

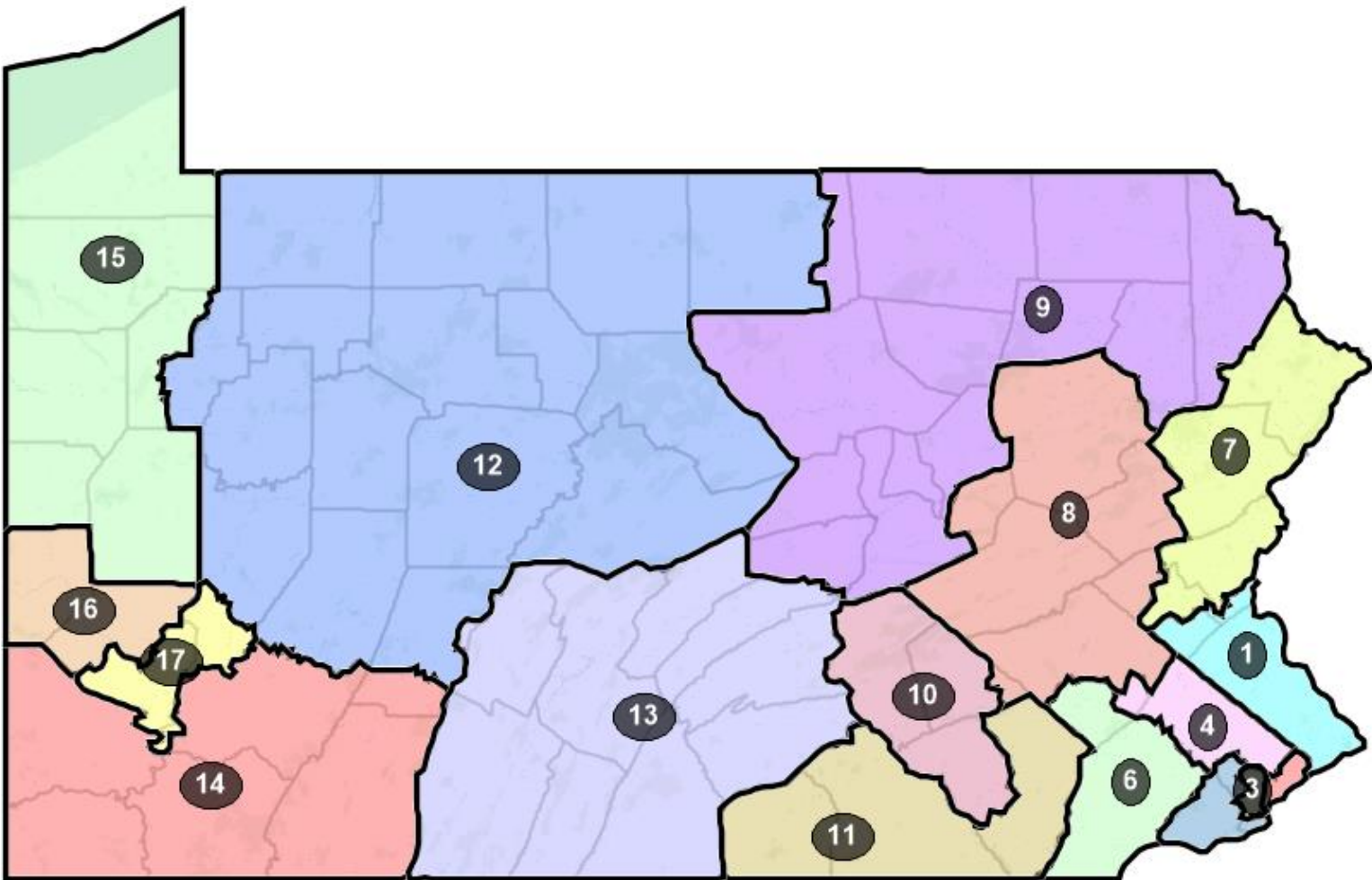
# PENNSYLVANIA

## PROPOSED CONGRESSIONAL REDISTRICTING PLAN

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## **Introduction**

### **Pennsylvania’s Congressional Redistricting Process**

The Pennsylvania State Legislature draws the state’s congressional lines and passes the proposed map as a statute subject to a gubernatorial veto. This is unlike Pennsylvania’s state legislative lines which have been drawn by a five-member political commission since 1968.<sup>1</sup> Pennsylvania does not have a statutorily imposed deadline for enacting its congressional map, however, candidates must file for congressional primary elections by March 8, 2022.<sup>2</sup> This presumably creates a de facto deadline that the State Legislature must meet in order to ensure that elections have ample time to proceed.

### **Pennsylvania’s Congressional Redistricting History**

Pennsylvania’s congressional redistricting process has a long history of legal challenges and abuses of legislative power for partisan gain. At the beginning of the 18th century, “several counties conspired to minimize the political power of the city of Philadelphia by refusing to allow it to merge or expand into surrounding jurisdictions, and denying it additional representatives.”<sup>3</sup> This contentious history has continued into the most recent redistricting cycles with maps being struck down by both state and federal courts.

#### **2000 Redistricting Cycle**

Pennsylvania lost two congressional districts after the 2000 Census data was released which reduced the number of seats from 21 to 19. After the 2000 election, the Republican party controlled the Pennsylvania General Assembly. They held five more state house seats and ten more state senate seats than the Democratic party. With the redistricting process in the sole possession of Republicans, the legislature passed the congressional plan, SB 1200, on January 3, 2002, which was promptly signed into law by Republican Governor Mark Schweiker on January 7, 2002.

Following this plan, multiple lawsuits were filed challenging the constitutionality of the congressional map. The plaintiffs argued that the plan violated the “one person one vote”

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<sup>1</sup> Pa. Const. art. II, § 17.

<sup>2</sup> 25 Pa. Stat. §§ 2753, 2873(d).

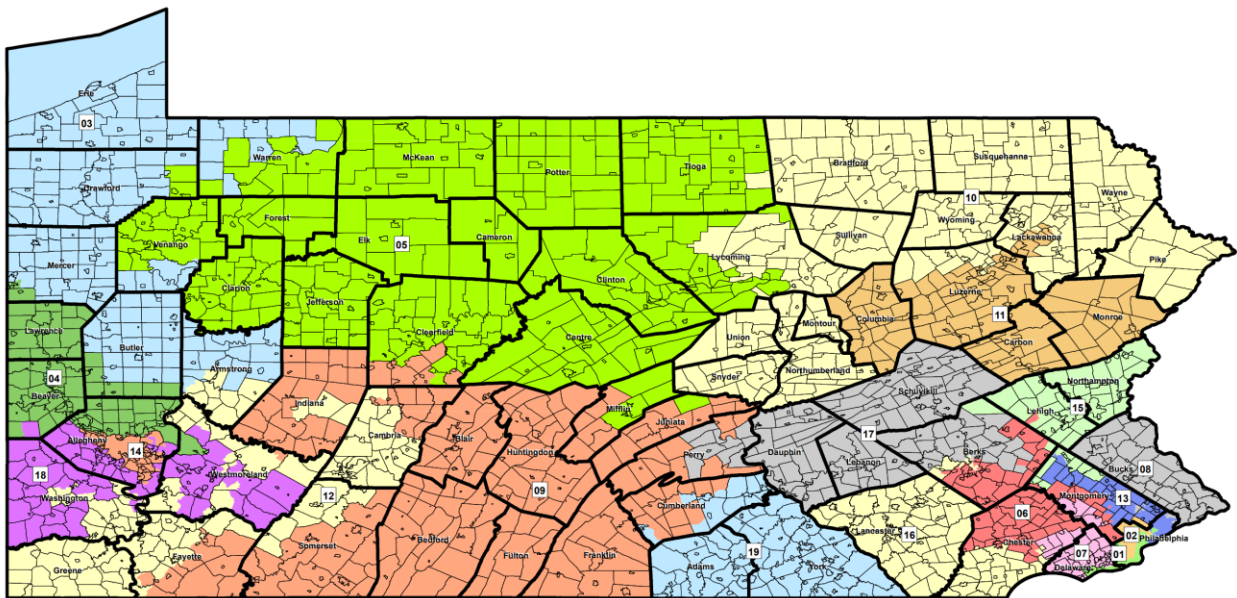
<sup>3</sup> *Vieth v. Jubelirer*, 541 U.S. 267, 274 (2004).

standard set forth in *Wesberry v. Sanders* since there was a deviation of 19 people between the largest and smallest district.<sup>4</sup> Additionally, they claimed that the map was an unconstitutional partisan gerrymander in violation of the equal protection clause of the 14th Amendment. The plan was upheld in state court on the partisan gerrymandering claim, but eventually struck down on April 8, 2002, in federal court on equal population grounds.<sup>5</sup>

The legislature remedied their plan by passing a new congressional map, HB 2545, which was signed into law on April 18, 2002. This map was subsequently challenged in federal courts. In *Veith*, the Supreme Court determined that partisan gerrymandering claims were nonjusticiable because there is no workable standard to adjudicate violations.<sup>6</sup> Republicans won 12 out of the 19 seats in the subsequent 2002 election.

### *Pennsylvania Congressional Districts 2002-2011*<sup>7</sup>

Pennsylvania Congressional Districts  
Act 34 of 2002



<sup>4</sup> *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964).

<sup>5</sup> *Veith v. Pennsylvania*, 195 F. Supp. 2d 672 (M.D. Pa. 2002); *Erfer v. Pennsylvania*, 794 A.2d 325 (Pa. 2002).

<sup>6</sup> *Vieth v. Jubelirer*, 541 U.S. 267, 289 (2004).

<sup>7</sup> "Congressional District Plans", Pennsylvania Redistricting (available at <https://www.redistricting.state.pa.us/Maps/index.cfm>)

## 2010 Redistricting Cycle

According to the Census data, Pennsylvania grew 3.43% over the previous decade, a rate which was much slower than the average growth of 9.7%.<sup>8</sup> As a result, Pennsylvania lost one Congressional seat. In the 2010 state election, the Republican party recaptured the Pennsylvania General Assembly in addition to regaining the Governor's office. This ensured that the Republican party controlled the redistricting process for a second straight decade. After a contentious battle over the redistricting process, the new congressional map, SB 1249, was passed by the state legislature along party lines. The newly elected Republican Governor, Tom Corbett, signed the new map into law on December 22, 2011.

After failed challenges in federal courts, *The League of Women Voters of Pennsylvania* filed a lawsuit on June 14, 2017, that alleged that the congressional map was an impermissible partisan gerrymander in violation of the Pennsylvania State Constitution.<sup>9</sup> The Supreme Court of Pennsylvania determined that the congressional map diluted the power of Democratic party voters which violated Article 1 Section 5 of the state's Constitution.<sup>10</sup> The state legislatures failed to enact a new plan which prompted the state Supreme Court to appoint a special master to redraw the congressional lines. The Court adopted the new plan on February 19, 2018.

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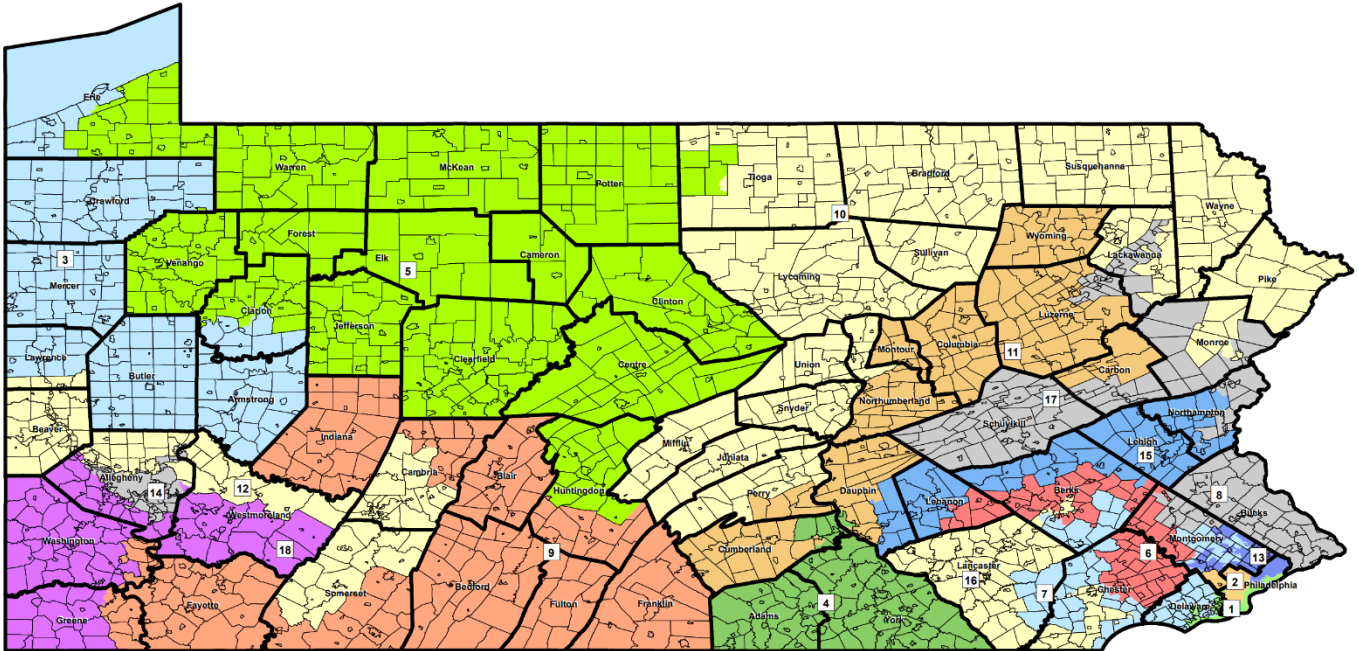
<sup>8</sup> Paul Mackun & Steven Wilson, 2010 Census Briefs, Population Distribution and Change: 2000 to 2010 (2010), (available at <http://2010.census.gov/2010census/data/>)

<sup>9</sup> *League of Women Voters of Pa. v. Pennsylvania*, 178 A.3d 737 (Pa. 2018).

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

*Pennsylvania Congressional Districts 2012-2017<sup>11</sup>*

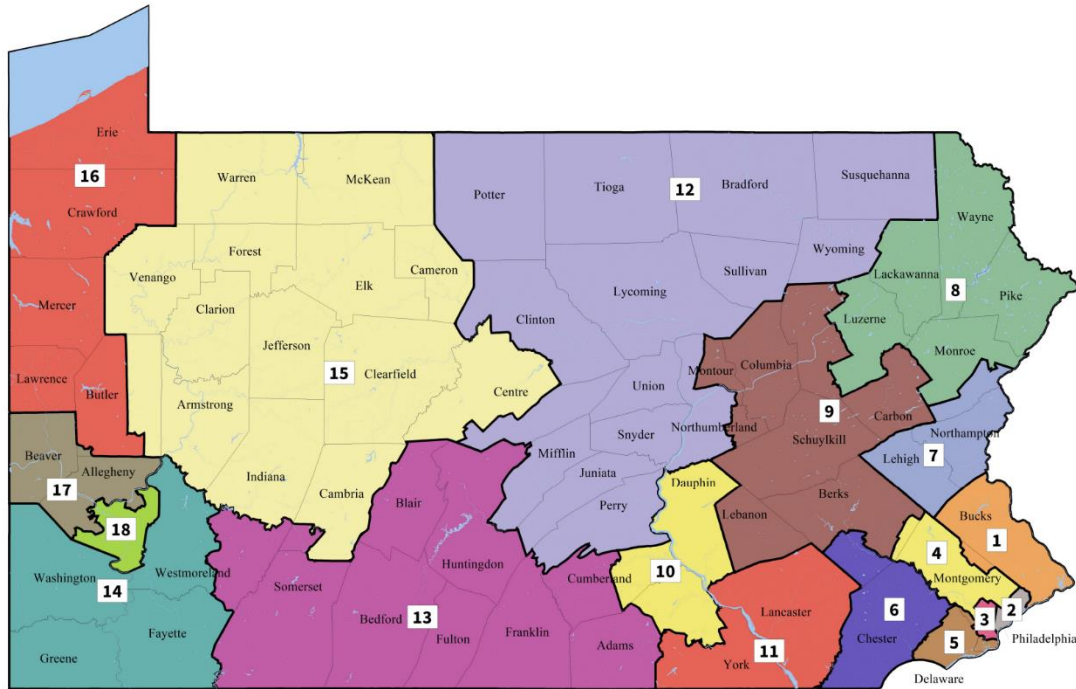
**Pennsylvania Congressional Districts  
Act 131 of 2011**



<sup>11</sup> “Congressional District Plans”, Pennsylvania Redistricting (available at <https://www.redistricting.state.pa.us/Maps/index.cfm>)



## *Pennsylvania Congressional Districts 2018-2022<sup>12</sup>*



### **2020 Redistricting Cycle**

Between 2010 and 2020, Pennsylvania’s population grew by 2.4% which resulted in the state losing a single congressional district for a second straight decade.<sup>13</sup> As discussed above, attempts to secure partisan gain have become a normal part of Pennsylvania’s redistricting process. This current cycle has proven to be no exception. After a two-month redistricting process, the Republican controlled state legislature passed a congressional map, HB 2146, on January 24, 2022. This map was largely based on a map drawn by Amanda Holt, a Lehigh Valley resident.<sup>14</sup> The plan was subsequently vetoed by Democratic Governor Tom Wolf two days later based on

<sup>12</sup> “Congressional District Plans”, Pennsylvania Redistricting (available at <https://www.redistricting.state.pa.us/Maps/index.cfm>)

<sup>13</sup> “Pennsylvania: 2020 Census,” U.S. Census Bureau, Aug. 25, 2021 (available at <https://www.census.gov/quickfacts/fact/dashboard/PA/PST040221>).

