

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, et al.,)	
)	Case No. 2021-1193
<i>Relators,</i>)	
)	Original Action Pursuant to
V.)	Ohio Const., Article XI
)	
Ohio Redistricting Commission, et al.,)	
)	
<i>Respondents.</i>)	

**BRIEF OF AMICUS CURIAE WE ARE OHIO IN SUPPORT OF
RELATORS LEAGUE OF WOMEN VOTERS, ET AL.**

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STATEMENT OF AMICUS INTEREST

We Are Ohio (WAO) is a nonpartisan, citizen-driven, grassroots, education and advocacy organization formed to defend the rights of Ohio workers and their families. The mission of WAO includes advocating for fair elections and protecting the voting rights of working families.

Ohio workers have a real and substantial interest in securing fair legislative districts in Ohio. In fact, WAO came into existence because gerrymandering in Ohio led to a legislature so out of step with the policy views of Ohio citizens that in 2011 it passed Senate Bill 5 which was ultimately overridden by a citizen's veto with more than 62 percent of Ohioans voting to support a referendum on the bill.

In 2011, the same year that SB 5 emerged from the Ohio legislature, the majority party in Ohio gathered secretly behind closed doors in what became known as "the bunker" to plot gerrymandered districts for the next decade. In reaction to this brazenly partisan process and to the blatantly gerrymandered districts that resulted, WAO joined with a broad coalition of Ohioans to advocate for reform. In 2015, WAO worked for passage of the constitutional amendment to end gerrymandering which was approved by Ohioans by a vote of 71.5% to 28.5%.

SUMMARY OF ARGUMENT

The maps adopted by the Ohio Redistricting Commission violate Article XI of the Ohio Constitution and deprive Ohio's working families of their constitutional right to have proportionally fair representation. If the Court does not intervene, the result will be continued passage of policies that are not only opposed by, but are harmful to, Ohio's working families.

STATEMENT OF THE CASE

The Jurisdiction and Facts presented in Relators' Brief accurately set forth the jurisdiction of this Court and the factual background of this case.

ARGUMENT

Article XI of the Ohio Constitution provides detailed rules to ensure fairness and avoid partisanship in the reapportionment of state legislative districts. As the Relators accurately present in their Complaint, Respondents failed to follow Article XI in regard to process and political fairness requirements. If the maps approved by the Commission are allowed to go into effect, it will lead to continued disenfranchisement of the voters who make up the We Are Ohio coalition.

The maps recently produced by the Ohio Redistricting Commission have been criticized as being even more gerrymandered than the maps that caused WAO and a broad coalition of Ohioans to advocate for reform.¹ This is an affront to those who WAO represents and citizens across our state who rejected gerrymandering with 71.5% of the vote in 2015.²

¹<https://www.washingtonpost.com/politics/2021/09/16/deeply-cynical-moment-gerrymandering-ohio-gop/>
<https://www.news5cleveland.com/news/state/reaction-pours-in-after-ohio-redistricting-commission-votes-on-party-lines-for-4-year-maps>

² We Are Ohio is a broad-based coalition of working people and their families, representative of a broad segment of Ohioans as evidenced by the 1,298,301 people who signed petitions that WAO turned into the Ohio Secretary of State's office on June 28, 2011, the largest number of signatures that had ever collected for a statewide ballot initiative <https://www.dispatch.com/article/20110629/NEWS/306299674>; and the 2.2 million voters who voted to reject Senate Bill 5, <https://www.sos.state.oh.us/elections/election-results-and-data/2011-elections-results/state-issue-2-november-8-2011/> and with 83 of 88 counties voting to against SB 5. <https://www.sos.state.oh.us/elections/election-results-and-data/2011-elections-results/state-issue-2-november-8-2011/> According to the Bureau of Labor Statistics, there are 637,000 union members in Ohio, https://www.bls.gov/regions/midwest/data/unionmembershiphistorical_ohio_table.htm

A. SUBVERSION OF OHIOANS SUPPORT OF WORKERS RIGHTS

Gerrymandering has been especially harmful to working people in Ohio. It has resulted in the General Assembly too often passing anti-worker laws that subvert the will of the people.³ A prime example is Senate Bill 5, the 2011 law forced through the legislature and signed into law by then-Governor John Kasich.⁴ Had that law been upheld, 350,000 public employees in Ohio would have been stripped of their collective bargaining rights that have served them and the state well since 1983.⁵

An historic 1,298,301 signatures were collected to put a citizen's veto of SB 5 on the ballot.⁶ On election day, 2.1 million Ohioans went to the polls to reject SB 5 defeating the measure by a vote of 62 to 38 percent.⁷ Support for workers and collective bargaining rights went far beyond the number of public employees directly impacted by the law because family members, neighbors, community leaders and others stood with workers and said no to this extremist legislation that a gerrymandered map produced. Just as importantly, 83 of Ohio's 88 counties rejected SB 5.⁸

³<https://go.tiffinohio.net/2021/10/ohio-government-panders-to-hard-right-at-expense-of-fair-minded-majority/>

⁴https://www.cleveland.com/politics/2011/11/ohio_voters_overwhelmingly_rej.html

⁵<https://news.bloomberglaw.com/daily-labor-report/ohio-senate-bill-curbing-bargaining-for-public-workers-moves-to-house>

⁶https://www.cleveland.com/open/2011/06/almost_13_million_ohioans_sign.html

⁷<https://www.sos.state.oh.us/elections/election-results-and-data/2011-elections-results/state-issue-2-november-8-2011/>

⁸<https://www.sos.state.oh.us/elections/election-results-and-data/2011-elections-results/state-issue-2-november-8-2011/>

Given the public's view on the issues surrounding SB 5, it seems clear that this legislation would not have seen the light of day in a truly representative General Assembly where legislators were elected from fairly-drawn districts.

