

IN THE SUPREME COURT OF OHIO

Regina C. Adams, *et al.*,

Relators,

v.

Governor Mike DeWine, *et al.*,

Respondents.

Case No. 2021-1428

**Original Action Filed Pursuant to
Ohio Const., Art. XIX, Sec. 3(A)**

League of Women Voters of Ohio, *et al.*,

Relators,

v.

Governor Mike DeWine, *et al.*,

Respondents.

Case No. 2021-1449

**Original Action Filed Pursuant to
Ohio Const., Art. XIX, Sec. 3(A)**

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EXHIBITS APPENDIX D -
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

- - - - - x

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

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

2

1 Videoconference Deposition of SENATOR MATT
2 HUFFMAN, held remotely:

3
4
5 Witness Location:

6 REMOTE
7
8
9
10

11 Pursuant to notice, before Debra Bollman
12 Farfan, Registered Diplomate Reporter,
13 Registered Merit Reporter, Certified Realtime
14 Reporter, and Certified Shorthand Reporter No.
15 11648, in and for the State of California.
16
17
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19
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21
22
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Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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Gabriel Martin, The Videotech

Joel Coriat, The Videographer

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Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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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.

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

The videographer today is Joel Coriat on
behalf of Planet Depos, and this deposition
will be taken via videoconference.

All counsel appearances will be noted on
the stenographic record.

The court reporter today is Debra
Bollman on behalf of Planet Depos. She will
now swear in the witness.

Whereupon,

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

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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| | | |
|----|---|----------|
| 1 | EXAMINATION | 01:33:15 |
| 2 | BY MR. FUNARI: | 01:33:15 |
| 3 | Q. Thank you. Good afternoon, Senate | 01:33:16 |
| 4 | President Huffman. My name is Brad Funari. I | 01:33:18 |
| 5 | represent the Ohio Organizing Collaborative in | 01:33:21 |
| 6 | one of the three apportionment cases pending | 01:33:26 |
| 7 | before the Ohio Supreme Court. | 01:33:30 |
| 8 | First of all, can you hear me okay with | 01:33:31 |
| 9 | the technology these days? I always want to | 01:33:34 |
| 10 | make sure the witness can hear me clearly. | 01:33:37 |
| 11 | A. Yes, I can hear you. It's a little -- | 01:33:39 |
| 12 | it's a little soft, but I can mostly hear you. | 01:33:41 |
| 13 | MR. STRACH: Yeah, you're a little | 01:33:45 |
| 14 | garbled, Brad, but I think it will be all | 01:33:46 |
| 15 | right. | 01:33:48 |
| 16 | BY MR. FUNARI: | 01:33:49 |
| 17 | Q. All right. I'm going to move the | 01:33:49 |
| 18 | microphone a little closer. | 01:33:50 |
| 19 | Let me start, Senate President, by | 01:33:53 |
| 20 | apologizing in advance. I will most likely end | 01:33:56 |
| 21 | up calling you Mr. Huffman at some point during | 01:34:02 |
| 22 | today's deposition, and please don't view that | 01:34:06 |
| 23 | as a sign of disrespect. It's not every day | 01:34:09 |
| 24 | that I've deposed a dignitary, so if I miss the | 01:34:12 |
| 25 | honorary title, I do apologize, and I'll do my | 01:34:17 |

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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| | | |
|----|---|----------|
| 1 | best to remember that. | 01:34:20 |
| 2 | A. Whatever title you would like is fine. | 01:34:22 |
| 3 | I didn't realize I was a dignitary until just | 01:34:27 |
| 4 | now. So go ahead. | 01:34:29 |
| 5 | Q. You are for purposes of this case. | 01:34:30 |
| 6 | A. Fair enough. | 01:34:32 |
| 7 | Q. Have you been deposed before, | 01:34:33 |
| 8 | Mr. President? | 01:34:36 |
| 9 | A. One time. I think it might have been | 01:34:36 |
| 10 | three or four years ago in a previous | 01:34:42 |
| 11 | redistricting lawsuit. And I can't tell you | 01:34:46 |
| 12 | who the parties were to that. But that's the | 01:34:51 |
| 13 | only time that I've been a witness in a | 01:34:53 |
| 14 | deposition. | 01:34:54 |
| 15 | Q. Okay. You've taken some depositions, I | 01:34:55 |
| 16 | would presume. | 01:34:59 |
| 17 | A. I have. | 01:35:00 |
| 18 | Q. Okay. So I'm not going to go into the | 01:35:01 |
| 19 | ground rules of a deposition and kind of the | 01:35:04 |
| 20 | formalities. | 01:35:08 |
| 21 | If by any chance you don't hear -- the | 01:35:10 |
| 22 | one I will advise you of is if you don't hear | 01:35:12 |
| 23 | my question or if for some reason we end up | 01:35:14 |
| 24 | talking over each other because of the | 01:35:18 |
| 25 | technology, just put your hand up or tell me to | 01:35:19 |

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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| | | |
|----|---|----------|
| 1 | slow down, and I'll get my question out. | 01:35:22 |
| 2 | A. I'll do that. | 01:35:26 |
| 3 | Q. Okay, great. | 01:35:26 |
| 4 | Are you familiar with a gentleman named | 01:35:31 |
| 5 | Ray DiRossi? | 01:35:34 |
| 6 | A. Oh, Ray DiRossi, sure. | 01:35:35 |
| 7 | Q. And does he work for the Ohio Senate | 01:35:37 |
| 8 | Republican caucus? | 01:35:40 |
| 9 | A. He's an employee of the Ohio Senate | 01:35:41 |
| 10 | President, to be specific, yes. | 01:35:47 |
| 11 | Q. Okay. And that's -- that's your office. | 01:35:49 |
| 12 | He's one of your employees? | 01:35:52 |
| 13 | A. That's correct. | 01:35:53 |
| 14 | Q. And is Mr. DiRossi the individual whom | 01:35:55 |
| 15 | you asked to draw the state legislative map | 01:36:01 |
| 16 | this year? | 01:36:06 |
| 17 | A. Yes. | 01:36:07 |
| 18 | Q. Did anyone else work with Mr. DiRossi in | 01:36:11 |
| 19 | drafting what we'll call as the Senate | 01:36:16 |
| 20 | legislative Republican map? | 01:36:19 |
| 21 | A. Well, I think he would have received | 01:36:24 |
| 22 | advice from counsel, and I don't think -- other | 01:36:27 |
| 23 | than just some logistical support, I don't | 01:36:30 |
| 24 | think there would have been any other Senate | 01:36:34 |
| 25 | employees working on this project. | 01:36:36 |

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

14

1 Q. In terms of chain of command and
2 supervision, is it correct that Mr. DiRossi
3 would have reported directly to you during this
4 redistricting process?

5 A. For the most part, that is true. Again,
6 there were other staffers, including legal
7 counsel who he would have had conversations
8 with. I wouldn't necessarily be privy to
9 those. They're all full-time folks, and I'm
10 not in the Senate President's office every day.

11 So there are other people he would have
12 using the word "report" to, but -- or had
13 conversations with.

14 Q. But ultimately he was a member of your
15 staff, I guess is what I'm getting at?

16 A. That's correct. That's correct.

17 Q. Did he report to any other commissioners
18 of the Ohio Redistricting Commission?

19 A. Factually, I guess I can't say whether
20 that's true or not. But that wasn't the way it
21 was set up, unless from time to time, you know,
22 there would have been some communication
23 because he saw him someplace.

24 But in terms of reporting, he was my
25 employee and nobody else's.

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

15

1 Q. So at no time he -- at no time during
2 the process did he become employed by the Ohio
3 Redistricting Commission, correct?

4 A. That is correct, yeah.

5 Q. Did the Ohio Redistricting Commission
6 have any employees?

7 A. No. I think in terms of the work that
8 needed to be done, we call it "staffing it,"
9 those things were done by the individual
10 offices.

11 And specifically Speaker Cupp, who was
12 one co-chair, and Senator Sykes, who was the
13 other co-chair, if I have this right, their
14 staff were, in effect, staffing or running the
15 commission.

16 So there wasn't a separate commission
17 office some place or anything like that. But
18 for the hearings, communications, notices,
19 things like that, their two offices and their
20 staff in those offices were responsible for
21 that.

22 Q. Understood. Did Mr. DiRossi regularly
23 update you on his progress as he was drafting
24 the Republican legislative map?

25 A. Well, with, I guess, the caveat of what

01:37:52

01:37:55

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01:38:01

01:38:04

01:38:09

01:38:12

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01:38:39

01:38:41

01:38:45

01:38:47

01:38:49

01:38:53

01:38:55

01:39:00

01:39:04

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

16

| | | |
|----|--|----------|
| 1 | you mean by the word "regularly." From time to | 01:39:07 |
| 2 | time we had conversations, but I did not have | 01:39:11 |
| 3 | daily conversations with him about his work on | 01:39:15 |
| 4 | the map. Just, as you know, there are other | 01:39:21 |
| 5 | things going on in the legislature. | 01:39:23 |
| 6 | But, yeah, I had conversations with Ray | 01:39:26 |
| 7 | on a, you know -- I suppose we'll call it an | 01:39:29 |
| 8 | as-needed basis. | 01:39:33 |
| 9 | Q. Okay. And fair point. "Regularly," I | 01:39:34 |
| 10 | think, is a -- it could be an ambiguous term. | 01:39:38 |
| 11 | So let me break it down a little bit. | 01:39:40 |
| 12 | When did Mr. DiRossi first begin working | 01:39:42 |
| 13 | on the map? | 01:39:46 |
| 14 | A. Well, work on the maps, you know, you | 01:39:49 |
| 15 | start to try to do these things while you -- | 01:39:57 |
| 16 | you do it not just days or weeks in advance. I | 01:40:00 |
| 17 | actually began talking to him about it when I | 01:40:04 |
| 18 | became Senate President in January, you know, | 01:40:07 |
| 19 | along with other staff, about how are we going | 01:40:10 |
| 20 | to accomplish this. | 01:40:14 |
| 21 | A lot of that had to do with the fact | 01:40:16 |
| 22 | that, even at the beginning of this year, it | 01:40:20 |
| 23 | became evident that the census data would not | 01:40:22 |
| 24 | be available in April. | 01:40:25 |
| 25 | So a lot of it was how do we schedule | 01:40:26 |

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

17

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

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

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

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

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

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

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

18

| | | |
|----|---|----------|
| 1 | President's Office. | 01:41:44 |
| 2 | Q. Did you understand that Blake | 01:41:49 |
| 3 | Springhetti was the map drawer appointed by | 01:41:52 |
| 4 | Speaker Cupp to work on the House version of | 01:41:54 |
| 5 | the Republican map? | 01:41:57 |
| 6 | A. Yes. | 01:41:58 |
| 7 | Q. Did the commission itself at any point | 01:42:02 |
| 8 | in time hire a map drawer? | 01:42:07 |
| 9 | A. No. | 01:42:09 |
| 10 | Q. So I want to go back to your interaction | 01:42:11 |
| 11 | with Mr. DiRossi. I believe you testified that | 01:42:17 |
| 12 | you would meet with him as needed. Can you | 01:42:24 |
| 13 | recall when you first met with him specifically | 01:42:26 |
| 14 | for the purpose of drawing the map? | 01:42:33 |
| 15 | So not necessarily those conversations | 01:42:36 |
| 16 | we talked about with Mr. DiRossi in the early | 01:42:39 |
| 17 | part of the year, but specific to drawing the | 01:42:42 |
| 18 | map. | 01:42:45 |
| 19 | A. The brief answer to your question is, | 01:42:49 |
| 20 | no, I don't remember an initial meeting. | 01:42:51 |
| 21 | You know, again, we didn't have the data | 01:42:54 |
| 22 | until the end of August in a useable form. So | 01:42:57 |
| 23 | it would have been sometime in the month of | 01:43:03 |
| 24 | August. I think that's when a lot of the | 01:43:06 |
| 25 | organizational things were being done. | 01:43:09 |

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

19

1 Q. So if I -- I will offer the date of
2 August 6th as the date that the Governor
3 convened the first meeting of the Redistricting
4 Commission.

5 Using that date, August 6th, as a point
6 of reference, do you believe that you met with
7 Mr. DiRossi for the purposes to start drafting
8 the maps before or after that meeting?

9 A. Yeah, I guess the phrase "to start
10 drawing the maps," to me, means other things
11 than, you know, putting pencil to paper. It's
12 what are the constitutional requirements? How
13 do we do that? And those were conversations
14 that are ongoing through the year.

15 If you're talking about simply, and I'm
16 using it metaphorically, pencil to paper, it
17 probably would have been at the end of the last
18 week in August because there wasn't much that
19 we could do until we had the data to be used.
20 So probably the last week in August.

21 Q. Do you know what, if any, information or
22 data from the Census Bureau ultimately made its
23 way into the map that was enacted by the
24 commission on September 15th? Or adopted by
25 the commission on September 15th?

01:43:10
01:43:15
01:43:17
01:43:22
01:43:23
01:43:26
01:43:30
01:43:32
01:43:34
01:43:40
01:43:44
01:43:47
01:43:49
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| | | |
|----|---|----------|
| 1 | A. Well, I think the population count is | 01:44:36 |
| 2 | what we used that came from the census data | 01:44:39 |
| 3 | into the map. I think that's what we were all | 01:44:43 |
| 4 | waiting for, if I have it right. | 01:44:47 |
| 5 | Q. Was there any other work that the | 01:44:52 |
| 6 | commission could have been doing while it was | 01:44:53 |
| 7 | waiting for the census data to arrive? | 01:44:57 |
| 8 | A. In the time period -- anytime in 2021, | 01:45:01 |
| 9 | you mean? | 01:45:09 |
| 10 | Q. Yes. | 01:45:10 |
| 11 | A. Talking about after August 6th? | 01:45:10 |
| 12 | Q. We'll talk about the time you took | 01:45:13 |
| 13 | office, beginning of 2021. | 01:45:15 |
| 14 | A. Well, "could" is a pretty broad word. | 01:45:20 |
| 15 | You know, what -- what I -- I will tell | 01:45:23 |
| 16 | you one of the things I did do is in April I | 01:45:25 |
| 17 | asked the legislative leaders to meet about | 01:45:28 |
| 18 | extending the timeline. And, unfortunately, I | 01:45:30 |
| 19 | didn't get agreement from Senator Sykes or | 01:45:35 |
| 20 | Leader Sykes on that. | 01:45:40 |
| 21 | Now, could have? I guess "could" is a | 01:45:42 |
| 22 | pretty broad word, so, yes, something could | 01:45:45 |
| 23 | have been done. | 01:45:48 |
| 24 | Q. I'm sorry. Could you tell me again, in | 01:45:50 |
| 25 | April you reached out to Senator Sykes for what | 01:45:52 |

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21

1 purpose?

01:45:55

2 A. Yeah, in April, when we sort of had this
3 confirmation that -- and there was a statement
4 about that time period that the census data
5 would not be available until -- and I think the
6 initial date was August 16th, or something
7 along those lines, you know, my staff suggested
8 to me that -- and actually at one point the
9 date was the end of September. Well, we have
10 this constitutional deadline of September 15th.
11 And my staff said: Look, what we can do is get
12 an extension, but we'd have to put it on the
13 ballot in August, and people would have to
14 agree with that.

01:45:55

01:46:01

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01:46:05

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01:46:31

01:46:33

01:46:35

15 So we asked to meet with actually Leader
16 Yuko and Leader Sykes and Speaker Cupp, and we
17 did meet in my office in April. And I
18 suggested to them, Look, right now we're not
19 getting the data until the end of September --
20 it turned out to be the end of August, but end
21 of September -- we should extend this out 30 or
22 60 days, or we won't have time to do the due
23 diligence or public hearings or the things that
24 we're all anticipating.

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01:47:03

01:47:07

25 So I had that meeting. I was

01:47:11

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22

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

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

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

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

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

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

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

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23

| | | |
|----|---|----------|
| 1 | passed on the ballot, not without a huge | 01:48:22 |
| 2 | campaign and all of that. | 01:48:24 |
| 3 | So when the Democrats rejected my | 01:48:25 |
| 4 | suggestion of extending the September 15th | 01:48:28 |
| 5 | deadline, you know, we didn't go ahead with | 01:48:31 |
| 6 | that. | 01:48:35 |
| 7 | Q. So putting that issue aside, in the | 01:48:35 |
| 8 | April meeting, did you have any discussions | 01:48:38 |
| 9 | about the actual work convening for the | 01:48:43 |
| 10 | Redistricting Commission? | 01:48:48 |
| 11 | A. I don't think so, other than, you know, | 01:48:48 |
| 12 | we knew what the deadlines were. We knew that | 01:48:56 |
| 13 | there had to be certain meetings. And, again, | 01:48:59 |
| 14 | with the presentation of a map and the number | 01:49:04 |
| 15 | of hearings that had to happen | 01:49:06 |
| 16 | constitutionally, that was part of that | 01:49:09 |
| 17 | discussion. | 01:49:10 |
| 18 | If we're going to do all of this, it | 01:49:11 |
| 19 | doesn't appear that we can get it done based on | 01:49:13 |
| 20 | what we knew in April of this year. | 01:49:15 |
| 21 | Q. So having received the message via press | 01:49:17 |
| 22 | conference that there was going to be no, I | 01:49:23 |
| 23 | guess, partisan action, bipartisan action, to | 01:49:27 |
| 24 | put a referendum question on the August ballot, | 01:49:33 |
| 25 | when did you start working on the work of the | 01:49:41 |

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24

| | | |
|----|---|----------|
| 1 | commission? | 01:49:44 |
| 2 | Do you understand -- that might be a bad | 01:49:48 |
| 3 | question. | 01:49:50 |
| 4 | A. Yeah -- | 01:49:51 |
| 5 | MR. STRACH: I think it is. Why don't | 01:49:52 |
| 6 | you try to -- | 01:49:53 |
| 7 | MR. FUNARI: Let me withdraw that and | 01:49:55 |
| 8 | ask again. | 01:49:57 |
| 9 | Q. So in April you learned via press | 01:49:58 |
| 10 | conference that there was not likely to be a -- | 01:50:01 |
| 11 | an amendment to push back the dates. So when | 01:50:08 |
| 12 | did the work, or at least your work as a | 01:50:13 |
| 13 | commissioner, begin? | 01:50:17 |
| 14 | A. Well, I'll just -- formally, of course, | 01:50:17 |
| 15 | it began when I was sworn in as a commissioner | 01:50:23 |
| 16 | August 6th; but I will also say, you know, I | 01:50:26 |
| 17 | spoke in late July to Leader Sykes, Emilia | 01:50:30 |
| 18 | Sykes, and we were discussing the hearings and | 01:50:35 |
| 19 | the timing problems. | 01:50:38 |
| 20 | So I, essentially, asked Leader Yuko and | 01:50:43 |
| 21 | Leader Sykes to meet with Speaker Cupp. In | 01:50:49 |
| 22 | fact, I convened a meeting, I guess, again, to | 01:50:53 |
| 23 | invite everyone to get together. And we did | 01:50:56 |
| 24 | get together in the Speaker's office. I don't | 01:50:57 |
| 25 | recall the exact date, end of July, early | 01:50:59 |

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25

1 August.

01:51:01

2 And at that meeting -- and I -- you
3 know, I suggested to Leader Sykes that if we're
4 going to have these hearings, we need to
5 schedule them. We need to have it.

