

Voting Rights Act compliance

Article XI, Section 3, (B)(2) states, “Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions Ohio and the United States and of federal law.”

Article XI, Section 6, (A) states, “No general assembly district plan shall be drawn primarily to favor or disfavor a political party.”

Gerrymandering entails splitting communities of interest and the dilution of votes across their natural geographical concentration gradients for the purpose of unduly favoring or disfavoring a particular political party, i.e. “cracking and packing.” Racial gerrymandering entails splitting minority communities, represented in Figure 1 (below) by the decrease in majority-minority (>50% minority) districts and proportional increase in minority opportunity (>37% minority) districts.

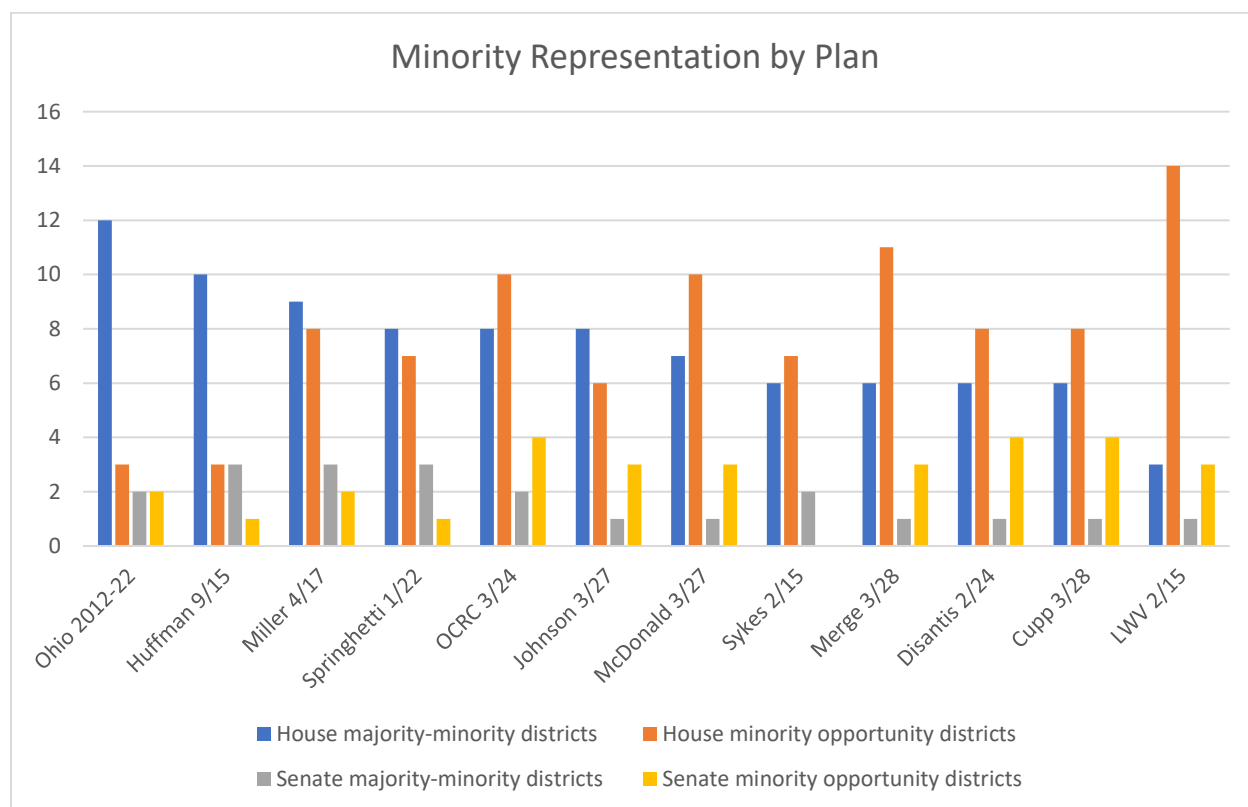


Figure 1 – As gerrymandering increases, minority representation decreases

As this is intentional manipulation to artificially favor the Democratic Party, such as has been ordered by the Supreme Court of Ohio for this express purpose, by which it has effectively legislated beyond its constitutional authority, this is a clear violation of Section 2 of the Voting Rights Act of 1965, and therefore of the Fifteenth Amendment, and of Section 3, (B)(2), as well as of Section 6, (A) of the Ohio Constitution. Furthermore, due to the concentration of Democrat voters in Ohio’s larger municipalities, and to the clear preference of Democratic Party candidates among minority voters, it is impossible to attain the court’s desired ratio of partisan lean among the districts without racial gerrymandering. This necessarily means that the court’s interpretation of Section 6, (B) is contrary to federal law.

