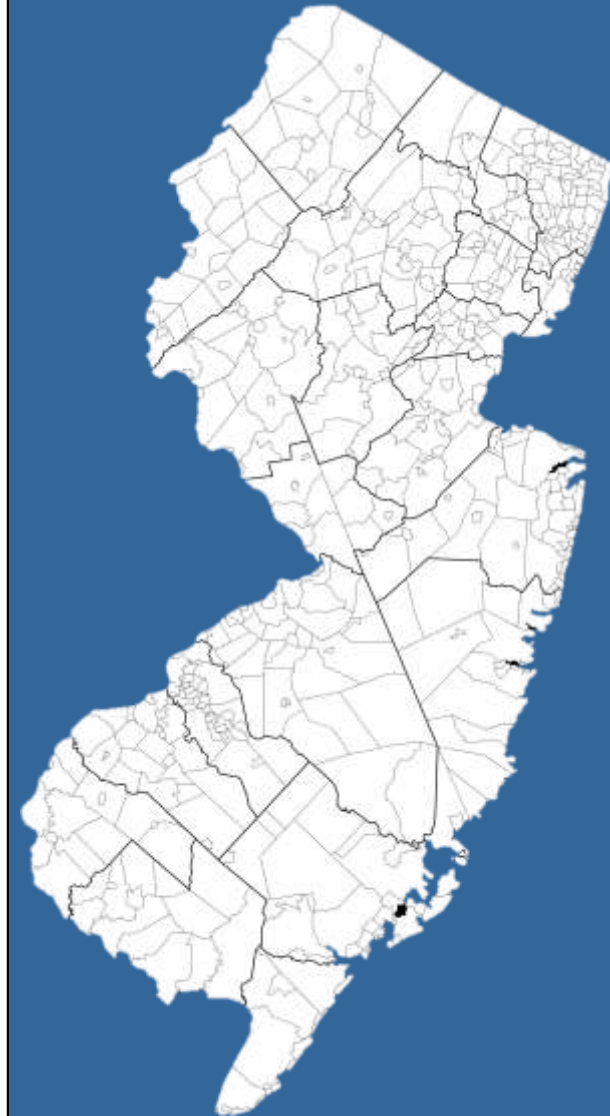
- Created a bipartisan commission made up of: Gov, State Auditor, Sec of State, 1 appointee made by Speaker of House, Senate President and minority leaders in both chambers
- At least 2 members from each political party must vote to approve a map for it to be valid for 10 years
- A map cannot be drawn primarily to favor or disfavor a political party



Redistricting Principles & Best Practices

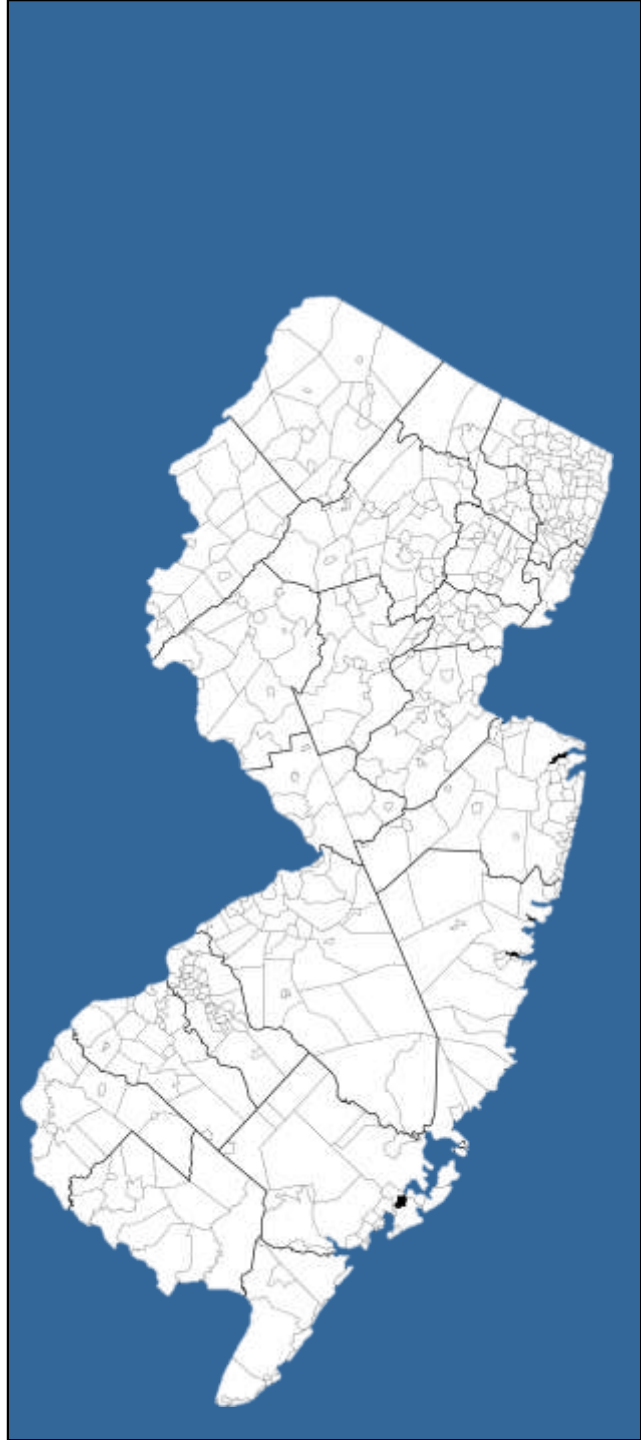
Non-negotiable:

- Adherence to the U.S. Constitution
- Adherence Federal Voting Rights Act of 1965
- Protection of the principles of the Voting Rights Act
- Contiguity – a district should have boundary lines that connect



Transparency & Accountability

- Open up the process to the public
- Create an online clearinghouse of redistricting-related information
- Share data
- Share drafts of maps
- Issue reports - explain choices and decisions made



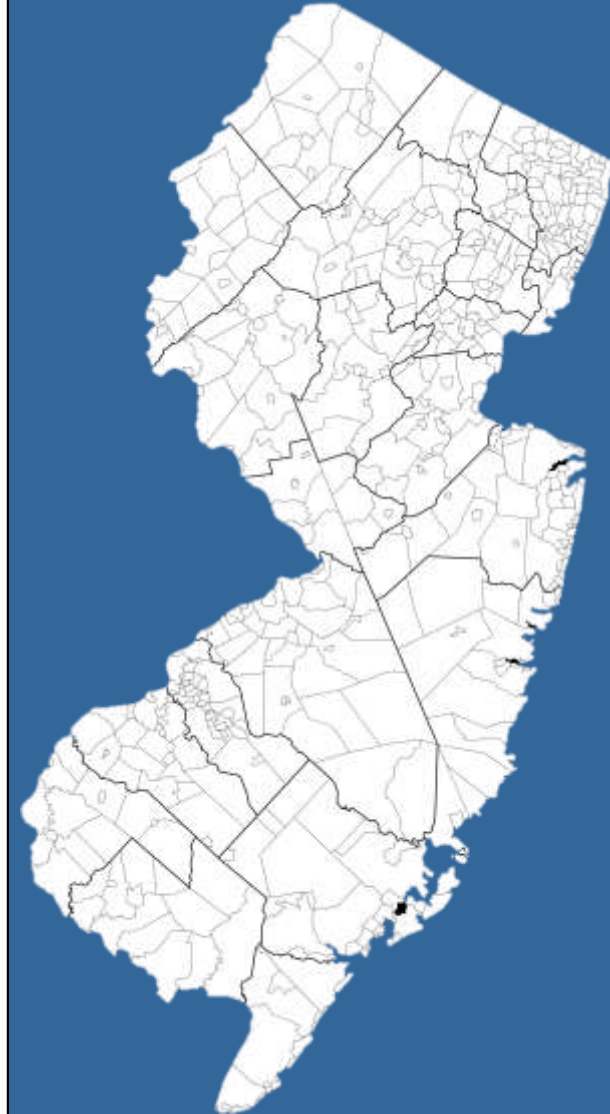
Public Participation

- Public hearings across the state, in easily-accessible locations with ample advance notice
- Multiple ways to submit testimony: in-person, electronically
- Redistricting resources – maps, data, etc – available at hearings
- Allow public submissions of maps
- Allocate funding for public education and outreach