<sup>14</sup> Seth Grove, “Grove: Legislature Approves Citizen’s Congressional Map, Now on Wolf’s Desk for Signature,” Jan. 24, 2022 (available at <http://www.paredistricting.com/News/25144/Latest-News/Grove-Legislature-Approves-Citizen%E2%80%99s-Congressional-Map,-Now-on-Wolf%E2%80%99s-Desk-for-Signature->)

his belief that the map unfairly favored the Republican party.<sup>15</sup> He stated in his veto message that “HB 2146 does not deliver on the Pennsylvania Constitution’s guarantee of free and equal elections.”<sup>16</sup>

After the failure of the General Assembly and Governor to come to an agreement and enact a new congressional map, voters in Pennsylvania filed lawsuits seeking to ensure that new congressional district are in place for the 2022 elections.<sup>17</sup> The petitioners argued that the 2018 map violated both the Pennsylvania and U.S. Constitution because the map is malapportioned and contains too many districts. Further, they argued that since the legislators and governor have failed to enact a new plan, the judiciary should draw the congressional lines to ensure that the election can proceed on time.<sup>18</sup> On February 23, 2022, in a 4-3 ruling, the Pennsylvania Supreme Court, noting extraordinary jurisdiction, adopted the map put forth by the *Carter* petitioners.<sup>19</sup>

Following that ruling, a group of Pennsylvanian Republicans filed an emergency application to Justice Alito on February 28, 2022, seeking a stay of Pennsylvania’s new congressional map on the basis that the plan was adopted by the state judiciary without the state legislature’s approval. They argued that the Election Clause guarantees that only “the Legislature” of each state is charged with prescribing the “the Times, Places and Manner of holding Elections for Senators and Representatives.”<sup>20</sup> The U.S. Supreme Court denied their request for an injunction which effectively allowed the *Carter* map to take effect while the case is pending review by a three-judge panel in federal court.

On March 16, 2022, the three-judge panel in *Toth Jr. v. Chapman* dismissed the plaintiffs’ Election Clause claims for lack of Article III standing.<sup>21</sup> The Plaintiffs then voluntarily dismissed their remaining malapportionment claim without prejudice.<sup>22</sup>

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<sup>15</sup> Governor Tom Wolf, “Gov. Wolf Signs Bills Supporting Health Care Workers and Students, Vetoes Unfair Congressional Map,” Jan. 26, 2022 (available at <https://www.governor.pa.gov/newsroom/gov-wolf-signs-bills-supporting-health-care-workers-and-students-vetoes-unfair-congressional-map/>)

<sup>16</sup> *Id.*

<sup>17</sup> *See Carter v. Chapman*, 2022 Pa. LEXIS 257

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

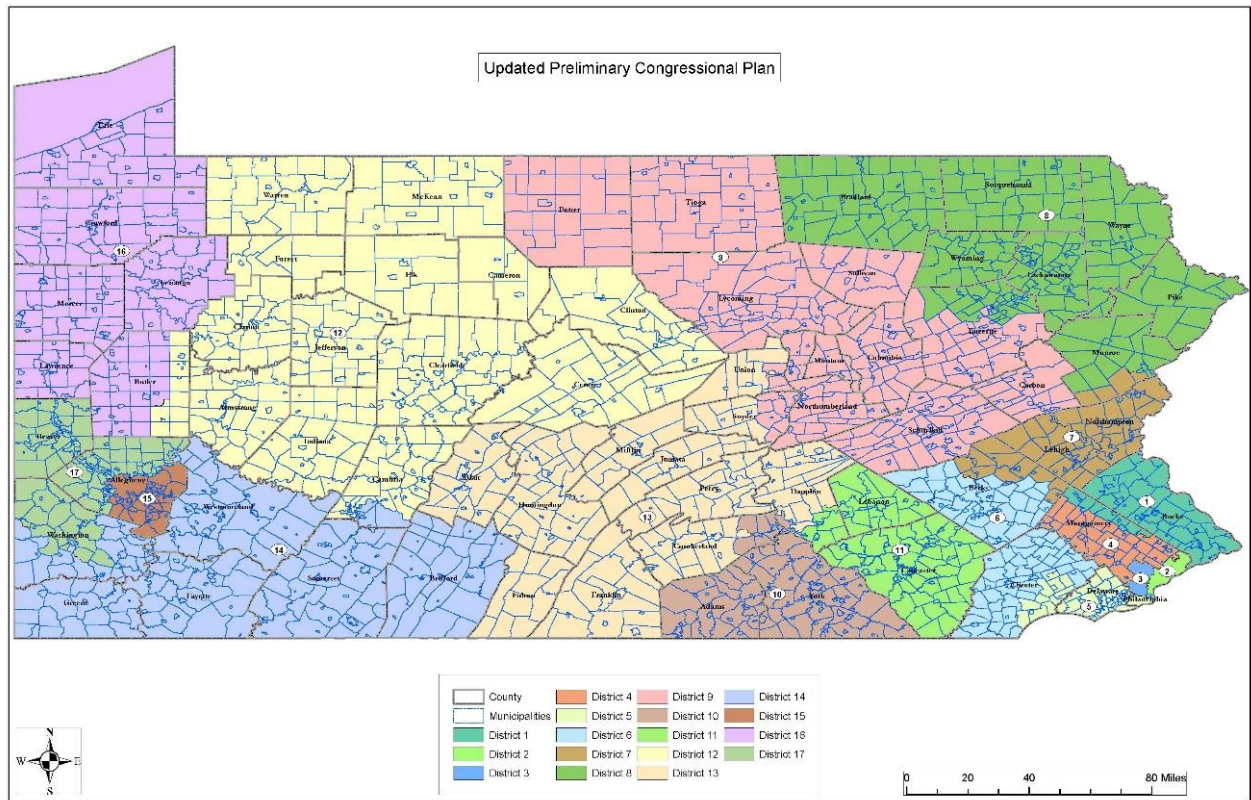
<sup>19</sup> *Id.*

<sup>20</sup> U.S. Const. art. I, § 4, cl. 1.

<sup>21</sup> *Toth Jr. v. Chapman*, 2022 U.S. Dist. LEXIS 47108

<sup>22</sup> *Id.*

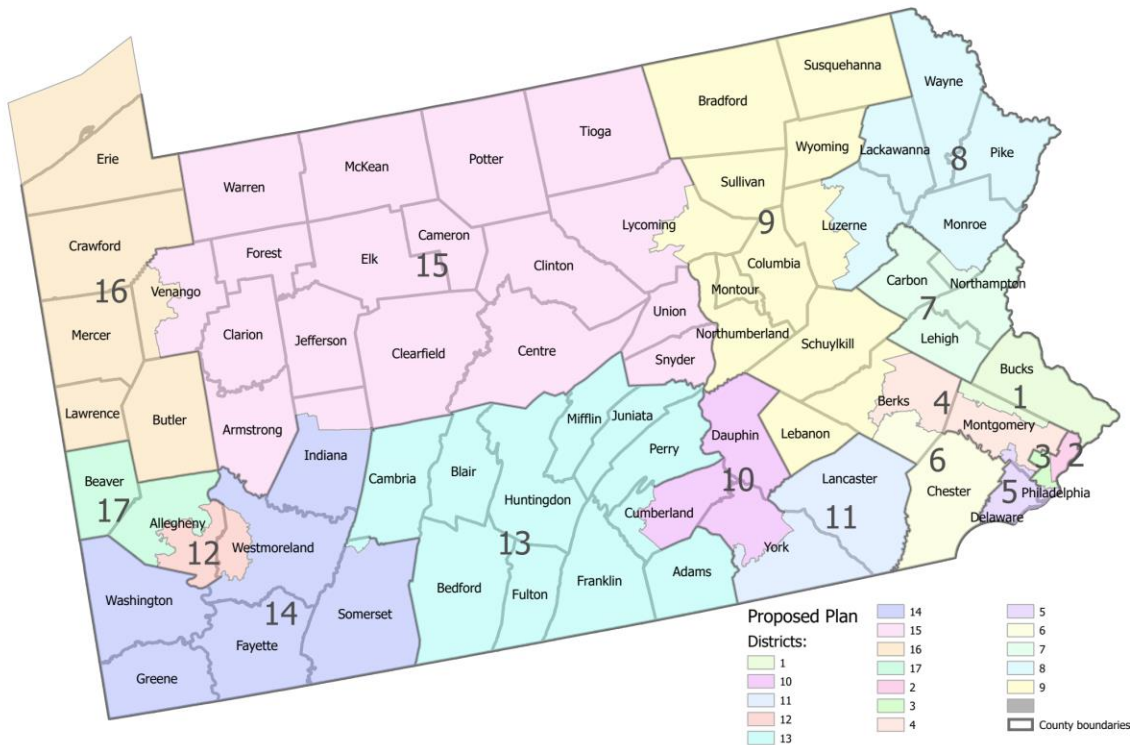
*Pennsylvania Congressional Districts Proposed in HB 2146<sup>23</sup>*



<sup>23</sup> Seth Grove, “Grove: Legislature Approves Citizen’s Congressional Map, Now on Wolf’s Desk for Signature,” Jan. 24, 2022 (available at <http://www.paredistricting.com/News/25144/Latest-News/Grove-Legislature-Approves-Citizen%E2%80%99s-Congressional-Map,-Now-on-Wolf%E2%80%99s-Desk-for-Signature->)



*Pennsylvania Congressional Districts Adopted by the Pennsylvania Supreme Court<sup>24</sup>*



## Plan Summary

### Redistricting Principles

This plan attempts to achieve proportional partisan representation while maintaining traditional redistricting principles as much as possible. Due to Pennsylvania’s troubling past filled with some of the most extreme partisan gerrymandering in the United States, it was essential to create a plan that reflected the political preferences of Pennsylvanians. Since the past two Presidential elections were tightly contested in Pennsylvania with Donald Trump winning the state by 0.72% in 2016 and Joe Biden winning the state by 1.17% in 2020, this plan based its partisan fairness on the assumption that the Republican and Democratic parties each receive 50% of votes from the entire state of Pennsylvania. This proposal also attempted to ensure that Pennsylvania retains at least 3 competitive districts. The increase in political extremism is a concern that is rarely mentioned when discussing the harms of partisan gerrymandering. As President Obama recently

<sup>24</sup> “Congressional District Plans”, Pennsylvania Redistricting (available at <https://www.redistricting.state.pa.us/Maps/index.cfm>)

penned, “Fewer competitive districts increases partisanship, since candidates who only have to appeal to primary voters have no incentive to compromise or move to the center.”<sup>25</sup> The partisan split that this map proposes is 7 reliable Democratic districts, 7 reliable Republican districts, and 3 highly competitive districts.

## Map Explanation

Pennsylvania is home to many large cities dispersed throughout the state. In line with the current trend in the rest of the United States, the population density has increased in these metropolitan areas and has decreased in the more rural areas. This section of the report divides the state into five main regions in order to facilitate a discussion of this plan’s decision-making process. The regions are the Philadelphia Metropolitan Area, the Pittsburgh Metropolitan Area and Laurel Highlands Region, the Harrisburg Metropolitan Area, the Lake Erie- Northwest Region, and Lehigh Valley & Northeast Region.

### The Philadelphia Metropolitan Area

I started with the Philadelphia region since this area was likely to pose the most legal constraints due to its history of containing at least one majority-minority district. Philadelphia, Pennsylvania’s largest city, contains a significant Black population. Since the Black population in this area is numerous, compact, and politically cohesive, they are entitled to a Black majority district under Section 2 of the Voting Rights Act (discussed below). I prioritized minimizing the changes to the borders of District 3 from the 2018 plan since that majority minority district presumably complied with the Voting Rights Act. I decided to keep the border that runs along Broadway Street because it provides a compact way to split the city of Philadelphia while keeping a large proportion of the city’s Black population within District 3.

This decision largely kept District 2 the same as the remedial 2018 plan. Since it was mathematically impossible and potentially unconstitutional to draw a second Black majority district, I wanted to ensure that there was at least an additional opportunity district. District 2

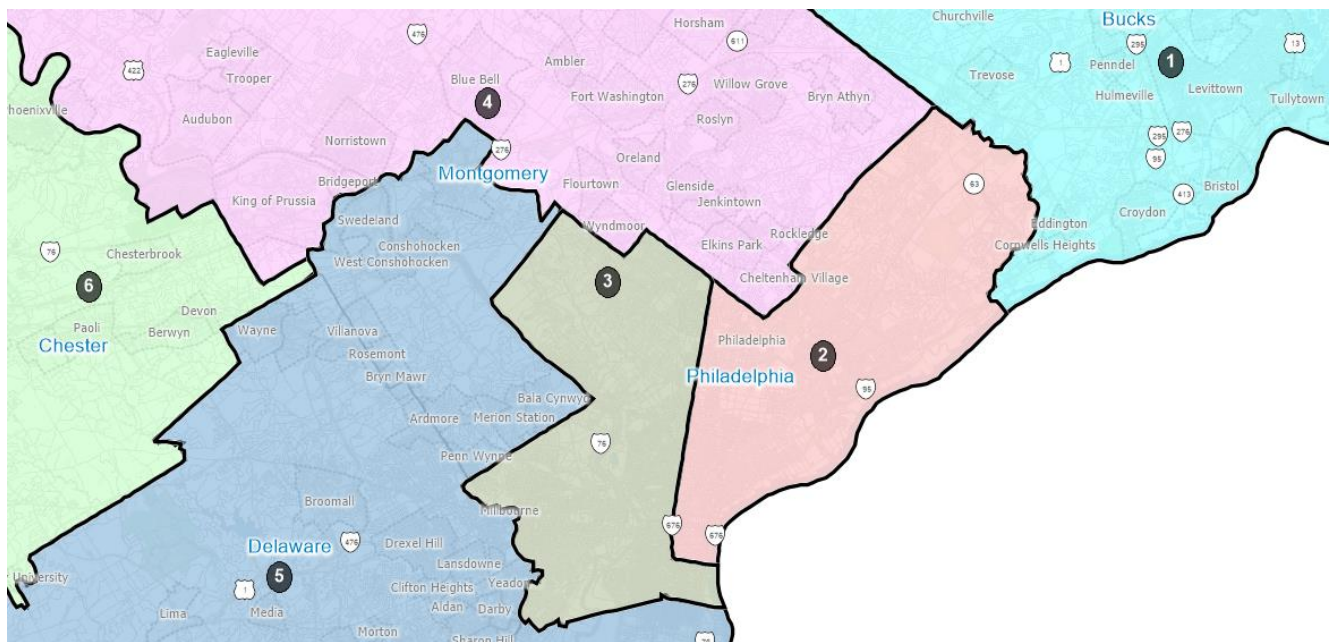
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<sup>25</sup> Barack Obama, “Former President Barack Obama: We need to follow John Lewis’ example and fight for our democracy,” Jan. 12, 2022 (available at <https://www.usatoday.com/story/opinion/2022/01/12/obama-senate-democrats-must-protect-democracy-majority-vote/9185565002/>)

provides this influence district by having a black population of 25.64% and a Latino population of 20.48%.

With those two reliable Democratic districts in place, I decided to create 3 more Democratic leaning districts while minimizing the amount of county lines that I split. Delaware county is very densely populated and only needed to reach into Montgomery County for District 5 to comply with the equal population requirement. Similarly, District 4 contains Montgomery County with a large proportion of Democratic voters and only needed to reach into Berks County for one person-one vote purposes. The last of these Democratic districts, District 6 provided a difficult challenge since Pennsylvania becomes more conservative as you move West from Philadelphia. In order to ensure 5 Democratic districts in this area, I created District 6 out of Chester County and grabbed the large municipalities in Berks County such as the city of Reading. This simultaneously allowed me to shift a large proportion of Democratic voters into District 6 and concentrate the pain by splitting Berks County three ways.

