



## OHIO REDISTRICTING COMMISSION

### Minority Report

Senator Vernon Sykes, Co-Chair

House Minority Leader C. Allison Russo, Commissioner

The maps approved by the Majority Commissioners yet again fail to meet the Ohio Constitution and fail to meet the directive of the Ohio Supreme Court.

We have had several opportunities to work together as a Commission to draw maps and each time, the Majority Commissioners have squandered the chance to do so. We would ask the Commission, have we learned nothing after two Court orders? We have been directed to work together and put aside partisan interests in order to draw maps that meet the Constitution of the State of Ohio – something we are duty and oath bound to uphold. Instead of working together, this map was drawn entirely by Republican legislators on the Commission without our involvement and without allowing feedback or changes. The court has told us that this is problematic and a sign of partisan intent. “We observed that “[w]hen a single party exclusively controls the redistricting process, ‘it should not be difficult to prove that the likely political consequences of the reapportionment were intended.’” *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-342, P 31 (2022). We should not repeat the same mistake again.

While the majority Commissioners may claim that these maps meet the requirements of Article XI, Section 6, in reality they fall short of that metric. Unequivocally, the Ohio Supreme Court has directed us to draw maps that closely match statewide voter preferences. As the Court

stated, "about 54 percent of Ohio voters preferred Republican candidates and about 46 percent of Ohio voters preferred Democratic candidates. Accordingly, under Section 6(B), the Commission *is required to attempt to draw a plan in which the statewide proportion of Republican-leaning districts to Democratic-leaning districts closely corresponds to those percentages.*" (emphasis added). *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65, P 108 (2022). The Court instructed us clearly on partisan asymmetry, it is not a new issue: "To be clear, we do not read Article XI, Section 6(B) as prohibiting the creation of competitive districts. But competitive districts...must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share." *Id.* at P 62. Instead, the majority Commissioners have crafted a plan that does not meet Section 6 requirements and strays even further from partisan symmetry than the most recently invalidated plan. The Court has ruled:

"While the Constitution does not require exact parity in terms of the vote share of each district, *the commission's adoption of a plan in which the quality of partisan favoritism is monolithically disparate is further evidence of a Section 6(A) violation.* In other words, in a plan in which every toss-up district is a "Democratic district," the commission has not applied the term "favor" as used in Section 6(B) equally to the two parties. The commission's adoption of a plan that absurdly labels what are by any definition "competitive" or "toss-up" districts as "Democratic-leaning"—at least when the plan contains no proportional share of similar "Republican-leaning" districts—is demonstrative of an intent to favor the Republican Party."

*League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinon No. 2022-Ohio-342, P 40 (2022).

In fact, the most recent invalidated, unconstitutional map had 14 Democratic-leaning House seats in the 50-52% Democratic index range; today's plan has 19, increasing the asymmetry by 5 districts. There are zero Republican-leaning House seats that are in the 50-52% range. The most recent invalidated, unconstitutional map had 5 Democratic-leaning Senate seats in that range, and today's plan increases that asymmetry with 7 districts in that range. There are zero Republican-leaning Senate seats that are in the 50-52% range. It is not hard to see that these maps do not meet the Court's direction on partisan symmetry and are yet again in violation of Article XI, Section 6. Even with a contempt hearing on the horizon, the majority Commissioners continue to show their contempt for the Court, the Constitution, and the rule of law.

With time and collaboration, we could amend these maps to make them compliant with the law and the Court's orders. We know it's possible because we put forward constitutional maps for this body to consider. We developed these maps in a process where we continually invited feedback from other members of the Commission. Unfortunately, the majority members of the Commission voted them down and would not work with us.

The public has been completely shut out of any meaningful opportunity to analyze these maps, let alone provide testimony. This was not the process contemplated by Ohio voters in passing this constitutional reform. Instead of proportional and fair districts, Ohioans are once again left with maps that fail to meet the Constitution. It is disappointing that instead of simply working together, the majority Commissioners are flagrantly ignoring Ohio voters and the Supreme Court of Ohio in an attempt to tighten their unyielding grasp on their supermajority-fueled power.