



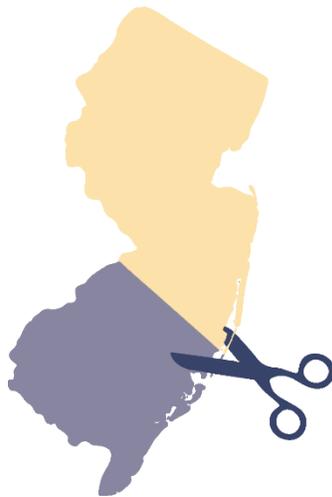
# REDISTRICTING REFORM FOR A FAIRER NEW JERSEY

A report developed by the League of Women Voters of New Jersey

- September 2019 -

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## Executive Summary

Gerrymandering threatens our political landscape by corrupting the foundation of our representative democracy: voting district maps. Free and fair elections and fair and equal representation rely on fairly-drawn maps during the once-a-decade process known as *redistricting*. Voting district maps determine how communities will or will not be able to come together to address issues that impact them. They also determine if elected officials will be responsive to a community's needs, and whether or not groups can come together to elect candidates of their choice. By manipulating and undermining the redistricting process, those who have the power to redraw the lines manipulate and undermine the electorate and our basic democratic values.

In New Jersey, the power to draw the new 40-district legislative map belongs to ten partisan appointees, selected by the Chairs of the state Republican and Democratic parties. They consist of politicians and party operatives who work behind closed doors developing a map that balances their party's political goals with priorities set by a court-appointed tie-breaker, a member who joins the process at a later date to provide the 6<sup>th</sup> vote needed to approve a final map. As is, New Jersey's legislative redistricting process lacks the following key components of a fair process: transparency, clear and robust line-drawing standards, safeguards against gerrymandering, meaningful public input, and accountability measures.

As a one-time leader in redistricting reform, the New Jersey Legislature currently has the opportunity to lead again. The League of Women Voters of New Jersey and the Fair Districts New Jersey coalition believe state lawmakers can introduce and pass community-driven reforms that would both lay the foundation for fairer outcomes and restore the public's confidence in our democratic processes. There is time before the conclusion of the 2020 Census to ensure a stronger, more transparent and inclusive system is in place before the next round of redistricting begins.

The Fair Districts New Jersey coalition calls for:

- A more **independent, representative** redistricting commission that minimizes partisanship, reduces the level of political influence over the redistricting process and includes the voices of ordinary citizens with no vested interests in a final map.
- **Transparency and accountability** measures that open up the redistricting process to the public; make data, resources, and drafts of maps publicly available; and require redistricting reports that justify all map-making decisions.

- **Cooperation** among redistricting commissioners so a final map is approved with more than a simple majority vote.
- A set of **clear line-drawing rules** ranked in order of priority to guide redistricting commissioners and provide checks against attempts to manipulate boundary lines for political gain.
- A **racial equity** provision that reinforces the principles of the Voting Rights Act to protect the voting rights and voting strength of New Jersey's communities of color.
- **Protections for communities of interest** within the redistricting process, which would require ample public hearings and the solicitation of public input across every part of the state.
- Resources to ensure a **complete and accurate Census** count in New Jersey.
- An **end to prison-based gerrymandering**, a discriminatory practice that counts incarcerated individuals at their prison address for legislative redistricting purposes.

Fair Districts New Jersey is joined by grassroots movements across the country focused on reforming their own state's redistricting process and eliminating gerrymandering for good. With a U.S. Supreme Court ruling dismissing all future claims of partisan gerrymandering, political gridlock in Congress and an entrenched political class continuously strategizing to gain even more power, state-level redistricting reforms are a critical next step in protecting our democracy.

The urgency of reform is underscored by the recent launch of the League of Women Voters of the United States' People Powered Fair Maps Campaign, the largest League campaign since the suffrage movement. This will be a coordinated effort across all 50 states and the District of Columbia to create fair and transparent district maps nationwide. The campaign will support Fair Districts New Jersey's ongoing work to educate the public on redistricting, develop statewide organizational partnerships, advocate for reforms to the state Constitution, and mobilize members to participate in the next redistricting cycle.

Redistricting is how communities' political power is redistributed and determines whether our voices and votes matter. It is a fundamental component of our democracy that must be improved for New Jersey to address declining voter turnout rates, increased voter frustration and a general mistrust of the integrity of our electoral systems. Reform movements in other states have all passed with widespread bipartisan support, demonstrating that fairness is not a partisan issue. The opportunity to reform redistricting comes along only once every ten years. The New Jersey Legislature must act quickly to give New Jersey residents the fair maps they deserve.

## Redistricting Reform for a Fairer New Jersey

### Introduction

Redistricting – redrawing new voting district boundary lines after the Census – has moved from relative obscurity to the forefront of civic discourse as more and more stories emerge of elected officials and party insiders exploiting the process for political gain. *Gerrymandering* – the manipulation of the redistricting process – has become a go-to voter suppression tool by those seeking to amass and/or cement their political power for decades to come.

Rather than redistributing political power among communities in a transparent way to ensure all are equally and fairly represented and all have an equal opportunity to participate in our democracy, redistricting has become a process to be strategically gamed. Through gerrymandering, we end up with communities’ voting strength diluted, unresponsive elected officials in “safe” seats, incumbents eliminating potential competition and a lack of public trust in our political processes.

With technological advances, the manipulation of our voting district boundary lines has become even more precise and extreme, exacerbating voter frustration and the erosion of political accountability. This does not reflect a government of, by, and for the people. **Voters should be choosing their representatives, not the other way around.**

Nationwide calls for redistricting reform by good government, civil rights and grassroots groups aim to right this wrong. Advocates hope to restore the public’s trust in this fundamental component of our democracy and empower ordinary people to determine what their community’s voting district should look like.

The League of Women Voters has advocated for state and national fair redistricting reforms for over 60 years.<sup>1</sup> In New Jersey, the League launched their Fair Districts initiative, [www.fairdistrictsnj.org](http://www.fairdistrictsnj.org), in early 2018 to research redistricting principles and best practices, develop a public education campaign, build a coalition of redistricting reform advocates, and work on proposals for reform that would make the state’s map-drawing

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<sup>1</sup> The League of Women Voters drafted redistricting reform proposals in Washington State in the 1950s after complaints over inequity in redistricting in the 1930s and ‘40s (<https://washingtonstatewire.com/history-of-redistricting-in-washington-state/>). The League was also a plaintiff and filed amicus briefs in key litigation efforts around the country, including *Gill v. Whitford* at the Supreme Court in 2018. The League’s own case in North Carolina, *League of Women Voters of North Carolina v. Rucho*, was also found to be an unconstitutional partisan gerrymander by the lower courts and was heard by the U.S. Supreme Court in March of 2019 (<https://www.lwv.org/newsroom/press-releases/supreme-court-hears-leagues-landmark-redistricting-case>).

process more transparent, inclusive, community-driven and fair.