### *Proposed Philadelphia Metropolitan Area*



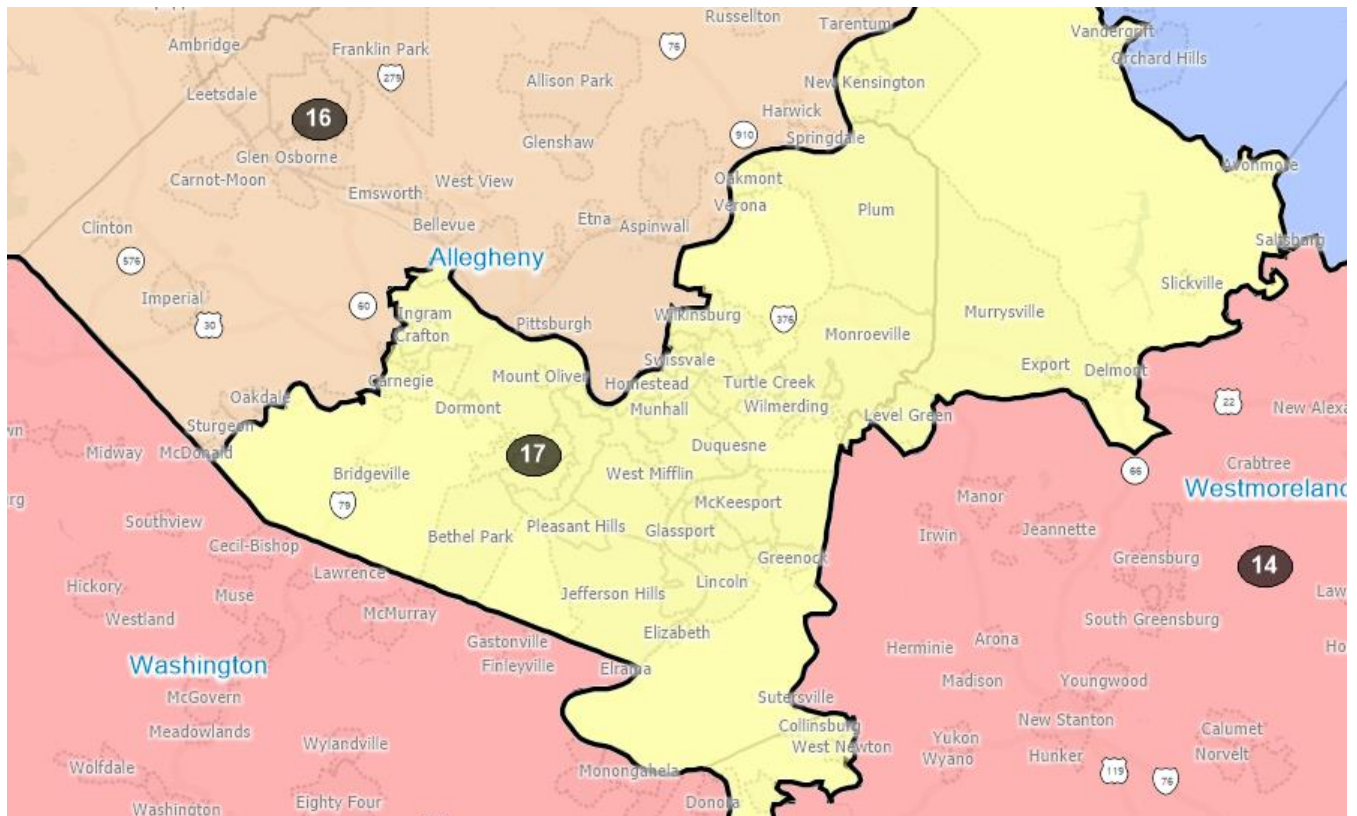
### The Pittsburgh Metropolitan Area and Laurel Highlands Region

The most significant decision that I made was to split the city of Pittsburgh into two different districts. This was primarily based on the theory that Pittsburg would be well represented by either one or two members of Congress. The need for partisan fairness took precedent over the

principle of minimizing political subdivision splits. Additionally, Pittsburgh is filled with a majority Democratic voters. These voters would benefit from likely having two Democratic representatives and ensuring a fair partisan balance in the state. To guide the Pittsburgh split, I primarily followed the natural boundary provided by the Ohio, Allegheny, and Monongahela Rivers. The 16<sup>th</sup> District encompasses Beaver County and the Northern region of Allegheny County. Conversely, the 17<sup>th</sup> District contains the Southern region of Allegheny County and the urban areas of Westmoreland County closest to the Pittsburgh metropolitan area such as Murrysville.

This split led naturally to the formation of District 14 in the southwestern region of Pennsylvania. The area, known as the Laurel Highlands, is a significant community of interest since it home to PA's only preserved Native American battlefield and is a popular area for outdoor activities. I was sure to keep this community intact by combining Washington County, Greene County, Fayette County, Somerset County, Westmoreland County, and parts of Cambria County together to form District 14 — a Republican leaning district.

### *Proposed Pittsburgh Metropolitan Area*

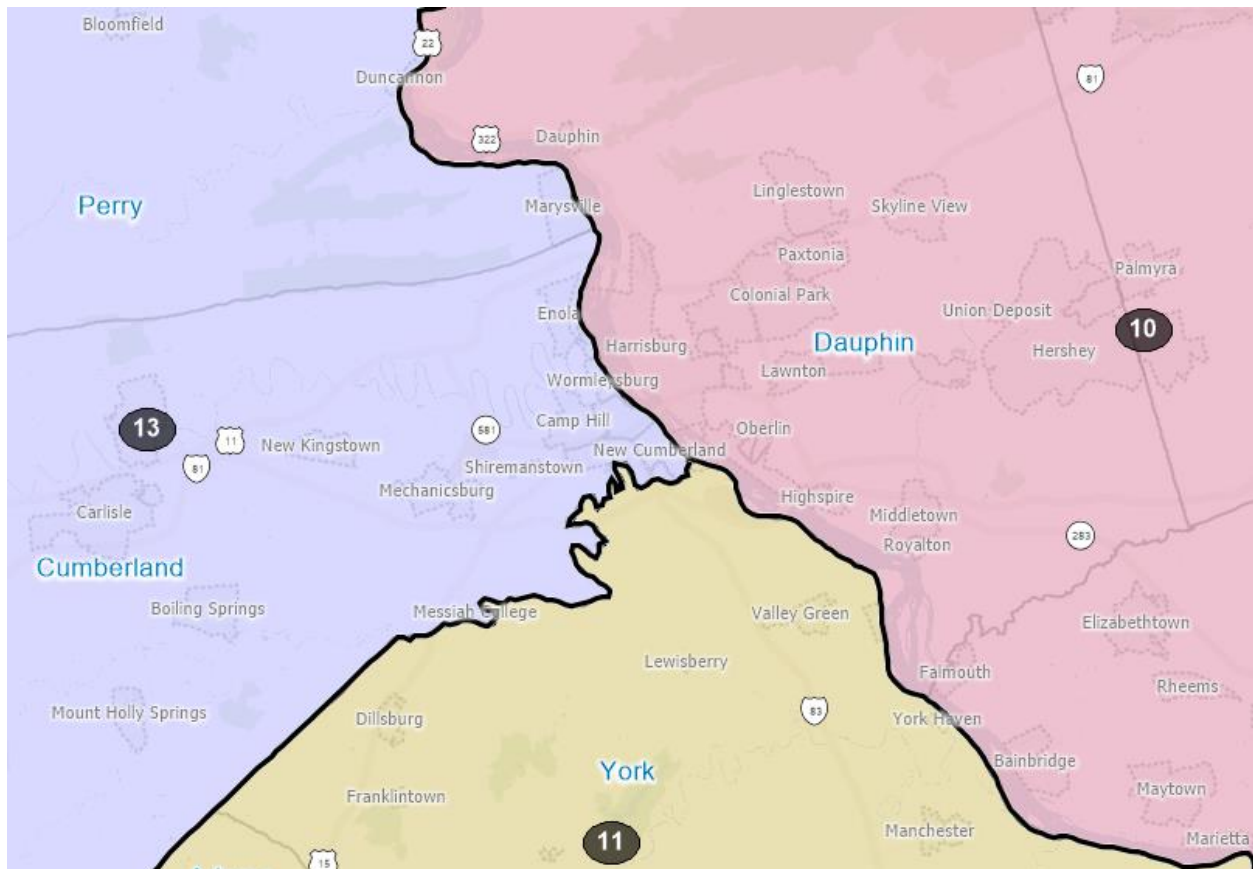




## The Harrisburg Metropolitan Area

As Pennsylvania's Capital city, Harrisburg plays a unique role in the state's geography. Because of the nonpartisan nature of capitals, I decided to make the accompanying district one of the three competitive districts. This was very challenging. Although Harrisburg is home to many Democratic voters, the surrounding area is much more conservative. With only 50,000 residents living in the city boundaries of Harrisburg, I was forced to reach into this Republican voting area to adhere to equal population requirements. I accomplished this task by creating District 10 primarily out of Dauphin County and Lebanon County. I then decided to reach into Lancaster County to "pickup" the municipal area of Lancaster which contains a high percentage of Democratic voters.

### *Proposed Harrisburg Metropolitan Area*

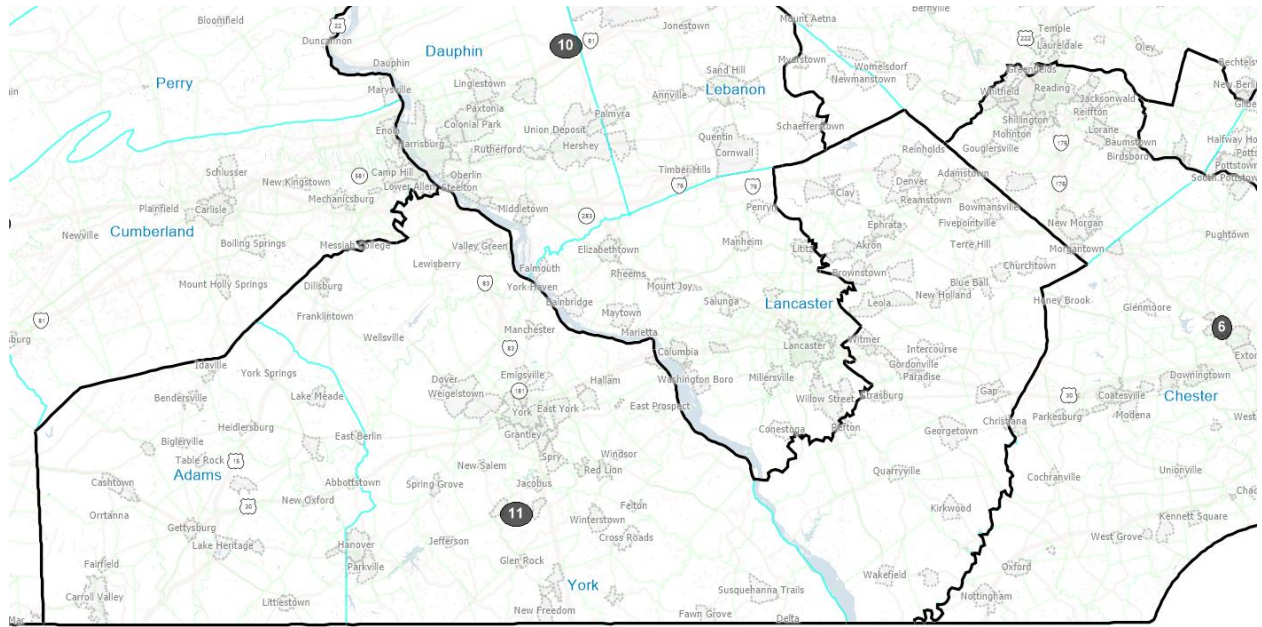


This had the consequence of creating a uniquely shaped district directly south of District 10. The “whale” district — District 11 — contains York County and Adams County while grabbing the remaining area in between districts 10 and 6 in its whale tail. This district is reliably Republican.



I then moved West to create a very compact District 13 that lies under District 12 and is sandwiched between districts 14, 10, and 11. Similarly, District 13 is Republican leaning.

### *The “Whale” District*

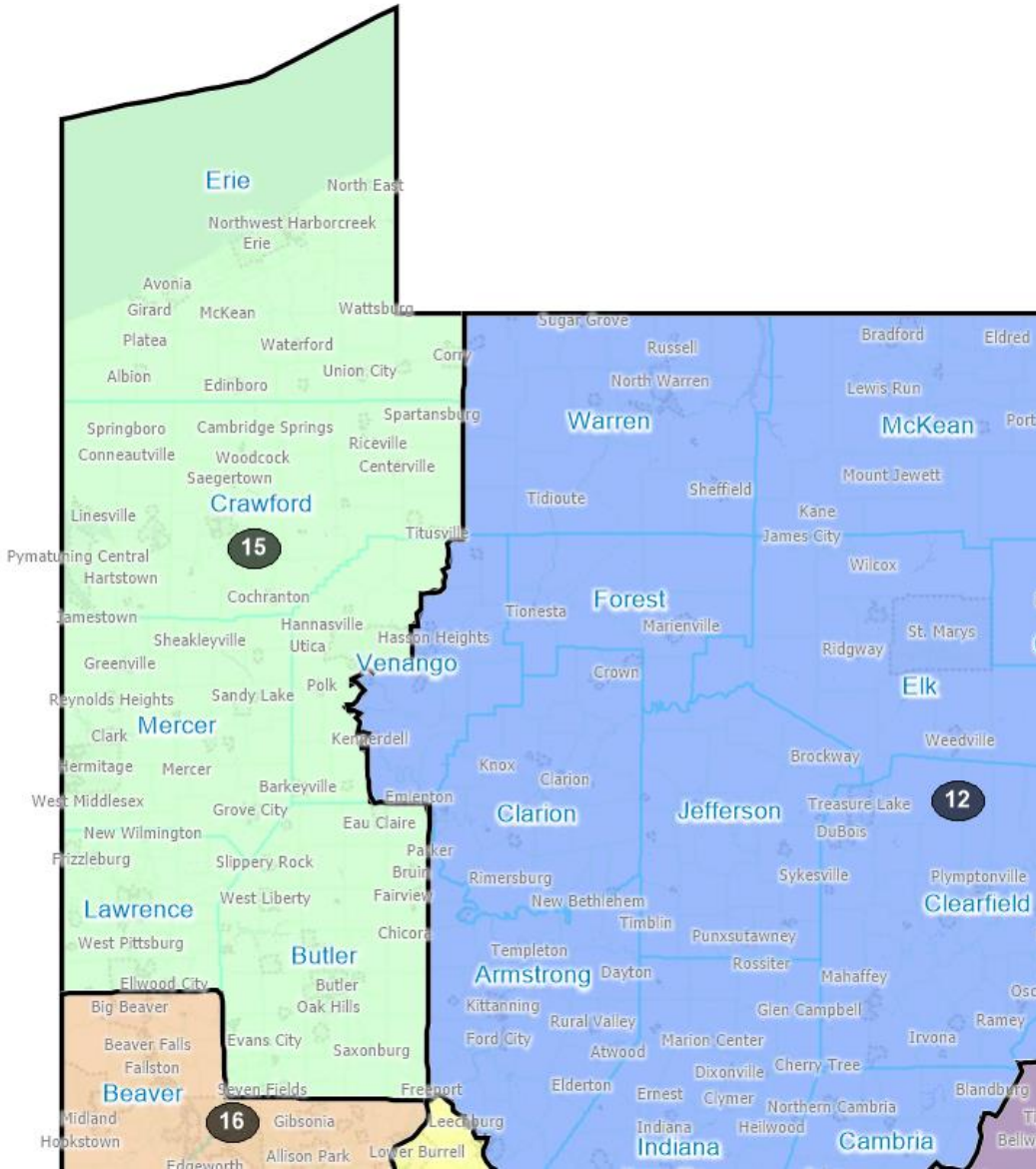


### The Lake Erie- Northwest Region

Historically, the District containing the Lake Erie Region has contained the municipality of Erie and moved down vertically until reaching the Pittsburgh Metropolitan area. I continued this trend to keep the core constituencies of the previous district largely intact. District 15 of my proposed plan contains 89.95% of the population of the last map’s District 16. This consistency provides minimal disruption to elections and ensures government accountability since voters will know exactly who represents them in Congress. Additionally, District 15 provides this plan with another Republican leaning district.

