**IN THE SUPREME COURT OF OHIO**

| | |
|---|---|
| **Regina C. Adams, *et al.*,**<br><br>***Relators*,**<br>***v.***<br>**Governor Mike DeWine, *et al.*,**<br><br>***Respondents*.** | **Case No. 2021-1428**<br><br>**Original Action Filed Pursuant to Ohio Const., Art. XIX, Sec. 3(A)** |
| **League of Women Voters of Ohio, *et al.*,**<br><br>***Relators*,**<br>***v.***<br>**Governor Mike DeWine, *et al.*,**<br><br>***Respondents*.** | **Case No. 2021-1449**<br><br>**Original Action Filed Pursuant to Ohio Const., Art. XIX, Sec. 3(A)** |

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**GENERAL ASSEMBLY REDISTRICTING DEPOSITIONS**
**Volume 4 of 4**

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# Transcript of Senator Matt Huffman

**Date:** October 21, 2021
**Case:** League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

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LEAGUE OF WOMEN VOTERS :
OF OHIO, ET AL., :
Relators, :
v. : Case Nos. 2021-1193
OHIO REDISTRICTING : 2021-1198
COMMISSION, et al., : 2021-1210
Respondents. :

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Remote Videotaped Deposition of

SENATOR MATT HUFFMAN

Thursday, October 21, 2021

1:32 p.m.

Job No.: 405261

Pages: 1 - 134

Reporter: DEBRA BOLLMAN FARFAN, RDR-RMR-CRR-CRC

CA CSR NO. 11648

Videoconference Deposition of SENATOR MATT HUFFMAN, held remotely:

Witness Location:
REMOTE

Pursuant to notice, before Debra Bollman Farfan, Registered Diplomate Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Certified Shorthand Reporter No. 11648, in and for the State of California.

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END of EXHIBITS

P R O C E E D I N G S

* * * * *

THE VIDEOGRAPHER: Good afternoon. Here begins Media Number 1 in the video recorded deposition of Ohio Senate President Matt Huffman, in the matter of League of Women Voters of Ohio, et al., versus Ohio Redistricting Commission, et al., Consolidated Case No. 2021-1193, filed in the Supreme Court of Ohio. 01:32:09 01:32:10 01:32:14 01:32:17 01:32:19 01:32:24 01:32:26 01:32:30

Today's date is October 21st, 2021, and the time on the video monitor is now 1:32 p.m. 01:32:32 01:32:36

The videographer today is Joel Coriat on behalf of Planet Depos, and this deposition will be taken via videoconference. 01:32:39 01:32:42 01:32:45

All counsel appearances will be noted on the stenographic record. 01:32:46 01:32:49

The court reporter today is Debra Bollman on behalf of Planet Depos. She will now swear in the witness. 01:32:50 01:32:52 01:32:55

Whereupon,

SENATE PRESIDENT MATT HUFFMAN

was called as a witness, was duly sworn and testified under penalty of perjury as follows:

EXAMINATION

BY MR. FUNARI:

Q. Thank you. Good afternoon, Senate President Huffman. My name is Brad Funari. I represent the Ohio Organizing Collaborative in one of the three apportionment cases pending before the Ohio Supreme Court.

First of all, can you hear me okay with the technology these days? I always want to make sure the witness can hear me clearly.

A. Yes, I can hear you. It's a little -- it's a little soft, but I can mostly hear you.

MR. STRACH: Yeah, you're a little garbled, Brad, but I think it will be all right.

BY MR. FUNARI:

Q. All right. I'm going to move the microphone a little closer.

Let me start, Senate President, by apologizing in advance. I will most likely end up calling you Mr. Huffman at some point during today's deposition, and please don't view that as a sign of disrespect. It's not every day that I've deposed a dignitary, so if I miss the honorary title, I do apologize, and I'll do my

best to remember that. 01:34:20
A. Whatever title you would like is fine. 01:34:22
I didn't realize I was a dignitary until just 01:34:27
now. So go ahead. 01:34:29
Q. You are for purposes of this case. 01:34:30
A. Fair enough. 01:34:32
Q. Have you been deposed before, 01:34:33
Mr. President? 01:34:36
A. One time. I think it might have been 01:34:36
three or four years ago in a previous 01:34:42
redistricting lawsuit. And I can't tell you 01:34:46
who the parties were to that. But that's the 01:34:51
only time that I've been a witness in a 01:34:53
deposition. 01:34:54
Q. Okay. You've taken some depositions, I 01:34:55
would presume. 01:34:59
A. I have. 01:35:00
Q. Okay. So I'm not going to go into the 01:35:01
ground rules of a deposition and kind of the 01:35:04
formalities. 01:35:08
If by any chance you don't hear -- the 01:35:10
one I will advise you of is if you don't hear 01:35:12
my question or if for some reason we end up 01:35:14
talking over each other because of the 01:35:18
technology, just put your hand up or tell me to 01:35:19

slow down, and I'll get my question out. 01:35:22
A. I'll do that. 01:35:26
Q. Okay, great. 01:35:26
Are you familiar with a gentleman named 01:35:31
Ray DiRossi? 01:35:34
A. Oh, Ray DiRossi, sure. 01:35:35
Q. And does he work for the Ohio Senate 01:35:37
Republican caucus? 01:35:40
A. He's an employee of the Ohio Senate 01:35:41
President, to be specific, yes. 01:35:47
Q. Okay. And that's -- that's your office. 01:35:49
He's one of your employees? 01:35:52
A. That's correct. 01:35:53
Q. And is Mr. DiRossi the individual whom 01:35:55
you asked to draw the state legislative map 01:36:01
this year? 01:36:06
A. Yes. 01:36:07
Q. Did anyone else work with Mr. DiRossi in 01:36:11
drafting what we'll call as the Senate 01:36:16
legislative Republican map? 01:36:19
A. Well, I think he would have received 01:36:24
advice from counsel, and I don't think -- other 01:36:27
than just some logistical support, I don't 01:36:30
think there would have been any other Senate 01:36:34
employees working on this project. 01:36:36

Q. In terms of chain of command and supervision, is it correct that Mr. DiRossi would have reported directly to you during this redistricting process? 01:36:39 01:36:43 01:36:46 01:36:48

A. For the most part, that is true. Again, there were other staffers, including legal counsel who he would have had conversations with. I wouldn't necessarily be privy to those. They're all full-time folks, and I'm not in the Senate President's office every day. 01:36:49 01:36:56 01:37:00 01:37:02 01:37:05 01:37:07

So there are other people he would have using the word "report" to, but -- or had conversations with. 01:37:10 01:37:13 01:37:16

Q. But ultimately he was a member of your staff, I guess is what I'm getting at? 01:37:18 01:37:19

A. That's correct. That's correct. 01:37:22

Q. Did he report to any other commissioners of the Ohio Redistricting Commission? 01:37:23 01:37:25

A. Factually, I guess I can't say whether that's true or not. But that wasn't the way it was set up, unless from time to time, you know, there would have been some communication because he saw him someplace. 01:37:27 01:37:34 01:37:38 01:37:42 01:37:44

But in terms of reporting, he was my employee and nobody else's. 01:37:46 01:37:48

Q. So at no time he -- at no time during the process did he become employed by the Ohio Redistricting Commission, correct? 01:37:52 01:37:55 01:37:59

A. That is correct, yeah. 01:37:59

Q. Did the Ohio Redistricting Commission have any employees? 01:38:01 01:38:04

A. No. I think in terms of the work that needed to be done, we call it "staffing it," those things were done by the individual offices. 01:38:09 01:38:12 01:38:16 01:38:18

And specifically Speaker Cupp, who was one co-chair, and Senator Sykes, who was the other co-chair, if I have this right, their staff were, in effect, staffing or running the commission. 01:38:20 01:38:24 01:38:28 01:38:32 01:38:37

So there wasn't a separate commission office some place or anything like that. But for the hearings, communications, notices, things like that, their two offices and their staff in those offices were responsible for that. 01:38:37 01:38:39 01:38:41 01:38:45 01:38:47 01:38:49

Q. Understood. Did Mr. DiRossi regularly update you on his progress as he was drafting the Republican legislative map? 01:38:53 01:38:55 01:39:00

A. Well, with, I guess, the caveat of what 01:39:04

you mean by the word "regularly." From time to time we had conversations, but I did not have daily conversations with him about his work on the map. Just, as you know, there are other things going on in the legislature. 01:39:07 01:39:11 01:39:15 01:39:21 01:39:23

But, yeah, I had conversations with Ray on a, you know -- I suppose we'll call it an as-needed basis. 01:39:26 01:39:29 01:39:33

Q. Okay. And fair point. "Regularly," I think, is a -- it could be an ambiguous term. So let me break it down a little bit. 01:39:34 01:39:38 01:39:40

When did Mr. DiRossi first begin working on the map? 01:39:42 01:39:46

A. Well, work on the maps, you know, you start to try to do these things while you -- you do it not just days or weeks in advance. I actually began talking to him about it when I became Senate President in January, you know, along with other staff, about how are we going to accomplish this. 01:39:49 01:39:57 01:40:00 01:40:04 01:40:07 01:40:10 01:40:14

A lot of that had to do with the fact that, even at the beginning of this year, it became evident that the census data would not be available in April. 01:40:16 01:40:20 01:40:22 01:40:25

So a lot of it was how do we schedule 01:40:26

this, how are we going to get it done. And I don't -- I think it was maybe March when it was confirmed we weren't getting the census data on time. 01:40:29 01:40:32 01:40:34 01:40:37

So a lot of the scheduling and those things, Ray was part of that but so was the rest of the staff, and we had a meeting in April with all of the legislative leaders about this. 01:40:38 01:40:41 01:40:43 01:40:45 01:40:48

So, you know, probably the beginning of this year. I wasn't Senate President until first week in January. 01:40:49 01:40:51 01:40:56

Q. Did you consult with any other members of the commission with respect to appointing Mr. DiRossi as the drafter of the Republican map? 01:40:57 01:41:03 01:41:07 01:41:12

A. Well, to be clear, Ray -- Ray DiRossi -- I'm going to call him Ray, if that's all right with you -- Ray was not the drafter of the Republican map. He was the Senate Republicans' person who was working on map drawing. 01:41:12 01:41:17 01:41:20 01:41:23 01:41:30

And to that extent, no, I didn't ask any of the other six commission members about whether they thought Ray DiRossi should work on this map on behalf of the Senate Republican 01:41:33 01:41:36 01:41:38 01:41:41

President's Office. 01:41:44

Q. Did you understand that Blake 01:41:49

Springhetti was the map drawer appointed by 01:41:52

Speaker Cupp to work on the House version of 01:41:54

the Republican map? 01:41:57

A. Yes. 01:41:58

Q. Did the commission itself at any point 01:42:02

in time hire a map drawer? 01:42:07

A. No. 01:42:09

Q. So I want to go back to your interaction 01:42:11

with Mr. DiRossi. I believe you testified that 01:42:17

you would meet with him as needed. Can you 01:42:24

recall when you first met with him specifically 01:42:26

for the purpose of drawing the map? 01:42:33

So not necessarily those conversations 01:42:36

we talked about with Mr. DiRossi in the early 01:42:39

part of the year, but specific to drawing the 01:42:42

map. 01:42:45

A. The brief answer to your question is, 01:42:49

no, I don't remember an initial meeting. 01:42:51

You know, again, we didn't have the data 01:42:54

until the end of August in a useable form. So 01:42:57

it would have been sometime in the month of 01:43:03

August. I think that's when a lot of the 01:43:06

organizational things were being done. 01:43:09

Q. So if I -- I will offer the date of August 6th as the date that the Governor convened the first meeting of the Redistricting Commission. 01:43:10 01:43:15 01:43:17 01:43:22

Using that date, August 6th, as a point of reference, do you believe that you met with Mr. DiRossi for the purposes to start drafting the maps before or after that meeting? 01:43:23 01:43:26 01:43:30 01:43:32

A. Yeah, I guess the phrase "to start drawing the maps," to me, means other things than, you know, putting pencil to paper. It's what are the constitutional requirements? How do we do that? And those were conversations that are ongoing through the year. 01:43:34 01:43:40 01:43:44 01:43:47 01:43:49 01:43:51

If you're talking about simply, and I'm using it metaphorically, pencil to paper, it probably would have been at the end of the last week in August because there wasn't much that we could do until we had the data to be used. So probably the last week in August. 01:43:56 01:43:58 01:44:01 01:44:03 01:44:05 01:44:12

Q. Do you know what, if any, information or data from the Census Bureau ultimately made its way into the map that was enacted by the commission on September 15th? Or adopted by the commission on September 15th? 01:44:20 01:44:23 01:44:26 01:44:32 01:44:35

A. Well, I think the population count is what we used that came from the census data into the map. I think that's what we were all waiting for, if I have it right. 01:44:36 01:44:39 01:44:43 01:44:47

Q. Was there any other work that the commission could have been doing while it was waiting for the census data to arrive? 01:44:52 01:44:53 01:44:57

A. In the time period -- anytime in 2021, you mean? 01:45:01 01:45:09

Q. Yes. 01:45:10

A. Talking about after August 6th? 01:45:10

Q. We'll talk about the time you took office, beginning of 2021. 01:45:13 01:45:15

A. Well, "could" is a pretty broad word. 01:45:20

You know, what -- what I -- I will tell you one of the things I did do is in April I asked the legislative leaders to meet about extending the timeline. And, unfortunately, I didn't get agreement from Senator Sykes or Leader Sykes on that. 01:45:23 01:45:25 01:45:28 01:45:30 01:45:35 01:45:40

Now, could have? I guess "could" is a pretty broad word, so, yes, something could have been done. 01:45:42 01:45:45 01:45:48

Q. I'm sorry. Could you tell me again, in April you reached out to Senator Sykes for what 01:45:50 01:45:52

purpose? 01:45:55

A. Yeah, in April, when we sort of had this 01:45:55

confirmation that -- and there was a statement 01:46:01

about that time period that the census data 01:46:03

would not be available until -- and I think the 01:46:05

initial date was August 16th, or something 01:46:10

along those lines, you know, my staff suggested 01:46:12

to me that -- and actually at one point the 01:46:16

date was the end of September. Well, we have 01:46:20

this constitutional deadline of September 15th. 01:46:22

And my staff said: Look, what we can do is get 01:46:28

an extension, but we'd have to put it on the 01:46:31

ballot in August, and people would have to 01:46:33

agree with that. 01:46:35

So we asked to meet with actually Leader 01:46:38

Yuko and Leader Sykes and Speaker Cupp, and we 01:46:41

did meet in my office in April. And I 01:46:44

suggested to them, Look, right now we're not 01:46:50

getting the data until the end of September -- 01:46:52

it turned out to be the end of August, but end 01:46:54

of September -- we should extend this out 30 or 01:46:56

60 days, or we won't have time to do the due 01:46:59

diligence or public hearings or the things that 01:47:03

we're all anticipating. 01:47:07

So I had that meeting. I was 01:47:11

disappointed that the response was no and that the response came by way of a press conference and not someone calling me back and saying, "We don't support it." 01:47:12 01:47:15 01:47:17 01:47:20

So that's the April meeting that I convened in my office or invited people to come to. 01:47:21 01:47:24 01:47:27

Q. So during that meeting with the House and Senate Democratic leaders, did you -- I understand you discussed a possible legislative action to push out deadlines. Did you -- you're shaking your head no. 01:47:29 01:47:32 01:47:38 01:47:41 01:47:46

A. Yeah, it's not a legislative action. We would have had to place a constitutional change on the ballot. And we would have had to do that at the August special election. 01:47:48 01:47:50 01:47:54 01:47:57

Q. Okay. All right. 01:47:59

A. So we couldn't have done this -- now, legislatively, we would have had to place it on the ballot. So to that extent. But I just didn't want to confuse the issue. 01:48:00 01:48:02 01:48:05 01:48:09

And, frankly, we could have gone ahead and done that. But it was my opinion that if the Democrat folks, the Democrats, would not have supported that, it would have not likely 01:48:12 01:48:14 01:48:16 01:48:19

passed on the ballot, not without a huge campaign and all of that. 01:48:22 01:48:24

So when the Democrats rejected my suggestion of extending the September 15th deadline, you know, we didn't go ahead with that. 01:48:25 01:48:28 01:48:31 01:48:35

Q. So putting that issue aside, in the April meeting, did you have any discussions about the actual work convening for the Redistricting Commission? 01:48:35 01:48:38 01:48:43 01:48:48

A. I don't think so, other than, you know, we knew what the deadlines were. We knew that there had to be certain meetings. And, again, with the presentation of a map and the number of hearings that had to happen constitutionally, that was part of that discussion. 01:48:48 01:48:56 01:48:59 01:49:04 01:49:06 01:49:09 01:49:10

If we're going to do all of this, it doesn't appear that we can get it done based on what we knew in April of this year. 01:49:11 01:49:13 01:49:15

Q. So having received the message via press conference that there was going to be no, I guess, partisan action, bipartisan action, to put a referendum question on the August ballot, when did you start working on the work of the 01:49:17 01:49:23 01:49:27 01:49:33 01:49:41

commission? 01:49:44

Do you understand -- that might be a bad question. 01:49:48 01:49:50

A. Yeah -- 01:49:51

MR. STRACH: I think it is. Why don't you try to -- 01:49:52 01:49:53

MR. FUNARI: Let me withdraw that and ask again. 01:49:55 01:49:57

Q. So in April you learned via press conference that there was not likely to be a -- an amendment to push back the dates. So when did the work, or at least your work as a commissioner, begin? 01:49:58 01:50:01 01:50:08 01:50:13 01:50:17

A. Well, I'll just -- formally, of course, it began when I was sworn in as a commissioner August 6th; but I will also say, you know, I spoke in late July to Leader Sykes, Emilia Sykes, and we were discussing the hearings and the timing problems. 01:50:17 01:50:23 01:50:26 01:50:30 01:50:35 01:50:38

So I, essentially, asked Leader Yuko and Leader Sykes to meet with Speaker Cupp. In fact, I convened a meeting, I guess, again, to invite everyone to get together. And we did get together in the Speaker's office. I don't recall the exact date, end of July, early 01:50:43 01:50:49 01:50:53 01:50:56 01:50:57 01:50:59

August. 01:51:01

And at that meeting -- and I -- you know, I suggested to Leader Sykes that if we're going to have these hearings, we need to schedule them. We need to have it. 01:51:02 01:51:04 01:51:08 01:51:11

So that was, I guess, what you're asking. I wasn't a Commissioner, with a capital C, because I wasn't sworn in yet. But we wanted to move this thing along and do the things that we could do. 01:51:13 01:51:15 01:51:18 01:51:23 01:51:25

And so we did meet, and we began sketching out the hearing dates. And we actually, I think, even at that meeting decided on a date when we could convene or when the Governor could convene the commission. 01:51:27 01:51:30 01:51:35 01:51:38 01:51:42

Of course we had to have a date when the Governor was available because, constitutionally, he convenes it. So I think at that meeting -- again, I don't recall the exact date -- we got together and kind of sketched out these hearings. 01:51:45 01:51:47 01:51:49 01:51:52 01:51:54 01:51:58

We weren't commissioners yet, though. 01:51:59

Q. I understand you might not be able to remember the exact date, but what month did you say you believed that meeting occurred in? 01:52:01 01:52:03 01:52:06

A. Yeah, it was either the end -- very end of July or the first couple days in August. 01:52:08 01:52:11

Q. Before that meeting, had you had any discussions with the Governor about when he intended to convene the commission? 01:52:16 01:52:19 01:52:21

A. No. 01:52:24

Q. All right. I want to go back to Mr. DiRossi's work on the maps. Now, Mr. DiRossi was deposed just a few days ago in this matter. Are you aware of that, Mr. President? 01:52:33 01:52:39 01:52:47 01:52:51 01:52:53

A. Yes. 01:52:54

Q. Have you spoken to Mr. DiRossi about the testimony he provided? 01:52:55 01:52:58

A. Not as to any content. I mean, he came back to the office and said his deposition was taken, but we didn't talk about the content or anything like that. I just knew that it had happened. 01:53:00 01:53:05 01:53:08 01:53:10 01:53:12

Q. Have you read the transcript from his deposition? 01:53:12 01:53:14

A. No. 01:53:14

Q. Well, he testified that from time to time, when he would be working on the maps, you would come in, and he would share the screen 01:53:19 01:53:23 01:53:25

with you, or you'd look over his shoulder, and show you parts of the work that he was working on. 01:53:28 01:53:31 01:53:35

Do you recall any instances where something like that may have happened? 01:53:35 01:53:36

