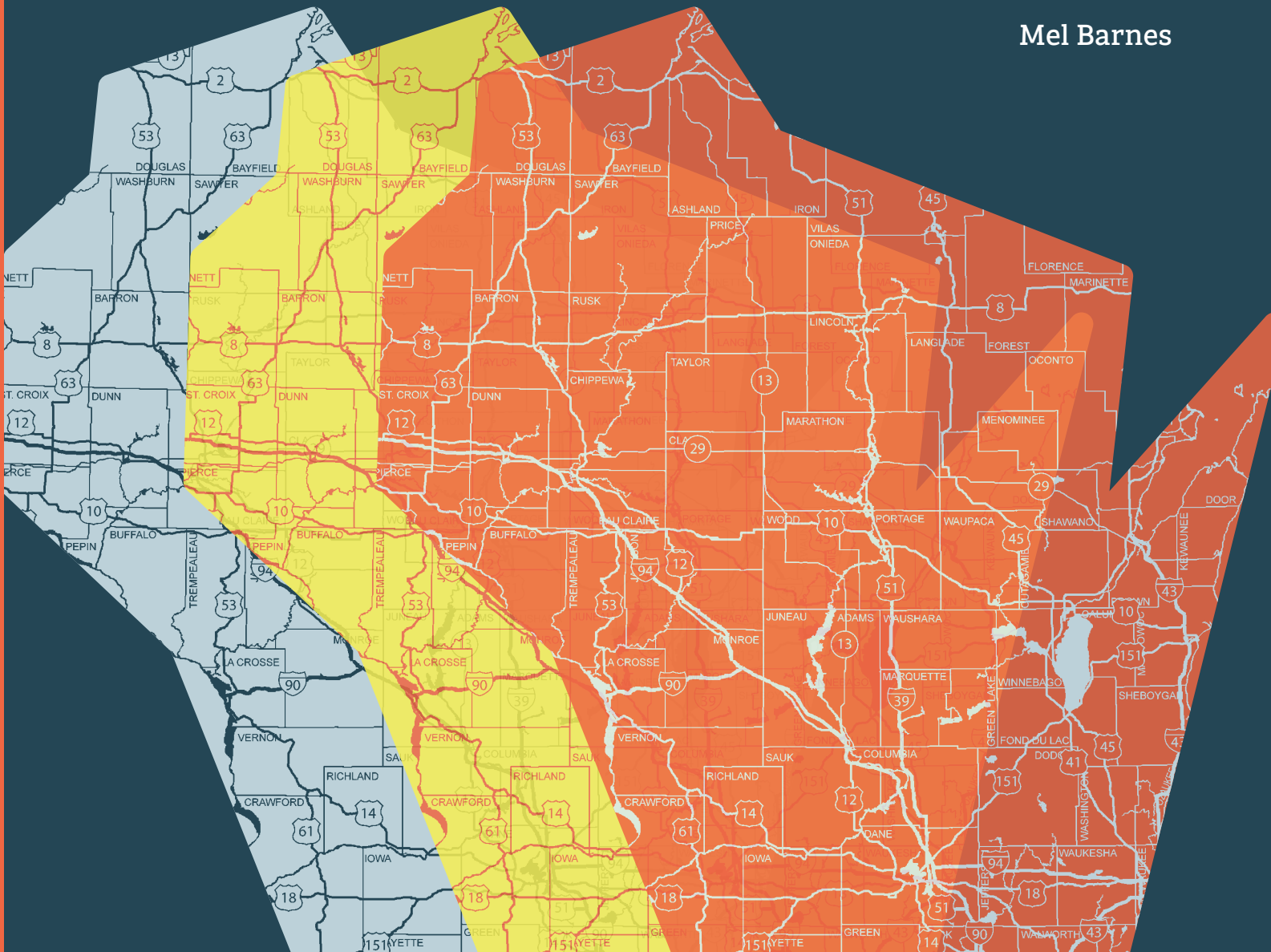


REDISTRICTING

101

What We Talk About When We Talk About Maps

Mel Barnes



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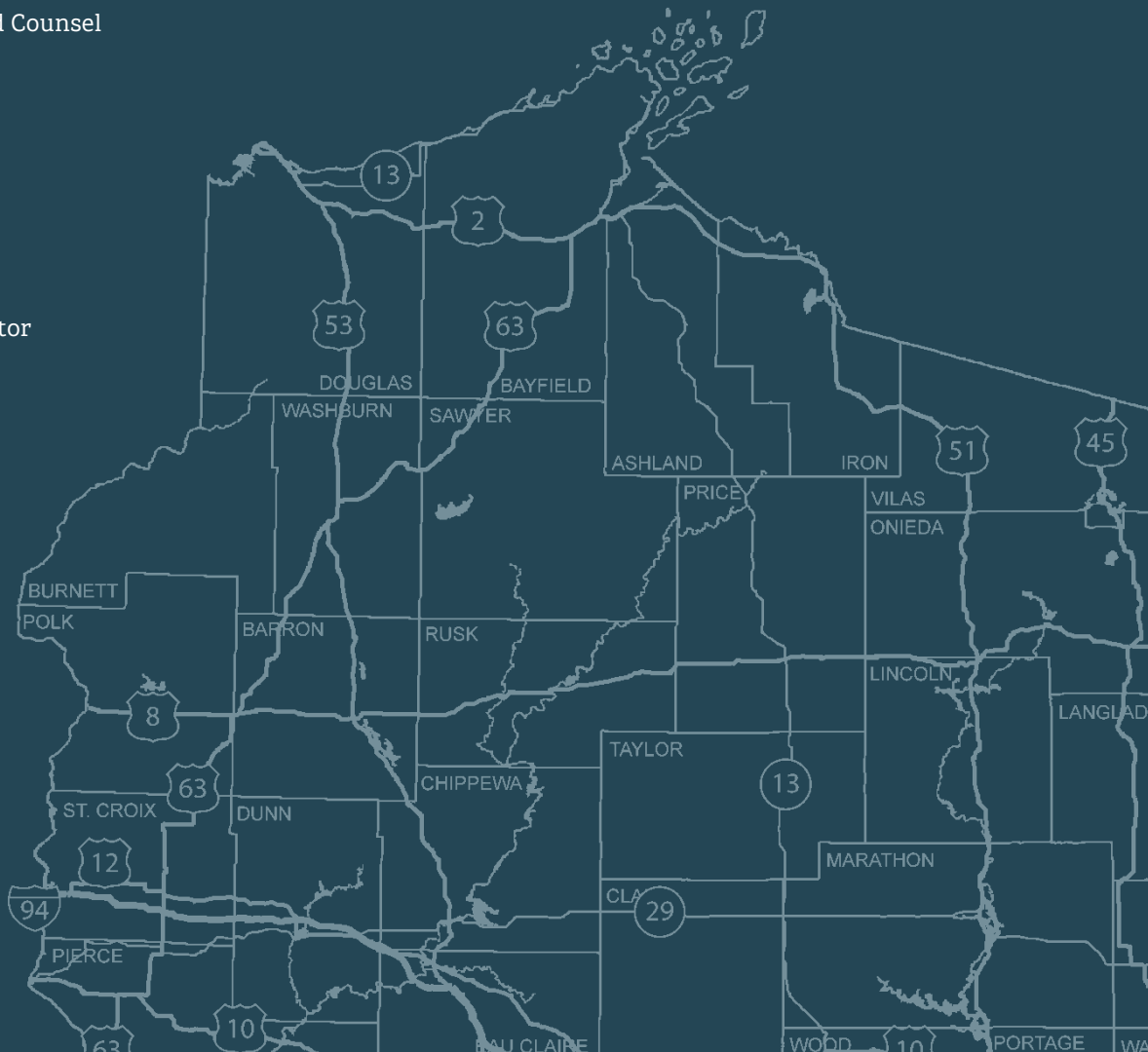
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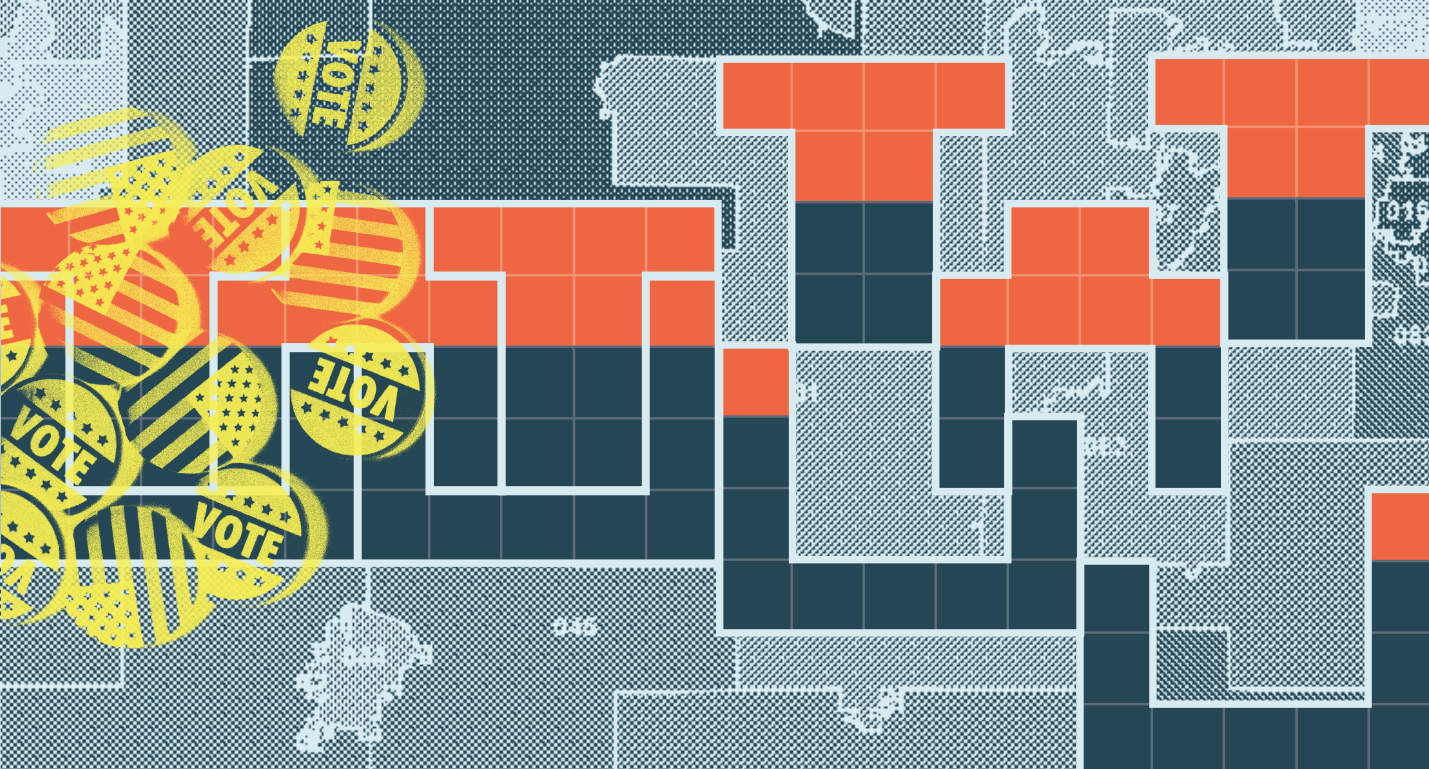
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REDISTRICTING 101

It may feel like everyone is talking about fair maps, gerrymanders, and redistricting lately. They are. Why the buzz, and when does redistricting actually happen in Wisconsin?

There's a reason redistricting talk feels increasingly urgent: the 2020 Census. The U.S. Constitution requires that, every ten years (in each year ending with a zero), the government count every person living in the United States. This is the job of the Census Bureau, which is part of the Department of Commerce. The federal government uses the census data for a whole host of purposes. But one of them, which is particularly important for this discussion, is to determine how many of the 435 total seats in the U.S. House of Representatives each state gets. And, once the congressional seats are divided up among the states, each state is sent detailed census data. This includes how many people live in the state and where they live. Wisconsin, like other states, then uses that data to create new districts for a variety of elected offices, including those in the U.S. House of Representatives, the state Legislature, and county and local government.