Reforming redistricting is a critical step in ensuring that voters no longer feel voiceless and our democracy works for all. After the 2020 Census, New Jerseyans deserve new district maps reflective of the state’s diverse communities and responsive to the will of the people.

But in order to change the redistricting system in a state without an *initiative* process – the process that allows citizens to place proposals for laws or constitutional amendments on the ballot – members of the New Jersey Legislature must engage with advocates and work collaboratively to advance reforms for fairly-drawn districts.

This report provides information about the legislative redistricting process in New Jersey and past attempts at reforms, identifies the major issues with the current process, outlines reform priorities identified in coalition with other advocacy organizations and through surveys distributed statewide to redistricting forum participants, and provides a set of recommendations for constitutional amendment language. Altogether, this report highlights why the time for redistricting reform in New Jersey is now.

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## Legislative Redistricting in New Jersey

The process for redistricting varies from state to state, and each state has the authority to alter its redistricting rules and procedures. New Jersey took bold steps in 1966 to change both the composition of its Legislature and its legislative redistricting process in order to be in compliance with the U.S. Constitution, the 1964 U.S. Supreme Court’s “one person, one vote” ruling, and the 1965 Voting Rights Act.

Through a Constitutional Convention, delegates amended the state Constitution and established a balanced bipartisan redistricting commission to oversee the creation of 40 new legislative districts consisting of roughly equal populations. That process is the one still in place today.

While New Jersey may have amended its redistricting procedures so that the majority party in the Legislature no longer controlled the creation of new maps – as it still does in so many states where gerrymandering and voter suppression run rampant – 50 years later, the state’s process falls short. Many areas for improvement exist.

Currently, New Jersey’s bipartisan commission consists of five political appointees chosen by the Chair of each major party. A court-appointed neutral “tie-breaker” enters the scene one month into the process in order to resolve the 10-person commission’s inevitable partisan deadlock.

Despite New Jersey being one of the most diverse states in the nation, those making appointments to the commission must only consider geographic diversity when selecting commissioners. And there are no guidelines at all for the Chief Justice of the state Supreme Court when selecting the “tie-breaker.”

The commission is then bound only by minimal line-drawing standards, such as keeping district lines contiguous and districts compact, and the neutral 11<sup>th</sup> member has unchecked discretion in determining the redistricting priorities for the new map, which will remain in effect for the next decade.<sup>2</sup>

These weak line-drawing guidelines, coupled with the lack of commissioner eligibility requirements, results in a non-representative decision-making body, comprised mostly of sitting legislators guided by self-interests and a tie-breaker guided by personal political opinions and values.

Transparency and accountability measures are also missing from the current redistricting process since public hearings are not required and the commission is exempt from the state’s sunshine laws. As a

result, redistricting decisions occur behind closed doors without public input. In a state with 565 municipalities, of which over 75% have fewer than 20,000 residents,<sup>3</sup> the number of ways one can combine municipalities to develop a new district map are endless.

Yet, the public has no access to records that explain why commissioners drew each district’s boundary lines a particular way. Why were certain areas carved up, while others were left intact within the same district? This lack of transparency and accountability in New Jersey’s redistricting process undermines the final map’s legitimacy and contributes to voter mistrust.

The new legislative redistricting process voted upon at the 1966 Constitutional Convention was considered innovative and progressive for its time, but that is no longer the case. The redistricting procedures in New Jersey do not reflect modern redistricting principles and best practices that improve transparency, elevate community interests above partisan interests, or restrict the manipulation of the process for political gain. (See Appendix I for a complete list of issues identified.)

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<sup>2</sup> In the minutes from the NJ Apportionment Commission’s March 11, 2011 public hearing, the 11<sup>th</sup> member tie-breaker, Rutgers University political scientist Alan Rosenthal, outlined his order of priorities that he wanted to see reflected in the new legislative district map, ranking “continuity of representation” above affording minority communities an equal opportunity to participate in the political process:

<https://www.njleg.state.nj.us/legislativepub/pubhear/app03102011.pdf>, pages 2-7.

<sup>3</sup> State of New Jersey, Department of Labor and Workforce Development, Population and Household Estimates, [https://www.nj.gov/labor/lpa/dmograph/est/est\\_index.html](https://www.nj.gov/labor/lpa/dmograph/est/est_index.html)

And a lot is at stake when these elements of transparency and fairness are missing from redistricting. From these 40 districts, we elect 120 legislators to make the political decisions that most directly and immediately impact our lives, from healthcare and education to transportation, the environment and taxes. Our legislators oversee the allocation of more than \$35 billion in the budget each year for a wide range of programs and services New Jersey residents rely on every single day.

If a gerrymandered map prevents these resources from being fairly distributed across communities or denies residents the opportunity to come together with a unified voice to advocate on issues they care about, our democracy is at risk.

This is why redistricting reform movements that aim to put people first are growing across the country. In November 2018, voters in 5 states approved redistricting reform ballot measures with bipartisan support.<sup>4</sup> The prevalence of gerrymandering and a highly-polarized political climate means it is time for New Jersey to follow suit. Our state must once again come forward as a leader in reform and take bold steps to amend the Constitution to establish an open and fair community-driven redistricting process.

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<sup>4</sup> Brianna Cea and Peter Miller, Brennan Center for Justice, “Everybody Loves Redistricting Reform,” December 5, 2018: <https://www.brennancenter.org/blog/everybody-loves-redistricting-reform>

<sup>5</sup> NJ Department of State, Division of Elections: <https://www.njelections.org/election-information-ballots-cast.shtml>

## Voter Turnout and District Competitiveness

Taking New Jersey’s voter engagement and election turnout rates over the years into consideration further underscores the importance of implementing a fairer redistricting process that prioritizes public engagement and brings us closer to a more equitable electoral process.

New Jersey’s inadequate redistricting process allows commissioners to elevate the interests of political parties and prioritize the re-election of incumbents during the map-making process, in turn creating politically “safe” seats. This lack of competition determines election outcomes before a single ballot is cast and contributes to low voter turnout.

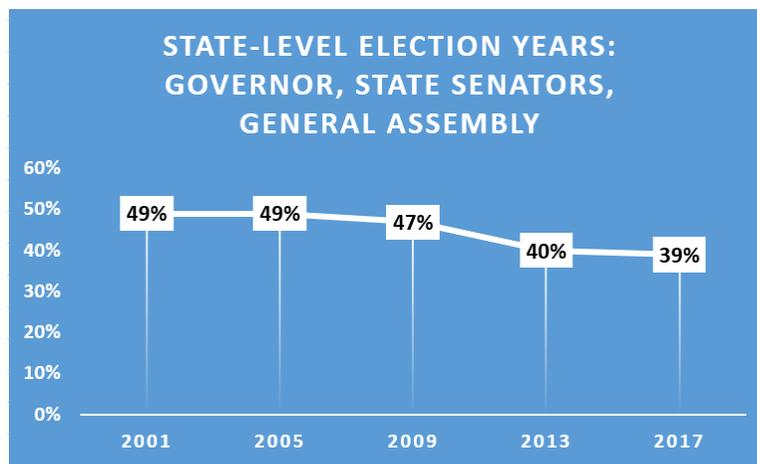
Lack of transparency and accountability within the redistricting process undermines a map’s legitimacy and contributes to voter mistrust.

