

**In the  
Supreme Court of Ohio**

<b>LEAGUE OF WOMEN VOTERS OF OHIO, et al.,</b>	:	
	:	
<i>Relators,</i>	:	<b>Case No. 2021-1193</b>
	:	
v.	:	<b>Original Action Pursuant to</b>
	:	<b>Ohio Const., Art. XI</b>
<b>OHIO REDISTRICTING COMMISSION, et al.,</b>	:	
	:	<b>Apportionment Case</b>
<i>Respondents.</i>	:	

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<b>BRIA BENNETT, et al.,</b>	:	
	:	
<i>Relators,</i>	:	<b>Case No. 2021-1198</b>
	:	
v.	:	<b>Original Action Pursuant to</b>
	:	<b>Ohio Const., Art. XI</b>
<b>OHIO REDISTRICTING COMMISSION, et al.,</b>	:	
	:	<b>Apportionment Case</b>
<i>Respondents.</i>	:	

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<b>OHIO ORGANIZING COLLABORATIVE, et al.,</b>	:	
	:	
<i>Relators,</i>	:	<b>Case No. 2021-1210</b>
	:	
v.	:	<b>Original Action Pursuant to</b>
	:	<b>Ohio Const., Art. XI</b>
<b>OHIO REDISTRICTING COMMISSION, et al.,</b>	:	
	:	<b>Apportionment Case</b>
<i>Respondents.</i>	:	

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**SECRETARY OF STATE FRANK LAROSE AND AUDITOR KEITH FABER'S  
RESPONSE TO SHOW CAUSE**

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## I. INTRODUCTION

It is undisputed that the Ohio Redistricting Commission could not do in just ten days what it was previously unable to do in four months: adopt an Ohio General Assembly district plan that it, and this Court, will approve. But that does not mean that Respondents Ohio Secretary of State Frank LaRose or Ohio Auditor of State Keith Faber are therefore individually liable for contempt of this Court's February 7, 2022 Order ("Order"). This Court ordered the *Ohio Redistricting Commission* to be reconstituted, to convene, and to draft and adopt an entirely new General Assembly as set forth in the Order. See, *LWV, et al. v. Ohio Redistricting Commission, et al.*, Ohio Sup. Ct. Case No. 2021-1193, *Bennett, et al. v. Ohio Redistricting Commission, et al.*, Ohio Sup. Ct. Case No. 2021-1198, *Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Ohio Sup. Ct. Case No. 2021-1210, February 7, 2022 Order at ¶ 67 ("Order"). It further ordered the *Commission* to adopt and file the plan with Secretary of State LaRose and with the Court. *Id.* at ¶ 68. This Order is consistent with Ohio law, which permits only the Ohio Redistricting Commission to enact a General Assembly District Plan. Though the Auditor and Secretary are members of the Commission they are not *the* Commission and cannot, on their own, enact a plan.

Within days of the Court's Order, and without experienced map drawers or the resources or time to hire them, Secretary LaRose's staff and Auditor Faber's staff met with Senator Sykes' and Leader Russo's map drawers to review their plan (the "Sykes/Russo Plan") to see if there was room for agreement. As is normal in the highly technical world of re-districting, that review led to legitimate questions about how and whether the Sykes/Russo Plan complied with the Ohio Constitution. But in the time allotted, neither the Auditor nor the Secretary got the answers that would have allowed them to agree that the Plan complied with the Ohio Constitution and this Court's Order. And, re-districting has never before been a Hobson's choice: approve a map whose

constitutionality you question or be held in contempt. So, they did not vote for it. Auditor Faber and Secretary LaRose are not liable in contempt for failing to approve a Plan whose constitutionality they doubt simply because this Court's deadline was looming.

Ultimately, the Sykes/Russo Plan, some version of it, or a third yet-to-be-determined option will be enacted by the Commission. It has to be, because Ohio needs House and Senate district maps to elect representatives and senators in 2022 and only the Commission is authorized to enact new district plans. But it was legally—and practically—impossible for Auditor Faber or Secretary LaRose to individually adopt maps, much less in the time afforded by the Court. They cannot be held in contempt for that failure.

## II. LAW AND ARGUMENT

“A court may punish disobedience of its order pursuant to R.C. 2705.02 or the court's inherent power to enforce its authority.” *State ex rel. Adkins v. Sobb*, 39 Ohio St.3d 34, 35, 528 N.E.2d 1247 (1988), citing *Zakany v. Zakany*, 9 Ohio St. 3d 192, 459 N.E. 2d 870 (1984). Contempt of court is defined as “disobedience of an order of a court. It is conduct which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions.” *Denovcheck v. Bd. of Trumbull County Comm'rs*, 36 Ohio St.3d 14, 15, 520 N.E.2d 1362 (1988), quoting *Windham Bank v. Tomaszczyk*, 27 Ohio St.2d 55, 271 N.E. 2d 315 (1971), paragraph one of the syllabus. A finding of civil contempt does not require proof of a purposeful, willing or intentional violation of a court order, *Pugh v. Pugh*, 15 Ohio St.3d 136, 140, 472 N.E.2d 1085 (1984), and may be made upon clear and convincing evidence. *Brown v. Executive 2000, Inc.*, 64 Ohio St.2d 250, 253, 416 N.E.2d 610 (1980).

Impossibility is a defense to a contempt of court order. *Hopson v. Hopson*, 10th Dist. Franklin No. 04AP-1349, 2005-Ohio-6468, ¶ 20, citing *State ex rel. Cook v. Cook*, 66 Ohio St. 566, 570, 64 N.E. 567 (1902); *see also Dana Corp. v Fireman's Fund Ins. Co.*, 169 F.Supp.2d

744, 750 (N.D. Ohio 1999), citing *United States v. Rylander*, 460 U.S. 752, 103 S.Ct. 148, 75 L. Ed. 2d 521 (1982); *Rolex Watch U.S.A., Inc. v. Crowley*, 74 F.3d 716, 720 (6th Cir. 1996). “‘A party must take all reasonable steps within [his] power to comply with the court’s order and, when raising the defense of impossibility, must show ‘categorically and in detail’ why [he] is unable to comply with the court’s order.’” *Robinson v. Rummelhoff*, 10th Dist. Franklin No. 13AP-410, 2014-Ohio-1461, ¶ 35, quoting *Briggs v. Moelich*, 8th Dist. No. 97001, 2012-Ohio-1049, ¶ 15, citing, *Lahoud Tri-Monex, Inc.*, 8th Dist. No. 96118, 2011-Ohio-4120, ¶ 54.

**1. Auditor Faber and Secretary LaRose are legally unable to unilaterally enact a General Assembly district plan.**

As a matter of black-letter Ohio Constitutional law, neither the Secretary of State nor the Auditor of State, on their own, are able to comply with the Court’s Order and pass a redistricting plan. The Ohio Constitution is clear that only the Ohio Redistricting Commission has the power to redistrict the General Assembly. Ohio Const. Art. XI, Sec. 1(A). The Commission cannot act except by a simple majority of its members. Ohio Const. Art. XI, Sec. 1(B)(1). So, neither the Secretary of State nor the Auditor of State—individually or together—have the power to unilaterally pass a map to comply with the Court’s Order. They can only do so as a part of a majority of the members of the Commission. Regrettably, a majority of the Commission did not adopt a new redistricting plan within the Court’s deadline.

**2. Auditor Faber and Secretary LaRose took all reasonable steps to comply with the Court’s Order.**

Without map drawers or the money or time to hire them, Auditor Faber and Secretary LaRose still took all reasonable steps that they could to comply with the Order. Map drawing is a costly and technical endeavor that requires rare specific internal expertise—or hired experts. Simply put, neither the Secretary nor the Auditor were allocated any funds by the Commission to

hire experts to allow them to draw their own maps. *See* Exhibit A, Affidavit of Chris Oliveti, (“Oliveti Aff.”), ¶ 9. When, at the beginning of the 2021 re-districting process, the Commission Members could not agree on the manner in which funds would be spent, the Ohio Constitution’s ‘default’ provision kicked in and the resources were divided between the Commission’s two Co-Chairs. Ohio Const. Art. XI, Sec. 1(B)(2)(b). As a result, the Auditor and the Secretary were left without the most critical tool for map drawing: money and experts. *Id.* Since October 2021, they have been, and to this day they remain, at the mercy of map drawers hired and controlled by the Legislative Members of the Commission. Thus, neither had the technical ability or the resources to start from scratch and in ten days draw and introduce a brand-new map, as the Court ordered. This inability was not of the Secretary’s or the Auditor’s own doing. They are beholden by operation of Ohio law.

But, they still tried. Shortly after the announcement of the Court’s opinion, and on several occasions thereafter, Auditor Faber spoke with Speaker Robert Cupp, Commission Co-Chair, about setting a Commission meeting right away. The Auditor made it clear he was ready at any time. Disappointingly, a meeting was not called by the Co-Chairs that entire week. But, Auditor Faber did not wait. He instructed his staff to reach out directly to the Democrat Commission Members’ staff to review their latest redistricting plan. On February 10, 2022, members of the Secretary’s and Auditor’s staffs, together, met with multiple members of the Senate and House Minority Caucus staffs for Commission Members Sen. Vernon Sykes and Rep. Allison Russo, including their primary map drawer Chris Glassburn. *Id.* ¶ 3. The Secretary’s and Auditor’s staff made specific inquiries surrounding continuing constitutional flaws in the Democrats’ prior proposals to determine whether the Sykes/Russo Plan also contained those constitutional flaws. *Id.* ¶¶ 4-6.

The February 10 meeting was helpful toward learning more about the Sykes/Russo Plan and highlighting some of the Secretary's and Auditor's concerns. But it did not result in an exchange of proposals or compromise sufficient for everyone to accept the proposed Plan without change. There was and remains disagreement between the Secretary, Auditor and Democrat Commission Members on the constitutionality of the Sykes/Russo Plan. *Id.* ¶ 7.

Neither the Secretary nor the Auditor stopped there. Secretary LaRose met the next day with Sen. Sykes and several of the same Senate and House Minority Caucus staff members who were present at the previous meeting. The second meeting also yielded no new information that would prompt the Secretary to believe that the Democrat maps were free from their constitutional flaws. *Id.* ¶ 8.

Auditor Faber made several efforts to spur a timelier meeting of the Commission. On February 11, Leader Russo and Senator Sykes sent a joint letter to Redistricting Commission members asking for a meeting to be set as soon as possible, highlighting their efforts to get a plan before the Commission for consideration and offering to meet with staff to review their plans. *See* Exhibit B, Affidavit of Emily Redman, Attachment A thereto, p. 7. Leader Russo and Senator Sykes renewed their request for a meeting by via email to Commission members on February 14<sup>th</sup> seeking a response. *Id.*, p. 9. Auditor Faber responded to Leader Russo and Senator Sykes suggesting that the Commission Rules might read to allow a co-chair to call a meeting. Further urging the Democrats to move their maps forward for consideration by the full Commission, something that up to this point in the process had not occurred. *Id.*, p. 10. Either way, Auditor Faber was ready, willing, and able to meet – while offering to work directly through staff to move the process forward. His note concluded by saying “As always I look forward to working with you to achieve constitutional maps.” *Id.* Leader Russo and Senator Sykes responded on February



16<sup>th</sup> with a letter to all Commission members highlighting some of the changes and corrections they had made to their plan (perhaps in part due to the feedback provided by Auditor Faber's staff), and asked the Commission to provide in writing by 9 AM the next day any additional feedback or concerns regarding the proposed Democrat plan. *Id.*, p. 11.

Additionally, Auditor Faber's staff followed up in writing and re-iterated their concerns surrounding the constitutional flaws in the proposed maps raised during the initial meeting. *Id.*, p. 14. In particular, the Auditor's staff explained to the Sykes/Russo staff that their proposed maps contained three areas of concern: (1) violations of the compactness requirement contained in Ohio Const., Art. XI, Sec. 6(C); (2) gerrymandered districts including proposed District 93 to favor the Democratic party; and (3) violations of Ohio Const., Art. XI, Sec. 6(A) and (C) involving Lucas County and Ottawa county. *Id.* The Sykes/Russo staff's response illuminates the Auditor's and the Secretary's troubles in obtaining even the slightest substantive information regarding their maps. *Id.*, pgs. 15-17. The staff member responded by simply restating the Auditor's concerns in the positive and asked for *more* explanation. *Id.*, p. 17. Their vague responses added nothing to the Auditor's or Secretary's understanding of how the Sykes/Russo Plan could pass constitutional muster.

Having received nothing from the face-to-face meeting or the follow-up communications to constructively move the parties forward, Auditor Faber *again* raised his un-answered concerns in detail during the February 17, 2022 Commission Meeting. *See generally* Exhibit C, Transcript of Feb. 17, 2022 Commission meeting.

First, Auditor Faber questioned the lack of an agreed upon definition of competitiveness. The Sykes/Russo Plan includes eight House districts and three Senate districts that all purportedly lean Democrat. Ex. B., pgs. 9-10. Auditor Faber asked how the Democrat map drawers came up

with all twelve of those districts leaning Democrat and what benchmarks were used to determine competitiveness. *Id.* Leader Russo deferred on all points. She stated that her team did not use a definition of competitiveness in drawing the Sykes/Russo Plan. Instead, Russo opined that “it is at least my position that when you draw maps that are constitutional and meet the requirements of the Constitution, you will inherently have some competitive districts.” *Id.* Russo explained on several occasions that her team cared about “meeting constitutional requirements” and not about the thoughtful creation of competitive districts or how competitive districts impact the partisan proportionality of the entire Proposal. *Id.*

Next, Auditor Faber raised the fact that in order for the Sykes/Russo Plan to achieve strict political proportionality it had to be unconstitutionally gerrymandered. *Id.*, p. 10. For instance, the Auditor explained where the Sykes/Russo Plan “cracked” urban voters into districts with rural voters solely to create Democratic leaning districts. *Id.*, p. 21. He explained how this gerrymandering destroys compactness as required by Ohio Const., Art. XI, Sect. 6(C). It also destroys the “continuity of interest” of individual Ohio voters “who get placed in districts that are fundamentally stacked against them for no other reason than a partisan gain to draw a Democrat seat.” *Id.*, p. 11.

Auditor Faber pointed out that while the Sykes/Russo Plan may achieve the Court’s strict proportionality target it does so by unconstitutionally “cracking and packing” Democratic voters. It sacrifices one constitutional requirement – Art. XI 6(C)’s compactness – for the sake of strict proportionality. *Id.*, p. 10. He attempted to get answers as to how such a plan complies with the Ohio Constitution and Leader Russo simply refused to provide them. *Id.*, pgs. 9-22. Secretary LaRose expressed similar concerns that the Commission members cannot politically gerrymander the Ohio General Assembly to achieve strict proportionality. It is that ill—political

gerrymandering—the voters rejected by amending the Constitution in 2015. At the end of the day, Auditor Faber and Secretary LaRose voted ‘No’ to the Sykes/Russo Plan, not to flout this Court’s authority but because they believed that it was constitutionally flawed.

Left without answers to his concerns, Auditor Faber remained aware that the job of redistricting was not complete. But it would be more difficult to complete without an easier path for the Commission to call a meeting. So, during the February 17 Commission hearing, with the support of the Secretary and Governor, Auditor Faber offered a motion to amend the Commission’s rules on how meetings get called. *See generally* Exhibit C, Transcript of Feb. 17, 2022 Commission meeting. By a 6-1 vote, the Commission amended the Rules of the Commission to allow for a meeting to be called and scheduled by either the co-chairs or by any three members of the Commission. *Id.*

Auditor Faber and Secretary LaRose took all reasonable steps to facilitate the Commission’s compliance with the Order in the time allotted and considering their lack of resources. Both members acted diligently and in good faith to bring a constitutional map to fruition and, perhaps with more time, the Commission could have agreed upon a constitutional plan. But when their repeated questions about the constitutionality of the Sykes/Russo plan went repeatedly unanswered, they could not vote to approve it. This Court should not hold them in contempt for failing to do the impossible.

### **III. CONCLUSION**

Auditor Faber and Secretary LaRose do not believe that the Ohio Redistricting is at an impasse. Nor do they believe that the Commission would have been unable to pass a constitutional map if given more time. In fact, at the Commission’s February 22, 2022 meeting Auditor Faber

pushed for, and the co-chairs agreed, that while the Commission is reconstituted to work on passing a Congressional redistricting plan it will also continue to work toward passing a General Assembly redistricting plan despite missing the Court's deadline.

Respectfully, neither Secretary LaRose nor Auditor Faber are individually liable in contempt for the Commission's failure to comply fully with the Court's order.

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## CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2022, the *Secretary Of State Frank Larose And Auditor Keith Faber's Response To Show Cause* was filed electronically. I further certify that a copy of the foregoing has been served via the electronic mail upon the following counsel for Relators.

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## Aff..pdf

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**E-Signature 1: Christopher S Oliveti (CSO)**  
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**E-Signature Notary: MacKenzie S. Clayton (msc)**  
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 I, MacKenzie S. Clayton, did witness the participants named above electronically sign this document.