B. WILLFULLY DISREGARDING OHIOANS SUPPORT FOR PUBLIC SCHOOLS

There are many examples, beyond SB 5, of policies passed by the legislature that are contrary to the will of Ohio working families. In regard to education, the Ohio General Assembly is completely out of step with the general public when it comes to the public school v. private school debate.

Two recent polls, one by a pro-public school group and the other by an organization that has been critical of public schools, indicates that even in the midst of the pandemic, support for public schools is very high.⁹ PDK International polling shows that 63 percent of parents would give their public school an A or a B rating.¹⁰ At the same time, the polls indicate that support for charter schools and private school vouchers continues to decline.¹¹

The gerrymandering of the Ohio House and the Ohio Senate maps, however, leads to extreme legislation that ignores Ohioans' commitment to their own public schools. For example, we continue to see the expansion of vouchers, without proper oversight and accountability, that drain dollars from public schools and are hurting the families who rely on those schools.

The most recent two-year state budget increased high school private school vouchers by 25 percent from \$6,000 to \$7,500.¹² That same budget also included the removal of caps on

⁹ <https://inschoolmatters.wordpress.com/2021/09/16/polls-shows-faith-in-public-schools/>

¹⁰ https://pdkpoll.org/wp-content/uploads/2021/09/Poll53_final.pdf

¹¹ <https://inschoolmatters.wordpress.com/2021/09/16/polls-shows-faith-in-public-schools/>

¹² <https://apnews.com/article/oh-state-wire-ohio-state-budgets-business-government-and-politics-8815435429d4cd4d2ac5ad423b16175f>
<https://columbus.org/largely-bipartisan-state-budget-passes-legislature-early/>

vouchers, tuition tax credits of \$750 offered to families for costs associated with private education, \$250 tax credit offered to homeschooling parents and making siblings and foster children eligible for vouchers.¹³

This massive expansion occurred at the same time the legislature approved the Cupp-Patterson school funding formula which was an attempt to address the quarter-century old Ohio Supreme Court ruling that found the way Ohio pays for public schools was unconstitutional.

However, lawmakers and Gov. Mike DeWine admitted they did not fully fund the Cupp-Patterson plan nor did they commit to a six-year phase-in of the plan as recommended.¹⁴

After the state biennial budget was passed, two state lawmakers held a press conference to announce they were pushing a universal voucher bill that would make every school and every student voucher eligible.¹⁵ These types of extreme policies go against the wishes of the vast majority of Ohioans. If they are popular, then why wouldn't lawmakers who believe in local control, allow these voucher plans to be put up for a vote, school district by school district or statewide? Because they are not supported by the public.

C. PURPOSELY IGNORING OHIOANS DESIRE FOR FAIR ELECTIONS

Finally, there is no clearer proof of an unaccountable legislature than the Commission that has drawn new Ohio Senate and Ohio House maps following the 2020 U.S. Census and are

¹³<https://www.dispatch.com/story/news/2021/07/01/ohio-state-budget-how-impact-your-life/7797344002/>
<https://fordhaminstitute.org/ohio/commentary/ohios-budget-bill-makes-major-changes-k-12-education-policy>

¹⁴https://www.sent-trib.com/community/school-funding-overhaul-approved-all-local-disticts-will-see-increases/article_e5b94f4e-dbfe-11eb-9bf4-6b5c7d671180.html

¹⁵<https://www.daytondailynews.com/local/bill-aims-to-redirect-state-school-funding-to-parents/FL3NMSS2ORACTADCXJV35DSRJE/>

in the process of drawing new Congressional maps. In November, 2015, voters in 88 of 88 counties approved State Issue 1 by a 72-28 percent margin to create a bipartisan, public process for drawing legislative districts.¹⁶

Again, in May, 2018, voters passed State Issue 1 by a 75-25 percent margin in 88 of 88 counties to create a bipartisan, public process for drawing congressional districts.¹⁷

Majority support in every Ohio county means that the counties the lawmakers represent overwhelmingly voted in 2015 and 2018 for real reform and to end extreme gerrymandering. The statewide results also sent a clear message to elected state legislative and statewide officials -- and that is to be true to the will of the people.

CONCLUSION

By subverting the 2015 constitutional reforms, lawmakers are picking their own voters and giving themselves the carte blanche ability to pass harmful laws, particularly harmful to working people, with impunity. This Court is the only relief available for working people. You are our only chance to return proportional balance to our state where ideas can be heard, debated, and deliberated.

Accordingly, on behalf of working families across Ohio, Amicus We Are Ohio respectfully asks this Court to find that Respondents failed to comply with Article XI of the Ohio Constitution and grant the Relators their Prayer for Relief.

¹⁶https://www.sos.state.oh.us/elections/election-results-and-data/2015-official-elections-results/?_cf_chl_jschl_tk__=pmd_AiiEAv.BcWCd4n7YAmll0zw8Y1ihO7bi2Vw00tz.G4U-1635187374-0-gqNtZGzNAqWjcnBszQi9

¹⁷<https://www.sos.state.oh.us/elections/election-results-and-data/2018-official-elections-results/>

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CERTIFICATE OF SERVICE

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