A redrawing of the nation’s political maps is still three years away, but 2018 might someday be remembered as a year that changed how redistricting itself is done. If so, some states in the Midwest will be a big part of that story.

In Ohio and Michigan, voters may have the chance in the coming months to decide the fate of their states’ respective redistricting processes. The U.S. Supreme Court, meanwhile, has taken on a case that centers on the current Wisconsin Assembly map and that raises questions about the constitutionality, and future, of partisan gerrymandering around the country.

Legislatures themselves, too, continue to consider making changes of their own.

In Indiana, even before the start of the state’s new legislative session, SB 159 had been filed by two members of the majority Republican Party. It would create an independent, nine-member commission to draw state legislative and U.S. congressional districts; require that public hearings be held in every congressional district; establish a set of “redistricting standards”; and have the legislature vote on the commission’s maps, without amendment, in special session.

The early filing of this bill continued a trend from 2017, when redistricting bills or constitutional amendments were introduced in most of this region’s state capitols. Among the ideas:

- creating separate redistricting commissions (appointed by legislative leaders in some proposals, completely independent of the legislature in other plans);
- moving some or all of the redistricting responsibilities from the legislature to another state entity (the bipartisan State Board of Elections in Illinois, for example, or the nonpartisan Legislative Reference Bureau in Wisconsin); or
- keeping redistricting in the hands of the legislature, but creating clearer rules for how the maps must be drawn (the intent of 2017 legislation in Minnesota).

“Ever since 2016, there really seems to be an unprecedented energy around redistricting reform,” says Michael Li, senior counsel for the Brennan Center for Justice’s Democracy Program. According to Li, that momentum is coming from people, on both sides of the aisle, “who feel like the system is broken” and that redistricting is “one area where they can make democracy work better.”

Indeed, citizen-driven ballot initiatives have led to change in some states. But Li adds that two factors could make legislators more likely to enact measures of their own: one, constituents’ growing discontent about the process; and two, uncertainty in many states over which party will control the legislature and governor’s office in 2021.

In Ohio, a mix of bipartisan work inside the state Capitol and pressure from outside groups already has led to modifications in how the state’s legislative lines are drawn. A reform of congressional redistricting could be next in the Buckeye State.

**Two separate processes in Ohio**

When Ohio’s political maps last were redrawn, the General Assembly drew the congressional lines while a five-member Apportionment Board produced the state’s legislative districts. At the time, that board was made up of three
statewide elected officials (the governor, secretary of state and state auditor) and two state legislators.

Come 2021, membership on this redistricting panel will be expanded to seven (now with four legislative representatives, two of whom will be Republicans and two Democrats); new rules are in place, too, to encourage this board to reach a bipartisan agreement on a final map for the General Assembly.

“Either you have total bipartisan support, or if the majority party decides to move on, it’s going to have a lot more constraints on what it can do,” Ohio Sen. Vernon Sykes says.

This change is the result of Ohioans’ overwhelming approval in 2015 (71.5 percent to 28.5 percent) of Issue 1, a constitutional amendment referred to voters by the General Assembly. Sykes served as a co-sponsor of the proposed amendment and helped lead the campaign to get it passed.

For a General Assembly map to be in place for the full 10 years until the next census, it must be approved by at least two minority-party members on the Ohio Apportionment Board. Without such bipartisan backing, a new map will be drawn after only four years.

Language also was included in the constitutional amendment to ensure “representational fairness,” Sykes notes — for example, no district can be drawn “primarily to favor or disfavor a political party,” and the proportion of all legislative districts favoring one party over another “shall correspond closely to the statewide preferences of the voters of Ohio.”

This year, the question is whether Ohio will change its redistricting process for U.S. congressional districts as well. Under a plan introduced in January, the General Assembly would continue to have the responsibility of drawing congressional lines and approving them. However, any new map would require a three-fifths vote in the House and Senate as well as the support of at least one-third of minority-party members in each chamber.

Minus such approval, the process of drawing and approving U.S. congressional maps would be turned over to the Apportionment Board. A map receiving bipartisan support by members of the board would be in place for 10 years. A map lacking such support would be replaced after four years, unless the General Assembly voted (with a simple majority that included one-fifth support from minority-party members) to retain the newly drawn congressional lines for the full 10 years.

According to The (Cleveland) Plain Dealer, this plan was introduced by Republican members of a bipartisan redistricting working group but opposed by Democratic members, including Sykes.

