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ELECTIONS

Brown County voters called for 'fair' election districts in Wisconsin, but census delay could keep maps the same in 2022

controlled Legislature seeks to slow efforts to redraw district boundaries. Critics trip.

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Note: This article has been updated to correct the first name of Brown County Board member Tom Sieber.

The map plans were supposed to be a secret.

Confidentiality agreements signed in 2011 stipulated legislators could not discuss Wisconsin's redistricting maps outside of a private room and to "ignore the public" comments in talking points. Deleted spreadsheets and a smashed hard drive unearthed by a computer forensics team showed mathematical formulas and map drafts that would all but ensure partisan victory of Republican lawmakers for 10 years, or until the next decennial census.

While it sounds like the stuff of fiction, many experts and lawmakers worry that, a decade later, history might repeat itself.

"It's the same people involved in the process. They have the same incentives to try to produce a map that's as favorable to the majority party as possible," said Barry Burden, who has a doctorate in political science and teaches American politics at the University of Wisconsin-Madison. "It's worked very well for them."

In November, Brown County voters joined those in 32 other counties and 21 municipalities in backing a referendum that called for a nonpartisan process for creating Wisconsin's

legislative and congressional districts. Although the 2020 census will shape new electoral maps, COVID-19 has delayed the decennial census data that would enable redistricting to take place. Such a delay could complicate the battle for what proponents call "fair maps" in time for the 2022 elections.

"The maps (of Wisconsin) are considered one of the most gerrymandered in the country, if not of all time," said Rep. Deb Andraca, D-Whitefish Bay.

Andraca and Sen. Jeff Smith, D-Eau Claire, reintroduced a bill that would shift redistricting procedures from the Legislature to the Legislative Reference Bureau and establish a Redistricting Advisory Committee. The bill has been co-sponsored by Wisconsin senators and representatives across the aisle, including Republican Reps. Joel Kitchens of Sturgeon Bay, Todd Novak of Dodgeville and Travis Tranel of Cuba City.

Still, many Republican lawmakers assert that district maps will remain similar to how they were drawn in 2011. Sen. André Jacque, R-De Pere, said that despite a desire to redraw district lines, there are few criteria beyond growth trends that would dramatically change district lines.

"Based on the way votes are distributed between Democratic and Republican parts of the state, (redistricting) could be very hard to accomplish with respect to compactness, contiguity, and with respect to communities of interest," Jacque said.

Jacque asserted that, as districts gain and lose populations across the state and redistricting strategies remain partisan, "the whole thing is going to end up in court." It's a sentiment shared by legislators on both sides.

Earlier this year, Republican legislators hired two private lawyers in anticipation of a court battle, a move that was to cost taxpayers \$200,000 per month starting in July. While Dane County Circuit Judge Stephen Ehlke voided those two contracts after a group of Madison teachers sued, Assembly Speaker Robin Vos of Rochester seeks to overturn the ruling, taking the dispute to the state Supreme Court.

As of May, taxpayers had paid \$103,000 for private attorneys. Vos could not be reached for comment.

Former Sen. Dave Hansen, a Green Bay Democrat, has been fighting for fair maps since well before 2011, but he said 2011 catalyzed the fight.

“Their mathematical formula’s unbelievable, what they did with redistricting,” he said. He pointed out that in 2018, despite Republican lawmakers receiving 45% of the votes, they took 63% of Assembly seats.

“The gerrymandering they did outside the Capitol, on state computers, with their mathematical formulas — it was a knockout for them. It was designed for them to keep the majority for 10 years, and now they’re doing everything in their power to make sure we don’t fix the gerrymandering problem,” Hansen said.

Hansen is referring to a new Wisconsin bill meant to address the census delay. Under Wisconsin law, counties must adopt supervisory district plans within 60 days of census data publication, or no later than July 1 following the census year. Assembly Bill 369 would give counties until Feb. 22, 2022, to adopt new districting plans for their county board seats, or for legislative and congressional districts. Municipalities, under the same bill, must wait until April 15 next year to start forming new voting districts and would have to complete them by May 15.