The area west of District 15, which contains the northern area of Pennsylvania is heavily Republican. This political preference allowed me to focus on maintaining respect for political subdivisions and create District 12 out of the Northern portion of Pennsylvania.

*Proposed Lake Erie & Northwestern Area*



Lehigh Valley & Northeast Region

The remaining region needed to feature two more competitive districts and two more Republican leaning districts to achieve proportional representation. This decision boiled down to creating the two competitive districts along Pennsylvania’s Eastern border since Democratic voters extend outward from the Philadelphia region. District 1 features the entirety of Bucks County and a small portion of both Lehigh County and Northampton County. District 7 contains Pike County, Monroe County, most of Northampton County, and the urban area of Lehigh County. Both of

these districts have a predicted vote share that splits 51% in favor of a Democratic candidate and 49% in favor of a Republican candidate. Finally, District 8 and District 9 capture the remaining area of Northeast Pennsylvania while respecting County lines and equal population requirements. These two districts are extremely conservative with 62% Republican voters in each district.

## Evaluation of the Proposed Plan on Relevant Criteria

### A. Compactness

This proposed plan is more compact than Pennsylvania’s previous congressional plan by a number of different compactness measurements. Its Schwartzberg, Alternate Schwartzberg, Polsby-Popper, Population Polygon, and Area/Convex Hull measurements indicate that this map is on average more compact than the previous plan. Even in the few measurements that score lower, this plan is only marginally less compact than the 2018 plan. For example, the average Reock of the 2018 map is 0.46 while the average Reock for this map is only 0.04 lower at 0.42. This map prioritized compactness when drawing lines since congressional plans have historically prioritized this traditional redistricting principle and compactness scores for Pennsylvania has continually improved over time. In keeping up with this trend, this proposed plan is extraordinarily compact.

#### *Measures of Compactness for the Proposed Map*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	Population Polygon	Area/Convex Hull	Population Circle	Ehrenburg	Perimeter	Length-Width
Sum	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	4,429.43	N/A
Min	0.32	1.31	1.38	0.17	0.45	0.63	0.20	0.25	N/A	2.36
Max	0.57	2.22	2.42	0.53	0.96	0.90	0.74	0.57	N/A	80.35
Mean	0.42	1.61	1.72	0.35	0.75	0.80	0.46	0.38	N/A	21.19
Std. Dev.	0.08	0.21	0.24	0.09	0.14	0.07	0.13	0.09	N/A	21.53

#### *Measures of Compactness for Pennsylvania’s 2018 Map*

	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	Population Polygon	Area/Convex Hull	Population Circle	Ehrenburg	Perimeter	Length-Width
Sum	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	4,805.28	N/A
Min	0.32	1.40	1.46	0.18	0.36	0.72	0.20	0.26	N/A	0.69
Max	0.67	2.18	2.35	0.47	0.96	0.88	0.78	0.64	N/A	80.22
Mean	0.46	1.66	1.76	0.33	0.74	0.79	0.52	0.40	N/A	14.16
Std. Dev.	0.08	0.20	0.22	0.08	0.15	0.05	0.16	0.09	N/A	21.65

### B. Respect for Political Subdivisions

Pennsylvania contains 67 counties and 9,178 voting districts. This plan splits only 14 counties and 27 voting districts. Although there is no legal requirement for congressional lines,

minimizing political subdivision splits remains a high priority for map drawers. In the last iteration of Pennsylvania’s congressional map, only 14 counties were split— the same amount in the proposed plan. This map attempted to respect political subdivisions as much as practically possible and only strayed from this traditional redistricting principle in order to comply with any legal requirements such as equal population among districts, creating a majority minority district under the Voting Rights Act, or the prohibition on partisan gerrymandering. These legal requirements and countervailing redistricting principles weighed heavily in the decision to split the municipal boundary of Pittsburgh.

### **C. Partisan Fairness**

The predominant principle of this proposed plan was proportional representation. With the Republican party in full control of the last two redistricting cycles, Pennsylvania’s congressional map has unfairly favored republican candidates. This has led a disproportionate number of Republican candidates representing the state despite Pennsylvania remaining a swing state in Presidential elections. In response to the Pennsylvania state legislature’s attempts to gain partisan advantage by drawing congressional maps that unduly favors one particular political party over others, this map draws districts that reflect the true preferences of Pennsylvania voters.

According to PlanScore which bases its predictions from past election results and U.S. Census data, the proposed plan would create 7 reliable Democratic districts, 7 reliable Republican districts, and 3 competitive districts.<sup>26</sup> Although there is no such thing as an assured election victory for one party, in this plan “reliable” refers to a district that yields more than 55% of the predicted vote share for any one political party and corresponds to a greater than 80% chance of victory. The Democratic districts are districts 2, 3, 4, 5, 6, 16, and 17 whereas the Republican districts are 8, 9, 11, 12, 13, 14, and 15. The competitive districts are 1, 7, and 10. This proposed plan would follow the previous map’s commitment to achieving partisan fairness. In 2020, Democrats and Republicans each won 9 seats using the remedial map drawn in 2018. PlanScore’s analysis reveals that this proposed plan slightly favors the Republican party with a 1.8% partisan bias and 2.1% efficiency gap.

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<sup>26</sup> “Districts 2022-03-27.json,” PlanScore, Mar. 27, 2022 (available at <https://planscore.campaignlegal.org/plan.html?20220328T041833.381065840Z>)



## PlanScore Partisan Breakdown<sup>27</sup>



## Federal and State Legal Compliance

### US Constitution

#### a) One Person-One Vote

Congressional districts must be drawn so that “as nearly as is practicable one man’s vote in a congressional election is worth as much as another’s.”<sup>28</sup> In other words, Pennsylvania’s Congressional districts must be equally apportioned by population as required by Article I, Section II of the Constitution.<sup>29</sup> The Supreme Court further clarified in *Karcher v. Daggett* that Congressional districts must not deviate in population unless necessary to achieve a legitimate state objective such as compactness, respecting political subdivisions, and preserving communities of interest.<sup>30</sup>

Courts in Pennsylvania have strictly enforced this equal population requirement. In 2002, the Middle District of Pennsylvania struck down a congressional map that deviated by only nineteen people.<sup>31</sup> This ruling only heightened the importance of complying with the “one person one vote” standard as nearly as mathematically possible. According to the 2020 Census, the

<sup>27</sup> *Id.*

<sup>28</sup> *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964).

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

<sup>30</sup> *Karcher v. Daggett*, 462 U.S. 725, 740-41 (1983).

<sup>31</sup> *Veith v. Pennsylvania*, 195 F. Supp. 2d 672 (M.D. Pa. 2002).



population of Pennsylvania is 13,002,700.<sup>32</sup> Thus, with 17 districts, the required population for each congressional district is 764,865. The plan detailed in this report complies with the equal population requirement and contains no more than a two-person deviation between the ideal population. All deviations were necessary to preserve communities of interest, respect political subdivisions, and ensure compliance with the Voting Rights Act.

#### **b) The 14<sup>th</sup> Amendment**

Under the equal protection clause of the Fourteenth Amendment to the U.S. Constitution, a congressional district is subject to strict scrutiny if race is the “predominant factor” in the drawing of its lines.<sup>33</sup> Proof that race is the predominant factor can be established through various methods. For example, a district that is so strangely shaped that it could only be understood as an effort to separate the population based on racial classifications would establish race as the predominant factor.<sup>34</sup> Legislative history might also establish an intent to racially gerrymander.<sup>35</sup> Evidence for predominance is always judged against whether the legislature adhered to traditional redistricting principles such as “compactness, contiguity, or respect for political subdivisions.”<sup>36</sup> In order to withstand strict scrutiny of a racial gerrymandering claim, the state must demonstrate that its use of race was narrowly tailored to achieve a compelling state interest. Courts have routinely held that compliance with the Voting Rights Act is a compelling state interest.<sup>37</sup>

Although District 3 was drawn using race as one factor, this was done so in order to avoid minority vote dilution and to comply with Section 2 of the Voting Rights Act. Since the Black population makes up 12% of Pennsylvania, the state has a clear interest in ensuring that this racial group that has historically been disenfranchised has the ability to elect candidates of their choice. Additionally, District 3 attempts to minimize any political subdivision splits by closely following the county lines of Philadelphia, Montgomery, and Delaware. In other words, race was only one of many factors used to construct District 3.

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<sup>32</sup> “Pennsylvania: 2020 Census,” U.S. Census Bureau, Aug. 25, 2021 (available at <https://www.census.gov/quickfacts/fact/dashboard/PA/PST040221>).

<sup>33</sup> *Miller v. Johnson*, 515 U.S. 900, 920 (1995).

<sup>34</sup> *Shaw v. Reno*, 509 U.S. 630, 642 (1993).

<sup>35</sup> *Miller v. Johnson*, 515 U.S. 900, 916 (1995).

<sup>36</sup> *Shaw v. Reno*, 509 U.S. 630, 647 (1993).

<sup>37</sup> *Bush v. Vera*, 517 U.S. 952, 976 (1996).

## The Voting Rights Act

This map complies with Section 2 of the Voting Rights Act. The plain text of the statute states that, “No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.”<sup>38</sup> More generally, Section 2 of the VRA “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>39</sup>

For plaintiffs to prevail on a Section 2 VRA claim, three preconditions must be met in the redistricting context—known as *Gingles* prongs.<sup>40</sup> First, the minority group must be “sufficiently numerous and compact to form a majority in a single-member district.”<sup>41</sup> Second, the minority group must be “politically cohesive” meaning its members share similar voting preferences.<sup>42</sup> Third, the majority must vote “sufficiently as a bloc to enable it usually to defeat the minority’s preferred candidate.”<sup>43</sup> If these conditions are present, the court must determine based on the totality of the circumstances whether members of the minority group have less of opportunity to elect representatives of their choice than other members of the electorate. This analysis takes into account the social and political context in the challenged jurisdiction and is guided by the factors enumerated in the Senate Report that was a part of the 1982 VRA Amendments.

In Pennsylvania, Black voters are likely entitled to one majority-minority district in the Western Philadelphia area. As seen in the map below, the Black voting age population is geographically compact in West Philadelphia and sufficiently numerous to create a black majority district — thus satisfying the first *Gingles* condition. Although data on political cohesion and racially polarized voting patterns was unavailable, the region has been represented by a Black, Democratic candidate since 1958, which provides some evidence that this group votes in a similar way. In order to ensure that this plan complies with Section 2 of the VRA, District 3 was drawn to closely replicate the only majority minority district in the 2018 map. Since that district

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<sup>38</sup> 42 U.S.C. § 1973(a).

<sup>39</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>40</sup> *Thornburg v. Gingles*, 478 U.S. 30, 50-1 (1986).

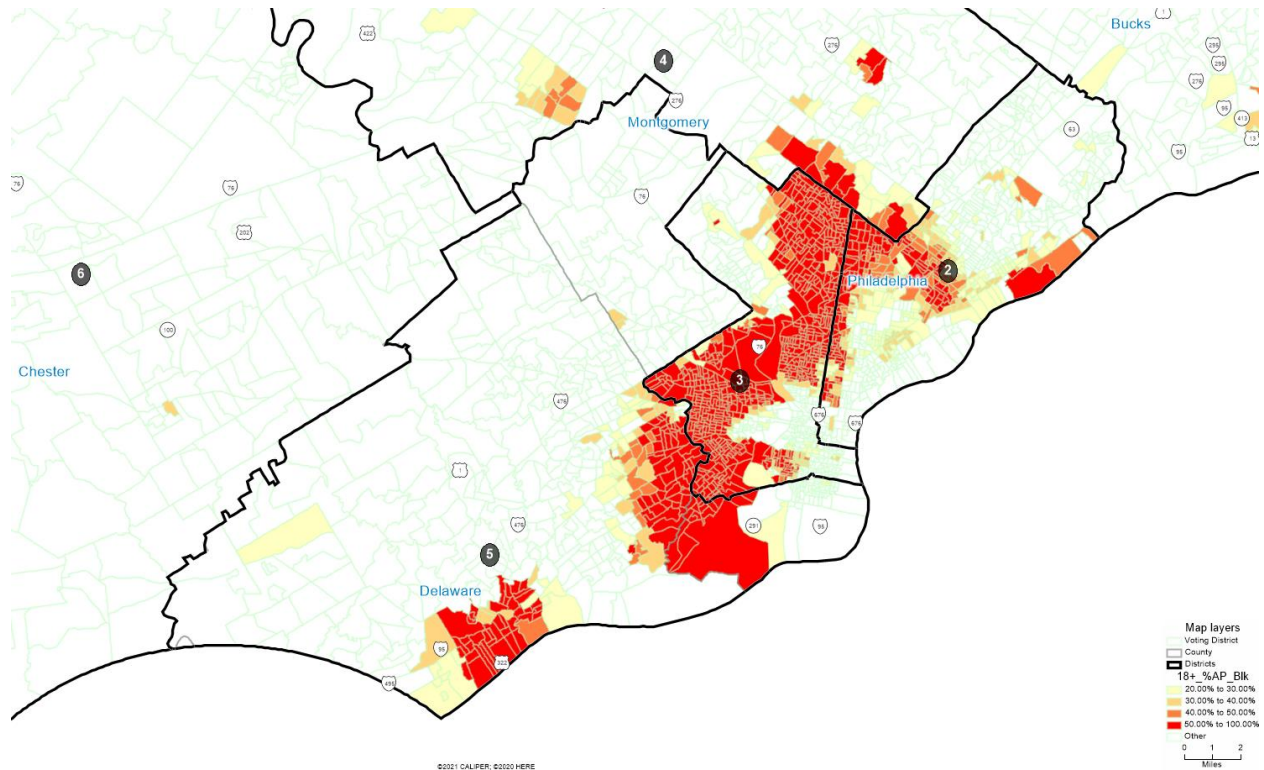
<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

faced no legal challenges on the basis of the VRA, District 3 would likely survive any Section 2 review. District 3 is 58.06% Black. The Black population comprises 54.74% of the voting age population and 58.77% of the citizen voting age population in the district.

*Black Population in the Philadelphia Metropolitan area*



It is unlikely that any other majority minority districts are required under the VRA. Two majority black districts were present in the 2011 congressional map, however, as discussed above, that map constituted an unconstitutional partisan gerrymander in part because of the “packing” of Black voters into a small number of districts. Additionally, the remedial map contained only one majority black district. With the Black population constituting 12% of Pennsylvania and being slightly spread out across the various cities in the state such as Pittsburg and Harrisburg, no VRA challenge would be successful. The second biggest minority group in Pennsylvania is the Latino population. Although comprising 7.8% of the population and thus large enough to create a minority majority district, Pennsylvania’s Latino population is not compact. The largest concentration of Latinos is in Philadelphia where they comprise only 15.2% of the county. The Latino population, while numerous, is too spread out to constitute a required VRA district.

**Pennsylvania State Law**

This plan, which is based on the principle of proportional partisan representation, complies with Pennsylvania's only requirement of prohibiting partisan gerrymandering. Unlike state legislative lines, which are required by the Pennsylvania Constitution to be contiguous and compact, and respect political subdivisions unless absolutely necessary, congressional lines are only prohibited from diluting the ability to elect representatives of choice on the basis of partisan affiliation in addition to being in compliance with Federal and US Constitutional law.<sup>44</sup> Since the vote share between the two major parties is roughly equal in Pennsylvania and this plan creates an equal number of reliable Democratic and Republican districts, this plan would not constitute an unconstitutional partisan gerrymander.

