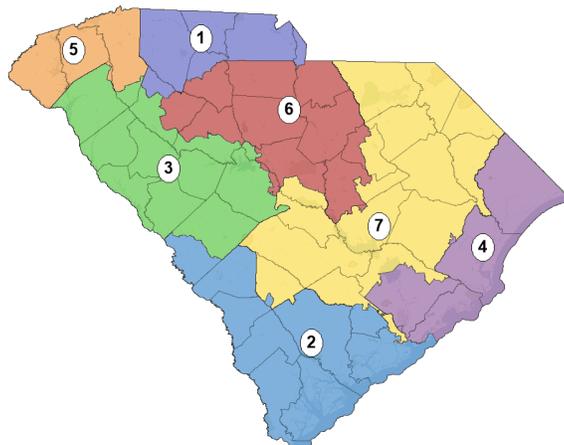
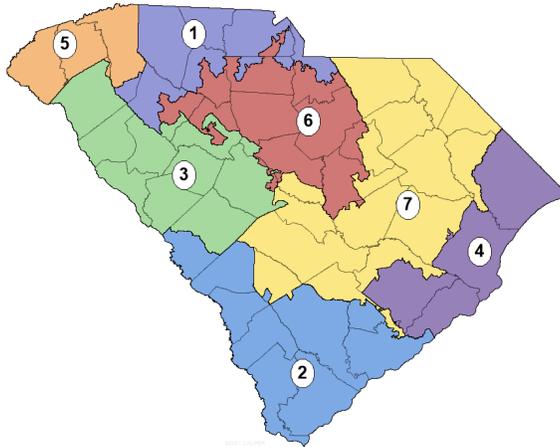
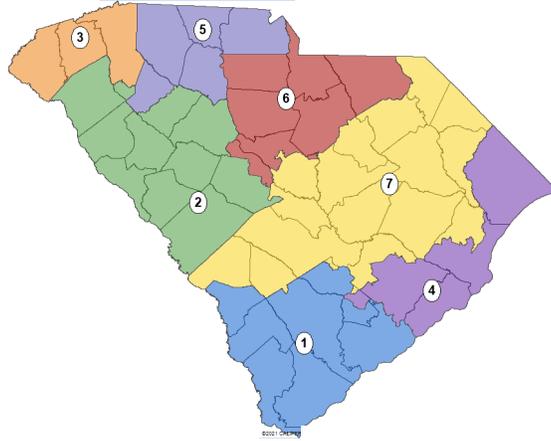


# SOUTH CAROLINA

Congressional Redistricting 2021

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January 4, 2022



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# Introduction

## SOUTH CAROLINA’S CONGRESSIONAL REDISTRICTING PROCESSES

The South Carolina legislature draws the state’s Congressional map, which then is subject to gubernatorial veto or signature. Unlike many other states, South Carolina has not adopted redistricting requirements in statute or in the state constitution. Instead, the legislature issues guidelines and criteria every redistricting cycle. As the legislature drafts possible maps, it attempts to adhere to these guidelines.<sup>1</sup> South Carolina does not have a fixed, statutorily-imposed timeline for its Congressional redistricting process. This year, Congressional candidates have until March 30, 2022 to declare their intent to run in the state’s primaries, which will be held on June 14, 2022. Presumably, the state needs to complete its redistricting before March 30, 2022. As weeks tick by without a finalized map from the legislature, the prospect of a *Purcell* challenge looms larger.<sup>2</sup>

## SOUTH CAROLINA’S CONGRESSIONAL REDISTRICTING HISTORY

South Carolina has a lengthy and complex redistricting past. In a 1992 redistricting suit, the District Court for the District of South Carolina aptly noted that “judicial intervention in the South Carolina redistricting process has been frequently unavoidable.”<sup>3</sup> Unfortunately, little has changed in the last thirty years. In the five most recent redistricting cycles—a period spanning over 50 years—the state’s maps have faced legal challenges. Each of these challenges has taken over four months to resolve.<sup>4</sup>

### 2000 Redistricting Cycle

The South Carolina legislature received the Census Bureau’s 2000 Census data on March 15, 2001.<sup>5</sup> This data showed the state’s population had grown by over 15% the previous decade.<sup>6</sup> On August 27, 2001, the legislature submitted its proposed Congressional maps to Governor Jim Hodges, which Hodges quickly vetoed, citing excessive county splits and an insufficient number

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<sup>1</sup> See “2021 Guidelines and Criteria for Congressional and Legislative Redistricting,” *South Carolina House of Representatives Judiciary Committee Redistricting Ad Hoc Committee*, Aug. 3, 2021 (available at <https://redistricting.schouse.gov/docs/2021%20Redistricting%20Guidelines.pdf>) (listing this cycle’s guidelines).

<sup>2</sup> Under the *Purcell* Principle, courts should not alter election rules close to an election because doing so risks confusing voters and complicating the election’s administration. See *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006).

<sup>3</sup> *Burton v. Sheheen*, 793 F. Supp. 1329, 1337 (D.S.C. 1992).

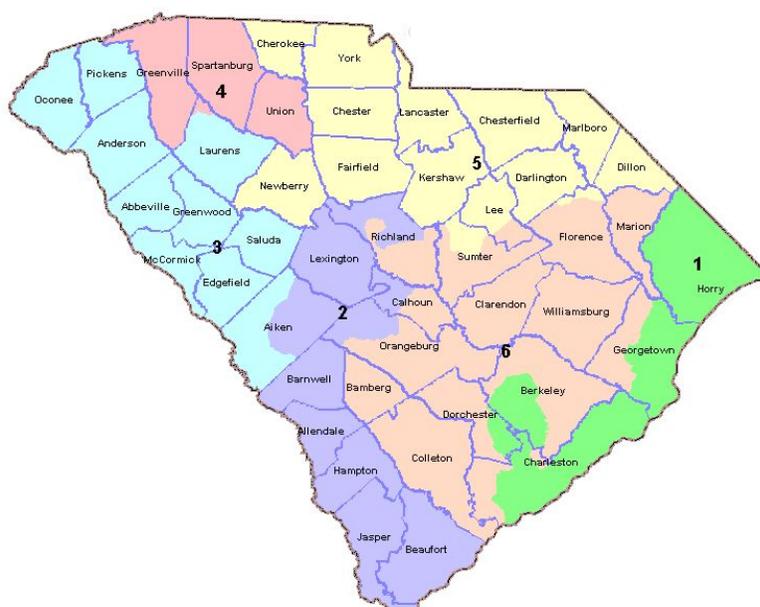
<sup>4</sup> Complaint For Declaratory And Injunctive Relief at 17, *S.C. State Conference of NAACP v. McMaster*, Civil Action 3:21-cv-03302-JMC (D.S.C. Nov. 12, 2021).

<sup>5</sup> *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618, 624 (D.S.C. 2002).

<sup>6</sup> *Id.* at 626.

of Black influence districts.<sup>7</sup> After this veto, multiple lawsuits were filed alleging that South Carolina’s Congressional districts, which were malapportioned based on the 2000 census data, violated “one-person, one-vote.”<sup>8</sup> The plaintiffs also sought updated Congressional maps for the 2002 midterm elections. In *Colleton County Council v. McConnell*, the U.S. District Court for the District of South Carolina held that the state legislature and governor were unable “to complete the requisite redistricting in time for the impending elections [2002 primaries].”<sup>9</sup> The Court issued new maps and ordered the state to use them. Under the Court’s maps, South Carolina’s 6th District was a minority-majority district with a 53.75% Black voting-age population.<sup>10</sup>

*South Carolina Congressional Districts 2002-2011*<sup>11</sup>



### 2010 Redistricting Cycle

The Census Bureau provided the South Carolina legislature with the 2010 census data on March 23, 2011. The state gained 613,352 people—a 15% increase—and added a seventh Congressional seat. The governor signed the legislature’s proposed Congressional plans into law in August. *Backus v. South Carolina* was filed in early November, challenging the new maps’ treatment of Black voters as unconstitutional under the 14th Amendment and as a violation of Section 2 of the Voting Rights Act (VRA). Both Congressman Jim Clyburn and State

<sup>7</sup> *Id.* at 624.

<sup>8</sup> *Id.* at 625.

<sup>9</sup> *Id.* at 627.

<sup>10</sup> *Id.* at 666.

<sup>11</sup> “South Carolina Redistricting 2001,” *South Carolina Senate Judiciary Committee*, last updated Jul. 11, 2003 (available at <https://redistricting.scsenate.gov/archives/2001/senred.htm>).

Representative Bakari Sellers testified that the maps packed Black voters.<sup>12</sup> Nevertheless, the District Court for the District of South Carolina rejected the plaintiffs’ 14th Amendment and VRA claims. The Court noted in its March 2012 opinion that “Plaintiffs have failed to prove that race was the predominant factor in creating the House and Congressional plans,” and that they did not sufficiently establish that “the General Assembly intended to pack African–American voters into districts to prevent the creation or preservation of crossover districts.”<sup>13</sup> On appeal, the Supreme Court affirmed the trial court’s decision. Under the state’s new maps, District 6’s population was 55% Black, while District 7 was 28% Black and District 5 was 27% Black.<sup>14</sup>

*South Carolina Congressional Districts 2012-Present<sup>15</sup>*



### 2020 Redistricting Cycle

As detailed above, federal litigation has seemingly become a normal part of South Carolina’s redistricting process. The current redistricting cycle is no exception. On August 12, 2021, the Census Bureau released South Carolina’s data. A month later, on September 22, the South Carolina House of Representatives decided to adjourn; they had yet to release any map

<sup>12</sup> *Backus v. South Carolina*, 857 F. Supp. 2d 553, 564 (D.S.C. 2012).

<sup>13</sup> *Id.* at 567.

<sup>14</sup> “South Carolina District Statistics Report,” South Carolina Senate, Jul. 27, 2011 (available at [https://redistricting.scsenate.gov/archives/2011/27JUL2011/H3992\\_26JUL2011\\_DistStat.pdf](https://redistricting.scsenate.gov/archives/2011/27JUL2011/H3992_26JUL2011_DistStat.pdf)).

<sup>15</sup> “South Carolina Congressional Districts 113th Congress,” *National Atlas*, Feb. 9, 2014 (available at [https://web.archive.org/web/20140223230238/http://nationalatlas.gov/printable/images/pdf/congdist/pagecgd113\\_sc.pdf](https://web.archive.org/web/20140223230238/http://nationalatlas.gov/printable/images/pdf/congdist/pagecgd113_sc.pdf)).

proposals.<sup>16</sup> In light of the House’s adjournment, the South Carolina Senate also adjourned, citing the House’s closure and resolving that they would not re-convene until the House did.<sup>17</sup> Similar to the House, the state Senate had yet to produce any proposals.<sup>18</sup> Since the next regularly scheduled South Carolina legislative session was set to begin in January 2022, the legislature’s inaction prompted widespread concern. The state’s lengthy history of redistricting litigation has amplified this concern.

On October 12, the NAACP and ACLU filed a federal lawsuit, *NAACP v. McMaster*, against the South Carolina legislature and governor, challenging the legislature’s “unnecessary delay” in “fulfilling this once-in-a-decade, time-consuming, time-sensitive obligation, despite repeated requests from members of the public that it do so.”<sup>19</sup> As the ACLU complaint states, “the people of South Carolina...face a substantial and imminent risk that constitutionally compliant district lines will not be redrawn in time to cure the current unconstitutional malapportionment for the 2022 elections.”<sup>20</sup> Compounding this threat are growing concerns about *Purcell* roadblocks.<sup>21</sup> If Governor McMaster approves a new Congressional map this spring, there may not be enough time for courts to resolve related legal challenges before South Carolina’s March 2022 primary filing deadline. Conversely, *Purcell* may bar court imposed changes to the map if these changes are passed down too close to the election, making the state’s possibly unconstitutional maps controlling. As federal courts have previously noted, “judicial intervention in the South Carolina redistricting process has been frequently unavoidable.”<sup>22</sup> Following *NAACP v. McMaster*’s filing, the South Carolina legislature decided to meet in November to discuss map proposals.

On November 23, 2021, the South Carolina Senate released its proposed Congressional map and one week later the South Carolina House conveyed a three-day redistricting special session to speed-up its map-drawing.<sup>23</sup> The Senate’s self-described “minimal change” proposal makes slight adjustments around Charleston but largely maintains the existing map; under the Senate’s plan, District 6 would be 47.42% Black VAP.<sup>24</sup> The proposed Senate map would render every

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<sup>16</sup> Complaint For Declaratory And Injunctive Relief at 3, S.C. State Conference of NAACP v. McMaster, Civil Action 3:21-cv-03302-JMC (D.S.C. Nov. 12, 2021).

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 5.

<sup>21</sup> *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006).

<sup>22</sup> *Burton v. Sheheen*, 793 F. Supp. 1329, 1337 (D.S.C. 1992).

<sup>23</sup> Jeffrey Collins, “SC House Special Session Avoids Anything but Redistricting,” *Associated Press*, Dec. 1, 2021 (available at

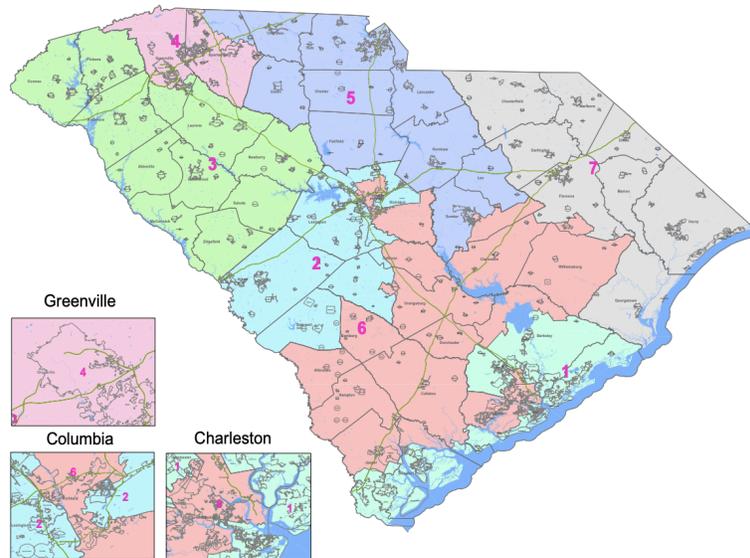
<https://apnews.com/article/coronavirus-pandemic-health-south-carolina-redistricting-congress-c6cdc2dd787377bb8006840fe50623f8>); Jeffrey Collins, “SC Senate’ Doesn’t Propose Big Changes in New US House Map,” *Associated Press*, Nov. 23, 2021 (available at

<https://apnews.com/article/elections-south-carolina-charleston-redistricting-congress-7e4a2e9c261488dd2b380261739a8020>).

<sup>24</sup> “S.C. Senate Subcommittee Plan Statistics,” South Carolina Senate (available at <https://redistricting.scsenate.gov/docs/proposals/congressionalstaff/Staff%20Subcommittee%20Plan%20Stats.pdf>).

seat in the state uncompetitive and prompted outrage from Democratic state senators, including Dick Harpootlian who noted that the “result they came up with is racially skewed, and I think we need to be very conscious about the fact, about the issue of packing African-Americans into one district.”<sup>25</sup> Others were even more direct in their criticism. Joe Cunningham, Democratic candidate for governor, stated that “If gerrymandering was an art, this proposed map would be a Picasso.”<sup>26</sup>

### *Senate Proposal*<sup>27</sup>



The South Carolina House of Representatives issued two plans in December 2021. Both plans made more substantial changes to the existing map than the Senate proposal, creating a wide divergence between the two chambers’ proposals. While the House’s first plan received praise, including from the South Carolina League of Women Voters, the House’s second, so-called “alternative” plan, issued in late December incited uproar across the state.<sup>28</sup> Voting rights groups blasted the alternative plan, which was drafted without the knowledge of several Democratic members of the House redistricting subcommittee, labeling it an “obvious racial and partisan gerrymander.”<sup>29</sup> Under this plan, South Carolina’s only currently contested seat—District

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<sup>25</sup> Mary Green, “SC’s Proposed Congressional Map Draws Sharp Criticism During Subcommittee Meeting,” *WCSC*, Nov. 29, 2021 (available at <https://www.live5news.com/2021/11/30/scs-proposed-congressional-map-draws-sharp-criticism-during-subcommittee-meeting/>).

<sup>26</sup> *Id.*

<sup>27</sup> “2021 Senate Plan Proposals,” South Carolina Senate (available at <https://redistricting.scsenate.gov/planproposal.html>).

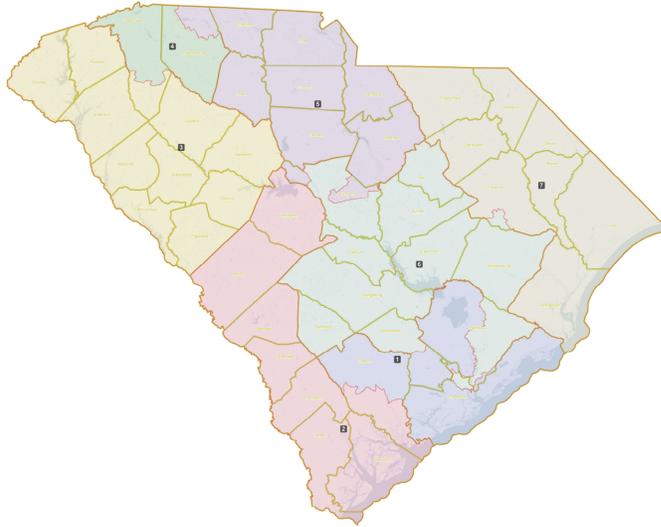
<sup>28</sup> Mary Green, “Alternate Plan Draws Fire in S.C. Congressional Redistricting Process,” *WIS*, Dec. 29, 2021 (available at

<https://www.wrdw.com/2021/12/30/should-be-rejected-alternate-house-proposal-new-sc-congressional-map-criticized/>).

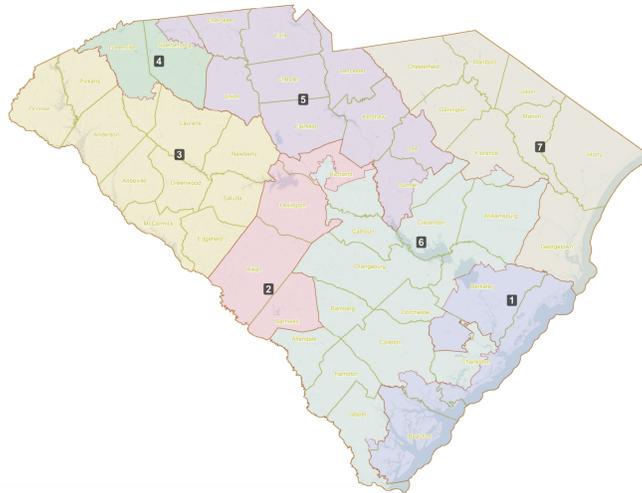
<sup>29</sup> *Id.*

1—would become more white and more Republican. As of yet, no final plan for South Carolina’s Congressional map has been proposed or adopted.

*House Original Proposed Plan*<sup>30</sup>



*House “Alternative” Plan*<sup>31</sup>



<sup>30</sup> “2021 House Plan Proposals,” South Carolina House of Representatives Redistricting 2021 (available at <https://redistricting.schouse.gov/>).

<sup>31</sup> *Id.*

## POPULATION CHANGES: 2010-2020

South Carolina's population grew by almost 11% from 2010-2020 as the state added nearly half a million new residents.<sup>32</sup> South Carolina is now the second-fastest growing state on the east coast (behind Florida). This population growth was most pronounced in the state's coastal and urban areas. The Charleston suburbs grew, as did the city of Greenville and Greenville County (up 75,000+ people);<sup>33</sup> The state's easternmost county—Horry County (where Myrtle Beach is located)—expanded by almost 30%, and York County, which borders the Charlotte area, also experienced significant growth.<sup>34</sup> While the United States as a whole grew more racially diverse over the past decade, South Carolina's white population has added over 200,000 people since 2010, outstripping any racial or ethnic minority group.<sup>35</sup> Approximately 7% of the state's current population is Hispanic, while around 25% identifies as Black and 1.8% identifies as Asian.<sup>36</sup>

South Carolina's significant population changes since 2020 have led to malapportioned Congressional districts. Using the state's current Congressional lines, the state's 1st District is 12% overpopulated while its 6th District is 12% underpopulated.<sup>37</sup> Some portion of South Carolina voters will need to move out of Nancy Mace's District 1 and into Jim Clyburn's District 6 during this redistricting cycle. As of 2019, District 1's population was 18% Black, while District 6's was 54% Black. Based on 2020 Census data, each of South Carolina's seven districts should contain 731,204 people.

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<sup>32</sup> "South Carolina: 2020 Census," U.S. Census Bureau, Aug. 25, 2021 (available at <https://www.census.gov/library/stories/state-by-state/south-carolina-population-change-between-census-decade.html>).

<sup>33</sup> Lyn Riddle, "Greenville County Population Explodes to More Than Half a Million People," *The State*, Aug. 13, 2021 (available at <https://www.thestate.com/news/upstate/article253449029.html>).

<sup>34</sup> Sarah Ellis, "Big Population Gains in SC — And Some Not So Big. What New Census Data Tell Us So Far," *The State*, Aug. 12, 2021 (available at <https://www.thestate.com/news/state/south-carolina/article253439539.html>).

<sup>35</sup> David Slade, "The 2020 Census Shows South Carolina And The Nation Have Been Growing Differently," Aug. 15, 2021 (available at [https://www.postandcourier.com/news/the-2020-census-shows-south-carolina-and-the-nation-have-been-growing-differently/article\\_bbadd518-fc46-11eb-b4ad-07d6d8d904fc.html](https://www.postandcourier.com/news/the-2020-census-shows-south-carolina-and-the-nation-have-been-growing-differently/article_bbadd518-fc46-11eb-b4ad-07d6d8d904fc.html)).

<sup>36</sup> "South Carolina: 2020 Census," U.S. Census Bureau, Aug. 25, 2021 (available at <https://www.census.gov/library/stories/state-by-state/south-carolina-population-change-between-census-decade.html>).

