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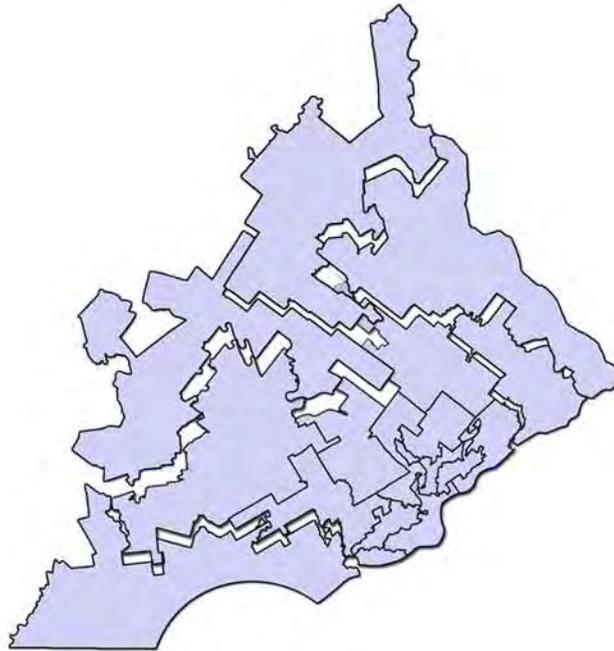
METROPOLITAN PHILADELPHIA INDICATORS PROJECT



Why the Conventional Wisdom about Reapportionment Reform May Be Wrong:

The Case of “Safe” and “Competitive”

State Senate Districts in Southeastern Pennsylvania



Institute for
Public Affairs

**A joint policy report produced by Temple University’s Institute for Public Affairs in
Collaboration with Temple University’s Metropolitan Philadelphia Indicators Project**

Introduction

In a process fraught with political complexities, partisan battles, and potentially enormous policy consequences, state lawmakers in Harrisburg and across the country are redrawing the boundaries of congressional and state legislative districts to take account of population shifts recorded by last year's Census (**see Map 1**). This process, called reapportionment or redistricting, is required by the US Constitution to insure that districts are as equal as possible in population and that Americans are equally represented in the US House of Representatives and state legislative chambers. Using legislative representation in Southeastern Pennsylvania as an example, this policy report explains why the process is controversial, why reforming it is difficult, and why some attempts at reform may be problematic and perhaps even counter-productive.

How Reapportionment Works in Pennsylvania¹

Later this fall or early next year, the Pennsylvania General Assembly will enact a statute drawing new boundaries for 18 congressional districts. This is one less than we have now because our state's population has grown more slowly than the rest of the country. Because our five-county region (Bucks, Chester, Delaware, Montgomery, and Philadelphia) has grown somewhat faster than the rest of the state, it is likely that at least six US House members will continue to represent the region.² It is possible, however, that one or more incumbents will be forced to compete against a colleague who ends up in the same new district, in which case the region arguably will lose an experienced member with some degree of seniority and therefore influence. The "lost" seat is likely to come from western Pennsylvania.

Working against a Constitutional deadline of mid-December, the Legislative Reapportionment Commission (LRC), which is composed of two Democratic and two Republican state legislative leaders and a retired Republican judge appointed by the Pennsylvania Supreme Court, has proposed new districts for the 203 state house and 50 state senate seats.³ The public comment period for the proposed new state legislative map runs until November 30, after which the commission can make adjustments and objectors can challenge the final map in court. Under the proposed new map, the region would retain the same number of seats it has now – 64 in the house and 16 in the senate – but the City of Philadelphia would lose the seat now held by Representative Dennis O'Brien, who was elected to City Council on November 8. The new map would have 25 districts in which a majority of the population lives in the city, down from 26 under the current map, while the suburbs would gain a seat. In addition, the partisan complexion of our delegations might change. Although these processes are different, note that both congressional and state legislative reapportionments are determined by legislators, otherwise known as politicians.