## **Conclusion**

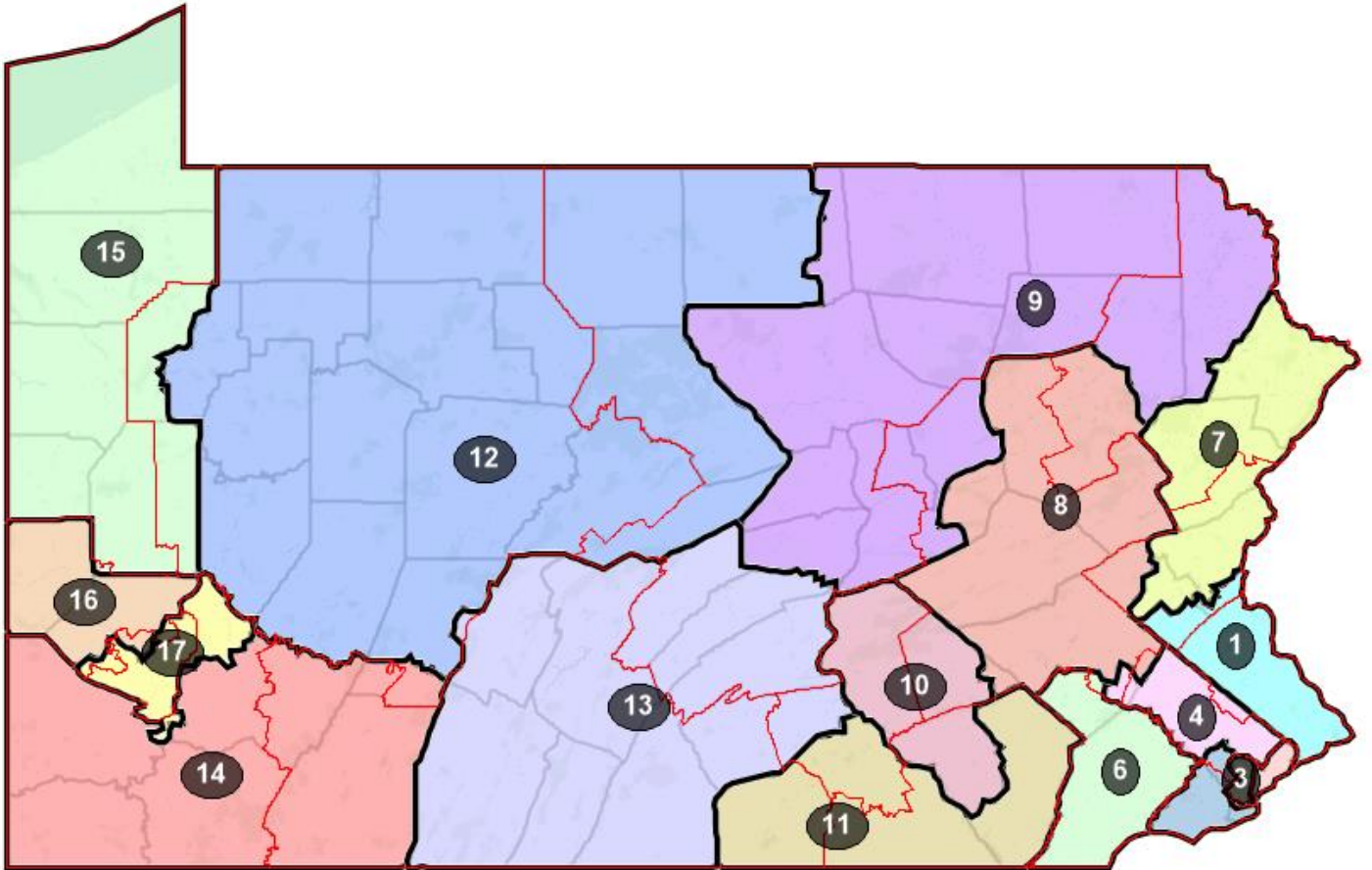
The Supreme Court's unwillingness to strike down partisan gerrymandered maps makes the pursuit of fair maps even more critical during the current 2020 redistricting cycle.<sup>45</sup> This proposed plan started with the goal of creating a fair map that reflected the will of the people of Pennsylvania. In achieving that historically elusive goal, this congressional plan drew 7 reliable Democratic districts, 7 reliable Republican Districts, and 3 competitive districts while maintaining compactness, communities of interest, and respect for political subdivisions. To the best of my knowledge, this map complies with the U.S. Constitution, the Voting Rights Act, and Pennsylvania's Constitution. I hope this plan can be used as a point of comparison as Pennsylvania finalizes their congressional map.

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<sup>44</sup> *League of Women Voters of Pa. v. Pennsylvania*, 178 A.3d 737, 816-17 (Pa. 2018).

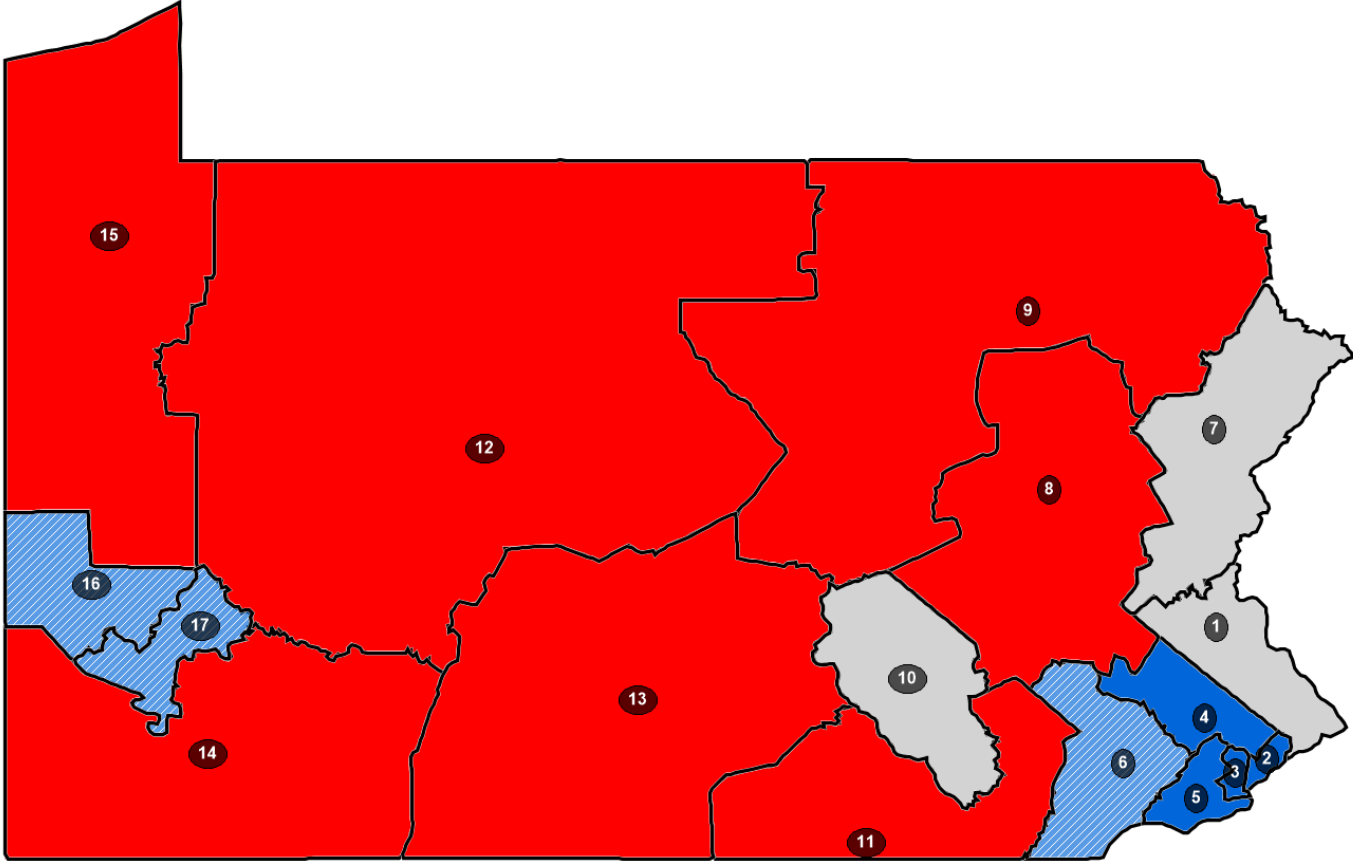
<sup>45</sup> *See Rucho v. Common Cause*, 139 S.Ct. 2484 (2019).

*Comparison with 2018 Boundaries*





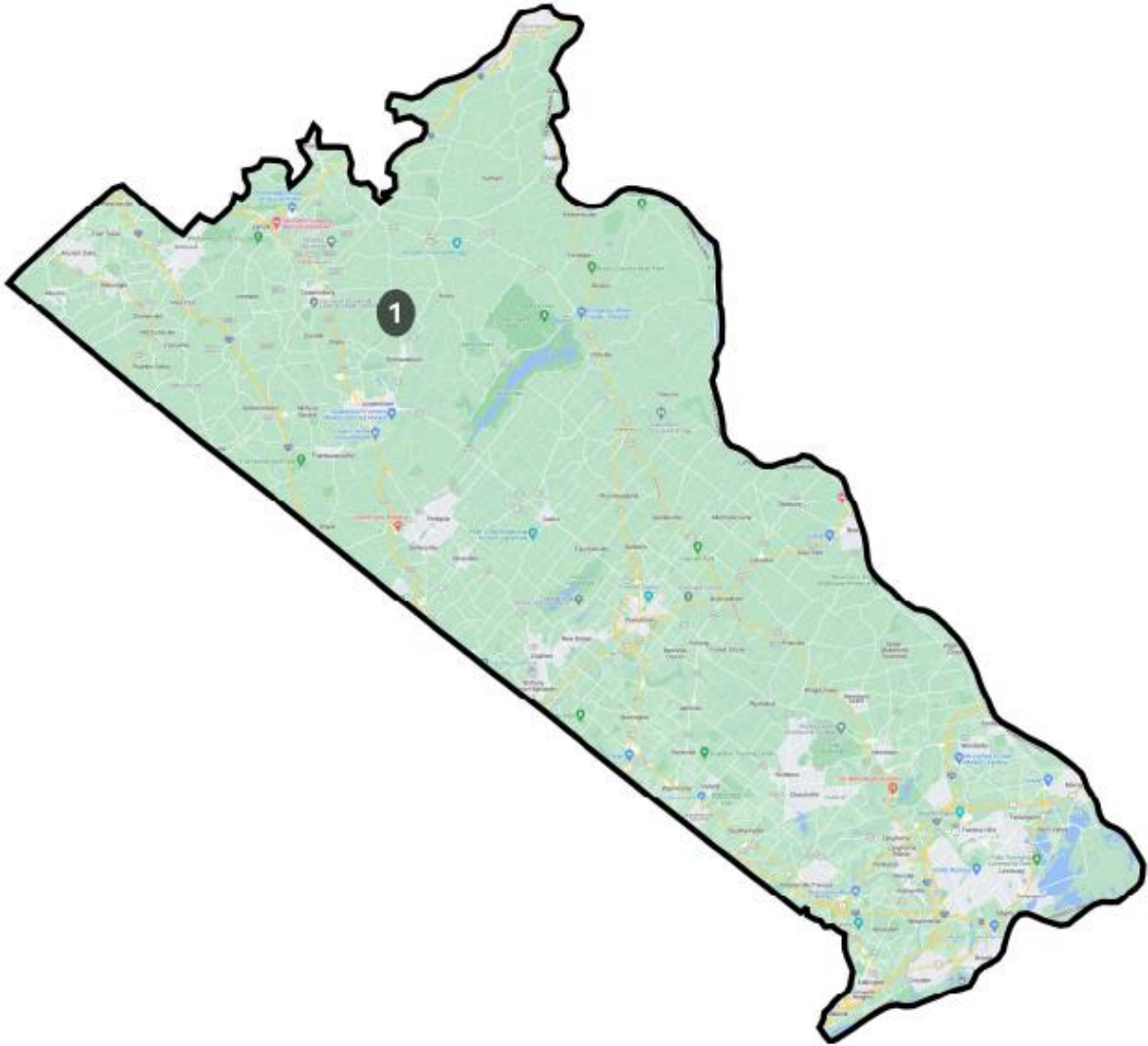
*Partisan Composition of Proposed Congressional Plan*



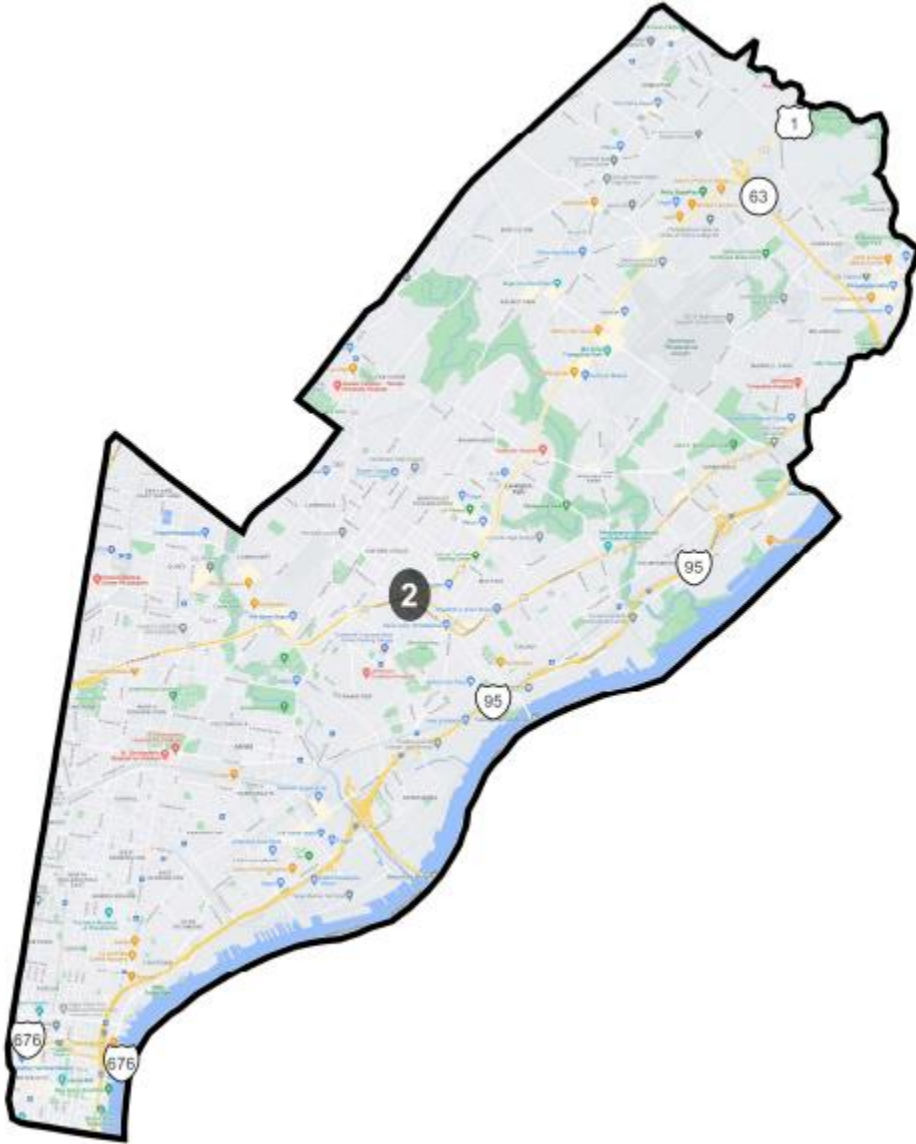
*CVAP Data of Proposed Plan*

<b>District</b>	<b>% NH Black CVAP</b>	<b>% NH White CVAP</b>	<b>% NH CVAP</b>	<b>% H CVAP 19</b>	<b>% NH Asian CVAP 19</b>
1	0.038273	0.879415	0.959052	0.041073	0.036924
2	0.256404	0.459819	0.79513	0.204801	0.069375
3	0.587695	0.321234	0.962191	0.037791	0.042368
4	0.09845	0.808429	0.966964	0.032952	0.054043
5	0.175239	0.737782	0.969251	0.030697	0.049817
6	0.062975	0.806126	0.902656	0.09733	0.028162
7	0.07653	0.737473	0.844051	0.155994	0.023804
8	0.029551	0.906652	0.949134	0.050868	0.008524
9	0.02827	0.92833	0.971419	0.028518	0.009111
10	0.090409	0.789859	0.908628	0.091366	0.023521
11	0.038266	0.901762	0.956172	0.043885	0.01042
12	0.02426	0.946692	0.985509	0.014526	0.009333
13	0.029348	0.931329	0.979236	0.020729	0.012919
14	0.032268	0.945626	0.989516	0.010516	0.006049
15	0.042146	0.927389	0.983234	0.016738	0.007912
16	0.102421	0.85438	0.984542	0.015297	0.021706
17	0.119658	0.84185	0.985099	0.014877	0.015489

