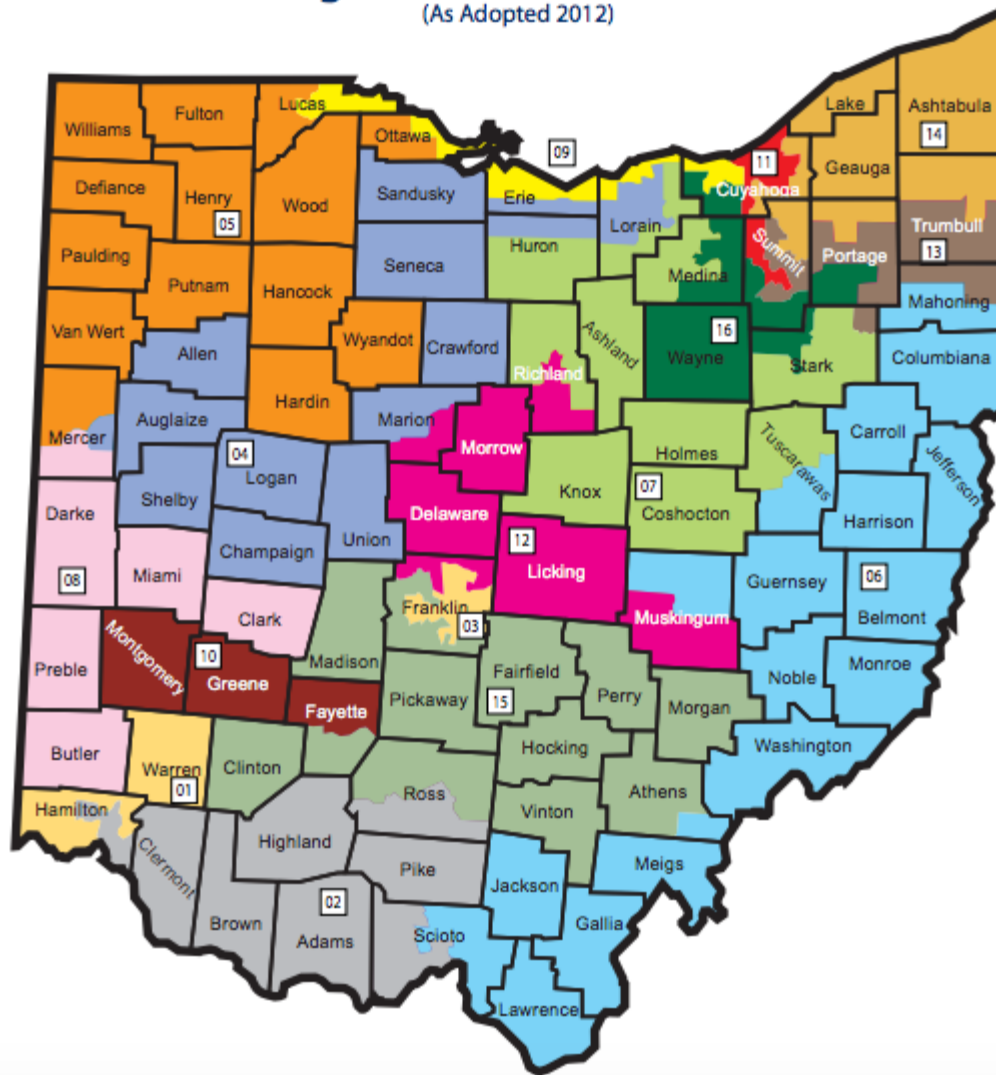


Ohio Congressional Districts 2012-2022

(As Adopted 2012)



Key Precedents

- ***Davis v. Bandemer*** (1986): partisan gerrymandering cases are **justiciable**; Test: “**consistent** degradation of a voter’s or a group of voters’ influence on the political process as a whole.”
- ***Vieth v. Jubelirer*** (2004)
Plurality of the Court holds partisan gerrymandering cases are **not justiciable**; no judicially manageable standards for review; cf. Justice **Kennedy** (**First Amendment theory possible – viewpoint discrimination**)

Wilson v. Kasich (2012)

- Plaintiffs must overcome presumption of constitutionality
- Beyond a reasonable doubt standard of proof
- Apportionment board may exercise political discretion in drawing maps
- Equal population
- Comply with federal and state law
- Contiguous territory
- No county split more than once (“where feasible”)
- Minimize splits of municipalities

Current Trends

Whitford v. Gill (2016)

- Efficiency gap analysis
- Development of viewpoint discrimination and equal protection theories
- The natural packing problem
- The persistence problem
- Sharp dissent

LMV v. Detzner (2015)

- Florida state constitution amendment
- Focus on intent
- Transparency vs. behind-the-scenes political tactics
- Shifting the burden of proof
- Individual districts vs. statewide challenge

Issues

- Zero wins, fifty losses
- How much political effect is too much?
- Persistence of improper effect through the entire decade?
- Methodological critique: hypothetical election models; simplifying assumptions



Issues Cont'd

- Viewpoint discrimination vs. absence of an immutable characteristic
- “Political parties do not have a right to proportional representation.”
- Late in decennial cycle





THEN

NOW