01:51:02

01:51:04

01:51:08

01:51:11

6 So that was, I guess, what you're
7 asking. I wasn't a Commissioner, with a
8 capital C, because I wasn't sworn in yet. But
9 we wanted to move this thing along and do the
10 things that we could do.

01:51:13

01:51:15

01:51:18

01:51:23

01:51:25

11 And so we did meet, and we began
12 sketching out the hearing dates. And we
13 actually, I think, even at that meeting decided
14 on a date when we could convene or when the
15 Governor could convene the commission.

01:51:27

01:51:30

01:51:35

01:51:38

01:51:42

16 Of course we had to have a date when the
17 Governor was available because,
18 constitutionally, he convenes it. So I think
19 at that meeting -- again, I don't recall the
20 exact date -- we got together and kind of
21 sketched out these hearings.

01:51:45

01:51:47

01:51:49

01:51:52

01:51:54

01:51:58

22 We weren't commissioners yet, though.

01:51:59

23 Q. I understand you might not be able to
24 remember the exact date, but what month did you
25 say you believed that meeting occurred in?

01:52:01

01:52:03

01:52:06

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| | | |
|----|---|----------|
| 1 | A. Yeah, it was either the end -- very end | 01:52:08 |
| 2 | of July or the first couple days in August. | 01:52:11 |
| 3 | Q. Before that meeting, had you had any | 01:52:16 |
| 4 | discussions with the Governor about when he | 01:52:19 |
| 5 | intended to convene the commission? | 01:52:21 |
| 6 | A. No. | 01:52:24 |
| 7 | Q. All right. I want to go back to | 01:52:33 |
| 8 | Mr. DiRossi's work on the maps. Now, | 01:52:39 |
| 9 | Mr. DiRossi was deposed just a few days ago in | 01:52:47 |
| 10 | this matter. Are you aware of that, | 01:52:51 |
| 11 | Mr. President? | 01:52:53 |
| 12 | A. Yes. | 01:52:54 |
| 13 | Q. Have you spoken to Mr. DiRossi about the | 01:52:55 |
| 14 | testimony he provided? | 01:52:58 |
| 15 | A. Not as to any content. I mean, he came | 01:53:00 |
| 16 | back to the office and said his deposition was | 01:53:05 |
| 17 | taken, but we didn't talk about the content or | 01:53:08 |
| 18 | anything like that. I just knew that it had | 01:53:10 |
| 19 | happened. | 01:53:12 |
| 20 | Q. Have you read the transcript from his | 01:53:12 |
| 21 | deposition? | 01:53:14 |
| 22 | A. No. | 01:53:14 |
| 23 | Q. Well, he testified that from time to | 01:53:19 |
| 24 | time, when he would be working on the maps, you | 01:53:23 |
| 25 | would come in, and he would share the screen | 01:53:25 |

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| | | |
|----|--|----------|
| 1 | with you, or you'd look over his shoulder, and | 01:53:28 |
| 2 | show you parts of the work that he was working | 01:53:31 |
| 3 | on. | 01:53:35 |
| 4 | Do you recall any instances where | 01:53:35 |
| 5 | something like that may have happened? | 01:53:36 |
| 6 | A. Yeah, that did happen. I don't know | 01:53:37 |
| 7 | that I was looking over his shoulder, but I -- | 01:53:42 |
| 8 | but, yes. | 01:53:46 |
| 9 | Q. Okay. Well, he was sharing the screen, | 01:53:47 |
| 10 | he was showing you his monitor? | 01:53:49 |
| 11 | A. Right, right. | 01:53:50 |
| 12 | Q. Was the information that he was showing | 01:53:53 |
| 13 | you displayed through the software application | 01:53:56 |
| 14 | known as Maptitude? | 01:54:01 |
| 15 | A. I don't know the -- I don't know the | 01:54:04 |
| 16 | answer to that. I'm not -- I try not to learn | 01:54:07 |
| 17 | about things that I don't have to, and I'm not | 01:54:10 |
| 18 | really sure what the software was and all of | 01:54:13 |
| 19 | that. But that very well may be true. | 01:54:17 |
| 20 | Q. Well, what do you recall seeing on his | 01:54:20 |
| 21 | screen when you would meet with him from time | 01:54:22 |
| 22 | to time? | 01:54:24 |
| 23 | A. Yeah, just maps with, you know, | 01:54:25 |
| 24 | different districts and different political | 01:54:28 |
| 25 | subdivisions, all sorts of, you know, maps of | 01:54:33 |

1 the state of Ohio.

01:54:38

2 And we'd talk about different districts
3 and the population requirements and, you know,
4 the mandates that are in the Constitution,
5 things like that.

01:54:39

01:54:41

01:54:44

01:54:47

6 Q. Okay, did you ever give him any
7 instruction or guidance with respect to how to
8 calculate the partisan performance of the maps?

01:54:47

01:54:50

01:54:53

9 A. No, I didn't. By and large the
10 instructions were, you know, the first thing is
11 we're going to have a -- we need to follow all
12 the mandates in the Constitution, which are
13 multiple, and -- but, no, I didn't make any --
14 give him any specific or general instructions
15 about partisan index and however it is that
16 political folks calculate that.

01:54:58

01:55:03

01:55:08

01:55:11

01:55:14

01:55:19

01:55:23

01:55:26

17 Q. You said that you gave him instruction
18 or direction to ensure that the maps complied
19 with the Constitution.

01:55:30

01:55:34

01:55:39

20 A. Yes.

01:55:44

21 Q. Do you recall saying that?

01:55:44

22 A. Yes.

01:55:45

23 Q. Which sections of the Constitution did
24 you tell Mr. DiRossi to be sure the maps
25 complied with?

01:55:45

01:55:47

01:55:50

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1 A. All of the constitutional requirements
2 that are mandatory. That was paramount in what
3 I believed was the most significant thing.

4 So we've got -- as I said, there are
5 multiple mandates. And I said first thing we
6 have to do is make sure this thing is
7 constitutional; don't deviate populations more
8 than 5 percent. Counties that are in the sweet
9 spot, so to speak, have to be the same division
10 of counties, things like that. So those are
11 laid out. I guess I can't tell you by number
12 where all of the mandatory provisions are, but
13 that was what was paramount.

14 Q. What about Section C of Article XI? Do
15 you recall giving Mr. DiRossi any direction
16 specific to that section of the constitution?

17 A. No.

18 Q. Do you know if Mr. DiRossi sought any
19 direction from anyone with respect to the
20 meaning of Section 6 of Article XI?

21 A. No.

22 Q. Are you familiar with Section 6 of
23 Article XI?

24 A. Yeah, I guess I can't recite it for you
25 as we're sitting here, but I know what that

| | | |
|----|---|----------|
| 1 | provision generally says. | 01:57:22 |
| 2 | Q. Okay. Would it be -- I'm going to ask | 01:57:23 |
| 3 | you a few questions about that section | 01:57:26 |
| 4 | specifically. Would it be helpful if I pulled | 01:57:28 |
| 5 | it up on the screen? | 01:57:30 |
| 6 | A. Maybe, depending on the question you | 01:57:31 |
| 7 | ask, so... | 01:57:33 |
| 8 | Q. Are you familiar with the term | 01:57:34 |
| 9 | "proportional" that's used in Section 6 of | 01:57:42 |
| 10 | Article XI? | 01:57:47 |
| 11 | MR. STRACH: Brad, did you say | 01:57:48 |
| 12 | proportion or proportional? | 01:57:50 |
| 13 | BY MR. FUNARI: | 01:57:54 |
| 14 | Q. Proportional. Maybe I'm misspeaking. | 01:57:54 |
| 15 | So let's pull it up, why don't we. | 01:57:56 |
| 16 | MR. STRACH: Yeah, I think the word | 01:57:58 |
| 17 | proportion is in there, but not proportional. | 01:58:01 |
| 18 | THE VIDEOTECH: Counsel, what's the name | 01:58:13 |
| 19 | of the document? | 01:58:15 |
| 20 | MR. FUNARI: Actually, hold on. We're | 01:58:17 |
| 21 | going to come back to the constitutional | 01:58:18 |
| 22 | questions I have in a few minutes. | 01:58:20 |
| 23 | Actually, let's just do this now while | 01:58:30 |
| 24 | you're working on it. It's Exhibit 2. | 01:58:33 |
| 25 | (Deposition Exhibit No. 1 was marked for | 01:58:33 |

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| | | |
|----|---|----------|
| 1 | identification.) | 01:58:46 |
| 2 | THE VIDEOTECH: So it's Ohio | 01:58:46 |
| 3 | Constitution Article XI? | 01:58:48 |
| 4 | MR. FUNARI: Yes. | 01:58:49 |
| 5 | (Discussion with Videotech held off the | 01:58:49 |
| 6 | written record.) | 01:58:49 |
| 7 | Q. Okay. My question is with respect to | 02:01:00 |
| 8 | Section 6(B), Mr. President. I'll give you an | 02:01:04 |
| 9 | opportunity to read it. | 02:01:08 |
| 10 | A. Oh, read it right now? You want me to | 02:01:11 |
| 11 | read it right now? | 02:01:13 |
| 12 | Q. Yeah, to refresh your memory in terms of | 02:01:14 |
| 13 | what it says. | 02:01:16 |
| 14 | A. Okay. I've read page one of two. | 02:01:32 |
| 15 | Q. Okay. So just so the record's clear, | 02:01:36 |
| 16 | you gave no direction to Mr. DiRossi with | 02:01:40 |
| 17 | respect to this constitutional requirement, | 02:01:43 |
| 18 | Section 6(B); is that correct? | 02:01:47 |
| 19 | A. Well, yeah, I guess to be specific, I | 02:01:49 |
| 20 | told Ray we need to follow the constitutional | 02:01:55 |
| 21 | requirements. And if this -- to the extent | 02:01:58 |
| 22 | that, you know, this is not a mandated portion, | 02:02:02 |
| 23 | I didn't have a specific conversation with Ray | 02:02:06 |
| 24 | about this. | 02:02:11 |
| 25 | What I told him was that it was -- the | 02:02:12 |

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

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

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

7 A. Okay. 02:02:30

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

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

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

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

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

1 is that I believe that calls for -- inherently
2 calls for inherent legal analysis by the
3 president.

4 But to the extent he can answer that
5 without revealing any legal advice, please do
6 so.

7 THE WITNESS: No.

8 BY MR. FUNARI:

9 Q. Did you make any mention to Mr. DiRossi
10 during his work to ensure that the maps
11 complied with Article I of the Ohio
12 Constitution?

13 A. Yeah, we can go back and look at --
14 Article I or Section 1 of Article VI do you
15 mean -- or Article XI, I guess?

16 Q. Article I of the Ohio Constitution.

17 A. Okay. That's not the reapportionment.
18 You're talking about something that's not
19 reapportionment?

20 Q. Yeah, could we go back to the second
21 page of this document, put up Article I in this
22 exhibit as well.

23 A. Yeah, I think the answer to your -- we
24 can go back. I think the answer to your
25 question is, no, I did not do that.

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1 Q. Now, do you recall at the September 9th
2 hearing, when the map was introduced that
3 Mr. DiRossi had been working on, he testified
4 at that hearing? Do you recall that?

5 A. Yes.

6 Q. And do you recall in response to a
7 question I believe that was posed by Leader
8 Emilia Sykes, Minority Leader Emilia Sykes,
9 about certain racial and other demographic
10 information and if he had considered that, and
11 his response was something along the lines of
12 that he was instructed not to use racial or
13 other demographic information in preparing the
14 map?

15 Do you remember that testimony?

16 A. Yes.

17 Q. He was then asked who directed him, and
18 he said the legislative leaders. Do you recall
19 him saying words to that effect?

20 A. Yeah, vaguely. I'll take your word for
21 it. I guess I don't remember exactly what he
22 said; but I think so, yeah.

23 Q. Well, let me ask it this way. Did you,
24 in your position, instruct Mr. DiRossi not to
25 consider race or other demographic information

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

2 A. Yes. And I told Leader Sykes that the 02:06:07
3 day before. We had a meeting with Leader Sykes 02:06:17
4 and Senator Sykes to show them the map before 02:06:20
5 it was released publicly so they could ask 02:06:22
6 questions. And she asked me that question the 02:06:24
7 day before; and then, of course, I think that's 02:06:29
8 why she asked Ray at the meeting. 02:06:31

9 Q. At the time that the commission met on 02:06:37
10 September 9th, did you know the proportion of 02:06:49
11 districts in the plan that favored each 02:06:52
12 political party? 02:06:55

13 A. No, I think there was a analysis ongoing 02:06:58
14 regarding that. One of the problems with this 02:07:04
15 process, especially when you're doing it in a 02:07:07
16 truncated way, is the variety of information 02:07:10
17 that people have or submit or suggest about 02:07:15
18 whether districts are leaning Republican or 02:07:22
19 leaning Democrat. 02:07:25

20 And there was so much of that that there 02:07:27
21 really wasn't a clear picture about that on 02:07:30
22 that particular day. And obviously those 02:07:33
23 things came out later after a few days as we 02:07:37
24 were negotiating or attempting to negotiate. 02:07:42

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

1 was some point after September 9th that you
2 ultimately learned the proportion of districts
3 that favor each respective political party; is
4 that right?

5 A. Yeah, I think it was sometime after that
6 that we began to have a -- a more reliable set
7 of conclusions. But on that particular day,
8 you know, as Ray indicated, the analysis was
9 ongoing.

10 Q. Did you ask Mr. DiRossi to provide you
11 with that information before the map was
12 introduced on September 9th?

13 A. I don't have any recollection of doing
14 that.

15 Q. Going back to Article XI,
16 Section 8(C)(2) requires a statement to be
17 adopted by the commission that contains a
18 measure of proportionality.

19 Are you familiar with that --

20 A. Yes.

21 Q. -- statement that's required?

22 A. Yes.

23 Q. When did you first learn of a measure of
24 proportionality for the map that the commission
25 was considering as introduced on September 9th?

02:07:47

02:07:49

02:07:52

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02:09:01

02:09:03

02:09:06

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| | | |
|----|---|----------|
| 1 | A. I'm sorry, can you repeat that? | 02:09:09 |
| 2 | Q. Sure. When did you first learn of what | 02:09:11 |
| 3 | the measure of proportionality would be for the | 02:09:14 |
| 4 | map that you were considering as introduced on | 02:09:19 |
| 5 | September 9th? | 02:09:22 |
| 6 | A. You're going to have to define the | 02:09:23 |
| 7 | "measure of proportionality" for me. I don't | 02:09:25 |
| 8 | understand what you mean by that phrase. | 02:09:28 |
| 9 | Q. Okay. Are you familiar with -- I | 02:09:30 |
| 10 | believe you said you're familiar with | 02:09:32 |
| 11 | Section 8(C)(2), correct? | 02:09:34 |
| 12 | A. Yeah, the commission has to prepare a | 02:09:36 |
| 13 | statement in the event of a four-year map. | 02:09:38 |
| 14 | Q. And Section 6(B), which we just | 02:09:44 |
| 15 | reviewed, talks about the proportion -- about | 02:09:47 |
| 16 | proportionality, right? | 02:09:51 |
| 17 | MR. STRACH: Objection. That's not | 02:09:53 |
| 18 | actually what it says. | 02:09:54 |
| 19 | BY MR. FUNARI: | 02:10:05 |
| 20 | Q. You can answer. | 02:10:05 |
| 21 | A. Well, yeah, I guess Section C, as I | 02:10:06 |
| 22 | understand it, talks about, if I have it -- | 02:10:08 |
| 23 | maybe we need to put it back up -- the results | 02:10:11 |
| 24 | of the election over the past ten years, and | 02:10:14 |
| 25 | proportionality -- I guess that's all sort of | 02:10:18 |

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| | | |
|----|--|----------|
| 1 | in a salad there of things that's in there. | 02:10:21 |
| 2 | And I guess maybe -- I thought you were | 02:10:26 |
| 3 | asking me about the statement that was | 02:10:28 |
| 4 | prepared. So I'm sorry. Maybe you want to | 02:10:30 |
| 5 | start over with the question? | 02:10:35 |
| 6 | Q. Yeah, why don't we put the statement up. | 02:10:36 |
| 7 | I believe it's -- it's Tab 1, Planet | 02:10:40 |
| 8 | Depos. | |
| 9 | A. Okay. | |
| 10 | (Deposition Exhibit No. 2 was marked for | |
| 11 | identification.) | |
| 12 | (Discussion with Videotech held off the | |
| 13 | written record.) | |
| 14 | Q. Let's give President Huffman an | 02:11:21 |
| 15 | opportunity to read the statement. | 02:11:23 |
| 16 | So, President Huffman, just let the | 02:11:27 |
| 17 | technician know when you're ready to scroll. | 02:11:30 |
| 18 | A. Okay. Okay. Yeah, go ahead and scroll | 02:11:33 |
| 19 | down. Okay. | 02:11:52 |
| 20 | Oh, there's another page? Okay. | 02:12:08 |
| 21 | Okay. I've got it I've read it. | 02:12:19 |
| 22 | MR. STRACH: Brad, I think you were on | 02:12:33 |
| 23 | mute. | 02:12:34 |
| 24 | MR. FUNARI: Yeah, I was on mute, sorry. | 02:12:35 |
| 25 | If we could scroll down to the bottom of | 02:12:37 |

1 this first page and draw the president's
2 attention to that last sentence.

3 Q. The last sentence reads: Accordingly,
4 the statewide proportion of districts whose
5 voters favor each political party corresponds
6 closely to the statewide preferences of the
7 voters of Ohio.

8 Did I read that correctly?

9 A. Yes.

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

14 A. Yeah, I mean, I think -- I mean, first
15 of all, to the extent that these are legal
16 conclusions or constitutional conclusions. But
17 when we, you know, looked at this statement,
18 there were, you know, a variety of things that
19 we could look at.

