

Testimony of Carol Kuniholm, Chair

Fair Districts PA

**Pennsylvania Senate State Government Committee
Public Hearing on Redistricting Legislation**

March 27, 2018

“Political gerrymandering ... is the greatest single blot on the integrity of our nation’s electoral system and it’s high time we did something about it.”

Ronald Reagan, Address to the Nation, January 11, 1989

Good morning, Chairman Folmer, Chairman Williams and members of the State Government Committee.

My name is Carol Kuniholm and I am Chair of Fair Districts PA, a statewide, nonpartisan, grassroots coalition dedicated to reform of Pennsylvania's redistricting process for both Congressional and state legislative districts. With me today is Patrick Beaty who is Legislative Director for FDPA. Like the thousands of other Pennsylvania voters actively working to support FDPA's mission, Pat and I are unpaid volunteers.

I would like to begin with some background on our coalition, who we are, and why we believe reform of the redistricting process is one of the most critical legislative issues that you will face in this session of the General Assembly.

Fair Districts PA had its genesis in January 2016. It began as an effort to bring together a variety of historic nonprofit organizations who shared a common goal: to bring an end to the insidious process known as gerrymandering by placing responsibility for drawing district lines in the hands of an independent citizens commission and by imposing strict requirements for transparency and public participation. Since 2016, our membership has grown exponentially to the point where today we have over 20,000 active supporters, with local groups of dedicated volunteers in every region of Pennsylvania.

Among the many organizations in our coalition are Common Cause of PA, the Committee of Seventy, League of Women Voters of Pennsylvania, NAACP of PA, Libertarian Party of PA and the Pennsylvania Council of Churches - Advocacy. A complete list of our coalition organizations is appended to our testimony.

While FDPA is a relatively new effort to focus more strategically on what our organizations believe is a fundamental flaw in our electoral integrity, most of our coalition partners have been advocating for reform of the redistricting process in Pennsylvania for many years. Both the League of Women Voters and Common Cause gave testimony during the redistricting process of 1991 and supported redistricting reform legislation introduced across almost two decades.

My own involvement with the issue began in 2015, when members of Common Cause PA and the League of Women Voters were invited to meet with Senator Boscola and a bipartisan group of senators and policy staff to discuss Senator Boscola's planned introduction of another piece of legislation, modeled on the successful independent commission enacted in California in 2008 and tested in the 2011 redistricting process.

I was newly elected as Government Reform Specialist on the state board of the League of Women Voters of Pennsylvania. This was my first visit to the capitol building and an encouraging opportunity to see legislators from across the political spectrum weighing options to create a stronger, more representative electoral process. The bill produced from that meeting was Senate Bill 484, introduced by a bipartisan group of senators in early 2016.

When the Fair Districts PA coalition first convened in early 2016, we knew that Pennsylvania's districts were bizarrely contorted and that voters were seeing less and less choice in legislative and Congressional elections. We were not yet aware of ways to measure or compare gerrymandered maps.

That changed as the Whitford v Gill case in Wisconsin focused attention on new attempts to measure the extent of partisan gerrymandering. The most respected of those new measurements placed Pennsylvania's congressional district map as the worst, or among the five worst, in the nation.¹

Even more recent analysis has begun to demonstrate that our state legislative district plans are among the four most severely gerrymandered in the country.²

Support for reform is growing rapidly, both in Pennsylvania and across the country. Contrary to some of the comments we have heard, this is not about President Trump and it's not limited to progressive activists frustrated that their issues have not been addressed by the General Assembly.

Voters of both parties, local government officials and business groups have all come to the realization that partisan gerrymandering has real consequences. It's not just a game that politicians play to gain advantage over their adversaries. Gerrymandering is one of the root causes of legislative gridlock, partisan acrimony and economic stagnation.³

Our local elected officials see it first hand when communities are sliced into contorted shapes for no apparent reason other than to make it easier for legislators to get re-elected. When a county is carved into seven state House districts -- but the population data calls for no more than three -- is it any wonder people complain about lack of responsiveness?