<sup>37</sup> Mark Stern, "Republicans May Revive the Most Dangerous Kind of Gerrymandering," *Slate*, Oct. 20, 2021 (available at <https://slate.com/news-and-politics/2021/10/south-carolina-republicans-gerrymandering-malapportionment.html>).

*South Carolina's Population: 2010-2020*<sup>38</sup>

District	2010 Population	2020 Population	Shift	Deviation from Ideal 2020 Population	Percent Deviation
1	660,766	818,893	+158,127	+87,689	11.99%
2	660,766	721,829	+61,063	-9,375	-1.28%
3	660,767	706,785	+46,018	-24,419	-3.34%
4	660,766	760,233	+99,467	+29,029	3.97%
5	660,766	736,286	+75,520	+5,082	0.70%
6	660,766	646,463	-14,303	-84,741	-11.59%
7	660,767	727,936	+67,169	-3,268	-0.45%

## FEDERAL AND STATE LEGAL COMPLIANCE

### One Person-One Vote

“Absolute population equality [is] the paramount objective” of redistricting,<sup>39</sup> because “to say that a vote is worth more in one district than in another would...run counter to our fundamental ideas of democratic government.”<sup>40</sup> As such, whenever a state violates the principle of “equal representation for equal numbers of people”<sup>41</sup> by drawing disparately populated districts, the state must “justify each variance, no matter how small.”<sup>42</sup> South Carolina’s Congressional districts must be equally apportioned by population in order to comply with Article I, Section II of the Constitution.<sup>43</sup> Prior to the Voting Rights Act, South Carolina used a county-based representation system at the state level wherein each county had a fixed legislative delegation regardless of population.<sup>44</sup> In 1966, this system was deemed unconstitutional for violating one-person, one-vote.<sup>45</sup> Recent redistricting litigation in South Carolina has included one-person, one-vote challenges but these have been directed toward the state’s Senate and House maps rather than its Congressional plans.<sup>46</sup> All proposed maps contained in this report comply with one-person, one-vote and contain no more than a one person deviation between districts.

<sup>38</sup> Complaint For Declaratory And Injunctive Relief at 16, S.C. State Conference of NAACP v. McMaster, Civil Action 3:21-cv-03302-JMC (D.S.C. Nov. 12, 2021).

<sup>39</sup> *Karcher v. Daggett*, 462 U.S. 725, 732-33 (1983).

<sup>40</sup> *Reynolds v. Sims*, 377 U.S. 533, 564 n.41 (1964).

<sup>41</sup> *Wesberry v. Sanders*, 376 U. S. 1, 8 (1964).

<sup>42</sup> *Karcher v. Daggett*, 462 U.S. 725, 730 (1983).

<sup>43</sup> See *Wesberry v. Sanders*, 376 U. S. 1 (1964).

<sup>44</sup> Grant Hayden, *The False Promise of One Person, One Vote*, 10 Mich. L. Rev. 213, 219 (2003).

<sup>45</sup> *O’Shields v. McNair*, 254 F.Supp. 708, 716 (D.S.C. 1966).

<sup>46</sup> See, e.g., *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002).

## The 14th Amendment

Under the Equal Protection Clause of the 14th Amendment, plaintiffs can raise two “analytically distinct,”<sup>47</sup> redistricting-relevant claims: racial gerrymandering or vote-dilution. Although race can be a factor in drawing district lines,<sup>48</sup> only in exceptional circumstances may it be the “predominant factor.”<sup>49</sup> Predominance can be established in a number of ways. Highly irregular geographic or demographic compositions, for example, may signal that race is being used as a predominant factor,<sup>50</sup> as may legislative history or intent.<sup>51</sup> Ultimately, however, predominance turns on whether the legislature preferred race above traditional, race-neutral redistricting principles like “compactness, contiguity, or respect for political subdivisions.”<sup>52</sup> Districts drawn with race as the predominant factor are subject to strict scrutiny.<sup>53</sup> In order to meet this scrutiny, the use of race must have been narrowly tailored to achieve a compelling state interest. Compliance with Section 2 or Section 5<sup>54</sup> of the Voting Rights Act constitutes a compelling interest.<sup>55</sup> Federal judges in South Carolina have affirmed this principle, holding that “[i]f there is a strong basis in evidence for concluding that creation of a majority-minority district is reasonably necessary to comply with the [Voting Rights] Act, and the race-based districting substantially addresses the violation, the plan will not fail under Equal Protection analysis.”<sup>56</sup> Vote dilution claims, which require established legislative intent and discriminatory effect, are less relevant to these maps and have not been successful in South Carolina this century.<sup>57</sup>

## The Voting Rights Act

South Carolina has a long history of Black disenfranchisement, affirming the critical and continued importance of the 1965 Voting Rights Act (VRA). The Voting Rights Act broadly prohibits “voting practices or procedures that discriminate on the basis of race, color, or membership in one of the language minority groups identified in Section 4 (f)(2) of the Act.”<sup>58</sup> Under Section 2 of the VRA,<sup>59</sup> states cannot employ practices that “result[ ] in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”<sup>60</sup>

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<sup>47</sup> *Miller v. Johnson*, 515 U.S. 900, 911 (1995).

<sup>48</sup> *See Miller v. Johnson*, 515 U.S. 900, 935 (1995); *Easley v. Cromartie*, 532 U.S. 234, 241 (2001).

<sup>49</sup> *Miller v. Johnson*, 515 U.S. 900, 910 (1995).

<sup>50</sup> *Shaw v. Reno*, 509 U.S. 630, 646-647 (1993); *Miller v. Johnson*, 515 U.S. 900, 912-913 (1995).

<sup>51</sup> *Miller v. Johnson*, 515 U.S. 900, 916 (1995).

<sup>52</sup> *Shaw v. Reno*, 509 U.S. 630, 647 (1993).

<sup>53</sup> *Miller v. Johnson*, 515 U.S. 900, 920 (1995).

<sup>54</sup> Following the Court’s decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), this analysis centers on Section 2 of the Voting Rights Act.

<sup>55</sup> *Bush v. Vera*, 517 U.S. 952, 976 (1996).

<sup>56</sup> *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618, 639 (D.S.C. 2002).

<sup>57</sup> *Washington v. Finlay*, 664 F.2d 913, 919 (4th Cir. 1981).

<sup>58</sup> The Voting Rights Act of 1965 (codified as amended at 52 U.S.C. §10301(1982)); “Section 2 of the Voting Rights Act,” U.S. Department of Justice, Nov. 8, 2021 (available at <https://www.justice.gov/crt/section-2-voting-rights-act>).

<sup>59</sup> This analysis focused on Section 2 of the VRA and ignores Section 5 considerations based on *Shelby County v. Holder*. South Carolina was a covered jurisdiction under Section 5 of the Voting Rights Act before the Supreme Court’s decision in *Shelby County*.

<sup>60</sup> 42 U.S.C. § 1973(a).

A Section 2 violation occurs when members of VRA protected classes have, based on the totality of circumstances, “less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”<sup>61</sup> This totality of the circumstances analysis turns on “a variety of objective factors concerning the impact of the challenged practice and the social and political context in which it occurs” (i.e. the “Senate Factors”).<sup>62</sup>

To establish a Section 2 violation, plaintiffs must meet three initial preconditions—the so-called *Gingles* prongs.<sup>63</sup> First, the minority group has to be “sufficiently large and geographically compact to constitute a majority in a single-member district.” Second the group must be “politically cohesive,” meaning that they tend to vote for the same candidate. Third, the majority group (white voters) must vote “sufficiently as a bloc to enable it...to defeat the minority’s preferred candidate.”<sup>64</sup> If these preconditions are present alongside some Senate Factors, the state may use race as a predominant factor in drawing a map that is narrowly tailored to safeguard a compelling need—VRA compliance—thereby preserving the minority group’s voting power. Section 2 does not, however, require states to maximize minority voting strength (this would likely violate the 14th Amendment),<sup>65</sup> and VRA-compliant districts still must be drawn in a “reasonably compact” manner.<sup>66</sup> In drawing Congressional districts, legislatures or commissions must navigate inherent tensions between the Equal Protection Clause’s race neutrality and the VRA’s important, racially-grounded safeguards.

In South Carolina, voters’ distribution and their voting patterns meet the three *Gingles* preconditions. As the Court wrote in *Colleton County*, “Voting in South Carolina continues to be racially polarized to a very high degree, in all regions of the state and in both primary elections and general elections. Statewide, black citizens generally are a highly politically cohesive group and whites engage in significant white-bloc voting. Indeed, this fact is not seriously in dispute.”<sup>67</sup> South Carolinians are politically cohesive by race as well with “white voters almost always vot[ing] in blocs to defeat the minority's candidate of choice.”<sup>68</sup> This polarization is most evident in elections between Black and white candidates. According to expert testimony in *Colleton County*, Black voters consistently favor Black Democrats whereas “whites almost always vote for whites...unless the candidate is a black Republican and then never.”<sup>69</sup> Unsurprisingly, federal

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<sup>61</sup> *Backus v. South Carolina*, 857 F. Supp. 2d 553, 565 (D.S.C. 2012) (quoting the Voting Rights Act, 52 USC § 10301 (2014)).

<sup>62</sup> Brief Of The Brennan Center For Justice At NYU School Of Law As Amicus Curiae In Support Of Respondents at 7, *Brnovich v. Democratic National Committee*, 594 U.S. \_\_\_\_ (2021) (Nos. 19-1257; 19-1258) (finding that “although these factors are ‘neither comprehensive nor exclusive,’ they ‘will often be pertinent to certain types of [Section] 2 violations’” (*Thornburg v. Gingles*, 478 U.S. 30, 45 (1986)).

<sup>63</sup> *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986).

<sup>64</sup> *Bartlett v. Strickland*, 556 U.S. 1, 11 (2009).

<sup>65</sup> *Miller v. Johnson*, 515 U.S. 900, 926-927 (1995).

<sup>66</sup> *Bush v. Vera*, 517 U.S. 952, 979 (1996).

<sup>67</sup> *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618, 641 (D.S.C. 2002).

<sup>68</sup> *Id.* at 641.

<sup>69</sup> *Id.*

courts have consistently ruled that the first two *Gingles* conditions are “overwhelmingly” met in South Carolina.<sup>70</sup> Although there is ample legal dispute in the state about the percentage of Black voters needed in a majority-minority district for an equal opportunity to exist, there is broad consensus about the need for a majority-minority district itself.<sup>71</sup>

Minority voting strength can be diluted in many ways, including packing minority voters into a district or splitting them apart to spread minority voters across multiple districts. South Carolina has a rich history of both practices and a large amount of VRA Section 2 litigation to match.<sup>72</sup> At the Congressional level, most of this litigation has focused on South Carolina’s majority-minority district, District 6, which was first court-drawn in 1992 with a 58% BVAP.<sup>73</sup> The district was re-litigated following the 2000 redistricting cycle, where the Court upheld a 53.75% BVAP majority-minority district map.<sup>74</sup> In 2012, the 6th District packed in more Black voters, returning to its 1992 BVAP numbers. Jim Clyburn, District 6’s Representative in Congress, has pushed back on efforts to pack Black voters for the past decade, noting in 2011: “If I had drawn the lines, my district would not be 58 percent Black, and [GOP Representative] Joe Wilson, with whom I share Columbia, would not have a district that is 68 percent white.”<sup>75</sup> While race was certainly a factor considered in drawing the maps proposed in this report, it was just one of many factors and its consideration principally concerned VRA-compliance.

### **State Redistricting Principles**

South Carolina has not codified additional redistricting requirements in statute or in the state constitution. Instead, the legislature puts forth a number of “guidelines and criteria” every redistricting cycle for lawmakers to use. This year, the legislature directed its members to use four added criteria:

#### **I. Contiguity**

Districts must be composed of contiguous land; contiguity by water is permissible.<sup>76</sup>

#### **II. Compactness**

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<sup>70</sup> *Id.* at 642.

<sup>71</sup> *Id.*

<sup>72</sup> See *United States v. Charleston County*, 318 F. Supp. 2d 302 (D.S.C. 2002); *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002); *McCain v. Lybrand*, 465 U.S. 236 (1984); *Jackson v. Edgefield County, South Carolina School Dist.*, 650 F. Supp. 1176 (D.S.C. 1986).

<sup>73</sup> *Burton v. Sheheen*, 793 F. Supp. 1329, 1359–63 (D.S.C. 1992).

<sup>74</sup> *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002).

<sup>75</sup> David Wasserman, “Is It Time to Rethink Hyper-Minority Districts?” *The Atlantic*, Sep. 20, 2021 (available at <https://www.theatlantic.com/politics/archive/2021/09/it-time-rethink-hyper-minority-districts/620118/>).

<sup>76</sup> “2021 Guidelines and Criteria for Congressional and Legislative Redistricting,” *South Carolina House of Representatives Judiciary Committee Redistricting Ad Hoc Committee*, Aug. 3, 2021 (available at <https://redistricting.schouse.gov/docs/2021%20Redistricting%20Guidelines.pdf>) (listing this cycle’s guidelines).

Districts should be “reasonably compact in form and should follow census geography.” Legislators are instructed to avoid drawing “bizarrely shaped districts.”<sup>77</sup> In assessing compactness, legislators should examine the configuration of prior plans and should not use “any mathematical, statistical, or formula-based calculation” to determine compactness.<sup>78</sup>

III. Communities of Interest

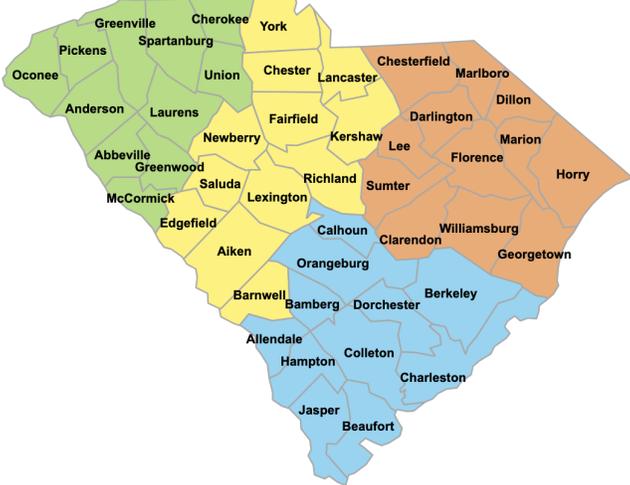
The legislature should balance communities of interest in the redistricting process. The following factors may indicate a community of interest: “economic; social and cultural; historic influences; political beliefs; voting behavior; governmental services; commonality of communications; and geographic location.”<sup>79</sup> Political subdivision lines may also be considered in determining communities of interest.

IV. Incumbency Considerations

Legislators are instructed that incumbency considerations should not “overtake other redistricting principles.”<sup>80</sup> However, legislators may make “reasonable efforts” to keep incumbents in their current districts and to limit the likelihood that two incumbents would be forced to run against one another.<sup>81</sup>

**CURRENT COMMUNITIES OF INTEREST**

South Carolina’s state government has delineated four distinct communities of interest in the state based on geographical, cultural, and historical features: the Lowcountry (blue), Pee Dee (orange), Upstate (green), and Midlands (yellow).



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<sup>77</sup> *Id.*  
<sup>78</sup> *Id.*  
<sup>79</sup> *Id.*  
<sup>80</sup> *Id.*  
<sup>81</sup> *Id.*

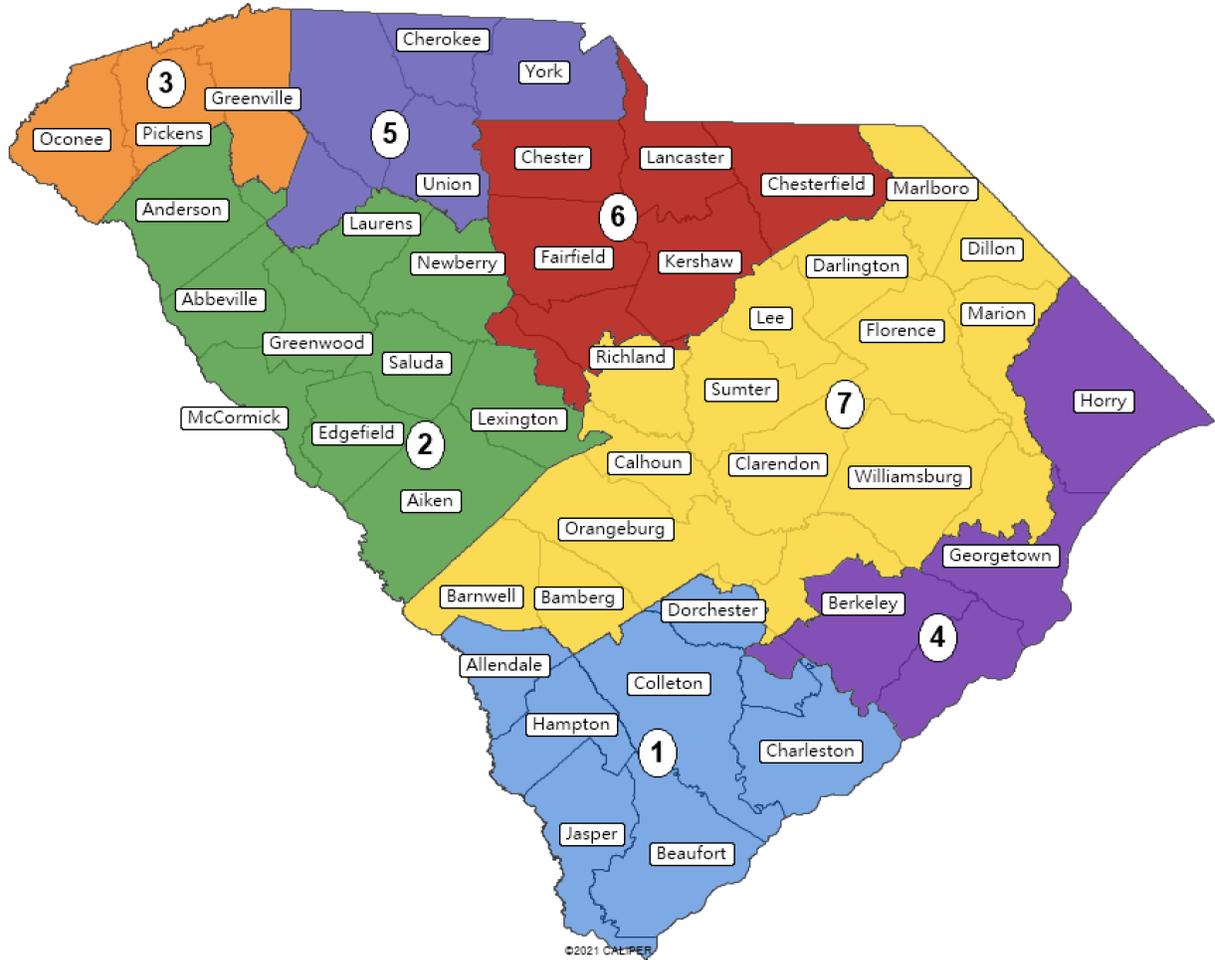
The Lowcountry is a culturally significant region of South Carolina, long characterized for its Gullah roots, unique French and African architecture, and separate economy. In the 18th and 19th centuries, the vast majority of South Carolina's plantations were located in the Lowcountry, and much of the state's Black population remains in the Lowcountry today. Pee Dee, named for the Native American tribe that originally lived in eastern South Carolina, is known for its coastal cities like Myrtle Beach and its large retirement communities. Most of the state's growing retiree population lives in Pee Dee and the region attracts many of South Carolina's tourists. Midlands, home to Columbia, is the least culturally distinct of the four communities and largely serves as a buffer between the Lowcountry and Upstate. Upstate, also known as "Upcountry," is home to South Carolina's major business cities, including Greenville and Spartanburg, and contains the I-85 corridor at the center of the "Charlanta" region. Bank of America, BMW America, and other major corporations are headquartered in Greenville, which the Wall Street Journal recently crowned the "forefront of America's economic recovery."<sup>82</sup> In contrast to the Lowcountry and Pee Dee regions, the Upstate is more commercialized and has a less distinct cultural history.

The maps in this report attempt to preserve communities of interest to different degrees depending on the map's predominant redistricting principle.

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<sup>82</sup> Justin Baer, "The Breakout Cities on the Forefront of America's Economic Recovery," *The Wall Street Journal*, May 9, 2021 (available at <https://www.wsj.com/articles/the-breakout-cities-on-the-forefront-of-americas-economic-recovery-11620584178>).

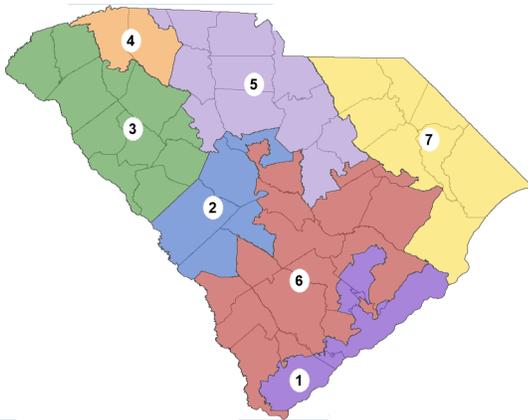
# Plan 1: Compact Good Governance



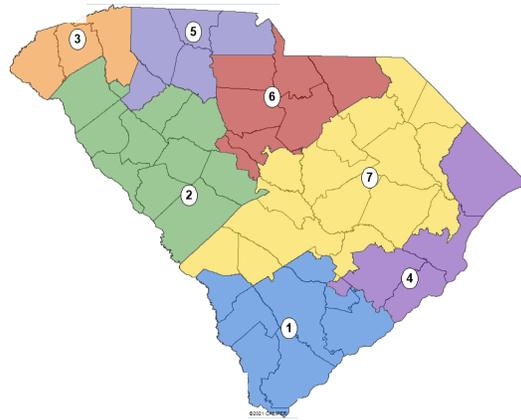
## REDISTRICTING PRINCIPLES

This map was drawn to maximize compactness and minimize county splits while preserving South Carolina’s VRA-required majority-minority district. South Carolina’s current Congressional map splits 12 counties and 65 voting districts. I sought to draw a much more compact map that would improve these numbers and achieve fair minority representation. Race was not the predominant factor in creating this map—and it is possible to draw much stronger minority districts in South Carolina than this map puts forth—but it was a consideration, as were communities of interest. While some similarities exist between the state’s current Congressional map and this one, there are significant deviations. District 6, the state’s current majority-minority district, remains the most similar between the two maps.