A. Yeah, that did happen. I don't know that I was looking over his shoulder, but I -- but, yes. 01:53:37 01:53:42 01:53:46

Q. Okay. Well, he was sharing the screen, he was showing you his monitor? 01:53:47 01:53:49

A. Right, right. 01:53:50

Q. Was the information that he was showing you displayed through the software application known as Maptitude? 01:53:53 01:53:56 01:54:01

A. I don't know the -- I don't know the answer to that. I'm not -- I try not to learn about things that I don't have to, and I'm not really sure what the software was and all of that. But that very well may be true. 01:54:04 01:54:07 01:54:10 01:54:13 01:54:17

Q. Well, what do you recall seeing on his screen when you would meet with him from time to time? 01:54:20 01:54:22 01:54:24

A. Yeah, just maps with, you know, different districts and different political subdivisions, all sorts of, you know, maps of 01:54:25 01:54:28 01:54:33

the state of Ohio. 01:54:38

And we'd talk about different districts 01:54:39

and the population requirements and, you know, 01:54:41

the mandates that are in the Constitution, 01:54:44

things like that. 01:54:47

Q. Okay, did you ever give him any 01:54:47

instruction or guidance with respect to how to 01:54:50

calculate the partisan performance of the maps? 01:54:53

A. No, I didn't. By and large the 01:54:58

instructions were, you know, the first thing is 01:55:03

we're going to have a -- we need to follow all 01:55:08

the mandates in the Constitution, which are 01:55:11

multiple, and -- but, no, I didn't make any -- 01:55:14

give him any specific or general instructions 01:55:19

about partisan index and however it is that 01:55:23

political folks calculate that. 01:55:26

Q. You said that you gave him instruction 01:55:30

or direction to ensure that the maps complied 01:55:34

with the Constitution. 01:55:39

A. Yes. 01:55:44

Q. Do you recall saying that? 01:55:44

A. Yes. 01:55:45

Q. Which sections of the Constitution did 01:55:45

you tell Mr. DiRossi to be sure the maps 01:55:47

complied with? 01:55:50

A. All of the constitutional requirements that are mandatory. That was paramount in what I believed was the most significant thing. 01:55:50 01:55:58 01:56:01

So we've got -- as I said, there are multiple mandates. And I said first thing we have to do is make sure this thing is constitutional; don't deviate populations more than 5 percent. Counties that are in the sweet spot, so to speak, have to be the same division of counties, things like that. So those are laid out. I guess I can't tell you by number where all of the mandatory provisions are, but that was what was paramount. 01:56:05 01:56:09 01:56:15 01:56:18 01:56:20 01:56:23 01:56:25 01:56:27 01:56:29 01:56:32

Q. What about Section C of Article XI? Do you recall giving Mr. DiRossi any direction specific to that section of the constitution? 01:56:34 01:56:40 01:56:42

A. No. 01:56:44

Q. Do you know if Mr. DiRossi sought any direction from anyone with respect to the meaning of Section 6 of Article XI? 01:56:49 01:56:52 01:56:59

A. No. 01:57:02

Q. Are you familiar with Section 6 of Article XI? 01:57:06 01:57:12

A. Yeah, I guess I can't recite it for you as we're sitting here, but I know what that 01:57:13 01:57:19

provision generally says. 01:57:22

Q. Okay. Would it be -- I'm going to ask you a few questions about that section specifically. Would it be helpful if I pulled it up on the screen? 01:57:23 01:57:26 01:57:28 01:57:30

A. Maybe, depending on the question you ask, so... 01:57:31 01:57:33

Q. Are you familiar with the term "proportional" that's used in Section 6 of Article XI? 01:57:34 01:57:42 01:57:47

MR. STRACH: Brad, did you say proportion or proportional? 01:57:48 01:57:50

BY MR. FUNARI: 01:57:54

Q. Proportional. Maybe I'm misspeaking. So let's pull it up, why don't we. 01:57:54 01:57:56

MR. STRACH: Yeah, I think the word proportion is in there, but not proportional. 01:57:58 01:58:01

THE VIDEOTECH: Counsel, what's the name of the document? 01:58:13 01:58:15

MR. FUNARI: Actually, hold on. We're going to come back to the constitutional questions I have in a few minutes. 01:58:17 01:58:18 01:58:20

Actually, let's just do this now while you're working on it. It's Exhibit 2. 01:58:30 01:58:33

(Deposition Exhibit No. 1 was marked for 01:58:33

identification.) 01:58:46
THE VIDEOTECH: So it's Ohio 01:58:46
Constitution Article XI? 01:58:48
MR. FUNARI: Yes. 01:58:49
(Discussion with Videotech held off the 01:58:49
written record.) 01:58:49
Q. Okay. My question is with respect to 02:01:00
Section 6(B), Mr. President. I'll give you an 02:01:04
opportunity to read it. 02:01:08
A. Oh, read it right now? You want me to 02:01:11
read it right now? 02:01:13
Q. Yeah, to refresh your memory in terms of 02:01:14
what it says. 02:01:16
A. Okay. I've read page one of two. 02:01:32
Q. Okay. So just so the record's clear, 02:01:36
you gave no direction to Mr. DiRossi with 02:01:40
respect to this constitutional requirement, 02:01:43
Section 6(B); is that correct? 02:01:47
A. Well, yeah, I guess to be specific, I 02:01:49
told Ray we need to follow the constitutional 02:01:55
requirements. And if this -- to the extent 02:01:58
that, you know, this is not a mandated portion, 02:02:02
I didn't have a specific conversation with Ray 02:02:06
about this. 02:02:11
What I told him was that it was -- the 02:02:12

significant thing is we needed to follow the mandated portions of the Constitution. 02:02:15 02:02:18

So I didn't give any specific instructions about Number 6, if that's what your question is. 02:02:20 02:02:23 02:02:27

Q. That's what I was asking, yes. 02:02:28

A. Okay. 02:02:30

Q. Did you personally, as a commissioner, conduct any analysis of whether the map that was introduced on September 9th complied with this Section 6(B) of the Ohio Constitution, Article XI? 02:02:35 02:02:37 02:02:41 02:02:47 02:02:51

MR. STRACH: Objection. Calls for a legal conclusion. 02:02:52 02:02:56

Mr. President, you can answer that to the extent that you don't reveal any legal advice. 02:02:56 02:02:58 02:03:00

MR. FUNARI: Just so you're clear, Phil, and maybe you misheard my question, my question is: Did you, in your role as a commissioner, conduct any analysis of the map that was introduced on September 9th as to whether or not the map complied with Section 6(B) of the Ohio -- Article XI of the Ohio Constitution. 02:03:01 02:03:04 02:03:07 02:03:10 02:03:15 02:03:18 02:03:25

MR. STRACH: Correct. And my objection 02:03:28

is that I believe that calls for -- inherently calls for inherent legal analysis by the president. 02:03:31 02:03:33 02:03:37

But to the extent he can answer that without revealing any legal advice, please do so. 02:03:38 02:03:40 02:03:42

THE WITNESS: No. 02:03:42

BY MR. FUNARI: 02:03:43

Q. Did you make any mention to Mr. DiRossi during his work to ensure that the maps complied with Article I of the Ohio Constitution? 02:03:49 02:03:55 02:03:58 02:04:04

A. Yeah, we can go back and look at -- Article I or Section 1 of Article VI do you mean -- or Article XI, I guess? 02:04:04 02:04:09 02:04:11

Q. Article I of the Ohio Constitution. 02:04:13

A. Okay. That's not the reapportionment. You're talking about something that's not reapportionment? 02:04:19 02:04:21 02:04:23

Q. Yeah, could we go back to the second page of this document, put up Article I in this exhibit as well. 02:04:24 02:04:26 02:04:29

A. Yeah, I think the answer to your -- we can go back. I think the answer to your question is, no, I did not do that. 02:04:30 02:04:32 02:04:35

Q. Now, do you recall at the September 9th hearing, when the map was introduced that Mr. DiRossi had been working on, he testified at that hearing? Do you recall that? 02:04:43 02:04:47 02:04:50 02:04:52

A. Yes. 02:04:56

Q. And do you recall in response to a question I believe that was posed by Leader Emilia Sykes, Minority Leader Emilia Sykes, about certain racial and other demographic information and if he had considered that, and his response was something along the lines of that he was instructed not to use racial or other demographic information in preparing the map? 02:04:57 02:05:02 02:05:08 02:05:12 02:05:17 02:05:23 02:05:26 02:05:29 02:05:31

Do you remember that testimony? 02:05:33

A. Yes. 02:05:34

Q. He was then asked who directed him, and he said the legislative leaders. Do you recall him saying words to that effect? 02:05:35 02:05:43 02:05:47

A. Yeah, vaguely. I'll take your word for it. I guess I don't remember exactly what he said; but I think so, yeah. 02:05:48 02:05:51 02:05:53

Q. Well, let me ask it this way. Did you, in your position, instruct Mr. DiRossi not to consider race or other demographic information 02:05:55 02:05:57 02:06:02

in his preparation of the map? 02:06:05

A. Yes. And I told Leader Sykes that the 02:06:07

day before. We had a meeting with Leader Sykes 02:06:17

and Senator Sykes to show them the map before 02:06:20

it was released publicly so they could ask 02:06:22

questions. And she asked me that question the 02:06:24

day before; and then, of course, I think that's 02:06:29

why she asked Ray at the meeting. 02:06:31

Q. At the time that the commission met on 02:06:37

September 9th, did you know the proportion of 02:06:49

districts in the plan that favored each 02:06:52

political party? 02:06:55

A. No, I think there was a analysis ongoing 02:06:58

regarding that. One of the problems with this 02:07:04

process, especially when you're doing it in a 02:07:07

truncated way, is the variety of information 02:07:10

that people have or submit or suggest about 02:07:15

whether districts are leaning Republican or 02:07:22

leaning Democrat. 02:07:25

And there was so much of that that there 02:07:27

really wasn't a clear picture about that on 02:07:30

that particular day. And obviously those 02:07:33

things came out later after a few days as we 02:07:37

were negotiating or attempting to negotiate. 02:07:42

Q. So, as I understand your testimony, it 02:07:45

was some point after September 9th that you ultimately learned the proportion of districts that favor each respective political party; is that right? 02:07:47 02:07:49 02:07:52 02:07:59

A. Yeah, I think it was sometime after that that we began to have a -- a more reliable set of conclusions. But on that particular day, you know, as Ray indicated, the analysis was ongoing. 02:07:59 02:08:01 02:08:07 02:08:10 02:08:14

Q. Did you ask Mr. DiRossi to provide you with that information before the map was introduced on September 9th? 02:08:15 02:08:18 02:08:21

A. I don't have any recollection of doing that. 02:08:23 02:08:26

Q. Going back to Article XI, Section 8(C)(2) requires a statement to be adopted by the commission that contains a measure of proportionality. 02:08:26 02:08:36 02:08:43 02:08:48

Are you familiar with that -- 02:08:51

A. Yes. 02:08:52

Q. -- statement that's required? 02:08:54

A. Yes. 02:09:01

Q. When did you first learn of a measure of proportionality for the map that the commission was considering as introduced on September 9th? 02:09:01 02:09:03 02:09:06

A. I'm sorry, can you repeat that? 02:09:09
Q. Sure. When did you first learn of what 02:09:11
the measure of proportionality would be for the 02:09:14
map that you were considering as introduced on 02:09:19
September 9th? 02:09:22
A. You're going to have to define the 02:09:23
"measure of proportionality" for me. I don't 02:09:25
understand what you mean by that phrase. 02:09:28
Q. Okay. Are you familiar with -- I 02:09:30
believe you said you're familiar with 02:09:32
Section 8(C)(2), correct? 02:09:34
A. Yeah, the commission has to prepare a 02:09:36
statement in the event of a four-year map. 02:09:38
Q. And Section 6(B), which we just 02:09:44
reviewed, talks about the proportion -- about 02:09:47
proportionality, right? 02:09:51
MR. STRACH: Objection. That's not 02:09:53
actually what it says. 02:09:54
BY MR. FUNARI: 02:10:05
Q. You can answer. 02:10:05
A. Well, yeah, I guess Section C, as I 02:10:06
understand it, talks about, if I have it -- 02:10:08
maybe we need to put it back up -- the results 02:10:11
of the election over the past ten years, and 02:10:14
proportionality -- I guess that's all sort of 02:10:18

in a salad there of things that's in there. 02:10:21

And I guess maybe -- I thought you were 02:10:26

asking me about the statement that was 02:10:28

prepared. So I'm sorry. Maybe you want to 02:10:30

start over with the question? 02:10:35

Q. Yeah, why don't we put the statement up. 02:10:36

I believe it's -- it's Tab 1, Planet 02:10:40

Depos.

A. Okay.

(Deposition Exhibit No. 2 was marked for identification.)

(Discussion with Videotech held off the written record.)

Q. Let's give President Huffman an 02:11:21

opportunity to read the statement. 02:11:23

So, President Huffman, just let the 02:11:27

technician know when you're ready to scroll. 02:11:30

A. Okay. Okay. Yeah, go ahead and scroll 02:11:33

down. Okay. 02:11:52

Oh, there's another page? Okay. 02:12:08

Okay. I've got it I've read it. 02:12:19

MR. STRACH: Brad, I think you were on 02:12:33

mute. 02:12:34

MR. FUNARI: Yeah, I was on mute, sorry. 02:12:35

If we could scroll down to the bottom of 02:12:37

this first page and draw the president's attention to that last sentence. 02:12:40 02:12:42

Q. The last sentence reads: Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio. 02:12:44 02:12:46 02:12:48 02:12:51 02:12:54

Did I read that correctly? 02:12:58

A. Yes. 02:12:59

Q. This is the word "proportion" that I was referring to, and my question was: Do you have an understanding of what the term "proportion" means as used in this statement? 02:12:59 02:13:03 02:13:06 02:13:10

A. Yeah, I mean, I think -- I mean, first of all, to the extent that these are legal conclusions or constitutional conclusions. But when we, you know, looked at this statement, there were, you know, a variety of things that we could look at. 02:13:11 02:13:15 02:13:21 02:13:24 02:13:29 02:13:31

You know, we have, of course, over the past ten years these statewide election results and that's mentioned in here. We looked at the publicly available data on the partisan elections. Not all statewide elections, because not all of them are partisan, or at 02:13:33 02:13:34 02:13:39 02:13:42 02:13:46 02:13:49

least in the last ten years they haven't. And we sort of repeated all of that in there. 02:13:51 02:13:54

So, you know, to the extent that these districts -- and I think we use the word "favor" in here, we've used the word "lean" before, these percentages are, you know, within the mark, so to speak. 02:13:56 02:14:01 02:14:06 02:14:09 02:14:15

So I think that's a pretty easy conclusion that we made at the end of this statement. 02:14:18 02:14:20 02:14:22

Q. Who drafted this statement, this 8(C)(2) statement that we've marked as Exhibit 2? 02:14:24 02:14:35

A. Well, I don't think there was an individual person, but the staff drafted that, and I guess I don't know exactly who did it. 02:14:37 02:14:41 02:14:44

Q. Whose staff? 02:14:48

A. My counsel is Frank Strigari; Ray DiRossi, of course, as we've mentioned before. To the extent that other people assisted them, I don't know that, but those are the two main guys. 02:14:50 02:14:58 02:15:03 02:15:05 02:15:07

Q. Would it surprise you to learn that Mr. DiRossi testified that he played no role and was asked for no information regarding the preparation of this document and, in fact, 02:15:11 02:15:13 02:15:15 02:15:18

didn't see it until after it was adopted? 02:15:20

A. No, I don't have any reason to doubt him 02:15:22
about that. 02:15:27

To the extent that, you know, this 02:15:28
information is available, I guess it would 02:15:33
surprise me that Ray didn't know that the 02:15:36
Republicans had won 13 out of the last 16 02:15:41
statewide elections because just about anybody 02:15:44
could know that. 02:15:47

But as indicated, this was something 02:15:49
that was done by my staff. And if Ray wasn't 02:15:51
directly involved in it, I'd certainly take him 02:15:54
at his word. 02:15:57

Q. Okay. And just so the record is clear, 02:15:58
I didn't ask you to speculate as to what 02:16:00
information in this document Mr. DiRossi may or 02:16:03
may not know. 02:16:05

My question was: His testimony was he 02:16:08
had nothing to do with this document and never 02:16:11
even saw it until after it was adopted by the 02:16:13
commission. If he testified to that effect, 02:16:16
would you have any reason to not believe 02:16:18
Mr. DiRossi's testimony? 02:16:21

MR. STRACH: Objection. Just to the 02:16:23
extent that his testimony will speak for 02:16:24

itself.
But if you want to assume that's what he said, then you can answer the question. 02:16:27 02:16:29 02:16:31

THE WITNESS: Yeah, I have no doubt that Ray would testify truthfully and accurately. 02:16:33 02:16:34

BY MR. FUNARI: 02:16:37

Q. So that leaves Mr. Frank Strigari as the only other staffer you mentioned who you believe drafted this statement. Do you believe Mr. Strigari alone drafted this statement? 02:16:37 02:16:42 02:16:45 02:16:48

MR. STRACH: Objection. 02:16:52

You can answer that question to the extent you do not reveal or discuss discussions or activities with outside counsel. 02:16:57 02:16:58 02:17:02

THE WITNESS: Okay, I don't -- I don't know who all was part of the drafting of this statement. I would have talked to Frank about it. 02:17:04 02:17:06 02:17:13 02:17:15

And, frankly, I don't remember. You know, this was, I think, in the last day or so when this statement was being prepared. But certainly I would have talked to Frank about it. But who else was involved in -- who Frank talked to or ran ideas by or anything like that, I don't know the answer to that. 02:17:16 02:17:21 02:17:23 02:17:26 02:17:29 02:17:33 02:17:36

BY MR. FUNARI: 02:17:38
Q. But it's fair to say it was drafted by 02:17:38
your staff? 02:17:41
A. It's fair to say that my staff worked on 02:17:43
it. I don't know whether there were folks 02:17:48
outside of my staff who worked on it or not. 02:17:50
Q. Okay. 02:17:53
A. Or made contributions or suggestions or 02:17:54
reviewed or anything like that. But I wouldn't 02:17:58
have talked to those people. 02:18:03
Q. That was kind of anticipating my next 02:18:04
question. 02:18:07
A. Oh. 02:18:07
Q. Do you know if this statement or any 02:18:08
drafts of this statement were shared with other 02:18:14
members of the commission prior to its adoption 02:18:19
at the September 15th meeting? 02:18:23
A. As I understand it, this isn't something 02:18:25
that I did myself. But as I understand it, the 02:18:30
proposed statement was sent to the other 02:18:33
commissioners maybe about 7:00 or 8 o'clock in 02:18:36
the evening. So several hours before the 02:18:42
commission adopted it as its own statement. 02:18:46
Okay. And that was something again that 02:18:53
was done by staff, was sent to their staff, et 02:18:54

cetera. 02:18:57

So yes to the question; I just don't 02:18:58

know the mechanics of all of that. 02:19:01

Q. Okay. Did any of the members of the 02:19:02

commission or their staff make any suggested 02:19:05

revisions or question any of the information 02:19:09

contained in Huffman 2? 02:19:13

A. Not to my knowledge. 02:19:15

Q. Now, Mr. -- I'm sorry -- Speaker Cupp 02:19:24

this morning testified of drafts of this 02:19:27

statement. 02:19:29

Are you aware of earlier drafts of this 02:19:29

statement? 02:19:31

A. Not specifically, no. 02:19:32

Q. What about generally? Would a document 02:19:37

like this have a draft circulated? 02:19:40

A. Yeah, I mean, basically that day I 02:19:43

was -- when it became clear that the 02:19:48

Democrats -- I guess I still held out hope even 02:19:52

the day before, but I wasn't getting any 02:19:55

response. 02:19:58

But it became clear that it was possible 02:19:58

that we were going to get this four-year map, 02:20:01

and this was statements required in that 02:20:04

circumstance. That's when work on this began. 02:20:10

I frankly didn't know about that until told by staff that, hey, this statement is necessary if we don't work out a deal. 02:20:12 02:20:14 02:20:18

So I was shown a draft or a copy. I don't recall having any of my own suggested changes. So if there were other drafts that were changed by other folks, I'm not aware of that. 02:20:22 02:20:30 02:20:32 02:20:35 02:20:38

Q. Did you personally have any input into the drafting of this statement? 02:20:39 02:20:47

MR. STRACH: Objection. 02:20:50

Answer if you can. 02:20:52

THE WITNESS: Yeah, I didn't -- I didn't type it up or suggest word changes. This was handed to me. It was reviewed by me. I looked at. 02:20:54 02:20:57 02:21:00 02:21:03