¹ "Why Pa. sends too many Republicans to Washington - Philly.com." 14 Aug. 2017, <http://www.philly.com/philly/news/pennsylvania-gerrymandering-districts-supreme-court-20170814.html>. Accessed 19 Mar. 2018.

² "Princeton Gerrymandering Project." Accessed March 19, 2018. <http://gerrymander.princeton.edu/>.

³ "Why Competition in the Politics Industry is Failing America." <https://www.hbs.edu/competitiveness/Documents/why-competition-in-the-politics-industry-is-failing-america.pdf>. Accessed 19 Mar. 2018.

Consider this. Since 2016, the governing bodies of more than 200 Pennsylvania municipalities and counties have approved resolutions in support of a Constitutional Amendment to create an independent citizens redistricting commission. (An up-to-date listing of the 16 counties and 199 municipalities adopting resolutions is appended to this testimony.) Many of these resolutions were adopted unanimously and many by boards dominated by Republicans.

Of course, each of these 215 county and local boards had their own reasons for deciding to take a stand for reform. However, we believe a common motivation is the disconnect between the needs of local officials and residents versus the desire of legislative leaders to entrench power and protect incumbents.

Businesses, too, have come to see partisan gerrymandering as a significant obstacle to economic progress. Just last month, the highly respected Committee for Economic Development of The Conference Board (CED) issued a policy report entitled "Let the Voters Choose: Solving the Problem of Partisan Gerrymandering."⁴

The CED report begins with the following statement:

American democracy is based on the principle of fair representation and the fundamental notion that government should be responsive and accountable to the people. The people are represented through Congress and state legislatures, whose members are selected by voters in a system of free and competitive elections, which provide citizens with the means of expressing their political and policy preferences, holding elected officials accountable to the people's views. The health and vitality of our democracy thus depends on a fair and equitable electoral process, robust competition, an engaged electorate that is offered meaningful choices, and broad voter participation.

The CED report recommends the use of nonpartisan, independent commissions as the entities responsible for drawing district lines. CED calls for a commission made up of members from each major political party and members affiliated with neither party and qualification criteria that exclude elected officials and candidates. In addition, the report recommends a transparent and open process for determining districts, the use of neutral criteria that promote creation of competitive districts and a variety of other requirements.

⁴ According to its website, "The Committee for Economic Development of The Conference Board (CED) is a nonprofit, nonpartisan, business-led public policy organization that delivers well-researched analysis and reasoned solutions to our nation's most critical issues." CED voting members include the CEOs of many of America's major corporations, including some headquartered in Pennsylvania: Air Products and Chemicals, Inc., Allegheny Technologies, Inc. and PPG Industries, Inc.

CED concludes that while an independent redistricting commission “may not wholly insulate redistricting from partisan and political influence, it will be free of the conflicts of interest and blatant partisan motivations that have come to dominate redistricting in far too many instances.”

We could not have said it better. Our sole objective is to achieve redistricting reform for the benefit of ALL Pennsylvania voters and we believe the vast majority of Pennsylvania voters agree.

Despite all the political rancor on both sides since the state Supreme Court’s recent decision, we still believe that meaningful reform is not only possible, but even more necessary than before. Perhaps the Court’s action will actually add some impetus to the reform effort.

And it should. No voter or group of voters should have to look to the courts for protection of their most fundamental right to cast a vote that has not been diluted by gerrymandering.

Growing numbers of voters are now informed and alert about this issue. They may not know all the details, but there are many more people who will be looking at future maps in a more enlightened way thanks to all the attention brought to the gerrymandering issue over the past two years.

This attention will only continue to grow. The Committee of Seventy, one of our endorsing organizations, will soon launch a student mapping project, Draw the Lines, inviting high school and college students to create district maps for regional mapping contests. As students see how easily fair maps can be drawn, and how intentionally our current maps have been distorted, the outrage over gerrymandering will continue to grow in every corner of the state.