*Current Congressional Map:*



*Proposed Map:*



## MAP SUMMARY

This good governance map equally distributes South Carolina’s population between seven districts, including one VRA-compliant majority-minority district (50.1% Black CVAP) and one Black influence district (33.4% Black CVAP, strong proportion of white Democrats). The map is more compact and cohesive than the state’s current map, achieving 9 county splits and 23 voting district splits (compared to 12 and 65 respectively for the current map). In addition, this map is more fair than the present map, attaining a 3.9% partisan bias score in favor of the Republican Party on Planscore, which is well below the current map’s 18.1% pro-Republican score. The map splits only one major urban center—Columbia—but keeps other cities like Charleston, Spartanburg, and Greenville whole. In addition, the map attempts to follow the state government’s self-stated four geographical communities of interest.

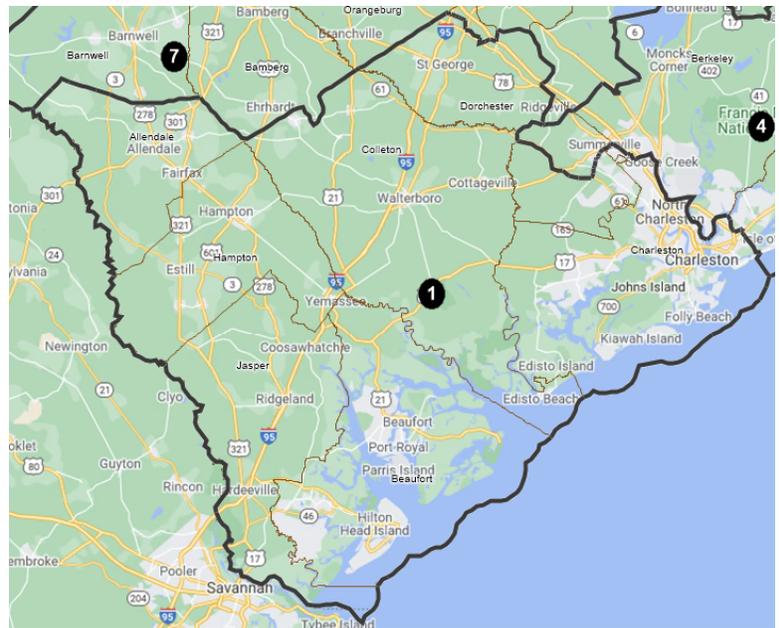
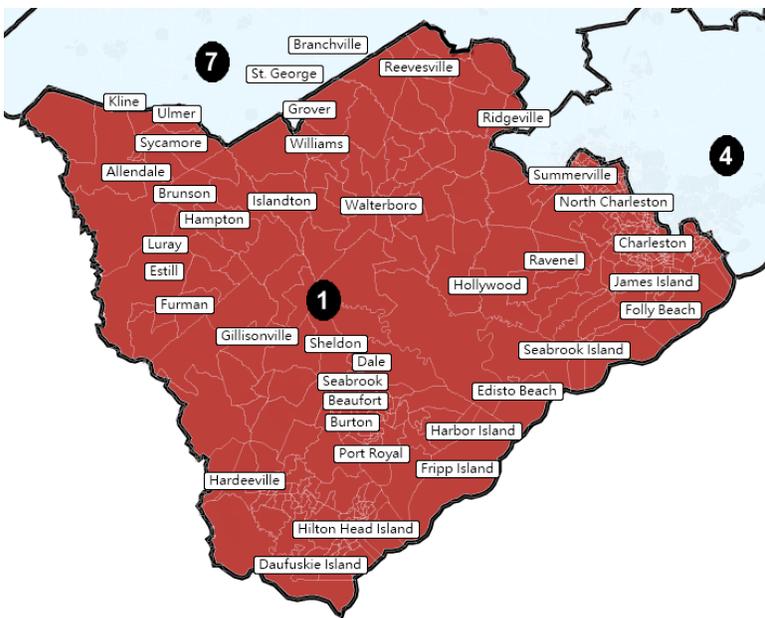
## MAP EXPLANATION

Two distinct sections of the state orient this map: the southern or southeastern coastal portion of South Carolina and the northern or northwestern inland area.

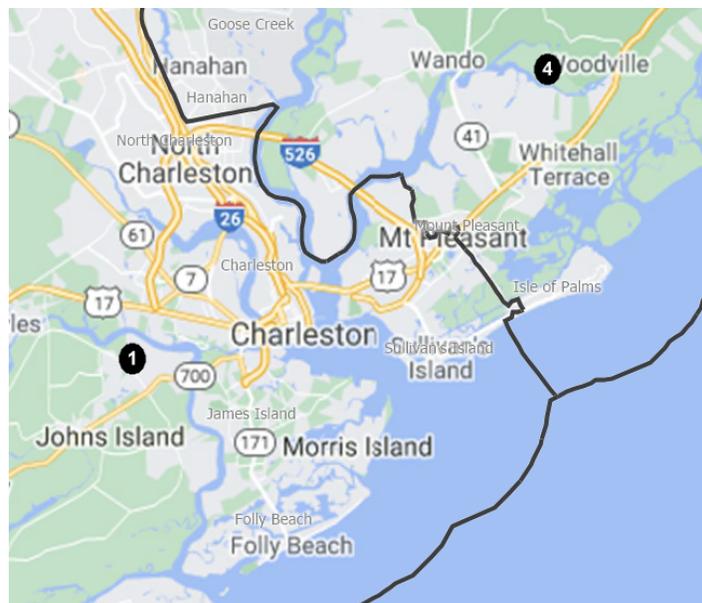
## The Coast: South and Southeast—Districts 1, 4, and 7

I began by drawing District 1 to map onto South Carolina's Lowcountry—a prominent community of interest. Since the Lowcountry is the state's most enduring and significant community of interest, I prioritized preserving it over Pee Dee, Midlands, or Upstate. My map fully captures five of the Lowcountry's major counties in District 1: Allendale, Hampton, Jasper, Beaufort, and Colleton. In addition to centering District 1 on the Lowcountry, I wanted to encapsulate Charleston in one district, rather than split it. This map achieves that objective by putting Charleston and its northern suburbs squarely into District 1.

### *District 1*



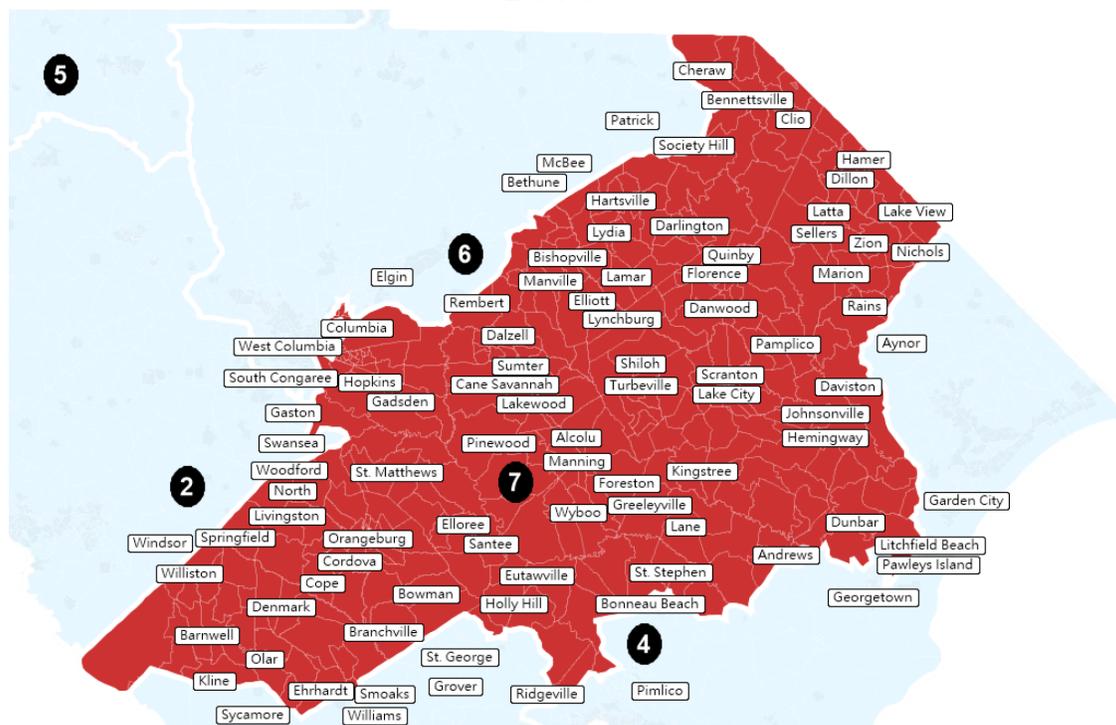
### *Charleston:*



Since South Carolina meets the *Gingles* preconditions and must contain a majority-minority district under the Voting Rights Act, I next focused on drawing one compact majority-minority district. Given the size of the state’s minority population, it is highly unlikely that South Carolina could contain two such districts, as the state’s minority population would not be substantial enough to meet the first *Gingles*’ prong for a second district. I repeatedly tested if it was mathematically possible to draw two majority Black districts in South Carolina, and found that it is not possible to do so with any semblance of normal compactness or shape; in every attempt race was the undisputed “predominant factor.”<sup>83</sup> The best I could achieve was a 51% Black district and a 43% Black district (see Map 3 in this report).

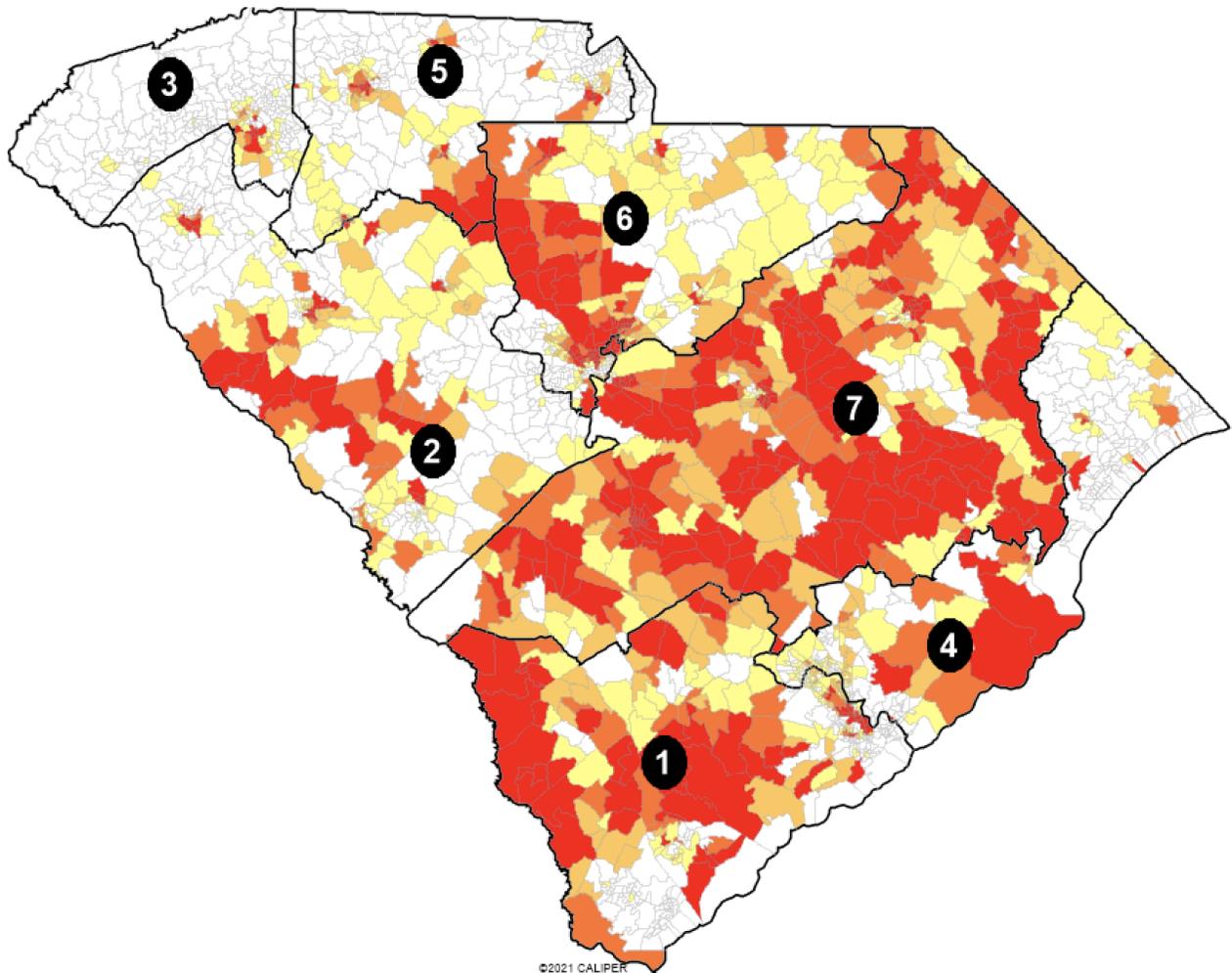
I knew that the majority-minority district would need to be geographically similar to the state’s current majority-minority district (District 6) in order for Black South Carolinians to constitute a majority. My majority-minority district, which I labeled as District 7, spans the state but maintains a more compact shape than the current District 6 and splits only three counties (Richland, Berkeley, and Georgetown). In keeping with the state’s incumbency preferences, the district still contains Representative Jim Clyburn’s town. District 7 was drawn to include significant portions of the Black population around Columbia, as the current district does, and adds Black voters in the state’s east and southeast, especially Marion residents, who were previously outside of Representative Clyburn’s district. The Black voter density map, below, shows how District 7’s lines follow the state’s Black communities. Under this plan, District 7 is 50.1% Black CVAP (49.5% 18+ AP Black).

*District 7:*



<sup>83</sup> *Miller v. Johnson*, 515 U.S. 900, 916 (1995).

*Black Population Distribution Map<sup>84</sup>*

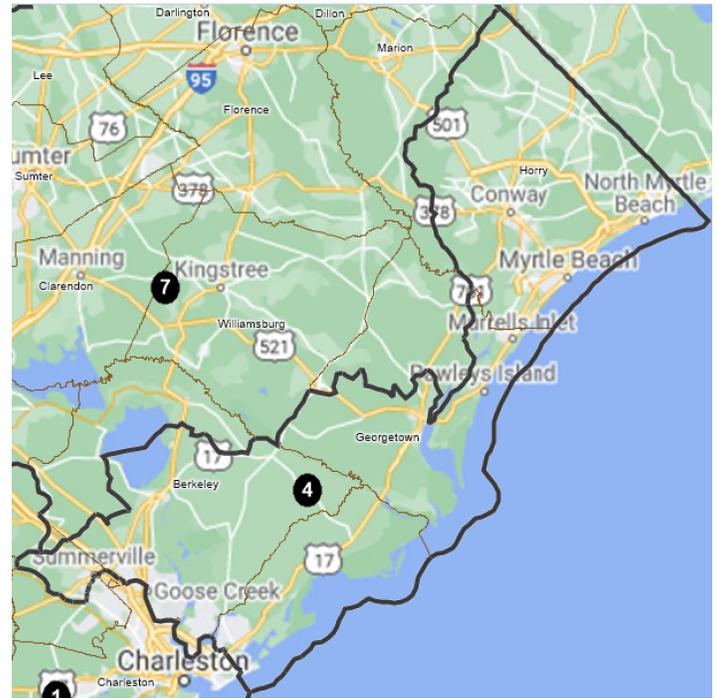
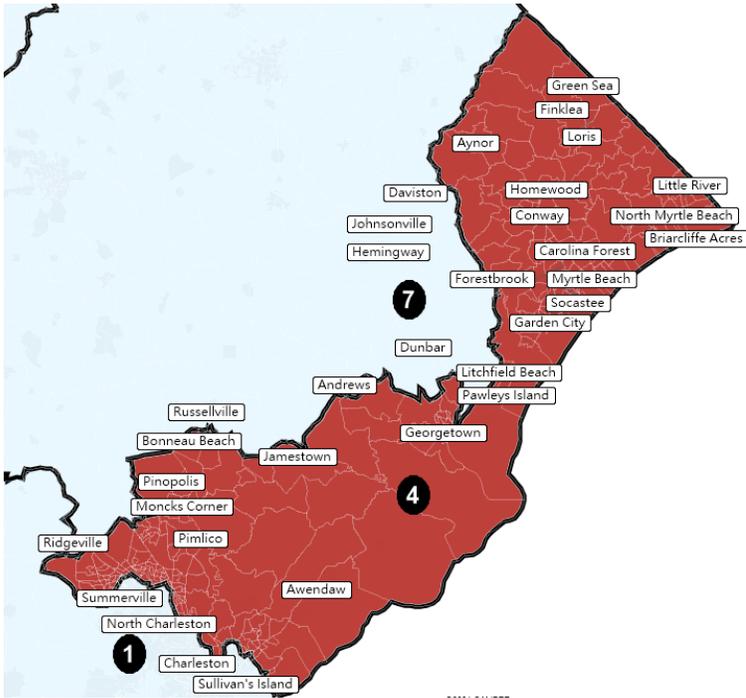


I drew one final district in the state's eastern and southeastern region: District 4. Located to the south of District 7, District 4 is a coastal district that accounts for the remaining population in the state's southern and eastern portions. This district is not dissimilar to the long coastal district the state already has (current District 1), although this map shifts that district northward. Since I wanted to capture the Lowcountry in District 1 and needed to draw a majority-minority district across the state's center (District 7), I had very little flexibility in drawing District 4, which is entirely bordered by 1 and 7.

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<sup>84</sup> Red signals the highest concentration of Black South Carolinians, while white indicates the lowest concentration.

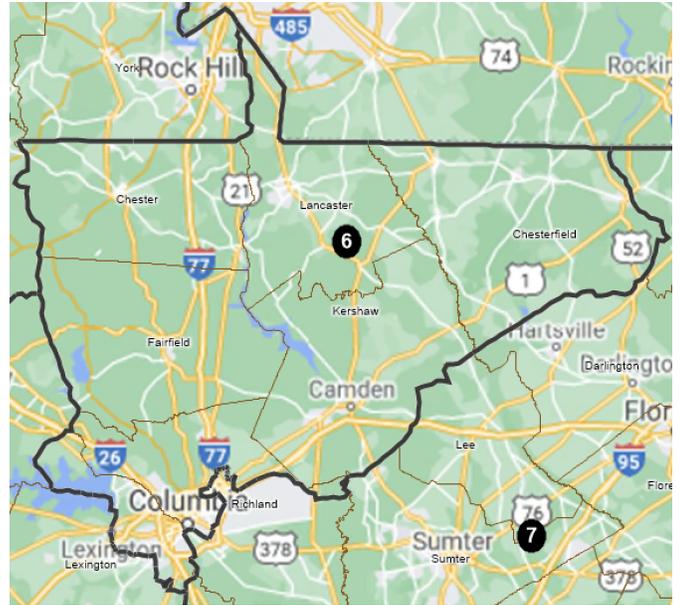
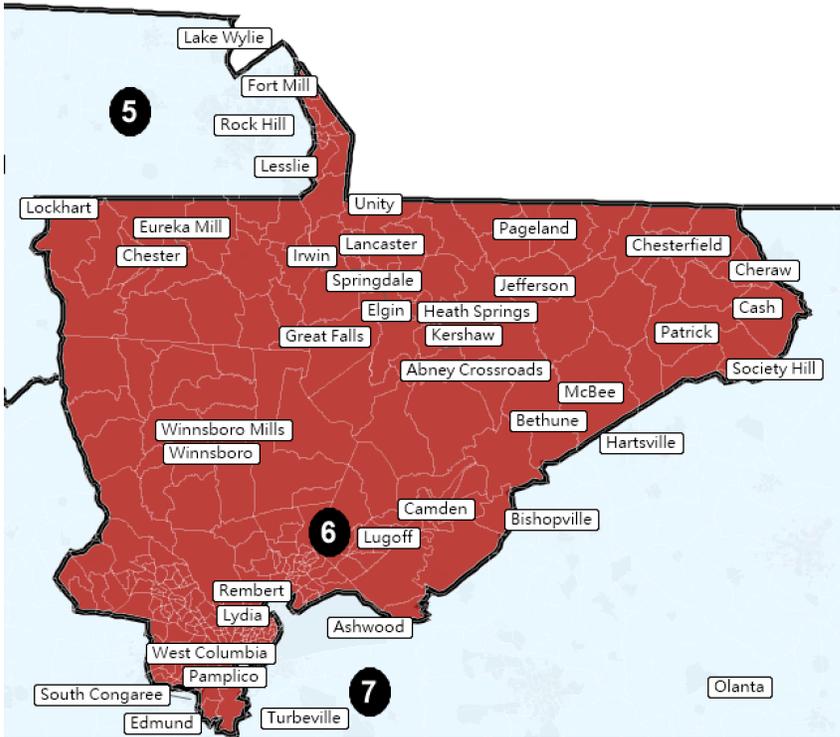
*District 4:*



Inland: North and Northwest—Districts 2, 3, 5, and 6

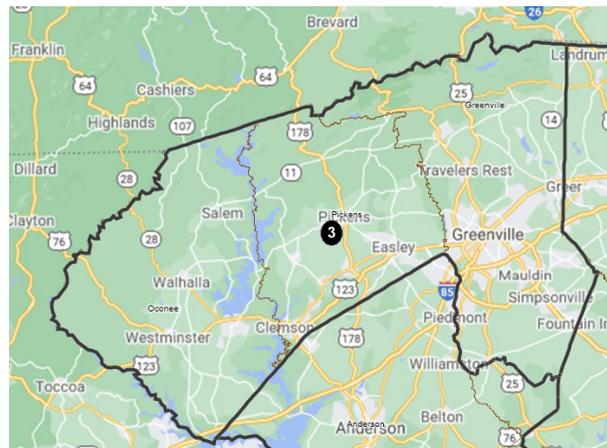
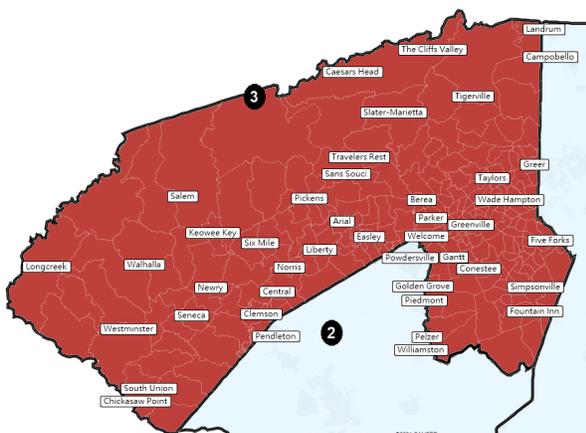
The state's northern districts are smaller and more compact with fewer county splits. These districts preserve cities within districts, rather than splitting them, and closely follow county lines. District 6 contains the rest of Columbia, which I wanted to keep in one other district rather than fracture, and encompasses all of Fairfield County. While District 6's shape is partially a product of the districts below it, it was intentionally drawn to contain the major Black population centers in northern South Carolina, particularly Fairfield County and the Columbia suburbs. As such, this district has a 33.4% Black CVAP (32.26% 18+ AP Black), making it a minority influence district based on its Black CVAP and its white voters' political tendencies.