¹ New Jersey, which uses a commission chosen by legislative leaders to redistrict its congressional delegation and the legislature itself, has already completed this process.

² This policy brief counts a district as being within the region, a county, or a city if a majority of its constituents live within the jurisdiction in question even though some live outside. Although every voter is guaranteed equal representation in Congress and the legislature, the number of districts within a jurisdiction could vary somewhat if new boundaries put majorities of voters outside the jurisdiction.

³ If the legislature fails to meet deadlines for adopting sound redistricting plans for Congress or its own seats, the Pennsylvania Supreme Court must draw the districts, as it did for congressional reapportionment in 1992 and for the legislature twice in the 1960s, when the legislature failed to comply with the US Supreme Court's momentous one-person, one-vote decisions.

Why Reapportionment Is Controversial

Because with few exceptions, American legislators are elected from single-member districts, the way boundaries are drawn can influence which party has a better chance of winning a majority of districts and therefore controlling legislative agendas and public policy. Redistricting can thus affect the flow of government spending and other beneficial policies to individuals, schools, and communities. District lines that have been distorted to favor one community, group or party over another or to protect incumbent legislators from competition are said to have been “gerrymandered.”⁴

Why Conventional Wisdom about Reapportionment Reform May Be Wrong

Conventional wisdom in the national and local news media is that ending the gerrymandering of legislative districts will reduce the troubling polarization of American politics and help us solve our grave problems. There is evidence and logic to support this view, but there is also evidence and logic to suggest that words attributed to H. L. Mencken might apply: “For every complex problem” (and reapportioning legislatures is very complex), “there is an answer that is clear, simple—and wrong.”

First, the logic of conventional wisdom: More competitive districts will empower middle-of-the-road voters in higher-turnout general elections as opposed to partisan extremists in lower-turnout primary elections, who determine outcomes in safe districts that overwhelmingly favor one party or the other. The result will be more moderate legislators and policies. Such districts will also be less gerrymandered, that is they will look more like squares, circles, or octagons, less like salamanders. The assumption is that weird-looking district lines are a sure sign that incumbents or incumbent parties are being protected from competition. Outrageously distorted districts that appear to have no purpose but protecting an incumbent party or legislator can demoralize citizens and communities who feel manipulated and cheated of representation.

Reformers typically argue that the redrawing of legislative districts should be taken from self-interested politicians and given to neutral technicians (as has been done in Iowa) or citizens’ commissions (as is being tried in California) who will be blind to political considerations. This policy report simulates such an exercise, drawing hypothetical boundaries for the 16 state senate districts in Southeastern Pennsylvania without regard to political considerations and with the paramount goal of increasing party competition.

The purpose here is not to defend any particular mechanism for reapportionment, recommend any particular legislative map, including the current LRC proposal, and certainly not to defend “gerrymandering” that is blatantly unfair to parties, minority voters, or communities. The purpose is rather to deepen understanding of a process that requires a balancing of competing values and therefore requires explicitly political judgments.

In its most extreme and simplistic forms, the conventional wisdom ignores the way Americans have sorted themselves into ideologically, economically, and racially homogeneous communities; fails to consider the difficulties legislators face in fairly representing diverse constituents; is likely to raise the cost of campaigns and possibly the influence of money in politics; may weaken continuity and experience in representation; and actually increases the chances that elections will produce legislatures that are unrepresentative of the voters who elect them. And, as the accompanying “nonpolitical” maps and tables attempt to illustrate, substantially increasing competition might require....gerrymandering.

⁴ Political foes of Massachusetts Governor Elbridge Gerry invented the term in 1812, castigating him for creating a district that looked like a salamander to favor his party.