Section 6 compliance

Article XI, Section 6, (C) states, “General assembly districts shall be compact.”

The compactness of a redistricting plan’s districts is commonly measured by the Reock and Polsby-Popper tests which measure how dispersed the district shapes are, and how indented the district shapes are, respectively. The commonly used Dave’s Redistricting App combines these two metrics to produce a compactness rating score ranging from 0 to 99. The app notes that, “To the extent that a state’s political geography has a significant urban-rural political divide, maps with more compact districts tend to be less proportional, and maps that are more proportional tend to have less compact districts.”

It is the prerogative of the Ohio Redistricting Commission to determine what the statewide preferences of the voters of Ohio is, per Section 8, (C)(2). The commission has noted in its (C)(2) statement that it is not willing to sacrifice one provision of Section 6 for the court’s interpretation of the meaning of another.

Plans which clearly favor proportionality over compactness in order to violate Section 6 (A), such as has been ordered by the court based on a misreading of 6 (B), are also in violation of 6 (C), being far less compact. (See Figure 2, below.) Furthermore, whereas the provision of 6 (C) is clear, and a target ratio of proportionality is not a provision of Article XI except by an uninformed judicial interpretation which renders it meaningless, any such map is constitutionally invalid on all three accounts.

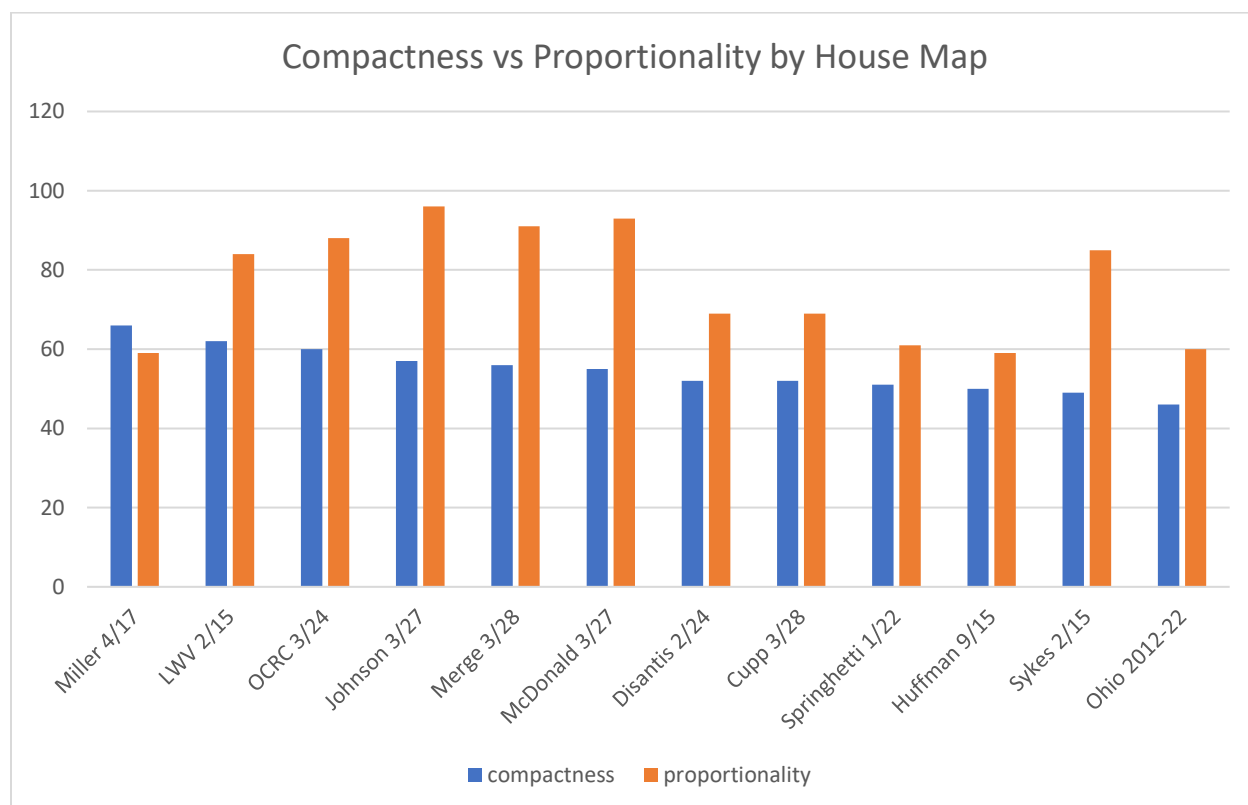


Figure 2 – Only the Miller plan is constitutionally valid, as it meets the requirements of Section 6, while the others do not

Section 3 compliance

Article XI, Section 3, (D)(1)(a) states, “Except as otherwise provided in divisions (D)(1)(b) and (c) of this section, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district.”

Article XI, Section 3, (D)(3) states, “Where the requirements of divisions (B), (C), and (D) of this section cannot feasibly be attained by forming a representative district from whole municipal corporations and townships, not more than one municipal corporation or township may be split per representative district.”

Whereas (D)(1)(b) only excepts municipal corporations or townships on opposite sides of a county boundary, and (D)(1)(c) only excepts divisions which are necessary for complying with (E)(1)(a) or (b), and (E)(1)(a) and (b) only allow the excepted actions to be taken “If it is not possible for the commission to comply with all of the requirements of divisions (B), (C), and (D) of this section in drawing a particular representative district,” if it can be shown that compliance is possible, then a district which contains multiple divisions of municipal corporations or townships as defined under (D)(1)(b) constitutes an invalid district, and a plan which exercises license to draw districts in violation of this provision constitutes an invalid plan. Furthermore, as (E)(1) allows not more than two divisions of municipal corporations or townships under 50% of one ratio of representation per district, any district with more than two such divisions is an invalid district, and any plan which does this is an invalid plan.

Every plan other than the Miller plan fails to meet the requirements of (D)(3), because they all aim to meet the gerrymandering requirements of the court which necessitate unnecessary divisions of political units. (See Figures 4, 5 and 6.)