Over the last twenty years, turnout in state-level elections has steadily declined, reaching historic lows in 2017 and in 2015 for the Assembly-only races.<sup>5</sup> (See Table 1 and Table 2.)

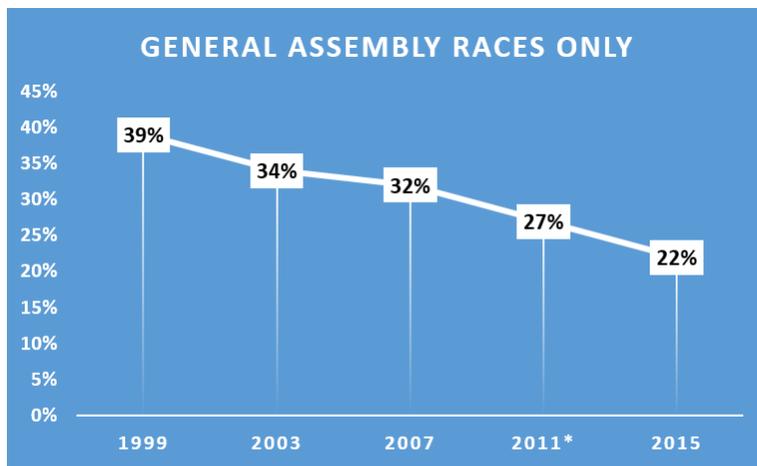
In this year's June 2019 Assembly primary elections, about one-third of Democratic primary races were contested. Thirteen out of 40 districts had 3-4 Democratic candidates on the ballot for two open seats, while only 7.5% of Republican primary races were contested. In only one district, the 8<sup>th</sup> Legislative District, were both parties' primary races contested, giving voters of both major political parties a choice.<sup>6</sup>

The Democratic percentage of contested Assembly primary races in 2019 – 32.5% – is an aberration since the new legislative district map took effect in 2011, however, as outlined in Chart 1. And for the State Senate primary elections, the Democratic and Republican parties have not had contested elections in more than 15% of districts (6 out of 40 districts).

**Table 1**



**Table 2**



\* Senate races included in redistricting year

<sup>6</sup> Source: New Jersey Department of State, Division of Elections, Election Results Archive: <https://www.njelections.org/election-information-results.shtml>

Chart 1

Primary Elections - % Legislative Districts with Contested Elections (40 Districts)		
	Assembly	Senate
<b>2019</b>		
Dem	32.5%	N/A
Rep	7.5%	N/A
<b>2017</b>		
Dem	27.5%	7.5%
Rep	15.0%	12.5%
<b>2015</b>		
Dem	7.5%	N/A
Rep	5.0%	N/A
<b>2013</b>		
Dem	12.5%	10.0%
Rep	12.5%	15.0%
<b>2011</b>		
Dem	20.0%	7.5%
Rep	20.0%	15.0%

In addition to the lack of competition within New Jersey’s primary elections, the rate of successful incumbent challenges in general elections is extremely low. For example, in the November 2017 Assembly races, incumbents appeared on the ballot in all 40 districts, with 10 districts having 1 incumbent running and 30 districts having both incumbents running for two open seats. 100% of those incumbents in 2017 won re-election.

In the Senate general elections that same year, incumbents appeared on the ballot in 36 of the 40 legislative districts, and 97% – all but one – won re-election. Of those 40 races, only 17.5% of districts had a truly competitive Senate election, meaning a candidate won her/his race with a close margin of 55% of the vote or less.

When people feel as though their votes do not matter, or the outcome of an election is pre-ordained, why would they show up to the polls on Election Day? And when voters stay home, special interests can more easily commandeer our representative government and drive decision making.

*In New Jersey, preserving the status quo in the Legislature also means our lawmaking body will continue to lack the racial, ethnic, and gender diversity representative of the state’s population.*

A partisan-driven redistricting process minimizes electoral competition and preserves the status quo, which in turn perpetuates the cycle of low voter turnout, noncompetitive elections, and voter frustration. In New Jersey, preserving the status quo in the Legislature also means our lawmaking body will continue to lack the racial, ethnic, and gender diversity representative of the state’s population.

By implementing meaningful redistricting reforms, New Jersey can put an end to partisan and incumbent-protection gerrymandering and break out of this harmful cycle.

## Recent Legislative Redistricting Reform Proposals

New Jersey’s legislative leaders agree that areas for improvement exist within the state’s current legislative redistricting process. Twice since the last redistricting cycle in 2011 has a proposal for a constitutional amendment to reform the redistricting process advanced through the Legislature: in late 2015 and in late 2018. The proposals were extremely similar, but neither times did they make it to the Senate or Assembly chambers for a full vote after the public hearings.<sup>7</sup>

Despite language in the proposals that reform advocates found positive – such as a requirement for public hearings, protections for communities of interest, and the exclusion of certain political “insiders” from serving on the commission – both the 2015 and 2018 proposals required commissioners to use partisan data, past election results, and complicated “party favorability” and “competitiveness” calculations to determine new district boundary lines.

Focusing on this type of data to achieve specific political goals would have allowed

commissioners to more effectively create “safe” party seats and solidify the political power of the majority party through the next decade and beyond.

In fact, as Yuriy Rudensky of the Brennan Center for Justice stated at the legislative committee meeting on November 26, 2018:

“The proposed changes would leave New Jersey more, not less, vulnerable to abuse and gamesmanship than before. [...] And the competitive district quota is not, on its own, sufficient to guard against partisan overreach. Indeed, some of the worst plans of this decade in gerrymandered states like North Carolina rely by design on one party winning a large number of nominally-close contests.”<sup>8</sup>

The proposals, which would have essentially codified partisan gerrymandering into the state Constitution, received such strong opposition from the League of Women Voters and dozens of other organizations<sup>9</sup> this past November that legislative leaders withdrew them two days before they were scheduled for a vote.