Reapportionment Requires a Balancing of Values

Redistricting is complicated. Among competing criteria that map drawers must consider are:

1. Equal population. This is a paramount goal, required by both the US and Pennsylvania Constitutions and enforced by courts.
2. Compactness. Required by the Pennsylvania Constitution and preferred by voters and critics, compact districts look “nice.”
3. Respecting political boundaries. The Pennsylvania Constitution provides: “Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided in forming either a senatorial or representative district.”
4. Fair representation of minorities. Federal courts have struck down maps that dilute minority representation by “cracking” (spreading minority voters across many districts) or “packing” (concentrating them into very few districts).
5. Fair representation of parties, a legally elusive standard. In a 2002 lawsuit, Pennsylvania Democrats claimed the 2001 congressional redistricting by a Republican-controlled state government amounted to unconstitutional political gerrymandering. Briefs supporting the Democrats noted that in 2002 the Democratic candidate for governor won with 55 percent of the major-party vote yet Republicans won 63 percent of the new congressional seats. The US Supreme Court refused to overturn the congressional map, arguing that no discernible standard for political gerrymandering had yet been found.⁵ In the 2008 election, Democrats won 63 percent of the same seats, then lost them again in 2010.

What Would Maximizing Competitive Districts Look Like?

Here are the ground rules given to Michelle Schmitt and Jason Martin, our “nonpolitical” MPIP redistricters. Michelle holds a Temple graduate degree in geography and urban studies and Jason is a doctoral student in sociology. Both are experienced at mapping socio-economic data, but they are not (and after this exercise proudly not) political scientists:

1. The populations of the 16 state senate districts must be within five percent of the statewide average using 2010 Census data, thus satisfying the equality criterion.
2. The two-party vote in statewide general elections between 2004 and 2008 is averaged to measure party competition in each of the region’s districts, using the free software, ‘Dave’s Redistricting,’ created by David Bradlee, a software engineer from Seattle, WA. (<http://gardow.com/davebradlee/redistricting>).⁶
3. Compared to the current and proposed state senate maps, the redistricting must increase “competitive” and decrease “safe” districts, without regard to which party benefits. Competitive districts are generally defined by political scientists as those in which the two-party vote was split by a maximum of 55-45 percent. A safe Republican seat would be one in which GOP candidates averaged more than 55 percent of the vote, and a safe Democratic seat would be one in which Democratic candidates received more than 55 percent.
4. The redistricting should be blind to its effect on the region’s incumbent legislators.

⁵ *Vieth v. Jubelirer* (2004)

⁶ Redistricters use past elections to measure party competition because party registration often does not correlate well with election results. This is particularly true in the Philadelphia suburbs, where a large percentage of voters are independents not registered in either major party.

Once Michelle and Jason finished their work, Nate Shrader, a doctoral student in political science, analyzed their “maximum competition” (“max comp”) map (with its districts arbitrarily labeled with letters A through P) to determine its implications for the other criteria that voters, courts, and legislators, care about (see **Map 3**). As the accompanying maps and tables show, Michelle and Jason were able to increase the number of competitive districts to 11, compared to seven under both the current map and the new LRC-proposed map⁷ (see **Table 1**). But doing so required creating salamander-like districts that, while meeting the equality standard, arguably violate the standards of compactness, fairness to minorities, and respect for political boundaries.

Under the current map (see **Map 2**), three senate districts cross the Philadelphia-suburban line. Under the max comp map, ten seats do so, because to increase competition, Michelle and Jason had to redistribute the city’s heavily Democratic and minority voters to districts that include suburban communities. The number of districts in which Philadelphia residents constituted a majority would fall from seven to five, costing the city clout in Harrisburg. The max comp map also reduces the number of seats in which most voters were members of minority groups from five under the current map to four. For all or even any one of these reasons, the max comp map would almost certainly be struck down by federal or state courts.

Even if the max comp map were constitutional, candidates would likely have to raise more campaign funds and spend more time campaigning, as opposed to legislating. Once elected, they would face huge challenges in fairly representing widely diverse constituencies and might survive for a single term, depriving the district of experienced representation. Think of a senator who has to represent voters in impoverished sections of North Philadelphia and affluent suburban communities like Narberth. And nearly half of the voters in these competitive districts would feel that their candidate “lost” the election, no matter which party was successful. In short, representation would become more difficult, legislators might become more cautious and less willing to cast “tough” but necessary votes (those based on a view of the public interest that extends beyond the next election), and voter satisfaction with their representation would almost certainly decline.

