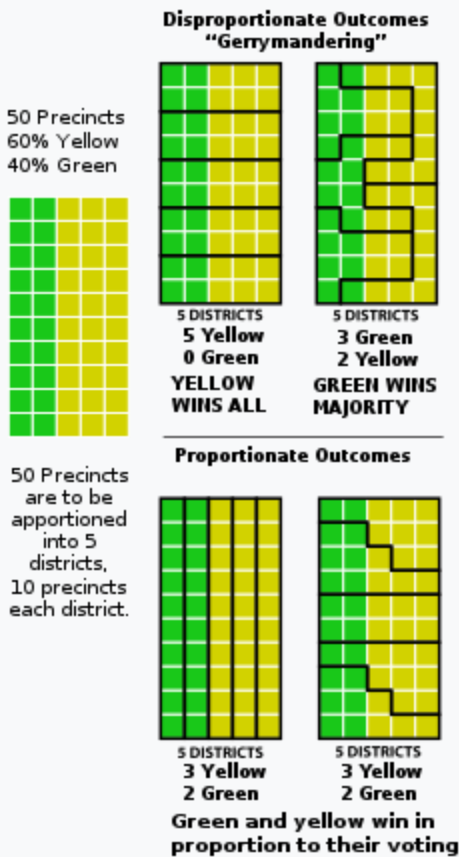


Gerrymandering

Gerrymandering: drawing different maps for electoral districts produces different outcomes



Different ways to apportion electoral districts

Gerrymandering (/ˈdʒɛrɪməndərɪŋ/ *JERR-ee-mand-ər-ing* or *GERR-ee-mand-ər-ing*,^{[1][2]}) is a practice intended to establish an unfair political advantage for a particular party or group by manipulating district boundaries, which is most commonly used in first-past-the-post electoral systems.

Two principal tactics are used in gerrymandering: "cracking" (i.e. diluting the voting power of the opposing party's supporters across many districts) and "packing" (concentrating the opposing party's voting power in one district to reduce their voting power in other districts).^[3] A third tactic, shown in the top-left diagram in the graphic, is homogenization of all districts (essentially a form of cracking where the majority party uses its superior numbers to guarantee the minority party never attains a majority in any district).

In addition to its use achieving desired electoral results for a particular party, gerrymandering may be used to help or hinder a particular demographic, such as a political, ethnic, racial, linguistic, religious, or class group, such as in Northern Ireland where boundaries were constructed to guarantee Protestant Unionist majorities. The U.S. federal voting district boundaries that produce a majority of constituents representative of African-American or other racial minorities are known as "majority-minority districts". Gerrymandering can also be used to protect incumbents. Wayne Dawkins describes it as politicians picking their voters instead of voters picking their politicians.^[4]

The term *gerrymandering* is named after Elbridge Gerry (pronounced like "Gary"^[2]), who, as Governor of Massachusetts in 1812, signed a bill that created a partisan district in the Boston area that was compared to the shape of a mythological salamander. The term has negative connotations and gerrymandering is almost always considered a corruption of the democratic process. The resulting district is known as a *gerrymander* (/ˈdʒɛrɪ.məndər.ˈɡɛri.-ɹ/). The word is also a verb for the process.^{[5][6]}

§ 1. INTRODUCTION:

As of late, the issue of redistricting has been in the news due since *Gill v. Whiteford*¹ is on the docket of the Supreme Court and as midterm elections approach. The issue of redistricting has always been a volatile issue, because it begs the question of whether a group democratically elected officials should have complete autonomy when deciding over a voter reapportionment plan. The Supreme Court should not make a decision in this case because it would disregard current precedent in cases dealing with political questions. Additionally, the principle of democracy--upon which this country was founded--would be eroded in the hands of nine robe wearing unelected despots. This case would not just change the political landscape of Wisconsin, but it would also infringe on the Tenth Amendment power² delegated to the states. *Gill v. Whiteford*³ would be an unwarranted act of judicial activism by answering an inherently political question and unconstitutionally stripping state legislatures of their autonomy

2. WHAT IS GERRYMANDERING?

Gerrymandering is when the legislature redraws district lines with the intent to manipulate the resulting votes. Redistricting is the practice by which legislatures redraw their voting lines in accordance with the newest census data. The act of redistricting becomes gerrymandering when the legislature redraws districts to either “crack” the party or “pack” all of one party/racial group into one district. This term was first established in the news when a redistricting map signed by Governor Elbridge Gerry gave the state senate election towards his party (Griffith, 18)⁴. Democracy is founded on the idea of a fair and free election. Gerrymandering garners negative connotation because it implies that the legislature is manipulating the people’s vote to keep their office. This led to federal regulations such as the Reapportionment Act of 1842⁵ that required district lines to be drawn in one line (contiguous) and for the constitutionality of gerrymandering to be questioned.

§ 3. IS GERRYMANDERING CONSTITUTIONAL?

Paramount cases like *Baker v. Carr*⁶ allowed for gerrymandering to be brought before the Supreme Court of the United States because the Court went off the basis that the gerrymandering presented a justiciable issue under the Fourteenth Amendment Equal Protections Clause; this means that the reapportionment plan are to be held to strict scrutiny because fundamental rights were allegedly being taken away. Previously, gerrymandering cases were considered “purely political in nature,” a characteristic that traditionally indicates that the judiciary should refrain from answering these issues that ought to be left to the executive and legislative branches. Political officials need to solve from these issues themselves, otherwise the judiciary would be too political and lose its credibility as an impartial adjudicator. Therefore, the main criteria for a gerrymandering case to have standing and for the court to have jurisdiction is for the victim to have their voting rights “egregiously infringed upon.” Following this precedent, the Court has to balance between staying away from political questions and protecting individual/group voting rights. Moreover, a case like *Gill v. Whiteford*⁷ distinguishes itself from the holding in *Baker* in the fact that it is a question that is inherently political. Specifically, in *Gill*, the voters do not allege racial biases; they do not allege population dilution or compacting; they do not even allege that the reapportionment plan violates any traditional redistricting principles. The Supreme Court entertaining this standard of evaluation and allowing the case to move forward diverges from these judicial norms and alters the precedent pertaining to partisan gerrymandering.

4. WHAT IS THE RULE OF LAW FOR GERRYMANDERING?

The rule of law is based off of the balancing element that comes with deciding whether the Court has jurisdiction over it and if the challenger has standing in it. For the Court to get involved in a “purely political issue”, the reapportionment plan must egregiously affect the voters’ rights per the Fourteenth Amendment. As the states have interpreted their own laws regarding redistricting and courts have set varying standards, the requirements listed below are the current redistricting rules governing Tennessee State Senate redistricting. Determining whether the redistricting plan does not violate the Fourteenth Amendment or the state constitution is decided by: whether the population in each district “egregiously” exceeds the threshold variance, whether the redistricting plan substantially takes race into consideration and therefore results in “bizarre” district shapes, or whether the redistricting plan splits more districts than necessary without a legitimate reason under the Fourteenth Amendment.