

Ohio Senate Local Government and Elections Committee

Testimony of Richard D. Topper

Proponent for SB 237

Good morning, Chair Gavarone, Vice Chair O'Brien, Ranking Member Maharath, and members of the Local Government and Elections Committee. My name is Richard Topper and I am presenting testimony as an interested party for fair and constitutionally drawn districts which is represented in the map submitted by Senators Yuko and Sykes in Senate Bill 237.

As with Senators Gavarone and Manning, I am an attorney. When we were sworn in as lawyers, we agreed to *support* the US and Ohio Constitutions. And as esteemed and well-educated Senators in our great State, all of you took an oath to support both Constitutions. Not just to aspire, not just to follow, but to *support* the Constitution. This includes the 15th, 19th, and 26th Amendments which command that the right to vote shall not be denied or abridged on the basis of race or color, sex and to anyone over the age of 18. And to follow Article XIX of the Ohio Constitution regarding Congressional redistricting.

In so doing, the Ohio Constitution requires the following. (1) Compliance with the Constitutions of Ohio and the United States and of federal law, including federal laws protecting racial minority voting rights; (2) Maps with compact

districts which means Congressional districts that preserve community boundaries, (3) maps that follow the mandate regarding splitting of municipal corporations and counties; and (4) although this is a ten, not a four year plan, I believe both parties would like to pass a plan that neither favors or disfavors a political party or its incumbents.

Regarding the statewide Congressional maps, SB 237 splits the districts 54-46 % in favor of Republicans which is more than generous. Why do I say this? Barack Obama won the presidential race in Ohio over his Republican opponents in both 2008 and 2012. The first Republican to win Ohio since 2008 was Donald Trump in 2016. Senator Sherrod Brown has won statewide since 2006 and won by seven percentage points over his Republican opponent in 2018. Governor DeWine won by less than four percent over his Democratic opponent. You may point to the 2014 race, but let's look at two things. The turnout was only 2.9 million versus the 4.5 million voter turnout in 2018 and Richard Cordray, the 2018 Democratic candidate received 100,000 more votes than John Kasich in 2014.

What I would like to focus on with the Congressional map drawing is Franklin County where I live. At the time I drafted my testimony, I didn't have a Republican map. However, if the map the Republicans draw is anywhere close to the map that was drawn behind closed doors in 2011, it would not only fail Constitutional muster, it would be downright ridiculous.

Let's look at the relevant election results in Franklin County. In 2020, Joe Biden won the county by 64.7% to Donald Trump's 33.4%. In that same year, sixty percent of Franklin County residents voted for Democratic Congressional candidates. We had similar results in 2008, 2012 and 2016. Yet the 2011 maps gave Franklin County two Republican congressional representatives and one Democrat. How does this happen? Unconstitutional Congressional district maps that favor unduly Republicans over Democrats.

The 2011 districts gave my Columbus neighborhood Congressman Troy Balderson. His district, the Ohio 12th, also includes 5 smaller Republican voting counties. This lopsided Republican friendly district prompted then-Congressional candidate, Troy Balderson to tell folks in his home county, Muskingum, "We don't want someone from Franklin County representing us." This is despite the fact that 34.5% of his constituency is in Franklin County. In three elections in Franklin County, Mr. Balderson's Democratic opponents won 60% of the vote. This large margin was diluted by counties such as Muskingum which Mr. Balderson won with 72% of the vote, similar to that of Donald Trump.

Candidate Balderson's statement and his election margin were not only an indictment of the 2011 redistricting process, it showed that the Zanesville voter would feel disconnected to a Congressional rep from Columbus. People in Zanesville, Mount Vernon, Delaware, Newark, and Columbus deserved better, and

they certainly didn't get it with the Republican drawn maps. And I must say that Troy Balderson has little if no interest in the needs and interests of his constituents from Franklin County.

Let's also look at the 15th Congressional District which includes the citizens of Grandview and Upper Arlington and the smaller rural counties in southeast Ohio such as Vinton, Perry, Morgan, and Pickaway. This prompted the Congressman Steve Stivers to sarcastically state, "It's not like I wanted Athens County [in my district], believe me."

The 2011 Congressional District maps which favored Republicans 12-4 left the majority of Ohioans with the feeling that their interests were not being addressed by our Ohio representatives in Washington. With regard to health care. With a tax code favoring the wealthy and corporations over the average Ohioan. With the response to Covid. With regard to what happened to our democracy on January 6. With women's rights and LGBT equality. With minority rights. With social and environmental issues.

Ninety percent of Ohioans believe in reasonable firearm registration laws, yet Ohio's Republican Congressional reps have yet to back reasonable gun-control legislation despite the mass shooting and murder in the city of Dayton.

If the legislative majority party cannot work with the minority party to adopt a fair map with Congressional representatives who represent Ohioans as a whole and the majority decides to let this slip into a 4-year plan, the only conclusion to be drawn is that the majority does not wish a debate on issues that affect everyday Ohioans, that the majority does not care about Democrats, Independents and socially liberal Republicans, and that you would rather Ohioans accept the ultraconservative views of a minority.

What I would suggest is that you take a serious look at the thoughtful map drafted by John Hagner and Paul Nieves who won first and second place in the Fair Districts map competition. Their maps are similar to the SB 237 map in that it divides Franklin County into two districts, the 3rd and the 15th. It is compact and preserves areas of interest while paying attention to the voting rights act. The 15th is competitive and includes similar areas, Upper Arlington, Worthington, Westerville, OSU campus, Clintonville, Northwest Columbus, and Delaware County. The map is a much-needed improvement over the 2011 map.

Since 2004, I've been volunteering in voter protection. I've spent countless hours at the Franklin County early vote center and voting locations on primary and general election days. The four words I've heard voters speak that distress me more than any others are, "My vote doesn't count." If the Ohio General Assembly

adopts a map similar to the 2011 travesty, I guarantee you that you will hear that over and over again.

You have a great opportunity and a responsibility to show us that you can draw fair boundaries to protect voting rights and to *support* the US and Ohio Constitution. It is your job to pay attention to what the voters passed in 2015 and 2018 to accomplish and bring back faith, credibility and fairness to our government, so we never again hear those four words, “My Vote Doesn’t Count.”

Thank you for your time and I’d be happy to answer any questions.