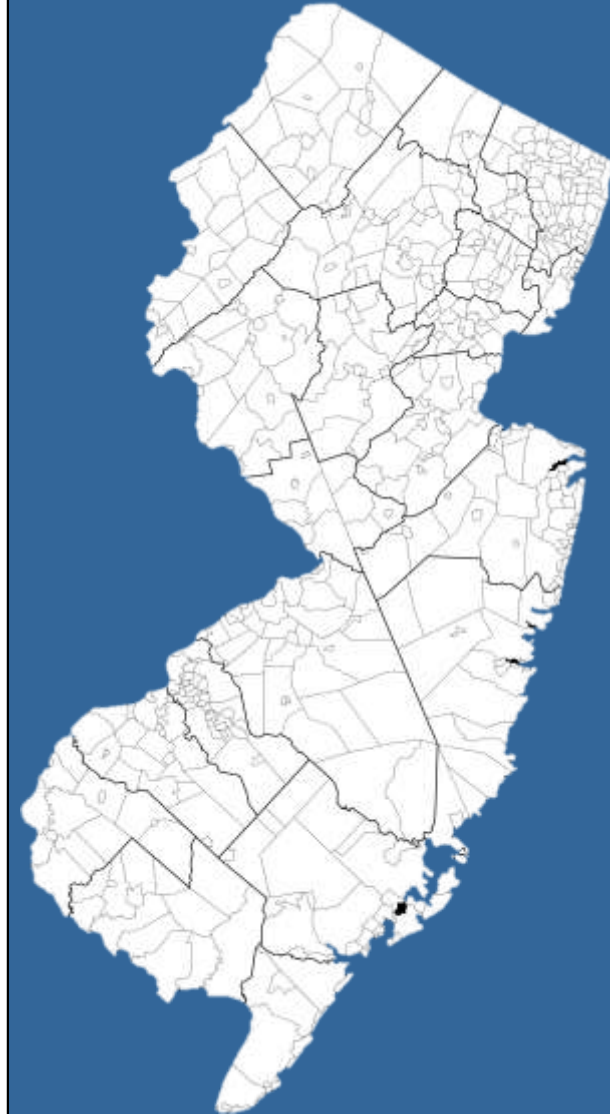
Independence

- Establish greater eligibility requirements for Commissioners – who can and cannot serve?
- Include members of the public – voters who are not in an elected or appointed party position – as decision-makers
- Include unaffiliated/ third-party voters as decision-makers
- Prohibit Commissioners from engaging in redistricting-related communication with the public outside of the public hearing setting