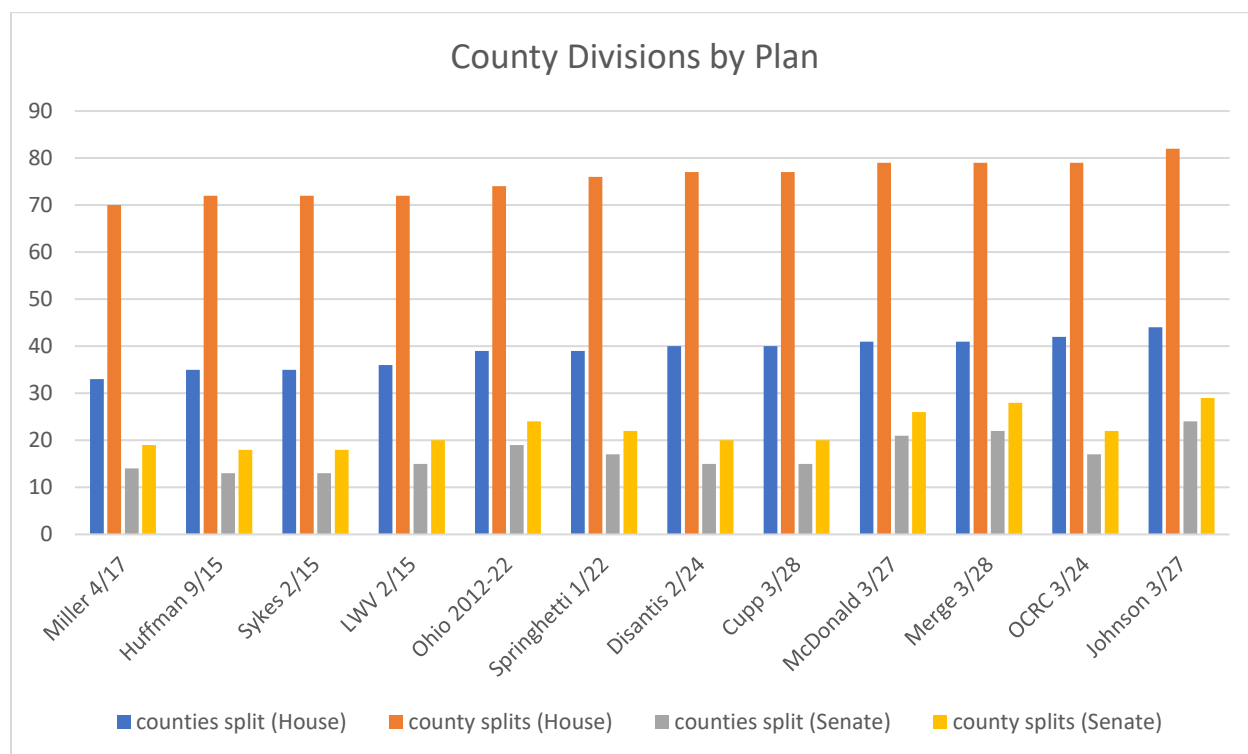


Figure 3 – The amount of political unit divisions increases with gerrymandering

While the substantially equal population requirement of Section 3, (B)(1) may necessitate a number of municipal corporation and township divisions up to $(n - 1)$, where n is the number of districts, the flexibility of drawing a district to within a range of 95% to 105% of the ratio of representation makes the division of precincts, except where portions of precincts comprising portions of municipalities or townships wholly within the bounds of other municipalities must be divided in order to keep the latter intact, almost entirely unnecessary. Furthermore, the unnecessary splitting of precincts is the main contributor to the “you know it when you see it” type of gerrymander associated with sprawling districts, and has a direct and negative impact on the compactness of the districts and of the overall map. Therefore, the number of precinct divisions should be kept to a minimum, and should never exceed the number of districts.

With the exception of the Miller ($n = 52$) and League of Women Voters ($n = 96$) plans, no plan has a number of precinct divisions below $(n - 1)$ in either the House or the Senate map. (See Figure 4, below.) As such divisions only happen purposely, this is clear evidence of the intent to gerrymander.

