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Ohio Redistricting Commission

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Opposition to Redistricting Map

Redistricting Map Unconstitutional

- It seems to me that the map introduced by the Ohio redistricting commission is invalid because it does not meet at least two of the standards imposed by the Ohio constitution.
- Those standards require that the commission “shall attempt” to draw district lines such that:
 - District lines are not drawn primarily to favor or disfavor a political party.
 - The statewide proportion of districts whose voters favor each political party shall correspond closely to the statewide preferences of Ohio voters, based on statewide state and federal partisan general election results during the last ten years. [Article XI.06]
- Publicly available information [Dave’s Redistricting app] regarding the commission’s map shows that the proportion of districts with Republican leaning districts far, far exceeds the proportion that would correspond closely with statewide voter preferences, thus violating each of the two standards. ¹

Defense - Standards Not Required - Merely a Goal

Now I want to talk about an argument that’s been made to defend the commission map.

- According to newspaper reports, some have argued that this “shall attempt” language means that these standards are merely commission “goals”, and are not hard map requirements as are other constitutional requirements.

- And they have argued that the commission isn't forbidden from drawing heavily Republican maps if they comply with other rules limiting how cities and counties can be split. [Plain Dealer, September 10, 2021, pp A1, A5.] That somehow excuses the duty to attempt compliance with these two standards.
- That is NOT how this "shall attempt" language is likely to be finally interpreted.

"Shall Attempt" Avoids Conflicts

- First, the "shall attempt" language was not included to permit the commission to avoid compliance with the standards by claiming it had made some attempt, however, feeble to comply and had failed.
- It was included because the constitution provides that compliance with these standards must not violate other constitutional district requirements, such as those pertaining to population, contiguous territory, nonintersecting lines, the division of counties into districts and splitting municipal corporations. [Section 2, 3, 4, 5, or 7 of Article XI.] [Article XI.06].
- The constitution therefore requires only that the commission "shall attempt" to draw such district lines, instead of requiring that they draw them, because that language allows for failure to such draw district lines if doing so would violate the other constitutional district line requirements.

Good Faith Required – Would Result in Compliance with Standards

- Second, the "shall attempt" language implies good faith and fair dealing by the commission for the sake of preserving a sense of honesty and fairness.
 - That implication is included in all commercial contracts, and the Ohio constitution deserves no less.
 - The actions of the commissioners in carrying out their constitutional duties demand a standard no less than good faith. After all, the alternative is to permit bad faith and unfair dealing.
- A minimal good faith attempt here would result in maps that comply with these two standards.
 - There are no substantial obstacles, with the one possible exception of other conflicting constitutional requirements.
 - And we know that these other constitutional requirements are not substantial obstacles, in current circumstances, because the Democratic

commission members have introduced such a map, as have others, that apparently comply with these two standards.

- The commission has not yet made that minimal good faith attempt to comply with the two standards. Certain public statements by commissioners confirm this conclusion .
 - They have publicly said they had no idea how the maps would break down politically.
 - This clearly indicates a failure to make any attempt to meet the two standards, since both of which require knowledge of how the maps would in fact break down politically. [Plain Dealer, September 10, 2021, pp A1, A5].

Conclusion

What does this all mean here? It means the commission's map is invalid because it does not comply with the two constitutional standards. It doesn't comply with those standards because a good faith attempt to comply is required, the commission has failed to make a good faith attempt, and a good faith attempt necessarily would produce maps complying with the two standards.

Note 1

- Ohio's average map-wide Democratic two-party vote share is **46.38%**, the Republican **53.62%** based on the statewide vote over the past decade.
- There are 99 Ohio House seats. The number of **Democratic House seats closest to proportional is 46 and the number of Republican House seats closest to proportional is 53** (46 Democratic leaning districts; 53 Republican leaning districts). **The likely outcome from the *Officially Proposed map* is 32 Democratic leaning districts and 67 Republican leaning districts** (32.32% Dem.; 67.67% Rep).
- There are 33 Ohio Senate seats. The **number of Democratic Senate seats closest to proportional is 15 and the number of Republican Senate seats closest to proportional is 18** (15 Democratic

leaning districts; 18 Republican leaning districts). **The likely outcome from the *Officially Proposed map* is 10 Democratic seats and 23 Republican seats** (30.30% Dem.; 69.69% Rep.)

Note 2

Fair Districts Ohio recently held a public mapping competition. The co-winners are Geoff Wise of Cincinnati and Pranav Padmanabhan of Columbus. Both winning maps are superior to the commission map.

For instance, the Ohio House map of each co-winner scores higher than the officially proposed map in terms of Proportionality, Minority Representation, and Compactness. The Ohio Senate map of each co-winner scores higher than the officially proposed map in terms of Proportionality and Compactness, and scores comparably in terms of Minority Representation. Both winning entrants provided a thoughtful and detailed narrative as to their deliberation in making their maps. Each took in great consideration of school districts, communities of interest, community mapping, and other critical factors in a way that the Ohio Redistricting Commission has failed to do.