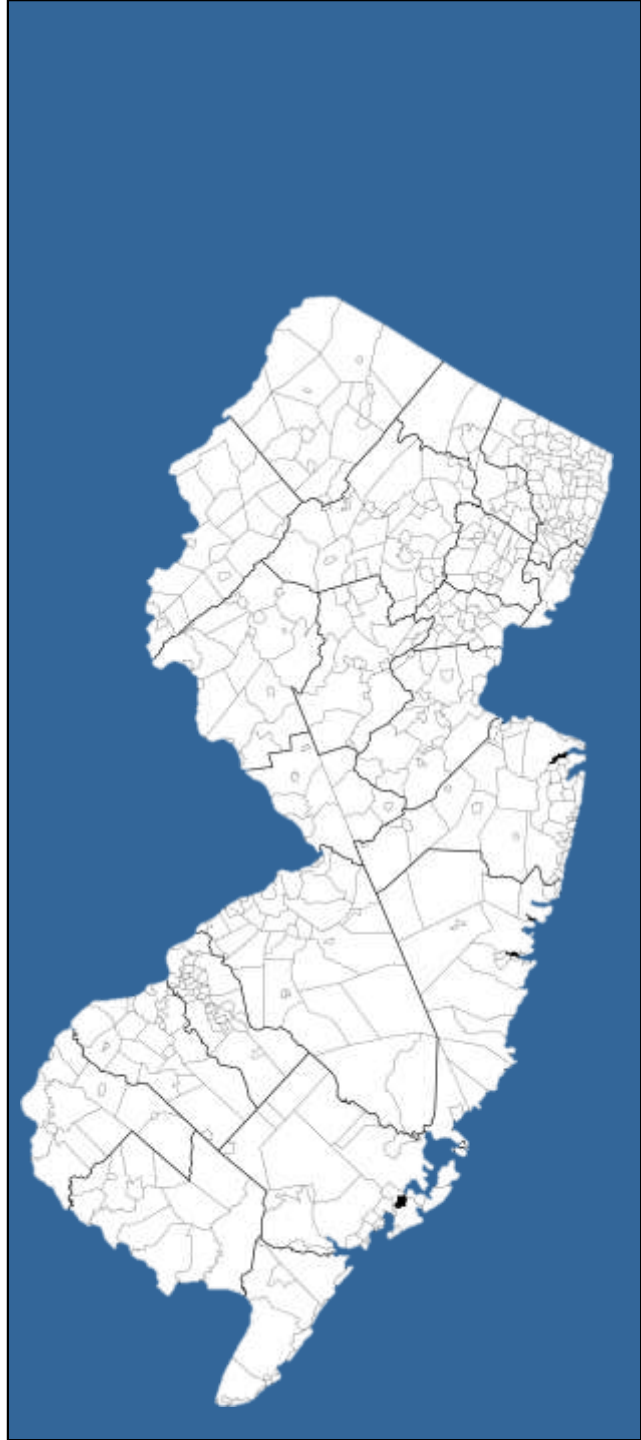
Additional Principles & Best Practices

- Cross-partisan cooperation and compromise among Commissioners
- Representative commission, reflective of state's diversity



Survey Information:

bit.ly/2S79U5V



Is the inclusion of unaffiliated and third-party voices in the Commission important to you?

- A. Yes, very
- B. Yes, somewhat
- C. No
- D. I don't know.

Is the inclusion of regular voters from a pool of citizen applicants in the Commission important to you?

- A. Yes, very
- B. Yes, somewhat
- C. No
- D. I don't know.

bit.ly/2S79U5V



Would you vote in favor of an independent, nonpartisan Redistricting Commission?

- A. Yes
- B. No
- C. I don't know

bit.ly/2S79U5V



With all data accessible to the public, would you consider drawing and submitting your own legislative district map?

- A. Yes
- B. Yes, but only as part of a group effort – not on my own
- C. No
- D. I don't know

bit.ly/2S79U5V



Should sitting legislators be permitted to serve as Redistricting Commissioners?

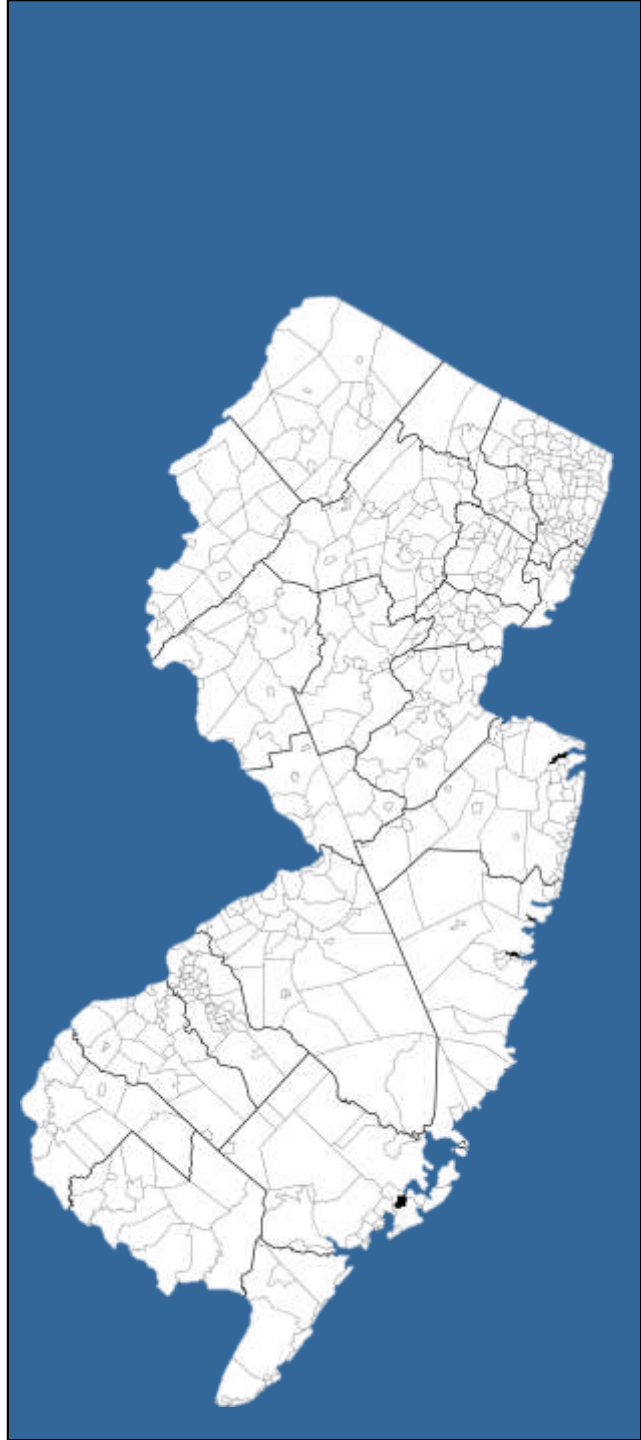
- A. Yes - We've elected them to represent us and they should be able to serve on the Commission.
- B. Maybe - Only with very strict line-drawing criteria in place that prevents them from acting in their own self-interest.
- C. No - Sitting legislators should not be part of the group responsible for drawing the new district map.
- D. I don't know.