In “safe” districts, on the other hand, higher percentages of voters will feel their candidate won the election, legislators will find it easier to represent their constituents, and “safe” legislators are generally more willing to cast tough votes. To take just one high-profile example, congressional Democrats in safe districts voted overwhelmingly for President Obama’s ambitious and controversial health care reform act, while many of their colleagues in competitive districts defected.

Further, as political scientist Thomas Brunnell⁸ has argued and the US Supreme Court noted in the Pennsylvania case, a jurisdiction in which all districts were closely split in favor of the dominant party would be mathematically more likely to produce a legislature in which the minority party was either underrepresented or completely shut out than one in which most seats were safe for one party or the other and a smaller number were competitive. Indeed, what Brunnell favors is what American legislatures generally reflect and what the residential patterns of the state and nation dictate: Most seats are safe, but enough are competitive to shift majority control of the legislature from one party to the other.

Finally, another consequence of the “nonpolitical” map is that eight senators, or fully one half of the region’s delegation, would end up in the same district as one of their colleagues, thus insuring that the region would lose experienced representation. The US Supreme Court has declined to strike down this form of incumbent protection.⁹ Current senators who would be so affected include three majority committee chairs and four

⁷ Senate redistricters might average different elections and characterize competition in several of the LRC proposed districts differently, but averaging different elections seems unlikely to substantially alter the safe-vs-competitive distribution of the max comp districts.

⁸ Brunnell, Thomas. 2008. *Redistricting and Representation Why Competitive Elections Are Bad for America*. New York and London: Routledge.

⁹ *Bush v. Vera* (1996)

minority committee chairs, one of whom chairs the Appropriations Committee, which traditionally has been held by a Philadelphian, and another who is also the minority whip, the second highest position in the Democratic caucus. Would it be good for the region’s representation in Harrisburg to unthinkingly and unnecessarily put its experienced leaders at risk?

Improving competition is an important goal that should be achieved wherever possible without unacceptable damage to other values. Clearly, legislatures must include sufficient competitive districts to be responsive to national and statewide majorities. Fairness to parties is obviously a concern when one party controls the reapportionment mechanism. It is far from certain, however, that dramatically increasing competitive districts would substantially reduce polarization. Consider the accelerating use of filibuster and filibuster threats in the gerrymander-proof US Senate, where district boundaries never change.

For strengthening regional representation and reducing polarization, it is probably more important for legislative caucuses rather than individual legislative districts to cross city-suburban boundaries. If each party has at least some members firmly located in the political territory largely controlled by the other party, caucuses and leaders will have incentives to respond to those legislators’ more moderate political and policy needs. Of course, achieving that result might require gerrymandering.

A Safe, Easy, and Immediate Reform: Increase Transparency

It may be that clear lessons about institutional reforms will emerge from the experiments in Iowa and California, and if they do, Pennsylvania will have plenty of time to change its processes before the next reapportionment in 2021. In the meantime, a safe, easy, and immediate reform is available: greater transparency. The General Assembly and the LRC could make greater use of hearings on official proposals, invite citizens and advocates to submit alternative maps using increasingly available software such as Dave’s Redistricting, and deliberate in public. But transparency works best when the public is well informed about potential consequences and has some understanding of the tradeoffs in competing values, which is precisely what this policy report has attempted to do.

In the meantime, history and demographic realities suggest that if we eventually find legislative solutions to our grave problems, most of the “tough” votes will be cast by legislators in Washington and Harrisburg who represent safe seats.