20 You know, we have, of course, over the
21 past ten years these statewide election results
22 and that's mentioned in here. We looked at the
23 publicly available data on the partisan
24 elections. Not all statewide elections,
25 because not all of them are partisan, or at

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1 least in the last ten years they haven't. And
2 we sort of repeated all of that in there.

3 So, you know, to the extent that these
4 districts -- and I think we use the word
5 "favor" in here, we've used the word "lean"
6 before, these percentages are, you know, within
7 the mark, so to speak.

8 So I think that's a pretty easy
9 conclusion that we made at the end of this
10 statement.

11 Q. Who drafted this statement, this 8(C)(2)
12 statement that we've marked as Exhibit 2?

13 A. Well, I don't think there was an
14 individual person, but the staff drafted that,
15 and I guess I don't know exactly who did it.

16 Q. Whose staff?

17 A. My counsel is Frank Strigari; Ray
18 DiRossi, of course, as we've mentioned before.
19 To the extent that other people assisted them,
20 I don't know that, but those are the two main
21 guys.

22 Q. Would it surprise you to learn that
23 Mr. DiRossi testified that he played no role
24 and was asked for no information regarding the
25 preparation of this document and, in fact,

02:13:51

02:13:54

02:13:56

02:14:01

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02:14:58

02:15:03

02:15:05

02:15:07

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02:15:15

02:15:18

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| | | |
|----|---|----------|
| 1 | didn't see it until after it was adopted? | 02:15:20 |
| 2 | A. No, I don't have any reason to doubt him | 02:15:22 |
| 3 | about that. | 02:15:27 |
| 4 | To the extent that, you know, this | 02:15:28 |
| 5 | information is available, I guess it would | 02:15:33 |
| 6 | surprise me that Ray didn't know that the | 02:15:36 |
| 7 | Republicans had won 13 out of the last 16 | 02:15:41 |
| 8 | statewide elections because just about anybody | 02:15:44 |
| 9 | could know that. | 02:15:47 |
| 10 | But as indicated, this was something | 02:15:49 |
| 11 | that was done by my staff. And if Ray wasn't | 02:15:51 |
| 12 | directly involved in it, I'd certainly take him | 02:15:54 |
| 13 | at his word. | 02:15:57 |
| 14 | Q. Okay. And just so the record is clear, | 02:15:58 |
| 15 | I didn't ask you to speculate as to what | 02:16:00 |
| 16 | information in this document Mr. DiRossi may or | 02:16:03 |
| 17 | may not know. | 02:16:05 |
| 18 | My question was: His testimony was he | 02:16:08 |
| 19 | had nothing to do with this document and never | 02:16:11 |
| 20 | even saw it until after it was adopted by the | 02:16:13 |
| 21 | commission. If he testified to that effect, | 02:16:16 |
| 22 | would you have any reason to not believe | 02:16:18 |
| 23 | Mr. DiRossi's testimony? | 02:16:21 |
| 24 | MR. STRACH: Objection. Just to the | 02:16:23 |
| 25 | extent that his testimony will speak for | 02:16:24 |

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1 itself.

2 But if you want to assume that's what he
3 said, then you can answer the question.

4 THE WITNESS: Yeah, I have no doubt that
5 Ray would testify truthfully and accurately.

6 BY MR. FUNARI:

7 Q. So that leaves Mr. Frank Strigari as the
8 only other staffer you mentioned who you
9 believe drafted this statement. Do you believe
10 Mr. Strigari alone drafted this statement?

11 MR. STRACH: Objection.

12 You can answer that question to the
13 extent you do not reveal or discuss discussions
14 or activities with outside counsel.

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

19 And, frankly, I don't remember. You
20 know, this was, I think, in the last day or so
21 when this statement was being prepared. But
22 certainly I would have talked to Frank about
23 it. But who else was involved in -- who Frank
24 talked to or ran ideas by or anything like
25 that, I don't know the answer to that.

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| | | |
|----|---|----------|
| 1 | BY MR. FUNARI: | 02:17:38 |
| 2 | Q. But it's fair to say it was drafted by | 02:17:38 |
| 3 | your staff? | 02:17:41 |
| 4 | A. It's fair to say that my staff worked on | 02:17:43 |
| 5 | it. I don't know whether there were folks | 02:17:48 |
| 6 | outside of my staff who worked on it or not. | 02:17:50 |
| 7 | Q. Okay. | 02:17:53 |
| 8 | A. Or made contributions or suggestions or | 02:17:54 |
| 9 | reviewed or anything like that. But I wouldn't | 02:17:58 |
| 10 | have talked to those people. | 02:18:03 |
| 11 | Q. That was kind of anticipating my next | 02:18:04 |
| 12 | question. | 02:18:07 |
| 13 | A. Oh. | 02:18:07 |
| 14 | Q. Do you know if this statement or any | 02:18:08 |
| 15 | drafts of this statement were shared with other | 02:18:14 |
| 16 | members of the commission prior to its adoption | 02:18:19 |
| 17 | at the September 15th meeting? | 02:18:23 |
| 18 | A. As I understand it, this isn't something | 02:18:25 |
| 19 | that I did myself. But as I understand it, the | 02:18:30 |
| 20 | proposed statement was sent to the other | 02:18:33 |
| 21 | commissioners maybe about 7:00 or 8 o'clock in | 02:18:36 |
| 22 | the evening. So several hours before the | 02:18:42 |
| 23 | commission adopted it as its own statement. | 02:18:46 |
| 24 | Okay. And that was something again that | 02:18:53 |
| 25 | was done by staff, was sent to their staff, et | 02:18:54 |

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| | | |
|----|---|----------|
| 1 | cetera. | 02:18:57 |
| 2 | So yes to the question; I just don't | 02:18:58 |
| 3 | know the mechanics of all of that. | 02:19:01 |
| 4 | Q. Okay. Did any of the members of the | 02:19:02 |
| 5 | commission or their staff make any suggested | 02:19:05 |
| 6 | revisions or question any of the information | 02:19:09 |
| 7 | contained in Huffman 2? | 02:19:13 |
| 8 | A. Not to my knowledge. | 02:19:15 |
| 9 | Q. Now, Mr. -- I'm sorry -- Speaker Cupp | 02:19:24 |
| 10 | this morning testified of drafts of this | 02:19:27 |
| 11 | statement. | 02:19:29 |
| 12 | Are you aware of earlier drafts of this | 02:19:29 |
| 13 | statement? | 02:19:31 |
| 14 | A. Not specifically, no. | 02:19:32 |
| 15 | Q. What about generally? Would a document | 02:19:37 |
| 16 | like this have a draft circulated? | 02:19:40 |
| 17 | A. Yeah, I mean, basically that day I | 02:19:43 |
| 18 | was -- when it became clear that the | 02:19:48 |
| 19 | Democrats -- I guess I still held out hope even | 02:19:52 |
| 20 | the day before, but I wasn't getting any | 02:19:55 |
| 21 | response. | 02:19:58 |
| 22 | But it became clear that it was possible | 02:19:58 |
| 23 | that we were going to get this four-year map, | 02:20:01 |
| 24 | and this was statements required in that | 02:20:04 |
| 25 | circumstance. That's when work on this began. | 02:20:10 |

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1 I frankly didn't know about that until told by
2 staff that, hey, this statement is necessary if
3 we don't work out a deal.

4 So I was shown a draft or a copy. I
5 don't recall having any of my own suggested
6 changes. So if there were other drafts that
7 were changed by other folks, I'm not aware of
8 that.

9 Q. Did you personally have any input into
10 the drafting of this statement?

11 MR. STRACH: Objection.

12 Answer if you can.

13 THE WITNESS: Yeah, I didn't -- I didn't
14 type it up or suggest word changes. This was
15 handed to me. It was reviewed by me. I looked
16 at.

17 And what I was -- you know, I wanted to
18 make sure that everything in here was fully
19 correct and talked about what the constitution
20 said you should talk about, which were results
21 of elections over the past ten years and, you
22 know, the other language that's in there.

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

02:20:12

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02:21:12

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02:21:22

02:21:25

02:21:31

1 things that you're supposed to.

02:21:33

2 And I think the best answer is to the
3 extent that I looked at it and said, yeah, I
4 think these things are good and they ought to
5 be in there, I guess that's my personal
6 contribution.

02:21:34

02:21:36

02:21:38

02:21:40

02:21:42

7 BY MR. FUNARI:

02:21:44

8 Q. Well, I guess what I was getting at, if
9 Mr. Strigari was the drafter, the actual person
10 who put words to paper, did he do so at your
11 direction? Did you tell Mr. Strigari, "This is
12 what I want the statement to say," or words to
13 that effect?

02:21:44

02:21:48

02:21:51

02:21:54

02:22:00

02:22:02

14 A. Yeah, I don't know if Mr. Strigari was
15 the drafter, but the answer to your question
16 is, no, this was something that was presented
17 to me. Something that we would have to do in
18 the event that there would not be a ten-year
19 map.

02:22:02

02:22:06

02:22:08

02:22:10

02:22:13

02:22:18

20 Q. We looked at Section 6(B) of Article XI
21 a short while ago, and if you'll recall 6(B)
22 requires a determination of the statewide
23 preferences of the voters of Ohio. Do you
24 recall that concluding clause?

02:22:19

02:22:22

02:22:27

02:22:31

02:22:35

25 A. Yeah.

02:22:37

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1 Q. Who made the calculation that a
2 statewide proportion of voters favoring
3 statewide Republican candidates was 81 percent
4 based on the proportion of elections won as
5 stated in this document?

6 A. Well, I don't know who calculated the 16
7 divided into 13 is 81 percent. I think anybody
8 can do that.

9 Certainly I suggested that what the
10 Constitution says is that we're supposed to
11 look at the results of the previous ten years
12 of elections, of statewide elections, both
13 federal and state.

14 And, you know, that's something that
15 anybody with a little bit of historical,
16 political knowledge can figure out.

17 As to the 54-46 part of it, I didn't
18 know that. I guess you've got to go through
19 with the results of the Secretary of State's
20 office and add all of those things up, and
21 that's not something you can do off the top of
22 your head.

23 So, yeah, I mean, 81 percent is pretty
24 easy to see. Those are the results of the last
25 ten years prior to this year.

1 Q. So that calculation, who was it that
2 first devised the idea that using elections won
3 to inform the commission's determination of the
4 statewide preferences of the voters? Who
5 decided that?

6 A. Well, the commission decided it,
7 ultimately, when they adopted this statement
8 unanimously I might add, without objection.

9 But the first idea about this, you know,
10 it might have been my idea. I guess I remember
11 talking about it, and I said: Look, the
12 Constitution says look at results, if we ever
13 get to Section 6. But the Constitution says
14 look at results, and those are results of the
15 previous ten years of election.

16 So who is the first brain child of this?
17 I guess I don't know who first specifically
18 suggested it. It might have been me. But I
19 don't -- you know, it's pretty easy to see what
20 results are and one result is who wins and
21 loses elections.

22 Q. Right.

23 A. And what party they are.

24 Q. And that is -- you'd agree that that is
25 one way of determining the statewide

02:23:57
02:24:02
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02:24:33
02:24:36
02:24:43
02:24:46
02:24:48
02:24:50
02:24:53
02:24:57
02:25:00
02:25:04
02:25:07
02:25:08
02:25:09
02:25:11
02:25:14

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| | | |
|----|---|----------|
| 1 | preferences of the voters of Ohio, using the | 02:25:18 |
| 2 | information from statewide, state, and federal | 02:25:24 |
| 3 | partisan general election results in the last | 02:25:28 |
| 4 | ten years. There would be other ways to do | 02:25:31 |
| 5 | that, correct? | 02:25:34 |
| 6 | A. Sure, yeah. | 02:25:34 |
| 7 | Q. Did you consider any other way to | 02:25:36 |
| 8 | calculate how to determine the statewide | 02:25:42 |
| 9 | preference of the voters of Ohio? | 02:25:47 |
| 10 | A. You're stepping outside of this | 02:25:48 |
| 11 | statement. You're just talking about myself? | 02:25:52 |
| 12 | Q. Yes. | 02:25:54 |
| 13 | A. Yeah. | 02:25:56 |
| 14 | Q. We talked about elections won, right? | 02:25:56 |
| 15 | And you may have been the individual who came | 02:26:00 |
| 16 | up with that idea. My question was did you | 02:26:03 |
| 17 | have any other ideas of how that calculation or | 02:26:07 |
| 18 | measurement might be made? | 02:26:10 |
| 19 | A. No, because, again, our first mission | 02:26:12 |
| 20 | here was to make sure that the mandates in the | 02:26:20 |
| 21 | constitution were met. And this, you know, | 02:26:23 |
| 22 | calculus was part of making sure that our | 02:26:26 |
| 23 | statement accurately reflected the facts that | 02:26:30 |
| 24 | the commission would consider in exercising its | 02:26:33 |
| 25 | discretion. | 02:26:36 |

1 So, you know, these are -- the two that
2 are specifically mentioned in here are the two
3 that are -- you know, show -- two different
4 ways of showing results.

5 I suppose that, you know, there may be a
6 lot of different ways that you could talk about
7 results in the last ten years and sort of parse
8 that out about, well, how hard would some
9 candidate campaign in a particular election,
10 and is that really a valid result or do we
11 still include it in the same weighting?

12 But none of that was really done.
13 Again, because this wasn't a mandatory part of
14 the constitution. But we did want to comply
15 with the requirement that this statement be
16 prepared, so we put in the things we thought
17 were the results. But these aren't things that
18 I calculated or I did some independent research
19 on.

20 Q. All right. Do you know if anyone was
21 consulted for the purpose of providing research
22 for the numbers that made their way into this
23 statement?

24 A. No, I don't know that.

25 Q. So let's talk about the second, I guess,

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02:26:40
02:26:44
02:26:47
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02:27:06
02:27:09
02:27:12
02:27:15
02:27:17
02:27:21
02:27:24
02:27:26
02:27:29
02:27:31
02:27:32
02:27:36
02:27:38
02:27:41
02:27:42
02:27:50

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| | | |
|----|---|----------|
| 1 | bucket of numbers that's on the screen. When | 02:27:52 |
| 2 | considering -- it's right at the top of the | 02:27:54 |
| 3 | screen. | 02:27:56 |
| 4 | When considering the number of votes | 02:27:58 |
| 5 | cast in each of those elections for Republican | 02:28:00 |
| 6 | and Democratic candidates, the statewide | 02:28:03 |
| 7 | proportion of voters favoring statewide | 02:28:07 |
| 8 | Republican candidates is 54 percent, and the | 02:28:09 |
| 9 | statewide proportion of voters favoring | 02:28:12 |
| 10 | statewide Democratic candidates is 46. | 02:28:14 |
| 11 | So I want to focus on that, the second | 02:28:18 |
| 12 | method of calculating voter preferences as set | 02:28:21 |
| 13 | forth here. | 02:28:24 |
| 14 | Who was it, if you know, that came up | 02:28:24 |
| 15 | with those percentages? | 02:28:30 |
| 16 | A. I don't know the answer to that. | 02:28:31 |
| 17 | Q. Was it a member of your staff, do you | 02:28:35 |
| 18 | know? | 02:28:37 |
| 19 | A. Well, I don't think that -- I think this | 02:28:37 |
| 20 | information is just publicly available at the | 02:28:42 |
| 21 | Ohio Secretary of State's website. | 02:28:44 |
| 22 | So whoever went through and did the | 02:28:51 |
| 23 | calculations or added up the total votes and | 02:28:53 |
| 24 | all of that sort of thing, I don't know who did | 02:28:56 |
| 25 | that. | 02:28:59 |

1 These were -- I think were the same
2 numbers that the Democrat Senate map
3 considered. Although, for some reason, I think
4 at some point somebody was saying 55-45.

5 So I don't know who went through to the
6 Secretary of State's website and did all the
7 addition of votes, et cetera.

8 Q. So we've talked about both of the
9 measures of proportionality that are in this
10 final adopted 8(C)(2) statement. Were there
11 any other measures of proportionality
12 considered by the commission, other than these
13 two that made their way into the 8(C)(2)
14 statement?

15 A. No. I think those things would have
16 been discussed at a commission meeting, so I
17 think the answer to that is no.

18 Q. Okay. At the bottom of this Exhibit 2,
19 it reads: Using this data, the Commission
20 adopted the final general assembly district
21 plan, which contains 85 districts (64.4%)
22 favoring Republican candidates and 47 districts
23 (35.6%) favoring Democratic candidates out of a
24 total of 132 districts.

25 Do you see that?

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| | | |
|----|---|----------|
| 1 | A. Well, it's not up on my screen here at | 02:30:40 |
| 2 | the moment, but I think I heard you read it | 02:30:44 |
| 3 | correctly, or I think you read it correctly, | 02:30:47 |
| 4 | so -- somebody would have to scroll on my | 02:30:50 |
| 5 | screen. | 02:30:52 |
| 6 | Q. You're not seeing the screen? | 02:30:53 |
| 7 | A. I'm seeing the screen, but the bottom | 02:30:54 |
| 8 | portion that you just read from is not on my | 02:30:56 |
| 9 | screen. | 02:30:58 |
| 10 | Q. Oh, I'm sorry. It's on ours. | 02:30:58 |
| 11 | Can Planet Depos move that up? | 02:31:02 |
| 12 | A. I apologize. I thought you were reading | 02:31:03 |
| 13 | the last page. It is on my screen. I have | 02:31:06 |
| 14 | that in front of me. I apologize. | 02:31:08 |
| 15 | Q. I'll give you a minute to read it. | 02:31:11 |
| 16 | A. No, it's okay. I've got it. I read it | 02:31:12 |
| 17 | before. | 02:31:14 |
| 18 | Q. All right. So these numbers that the | 02:31:14 |
| 19 | commission adopted for the General Assembly | 02:31:19 |
| 20 | plan of 64.4 percent favoring Republican | 02:31:21 |
| 21 | candidates and 35.6 favoring Democratic | 02:31:25 |
| 22 | candidates, when did you first learn that those | 02:31:30 |
| 23 | were the numbers that were going to be put | 02:31:34 |
| 24 | forth in this statement? | 02:31:37 |
| 25 | A. When I saw the statement, which was | 02:31:38 |

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| | | |
|----|---|----------|
| 1 | probably sometime late afternoon on | 02:31:44 |
| 2 | September 15th. | 02:31:47 |
| 3 | Q. Were you, to your knowledge, the first | 02:31:55 |
| 4 | member of the commission to see this statement? | 02:31:57 |
| 5 | A. I do not know the answer to that. | 02:31:59 |
| 6 | Q. Do you know if other commissioners were | 02:32:03 |
| 7 | provided a copy of this Section 8(C)(2) | 02:32:07 |
| 8 | statement prior to their being asked to vote | 02:32:12 |
| 9 | for it or against it at the September 15th | 02:32:16 |
| 10 | meeting? | 02:32:20 |
| 11 | A. Yes, they were. | 02:32:20 |
| 12 | Q. When were they provided with a copy of | 02:32:22 |
| 13 | it? | 02:32:27 |
| 14 | A. I can't tell you that specifically, but | 02:32:27 |
| 15 | I think it's in the 7:00 to 8:00 range. Those | 02:32:32 |
| 16 | things were sent to their emails by -- I think | 02:32:36 |
| 17 | by my staff, and I think they all acknowledged | 02:32:40 |
| 18 | receipt of it. | 02:32:45 |
| 19 | Q. Why didn't your staff or you send a | 02:32:46 |
| 20 | draft of this statement to the other | 02:32:51 |
| 21 | commissioners prior to commencing the | 02:32:55 |
| 22 | September 15th meeting? | 02:32:58 |
| 23 | A. Well, to be clear, the meeting commenced | 02:33:00 |
| 24 | at 10:30 in the morning and recessed. | 02:33:03 |
| 25 | This was worked on by my staff and | 02:33:08 |

1 presented to me sometime late in the afternoon.