It’s possible that proposed changes to redistricting in Ohio proceed this year in a way similar to 2015: the General Assembly approves a constitutional amendment and passes it on to voters for their approval. But there also is a chance that groups outside the legislature get a redistricting plan on the November ballot. The Fair Districts = Fair Elections Coalition has been gathering signatures and, if not satisfied with the legislature’s redistricting reforms, likely will move forward with a ballot initiative of its own.

Under the coalition’s proposal, the Ohio Apportionment Board would draw both state and federal lines. In addition, many of the same rules in the 2015 constitutional amendment — which encourages a bipartisan drawing of the General Assembly districts — would apply to how Ohio’s congressional lines are produced.

Citizen-led ballot initiatives have been an important catalyst for redistricting changes, Li says, and along with Ohio, Michigan is another state where voters are likely to weigh in this year. The proposal in Michigan would create an independent, citizens redistricting commission — similar to the model adopted in California.

Getting a “yes” vote on these proposals, though, is far from a sure bet. In 2016, South Dakota voters rejected a proposal to create a bipartisan, independent redistricting commission. And in Ohio, prior to the successful ballot initiative three years ago, voters had rejected previous redistricting changes.

“The main reason it passed in 2015 was that we didn’t include congressional districts,” Sykes says, “so we didn’t have any organized opposition against it.”
Keeping the process in legislators’ hands

Many of the redistricting reform proposals around the nation have centered on the idea that legislatures should neither draw the maps nor approve them. Put this responsibility in the hands of a bipartisan citizens commission, the argument goes, so that the political lines aren’t manipulated to help incumbents or a particular party.

Minnesota Rep. Sarah Anderson rejects this idea.

“There is no such thing as a nonpartisan commission,” she says, pointing to California’s recent reforms and the investigative reporting done by ProPublica on the process — namely, the behind-the-scenes maneuvering done by the Democratic Party to influence the work of that state’s Citizens Redistricting Commission. Under a bill introduced last year by Anderson (HF 314/SF 86), the Minnesota Legislature would be barred from delegating its redistricting duties to “any commission, council, panel or other entity.”

“You don’t like the map, you can vote out the [legislators] who made it or who approved it,” she says. “Voters can’t do that if the map is drawn and approved by an unelected commission.”

In advance of the next round of redistricting in Minnesota, though, Anderson would like a prioritized list of “redistricting principles” in statute to guide the Legislature — for example, keeping districts compact, not diluting the voting strength of racial and ethnic minorities, preserving “communities of interest,” and preventing the drawing of districts to favor or defeat an incumbent.

“It would allow for a more stable, more reasonable approach,” says Anderson, who served as chair of the House Redistricting Commission the last time the lines were drawn.

Somewhere between keeping the redistricting process with legislatures and handing the task over to independent commissions is what Li calls a “hybrid model.” The state of Iowa has long served as an example of this approach. There, the nonpartisan Legislative Services Agency draws the state’s legislative and congressional districts. The LSA must disregard incumbents’ addresses, the political affiliations of voters, previous election results and certain other demographic information.

The Legislature still must ultimately approve the LSA’s plan, with up-or-down votes and no modifications. If Iowa lawmakers reject two plans, they may amend a third LSA map as they would any other bill. But since this process began being used, the Legislature has always approved one of the agency’s plans.

“The hybrid model may be something that gets to the concern about what happens if unelected people mess up,” Li says. “For example, they split up a community that really should be kept together.”

All eyes on Wisconsin court case

Minnesota’s list of redistricting principles does not mention parties, and Anderson says it would be difficult to address partisan gerrymandering in a state with such an independent streak — communities favoring one party in one election and another party in the next one (and the state as a whole even voting in an independent like Jesse Ventura as governor).

In contrast, “representational fairness” is one of the goals of Ohio’s recent redistricting changes. Depending on how the U.S. Supreme Court rules this year in Gill v. Whitford — a challenge to the Assembly map drawn by state legislators in Wisconsin — states may get new limits on drawing maps that favor one party over the other.

“It’s a huge case, probably the biggest democracy case in a long time,” Li says. “Up until now, the Supreme Court has not put partisan gerrymandering out of bounds in the way it has racial gerrymandering.”

Wisconsin has argued that its map favors Republicans because of high concentrations of Democrats in certain areas. But even if the lines were gerrymandered to favor a political party, it’s unclear whether the Supreme Court will say such a plan is unconstitutional.

Li warns, though, that without state-based reforms or court interventions, map makers will have even more tools at their disposal to manipulate how lines are drawn.

“A lot of that is due to the increasing robustness of the data that is coming available,” he says. “It’s the same sort of thing that marketers and political campaigns have used for several years now, and you’re able to apply that in the redistricting context.”