*District 6:*

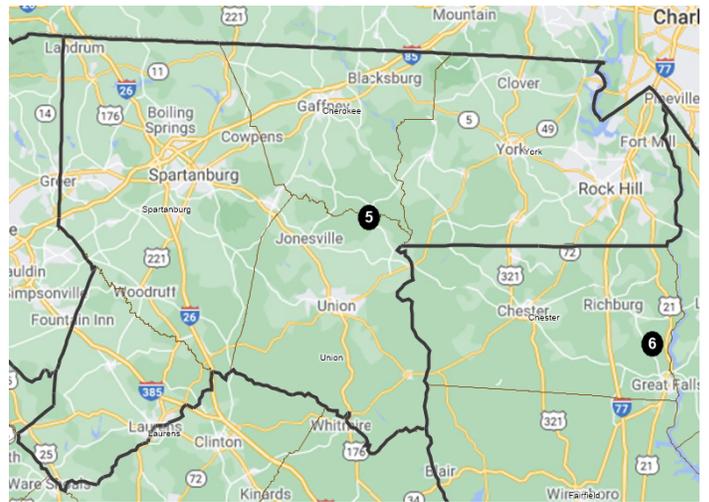
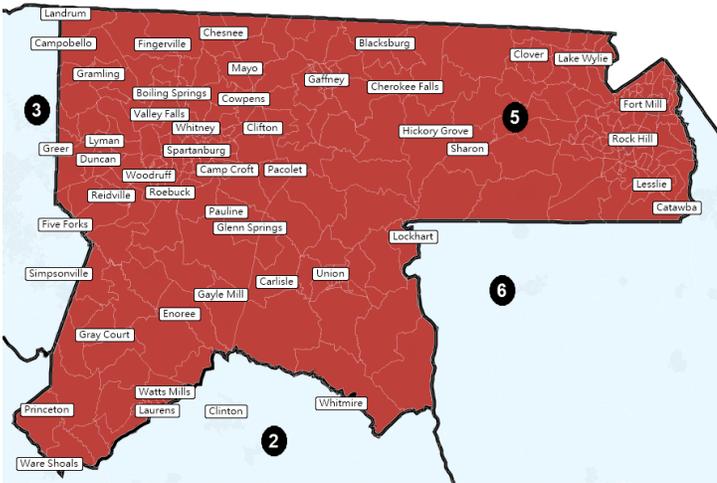


District 5 and District 3 join District 6 in the state’s northern half. Both districts run east to west, which was a deliberate choice made to keep cities (Spartanburg, Greenville) whole. In addition, the east-west orientation enables both districts to mostly stay within the “Upstate” community of interest, thereby adhering to the state’s redistricting guidelines. District 5 splits only one county and keeps Spartanburg whole. To its west, District 3 does the same with Greenville. South Carolina’s current map places Greenville and Spartanburg in the same district, but this current map does not align its districts with the state’s culturally distinct regions and instead splits Districts 3, 4, and 5 between the Upstate and Midlands communities of interest. Finally, District 2—the map’s second most compact district—splits just one county and largely stays in the Upstate region. District 2 was the last district drawn and offered correspondingly little flexibility.

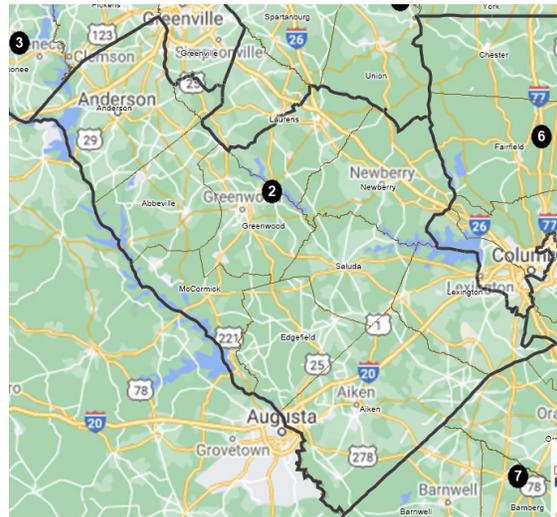
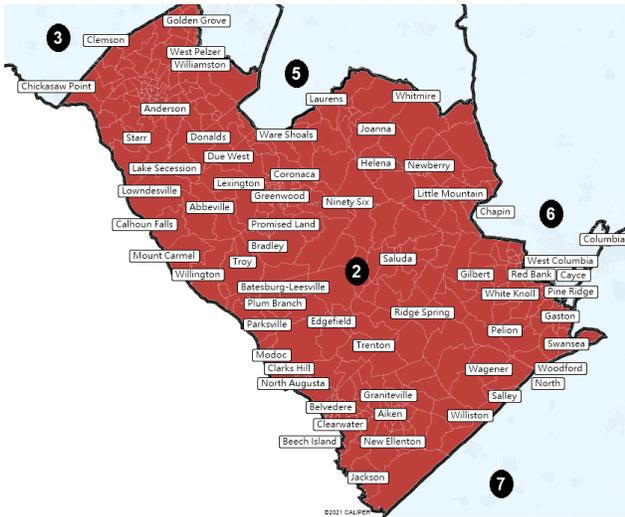
*District 3:*



District 5:



District 2:



In sum, this compact, good governance map contains significantly more compact districts and fewer county splits relative to the state’s current map while enhancing minority representation and achieving more partisan parity. The map also broadly reflects the state’s four communities of interest, especially its most culturally distinct community: the Lowcountry.

## COMPACTNESS

This map is substantially more compact than South Carolina’s current map. It’s average Roek score of 0.42 outperforms the existing map’s mean of 0.39 while achieving fewer subdivision splits. The 0.42 Roek score would be even higher if not for District 4, which ranks well below the other districts (0.29). Compactness was an objective in drawing this map, particularly as South Carolina has rarely drawn compact districts. While geographic irregularities do not evince

gerrymandering, “dramatically irregular shapes may have sufficient probative force to call for an explanation,”<sup>85</sup> and South Carolina has long drawn districts with irregular shapes (see below). This map, which follows county lines and only deviates when necessary for VRA compliance or population equity, is far more regular.

*Current Map:*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	Population Polygon
Sum	N/A	N/A	N/A	N/A	N/A
Min	0.21	1.47	1.74	0.08	0.36
Max	0.49	2.92	3.53	0.33	0.94
Mean	0.39	2.06	2.40	0.21	0.70
Std. Dev.	0.09	0.58	0.69	0.10	0.22
District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	Population Polygon
1	0.21	2.78	3.14	0.10	0.85
2	0.45	2.10	2.44	0.17	0.73
3	0.49	1.47	1.74	0.33	0.64
4	0.44	1.64	1.98	0.25	0.90
5	0.36	1.91	2.17	0.21	0.50
6	0.42	2.92	3.53	0.08	0.36
7	0.35	1.63	1.82	0.30	0.94

*Proposed Map:*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	Population Polygon
Sum	N/A	N/A	N/A	N/A	N/A
Min	0.29	1.46	1.72	0.18	0.65
Max	0.51	2.09	2.38	0.34	0.83
Mean	0.43	1.68	1.92	0.28	0.74
Std. Dev.	0.07	0.22	0.23	0.05	0.07
District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	Population Polygon
1	0.51	1.46	1.79	0.31	0.80
2	0.45	1.63	1.84	0.29	0.69
3	0.45	1.48	1.82	0.30	0.83
4	0.29	2.09	2.38	0.18	0.73
5	0.43	1.56	1.72	0.34	0.80
6	0.48	1.70	1.82	0.30	0.70
7	0.39	1.84	2.05	0.24	0.65

*Compactness over the years:*

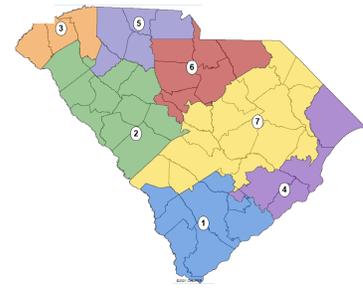
2002 Map



Current



Proposed

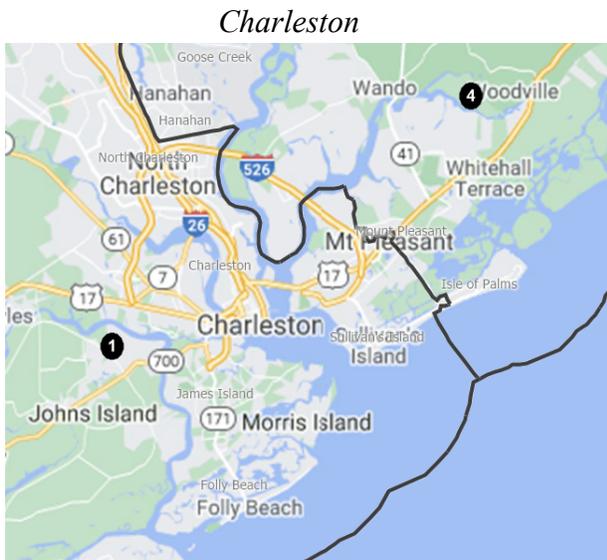


## POLITICAL SUBDIVISION SPLITS

South Carolina’s current map is rife with political subdivision splits at every level, fracturing counties and voting districts at will. I sought to remedy this in my good governance map and focused on minimizing breaks wherever possible. The resulting map splits only 9 counties and 23 voting districts. The majority of these breaks were necessary to create the state’s majority-minority district, particularly the splits around Columbia. Charleston is the other area with split subdivisions (the city itself is wholly contained in District 1), which were needed to

<sup>85</sup> *Shaw v. Reno*, 509 U.S. 630, 647 (1993).

distribute the city's large suburban population into two districts (1 and 4) otherwise isolated by District 7.



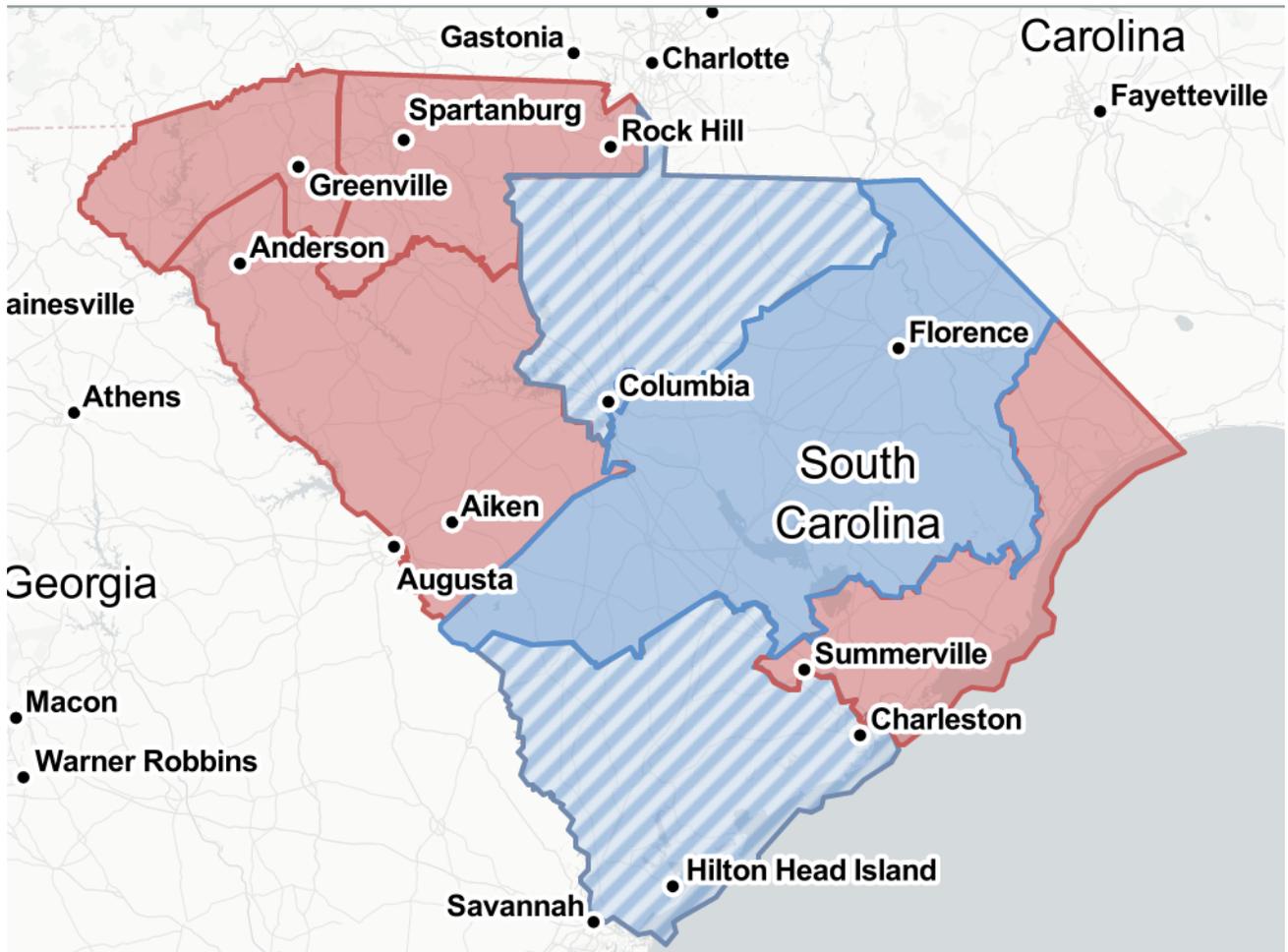
## **PARTISAN CONSIDERATIONS**

South Carolina's legislature draws the state's maps and the legislature is majority Republican, leading to maps that tend to favor the Republican Party. South Carolina consistently elects Republicans to Congress. In the last two decades, South Carolina has only elected two Democrats to serve in the House of Representatives—Jim Clyburn and Joe Cunningham—and Clyburn has been elected in a majority-minority district. During this same period, the Republican Presidential candidate has exclusively won the state's electoral votes (see map below with voters' 2020 choices).

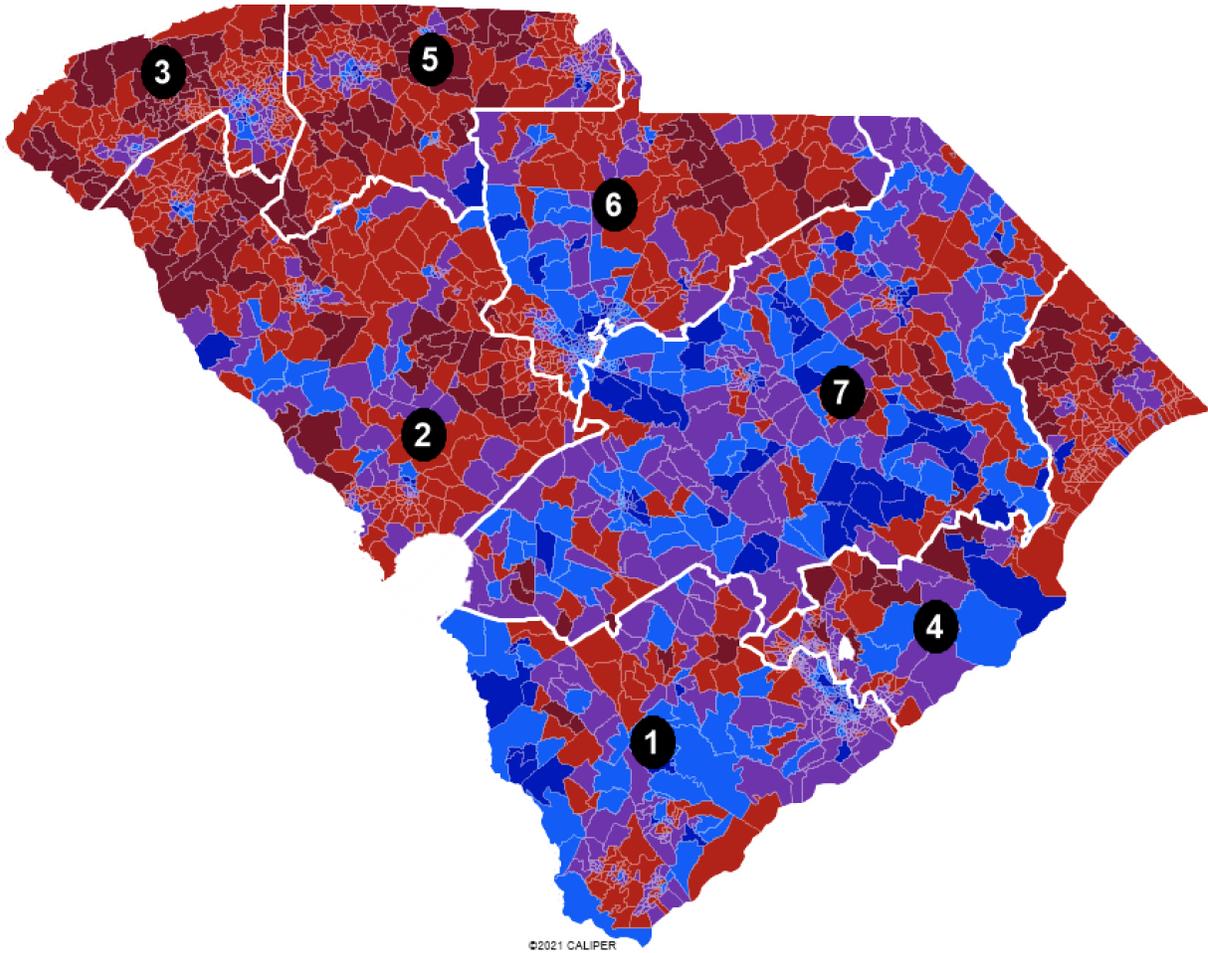
According to Planscore, the state's current map creates five reliably Republican seats, one reliably Democratic seat (Clyburn), and one toss up (currently held by Nancy Mace). The map heavily favors Republicans in terms of partisan bias, receiving an 18.1% pro-Republican partisan bias score. My proposed map, by contrast, creates four reliably Conservative seats, one reliably Democratic seat (Clyburn), and two likely Democratic seats. With a partisan bias score of only 3.9% pro-Republican, this map is also far fairer than the existing plan.

I did not draw this map with partisan considerations in mind, but I did opt to more equitably apportion Black voters. Instead of packing Black voters into Representative Clyburn's district, I made his district exactly 50.1% Black CVAP, which led to higher proportions of Black voters in Districts 6 and 1. These are the same districts that Planscore predicted would lean Democrat.

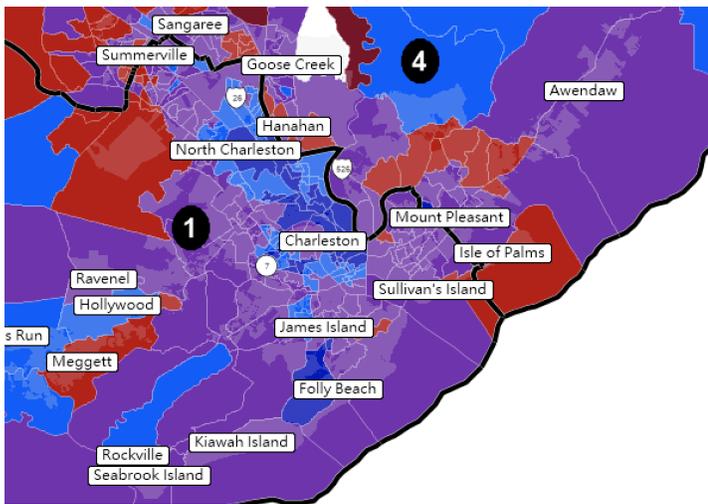
*Planscore*



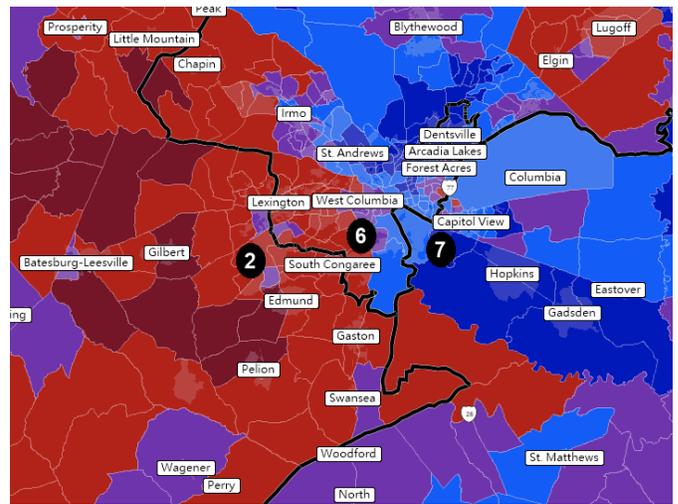
2020 Presidential Election Voter Distribution<sup>86</sup>



Charleston 2020 Presidential Election



Columbia 2020 Presidential Election



<sup>86</sup> These maps indicate voter choices in the 2020 election. Dark red areas had higher proportions of Trump voters while dark blue areas had the highest proportion of Biden voters. Purple indicates areas where votes were more evenly split between the two candidates.