02:33:12

2 And what we sent to them at whatever
3 time that those emails went out, 7:00 or 8:00,
4 was a draft, when it became, again, apparent to
5 me at that point that, you know, I was -- I was
6 waiting most of the afternoon on the 15th for a
7 response of some kind from Leader Sykes or
8 Senator Sykes. So what we sent at 8:00 was a
9 draft.

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10 Now, it's a draft until the commission
11 adopts it, which, ultimately, the commission
12 adopted it without any changes to the proposal
13 that was sent out at 8:00.

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14 And, in effect, somebody had to do
15 something about this because the Constitution
16 required it. So that's -- it was a draft until
17 it was adopted.

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02:33:59

18 Q. Understood. What was the plan that you
19 had sent over to the Sykeses that you were
20 awaiting a response on between the time the
21 commission convened in the morning of the 15th
22 and the time it reconvened in the evening?

02:34:00

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23 A. Well, that plan was sent to them much
24 before that, which we were attempting to
25 negotiate with the Sykes. So they -- that time

02:34:22

02:34:29

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1 period stretches back into the previous week.

02:34:35

2 But if you're only asking about the
3 15th, I was told by Senator Sykes that a
4 response to our latest proposal would be
5 coming.

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6 I had attempted to meet with he and
7 Leader Sykes earlier in the week. I requested
8 to meet with them. They didn't respond to my
9 request.

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02:34:56

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02:35:01

10 But if you're only asking about that
11 day, I had a series of phone conversations with
12 Senator Sykes. Again, the time was 10:30. We
13 were supposed to meet, and beginning at about
14 1:00 o'clock, I was told by Senator Sykes that
15 the response to our latest proposal would be
16 coming, and we pushed the time back to 3:00
17 o'clock.

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18 And I think another phone call, let's
19 come in at 5:00. We pushed it back to 7:00,
20 and I continued to call.

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21 I think maybe we talked three times that
22 day, and he said a response would be coming.
23 And ultimately, because we have the -- we have
24 to do this on September 15th, Speaker Cupp
25 convened the meeting and of course we did what

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1 we did.

02:35:53

2 But there were a series of attempts on
3 my part to try to have some negotiations in
4 response to our proposals.

02:35:56

02:35:59

02:36:04

5 Q. Okay. I apologize, it's probably a
6 result of my misunderstanding.

02:36:06

02:36:10

7 It was my understanding that, while the
8 commission was in recess on the 15th, there
9 were actual negotiations back and forth between
10 the Democrats and the Republican legislative
11 leaders. It sounds like that is incorrect.
12 There was not a back-and-forth negotiation, but
13 rather you had made the prior week what you've
14 called the latest proposal, and you were
15 waiting for them to respond, which they never
16 did; is that correct?

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17 A. Yeah, so, that's part of that.

02:36:38

18 The other thing is when you say
19 Republican and Democrat members of the
20 commission, I don't know what sort of
21 discussions Secretary LaRose, Governor DeWine,
22 and Auditor Faber were having with anyone.

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23 And I guess I don't know everything that
24 Speaker Cupp may have been talking to each
25 other about.

02:36:54

02:36:56

02:36:58

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1 But for my part, I was trying to get my
2 Democratic counterpart in the Senate to
3 respond.

4 And, frankly, I thought that Vern,
5 because, you know, I know him, known him for
6 many years, was the best person for me to try
7 to talk to. And tried to -- as I said, tried
8 to -- asked him if he would meet with me in
9 Akron earlier in the week. I didn't get a
10 response to that. And then when I did speak
11 with him in Cleveland on the 13th, he said they
12 would have a response the next day. We didn't
13 get that.

14 And when we talked on the 15th, he
15 promised, several times, responses.

16 And I don't put that all on him. I know
17 there's a lot of different folks, and there's a
18 lot of things that have to happen. It's not
19 just you walk in the room, make a decision, and
20 come back out.

21 So, if you're including other Republican
22 members of the commission, I don't know what
23 discussions they may have been having on that
24 particular day.

25 Q. Fair enough. So the "latest proposal,"

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02:38:01
02:38:01

1 as you use that term, what was the latest
2 proposal that you made to the legislative
3 Democrats?

4 A. So I'm going to use these terms just --
5 and if these aren't clear to you, I think
6 they're clear, but the initial map that the --
7 although we didn't quite know that when it was
8 introduced -- and I'm just going to use House
9 numbers just because it's closer to percentages
10 and so we can have one sort of rubric.

11 As I understand it, it had districts
12 that leaned Republican. The total number was
13 68. The Democratic proposal had 57 districts
14 that leaned Republican. The subsequent
15 proposal that we had made had 62 districts that
16 leaned Republican.

17 Again, as I understand it. I didn't
18 examine these districts or whatever indices may
19 have been used. And that was sort of where we
20 were at a day or so before, and certainly on
21 the 15th.

22 It was our attempt, what we were trying
23 to do was get them to respond to, you know, "if
24 we boil it all the way down to 68; no, how
25 about 57; no, how about 62," we were

1 negotiating, and we were at 62, and they were
2 at 57.

3 And, again, there are many other things
4 that were part of that, of course. But we were
5 trying to get a response out of them.

6 Q. Understood. Mr. DiRossi testified that
7 he worked with two consultants in his work
8 drawing the map. Would you agree that
9 Mr. DiRossi worked with two consultants in his
10 work drawing the map?

11 MR. STRACH: Objection. I don't think
12 he testified that they helped him draw the map.
13 He talked about two consultants, but not in
14 drawing the map.

15 MR. FUNARI: Fair enough. Let me
16 rephrase the question. I'll withdraw that
17 question.

18 BY MR. FUNARI:

19 Q. Do you have an understanding of whether
20 or not two consultants were made available for
21 consulting purposes and for the provision of
22 data or other reasons to Mr. DiRossi for his
23 map drawing process?

24 A. To be honest with you, the answer to
25 that is no. I know there was a data guy, and I

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| | | |
|----|---|----------|
| 1 | don't know what his name was. | 02:41:02 |
| 2 | If there was a second person who was | 02:41:03 |
| 3 | providing data to Ray, then I don't have any | 02:41:05 |
| 4 | reason to doubt his testimony about that. I | 02:41:08 |
| 5 | just -- wasn't necessary for me to vet any of | 02:41:10 |
| 6 | that. That was up to Ray. And, of course, you | 02:41:16 |
| 7 | give -- you give folks the tools they need to | 02:41:19 |
| 8 | accomplish their task. | 02:41:23 |
| 9 | So the answer really is, no, I don't | 02:41:24 |
| 10 | know who those folks are. | 02:41:26 |
| 11 | Q. But do you remember authorizing | 02:41:27 |
| 12 | Mr. DiRossi to hire such consultants? | 02:41:29 |
| 13 | A. I don't specifically remember that, but | 02:41:32 |
| 14 | that probably happened. | 02:41:34 |
| 15 | Q. Does the name Clark Benson ring a bell | 02:41:36 |
| 16 | to you? | 02:41:39 |
| 17 | A. Rings a bell. I guess I can't tell you | 02:41:40 |
| 18 | anything else about him or who he is. | 02:41:43 |
| 19 | Q. What about the context in which you know | 02:41:47 |
| 20 | that name? You recognize that name from | 02:41:49 |
| 21 | Mr. DiRossi's work on the maps? | 02:41:51 |
| 22 | A. No, I really don't. | 02:41:53 |
| 23 | Q. What about John Morgan? Are you | 02:41:57 |
| 24 | familiar with that name? | 02:42:00 |
| 25 | A. I don't think I know who John Morgan is, | 02:42:01 |

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| | | |
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| 1 | no. | 02:42:04 |
| 2 | Q. Have you ever worked with Mr. Benson, to | 02:42:10 |
| 3 | the best of your recollection? | 02:42:12 |
| 4 | A. I don't think so, no. | 02:42:13 |
| 5 | Q. Do you know whether Mr. DiRossi was | 02:42:21 |
| 6 | provided access to non-public 2012 and 2014 | 02:42:39 |
| 7 | election data? | 02:42:48 |
| 8 | A. No, I don't know the answer to that. | 02:42:49 |
| 9 | Q. Did the commission ever consider hiring | 02:42:54 |
| 10 | a nonpartisan mapmaker to draw the maps to your | 02:43:02 |
| 11 | knowledge? | 02:43:09 |
| 12 | A. Well, I guess the way the commission | 02:43:09 |
| 13 | would consider that would be jointly at a | 02:43:16 |
| 14 | public meeting. Those meetings, of course, I | 02:43:20 |
| 15 | think are all recorded and there's minutes of | 02:43:23 |
| 16 | it, et cetera. | 02:43:25 |
| 17 | So I don't recall at any of our meetings | 02:43:26 |
| 18 | that we discussed that topic. | 02:43:28 |
| 19 | Q. What about before the commission was | 02:43:30 |
| 20 | convened on August 6th? Was there any | 02:43:34 |
| 21 | discussion among the members, or the | 02:43:37 |
| 22 | individuals who would become the members of the | 02:43:41 |
| 23 | commission, whether or not -- | 02:43:44 |
| 24 | A. Yeah, I -- at the meeting I mentioned, | 02:43:47 |
| 25 | the end of July, beginning of August meeting in | 02:43:49 |

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1 the Speaker's office, and really maybe before,
2 we talked about each of the four caucuses
3 having access to someone who can assist them in
4 making these decisions.

5 From the perspective of the Senate
6 Republicans, we didn't think it was necessary
7 for us to go out and hire outside people.
8 Mr. DiRossi, he might be the most qualified
9 person in the United States, as far as I know.
10 He had done this for two cycles, and, you know,
11 was enthusiastic about he wanted to do it. So
12 there wasn't any reason for me to do anything
13 about that.

14 I don't know what Speaker Cupp's
15 analysis was in terms of who they had.

16 Leader Yuko, who, of course, did not
17 become a member of the commission, his
18 statement at that meeting was we have -- I
19 guess I can't remember -- there is a Democratic
20 staffer, nice guy. He's been around for years.
21 I apologize, I can't remember his name. He
22 knew about drafting maps, so they wouldn't need
23 to hire an outside person.

24 However, Leader Sykes, you know, said --
25 you know, made a fair statement, a clear

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02:45:01
02:45:02
02:45:06

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1 statement, that: Hey, we don't have a Ray
2 DiRossi in-house or same fellow for the Senate
3 Democrats. We need additional funds to go out
4 and hire a mapmaker or consultant or whatever
5 term we were using at the moment.

6 So we authorized a considerable amount
7 of money. I think originally each caucus, each
8 party, I think, was given \$150,000, and that
9 was used to buy computers and software and
10 such.

11 But in this case, Leader Sykes asked
12 for, I think, an additional \$250,000, I think,
13 just to hire consultants, which I think was for
14 mapmaking purposes and we agreed to do that.
15 Of course, that would have had to be something
16 that we all agreed to.

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

24 We try not to, you know, get down to
25 telling each other what we're going to do with

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1 our consultants. It's supposed to be a process
2 where you take money. But the answer is the
3 House Democrats got an additional quarter of a
4 million dollars or so to assist them in the
5 mapmaking process.

6 Q. And is it correct that none of the
7 statewide elected officials, that being
8 Governor DeWine, Secretary of State LaRose, and
9 Auditor Faber, none of those statewide elected
10 officials participated in that meeting where
11 the decision was made that there would be no
12 hiring of a nonpartisan mapmaker?

13 A. That is correct. This is a meeting that
14 happened before the commission convened among
15 the four caucus leaders, three of whom ended up
16 actually being on the commission.

17 Q. I think I know the answer to this, but
18 I'm going to ask it anyway. Did the commission
19 as a collective entity ever attempt to draft a
20 map?

21 A. No. Again, they can only act through a
22 joint action, either in a meeting or I suppose
23 possible to do a written resolution. But none
24 of that ever happened, no.

25 Q. Did the commission ever develop metrics

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02:48:05

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

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

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

10 MR. STRACH: Objection. 02:48:48

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

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

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

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

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1 BY MR. FUNARI:

02:49:45

2 Q. So you don't know one way or another
3 whether any of the other commissioners or their
4 staff created specific metrics or checklists
5 for purposes of evaluating whether or not the
6 maps that would come before them would comply
7 with Section 6?

02:49:45

02:49:48

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02:50:03

8 A. Yeah, I don't know what the other six
9 commission members were doing in that regard.

02:50:04

02:50:08

10 Q. But you did not. You didn't create any
11 such, you know, metric or checklist by which
12 you would evaluate compliance with Section 6 as
13 the maps would come before you?

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02:50:23

02:50:26

14 A. Well, I guess the one exception to that
15 would be the metrics that were set out in the
16 statement, which we've already reviewed, which
17 are the results of elections over the previous
18 ten years, either in percentage or outcome.

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02:50:40

19 So if you want to call that metrics, I
20 suppose those are things that I discussed with
21 my staff in the afternoon of the 15th.

02:50:44

02:50:47

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22 Q. Right. So that was after the
23 September 9th map was introduced that you
24 developed that metric in your mind and
25 discussed with your staff sometime during the

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02:51:00

02:51:02

02:51:04

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1 recess on the 15th?

02:51:06

2 A. That was the date that we prepared the
3 statement and began including all of the things
4 that we thought were relevant as it was related
5 to that Section 4 -- excuse me, the statement
6 that was required. Certainly those other
7 things were known prior to that and as early
8 as, you know, four or five days or probably
9 earlier than that.

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10 Again, anyone at any time can look and
11 see who has won the previous ten years. 13 out
12 of 16 have been won by Republican.

02:51:40

02:51:44

02:51:48

13 So when that idea first surfaced and
14 discussed, I don't know, but that was long
15 before September 15th. And the 54-46 or 55-45,
16 well, people have been talking about that for
17 several months, including the Democrats. So
18 these things weren't unknown. But as a
19 statement of the commission, as its own
20 statement as to these are the results, those
21 were things that had to go on the statement.

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

02:52:22

02:52:23

02:52:26

02:52:29

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1 were known, generally, to the public and other
2 people, including me, prior to September 15th.

3 Q. Okay. Just I may have cloudy view of
4 the timeline, then, here. Just so I'm clear.
5 This idea of using statewide elections won as
6 one of the two metrics that made their way into
7 the 8(C)(2) statement, you came up with that
8 idea approximately five or six days before the
9 15th; is that right?

10 A. I don't think that's accurate. And I
11 don't know that I came up with it. I may have
12 come up with it.

13 But this was something as we began to
14 talk about what are all of the things that we
15 were considering, that was a discussion that we
16 had long before the 15th.

17 Maybe at the end of August, beginning of
18 September, the first time, you know, we talked
19 about, well, what do results mean?

20 Well, results, as suggested by some
21 folks, including Democrats, were add up all of
22 the votes in all of the elections and do a
23 calculation. I'm not sure that that -- you
24 know, because, again, you have 19 races,
25 they're different candidates, different things.