And what I was -- you know, I wanted to make sure that everything in here was fully correct and talked about what the constitution said you should talk about, which were results of elections over the past ten years and, you know, the other language that's in there. 02:21:03 02:21:05 02:21:08 02:21:12 02:21:15 02:21:19

So I didn't -- I didn't, you know, draft up and say this has to be in here, that has to be in here. But I think it talks about the 02:21:22 02:21:25 02:21:31

things that you're supposed to. 02:21:33

And I think the best answer is to the 02:21:34

extent that I looked at it and said, yeah, I 02:21:36

think these things are good and they ought to 02:21:38

be in there, I guess that's my personal 02:21:40

contribution. 02:21:42

BY MR. FUNARI: 02:21:44

Q. Well, I guess what I was getting at, if 02:21:44

Mr. Strigari was the drafter, the actual person 02:21:48

who put words to paper, did he do so at your 02:21:51

direction? Did you tell Mr. Strigari, "This is 02:21:54

what I want the statement to say," or words to 02:22:00

that effect? 02:22:02

A. Yeah, I don't know if Mr. Strigari was 02:22:02

the drafter, but the answer to your question 02:22:06

is, no, this was something that was presented 02:22:08

to me. Something that we would have to do in 02:22:10

the event that there would not be a ten-year 02:22:13

map. 02:22:18

Q. We looked at Section 6(B) of Article XI 02:22:19

a short while ago, and if you'll recall 6(B) 02:22:22

requires a determination of the statewide 02:22:27

preferences of the voters of Ohio. Do you 02:22:31

recall that concluding clause? 02:22:35

A. Yeah. 02:22:37

Q. Who made the calculation that a statewide proportion of voters favoring statewide Republican candidates was 81 percent based on the proportion of elections won as stated in this document? 02:22:39 02:22:45 02:22:48 02:22:53 02:22:58

A. Well, I don't know who calculated the 16 divided into 13 is 81 percent. I think anybody can do that. 02:22:59 02:23:04 02:23:08

Certainly I suggested that what the Constitution says is that we're supposed to look at the results of the previous ten years of elections, of statewide elections, both federal and state. 02:23:10 02:23:14 02:23:16 02:23:20 02:23:23

And, you know, that's something that anybody with a little bit of historical, political knowledge can figure out. 02:23:26 02:23:28 02:23:31

As to the 54-46 part of it, I didn't know that. I guess you've got to go through with the results of the Secretary of State's office and add all of those things up, and that's not something you can do off the top of your head. 02:23:33 02:23:36 02:23:38 02:23:41 02:23:45 02:23:47

So, yeah, I mean, 81 percent is pretty easy to see. Those are the results of the last ten years prior to this year. 02:23:47 02:23:51 02:23:55

Q. So that calculation, who was it that first devised the idea that using elections won to inform the commission's determination of the statewide preferences of the voters? Who decided that? 02:23:57 02:24:02 02:24:08 02:24:11 02:24:15

A. Well, the commission decided it, ultimately, when they adopted this statement unanimously I might add, without objection. 02:24:15 02:24:19 02:24:23

But the first idea about this, you know, it might have been my idea. I guess I remember talking about it, and I said: Look, the Constitution says look at results, if we ever get to Section 6. But the Constitution says look at results, and those are results of the previous ten years of election. 02:24:26 02:24:30 02:24:33 02:24:36 02:24:43 02:24:46 02:24:48

So who is the first brain child of this? I guess I don't know who first specifically suggested it. It might have been me. But I don't -- you know, it's pretty easy to see what results are and one result is who wins and loses elections. 02:24:50 02:24:53 02:24:57 02:25:00 02:25:04 02:25:07

Q. Right. 02:25:08

A. And what party they are. 02:25:09

Q. And that is -- you'd agree that that is one way of determining the statewide 02:25:11 02:25:14

preferences of the voters of Ohio, using the information from statewide, state, and federal partisan general election results in the last ten years. There would be other ways to do that, correct? 02:25:18 02:25:24 02:25:28 02:25:31 02:25:34

A. Sure, yeah. 02:25:34

Q. Did you consider any other way to calculate how to determine the statewide preference of the voters of Ohio? 02:25:36 02:25:42 02:25:47

A. You're stepping outside of this statement. You're just talking about myself? 02:25:48 02:25:52

Q. Yes. 02:25:54

A. Yeah. 02:25:56

Q. We talked about elections won, right? And you may have been the individual who came up with that idea. My question was did you have any other ideas of how that calculation or measurement might be made? 02:25:56 02:26:00 02:26:03 02:26:07 02:26:10

A. No, because, again, our first mission here was to make sure that the mandates in the constitution were met. And this, you know, calculus was part of making sure that our statement accurately reflected the facts that the commission would consider in exercising its discretion. 02:26:12 02:26:20 02:26:23 02:26:26 02:26:30 02:26:33 02:26:36

So, you know, these are -- the two that are specifically mentioned in here are the two that are -- you know, show -- two different ways of showing results. 02:26:37 02:26:40 02:26:44 02:26:47

I suppose that, you know, there may be a lot of different ways that you could talk about results in the last ten years and sort of parse that out about, well, how hard would some candidate campaign in a particular election, and is that really a valid result or do we still include it in the same weighting? 02:26:49 02:26:52 02:26:53 02:26:57 02:27:00 02:27:06 02:27:09

But none of that was really done. Again, because this wasn't a mandatory part of the constitution. But we did want to comply with the requirement that this statement be prepared, so we put in the things we thought were the results. But these aren't things that I calculated or I did some independent research on. 02:27:12 02:27:15 02:27:17 02:27:21 02:27:24 02:27:26 02:27:29 02:27:31

Q. All right. Do you know if anyone was consulted for the purpose of providing research for the numbers that made their way into this statement? 02:27:32 02:27:36 02:27:38 02:27:41

A. No, I don't know that. 02:27:42

Q. So let's talk about the second, I guess, 02:27:50

bucket of numbers that's on the screen. When considering -- it's right at the top of the screen. 02:27:52 02:27:54 02:27:56

When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54 percent, and the statewide proportion of voters favoring statewide Democratic candidates is 46. 02:27:58 02:28:00 02:28:03 02:28:07 02:28:09 02:28:12 02:28:14

So I want to focus on that, the second method of calculating voter preferences as set forth here. 02:28:18 02:28:21 02:28:24

Who was it, if you know, that came up with those percentages? 02:28:24 02:28:30

A. I don't know the answer to that. 02:28:31

Q. Was it a member of your staff, do you know? 02:28:35 02:28:37

A. Well, I don't think that -- I think this information is just publicly available at the Ohio Secretary of State's website. 02:28:37 02:28:42 02:28:44

So whoever went through and did the calculations or added up the total votes and all of that sort of thing, I don't know who did that. 02:28:51 02:28:53 02:28:56 02:28:59

These were -- I think were the same numbers that the Democrat Senate map considered. Although, for some reason, I think at some point somebody was saying 55-45. 02:29:00 02:29:03 02:29:09 02:29:11

So I don't know who went through to the Secretary of State's website and did all the addition of votes, et cetera. 02:29:17 02:29:19 02:29:21

Q. So we've talked about both of the measures of proportionality that are in this final adopted 8(C)(2) statement. Were there any other measures of proportionality considered by the commission, other than these two that made their way into the 8(C)(2) statement? 02:29:24 02:29:28 02:29:31 02:29:37 02:29:39 02:29:41 02:29:48

A. No. I think those things would have been discussed at a commission meeting, so I think the answer to that is no. 02:29:48 02:29:53 02:29:56

Q. Okay. At the bottom of this Exhibit 2, it reads: Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. 02:30:06 02:30:11 02:30:14 02:30:18 02:30:25 02:30:30 02:30:36

Do you see that? 02:30:39

A. Well, it's not up on my screen here at the moment, but I think I heard you read it correctly, or I think you read it correctly, so -- somebody would have to scroll on my screen. 02:30:40 02:30:44 02:30:47 02:30:50 02:30:52

Q. You're not seeing the screen? 02:30:53

A. I'm seeing the screen, but the bottom portion that you just read from is not on my screen. 02:30:54 02:30:56 02:30:58

Q. Oh, I'm sorry. It's on ours. 02:30:58

Can Planet Depos move that up? 02:31:02

A. I apologize. I thought you were reading the last page. It is on my screen. I have that in front of me. I apologize. 02:31:03 02:31:06 02:31:08

Q. I'll give you a minute to read it. 02:31:11

A. No, it's okay. I've got it. I read it before. 02:31:12 02:31:14

Q. All right. So these numbers that the commission adopted for the General Assembly plan of 64.4 percent favoring Republican candidates and 35.6 favoring Democratic candidates, when did you first learn that those were the numbers that were going to be put forth in this statement? 02:31:14 02:31:19 02:31:21 02:31:25 02:31:30 02:31:34 02:31:37

A. When I saw the statement, which was 02:31:38

probably sometime late afternoon on September 15th. 02:31:44 02:31:47

Q. Were you, to your knowledge, the first member of the commission to see this statement? 02:31:55 02:31:57

A. I do not know the answer to that. 02:31:59

Q. Do you know if other commissioners were provided a copy of this Section 8(C)(2) statement prior to their being asked to vote for it or against it at the September 15th meeting? 02:32:03 02:32:07 02:32:12 02:32:16 02:32:20

A. Yes, they were. 02:32:20

Q. When were they provided with a copy of it? 02:32:22 02:32:27

A. I can't tell you that specifically, but I think it's in the 7:00 to 8:00 range. Those things were sent to their emails by -- I think by my staff, and I think they all acknowledged receipt of it. 02:32:27 02:32:32 02:32:36 02:32:40 02:32:45

Q. Why didn't your staff or you send a draft of this statement to the other commissioners prior to commencing the September 15th meeting? 02:32:46 02:32:51 02:32:55 02:32:58

A. Well, to be clear, the meeting commenced at 10:30 in the morning and recessed. 02:33:00 02:33:03

This was worked on by my staff and 02:33:08

presented to me sometime late in the afternoon. 02:33:12
And what we sent to them at whatever 02:33:14
time that those emails went out, 7:00 or 8:00, 02:33:17
was a draft, when it became, again, apparent to 02:33:20
me at that point that, you know, I was -- I was 02:33:26
waiting most of the afternoon on the 15th for a 02:33:28
response of some kind from Leader Sykes or 02:33:30
Senator Sykes. So what we sent at 8:00 was a 02:33:34
draft. 02:33:40
Now, it's a draft until the commission 02:33:40
adopts it, which, ultimately, the commission 02:33:44
adopted it without any changes to the proposal 02:33:46
that was sent out at 8:00. 02:33:50
And, in effect, somebody had to do 02:33:51
something about this because the Constitution 02:33:53
required it. So that's -- it was a draft until 02:33:55
it was adopted. 02:33:59
Q. Understood. What was the plan that you 02:34:00
had sent over to the Sykeses that you were 02:34:07
awaiting a response on between the time the 02:34:12
commission convened in the morning of the 15th 02:34:17
and the time it reconvened in the evening? 02:34:20
A. Well, that plan was sent to them much 02:34:22
before that, which we were attempting to 02:34:29
negotiate with the Sykes. So they -- that time 02:34:31

period stretches back into the previous week. 02:34:35

But if you're only asking about the 15th, I was told by Senator Sykes that a response to our latest proposal would be coming. 02:34:40 02:34:44 02:34:48 02:34:50

I had attempted to meet with he and Leader Sykes earlier in the week. I requested to meet with them. They didn't respond to my request. 02:34:53 02:34:56 02:34:58 02:35:01

But if you're only asking about that day, I had a series of phone conversations with Senator Sykes. Again, the time was 10:30. We were supposed to meet, and beginning at about 1:00 o'clock, I was told by Senator Sykes that the response to our latest proposal would be coming, and we pushed the time back to 3:00 o'clock. 02:35:03 02:35:05 02:35:08 02:35:12 02:35:16 02:35:19 02:35:22 02:35:25

And I think another phone call, let's come in at 5:00. We pushed it back to 7:00, and I continued to call. 02:35:26 02:35:29 02:35:33

I think maybe we talked three times that day, and he said a response would be coming. And ultimately, because we have the -- we have to do this on September 15th, Speaker Cupp convened the meeting and of course we did what 02:35:34 02:35:37 02:35:42 02:35:45 02:35:50

we did. 02:35:53
But there were a series of attempts on 02:35:56
my part to try to have some negotiations in 02:35:59
response to our proposals. 02:36:04
Q. Okay. I apologize, it's probably a 02:36:06
result of my misunderstanding. 02:36:10
It was my understanding that, while the 02:36:11
commission was in recess on the 15th, there 02:36:14
were actual negotiations back and forth between 02:36:16
the Democrats and the Republican legislative 02:36:19
leaders. It sounds like that is incorrect. 02:36:21
There was not a back-and-forth negotiation, but 02:36:25
rather you had made the prior week what you've 02:36:28
called the latest proposal, and you were 02:36:32
waiting for them to respond, which they never 02:36:34
did; is that correct? 02:36:36
A. Yeah, so, that's part of that. 02:36:38
The other thing is when you say 02:36:41
Republican and Democrat members of the 02:36:43
commission, I don't know what sort of 02:36:45
discussions Secretary LaRose, Governor DeWine, 02:36:48
and Auditor Faber were having with anyone. 02:36:50
And I guess I don't know everything that 02:36:54
Speaker Cupp may have been talking to each 02:36:56
other about. 02:36:58

But for my part, I was trying to get my Democratic counterpart in the Senate to respond. 02:37:01 02:37:04 02:37:07

And, frankly, I thought that Vern, because, you know, I know him, known him for many years, was the best person for me to try to talk to. And tried to -- as I said, tried to -- asked him if he would meet with me in Akron earlier in the week. I didn't get a response to that. And then when I did speak with him in Cleveland on the 13th, he said they would have a response the next day. We didn't get that. 02:37:07 02:37:10 02:37:13 02:37:15 02:37:19 02:37:21 02:37:24 02:37:27 02:37:31 02:37:35

And when we talked on the 15th, he promised, several times, responses. 02:37:36 02:37:38

And I don't put that all on him. I know there's a lot of different folks, and there's a lot of things that have to happen. It's not just you walk in the room, make a decision, and come back out. 02:37:40 02:37:42 02:37:44 02:37:47 02:37:49

So, if you're including other Republican members of the commission, I don't know what discussions they may have been having on that particular day. 02:37:52 02:37:55 02:37:58 02:38:01

Q. Fair enough. So the "latest proposal," 02:38:01

as you use that term, what was the latest proposal that you made to the legislative Democrats? 02:38:05 02:38:08 02:38:13

A. So I'm going to use these terms just -- and if these aren't clear to you, I think they're clear, but the initial map that the -- although we didn't quite know that when it was introduced -- and I'm just going to use House numbers just because it's closer to percentages and so we can have one sort of rubric. 02:38:13 02:38:23 02:38:25 02:38:34 02:38:37 02:38:39 02:38:43

As I understand it, it had districts that leaned Republican. The total number was 68. The Democratic proposal had 57 districts that leaned Republican. The subsequent proposal that we had made had 62 districts that leaned Republican. 02:38:45 02:38:48 02:38:51 02:38:58 02:39:03 02:39:09

Again, as I understand it. I didn't examine these districts or whatever indices may have been used. And that was sort of where we were at a day or so before, and certainly on the 15th. 02:39:11 02:39:13 02:39:16 02:39:19 02:39:23

It was our attempt, what we were trying to do was get them to respond to, you know, "if we boil it all the way down to 68; no, how about 57; no, how about 62," we were 02:39:24 02:39:27 02:39:32 02:39:35

negotiating, and we were at 62, and they were at 57. 02:39:38 02:39:42

And, again, there are many other things that were part of that, of course. But we were trying to get a response out of them. 02:39:43 02:39:45 02:39:48

Q. Understood. Mr. DiRossi testified that he worked with two consultants in his work drawing the map. Would you agree that Mr. DiRossi worked with two consultants in his work drawing the map? 02:39:56 02:40:04 02:40:09 02:40:14 02:40:19

MR. STRACH: Objection. I don't think he testified that they helped him draw the map. He talked about two consultants, but not in drawing the map. 02:40:20 02:40:22 02:40:28 02:40:32

MR. FUNARI: Fair enough. Let me rephrase the question. I'll withdraw that question. 02:40:33 02:40:36 02:40:38

BY MR. FUNARI: 02:40:38

Q. Do you have an understanding of whether or not two consultants were made available for consulting purposes and for the provision of data or other reasons to Mr. DiRossi for his map drawing process? 02:40:38 02:40:40 02:40:43 02:40:46 02:40:50

A. To be honest with you, the answer to that is no. I know there was a data guy, and I 02:40:59 02:41:00

don't know what his name was.
If there was a second person who was providing data to Ray, then I don't have any reason to doubt his testimony about that. I just -- wasn't necessary for me to vet any of that. That was up to Ray. And, of course, you give -- you give folks the tools they need to accomplish their task.
So the answer really is, no, I don't know who those folks are.
Q. But do you remember authorizing Mr. DiRossi to hire such consultants?
A. I don't specifically remember that, but that probably happened.
Q. Does the name Clark Benson ring a bell to you?
A. Rings a bell. I guess I can't tell you anything else about him or who he is.
Q. What about the context in which you know that name? You recognize that name from Mr. DiRossi's work on the maps?
A. No, I really don't.
Q. What about John Morgan? Are you familiar with that name?
A. I don't think I know who John Morgan is,

no. 02:42:04

Q. Have you ever worked with Mr. Benson, to the best of your recollection? 02:42:10 02:42:12

A. I don't think so, no. 02:42:13

Q. Do you know whether Mr. DiRossi was provided access to non-public 2012 and 2014 election data? 02:42:21 02:42:39 02:42:48

A. No, I don't know the answer to that. 02:42:49

Q. Did the commission ever consider hiring a nonpartisan mapmaker to draw the maps to your knowledge? 02:42:54 02:43:02 02:43:09

A. Well, I guess the way the commission would consider that would be jointly at a public meeting. Those meetings, of course, I think are all recorded and there's minutes of it, et cetera. 02:43:09 02:43:16 02:43:20 02:43:23 02:43:25

So I don't recall at any of our meetings that we discussed that topic. 02:43:26 02:43:28

Q. What about before the commission was convened on August 6th? Was there any discussion among the members, or the individuals who would become the members of the commission, whether or not -- 02:43:30 02:43:34 02:43:37 02:43:41 02:43:44

A. Yeah, I -- at the meeting I mentioned, the end of July, beginning of August meeting in 02:43:47 02:43:49

| | | |
|---|---|---|
| 1 | the Speaker's office, and really maybe before, | 02:43:51 |
| 2 | we talked about each of the four caucuses | 02:43:57 |
| 3 | having access to someone who can assist them in | 02:44:00 |
| 4 | making these decisions. | 02:44:06 |
| 5 | From the perspective of the Senate | 02:44:08 |
| 6 | Republicans, we didn't think it was necessary | 02:44:12 |
| 7 | for us to go out and hire outside people. | 02:44:13 |
| 8 | Mr. DiRossi, he might be the most qualified | 02:44:18 |
| 9 | person in the United States, as far as I know. | 02:44:20 |
| 10 | He had done this for two cycles, and, you know, | 02:44:22 |
| 11 | was enthusiastic about he wanted to do it. So | 02:44:24 |
| 12 | there wasn't any reason for me to do anything | 02:44:29 |
| 13 | about that. | 02:44:31 |
| 14 | I don't know what Speaker Cupp's | 02:44:35 |
| 15 | analysis was in terms of who they had. | 02:44:36 |
| 16 | Leader Yuko, who, of course, did not | 02:44:40 |
| 17 | become a member of the commission, his | 02:44:43 |
| 18 | statement at that meeting was we have -- I | 02:44:46 |
| 19 | guess I can't remember -- there is a Democratic | 02:44:51 |
| 20 | staffer, nice guy. He's been around for years. | 02:44:54 |
| 21 | I apologize, I can't remember his name. He | 02:44:56 |
| 22 | knew about drafting maps, so they wouldn't need | 02:44:59 |
| 23 | to hire an outside person. | 02:45:01 |
| 24 | However, Leader Sykes, you know, said -- | 02:45:02 |
| 25 | you know, made a fair statement, a clear | 02:45:06 |

statement, that: Hey, we don't have a Ray DiRossi in-house or same fellow for the Senate Democrats. We need additional funds to go out and hire a mapmaker or consultant or whatever term we were using at the moment. 02:45:09 02:45:11 02:45:15 02:45:20 02:45:25