Map-Drawing Criteria

Which standards should be considered?

Should certain data be excluded?

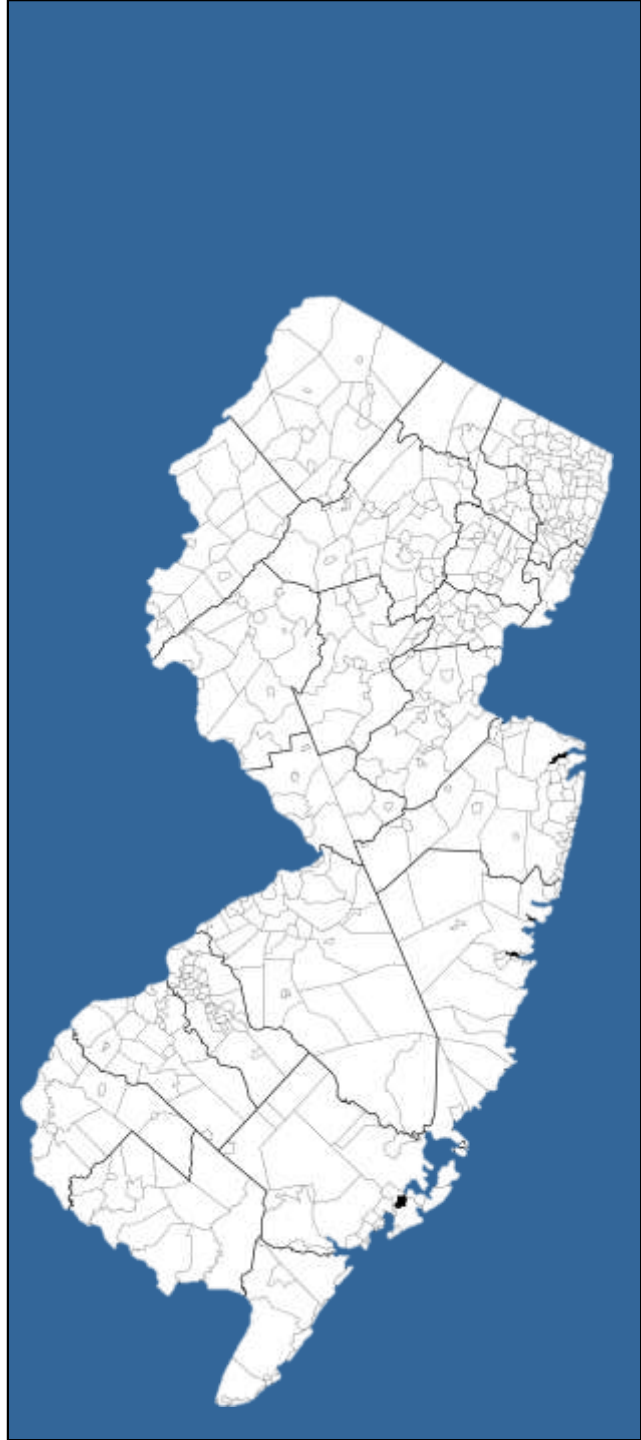
How do we get a fair map that is reflective of and responsive to the will of the people?



Keeping Communities of Interest Whole

- Protecting groups with shared social, economic and cultural interests who should remain in the same district for representational purposes
- Groups unified on a set of legislative priorities

Note: Communities of interest do not include groups affiliated with a political party