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In the  
**Supreme Court of Ohio**

LEAGUE OF WOMEN VOTERS OF OHIO, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1193
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	

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BRIA BENNETT, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1198
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	

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OHIO ORGANIZING COLLABORATIVE, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1210
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	

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**AFFIDAVIT OF CHRISTOPHER OLIVETI**

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I, Christopher Oliveti, having been duly sworn and cautioned, hereby state that I am over the age of eighteen years and am competent to testify to the following on the basis of personal, firsthand knowledge:

1. In January 2019, I was appointed by the Secretary of State Frank LaRose to the position of Director of Legislative Affairs. As the Director of Legislative Affairs, I advise the

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Secretary of State regarding his legislative agenda and I act as the Secretary's liaison to the legislative members of the General Assembly.

2. On February 10, 2022, the Secretary of State's Chief of Staff Jason Mauk and I along with the Auditor of State's Chief of Staff Sloan Spalding and the Auditor's Legislative Director Emily Redman attended a meeting with multiple members of the Senate and House minority caucus staffs representing Commission members Sen. Vernon Sykes and Rep. Allison Russo, including their primary map drawer Chris Glassburn. The purpose of the meeting was to understand the purpose and direction of the current Sykes/Russo House and Senate District Plans.
3. It is my understanding that the Sykes/Russo House and Senate District Plans voted on by the Ohio Redistricting Commission at its February 17, 2022, meeting were essentially minimally revised versions of the Democrats' House and Senate District Plan Proposal submitted by Commission Co-chair Sen. Sykes and Minority Leader Russo at the January 22, 2022, Commission meeting.
4. It was our understanding that the Democrat Plan submitted on January 22, 2022, contained constitutional flaws including violations of the compactness requirement of Ohio. Const., Art. XI, Sec. 6(C) and inappropriately combining many Republican representative incumbents in the same districts.
5. At the February 10, 2022 meeting, our inquiries surrounded these continuing constitutional flaws such as: (1) how the revised Sykes/Russo Plans differed from the previous Democrat proposals; (2) what, if any, geo-political and demographic influences the Sykes/Russo team considered in revising their plan; (3) what, if any, definition of "competitiveness" was used; (4) what, if any, incumbent residential data was used in constructing house and senate districts; and (5) what standard of proportionality the Sykes/Russo team used in their most recent revisions to the plan proposal?
6. We received no information from the Senate and House minority caucus staff members present at the February 10 meeting that would lead us to believe that the previous constitutional flaws we believe were in the Democrat Plan had been remedied.
7. On February 11, 2022, Mr. Mauk initiated a second meeting to review the Sykes/Russo district plans with the Senate and House minority caucus staff members, but this time with Secretary of State Frank LaRose attending. So, on that date, Secretary LaRose, Mr. Mauk and I attended a second meeting to review the Sykes/Russo district plan, but this time Commission Co-Chair Sen. Vernon Sykes attended with several of the same Senate and House minority caucus staff members from the previous meeting. Like the February 10 meeting, we received no information that would lead us to believe that the previous constitutional flaws in the Democrat Plan had been remedied.
8. The Secretary of State has no independent ability to create district maps for 99 House districts and 33 Senate districts from scratch in 10 days, as was ordered by the Court majority in their decision of February 7, 2022. While our Office obtained "Maptitude"

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software after the Commission adopted its first House and Senate district plans on September 15-16, 2021 no one in our office has the experience and expertise that Mr. Glassburn or Mr. DiRossi have in creating such complex district maps, i.e., drawing 99 constitutionally compliant House districts and then carefully “nesting” three House districts into each Senate district. The vast majority of resources necessary to draft district maps, including expert map drawers, are still controlled by the legislative members of the Ohio Redistricting Commission.

9. Between February 7, 2022 and February 17, 2022, no one from the Secretary of State’s Office communicated with Ray DiRossi or Blake Springhetti.

Further Affiant Sayeth Naught.

Christopher S Oliveti

Signed on 2022/02/23 05:01:10 -4:00

CHRIS OLIVETTI

Sworn to before me and signed in my presence, a Notary Public in and for said State of Ohio on this 23<sup>rd</sup> day of February, 2022.



MaeKenzie S. Clayton

Signed on 2022/02/23 05:01:10 -4:00

Notary Public



In the  
Supreme Court of Ohio

LEAGUE OF WOMEN VOTERS OF OHIO, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1193
	:	
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	:	Apportionment Case
<i>Respondents.</i>	:	

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BRIA BENNETT, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1198
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	

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OHIO ORGANIZING COLLABORATIVE, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1210
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	

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AFFIDAVIT OF EMILY REDMAN

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I, Emily Redman, having been duly sworn and cautioned, hereby state that I am over the age of eighteen years and am competent to testify to the following on the basis of personal, firsthand knowledge:

1. I serve as the Legislative Director for the Ohio Auditor of State's Office. As the Legislative Director, my core responsibilities include: monitoring legislation before the Ohio General Assembly and providing reports to Auditor Faber and executive staff, working directly with members of the General Assembly and their staff on legislative issues, coordinating with the various Statewide office holders on legislative issues, providing policy guidance to Auditor Faber and staff of the Auditor of State's office, and updating Auditor of State administrative rules. In my role as Legislative Director, I have been directly involved in the Auditor of State's role as a Commission member of the Ohio Redistricting Commission.
2. During the ten days provided by the Court, I analyzed all submitted maps – including the Rodden maps, Democrat maps, and Republican maps – to advise the Auditor on possible compromises and areas of mutual agreement. I was also personally aware of Auditor Faber's requests to get a Commission meeting scheduled as soon as possible.
3. On February 10, 2022 I, along with the Secretary of State's Chief of Staff Jason Mauk and Director of Legislative Affairs Chris Oliveti, and the Auditor of State's Chief of Staff Sloan Spalding, attended a meeting with multiple members of Minority Leader Russo's and Senator Sykes' teams including their primary map drawer Chris Glassburn. The purpose of the meeting was to understand the purpose and direction of their then-current House and Senate Plan ("Sykes/Russo Plan").
4. At the February 10, 2022 meeting we discussed some of the Auditor of State's concerns with the constitutionality of the Sykes/Russo plan. We did not receive any answers at the meeting that alleviated all of our concerns.
5. On February 17, 2022 I sent an email on behalf of Auditor Faber to Mike Rowe, Chief of Staff to the Ohio Senate Minority Caucus, containing a list of the Auditor's specific concerns relative to the Democrats proposed redistricting plan. Attached hereto as Attachment A is true and accurate copy of that email exchange, as well as prior communications with the Minority Caucus staff members. The Auditor of State's Office did not receive complete answers to the concerns raised in Attachment A before or after the February 17, 2022 meeting or by the deadline set by the Ohio Supreme Court for filing a map passed.
6. The Auditor of State has no independent ability to create district maps. Although the Auditor of State's Office obtained "Maptitude" software, the company from which it was obtained was unable to provide timely training on the software to our Office since it was purchased. We were told that the company could not provide training for at least four months.



7. The Auditor of State's Office has never been allocated funds from the Commission to hire its own map drawers or re-districting experts. The vast majority of resources necessary to draft district maps, including expert map drawers, are still controlled by the legislative members of the Ohio Redistricting Commission.

Further Affiant Sayeth Naught.

  
Emily Redman

Sworn to before me and signed in my presence, a Notary Public in and for said State of Ohio on this 23<sup>rd</sup> day of February, 2022.

  
Notary Public



M. MARY DeGENARO, Attorney at Law  
Notary Public — State of Ohio  
My Commission Has No Expiration Date.  
Section 147.03 R.C.

## Emily Redman

---

**From:** Emily Redman  
**Sent:** Wednesday, February 9, 2022 3:44 PM  
**To:** chris@projectgovern.com  
**Subject:** General Assembly Maps

Hi Chris -

Auditor Faber would like to know if the January 24, 2022 submission to the Ohio Redistricting Commission website is the final map the Democrats have proposed for the General Assembly districts, or if there is something else we can be looking at?

Thanks,  
Emily

Emily E. Redman  
Legislative Director  
Ohio Auditor of State Keith Faber  
eeredman@ohioauditor.gov

RETRIEVED FROM DEMOCRACYDOCKET.COM

2/22/22, 8:50 AM

iCloud Mail

From: Routt, Randall Randall.Routt@ohiosenate.gov  
Subject: FW:  
Date: February 9, 2022 at 3:50:29 PM  
To: [REDACTED]

See attached

**From:** Routt, Randall  
**Sent:** Wednesday, February 09, 2022 10:24 AM  
**To:** DiRossi, Ray; Project Govern  
**Subject:** RE:

Ray,

I appreciate you reaching out on the state house and senate maps. This is the first time that we are aware that the BAF has been requested for the state legislative districts. We only released the congressional map files yesterday since we were still under the impression it was going to be considered at the legislature. We are happy to provide the BAF for the state house and senate maps.

As we discussed, you can download any BAF file in Dave's Redistricting. I am providing the links here as it was included in our court filing from January 28, 2022. The files are also attached.

- a. Democrats' Proposed House Map (1/26/22):

<https://davesredistricting.org/maps#viewmap::744e3245-b230-48aa-b0ae-ccf9e700654e>.

Attachment A to Redman Affidavit, page2



- b. Democrats' Proposed Senate Map (1/26/22):  
<https://davesredistricting.org/join/353bfd5-09fa-4b8f-bf56-03a08848e885>.

PS. WHO DEY!!! ☺

**From:** DiRossi, Ray  
**Sent:** Tuesday, February 08, 2022 9:42 PM  
**To:** Routt, Randall; Project Govern  
**Subject:**

Chris

During the last redistricting commission process you kept saying you would fix your statewide house and senate map

I never saw a Block Assignment File (BAF) for that

and i noted that in your affidavit after the process / filings I saw you said you had fixed all of the flaws we pointed out

Then I was told that Senator Sykes had promised to provide it to us and today i heard it was being released along with a congressional plan

Now today I saw a BAF for the Congressional but not the state legislative maps

but i have never seen, and certainly don't have, a BAF for your fixed map

Can you send it to me??

Ray

zip

DemLeg126Maps.zip

6.8 MB

RETRIEVED FROM DEMOCRACYDOCKET.COM

## Emily Redman

---

**From:** Emily Redman  
**Sent:** Wednesday, February 9, 2022 10:09 PM  
**To:** Sloan T. Spalding  
**Subject:** Re: [External]Meeting of the Ohio Redistricting Commission  
**Attachments:** ORC - Co-Chair Sykes to Co-Chair Cupp - 02-09-2022.pdf

I got their January 26 map files we can look at or go over there. Not sure SOS interest or if they've seen 1/26 versions.

Emily

Sent from my iPhone

On Feb 9, 2022, at 9:18 PM, Sloan T. Spalding <STSpalding@ohioauditor.gov> wrote:

Thoughts checking in w Rowe and see if AOS and perhaps SOS can come over to view and discuss their map in person - tomorrow after 3 pm? Assume you can make it? I can check is with SOS. Faber wants us to do something...

Get [Outlook for iOS](#)

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**From:** Rowe, Mike <Mike.Rowe@ohiosenate.gov>  
**Sent:** Wednesday, February 9, 2022 3:45:02 PM  
**To:** Christine.Morrison@ohiohouse.gov <Christine.Morrison@ohiohouse.gov>; Paul.Disantis@ohiohouse.gov <Paul.Disantis@ohiohouse.gov>  
**Cc:** Boas, George <George.Boas@ohiosenate.gov>; Rothey, Kristin <Kristin.Rothey@ohiosenate.gov>; Routt, Randall <Randall.Routt@ohiosenate.gov>; Barron, John <John.Barron@ohiosenate.gov>; Strigari, Frank <Frank.Strigari@ohiosenate.gov>; mgrodhaus@OhioSOS.Gov <mgrodhaus@OhioSOS.Gov>; jmauk@ohiosos.gov <jmauk@ohiosos.gov>; coliveti@OhioSOS.Gov <coliveti@OhioSOS.Gov>; matthew.donahue@governor.ohio.gov <matthew.donahue@governor.ohio.gov>; Aaron.Crooks@governor.ohio.gov <Aaron.Crooks@governor.ohio.gov>; dan.tierney@governor.ohio.gov <dan.tierney@governor.ohio.gov>; Michael.Hall@governor.ohio.gov <Michael.Hall@governor.ohio.gov>; Andy.DiPalma@ohiohouse.gov <Andy.DiPalma@ohiohouse.gov>; Sarah.Cherry@ohiohouse.gov <Sarah.Cherry@ohiohouse.gov>; Maya.Majikas@ohiohouse.gov <Maya.Majikas@ohiohouse.gov>; Emily Redman <ERRedman@ohioauditor.gov>; Sloan T. Spalding <STSpalding@ohioauditor.gov>  
**Subject:** [External]Meeting of the Ohio Redistricting Commission

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Hello,

Please see the attached letter from Senator Vernon Sykes, co-chair of the Ohio Redistricting Commission, to Speaker Bob Cupp.

*Mike Rowe*

Chief of Staff

Ohio Senate Minority Caucus

614-466-4371

RETRIEVED FROM DEMOCRACYDOCKET.COM





Feb. 11, 2022

Dear Commissioners,

We write today to urge the Redistricting Commission to meet as soon as possible so that we may adopt constitutional state legislative and congressional maps. The Supreme Court of Ohio has twice directed us to adopt maps that reflect the preferences of Ohio voters and to draw maps that do not unduly favor any political party. While the Supreme Court and the Ohio Constitution have given us imminent deadlines – these are not impossible tasks in the time allotted. As we have repeatedly indicated, we stand at the ready and are available to meet at any time to get to work.

We have put forward numerous state legislative district maps and congressional district maps; including, most recently on January 28, 2022<sup>1</sup> and February 8, 2022<sup>2</sup> respectively. These maps comply with the Constitution and the Court's orders and should be a part of the Commission's public deliberations. If we work expeditiously, we believe the primary can proceed with minimal disruptions or, if necessary, we can work within the legislature to accommodate an adjusted primary schedule.

There has been much talk of "crisis" and "chaos," but we are all more than capable of working together to adopt constitutional maps and to ensure a smooth election process. It is not a constitutional crisis to have to work in a bipartisan fashion. In fact, this is the work we swore an oath to do – to uphold the Constitution and obey the rule of law.

We have directed our staff to work with yours in accordance with the Court's orders. Our staff and consultants are available to you at your convenience. While we have shared our maps with

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<sup>1</sup> The maps we have drawn have been publicly available for some time. The state legislative maps are those Senator Sykes and Leader Russo filed with the Court on January 28, 2022. The block assignment files have been available for download on the Dave's Redistricting public website and are uploaded to the Commission website as well. Block assignment files for a nearly identical version of these maps have been available on the Commission website since January 24, 2022.

<sup>2</sup> Senate Minority Leader Yuko and House Minority Leader Russo released a revised congressional district map publicly on Feb. 8, 2022. The block assignment files are on the Commission website. An earlier version of this congressional map that also meets the requirements of the Constitution and the Court's order has been available on the Commission website since November 10, 2021.

your offices individually and with the public at large, we have not received any state or congressional map proposals from your offices since the Court's orders. Sharing any possible map proposals allows us to work cooperatively and affords an opportunity for the Commission and the public to analyze maps. We await and welcome your feedback on our submitted maps. Any proposed changes that are in line with the Court's orders could be quickly incorporated and adopted.

The Court has given the Redistricting Commission clear instructions on what makes a constitutional state legislative or congressional map and has charged us to rise above partisan interests and work for Ohioans and the reforms voters have enshrined in our state Constitution.

Respectfully,



Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28



C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

RETRIEVED FROM DEMOCRACYDOCKET.COM



## Emily Redman

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**From:** Rowe, Mike <Mike.Rowe@ohiosenate.gov>  
**Sent:** Monday, February 14, 2022 5:28 PM  
**To:** Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov  
**Cc:** Barron, John; Strigari, Frank; mgrodhaus@OhioSOS.Gov; jmauk@ohiosos.gov; Oliveti, Chris; matthew.donahue@governor.ohio.gov; Aaron.Crooks@governor.ohio.gov; dan.tierney@governor.ohio.gov; Michael.Hall@governor.ohio.gov; Andy.DiPalma@ohiohouse.gov; Sarah.Cherry@ohiohouse.gov; Maya.Majikas@ohiohouse.gov; Emily Redman; Sloan T. Spalding; Boas, George; Rothey, Kristin; Routt, Randall  
**Subject:** [External]Email followup from Senator Sykes

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Hello all,

The email below is sent on behalf of Senator Vernon Sykes, Co-chair of the Ohio Redistricting Commission. Thanks.

*Mike Rowe*

Chief of Staff  
Ohio Senate Minority Caucus  
614-466-4371

\*\*\*\*\*

Dear Speaker Cupp:

Leader Russo and I emailed you and the other commissioners end of day Friday requesting that we immediately schedule a hearing of the Redistricting Commission. We also requested everyone's input for consideration on the redistricting plan which we submitted to the Ohio Supreme Court on January 28 and posted to the commission's website on February 9, so that the public also could provide feedback. We continue to review our map and are ready to consider input. This email is to let you know that we still await your response.

Sincerely,

Senator Vernon Sykes  
Co-chair, Ohio Redistricting Commission

## Emily Redman

---

**From:** Emily Redman  
**Sent:** Tuesday, February 15, 2022 5:03 PM  
**To:** sykes@ohiosenate.gov  
**Cc:** Rowe, Mike; Barron, John; mgrodhaus@OhioSOS.Gov; jmauk@ohiosos.gov; Oliveti, Chris; matthew.donahue@governor.ohio.gov; Michael.Hall@governor.ohio.gov; Andy.DiPalma@ohiohouse.gov; Sarah.Cherry@ohiohouse.gov; Sloan T. Spalding; Rothey, Kristin; Routt, Randall; Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Strigari, Frank  
**Subject:** Email from Auditor Faber

All –

The below email is sent on behalf of Auditor Faber regarding the Ohio Redistricting Commission. Please let me know if you have any questions.