So we authorized a considerable amount of money. I think originally each caucus, each party, I think, was given $150,000, and that was used to buy computers and software and such. 02:45:30 02:45:32 02:45:35 02:45:39 02:45:41

But in this case, Leader Sykes asked for, I think, an additional $250,000, I think, just to hire consultants, which I think was for mapmaking purposes and we agreed to do that. Of course, that would have had to be something that we all agreed to. 02:45:45 02:45:49 02:45:53 02:45:59 02:46:01 02:46:03

So in this case, and I think it was just the House Democrats, I don't know exactly how they did what they did, but I think they went out and hired somebody, and that was for four months. That included the Congressional portion of this redistricting, which, of course, is ongoing as we speak. 02:46:08 02:46:10 02:46:13 02:46:15 02:46:17 02:46:19 02:46:22

We try not to, you know, get down to telling each other what we're going to do with 02:46:29 02:46:33

our consultants. It's supposed to be a process where you take money. But the answer is the House Democrats got an additional quarter of a million dollars or so to assist them in the mapmaking process. 02:46:35 02:46:40 02:46:43 02:46:45 02:46:47

Q. And is it correct that none of the statewide elected officials, that being Governor DeWine, Secretary of State LaRose, and Auditor Faber, none of those statewide elected officials participated in that meeting where the decision was made that there would be no hiring of a nonpartisan mapmaker? 02:46:48 02:46:50 02:46:54 02:46:58 02:47:01 02:47:03 02:47:06

A. That is correct. This is a meeting that happened before the commission convened among the four caucus leaders, three of whom ended up actually being on the commission. 02:47:12 02:47:14 02:47:17 02:47:20

Q. I think I know the answer to this, but I'm going to ask it anyway. Did the commission as a collective entity ever attempt to draft a map? 02:47:23 02:47:39 02:47:42 02:47:48

A. No. Again, they can only act through a joint action, either in a meeting or I suppose possible to do a written resolution. But none of that ever happened, no. 02:47:48 02:47:58 02:48:00 02:48:03

Q. Did the commission ever develop metrics 02:48:05

for assessing the various plans that were to come before it as contemplated by the Constitution for compliance with Section 6? 02:48:12 02:48:16 02:48:18

A. Not -- yeah, not to my knowledge. 02:48:24

Q. Did each -- do you know if each independent member, including yourself, had their own individual idea of the metrics by which he or she would use to determine the compliance of any respective map to Section 6? 02:48:28 02:48:32 02:48:34 02:48:39 02:48:42

MR. STRACH: Objection. 02:48:48

THE WITNESS: Yeah, I think -- I don't know what the other six commission members did. 02:48:49 02:48:51

What I instructed Ray to do was, first and foremost, comply with the Constitution, the mandates of the constitution, and that our mission here, so to speak, was to attempt to come to a resolution that would allow us a ten-year map, which necessarily would have required both Democratic members of the commission to be in favor of it. 02:48:55 02:48:58 02:49:02 02:49:08 02:49:11 02:49:14 02:49:16 02:49:20

So that's what our attempts were. 02:49:21

Section 6, of course, is aspirational first, but if we require -- if we comply with the mandates of the Constitution, are not -- that's not something that is also a mandate. 02:49:26 02:49:29 02:49:33 02:49:38

BY MR. FUNARI: 02:49:45
Q. So you don't know one way or another 02:49:45
whether any of the other commissioners or their 02:49:48
staff created specific metrics or checklists 02:49:51
for purposes of evaluating whether or not the 02:49:57
maps that would come before them would comply 02:50:00
with Section 6? 02:50:03
A. Yeah, I don't know what the other six 02:50:04
commission members were doing in that regard. 02:50:08
Q. But you did not. You didn't create any 02:50:11
such, you know, metric or checklist by which 02:50:15
you would evaluate compliance with Section 6 as 02:50:23
the maps would come before you? 02:50:26
A. Well, I guess the one exception to that 02:50:28
would be the metrics that were set out in the 02:50:32
statement, which we've already reviewed, which 02:50:36
are the results of elections over the previous 02:50:38
ten years, either in percentage or outcome. 02:50:40
So if you want to call that metrics, I 02:50:44
suppose those are things that I discussed with 02:50:47
my staff in the afternoon of the 15th. 02:50:50
Q. Right. So that was after the 02:50:58
September 9th map was introduced that you 02:51:00
developed that metric in your mind and 02:51:02
discussed with your staff sometime during the 02:51:04

recess on the 15th? 02:51:06

A. That was the date that we prepared the statement and began including all of the things that we thought were relevant as it was related to that Section 4 -- excuse me, the statement that was required. Certainly those other things were known prior to that and as early as, you know, four or five days or probably earlier than that. 02:51:08 02:51:12 02:51:15 02:51:20 02:51:25 02:51:29 02:51:34 02:51:38

Again, anyone at any time can look and see who has won the previous ten years. 13 out of 16 have been won by Republican. 02:51:40 02:51:44 02:51:48

So when that idea first surfaced and discussed, I don't know, but that was long before September 15th. And the 54-46 or 55-45, well, people have been talking about that for several months, including the Democrats. So these things weren't unknown. But as a statement of the commission, as its own statement as to these are the results, those were things that had to go on the statement. 02:51:50 02:51:52 02:51:54 02:52:01 02:52:03 02:52:07 02:52:11 02:52:15 02:52:19

Again, there's no formula in the constitution. We consider facts and then exercise discretion, and that was the purpose of having it in a statement. But those things 02:52:22 02:52:23 02:52:26 02:52:29

were known, generally, to the public and other people, including me, prior to September 15th. 02:52:32 02:52:34

Q. Okay. Just I may have cloudy view of the timeline, then, here. Just so I'm clear. This idea of using statewide elections won as one of the two metrics that made their way into the 8(C)(2) statement, you came up with that idea approximately five or six days before the 15th; is that right? 02:52:37 02:52:42 02:52:46 02:52:53 02:52:56 02:53:00 02:53:03

A. I don't think that's accurate. And I don't know that I came up with it. I may have come up with it. 02:53:05 02:53:07 02:53:09

But this was something as we began to talk about what are all of the things that we were considering, that was a discussion that we had long before the 15th. 02:53:10 02:53:13 02:53:19 02:53:22

Maybe at the end of August, beginning of September, the first time, you know, we talked about, well, what do results mean? 02:53:24 02:53:26 02:53:30

Well, results, as suggested by some folks, including Democrats, were add up all of the votes in all of the elections and do a calculation. I'm not sure that that -- you know, because, again, you have 19 races, they're different candidates, different things. 02:53:32 02:53:36 02:53:39 02:53:42 02:53:44 02:53:47

I'm not sure that adding all of the votes together would be one. And -- but adding -- you know, looking at the actual results of who won is another way of doing it. 02:53:49 02:53:53 02:53:57 02:53:59

You know, the one thing that didn't make it into the statement, I guess, I'm sitting here thinking, is look at the actual results of all of those statewide elections, those 19 statewide elections. 02:54:01 02:54:04 02:54:05 02:54:09 02:54:12

And some candidates were winning 51-49. Of course, you know, by the way, this calculation doesn't include third-party and independent candidates. So there's a lot of other percentages that aren't in the statement. 02:54:13 02:54:17 02:54:19 02:54:21 02:54:27

Those aren't things that we considered, necessarily, because, you know, we're sitting there that day saying what are important facts for the commission to include in the statement? 02:54:29 02:54:32 02:54:34 02:54:36

But, yeah, I think these are things that everybody knew long before the 15th. 02:54:40 02:54:42

Q. Okay. So as I understand it, and tell me if this is a fair statement: You had discussions prior to the 15th about a metric being statewide elections won, but you didn't know that it was going to make its way into the 02:54:45 02:54:49 02:54:52 02:54:56 02:55:01

8(C)(2) statement as a basis for the determination of the commission until you saw that statement sometime during the recess on the 15th. 02:55:05 02:55:10 02:55:12 02:55:16

A. Yeah, and your timing is correct. 02:55:17

I would just say as this was a "fact" for consideration. I don't know that I would say "basis." That means something a little bit different to me. 02:55:20 02:55:24 02:55:26 02:55:28

But that is correct. I didn't know it was going to go into the statement until the afternoon of the 15th because, to be very honest with you, if I ever knew that the statement was necessary, nobody really explained that to me until: Oh, yeah, we actually have to do this, don't we? Let's start preparing a statement in case we don't get a four-year map. 02:55:29 02:55:31 02:55:32 02:55:35 02:55:37 02:55:39 02:55:43 02:55:45 02:55:47

Q. So who was the actual decision-maker that made the decision to put that metric, statewide elections won, into the 8(C)(2) statement? 02:55:49 02:55:53 02:55:56 02:56:01

A. All seven members of the commission. 02:56:02

Q. All seven of the commission voted for it. 02:56:05 02:56:07

A. Right. 02:56:07
Q. But I understand from earlier testimony 02:56:08
and the testimony at the hearing, public 02:56:10
hearing, that it was presented to them with not 02:56:13
much notice. And many of them put that on the 02:56:17
record. They were unhappy about that. It's 02:56:23
kind of been unanimous testimony that the 02:56:25
statement came from your office. 02:56:28
So my question is who made the decision 02:56:30
to put that metric of statewide elections won 02:56:33
into the 8(C)(2) statement? 02:56:38
A. Yeah, the proposal was made by me. The 02:56:40
motion was made by me. Again, the conclusion, 02:56:44
the decision was made by the commission. 02:56:48
Q. So it was you, not necessarily a member 02:56:50
of your staff, who decided to put that metric 02:56:58
into the 8(C)(2) statement? 02:57:01
A. It was my decision to make the motion to 02:57:02
propose that to the commission. The staff 02:57:06
doesn't make decisions. The people making the 02:57:08
motions do that. 02:57:11
Q. Right. And you have no recollection, as 02:57:12
I understand it, who on your staff actually 02:57:18
included and drafted that language of the 02:57:22
statewide elections won and the 81 percent into 02:57:26

the statement, correct? 02:57:31
A. No. That's correct, yeah. 02:57:32
Q. Okay. Okay, give me one second, if you 02:57:34
would. 02:57:44
Madam court reporter, could you give me 02:57:44
a time where we are on the record? 02:57:46
(Discussion held off the written 02:58:17
record.) 02:58:17
BY MR. FUNARI: 02:58:28
Q. Mr. President, were you one of the 02:58:28
principal authors of the 2015 amendments to 02:58:30
Article XI? 02:58:35
A. Can you repeat that? I didn't quite 02:58:36
catch that. 02:58:38
Q. Sure. Let me back up. Were you a 02:58:38
member of the Senate during the negotiation and 02:58:40
drafting of the 2015 amendments to Article XI? 02:58:47
A. So I think I know what you're asking. I 02:58:58
was a member of the Ohio House of 02:59:00
Representatives when the 2014 changes, many of 02:59:02
which we're discussing, were drafted, and I was 02:59:06
a principal in that. And that went on the 02:59:10
ballot in 2015. So hopefully that's helpful. 02:59:13
Q. Yeah. I guess my mistake was you were 02:59:16
in the House, not the Senate, at the time, 02:59:18

correct? 02:59:20
A. Correct. 02:59:20
Q. Okay. 02:59:20
A. As was Vern Sykes at that point. We're 02:59:22
now both in the Senate. 02:59:24
Q. And you worked with Mr. Sykes through an 02:59:33
organization that you and he co-founded called 02:59:36
the Fair Districts for Ohio group, correct? 02:59:38
A. Not in the drafting of that, if that's 02:59:40
what you're -- 02:59:44
Q. No -- 02:59:44
A. If you're connecting it to the previous 02:59:45
question, that had nothing to do with the work 02:59:47
on the legislation. 02:59:49
Q. Right. But you and Mr. Sykes joined 02:59:51
forces, for lack of a better term, to advocate 02:59:55
publicly for those amendments, correct? 02:59:59
A. Yeah, after the legislature placed the 03:00:03
issue on the ballot in two-thousand -- for the 03:00:06
2015 election, which was in November of 2015, 03:00:12
at that time private citizen Huffman and 03:00:20
private citizen Sykes, we did form an 03:00:22
organization, and we raised some money, not too 03:00:26
much, and we hired some folks and bought some 03:00:30
advertising. We did various editorial trips, 03:00:32

et cetera, during that 2015 year. 03:00:40
Q. And what was the purpose, generally, of 03:00:50
that group? 03:00:52
A. Well, I had -- a few years before that 03:00:52
had -- as a -- also as a member of the House, 03:00:57
put an initiative on the ballot to ask the 03:00:59
legislature to -- we have age limits for 03:01:02
judges, and I tried to get it raised from 70 to 03:01:05
75 because I thought we were losing a lot of 03:01:08
people off the bench. I should have got rid of 03:01:11
it altogether. 03:01:14
It went down, and one of the things I 03:01:15
learned is if you want a ballot initiative, 03:01:17
whether it's by petition or legislature, you 03:01:19
need to campaign for it. 03:01:22
So the purpose of that was to try to get 03:01:23
the issue passed. 03:01:25
Q. Now, there was literature related to the 03:01:31
campaign that the organization was advocating 03:01:34
for. Were you involved in preparing any of 03:01:38
that literature, the posters or other medium, 03:01:41
in which the Fair Districts for Ohio was 03:01:45
getting its message out? 03:01:49
A. Well, I think one of the things that 03:01:51
happened in the campaign, as usually happens 03:01:55

with these campaigns, is a lot of folks sort of take their own particular ownership of it. 03:01:59 03:02:02

So I was responsible for, you know, the things that I said and did. But there were a lot of folks who claimed that somehow they were responsible for this and campaigning in a variety of different ways to support it. 03:02:08 03:02:09 03:02:11 03:02:15 03:02:19

So what was said and what wasn't said in particular things, I guess I'd have to see what specifically it is that you're talking about and whether I sanctioned it or drafted it or approved it. 03:02:23 03:02:27 03:02:30 03:02:32 03:02:35

I -- unfortunately, and we heard this in some of the testimony, there's a lot of folks out there that think that this went on by virtue of petitions that were circulated. Because they said, you know, "They circulated petitions and that's why it got on the ballot." They were wrong about that. 03:02:37 03:02:39 03:02:42 03:02:44 03:02:46 03:02:48 03:02:51

So if there are particular documents or pieces of paper or ads or things like that, I'd have to take a look at it. 03:02:52 03:02:56 03:03:00

I do recall we did not -- most of what we did were radio ads, and then we did some editorials and things like that. We really 03:03:03 03:03:06 03:03:10

didn't have enough money to go out and buy TV commercials or, you know, some of the other things. 03:03:12 03:03:15 03:03:17

And I don't think digital advertising was in 2015 what it is today. So I'd have to see if I have a recollection of what you're talking about. 03:03:18 03:03:21 03:03:26 03:03:28

Q. Okay. In the interest of time, I'm not going to pull up the various posters, but I do have some excerpts that I'm going to read to you and then ask you a couple of questions about. 03:03:29 03:03:31 03:03:35 03:03:37 03:03:40

The first is there is a poster that came out, published by Fair Districts of Ohio, that noted that the amendments were to advance fairness and specifically "to protect against gerrymandering by prohibiting any district from primarily favoring one political party and require districts to closely follow the statewide preferences of voters." 03:03:41 03:03:44 03:03:48 03:03:52 03:03:56 03:04:00 03:04:02 03:04:05

Do you recall having any part in coming up with that language which appeared on the materials put out by the Fair Districts of Ohio? 03:04:08 03:04:11 03:04:15 03:04:17

A. No. I don't have any recollection of 03:04:18

that. 03:04:20
Q. Another was to advance the goal of 03:04:21
accountability, and the revisions to Article II 03:04:24
would "create a process for the Ohio Supreme 03:04:29
Court to order the commission to redraw the map 03:04:33
if the plan favors one political party." 03:04:36
Do you recall any input into the posters 03:04:40
or flyers of the organization including words 03:04:45
to that effect? 03:04:48
A. No. 03:04:49
Q. Do you agree with those statements, 03:04:50
though? 03:04:57
A. Well, the second one, since I think I 03:04:57
can remember that one a little better -- we can 03:05:04
go back to the first one -- the second one, of 03:05:06
course, is incorrect to the extent that if the 03:05:09
mandates of the constitution are met, the 03:05:12
Supreme Court does not or cannot order a redraw 03:05:15
based on the items that you've put in there. I 03:05:21
mean, that's pretty clear in the Constitution. 03:05:26
And I guess I'd have to have you read me 03:05:29
the first one again to see if I agreed with it. 03:05:31
Q. Sure. It goes to fairness. And this 03:05:35
one in particular says that the amendments "are 03:05:38
meant to protect against gerrymandering by 03:05:42

prohibiting any district from primarily favoring one political party and require districts to closely follow the statewide preferences of voters." 03:05:45 03:05:49 03:05:51 03:05:54

A. Yeah, I mean, it sounds like, when you use the word "any district," well, of course, it's impossible to do that and follow the mandates of the constitution. 03:05:56 03:05:58 03:06:01 03:06:06

You know, if we decided we're going to draft -- draw every district 54-46 or 55-45, whatever it is, we could do that. 03:06:07 03:06:10 03:06:15

Now, in theory, you could have 99 Republicans elected to the House, but we would have all districts do that. Fact is you can't do that and follow all of the mandated portions of the Constitution. Just like you can't draw a map that has 81 percent, you know, as -- because of 13 and 16, because you can't divide counties, all of the other things that are in there. 03:06:18 03:06:21 03:06:24 03:06:27 03:06:29 03:06:32 03:06:39 03:06:42 03:06:45

So it sounds like a political consultant drafting something that may have made sense to them at the time or helped to get it passed, but it's -- it's factually inaccurate. 03:06:47 03:06:52 03:06:54 03:06:57

Q. So if Fair Districts of Ohio was putting 03:07:03

out memorabilia and posters and other literature that said things like that, and your name is associated with the organization, would you take issue with that? 03:07:09 03:07:13 03:07:18 03:07:19

A. Did you say memorabilia? 03:07:20

Q. Yeah, or whatever, literature. 03:07:23

A. Literature, oh, okay. Oh, okay. Yeah, I mean, I suppose I would have taken issue with it at the time if I would have sat down and said, "Let's take this word out and put these things in," and all of that. 03:07:26 03:07:30 03:07:34 03:07:36 03:07:39

But there were a lot of folks who may have been working on this. For example, the League of Women Voters were putting out a lot of things and other entities, whoever they may have been, putting things out to convince people to vote for this. 03:07:40 03:07:43 03:07:46 03:07:49 03:07:54 03:07:56

What all they put into it -- you know, and that -- that happens in lots of issue campaigns and political campaigns. You have acolytes of various stripes putting out things about why you should vote for candidates and shouldn't. 03:07:58 03:08:01 03:08:04 03:08:07 03:08:11 03:08:13

Everything that everybody ever said about me when I was running for office, even if 03:08:13 03:08:15

they were trying to do me a favor, probably I would take issue with and the same is true in this case. 03:08:19 03:08:21 03:08:23

Q. Okay. Mr. President, I think we've been going maybe just over an hour and a half. It would be probably a wise time to take a brief recess, maybe five minutes or so. 03:08:24 03:08:27 03:08:31 03:08:33

Is that all right, Phil, with you? 03:08:36

MR. STRACH: That's fine with me. Let's say five minutes, I guess. 03:08:38 03:08:40

MR. FUNARI: And, madam court reporter, can you give us a time. 03:08:41 03:08:43

THE VIDEOGRAPHER: Off the record at 3:09. 03:09:22 03:09:24

(Recess ensued from 3:09 p.m. to 3:20 p.m.) 03:16:30 03:20:47

THE VIDEOGRAPHER: We are back on the record at 3:21. 03:20:53 03:20:54

BY MR. FUNARI: 03:20:54

Q. Can you hear me okay, President Huffman? 03:21:01

A. Yes, I can. 03:21:02

Q. Okay. Did any of the other commissioners, besides yourself, have access to Mr. DiRossi during the map drawing process? 03:21:04 03:21:12 03:21:16