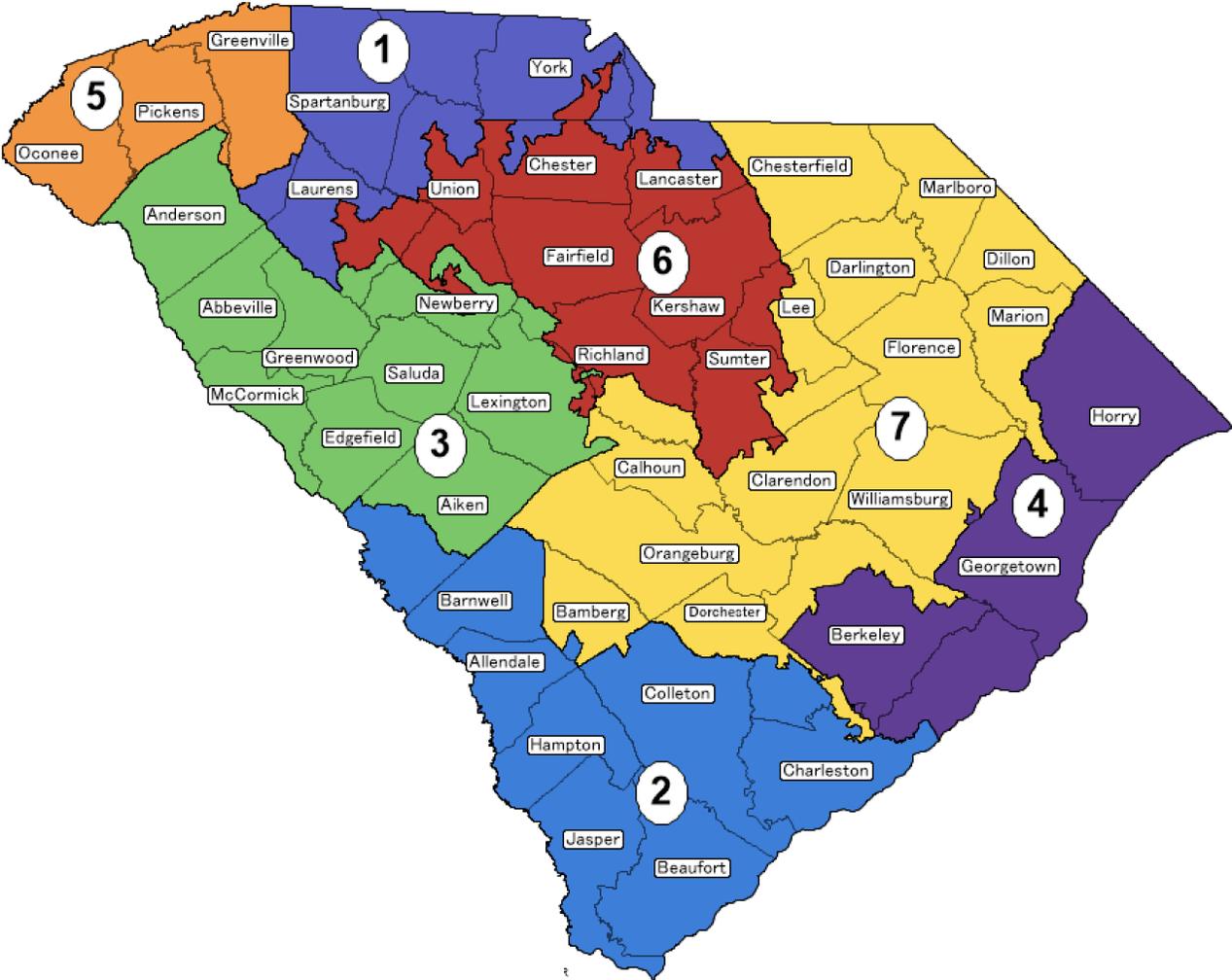
## **TENSIONS AND TRADEOFFS**

In drawing this map, there were frequent, competing points of tension. First, although South Carolina does not have any statute suggesting that least change maps are preferable, my map considerably differs from the state's current map. At times, I considered the merits of making smaller deviations, particularly because South Carolina did retain many district lines in its last redistricting process. In short, I worried that substantial deviations would lessen my map's chances for adoption.

Second, there were tradeoffs in distributing Black voters. South Carolina's current map packs Black voters, diluting their statewide voting power. However, many of the state's Black residents are represented in Congress by Jim Clyburn, who wields enormous influence and delivers tangible benefits to his district. By reducing the concentration of Black voters in Clyburn's district, I would move some Black South Carolinians into districts where they would almost certainly be represented by a white Republican. For these voters, exchanging a Black Democrat—Jim Clyburn—for a white Republican would be an acute loss and would affect their representation at the national level.

Third, I wanted to preserve cities but I could not keep Columbia whole and create a majority-minority district with only 50.1% Black CVAP. I had to split the city three-ways, which was far from ideal and otherwise compromised my efforts to keep every city whole (Charleston, Spartanburg, Greenville, etc). Similarly, I wanted to maximize compactness but District 7 became large and sprawling as I sought to make it majority-minority and avoid county splits. I could have drawn a much more compact majority-minority district, but doing so would have required frequent political subdivision splits. As a result, District 7 spans the entire state, but it only has three split counties, which is a small number considering that it attains exactly 50.1% Black CVAP and extends from the state's eastern border to its western border.

# Plan 2: Minority Maximizing



## REDISTRICTING PRINCIPLES

This map was drawn with the express goal of maximizing Black voting power. A map drawn with this explicit purpose would likely violate the Fourteenth Amendment’s Equal Protection Clause as interpreted in *Shaw v. Reno*. Nevertheless, such a map has utility, serving as a valuable resource for states as populations change. Given South Carolina’s rapid population growth, the state is poised to add another Congressional seat following the 2030 census. A second majority-minority district could come into play during South Carolina’s next redistricting cycle, making this map a necessary blueprint in thinking through apportionment for two majority Black districts.

While race-conscious redistricting is not impermissible,<sup>87</sup> the Supreme Court held in *Shaw v. Reno* that “redistricting legislation that is so extremely irregular on its face that it rationally can be viewed only as an effort to segregate the races for purposes of voting, without regard for traditional districting principles and without sufficiently compelling justification” violates the 14th Amendment.<sup>88</sup> The lines on this map are admittedly “unexplainable on grounds other than race”<sup>89</sup> and cannot be “understood as anything other than an effort to separate voters into different districts on the basis of race,”<sup>90</sup> thus marking this map as unconstitutional. Of course, this racial gerrymander favors Black voters and would find support from proponents of Justice Stevens’ dissenting position in *Shaw*. Dissents, however, lack the bindingness of the Court’s voice and the Court has spoken on this issue, repeatedly finding that “equal protection analysis is not dependent on the race of those burdened or benefited by a particular classification.”<sup>91</sup>

As articulated above, however, there is real value in a majority-maximizing map for South Carolina, especially one that closely tracks existing districts. This map does seek to maximize Black voter representation, but it does so strategically by continuing to follow established district lines, by meeting all other Constitutional requirements (equal population, majority-minority district), and by optimizing for compactness when possible.

## MAP SUMMARY

This map splits South Carolina’s population into seven equally populated districts. One district—District 7—is majority-minority (50.2% Black CVAP) while District 6 is a strong Black influence district.<sup>92</sup> While the map sacrifices compactness to maximize Black influence, three districts score above 0.40 on the Reock scale. This map fractures two major urban areas,

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<sup>87</sup> *Shaw v. Reno*, 509 U.S. 630, 662 (1993).

<sup>88</sup> *Id.* at 642.

<sup>89</sup> *Id.* at 643.

<sup>90</sup> *Id.* at 649.

<sup>91</sup> *Shaw v. Reno*, 509 U.S. 630, 632 (1993) (citing *Richmond v. J. A. Croson Co.*, 488 U. S. 469, 494 (1989)).

<sup>92</sup> District 6 will be a Black influence district based on its 43.0% Black CVAP and its 2020 Presidential election data. In the 2020 election, 60% of voters opted for the Democratic candidate, meaning that a substantial portion of white voters in the District voted in line with Black voter preferences.

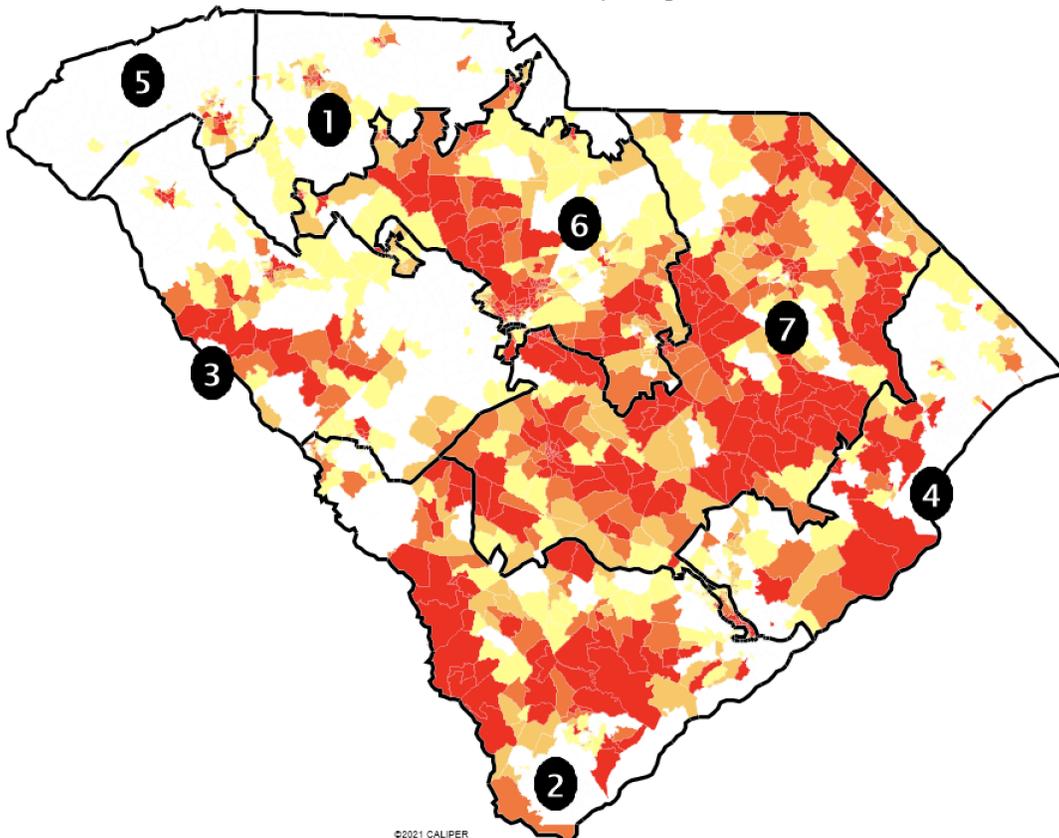
Columbia and Charleston, to concentrate Black voters in District 6 and District 7. Black voters in Charleston, in particular, are carved out of the state's coastal districts and pulled into an interior district (District 7). This map splits twenty counties and twenty-seven voting districts, while attaining a 7.1% pro-Republican partisan bias score from Planscore. Finally, the proposed map tracks South Carolina's communities of interest, although adherence to these communities was not a primary objective in drawing district lines.

## MAP EXPLANATION

### Majority-Maximizing: Districts 6 and 7

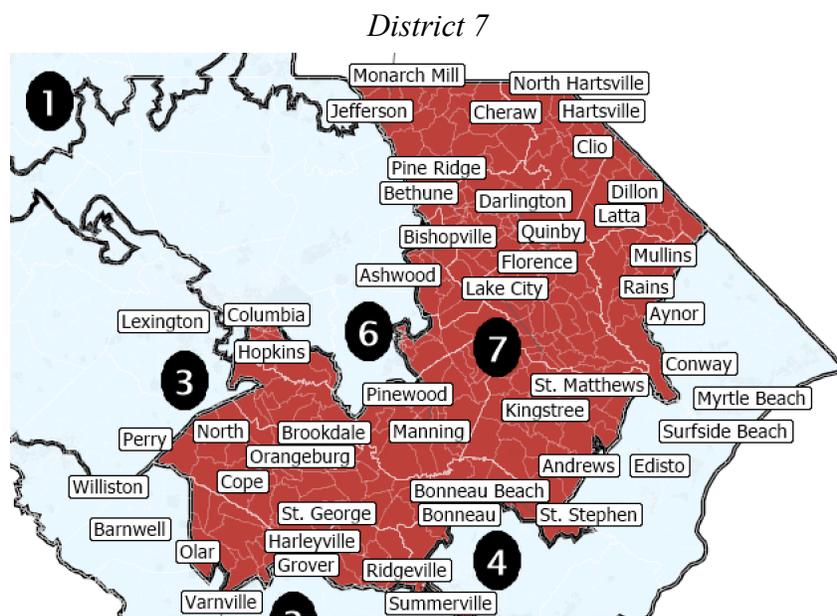
Since this map's overarching objective was to amplify Black voters' voices and the power of their ballots, I initially sought to draw two majority-Black districts. South Carolina currently has one VRA-mandated majority-minority district, but its Black population is not large or compact enough to qualify for a second such district. With this constraint in mind, I decided to draw one majority-Black district that would hover right above the 50% Black CVAP threshold and a second district that would capture as many of the remaining Black voters possible in the state without entirely shattering compactness and subdivision splits. District 6 and District 7 were the result of these efforts.

*Black Voter Density Map<sup>93</sup>*

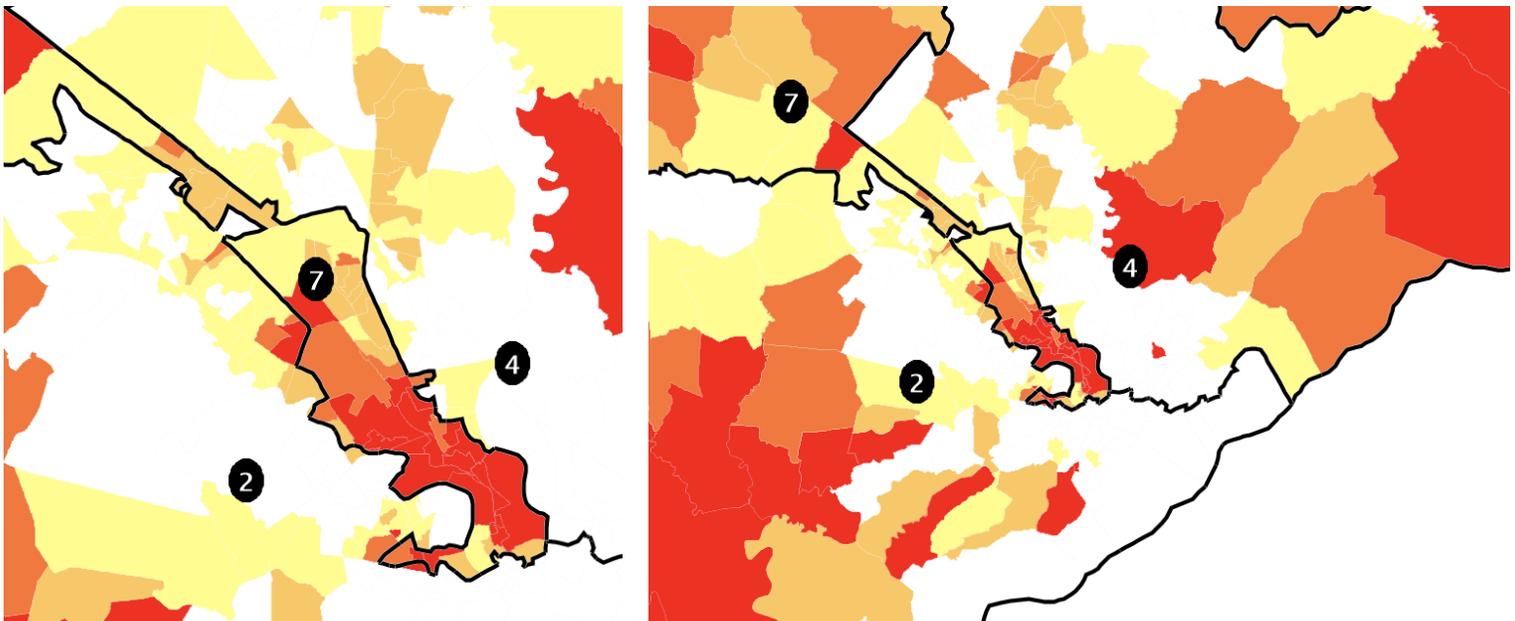


<sup>93</sup> Red signals the highest concentration of Black South Carolinians, while white indicates the lowest concentration.

District 7 is a majority-minority district reaching from South Carolina's northeast border to the top of the Lowcountry region. Its district lines largely follow Representative Clyburn's current district with some notable exceptions. Chiefly, the District branches down to the coast, capturing highly-populated Black neighborhoods in Charleston. Representative Clyburn's present majority-minority district does not need to pick up these Charleston voters because it captures large Black populations around Columbia, but I needed these Charleston communities in order to build a second highly-Black district to the north of District 7 around Columbia (i.e. District 6). In examining the Black voter density map above, it may appear as though District 7 could have extended further into District 2 rather than reaching south to Charleston. While I considered this option, there are not enough Black voters in District 2 for this approach to succeed; District 2 is fairly rural whereas Charleston's Black neighborhoods are highly populated.

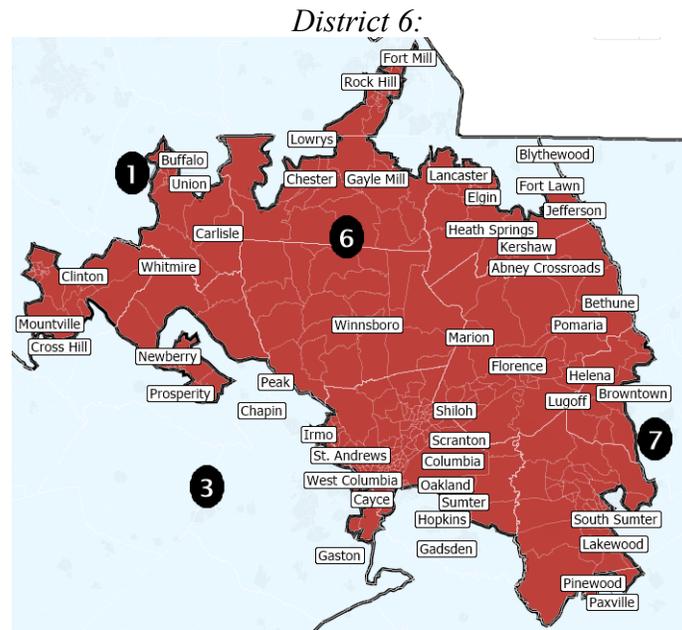


*Black Voter Density in Charleston:*



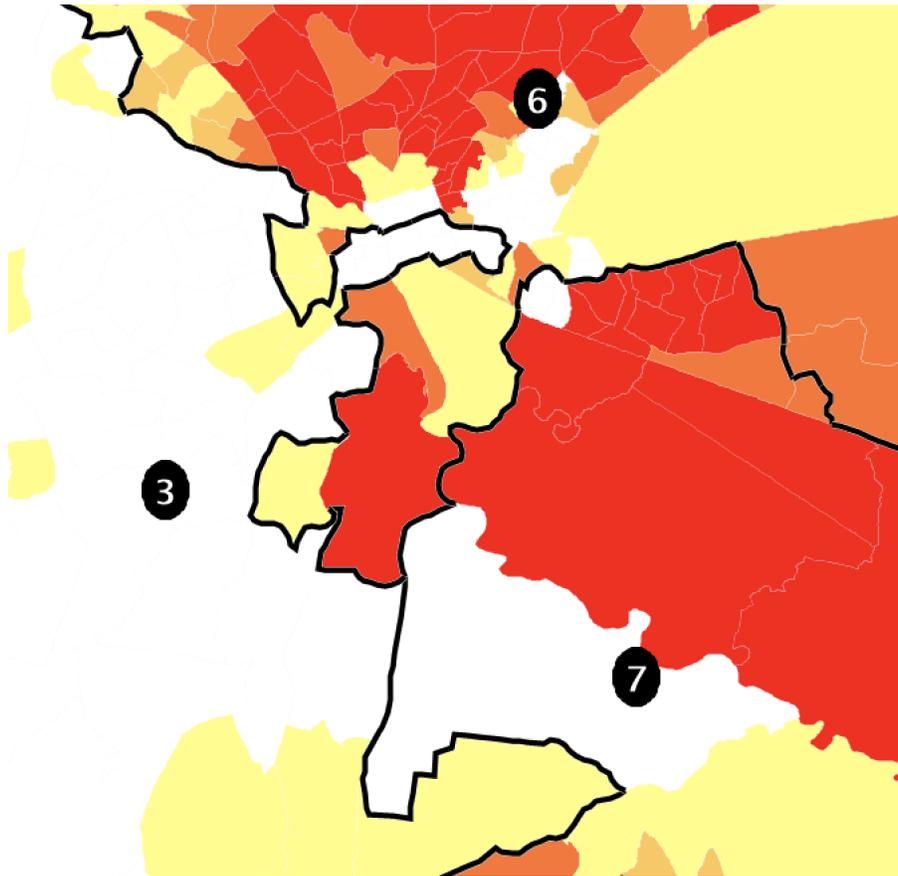
In evaluating the distribution of Black voters and their density in South Carolina (see maps above), I knew that a second strongly-Black district would need to capture Black voters around Columbia and in Richland County. I drew District 6 to attain the highest possible percentage of CVAP Black voters, acknowledging that doing so would hurt compactness and yield some unattractive district lines. I attained a Black CVAP of 43.0% in District 6 (42.42% 18+ AP Black).

