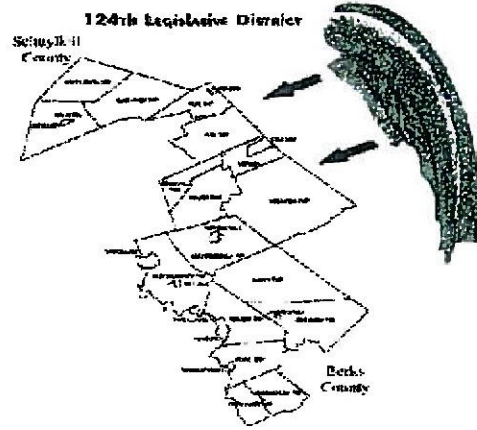




**The Gerrymander**  
circa 1812, an Elkanah Tinsdale cartoon



**The Keystone Gerrymander**  
2001 Legislative Reapportionment Commission

**HOUSE STATE GOVERNMENT COMMITTEE**

**MARCH 13, 2008 – PHILADELPHIA, Pa.**

**Statement of Dennis Baylor, 2654 Mountain Road, Hamburg, Pa.**

Good morning Madam Chairwoman and Committee members. I would like to thank the members of the State Government Committee and staff for all of the hard work you have put into trying to build a more representative Pennsylvania General Assembly, a true House of the people. My name is Dennis Baylor, I am a lifelong citizen of Pennsylvania, currently residing in Tilden Township, Berks County, which had been the 'belly' of Tinsdale's beast.

I appear before you today as an individual citizen, grateful for the opportunity to offer my comments on why I believe the question of redistricting reform is the most pressing problem confronting the freedom of Pennsylvanians, and regrettably in its present state disenfranchises far too many of our citizens. People who would rather opt out than participate in a sham electoral process where government gets to pick you before you get to pick your government. Long before our ballots are cast, you have picked, us. Gerrymandering, combined with ballot access barriers, have carved up the body politic in such a way that the duopoly has an absolute stranglehold on the system, and the incumbents' "districted-in" electoral edge is so considerable as to make them invincible. In fact, if the citizens of Pennsylvania understood what the General Assembly has done to the body politic through the redistricting process, the outcry would make the pay raise pale by comparison.

The ramifications of Gerrymandering are both subtle and insidious. For example, it insulates incumbents from media scrutiny, and therefore accountability. Before I ran for a House seat in 1996, I failed to fully understand how twisted and contorted the district within which I lived was. I also had no idea of how many different media outlets had to be utilized to cover the district, and the fact that depending on which media market you lived in, dramatically affected how you viewed my opponent.

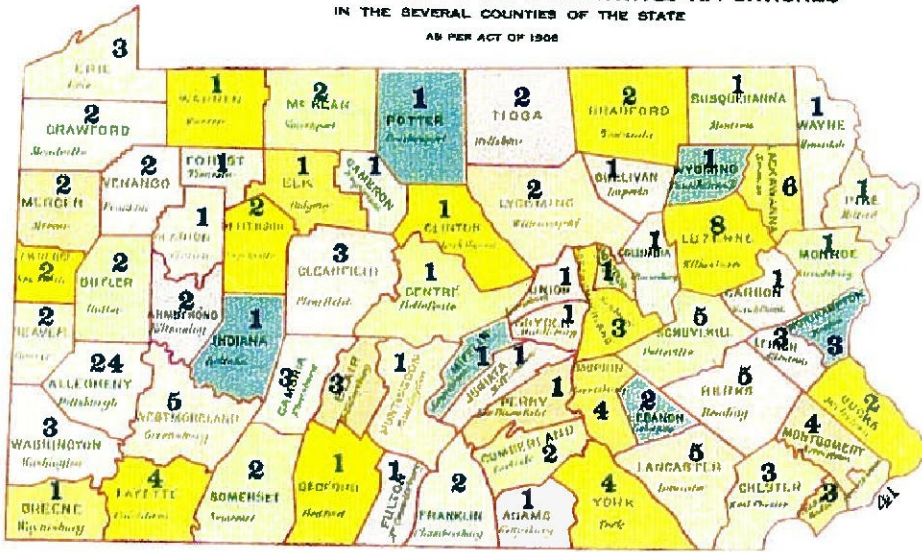
With respect to House Bill 81, House Bill 84, and House Bill 2047, I am concerned that little if anything will change, save with regard to congressional district design. I think in that instance, incorporating some form of supervisory mechanism, and providing for citizen participation in the process offers a considerable advantage over current congressional practices.