A. I don't believe so. 03:21:19

Q. Was that at your direction? 03:21:24
A. I don't think it was something I needed 03:21:28
to direct. Ray's a Senate employee. He's paid 03:21:32
by the Senate to do his job. The House, you 03:21:36
know, they have their employee that they would 03:21:39
work for them. 03:21:42
And, again, to the extent that the other 03:21:43
commissioners had folks. I don't think it 03:21:46
would be necessary, for example, Leader Yuko to 03:21:51
direct his employee not to interact with other 03:21:57
folks. It's, I guess, maybe understood that's 03:22:00
who you work for. 03:22:03
Q. I guess I was -- the individuals I had 03:22:04
in mind were the other commission members. So, 03:22:07
for example, let's use the Governor as an 03:22:09
example. Did Governor DeWine have access to 03:22:12
Mr. DiRossi during the map drawing process? 03:22:17
A. He shouldn't have. So, no, I don't 03:22:20
think the Governor or the Governor's folks 03:22:24
would have talked to Ray DiRossi about this. 03:22:27
Q. And would that be the same for each of 03:22:30
the statewide elected officials? 03:22:32
A. That's correct. 03:22:34
Q. Okay. Why did you not want them to have 03:22:35
access to Mr. DiRossi during this process? 03:22:39

A. Well, I don't think it's some active determination of what I wanted or didn't want. 03:22:42 03:22:46

It's the same for any other activity. If the Governor decided he wanted Frank Strigari's opinion on a legal matter unrelated to this, well, that's not appropriate for him to call my attorney or my chief of staff or someone else, just like I wouldn't to be calling their attorney or chief of staff or whoever it was. 03:22:50 03:22:55 03:22:57 03:23:01 03:23:03 03:23:06 03:23:08 03:23:10

So it wasn't a question of wanting to or not wanting to. It was a question of Ray DiRossi worked for me and not any of the other six commissioners. 03:23:11 03:23:13 03:23:17 03:23:19

Q. But you knew that the statewide elected officials weren't undergoing similar process, that being hiring a map drawer to draw their own proposal. You knew that? 03:23:20 03:23:22 03:23:26 03:23:29

A. I did not know that. I don't know what they were doing or not doing. They had, you know, had talked about perhaps getting map drawing equipment or having people do it internally, you know. 03:23:31 03:23:34 03:23:42 03:23:44 03:23:46

So I don't know what they were doing or not doing. You know, it certainly, you know, 03:23:47 03:23:49

they're free to do whatever it is that they want. But I didn't sit down and talk with them about what they were going to do or weren't going to do in terms of drawing a map. 03:23:54 03:23:57 03:23:59 03:24:01

Q. Did you have any discussions with them directly or through your staff to members of their staff or to the Governor directly, Auditor, Secretary of State, related to how your map that Mr. DiRossi was drawing was progressing? 03:24:03 03:24:05 03:24:09 03:24:12 03:24:17 03:24:22

A. I can't speak to the conversations that my staff had with their staff. I had no conversations with their staff. 03:24:24 03:24:27 03:24:32

In the sort of waning moments, maybe the last couple of days, I did have conversations with all three of the statewides, including, you know, that day. "That day" being, excuse me, September 15th. 03:24:37 03:24:40 03:24:43 03:24:49 03:24:53

And I think that week of meeting in my office with Secretary LaRose and Auditor Faber, I recall that. And then a telephone conversation also while we were driving up to the -- I was driving myself, and two of them were in the car, we talked about how it was progressing and whether we thought we could get 03:24:59 03:25:01 03:25:03 03:25:06 03:25:08 03:25:11 03:25:14

the ten-year map, et cetera. 03:25:17

Q. And tell me a little bit about those 03:25:18

conversations. Was the -- who exactly -- let 03:25:21

me back up a second. 03:25:26

So who was on that conversation that you 03:25:27

just referred to while you were driving to, I 03:25:29

believe, a hearing or something? 03:25:32

A. Yeah, it was a hearing. It was a 03:25:33

hearing in Cleveland on the evening of 03:25:36

September. Monday, September 13th. I think 03:25:39

the date's right. 03:25:42

And this -- I was -- as I mentioned, I 03:25:44

was trying to meet with Senator Sykes and 03:25:47

perhaps Leader Sykes in Akron that day, that's 03:25:51

where I asked them but they never responded, 03:25:53

unfortunately. 03:25:57

But as we were driving up, as I was 03:25:57

driving myself up, they were in a vehicle 03:26:02

together. 03:26:04

Q. "They" being -- I don't mean to 03:26:06

interrupt -- yeah, go ahead. Sorry. 03:26:08

A. "They" being Auditor Faber and Secretary 03:26:11

LaRose. 03:26:14

So that conversation, I recall 03:26:14

specifically that it took place. I don't 03:26:17

recall everything that was said, of course. 03:26:20

Q. Tell me what you recall from that 03:26:22

conversation. 03:26:25

A. Well, I think they were, you know, 03:26:25

encouraging that we get a ten-year map. I 03:26:29

said: Hey, that's our goal. We want to get a 03:26:33

ten-year map also. 03:26:37

I kind of expressed my frustrations for 03:26:38

not being able to have conversations with the 03:26:41

Democrats. 03:26:44

I had, apparently Leader Emilia Sykes 03:26:46

had some event over the weekend and was not 03:26:51

available on Friday the 10th or Saturday 03:26:55

the 11th, and I had understood that Leader 03:27:00

Sykes was going with her, because apparently 03:27:03

she was getting some award at an alma mater or 03:27:05

something else in Florida. 03:27:08

And so they weren't available, in 03:27:14

essence, to negotiate. And I was trying to get 03:27:15

them to meet with me on Monday the 13th; that I 03:27:17

could come up early before the Cleveland 03:27:20

hearing. But I, again had no response. 03:27:22

But I think we were all sort of talking 03:27:26

about the same thing, what is it that 03:27:28

ultimately would get us a ten-year map. Which, 03:27:29

of course, was contingent on those two votes, those two Democratic votes. Which, of course, that whole question was contingent on us having conversations with them, which we weren't very successful in getting them to talk to us. 03:27:34 03:27:38 03:27:40 03:27:45 03:27:51

Q. Did any of the other commissioners, besides yourself, see the map that was ultimately proposed at the September 9th meeting or hearing? 03:27:54 03:27:55 03:27:58 03:28:01

A. Well, they saw it at the September 9th hearing; is that what you mean? 03:28:06 03:28:09

Q. Yeah, did they see it prior to it being introduced at the September 9th meeting? 03:28:11 03:28:14

A. Yeah, they did. I think -- I know specifically that the map was presented by me to Leader Sykes and Senator Sykes prior to the meeting. 03:28:17 03:28:20 03:28:23 03:28:28

I'm trying to remember, because some of the -- some of those meetings were conducted by Speaker Cupp, and who might have actually presented that to the Governor and the Auditor and Secretary of State, I don't know. 03:28:32 03:28:37 03:28:41 03:28:46 03:28:50

Of course, we couldn't have more than three of us in the room at the same time. So I don't remember who did that. 03:28:51 03:28:53 03:28:56

There were also -- seems to me on Saturday, because it was when Ohio State football game was happening, that the staff for several of the commissioners met on a Saturday, went through the different proposals, tried to, in essence, say where's the common ground, things like that. 03:28:57 03:29:01 03:29:05 03:29:09 03:29:13 03:29:17 03:29:20

So, yeah, there were a variety of conversations in different ways. So I think all of the commissioners saw the map prior to the September 9th meeting. 03:29:21 03:29:24 03:29:26 03:29:30

Q. That meeting with staff on Saturday upon which there was an Ohio State game, was that the weekend, the intervening weekend between the 9th and 15th, or was that a weekend prior to the 9th? 03:29:32 03:29:37 03:29:40 03:29:43 03:29:46

A. Well, I guess, as I'm sitting here thinking about it, I think it was the Saturday -- yeah, it would have had to be the Saturday before the 15th. So I think Saturday the 11th is when that happened. 03:29:47 03:29:50 03:29:52 03:29:54 03:29:59

Now, I will say, prior to the 11th, there were a lot of conversations jointly between the staff. And when I say "staff," the staff are all seven commissioners. There were 03:30:02 03:30:08 03:30:09 03:30:11

meetings, there were phone calls, there were emails. I don't know what all of those were. But that Saturday meeting that I'm discussing was not the only time that that happened. 03:30:18 03:30:20 03:30:21 03:30:23

Q. Okay. I want to focus on -- 03:30:27

A. But it would have been -- it would have been the time -- and this is why it's relevant to your question -- would have been the time when the -- if we call it that, the September 9th map existed when that conversation could be about the September 9th map. 03:30:29 03:30:30 03:30:31 03:30:33 03:30:35 03:30:38 03:30:41

So I guess I'm trying not to -- I'm trying to stay true to your original question there. 03:30:41 03:30:47 03:30:48

Q. Thank you, I appreciate that. 03:30:49

So let's talk about the meeting before September 9th where you showed the September 9th map to the Sykeses. 03:30:50 03:30:55 03:30:57

A. Sure. We had -- 03:31:00

Q. Well, let me ask the question first. 03:31:01

MR. STRACH: Yeah, let him ask the question. 03:31:03 03:31:05

BY MR. FUNARI: 03:31:05

Q. So that's the meeting that I'm talking 03:31:06

about. Explain for me what you can recall about that meeting where you showed them the map that would be -- that would be introduced on the 9th. 03:31:07 03:31:12 03:31:15 03:31:17

A. Sure. We had talked about -- at that particular meeting, you know, we -- I was present for that meeting, both Sykeses were. I know that Senator Sykes -- and I can't recall the -- I feel bad that I can't recall his name, the longtime Senate staffer who was assisting the Senate Democrats was there. 03:31:18 03:31:29 03:31:30 03:31:36 03:31:39 03:31:42 03:31:44

And we basically, in general terms, went through the proposed maps so they could ask questions. 03:31:48 03:31:51 03:31:54

We thought just as a matter of courtesy, as we often do with other legislation and issues, let's talk about this so that people will be able to ask the right questions at the hearings, et cetera. So we went through that. 03:31:55 03:31:57 03:31:59 03:32:03 03:32:07

I do recall, as I mentioned earlier in my deposition, that Leader Sykes had asked about the issue, the racial issue, and I said we didn't use racial data regarding that. 03:32:10 03:32:12 03:32:16 03:32:18

I think the other thing that I specifically recall -- Randall is his first 03:32:24 03:32:26

name -- Randall asked me about is he said, Hey, on this proposal, Dayton, Ohio, is inside -- excuse me, is taken outside of Montgomery County; and in all the other major cities in the state, it stays inside the county. And why -- why would you do Dayton different than Toledo, Cincinnati, et cetera? 03:32:29 03:32:33 03:32:37 03:32:40 03:32:43 03:32:46 03:32:48

And, you know, I had indicated that was a fair point, fair question. And, of course, in the map ultimately accepted, we did incorporate that suggestion that Randall made at that September 8th meeting, I guess it would be. 03:32:52 03:32:54 03:32:57 03:33:00 03:33:04 03:33:09

Other than that, I don't recall any specific details about the September 8th meeting with the Sykeses. 03:33:10 03:33:12 03:33:14

Q. And you have no recollection of meeting with the other members of the commission to show them a preview, so to speak, of the September 9th map; is that correct? 03:33:18 03:33:20 03:33:24 03:33:28

A. I don't have a specific recollection of that, but I believe those meetings took place. I think that the Governor and the Speaker and I met to go through that. 03:33:30 03:33:34 03:33:39 03:33:42

And I also believe, and I'd have to -- I 03:33:45

think that I met maybe at least with Senator LaRose, and maybe the Speaker met with Auditor Faber, or both of them, but those meetings all took place with different commission members prior to the September 9th meeting. 03:33:54 03:33:58 03:34:02 03:34:06 03:34:09

Q. Did they have any input that made its way into the September 9th map? 03:34:12 03:34:15

A. I guess I can't remember any specific input that they had at those -- at those meetings. 03:34:17 03:34:23 03:34:28

Q. Do you recall the map that Senator Sykes introduced at the August 31st hearing? 03:34:29 03:34:32

A. In general terms, yeah. I knew that that -- remembered that happened, right. 03:34:35 03:34:38

Q. Did you analyze or review any analyses of that map? 03:34:41 03:34:47

A. Well, at the hearing itself, I looked at the map and realized that there were some -- on its face, some constitutional infirmities. 03:34:48 03:34:57 03:35:00

It actually had my -- the Senate district I would be serving would be downtown Akron, Ohio, because under the Constitution I'm elected to a four-year term, and I'm entitled to serve the entire four years in the 12th District, and the 12th District was in Akron. 03:35:04 03:35:06 03:35:09 03:35:13 03:35:16 03:35:19

So to the extent that that was an analysis which is part of the public record, I said, well, this is unconstitutional on its face because of all of these infirmities. 03:35:21 03:35:22 03:35:26 03:35:29

Apparently what happened between the time of the hearing when I said that publicly and the time that they actually filed it with the commission's website is they changed it and tried to conform some of those -- those obvious constitutional infirmities. Those are things that I -- that they, so to speak, tried to fix. 03:35:33 03:35:36 03:35:40 03:35:42 03:35:47 03:35:52 03:35:56

Now, they didn't fix all the constitutional infirmities with what they filed. And they still aren't fixed, for that matter. But after my sort of looking at it that day, I didn't personally analyze what I'll call the August 31 or Senate Democrat map. 03:36:00 03:36:02 03:36:06 03:36:08 03:36:13 03:36:18

Q. So I guess the same is true with the version they ultimately filed, you didn't conduct any further analysis of what you've described as a slightly differing map that sought to fix some constitutional infirmities, as you put it? 03:36:21 03:36:24 03:36:28 03:36:31 03:36:36 03:36:41

A. I did not analyze the map after it was filed with the changes that they made, 03:36:42 03:36:47

apparently made that day. One of my staff told me that, hey, what they talked about at the hearing is different than what they filed with the -- with the commission's website. 03:36:50 03:36:55 03:36:58 03:37:01

But subsequently then we did have, I guess, an explanation and analysis at the Cleveland hearing by Mr. Glassburn. We had some questions about it. When I say "we," commission members. I know I did, I know Auditor Faber did, as I recall. So to that extent there was some analysis. 03:37:04 03:37:08 03:37:11 03:37:16 03:37:18 03:37:20 03:37:22

We were asking questions and what he considered and how he came to his conclusions. 03:37:24 03:37:29

Q. Was it ever your intention to work with the Democratic leadership, the Democratic members of the commission, from their map? 03:37:31 03:37:36 03:37:39

A. Well, I don't know what you mean by "from their map." It was always my intention to work with not only the Democratic leaders, but the other Republican members of the commission to get a ten-year map. That was certainly my goal. 03:37:41 03:37:47 03:37:50 03:37:53 03:37:56 03:37:59

We discussed briefly my role in enacting this back in 2014 and '15. So it was my goal to get a ten-year map. And to the extent 03:38:03 03:38:07 03:38:12

that -- you know, this reform has worked because the majority only gets to have its map for four years, and that's part of the reform that's in this. So it's always my intention to work with the Democrats. 03:38:20 03:38:21 03:38:23 03:38:26 03:38:28

Q. As a drafter of the amendments to Article XI, and now having gone through the process as a member of the commission, did the process play out as you intended as a draft and sponsor of the amendment? 03:38:29 03:38:36 03:38:37 03:38:41 03:38:46

A. Well, I think the process is going to be determined from time to time by -- as all processes are, by the facts that are before you at a particular time and the willingness and the abilities of the participants. 03:38:48 03:38:55 03:39:01 03:39:03 03:39:06

I think the process anticipated that there would be various incentives on both sides, and the incentives of the majority would be to draft a map or put a map together that would be acceptable to the Democrats. And, in fact, the original map adopted did, in fact, come fairly close to the Democratic position. 03:39:12 03:39:16 03:39:19 03:39:24 03:39:28 03:39:31 03:39:37

I'm surprised -- when you're asking about my anticipation, I'm surprised at the lack of participation by the Democratic members 03:39:43 03:39:45 03:39:48

of the commission in the last five or six days. 03:39:52

You know, if Leader Sykes had something 03:39:57

she had to be at for three days, I guess I 03:40:00

can't complain about that, but that was a 03:40:02

crucial time. I'm surprised that they didn't 03:40:05

respond to my request to meet with them two 03:40:07

days before the 15th. I'm surprised that they 03:40:11

didn't issue alternative proposals as they 03:40:13

indicated they would on several occasions on 03:40:15

the 15th. 03:40:17

And I, you know -- a cynic may conclude 03:40:19

that they didn't want to have a ten-year map, 03:40:24

that they'd rather take a shot at getting ahold 03:40:27

of the apportionment board in next year's 03:40:30

election. But I don't know what's in the minds 03:40:32

and hearts of everybody. 03:40:35

So to the extent that the majority can't 03:40:36

simply do what it wants and move on, and that's 03:40:39

what this reform is also about, that worked, 03:40:42

because we don't have a ten-year map, we have a 03:40:46

four year map. 03:40:50

And that's not good for -- ultimately 03:40:52

for -- I don't know if it's necessarily good 03:40:55

for anybody. 03:40:58

But, you know, when you draft something 03:40:58

like that, you hope that it's going to work. And in many respects it did, and we don't have a ten-year map, and I guess that's the biggest disappointment. 03:41:05 03:41:07 03:41:10 03:41:16

Q. Is it fair to say the process played out in a much more partisan fashion than you anticipated when you were working on the amendments when you were a member of the House? 03:41:17 03:41:19 03:41:21 03:41:23

A. No, I would not say that. I've been involved in -- I've been in General Assembly -- this is my 13th year. I was in Lima City Council for 15 years. I've been involved in other political activities, I guess. And I've seen some pretty vicious fights. Some of them are not inter-party, they're intra-party. 03:41:25 03:41:35 03:41:36 03:41:39 03:41:42 03:41:45 03:41:47

And despite the fact that we did not get to a ten-year result, the members of the commission, I think, were -- including the Democratic members, let me make that clear -- were professional and they advocated appropriately. 03:41:50 03:41:52 03:41:55 03:41:57 03:42:00 03:42:02

A day or two before this, maybe the 13th, 14th, you know, we -- these were all kind -- and by that I mean polite, professional -- exchanges between members of 03:42:05 03:42:08 03:42:11 03:42:14

the commission. 03:42:16

Now, I can't say that for every member 03:42:16

of the public. There were some fairly 03:42:18

vociferous attacks, ad homonym attacks on 03:42:20

particularly Governor DeWine, which I had, you 03:42:25

know, spoken to both Speaker Cupp and Senator 03:42:28

Sykes, and I had indicated I didn't think those 03:42:33

should be tolerated. 03:42:35

But, you know, I think among the members 03:42:37

of the commission, I think it was pretty 03:42:39

professional. We just disagreed. 03:42:41

Q. Did any of -- did any Republican 03:42:43

Senators provide any input that made its way 03:42:48

into the map of September 9th? 03:42:52

A. Boy, I don't think so. None that I can 03:42:55

recall. We kind of -- we kind of made it clear 03:43:02

early on that this was a holistic decision. 03:43:06

And by that you mean the Republican 03:43:13

members of the Ohio Senate, not Rob Portman or 03:43:15

someone like that, right? 03:43:18

Q. Right. Right. 03:43:20

A. Yeah, so, no, not really. I don't -- it 03:43:21

was one of those things that, you know, this is 03:43:27

kind of a holistic decision. You can't try to 03:43:29

keep individual members, including incumbent 03:43:32

members, happy. 03:43:34
Q. Was it circulated? Was the map 03:43:35
circulated to the Ohio Republican caucus, 03:43:38
Senate -- 03:43:41
A. You kind of broke up. You kind of broke 03:43:42
up. 03:43:44
Q. Sorry. Was the map that was introduced 03:43:45
on the 9th circulator -- circulated to the 03:43:47
members of the Republican Senate caucus or 03:43:52
Senate Republican caucus? 03:43:57
A. Not prior to its introduction. But, of 03:43:58
course, after its introduction, you know, a lot 03:44:00
of people -- everybody would have seen it, 03:44:03
yeah. 03:44:05
MR. STRACH: Hey, Brad, let me ask the 03:44:08
court reporter to confirm. I think we've hit 03:44:10
the two-hour mark, maybe a little over it. 03:44:16
MR. FUNARI: I just have one more 03:44:16
question. 03:44:19
MR. STRACH: I'm happy with one more 03:44:20
question. I just want to make sure we wrap it 03:44:21
up. 03:44:23
MR. FUNARI: Understood. 03:44:23
BY MR. FUNARI: 03:44:25
Q. Did any of those members of the 03:44:25

Republican Senate caucus have any input into the map that was ultimately adopted on the 15th? 03:44:27 03:44:30 03:44:34

A. No. 03:44:34

Q. Okay. Thank you. Those are all the questions that I have. 03:44:37 03:44:39

MR. STRACH: All right. Thank you, Brad. 03:44:41 03:44:42

Do we have any questions from -- 03:44:44

THE WITNESS: Thank you, it was a pleasure meeting you. 03:44:46 03:44:47

MR. STRACH: Are we going to have any questions from the Sykeses' attorneys? 03:44:48 03:44:49