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| | | |
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| 1 | I'm not sure that adding all of the votes | 02:53:49 |
| 2 | together would be one. And -- but adding -- | 02:53:53 |
| 3 | you know, looking at the actual results of who | 02:53:57 |
| 4 | won is another way of doing it. | 02:53:59 |
| 5 | You know, the one thing that didn't make | 02:54:01 |
| 6 | it into the statement, I guess, I'm sitting | 02:54:04 |
| 7 | here thinking, is look at the actual results of | 02:54:05 |
| 8 | all of those statewide elections, those 19 | 02:54:09 |
| 9 | statewide elections. | 02:54:12 |
| 10 | And some candidates were winning 51-49. | 02:54:13 |
| 11 | Of course, you know, by the way, this | 02:54:17 |
| 12 | calculation doesn't include third-party and | 02:54:19 |
| 13 | independent candidates. So there's a lot of | 02:54:21 |
| 14 | other percentages that aren't in the statement. | 02:54:27 |
| 15 | Those aren't things that we considered, | 02:54:29 |
| 16 | necessarily, because, you know, we're sitting | 02:54:32 |
| 17 | there that day saying what are important facts | 02:54:34 |
| 18 | for the commission to include in the statement? | 02:54:36 |
| 19 | But, yeah, I think these are things that | 02:54:40 |
| 20 | everybody knew long before the 15th. | 02:54:42 |
| 21 | Q. Okay. So as I understand it, and tell | 02:54:45 |
| 22 | me if this is a fair statement: You had | 02:54:49 |
| 23 | discussions prior to the 15th about a metric | 02:54:52 |
| 24 | being statewide elections won, but you didn't | 02:54:56 |
| 25 | know that it was going to make its way into the | 02:55:01 |

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1 8(C) (2) statement as a basis for the 02:55:05
2 determination of the commission until you saw 02:55:10
3 that statement sometime during the recess on 02:55:12
4 the 15th. 02:55:16

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

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

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

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

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

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

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| 1 | A. Right. | 02:56:07 |
| 2 | Q. But I understand from earlier testimony | 02:56:08 |
| 3 | and the testimony at the hearing, public | 02:56:10 |
| 4 | hearing, that it was presented to them with not | 02:56:13 |
| 5 | much notice. And many of them put that on the | 02:56:17 |
| 6 | record. They were unhappy about that. It's | 02:56:23 |
| 7 | kind of been unanimous testimony that the | 02:56:25 |
| 8 | statement came from your office. | 02:56:28 |
| 9 | So my question is who made the decision | 02:56:30 |
| 10 | to put that metric of statewide elections won | 02:56:33 |
| 11 | into the 8(C)(2) statement? | 02:56:38 |
| 12 | A. Yeah, the proposal was made by me. The | 02:56:40 |
| 13 | motion was made by me. Again, the conclusion, | 02:56:44 |
| 14 | the decision was made by the commission. | 02:56:48 |
| 15 | Q. So it was you, not necessarily a member | 02:56:50 |
| 16 | of your staff, who decided to put that metric | 02:56:58 |
| 17 | into the 8(C)(2) statement? | 02:57:01 |
| 18 | A. It was my decision to make the motion to | 02:57:02 |
| 19 | propose that to the commission. The staff | 02:57:06 |
| 20 | doesn't make decisions. The people making the | 02:57:08 |
| 21 | motions do that. | 02:57:11 |
| 22 | Q. Right. And you have no recollection, as | 02:57:12 |
| 23 | I understand it, who on your staff actually | 02:57:18 |
| 24 | included and drafted that language of the | 02:57:22 |
| 25 | statewide elections won and the 81 percent into | 02:57:26 |

| | | |
|----|---|----------|
| 1 | the statement, correct? | 02:57:31 |
| 2 | A. No. That's correct, yeah. | 02:57:32 |
| 3 | Q. Okay. Okay, give me one second, if you | 02:57:34 |
| 4 | would. | 02:57:44 |
| 5 | Madam court reporter, could you give me | 02:57:44 |
| 6 | a time where we are on the record? | 02:57:46 |
| 7 | (Discussion held off the written | 02:58:17 |
| 8 | record.) | 02:58:17 |
| 9 | BY MR. FUNARI: | 02:58:28 |
| 10 | Q. Mr. President, were you one of the | 02:58:28 |
| 11 | principal authors of the 2015 amendments to | 02:58:30 |
| 12 | Article XI? | 02:58:35 |
| 13 | A. Can you repeat that? I didn't quite | 02:58:36 |
| 14 | catch that. | 02:58:38 |
| 15 | Q. Sure. Let me back up. Were you a | 02:58:38 |
| 16 | member of the Senate during the negotiation and | 02:58:40 |
| 17 | drafting of the 2015 amendments to Article XI? | 02:58:47 |
| 18 | A. So I think I know what you're asking. I | 02:58:58 |
| 19 | was a member of the Ohio House of | 02:59:00 |
| 20 | Representatives when the 2014 changes, many of | 02:59:02 |
| 21 | which we're discussing, were drafted, and I was | 02:59:06 |
| 22 | a principal in that. And that went on the | 02:59:10 |
| 23 | ballot in 2015. So hopefully that's helpful. | 02:59:13 |
| 24 | Q. Yeah. I guess my mistake was you were | 02:59:16 |
| 25 | in the House, not the Senate, at the time, | 02:59:18 |

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| | | |
|----|---|----------|
| 1 | correct? | 02:59:20 |
| 2 | A. Correct. | 02:59:20 |
| 3 | Q. Okay. | 02:59:20 |
| 4 | A. As was Vern Sykes at that point. We're | 02:59:22 |
| 5 | now both in the Senate. | 02:59:24 |
| 6 | Q. And you worked with Mr. Sykes through an | 02:59:33 |
| 7 | organization that you and he co-founded called | 02:59:36 |
| 8 | the Fair Districts for Ohio group, correct? | 02:59:38 |
| 9 | A. Not in the drafting of that, if that's | 02:59:40 |
| 10 | what you're -- | 02:59:44 |
| 11 | Q. No -- | 02:59:44 |
| 12 | A. If you're connecting it to the previous | 02:59:45 |
| 13 | question, that had nothing to do with the work | 02:59:47 |
| 14 | on the legislation. | 02:59:49 |
| 15 | Q. Right. But you and Mr. Sykes joined | 02:59:51 |
| 16 | forces, for lack of a better term, to advocate | 02:59:55 |
| 17 | publicly for those amendments, correct? | 02:59:59 |
| 18 | A. Yeah, after the legislature placed the | 03:00:03 |
| 19 | issue on the ballot in two-thousand -- for the | 03:00:06 |
| 20 | 2015 election, which was in November of 2015, | 03:00:12 |
| 21 | at that time private citizen Huffman and | 03:00:20 |
| 22 | private citizen Sykes, we did form an | 03:00:22 |
| 23 | organization, and we raised some money, not too | 03:00:26 |
| 24 | much, and we hired some folks and bought some | 03:00:30 |
| 25 | advertising. We did various editorial trips, | 03:00:32 |

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1 et cetera, during that 2015 year.

03:00:40

2 Q. And what was the purpose, generally, of
3 that group?

03:00:50

03:00:52

4 A. Well, I had -- a few years before that
5 had -- as a -- also as a member of the House,
6 put an initiative on the ballot to ask the
7 legislature to -- we have age limits for
8 judges, and I tried to get it raised from 70 to
9 75 because I thought we were losing a lot of
10 people off the bench. I should have got rid of
11 it altogether.

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03:01:02

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03:01:08

03:01:11

03:01:14

12 It went down, and one of the things I
13 learned is if you want a ballot initiative,
14 whether it's by petition or legislature, you
15 need to campaign for it.

03:01:15

03:01:17

03:01:19

03:01:22

16 So the purpose of that was to try to get
17 the issue passed.

03:01:23

03:01:25

18 Q. Now, there was literature related to the
19 campaign that the organization was advocating
20 for. Were you involved in preparing any of
21 that literature, the posters or other medium,
22 in which the Fair Districts for Ohio was
23 getting its message out?

03:01:31

03:01:34

03:01:38

03:01:41

03:01:45

03:01:49

24 A. Well, I think one of the things that
25 happened in the campaign, as usually happens

03:01:51

03:01:55

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1 with these campaigns, is a lot of folks sort of
2 take their own particular ownership of it.

3 So I was responsible for, you know, the
4 things that I said and did. But there were a
5 lot of folks who claimed that somehow they were
6 responsible for this and campaigning in a
7 variety of different ways to support it.

8 So what was said and what wasn't said in
9 particular things, I guess I'd have to see what
10 specifically it is that you're talking about
11 and whether I sanctioned it or drafted it or
12 approved it.

13 I -- unfortunately, and we heard this in
14 some of the testimony, there's a lot of folks
15 out there that think that this went on by
16 virtue of petitions that were circulated.
17 Because they said, you know, "They circulated
18 petitions and that's why it got on the ballot."
19 They were wrong about that.

20 So if there are particular documents or
21 pieces of paper or ads or things like that, I'd
22 have to take a look at it.

23 I do recall we did not -- most of what
24 we did were radio ads, and then we did some
25 editorials and things like that. We really

03:01:59

03:02:02

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03:03:03

03:03:06

03:03:10

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1 didn't have enough money to go out and buy TV
2 commercials or, you know, some of the other
3 things.

4 And I don't think digital advertising
5 was in 2015 what it is today. So I'd have to
6 see if I have a recollection of what you're
7 talking about.

8 Q. Okay. In the interest of time, I'm not
9 going to pull up the various posters, but I do
10 have some excerpts that I'm going to read to
11 you and then ask you a couple of questions
12 about.

13 The first is there is a poster that came
14 out, published by Fair Districts of Ohio, that
15 noted that the amendments were to advance
16 fairness and specifically "to protect against
17 gerrymandering by prohibiting any district from
18 primarily favoring one political party and
19 require districts to closely follow the
20 statewide preferences of voters."

21 Do you recall having any part in coming
22 up with that language which appeared on the
23 materials put out by the Fair Districts of
24 Ohio?

25 A. No. I don't have any recollection of

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1 that.

03:04:20

2 Q. Another was to advance the goal of
3 accountability, and the revisions to Article II
4 would "create a process for the Ohio Supreme
5 Court to order the commission to redraw the map
6 if the plan favors one political party."

03:04:21

03:04:24

03:04:29

03:04:33

03:04:36

7 Do you recall any input into the posters
8 or flyers of the organization including words
9 to that effect?

03:04:40

03:04:45

03:04:48

10 A. No.

03:04:49

11 Q. Do you agree with those statements,
12 though?

03:04:50

03:04:57

13 A. Well, the second one, since I think I
14 can remember that one a little better -- we can
15 go back to the first one -- the second one, of
16 course, is incorrect to the extent that if the
17 mandates of the constitution are met, the
18 Supreme Court does not or cannot order a redraw
19 based on the items that you've put in there. I
20 mean, that's pretty clear in the Constitution.

03:04:57

03:05:04

03:05:06

03:05:09

03:05:12

03:05:15

03:05:21

03:05:26

21 And I guess I'd have to have you read me
22 the first one again to see if I agreed with it.

03:05:29

03:05:31

23 Q. Sure. It goes to fairness. And this
24 one in particular says that the amendments "are
25 meant to protect against gerrymandering by

03:05:35

03:05:38

03:05:42

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1 prohibiting any district from primarily
2 favoring one political party and require
3 districts to closely follow the statewide
4 preferences of voters."

03:05:45

03:05:49

03:05:51

03:05:54

5 A. Yeah, I mean, it sounds like, when you
6 use the word "any district," well, of course,
7 it's impossible to do that and follow the
8 mandates of the constitution.

03:05:56

03:05:58

03:06:01

03:06:06

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

03:06:07

03:06:10

03:06:15

12 Now, in theory, you could have 99
13 Republicans elected to the House, but we would
14 have all districts do that. Fact is you can't
15 do that and follow all of the mandated portions
16 of the Constitution. Just like you can't draw
17 a map that has 81 percent, you know, as --
18 because of 13 and 16, because you can't divide
19 counties, all of the other things that are in
20 there.

03:06:18

03:06:21

03:06:24

03:06:27

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03:06:45

21 So it sounds like a political consultant
22 drafting something that may have made sense to
23 them at the time or helped to get it passed,
24 but it's -- it's factually inaccurate.

03:06:47

03:06:52

03:06:54

03:06:57

25 Q. So if Fair Districts of Ohio was putting

03:07:03

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| | | |
|----|---|----------|
| 1 | out memorabilia and posters and other | 03:07:09 |
| 2 | literature that said things like that, and your | 03:07:13 |
| 3 | name is associated with the organization, would | 03:07:18 |
| 4 | you take issue with that? | 03:07:19 |
| 5 | A. Did you say memorabilia? | 03:07:20 |
| 6 | Q. Yeah, or whatever, literature. | 03:07:23 |
| 7 | A. Literature, oh, okay. Oh, okay. Yeah, | 03:07:26 |
| 8 | I mean, I suppose I would have taken issue with | 03:07:30 |
| 9 | it at the time if I would have sat down and | 03:07:34 |
| 10 | said, "Let's take this word out and put these | 03:07:36 |
| 11 | things in," and all of that. | 03:07:39 |
| 12 | But there were a lot of folks who may | 03:07:40 |
| 13 | have been working on this. For example, the | 03:07:43 |
| 14 | League of Women Voters were putting out a lot | 03:07:46 |
| 15 | of things and other entities, whoever they may | 03:07:49 |
| 16 | have been, putting things out to convince | 03:07:54 |
| 17 | people to vote for this. | 03:07:56 |
| 18 | What all they put into it -- you know, | 03:07:58 |
| 19 | and that -- that happens in lots of issue | 03:08:01 |
| 20 | campaigns and political campaigns. You have | 03:08:04 |
| 21 | acolytes of various stripes putting out things | 03:08:07 |
| 22 | about why you should vote for candidates and | 03:08:11 |
| 23 | shouldn't. | 03:08:13 |
| 24 | Everything that everybody ever said | 03:08:13 |
| 25 | about me when I was running for office, even if | 03:08:15 |

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| | | |
|----|---|----------|
| 1 | they were trying to do me a favor, probably I | 03:08:19 |
| 2 | would take issue with and the same is true in | 03:08:21 |
| 3 | this case. | 03:08:23 |
| 4 | Q. Okay. Mr. President, I think we've been | 03:08:24 |
| 5 | going maybe just over an hour and a half. It | 03:08:27 |
| 6 | would be probably a wise time to take a brief | 03:08:31 |
| 7 | recess, maybe five minutes or so. | 03:08:33 |
| 8 | Is that all right, Phil, with you? | 03:08:36 |
| 9 | MR. STRACH: That's fine with me. Let's | 03:08:38 |
| 10 | say five minutes, I guess. | 03:08:40 |
| 11 | MR. FUNARI: And, madam court reporter, | 03:08:41 |
| 12 | can you give us a time. | 03:08:43 |
| 13 | THE VIDEOGRAPHER: Off the record at | 03:09:22 |
| 14 | 3:09. | 03:09:24 |
| 15 | (Recess ensued from 3:09 p.m. | 03:16:30 |
| 16 | to 3:20 p.m.) | 03:20:47 |
| 17 | THE VIDEOGRAPHER: We are back on the | 03:20:53 |
| 18 | record at 3:21. | 03:20:54 |
| 19 | BY MR. FUNARI: | 03:20:54 |
| 20 | Q. Can you hear me okay, President Huffman? | 03:21:01 |
| 21 | A. Yes, I can. | 03:21:02 |
| 22 | Q. Okay. Did any of the other | 03:21:04 |
| 23 | commissioners, besides yourself, have access to | 03:21:12 |
| 24 | Mr. DiRossi during the map drawing process? | 03:21:16 |
| 25 | A. I don't believe so. | 03:21:19 |

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| | | |
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| 1 | Q. Was that at your direction? | 03:21:24 |
| 2 | A. I don't think it was something I needed | 03:21:28 |
| 3 | to direct. Ray's a Senate employee. He's paid | 03:21:32 |
| 4 | by the Senate to do his job. The House, you | 03:21:36 |
| 5 | know, they have their employee that they would | 03:21:39 |
| 6 | work for them. | 03:21:42 |
| 7 | And, again, to the extent that the other | 03:21:43 |
| 8 | commissioners had folks. I don't think it | 03:21:46 |
| 9 | would be necessary, for example, Leader Yuko to | 03:21:51 |
| 10 | direct his employee not to interact with other | 03:21:57 |
| 11 | folks. It's, I guess, maybe understood that's | 03:22:00 |
| 12 | who you work for. | 03:22:03 |
| 13 | Q. I guess I was -- the individuals I had | 03:22:04 |
| 14 | in mind were the other commission members. So, | 03:22:07 |
| 15 | for example, let's use the Governor as an | 03:22:09 |
| 16 | example. Did Governor DeWine have access to | 03:22:12 |
| 17 | Mr. DiRossi during the map drawing process? | 03:22:17 |
| 18 | A. He shouldn't have. So, no, I don't | 03:22:20 |
| 19 | think the Governor or the Governor's folks | 03:22:24 |
| 20 | would have talked to Ray DiRossi about this. | 03:22:27 |
| 21 | Q. And would that be the same for each of | 03:22:30 |
| 22 | the statewide elected officials? | 03:22:32 |
| 23 | A. That's correct. | 03:22:34 |
| 24 | Q. Okay. Why did you not want them to have | 03:22:35 |
| 25 | access to Mr. DiRossi during this process? | 03:22:39 |

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1 A. Well, I don't think it's some active
2 determination of what I wanted or didn't want.

3 It's the same for any other activity.
4 If the Governor decided he wanted Frank
5 Strigari's opinion on a legal matter unrelated
6 to this, well, that's not appropriate for him
7 to call my attorney or my chief of staff or
8 someone else, just like I wouldn't to be
9 calling their attorney or chief of staff or
10 whoever it was.

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

15 Q. But you knew that the statewide elected
16 officials weren't undergoing similar process,
17 that being hiring a map drawer to draw their
18 own proposal. You knew that?

19 A. I did not know that. I don't know what
20 they were doing or not doing. They had, you
21 know, had talked about perhaps getting map
22 drawing equipment or having people do it
23 internally, you know.