On the legislative side the situation is not one offering much hope for improvement. The addition of a requirement that the House chambers be put in a position of having a final say over their own district is an invitation to further mischief of the sort that has plagued redistricting in Pennsylvania, since *Baker v. Carr* brought periodic redistricting to the state.

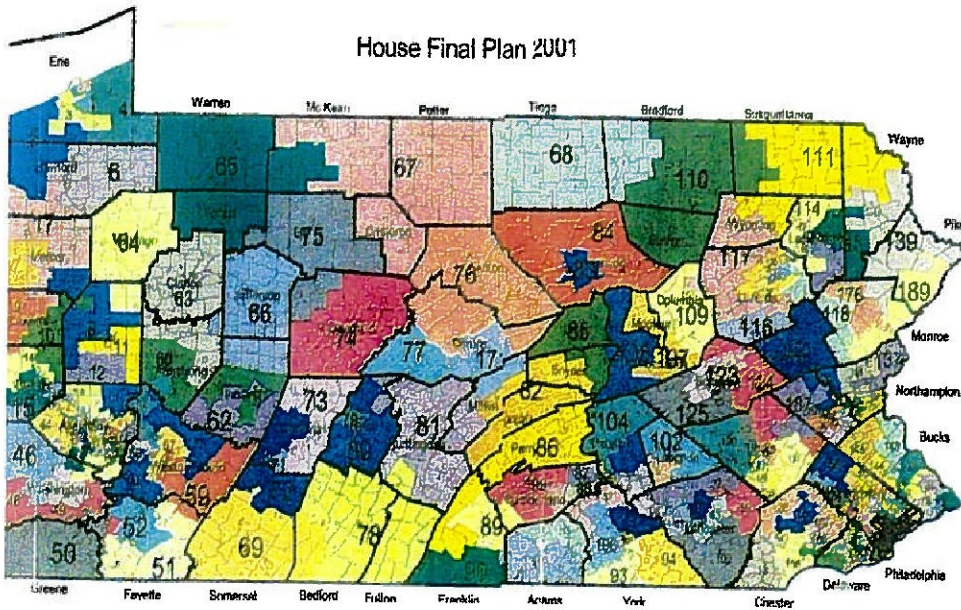
If you examine the apportionment comparisons for the House and the Senate over the last century, one can not help but be struck by the fact that the 1906 apportionment does a far better job of adhering to the legitimate redistricting criteria of compactness, respecting municipal boundaries, preserving the cores of prior districts, preserving media market integrity and preserving communities of interest.

# 1906 Representative District Map

MAP OF PENNSYLVANIA  
 SHOWING THE NUMBER OF REPRESENTATIVES APPORTIONED  
 IN THE SEVERAL COUNTIES OF THE STATE  
 AS PER ACT OF 1906