MR. GILLIGAN: Yes, we will. 03:44:59

MR. STRACH: All right. Go ahead, John. 03:45:01

MR. GILLIGAN: Thank you. 03:45:06

03:45:03

EXAMINATION 03:45:08

BY MR. GILLIGAN: 03:45:08

Q. President Huffman, my name is John Gilligan. I'm one of the lawyers representing Senator and Leader Sykes. 03:45:09 03:45:10 03:45:17

We have a very limited amount of time this afternoon, and I would ask you, sir, not to mistake the urgency of my tone for 03:45:18 03:45:20 03:45:26

disrespect. I do not mean any disrespect whatsoever. And Phil will be watching me carefully, I'm sure. 03:45:29 03:45:32 03:45:36

Used to be that people my age, you know, they wouldn't let us out of the office. Now, because of COVID, it's hard for me to even get into the office. So I relish this opportunity to go over a couple things with you about your testimony. 03:45:41 03:45:44 03:45:47 03:45:50 03:45:56 03:45:58

Number one, to clarify a couple of things where I think you misspoke. You said with respect to the statement in 8(C)(2) that there was a -- an evaluation of 19 partisan contests statewide. 03:45:59 03:46:02 03:46:06 03:46:14 03:46:19

I think you meant to say 16 partisan contests, correct? 03:46:24 03:46:27

A. That's correct. 03:46:28

Q. Okay. Secondly, you talked about the approval by the commissioners. You said it was unanimous approval of the statement in 8(C)(2) on the night of September 15th. 03:46:30 03:46:37 03:46:41 03:46:49

And I'm happy to show you the transcript, but let me see if I can refresh your memory that you had a motion on the floor to approve your statement 8(C)(2), and Senator 03:46:55 03:46:58 03:47:01 03:47:05

Sykes said, "Since we're not voting to agree with this, just to allow it to officially go into the record, then I think it should go both statements without objection." 03:47:15 03:47:19 03:47:22 03:47:25

To which you indicated you had no objection to the statement by the Sykes going in. 03:47:27 03:47:29 03:47:33

And then Senator Sykes went -- before the roll call was called, said to the co-chair Speaker Cupp: "Just to be clear, this is simply to accept the report." 03:47:34 03:47:36 03:47:42 03:47:46

Does that refresh your memory that the vote, unanimous vote, was simply to accept the 8(C) report into the record, not an indication of agreement with the report? 03:47:49 03:47:54 03:48:00 03:48:03

A. Well, I don't have the same conclusion that you have. So one of the constitutional requirements is that the commission adopt a statement. I proposed, through motion, that this be the commission's statement. It was accepted without objection. 03:48:04 03:48:08 03:48:12 03:48:14 03:48:19 03:48:22

Now, what that means to me is it was unanimously accepted, that's one thing. 03:48:24 03:48:27

Now, the other thing that I think was slightly confusing is the minority -- according 03:48:30 03:48:33

to the Constitution, the minority may submit their own statement in the event of a four-year map. The commission doesn't need to agree to accept that. It simply goes into the record. 03:48:36 03:48:38 03:48:42 03:48:45

So, in fact, at that particular moment, I thought I should clarify for Senator Sykes that, in fact, it's not necessary for the commission to accept the minority statement. It comes in as a matter of course whether the other non-members of the minority opinion accept it or not. 03:48:48 03:48:51 03:48:55 03:48:57 03:48:59 03:49:03 03:49:08

Now, the commission itself must adopt the statement in the case of a four-year map, whether it's a 4-3 vote, 5-2, unanimous. So I made a motion. There was no objection. It was accepted. In my mind that is a unanimous acceptance. 03:49:09 03:49:12 03:49:16 03:49:20 03:49:23 03:49:26

Now, if Senator Sykes has a statement in the record that he doesn't like the statement, well, I'll take that for what it's worth. 03:49:26 03:49:29 03:49:31

Q. And also Leader Sykes put a long statement in the record that she did not agree with the analysis in 8(C)(2); isn't that correct? 03:49:35 03:49:42 03:49:45 03:49:48

A. Well, I think her long statement was, in 03:49:48

fact, the minority statement that is anticipated and specifically described in the Constitution. And I did not object to that coming into the record because I had no basis for objecting to that, nor did any other commission member who was not part of the minority voting. 03:49:52 03:49:56 03:49:59 03:50:03 03:50:06 03:50:09 03:50:11

And, in fact, at that point it was simply a matter of her reading the statement, and it goes into the record whether anybody objected or not. 03:50:13 03:50:15 03:50:18 03:50:20

Q. You understood that both the Sykeses had expressed their disagreement with the analysis of the 8(C)(2) statement, correct? 03:50:21 03:50:25 03:50:30

A. I'd have to go back and review the transcript, but I don't think that that's really a matter of contention in any way. 03:50:33 03:50:36 03:50:40

But I do think that my statement -- I'm going back; you indicated I misspoke -- I do think that my statement is accurate that that statement was proposed, no objection, and admitted into the record. So I think that's a unanimous vote. 03:50:43 03:50:46 03:50:48 03:50:50 03:50:54 03:50:59

If someone said, "I'd like to have a vote," which someone can do, they can object, 03:51:00 03:51:01

"I'd like to have a vote because I want to show that my vote is against it," they can do that. 03:51:04 03:51:06

Now, if they want to criticize it separately, without objection, and that happens in all sorts of contexts, certainly in the General Assembly and other places. 03:51:08 03:51:11 03:51:12 03:51:15

Q. Let me ask you. You said that Ray DiRossi was instructed by you not to use racial data or any other demographic information. Do you remember that testimony, sir? 03:51:25 03:51:29 03:51:32 03:51:39

A. Yeah, specifically the racial data. But that was the significant thing. And this word "demographic" may mean a variety of things. But specifically as it relates to the racial data or demographic data that would be similar to that. 03:51:40 03:51:47 03:51:50 03:51:53 03:51:58 03:52:01

But certainly demographic data can consist of simply population counts. So of course we were using that. That's required by the Constitution. 03:52:01 03:52:04 03:52:09 03:52:11

Q. So you understand that census data is demographic data? 03:52:12 03:52:15

A. Some of it is. If we're simply saying how many people live in a particular city, that doesn't necessarily say what is the racial 03:52:17 03:52:21 03:52:25

makeup, ethnic, religious, et cetera, makeup, if we're just talking about numbers. So some of the data is, and taking some of it alone, it's not. 03:52:28 03:52:32 03:52:35 03:52:39

Q. So what is the demographic data, other than racial data, that you were instructing Mr. DiRossi not to use? 03:52:40 03:52:43 03:52:47

A. Well, yeah, the kinds of things that we just talked about that dealt with ethnic minorities or other things that might be violative of the federal law. You know, we're simply saying we're not going to take those things into account regarding -- in drawing these districts. 03:52:51 03:52:55 03:52:59 03:53:02 03:53:08 03:53:11 03:53:15

Q. And as I understood your testimony, there was no discussion of Section 6(B) at any commission meeting until at least after the map was passed and you were talking about the 8(C) statement? 03:53:23 03:53:33 03:53:37 03:53:43 03:53:47

A. Yeah, I don't recall the various commission meetings. It would seem to me that at some point somebody said something about it. 03:53:49 03:53:51 03:53:56

Of course, we're -- we're -- we had commission meetings, and then there were public hearings, which were also commission meetings, 03:54:01 03:54:03 03:54:05

which, by and large, were, you know, dozens, we may have gotten into the hundreds of people at various hearings. 03:54:07 03:54:12 03:54:14

I was not at all of those hearings, so I can't tell you each thing that was said by each person. But at the meetings that consisted largely of the commission adopting certain procedures and rules -- you know, for example at one of our meetings, we had decided to add additional hearings at the request of the Democratic members -- we didn't talk about that at those times. But those concepts certainly were covered by a variety of witnesses. 03:54:15 03:54:18 03:54:20 03:54:25 03:54:30 03:54:32 03:54:36 03:54:38 03:54:41 03:54:44

Again, I was not at each one of the meetings. 03:54:47 03:54:49

Q. Let me ask you about Section 6, Article XI. You've referred to it a couple of times as not mandatory, aspirational. 03:54:50 03:54:56 03:54:59

The section begins: The Ohio redistricting commission shall attempt to draw a general assembly district plan that meets all of the following standards. 03:55:04 03:55:10 03:55:14 03:55:17

You understand that the term "shall" is mandatory, correct? 03:55:19 03:55:22

A. I understand, generically speaking, 03:55:23

that's what the word "shall" means. 03:55:27

But in this context as it relates to the drawing of these districts, this section is aspirational, just as the next section down talks about compact districts and uses the word "shall." 03:55:30 03:55:32 03:55:35 03:55:39 03:55:42

Those are things that the commission, you know, can consider, but they're not required to have in order to have a constitutional map. 03:55:43 03:55:48 03:55:50 03:55:52

Q. So when you use the term "aspirational," do you mean it in the way Webster defines it as ambitious, driven toward a particular goal? 03:55:53 03:56:01 03:56:05

A. Well, I'm not familiar with specifically what Webster says, but when we use the term "aspirational" in this context, it's juxtaposed to the word "mandatory." Mandatory means you have to do it; aspirational means you don't. And of course that's why the word "attempt" is in there. 03:56:09 03:56:12 03:56:17 03:56:22 03:56:24 03:56:28 03:56:30

I'm not going to be able to define those in a legal or constitutional way. That's up to the Court to try to do that. 03:56:31 03:56:34 03:56:37

Q. But you understood that as a commissioner you had a mandatory obligation to 03:56:39 03:56:44

attempt to do the items that are listed in 6(A), (B), and (C), correct? 03:56:47 03:56:50

A. No, I don't think that's correct. I think that as a commissioner -- specifically as a commissioner, my job was to attempt to draw a ten-year map through sincere and active negotiations with the other side, but most of all to make sure that there was a mandatory -- mandatory items were followed. 03:56:52 03:56:56 03:56:59 03:57:05 03:57:10 03:57:13 03:57:18

And I do think, at least on my part, you know, starting with April and calling that meeting, calling the meeting in August, giving the Democratic side additional money that we didn't have to, voting for additional hearings because the Democrat side agreed to that, attempting to meet and not getting responses from the Democratic side, that I attempted or tried to get a ten-year map. And, unfortunately, we weren't able to do that. 03:57:23 03:57:26 03:57:28 03:57:31 03:57:34 03:57:38 03:57:40 03:57:42 03:57:45 03:57:48

Q. Did you understand that you had a mandatory obligation to attempt to make sure that no General Assembly district plan shall be drawn primarily to favor or disfavor a political party? 03:57:53 03:57:55 03:57:58 03:58:02 03:58:05

A. Yeah, I think that's your -- it must be 03:58:05

your legal conclusion about what all of that means. 03:58:11 03:58:13

As I mentioned in my testimony here in the deposition, it's impossible to draw districts and follow the other mandatory aspects of the constitution that don't favor or disfavor a political party. 03:58:14 03:58:16 03:58:20 03:58:23 03:58:27

The regiment that you are suggesting is even more onerous than what the Democratic -- some Democratic members have suggested. If we were to draw each district 50/50 in the state of Ohio, that's impossible, mathematically. And it's impossible mathematically to draw them all 55/45 or 54/46. It's impossible to draw 81 percent Republican because of the mandatory provisions. 03:58:30 03:58:34 03:58:39 03:58:41 03:58:44 03:58:47 03:58:50 03:58:55 03:58:57

So, again, I would return to the fact that the mandatory provisions must be followed. These other provisions regarding compactness are things that certainly can be considered, but there is no formula of any kind. These are facts that we consider for purposes of ultimately exercising discretion. And also for purposes of negotiation. 03:58:58 03:59:00 03:59:03 03:59:05 03:59:09 03:59:13 03:59:17 03:59:21

Q. So I appreciate your explanation, 03:59:24

Mr. President, but I take it that your answer with that explanation is no, you did not feel that you had such a mandatory obligation to attempt to do what is set out in A? 03:59:29 03:59:33 03:59:37 03:59:41

A. Yeah, well, I'm not going to change my answer to a yes/no question, because that's what you would like for me to do. I'm interested in giving the best testimony I can about what we -- what we tried to do and what we did. 03:59:45 03:59:48 03:59:51 03:59:54 03:59:56 04:00:00

And we understand, again, that there are mandatory provisions, and there are non-mandatory provisions. And that is a non-mandatory provision, like the compactness provision, which I do believe that we did a pretty good job with that too, at least by many suggestions. 04:00:03 04:00:07 04:00:09 04:00:11 04:00:14 04:00:17 04:00:22

Q. And as I understand the explanation you gave without answering "yes" or "no," you believe that the provision in 6(A) is impossible to fulfill; is that right? 04:00:24 04:00:27 04:00:31 04:00:37

A. No, I think -- that's not my answer. I think your suggestion of what the provision should be is that they should be 50/50 districts by saying it cannot favor this way or 04:00:39 04:00:42 04:00:45 04:00:49

that way. That's impossible to get. 04:00:52
It's not impossible for the commission 04:00:56
to consider those aspirational attributes in 04:00:57
that, in attempting a negotiation and 04:01:01
attempting to get a ten-year map, and that's 04:01:04
what we're doing. 04:01:06
But if you read that, I think, the way 04:01:07
that you're reading it, that every district 04:01:09
must be 50/50, I think that's mathematically 04:01:13
impossible without violating the mandatory 04:01:16
provisions of the constitution. 04:01:18
Q. So what is your interpretation, then, of 04:01:22
the provision 6(A)? What, if anything, does it 04:01:26
require you to do? 04:01:31
MR. STRACH: Objection. 04:01:32
THE WITNESS: Yeah, I think mandatory 04:01:34
means you have to do it. Aspirational in this 04:01:38
context means you do not. So when you use the 04:01:41
word "require," I think that's not applicable 04:01:43
to this portion of the Constitution. 04:01:49
So I think what it suggests is that the 04:01:50
parties should consider these things. They 04:01:58
should consider compactness, they should 04:02:00
consider the other things that were described 04:02:02
in there, and those are things that you should 04:02:04

consider. 04:02:06

But, again, we're trying to get to a ten-year map when we're doing that. And I think we came fairly close, frankly. What the Democrat Senate map was was fairly close to ultimately what was adopted. 04:02:07 04:02:09 04:02:11 04:02:14 04:02:17

I'm not sure, frankly, whether the House Democrats agreed to that or not. I really don't know the answer to that. So, you know, again, this is sort of a ongoing negotiation. I think I learned a lot in this process that may help us if I'm ever involved again. 04:02:20 04:02:22 04:02:25 04:02:29 04:02:34 04:02:37

BY MR. FUNARI: 04:02:40

Q. So when you directed, as you said, Mr. DiRossi, to comply with the constitution, you didn't expect him to comply with any of the provisions of Section 6? 04:02:40 04:02:43 04:02:47 04:02:50

A. Yeah, to be clear, I directed Ray DiRossi to comply with the mandatory provisions of the constitution, and he did. 04:02:51 04:02:59 04:03:01

In fact, it was the only map submitted, as far as I know, to the commission that did that. We know the Senate Democrat map did not. There were some other maps that we've analyzed that did not. So that's what I told him we 04:03:03 04:03:05 04:03:07 04:03:11 04:03:13

would do. 04:03:16

Now, certainly we're going to consider 04:03:17

those things. We didn't have all of that data 04:03:19

fully analyzed on September 9th, but ultimately 04:03:21

we did. And we did that for part of our -- as 04:03:24

part of our negotiations. 04:03:27

And, of course, the Senate Democrats -- 04:03:28

and, again, I'm going to say Senate Democrats. 04:03:31

I'm not sure where the Senate House members -- 04:03:34

or, excuse me, Democrat House members were. 04:03:36

But that was analyzed by them, and 04:03:38

that's where we got to this ultimately 57-62, 04:03:40

kind of where we were about, you know, a few 04:03:45

days before the 15th, where I thought we were 04:03:50

close, and we were still negotiating, but 04:03:53

ultimately didn't come to an agreement. 04:03:55

Q. Did you direct Mr. DiRossi to comply 04:03:59

with the divisions of 6(B) and draw a map that 04:04:08

met the proportional provisions of that 04:04:11

section? 04:04:15

A. Yeah, I directed Mr. DiRossi to comply 04:04:16

with the mandatory provisions. And when we do 04:04:20

that, we would have an analysis of how the 04:04:24

partisan breakdown might ultimately be. 04:04:32

And the reason we did that is we were 04:04:34

trying to negotiate to get a ten-year map. 04:04:37

Now, if ultimately there was a violation 04:04:38

of the mandatory provisions, then that would be 04:04:40

relevant as it related to Section 6. But 04:04:43

really those things sort of fell into place, 04:04:50

not because of -- necessarily because of 04:04:53

Section 6, which was not mandatory or is not 04:04:54

mandatory, but it's significant because that's 04:04:56

how -- what we were negotiating about in trying 04:04:59

to come to an agreement. 04:05:01

Q. So you never directed Mr. DiRossi to put 04:05:07

together a map for the General Assembly 04:05:10

districts which would show 54 percent of the 04:05:19

districts leaning Republican and 46 percent of 04:05:21

the districts leaning Democrat? 04:05:24

A. I did not. Nor did I direct him to draw 04:05:26

a map that was 81 percent Republican and 04:05:29

19 percent Democrat. 04:05:33

Q. And is it your understanding of 04:05:34

Section 6(B) that a map that was 81 percent 04:05:42

favoring Republicans and 19 percent favoring 04:05:47

Democrats would satisfy the provisions of 6(B) 04:05:51

in terms of proportional fairness? 04:05:56

A. No, no. In fact, that's not really the 04:05:59

concept at all. That particular item was 04:06:02

simply a set of facts that the commission could consider, as is the 54/46. I would say there were a lot of other facts that the commission could have considered. 04:06:11 04:06:14 04:06:19 04:06:19

They could have looked at the results of those 16 elections over the past previous ten years prior to 2021 and looked at how significantly -- significant those -- those aren't all included in the statement, of course, but there are a lot of things that we could have -- if you would get to that analysis that you're talking about, there's a lot of things that the commission could have considered. 04:06:20 04:06:22 04:06:25 04:06:29 04:06:32 04:06:34 04:06:37 04:06:39 04:06:41 04:06:44

Q. In fact, in the 16 races, the 16 statewide partisan races, there is no race in which a Republican got 81 percent of the vote, right? 04:06:47 04:06:50 04:06:52 04:06:55

A. I don't know that off the top of my head. I know that there were some Republican races. I'm pretty sure that Governor Kasich got somewhere in the neighborhood of 65 to 68 percent of the vote in 2014, as did several of the other statewide officeholders in excess of 60 percent. 04:06:55 04:07:00 04:07:02 04:07:06 04:07:08 04:07:11 04:07:14

Q. So you're talking about the Governor's race when Ed FitzGerald basically shut down his campaign looking for his wife's driver's license, and he got 34 percent of the vote; is that right? 04:07:15 04:07:19 04:07:22 04:07:27 04:07:30

A. Yeah, that's the one. And, you know, this is a further analysis that the commission could have entered into. And, again, there's no formula in here. 04:07:30 04:07:33 04:07:36 04:07:40

But if the commission wanted to say, well, let's look at other aspects why -- if, again, if we even get to Section 6, which we don't. And I don't know whether Governor -- what the other results, but I think they were in the 60s, also. 04:07:41 04:07:43 04:07:47 04:07:50 04:07:54 04:07:56

But somebody may say, again, if we were even having this discussion, well, wait a minute, Ed FitzGerald shut down his candidacy so we shouldn't look at that. Of course, in some cases, a Donald Trump candidacy in certain parts of the state, he's going to get a lot more votes than Mitt Romney may have gotten in 2012. 04:07:59 04:08:01 04:08:03 04:08:07 04:08:10 04:08:13 04:08:15 04:08:22

So -- and, of course, how he did in -- how Trump did in '20 was different how he did 04:08:22 04:08:26

in 2016. Those are all results of statewide elections which the commission could consider if they wanted to. 04:08:29 04:08:34 04:08:36

And that's why, you know, if -- again, if we're going to consider Section 6, which we don't need to do, because it's not mandatory, you know, you could look at that whole stream of data that comes in regarding those results. 04:08:37 04:08:40 04:08:43 04:08:52 04:08:54

Q. So it's your understanding that you as a commissioner don't even need to look at Section 6 of Article XI in so long as what you refer to as the mandatory provisions of Article XI are complied with? 04:08:57 04:09:01 04:09:04 04:09:10 04:09:14