The people of Pennsylvania want a fair redistricting process. We strongly believe that the solution is an independent citizens commission that will not be motivated to give political advantage to any individual or political party. We believe Senate Bill 22 contains the best combination of reforms to make sure the maps that are redrawn every ten years are as fair and unbiased as possible.

There have been questions raised about the genesis of Senate Bill 22: Who wrote it? Why has Fair Districts PA supported it so strongly from its introduction?

Since our start, Fair Districts PA has been assessing reform legislation. In the 2015-16 session, Senate Bill 484 embodied priorities we had identified, in part because we were at the table for conversations that shaped it. House Bill 1835, introduced by Representative

David Parker, a Republican from Monroe County, included many of the same provisions. We focused attention on those and worked to enlist cosponsors.

When that session ended with no real progress on either bill, Senator Boscola convened a redraft committee to take the best of both bills and craft a stronger bill, drawing on what had been learned from ongoing research and legislative response to both bills. Legislators and policy staff from both parties and both houses were part of two lengthy working sessions. I was honored to be included, along with four other members of the Fair Districts PA coalition.

By the time Senate Bill 22 was introduced, in February 2017, we had begun to gain momentum as citizens across the state looked for ways to address an electoral system that felt increasingly unrepresentative and unresponsive. A meeting in a church in Philadelphia in late January drew almost 900 people. Another a week later in Montgomery County drew over 800. Across the state, our speakers were asked to come to churches, libraries, community groups. Our speakers bureau continues to educate and engage citizens across the state. In the past 15 months we have held over 400 public meetings, with over 18,000 people attending. Many who attend become active and passionate volunteers.

In many ways, this effort of building support for Senate Bill 22 and its companion House Bill 722 has been a significant and ongoing civic engagement project. Citizens across the state have learned how to track and follow bills, have begun to ask questions about the rules that govern our legislative committees and are watching with great interest and concern to see if their voices hold sway in what happens here in Harrisburg.

Gerrymandering is a battle with many losers and no real winners. As technologies improve, the ability to determine electoral outcomes will become both more subtle and more precise and the attacks on legislative candidates and democracy itself will become ever more damaging. Election analysts around the country agree that the best solution is an independent, impartial citizens commission with strong guidelines for transparency, defined opportunities for public input and strict measures of compactness, contiguity and fairness.

Some observers suggest that litigation is an adequate antidote to gerrymandered districts. We have seen the extreme disruption and frustration that result when maps are redrawn during ongoing election cycles and have watched the rising cost to taxpayers in our own and other states.

The people of Pennsylvania deserve more than to be seen as pawns in a national game of chess. We ask this body to help restore government of, by and for the people of Pennsylvania.

In most democratic nations the redistricting process is handled by independent redistricting commissions with strict rules for how lines are to be drawn and clear standards of evaluation.

Redistricting is not a new challenge for our state or for our country. In 1988, in one of his last interviews, Ronald Reagan described partisan redistricting as “a great conflict of interest” and spoke of the benefit of “a bipartisan citizens committee representing both parties.”⁵

In his final address to the nation, in 1989, he again expressed concern about gerrymandering, which he defined as “the practice of rigging the boundaries of congressional districts. It is the greatest single blot on the integrity of our nation’s electoral system and it’s high time we did something about it.”⁶

What was true in Reagan’s day is far more urgent in ours.

When we began Fair Districts PA, we agreed on guiding principles and priorities which inform our support of Senate Bill 22. Among the top priorities: assign the redistricting power to an independent commission and ensure the transparency of the process and meaningful opportunities for public participation. We know those priorities are shared by many beyond our own organization and endorsed by election advocates and analysts across the country and the world. The United States is the only major democracy that allows legislators a role in drawing their own districts, a conflict of interest that undermines the integrity of our elections.

SB 22 contains a number of key reforms designed to implement the guiding principles of independence, transparency and public participation.

1. The independent commission should include voters of both major political parties and others affiliated with neither party.