Thanks,  
Emily

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Co-Chair Sykes,

In response to your letters of February 11th and email of February 14th which urges the members of the Commission to meet as soon as possible to draw constitutional state legislative maps.

Ohio's Constitution provides that co-chairs be appointed to oversee the actions of the Redistricting Commission. The Commission's rules, which I think we can all agree should be significantly adjusted for future redistricting attempts, consolidate most of the authority for calling meetings with the co-chairs. The Constitution does not dictate that the co-chair from the majority party set and preside over all meetings of the Commission, it simply provides for co-chairs of equal authority.

As we have communicated with you and other commission members, my team and I have been available to meet since Ohio's Supreme Court ordered the Commission to reconvene. While no official meeting has been called, my team has taken the time to review many maps including the revised legislative maps created by your team. My staff specifically reached out to you and attended a meeting to review proposed maps.

As an appointed co-chair, you have full authority to send a notice and call a meeting of this Commission. Additionally, you and Leader Russo are members of the Commission with the same authority and responsibility and subsequent consequences as your fellow commissioners, with one exception, you are not personally required to be on the commission and can choose others to serve in your spot if you are unable to act. Being a Democrat does not and would not exempt you from working to a solution. As I'm sure you are aware, you can move maps, offer and second amendments and prepare to pass maps, something no Democrat commissioner has taken the opportunity to do to this point in the process.

As always I look forward to working you to achieve constitutional maps.

Sincerely,  
Keith Faber  
Ohio Auditor of State





Feb. 16, 2022

To: Ohio Redistricting Commissioners

Dear Commissioners,

We write today to share with you our updated state legislative map versions and to again ask for your feedback on our map proposals. Last week, we presented our state legislative maps – which we filed with the Ohio Supreme Court on January 28 – to the press, shared the map proposals with several of your staff, and we uploaded them to the Ohio Redistricting Commission website for the public to review. We wrote to you again on Friday requesting your feedback on our state and congressional maps. As of the date of this letter, we have yet to receive any feedback from any Commissioner's office and none of your offices have directly communicated to us any way in which you believe our maps violate the Ohio Constitution.

Despite this lack of input, we have performed additional quality checks on our maps over the past several days. We found eight census blocks that were inadvertently split from their political subdivision and have addressed those minor, and easily fixed, issues in our revised maps. These maps comply with the line-drawing rules and proportionality rules in the Constitution and the Court's orders. We urge you to give serious consideration to these map proposals and we would like to hear from you by 9:00 a.m. on Feb. 17, 2022. Responding in this timeframe will allow us to evaluate and potentially incorporate your feedback into the maps before the Court's deadline of Feb. 17, 2022.

As stated above, the enclosed maps, "Sykes Russo State House 2-15-2022"<sup>1</sup> and "Sykes Russo State Senate 2-15-2022"<sup>2</sup> (see Block Assignment files sent with this letter) move eight census

<sup>1</sup> <https://davesredistricting.org/join/cbcbf3f71-6971-4183-80f6-a9aa0279af86>

<sup>2</sup> <https://davesredistricting.org/join/058a0ab4-ddfd-4a33-9925-8b127e158cd4>

blocks from one district to another. These changes do not affect proportionality and were easily addressed. The changes are as follows:

**Sykes/Russo Revised Map Changes:**

- Unpopulated Census Block 391535326002006 moves from HD 33 to HD 32
- Unpopulated Census Block 391535310011031 moves from HD 35 to HD 34 and from SD 18 to SD 28
- Census Block 390170013002011 containing 6 people moves from HD 47 to HD 45
- Census Block 391517135013020 containing 6 people moves from HD 50 to HD 49
- Unpopulated Census Block 391517108004062 moves from HD 51 to HD 52 and from SD 29 to SD 33
- Unpopulated Census Block 390450302002076 moves from HD 70 to HD 73
- Census Block 390110403002002 containing 72 people moves from HD 80 to HD 81 and from SD 12 to SD 5
- Unpopulated Census Block 390110405004020 moves from HD 80 to HD 81 and from SD 12 to SD 5

We have also reviewed the affidavit of Ray DiRossi submitted to the Court on January 28, 2022 and examined the list of errors that he identified in the maps passed by the majority on January 22, 2022. We attest that the maps we submit to you today do not contain any of the errors that the Commission-adopted maps contained.

Since the Court rejected the Commission's state legislative maps for a second time, there have been no Commission map drawing sessions with staff despite our repeated offers to do so. On Thursday, Feb. 10, staff from Auditor Faber's office and Secretary LaRose's office requested and received a presentation on our proposed maps from our staff. The meeting lasted roughly an hour. We directed our staff to offer the same presentation to the Governor's office. On Friday afternoon, Secretary LaRose and his staff requested and received a presentation of our proposed maps. Sen. Sykes was present as well. The meeting lasted roughly an hour. Last night, the Governor's staff accepted our offer to go over our map proposal and our staff are scheduled to meet with the Governor's office staff today for a similar briefing. Despite the briefings held so far, we have not received any feedback on the maps themselves.

It is possible for us to draw constitutional maps and for us to work together as the Court has directed us to do. In fact, our proposal before the Commission has created constitutional state legislative maps. The Court has soundly rejected legal arguments that Ohio's political geography is an obstacle because it does not match the proportionality of the statewide vote. In fact, the Court held "that the extreme partisan skew of the original plan was not due to Ohio's political geography but, rather, to the commission's carrying out its intent to favor the Republican Party at the expense of



the Democratic Party.”<sup>3</sup> We cannot submit maps based on the same failed legal arguments to the Court again.

The Court has given the Redistricting Commission clear orders to adopt constitutional maps. If you have map proposals, we urge you to release those as soon as possible so the public and Commissioners will be able to provide feedback. We request any potential proposals be released by 9:00 a.m. tomorrow. We and our staff continue to stand at the ready and are available to meet at any time to get to work to adopt constitutional maps.

Respectfully,



Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28



C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

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<sup>3</sup> *League of Women Voters of Ohio v. Ohio Redistricting Commission*, Slip Opinion No. 2022-Ohio-342, P 33.

## Emily Redman

---

**From:** Emily Redman  
**Sent:** Thursday, February 17, 2022 9:53 AM  
**To:** Rowe, Mike  
**Cc:** Sarah.Cherry@ohiohouse.gov; Michael.Hall@governor.ohio.gov; jmauk@ohiosos.gov; Sloan T. Spalding (STSpalding@ohioauditor.gov); Barron, John; Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Strigari, Frank; Routt, Randall; Oliveti, Chris; mgrodhaus@OhioSOS.Gov; matthew.donahue@governor.ohio.gov; Andy.DiPalma@ohiohouse.gov  
**Subject:** Feedback on Maps  
**Attachments:** District 48.png; District 93.PNG; District 44.png

All –

On behalf of Auditor Faber, in response to your letter yesterday asking for formal feedback on the proposed maps, please see attached three areas of concern. We are not saying these are the only areas as we are still reviewing, but wanted to get you feedback as close as we could to your deadline. None of these should be of surprise to you, as we have mentioned in meetings and communications that we have Section 6(A) and 6(C) concerns if it is the belief that Section 6 is to be prioritized over other Sections of the Ohio Constitution.

One area of concern that is undoubtedly in violation of 6(C) compactness is District 48 in western Ohio. It runs from the edge of Hamilton county north through Darke county.

A second area of concern would be District 93 in violation of 6(A) to not draw primarily to favor or disfavor a party. In order to make a district in SE Ohio lean Democrat, the district had to carve up Ross county so that only the city of Chillicothe was clustered into Athens and Hocking counties. The only reason this stretch needs to be made would be to favor the Democrat party.

A third area is Lucas county which we argue violates 6(A) and 6(C). In order to create a fourth Democrat house district in the Toledo area, Ottawa county (a rural county according to the USDA and Census Places) must be drawn in with downtown Toledo for District 44. There is no reason to group the city of Toledo with Ottawa county unless one is trying to favor a certain political party. Additionally, the "tail" that is seen going into Lucas county down the Maumee River is not compact.

We will continue our review, and look forward to a robust discussion at the Commission meeting today. Thank you for your consideration of our constitutional concerns.

Best,  
Emily





## Emily Redman

---

**From:** Rowe, Mike <Mike.Rowe@ohiosenate.gov>  
**Sent:** Thursday, February 17, 2022 10:22 AM  
**To:** Emily Redman  
**Cc:** sarah.cherry@ohiohouse.gov; Michael.Hall@governor.ohio.gov; jmauk@ohiosos.gov; Sloan T. Spalding; Barron, John; Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Strigari, Frank; Routt, Randall; Oliveti, Chris; mgrodhaus@ohiosos.gov; matthew.donahue@governor.ohio.gov; Andy.DiPalma@ohiohouse.gov  
**Subject:** [External]Re: Feedback on Maps  
**Attachments:** image003.jpg; District 48.png; District 93.PNG; District 44.png

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Hi Emily,

Thanks for the Auditor's input. We are reviewing your email.

Mike

Sent from my iPhone

On Feb 17, 2022, at 9:53 AM, Emily Redman <EERedman@ohioauditor.gov> wrote:

All –

On behalf of Auditor Faber, in response to your letter yesterday asking for formal feedback on the proposed maps, please see attached three areas of concern. We are not saying these are the only areas as we are still reviewing, but wanted to get you feedback as close as we could to your deadline. None of these should be of surprise to you, as we have mentioned in meetings and communications that we have Section 6(A) and 6(C) concerns if it is the belief that Section 6 is to be prioritized over other Sections of the Ohio Constitution.

One area of concern that is undoubtedly in violation of 6(C) compactness is District 48 in western Ohio. It runs from the edge of Hamilton county north through Darke county.

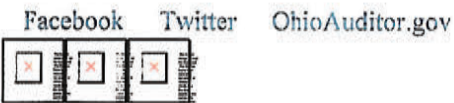
A second area of concern would be District 93 in violation of 6(A) to not draw primarily to favor or disfavor a party. In order to make a district in SE Ohio lean Democrat, the district had to carve up Ross county so that only the city of Chillicothe was clustered into Athens and Hocking counties. The only reason this stretch needs to be made would be to favor the Democrat party.

A third area is Lucas county which we argue violates 6(A) and 6(C). In order to create a fourth Democrat house district in the Toledo area, Ottawa county (a rural county according to the USDA and Census Places) must be drawn in with downtown Toledo for District 44. There is no reason to group the city of

Toledo with Ottawa county unless one is trying to favor a certain political party. Additionally, the "tail" that is seen going into Lucas county down the Maumee River is not compact.

We will continue our review, and look forward to a robust discussion at the Commission meeting today. Thank you for your consideration of our constitutional concerns.

Best,  
Emily



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## Emily Redman

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**From:** Sarah.Cherry@ohiohouse.gov  
**Sent:** Thursday, February 17, 2022 10:26 AM  
**To:** Emily Redman; Mike.Rowe@ohiosenate.gov  
**Cc:** Michael.Hall@governor.ohio.gov; jmauk@ohiosos.gov; Sloan T. Spalding; John.Barron@ohiosenate.gov; Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Frank.Strigari@ohiosenate.gov; Randall.Routt@ohiosenate.gov; Oliveti, Chris; mgrodhaus@OhioSOS.Gov; matthew.donahue@governor.ohio.gov; Andy.DiPalma@ohiohouse.gov  
**Subject:** [External]RE: Feedback on Maps

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Thank you, Emily. We will consider these notes. But a few points in response since we are past the 9am mark:

1. I don't recall anyone saying that section 6 is to be prioritized over other sections of the Constitution. The Court was clear in its view in paragraph 50 of its decision and in other places in the decision.
2. The Democratic plan and its districts are compact.
3. 6(A) reads: "(A) No general assembly district plan shall be drawn primarily to favor or disfavor a political party." The Democratic plan complies with 6(A).
4. Regarding Chillicothe, is it your preference that Chillicothe be split? I'd like to understand more about this concern. How do you believe this violates 6(A)?
5. Regarding Lucas County, is it your contention that the entire county violates 6(A)? Can you explain what you believe the constitutional violation is?

These are just my quick thoughts. Thank you.

### **Sarah A. Cherry**

*Legal Counsel, Minority Caucus*  
*she/her/hers*

Ohio House of Representatives  
77 South High Street, 14th Floor  
Columbus, OH 43215  
office: (614) 466-6040  
[sarah.cherry@ohiohouse.gov](mailto:sarah.cherry@ohiohouse.gov)

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**From:** Emily Redman <EERedman@ohioauditor.gov>  
**Sent:** Thursday, February 17, 2022 9:53 AM  
**To:** Rowe, Mike <Mike.Rowe@ohiosenate.gov>  
**Cc:** Cherry, Sarah <Sarah.Cherry@ohiohouse.gov>; Michael.Hall@governor.ohio.gov; jmauk@ohiosos.gov; Sloan T.

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**Subject:** Feedback on Maps

All –

On behalf of Auditor Faber, in response to your letter yesterday asking for formal feedback on the proposed maps, please see attached three areas of concern. We are not saying these are the only areas as we are still reviewing, but wanted to get you feedback as close as we could to your deadline. None of these should be of surprise to you, as we have mentioned in meetings and communications that we have Section 6(A) and 6(C) concerns if it is the belief that Section 6 is to be prioritized over other Sections of the Ohio Constitution.

One area of concern that is undoubtedly in violation of 6(C) compactness is District 48 in western Ohio. It runs from the edge of Hamilton county north through Darke county.

A second area of concern would be District 93 in violation of 6(A) to not draw primarily to favor or disfavor a party. In order to make a district in SE Ohio lean Democrat, the district had to carve up Ross county so that only the city of Chillicothe was clustered into Athens and Hocking counties. The only reason this stretch needs to be made would be to favor the Democrat party.

A third area is Lucas county which we argue violates 6(A) and 6(C). In order to create a fourth Democrat house district in the Toledo area, Ottawa county (a rural county according to the USDA and Census Places) must be drawn in with downtown Toledo for District 44. There is no reason to group the city of Toledo with Ottawa county unless one is trying to favor a certain political party. Additionally, the "tail" that is seen going into Lucas county down the Maumee River is not compact.

We will continue our review, and look forward to a robust discussion at the Commission meeting today. Thank you for your consideration of our constitutional concerns.

Best,  
Emily



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## Ohio Redistricting Commission - 2-17-2022 - part 1

<http://ohiochannel.org/video/ohio-redistricting-commission-2-17-2022>

*note: due to technical difficulty, audio is not available for the first 1 minute and 18 seconds of this meeting*

**House Minority Leader Allison Russo** [00:01:18] With modifications made to the maps based on feedback that we received that day from the commissioners here in this room today, we filed this map with the court on January 28th and we have since done additional minor cleanup that moved 84 people into different districts. We asked for additional feedback from commissioners to be sent to us by 9:00 a.m. this morning and we did not receive any. We did receive an email from staff of the auditor's office, but it did not show any constitutional violations. The block assignment files for these maps are under consideration in this motion are on the commission website. The proportional breakdown of these maps is 45 Democratic leaning and 50 for a Republican leaning House districts and 15 Democratic leaning and 18 Republican leaning Senate districts. This closely corresponds to the statewide voter preferences of Ohio, as required by Section 6B, the court said. The 54 46 ratio is a foundational ratio created not by this court or by any particular political party, but instead etched by the voters of Ohio into our Constitution. All other requirements of the Constitution are met. No one has shown constitutional violations in these maps, so I urge a yes vote for adoption of the maps that have been proposed in this motion.

**Co-chair Sen. Vernon Sykes** [00:02:54] Any questions or comments?

**Co-chair Speaker Bob Cupp** [00:02:58] Mr. Chairman, are there a copy of the map in the folder? I don't have a computer here, so I can't see the map.

**Co-chair Sen. Vernon Sykes** [00:03:07] We stand at these until the copies are distributed.

**Senate President Matt Huffman** [00:04:38] Mr. Chairman, one one question, I know that there was a map produced a few weeks ago and then also a map revealed at the end of last week. And then about 24 hours ago, changes to that map. So is the is the motion regarding the map from yesterday?

**House Minority Leader Allison Russo** [00:05:01] Through the co-chair to the Senate president, the map that we have proposed that you see before you is the map. With all changes incorporated, you receive this map via again, it's been posted on the commission website. The the. We specified the small changes that were made. Again, those changes resulted in 84 voters moving.

**Senate President Matt Huffman** [00:05:33] Well, to be clear, my guess, my question is just so we know which version of the map. These are the final version is the map that we got that was posted or changed yesterday. Is that correct?

[00:05:44] The co-chair to the Senate president. Yes, that is correct.

**Senate President Matt Huffman** [00:05:48] OK, very good. I have a series of questions about the map. I'm not sure if Mr. Glassburn is going to be here today, or I should pose those to Leader Russo or some other individual or set of individuals.

**Co-chair Sen. Vernon Sykes** [00:06:01] Leader Russo, please.

**Senate President Matt Huffman** [00:06:03] OK, very good. The first requirement in the Constitution is. In Section six, of course, is Section 6A, and based on our analysis of the map, there is a pairing of incumbents, house incumbents in the map. Five House districts are drawn so that five or 10 House Republicans are drawn together. In a sixth district, there's also a Republican incumbent drawn into a district that is drawn into a Democratic district. There is no such treatment for any of the Democratic House members that appears to favor the Democratic Party. How does that comport with Section 6A?