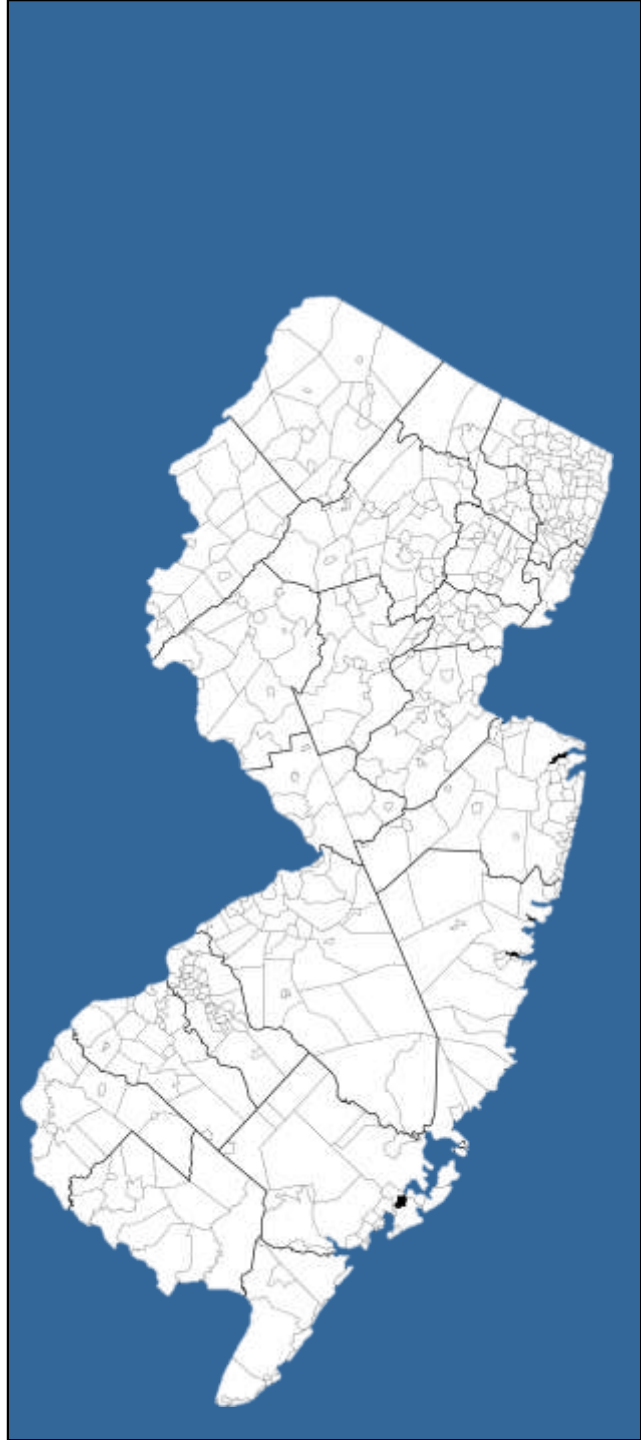
Minimizing Political Subdivisions

- No breaking up of municipalities or counties unless larger than $1/40^{\text{th}}$ of total state population
- Limiting how many times a municipality or county is split up among districts (if it must be broken up, at all)



Partisan Fairness

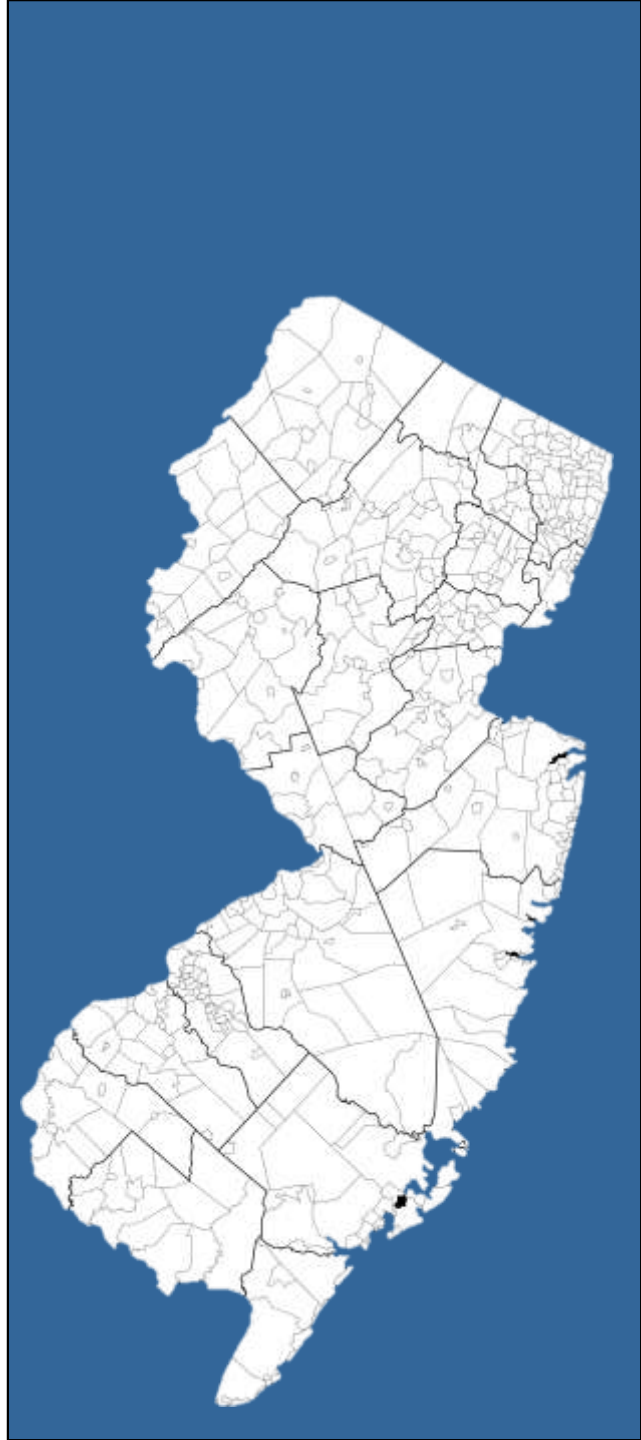
- Checking drafts of maps to ensure votes won = seats gained
- Also known as “partisan symmetry” – similar performances by each party should result in similar results