Notably, Brown County's elections are slated for April 5, 2022.

The Republican-majority Assembly passed the bill 59-38 on June 16, with no Democrats voting for it.

“AB 369 basically flew through in a week,” Andraca said.

The state Senate passed AB 369 on June 23 in an 18-12 vote, again with no Democrats voting for it. The scheduled bill will now be sent to Gov. Tony Evers, who will veto it or sign it into law.

But critics call the bill one more attempt for elections to take place on a gerrymandered map.

Burden, the politics professor at UW-Madison, sees the census delaying redistricting plans in a few ways. Brown County will need to draw new supervisor districts for the County Board by spring 2022 and it seems unlikely new maps will be ready in time. According to the Census Bureau, states will receive redistricting data by Aug. 16 and the Census will deliver a redistricting data toolkit to states and the public by Sept. 30.

“It might mean that they have the same districts in place for the next election cycle and that the new maps won’t go into effect until 2024,” Burden said.

The League of Women Voters of Wisconsin is among those who've registered in opposition to Assembly Bill 369. Debra Cronmiller, the League's deputy director, says the state already requires municipalities to report changes in their boundaries and demographics — so they have local data they could use to start redistricting now.

“Everything we hear from municipal leaders is they can get it done before (the extended deadline),” she said.

What Cronmiller is referring to is a data system called WISE Decade imposed by the Department of Administration after the 2011 redistricting that requires all municipalities to report changes in their boundaries and demographics according to local data.

“So to say that the state has no census data until mid-August is just not factually correct,” Cronmiller said.

“This is, in my opinion, just a means of prolonging any power shift because the current maps ensure the power.”

'Your vote doesn't really count'

When Brown County Board member Lindsay Dorff listened to a series of PowerPoint talks by Sachin Chheda, director and co-founder of the Fair Elections Project, about what happened with 2011 redistricting, her mouth “was on the floor,” she said.

“There’s people who are really desperate for our democracy to work again. But for the people who are receiving a disproportionate amount of power from the maps right now, they don’t want to give that up. It’s giving them an incredible amount of power and an incredible amount of security,” Dorff said.

Dorff said she fondly recalls growing up at a time when Wisconsin was considered a “purple state.”

“I think that a lot of people take a lot of pride in Wisconsin being in a place that was represented by people all along the political spectrum,” she said. “That give and take kept our politics functional and it was part of our state identity.”

Chheda agrees. “Historically, Wisconsin had a very responsive political system. There was great consensus on a lot of things — citizens who voted for both parties wanted great public schools and a strong university system, good roads and some basic environmental protections that also supported outdoor sports. The fights were always on the margins,” he said. “Now we can’t even begin to solve basic problems.”

Jay Heck, executive director of Common Cause Wisconsin, a nonpartisan, nonprofit citizen's lobby group associated with the national Common Cause, ascribes some of today's political gridlocking to a 2015 decision by former Gov. Scott Walker to dissolve the Government Accountability Board, what Heck called “a very effective election agency” that had been in place since 2007.

Hansen said the concept is simple: a fair district map ensures “one person, one vote.”

“People deserve to have their votes count, but when you go into a district that’s not competitive, your vote doesn’t really count,” Hansen said. “We need fair and competitive elections.

“All kinds of things like the Medicare Advantage expansion and legalizing marijuana would pass if the public had their say, but the districts are so gerrymandered, the people in charge don’t care. They know they can’t lose so they take a hard stand against these things.”

The making of maps and its problems

While the redistricting referendum was only advisory, in Brown County, the measure passed overwhelmingly in 2020 with 71.9% of the vote. Prior to last year's referendum, Brown County adopted a Fair Maps ordinance in 2017 that enabled County Board member Tom Sieber to help create the Citizens Redistricting Committee in 2018. The Citizens Redistricting Committee is working with the Planning Department and hopes to “lead by example,” Sieber said.

Green Bay Mayor Eric Genrich thinks the redistricting committee is an important step toward healing from the closed-door policies of 2011, the year before he was elected to the state Assembly. Genrich, a Democrat, served in the Legislature until 2018.