Table 1: Comparing Proposed, Current, and Hypothetical Senate Districts

Proposed Senate District Boundaries

	Seats	Safe Seats	Competitive Seats	White Majority	Minority Majority
Philadelphia	7	7	0	2	5
Suburbs	9	2	7	9	0
Total	16	9	7	11	5

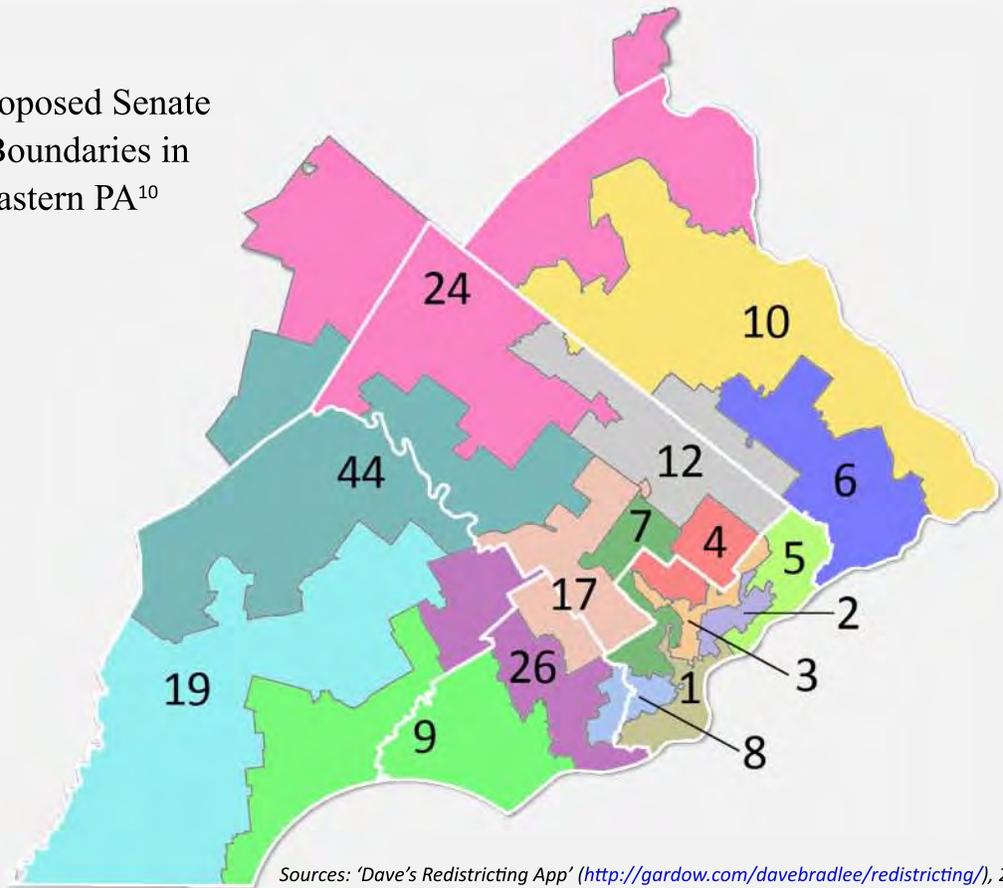
Current Senate District Boundaries

	Seats	Safe Seats	Competitive Seats	White Majority	Minority Majority
Philadelphia	7	7	0	2	5
Suburbs	9	2	7	9	0
Total	16	9	7	11	5

Hypothetical Max Comp District Boundaries

	Seats	Safe Seats	Competitive Seats	White Majority	Minority Majority
Philadelphia	5	5	0	1	4
Suburbs	11	0	11	11	0
Total	16	5	11	12	4

Map 1: Proposed Senate District Boundaries in Southeastern PA¹⁰



Sources: 'Dave's Redistricting App' (<http://gardow.com/davebradlee/redistricting/>), 2011; U.S. Census Bureau, Decennial Census, 2010.