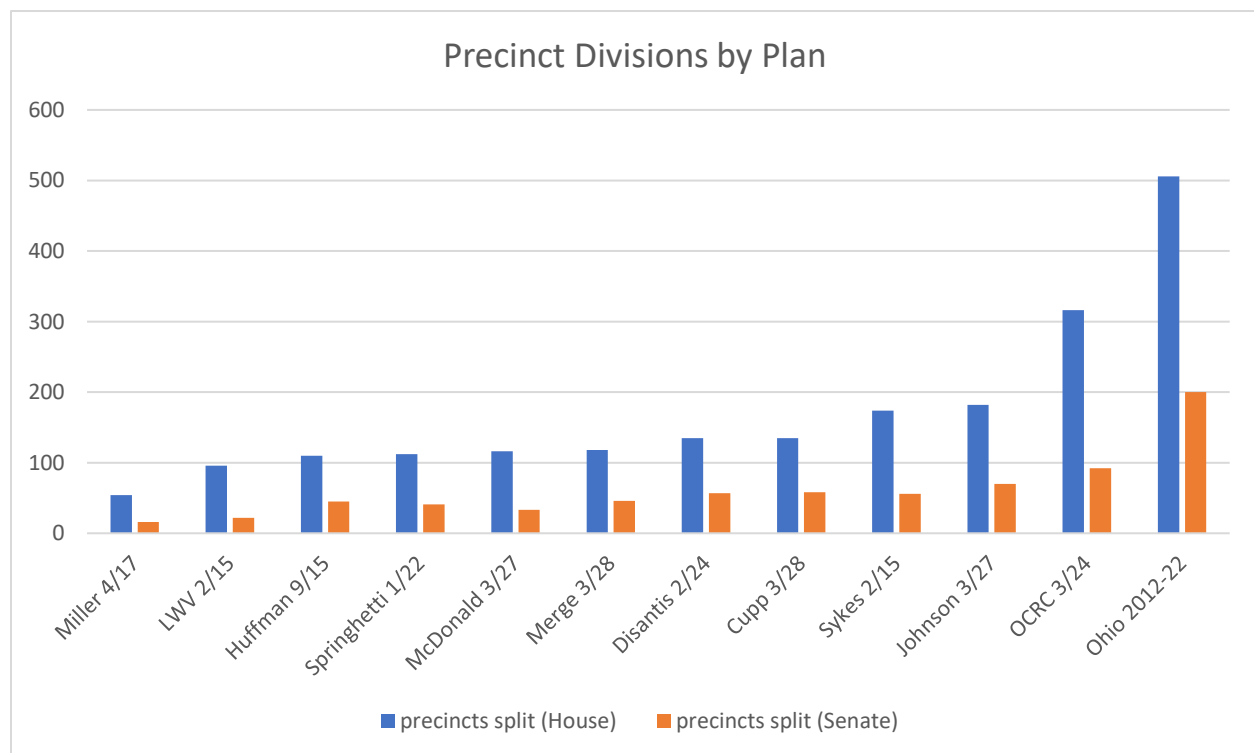


Figure 4 – Excessive splitting of precincts is evidence of the intent to gerrymander

While the requirements for drawing House districts necessitate a total of 19 divisions of municipal corporations exceeding one ratio of representation, and the minimum number of violations of (D)(3) required to meet all other provisions is 8, so that at least 27 divisions are necessary for compliance, the prohibition of unnecessary divisions