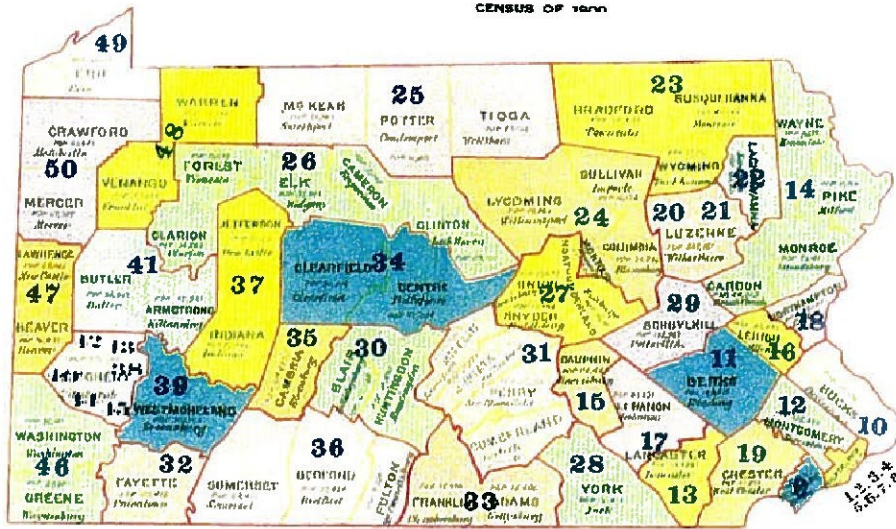
POPULATION 6,302,115



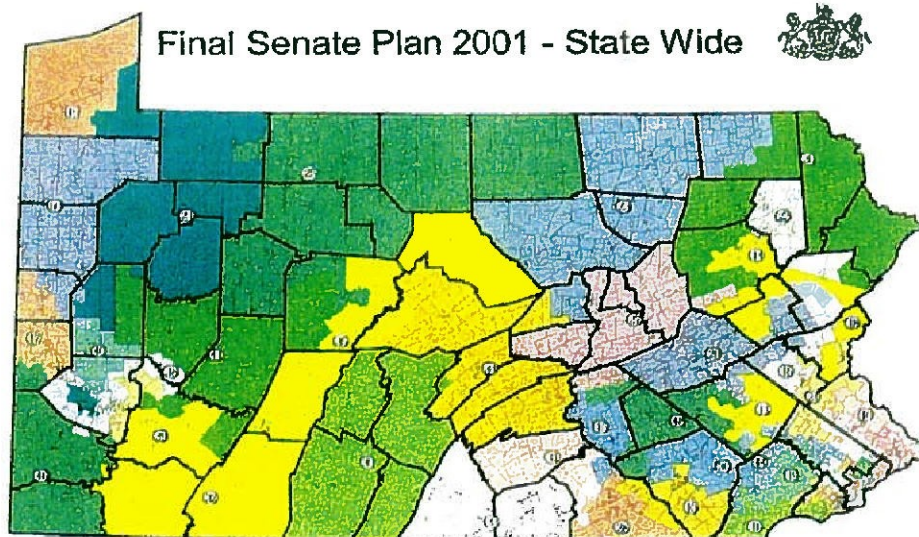
POPULATION 12,281,054

# 1906 Senatorial District Map

MAP OF PENNSYLVANIA  
SHOWING THE SENATORIAL DISTRICTS AS APPORTIONED  
BY ACT OF 1906, WITH POPULATION OF THE SEVERAL COUNTIES  
CENSUS OF 1906



POPULATION 6,302,115



POPULATION 12,281,054

I live in Northern Berks, and in the present House redistricting plan, Berks County is “split” four times, and of course it is not absolutely necessary to do so four times. In fact, it becomes ludicrous to maintain there is any need to do so, since two of the divisions are with Schuylkill County, and two are with Lehigh County. Although all three counties are contiguous, there is no “split” between Schuylkill and Lehigh counties. If there were, the house plan could have one split district instead of four. When I argued this point before the Supreme Court, I compared it to sawing a board twice and discovering it was still too short.

Since there is no proposal to delete the current legislative district definition of Article II, Section 16 from the Commonwealth’s constitution, and House Bill 81 and House Bill 84 reiterate some of the characteristics it requires, isn’t it reasonable to ask how mere repetition is going to change anything? Our constitution already calls for respecting political subdivisions:

Pennsylvania Constitution, Art. II, Section 16, defines Legislative Districts as being . . . “composed of compact and contiguous territory as nearly equal in population as practicable. . . . Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided in forming either a senatorial or representative district.” (*emphasis added*)

But look at what has occurred since *Baker v. Carr* required that the state amend its constitution to add reapportionment procedures.

**EXHIBIT FROM THE COMMONWEALTH’S REPRODUCED RECORD**  
**2001 REAPPORTIONMENT COMMISSION CASE**

	1966	1971	1981	1991	2001
Ideal Senate District	226,387	235,949	237,334	237,633	245,621
Ideal House District	56,597	58,113	58,456	58,531	60,498
Total Percentage Deviation - Senate	19.16	4.31	1.93	1.87	3.98
Total Percentage Deviation - House	30.04	5.46	2.81	4.94	5.54
Ratio of Lowest/Highest District - Senate	1:1.21	1:1.04	N/A	1:1.02	1:1.04
Ratio of Lowest/Highest District - House	1:1.34	1:1.06	N/A	1:1.051	1:1.055
County Splits - Senate (including Philadelphia)	13	27	26	26	29
County Splits - House (including Philadelphia)	21	46	48	49	49
Total Municipalities	N/A	2566	2569	2569	2569

Municipalities Split-Senate	0	3	2	3	
Municipalities Split-House	10	47	87	77	122

Despite seemingly static population growth over the past forty years, the splitting of counties by both House and Senate redistricting plans has doubled, and with Municipalities, the number of split House districts has mushroomed twelve-fold. All the foregoing plans faced a state Supreme Court challenge, and the court has rubber-stamped the commission's work.