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<sup>7</sup> Brent Johnson and Susan Livio, “NJ Controversial Redistricting Plan Dead for Today,” NJ Advance Media, January 11, 2016: [https://www.nj.com/politics/2016/01/controversial\\_nj\\_redistricting\\_plan\\_dead\\_for\\_today.html](https://www.nj.com/politics/2016/01/controversial_nj_redistricting_plan_dead_for_today.html); and Brent Johnson, “Jersey Democrats Cancel Vote on Controversial Redistricting Plan,” NJ Advance Media, December 15, 2018: <https://www.nj.com/politics/2018/12/jersey-democrats-cancel-vote-on-controversial-redistricting-plan.html>

<sup>8</sup> Remarks of Yuriy Rudensky, Redistricting Counsel, Brennan Center for Justice at New York University School of Law, presented on November 26, 2018: [https://uploads-ssl.webflow.com/5bae63366fd2b2e5b9f87e5e/5c03320d42e49e54550c9110\\_BCJNYUTestimony.jpg](https://uploads-ssl.webflow.com/5bae63366fd2b2e5b9f87e5e/5c03320d42e49e54550c9110_BCJNYUTestimony.jpg)

<sup>9</sup> Joint Statement Opposing SCR43/SCR152/ACR60/ACR205: [https://uploads-ssl.webflow.com/5bae63366fd2b2e5b9f87e5e/5c0d4c6aa90b665895886570\\_JointOppositionStatement.pdf](https://uploads-ssl.webflow.com/5bae63366fd2b2e5b9f87e5e/5c0d4c6aa90b665895886570_JointOppositionStatement.pdf)

The Senate President, Stephen Sweeney, released the following statement following the proposal withdrawal:

“While we continue to recognize the importance of improving the legislative redistricting process, we will not be moving forward with the proposed ballot resolution on Monday [December 17]. This will give us the time and opportunity to review the input we have received from the public, our legislative colleagues and others to determine if any of these ideas would improve the proposal. [...] We will maintain an open mind as we continue to work on a proposal that best serves the electoral process and the values of our democracy.”<sup>10</sup>

Similarly, Assembly Speaker Craig Coughlin also acknowledged the vital importance of reforming the process in partnership with the public and good government advocates:

“[...] I appreciate the input from the public and recognize the value of having open public hearings in crafting any legislation regarding such an important issue affecting our democracy. I want to integrate some of the valuable input received to help create a better measure and improve the redistricting process overall. So therefore, I will not post the redistricting resolution for a vote, but remain committed to strengthening our electoral process.”

With the outcomes-driven proposals pulled from the Legislature’s agenda, New Jersey leaders now have the opportunity to develop a new redistricting reform proposal that ensures equal and fair representation for all. A path to redistricting reform before the 2020 Census still exists, and it includes public engagement, bipartisan cooperation and collaboration with statewide advocates in order to achieve success.



## Identifying Redistricting Values and Reform Priorities

Following the withdrawal of the redistricting reform proposals last year, the League of Women Voters of New Jersey resumed their work organizing public education programs and gathering reform input from statewide organizational partners, their membership and the general public.

<sup>10</sup> InsiderNJ, “Sweeney and Coughlin Pull the Plug on Redistricting Amendment Vote,” December 15, 2018: <https://www.insidernj.com/sweeney-coughlin-pull-redistricting-amendment-vote/>

Representatives from 25 advocacy organizations and grassroots groups examined the main shortcomings of New Jersey’s current legislative redistricting process and identified their reform priorities. Five common priority areas emerged from the input received from the organizational partners:

1. Eliminating, or minimizing, partisanship within the redistricting process, which includes creating opportunities for members of the general public to serve on the redistricting commission;
2. Mandating public hearings and encouraging public participation in the redistricting process;
3. Including a racial equity provision in any new proposal to reinforce the principles of the Voting Rights Act, protect communities of color and ensure they have equal opportunities to participate in the political process and elect candidates of their choice;
4. Improving transparency; and
5. Adopting measures that allow the public to hold redistricting commissioners accountable for their work.

In order to collect informed feedback on ideas for redistricting reform from the general public, the League of Women Voters and coalition partners from Fair Districts New Jersey organized a series of educational forums across the state in early 2019 – “Redistricting Reform Best Practices

for a Fairer New Jersey.” These presentations expanded upon the League’s previous redistricting programs by including a survey component.

Since informed public input – not special interests – should influence policy making, it was important to understand which redistricting principles and criteria resonated most with New Jersey voters, and how those values could be incorporated into future redistricting reform proposals.

At the forums, participants learned about New Jersey’s legislative redistricting process, how other states had reformed their process, and which redistricting principles were guiding current reform efforts. At the end of each presentation and panel discussion, participants submitted a survey response and shared feedback on the various redistricting principles and guidelines. A taped recording of the presentation was also made available online, which expanded the opportunity for public participation and allowed viewers to submit a survey response electronically at the conclusion of the video. In all, nearly 400 responses were collected over a 7-week period. (See Appendix II.)

Overall, forum participants felt very strongly about improving the independence of the legislative redistricting commission by expanding the types of people selected to serve on the commission, while also restricting the eligibility of sitting legislators to serve.

Nearly all respondents believe the inclusion of unaffiliated and third-party voters on future redistricting commissions is important, and that regular voters should have an opportunity to apply to serve on the commission.

The public is also ready to test out their map-making skills, as 74% of respondents would consider drawing and submitting their own district maps – either alone or as part of a group – if the necessary data and tools were made available to them.

Finally, when asked about which political goals, if any, commissioners should consider during the redistricting process, 97% of respondents said final drafts of maps should be checked for “partisan fairness” so that new boundary lines don’t unfairly skew political power toward one party or another. But only 13% of respondents think one redistricting goal should be to create as many competitive districts as possible, meaning districts specifically drawn to achieve a nearly even partisan balance.

58% felt competitiveness should *only* be included among redistricting criteria if doing so does not conflict with other community-centric criteria, such as keeping communities of interest together within the same legislative district. So, while 71% of respondents feel competitiveness is important, they differ in opinion on how

*much* it should be prioritized as a goal among other line-drawing criteria.

By examining California’s 2011 legislative district map, researchers uncovered that competitiveness is a natural byproduct of fair redistricting reforms that improve the commission’s independence and prioritize public input. California’s independent, citizen-led redistricting commission held over 30 public hearings across the state to inform their decision-making. According to a New York Times report, the map created by the independent commission was “far more competitive than its predecessor drawn by the Democrat-dominated state legislature,” increasing the district competitiveness rate from 5% to 19% *without* a mandate to achieve this specific political goal.<sup>11</sup> This demonstrates how following neutral, community-driven redistricting standards can improve district competitiveness without the use of partisanship data, voting histories or mathematical calculations.

Therefore, it is possible to achieve what may appear to be conflicting redistricting goals: addressing lack of district competitiveness while at the same time preserving politically cohesive communities of interest and excluding the use of political data. The voting strength of a community does not need to be compromised in the name of competitiveness.

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<sup>11</sup> Kim Soffen, “Independently Drawn Districts have Proven to be more Competitive,” New York Times, July 1, 2015: <https://www.nytimes.com/2015/07/02/upshot/independently-drawn-districts-have-proved-to-be-more-competitive.html>

## Achieving “Fairness:” Redistricting Recommendations

How can New Jersey voters trust that when they go to the polls, their district boundary lines haven’t been manipulated by party politics? How can the public have confidence that a new district map will afford everyone equal representation, equal protection under the law, and an equal opportunity to participate in our democracy? What does it mean to have a “fair” map?

Guided by the League of Women Voters of the United States’ position on redistricting<sup>12</sup> and reform priorities identified through coalition partnerships and public feedback, the League of Women Voters of New Jersey has established the following Constitutional amendment recommendations to serve as a blueprint for redistricting fairness.