**House Minority Leader Allison Russo** [00:07:03] Through the co-chair. Thank you, Mr. Senate President, for that question. First, let me be clear again that our map is compliant with Sections two, three, four or five and seven and also complies with Section six. No one has shown a constitutional violation. Specifically, Section 6A says no General Assembly district plan, meaning the entire plan, shall be drawn primarily to favor or disfavor a political party. It does not specifically speak to an individual district, or the composition of a district is certainly entirely constitutional to have Democratic districts and Senate districts, and certainly the Constitution, I believe, remains silent on pairing of incumbent.

**Senate President Matt Huffman** [00:07:52] Was the drawing -- may I continue, Mr. Chair, without going through the chair each time?

**Co-chair Sen. Vernon Sykes** [00:07:57] Absolutely.

**Senate President Matt Huffman** [00:07:58] Thank you. Is the drawing of house districts that only pair Republican incumbents either against themselves or into Democratic districts, doesn't that in fact disfavor the Republican Party?

**House Minority Leader Allison Russo** [00:08:13] Through the co-chair to Mr. Senate president. Again, six, section 6A of the Constitution says no General Assembly district plan, meaning the plan in its entirety shall be drawn primarily to favor or disfavor a political party. Our plan that is submitted does not favor or disfavor a political party. It meets the proportional requirement of 54 46.

**Senate President Matt Huffman** [00:08:42] And I understand the holistic statement, but to examine whether the entire plan favors or just favors the party. You have to look at individual elements, and I'm asking on this individual element where this plan only pairs Republican incumbents against other Republican incumbents or Republican incumbents into Democratic districts in the House. Doesn't that portion of your plan disfavor the Republican Party and favor of the Democratic Party?

**House Minority Leader Allison Russo** [00:09:13] Through the co-chair again to the Senate president. We are - the question is, does this map meet constitutional requirements?

**Senate President Matt Huffman** [00:09:23] It's not my question.

**House Minority Leader Allison Russo** [00:09:24] Well, then you and I will disagree that it favors or disfavors one party over the other based on one singular district.

**Senate President Matt Huffman** [00:09:33] Well, to be clear, I'm not asking about one singular district. I'm asking about six districts in this element of your plan. And if your conclusion is that doesn't favor or disfavor a party, I'll accept that as an answer and let the

public decide whether 6, 11 Republicans drawn in against each other against into a Democratic district incumbents, whether that favors or just favors a party. So let me let me --.

**House Minority Leader Allison Russo** [00:09:59] Mr. co-chair. I'd like to respond to that. Please, if I may.

**Co-chair Sen. Vernon Sykes** [00:10:01] You may.

**House Minority Leader Allison Russo** [00:10:02] Thank you, Mr. Co-Chair. In response to your statement, President Huffman, when there is a gerrymander that must be undone, which is currently the situation we are under in the maps as they exist today, some of the unfavorable -- unfairly favored members will lose their seats. That is part of undoing a gerrymandered map and districts.

**Senate President Matt Huffman** [00:10:29] And then I guess I would say Mr. Chairman and to Leader Russo. The map that is currently in place was approved by the Ohio Supreme Court in 2011, so we can use the term gerrymander, but in fact was found to be constitutional not only by the Ohio Supreme Court, but in several lawsuits in federal court over the past 10 years. Let's turn a little bit to the the Senate map also, and if we could get for the commission's purposes, the map of Northwest Ohio, which includes Lucas County. And in particular, Leader Russo I want to draw attention to a set of changes, some would it maybe be easier for the commission if it was closer to the podium? If you were just, you know, pick that up and move it over. And the members of the commission, you may, may or may not know that Senator Rob McColley, who is happens to be the majority whip in the Ohio Senate right now, is from Henry County. And if you look at Henry County, it's the second line of what's actually in the future look looking district, the county that has the number two in it. Senator McColley's current district goes south to Putnam County, Paulding County, Van Wert and the district would, now pairs Senator McColley and Senator Gavarone in the same district. Senator Gavarone, of course, is an incumbent. It is not up for election for two years. Senator McColley is would essentially be able be unable to run because the district would now be in would be occupied by a current senator who's in the middle of their four year term. Of course, under the Constitution is allowed to continue. So this district itself eliminates Senator McColley from being able to run. Isn't that true, Leader Russo?

**House Minority Leader Allison Russo** [00:12:40] Through the co-chair to the Senate president, is there a constitutional violation that you are asserting?

**Senate President Matt Huffman** [00:12:46] No, I'm asking a question. Doesn't this drawing of this district eliminate Senator McColley from being able to run in 2022?

**House Minority Leader Allison Russo** [00:12:56] Through the co-chair to the senator. I have not assessed whether or not individual members of the General Assembly can run or not run.

**Senate President Matt Huffman** [00:13:05] OK, well, I guess I'll represent to the commission. That's true if there's someone who comes up with different information during the time of this hearing. Senator McColley lives in Henry County, the county with the two on it. And because under this map, he would now be in a district that is occupied by senator in the middle of a four year district. He's eliminated from running. And I would submit, clearly disfavors a member of the Republican Party, a Republican incumbent. If if

we could show the statewide map now and this is also an interesting change of districts. Yeah, the entire statewide Senate map Senate District 27 currently is the is a district that is occupied by Senator Kristina Roegner, who's from Hudson, Ohio, in Summit County, which is just south of Cuyahoga County. The new Senate District, 27, now exists in Greene County and part of Montgomery County. So question again to Leader Russo, and maybe you've already answered this that you haven't examined that, but was Senate District 27, now in Greene County in Montgomery County, Senator Roegner would also be eliminated from running for reelection. Isn't that true?

**House Minority Leader Allison Russo** [00:14:28] Through the co-chair to the Senate president again, I will remind you this is the discussion, not a deposition. And I again, what is the constitutional violation that you are asserting here? Because so far, you know, the fact that certain members of the General Assembly are not able to run is not a violation of the Constitution and does not speak to how our map does not meet the constitutional requirements of Section six.

**Senate President Matt Huffman** [00:14:59] I disagree because we're discussing, I'm discussing Section 6A, which again says, no General Assembly district plan - and a plan is made up of many elements - some of the elements I'm discussing right now, no General Assembly District Plan shall be drawn primarily to favor or disfavor a political party. And if comprehensively this district plan favors or disfavors a political party, it is unconstitutional because it does not meet the requirements of Section 6A. So as we go through these multiple changes to this map that overwhelmingly disfavor the Republican Party and favor the Democratic Party, we can see the lack of constitutionality. Now if you said.

**House Minority Leader Allison Russo** [00:15:45] Mr. Co-chair, could I please respond, please?

**Senate President Matt Huffman** [00:15:45] I'd like to finish my statement if I could, Mr. Co-Chair

**Co-chair Sen. Vernon Sykes** [00:15:48] Yes, Mr. President.

**Senate President Matt Huffman** [00:15:49] Yeah thanks. So I simply like want to go through now if if what what the, Leader Russo would like me to do is just simply have a narrative and not be able to respond to these things individually. I'm happy to do that. I don't know that that's much help for the public, but I'm happy to not question, alright? It looks like Mr. Glassburn, the map drawer is not here today, and or is here? And if Leader Russo is going to be the person answering and she'd rather have me do a narrative on this, that's fine. It really doesn't make any difference to me. I would just want to make sure that that these points are made.

**Co-chair Sen. Vernon Sykes** [00:16:26] Yeah, you may continue.

**Senate President Matt Huffman** [00:16:28] All right. So do you want me to stop individually? Or if Leader Russo does not want to answer questions about that, that's fine.

**Co-chair Sen. Vernon Sykes** [00:16:36] Leader Russo?

**House Minority Leader Allison Russo** [00:16:38] I'm happy to answer questions.

**Co-chair Sen. Vernon Sykes** [00:16:39] she's here to answer them.

**Senate President Matt Huffman** [00:16:40] OK, so, so so returning to my last question, I'm talking about Section 6A, where we can either politically disfavor or favor a party, doesn't moving District 27 to a different part of the state and therefore making it impossible for Senator Roegner, who doesn't live there and hasn't filed petitions or doesn't have signatures from folks in Greene County and Montgomery County. Doesn't that disfavor a Republican incumbent?

**House Minority Leader Allison Russo** [00:17:09] Through the co-chair, I do not believe that that disfavors the Republican Party. In fact, I would, you know again, because this is a discussion of the commission of the map, I would ask to you, how many people did your map move that you proposed the last time from an odd to an even number district or vice versa? And certainly, we have examples on the House side where Democratic members were drawn out of Democratic-leaning districts into Republican-leaning districts. Is that what you are putting forward as defining unconstitutional?

**Senate President Matt Huffman** [00:17:45] Yeah. Well, I don't know the answer to the first question that was there. Secondly, we had a long discussion about that map when it was passed originally. And at the moment, we're trying to get to the bottom of of this map that's being proposed today. So that's why I'm asking questions about that. So I guess everyone can make their own conclusion regarding Senator Roegner and how she could run in Greene County or Montgomery County. But, isn't it, isn't it also true that under the current scenario where we had petitions signed by a certain date, we passed a legislation to make sure that all of these signatures, either in a county or close by, counted. There's no one who has filed petitions in Senate District 27 that have signatures from those two counties that are that are currently valid. I'm correct on that, aren't I?

**House Minority Leader Allison Russo** [00:18:48] Through the co-chair, to the Senate president. I don't know the answer to that question. However, I'll remind you that the the adjustment to the petitions that we passed a couple of weeks ago number one, don't hold individuals at fault for having the wrong district number. They're still the window to move into a district and certainly by election law that currently exists, there is the opportunity for write in candidates.

**Senate President Matt Huffman** [00:19:18] OK, well, we could solve it with all write-in candidates, I guess. But OK, another senator, Republican senator, Senator Jerry Cirino, currently represents the Senate District 18. He lives in Lake County. Senate District 18 has now been moved down into, I think it's Portage County in southern Summit County at least I think that's what the map shows. So Senator Cirino, who is former Lake County commissioner, he has nine kids and thirty five grandkids, and I'm told they all live in Lake County. He he will also represent a district that he was not elected in and would have to move in in two years to to run for. Isn't that right?

**House Minority Leader Allison Russo** [00:20:10] Again, through the co-chair, Mr. President Huffman, again have not followed individual candidates. I think it was you who indicated during the last commission meeting when we were talking about State Representative Dan Troy that if you've got a great candidate, a great candidate can compete in any district.

**Senate President Matt Huffman** [00:20:34] Yeah. Well, it would certainly have to be a district that maybe at one point he lived in or ran for office. So we'll see how well Senator Cirino can do down in District 18. The last senator, I guess I to draw attention to is Senator

Antani in his district is now, which is District six. He no longer lives in his district, either. Is that correct? In Montgomery County.

**House Minority Leader Allison Russo** [00:21:00] I'm sorry, through the co-chair, which district was that again?

**Senate President Matt Huffman** [00:21:04] Senate District six and Montgomery County, the red one.

**House Minority Leader Allison Russo** [00:21:06] I can't see the entire map from here.

**Senate President Matt Huffman** [00:21:07] OK, well, the map, I think you have your own hand out here. It should it should be seen on your handout that you just passed out to the commission.

**House Minority Leader Allison Russo** [00:21:30] Again, I'm sorry, can you repeat your question?

**Senate President Matt Huffman** [00:21:32] The question is, is it true that Senate Senator Antani is now drawn out of his district and does not live inside the District, Senate District six that he was elected in?

**House Minority Leader Allison Russo** [00:21:42] Again through the co-chair, president Mr. President Huffman? Again, I do not follow individual candidates. What is the constitutional violation again that you are alledging?

**Senate President Matt Huffman** [00:21:55] Well, all of these questions, as I'll repeat again, have to do with Section 6A that a plan, which is made up of many elements, cannot favor or disfavor a political party. And I'm submitting to the commission and Leader Russo cares to respond or any other commission members care to respond that as it relates to 6A, this map only, not only primarily, but only favors Democratic, the Democrat Party, and only disfavors the Republican Party, which I think certainly meets the category of primary. So that's my response regarding those are my questions and my statement regarding.

**House Minority Leader Allison Russo** [00:22:37] Mr. Co-chair, can I respond?

**Senate President Matt Huffman** [00:22:38] Constitution, Section 6A.

**Co-chair Sen. Vernon Sykes** [00:22:41] Yes, leader.

**House Minority Leader Allison Russo** [00:22:42] Thank you. Thank you, Mr. Co-Chair, Senator, President. Mr. President Huffman, sorry, I will again disagree with your assertion. Again, we have created an entire plan that meets the proportional requirements. As a consequence of meeting that requirement there will be some elected representatives who may not have a district to run in or be in a district that does not favor their party. That is a consequence of drawing a proportional map. And again, I will restate that our map meets all sections that are required sections two, three, four, five and seven and fully complies with section six, including both the not favoring or disfavoring the proportional requirements, as well as I'm sorry, I'm losing my place, as well as the compactness.

**Senate President Matt Huffman** [00:23:46] And so it's just coincidental that all of the candidates, all of the incumbents that are disfavored here, which are total of 15, all of them

are Republicans, that's just a coincidental, coincidental portion of this map that's being presented today.

**House Minority Leader Allison Russo** [00:24:04] Through the co-chair through President Huffman. If your standard is the current set of maps which favor the Republicans or the maps that you have proposed in the last commission meeting that have been thrown out by the courts, both the last set of maps and the original set of maps that you proposed. If that is the standard that you were using, then yes, some Republicans are going to lose seats.

**Senate President Matt Huffman** [00:24:29] So if I may continue, Mr. Chair, so if the if the goal is to sacrifice other portions of the Constitution 6A or 6C in order to meet 6B. One, return your attention to Northwest Ohio. Section, or District 11 in Lucas County, District 2 which is to the southwest and south and District 26, make up much of northwest Ohio. District 2 is is a 60 percent Republican district. District 26 six is 60 percent Republican District. District 11 is a 40 percent Republican district and in essence, two Republican and one Democratic districts. That same land area is also in the current map, and all of the proposed maps have basically the same draw. There are two 60 percent Republican districts and one 40 percent Republican, or Democratic, district. What this map does, however, of course, is for the first time in decades, split the city of Toledo into a district that goes off to the south east and but doesn't affect proportionality at all. In fact, it keeps proportionality the same. The one effect it does have is to eliminate Senator McColley. So how does splitting the city of Toledo for the first time in, I think, 30 years in taking that into a different district? How does that, and how does that help your proportionality argument?

**House Minority Leader Allison Russo** [00:26:16] Through the co-chair, President Huffman, I'm not entirely clear what your question is because there was a lot in there. But again, you know? I will say that our map meets the constitutional requirements, including all requirements of Section six. And are you proposing that it is your goal to sacrifice sections of the Constitution, including 6B in order to meet 6A and C?

**Senate President Matt Huffman** [00:26:49] Yeah, I'm I'm asking questions about your map. And it appears the reason since the proportionality did not change in northwest Ohio for the districts that are there, except the one thing that did change is the exclusion of Henry County into a different district. The the appearance is that we're trying to eliminate Senator McColley from the Ohio Senate because you're not changing anything as it relates to 6B.

**House Minority Leader Allison Russo** [00:27:21] Again, through the co-chair, President Huffman of what is your constitutional violation that you are asserting?

**Senate President Matt Huffman** [00:27:28] Well.

**House Minority Leader Allison Russo** [00:27:29] Other than that, you are unhappy that there is an incumbent who perhaps will be running in a district that is more difficult for him to win.

**Senate President Matt Huffman** [00:27:38] With the exception of my wife, my happiness is not constitutional to anybody. I would say that 6A to do with favoring or just favoring a political party. And if that's what you're trying to do by eliminating Senator McColley, I think that's unconstitutional.

**House Minority Leader Allison Russo** [00:27:56] Again, through the co-chair to President Huffman, the requirements are for the entire district plan, not an individual district. And again, there will be districts that are Republican leaning and Democratic leaning in order to meet 6B.

**Senate President Matt Huffman** [00:28:20] Very good, well let's.

**House Minority Leader Allison Russo** [00:28:20] And that is not violating 6A to do that.

**Senate President Matt Huffman** [00:28:24] All right. Thank you. Thank you. So very good. Let's move to violations of Section 6B. In the second Supreme Court opinion, the court remarked that, and used the term symmetry when defining Democratic districts that were very close to 50 percent and proposed and suggested for the first time, it's not in the Constitution. It wasn't in the court's first decision, but is in the court's second decision that the Democratic districts that are between 50 and 51 percent aren't truly Democratic leaning districts. Yet, this map has six districts that are in that percentage. Two Senate and four House districts. So doesn't that in fact violate the court's symmetry proposal that is, in their opinion, to have districts in that 50 to 51 percent bracket.

**House Minority Leader Allison Russo** [00:29:29] Through the co-chair President Huffman? No, it does not. What the court discussed on the issues of symmetry is if those those districts that are between 50 and 51 are completely out of whack for one party versus the other. In your previous map, those numbers will speak to the house districts. You had 12 of those districts that were between 50 and 51 percent, no Republican districts that were between 50 and 51 percent. So essentially toss up districts. And this map, there are five House seats that are between 50 and 51 percent in three Senate seats between 50 and sorry, 50 and 52 percent and two seats that lean Republican, so in the opposite direction, that are under 54 percent.