A. Well, yeah, and I guess that's all true, but it's not just what I refer to the mandatory provisions. It's what the mandatory provisions are. 04:09:15 04:09:19 04:09:22 04:09:25

Q. Right. And did you ever -- did the commission have counsel prior to this litigation? 04:09:26 04:09:34 04:09:36

A. I don't think there was separate counsel. Frankly, I don't know whether the Attorney General was formally advising the commission or not. 04:09:39 04:09:47 04:09:49 04:09:54

And a lot of those administrative 04:09:55

details weren't in my bailiwick as I was not one of co-commissioners. So I guess I -- that's probably a better question for Senator Sykes or Speaker Cupp. 04:09:58 04:10:01 04:10:03 04:10:05

Q. I did ask Speaker Cupp, but let me just ask you. As far as you know, there was no separate counsel for the commission; is that right? 04:10:06 04:10:10 04:10:12 04:10:14

A. Yeah, I'd have no reason to -- if there was, I don't know about it. 04:10:14 04:10:17

Q. Did you ever request an interpretation of Section 6 from the Attorney General on behalf of the commission? 04:10:19 04:10:22 04:10:25

A. I did not. 04:10:26

Q. Did you ever ask the commission to request an interpretation of the provisions of Section 6 from the Legislative Services Commission? 04:10:29 04:10:34 04:10:39 04:10:41

A. I did not. 04:10:42

Q. Did you ever, yourself, ask the Legislative Services Commission what, if any, obligations were imposed on you as a member of the Redistricting Commission by Section 6? 04:10:43 04:10:46 04:10:49 04:10:53

A. I did not. 04:10:56

Q. Do you understand that proportionality 04:10:57

is one of the concepts that is used to try to discourage anti-gerrymandering in redistricting matters? 04:11:00 04:11:06 04:11:11

MR. STRACH: Objection. 04:11:12

THE WITNESS: Yeah, I think the phrase "gerrymandering," you know, one of the concerns I have about this is most of the provisions that are suggested, and including in the Senate Democrats map, are -- are -- are -- and, again, we have this sort of generic term, no pun intended, that we like to use, but I'm not sure whether that's a statement on behalf of the world, on behalf of your client, or exactly what. 04:11:13 04:11:18 04:11:21 04:11:25 04:11:28 04:11:31 04:11:34 04:11:39 04:11:42 04:11:45

But, you know, gerrymandering is drawing a district to favor one political party or another. So people like to use that term, and the same people who like to use that term also want to gerrymander to benefit themselves in their particular issue or party. 04:11:46 04:11:51 04:11:55 04:11:57 04:12:01 04:12:05

BY MR. FUNARI: 04:12:06

Q. Do you believe that this map that was approved by the Ohio Redistricting Commission in 2021 favors the Republican party? 04:12:07 04:12:08 04:12:11

A. I think the map is constitutional. I 04:12:14

think the map follows all of the mandates. I think this map is the same as most other maps. 04:12:18 04:12:23

For example, the map that was drawn in 2001, which produced a Republican majority, in 2002, '04, and '06 produced a Democratic majority, in 2008, and a Republican majority in 2010 in the House. 04:12:27 04:12:30 04:12:35 04:12:42 04:12:44

These elections are not necessarily end determined by how maps are drawn. Candidates, campaigns, issues, those things all matter. And we do know that most of the districts in the state of Ohio, because of the geographic makeup, are going to be either Democratic, Republic, Republican, depending on, you know, where it is that they're located. 04:12:46 04:12:50 04:12:52 04:12:56 04:13:00 04:13:02 04:13:06 04:13:10

So we'll know the answer to your question when we have the next election. 04:13:12 04:13:14

Q. So are you able to answer the question "yes" or "no"? Do you believe that the map that was adopted by the Ohio Redistricting Commission, 2021, by a vote of 5-2, favors the Republican party or not? 04:13:17 04:13:20 04:13:23 04:13:30 04:13:34

A. We'll know the answer to that question, depending on who the candidates and issues and their campaigns, next time. 04:13:37 04:13:39 04:13:42

This particular map is one analysis, is that there are, in the House, for example, 62 leaning Republican districts. That was the Republicans' last proposal. The Democratic -- Senate Democrats' proposal was 57 Democratic -- or 57 Republican leaning seats. 04:13:44 04:13:50 04:13:53 04:13:56 04:14:01 04:14:05

So really the last two offers, so to speak, both had a Republican -- a majority of Republican leaning seats. 04:14:07 04:14:10 04:14:14

Q. And how do you determine which way the seats lean? You look at the partisan index, right? 04:14:15 04:14:22 04:14:25

A. Yeah, well, generically speaking, that's one way of doing it, yes. But I, frankly, think a better way of doing it is look who the candidate is. 04:14:26 04:14:28 04:14:32 04:14:35

Because in my involvement in campaigns, I've had my candidates win in districts that were 70 percent Democrat. Up in Lake County right now, there's a great state rep who is a Democrat by the name of Dan Troy who just won in a Republican district. 04:14:35 04:14:38 04:14:41 04:14:45 04:14:47 04:14:49

Certainly, you know, when Terry Johnson won in a 70 percent Democratic district as a House member back in 2010, that's an anomaly. 04:14:51 04:14:54 04:14:56

But if you have the right candidate and the right -- they run a good campaign and people know them and they like them, you know, a Democrat can win in a 55 or 60 percent Republican district and vice versa. 04:15:00 04:15:02 04:15:05 04:15:08 04:15:12

Q. But when you say that in the negotiations you offered a map with 62 Republican leaning districts coming down from 67 Republican leaning districts, you were basing that on partisan index, correct? 04:15:14 04:15:17 04:15:21 04:15:25 04:15:29

A. It was based on that. If you're saying I personally was doing that, no, because I don't have that data, and I don't understand how to put all of that together. But that's what it was based on. Some type of formula involving election results from the past. 04:15:33 04:15:37 04:15:40 04:15:42 04:15:44 04:15:47

Q. That Mr. DiRossi had provided to you to be able to evaluate which way the districts were leaning, right? 04:15:51 04:15:54 04:15:57

A. Well, Mr. DiRossi was the person I was talking to, that's correct. Obviously, the Speaker had his own person. And the other members of the commission, I'm not -- I think there were people for the Leader Sykes in the House that we provided money for, but I'm not 04:15:58 04:16:04 04:16:06 04:16:10 04:16:13 04:16:18

sure ultimately what they did. And I know the Senate Democrats had a similar person. 04:16:21 04:16:24

Q. So you indicated that you did not ask the Legislative Services Commission for any interpretation of the provisions of Section 6(B). 04:16:27 04:16:31 04:16:35 04:16:40

Let me ask you whether you agree with their analysis that proportionality in Section 6(B) means the percentage of the General Assembly districts represented by one political party should approximately match the percentage of voters in the state associated with that political party? 04:16:40 04:16:43 04:16:47 04:16:51 04:16:56 04:16:59 04:17:02

Do you agree with that? 04:17:07

A. I don't agree with that as the only definition or point of analyses. So it's acceptable on its face, but that doesn't mean, well, that's it, and we're not going to talk about anything else. 04:17:09 04:17:13 04:17:20 04:17:24 04:17:26

Q. So if there were ten races, and each race was 51 percent Republican, 49 percent Democratic, that would indicate that the voters in Ohio, 51 percent of them prefer Republicans, 49 percent of them prefer Democrats, correct? 04:17:27 04:17:32 04:17:38 04:17:45 04:17:51

A. You're talking about statewide races? 04:17:54

Q. I'm just talking a hypothetical, yes, statewide races. 04:17:58 04:18:02

A. Okay. So hypothetically, if there were ten statewide races, they all ended 51-49. 04:18:03 04:18:06

Q. Right. 04:18:11

A. Would that say that was the preference of the statewide voters? 04:18:11 04:18:13

Q. Would it not indicate that 51 percent of Ohioans prefer Republican candidates, 49 percent prefer Democratic candidates? 04:18:15 04:18:19 04:18:23

A. That would be something that you could consider if you were to determining this. And the reason why there's not "because this is true, this is true," in all of those races, things change, especially over a ten-year period. This is why we use the ten-year period instead of just last year. 04:18:25 04:18:30 04:18:33 04:18:36 04:18:41 04:18:44 04:18:47

So in 2010, there were people voting in that election who weren't voting in 2020 because they died or they didn't vote or they moved out of the state. In 2010, there were people who didn't vote because they weren't 18 yet. 04:18:48 04:18:52 04:18:56 04:18:59 04:19:03 04:19:06

So the population changes over a period of time. So you don't simply say, "Add up the 04:19:07 04:19:09

numbers, and that's the preference." That would be a fool's errand on my part. 04:19:12 04:19:15

What you do is say, "What are the results? Let's consider these results if we ever get to a Section 6 analysis," which we didn't in this case. 04:19:18 04:19:20 04:19:23 04:19:26

So there, again, is no formula. There is no 51/49 in your circumstance. 04:19:27 04:19:29

If you're doing a Section 6 analysis, you would say, "Here's these ten. Should we do it? This is something that we should consider." Okay, well, let's look at the other results of the other elections too. 04:19:34 04:19:36 04:19:38 04:19:40 04:19:42

Q. So when you talked about having proposed, I believe it was in the August timeframe, putting a constitutional initiative on the ballot to try to get more time, to delay the time deadlines -- do you remember that testimony? 04:19:45 04:19:51 04:19:53 04:19:58 04:20:03 04:20:06

A. The testimony was that we had a meeting in April to -- 04:20:06 04:20:09

Q. April, I'm sorry. 04:20:09

A. -- to discuss -- that's fine -- to discuss putting it on the ballot for the August special election. And we would have had to 04:20:12 04:20:14 04:20:17

take some action, I think, in maybe the first week in May, 90 days before the election. 04:20:19 04:20:21

Q. And you said that when the Democrats didn't agree with doing that, you didn't want to put it on the ballot because you thought it could lose without Democratic support? 04:20:27 04:20:29 04:20:32 04:20:33

(Court Reporter Clarification.) 04:20:48

A. Yeah, I thought it would lose if the Democrats didn't support it. 04:20:51 04:20:52

Q. So Ohio is at least that much of a swing state? 04:20:58 04:21:01

MR. STRACH: Objection. 04:21:02

THE WITNESS: I don't understand. Is that a question? 04:21:03 04:21:05

BY MR. FUNARI: 04:21:07

Q. Yes, sir, that would be a question. 04:21:08

A. Is a Ohio a swing state? 04:21:11

Q. Would that indicate to you that Ohio is at least that much of a swing state, that you would not be able to pass such an amendment without Democratic support? 04:21:14 04:21:17 04:21:20 04:21:23

A. Well, you'd have to define "swing state" for me. But in this context, I think that if the folks who opposed what I was suggesting, getting the additional time, were going to say 04:21:24 04:21:29 04:21:36 04:21:40

the same things for four months, it wouldn't pass. 04:21:43 04:21:46

The League of Women Voters immediately put out a press release that said that President Huffman was trying to take away this decision from the people and give it to the legislature, and all we were trying to do is give enough time for us to have negotiation, which it turns out in the end we probably needed. 04:21:47 04:21:50 04:21:52 04:21:56 04:21:59 04:22:01 04:22:04 04:22:07

We weren't changing the decision-making process. So groups like the League of Women Voters and All on the Line or something like that, we put out a whole series of statements. 04:22:07 04:22:10 04:22:13 04:22:17

Again, my view of these things is if you're going to pass something, either you have to have a big campaign and really put it on, especially if somebody's opposed to it. 04:22:23 04:22:24 04:22:26 04:22:32

You know, I didn't see a lot of folks going to come out and support this just to get another 30 days' or 60 days' worth of time. 04:22:35 04:22:38 04:22:40

And, frankly, as I sit here today, I'm still amazed that everyone knew the data was late, everyone knew we could use additional time to negotiate, but they still said no. 04:22:45 04:22:48 04:22:51 04:22:53

And I'm sitting here, I'm pretty incredulous when I start to think about it, that all these folks who wanted additional hearings, et cetera, et cetera, I don't know why you wouldn't want additional time. 04:22:58 04:23:00 04:23:02 04:23:04 04:23:07

So, you know, it is what it is at this point. 04:23:09 04:23:12

Q. Let me ask you about -- you talked about money that was appropriated and used by the caucuses in the House and Senate on both Democrats and Republicans. Was there any money appropriated for the statewide commissioners for them to have staff and mapping software? 04:23:14 04:23:16 04:23:20 04:23:23 04:23:26 04:23:28

A. Yeah, so, specifically the way this works, there is something called the Ohio Redistricting Commission. There is a statute. It's a specific body. Rob McColley was the Senate Republican appointee to that. 04:23:33 04:23:40 04:23:43 04:23:45 04:23:50

That body, one of their jobs is to allocate the money at the beginning of this process, which we did, $150,000 to each party. 04:23:53 04:23:56 04:23:59

And typically the way that goes is each -- sometimes they work together. Sometimes -- we, of course, don't know what the Democrat folks did. I think they bought 04:24:04 04:24:07 04:24:10 04:24:12

computers and things like that. And that's typically the way this has worked through the years. 04:24:15 04:24:20 04:24:21

As far as the statewides are concerned, that $150,000 did not go to them. It went to set up the House and Republican and -- the Republican House and Senate and the Senate and House Democrats. Of course, we gave the House Democrats this additional quarter of a million dollars. 04:24:22 04:24:25 04:24:28 04:24:31 04:24:35 04:24:38 04:24:42

I don't know whether they used money to do redistricting. That is within their purview to do that. 04:24:42 04:24:46 04:24:50

So if they did, yeah, that was money that was legally appropriated to them. But I didn't ask them to detail to me what they were doing regarding any of the redistricting matters. 04:24:51 04:24:53 04:24:56 04:24:59 04:25:03

Q. Mr. President, I think I understood the focus of your answer to be on what the different caucuses did with their money. 04:25:04 04:25:08 04:25:11

I was really trying to ask you about the money that was appropriated for the Redistricting Commission, was that also available to the statewide officeholders who 04:25:15 04:25:17 04:25:19 04:25:22

served on the commission? 04:25:27
A. I guess you're going to have to help me. 04:25:28
What money are you talking about that was 04:25:33
appropriated to the Redistricting Commission? 04:25:36
Q. I thought that there was some 4 to 04:25:39
$5 million that had been appropriated for the 04:25:43
Redistricting Commission. If I'm mistaken, I 04:25:47
apologize. But that was my understanding. 04:25:50
A. Yeah, I -- I thought your previous 04:25:53
question was was there money appropriated for 04:25:56
the statewide officeholders for specifically 04:25:59
for map drawing. 04:26:04
And if that wasn't your question, if 04:26:06
this is of the money available to the 04:26:09
commission, did that go -- did that money go to 04:26:13
these -- to the statewides for purposes of map 04:26:18
drawing? Is that -- 04:26:19
Q. Let me try to ask this a different way. 04:26:21
A. Okay. 04:26:25
Q. In Auditor Faber's deposition, he 04:26:26
indicated that he did not have funds to 04:26:29
purchase or secure mapping technology or 04:26:39
mapping technicians. Do you know whether 04:26:44
that's correct or not? 04:26:50
A. Well, I don't know. And, frankly, if 04:26:52

Auditor Faber says that that's true, I'm willing to accept that. 04:26:56 04:26:59

We have, you know -- in the Ohio Senate, there is money that is not specifically appropriated for things, but we can use for a variety of purposes from time to time. 04:27:01 04:27:04 04:27:07 04:27:11

And each specific purchase is not a specific appropriation. There may be a general line item for administrative expenses. And all agencies and departments have that. 04:27:16 04:27:19 04:27:21 04:27:25

Do I think that there's probably money within the auditor's budget which he might be able to use for that? Well, I would think so. 04:27:28 04:27:30 04:27:34

But if the auditor says no, then the answer's probably no, since he's ultimately the guy to determine that. He's the auditor. 04:27:37 04:27:39 04:27:42

Q. That's right. We're not going to argue with the auditor. 04:27:45 04:27:48

A. Not on that issue, sure. 04:27:49

Q. Yes. Did the auditor ever request from you funds for him to engage staff and to secure mapping software so that he could participate more actively in evaluating the maps that were proposed? 04:27:51 04:27:56 04:28:03 04:28:07 04:28:11

A. The auditor never requested that of me. 04:28:12

Q. Did Secretary LaRose request funds from you for the purpose of securing mapping technology, staffing, so that he could participate more actively in the mapping process? 04:28:15 04:28:21 04:28:25 04:28:29 04:28:31

A. Secretary LaRose never requested that of me. 04:28:31 04:28:34

Q. If you'll just indulge me for a second. Let me just look through my notes. I think I am concluding here. 04:28:35 04:28:48 04:28:53

Thank you very much, Mr. President. I don't have further questions. 04:29:11 04:29:13

A. Thank you. 04:29:15

MR. STRACH: Thank you, John. We don't have any questions for President Huffman. 04:29:16 04:29:18

Is anyone from the AG's office on, can tell us if they have any questions? 04:29:23 04:29:26

MS. COONTZ: No questions, thank you. 04:29:28

MR. STRACH: Okay. Great. 04:29:30

Madam court reporter, I think we can go off the record. 04:29:31 04:29:33

THE VIDEOGRAPHER: Thank you. That concludes today's proceedings. We're off the record at 4:29 p.m. 04:29:35 04:29:37 04:29:39

(Deposition concluded at 4:29 p.m., 133) 04:29:41

Reporter's Certificate

State of California )
)
)

I, Debra Bollman Farfan, Registered Diplomate Reporter and CSR No. 11648, in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and the same is a true, correct, and complete transcript of said proceedings;

I further certify that I am not interested in the event of the action. Witness my hand this 22nd day of October, 2021.

Debra Bollman Farfan, CA CSR No. 11648
RDR, RMR, CRR, CRC

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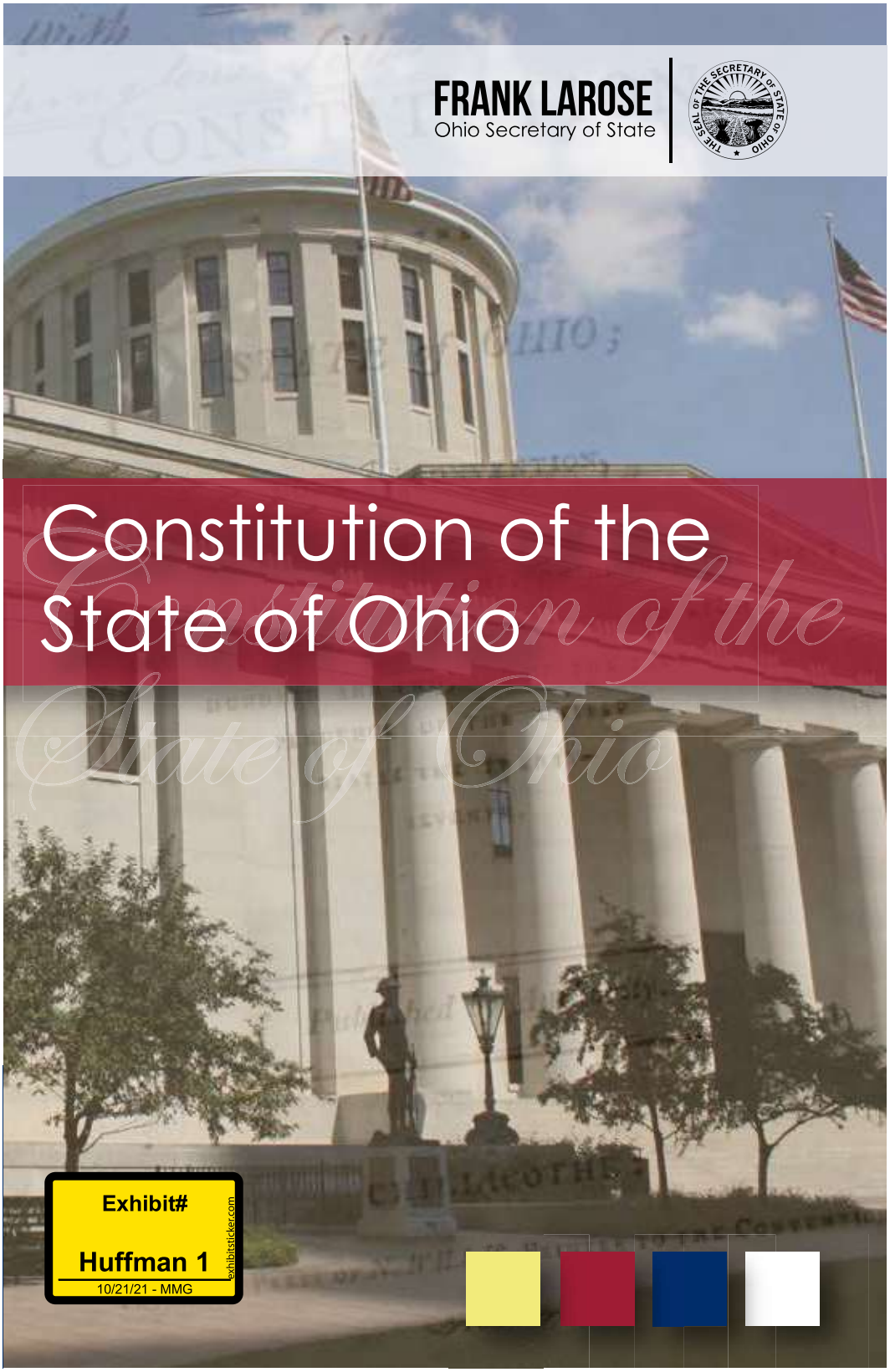
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## Preamble

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

## Article I: Bill of Rights

***Inalienable rights.***

§1 All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

(1851)

***Right to alter, reform, or abolish government, and repeal special privileges.***

§2 All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly.