WHEN DOES THE REDISTRICTING PROCESS START?

As soon as the census data are sent to the states, they reveal that the existing districts must be revised. Why? Because, as populations within each district change (some people move, people are born, and people die within each district), the existing districts become unequal in population. Which means that the votes of residents in some districts become more powerful than others.

“One person, one vote” ... means a vote should hold approximately equal power in every district.

Imagine your state assemblyperson has 20 people in her district. Your vote is a big percentage of getting her elected, which means that she has an incentive to be responsive to your concerns and calls. But say your sister lives in the next district over, and her assemblyperson represents 50 people. You and your sister each get one vote for the Assembly, but your sister's vote plays a much smaller role in electing her representative, which means that her assemblyperson has less incentive to be responsive to her concerns and calls. That's not fair. Nor is it fair that the 50 people in your sister's district get one vote in the Assembly, while the 20 people in your district get the same. Since the 1960s, the U.S. Supreme Court has interpreted the U.S. and State Constitutions as recognizing that this

imbalance is unjust and unconstitutional. While it would be impracticable to require all districts be equal at all times, both the federal and the Wisconsin constitutions require districts to be re-balanced (or “reapportioned”) after each federal census so that districts for the same office contain roughly equal numbers of people. This principle—often referred to as “one person, one vote,” which is a phrase distilled from the 1962 U.S. Supreme Court decision *Baker v. Carr* and subsequent cases—means a vote should hold approximately equal power in every district.



Once the census data collected in each new decennial census show that the districts have become unequal since the last redistricting, the clock starts ticking on revising those districts. New maps that provide equal districts for all offices must be in place before the next regular election. In this decade, following the release of the 2020 census data, that means the November 2022 election for members of the Wisconsin Legislature and the U.S. House of Representatives. And the process of turning the census data that the federal government sends the states into maps reflecting new districts is a complex and often highly contested one. Wisconsin, like many states, entrusts redistricting to political actors: for state and congressional districts, that is the Legislature and the Governor; for county and local districts, that is county and local elected officials. In those instances where the political actors cannot find common ground, courts have had to break the deadlock (and in fact have had to do that in almost every decade since the 1970s).

Reapportionment cannot begin until states receive the census data—usually at the end of March the year following the census. Although the 2020 census data currently are expected to be released for the purpose of rebalancing seats in the U.S. House of Representatives

by the end of April, because of census delays in 2020, states likely won't receive this data for their own reapportionment work until after July 2021. The census data show where Wisconsinites live down to the level of each block on each street.¹ These “census blocks” will be assembled into districts of roughly equal population for state legislative and congressional seats. Wisconsin currently has (and is expected to keep) 8 seats in the U.S. House. There are 99 State Assembly districts, which in turn must form 33 State Senate districts (each Senate district is made up of three Assembly districts). New maps need to be adopted before candidates for the 2022 state legislative and congressional elections can be nominated to appear on the primary ballot. **This means that new maps for those districts must be finalized by April of 2022.**

¹ In practice these “blocks” can be bounded by things other than intersections: “census blocks,” according to the U.S. Census Bureau, are “statistical areas bounded by visible features such as roads, streams, and railroad tracks, and by nonvisible boundaries such as property lines, city, township, school district, county limits and short line-of-sight extensions of roads.”

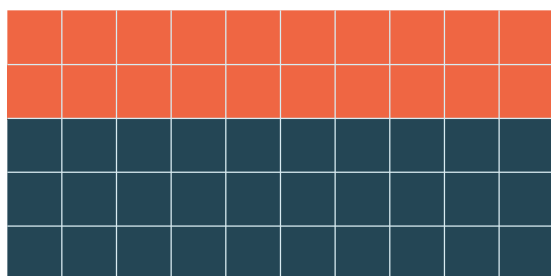




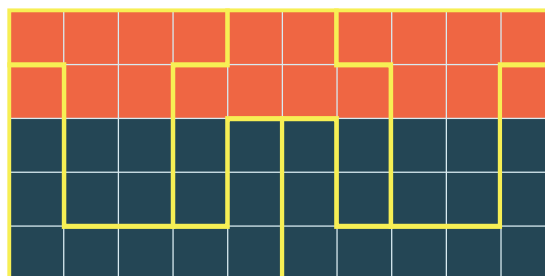
THE BASIC TASK OF REDISTRICTING

It may seem simple to take Wisconsin's population and divide it into however many equal districts we need for any given office, but the reality is far more complex. In building districts, we want to take a variety of concerns into consideration and balance competing interests. The Wisconsin Constitution requires maps to reflect a number of concerns (summarized in the next section below.) But those are not the only relevant considerations. For example, we want to keep neighborhoods and other communities together, so that they have elected officials who can understand and respond to problems that the community faces. If one community—whether that's a neighborhood, a city, a tribe, or a religious congregation—is broken up among several districts, there may not be a critical mass within any one district to motivate action in response to the community's concerns. There are state requirements for districts (more on this later), and federal rules as well. For example, the Voting Rights Act requires us to ensure that districts don't dilute the voting power of racial or linguistic minorities; so congressional maps cannot "pack" Black or Latinx communities into a single district if they could otherwise elect their candidates of choice in two districts.

"PACKING" AND "CRACKING"



50 PRECINCTS
40% Orange, 60% Teal



GERRYMANDERED DISTRICTS
3 Won by Orange (cracked districts)
2 Won by Teal (packed districts)



When districts are drawn to advantage a political party, that is called a “partisan gerrymander.” This practice has deep historical roots.² The odd name goes back to Elbridge Gerry, a signer of the Constitution and an early Governor of Massachusetts. Gerry signed a map that was designed to improve the prospects of his own political party, where one of the districts was so unusually shaped that it resembled a salamander. A critical newsman named it a Gerry-mander, and the name has stuck. Gerrymandering can be done in myriad ways and for multiple purposes. No one political party has an exclusive claim to gerrymandering; to the contrary, historically

it has been practiced both by Democrats and Republicans when they have wielded enough control to enforce their will and enhance their prospects.³ Wisconsin’s 2011 state legislative maps, however, were recognized by a three-judge panel as a particularly extreme and effective partisan gerrymander that was designed to and likely would endure over an entire decade. Sophisticated statistical analyses and use of extensive voting data from previous elections, combined with advances in districting software, enabled the drafters of the 2011 maps to create this extreme partisan gerrymander.