**Co-chair Sen. Vernon Sykes** [00:30:30] Mr. Huffman, if we could maybe allow another member a chance to ask the question, we can come back to you.

**Senate President Matt Huffman** [00:30:36] Certainly.

**Senate President Matt Huffman** [00:30:40] Are there any of the questions by any other members?

**Co-chair Speaker Bob Cupp** [00:30:43] Mr. Chairman, what? Well, we're having a pause. I would, I think that the Leader Russo made a statement that in the last map, the Republicans paired Democrats together. In the last, in sort of a systematic way and in large numbers. And I would just point out in the final map, we had one District, one district, with two returning incumbents that were paired. One was Republican and one was a Democrat in a Democrat leaning district, by the way. So, so I'm not sure what's at play here, whether this is just an attempt to throw Republicans together, but accusing what we did say and what we did in the second map is inaccurate. In fact, there was a deliberate attempt not to put incumbents together because of either party.

**House Minority Leader Allison Russo** [00:31:42] Sure.

**Co-chair Sen. Vernon Sykes** [00:31:43] Leader Russo.



**House Minority Leader Allison Russo** [00:31:43] Through the co-chair Co-Chair Cupp, thank you for that correction. My apologies. What I was saying was that there were certainly members, current members who were put from competitive districts into Republican leaning districts. And my apologies for misspeaking there.

**Co-chair Sen. Vernon Sykes** [00:32:04] Auditor Faber?

**Auditor of State Keith Faber** [00:32:05] Thank you. I want to pick up on just two things that were asked before and help me understand. In the map, and I apologize, I just did this quickly. So if my numbers are a little off to whoever wants to answer this. I noticed that you drew a number of competitive seats, and I have stated publicly that I've always thought the answer to this map drawing dilemma we have is to draw more competitive seats, not less. And so first of all, I want to understand what you viewed as a competitive index for the purposes of this map. Dave's uses a 10 point spread, and I think in my prior conversations with my Democratic colleagues, we've all agreed that that may be too broad. So I have looked at a 48 52 kind of range, so it's a little tighter spread. I don't know which one you guys are looking at for your spread. If you could just tell me what your spread on the competitive ratio is, it would help me understand that.

**House Minority Leader Allison Russo** [00:33:06] Thank you. Through the co-chair, Auditor Faber. As a reminder, there is no definition of competitiveness. In fact, I don't believe that this commission has defined that, nor is competitiveness mentioned in the Constitution.

**Auditor of State Keith Faber** [00:33:25] I appreciate that leader. So what you're telling me is you guys don't care about competitiveness?

**House Minority Leader Allison Russo** [00:33:32] Through the co-chair, through the, or to Auditor Faber. What we care about is meeting constitutional requirements.

**Auditor of State Keith Faber** [00:33:42] As do I. But going back to my question on competitiveness, you're telling me that you and your map drawer didn't care about competitiveness or didn't consider competitiveness when you're drawing the maps? Because you would, I think, agree that you're required to meet certain constitutionality, others attest, but you can also draw other things, that we had. I think it was about 80 hours of testimony coming before this body from various interested parties talking about the merits of competitive districts and the foibles of having hyper anti-competitive districts? If you guys didn't consider that and you don't think that's important. I think it's important for the public to hear that. But if that's not your position, in all candor, I think it's a good argument it isn't your position, but if that is your position, I'd like to know.

**House Minority Leader Allison Russo** [00:34:33] Through the co-chair, through Auditor Faber while I appreciate the question. It is at least my position that when you draw maps that are constitutional and meet the requirements of the Constitution, you will inherently have some competitive districts.

**Auditor of State Keith Faber** [00:34:51] All right. So my next follow up question, Mr. Chair, is looking at your maps. I think you mentioned, Leader, when you were discussing the prior maps that there were a number of competitive Republican, I mean, competitive districts drawn. And in the court's notation, they indicated that those favored primarily, or those were primarily Democrat districts, which were the competitive ones. In this map, my quick count is is that you have eight Democrat competitive seats and one Republican

competitive seat in the range that I talked about. Is there a reason that you chose to draw competitive districts to be Democrat seats, leaning Democrat, versus Republican leaning competitive seats when you made your decisions in drawing the maps?

**House Minority Leader Allison Russo** [00:35:40] Again through the co-chair Auditor Faber. We did not draw these seats. The Constitution does not require competitive competitiveness, nor does it mention it. We draw these, drew these maps to meet the requirements of the Constitution. Inherently, there will be, quote unquote some competitive seats. What I consider competitive, what you consider competitive may be different. As a commission, we have not agreed upon what that means. But again, the requirements of the court in the Constitution is to meet these sections, and that is what we did in drawing these maps.

**Auditor of State Keith Faber** [00:36:17] Well, Leader Russo, I appreciate you giving me the same answer back again to whatever question I ask on this topic, but I want to go back and ask the point very clearly. The Supreme Court made a big deal in its last opinion, emphasizing that the competitive districts seem to only be placed in districts that leaned Democrat and would be counted in the Democrat totals and not in areas that lean Republican. In your map, this map that you're proposing that we accept you've done exactly the same thing. And so when I count numbers. I'm just curious why, because if, if. If it could be done another way, I presume you'd have done it another way because you don't care about competitiveness.

**House Minority Leader Allison Russo** [00:37:03] Again, Mr. co-chair, through the co-chair, Auditor Faber, again, I believe what the court was said in its decision was that when there is large asymmetry in districts that are between 50 and 51, that that seems to indicate that a map favors one particular party. You know, again, we can draw more competitive seats for Republicans. If you would like to give us the districts that you think that that's appropriate and we are happy to make that happen for you.

**Auditor of State Keith Faber** [00:37:44] Leader Russo But therein lies the problem. I don't know that you can get more competitive seats for Republicans and hit a 54 or 55 or 56 or a 57 target because the way you got to your target was by doing something called cracking and packing. And we've all had a lot of conversations about cracking and packing and the way you get to the map numbers you've got because of the geography in Ohio, it's by packing Republicans and cracking Democrats. But I go back to another question that's related to this.

**House Minority Leader Allison Russo** [00:38:15] Mr. Co-Chair, can I reply to that?

**Co-chair Sen. Vernon Sykes** [00:38:17] Yes.

**House Minority Leader Allison Russo** [00:38:17] Senator, on Auditor Faber. With all due respect, that is simply false. In fact, there are more competitive Republican seats. If if you would like to add more, that can be drawn, for example, in Hamilton County and Franklin County, that is possible. So what you are asserting is just simply false, and we will agree to disagree on that.

**Auditor of State Keith Faber** [00:38:42] But Leader Russo, if I were to draw a more competitive Republican seats in Franklin County, I would love to do that, but that decreases the number of Democrat seats in Franklin County or eligible Democrats.

**House Minority Leader Allison Russo** [00:38:52] No, it increases.

**Auditor of State Keith Faber** [00:38:53] I don't think that's right, because looking at your map, I'm not sure that there are many other seats that you could get in those areas, but we'll agree to disagree. Let's go back and talk just about one of the provisions you talked about in Toledo. My understanding is, is that you split the city of Toledo. Could you have drawn a district keeping the city of Toledo wholly within, wholly within a number of districts?

**House Minority Leader Allison Russo** [00:39:28] Yeah, OK, thank you. Through the co-chair, Senator, Auditor. The city of Toledo is larger than a house district, so it is not possible to draw an entire house district within the city of Toledo.

**Auditor of State Keith Faber** [00:39:43] How about three house districts within the city, Toledo? Right. I got it.

**House Minority Leader Allison Russo** [00:39:58] Through the co-chair, through the auditor, I'm not entirely sure what constitutional violation violation you are asserting with this question, but I will point out that the current map that you have before you divides Toledo four times and the map that was voted on by this commission in our last meeting. Toledo was divided five times.

**Auditor of State Keith Faber** [00:40:24] Could you have drawn the city of Toledo totally within one Senate district?

**House Minority Leader Allison Russo** [00:40:30] Again, through the co-chair, Auditor Faber, one of the constitutional requirements is that a Senate district incorporates three House districts and as I noted before Toledo, it's not possible to draw just one House district for Toledo.

**Auditor of State Keith Faber** [00:40:48] So leader Russo, first of all, do you believe the Constitution requires you to draw Senate districts wholly within a city, if you can do that?

**House Minority Leader Allison Russo** [00:41:02] Through the co-chair to Auditor Faber, the commission has not taken a position on that, and if that is something that you wish for this commission to agree upon. You know, certainly we can all evaluate that and the impacts of it and how to make adjustments to this map.

**Auditor of State Keith Faber** [00:41:22] So. So you're telling me it's whatever the commission agrees on is what you determine as constitutional?

**House Minority Leader Allison Russo** [00:41:27] Through the co-chair to Auditor Faber. No, the constitution is pretty clear and what the requirements are to be constitutional. But there are some components, technical requirements that certainly we could have further discussion on, that the court has remained relatively silent on that. If we take a position as a commission is fair, but we have not done that.

**Auditor of State Keith Faber** [00:41:56] As a follow up. Would you agree with me that generally it's a good idea to have people represented by people who have a continuity of interest with them? Let me and let me translate that. Would you agree with me that generally you should have cities generally being able to be represented by people in cities and rural areas, generally represented by people from rural areas? That there is a interest

in any redistricting effort to try and keep communities of interest, at least together where you can,

**House Minority Leader Allison Russo** [00:42:31] Through the co-chair through Auditor Faber. Again, the the point of this discussion is to discuss the maps that are in front of us. Again, what is the constitutional violation that you are asserting?

**Auditor of State Keith Faber** [00:42:45] I am asserting simply that we heard a lot of testimony in front of this committee over the process of this, this process about how important it is and how people can feel. Disenfranchized If you intentionally take steps to have them represented by somebody who doesn't think or necessarily vote like them merely for a political outcome, that's something that we've heard defined as gerrymandering. I'm just asking you whether you think that's the right thing for us to be trying to avoid. And by the way, we can ask questions about your maps. It's not just technically whether you believe they're constitutional or not. If you don't want to answer the question, you don't have to answer the question. But ultimately, we're supposed to consider a lot of things when we decide whether we like a map or not. And in that process, certainly whether or not you're going to take an inner city area and link it with a rural area for the purposes of drawing a particular district outcome is something that I think we ought to consider.

**House Minority Leader Allison Russo** [00:43:44] Through the co-chair, through Senator, Auditor Faber. I would love to have these discussions and have public input. If you have a map to propose that achieves this or suggestions to propose that address some of these concerns that you have, again, so far I have not seen a constitutional violation just because you disagree with some decisions that were made. We certainly can consider those as a commission and I would welcome and I'm sure the public would welcome any input on a map that you want to put forward that achieves this.

**Auditor of State Keith Faber** [00:44:25] Thank you. One one question before I yield back. I was really confused by the dialog between you and Senator Huffman. Specifically about the ability to adversely impac individual partisan issues in a district, and somehow that doesn't then aggregate into the maps taking a side. So is it your opinion that you can favor or disfavor a political party in some parts of the map and that's OK?

**House Minority Leader Allison Russo** [00:45:11] Through the co-chair, Auditor Faber, I think that's an interesting question. Again, I think the Constitution is pretty clear and it says no General Assembly district plan, meaning a statewide plan shall drawn, be drawn primarily to favor or disfavor a political party. It does not address individual districts. Certainly, following the technical requirements of the Constitution will mean that there will be Republican districts and Democratic districts. I will remind you there are Democrats who live in Republican leaning districts and who are currently represented by Republicans. That will happen within the state of Ohio.

**Auditor of State Keith Faber** [00:45:54] I absolutely agree with that, and I've taken that position for a long time. However, going back to how much can you? And how many districts can you intentionally favor or disfavor a political party before you reach an aggregate of disfavoring or favoring a political party for the purposes of a map under 6A?

**House Minority Leader Allison Russo** [00:46:18] Through the co- through the co-chair, Auditor Faber again, Section 6A of the Constitution says no General Assembly district plan

shall be drawn primarily to favor or disfavor a political party. And it is referring to the statewide plan. There will always be Republican districts and Democratic districts.

**Auditor of State Keith Faber** [00:46:40] Can you tell me a single instance in your map where you drew a district primarily to favor a Republican member of the General Assembly or the Republican Party?

**House Minority Leader Allison Russo** [00:46:50] Through the co-chair to Auditor Faber. There were certainly decisions that were made to, that we could have made differently, for example, in Hamilton County, for the total number of House seats. There could be six Democratic seats drawn and one Republican. We and this map have five and two. In Franklin County, there could be 12 Democratic seats. We have drawn 11 and one. So there were certainly decisions that were made that took that into account.

**Auditor of State Keith Faber** [00:47:35] For the purposes of passing, go ahead and pass at this point, Mr. Chairman.

**Co-chair Sen. Vernon Sykes** [00:47:39] Are there any other questions or comments? Mr. President, back to you

**Senate President Matt Huffman** [00:47:45] bThank you very much, Mr. Co-Chair, so Leader Russo, or I assume this is also Senator Sykes or anyone else. It's appropriate to answer. So far, we've talked about violations that I believe in are in both 6a and 6b of the Constitution. I'd like to talk now, talk about violations and the constitution of Section 6C. And for purposes of doing that, we have some maps that we want to show of the of the individual districts, the as as indicated, or I'll just simply read section Article six, section six, excuse me, Article 11, Section 6C. Very simple language. General Assembly districts shall be compact. General Assembly districts shall be compact. So first, we'll look at the districts that have been drawn in and around Summit County. And I think we just put them up numerically the first one and the as it relates to Section 6C. Leader Russo, is this a compact district?

**House Minority Leader Allison Russo** [00:49:06] Through the co-chair, President Huffman, our maps are compact and meet all requirements of the Constitution.

**Senate President Matt Huffman** [00:49:13] To be clear, I'm not asking about the map because the map itself doesn't change. That's the map the state of Ohio. This language says General Assembly districts shall be compact. My question is as to your proposed District 31, is this district compact in your estimation?

**House Minority Leader Allison Russo** [00:49:37] Through the co-chair, President Huffman. Yes, it is.

**Senate President Matt Huffman** [00:49:39] OK, let's take a look at 32. And I presume these are all viewable by the commission and anyone who happens to be watching on TV. So let's take a look at District 32. And this district is also in Summit County. And is this a district that you think is compact ?

**House Minority Leader Allison Russo** [00:50:05] Through the co-chair, President Huffman, yes.

**Senate President Matt Huffman** [00:50:07] Yeah. Let's take a look at 34 then. And you think this district is compact?

**House Minority Leader Allison Russo** [00:50:21] Through the co-chair, President Huffman. Yes.

**Senate President Matt Huffman** [00:50:24] And these districts also ultimately split the city of Akron, don't they?

**House Minority Leader Allison Russo** [00:50:40] Through the co-chair, President Huffman our map splits Akron into two House districts, the previous map that was thrown out by the court and adopted by this constitution last meeting split Akron three times.

**Senate President Matt Huffman** [00:50:58] And well, let's let's take a look at Section or House District 35 then. Now, tis is a district that I think includes the city of Akron, has a whole southern part there. Summit County. Does kind of a sprint around the outer edges of Portage County and ends up with a couple of townships up in Geauga County. Well, in part of another one kind of an a c clamp, I think version. Is this district compact in your estimation?

**House Minority Leader Allison Russo** [00:51:40] Through the co-chair, President Huffman, I will correct to you that this district does not include the city of Akron.

**Senate President Matt Huffman** [00:51:47] Okay?

**House Minority Leader Allison Russo** [00:51:47] And yes, it is compact.

**Senate President Matt Huffman** [00:51:49] So a district that has a little bit of Summit County, some of Portage County and all the way up to Geauga County, in your estimation, is a compact district.

**House Minority Leader Allison Russo** [00:52:03] Through the co-chair. To President Huffman, yes, this is compact. I will remind you that in the last math that was thrown out by the court and that was passed by this commission, there was a district that was very similar to this that I believe included Summit, Cuyahoga and Geauga.

**Senate President Matt Huffman** [00:52:30] Yeah, well, I guess, Mr. Mr. Chairman, you know, we're not looking at the last map. There's there's no motion here to pass the we're we're asking the consideration of this map. So comparison to the previous --.

**Co-chair Sen. Vernon Sykes** [00:52:45] I will remind you, Mr. President, as Auditor Faber has indicated that, you know, we're asking questions and answering questions about any and all of this. And so it's not just limited to the map.

**Senate President Matt Huffman** [00:52:58] Oh, very good. Very good. We'll talk about everything we've talked about before then. We'll get to public testimony later in my my questioning. So if you if it's your testimony here today that this district is is compact and therefore meets the requirements of Section 6C, all I can say is that I heartily disagree and we'll let let the public decide about that one. Let's let's take a look at House Districts 16 and 14. If we could, please. And these districts for the commission's benefit are in Cuyahoga County. So, Leader Russo, can you see the Green District, District 16 under your map that's on this board?

**House Minority Leader Allison Russo** [00:54:29] Yes, I can see it.

**Senate President Matt Huffman** [00:54:31] OK. And it appears to start on the far western edge of Cuyahoga County and then reaches in an elongated fashion into neighborhoods deep into Cleveland with a narrow line kind of almost in the shape of a dog or maybe a dinosaur. Is is, do you think that this complies with section 6C of Article 11 of the Constitution?