(1851)

***Right to assemble.***

§3 The people have the right to assemble together, in a peaceable manner, to consult for the common good; to instruct their Representatives; and to petition the General Assembly for the redress of grievances.

(1851)

***Bearing arms; standing armies; military power.***

§4 The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

(1851)

***Trial by jury.***

§5 The right of trial by jury shall be inviolate, except that, in civil cases, laws may be passed to authorize the rendering of a verdict by the concurrence of not less than three-fourths of the jury.

(1851, am. 1912)

***Slavery and involuntary servitude.***

§6 There shall be no slavery in this State; nor involuntary servitude, unless for the punishment of crime.

(1851)

***Rights of conscience; education; the necessity of religion and knowledge.***

§7 All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be



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incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

(1851)

***Writ of habeas corpus.***

§8 The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

(1851)

***Bail.***

§9 All persons shall be bailable by sufficient sureties, except for a person who is charged with a capital offense where the proof is evident or the presumption great and except for a person who is charged with a felony where the proof is evident or the presumption great and who where the person poses a substantial risk of serious physical harm to any person or to the community. Where a person is charged with any offense for which the person may be incarcerated, the court may determine at any time the type, amount, and conditions of bail. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

The General Assembly shall fix by law standards to determine whether a person who is charged with a felony where the proof is evident or the presumption great poses a substantial risk of serious physical harm to any person or to the community. Procedures for establishing the amount and conditions of bail shall be established pursuant to Article IV, Section 5(b) of the Constitution of the State of Ohio.

(1851, am. 1997)

***Trial for crimes; witness.***

§10 Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be



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had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.

(1851, am. 1912)

***Rights of victims of crimes.***

§10a (A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

(1) to be treated with fairness and respect for the victim's safety, dignity and privacy;

(2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;

(3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;

(4) to reasonable protection from the accused or any person acting on behalf of the accused;

(5) upon request, to reasonable notice of any release or escape of the accused;

(6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;

(7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;

(8) to proceedings free from unreasonable delay and a prompt conclusion of the case;

(9) upon request, to confer with the attorney for the government; and

(10) to be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.



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(D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.

(F) This section shall take effect ninety days after the election at which it was approved.

(1994, am. 2017)

***Freedom of speech; of the press; of libels.***

§11 Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

(1851)

***Transportation, etc. for crime.***

§12 No person shall be transported out of the state, for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

(1851)

***Quartering troops.***

§13 No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

(1851)

***Search warrants and general warrants.***

§14 The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person and things to be seized.

(1851)

***No imprisonment for debt.***

§15 No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

(1851)

***Redress for injury; Due process.***

§16 All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

Suits may be brought against the state, in such courts and in such manner, as



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may be provided by law.

(1851, am. 1912)

***No hereditary privileges.***

§17 No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.

(1851)

***Suspension of laws.***

§18 No power of suspending laws shall ever be exercised, except by the General Assembly.

(1851)

***Eminent domain.***

§19 Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

(1851)

***Damages for wrongful death.***

§19a The amount of damages recoverable by civil action in the courts for death caused by the wrongful act, neglect, or default of another, shall not be limited by law.

(1912)

***Protect private property rights in ground water, lakes and other watercourses.***

§19b. (A) The protection of the rights of Ohio's property owners, the protection of Ohio's natural resources, and the maintenance of the stability of Ohio's economy require the recognition and protection of property interests in ground water, lakes, and watercourses.

(B) The preservation of private property interests recognized under divisions (C) and (D) of this section shall be held inviolate, but subservient to the public welfare as provided in Section 19 of Article I of the Constitution.

(C) A property owner has a property interest in the reasonable use of the ground water underlying the property owner's land.

(D) An owner of riparian land has a property interest in the reasonable use of the water in a lake or watercourse located on or flowing through the owner's riparian land.

(E) Ground water underlying privately owned land and nonnavigable waters located on or flowing through privately owned land shall not be held in trust by any governmental body. The state, and a political subdivision to the extent authorized by state law, may provide for the regulation of such waters. An owner of land voluntarily may convey to a governmental body the owner's property interest held in the ground water underlying the land or nonnavigable waters located on or flowing through the land.

(F) Nothing in this section affects the application of the public trust doctrine



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as it applies to Lake Erie or the navigable waters of the state.

(G) Nothing in Section 1e of Article II, Section 36 of Article II, Article VIII, Section 1 of Article X, Section 3 of Article XVIII, or Section 7 of Article XVIII of the Constitution shall impair or limit the rights established in this section.

(2008)

***Powers reserved to the people.***

§20 This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

(1851)

***Preservation of the freedom to choose health care and health care coverage***

§21 (A) No federal, state, or local law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system.

(B) No federal, state, or local law or rule shall prohibit the purchase or sale of health care or health insurance.

(C) No federal, state, or local law or rule shall impose a penalty or fine for the sale or purchase of health care or health insurance.

(D) This section does not affect laws or rules in effect as of March 19, 2010; affect which services a health care provider or hospital is required to perform or provide; affect terms and conditions of government employment; or affect any laws calculated to deter fraud or punish wrongdoing in the health care industry.

(E) As used in this Section,

(1) "Compel" includes the levying of penalties or fines.

(2) "Health care system" means any public or private entity or program whose function or purpose includes the management of, processing of, enrollment of individuals for, or payment for, in full or in part, health care services, health care data, or health care information for its participants.

(3) "Penalty or fine" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee established by law or rule by a government established, created, or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

(2011)

## Article II: Legislative

***In whom power vested.***

§1 The legislative power of the state shall be vested in a General Assembly consisting of a Senate and House of Representatives but the people reserve to themselves the power to propose to the General Assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any



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***REPEALED. County and township treasuries.***

§5

(1851, rep. 1933)

***REPEALED. What officers may be removed.***

§6

(1851, rep. 1933)

***REPEALED. Local taxation.***

§7

(1851, rep. 1933)

## Article XI: Apportionment

***Persons responsible for apportionment of state for members of General Assembly.***

§1 (A) The Ohio redistricting commission shall be responsible for the redistricting of this state for the general assembly. The commission shall consist of the following seven members:

(1) The governor;

(2) The auditor of state;

(3) The secretary of state;

(4) One person appointed by the speaker of the house of representatives;

(5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;

(6) One person appointed by the president of the senate; and

(7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

The legislative leaders in the senate and the house of representatives of each of the two largest political parties represented in the general assembly, acting jointly by political party, shall appoint a member of the commission to serve as a co-chairperson of the commission.

(B)(1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a majority vote of the members of the commission, including at least one member of the commission who is a member of each of the two largest political parties represented in the general assembly, shall be required to do any of the following:

(i) Adopt rules of the commission;

(ii) Hire staff for the commission;

(iii) Expend funds.

(b) If the commission is unable to agree, by the vote required under division (B)(2)(a) of this section, on the manner in which funds should be expended, each co-chairperson of the commission shall have the authority to expend one-half of the funds that have been appropriated to the commission.

(3) The affirmative vote of four members of the commission, including at least two members of the commission



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who represent each of the two largest political parties represented in the general assembly shall be required to adopt any general assembly district plan. For the purpose of this division, a member of the commission shall be considered to represent a political party if the member was appointed to the commission by a member of that political party or if, in the case of the governor, the auditor of state, or the secretary of state, the member is a member of that political party.

(C) At the first meeting of the commission, which the governor shall convene only in a year ending in the numeral one, except as provided in Sections 8 and 9 of this article, the commission shall set a schedule for the adoption of procedural rules for the operation of the commission.

The commission shall release to the public a proposed general assembly district plan for the boundaries for each of the ninety-nine house of representatives districts and the thirty-three senate districts. The commission shall draft the proposed plan in the manner prescribed in this article. Before adopting, but after introducing, a proposed plan, the commission shall conduct a minimum of three public hearings across the state to present the proposed plan and shall seek public input regarding the proposed plan. All meetings of the commission shall be open to the public. Meetings shall be broadcast by electronic means of transmission using a medium readily accessible by the general public.

The commission shall adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Four weeks after the adoption of a general assembly district plan, the commission shall be automatically dissolved.

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this article.

(1967, am. 2015)

***Ratio of representation in house and senate.***

§2 Each house of representatives district shall be entitled to a single representative in each general assembly. Each senate district shall be entitled to a single senator in each general assembly.

(1967, am. 2015)

***Population of each House of Representatives district.***

§3 (A) The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number "ninety-nine" and by the number "thirty-three" and the quotients shall be the ratio of representation in the house of representatives and in the senate, respectively, for ten years next succeeding such redistricting.

(B) A general assembly district plan shall comply with all of the requirements



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of division (B) of this section.

(1) The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, and the population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in division (A) of this section. In no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation.

(2) Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law.

(3) Every general assembly district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line.

(C) House of representatives districts shall be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards:

(1) Proceeding in succession from the largest to the smallest, each county containing population greater than one hundred five per cent of the ratio of representation in the house of representatives shall be divided into as many house of representatives districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.

(2) Each county containing population of not less than ninety-five per cent of the ratio of representation in the house of representatives nor more than one hundred five per cent of the ratio shall be designated a representative district.

(3) The remaining territory of the state shall be divided into representative districts by combining the areas of counties, municipal corporations, and townships. Where feasible, no county shall be split more than once.

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

(b) If a municipal corporation or township has territory in more than one county, the contiguous portion of that municipal corporation or township that lies in each county shall be considered to be a separate municipal corporation or township for the purposes of this section.

(c) If a municipal corporation or township that is located in a county that contains a municipal corporation or township that has a population of more than one ratio of representation is split for the purpose of complying with division (E)(1)(a) or (b) of this section, each portion of that municipal corporation or township shall be considered to be a separate municipal corporation or township for the purposes of this section.

(2) Representative districts shall be drawn so as to split the smallest possible



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number of municipal corporations and townships whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

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

(E)(1) If it is not possible for the commission to comply with all of the requirements of divisions (B), (C), and (D) of this section in drawing a particular representative district, the commission shall take the first action listed below that makes it possible for the commission to draw that district:

(a) Notwithstanding division (D)(3) of this section, the commission shall create the district by splitting two municipal corporations or townships whose contiguous portions do not contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(b) Notwithstanding division (D)(2) of this section, the commission shall create the district by splitting a municipal corporation or township whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(c) Notwithstanding division (C)(2) of this section, the commission shall create the district by splitting, once, a single county that contains a population of not less than ninety-five per cent of the ratio of representation, but not more than one hundred five per cent of the ratio of representation.

(d) Notwithstanding division (C)(1) of this section, the commission shall create the district by including in two districts portions of the territory that remains after a county that contains a population of more than one hundred five per cent of the ratio of representation has been divided into as many house of representatives districts as it has whole ratios of representation.

(2) If the commission takes an action under division (E)(1) of this section, the commission shall include in the general assembly district plan a statement explaining which action the commission took under that division and the reason the commission took that action.

(3) If the commission complies with divisions (E)(1) and (2) of this section in drawing a district, the commission shall not be considered to have violated division (C)(1), (C)(2), (D)(2), or (D)(3) of this section, as applicable, in drawing that district, for the purpose of an analysis under division (D) of Section 9 of this article.

(1967, am. 2015)

***Population of each Senate district.***

§4 (A) Senate districts shall be composed of three contiguous house of representatives districts.

(B)(1) A county having at least one whole senate ratio of representation shall have as many senate districts wholly within the boundaries of the



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county as it has whole senate ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining senate district.

(2) Counties having less than one senate ratio of representation, but at least one house of representatives ratio of representation, shall be part of only one senate district.

(3) If it is not possible for the commission to draw representative districts that comply with all of the requirements of this article and that make it possible for the commission to comply with all of the requirements of divisions (B)(1) and (2) of this section, the commission shall draw senate districts so as to commit the fewest possible violations of those divisions. If the commission complies with this division in drawing senate districts, the commission shall not be considered to have violated division (B)(1) or (2) of this section, as applicable, in drawing those districts, for the purpose of an analysis under division (D) of Section 9 of this article.

(C) The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation in the senate determined under division (A) of Section 3 of this article.

(D) Senate districts shall be numbered from one through thirty-three and as provided in Section 5 of this article.

(1967, am. 2015)

***Representation for each house and senate district.***

§5 At any time the boundaries of senate districts are changed in any general assembly district plan made pursuant to any provision of this article, a senator whose term will not expire within two years of the time the plan becomes effective shall represent, for the remainder of the term for which the senator was elected, the senate district that contains the largest portion of the population of the district from which the senator was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following the provisions of this section, the plan shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms.

(1967, am. 2015)

***Creation of district boundaries; change at end of decennial period.***

§6 The Ohio redistricting commission shall attempt to draw a general assembly district plan that meets all of the following standards:

(A) No general assembly district plan shall be drawn primarily to favor or disfavor a political party.

(B) The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.



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(C) General assembly districts shall be compact.

Nothing in this section permits the commission to violate the district standards described in Section 2, 3, 4, 5, or 7 of this article.

(1967, am. 2015)

***REPEALED. Provided additional senators for districts with a ratio of representation greater than one.***

§6a

(1956, rep. 1967)

***Boundary lines of House of Representatives districts.***

§7 Notwithstanding the fact that boundaries of counties, municipal corporations, and townships within a district may be changed, district boundaries shall be created by using the boundaries of counties, municipal corporations, and townships as they exist at the time of the federal decennial census on which the redistricting is based, or, if unavailable, on such other basis as the general assembly has directed.

(1967, am. 2015)

***Determination of number of House of Representatives districts within each county.***

§8 (A)(1) If the Ohio redistricting commission fails to adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one, in accordance with Section 1 of this article, the commission shall introduce a proposed general assembly district plan by a simple majority vote of the commission.

(2) After introducing a proposed general assembly district plan under division (A)(1) of this section, the commission shall hold a public hearing concerning the proposed plan, at which the public may offer testimony and at which the commission may adopt amendments to the proposed plan. Members of the commission should attend the hearing; however, only a quorum of the members of the commission is required to conduct the hearing.

(3) After the hearing described in division (A)(2) of this section is held, and not later than the fifteenth day of September of a year ending in the numeral one, the commission shall adopt a final general assembly district plan, either by the vote required to adopt a plan under division (B)(3) of Section 1 of this article or by a simple majority vote of the commission.

(B) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, except as provided in Section 9 of this article.

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) of this section, if the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take



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effect upon filing with the secretary of state and shall remain effective until two general elections for the house of representatives have occurred under the plan.

(b) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) of Section 1 of this article, and that plan is adopted to replace a plan that ceased to be effective under division (C)(1)(a) of this section before a year ending in the numeral one, the plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until a year ending in the numeral one, except as provided in Section 9 of this article.

(2) A final general assembly district plan adopted under division (C)(1)(a) or (b) of this section shall include a statement explaining what the commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences, as described in division (B) of Section 6 of this article. At the time the plan is adopted, a member of the commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning the statement included with the plan.

(D) After a general assembly district plan adopted under division (C)(1)(a) of this section ceases to be effective, and not earlier than the first day of July of the year following the year in which the plan ceased to be effective, the commission shall be reconstituted as provided in Section 1 of this article, convene, and adopt a new general assembly district plan in accordance with this article, to be used until the next time for redistricting under this article. The commission shall draw the new general assembly district plan using the same population and county, municipal corporation, and township boundary data as were used to draw the previous plan adopted under division (C) of this section.

(1967, am. 2015)

***When population of county is fraction of ratio of representation.***

§9 (A) The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this article.

(B) In the event that any section of this constitution relating to redistricting, any general assembly district plan made by the Ohio redistricting commission, or any district is determined to be invalid by an unappealed final order of a court of competent jurisdiction then, notwithstanding any other provisions of this constitution, the commission shall be reconstituted as provided in Section 1 of this article, convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next time for redistricting under



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this article in conformity with such provisions of this constitution as are then valid.

(C) Notwithstanding any provision of this constitution or any law regarding the residence of senators and representatives, a general assembly district plan made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.

(D)(1) No court shall order, in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article.

(2) No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.

(3) If the supreme court of Ohio determines that a general assembly district plan adopted by the commission does not comply with the requirements of Section 2, 3, 4, 5, or 7 of this article, the available remedies shall be as follows:

(a) If the court finds that the plan contains one or more isolated violations of those requirements, the court shall order the commission to amend the plan to correct the violation.

(b) If the court finds that it is necessary to amend not fewer than six house of representatives districts to correct violations of those requirements, to amend not fewer than two senate districts to correct violations of those requirements, or both, the court shall declare the plan invalid and shall order the commission to adopt a new general assembly district plan in accordance with this article.

(c) If, in considering a plan adopted under division (C) of Section 8 of this article, the court determines that both of the following are true, the court shall order the commission to adopt a new general assembly district plan in accordance with this article:

(i) The plan significantly violates those requirements in a manner that materially affects the ability of the plan to contain districts whose voters favor political parties in an overall proportion that corresponds closely to the statewide political party preferences of the voters of Ohio, as described in division (B) of Section 6 of this article.

(ii) The statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party does not correspond closely to the statewide preferences of the voters of Ohio.

(1967, am. 2015)

***Severability provision.***

§10 The various provisions of this article are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions.

(1967, am. 2015)

***REPEALED. Senate districts.***

§11

(1967, rep. 2015)



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***REPEALED. Change of district boundaries of senate districts.***

§12

(1967, rep. 2015)

***REPEALED. Jurisdiction of Supreme Court, effect of determination of unconstitutionality; apportionment.***

§13

(1967, rep. 2015)

***REPEALED. District boundaries until january 1, 1973.***

§14

(1967, rep. 2015)

***REPEALED. Severability provision.***

§15

(1967, rep. 2015)

## Article XII: Finance and Taxation

***Poll taxes prohibited.***

§1 No poll tax shall ever be levied in this state, or service required, which may be commuted in money or other thing of value.

(1851, am. 1912)

***Limitation on tax rate; exemption.***

§2 No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction. Without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.

(1851, am. 1906, 1912, 1918, 1929, 1933, 1970, 1974, 1990)



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Article XI, Section 8(C)(2) Statement

Pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission issues the following statement:

The Commission determined that the statewide preferences of the voters of Ohio predominately favor Republican candidates.

The Commission considered statewide state and federal partisan general election results during the last ten years. There were sixteen such contests. When considering the results of each of those elections, the Commission determined that Republican candidates won thirteen out of sixteen of those elections resulting in a statewide proportion of voters favoring statewide Republican candidates of 81% and a statewide proportion of voters favoring statewide Democratic candidates of 19%. When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54% and the statewide proportion of voters favoring statewide Democratic candidates is 46%. Thus, the statewide proportion of voters favoring statewide Republican candidates is between 54% and 81% and the statewide proportion of voters favoring statewide Democratic candidates is between 19% and 46%. The Commission obtained publicly available geographic data for statewide partisan elections in 2016, 2018, and 2020. Publicly available geographic data for those elections was not available for elections in 2012 and 2014. Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio.

The final general assembly district plan adopted by the Commission complies with all of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution. The Commission's attempt to meet the aspirational standards of Article XI, Section 6 of the Ohio Constitution did not result in any violation of the mandatory requirements of Article XI, Sections 2, 3 ,4, 5, and 7 of the Ohio Constitution.

**CERTIFICATE OF SERVICE**

I, Freda J. Levenson, hereby certify that on this 10th day of December, 2021, I caused a true and correct copy of this appendix to be served by email upon the counsel listed below:

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