beyond this number evidences the intent of the constitutional reform to curtail gerrymandering, and such divisions are evidence of the intent to gerrymander.

Of the plans posted to the Ohio Redistricting Commission’s online portal, only the Miller plan does not divide political units unnecessarily. (See Figure 5, below.)

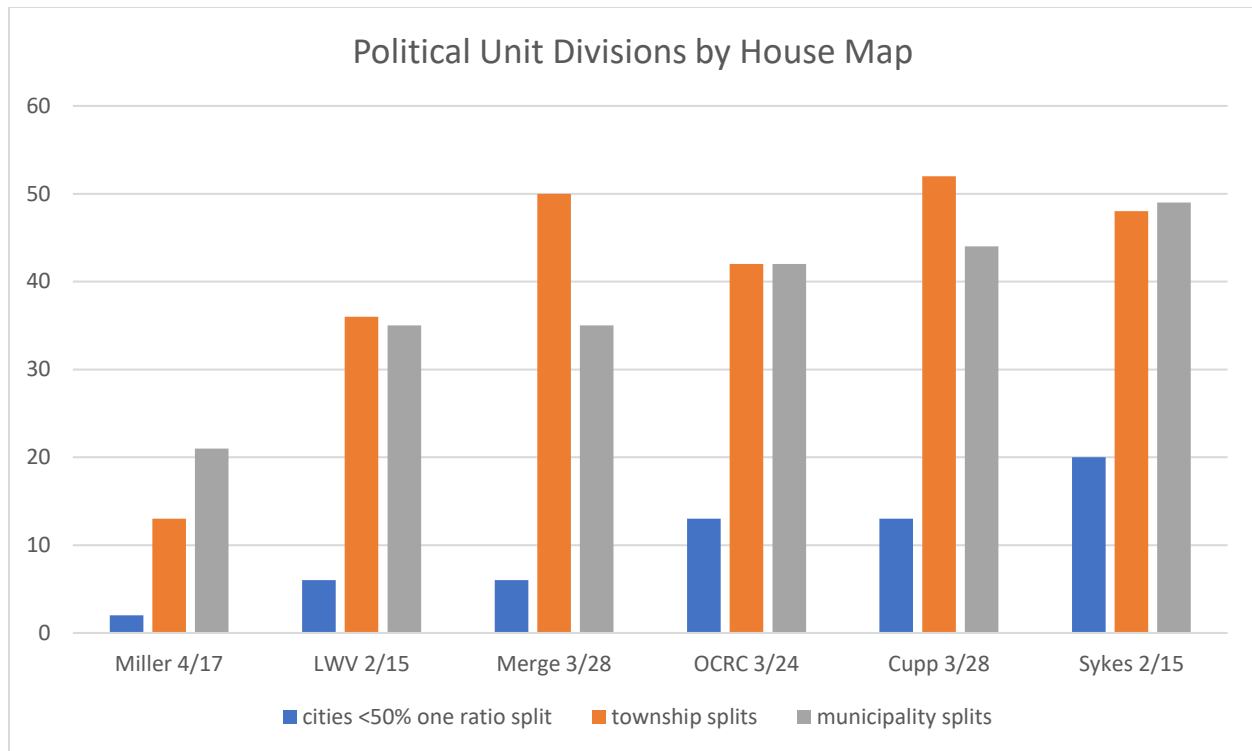


Figure 5 – The Miller plan is the only one which complies with Article XI, Section 3, (D) and (E)