I began by scooping voters out of Sumter and Richland counties and then drew northward, grabbing Black voters in Union and Newberry counties, including voters in the cities of Florence and Rock Mill. Outside of Columbia, the most important area to include in this district was Sumter/South Sumter, a large (50,000+) person, majority-Black city. South Carolina's current Congressional map places Sumter in the majority-minority district (the equivalent of my District 7), but I had to move Sumter in order to maximize Black voting power in my non-majority minority Black influence district (District 6). This decision is consequential because Jim Clyburn's residence is in Sumter, meaning that he would run to represent voters in a non-majority-minority district. This choice, however, was intentional. Clyburn enjoys immense popularity and would be the most-powerful and well-equipped candidate to win in a district that is not minority-majority but does contain 43% Black voters. While his re-election would be routine in District 7, moving him to District 6 gives Black voters a strong chance to elect two preferred candidates: Clyburn in District 6 and another representative in majority-minority District 7. While Clyburn's election would not be quite as sure-fire in District 6 as in District 7, Planscore assesses that the Democratic candidate in District 6 has a 93% chance of winning.<sup>94</sup>



<sup>94</sup> PlanScore, "South Carolina U.S. House Map," Uploaded Nov. 1, 2021 (available at <https://planscore.campaignlegal.org/plan.html?20211101T204022.722363879Z>).

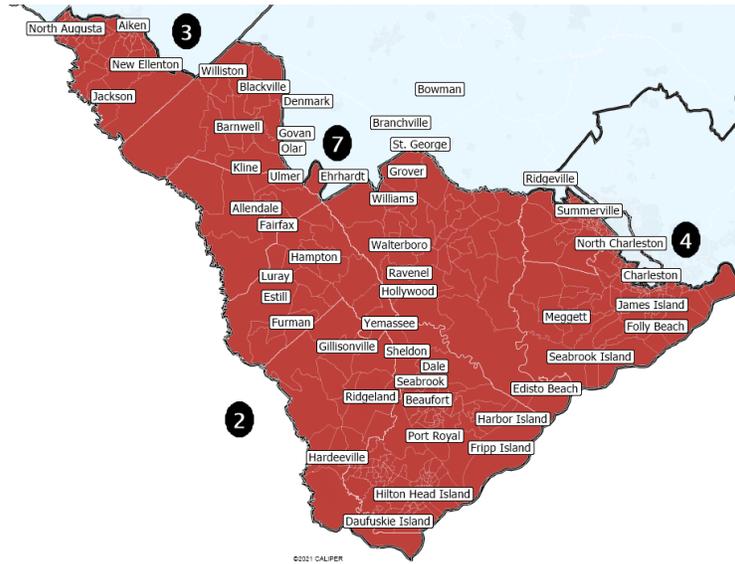
*Black Voters' Distribution Around Columbia*



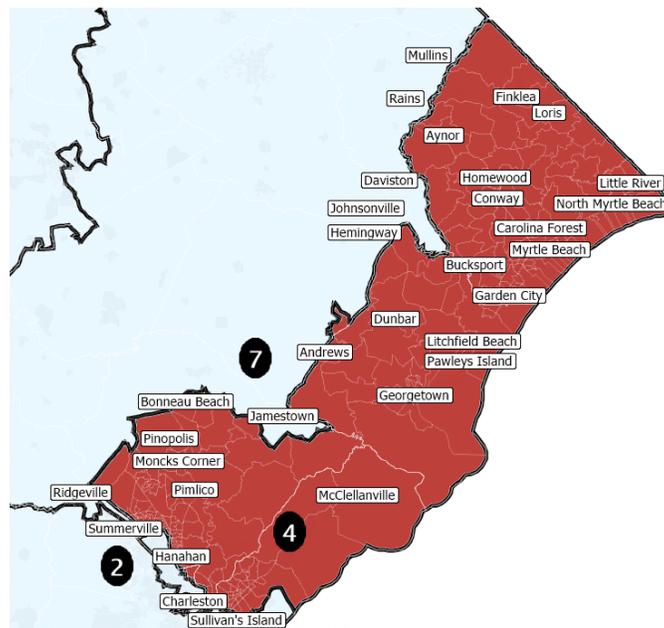
Distributing White Voters—The Remaining Five: District 1, 2, 3, 4, and 5

South Carolina's population is only 25% Black, so after maximizing Black representation through District 6 and District 7, I had to apportion the voters who remained, most of whom were white. I did so largely by following the principles referenced in Map 1, by seeking compactness, preserving communities of interest, and minimizing subdivision splits. Since District 6 and District 7 largely split the state in half, I had two discrete geographical areas to draw districts—to the east and to the west of Districts 6 and 7. I began with the east, which covers South Carolina's entire coast and the Charleston area. I drew District 2 to map onto the state's most prominent community of interest, the Lowcountry (located in the southeast), and then drew a second district, District 4, as a coastal district to scoop up the remaining population northeast of Districts 6 and 7.

## District 2

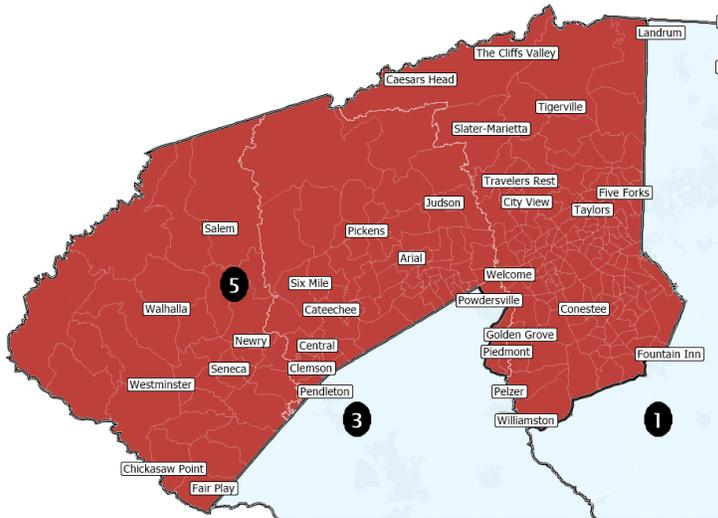


## District 4

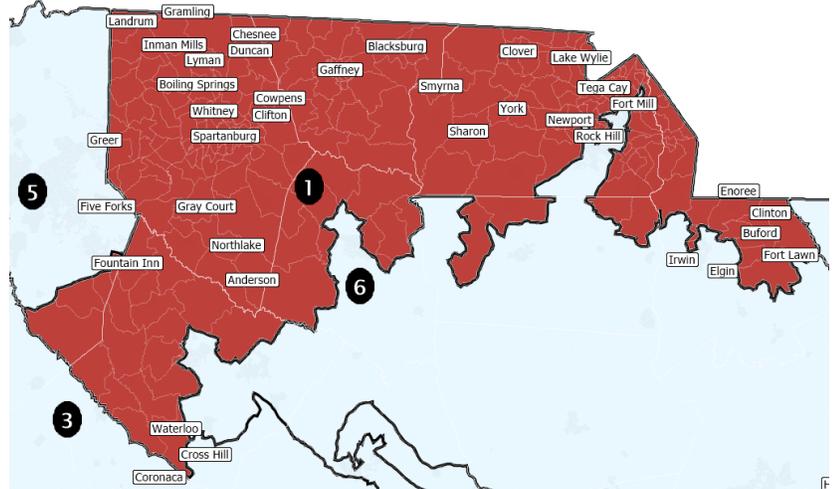


To the west of Districts 6 and 7, I had to divide the population into three districts and decided to do so by first drawing two east-west districts on South Carolina's northern border. The first of these districts, District 5, was drawn to minimize county splits (it only splits one county) and to keep Greenville whole. District 1, to its east, wrapped up the remaining population outside District 6 and keeps Spartanburg whole. Combined, Districts 1 and 5 fall precisely into South Carolina's Upstate community of interest. While District 5 is quite compact, District 1 complements the jagged edges of District 6 and thus lacks compact lines.

*District 5*

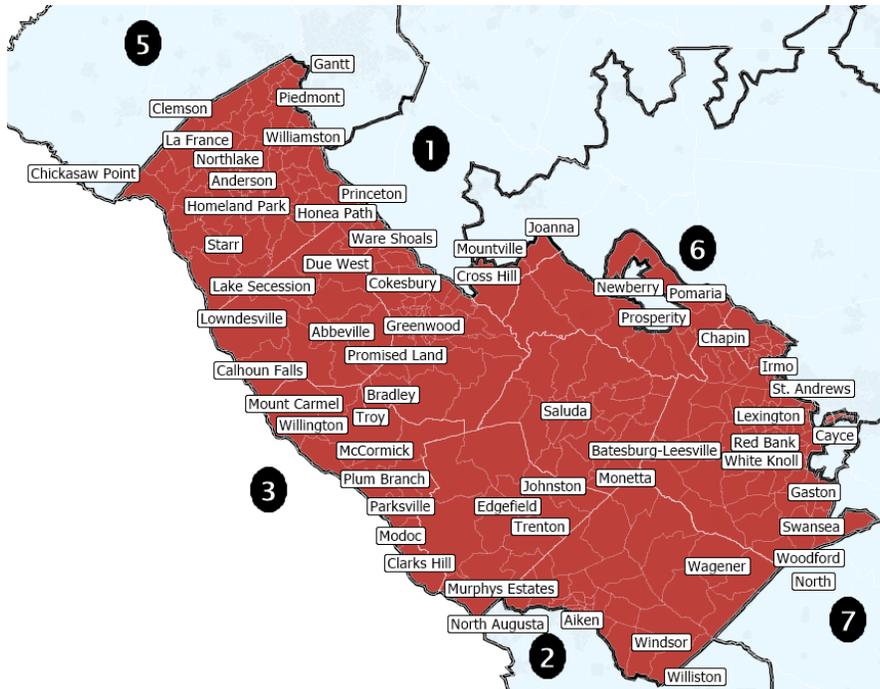


*District 1*



The state's remaining population fell into my last district—District 3—tracking the state's western border and capturing the Greenwood and Lexington urban areas. While I had the least flexibility with this district, it only ended up containing three county splits and achieved a Reock score of 0.39.

*District 3*



## COMPACTNESS

This map sacrifices compactness to amplify Black voting power. In drawing Districts 6 and 7 to reach Black communities, these districts became sprawling with contorted lines. Surprisingly, however, these two districts ranked among the map’s most compact with Reock scores of 0.41 and 0.50 respectively. District 7’s 0.50 Reock score made it the map’s single most compact district by Reock score, while District 5 in the state’s northwest corner also performed well (0.45 Reock score). This majority-maximizing map has the same mean Reock score (0.39) as South Carolina’s current map. It scores below Map 1 (listed first in this report) in compactness; different redistricting principles drove both maps and explain this variation.

*Current Map*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
Sum	N/A	N/A	N/A	N/A
Min	0.21	1.47	1.74	0.08
Max	0.49	2.92	3.53	0.33
Mean	0.39	2.06	2.40	0.21
Std. Dev.	0.09	0.58	0.69	0.10
District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
1	0.21	2.78	3.14	0.10
2	0.45	2.10	2.44	0.17
3	0.49	1.47	1.74	0.33
4	0.44	1.64	1.98	0.25
5	0.36	1.91	2.17	0.21
6	0.42	2.92	3.53	0.08
7	0.35	1.63	1.82	0.30

*Proposed Map*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
Sum	N/A	N/A	N/A	N/A
Min	0.31	1.46	1.78	0.09
Max	0.50	3.00	3.31	0.32
Mean	0.39	2.17	2.46	0.19
Std. Dev.	0.07	0.54	0.53	0.08
District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
1	0.31	2.73	2.93	0.12
2	0.34	1.83	2.32	0.19
3	0.39	1.96	2.09	0.23
4	0.36	1.89	2.15	0.22
5	0.45	1.46	1.78	0.32
6	0.41	3.00	3.31	0.09
7	0.50	2.31	2.65	0.14

## POLITICAL SUBDIVISION SPLITS

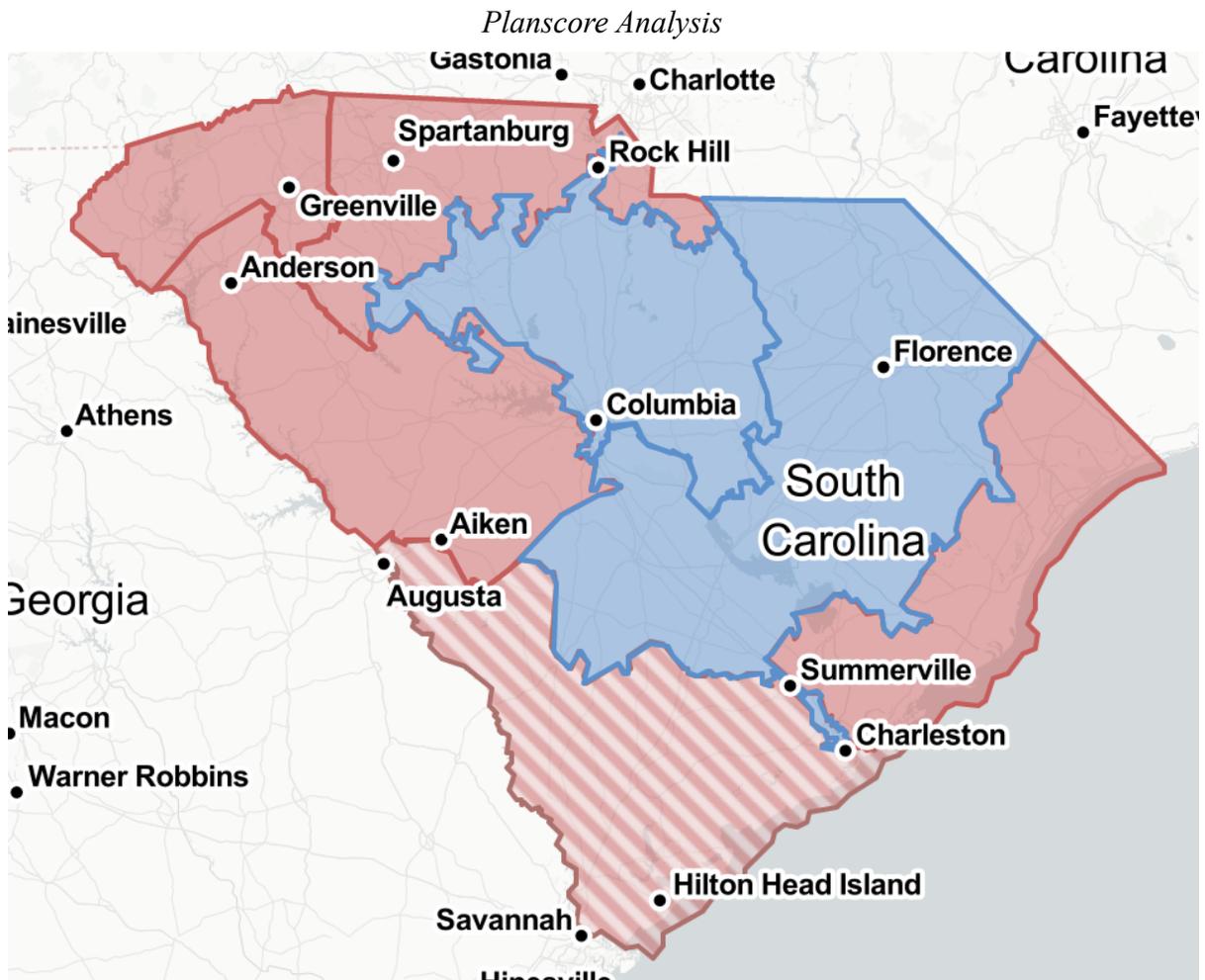
Since this map does not prioritize political subdivision preservation, it frequently splits both counties and voting districts. Most of these splits occurred as I attempted to draw one majority-minority district and another district that would amplify Black voting power (albeit not at the majority-minority level). Overall, the map splits 20 counties and 27 voting districts, compared to 12 county splits and 65 voting district splits in the current map. I could have increased Black representation in District 6 above 43% if I had been willing to fracture counties and voting districts at will, but I felt that such a map would lack the utility this map provides.

## PARTISAN CONSIDERATIONS

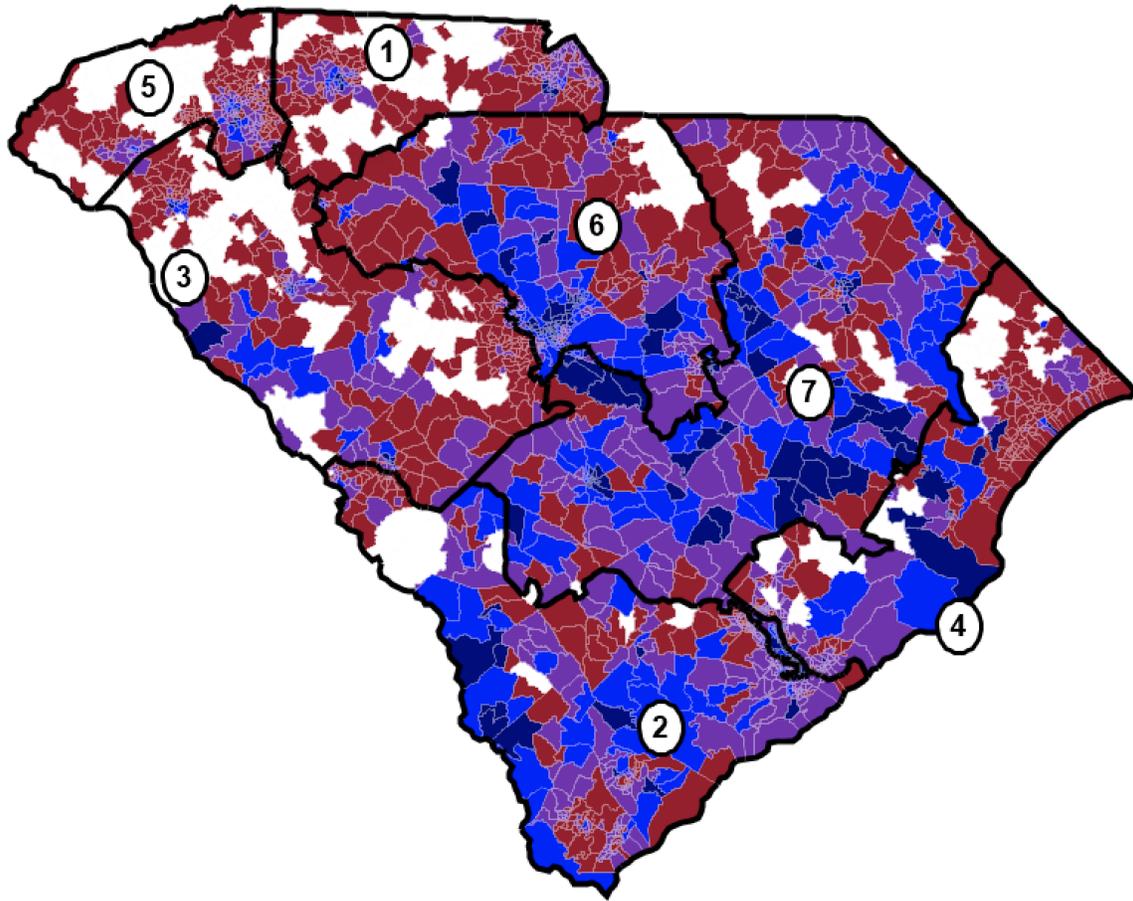
Racial considerations, not partisan considerations, reigned supreme in this map, but in South Carolina where people tend to vote on racial lines, lines between race and political affiliation are somewhat blurred. By drawing a map that strongly accounted for race and maximized Black

voters' ability to elect their candidates of choice, I drew a map that helped Democrats secure a second Congressional seat. This stands in sharp contrast with the state's current map which packs Black voters into one majority-minority district, diluting their potential impact in other districts. In many ways, this proposed map highlights Black voters' potential, yet currently constrained, voting power. Were South Carolina's majority-Black district unpacked to help Black voters rather than curb their influence, the state could have two districts where Black voters have a real voice.

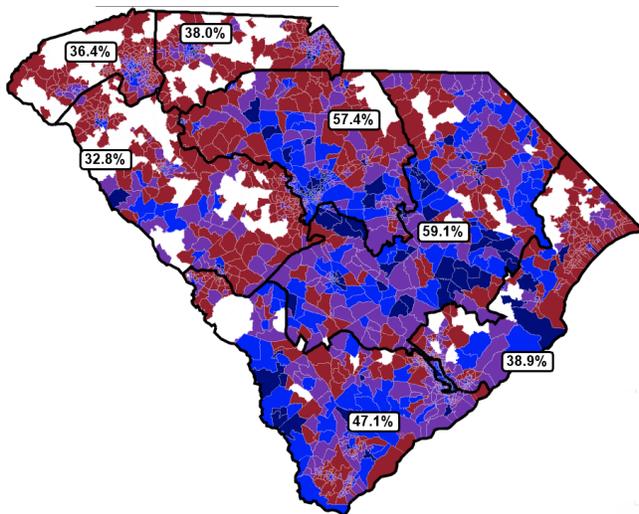
To clarify, however, this map is not a political gerrymander and does not help Democrats to the same extent as Map 1 (contained first in this report). Under this map, Democrats would almost certainly win two of the state's seven seats, marking an improvement for Democrats over the current map's six Republican, one Democrat split. A third seat could be in play for Democrats in District 2, although Planscore holds that Republicans have a 63% chance of securing that seat. Due to South Carolina's rapid population growth, it is difficult to predict how changing demographics might affect partisan breakdowns. Finally, this map receives a 7.1% partisan bias score in favor of Republicans, well below the current map's 18.1% pro-Republican score.



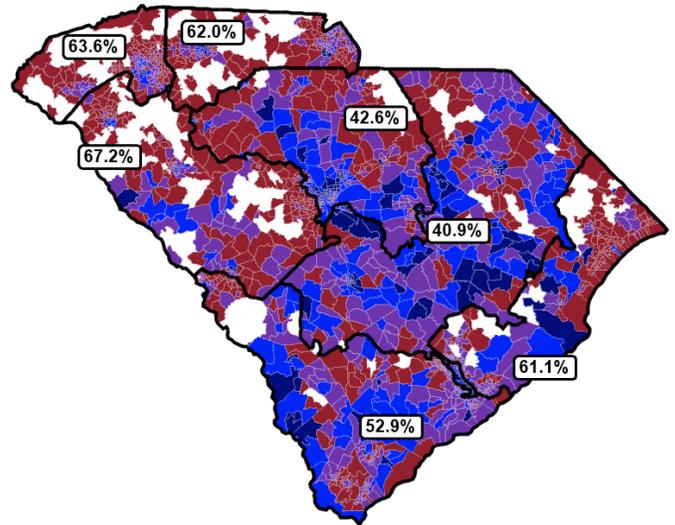
2020 Presidential Election Voter Distribution<sup>95</sup>



2020 Election (Percent for Biden)



2020 Election (Percent for Trump)



<sup>95</sup> These maps show voters' choices in the 2020 election. Dark red areas had higher proportions of Trump voters while dark blue areas had the highest proportion of Biden voters. Purple indicates areas where votes were more evenly split between the two candidates.