We want to keep neighborhoods and other communities together, so that they have elected officials who can understand and respond to problems that the community faces.

² There can be other types of gerrymanders, such as racial gerrymanders, where districts are configured to advantage (or disadvantage) a specific racial group.

³ “Packing” and “cracking” describe common methods for diluting the voting power of a group by “wasting” votes. Packing means putting as many of a group’s voters into as few districts as possible. That group will win those districts by an incredibly high margin, but many of the votes are “wasted” because they weren’t needed to win the seat—think of when a candidate wins with 90% of the vote. Cracking means dividing up a group of voters who could carry one district into multiple districts where they then have no chance of winning any single district due to that division. See “Gerrymandering 101” by the Fair Elections Project for a detailed discussion of these terms.





CONSTITUTIONAL REQUIREMENTS FOR DISTRICTS IN WISCONSIN

What exactly does the Wisconsin Constitution require of districts? First, it specifies the state legislative districts must be redrawn after each census “according to the number of inhabitants.” Unlike congressional districts, there is no requirement that these districts be exactly equal in population, but representation must be balanced by population. Wisconsin’s recent plans have had very low population differences thanks to the precision of computer-based mapping.

State Senate districts must be composed of whole Assembly districts. Currently, the state is divided into 99 Assembly seats. Combine this requirement with the need for approximately equal population districts and you get 33 State Senate seats, each comprised of three Assembly districts each.

Local political subdivisions matter, too. The state constitution directs that districts “be bounded by county, precinct, town or ward lines,” instead of drawing lines at random. Sometimes it may be necessary to divide a large county into multiple districts, and the constitution doesn’t prevent that. Until 2011, this requirement helped drive the processes of drawing new maps. State law required census data to be provided to counties and municipalities first, which would adjust their district and ward lines to reflect the shifts in population. State legislators were then required to use those updated voting wards as the “building blocks” of the new districts, which limited how much a given neighborhood could be sliced up in creating Assembly districts.

In 2011, however, Republican leadership in the Legislature drew maps without waiting for these local adjustments. They then passed a law that required counties and municipalities to go back and “fix” their voting ward lines to reflect the Assembly district lines the Legislature had already



If a neighborhood surrounding a popular fishing lake is split up into three Assembly Districts, it will be difficult for the constituents to get any issues related to that lake addressed.



drawn. This reversed Wisconsin’s traditional redistricting process, which had worked from the “bottom up,” to one that now proceeds from the “top down.”

One very clear constitutional requirement is that districts be “contiguous,” meaning all parts of the district must be connected. Map makers sometimes stretch the meaning of this, connecting portions of a district by narrow strips of land. However, they cannot stitch together sections of the state that are not connected geographically into one district. A related requirement is that districts be “as compact ... as practicable.” This is meant to limit districts that are so sprawling that it is difficult for an official to be responsive to all constituents.⁴

In addition to these “contiguousness” and “compactness” requirements, legislators and courts have also noted district lines should

respect “communities of interest.”

The idea is that a local community that shares problems and concerns should be able to attempt to address those concerns through one elected representative. If a neighborhood surrounding a popular fishing lake is split up into three Assembly Districts, it will be difficult for the constituents to get any issues related to that lake addressed. Whether it’s a need for more fishing permits to promote tourism, or funding for a public boat launch everyone would benefit from, each one of those representatives will only receive a third of the calls a single representative otherwise would about the issue. Dissatisfied constituents won’t be able to organize a challenge to the incumbent, because the issue is spread across three districts. Some of the most common complaints about Wisconsin’s 2011 maps is their deviation from this principle.

⁴ Compactness is often misunderstood to suggest that districts should all be of a regular shape; that is incorrect. The balance of other redistricting considerations—including following the boundaries of local political subdivisions—often make it difficult, if not impossible, for district lines to be simple and predictable. District boundaries that are irregular and even appear oddly shaped are to be expected and do not necessarily evidence a gerrymander. The notion that irregularly shaped districts are themselves problematic is one of the pervasive misconceptions about gerrymandering.



HOW DO THE MAPS ACTUALLY GET DRAWN?

As mentioned above, the Wisconsin State Constitution charges the State Senate and Assembly with drawing new, population-balancing maps, to be approved by the Governor. They don't get a totally free rein, however, because they have to follow federal and state requirements for districts. Even with these rules, disagreements over where to place lines are common. That's because the lines are powerful—they play a huge role in determining who our elected officials will be and consequently, who will hold power to shape our laws. Moreover, when the lines are drawn with improper motives, for personal or partisan gain, they can invert the democratic process by allowing politicians to pick their voters, instead of voters selecting their representatives.

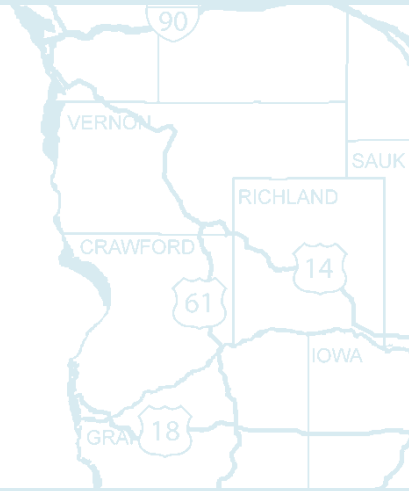
The Legislature may be in charge of redistricting, but that doesn't mean state senators are getting out their pencils and rulers. Map making has evolved drastically with modern technology—specifically, ever-increasing computing power, combined with massive amounts of data about voters and their preferences. Today, sophisticated statistical techniques allow map makers to quickly see the partisan impact of any given district combination. The 2011 cycle took advantage of computer capabilities and voter data that would have been unimaginable in 2001. Likewise, the last ten years have seen advances in technology and individualized data collection that will put 2021's tools in a whole new league. Legislators will surely leverage

professional software and expert map makers, as they did in 2011 (behind locked doors, with the benefit of expansive budgets and a legion of outside consultants and lawyers).

