



OHIO REDISTRICTING COMMISSION

Minority Report

Senator Vernon Sykes, Co-Chair

House Minority Leader-Elect Allison Russo, Commissioner

“Attempt” is not a meaningless word and the proportionality requirement is not “superficial.” The Ohio Supreme Court told us as much. This Commission has a clear order from the Ohio Supreme Court that we must adopt state legislative districts that reflect the preferences of Ohio voters. However, the map presented and adopted by the Commission today falls far short of that mark and therefore cannot earn our support.

Unequivocally, the Ohio Supreme Court has directed us to draw a map that closely matches 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). This translates to 45 House Democratic seats and 54 House Republican seats, and 15 Senate Democratic seats and 18 Senate Republican seats. Despite this clear order, the Commission has failed to meet those requirements. The result is another gerrymandered map by the majority Commissioners that does not meet the requirements of Article XI, Section 6 of the Ohio Constitution.

While the majority may claim it is impossible to draw a proportional map that is compliant with line-drawing requirements, that is simply not the case. In fact, the minority party Commissioners presented various options, including regional county maps and a statewide map, that demonstrate how to draw districts that meet the constitution's proportionality and line-drawing requirements. The minority presented a statewide plan to the Commission that meets all requirements of the Constitution including Article XI, Section 6. The minority Commissioners' staff also testified to the ability to create many variations of compliant maps that would achieve 45 Democratic House seats and 15 Democratic Senate districts if only the majority Commissioners would collaborate and give appropriate guidance. This guidance was withheld. The public has also submitted maps for the Commission's consideration. All of those options have been rebuffed by the majority who also characterized minor issues as unfixable, rejecting offers to work together on a Commission-drawn map. The Court in its order directed that "[i]f it is possible for a district plan to comply with Section 6 and Sections 2, 3, 4, 5, and 7, the commission *must adopt a plan that does so.*" Id. at P 88 (emphasis added). As we have seen through this process, it is possible, and the Commission has other plans before it that meet Article XI. It is possible to meet the Court's order; it just appears that the majority of Commissioners do not want to. In fact, the Court in its decision stated that attempt was not an empty act: "The phrase "shall attempt" in Article XI, Section 6 also has a plain meaning: it directs the commission to take affirmative steps to comply with the standards stated in divisions (A) through (C)." Id. P 86. The majority Commissioners have not made an attempt to comply with Article XI, Section 6 and majority map drawers were unable to identify any affirmative steps that they made to draw a more proportional map nor any obstacles preventing them from doing so.

Instead, the majority Commissioners have crafted a plan that does not meet Section 6 requirements and fails to reflect partisan symmetry. The plan adopted today does not have the requisite amount of Democratic-leaning districts the Court directed this Commission to achieve. Further, many of the Democratic-leaning districts it does include are Democratic by razor-thin margins demonstrating a clear intention to favor and disfavor political parties in violation of Article XI, Section 6. Conversely, the Republican-leaning districts in the plan adopted today are overall more safely Republican. Given that there are alternative plans that do not skew districts as the adopted plan does, these appear to be discretionary choices to give further unwarranted advantage to the majority.

From the process to its adoption today, the majority's plan is a clear failure by the Commission to follow the order of the Ohio Supreme Court and the will of Ohio's voters. For instance, no hearing of the Commission since the Court's ruling has allowed for in-person or virtual public testimony to members of the general public. While the Commission has a public comment page on its website, testimony was needlessly limited. The Commission failed to allow public input on a proposed plan – a critical piece of the 2015 constitutional reforms that guaranteed that the public would be able to participate in the map-drawing process, as well as a part of the Commission's own procedural rules. Majority members of the Commission also delayed the release of funding for Commission members to hire a consultant until four days had already passed in the Commission's timeline to adopt a new plan. Staff negotiations were similarly significantly delayed because Majority staff of the Commission members would not commit to meeting the Court's order pertaining to the proportionality required by Article XI, Section 6.

Republican Commissioners did not instruct their staff to comply with the proportionality requirement in the Constitution and the Court order. Instead, districting decisions were declared

unconstitutional without explanation seemingly in order to avoid having to comply with the proportionality requirement in the Constitution. Majority staff said that they needed guidance from the Commission on what they called “subjective” areas of Article XI suggesting that they had not been given such guidance. Staff repeatedly declined to commit to working toward the 54%-46% proportionality requirement as dictated by the Court.

It is shameful that we are here again, adopting yet another unconstitutional map in direct contradiction to the Ohio Supreme Court. Ultimately, this is not an issue of geography or technical inability to draw fair maps; it is a lack of political courage and a blatant disregard for the Court’s order and the will of Ohio voters.