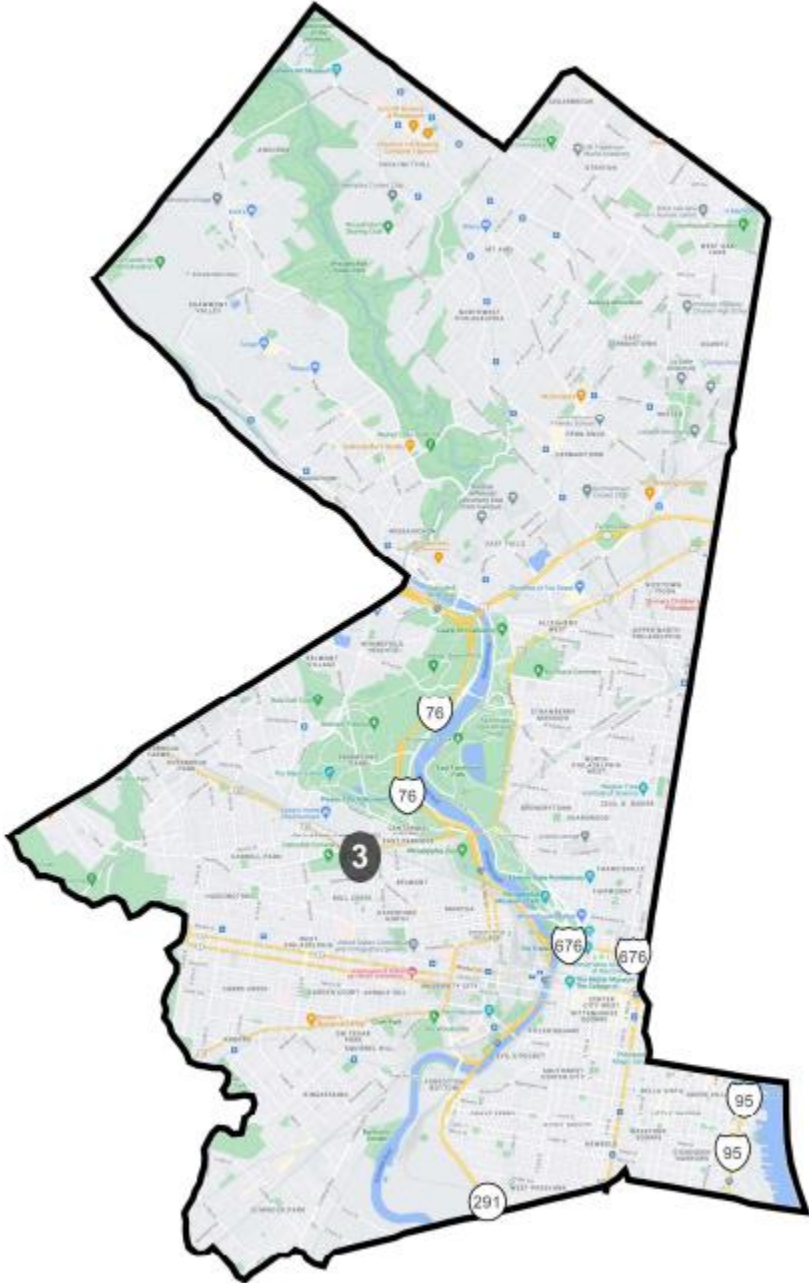
# District 1



## District 2

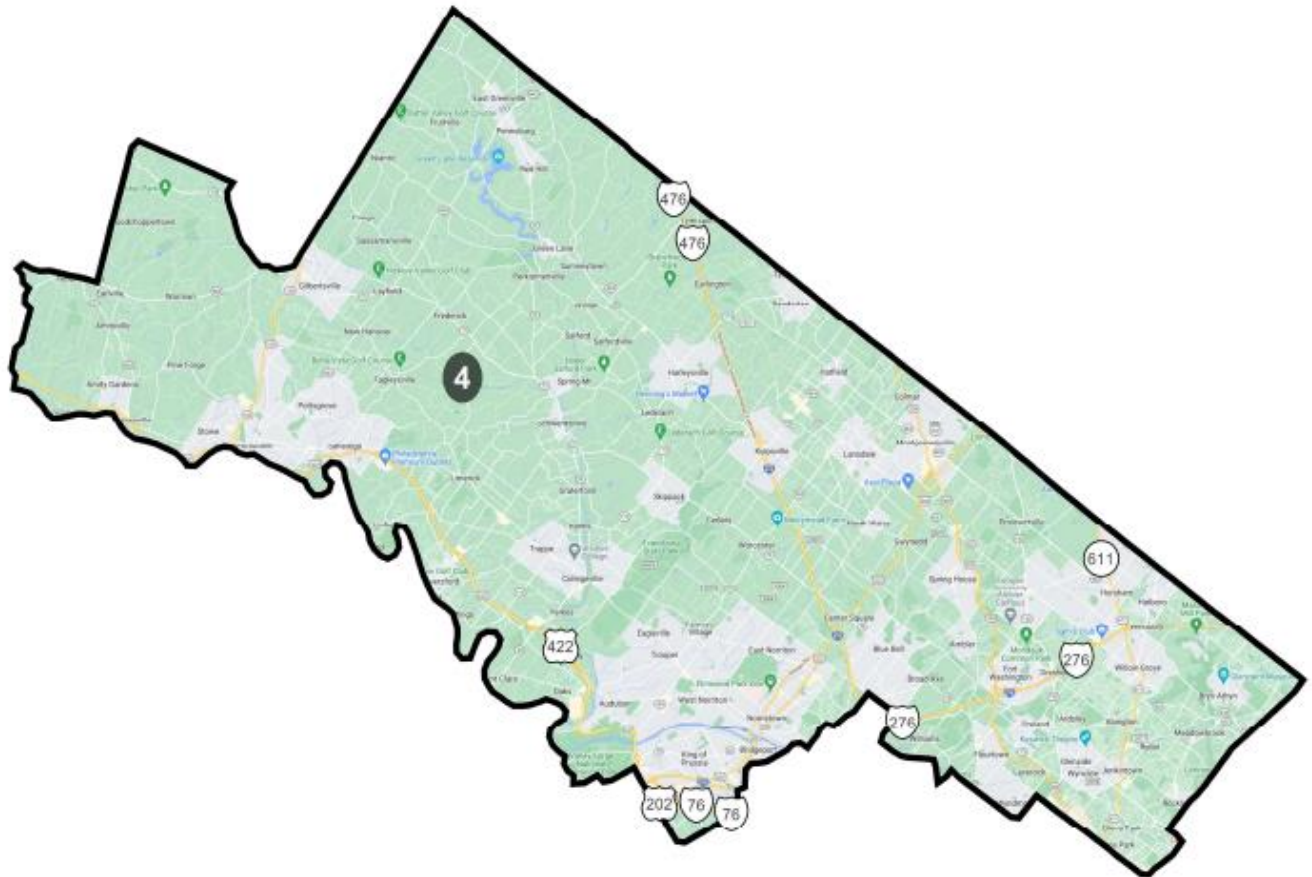


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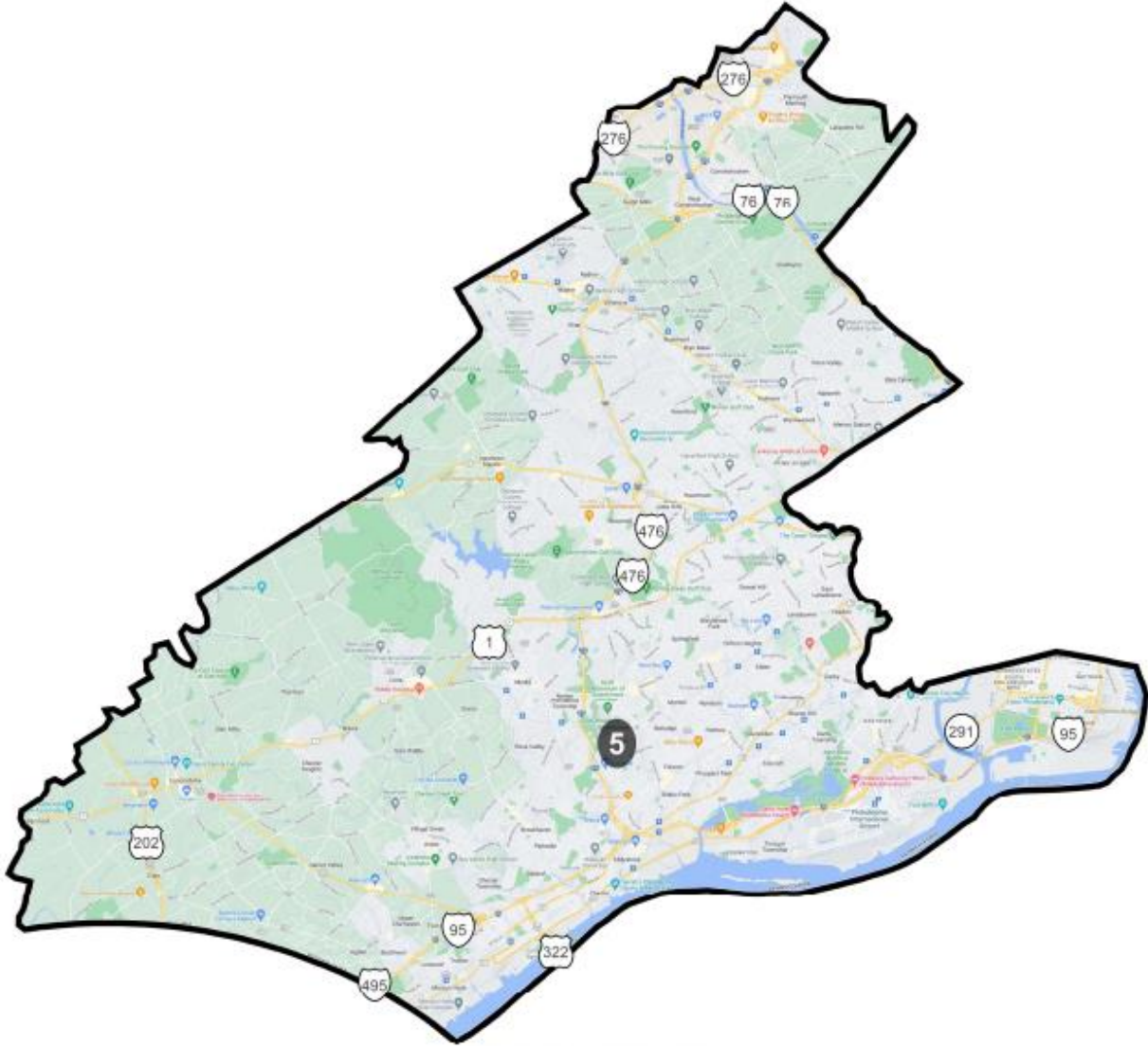




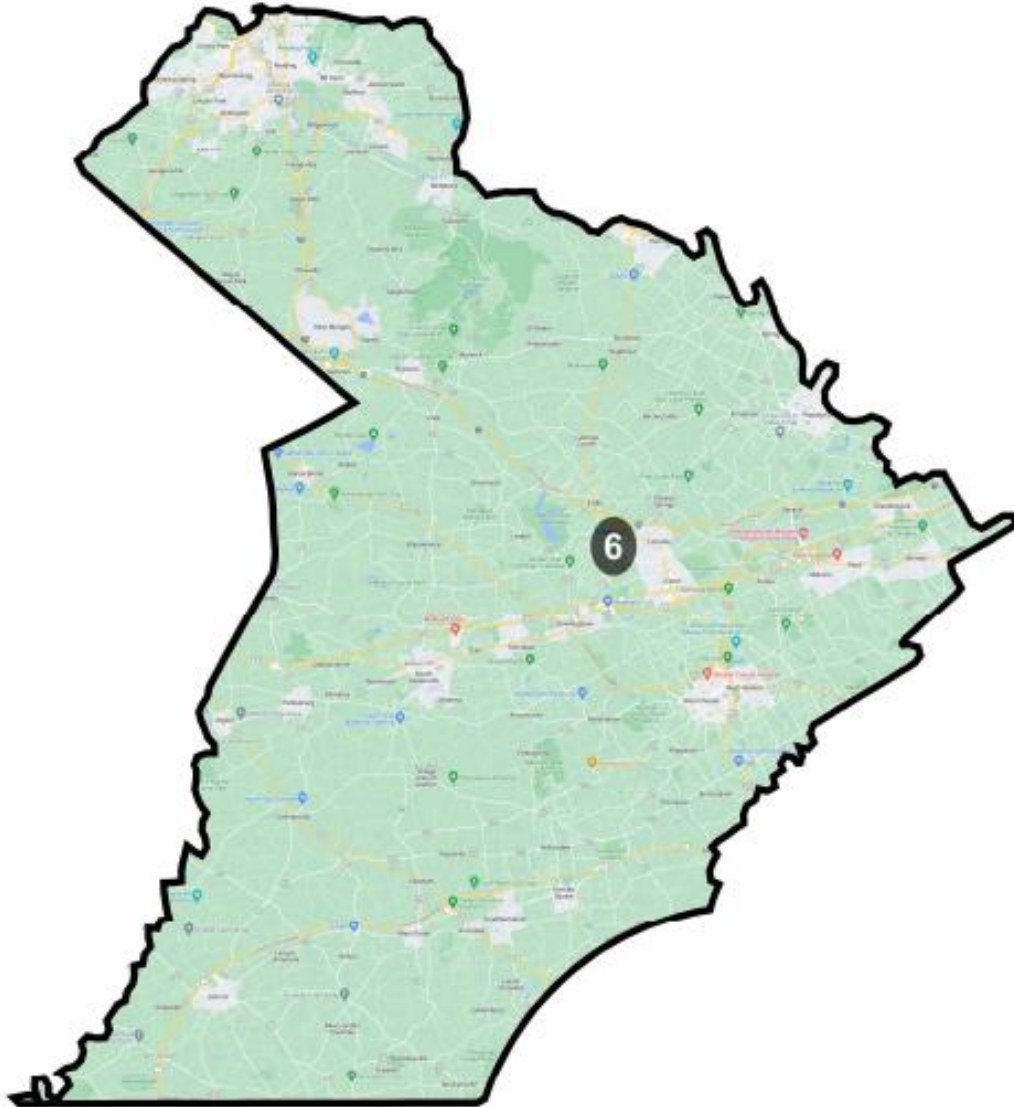
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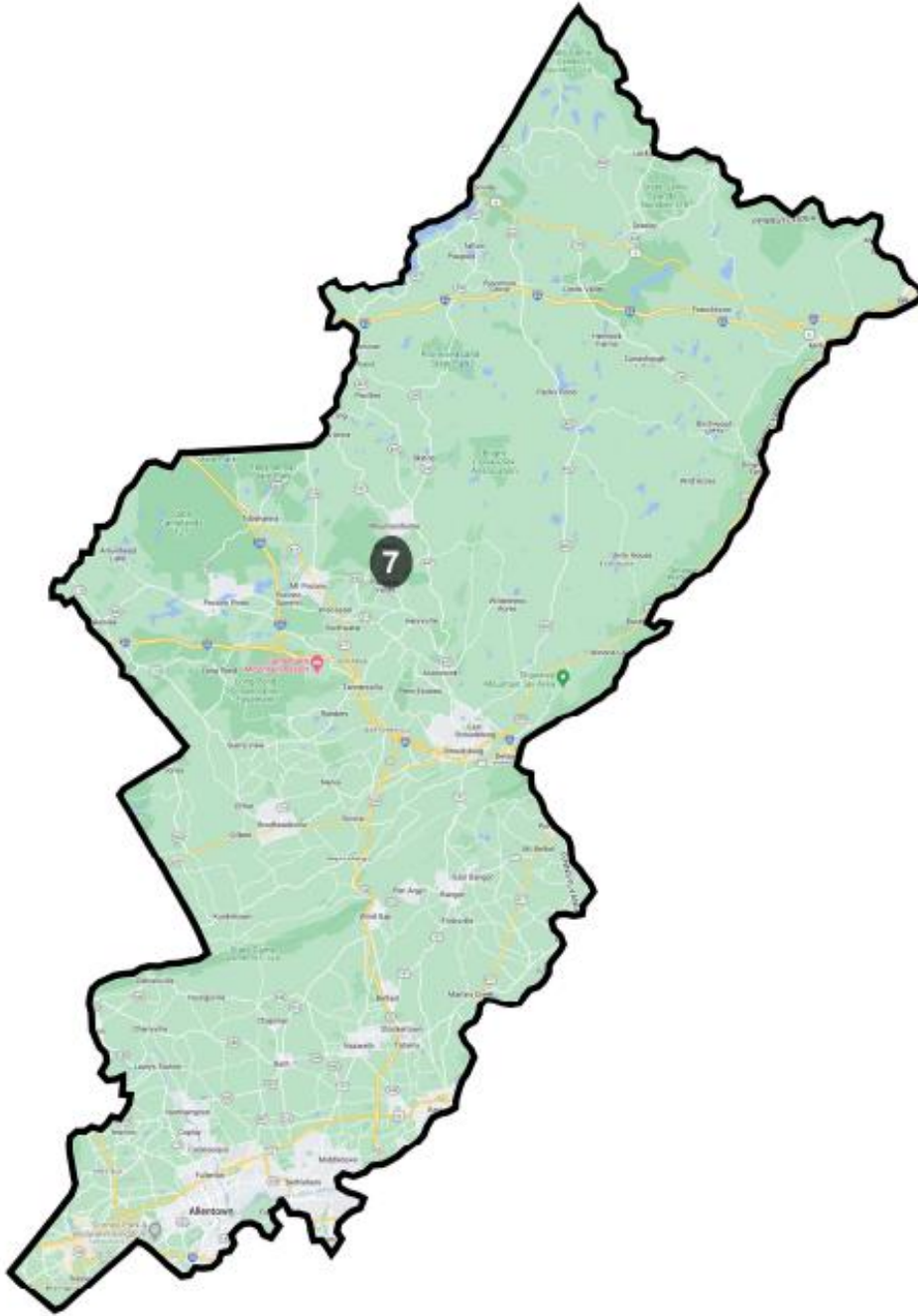
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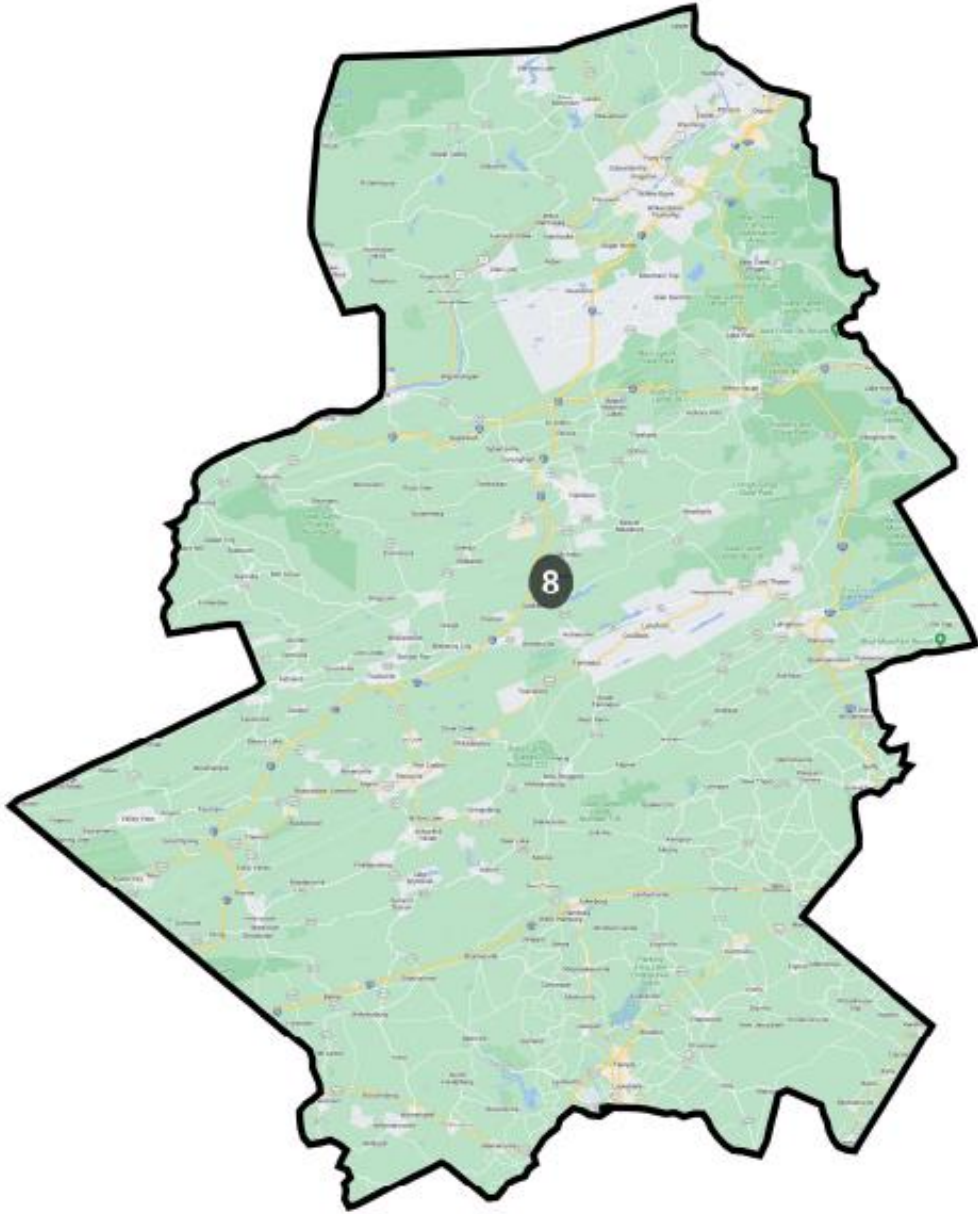
# District 6