Usually, the Legislative Technology Services Bureau (a nonpartisan state service agency) helps each partisan caucus (groups of Democratic and Republican legislators) with the basic tools needed to redistrict. The LTSB provides the computers and mapping software, as well as the data from the U.S. Census Bureau. Each party's caucus can then begin to draw their own new district maps. They could start by taking the current maps and revising them to equalize population in each district. They could start by dividing things as equally and compactly as possible and then making adjustments for certain communities of interest. They could start with a partisan goal in mind and draw maps protecting their own members, and increasing the likelihood that they can capture as many seats as possible. Contemporary map-making software allows legislators to set nearly any imaginable parameter and then, in a matter of hours, generate and analyze thousands of different maps that meet those parameters. However each party's caucus approaches the task, eventually the maps they want to propose will be introduced as legislation. Once both the Assembly and the Senate have adopted maps for legislative and congressional districts, the bill creating those maps goes to the Governor for signature or veto. The next stop may be court.



The lines are powerful—they play a huge role in determining who our elected officials will be and consequently, who will hold power to shape our laws.



One new element this cycle is the People's Maps Commission (PMC), a new nonpartisan citizens' board created by Governor Evers, with members selected by a panel of retired judges. The PMC has no elected officials or lobbyists but will have access to redistricting experts and the input of their fellow Wisconsinites. After holding a public hearing in each of the state's eight congressional districts, the PMC will draw its own proposed new maps. While the Legislature has no legal obligation to consider the PMC's maps, those maps and the comments of people from all over the state who chose to speak at the hearings will be part of the public record and discussion, and they are likely to be presented to the courts in any litigation. (The PMC is an attempt by the Governor to highlight a nonpartisan approach to redistricting. Over the past two decades, a number of states have sought to mitigate gerrymandering and partisan influence upon maps by delegating redistricting to a bipartisan, nonpartisan, or technocratic body of appointees. The U.S. Supreme Court has affirmed the constitutionality of such delegations. Wisconsin has not adopted such

a process, and the PMC is an effort to inject a nonpartisan voice into the conversation in this year's redistricting process.)

With the aid of modern redistricting software and access to massive amounts of publicly available demographic and election data, others will also have the opportunity to draw maps in a less-official capacity. The possible district variations are nearly endless. Mathematicians, political scientists, lawyers, and interested citizens can not only try their hand at dividing up the state, but also compare the maps drawn by the Legislature and the PMC against other viable options. Now that alternative maps can be generated faster and by a broader array of users, and the partisan impacts of how district lines are drawn can be rapidly assessed, maps that create a heavy partisan advantage will be easier to quickly spot and critique. In theory, this should aid policymakers and courts alike in assessing which maps are extreme outliers, likely to yield results—intentional or not—that reflect priorities other than the constitution's directives for drawing maps.





WHERE DO COURTS FIT INTO THE PROCESS?

Wisconsin has a history of disagreements over redistricting. Nearly every decade's maps since the 1960s have involved a conflict among some combination of the State Senate, the State Assembly, and the Governor. These disagreements landed the maps in court in the 1980s, 1990s, and 2000s. Even when the Legislature and the Governor can agree (like in 2011), the voters themselves might take issue with the new maps, asking judges to intervene and alter the maps adopted through the political branches.

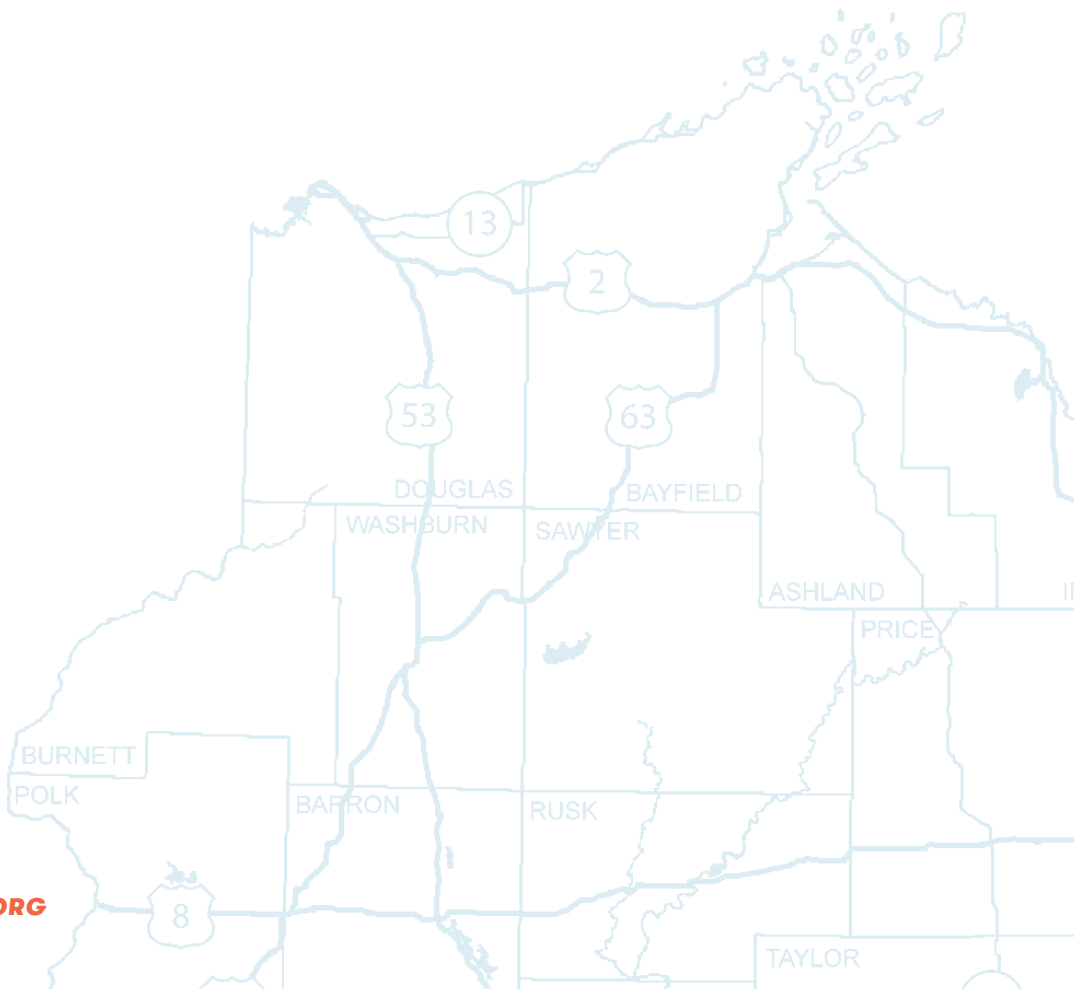
Like in other areas of disagreement, redistricting ends up in court when someone believes the process, or the result, of map-drawing violates the law or the constitutional rights of voters. Voters or elected officials have also filed claims in court when the political branches have failed to adopt new maps. This type of impasse usually results when control of the Senate, Assembly, and Governor's Office is divided between political parties.