Competitiveness

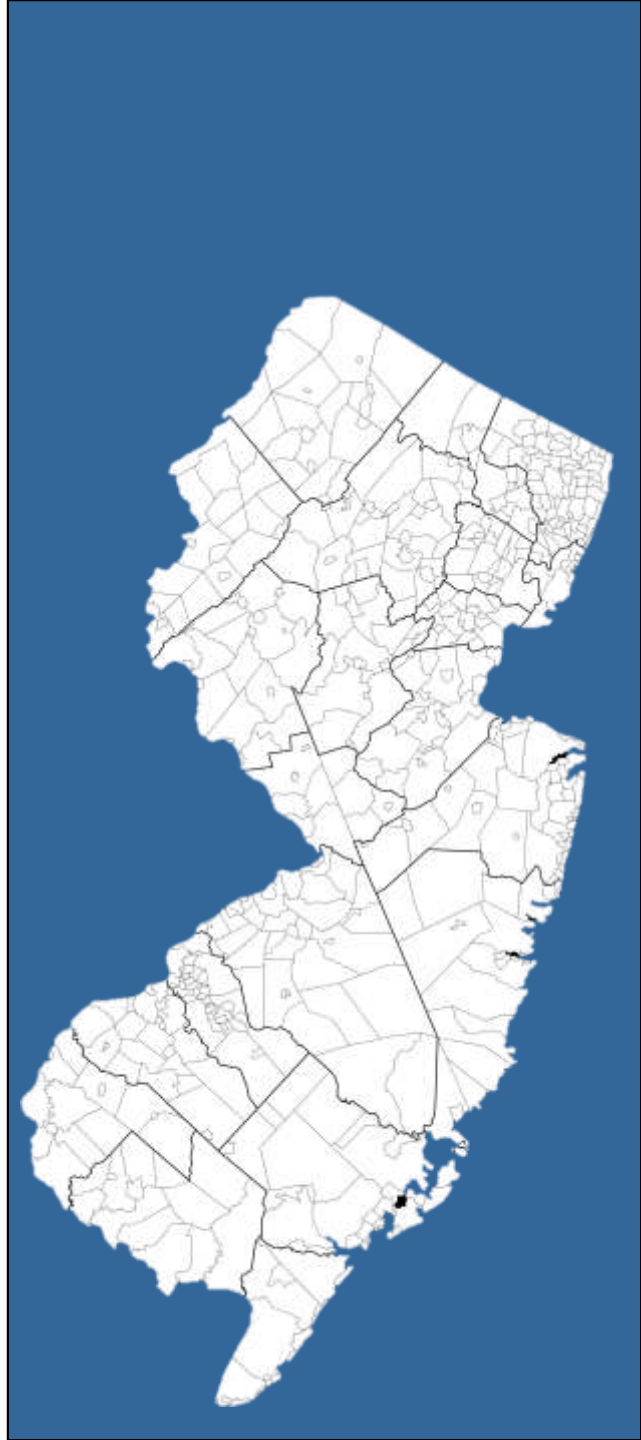
- Creating districts evenly split between two major parties
- Promotes responsiveness – as sentiments and partisan leanings change, different candidates can be elected to office

Note: Focusing on competitiveness may undermine community-driven criteria and the natural political geography of NJ. Competitiveness may also dilute the voting power of communities of color.



