

## ***Introduction***

Typically, spring elections are a relatively low turnout event, especially when compared to even-year fall elections when legislative, presidential, senatorial, and governorships are on the ballot.

It is particularly challenging to motivate the majority of the electorate to vote in a state Supreme Court race. Many voters do not realize the vital, powerful role the state Supreme Court plays in the everyday lives of Wisconsinites.

While the Court's primary role is to decide whether legislation (laws) is/are constitutional. However, over the years the Court has become more involved in settling matters such as collective bargaining, women's reproductive health decisions, voting rights, and legislative district mapping.

Technically, Supreme Court justices are non-partisan and do not affiliate with a political party. However, the Court has become increasingly partisan as candidates are typically supported and advocated by interest groups and political parties. Many view the justices as either conservative-leaning or liberal-leaning.

Therefore, April's Supreme Court election is crucial on many fronts. The current Court has a 4-3 split with the conservatives holding the majority. Since a justice's term is ten years, there are many important issues that will be coming before the Court in the near future.

Redistricting, or gerrymandering, funding for public education, healthcare, climate change, women's reproductive health, and voting rights are all likely to face the Court.

In order to help people understand the gravity of some of these issues (and thus motivate voting in the spring), we present the following summary on redistricting or

gerrymandering and its undemocratic effects on our representative democracy in Wisconsin.

### ***Background***

The 2011 Wisconsin redistricting was one of the most successful, dramatic, and partisan gerrymanders in the history of the country, entrenching Republican majorities in both houses of the Wisconsin Legislature with near supermajorities.

Despite a Democrat governor for the past four years and several court challenges (up to the US Supreme Court), Wisconsin's unfair, gerrymandered districts are virtually unchanged from 2011.

Multiple court challenges to these lines have been made, including a rejection by the U.S. Supreme Court to rule in the matter. Finally, in 2022 the conservative Wisconsin State Supreme Court decided on a 4-3 vote to leave the gerrymandered district lines as drawn in 2011 without change.

In response, many counties in Wisconsin have passed advisory referendums requesting a fairer process for drawing legislative maps. Polls show a majority of Wisconsin voters want a change to the redistricting process.

One poll taken in 2021 showed that nearly nine-in-ten Wisconsinites (87%) oppose gerrymandering. This included 91% of Democrats, 88% of independents, and 84% of Republicans polled. (*Source: YouGov poll, conducted June 30-July 8, 2021*)

However, there seems to be little interest from the Republican Party to change the status quo. Rather, the majority party's emphasis seems to be in preserving their power for the foreseeable future with no regard for the public's distaste for partisan gerrymandering.

## ***Gerrymandering Explained***

Redistricting of state legislative and congressional districts occurs once every decade, usually in the year after the decennial US census. According to the Wisconsin constitution-as with most other states-redistricting follows a legislative process: it must pass both houses of the legislature and be signed by the governor.

However, due to consistent legislative gridlock in Wisconsin, it has become common for redistricting to be conducted by courts. The 1982, 1992, and 2002 legislative maps were each created by panels of US federal judges.

The practice of gerrymandering has been a part of the political landscape since the early 1800's in the United States. In short, gerrymandering is a process of drawing boundaries with the intention of influencing who gets elected.

Rather than voters choosing their representatives, gerrymandering empowers politicians to choose their voters. This tends to occur when line drawing is left to legislatures where one political party controls the process.

Gerrymandering can, and does, artificially keep one party in power despite the overall public's voting sentiments. Gerrymandering also creates a political environment where partisan concerns almost invariably take precedence over all else.

Gerrymandering is done by one of two techniques: cracking and packing.

**Cracking** splits voters of the same party across multiple districts. With their voting strength divided, these groups struggle to elect their preferred candidates in their district.

**Packing** is the opposite of cracking: map drawers cram certain groups of voters into as few districts as possible. In these few districts, the "packed" groups are likely to elect

their preferred candidates, but the groups' voting strength is weakened everywhere else because they all reside in one district (such as the city of Milwaukee). (*Source: Brennan Center for Justice, August, 2021*)

There is no question that gerrymandering is a successful tool to fulfill its intended goal: enhance the voting power of one party over the other. Wisconsin, unfortunately, has become the nation's leading model to showcase how successful gerrymandering works.

Every examination of Wisconsin's State map reveals a remarkable gerrymander. A group of professors from Duke University created over 19,000 random legislative maps and found, "that the Wisconsin redistricting plan is highly gerrymandered . . . and shows more Republican bias than over 99% of the plans created in our modeling." (*Source: Wikipedia: Wisconsin Gerrymandering*)

The extreme 2011 gerrymandering map (Act 43-enacted by Republican legislators in 2011-known as the *Walker/Fitzgerald Gerrymander*) resulted in the Republicans gaining only 48.6% of the vote for legislative seats, but winning 61% of the 99 legislative districts in the 2012 election. (*Source: Wikipedia: Wisconsin Gerrymandering*)

Additionally, in 2018 the Democrats won nearly 9% **more** votes for state legislative positions than the Republicans, but won only 36 of the state's 99 Assembly seats.

Wisconsin was also notable for being the only state in the 2018 elections where Republicans won a majority of the state's seats in the US House of Representatives, while Democrats won a majority of the overall votes. (*Source: Wikipedia-Wisconsin Gerrymandering*)

The negative effects of gerrymandering cannot be disputed. This undemocratic practice drawing district lines contributes to high levels of partisanship and polarization within the district. As a result, representatives govern in a biased manner, which adds to legislative gridlock.

Gerrymandering is harmful to the principle of democratic accountability. By creating non-competitive districts, incumbents are less fearful of losing their seats. Therefore, they have less incentive to represent all of their constituents' interests and feel they only need to look out for their party's concerns.

Since 2013, residents in Wisconsin have passed 55 county board resolutions concerning fair maps. Additionally, 32 counties have passed countywide referendums calling on the state legislature to pass legislation that creates a non-partisan redistricting process.

In each session since, legislators have introduced bi-partisan legislation to enact fair maps, but sadly, there has yet to be a committee hearing. (*Wisconsin Fair Maps Coalition*)