Because the U.S. Supreme Court has found that district populations must be re-balanced after the census, as soon as new population data are available the old maps become unconstitutional (that is, as soon as new census data make clear that they give votes in some districts more weight than others). This means new maps must be drawn and finalized before the next election; Wisconsin can't just keep using the previous maps.



One of the big fights in redistricting litigation is often over which court will hear the case. The United States has two separate court systems, each with trial and appellate courts. Since the 1960s, lawsuits involving redistricting in Wisconsin have been resolved exclusively by federal courts. There, a three-judge panel hears challenges to maps and, once the panel hands down a judgment, any appeal goes straight to the U.S. Supreme Court. State courts can also hear challenges to new districts, but have not resolved any redistricting disputes since the 1960s. After the U.S. Supreme Court's 2019 ruling in *Rucho v. Common Cause* shut the door, at least for the foreseeable future, on a federal constitutional remedy for partisan gerrymanders, many have predicted there will be an increased

focus on state courts for redistricting claims. (*Rucho* made it clear the Court recognized the problem with partisan gerrymandering, but that it didn't think the Court could step in to fix it). However, federal courts will still have an important role. In many states there is no indication that the state courts would step in to address partisan gerrymandering claims either. Any other challenges to maps, like claims under the Voting Rights Act of 1965, racial gerrymandering, and deviations from state constitutional criteria (in violation of the 14th Amendment to the U.S. Constitution), can still be decided in federal court. If passed into law, new federal legislation impacting representation could also change things, and re-open the door to partisan gerrymandering claims in federal court.



TIMELINE OF REDISTRICTING

How will the map-making process take shape this decade?

Here's a look at what to expect in 2021 and beyond:



APRIL 1, 2020

Census Day - the federal census began.

APRIL 6, 2021

Last municipal elections in old districts.

SUMMER-FALL, 2021

State Legislature and People's Maps Commission begin drawing new maps. Legal challenges to enacted maps, or a lack of new maps, could be filed at any point.



JUNE 1, 2022

Deadline for filing nomination papers for state and federal office (in new districts).



NOVEMBER 8, 2022

First general election in new districts.



EARLY 2021

Last regularly-scheduled state elections in old districts. (Special elections to fill vacancies may still be held based on the old maps, for example the **4/6/21 special elections** for Senate District 13 & Assembly District 89.)

JULY 2021

Current estimate for census data to be delivered to states.



APRIL 15, 2022

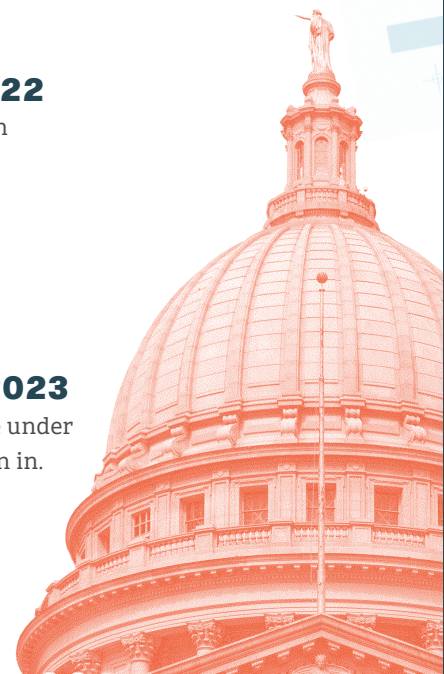
Nomination papers for elections in new districts can begin circulation. *New maps must be finalized by this date to be in place for fall election*

AUGUST 9, 2022

First primary election in new districts.

JANUARY 3, 2023

First state legislature under new districts is sworn in.



SELECTED GLOSSARY

CENSUS BLOCK

Census blocks are the smallest geographical units used by the Census Bureau to show how many people live where, across the United States. States receive population data from the Census Bureau broken down into census blocks. A city block, surrounded on four sides by streets, is an example of a census block, though they can be created by divisions other than streets: these statistical areas are “bounded by visible features such as roads, streams, and railroad tracks, and by nonvisible boundaries such as property lines, city, township, school district, county limits and short line-of-sight extensions of roads,” according to the Census Bureau. In Wisconsin and many states, census blocks are the building blocks for districts. In 2011, Wisconsin has 253,096 census blocks.

COMMUNITY OF INTEREST

A community of interest is a group that shares concerns and is affected by policy in similar ways. For example, a community of interest might share a school district and grocery store, or surround a local tourist attraction. It might be a group of immigrants who share a neighborhood and a preferred language. While in Wisconsin the concept doesn’t rest on a strict set of factors, it can be useful to courts in evaluating suspect districts. For example, imagine a new legislative district boundary divides a school district, and the population on one side of the new legislative district boundary is primarily White, and on the other side it’s primarily Black. The fact that a community of interest is divided might demonstrate that the map drawers disregarded a traditional redistricting criteria, and that there is no justification for drawing the boundary line in a racially suspect way. Some states require protecting communities of interest from unnecessary division when redistricting. Wisconsin’s constitution doesn’t require this, though it does say that county, municipal, and ward lines should form the boundaries of districts (though equalizing population may require dividing these subdivisions).