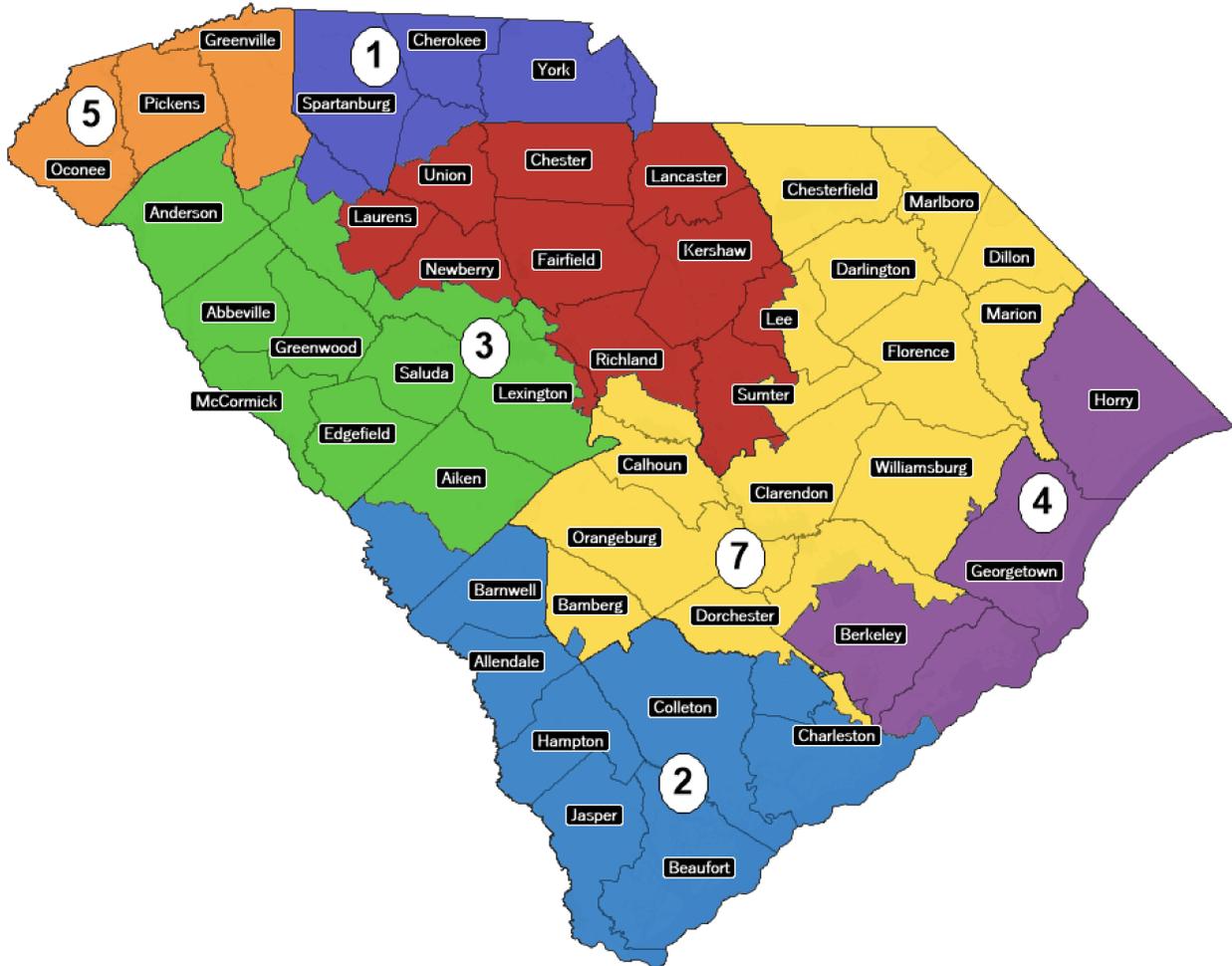
## TENSIONS AND TRADEOFFS

This map contained a number of tensions. First, I had to determine how best to maximize Black voting power. There is no obvious answer to this question. Is it better to create two districts containing as many Black voters as reasonably possible? Or is it preferable to simply unpack the state's one majority-minority district and then spread Black voters out across other districts? I opted for the former and deliberately moved Jim Clyburn into the Black influence district, hypothesizing that he would easily win that seat and that his departure from the majority-minority district would enable another candidate supported by Black voters to emerge.

Second, I navigated various tensions after drawing my race-based districts. I generally prioritized communities of interest, especially the Lowcountry, over compactness or subdivision splits, yielding a map with some unusual lines. Since I already had sacrificed compactness and subdivision preservation in drawing Districts 6 and 7, I had little aversion to de-prioritizing them as I apportioned largely white voting blocs.

Third, I debated the merits of drawing a constitutionally-dubious map in the first place. Would a legally sound map offer significantly more utility? I decided that a map showing what a South Carolina with more equitable Black influence might look like offered real benefits even if its legality was questionable. First, it serves as one example of how best to unpack Jim Clyburn's current district. Second, it can be a template for drawing a more compact, less racially driven map that better represents Black voices. Third, South Carolina's Republican legislature is unlikely to ever adopt a map that helps Democrats, but "adoptability" should not be the criteria under which we assess a map's value. After putting likelihood of adoption aside, I can think of little more important than a map detailing how to increase Black voters' voices.

# Plan 3: Compact Minority Maximizing



## **REDISTRICTING PRINCIPLES**

This map combines elements of the first two maps in this report, creating a map that is Constitutionally compliant, compact, and cognizant of race. Unlike Map 2, race does not “predominantly” drive this map’s lines, but it is *one* driver. In addition to minority voters’ distribution, compactness and political subdivision splits were at top of mind in drawing this map, as were South Carolina’s four communities of interest. Elements of both Map 1 and Map 2 are clearly visible in this third map, which somewhat combines the defining good governance and racial components of Maps 1 and 2.

While this map does not maximize minority representation to the same degree as Map 2 and does not have the near-perfect lines of Map 1, it does outperform South Carolina’s current Congressional map on a number of metrics. This map is a compromise map of sorts, sacrificing maximal minority representation for Constitutionality and perfect county lines for stronger minority voices.

## **MAP SUMMARY**

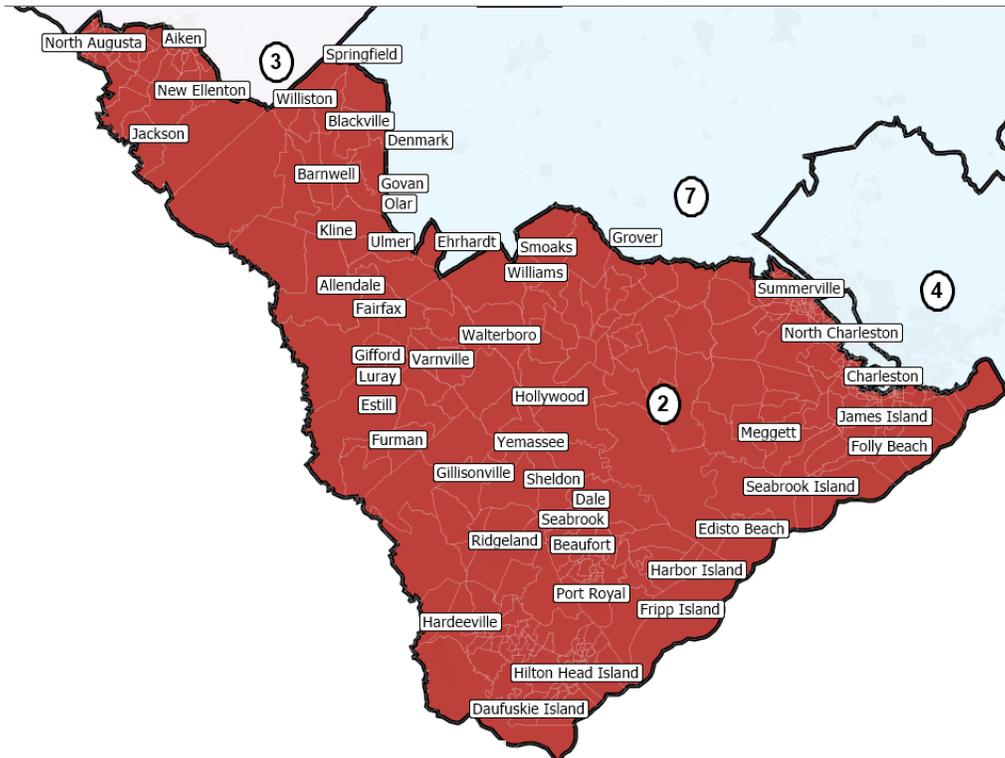
This map divides South Carolina’s population into seven equally populated districts, including one VRA-mandated majority-minority district (50.2% CVAP). The map is fairly compact, achieving a mean Reock score of 0.42, which compares favorably with the state’s current map (0.39). The map is also reasonably fair, receiving a 6.2% pro-Republican political bias score from Planscore. Although higher than would be preferable, this score is almost three-times below the current map’s 18.1% pro-Republican bias score and outperforms Map 2 (7.1%). This map splits 18 counties, slightly below Map 2’s 20 counties but well above Map 1’s 9 counties and the current map’s 12 counties. Finally, this map is projected to yield two Democratic districts and five Republican districts, slightly altering the state’s present 6 Republican, 1 Democrat balance.

## **MAP EXPLANATION**

### The East—Districts 2, 4, and 7:

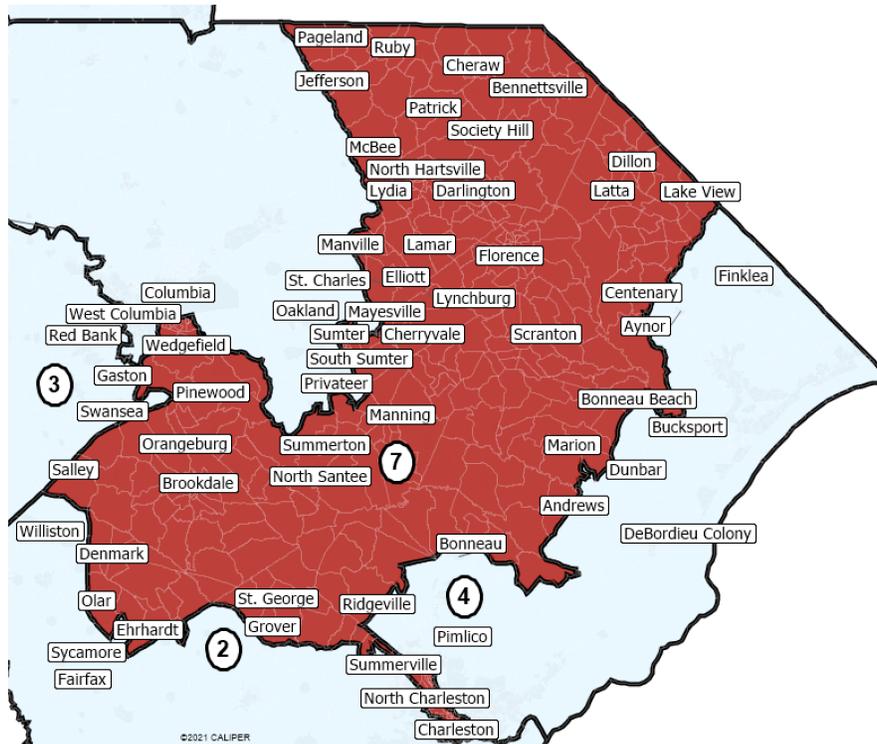
As with Maps 1 and 2, I began this map by drawing a district to capture South Carolina’s most prominent community of interest, the Lowcountry. District 2, the southernmost district on this map, contains most of the Lowcountry counties and cities. I drew District 2’s eastern border so that it would not extend further east into the heart of Charleston.

## District 2



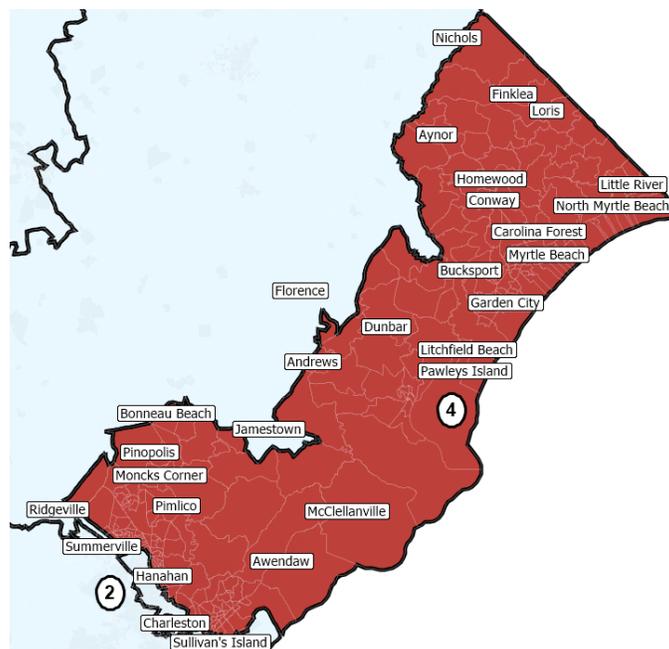
Next, I focused on drawing a more “unpacked” majority-minority district, one that would be closer to 50% than 60% Black voters. This shift was intended to better apportion Black voters, giving them a stronger voice beyond the majority-minority district. Specifically, I wanted to draw another district with strong Black representation. Based on Map 2, I knew that the strongest Black influence district would be about 43% Black CVAP. However, such a map would not likely withstand legal scrutiny (see Map 2). In this map, I sought both Constitutionality and Black influence. The first step toward that objective was minority-majority District 7 with its 50.2% Black CVAP. This district, which stretches from South Carolina’s northeastern border down into Charleston essentially combines parts of the current map’s Districts 6 and 7. While the Charleston arm compromised District 7’s compactness, it was necessary to create both a majority-minority and a strong Black influence district within the same map. Any legal challenge brought against this map would focus on District 7 because its arm into Charleston is not necessary to draw a majority-minority district in the state. In short, the state’s compelling interest in VRA adherence could have been achieved without drawing District 7’s explicitly protruding and racially-motivated Charleston arm.

*District 7*



After drawing Districts 2 and 7, the remaining isolated territory became District 4, a compact coastal district containing many of the state’s largest tourist and retirement communities. I had minimal flexibility with this district and drew it in conjunction with District 7. As such, District 4 was largely shaped by redistricting ambitions for other districts. South Carolina’s legislature has shown an affinity for coastal districts—the current map contains one around Charleston—making District 4’s lines both reasonable and potentially appealing.

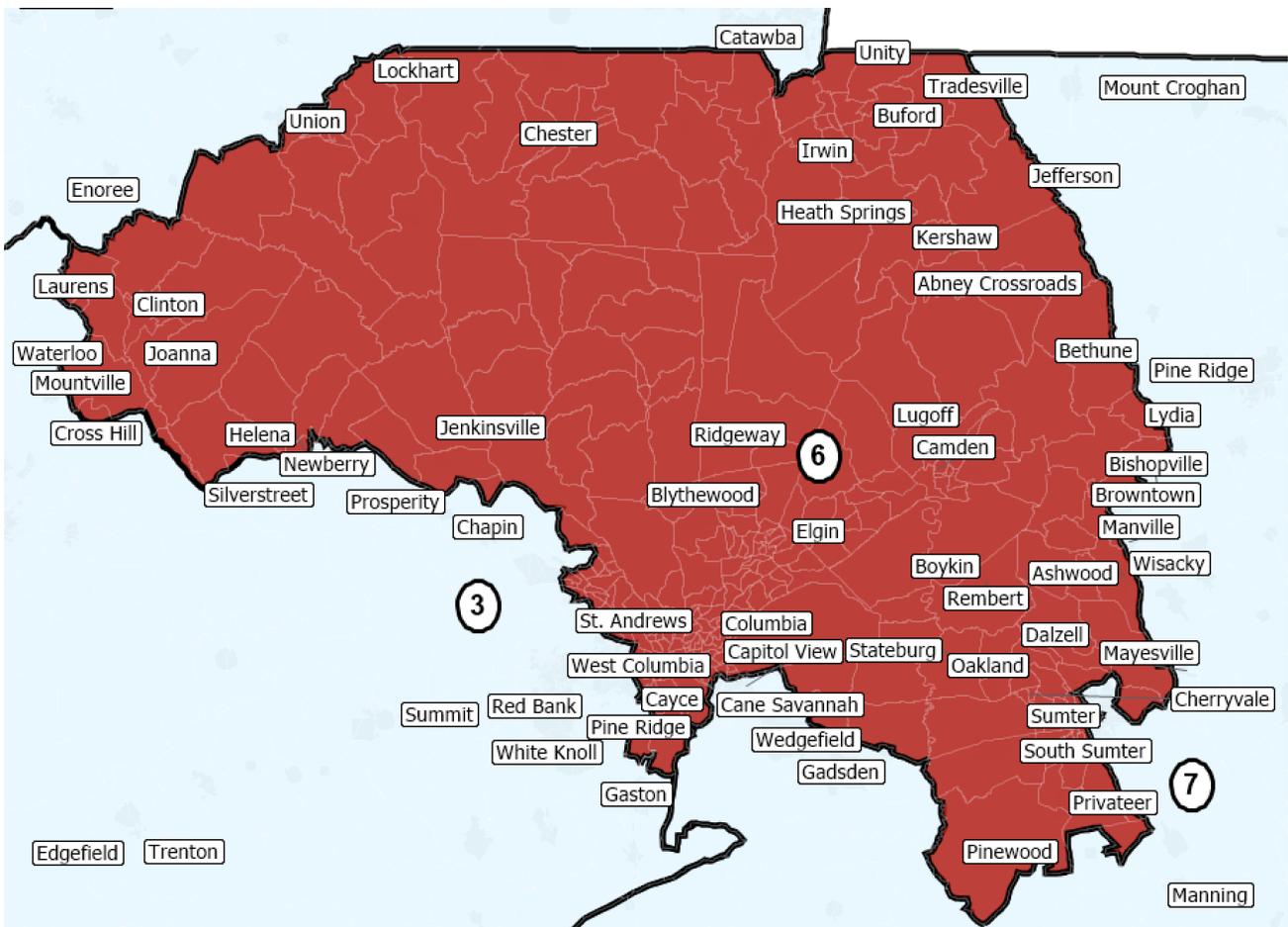
*District 4*



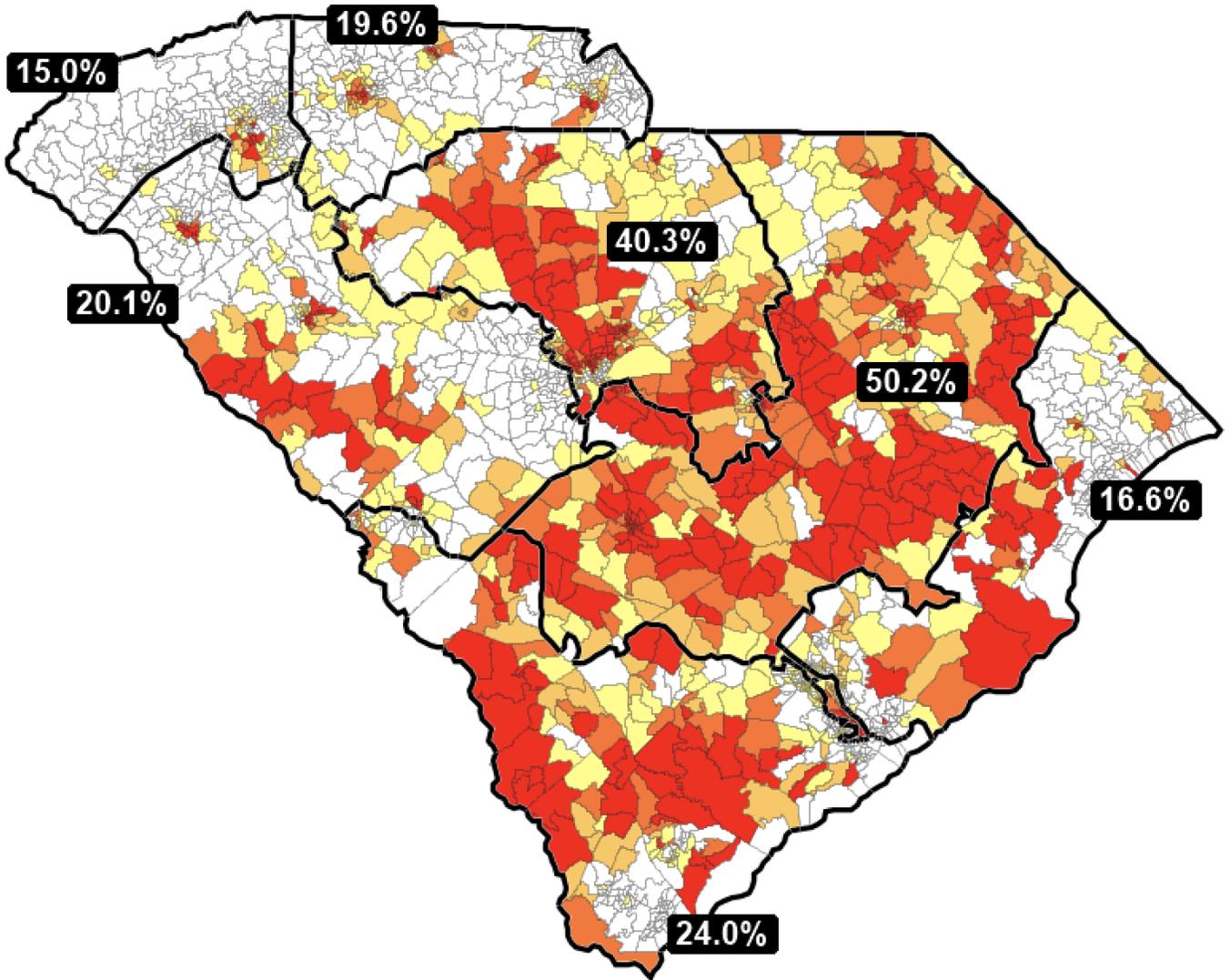
The Interior—Districts 6 and 3:

Based on the distribution of Black South Carolinians, I knew that my Black influence district would need to pick up voters in Columbia and those previously in District 7 in order to remain compact and avoid the predominately racial lines of Map 2. I drew District 6 to contain Black voters in Sumter and Columbia, giving the district a 40.1% Black CVAP and clear Black influence based on white voter preferences (the district has an 88% chance of going Democrat). Similarly to Map 2, I moved Jim Clyburn’s town out of the majority-minority district and into the Black influence district, reasoning that his strength as a candidate would all but ensure the election of two candidates preferred by Black voters, even with one running outside of a majority-minority district.