“Public forums should be part of this process – spaces where all of the stakeholders, commission members and the public, can ask questions and improve clarity [around] the process.”

“Make redistricting/line-drawing a more community driven effort that includes [ordinary] citizens in the process.”

“The committee selected to redraw the districts should contain individuals whose interests transcend party affiliation.”

-Comments submitted by redistricting public forum participants: 2/10/19, 2/22/19 and 3/5/19

<sup>12</sup> The League of Women Voters of the U.S. Position on Redistricting: <https://www.lwv.org/sites/default/files/2018-06/LWV%20Redistricting%20Position.pdf>

<sup>13</sup> Census 2020: Working Toward a Complete Count for New Jersey, <https://fundfornj.org/census>

Prison-based gerrymandering artificially inflates the political power of regions that house prisons while diluting the political power of incarcerated individuals' home communities. Since New Jersey has the worst racial disparities in incarceration rates in the country<sup>14</sup>, prison-based gerrymandering essentially strips communities of color of their full voting strength.

The Legislature and Governor can work together to pass and enact a new law that ends prison-based gerrymandering for good, regardless of where the U.S. Census Bureau chooses to count incarcerated individuals every ten years.

Then, redistricting reforms must incorporate the principles of independence, cooperation, transparency, and accountability into the map-making process:

- **Independence:** Reforms must minimize partisanship and reduce the level of political influence over the process. Expanding upon the limited commissioner eligibility

requirements and creating space on the commission for members who may not be affiliated with either of the two largest political parties would result in a commission more representative of the electorate and less likely to either engage in political self-dealing or to develop a new map with partisan motives.

- **Cooperation:** Requiring commissioners to work together and approve a new map with a super-majority or cross-partisan approval, rather than the current one-person tie-breaker system, would further minimize partisanship and eliminate that practice of having one tie-breaker vested with complete decision-making power – a system associated with higher redistricting dissatisfaction rates.<sup>15</sup>
- **Transparency and Accountability:** Reforms must restore the public's trust in the redistricting process and in our representative democracy. Redistricting should no longer occur

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<sup>14</sup> The Sentencing Project, "The Color of Justice: Racial and Ethnic Disparity in State Prisons," June 2016: <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>, page 8

<sup>15</sup> Brennan Center for Justice, "Redistricting Commissions: What Works?" July 24, 2018, <https://www.brennancenter.org/blog/redistricting-commissions-what-works>: "Map-approval rules that facilitate and incentivize negotiation and compromise, such as a requirement that a map obtain at least some support from each major political block in order to win passage. By contrast, states that used a tiebreaker model popular in earlier reforms experienced much lower levels of satisfaction, mainly because the tiebreaker tended to end up siding with one party or the other, resulting in a winner-take-all effect. Likewise, commissions where one or more sides saw little risk from failure had less success."

behind closed doors, and decisions should be made publicly, with descriptive reports and data accompanying drafts of maps to enable the public to evaluate and comment on plans. Public hearings should occur across the state in easily-accessible locations with ample opportunities for the public to participate and submit input, such as having resources and information publicly available so people can create and submit their own redistricting plans for consideration.

The aforementioned is not an exhaustive list of all measures that can be implemented to instill public confidence in the redistricting process and engage the public on the development of a final map.

The minimum basic requirements currently outlined in the state Constitution do not provide checks against gerrymandering and do not value redistricting as a community-driven process.

Finally, commissioners must be guided by clear line-drawing rules that both outline redistricting goals in order of priority and explain what data can and cannot be used when developing a new map.

The minimum basic requirements currently outlined in the state Constitution do not provide checks against gerrymandering and do not value redistricting as a community-driven process. New constitutional language must include a racial equity provision and strong protections for New Jersey's various communities of interest.

Communities of interest are groups with shared social, economic and cultural interests unified on a set of legislative priorities. Encouraging public participation and prioritizing the input received from the public is vital for commissioners to understand how people want to be represented and which areas should remain in the same legislative district.

When considering the political goals of partisan fairness and competitiveness, it is important to note that partisan fairness does not mean a proportionate number of "safe" seats allocated to each political party, and that including competitiveness as a high priority standard may undermine other community-driven standards when political geography and shared legislative issues overlap.

Therefore, commissioners should only apply partisan fairness tests to final drafts of maps, and "competitiveness" should be placed at the end of the list of ranked-order priorities to avoid conflicting with community-driven priorities. The complete list of recommended ranked-order standards is included as Appendix III.

By ensuring a complete count during the 2020 Census, ending prison-based gerrymandering, incorporating key redistricting principles into reform measures, establishing clear line-drawing rules for commissioners to follow, and prioritizing public input throughout the process, New Jersey will be on the path to achieving fair maps.

However, each piece implemented as a stand-alone reform will not go far enough towards achieving a fairer redistricting process. These recommendations reinforce and build upon one another.

For example, accountability is only possible with measures that improve transparency. Similarly, only through improved transparency and meaningful public participation can commissioners – whether independent commissioners or partisan-appointed commissioners – truly understand the various communities of interest in New Jersey in order to draw a map that protects those groups.

A comprehensive constitutional amendment proposal is needed to address the shortcomings of our current redistricting process and uphold the principle of “one person, one vote” for decades to come.

## Conclusion

A greater understanding exists among voters today that civic engagement goes beyond casting a ballot on Election Day. At the same time, people are recognizing that gerrymandered maps are in place specifically to stifle this civic engagement, disenfranchise voters and prevent the public from holding their elected officials accountable. The unprecedented number of redistricting reform movements across the country highlights the unsustainability of these voter suppression tactics. The practice of gerrymandering must come to an end.

Reforming redistricting is not a partisan issue, either. Free and fair elections and equal representation are core democratic values that resonate across the political spectrum.

In September 2017, a redistricting survey commissioned by the nonpartisan Campaign Legal Center reported that “People strongly prefer free and unbiased elections rather than what is best for their own party.” The report continues:

“Concerns about partisan redistricting are rooted in strong values and shared perspectives. The fundamental freedom to choose one’s own elected officials and the importance of political leaders working for the common good are especially important. Across the board, voters are very concerned that redistricting allows politicians to choose their voters, while putting partisan

interests ahead of their constituents and solving important problems.”<sup>16</sup>

Since the U.S. Supreme Court did *not* rule that partisan gerrymandering is unconstitutional, thus absolving the federal courts from ever having to hear challenges to maps intentionally drawn to favor one political party over another, state-level redistricting reforms to make the map-making process transparent, representative, and fair are vital.

Once a decade, after the new Census data arrives, redistricting must take place to account for population shifts and demographic changes. But it need not take place in a non-transparent, outcome-driven manner.

The New Jersey Legislature can take immediate action and pass comprehensive redistricting reforms that afford all residents equal and fair representation and empower communities to advocate on the issues that matter most to them and their families.

Another decade should not pass with New Jerseyans’ political representation determined by a map developed behind closed doors. With public trust in government at a historic low<sup>17</sup>, it is time for the New Jersey Legislature to once again be a redistricting reform leader, restore the public’s trust in our government and put power back where it belongs: in the hands of voters.