Dist.	Dem/Rep	Category	Pop.	White/Minority	Category	Phila./Sub. Pop	Category
1	79/21%	Safe	251,081	63/38%	White Majority	100/0%	City
2	79/21%	Safe	252,430	30/70%	Minority/Majority	100/0%	City
3	87/13%	Safe	253,885	23/78%	Minority/Majority	100/0%	City
4	84/17%	Safe	249,578	37/63%	Minority/Majority	60/40%	City
5	62/38%	Safe	249,717	70/30%	White Majority	100/0%	City
6	56/44%	Safe	253,674	83/17%	White Majority	0/100%	Suburban
7	85/15%	Safe	257,101	35/66%	Minority/Majority	83/17%	City
8	86/15%	Safe	257,978	24/76%	Minority/Majority	60/40%	City
9	53/47%	Competitive	250,888	74/26%	White Majority	0/100%	Suburban
10	50/50%	Competitive	253,906	89/11%	White Majority	0/100%	Suburban
12	51/49%	Competitive	257,279	84/16%	White Majority	0/100%	Suburban
17	61/39%	Safe	252,539	76/24%	White Majority	0/100%	Suburban
19	52/48%	Competitive	257,055	78/22%	White Majority	0/100%	Suburban
24	48/52%	Competitive	258,015	88/12%	White Majority	0/100%	Suburban
26	51/49%	Competitive	257,419	85/15%	White Majority	0/100%	Suburban
44	48/52%	Competitive	256,389	87/13%	White Majority	0/100%	Suburban