**House Minority Leader Allison Russo** [00:55:01] My apologies. Can you repeat your question?

**Senate President Matt Huffman** [00:55:03] Sure. Do you think Section, district 16 that you're proposing, comports or complies with Article 11 6C of the Constitution, which requires that General Assembly districts shall be compact?

**House Minority Leader Allison Russo** [00:55:19] Through the co-chair President Huffman? Yes, I do. I believe that's North Olmstead. That is the arm that goes out.

**Senate President Matt Huffman** [00:55:27] Okay, but do you think this is a compact district?

**House Minority Leader Allison Russo** [00:55:29] Yes.

**Senate President Matt Huffman** [00:55:30] OK. How about District 14? Is that also a compact district, in your estimation?

**House Minority Leader Allison Russo** [00:55:36] Yes.

**Senate President Matt Huffman** [00:55:36] Okay. And in the since we talk about some of the other maps, we've had proposal. There were no districts that were drawn like this in the previous map that that in Cuyahoga County, where there?

**House Minority Leader Allison Russo** [00:55:51] Through the co-chair, Senate president, which maps are you referring to? The

**Senate President Matt Huffman** [00:55:55] The previous map that you were referring to the most previous map,

**House Minority Leader Allison Russo** [00:55:58] the one that was thrown out by the court?

**Senate President Matt Huffman** [00:56:00] The most recent map that the commission approved? That's correct.

**House Minority Leader Allison Russo** [00:56:02] The unconstitutional map?

**Senate President Matt Huffman** [00:56:04] I think it is constitutional, but if you if we need to go to act back the date and time and all of that we can. Do the minutes reflect the last meeting. For purposes of Leader Russo's question, we could look and see what the date is so that she can be clear.

**House Minority Leader Allison Russo** [00:56:18] But to be clear, you are talking about the map that was passed by the commission, correct

**Senate President Matt Huffman** [00:56:23] At the last. The second map that was passed by the commission. I do We can get them the date when we passed it, if it's helpful.

**House Minority Leader Allison Russo** [00:56:31] I don't have a photographic memory, so I don't entirely remember what the districts look like. But again, the the court threw out that map and determined it to not meet the requirements of the constitution.

**Senate President Matt Huffman** [00:56:43] Let's look at House District 55. If we could. And. So this District, Senate or House district proposed to House District 55 stretches out along Lake Erie from part of Lorain County, I think that is and into Erie County and all along the lakeshore. Kind of in the shape of a bat and you might recall the name snake on the lake from from the last congressional map. That was a district that was created at the request of Democratic congressional members back in 2011. This appears to suffer from some of the same criticisms that the snake on the Lake did a long, elongated district along the lake. Generosity want me to repeat the question or.

**House Minority Leader Allison Russo** [00:57:47] Good through the co-chair through to President Huffman, if you're asking me if this map or if this is compact. Yes, it is. And and I would ask back to you. Are you conceding that sections section six of the Constitution is mandatory?

**Senate President Matt Huffman** [00:58:03] Section 6C is what I'm asking you about about specifically. My answer to that question, my my conclusion is no. The reason I know that or I believe that is not only did I introduce this legislation in 2014, I helped campaign for it along with many of the petitioners and the in fact, the purpose of this is as long as all of the other requirements that are listed are followed, then section C is not something. This is aspirational nature. Folks don't want to believe a Republican from Lima. They can ask former state representative and Secretary of State candidate Kathleen Clyde, who testified on the floor of the House that Section C is aspirational. So the court has concluded that, and that's all that really matters. So my question as it relates to House District 55 is is 60 a compact district in your estimation

**House Minority Leader Allison Russo** [00:59:03] through the co-chair President Huffman? Yes, I believe this district is compact and agree with the court that Section six is mandatory.

**Senate President Matt Huffman** [00:59:17] OK, very good. I'd like to continue on it if I may, chairman.

**Co-chair Sen. Vernon Sykes** [00:59:21] How much longer do you think you?

**Senate President Matt Huffman** [00:59:23] Well, it kind of depends on what answers come out Mr. Chairman, but I probably 10 minutes or so, I think.

**Co-chair Sen. Vernon Sykes** [00:59:29] All right.

**Senate President Matt Huffman** [00:59:30] Can I continue?

**Co-chair Sen. Vernon Sykes** [00:59:31] Please.



**Senate President Matt Huffman** [00:59:31] Yeah. And then, Mr. Chairman, for purposes of these questions, I want to make clear and I think Auditor Faber, part of our Auditor Faber's points are that we do have to follow the Constitution, but that's not the only requirement when we're drawing maps. If that were true, it would not have been necessary to have public input. And as I know, it was very important to Senator Sykes that we have many, many public hearings and we allow as many people to testify about those things. There are other also other

**Co-chair Sen. Vernon Sykes** [01:00:05] I'm surprised that you put emphasis on public hearings, your side of the aisle has been fighting on them this whole time, so I'm surprised that you put on emphasis on that.

**Senate President Matt Huffman** [01:00:13] Well, we had them. I know that Senator Sykes and we wanted to hear from what those folks had to say. So there's a lot of public testimony. There are also other laws in the state of Ohio and there are federal laws, and we'll get to those in a moment. But when comments that Senator Faber made regarding the division of political subdivisions, there are constitutional requirements. But even so, if the constitutional requirements are met, there are. We've had much public testimony. There have been many editorials talking about the importance of keeping cities together, keeping counties together. So the questions I'm going to ask you here are not about constitutional violations. The questions are what I think are important public policy when drawing maps, as expressed to us. This. These are map making, map line drawing elements that have been important for for decades and even centuries. And of course, part of our public testimony, and part of editorials and other opinion that the public have given to us.

**Co-chair Sen. Vernon Sykes** [01:01:27] So just for clarification? Yeah. Mr. President, are you saying that you have completed all of your constitutional questions about the map?

**Senate President Matt Huffman** [01:01:35] I'm saying for purposes of the next several questions I'm going to ask, I'm not asking about constitutional violations.

**Co-chair Sen. Vernon Sykes** [01:01:41] But, you plan on going back to that?

**Senate President Matt Huffman** [01:01:43] To constitutional issues?

**Co-chair Sen. Vernon Sykes** [01:01:46] Yes.

**Senate President Matt Huffman** [01:01:47] Unlikely.

**Co-chair Sen. Vernon Sykes** [01:01:46] Unlikely.

**Senate President Matt Huffman** [01:01:47] But it depends on what the answers are or any other testimony. There may be. So may I continue?

**Co-chair Sen. Vernon Sykes** [01:01:53] Yes.

**Senate President Matt Huffman** [01:01:54] Thank you very much. So the in the house map, the first house map, democratic map, I should say, the this is what Democrats submitted right at the beginning. It split the four cities of Toledo, Cleveland, Dayton and Cincinnati into 12 house districts. There were only 12 house districts in those, and thus

more compact and more cohesive in terms of those cities. This map, as I understand it, divides those cities into, there are 19 house districts into those cities. And I think if you could put back up, I think District 16, you can see one of these, actually the other one, if you could, 14. You can see one of these elongated districts, but isn't keeping these cities. Isn't keeping these cities from being divided up, isn't that an important element of drawing districts again, not constitutional as long as the other, the city dividing rules are followed?

**House Minority Leader Allison Russo** [01:03:16] Through the co-chair, President Huffman, again, I would welcome any public input, and if that's what you're proposing today to have the public's input from individuals who live in that community to weigh in on this, I would certainly welcome that and thank you for putting that forward.

**Senate President Matt Huffman** [01:03:36] You know, I'm not proposing additional public input, so let me re-ask the question. The public, I think, has weighed in quite clearly that they don't. They want minimal divisions of cities and other subdivisions. So much so when we wrote this in 2014 that we actually had requirements about making sure that local divisions aren't divided up. Again, not submitting the constitutional violations. But this map divides those districts, those cities even more than the original Democratic map that was submitted back in September, doesn't it?

**House Minority Leader Allison Russo** [01:04:15] Through the co-chair, President Huffman, if you would like for us to propose that map from September because you think that is a better map? We certainly can make a motion to do that as well.

**Senate President Matt Huffman** [01:04:27] OK. I really just want to get to the point that you're dividing cities up more than the original democratic map. Isn't that true?

**House Minority Leader Allison Russo** [01:04:35] Through the cut through the co-chair, President Huffman, I think they are both good maps. If you prefer the first map over the second map and wish to have the public weigh into this more, I would welcome that.

**Senate President Matt Huffman** [01:04:48] Yeah. Well, I guess the point is all we have is this map here now being considered. So I'm going to submit to the commission and they can go look at the original democratic map that the cities of Toledo, Cleveland, Dayton and Cincinnati, where those four cities there were only 12 house districts drawn within those cities. This map divides those cities, up almost 50 percent more, or more than 50 percent more by adding in additional part parts of seven house districts from that original map. And on the Senate map, the original Democratic map took the five major cities of Cleveland, Toledo, Cleveland, Akron, Dayton and Cincinnati, and there were six Senate districts within those cities. This doubles the number of divisions within those cities on the Senate district map to 12. So this is the kind of of dividing up of local communities that has been sort of a hallmark of this reform much of our public testimony has been about. And that's why I think this is an appropriate part of this. You know, appropriate part of what we should be doing here is dividing all these cities. In Akron and Summit County, if we could get the Akron Summit County, especially as it relates to Senate District 28, the in the first two commission maps and these are the maps that were proposed and passed by the commission. But for one reason or another, and I think mostly having to do with Section 6B, those maps were the Supreme Court ruled that those were unconstitutional. But in Akron and Summit County, the new map here again, the city of Akron was whole. And you know, we heard from folks in Summit County and newspapers and that part of the state that. Why are they why are they in some of the previous iterations, why is the city of Akron divided? It should all be in one district. And so those first two commission maps did that.

This map, however, actually essentially divides Akron in half in a Senate District. Senate District 18. Forty two percent of Akron is in one Senate district, and 58 percent of it is in Senate District 28. So those who were wanted Akron together and testified about that and wrote editorials about it in letters and newspaper, you'll be disappointed by this map. It's not, in fact, divides it up. And more to the point is that 42 percent of Akron that that's taken out of the in into a different district. It no longer even stays in Summit County. It's now going to be paired with all of Portage County and part of Geauga County. And again, we heard much testimony about this. This is a, are the people who live in the city of Akron, do they have a common interest in on public policy issues, for the most part with people who live in Portage County and Geauga County? So I would say, I guess. Pairing Summit County Senate district and about half of Akron with Portage and Geauga County is certainly a unique way of doing this, and maybe pairing Summit County with part of Portage and Geauga County is not new, but having the core city of Akron leave and go into the city of Akron be paired with these other districts is in fact unique. And do you have do you have the map to look at or we don't have that? Yeah. The Summit Senate District 28 Summit County Map. We don't have one of those. OK, well, we'll find a chair.

**House Minority Leader Allison Russo** [01:08:54] So may I respond to that? I'm not sure if these are questions or not.

**Co-chair Sen. Vernon Sykes** [01:08:58] But let me. Since this is Akron, if I could before you speak. Mr. President, uh, you know, we have solicited input from you, from your side, from the majority. And the only thing we've been able to to get for the most part has been to schedule this meeting on the last day. But if you have suggestions that you'd like us to consider and we made an appeal as late as yesterday with the deadline of getting your input in today, you know, please, we want to work with you. It has been a directive of the court that we in fact have a commission map and not a minority majority, in order to do that. We have to work together in order to do that. Sure. Sure, we have to exchange information and ideas, and that just hasn't taken place to the extent that it should, and we're hopeful that this may be the beginning of something.

**Senate President Matt Huffman** [01:10:04] Yeah. Well, I think I recall in our last go round here in the not the last one, but the one before. In September, I spent about three days trying to set up meetings, one in Akron on the way to our our meeting and two days worth of phone calls to you and to other commission members trying to meet trying to get a resolution and that that didn't happen. And the other, the other maps that we are, I think, are our majority proposals to one degree or another. And I guess we're here talking about this map right now, and I have criticisms of the map, not only constitutional criticisms, but public policy and traditional map making criticisms of that. And that's what this is is about. So if you look at Senate District twenty three, which excuse me, twenty eight, right? Yes, Senate district, I think it's Senate District 18 now. It includes a portion, again portion of the city of Akron. Kind of swoops down. You can see House District 31, the C Clamp District, which is House District 35 and then House District 72. And again, taking the city of Akron out of summit and pairing it with essentially rural counties out to the east is, I don't think, is what the the folks who have testified in our traditional map making proposals.

**Co-chair Sen. Vernon Sykes** [01:11:47] Mr President, that is a house map.

**Senate President Matt Huffman** [01:11:49] I understand that. Do we have a district map for the Senate? Yeah. And your district, I guess if you can refer to the one that the that you passed out. If you look at House District, seventy two, fifty five and thirty one, I believe is your Senate map. Oh, there we go. Right. 18 is is 72, 55 and 31 combined. That's correct.

I believe so, yeah, so my my point is that with all of the emphasis on keeping these cities whole as much as possible, sometimes you can't because the city is bigger than a house district. So we understand those divisions. But dividing it within city, within Senate districts is is a different story. And certainly dividing up a large city like Akron and taking it into a rural area doesn't seem to comport with the the wishes of the public. And again, traditional map making proposals. So. So that's my point. I mean, we can argue it if we want to, but if not, I'd like to move on to Toledo and Lucas County if I can. If you could bring those maps up and put in so.

**House Minority Leader Allison Russo** [01:13:11] Mr. Co chair?

**Co-chair Sen. Vernon Sykes** [01:13:11] Leader Russo?

**Senate President Matt Huffman** [01:13:15] Thank you. President Hoffman, I appreciate your comments. I'm not sure if there are questions in there, but you know, I would remind you that these maps and the files were provided to your staff. They've had them for days. We have asked for feedback from them. If you have a proposal that you would like to put forward that addresses these concerns, I think this commission would be more than happy to consider that. Is that your plan today to put forward a proposal?

**Senate President Matt Huffman** [01:13:48] I have. I have to ask the rest of my questions. We'll see how this goes. But I believe the first question that you answered was that the final version of this was delivered yesterday, about 24 hours ago. And I'd like to finish without being interrupted, although

**Co-chair Sen. Vernon Sykes** [01:14:04] I'm sure, I will correct you that there were some census blocks moved --

**Senate President Matt Huffman** [01:14:06] If I could finish without being interrupted, Mr. chairman I would appreciate that --

**House Minority Leader Allison Russo** [01:14:08] moved 84 people to --

**Senate President Matt Huffman** [01:14:09] I promise not to interrupt Representative Russo if she won't interrupt me, would that be ok?

**Co-chair Sen. Vernon Sykes** [01:14:14] Yes, sir.

**Senate President Matt Huffman** [01:14:15] All right. Thanks very much. So I understand that there's you like proposals in response to what you want. I can only respond to what's being presented to me here today. And if there are, there are a lot of different possible proposals we can have. But again, we have to have one that at least four members of the commission will support. We've had that twice already. We now have a new requirement that the Supreme Court put on us in the last decision. We're trying to figure that one out, too. So I'd like to move on to the Toledo and Lucas County area, if I can at this time. So in the first two commission maps that were proposed and in both of the maps by Professor Roden, which the Supreme Court decided, the city of Toledo is wholly within Senate District 11. Which is wholly inside Lucas County, as it has been for the last 30 years, and is currently that that Senate District 11 is inside Lucas County. Under the map that's proposed all or part of the city of Toledo, a full 20 percent of Toledo is sliced off and put into a rural Senate district, which will be represented by Senator Reineke in the middle of his four year term. And as you can see, Mr. Chairman that heads east out of Lucas County

and Toledo is now paired with Erie, Ottawa, Sandusky, Seneca, Huron and all the way down at the bottom there, Crawford County in Bucyrus, Ohio. At least that's it's really Bucyrus, but that's what they say and that that new Senate district would include the part of Toledo where currently Senator Fedor actually lives. So my statement to the commission, you can be in the form of a question if folks want it to be. We can make whatever response you want to. But my statement to the commission is this is a completely unique, even by democratic standards division of the city of Toledo, taking a large swath of it and a significant swath for other reasons out of and therefore the city of Toledo is no longer whole. It's no longer within Lucas County and is now part of a heavily Republican district. Some would surmise that that had to do with eliminating Senator McColley, but my statement is that as it relates to keeping cities, including major cities, whole. This proposal violates certainly that tenet of mapmaking. So that's my statement. You can respond however you want if you think it's appropriate.

**House Minority Leader Allison Russo** [01:17:04] Thank you, co-chair. Thank you, President Huffman, for those comments. Again, I will say that our math is compliant with Sections two, three, four or five and seven and also complies with section six of the Constitution. Thus far, I don't believe that there are clear violations of the Constitution that have been shown. If you would like to go back to the democratic map that was proposed in September, certainly I would entertain proposing that map for this commission to again consider if you have your own proposal to put forward. I would love to see that, as I'm sure other members of this commission would, but I appreciate your input.

**Senate President Matt Huffman** [01:17:50] All right. Well, thank thank you very much. And so again, my concern is the slicing and dicing as the term is often been used of cities and counties.