Following the process laid down by Article XI, Section 3 does not allow creation of districts which contain portions of more than two split municipal corporations or townships, or of counties which contain such districts. As constitutionally valid districts can be drawn for all but 1 of the 99 House districts, and for all 33 Senate districts, and compliance with the process detailed in division (E) of this section is a requirement for the commission to not be considered in violation of (C) or (D) for the purpose of analysis under Section 9, yet no other plan satisfies these requirements, only the Miller plan among those posted to the Ohio Redistricting Commission’s online portal is constitutionally valid. (See Figure 6, below.) Moreover, a thorough analysis of these other plans suggests that no attempt was made to follow the process laid down by Section 3 in any of them, and that the Supreme Court of Ohio’s prior rulings have not taken into account the clear text of the constitution which disallows some of the most common mapdrawing practices.

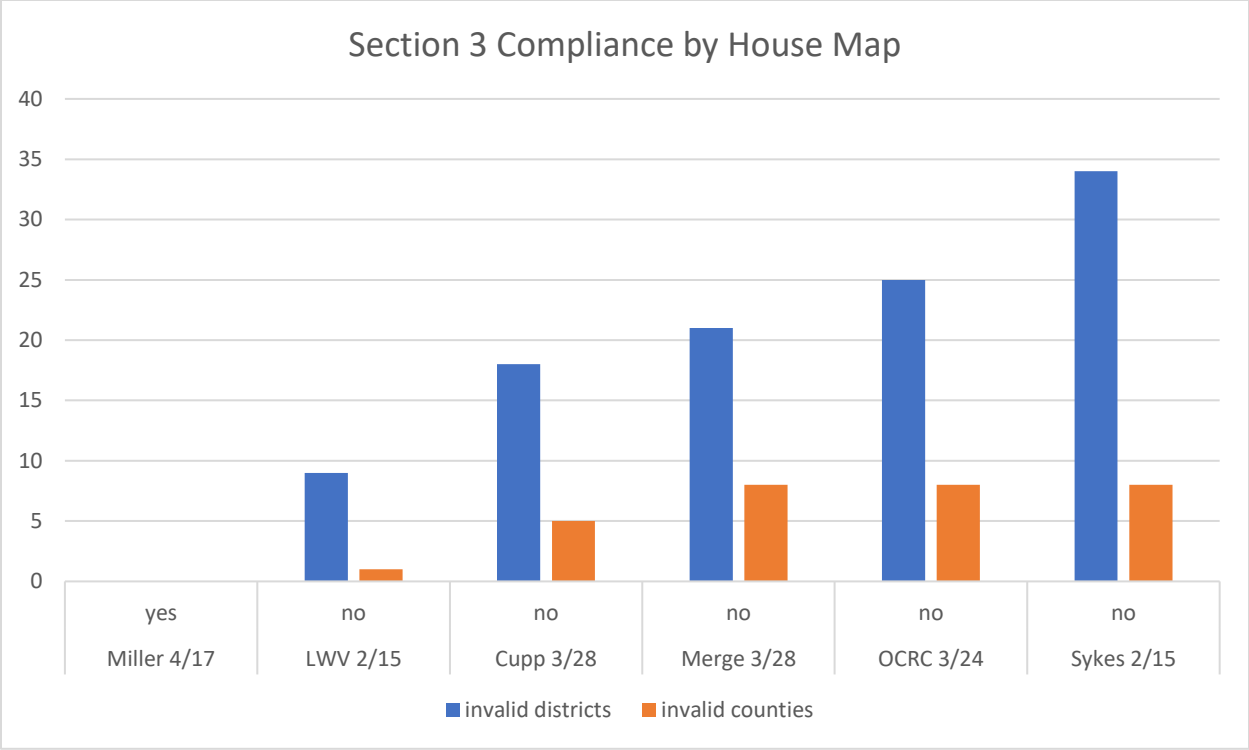


Figure 6 – The Miller plan is the only one which adheres to Article XI, and which therefore needs no remediation