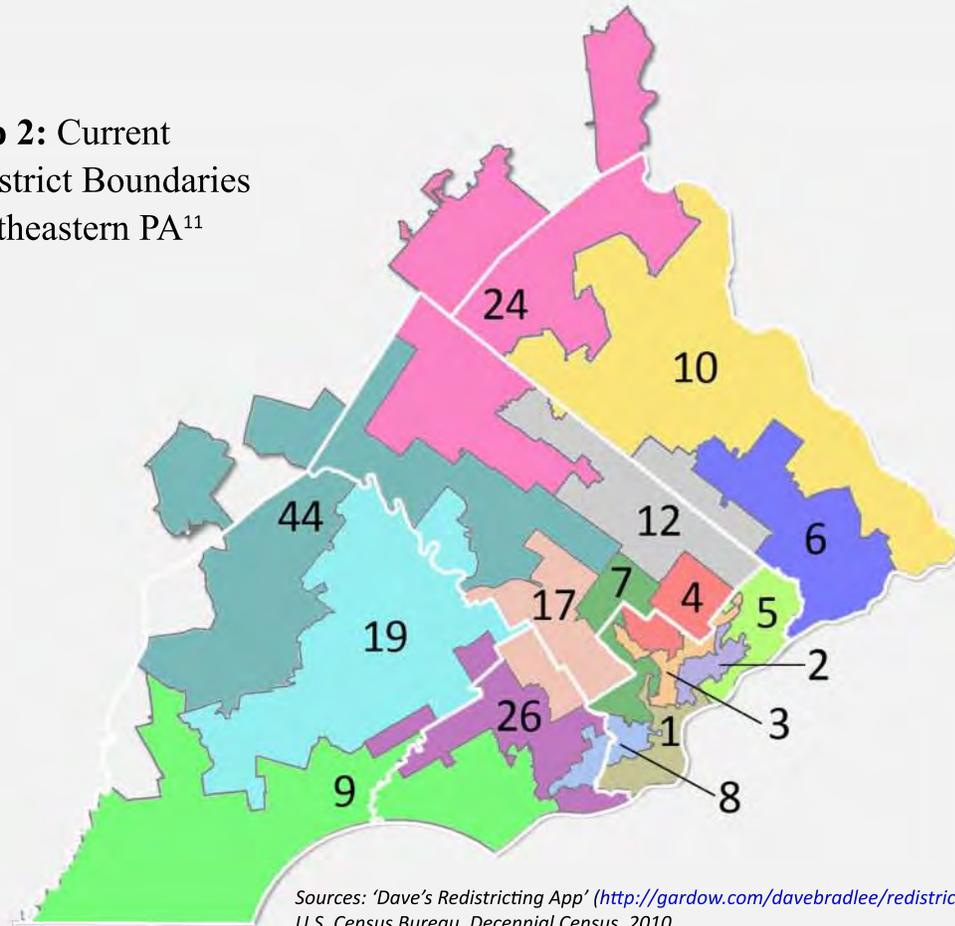
9 Safe Seats
7 Competitive Seats

11 Maj. White Seats
5 Minority Maj. Seats

9 Suburban
7 City

¹⁰ For purposes of comparison with the max comp map, Temple researchers have characterized these proposed districts using the tool on Dave's Redistricting, which averages the two-party vote in 2004 to 2008 general elections for statewide candidates. Senate redistricters might average different elections and characterize competition in several of the LRC proposed districts differently.

Map 2: Current Senate District Boundaries in Southeastern PA¹¹



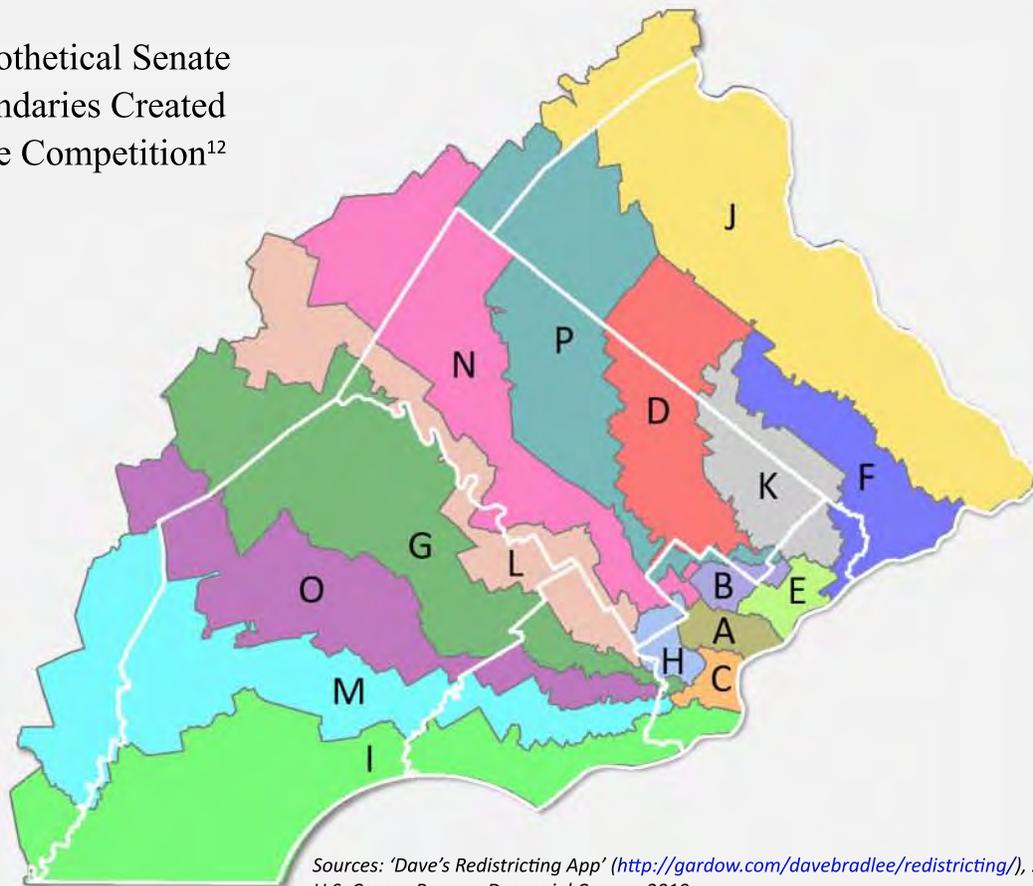
Sources: 'Dave's Redistricting App' (<http://gardow.com/davebradlee/redistricting/>), 2011; U.S. Census Bureau, Decennial Census, 2010.