COMPACT

Compactness means residents of a single district should live near to one another, instead of connecting geographically distant portions of a state into one district. This does not mean a district needs to be a perfect square to be compact. One measure of compactness can be calculated by taking the area of a district over the area of the smallest-sized circle that can contain the entire district. Wisconsin’s constitution requires districts be as compact “as practicable” but does not define a method for measuring compactness.

CONTIGUOUS

A contiguous district is connected continuously, usually by land, with all parts of the district “touching.” Many states, including Wisconsin, require districts to be contiguous. In some gerrymanders, this is complied with technically, but not in meaningful ways: two sections of a district that are geographically distant may be unnecessarily connected by a narrow strip of land, (sometimes devoid of residents altogether, like a parking lot).



GERRYMANDER

The term “gerrymander” is named for Elbridge Gerry, a founding father who became Governor of Massachusetts and in 1812 signed a bill creating districts designed to favor his political party. A newspaper at the time commented that one of the snaking districts looked like a salamander, dubbing it the “Gerrymander,” **and the term stuck**. A gerrymander can take many forms—and shapes, which need not be irregular or snake-like to accomplish their goal—but the idea is to draw district lines to intentionally favor one group, giving them outsized political power. Gerrymandering can be used to accomplish different goals, including: protecting incumbents, disadvantaging a racial minority group, or advantaging a political party.

IMPASSE

An impasse is a failure of the political branches to enact new district maps into law when new population data from a federal census requires them to do so. In Wisconsin, an impasse occurs when the State Legislature and the Governor, or the two chambers of the Legislature (Senate and Assembly) cannot agree on maps. This has often led to federal courts redistricting, since the old maps no longer comply with the “one person, one vote” principle, leading them to be challenged in court before the next legislative election. In Wisconsin, impasse has occurred every time there was divided party control in the modern era—including in the 1950s, 1960s, 1980s, 1990s, and 2000s. There is no set timeline for when an impasse is declared, but courts have practiced extreme deference, giving the other branches as much time as possible to draw maps before taking up the task judicially.

ONE PERSON, ONE VOTE

The concept of “one person, one vote” comes from a line of U.S. Supreme Court cases (most famously, *Baker v. Carr*), requiring redistricting to balance the population of districts so that each person’s vote has equal weight in electing members of a representative governing body. The Equal Protection Clause of the Fourteenth Amendment, the Court has found, prohibits states from weighing one person’s vote more heavily than it does another’s by maintaining voting districts with vastly different populations. While the law has developed to require near-perfect population equality across a state’s congressional districts, it does not require exact equality of population in all circumstances (state legislative districts may have population deviations across districts up to 10% and still presumptively be constitutional; states are not required to redistrict to adjust for population shifts more frequently than each federal census) this basic principle requires redistricting in order to balance population across districts.

PACKING AND CRACKING

Packing and cracking are how gerrymanders are accomplished. Members of a group that line-drawers want to disadvantage are “cracked” by assigning them to districts containing more voters who belong to the preferred group than to the disadvantaged group. In this way, the disadvantaged group’s votes will be diluted by the votes of a preferred group, which will be able to claim victory in each of those districts because the number of disadvantaged group voters in



that district is lower than the number of voters for the preferred group. Packing is the opposite extreme: it involves assigning many more members of the disadvantaged group to a district than would be necessary for the disadvantaged group's voters to prevail in electing a candidate to represent that district. The preferred group will lose the "packed" district but will win surrounding districts (often cracked) that now have fewer members of the disadvantaged group. While the disadvantaged group will win the "packed" district, it will do so with well over the 50% of votes needed to secure victory, and votes beyond that margin are effectively "wasted" because they don't contribute to changing the outcome.

PARTISAN GERRYMANDER

A partisan gerrymander is a gerrymander that advantages one political party over others. When a political party has majority control over a body charged with redistricting, it may engage in partisan gerrymandering to perpetuate its power. This can create a cycle: entrenching an advantage for that party also makes it more likely they will hold a majority the next time maps are drawn, offering an opportunity to engage in partisan gerrymandering again. In this way partisan gerrymanders can perpetuate control by one political party beyond not only an election cycle, or even the ten-year window for which maps are drawn, but into the following decennial redistricting cycle.

PEOPLE'S MAPS COMMISSION (PMC)

The **People's Maps Commission** is a nonpartisan body charged with drawing new state legislative and congressional maps in Wisconsin after the 2020 census. These maps would need to be introduced in the Legislature, passed by both chambers, and signed by the Governor to become law and redistrict the state. The PMC was created by Governor Evers in **Executive Order 66**, and has nine members: one from each of the state's eight Congressional Districts and one member at large. The PMC held public hearings to hear input from Wisconsinites, as well as redistricting experts, to assist it in the task of drawing new maps. As the Commission turns to drawing districts, its meetings will continue to be open to the public, providing transparency into the criteria and process it uses for redistricting. The Legislature will almost certainly engage in its own parallel redistricting process.

RACIAL GERRYMANDER

Contrasted with a partisan gerrymander, a racial gerrymander is the deliberate drawing of districts to intentionally assign citizens to a district based on race without sufficient legal justification. The Equal Protection clause of the Fourteenth Amendment to the U.S. Constitution prohibits racial gerrymandering, as the Supreme Court first recognized **Shaw v. Reno** in 1993. Racial gerrymanders will be struck down when a challenger can show race for race's sake was the dominant and controlling rationale in drawing its district lines, and that there is insufficient justification for doing so. Other federal law makes it clear that race in combination with other factors must be considered by map makers in some circumstances. See: the Voting Rights Act of 1965 (VRA).