# District 7

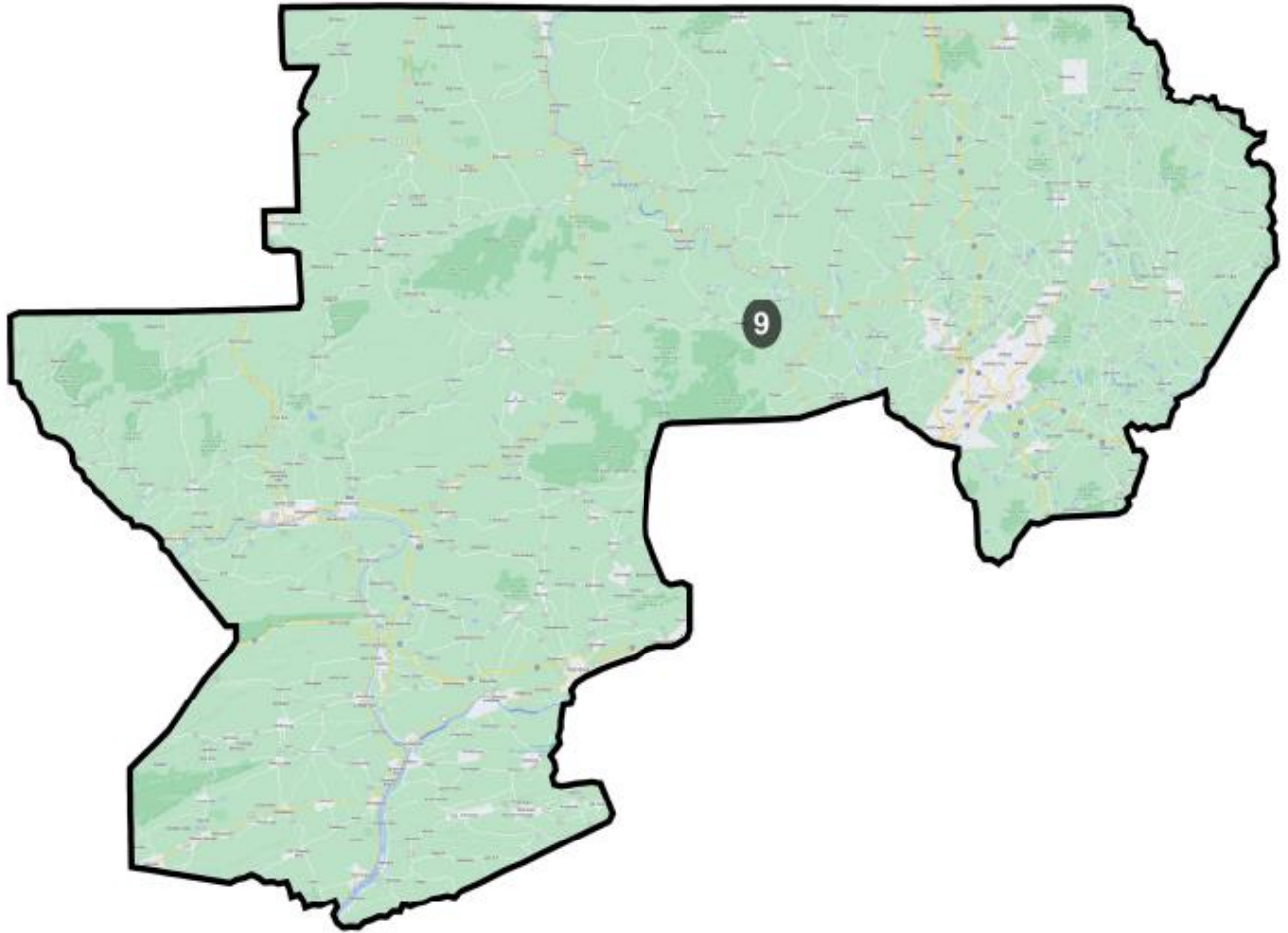


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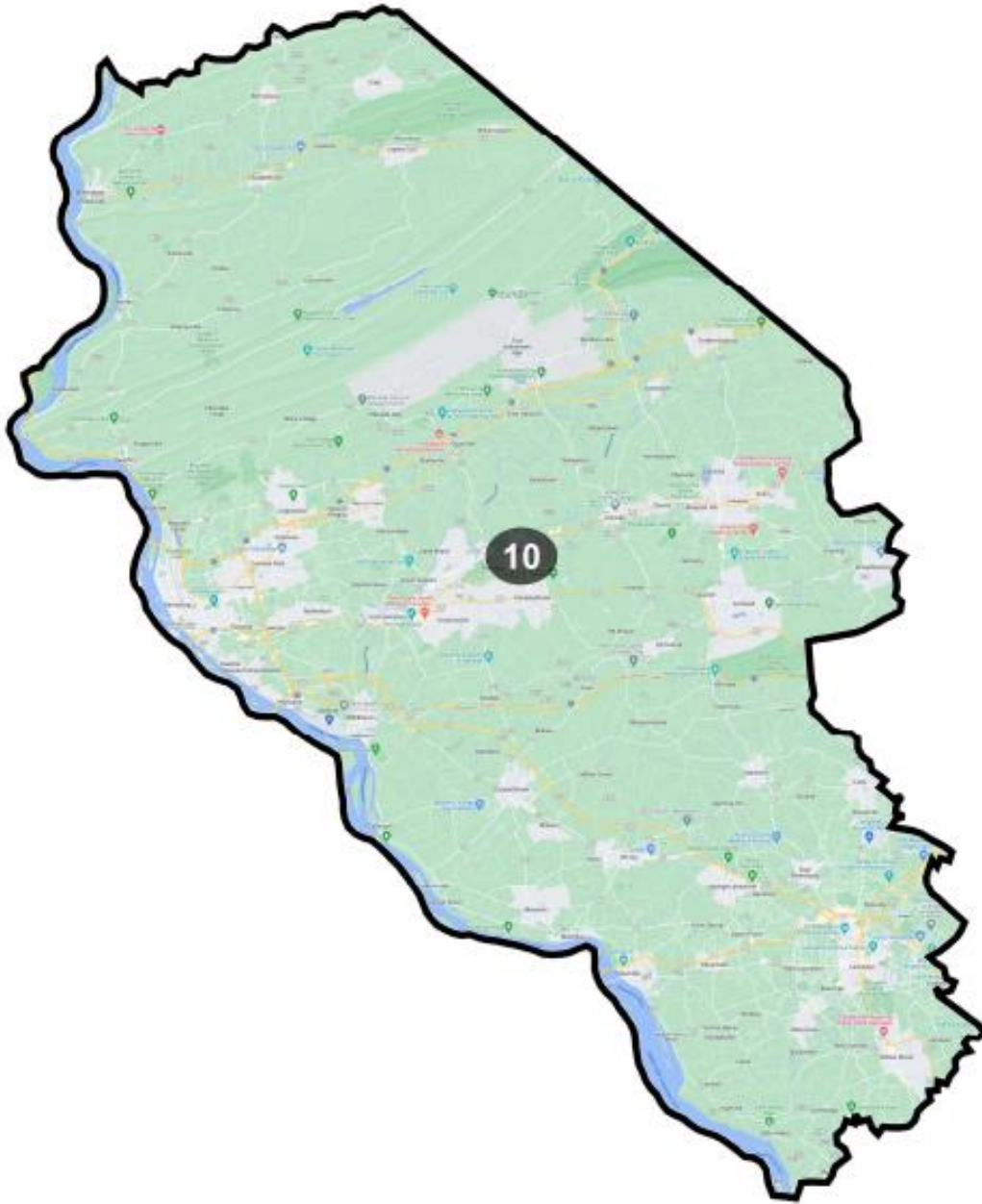