24 So I don't know what they were doing or
25 not doing. You know, it certainly, you know,

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| | | |
|----|---|----------|
| 1 | they're free to do whatever it is that they | 03:23:54 |
| 2 | want. But I didn't sit down and talk with them | 03:23:57 |
| 3 | about what they were going to do or weren't | 03:23:59 |
| 4 | going to do in terms of drawing a map. | 03:24:01 |
| 5 | Q. Did you have any discussions with them | 03:24:03 |
| 6 | directly or through your staff to members of | 03:24:05 |
| 7 | their staff or to the Governor directly, | 03:24:09 |
| 8 | Auditor, Secretary of State, related to how | 03:24:12 |
| 9 | your map that Mr. DiRossi was drawing was | 03:24:17 |
| 10 | progressing? | 03:24:22 |
| 11 | A. I can't speak to the conversations that | 03:24:24 |
| 12 | my staff had with their staff. I had no | 03:24:27 |
| 13 | conversations with their staff. | 03:24:32 |
| 14 | In the sort of waning moments, maybe the | 03:24:37 |
| 15 | last couple of days, I did have conversations | 03:24:40 |
| 16 | with all three of the statewides, including, | 03:24:43 |
| 17 | you know, that day. "That day" being, excuse | 03:24:49 |
| 18 | me, September 15th. | 03:24:53 |
| 19 | And I think that week of meeting in my | 03:24:59 |
| 20 | office with Secretary LaRose and Auditor Faber, | 03:25:01 |
| 21 | I recall that. And then a telephone | 03:25:03 |
| 22 | conversation also while we were driving up to | 03:25:06 |
| 23 | the -- I was driving myself, and two of them | 03:25:08 |
| 24 | were in the car, we talked about how it was | 03:25:11 |
| 25 | progressing and whether we thought we could get | 03:25:14 |

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| | | |
|----|--|----------|
| 1 | the ten-year map, et cetera. | 03:25:17 |
| 2 | Q. And tell me a little bit about those | 03:25:18 |
| 3 | conversations. Was the -- who exactly -- let | 03:25:21 |
| 4 | me back up a second. | 03:25:26 |
| 5 | So who was on that conversation that you | 03:25:27 |
| 6 | just referred to while you were driving to, I | 03:25:29 |
| 7 | believe, a hearing or something? | 03:25:32 |
| 8 | A. Yeah, it was a hearing. It was a | 03:25:33 |
| 9 | hearing in Cleveland on the evening of | 03:25:36 |
| 10 | September. Monday, September 13th. I think | 03:25:39 |
| 11 | the date's right. | 03:25:42 |
| 12 | And this -- I was -- as I mentioned, I | 03:25:44 |
| 13 | was trying to meet with Senator Sykes and | 03:25:47 |
| 14 | perhaps Leader Sykes in Akron that day, that's | 03:25:51 |
| 15 | where I asked them but they never responded, | 03:25:53 |
| 16 | unfortunately. | 03:25:57 |
| 17 | But as we were driving up, as I was | 03:25:57 |
| 18 | driving myself up, they were in a vehicle | 03:26:02 |
| 19 | together. | 03:26:04 |
| 20 | Q. "They" being -- I don't mean to | 03:26:06 |
| 21 | interrupt -- yeah, go ahead. Sorry. | 03:26:08 |
| 22 | A. "They" being Auditor Faber and Secretary | 03:26:11 |
| 23 | LaRose. | 03:26:14 |
| 24 | So that conversation, I recall | 03:26:14 |
| 25 | specifically that it took place. I don't | 03:26:17 |

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| | | |
|----|---|----------|
| 1 | recall everything that was said, of course. | 03:26:20 |
| 2 | Q. Tell me what you recall from that | 03:26:22 |
| 3 | conversation. | 03:26:25 |
| 4 | A. Well, I think they were, you know, | 03:26:25 |
| 5 | encouraging that we get a ten-year map. I | 03:26:29 |
| 6 | said: Hey, that's our goal. We want to get a | 03:26:33 |
| 7 | ten-year map also. | 03:26:37 |
| 8 | I kind of expressed my frustrations for | 03:26:38 |
| 9 | not being able to have conversations with the | 03:26:41 |
| 10 | Democrats. | 03:26:44 |
| 11 | I had, apparently Leader Emilia Sykes | 03:26:46 |
| 12 | had some event over the weekend and was not | 03:26:51 |
| 13 | available on Friday the 10th or Saturday | 03:26:55 |
| 14 | the 11th, and I had understood that Leader | 03:27:00 |
| 15 | Sykes was going with her, because apparently | 03:27:03 |
| 16 | she was getting some award at an alma mater or | 03:27:05 |
| 17 | something else in Florida. | 03:27:08 |
| 18 | And so they weren't available, in | 03:27:14 |
| 19 | essence, to negotiate. And I was trying to get | 03:27:15 |
| 20 | them to meet with me on Monday the 13th; that I | 03:27:17 |
| 21 | could come up early before the Cleveland | 03:27:20 |
| 22 | hearing. But I, again had no response. | 03:27:22 |
| 23 | But I think we were all sort of talking | 03:27:26 |
| 24 | about the same thing, what is it that | 03:27:28 |
| 25 | ultimately would get us a ten-year map. Which, | 03:27:29 |

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1 of course, was contingent on those two votes,
2 those two Democratic votes. Which, of course,
3 that whole question was contingent on us having
4 conversations with them, which we weren't very
5 successful in getting them to talk to us.

6 Q. Did any of the other commissioners,
7 besides yourself, see the map that was
8 ultimately proposed at the September 9th
9 meeting or hearing?

10 A. Well, they saw it at the September 9th
11 hearing; is that what you mean?

12 Q. Yeah, did they see it prior to it being
13 introduced at the September 9th meeting?

14 A. Yeah, they did. I think -- I know
15 specifically that the map was presented by me
16 to Leader Sykes and Senator Sykes prior to the
17 meeting.

18 I'm trying to remember, because some of
19 the -- some of those meetings were conducted by
20 Speaker Cupp, and who might have actually
21 presented that to the Governor and the Auditor
22 and Secretary of State, I don't know.

23 Of course, we couldn't have more than
24 three of us in the room at the same time. So I
25 don't remember who did that.

03:27:34
03:27:38
03:27:40
03:27:45
03:27:51
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03:27:58
03:28:01
03:28:06
03:28:09
03:28:11
03:28:14
03:28:17
03:28:20
03:28:23
03:28:28
03:28:32
03:28:37
03:28:41
03:28:46
03:28:50
03:28:51
03:28:53
03:28:56

1 There were also -- seems to me on
2 Saturday, because it was when Ohio State
3 football game was happening, that the staff for
4 several of the commissioners met on a Saturday,
5 went through the different proposals, tried to,
6 in essence, say where's the common ground,
7 things like that.

8 So, yeah, there were a variety of
9 conversations in different ways. So I think
10 all of the commissioners saw the map prior to
11 the September 9th meeting.

12 Q. That meeting with staff on Saturday upon
13 which there was an Ohio State game, was that
14 the weekend, the intervening weekend between
15 the 9th and 15th, or was that a weekend prior
16 to the 9th?

17 A. Well, I guess, as I'm sitting here
18 thinking about it, I think it was the
19 Saturday -- yeah, it would have had to be the
20 Saturday before the 15th. So I think Saturday
21 the 11th is when that happened.

22 Now, I will say, prior to the 11th,
23 there were a lot of conversations jointly
24 between the staff. And when I say "staff," the
25 staff are all seven commissioners. There were

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| 1 | meetings, there were phone calls, there were | 03:30:18 |
| 2 | emails. I don't know what all of those were. | 03:30:20 |
| 3 | But that Saturday meeting that I'm discussing | 03:30:21 |
| 4 | was not the only time that that happened. | 03:30:23 |
| 5 | Q. Okay. I want to focus on -- | 03:30:27 |
| 6 | A. But it would have been -- it would have | 03:30:29 |
| 7 | been the time -- and this is why it's relevant | 03:30:30 |
| 8 | to your question -- would have been the time | 03:30:31 |
| 9 | when the -- if we call it that, the | 03:30:33 |
| 10 | September 9th map existed when that | 03:30:35 |
| 11 | conversation could be about the September 9th | 03:30:38 |
| 12 | map. | 03:30:41 |
| 13 | So I guess I'm trying not to -- I'm | 03:30:41 |
| 14 | trying to stay true to your original question | 03:30:47 |
| 15 | there. | 03:30:48 |
| 16 | Q. Thank you, I appreciate that. | 03:30:49 |
| 17 | So let's talk about the meeting before | 03:30:50 |
| 18 | September 9th where you showed the | 03:30:55 |
| 19 | September 9th map to the Sykeses. | 03:30:57 |
| 20 | A. Sure. We had -- | 03:31:00 |
| 21 | Q. Well, let me ask the question first. | 03:31:01 |
| 22 | MR. STRACH: Yeah, let him ask the | 03:31:03 |
| 23 | question. | 03:31:05 |
| 24 | BY MR. FUNARI: | 03:31:05 |
| 25 | Q. So that's the meeting that I'm talking | 03:31:06 |

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1 about. Explain for me what you can recall
2 about that meeting where you showed them the
3 map that would be -- that would be introduced
4 on the 9th.

5 A. Sure. We had talked about -- at that
6 particular meeting, you know, we -- I was
7 present for that meeting, both Sykeses were. I
8 know that Senator Sykes -- and I can't recall
9 the -- I feel bad that I can't recall his name,
10 the longtime Senate staffer who was assisting
11 the Senate Democrats was there.

12 And we basically, in general terms, went
13 through the proposed maps so they could ask
14 questions.

15 We thought just as a matter of courtesy,
16 as we often do with other legislation and
17 issues, let's talk about this so that people
18 will be able to ask the right questions at the
19 hearings, et cetera. So we went through that.

20 I do recall, as I mentioned earlier in
21 my deposition, that Leader Sykes had asked
22 about the issue, the racial issue, and I said
23 we didn't use racial data regarding that.

24 I think the other thing that I
25 specifically recall -- Randall is his first

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1 name -- Randall asked me about is he said, Hey,
2 on this proposal, Dayton, Ohio, is inside --
3 excuse me, is taken outside of Montgomery
4 County; and in all the other major cities in
5 the state, it stays inside the county. And
6 why -- why would you do Dayton different than
7 Toledo, Cincinnati, et cetera?

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8 And, you know, I had indicated that was
9 a fair point, fair question. And, of course,
10 in the map ultimately accepted, we did
11 incorporate that suggestion that Randall made
12 at that September 8th meeting, I guess it would
13 be.

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14 Other than that, I don't recall any
15 specific details about the September 8th
16 meeting with the Sykeses.

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

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21 A. I don't have a specific recollection of
22 that, but I believe those meetings took place.
23 I think that the Governor and the Speaker and I
24 met to go through that.

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25 And I also believe, and I'd have to -- I

03:33:45

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| | | |
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| 1 | think that I met maybe at least with Senator | 03:33:54 |
| 2 | LaRose, and maybe the Speaker met with Auditor | 03:33:58 |
| 3 | Faber, or both of them, but those meetings all | 03:34:02 |
| 4 | took place with different commission members | 03:34:06 |
| 5 | prior to the September 9th meeting. | 03:34:09 |
| 6 | Q. Did they have any input that made its | 03:34:12 |
| 7 | way into the September 9th map? | 03:34:15 |
| 8 | A. I guess I can't remember any specific | 03:34:17 |
| 9 | input that they had at those -- at those | 03:34:23 |
| 10 | meetings. | 03:34:28 |
| 11 | Q. Do you recall the map that Senator Sykes | 03:34:29 |
| 12 | introduced at the August 31st hearing? | 03:34:32 |
| 13 | A. In general terms, yeah. I knew that | 03:34:35 |
| 14 | that -- remembered that happened, right. | 03:34:38 |
| 15 | Q. Did you analyze or review any analyses | 03:34:41 |
| 16 | of that map? | 03:34:47 |
| 17 | A. Well, at the hearing itself, I looked at | 03:34:48 |
| 18 | the map and realized that there were some -- on | 03:34:57 |
| 19 | its face, some constitutional infirmities. | 03:35:00 |
| 20 | It actually had my -- the Senate | 03:35:04 |
| 21 | district I would be serving would be downtown | 03:35:06 |
| 22 | Akron, Ohio, because under the Constitution I'm | 03:35:09 |
| 23 | elected to a four-year term, and I'm entitled | 03:35:13 |
| 24 | to serve the entire four years in the 12th | 03:35:16 |
| 25 | District, and the 12th District was in Akron. | 03:35:19 |

1 So to the extent that that was an
2 analysis which is part of the public record, I
3 said, well, this is unconstitutional on its
4 face because of all of these infirmities.

5 Apparently what happened between the
6 time of the hearing when I said that publicly
7 and the time that they actually filed it with
8 the commission's website is they changed it and
9 tried to conform some of those -- those obvious
10 constitutional infirmities. Those are things
11 that I -- that they, so to speak, tried to fix.

12 Now, they didn't fix all the
13 constitutional infirmities with what they
14 filed. And they still aren't fixed, for that
15 matter. But after my sort of looking at it
16 that day, I didn't personally analyze what I'll
17 call the August 31 or Senate Democrat map.

18 Q. So I guess the same is true with the
19 version they ultimately filed, you didn't
20 conduct any further analysis of what you've
21 described as a slightly differing map that
22 sought to fix some constitutional infirmities,
23 as you put it?

24 A. I did not analyze the map after it was
25 filed with the changes that they made,

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1 apparently made that day. One of my staff told
2 me that, hey, what they talked about at the
3 hearing is different than what they filed with
4 the -- with the commission's website.

5 But subsequently then we did have, I
6 guess, an explanation and analysis at the
7 Cleveland hearing by Mr. Glassburn. We had
8 some questions about it. When I say "we,"
9 commission members. I know I did, I know
10 Auditor Faber did, as I recall. So to that
11 extent there was some analysis.

12 We were asking questions and what he
13 considered and how he came to his conclusions.

14 Q. Was it ever your intention to work with
15 the Democratic leadership, the Democratic
16 members of the commission, from their map?

17 A. Well, I don't know what you mean by
18 "from their map." It was always my intention
19 to work with not only the Democratic leaders,
20 but the other Republican members of the
21 commission to get a ten-year map. That was
22 certainly my goal.

23 We discussed briefly my role in enacting
24 this back in 2014 and '15. So it was my goal
25 to get a ten-year map. And to the extent

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1 that -- you know, this reform has worked
2 because the majority only gets to have its map
3 for four years, and that's part of the reform
4 that's in this. So it's always my intention to
5 work with the Democrats.

6 Q. As a drafter of the amendments to
7 Article XI, and now having gone through the
8 process as a member of the commission, did the
9 process play out as you intended as a draft and
10 sponsor of the amendment?

11 A. Well, I think the process is going to be
12 determined from time to time by -- as all
13 processes are, by the facts that are before you
14 at a particular time and the willingness and
15 the abilities of the participants.

16 I think the process anticipated that
17 there would be various incentives on both
18 sides, and the incentives of the majority would
19 be to draft a map or put a map together that
20 would be acceptable to the Democrats. And, in
21 fact, the original map adopted did, in fact,
22 come fairly close to the Democratic position.

23 I'm surprised -- when you're asking
24 about my anticipation, I'm surprised at the
25 lack of participation by the Democratic members

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1 of the commission in the last five or six days.

03:39:52

2 You know, if Leader Sykes had something
3 she had to be at for three days, I guess I
4 can't complain about that, but that was a
5 crucial time. I'm surprised that they didn't
6 respond to my request to meet with them two
7 days before the 15th. I'm surprised that they
8 didn't issue alternative proposals as they
9 indicated they would on several occasions on
10 the 15th.

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11 And I, you know -- a cynic may conclude
12 that they didn't want to have a ten-year map,
13 that they'd rather take a shot at getting ahold
14 of the apportionment board in next year's
15 election. But I don't know what's in the minds
16 and hearts of everybody.

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17 So to the extent that the majority can't
18 simply do what it wants and move on, and that's
19 what this reform is also about, that worked,
20 because we don't have a ten-year map, we have a
21 four year map.

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22 And that's not good for -- ultimately
23 for -- I don't know if it's necessarily good
24 for anybody.

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25 But, you know, when you draft something

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| 1 | like that, you hope that it's going to work. | 03:41:05 |
| 2 | And in many respects it did, and we don't have | 03:41:07 |
| 3 | a ten-year map, and I guess that's the biggest | 03:41:10 |
| 4 | disappointment. | 03:41:16 |
| 5 | Q. Is it fair to say the process played out | 03:41:17 |
| 6 | in a much more partisan fashion than you | 03:41:19 |
| 7 | anticipated when you were working on the | 03:41:21 |
| 8 | amendments when you were a member of the House? | 03:41:23 |
| 9 | A. No, I would not say that. I've been | 03:41:25 |
| 10 | involved in -- I've been in General Assembly -- | 03:41:35 |
| 11 | this is my 13th year. I was in Lima City | 03:41:36 |
| 12 | Council for 15 years. I've been involved in | 03:41:39 |
| 13 | other political activities, I guess. And I've | 03:41:42 |
| 14 | seen some pretty vicious fights. Some of them | 03:41:45 |
| 15 | are not inter-party, they're intra-party. | 03:41:47 |
| 16 | And despite the fact that we did not get | 03:41:50 |
| 17 | to a ten-year result, the members of the | 03:41:52 |
| 18 | commission, I think, were -- including the | 03:41:55 |
| 19 | Democratic members, let me make that clear -- | 03:41:57 |
| 20 | were professional and they advocated | 03:42:00 |
| 21 | appropriately. | 03:42:02 |
| 22 | A day or two before this, maybe the | 03:42:05 |
| 23 | 13th, 14th, you know, we -- these were all | 03:42:08 |
| 24 | kind -- and by that I mean polite, | 03:42:11 |
| 25 | professional -- exchanges between members of | 03:42:14 |

1 the commission.

03:42:16

2 Now, I can't say that for every member
3 of the public. There were some fairly
4 vociferous attacks, ad homonym attacks on
5 particularly Governor DeWine, which I had, you
6 know, spoken to both Speaker Cupp and Senator
7 Sykes, and I had indicated I didn't think those
8 should be tolerated.

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9 But, you know, I think among the members
10 of the commission, I think it was pretty
11 professional. We just disagreed.

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03:42:41

12 Q. Did any of -- did any Republican
13 Senators provide any input that made its way
14 into the map of September 9th?

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03:42:52

15 A. Boy, I don't think so. None that I can
16 recall. We kind of -- we kind of made it clear
17 early on that this was a holistic decision.