“Adopting a nonpartisan redistricting policy is the best way to establish parameters that take politicians and partisan performance out of the equation. It’s not something that’s going to

uniformly benefit one party over the other, and that's really the strength of the system. It's really durable," Genrich said.

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But across Wisconsin, the priorities for making a good map are up for debate. A variety of ways to draw local political districts are up for consideration. Sieber said that it comes down to a few competing boundaries: "We've got the Fox River running down the city and other natural boundaries. Should that be number one? Should municipal boundaries be number one? Should neighborhood associations be number one?"

Sieber said he defers to the redistricting committee to decide those lines.

As a member of the Nonpartisan Commission for Dane County, Burden has been working with his committee on the criteria that makes a map purportedly fair. Some of the criteria they've landed on is that every district must have an even population, the districts need to be contiguous — as in, all one piece without disconnected parts — and then there are other criteria that are "nice but not necessary"

"We want to keep communities together as much as possible. So we're hoping not to break up communities of interest — that's actually in the state Constitution," Burden said. "We're trying not to cross a district line with a county line or divide up a school district or divide up a city. We're trying to minimize those disruptions."

But such disruptions, when it comes to mapmaking, are not cut and dry. Rick Esenberg, president of the conservative and libertarian nonprofit Wisconsin Institute of Law & Liberty, is concerned about attempts to draw districts that are more closely split between voters for both parties.

That's not the way people divide themselves when they choose where to live, he said.

"Voters who tend to vote Democrat in our state are way more geographically concentrated than voters who vote Republican," said Esenberg, who has taught election law at Marquette University.

The Legislature consists of single-member geographic districts, the most common U.S. electoral system where one lawmaker is elected per district, so when voters in a Democrat-heavy city such as Milwaukee come out in favor of a representative running on the Democratic ticket, "you're not going to have proportionality," he said.

Esenberg also takes umbrage with the notion of communities of interest.

"Do I have a community of interest just because they're in the same county as me? I live in Mequon. Do I have a greater community of interest with the people who live in Fox Point, in Bayside, which is Milwaukee County, than I do with the people who live in, essentially, farm country out in Belgium? Probably I do. You can make an argument at least," he said. "So how do you work all that stuff out? It's very difficult."

Counties have organized nonpartisan commissions where everyday citizens can submit maps with new district lines for consideration, but Burden noted the process "has no formal power." The county commissions hear input, gather information and produce maps. But constitutionally speaking, map drawing depends on legislators.

Like many advocates for fair maps in Wisconsin, Burden thinks that Iowa has some of the "cleanest" systems out there. It's at least the case that, like Wisconsin, Iowa has a clause in their constitution about the Legislature being responsible for drawing the maps. Iowa's solution, and one that many people believe Wisconsin should adapt, would create a nonpartisan commission on the side for map making. The commission would create the map and hand it back to state Legislature and the Legislature would approve the maps.

"That has worked really well," Burden said. "There's been no lawsuits in Iowa — there's been controversy, of course, but no expensive lawyers or anything like that. Even without changing the Constitution, the Legislature could set up a commission."

With that goal in mind, Gov. Tony Evers started the People's Map Commission this year.

But Esenberg is skeptical of a nonpartisan commission. "The term nonpartisan often doesn't mean nonpartisan. It simply means the partisanship is driven underground and you can't see it," he said.

Jacque, the Republican senator representing De Pere, shares Esenberg's skepticism. For him, this became clear when Evers assigned Democratic donors and a citizens' board for his version of maps. "To call this a nonpartisan process is kind of disingenuous," he said.

Cronmiller, of the League of Women Voters, disagrees.

“I think there are certain things that have become labeled (partisan) that don’t actually have partisan undertones: educating our children, making medical services available to all, protecting ourselves from gun violence,” she said. “These are not partisan issues. These have been made political.”

Organizations like the League of Women Voters, Common Cause, Fair Maps Coalition and Wisconsin Democracy Campaign have been organizing and sponsoring events for the public such as map drawing training, public committees and more.

“We need to keep reminding our elected officials that we need to be heard. And we want action on important issues in our state,” Cronmiller said.

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