In fact, that is another problem with requiring the General Assembly's approval of a final redistricting plan, namely that it begins to build a "presumption of constitutionality" normally attendant legislative acts, even though the reality is that no one has a greater conflict of interest in the plan - than the people passing it. Absent this requirement of legislative approval, aggrieved parties are free to argue that the plan is not a legislative enactment, and therefore is not entitled to the presumption that the Reapportionment Commission's Plan doesn't offend the constitution.

It is also worth keeping in mind, that with the last re-districting, the court held its nose in affirming the Reapportionment Commission's Plan. Writing for 3 of the 7 Justices, Justice Saylor said:

I join the majority opinion, as I believe that it is fully consistent with this Court's precedent governing the decennial undertaking of legislative redistricting. Nevertheless, I remain circumspect concerning the manner in which state constitutional requirements of compactness and integrity of political subdivisions have been applied by the Court in the prior decisions that are followed here, and I am receptive to the concern that the Court should not occupy an unduly passive role in the vindication of these essential precepts. I write, therefore, to express my own position that facets of the Commission's present plan for reapportioning the Pennsylvania Legislature test the outer limits of justifiable deference, at least in the absence of some specific explanation for why the constitutional prerequisites of compactness and respect for political subdivisions cannot be accommodated simultaneous with the maintenance of substantial equality of population and enforcement of voting interests of protected groups in the manner prescribed by federal law.

It is also worth remembering that, the court would have undergone tremendous change when 2010 plan comes before the court. The three Justices who joined in the concurring opinion above will still be on the bench, three of the yes votes will be gone.

Obviously, compactness is the opposite of gerrymandering and another reason Pennsylvania is home to so many whimsically shaped districts has been the Supreme Court's failure to adopt any rational standards for "compactness". Although if you went into any 8<sup>th</sup> grade geometry classroom in the state, the average student would tell you that a shape's compactness is defined by the ratio of its perimeter to how much area it contains. Once again, none of the three House Bills under discussion address this basic redistricting concept.

Another improvement to Pennsylvania redistricting would be to eliminate the irrational ratio (in a mathematical sense) of the number of House members to Senators. Although I feel, since the U.S. Supreme Court decision in *Baker v. Carr* that our legislature should return to its original unicameral form, if it is to have two chambers, the membership of the houses should be changed so that an even ratio exists between the bodies, much like Iowa and a number of other states have done. For example, if there are 50 senators, there must be an exact multiple of 50 General Assembly members (50, 100, 150, 200, 250 or 300 and so on).

Achieving an even membership ratio provides a powerful disincentive to gerrymander, particularly if Senate and Representative Districts are made coextensive. To illustrate, if membership of the General Assembly stayed close to current numbers, there would be 50 senate districts, with 4 representative districts fit exactly into each.

The adverse impact of gerrymandering on the public is obvious. The evolution of county based media markets causes news coverage of districts that straddle county lines to be spotty and incomplete. It is one of the principal vehicles by which our government's leaders evade accountability, and the fragmented "communities of interest" often leave major segments of their population in the dark.

As for the individual, the idea that you get to pick me, before I get to pick you, clearly stands democracy on its head, and discourages citizen participation in their government. That is extremely unfortunate when one stops to consider the cost Pennsylvania's General Assembly. At current spending levels; Pennsylvania's citizens stand to waste \$4 billion dollars should the next redistricting plan also fail to deliver representative government. Clearly, time is of the essence in this matter, in so far as changes to the reapportionment provisions of our constitution must be presented to the voters no later than the 2008 general election, a bill would probably have to be passed by early June.

The decennial census of 2010 is right around the corner, if you fail to act with alacrity, real redistricting reform will become another perennial topic of Harrisburg, just like tax reform. What needs to be done to reform Pennsylvania's government isn't a mystery, or controversial, all it takes is action.

Thank you, I greatly appreciate the time and attentive interest you have shown me this morning, and I would be interested in any questions you might have.

Respectfully,

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