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03:43:02

03:43:06

18 And by that you mean the Republican
19 members of the Ohio Senate, not Rob Portman or
20 someone like that, right?

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03:43:18

21 Q. Right. Right.

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22 A. Yeah, so, no, not really. I don't -- it
23 was one of those things that, you know, this is
24 kind of a holistic decision. You can't try to
25 keep individual members, including incumbent

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| 1 | members, happy. | 03:43:34 |
| 2 | Q. Was it circulated? Was the map | 03:43:35 |
| 3 | circulated to the Ohio Republican caucus, | 03:43:38 |
| 4 | Senate -- | 03:43:41 |
| 5 | A. You kind of broke up. You kind of broke | 03:43:42 |
| 6 | up. | 03:43:44 |
| 7 | Q. Sorry. Was the map that was introduced | 03:43:45 |
| 8 | on the 9th circulator -- circulated to the | 03:43:47 |
| 9 | members of the Republican Senate caucus or | 03:43:52 |
| 10 | Senate Republican caucus? | 03:43:57 |
| 11 | A. Not prior to its introduction. But, of | 03:43:58 |
| 12 | course, after its introduction, you know, a lot | 03:44:00 |
| 13 | of people -- everybody would have seen it, | 03:44:03 |
| 14 | yeah. | 03:44:05 |
| 15 | MR. STRACH: Hey, Brad, let me ask the | 03:44:08 |
| 16 | court reporter to confirm. I think we've hit | 03:44:10 |
| 17 | the two-hour mark, maybe a little over it. | 03:44:16 |
| 18 | MR. FUNARI: I just have one more | 03:44:16 |
| 19 | question. | 03:44:19 |
| 20 | MR. STRACH: I'm happy with one more | 03:44:20 |
| 21 | question. I just want to make sure we wrap it | 03:44:21 |
| 22 | up. | 03:44:23 |
| 23 | MR. FUNARI: Understood. | 03:44:23 |
| 24 | BY MR. FUNARI: | 03:44:25 |
| 25 | Q. Did any of those members of the | 03:44:25 |

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| | | |
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| 1 | Republican Senate caucus have any input into | 03:44:27 |
| 2 | the map that was ultimately adopted on the | 03:44:30 |
| 3 | 15th? | 03:44:34 |
| 4 | A. No. | 03:44:34 |
| 5 | Q. Okay. Thank you. Those are all the | 03:44:37 |
| 6 | questions that I have. | 03:44:39 |
| 7 | MR. STRACH: All right. Thank you, | 03:44:41 |
| 8 | Brad. | 03:44:42 |
| 9 | Do we have any questions from -- | 03:44:44 |
| 10 | THE WITNESS: Thank you, it was a | 03:44:46 |
| 11 | pleasure meeting you. | 03:44:47 |
| 12 | MR. STRACH: Are we going to have any | 03:44:48 |
| 13 | questions from the Sykeses' attorneys? | 03:44:49 |
| 14 | MR. GILLIGAN: Yes, we will. | 03:44:59 |
| 15 | MR. STRACH: All right. Go ahead, John. | 03:45:01 |
| 16 | MR. GILLIGAN: Thank you. | 03:45:06 |
| 17 | | 03:45:03 |
| 18 | EXAMINATION | 03:45:08 |
| 19 | BY MR. GILLIGAN: | 03:45:08 |
| 20 | Q. President Huffman, my name is John | 03:45:09 |
| 21 | Gilligan. I'm one of the lawyers representing | 03:45:10 |
| 22 | Senator and Leader Sykes. | 03:45:17 |
| 23 | We have a very limited amount of time | 03:45:18 |
| 24 | this afternoon, and I would ask you, sir, not | 03:45:20 |
| 25 | to mistake the urgency of my tone for | 03:45:26 |

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| | | |
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| 1 | disrespect. I do not mean any disrespect | 03:45:29 |
| 2 | whatsoever. And Phil will be watching me | 03:45:32 |
| 3 | carefully, I'm sure. | 03:45:36 |
| 4 | Used to be that people my age, you know, | 03:45:41 |
| 5 | they wouldn't let us out of the office. Now, | 03:45:44 |
| 6 | because of COVID, it's hard for me to even get | 03:45:47 |
| 7 | into the office. So I relish this opportunity | 03:45:50 |
| 8 | to go over a couple things with you about your | 03:45:56 |
| 9 | testimony. | 03:45:58 |
| 10 | Number one, to clarify a couple of | 03:45:59 |
| 11 | things where I think you misspoke. You said | 03:46:02 |
| 12 | with respect to the statement in 8(C)(2) that | 03:46:06 |
| 13 | there was a -- an evaluation of 19 partisan | 03:46:14 |
| 14 | contests statewide. | 03:46:19 |
| 15 | I think you meant to say 16 partisan | 03:46:24 |
| 16 | contests, correct? | 03:46:27 |
| 17 | A. That's correct. | 03:46:28 |
| 18 | Q. Okay. Secondly, you talked about the | 03:46:30 |
| 19 | approval by the commissioners. You said it was | 03:46:37 |
| 20 | unanimous approval of the statement in 8(C)(2) | 03:46:41 |
| 21 | on the night of September 15th. | 03:46:49 |
| 22 | And I'm happy to show you the | 03:46:55 |
| 23 | transcript, but let me see if I can refresh | 03:46:58 |
| 24 | your memory that you had a motion on the floor | 03:47:01 |
| 25 | to approve your statement 8(C)(2), and Senator | 03:47:05 |

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1 Sykes said, "Since we're not voting to agree
2 with this, just to allow it to officially go
3 into the record, then I think it should go both
4 statements without objection."

5 To which you indicated you had no
6 objection to the statement by the Sykes going
7 in.

8 And then Senator Sykes went -- before
9 the roll call was called, said to the co-chair
10 Speaker Cupp: "Just to be clear, this is
11 simply to accept the report."

12 Does that refresh your memory that the
13 vote, unanimous vote, was simply to accept the
14 8(C) report into the record, not an indication
15 of agreement with the report?

16 A. Well, I don't have the same conclusion
17 that you have. So one of the constitutional
18 requirements is that the commission adopt a
19 statement. I proposed, through motion, that
20 this be the commission's statement. It was
21 accepted without objection.

22 Now, what that means to me is it was
23 unanimously accepted, that's one thing.

24 Now, the other thing that I think was
25 slightly confusing is the minority -- according

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1 to the Constitution, the minority may submit
2 their own statement in the event of a four-year
3 map. The commission doesn't need to agree to
4 accept that. It simply goes into the record.

5 So, in fact, at that particular moment,
6 I thought I should clarify for Senator Sykes
7 that, in fact, it's not necessary for the
8 commission to accept the minority statement.
9 It comes in as a matter of course whether the
10 other non-members of the minority opinion
11 accept it or not.

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

18 Now, if Senator Sykes has a statement in
19 the record that he doesn't like the statement,
20 well, I'll take that for what it's worth.

21 Q. And also Leader Sykes put a long
22 statement in the record that she did not agree
23 with the analysis in 8(C)(2); isn't that
24 correct?

25 A. Well, I think her long statement was, in

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1 fact, the minority statement that is
2 anticipated and specifically described in the
3 Constitution. And I did not object to that
4 coming into the record because I had no basis
5 for objecting to that, nor did any other
6 commission member who was not part of the
7 minority voting.

8 And, in fact, at that point it was
9 simply a matter of her reading the statement,
10 and it goes into the record whether anybody
11 objected or not.

12 Q. You understood that both the Sykeses had
13 expressed their disagreement with the analysis
14 of the 8(C)(2) statement, correct?

15 A. I'd have to go back and review the
16 transcript, but I don't think that that's
17 really a matter of contention in any way.

18 But I do think that my statement -- I'm
19 going back; you indicated I misspoke -- I do
20 think that my statement is accurate that that
21 statement was proposed, no objection, and
22 admitted into the record. So I think that's a
23 unanimous vote.

24 If someone said, "I'd like to have a
25 vote," which someone can do, they can object,

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1 "I'd like to have a vote because I want to show
2 that my vote is against it," they can do that.

3 Now, if they want to criticize it
4 separately, without objection, and that happens
5 in all sorts of contexts, certainly in the
6 General Assembly and other places.

7 Q. Let me ask you. You said that Ray
8 DiRossi was instructed by you not to use racial
9 data or any other demographic information. Do
10 you remember that testimony, sir?

11 A. Yeah, specifically the racial data. But
12 that was the significant thing. And this word
13 "demographic" may mean a variety of things.
14 But specifically as it relates to the racial
15 data or demographic data that would be similar
16 to that.

17 But certainly demographic data can
18 consist of simply population counts. So of
19 course we were using that. That's required by
20 the Constitution.

21 Q. So you understand that census data is
22 demographic data?

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

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1 makeup, ethnic, religious, et cetera, makeup,
2 if we're just talking about numbers. So some
3 of the data is, and taking some of it alone,
4 it's not.

5 Q. So what is the demographic data, other
6 than racial data, that you were instructing
7 Mr. DiRossi not to use?

8 A. Well, yeah, the kinds of things that we
9 just talked about that dealt with ethnic
10 minorities or other things that might be
11 violative of the federal law. You know, we're
12 simply saying we're not going to take those
13 things into account regarding -- in drawing
14 these districts.

15 Q. And as I understood your testimony,
16 there was no discussion of Section 6(B) at any
17 commission meeting until at least after the map
18 was passed and you were talking about the 8(C)
19 statement?

20 A. Yeah, I don't recall the various
21 commission meetings. It would seem to me that
22 at some point somebody said something about it.

23 Of course, we're -- we're -- we had
24 commission meetings, and then there were public
25 hearings, which were also commission meetings,

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1 which, by and large, were, you know, dozens, we
2 may have gotten into the hundreds of people at
3 various hearings.

4 I was not at all of those hearings, so I
5 can't tell you each thing that was said by each
6 person. But at the meetings that consisted
7 largely of the commission adopting certain
8 procedures and rules -- you know, for example
9 at one of our meetings, we had decided to add
10 additional hearings at the request of the
11 Democratic members -- we didn't talk about that
12 at those times. But those concepts certainly
13 were covered by a variety of witnesses.

14 Again, I was not at each one of the
15 meetings.

16 Q. Let me ask you about Section 6, Article
17 XI. You've referred to it a couple of times as
18 not mandatory, aspirational.

19 The section begins: The Ohio
20 redistricting commission shall attempt to draw
21 a general assembly district plan that meets all
22 of the following standards.

23 You understand that the term "shall" is
24 mandatory, correct?

25 A. I understand, generically speaking,

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1 that's what the word "shall" means.

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2 But in this context as it relates to the
3 drawing of these districts, this section is
4 aspirational, just as the next section down
5 talks about compact districts and uses the word
6 "shall."

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7 Those are things that the commission,
8 you know, can consider, but they're not
9 required to have in order to have a
10 constitutional map.

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11 Q. So when you use the term "aspirational,"
12 do you mean it in the way Webster defines it as
13 ambitious, driven toward a particular goal?

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14 A. Well, I'm not familiar with specifically
15 what Webster says, but when we use the term
16 "aspirational" in this context, it's juxtaposed
17 to the word "mandatory." Mandatory means you
18 have to do it; aspirational means you don't.
19 And of course that's why the word "attempt" is
20 in there.

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21 I'm not going to be able to define those
22 in a legal or constitutional way. That's up to
23 the Court to try to do that.

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24 Q. But you understood that as a
25 commissioner you had a mandatory obligation to

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1 attempt to do the items that are listed in
2 6(A), (B), and (C), correct?

3 A. No, I don't think that's correct. I
4 think that as a commissioner -- specifically as
5 a commissioner, my job was to attempt to draw a
6 ten-year map through sincere and active
7 negotiations with the other side, but most of
8 all to make sure that there was a mandatory --
9 mandatory items were followed.

10 And I do think, at least on my part, you
11 know, starting with April and calling that
12 meeting, calling the meeting in August, giving
13 the Democratic side additional money that we
14 didn't have to, voting for additional hearings
15 because the Democrat side agreed to that,
16 attempting to meet and not getting responses
17 from the Democratic side, that I attempted or
18 tried to get a ten-year map. And,
19 unfortunately, we weren't able to do that.

20 Q. Did you understand that you had a
21 mandatory obligation to attempt to make sure
22 that no General Assembly district plan shall be
23 drawn primarily to favor or disfavor a
24 political party?

25 A. Yeah, I think that's your -- it must be

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1 your legal conclusion about what all of that
2 means.

3 As I mentioned in my testimony here in
4 the deposition, it's impossible to draw
5 districts and follow the other mandatory
6 aspects of the constitution that don't favor or
7 disfavor a political party.

8 The regiment that you are suggesting is
9 even more onerous than what the Democratic --
10 some Democratic members have suggested. If we
11 were to draw each district 50/50 in the state
12 of Ohio, that's impossible, mathematically.
13 And it's impossible mathematically to draw them
14 all 55/45 or 54/46. It's impossible to draw
15 81 percent Republican because of the mandatory
16 provisions.

17 So, again, I would return to the fact
18 that the mandatory provisions must be followed.
19 These other provisions regarding compactness
20 are things that certainly can be considered,
21 but there is no formula of any kind. These are
22 facts that we consider for purposes of
23 ultimately exercising discretion. And also for
24 purposes of negotiation.

25 Q. So I appreciate your explanation,

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1 Mr. President, but I take it that your answer
2 with that explanation is no, you did not feel
3 that you had such a mandatory obligation to
4 attempt to do what is set out in A?

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5 A. Yeah, well, I'm not going to change my
6 answer to a yes/no question, because that's
7 what you would like for me to do. I'm
8 interested in giving the best testimony I can
9 about what we -- what we tried to do and what
10 we did.

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11 And we understand, again, that there are
12 mandatory provisions, and there are
13 non-mandatory provisions. And that is a non-
14 mandatory provision, like the compactness
15 provision, which I do believe that we did a
16 pretty good job with that too, at least by many
17 suggestions.

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18 Q. And as I understand the explanation you
19 gave without answering "yes" or "no," you
20 believe that the provision in 6(A) is
21 impossible to fulfill; is that right?

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22 A. No, I think -- that's not my answer. I
23 think your suggestion of what the provision
24 should be is that they should be 50/50
25 districts by saying it cannot favor this way or

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1 that way. That's impossible to get.

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2 It's not impossible for the commission
3 to consider those aspirational attributes in
4 that, in attempting a negotiation and
5 attempting to get a ten-year map, and that's
6 what we're doing.

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7 But if you read that, I think, the way
8 that you're reading it, that every district
9 must be 50/50, I think that's mathematically
10 impossible without violating the mandatory
11 provisions of the constitution.

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12 Q. So what is your interpretation, then, of
13 the provision 6(A)? What, if anything, does it
14 require you to do?

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15 MR. STRACH: Objection.

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16 THE WITNESS: Yeah, I think mandatory
17 means you have to do it. Aspirational in this
18 context means you do not. So when you use the
19 word "require," I think that's not applicable
20 to this portion of the Constitution.

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21 So I think what it suggests is that the
22 parties should consider these things. They
23 should consider compactness, they should
24 consider the other things that were described
25 in there, and those are things that you should

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1 consider.

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2 But, again, we're trying to get to a
3 ten-year map when we're doing that. And I
4 think we came fairly close, frankly. What the
5 Democrat Senate map was was fairly close to
6 ultimately what was adopted.

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7 I'm not sure, frankly, whether the House
8 Democrats agreed to that or not. I really
9 don't know the answer to that. So, you know,
10 again, this is sort of a ongoing negotiation.
11 I think I learned a lot in this process that
12 may help us if I'm ever involved again.

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13 BY MR. FUNARI:

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14 Q. So when you directed, as you said,
15 Mr. DiRossi, to comply with the constitution,
16 you didn't expect him to comply with any of the
17 provisions of Section 6?

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18 A. Yeah, to be clear, I directed Ray
19 DiRossi to comply with the mandatory provisions
20 of the constitution, and he did.

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21 In fact, it was the only map submitted,
22 as far as I know, to the commission that did
23 that. We know the Senate Democrat map did not.
24 There were some other maps that we've analyzed
25 that did not. So that's what I told him we

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1 would do.

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2 Now, certainly we're going to consider
3 those things. We didn't have all of that data
4 fully analyzed on September 9th, but ultimately
5 we did. And we did that for part of our -- as
6 part of our negotiations.

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7 And, of course, the Senate Democrats --
8 and, again, I'm going to say Senate Democrats.
9 I'm not sure where the Senate House members --
10 or, excuse me, Democrat House members were.

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11 But that was analyzed by them, and
12 that's where we got to this ultimately 57-62,
13 kind of where we were about, you know, a few
14 days before the 15th, where I thought we were
15 close, and we were still negotiating, but
16 ultimately didn't come to an agreement.

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17 Q. Did you direct Mr. DiRossi to comply
18 with the divisions of 6(B) and draw a map that
19 met the proportional provisions of that
20 section?

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21 A. Yeah, I directed Mr. DiRossi to comply
22 with the mandatory provisions. And when we do
23 that, we would have an analysis of how the
24 partisan breakdown might ultimately be.

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25 And the reason we did that is we were

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1 trying to negotiate to get a ten-year map.

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2 Now, if ultimately there was a violation
3 of the mandatory provisions, then that would be
4 relevant as it related to Section 6. But
5 really those things sort of fell into place,
6 not because of -- necessarily because of
7 Section 6, which was not mandatory or is not
8 mandatory, but it's significant because that's
9 how -- what we were negotiating about in trying
10 to come to an agreement.

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11 Q. So you never directed Mr. DiRossi to put
12 together a map for the General Assembly
13 districts which would show 54 percent of the
14 districts leaning Republican and 46 percent of
15 the districts leaning Democrat?

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16 A. I did not. Nor did I direct him to draw
17 a map that was 81 percent Republican and
18 19 percent Democrat.

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19 Q. And is it your understanding of
20 Section 6(B) that a map that was 81 percent
21 favoring Republicans and 19 percent favoring
22 Democrats would satisfy the provisions of 6(B)
23 in terms of proportional fairness?

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24 A. No, no. In fact, that's not really the
25 concept at all. That particular item was

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1 simply a set of facts that the commission could
2 consider, as is the 54/46. I would say there
3 were a lot of other facts that the commission
4 could have considered.

5 They could have looked at the results of
6 those 16 elections over the past previous ten
7 years prior to 2021 and looked at how
8 significantly -- significant those -- those
9 aren't all included in the statement, of
10 course, but there are a lot of things that we
11 could have -- if you would get to that analysis
12 that you're talking about, there's a lot of
13 things that the commission could have
14 considered.

15 Q. In fact, in the 16 races, the 16
16 statewide partisan races, there is no race in
17 which a Republican got 81 percent of the vote,
18 right?

19 A. I don't know that off the top of my
20 head. I know that there were some Republican
21 races. I'm pretty sure that Governor Kasich
22 got somewhere in the neighborhood of 65 to
23 68 percent of the vote in 2014, as did several
24 of the other statewide officeholders in excess
25 of 60 percent.

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1 Q. So you're talking about the Governor's
2 race when Ed FitzGerald basically shut down his
3 campaign looking for his wife's driver's
4 license, and he got 34 percent of the vote; is
5 that right?

6 A. Yeah, that's the one. And, you know,
7 this is a further analysis that the commission
8 could have entered into. And, again, there's
9 no formula in here.

10 But if the commission wanted to say,
11 well, let's look at other aspects why -- if,
12 again, if we even get to Section 6, which we
13 don't. And I don't know whether Governor --
14 what the other results, but I think they were
15 in the 60s, also.

16 But somebody may say, again, if we were
17 even having this discussion, well, wait a
18 minute, Ed FitzGerald shut down his candidacy
19 so we shouldn't look at that. Of course, in
20 some cases, a Donald Trump candidacy in certain
21 parts of the state, he's going to get a lot
22 more votes than Mitt Romney may have gotten in
23 2012.

24 So -- and, of course, how he did in --
25 how Trump did in '20 was different how he did

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1 in 2016. Those are all results of statewide
2 elections which the commission could consider
3 if they wanted to.

4 And that's why, you know, if -- again,
5 if we're going to consider Section 6, which we
6 don't need to do, because it's not mandatory,
7 you know, you could look at that whole stream
8 of data that comes in regarding those results.

9 Q. So it's your understanding that you as a
10 commissioner don't even need to look at
11 Section 6 of Article XI in so long as what you
12 refer to as the mandatory provisions of
13 Article XI are complied with?

14 A. Well, yeah, and I guess that's all true,
15 but it's not just what I refer to the mandatory
16 provisions. It's what the mandatory provisions
17 are.

18 Q. Right. And did you ever -- did the
19 commission have counsel prior to this
20 litigation?

21 A. I don't think there was separate
22 counsel. Frankly, I don't know whether the
23 Attorney General was formally advising the
24 commission or not.