*Supported in part by the League of Women Voters Education Fund.*



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<sup>16</sup> Campaign Legal Center, Partisan Redistricting: New Bipartisan National Poll, September 2017: [https://campaignlegal.org/sites/default/files/memo.CLCPartisanRedistricting.FINAL\\_2.09082017%20%28002%29.pdf](https://campaignlegal.org/sites/default/files/memo.CLCPartisanRedistricting.FINAL_2.09082017%20%28002%29.pdf)

<sup>17</sup> Pew Research Center, “Public Trust in Government, 1958-2019,” April 11, 2019: <https://www.people-press.org/2019/04/11/public-trust-in-government-1958-2019/>

## APPENDIX I:

### Major Issues New Jersey's Legislative Redistricting Process

Fair Districts New Jersey has identified the following major issues with New Jersey's legislative redistricting process, as currently outlined in the state Constitution<sup>18</sup>:

- No assurance that a Commission will reflect the demographic diversity of the state, as “geographic diversity” is the only consideration State Party Chairs must consider when selecting members;
- No inclusion of members not affiliated with either the Democratic or Republican party;
- No requirement for public hearings or for considering public input in decision-making of new district lines;
- No community-driven line-drawing standards to ensure protection of various communities of interest, and minimal principles to guide the redistricting process allow for the process to be manipulated;
- No checks against partisan or political gerrymandering;
- Too much power vested in the “neutral” individual appointed by the Chief Justice of the New Jersey Supreme Court;
- Deadline for presenting a final map comes up against deadline for candidate nominating petitions for legislative races;
- Lack of transparency and accountability due to the following:
  - The Commission is exempt from New Jersey's “sunshine” laws;
  - There is no requirement for a bipartisan, supermajority vote to certify a new map;
  - The public cannot view, evaluate and/or comment on drafts of maps; and
  - The Commission is not required to issue reports with their maps outlining why they made their decisions.

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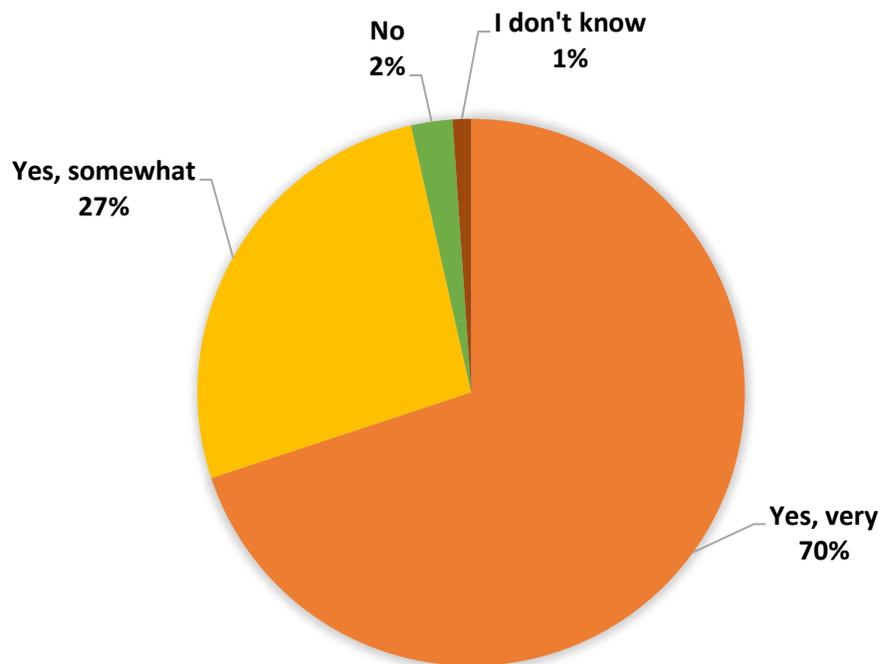
<sup>18</sup> Full text of the New Jersey State Constitution: <https://www.njleg.state.nj.us/lawsconstitution/constitution.asp>

## APPENDIX II:

### Redistricting Reform Public Forum Survey Responses

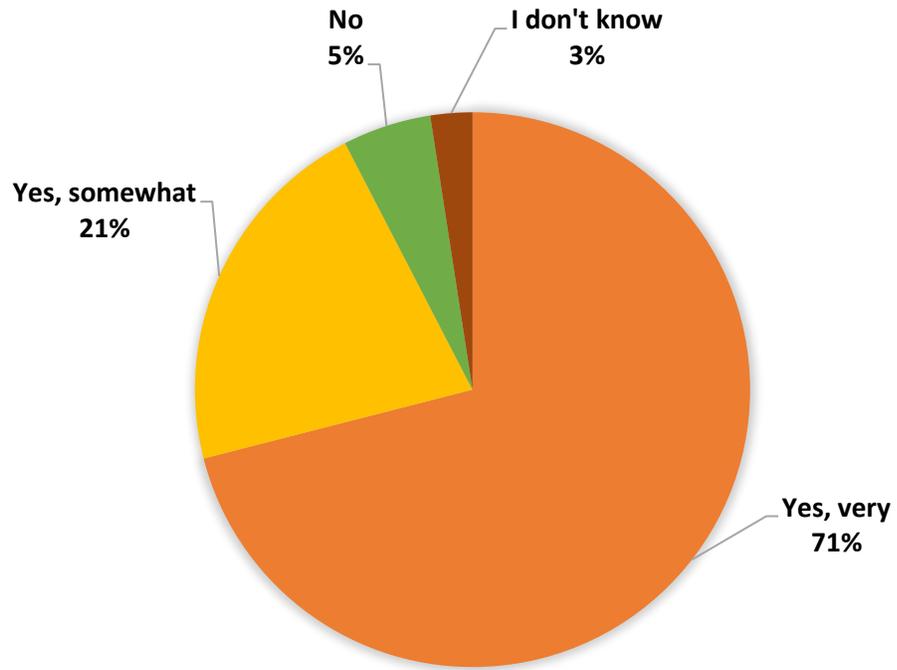
The League of Women Voters of New Jersey, together with coalition partners from Fair Districts New Jersey, organized a series of public forums across the state – “Redistricting Reform Best Practices for a Fairer New Jersey” – to educate voters on the legislative redistricting process and collect feedback on ideas for reforms. Over a seven-week period, from January 26<sup>th</sup> to March 16<sup>th</sup>, New Jerseyans submitted redistricting survey responses and provided feedback on improving our state’s redistricting process by either attending 1 of the 11 public forums or by reviewing a recording of the public forum presentation posted on the Fair Districts New Jersey homepage. Below are the results:

#### IS THE INCLUSION OF UNAFFILIATED AND THIRD-PARTY VOICES IN THE COMMISSION IMPORTANT TO YOU?



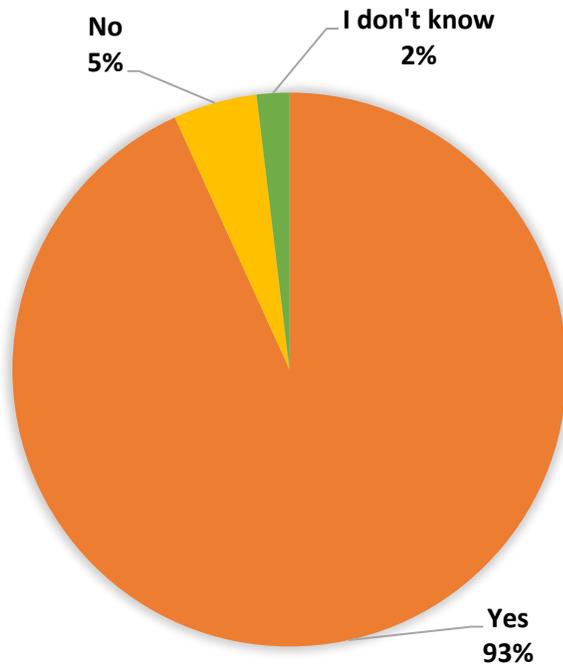
n = 369

**IS THE INCLUSION OF REGULAR VOTERS FROM A POOL OF CITIZEN APPLICANTS IN THE COMMISSION IMPORTANT TO YOU?**



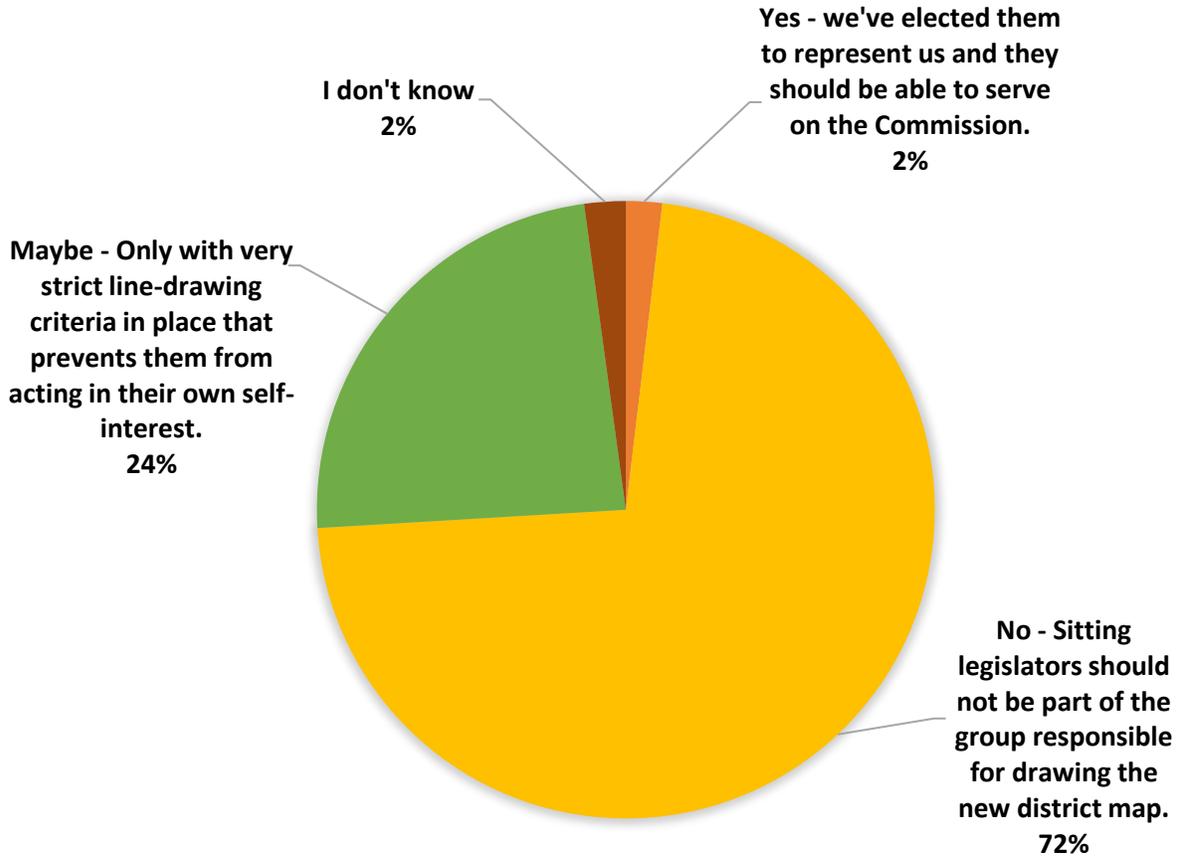
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**WOULD YOU VOTE IN FAVOR OF AN INDEPENDENT, NONPARTISAN  
REDISTRICTING COMMISSION?**



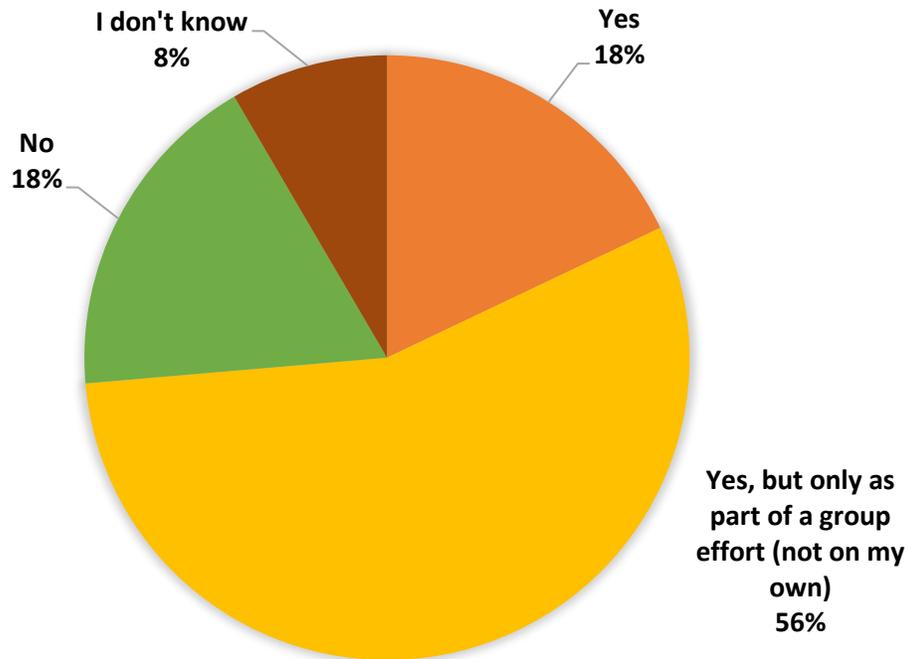
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**SHOULD SITTING LEGISLATORS BE PERMITTED TO SERVE AS REDISTRICTING COMMISSIONERS?**