REDISTRICTING

The process of redrawing the boundaries of districts from which representatives are elected to a local, state, or national governing body. In the U.S., this generally happens every ten years, following each decennial census. In a series of cases beginning with *Baker v. Carr* in 1962, the U.S. Supreme Court held that these electoral districts must have (approximately) equal populations: a concept we call “one person, one vote.” Redistricting in Wisconsin happens after each federal census, adjusting the boundaries of municipal wards, county supervisory districts, state legislative districts, and congressional districts to account for population shifts over the previous ten years.

VOTING RIGHTS ACT OF 1965 (VRA)

The Voting Rights Act of 1965 is a landmark piece of civil rights legislation, signed into law by President Lyndon B. Johnson and later amended to expand its protections. The VRA contains several provisions meant to enforce the voting rights guaranteed by the Fourteenth and Fifteenth Amendments to the U.S. Constitution, and while it is relevant to redistricting, its protections are broader and span voting rights issues. Section 5 of the VRA requires “preclearance” for states and localities with the worst history of exclusionary abuses like literacy tests and poll taxes, putting changes to voting laws (including redistricting plans) on hold in those jurisdictions unless approved by a federal court in Washington, D.C. or the U.S. Attorney General. Section 5 was rendered inoperable by the 2013 decision of the U.S. Supreme Court in *Shelby County v. Holder*. Section 2 of the VRA remains a critical tool for challenging redistricting plans that have the purpose or effect of discriminating on the basis of race or membership in a language minority group. Section 2 has specific requirements for minority representation, prohibiting districts that disadvantage a minority group by diluting their voting power to prevent them from electing representatives of their choice when they may otherwise have been able to. Note that race alone cannot be determinative of district lines (which would be an unconstitutional racial gerrymander): to satisfy Section 2, a minority community must be sufficiently large to elect a representative in a district, vote in a cohesive way, and face a majority group that votes in a cohesive manner to block the minority community’s representative of choice.



ADDITIONAL RESOURCES

All About Redistricting. Justin Levitt.

Available at: <https://redistricting.ils.edu/>

The Redistricting Landscape, 2021-22. The Brennan Center.

Available at: https://www.brennancenter.org/sites/default/files/2021-02/2021_2_11_State%20of%20Redistricting.pdf

Ratf**ked: The True Story Behind the Secret Plan to Steal America's Democracy. David Daley.

<https://www.goodreads.com/book/show/26889647-ratf-ked>

Redistricting in Wisconsin 2020: the LRB guidebook.

Available at: <http://lrbdigital.legis.wisconsin.gov/digital/collection/p16831coll2/id/1942/>

Redrawing the Lines: The Impact of Redistricting on Black People's Political Power.

NAACP Legal Defense Fund.

Available at: <https://voting.naacpldf.org/census-and-redistricting/redistricting/>

Congressional Redistricting and the Voting Rights Act (2015). CRS Report.

Available at: <https://fas.org/sgp/crs/misc/R42482.pdf>

ONLINE MAPPING TOOLS

Districtr - <https://districtr.org/>

Dave's Redistricting App - <https://davesredistricting.org/maps#home>

Representable - <https://representable.org/>



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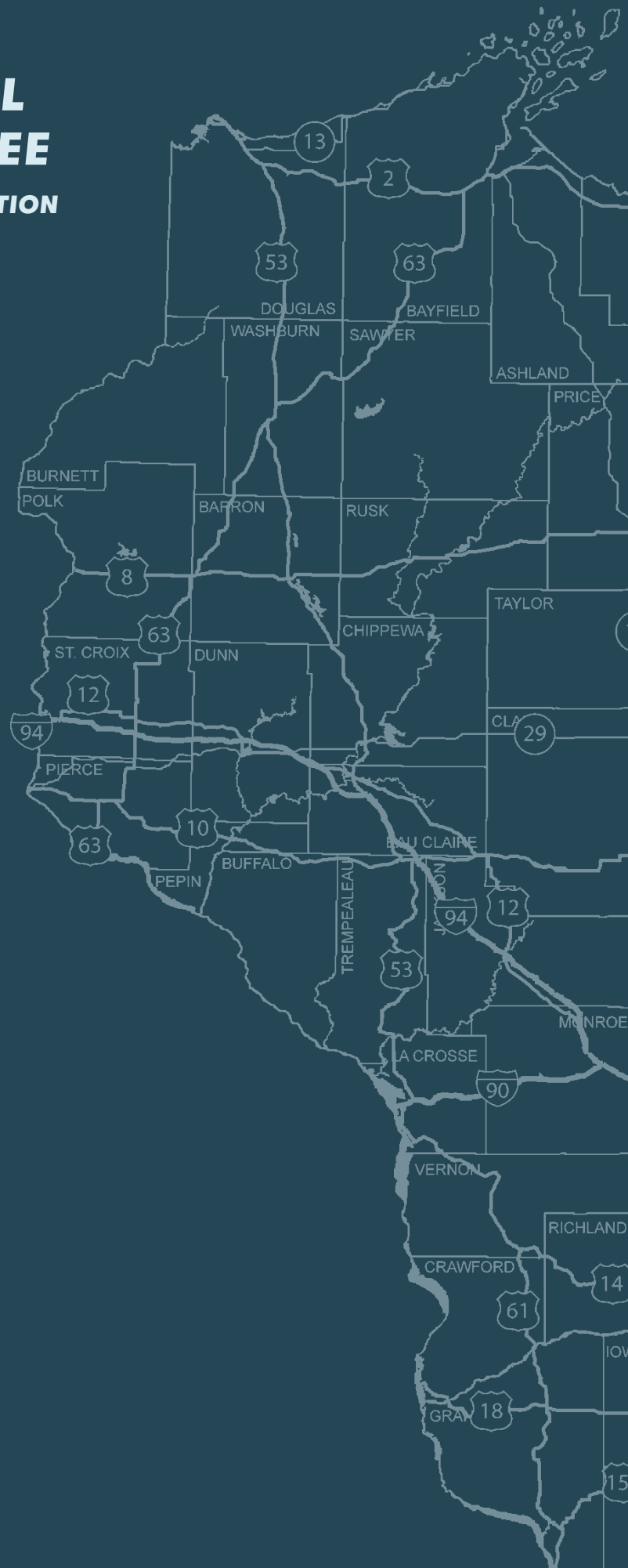
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