**Co-chair Sen. Vernon Sykes** [01:18:01] Mr. Huffman I think your ten minutes is just about up.

**Senate President Matt Huffman** [01:18:04] OK. I have. I have another set of questions I think are very important, Mr. Chairman. And I'll try to go through. And if I don't think it's necessary to have repeated that, the leader thinks the issue is is the map is constitutional. We understand that position. So I'm going to talk about something else that is not part of the Ohio Constitution, but it also is a legal requirement for this commission to understand, OK. In 1996, the United States Supreme Court decided a case called Bush vs. Vera, and I hope everyone would agree that the rule the law set out by the United States Supreme Court is binding upon this body, and that case arose out of a challenge to districts that had been drawn by the state of Texas. And in short, the case says that when drawing legislative districts, the Fourteenth Amendment to the U.S. Constitution prohibits a state from using race as a proxy for the political fortunes of one party over another. Doing so is what has become known as racial gerrymandering. OK, so the first thing first of these and we're going to have all three of them displayed at the same time. Now these are the districts we've been able to look at and analyze in the brief time that we've had this new map. And the first one is Senate District 25. So in Senate District 25, you will see that. They're doing their best. They did not train under Vanna White, but. They were hired for their brains, not their map making or map presenting ability, but they're doing a great job under difficult circumstances. But let's take a look at Senate District 25, and you will see that Lake County, which is a about a 56 percent Republican county, reaches into Cuyahoga County and extracts portions of East Cleveland, which are heavily African-American areas. It's very clear that the east side of the city of Cleveland has those areas. Why don't we just do one at a time, guys? And that, of course, attaches into Lake County.

That district was drawn and clearly uses race to the benefit of one political party. This district right here, Senate District 25, is a textbook version of racial gerrymandering and that is prohibited by Bush v. Vera United States Supreme Court, not addressed by the Ohio Supreme Court. But this kind of district is prohibited in this district, and therefore the map itself will be struck down by, in any case, that deals with racial gerrymandering. So that's that's a particularly dramatic example. We've got a couple of other examples which put forty four up, then also Adam? I'm going to put in for more sturdy easels for all of us. Now, we just talked a little bit about Senate, the Senate district that now pulls out inner city wards in Lucas County, which are also heavily African-American, takes those down in all the way down to Crawford County. But this house district? Oh, and by the way, the Senate District 25 we just talked about is now drawn as a Democratic district, because once you add those portions of East Cleveland into twenty five, it becomes a democratic district. So we're we're doing this. Clearly, this racial gerrymandering is being done to benefit and make sure that a Democrat can get elected from that district. This House district does the same thing. Its House District 44. And it reaches in to these inner city neighborhoods in Toledo and takes them out into Ottawa County. And in order to create a district where Democrats can win. It cracks the city of Toledo and gets those historically African-American populations in and attaches them into Ottawa County, I think this district was also drawn by using race to benefit one political party. Again, a textbook example of racial gerrymandering. Let's let's look at Senate District 18, if we can. We've talked a little bit about this as a district that probably is not compact and also violates traditional map making rules by taking, splitting cities and taking them, in this case, the city of Akron. So what you see here is you have Senate District 18, Portage County, a portion of Geauga County, a rural area in the bottom portion of the city of Dayton. This cracks the city of Akron. It takes historically African-American populations, attaches them to Portage and Geauga County, and this is done to create clearly to create a Democrat leaning district. Again, textbook example of racial gerrymandering done to benefit one political party. So I'm not asking anybody any questions about that. Anybody would like to respond to that. They can go ahead and do it. But I don't think this can be dismissed as well. It doesn't mean, it doesn't violate some part of the Ohio Constitution because this is required under federal law as dictated by the United States Supreme Court. Now these examples are just some of the very dramatic that we were able to find in the short time that we've had this map. I'm certain if you go through, there are multiple other ones because the reason these things are done is to take African-American voters who are reliably Democrat voters, cracking them into different districts and pairing them with suburban Democrat voters someplace else. Now you may think, Well, that's what we need to do to make it proportional or your version of fair or whatever it is. But in the end, it's racial gerrymandering. It's illegal. And that's why this map is not appropriate. So that's the extent of my comments. Mr. Chairman, if someone else has something in response to that, I'd like to be able to respond. But at this time, I will turn it over to any of the other commissioners.

**Senate President Matt Huffman** [01:24:50] Are there any other questions or comments? Secretary LaRose.

**Secretary of State Frank LaRose** [01:24:56] Thank. you Mr. Chair. Obviously, we've got challenging scenarios. I think it's important that we consider all the options on the table, and Leader Russo made a comment a few moments ago that really caught my attention. She offered to reintroduce the map that had been proposed originally by our Democratic colleagues in September. Did you do you believe Leader that that map that was proposed in September is a constitutional map?

**House Minority Leader Allison Russo** [01:25:22] Through the co-chair Secretary LaRose that's a good question. I will remind you I was not a commissioner when that was originally proposed, so I haven't dug into the details. But certainly if there are members of this commission who believe that that is a better map or at least a starting point of a map, and it requires some tweaks and you have concerns about constitutional violations that you would like for us to adjust. We can do those quickly and consider those.

**Secretary of State Frank LaRose** [01:25:50] Leader, do you recall in that map that the Democratic members of the commission proposed how many Republican House seats there were?

**House Minority Leader Allison Russo** [01:26:02] Through the co-chair, secretary LaRose, I do not recall.

**Secretary of State Frank LaRose** [01:26:05] The number was 58. All right, thank you.

**Co-chair Sen. Vernon Sykes** [01:26:11] Are there any of the questions? If not, we have a motion on the floor. Would the secretary call the roll on the motion.

**Co-chair Speaker Bob Cupp** [01:26:25] Will you restate the motion?

**Co-chair Sen. Vernon Sykes** [01:26:28] Will you restate the motion please?

**House Minority Leader Allison Russo** [01:26:32] Mr. Co-Chair, the motion was a move that the commission adopt the Sykes Russo February 15th House and Senate maps.

**Co-chair Sen. Vernon Sykes** [01:26:46] Call the roll please. Karl Rove was

**Clerk** [01:26:48] co-chair, Speaker Cupp.

**Co-chair Speaker Bob Cupp** [01:26:49] No.

**Clerk** [01:26:49] Co-chair, Senator Sykes.

**Co-chair Sen. Vernon Sykes** [01:26:51] Yes.

**Clerk** [01:26:53] Governor DeWine.

**Governor Mike DeWine** [01:26:53] No.

**Clerk** [01:26:53] Auditor Faber.

**Auditor of State Keith Faber** [01:26:55] No.

**Clerk** [01:26:55] President Huffman.

**Senate President Matt Huffman** [01:26:58] no.

**Clerk** [01:26:59] Secretary LaRose

**Secretary of State Frank LaRose** [01:27:00] no.

**Clerk** [01:27:00] Leader Russo.

**House Minority Leader Allison Russo** [01:27:01] Yes.

**Clerk** [01:27:04] 5-2, co chair.

**Co-chair Sen. Vernon Sykes** [01:27:06] Five, two, the motion is not approved. At this time are there any other items could be brought before the commission?

**House Minority Leader Allison Russo** [01:27:18] Mr co-chair?

**Co-chair Sen. Vernon Sykes** [01:27:19] Yes.

[01:27:20] I'd also like to make a motion that any commissioner with an allegation that the Sykes Russo February 15th map, the allegation that it violates the Constitution, that you put that allegation forward on the record in writing.

**Co-chair Sen. Vernon Sykes** [01:27:37] Second the motion. Any questions on the motion?

**Co-chair Speaker Bob Cupp** [01:27:44] Mr. Chairman,.

**Co-chair Sen. Vernon Sykes** [01:27:45] Yes,.

**Co-chair Sen. Vernon Sykes** [01:27:47] I understand if one was to invite members to do that, but they have a motion to compel them to do that. I think that is beyond the courtesy that should be accorded to members of this commission. So I would oppose it.

**Co-chair Sen. Vernon Sykes** [01:28:04] Any other comments?

**Senate President Matt Huffman** [01:28:06] Mr. Chairman, I agree with Senator Cupp, one time Senator Cupp. Speaker Cupp, I guess I've tried to make clear what I think my objections are and there are there are different reasons that that folks may have, but it's, you know, in this context. Like it or not, the commission speaks as the commission and we determine that by the votes that we have and not individuals, we have to act collectively just as the General Assembly does. We certainly don't force members of the General Assembly to stand up and explain their yes or no vote on each occasion. So I also would oppose the motion.

**Co-chair Sen. Vernon Sykes** [01:28:52] Any other comments,

**House Minority Leader Allison Russo** [01:28:55] Mr. Co-Chair, I would respectfully disagree with that. The court has been very clear that it would like for us to put forward a plan that addresses the issues that it raised in the decision that is constitutional. We have put forth a map again that we believe is compliant with Sections two, three, four or five and seven and also complies with Section six. I think that it is entirely appropriate that if we are either not going to adopt this map or put forward any proposal in response to the court, that we should be very clear and writing why it was that this map that was put forward for consideration by the commission was not constitutional, if that is the allegation by some members of this constitution. I mean, this commission.



**Co-chair Sen. Vernon Sykes** [01:29:55] Any other comments? Will the secretary call the roll on the motion.

**Clerk** [01:30:03] Co-Chair Speaker Cupp.

**Co-chair Speaker Bob Cupp** [01:30:05] No.

**Clerk** [01:30:06] Co-chair, Senator Sykes.

**Co-chair Sen. Vernon Sykes** [01:30:07] Yes.

**Clerk** [01:30:07] Governor DeWine.

**Governor Mike DeWine** [01:30:10] no.

**Clerk** [01:30:10] Auditor Faber.

**Auditor of State Keith Faber** [01:30:10] no.

**Clerk** [01:30:11] President Huffman.

**Senate President Matt Huffman** [01:30:12] No.

**Clerk** [01:30:13] Secretary LaRose.

**Secretary of State Frank LaRose** [01:30:16] no.

**Clerk** [01:30:16] Leader Russo

**House Minority Leader Allison Russo** [01:30:16] Yes.

**Co-chair Sen. Vernon Sykes** [01:30:20] The motion is not approved. Are there any other comments to be made today?

**Co-chair Speaker Bob Cupp** [01:30:28] Mr Co-Chair, if unless there is somebody that wants to make a statement at this time, I would move that we adjourn for, let's say, 30, I'm sorry. Yeah, recess for 30 minutes more or less so that members can think about what we've seen and heard and has been presented here today and then reassemble no more than 30 minutes. It's got, I don't want it to stretch to three hours.

**Co-chair Sen. Vernon Sykes** [01:30:56] Is there any further discussion on the recess? Any objections?

**Auditor of State Keith Faber** [01:31:02] I didn't hear the time of 30.

**Co-chair Sen. Vernon Sykes** [01:31:05] 30 minutes at 3:40. We're now recessed until 3:40.

## Ohio Redistricting Commission - 2-17-2022 - part 2

<http://ohiochannel.org/video/ohio-redistricting-commission-2-17-2022-part-2>

**Co-chair Senator Vernon Sykes** [00:00:01] Meeting back to order. Is there anyone that wanted to make comments?

**Auditor of State Keith Faber** [00:00:22] Mr. Chair, before I make comments, I would propose a motion to amend the rules of the commission.

**Co-chair Senator Vernon Sykes** [00:00:32] Is there a second?

**Auditor of State Keith Faber** [00:00:34] Well, I need to say what the motion is for first.

**Co-chair Senator Vernon Sykes** [00:00:38] All right. You may.

**Auditor of State Keith Faber** [00:00:40] You may want a second it when you hear what a great amendment it is, Mr. co-chair.

**Co-chair Senator Vernon Sykes** [00:00:47] Alright.

**Auditor of State Keith Faber** [00:00:47] Mr. Chairman, I'd like to propose that the Commission modify the rules to allow a meeting of the Commission to be called upon the request of any three commission members where possible, with 24 hours notice. Specifically, I would move to amend Rule five of the Ohio Redistricting Commission rules, calling for meetings it should now read, then, "after an initial meeting of the redistricting commission, any of the three members of the commission may call for a meeting of the Commission upon a request by three members of the Commission for a meeting. The co-chairs shall promptly provide notice of the meeting pursuant to Rule two within 24 hours when feasible, at a location determined by the co-chairs." Effectively, what this amendment would do is amending the calling of meetings to allow not only the co-chairs to call meetings, but meetings to be called upon the agreement of any three of the members.

**Secretary of State Frank LaRose** [00:01:36] Second.

**Co-chair Senator Vernon Sykes** [00:01:46] Auditor Faber, the motion has been seconded. More comments. One question would you be in agreement that at least a members of both parties should be part of the three?

**Auditor of State Keith Faber** [00:02:03] No, Mr. Chairman, I understand the rationale for that. The co-chairs can continue to call meetings and we have a bipartisan way to do that. The reality is there may be a circumstance that would that the majority would need to meet without regard to the partisanship of the issues. And our view is that you ought to be able to have three members of this commission call for a meeting. You still are required to have a quorum and you're still required to follow the other procedures.

**Auditor of State Keith Faber** [00:02:36] Are there any other questions or comments? Will the secretary call the roll.

**Clerk** [00:02:46] Co-Chair Speaker Cupp.

**Co-chair Speaker Cupp** [00:02:48] Yes.

**Clerk** [00:02:49] Co-Chair Senator Sykes.

**Co-chair Senator Vernon Sykes** [00:02:50] Yes,.

**Clerk** [00:02:52] Governor DeWine.

**Governor Mike DeWine** [00:02:54] yes.

**Clerk** [00:02:54] Auditor Faber

**Auditor of State Keith Faber** [00:02:54] Yes.

**Clerk** [00:02:55] President Huffman.

**Senate President Matt Huffman** [00:02:56] Yes.

**Clerk** [00:02:57] Secretary LaRose.

**Secretary of State Frank LaRose** [00:02:58] Yes.

**Clerk** [00:02:59] Leader Russo

**House Minority Leader Allison Russo** [00:03:00] No.

**Co-chair Senator Vernon Sykes** [00:03:05] Six one, the the rules are so amended. Are there any other comments? Auditor Faber.

**Auditor of State Keith Faber** [00:03:18] Thank you, Mr. Vice, our co-chair. I just want to start out by having a discussion generally of where I think we find ourselves in this process. And I think we can start out and I will. I would pass this up to the members. There are two maps, if I could get those passed out. That I think are relevant. I'll ask staff to go ahead and put the larger issues up for the for the staff. The first map that's being erected is a map that came directly out of the minority opinion in the Supreme Court, it's a graphic that I think is beneficial for us all to consider. To understand the dynamic, actually, that's the second one, if you would do the other one first. Thank you. It's important that we take a look at this, this is a map that reflects the Red and Blue Precinct level data based on the last election cycle. I think this map alone dictates the problem that you have when you try and draw proportional maps to effectively do 45 Democrat House seats into these areas. It also signifies what a lot of us have talked about the fact that Ohioans tend to live around people who think and vote like them. The second map? Is also an important reference point that we all need to think about, and this is a map that says if we take every single county that Joe Biden won in the last election and gave every single seat, every single seat in that county to the Democrats, the Democrats would have 39 seats. That would be the most egregiously gerrymandered maps. And frankly, I don't think anybody has even suggested that. However, it starts to explain the problem. I think we would all agree that there must, for example, be two Republican seats in Hamilton County. Given the communities in the way they vote, there must be at least two seats in Montgomery County for Republicans. Unless you're willing to crack voters of Dayton and dilute their voting power, which we have heard we should avoid doing, if at all possible. That means there are about 35 Democratic seats in those counties. Yes, you can find Democrat seats, other places. You can find potentially two more seats in Lorain, one each in Trumbull Stark in Mahoning County. That brings us to about 40 seats. So where else do you get the five

seats? The invalidated map found one in Geauga and Portage counties. The Democrat maps have made attempts to gain another three seats. And as referenced earlier, we have some concerns about whether that map pass constitutional muster. There's an argument, I believe, that supports that they violated, at the very least, sections 6A and 6C. I think they're arguably also violated Sections two and section three of of the other articles. I brought these objections up over and over again. When the maps were released that grouped downtown Columbus with Pickaway County. I mentioned that that was egregiously partisan. To ease my concerns, they grouped Ottawa County in with downtown Toledo. The current map had no shortage of instances of grouping unlike communities together purely for partisan advantage. A few of which left my staff and they were relayed these comments to the Democratic commission members. Yet no changes were made. In the end, this is the problem. The problem is how do you hit the proportional number and how do you hit that number without gerrymandering seats for one party or the other in violation of the other sections of the Constitution? To me, this is where the impasse that we currently sit in lies. Where is the number? How do you do that without cracking and packing in an area that clearly leads us to a potential violation? As I said before, we have tried to meet with the various members of this commission, Republican and Democrat on a number of occasions. Early on in the process I thought we were making very good - this is back in September, very good progress towards a compromise. At that point, as I said in my deposition, it appeared both sides wanted litigation instead of a solution. We heard today that maybe the Democrats would consider a version of the original Sykes and Sykes proposal. If that's the case, then I'm all for it. The reality is that would be a 58 20 map, a map that was rejected based on the number seeking the ratio, as has previously been discussed. As we go through this process and have gone through this process. I simply am concern that we are sitting here arguing whether or not the Democrats should be allocated three more seats based on the one that the majority of the Supreme Court ruled unconstitutional out of 99. That amounts to two point three percent or thereabouts of the total seats. Put another way. Let me correct my math. Three out of 99 is essentially two point three percent, five out of one hundred and thirty two is three point seven percent. Put another way. We're a few percentage points away from perfect proportionality. The Constitution instructs this commission to closely correspond with that proportionality, and I would argue that the ratio that we're hitting is closely corresponding. We've heard from experts saying that Ohio's political geography gives Republicans a three to five percent advantage in seats based on the maps that you're seeing here. The reality is when you follow the provisions of the Constitution that prohibit unnecessary splitting of counties, cities and townships, you are left with a situation where republicans have a slight advantage over those those type of circumstances. I would argue that we are probably even beating that three to five percent number that has been testified before in this lawsuit and also, also before this committee. To do otherwise, to ignore this, essentially means we're tempted to gerrymander the state. That doesn't amount to a majority, but will amount to the silencing of many voters who get placed in districts that are fundamentally stacked against them for no other reason than a partisan gain to draw a Democrat seat. I think that's wrong. I think one of the things we had in mind when we drafted this constitutional amendment. Yes, an amendment that I sat in the room and helped draft. It appears that other others read the constitutional amendment differently than we anticipated. But that's their right. However, some people are arguing that Democrats deserve X number of seats and Republicans deserve Y number of seats? Simply put, I don't think either party deserves a damn thing. The way to salute, solve that problem is to draw competitive seats. I think voters in Ohio deserve to be represented by people that share their views. Let them decide who they are, who those views are by electing people in competitive seats where you can. I think we've seen maps in a few occasions that would do almost that, but none of the maps, none of the maps that we've seen that does any of that hits this magic. Fifty four

to 48 ratio or an 18 to 15 proportion. If we are able to recognize this and move forward with an understanding that we need to draw maps that as closely as we can correspond to these things. I think there's room. However, as of now, I don't think there's a recognition of this. I don't think that there has been a recognition of the reality of where Ohioans live. And then Ohioans tend to live around people who think and vote like them and therefore should be entitled to representation that represents them in that capacity. I don't see what good the offers have been. And unless people are willing to come to the table to continue this process, I think we're going to have a tough time reaching an outcome. With that, Mr. Chairman, I would encourage us to continue to be vigilant and certainly as we move into the congressional map process that we continue to be mindful of each other's positions. But let's work on solutions, not just political positions. Thank you.