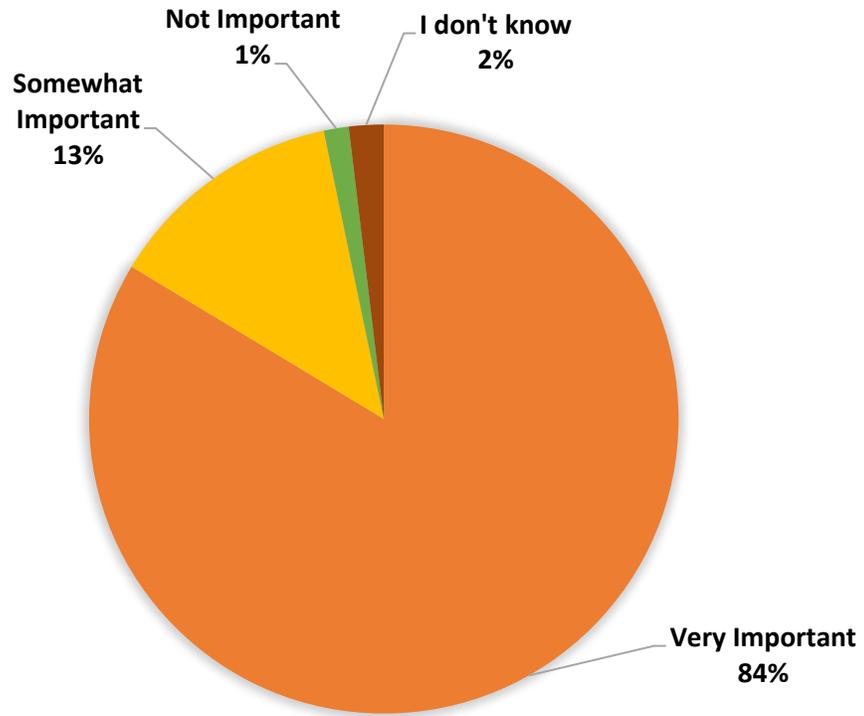
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**WITH ALL DATA ACCESSIBLE TO THE PUBLIC, WOULD YOU CONSIDER  
DRAWING AND SUBMITTING YOUR OWN LEGISLATIVE DISTRICT MAP?**



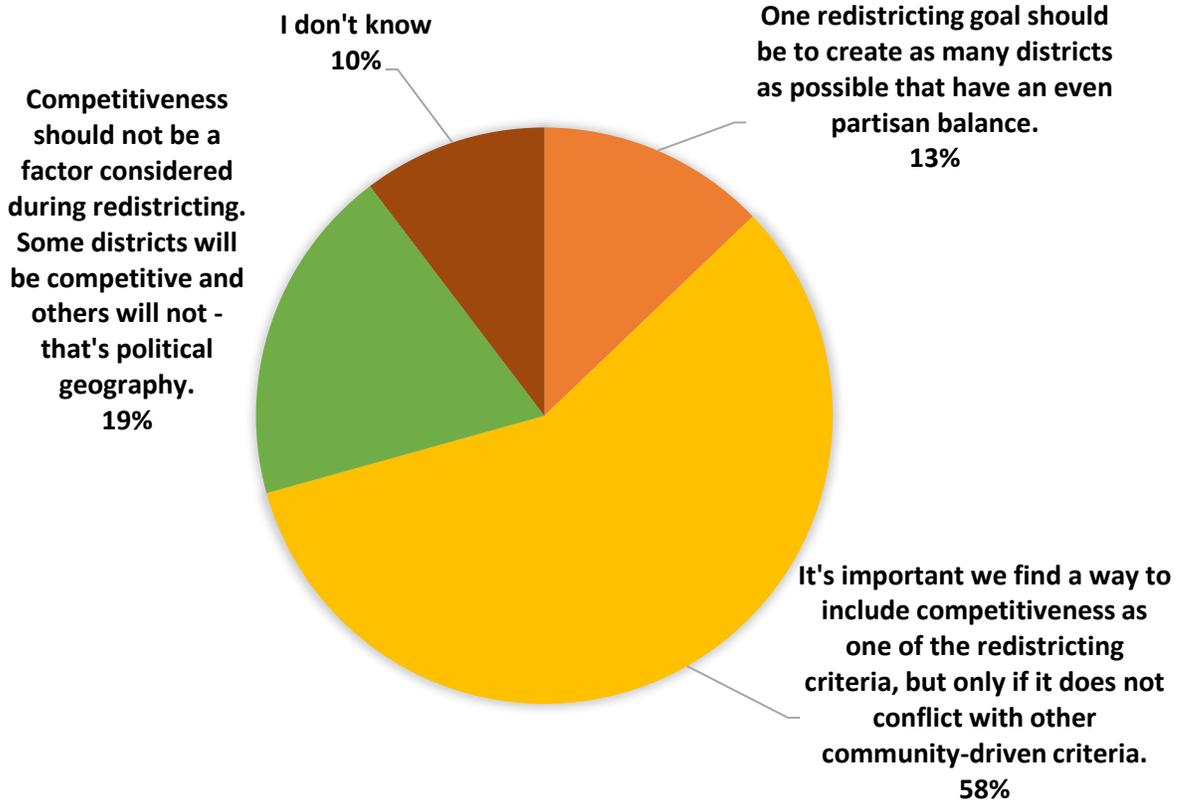
n = 368

**CHECKING A MAP BEFORE IT BECOMES FINAL TO ENSURE PARTISAN  
FAIRNESS IS:**



n = 367

**WHICH STATEMENT DO YOU AGREE WITH MOST WHEN IT COMES TO COMPETITIVENESS?**



n = 358

## APPENDIX III:

### Ranked-order Redistricting Guidelines

- a. The commission shall establish preliminary and final plans of legislative district boundary lines using the following standards in the following order of priority.
  1. The plan shall comply with the United States Constitution, and districts shall be reasonably equal in population based on the total number of inhabitants therein except where deviation is required to accommodate municipal boundaries. For purposes of determining the total number of inhabitants, incarcerated persons shall be deemed to reside at the last known residence prior to incarceration.
  2. The plan shall comply with the federal Voting Rights Act, or its successor.
  3. The districts established in the plan shall be geographically contiguous.
  4. The plan shall give racial minorities and language minorities 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.
  5. The plan shall preserve communities of interest within the same district to the maximum extent. A community of interest shall mean a geographically contiguous population sharing common interests relevant to the legislative process such as trade areas, communication and transportation networks, media markets, or social, cultural, or economic interests. Communities of interest shall not include relationships with political parties, elected office holders, or candidates for elective public office.
  6. The plan shall respect the geographic integrity of any municipality, county, or other political subdivision in a manner that minimizes their division as long as doing so does not inhibit the compliance with the requirements of any of the preceding standards.
  7. To the extent practicable, the districts established in the plan shall be geographically compact so that nearby areas of population are not bypassed for more distant populations.
  8. To the extent practicable, the districts established in the plan shall maximize the number of politically competitive districts.
- b. A plan shall not be established for the purpose of favoring or disfavoring any elected office holder, candidate for elective public office, or political party.