Dist.	Dem/Rep	Category	Pop.	White/Minority	Category	Phila./Sub.	Category
1	80/20%	Safe	266,236	61/39%	White Majority	100/0%	City
2	79/21%	Safe	259,719	47/53%	Minority/Majority	100/0%	City
3	88/12%	Safe	245,882	25/75%	Minority/Majority	100/0%	City
4	84/16%	Safe	237,779	39/61%	Minority/Majority	58/42%	City
5	62/38%	Safe	255,921	83/17%	White Majority	100/0%	City
6	56/44%	Safe	253,674	88/12%	White Majority	0/100%	Suburban
7	85/15%	Safe	239,153	36/64%	Minority/Majority	85/15%	City
8	85/15%	Safe	243,506	36/64%	Minority/Majority	65/35%	City
9	53/47%	Competitive	277,401	76/24%	White Majority	0/100%	Suburban
10	50/50%	Competitive	259,178	93/7%	White Majority	0/100%	Suburban
12	51/49%	Competitive	263,696	89/11%	White Majority	0/100%	Suburban
17	61/39%	Safe	248,670	84/16%	White Majority	0/100%	Suburban
19	50/50%	Competitive	280,974	89/11%	White Majority	0/100%	Suburban
24	50/50%	Competitive	278,648	91/9%	White Majority	0/100%	Suburban
26	53/47%	Competitive	251,041	86/14%	White Majority	0/100%	Suburban
44	50/50%	Competitive	288,673	85/16%	White Majority	0/100%	Suburban

9 Safe Seats
11 Maj. White Seats
9 Suburban
7 Competitive Seats
5 Minority Maj. Seats
7 City

¹¹ For purposes of comparison with the max comp map, Temple researchers have characterized current districts using the tools on Dave's Redistricting, which averages the two-party vote in 2004 to 2008 general elections for statewide candidates. Senate redistricters might average different elections and characterize competition in several current districts differently.

Map 3: Hypothetical Senate District Boundaries Created to Emphasize Competition¹²



Dist.	Dem/Rep	Category	Pop.	White/Minority	Category	Phila./Sub.	Category
A	89/11%	Safe	263,949	23/77%	Minority/Majority	100/0%	City
B	89/11%	Safe	265,214	18/82%	Minority/Majority	96/4%	City
C	82/18%	Safe	264,977	55/45%	White Majority	100/0%	City
D	55/45%	Competitive	254,218	81/19%	White Majority	1/99%	Suburban
E	72/28%	Safe	265,184	46/54%	Minority/Majority	100/0%	City
F	55/45%	Competitive	257,605	81/19%	White Majority	21/79%	Suburban
G	55/45%	Competitive	262,974	71/29%	White Majority	14/86%	Suburban
H	89/11%	Safe	261,622	28/72%	Minority/Majority	81/19%	City
I	55/45%	Competitive	251,164	69/31%	White Majority	5/95%	Suburban
J	53/47%	Competitive	255,072	89/11%	White Majority	0/100%	Suburban
K	55/45%	Competitive	256,984	84/16%	White Majority	30/70%	Suburban
L	55/45%	Competitive	257,321	83/17%	White Majority	0/100%	Suburban
M	55/45%	Competitive	252,229	75/25%	White Majority	10/90%	Suburban
N	55/45%	Competitive	258,372	80/20%	White Majority	9/91%	Suburban
O	54/46%	Competitive	263,514	78/22%	White Majority	0/100%	Suburban
P	55/45%	Competitive	256,995	78/22%	White Majority	16/84%	Suburban
		5 Safe Seats			12 Maj. White Seats	11 Suburban	
		11 Competitive Seats			4 Minority Maj. Seats	5 City	

¹² The Hypothetical Boundaries map and data were produced using the free software, 'Dave's Redistricting,' created by David Bradlee, a software engineer from Seattle, WA (<http://gardow.com/davebradlee/redistricting/>).