**Co-chair Senator Vernon Sykes** [00:11:49] Auditor, thank you for your statement. Others have statements they'd like to make? Mr. President.

**Senate President Matt Huffman** [00:11:56] Thank you, Senator. Ladies and gentlemen, just about midnight, September 15th, 2021, a majority of this commission adopted a new four year district plan for the Ohio House and the Ohio Senate that complied with all the requirements of sections two, three, four, five and seven of Article 11 of the Ohio Constitution. None of the petitioners who filed the lawsuits challenging the first General Assembly district plan alleged the plan contained any violations of Sections two, three, four or five or seven of Article 11. The petitioners lawsuits challenging the first General Assembly district plan focused on their allegations that the plan violated Section 6A and 6B of Article 11. On January 12th, 2022, approximately four months after the passage of the map, four member majority of the Ohio Supreme Court ruled the petitioners could bring their Section 6 claims without having to first allege and prove that the plan contained any violations of Sections two, three, four or five or seven. In the same opinion, the majority ruled that the first General District Assembly District plan violated both Section six A and B and ordered the commission to adopt a new general district a plan within ten days by January 22nd. The majority's opinion also directed the members of the commission to work towards adopting a new plan in a more collaborative, bipartisan fashion. Thereafter, the commission began in good faith to take steps to comply with the majority's ruling. The Republican House and Senate map drawers immediately began meeting with their Democratic counterparts. The map draws collectively followed Senator Sykes' suggestion that one way to comply with the majority's opinion was to focus on particular regions of the state, rather than trying to draft a completely new statewide plan from a blank slate. Regional map drafts were exchanged between the Republican and Democratic map drawers. The commission notes that it's difficult, if not impossible, to draw a hundred and thirty two General Assembly districts in 10 days without any form of a base map to work from and from the receipt of census data on August 12th, 2021 to the date of its adoption, the first General Assembly District plan took over a month to develop and adopt. Remember from August 12 to approximately September 15. On January 22nd, 2022, 10 days after Jan. 12, a majority of the commission adopted another four year district plan for the General Assembly. We'll call that the second General Assembly district plan. The General Assembly District Plan had 57 Republican leaning seats in the House, a reduction of five from the 1st General District Plan and eight from its current membership, or a total of 11 percent reduction, and 20 Republican leaning seats in the Senate, a reduction of three from the first General Assembly plan and five from its current membership, or a 20% reduction. As the commission majority stated in its January 22 Section 8 C 2 statement that was adopted by the Commission. This corresponds closely to the fifty four percent Republican and 40 percent Democratic. Strict proportionality of past statewide election results in Ohio. And as the commission majority explained in that statement, neither the

Ohio Constitution nor the decision of the Supreme Court requires adoption of a plan meaning strict proportionality, only that it closely correspond with it. So on February 7th, 2022, the same four member majority of the Supreme Court invalidated the second General Assembly district plan, holding that the new plan also violated Section 6A and 6B, B being the proportionality section, which, as we noted, was within just three seats in the House and two seats in the Senate of the strict proportionality rule. The majority appended did not provide guidance as to the precise meaning of correspond closely. Whether 57 corresponded closely to 54 or 20 corresponded close to the 18. Instead, the upon opinion criticized a new concept partisan asymmetry in the second General Assembly district plan based on districts that were fifty to fifty one percent leaning democratic. Even though that concept of term is not found in Article 11 of the Ohio Constitution or as far as I know, any other state law. The opinion did not identify how many such districts are legally permissible in a General Assembly district plan, or what percentage of Democratic leaning districts would satisfy the standards under Section six of Article 11 of the Ohio Constitution. The majority ordered that the commission reconvene and adopt an entirely new General Assembly district plan by February 17th, today, and that such plan be filed with the court by nine o'clock on February 18th, 2022. Want to note that the the system that is set up in the Constitution is based on at least 60 days for the drawing of a General Assembly map? This was part of the plan when this was adopted in 2015 by federal law. The census data is supposed to be available by April 1st. Now we understand there is a problem with that this year, but it takes approximately 90 days to put that into the census block data and we would have it by, typically in any typical year, by July 1st, and that's what happened in 2011. The commission has 60 days to draw bipartisan bipartisan plan under the Constitution and if unable to 15 days to draw a plan that is not bipartisan by Sept. 15. It's what happened this year under a lot of work and long hours by map drawers. We, as as I mentioned, got the date of August 12th this year and we're still able to draw a plan by September 15th, so it's constitutionally anticipated that it should take 60 days from scratch to draw a map. In this case, the Supreme Court gave the commission 10 days to start with a completely new map and a significant mathematical problem with the concept of partisan asymmetry. No General Assembly district plan has been presented to the commission to date that achieves a strictly proportional 54-46 result without committing significant other violations of the Ohio Constitution. While the Ohio Supreme Court has correctly refrained from ordering the commission to draw a particular district, a particular General Assembly district plan pursuant to Section 9D of the count -- of Article 11. The court has declined to define correspond closely and the majority opinion regarding the second General Assembly District Plan does not address it in its order regarding the first General Assembly district plan. However, the court did identify the plans submitted by Dr. Roddan as constitutional, even though that plan contained 57 Republican leaning House districts and multiple fifty to fifty one percent Democratic leaning districts. In its order regarding the second General Assembly district plan, the court suggested that it may be possible to draw a plan that more closely corresponds to the statewide preferences, but they're not defined how close would be constitutional? Under these circumstances, I don't believe the commission is able to ascertain a General Assembly district plan in conformity with the provisions of the Ohio Constitution and Ohio State law, nor with the Federal Constitution or federal state law. And as I mentioned today, we have to be cognisant of significant federal constitutional decisions and the federal constitution, especially as it relates to racial gerrymandering, which clearly, in my opinion, the redistricting plan submitted tonight by the Democrats does that. And I would suggest to inquiring members of the media, many of whom are here tonight, that they inquire of some candidates, African-American Democratic candidates who may be interested in running. They'll probably want to speak off the record or on background lest they be punished by some of their Democratic members of their party. Ask them what they think of the democratic map that was presented here today.

They may be willing to speak to you. They may be not willing to speak. They have spoken to me confidentially, however. So that's my statement. I appreciate the indulgence of the commission and allowing me to make that. Thank you, Mr. Chairman.

**Co-chair Senator Vernon Sykes** [00:20:54] Thank you, Mr. President. Are there any other comments to be made?

**Governor Mike DeWine** [00:21:02] Thank you, Mr. Chairman. Let me try to summarize where I think we are and also what I think our obligation is, and some of this is very elementary, but sometimes it's helpful to state the obvious. We have an obligation to follow the Ohio Constitution. We have an obligation to follow the court order. Whether we like it or not, whether we agree with it or not. And three, we have an obligation to produce a map. Now, I believe that the evidence we've seen shows that it's not possible to simultaneously follow all the provisions of the court order and the Constitution at the same time. An example. The court indicated said that in drawing a map, we should start from scratch, or that in so many words. When we talk to the people who are actually doing the map, they tell us that it's really not possible to do it that way within a 10 day period of time. That is just an example. But I don't think we have the luxury of saying we're just quitting and we're stopping. I think we have an obligation to attempt to follow as much of these orders as we can and to send a map to the court. There are things I think that can be improved. My colleague pointed out the term that the symmetry is really not in the Constitution, but this is what the court has said. Again that is an area that we might and I think we could actually improve and get closer to what the court's decision is. So I believe we have an obligation to send a new map to the court. Do the best that we can. As has been pointed out by several of my colleagues, the truth is, we have not seen a map that's been produced that after it's been analyzed, follows the Constitution. Some of that may have been purported to do that. But when you dug into them and looked at them carefully, it was clear they were not. I think it's also clear based upon the Senate president said, state auditor said in looking at the Democrat map, that that map clearly is not constitutional. We have passed a map and the Supreme Court has said, what they said it was not adequate. We passed the second map and the Supreme Court said the same thing again, but added different language. If we leave here without getting a map. We are giving the court absolutely nothing to react to. No one said this is easy. But I believe that we can. If giving the map makers specific instructions, we can come up with a map that fits better with the Constitution as well as the court order. I think that's our obligation. We have an obligation to follow the constitution, we have an obligation to follow the court order and and we have an obligation to produce a map. Thank you, Mr. Chair.

**Co-chair Senator Vernon Sykes** [00:25:36] Thank you, governor. Secretary LaRose.

**Secretary of State Frank LaRose** [00:25:45] Thank you, Mr. Co-Chair. And then unfortunately, as a practical matter, it would appear at least at this point, that this body is at an impasse. The map makers, the majority map makers. And let's be clear, the majority map makers work for the speaker and for the president. The majority map makers are telling us that they don't believe that we can constitutionally do what the court majority has asked us to do. This is one of those classic cases of what we want versus what we can accomplish. Those who are looking to cast blame and score political points will perhaps represent that the situation we're in is simply because of a lack of will. I don't believe that that's the case. On the other side of this conversation, though, are requirements that we have to comply with. We simply can't ignore one part of the Constitution to comply with another. Experts with the experience and technology to determine what a constitutional map looks like, tell us that they can't satisfy the demands that the court has placed on us.

And again, it's a question of what we want to accomplish versus what we we can accomplish. I, of course, wear two hats in this capacity, and right now I'm putting on my hat as Ohio's chief elections officer and thinking about the varied challenges that we face as it pertains to conducting an election. Our county boards of elections are less than one month away from being required by federal law to to mail primary election ballots to the brave men and women serving in our military, my brothers and sisters who are serving overseas. Just a couple weeks after that, voters will begin showing up at their early voting locations, expecting to be able to cast a ballot. This very morning, I spoke to all 88 of our county boards of Elections, and I told them that we're going to do everything we can to convey the urgency of this situation. So that's what I'm doing right now. That's what I've done repeatedly in this room and in other venues, expressed the urgency of this situation. The challenge that the boards of elections are facing cannot be understated. Their constituents, the voters of Ohio, they expect, and they deserve secure, accessible and accurate elections. That's what we accomplished in the face of unprecedented challenges in 2020. That's what Ohio elections officials repeatedly rise to the challenge and accomplish. But now we, as Ohio's bipartisan elections officials, are headed towards a brand new challenge. This challenge is not one that can be met with creativity and grit and tenacity, like the 2020 presidential election challenges were. Instead, this one is simply dictated by logistical deadlines, hard logistical deadlines, and we are on the verge of starting to miss those deadlines. We can't just flip a switch and hold a primary. You all know that, but I think that for a long time, elections officials have made this work look easy. And so some have maybe come to the conclusion that just one morning you turn on the lights in the gymnasium and they start voting. But of course, we all know that there's a lot, a lot of work work that's required by both state and federal law that has to be done before that can happen. Absentee ballots can't be printed until we know where the candidates are running. Voting machines can't be programed and tested for security until districts are finalized. In fact, these things can't even be done for several weeks until after maps are passed. My job here is to vote for what I believe satisfies the Constitution and just as importantly, to make sure that this commission knows what is at stake. So let me be impeccably clear about something. With just four weeks until ballots are required to be sent to our men and women in uniform and their families overseas, and with much to be done in preparation. We are dangerously close to possibly violating federal law. We need finality. We need to decide quickly between approving a map that the court can find acceptable or the Legislature wrestling with the tough challenges of deciding to change the date of the primary. There's just, there's no in-between. Thank you so much, Mr. Co-Chair.

**Co-chair Senator Vernon Sykes** [00:29:48] Leader.

**House Minority Leader Allison Russo** [00:29:52] Thank you, Mr. Chair. First, let me be very clear that, you know, I will disagree with some of the majority commission members who have spoken so far. This is a matter of what we can accomplish and what we are choosing not to get done. Meeting proportionality as required by the Constitution is not gerrymandering. It is possible for us to draw constitutional maps and for us to work together as the court has directed us to do. Democratic members of this commission provided maps to other members of this commission many days ago. In fact, they were posted publicly and provided to the court weeks ago. There has been plenty of time to provide feedback and if there is disagreement. About the constitutional issues to make those changes and adjustments, and in fact, we have shown very much a willingness to do that. But in the last 10 days, there has been no willingness from the majority members to have those conversations. In fact, our proposal that was just rejected by the commission has created constitutional state legislative maps. Doing nothing, and it seems to me that that is what this commission is choosing to do today, the majority members on this



commission, doing nothing and as the governor laid out, our job is to follow the Constitution, follow the court order and produce a map. Today, the deadline that the court has given to us, this commission is doing none of those things by not putting forward a proposal of maps. This is a direct assault on our democracy and Ohio voters, and if we do not respect the legitimacy of the courts, then we are disrespecting the rule of law. Senator Sykes and I have done our duty and unfortunately we will be back here again in this room until we all fulfill our obligation to enact constitutional maps. Thank you, Mr. Chair.

**Co-chair Senator Vernon Sykes** [00:32:21] Thank you, leader. It's been suggested that we use racial gerrymandering in drawing districts just because we are accused of that just didn't make it so. And I want to make it clear that this is a baseless accusation, and we did not use race as a predominant factor in drawing the lines. We use the state constitution guidelines, the federal constitution and all the laws, applicable laws and relevant laws to draft these these districts. You know, I've been here in the Legislature based on you all's support for 30 years and I've noticed, observed, recognized something is that the majority has the responsibility and the authority to rule, to decide, you know, they got the numbers. But in spite of the fact that you have super majorities in the House and in the Senate. All the statewide. The congressional delegation. This commission and the Ohio Supreme Court. You've been unable and unwilling to comply with our highest directive, and that is to comply with the Constitution. And I'm grateful that we have, you know, another branch of government, the Supreme Court, and we are dependent upon them to hold us accountable to the Constitution. Meeting the court's order is not impossible. The court itself has found evidence that it can be done. It is not enough for the commission to simply say that is impossible. Our map, as well as other maps submitted to the redistricting commission, show that there's not only one pathway to comply, but there's several pathways that can be used to comply with the constitutional provisions. Neither Ohio's political geography, the line drawing requirements of Article 11, nor any other constitutional directive prevent us from drawing maps that closely correspond to the statewide preferences of the voters. The only thing that's preventing us from meeting the court's order is an apparent lack of will. It is not gerrymandering to draw maps that meet proportionality. It's just the opposite, proportionality is the criteria and the guide to prevent us from gerrymandering. The court has directed us. If there is a pathway for proportionality, then we must adopt this, and we've demonstrated in this meeting today in a presentation of our map that you can meet that proportionality requirement. And this commission should be adopting a plan. The majority really is failing, and they're derelict in their duty and responsibility to the citizens of the state, and we're hopeful that that will soon change. Are there any other comments?

**Co-chair Speaker Cupp** [00:36:32] As a cochairman, I would just ask for purposes of this meeting whether anyone else has a map to present today. Appears not and would appear presently that this redistricting commission is in an impasse.

**Co-chair Senator Vernon Sykes** [00:36:52] Are there any of the comments to be made? Are there any further business to be brought before the commission? If not, the commission?

**Co-chair Speaker Cupp** [00:37:03] I do have one thing I'd ask the member is because this commission will have to take up congressional redistricting for the first time. We haven't done that before. And so the cochairman Sykes and I will be contacting each of you and your schedulers to see when we can meet, hopefully in the first part of next week because as the secretary of state has said, time is slipping away in order to conduct an election on the set date.

**Co-chair Senator Vernon Sykes** [00:37:30] The meeting is adjourned.

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