25 And a lot of those administrative

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| 1 | details weren't in my bailiwick as I was not | 04:09:58 |
| 2 | one of co-commissioners. So I guess I -- | 04:10:01 |
| 3 | that's probably a better question for Senator | 04:10:03 |
| 4 | Sykes or Speaker Cupp. | 04:10:05 |
| 5 | Q. I did ask Speaker Cupp, but let me just | 04:10:06 |
| 6 | ask you. As far as you know, there was no | 04:10:10 |
| 7 | separate counsel for the commission; is that | 04:10:12 |
| 8 | right? | 04:10:14 |
| 9 | A. Yeah, I'd have no reason to -- if there | 04:10:14 |
| 10 | was, I don't know about it. | 04:10:17 |
| 11 | Q. Did you ever request an interpretation | 04:10:19 |
| 12 | of Section 6 from the Attorney General on | 04:10:22 |
| 13 | behalf of the commission? | 04:10:25 |
| 14 | A. I did not. | 04:10:26 |
| 15 | Q. Did you ever ask the commission to | 04:10:29 |
| 16 | request an interpretation of the provisions of | 04:10:34 |
| 17 | Section 6 from the Legislative Services | 04:10:39 |
| 18 | Commission? | 04:10:41 |
| 19 | A. I did not. | 04:10:42 |
| 20 | Q. Did you ever, yourself, ask the | 04:10:43 |
| 21 | Legislative Services Commission what, if any, | 04:10:46 |
| 22 | obligations were imposed on you as a member of | 04:10:49 |
| 23 | the Redistricting Commission by Section 6? | 04:10:53 |
| 24 | A. I did not. | 04:10:56 |
| 25 | Q. Do you understand that proportionality | 04:10:57 |

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1 is one of the concepts that is used to try to
2 discourage anti-gerrymandering in redistricting
3 matters?

4 MR. STRACH: Objection.

5 THE WITNESS: Yeah, I think the phrase
6 "gerrymandering," you know, one of the concerns
7 I have about this is most of the provisions
8 that are suggested, and including in the Senate
9 Democrats map, are -- are -- are -- and, again,
10 we have this sort of generic term, no pun
11 intended, that we like to use, but I'm not sure
12 whether that's a statement on behalf of the
13 world, on behalf of your client, or exactly
14 what.

15 But, you know, gerrymandering is drawing
16 a district to favor one political party or
17 another. So people like to use that term, and
18 the same people who like to use that term also
19 want to gerrymander to benefit themselves in
20 their particular issue or party.

21 BY MR. FUNARI:

22 Q. Do you believe that this map that was
23 approved by the Ohio Redistricting Commission
24 in 2021 favors the Republican party?

25 A. I think the map is constitutional. I

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1 think the map follows all of the mandates. I
2 think this map is the same as most other maps.

3 For example, the map that was drawn in
4 2001, which produced a Republican majority, in
5 2002, '04, and '06 produced a Democratic
6 majority, in 2008, and a Republican majority in
7 2010 in the House.

8 These elections are not necessarily end
9 determined by how maps are drawn. Candidates,
10 campaigns, issues, those things all matter.
11 And we do know that most of the districts in
12 the state of Ohio, because of the geographic
13 makeup, are going to be either Democratic,
14 Republic, Republican, depending on, you know,
15 where it is that they're located.

16 So we'll know the answer to your
17 question when we have the next election.

18 Q. So are you able to answer the question
19 "yes" or "no"? Do you believe that the map
20 that was adopted by the Ohio Redistricting
21 Commission, 2021, by a vote of 5-2, favors the
22 Republican party or not?

23 A. We'll know the answer to that question,
24 depending on who the candidates and issues and
25 their campaigns, next time.

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1 This particular map is one analysis, is
2 that there are, in the House, for example, 62
3 leaning Republican districts. That was the
4 Republicans' last proposal. The Democratic --
5 Senate Democrats' proposal was 57 Democratic --
6 or 57 Republican leaning seats.

7 So really the last two offers, so to
8 speak, both had a Republican -- a majority of
9 Republican leaning seats.

10 Q. And how do you determine which way the
11 seats lean? You look at the partisan index,
12 right?

13 A. Yeah, well, generically speaking, that's
14 one way of doing it, yes. But I, frankly,
15 think a better way of doing it is look who the
16 candidate is.

17 Because in my involvement in campaigns,
18 I've had my candidates win in districts that
19 were 70 percent Democrat. Up in Lake County
20 right now, there's a great state rep who is a
21 Democrat by the name of Dan Troy who just won
22 in a Republican district.

23 Certainly, you know, when Terry Johnson
24 won in a 70 percent Democratic district as a
25 House member back in 2010, that's an anomaly.

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1 But if you have the right candidate and 04:15:00
2 the right -- they run a good campaign and 04:15:02
3 people know them and they like them, you know, 04:15:05
4 a Democrat can win in a 55 or 60 percent 04:15:08
5 Republican district and vice versa. 04:15:12

6 Q. But when you say that in the 04:15:14
7 negotiations you offered a map with 62 04:15:17
8 Republican leaning districts coming down from 04:15:21
9 67 Republican leaning districts, you were 04:15:25
10 basing that on partisan index, correct? 04:15:29

11 A. It was based on that. If you're saying 04:15:33
12 I personally was doing that, no, because I 04:15:37
13 don't have that data, and I don't understand 04:15:40
14 how to put all of that together. But that's 04:15:42
15 what it was based on. Some type of formula 04:15:44
16 involving election results from the past. 04:15:47

17 Q. That Mr. DiRossi had provided to you to 04:15:51
18 be able to evaluate which way the districts 04:15:54
19 were leaning, right? 04:15:57

20 A. Well, Mr. DiRossi was the person I was 04:15:58
21 talking to, that's correct. Obviously, the 04:16:04
22 Speaker had his own person. And the other 04:16:06
23 members of the commission, I'm not -- I think 04:16:10
24 there were people for the Leader Sykes in the 04:16:13
25 House that we provided money for, but I'm not 04:16:18

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1 sure ultimately what they did. And I know the
2 Senate Democrats had a similar person.

3 Q. So you indicated that you did not ask
4 the Legislative Services Commission for any
5 interpretation of the provisions of
6 Section 6(B).

7 Let me ask you whether you agree with
8 their analysis that proportionality in
9 Section 6(B) means the percentage of the
10 General Assembly districts represented by one
11 political party should approximately match the
12 percentage of voters in the state associated
13 with that political party?

14 Do you agree with that?

15 A. I don't agree with that as the only
16 definition or point of analyses. So it's
17 acceptable on its face, but that doesn't mean,
18 well, that's it, and we're not going to talk
19 about anything else.

20 Q. So if there were ten races, and each
21 race was 51 percent Republican, 49 percent
22 Democratic, that would indicate that the voters
23 in Ohio, 51 percent of them prefer Republicans,
24 49 percent of them prefer Democrats, correct?

25 A. You're talking about statewide races?

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1 Q. I'm just talking a hypothetical, yes,
2 statewide races.

3 A. Okay. So hypothetically, if there were
4 ten statewide races, they all ended 51-49.

5 Q. Right.

6 A. Would that say that was the preference
7 of the statewide voters?

8 Q. Would it not indicate that 51 percent of
9 Ohioans prefer Republican candidates,
10 49 percent prefer Democratic candidates?

11 A. That would be something that you could
12 consider if you were to determining this. And
13 the reason why there's not "because this is
14 true, this is true," in all of those races,
15 things change, especially over a ten-year
16 period. This is why we use the ten-year period
17 instead of just last year.

18 So in 2010, there were people voting in
19 that election who weren't voting in 2020
20 because they died or they didn't vote or they
21 moved out of the state. In 2010, there were
22 people who didn't vote because they weren't 18
23 yet.

24 So the population changes over a period
25 of time. So you don't simply say, "Add up the

1 numbers, and that's the preference." That
2 would be a fool's errand on my part.

3 What you do is say, "What are the
4 results? Let's consider these results if we
5 ever get to a Section 6 analysis," which we
6 didn't in this case.

7 So there, again, is no formula. There
8 is no 51/49 in your circumstance.

9 If you're doing a Section 6 analysis,
10 you would say, "Here's these ten. Should we do
11 it? This is something that we should
12 consider." Okay, well, let's look at the other
13 results of the other elections too.

14 Q. So when you talked about having
15 proposed, I believe it was in the August
16 timeframe, putting a constitutional initiative
17 on the ballot to try to get more time, to delay
18 the time deadlines -- do you remember that
19 testimony?

20 A. The testimony was that we had a meeting
21 in April to --

22 Q. April, I'm sorry.

23 A. -- to discuss -- that's fine -- to
24 discuss putting it on the ballot for the August
25 special election. And we would have had to

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1 take some action, I think, in maybe the first
2 week in May, 90 days before the election.

3 Q. And you said that when the Democrats
4 didn't agree with doing that, you didn't want
5 to put it on the ballot because you thought it
6 could lose without Democratic support?

7 (Court Reporter Clarification.)

8 A. Yeah, I thought it would lose if the
9 Democrats didn't support it.

10 Q. So Ohio is at least that much of a swing
11 state?

12 MR. STRACH: Objection.

13 THE WITNESS: I don't understand. Is
14 that a question?

15 BY MR. FUNARI:

16 Q. Yes, sir, that would be a question.

17 A. Is a Ohio a swing state?

18 Q. Would that indicate to you that Ohio is
19 at least that much of a swing state, that you
20 would not be able to pass such an amendment
21 without Democratic support?

22 A. Well, you'd have to define "swing state"
23 for me. But in this context, I think that if
24 the folks who opposed what I was suggesting,
25 getting the additional time, were going to say

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1 the same things for four months, it wouldn't
2 pass.

3 The League of Women Voters immediately
4 put out a press release that said that
5 President Huffman was trying to take away this
6 decision from the people and give it to the
7 legislature, and all we were trying to do is
8 give enough time for us to have negotiation,
9 which it turns out in the end we probably
10 needed.

11 We weren't changing the decision-making
12 process. So groups like the League of Women
13 Voters and All on the Line or something like
14 that, we put out a whole series of statements.

15 Again, my view of these things is if
16 you're going to pass something, either you have
17 to have a big campaign and really put it on,
18 especially if somebody's opposed to it.

19 You know, I didn't see a lot of folks
20 going to come out and support this just to get
21 another 30 days' or 60 days' worth of time.

22 And, frankly, as I sit here today, I'm
23 still amazed that everyone knew the data was
24 late, everyone knew we could use additional
25 time to negotiate, but they still said no.

04:21:43

04:21:46

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04:21:52

04:21:56

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| | | |
|----|---|----------|
| 1 | And I'm sitting here, I'm pretty | 04:22:58 |
| 2 | incredulous when I start to think about it, | 04:23:00 |
| 3 | that all these folks who wanted additional | 04:23:02 |
| 4 | hearings, et cetera, et cetera, I don't know | 04:23:04 |
| 5 | why you wouldn't want additional time. | 04:23:07 |
| 6 | So, you know, it is what it is at this | 04:23:09 |
| 7 | point. | 04:23:12 |
| 8 | Q. Let me ask you about -- you talked about | 04:23:14 |
| 9 | money that was appropriated and used by the | 04:23:16 |
| 10 | caucuses in the House and Senate on both | 04:23:20 |
| 11 | Democrats and Republicans. Was there any money | 04:23:23 |
| 12 | appropriated for the statewide commissioners | 04:23:26 |
| 13 | for them to have staff and mapping software? | 04:23:28 |
| 14 | A. Yeah, so, specifically the way this | 04:23:33 |
| 15 | works, there is something called the Ohio | 04:23:40 |
| 16 | Redistricting Commission. There is a statute. | 04:23:43 |
| 17 | It's a specific body. Rob McColley was the | 04:23:45 |
| 18 | Senate Republican appointee to that. | 04:23:50 |
| 19 | That body, one of their jobs is to | 04:23:53 |
| 20 | allocate the money at the beginning of this | 04:23:56 |
| 21 | process, which we did, \$150,000 to each party. | 04:23:59 |
| 22 | And typically the way that goes is | 04:24:04 |
| 23 | each -- sometimes they work together. | 04:24:07 |
| 24 | Sometimes -- we, of course, don't know what the | 04:24:10 |
| 25 | Democrat folks did. I think they bought | 04:24:12 |

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1 computers and things like that. And that's
2 typically the way this has worked through the
3 years.

4 As far as the statewides are concerned,
5 that \$150,000 did not go to them. It went to
6 set up the House and Republican and -- the
7 Republican House and Senate and the Senate and
8 House Democrats. Of course, we gave the House
9 Democrats this additional quarter of a million
10 dollars.

11 I don't know whether they used money to
12 do redistricting. That is within their purview
13 to do that.

14 So if they did, yeah, that was money
15 that was legally appropriated to them. But I
16 didn't ask them to detail to me what they were
17 doing regarding any of the redistricting
18 matters.

19 Q. Mr. President, I think I understood the
20 focus of your answer to be on what the
21 different caucuses did with their money.

22 I was really trying to ask you about the
23 money that was appropriated for the
24 Redistricting Commission, was that also
25 available to the statewide officeholders who

04:24:15
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04:24:31
04:24:35
04:24:38
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04:24:42
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04:24:50
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04:24:53
04:24:56
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04:25:19
04:25:22

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| | | |
|----|---|----------|
| 1 | served on the commission? | 04:25:27 |
| 2 | A. I guess you're going to have to help me. | 04:25:28 |
| 3 | What money are you talking about that was | 04:25:33 |
| 4 | appropriated to the Redistricting Commission? | 04:25:36 |
| 5 | Q. I thought that there was some 4 to | 04:25:39 |
| 6 | \$5 million that had been appropriated for the | 04:25:43 |
| 7 | Redistricting Commission. If I'm mistaken, I | 04:25:47 |
| 8 | apologize. But that was my understanding. | 04:25:50 |
| 9 | A. Yeah, I -- I thought your previous | 04:25:53 |
| 10 | question was was there money appropriated for | 04:25:56 |
| 11 | the statewide officeholders for specifically | 04:25:59 |
| 12 | for map drawing. | 04:26:04 |
| 13 | And if that wasn't your question, if | 04:26:06 |
| 14 | this is of the money available to the | 04:26:09 |
| 15 | commission, did that go -- did that money go to | 04:26:13 |
| 16 | these -- to the statewides for purposes of map | 04:26:18 |
| 17 | drawing? Is that -- | 04:26:19 |
| 18 | Q. Let me try to ask this a different way. | 04:26:21 |
| 19 | A. Okay. | 04:26:25 |
| 20 | Q. In Auditor Faber's deposition, he | 04:26:26 |
| 21 | indicated that he did not have funds to | 04:26:29 |
| 22 | purchase or secure mapping technology or | 04:26:39 |
| 23 | mapping technicians. Do you know whether | 04:26:44 |
| 24 | that's correct or not? | 04:26:50 |
| 25 | A. Well, I don't know. And, frankly, if | 04:26:52 |

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| | | |
|----|---|----------|
| 1 | Auditor Faber says that that's true, I'm | 04:26:56 |
| 2 | willing to accept that. | 04:26:59 |
| 3 | We have, you know -- in the Ohio Senate, | 04:27:01 |
| 4 | there is money that is not specifically | 04:27:04 |
| 5 | appropriated for things, but we can use for a | 04:27:07 |
| 6 | variety of purposes from time to time. | 04:27:11 |
| 7 | And each specific purchase is not a | 04:27:16 |
| 8 | specific appropriation. There may be a general | 04:27:19 |
| 9 | line item for administrative expenses. And all | 04:27:21 |
| 10 | agencies and departments have that. | 04:27:25 |
| 11 | Do I think that there's probably money | 04:27:28 |
| 12 | within the auditor's budget which he might be | 04:27:30 |
| 13 | able to use for that? Well, I would think so. | 04:27:34 |
| 14 | But if the auditor says no, then the | 04:27:37 |
| 15 | answer's probably no, since he's ultimately the | 04:27:39 |
| 16 | guy to determine that. He's the auditor. | 04:27:42 |
| 17 | Q. That's right. We're not going to argue | 04:27:45 |
| 18 | with the auditor. | 04:27:48 |
| 19 | A. Not on that issue, sure. | 04:27:49 |
| 20 | Q. Yes. Did the auditor ever request from | 04:27:51 |
| 21 | you funds for him to engage staff and to secure | 04:27:56 |
| 22 | mapping software so that he could participate | 04:28:03 |
| 23 | more actively in evaluating the maps that were | 04:28:07 |
| 24 | proposed? | 04:28:11 |
| 25 | A. The auditor never requested that of me. | 04:28:12 |

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1 Q. Did Secretary LaRose request funds from
2 you for the purpose of securing mapping
3 technology, staffing, so that he could
4 participate more actively in the mapping
5 process?

04:28:15
04:28:21
04:28:25
04:28:29
04:28:31

6 A. Secretary LaRose never requested that of
7 me.

04:28:31
04:28:34

8 Q. If you'll just indulge me for a second.
9 Let me just look through my notes. I think I
10 am concluding here.

04:28:35
04:28:48
04:28:53

11 Thank you very much, Mr. President. I
12 don't have further questions.

04:29:11
04:29:13

13 A. Thank you.

04:29:15

14 MR. STRACH: Thank you, John. We don't
15 have any questions for President Huffman.

04:29:16
04:29:18

16 Is anyone from the AG's office on, can
17 tell us if they have any questions?

04:29:23
04:29:26

18 MS. COONTZ: No questions, thank you.

04:29:28

19 MR. STRACH: Okay. Great.

04:29:30

20 Madam court reporter, I think we can go
21 off the record.

04:29:31
04:29:33

22 THE VIDEOGRAPHER: Thank you. That
23 concludes today's proceedings. We're off the
24 record at 4:29 p.m.

04:29:35
04:29:37
04:29:39

25 (Deposition concluded at 4:29 p.m., 133)

04:29:41

Reporter's Certificate

)
State of California)
)

I, Debra Bollman Farfan, Registered Diplomat
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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FRANK LAROSE
Ohio Secretary of State



Constitution of the State of Ohio

Exhibit#

Huffman 1

10/21/21 - MMG

exhibitsticker.com



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

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

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.

(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

may be provided by law.
(1851, am. 1912)

***Protect private property rights
in ground water, lakes and other
watercourses.***

No hereditary privileges.

§17 No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.

(1851)

§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.

Suspension of laws.

§18 No power of suspending laws shall ever be exercised, except by the General Assembly.

(1851)

(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.

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)

(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.

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)

(F) Nothing in this section affects the application of the public trust doctrine

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

REPEALED. County and township treasuries.

§5

(1851, rep. 1933)

(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.

REPEALED. What officers may be removed.

§6

(1851, rep. 1933)

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.

REPEALED. Local taxation.

§7

(1851, rep. 1933)

(B)(1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.

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

(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

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

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

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

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.

(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

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

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)

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)

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.



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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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