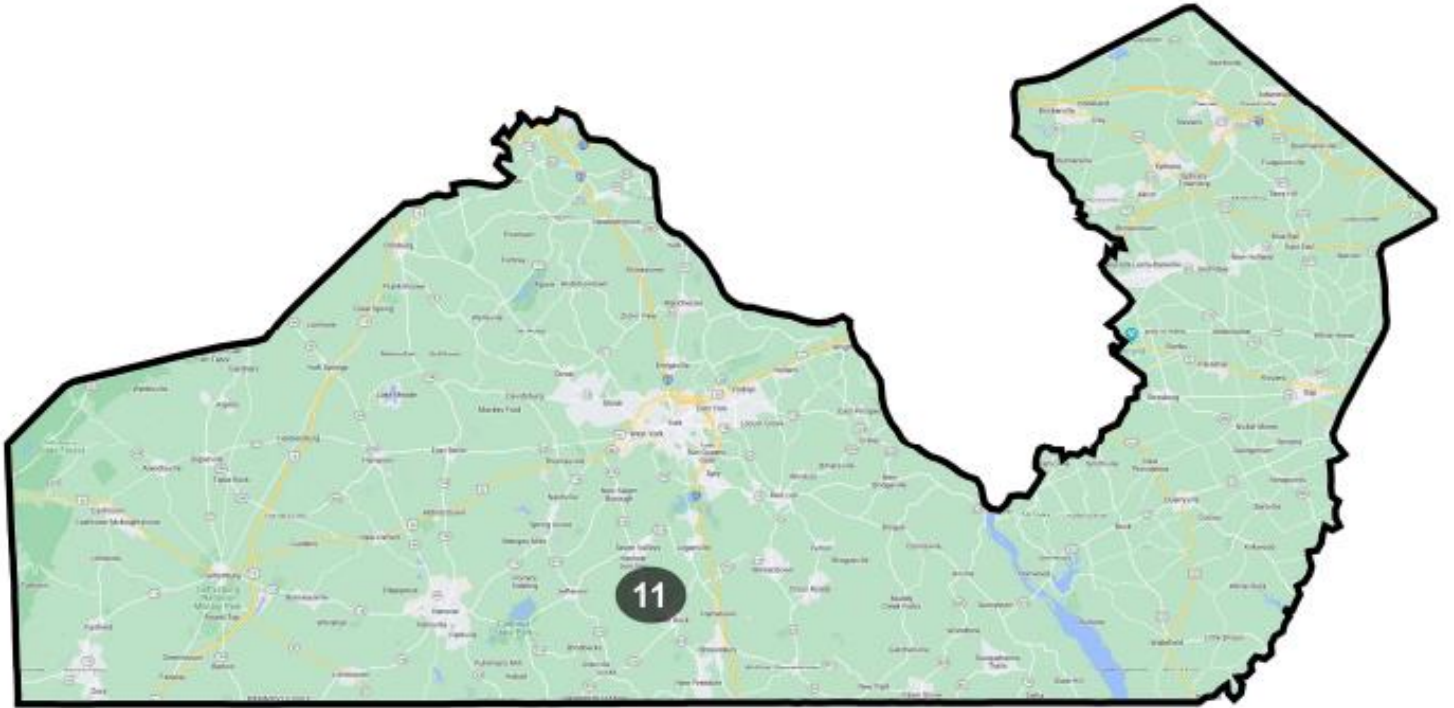
**District 9**



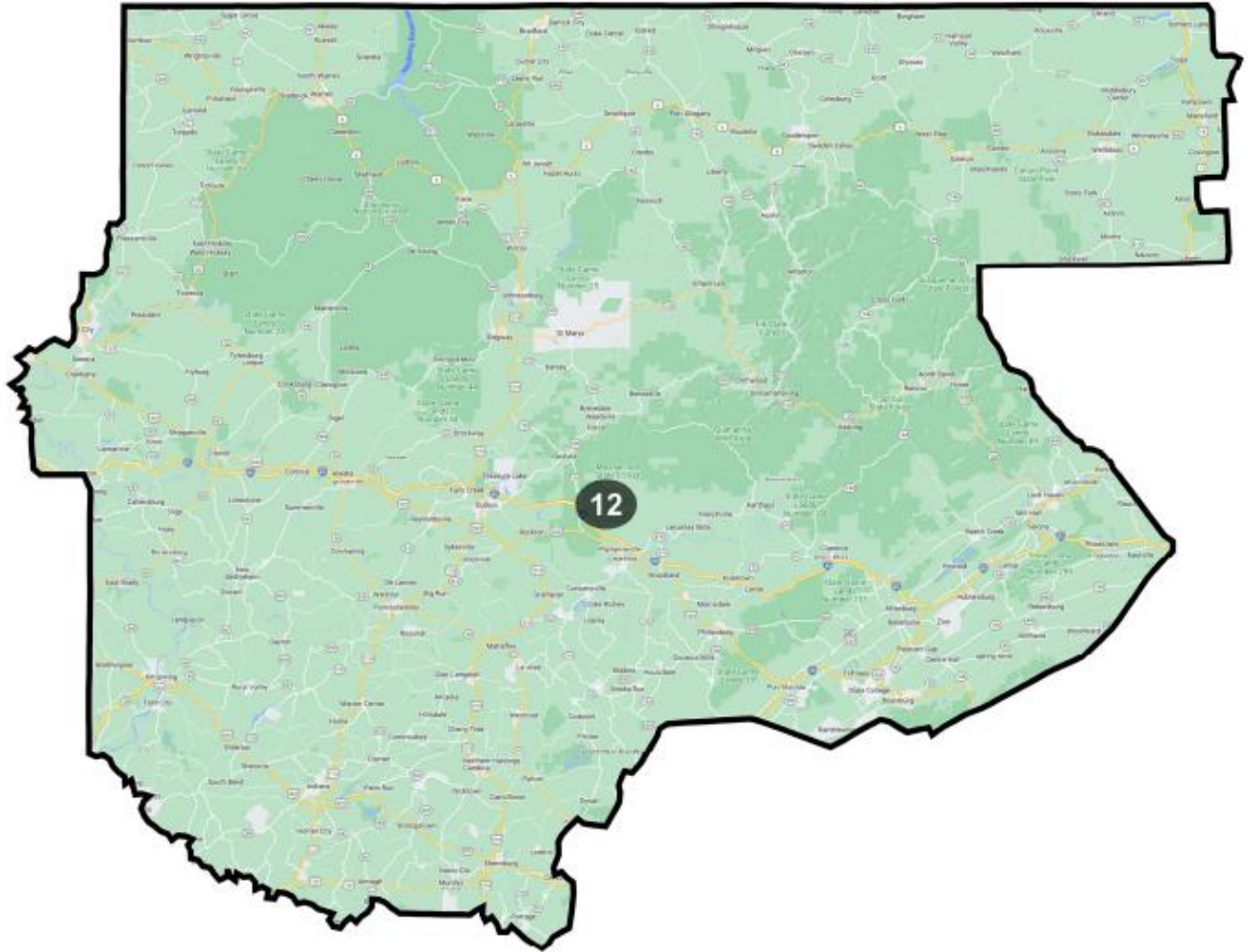
**District 10**



# District 11

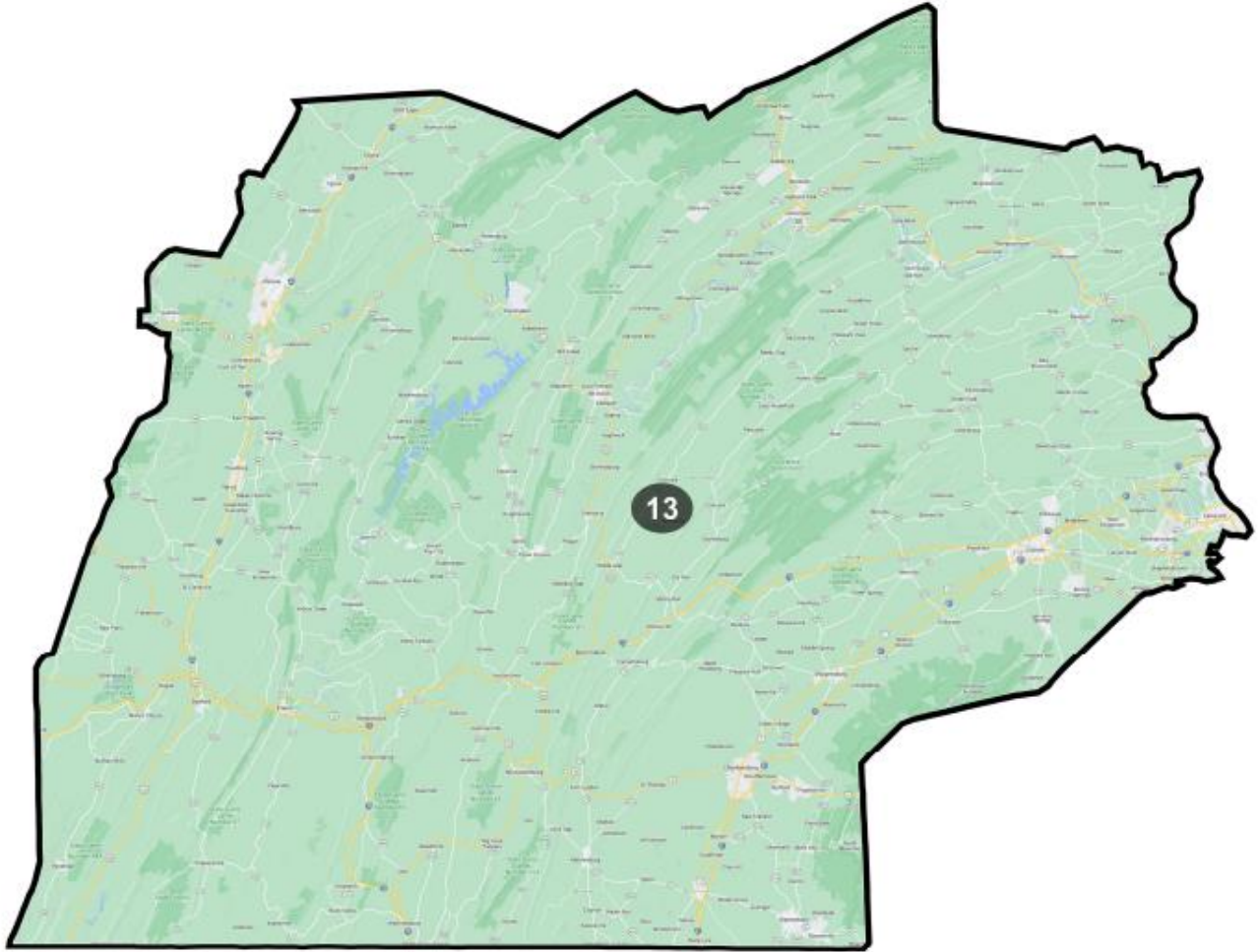


# District 12



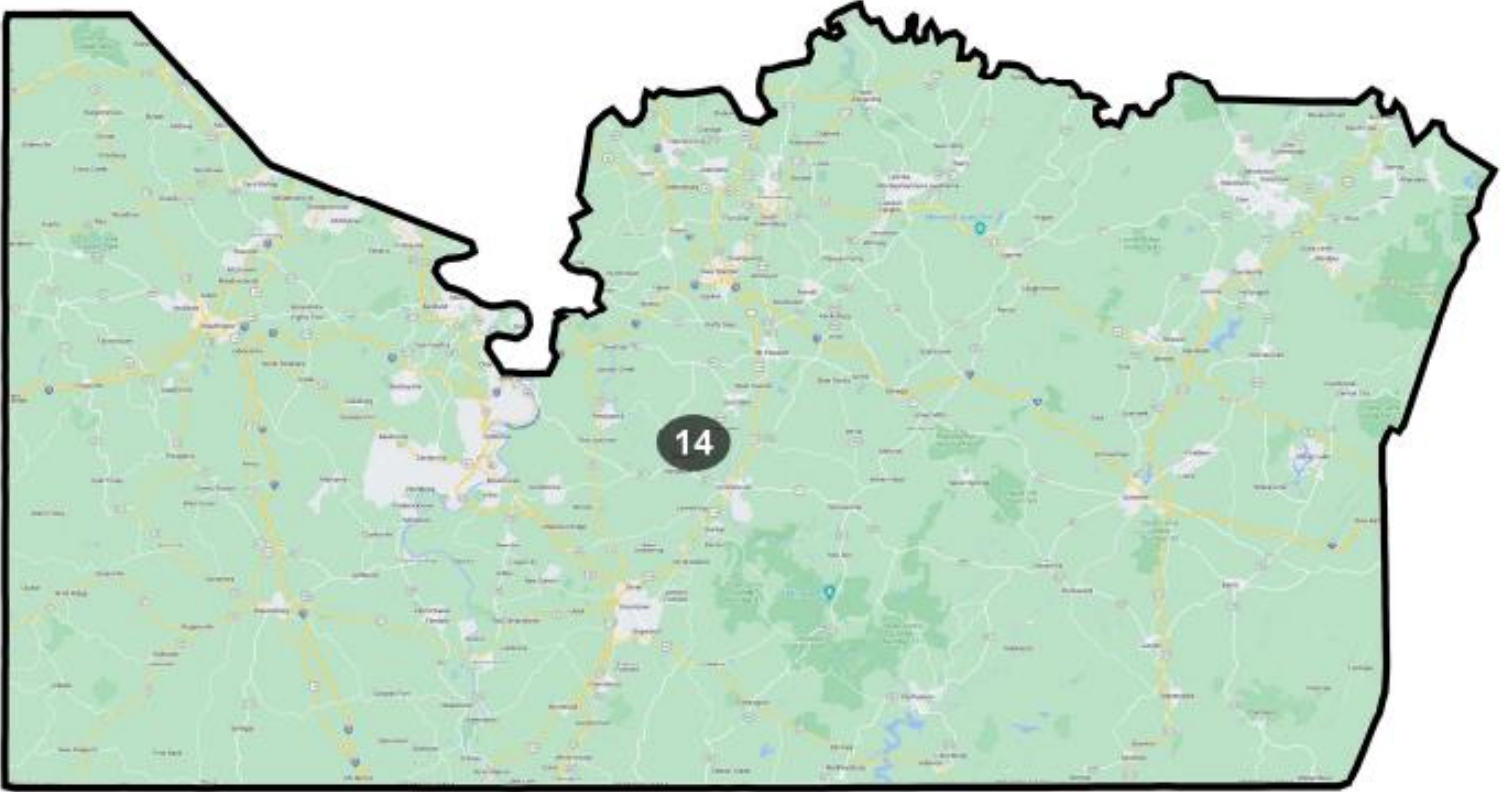


**District 13**

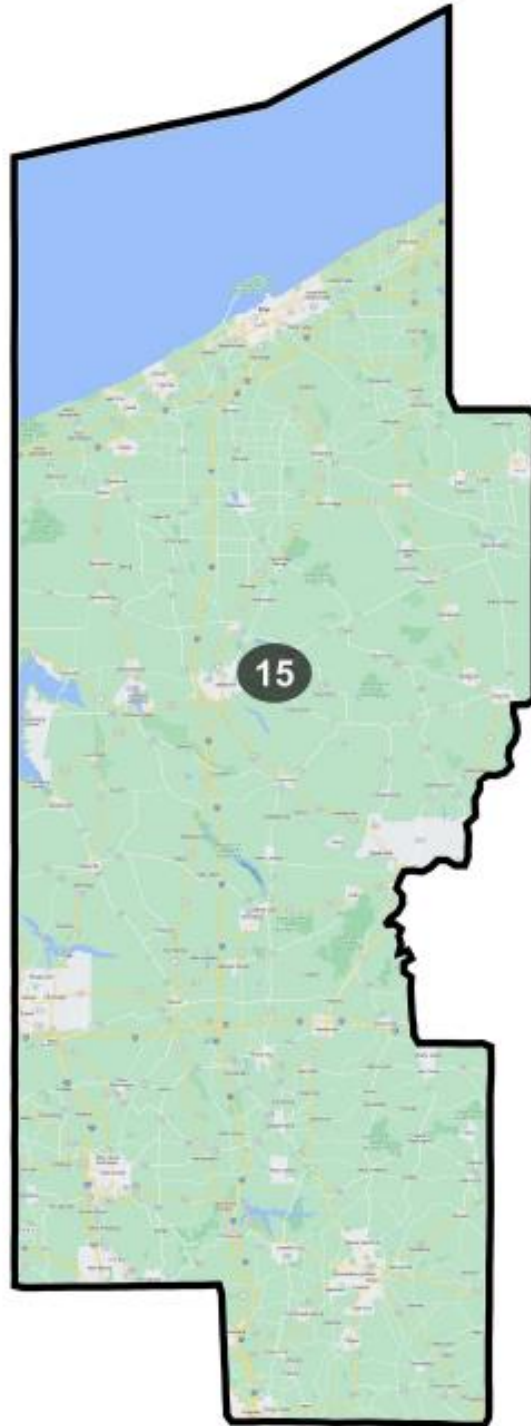




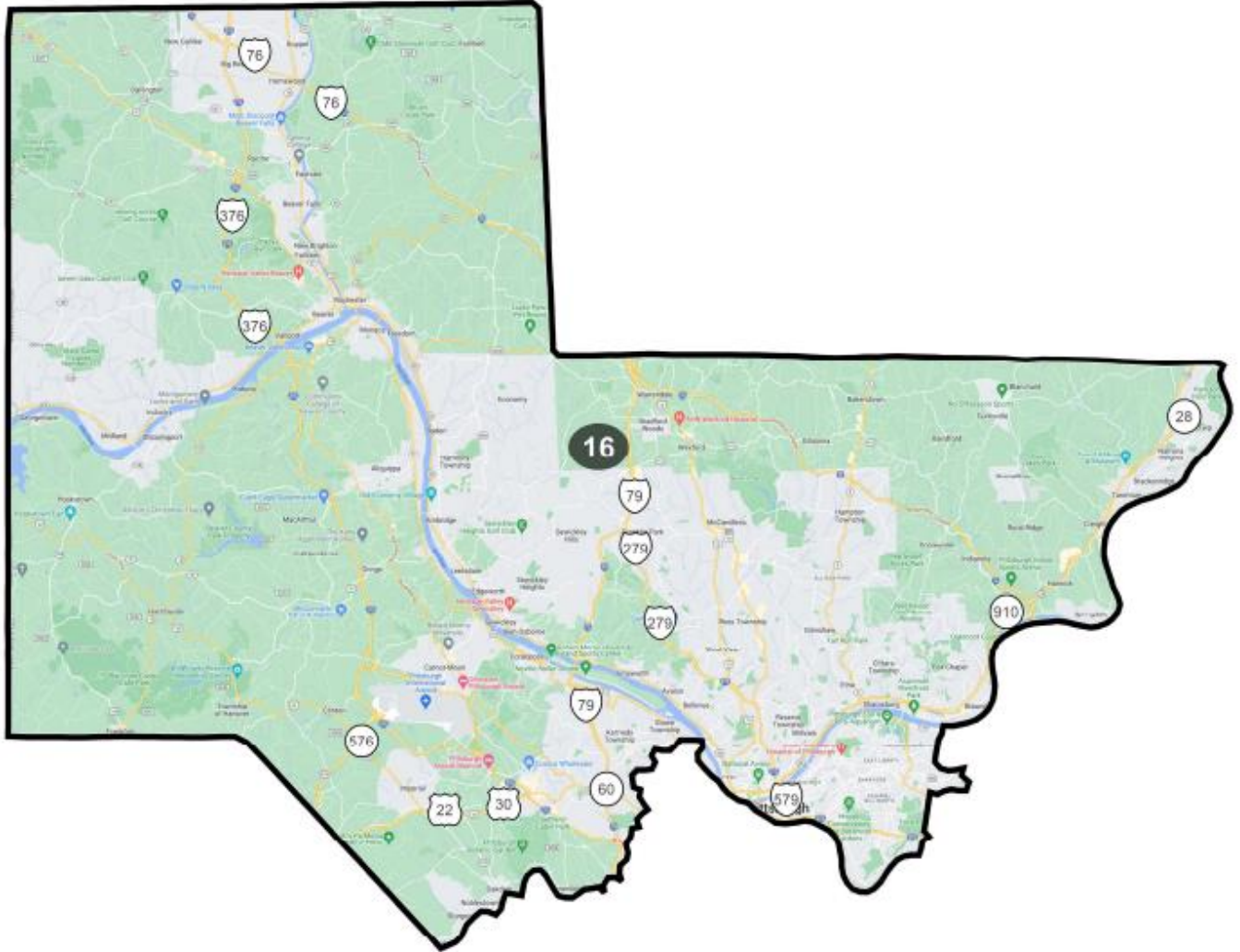
**District 14**



# District 15



# District 16



# District 17