*District 6*

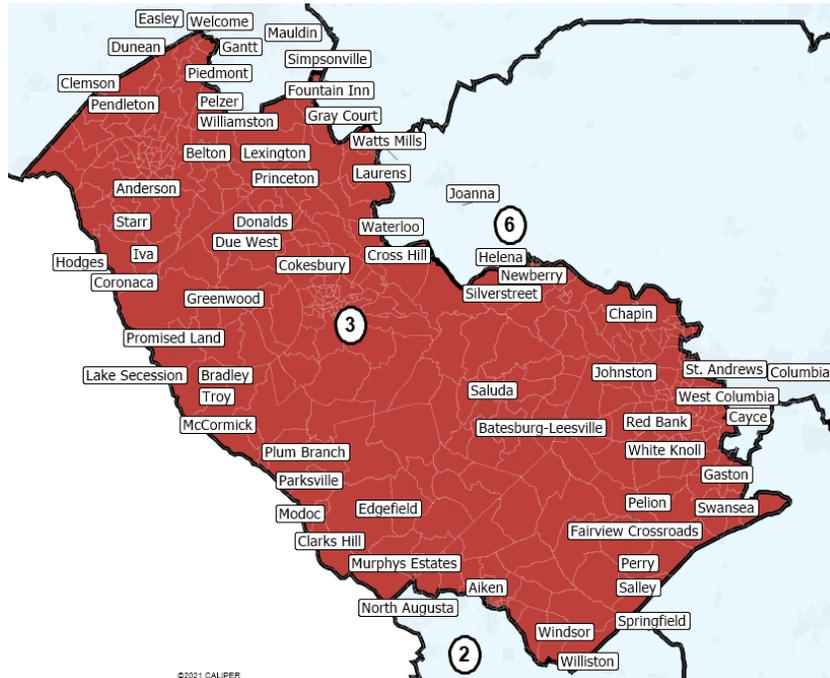


*Racial Distribution Map with Black CVAP Percentages*



District 3, directly to the west of District 6, was drawn to ensure that the remaining districts—Districts 1 and 5—would jointly encapsulate South Carolina’s “Upstate” community of interest. District 3 runs up the state’s western coast, capturing the white communities that were drawn out of Districts 6 and 7 and Black communities around Greenwood.

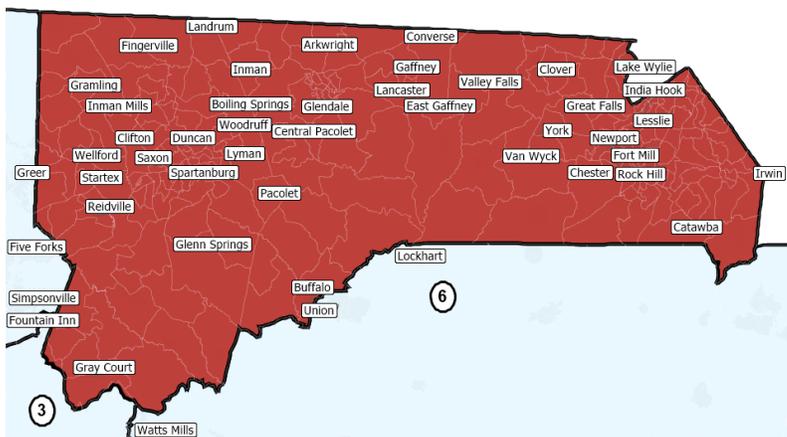
*District 3*



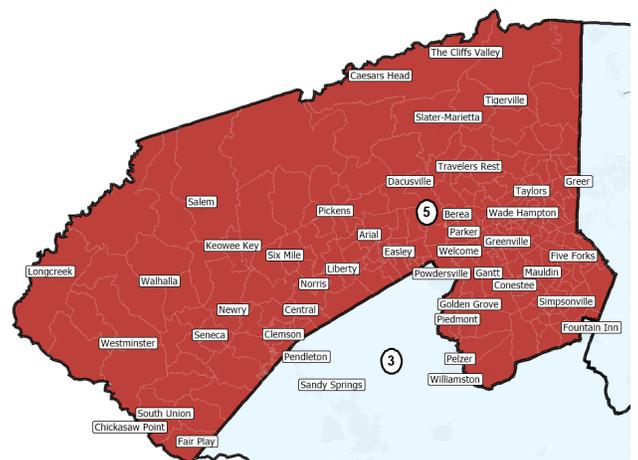
Upstate—Districts 1 and 5:

District 1 and District 5 appear virtually identical in each of this report’s three maps. Both districts run east-west to keep counties whole and to ensure that Spartanburg and Greenville are not split. In this map in particular, District 1 had to run east-west because District 6 extends fairly far north, eliminating any chance for a north-south northern district. In general, the scale of South Carolina’s large interior districts, particularly its majority-minority district, make north-south northern districts less feasible, as evidenced by District 4 on the state’s current map.

*District 1*



*District 5*



## COMPACTNESS

Compactness was a guiding principle in drawing this map, and its emphasis is reflected in the map's compactness scores. While South Carolina explicitly rejects using mathematical measures to assess compactness, measures like the Reock index provide a useful point of reference to compare between maps. This map's mean Reock score is 0.42, bookended by District 7's 0.50 and District 2's 0.34. Overall, this map is more compact than both the state's current map and Map 2 in this report. This map's strong 0.42 Reock score demonstrates that it is possible to significantly improve Black voters' voices without sacrificing compactness.

*Current Map*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
Sum	N/A	N/A	N/A	N/A
Min	0.21	1.47	1.74	0.08
Max	0.49	2.92	3.53	0.33
Mean	0.39	2.06	2.40	0.21
Std. Dev.	0.09	0.58	0.69	0.10
District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
1	0.21	2.78	3.14	0.10
2	0.45	2.10	2.44	0.17
3	0.49	1.47	1.74	0.33
4	0.44	1.64	1.98	0.25
5	0.36	1.91	2.17	0.21
6	0.42	2.92	3.53	0.08
7	0.35	1.63	1.82	0.30

*Proposed Map*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
Sum	N/A	N/A	N/A	N/A
Min	0.34	1.46	1.62	0.14
Max	0.50	2.31	2.65	0.38
Mean	0.42	1.79	2.05	0.26
Std. Dev.	0.06	0.28	0.36	0.08
District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
1	0.40	1.52	1.62	0.38
2	0.34	1.83	2.32	0.19
3	0.40	1.70	1.80	0.31
4	0.36	1.89	2.15	0.22
5	0.45	1.46	1.78	0.32
6	0.46	1.83	2.06	0.24
7	0.50	2.31	2.65	0.14

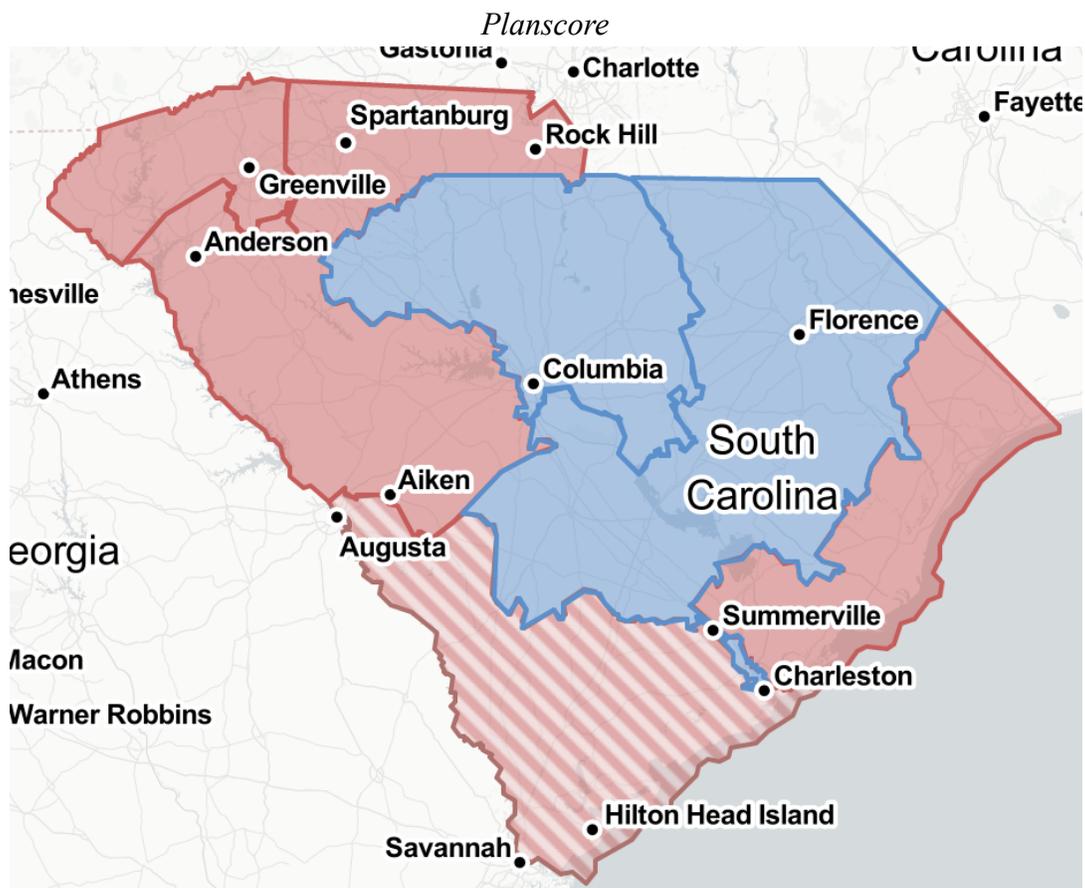
## POLITICAL SUBDIVISION SPLITS

While this map did not place the same emphasis on subdivision splits as Map 1, it did reduce the number of splits present in Map 2 while maintaining both a minority-majority district and a Black influence district. This map splits 18 counties and 25 voting districts, well below the number of splits in Map 2 but not as impressive as the 9 county, 23 voting district numbers of Map 1. All of the map's splits were in service of equal population or minority representation. This map does split one major city, Columbia, and leaves another (Charleston) entirely separated from the surrounding territory. It is worth noting that this map did not ruthlessly fracture subdivisions in an effort to increase Black influence. Instead, its splits were carefully made with many more rejected out of compactness concerns.

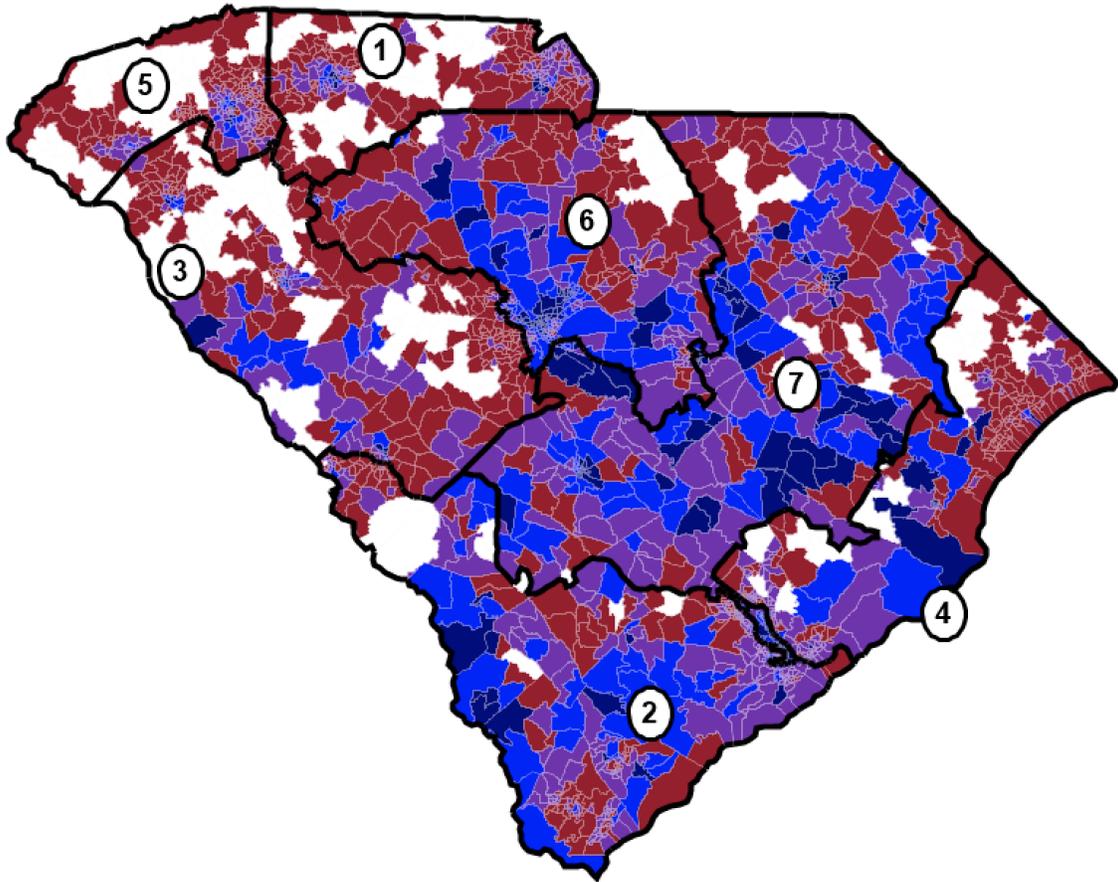
## PARTISAN CONSIDERATIONS

Based on Planscore analysis, this map would yield two seats for the Democratic Party and 5 seats for the Republican Party, which would be a one seat gain for the Democrats compared to the current map. This shift is largely the result of two factors: (1) unpacking the state's majority-minority district and (2) deliberately drawing a stronger Black influence district. Representative Jim Clyburn's shift out of the majority-minority district and into the influence district also carries important political consequences, all but ensuring that Black voters will be able to elect two of their preferred candidates.

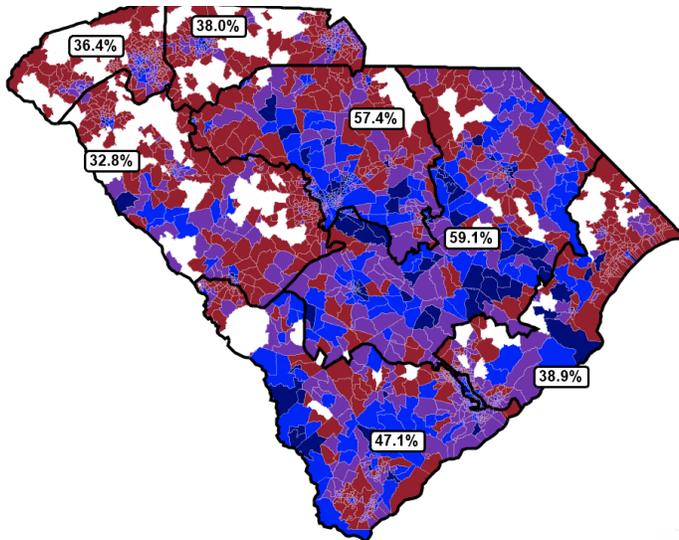
Finally, although it still favors Republicans, this map is many measures more fair than the current map based on Planscore's partisan bias scores. While this map is 6.2% pro-Republican, South Carolina's current map exceeds 18%.



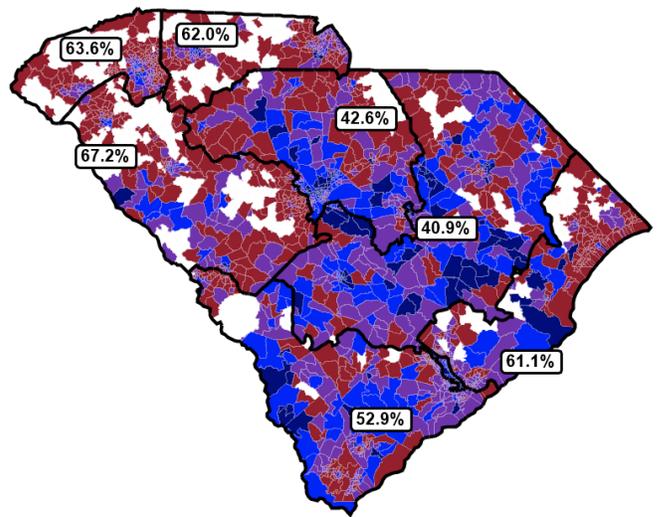
2020 Presidential Election Voter Distribution<sup>96</sup>



2020 Election (Percent for Biden)



2020 Election (Percent for Trump)



<sup>96</sup> These maps show voters' choices in the 2020 election. Dark red areas had higher proportions of Trump voters while dark blue areas had the highest proportion of Biden voters. Purple indicates areas where votes were more evenly split between the two candidates.

## TENSIONS AND TRADEOFFS

The central trade-offs in this map related to compactness and race. In drawing District 6 and District 7, I often had to choose between increasing the proportion of Black voters in the district and making the district more compact. Frequently, political subdivision splits came into play too, as each move to increase Black CVAP often involved splitting another voting district. Perhaps the most significant manifestation of this tension is District 7's long arm that extends down into Charleston's Black communities. This thin corridor fractures Districts 2 and 4 and impairs District 7's compactness.

A second tension related to District 2's northward reach. I wanted District 2 to map onto South Carolina's Lowcountry, and while District 2 does largely encompass the Lowcountry, it also extends further north, collecting parts of Midlands as well. It would have been preferable to give the Lowcountry its own district, particularly because of the area's unique cultural and historical characteristics, but doing so would have diminished the percentage of Black voters in Districts 6 and 7.

## Conclusion

In 1970, James Felder, I. S. Leevy Johnson, and Herbert Fielding became the first Black officials elected to statewide office in South Carolina since the turn of the century.<sup>97</sup> South Carolina has not elected a Black Governor, Lieutenant Governor, Secretary of State, or Attorney General since Reconstruction. In the state's most famous election law case, *South Carolina v. Katzenbach*, the Supreme Court held that the Voting Rights Act was designed "to banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century."<sup>98</sup> While the VRA has brought much needed change, the blight of racial discrimination in voting persists. These maps offer three very different approaches to redistricting for the South Carolina legislature to consider as they draw next decade's Congressional lines. Each is significantly more fair (based on Planscore partisan bias data) than the state's current map and each gives Black voters a more equitable voice.

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<sup>97</sup> John C. Ruoff and Herbert E. Buhl, *Voting Rights In South Carolina: 1982–2006*, 17 S. Cal. Rev. L. & Soc. Just., 643, 649 (2008); Christina Myer, "Trailblazers' Johnson, Felder, Fielding: 50 years since integrating SC Legislature," *The State*, Feb. 18, 2021.

<sup>98</sup> *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966).

# Dataview Appendix

Map 1: Compact Good Governance

District	Population	Deviation	% 18+_AP_Bl	% NH White CVAP 19	% NH Black CVAP 19	% D 20_Pres	% R 20_Pres
1	731,204	0	0.243707	66.5%	28.0%	52.9%	47.10%
2	731,203	-1	0.208038	74.2%	22.0%	33.5%	66.50%
3	731,203	-1	0.143412	78.9%	15.2%	36.5%	63.50%
4	731,204	0	0.153107	78.0%	16.4%	37.8%	62.20%
5	731,204	0	0.202348	73.5%	20.8%	37.6%	62.40%
6	731,203	-1	0.322644	61.6%	33.4%	52.1%	47.90%
7	731,204	0	0.49564	45.8%	50.1%	57.8%	42.10%

Map 2: Majority-Minority Maximizing

District Label	Population	Deviation	% 18+_AP_Bl	% NH Black CVAP 19	NH White CVAP 19	NH Black CVAP 19	NH Asian CVAP 19	% D 20_Pres	% R 20_Pres
1 0%	731,204	0	0.166301	17.6%	391908.9652	90157.43279	8339.72845	34.8%	65.2%
2 0%	731,204	0	0.213403	24.0%	389269.735	132546.4439	6789.50358	47.1%	52.9%
3 0%	731,204	0	0.181126	19.4%	417156.5314	105906.6667	5396.5409	33.8%	66.2%
4 -0%	731,203	-1	0.152447	16.6%	413278.9014	87621.11563	8588.16919	38.9%	61.1%
5 0%	731,204	0	0.142526	15.0%	411134.7823	77973.00805	8032.91241	36.4%	63.6%
6 -0%	731,203	-1	0.424071	43.0%	286276.5069	238289.5465	7740.95763	59.6%	40.4%
7 -0%	731,203	-1	0.490759	50.2%	263796.1058	288131.1253	4171.85394	59.1%	40.9%

Map 3: Compact Black Influence

District	Deviation	% 18+_AP_Bl	% NH Black CVAP 19	% NH White CVAP 19	% D 20_Pres	% R 20_Pres
1	0	0.191956	19.6%	74.5%	38.0%	62.0%
2	0	0.213403	24.0%	70.6%	47.1%	52.9%
3	-1	0.187294	20.1%	76.0%	32.8%	67.2%
4	-1	0.152447	16.6%	78.1%	38.9%	61.1%
5	0	0.142526	15.0%	79.1%	36.4%	63.6%
6	0	0.390712	40.3%	54.4%	57.4%	42.6%
7	-1	0.490759	50.2%	46.0%	59.1%	40.9%