Survey Information - 2

bit.ly/2S6NfH7



Checking a map before it becomes final to ensure partisan fairness is:

- A. Very important
- B. Somewhat important
- C. Not important
- D. I don't know

bit.ly/2S6NfH7



Which statement do you agree with most when it comes to competitiveness?

- A. One redistricting goal should be to create as many districts as possible that have an even partisan balance.
- B. It's important we find a way to include competitiveness as one of the redistricting criteria, but only if it does not conflict with other community-driven criteria.
- C. Competitiveness should not be a factor considered during redistricting. Some districts will be competitive and others will not – that's political geography.
- D. I don't know

bit.ly/2S6NfH7



In what other ways can transparency improve?

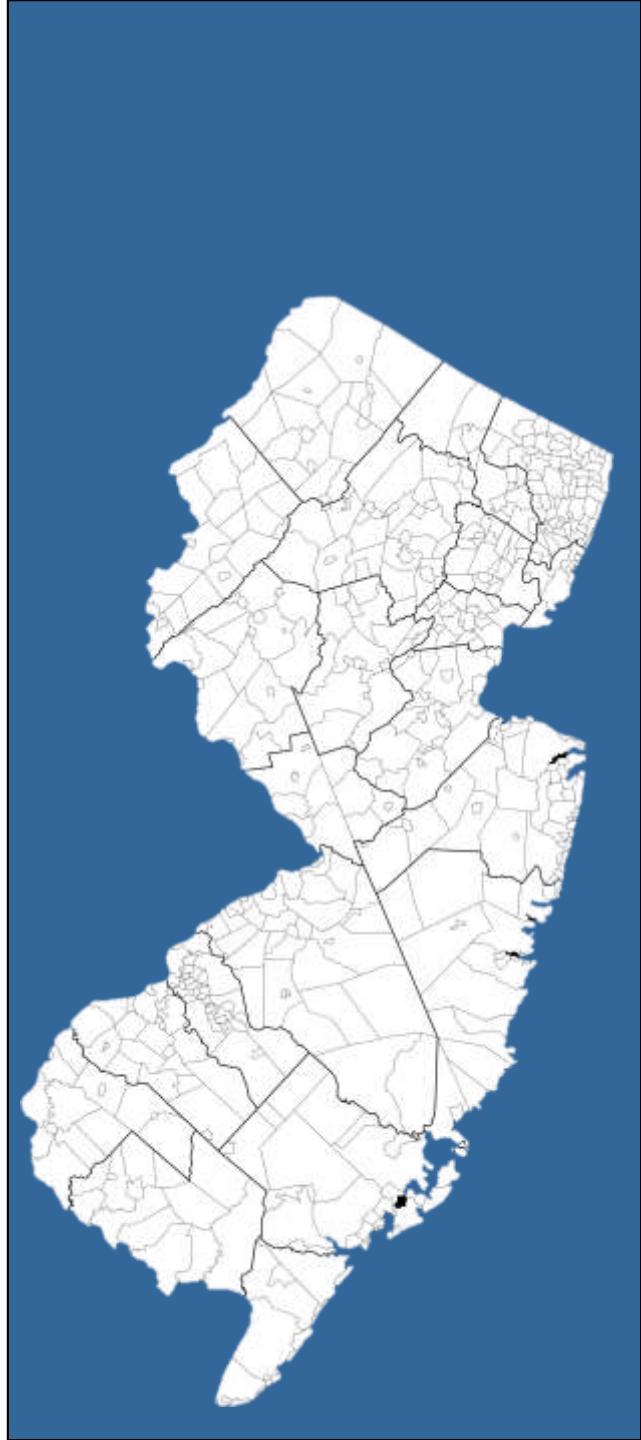
In what other ways can the Commission facilitate public participation?

What else do you think legislators discussing redistricting reform should consider?

bit.ly/2S6NfH7



What if nothing happens and there's no redistricting reform question on the November 2019 ballot?



What more can I do?

- Do you think NJ needs redistricting reform? Contact your legislators!
- Sign-up for Fair Districts NJ updates and Action Alerts
- Stay informed: Follow groups working on redistricting reform on social media: @fairdistrictsnj
- Share information with your networks



THANK YOU!

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Will Adler,
wtadler@Princeton.edu