Under SB 22, an 11-member commission would be selected through a process that assures balance among the major political parties and includes third-party and unaffiliated voters. A redistricting plan would need approval of seven commissioners, including at least one voter from each major political party and one from a voter not registered with either party.

2. The commissioners must not be politicians, political consultants or lobbyists.

⁵ Ronald Reagan Interview with David Brinkley, 1988 https://www.youtube.com/watch?v=EfTb_pKiEoY.

⁶ Ronald Reagan, Address to the Nation, January 11, 1989, *The Last Best Hope: The Greatest Speeches of Ronald Reagan*, 221.

To be eligible for selection as a member of the commission, an individual must be a voter who in the previous five years has not: (1) held elective office at the Federal or State level or elective judicial office in Pennsylvania; (2) been a paid staff member or consultant to Congress, the General Assembly or the Governor; (3) registered as a Federal or State lobbyist; (4) been nominated as a candidate by a political body or served as paid staff or officer of a political party, political body or political committee. The same prohibitions would apply to the individual's spouse.

3. The selection process must assure that commissioners are independent from political influence.

SB 22 provides for a random selection process designed to minimize any potential for political influence. Applicants would be divided into three subpools based upon their voter registration, and potential appointees would be selected at random from each of these subpools. Each of the four Leaders of the General Assembly would be able to strike two applicants from each subpool.

We have heard concerns raised that the random selection process would not prevent a politically motivated governor from somehow influencing the selection process or the work of the independent commission. In particular, the concern seems to be with the role of the Secretary of the Commonwealth, who is an appointee of the governor (and by the way must also be confirmed by the Senate).

While we do not share that concern, we are certainly willing to work with this committee on this or any other aspect of the bill if it would help to strengthen the proposal in terms of the independence of the commission or the fairness or transparency of its deliberations.

4. The General Assembly should be authorized to further define the qualifications to serve as a commissioner and the process by which they are selected.

In the drafting process there was much discussion about what belongs in a constitutional amendment and what should be spelled out in more detail in enabling legislation. SB 22 specifies that the General Assembly shall prescribe additional qualifications for commissioners. Enabling legislation could also include specifics about the computer algorithm designed to ensure randomized selection and demographic diversity in creation of both the candidate pools and the final commission.

5. Commission proceedings must be open and transparent.

Under SB 22, all commission meetings where a quorum is present must be open to the public.

6. The redistricting process must provide meaningful opportunities for public participation.

SB 22 requires at least four public hearings in different regions of the Commonwealth both before and after a preliminary redistricting plan is approved. The commission would be required to make the plan and maps available to the public.

7. Any court challenge to a redistricting plan should be expedited.

In the unlikely event that the independent commission fails to adopt a redistricting plan before the deadline, the Secretary of the Commonwealth would immediately petition the state Supreme Court to appoint a "special master" to assist the Court in completing a plan. The special master would have to meet certain professional qualifications and must also meet the criteria applicable to commission members (i.e., not be an elected official, lobbyist, etc.).

Questions have been raised about the role of the special master in the event that the independent commission is unable to agree on a map. Use of a special master is very common in a variety of legal matters where courts lack the expertise to decide complex issues, and special masters have been used specifically in redistricting cases in several states. We are not aware of any cases that have successfully challenged a court-ordered plan that was adopted with the assistance of a special master.

However, FDPA does not object to removing language dealing with the special master and simply leaving it up to the Supreme Court how they will go about drawing a map if the commission fails to do so.

While we have a clear preference for the combination of reforms contained in SB 22, we also wish to express our gratitude to the sponsors of the alternative reform proposals before this Committee. It is now your job to decide which approach will best serve the interests of your constituents and the democratic process.

Fair Districts PA stands ready to assist this Committee in that effort. But time is growing short and we urge you in the strongest possible terms to move expeditiously. Legislation to amend the State Constitution must be passed by the summer break, or there will not be enough time to conduct the required advertising of the bill's passage as the Constitution requires.

You have the power and the opportunity to do something truly important for the good of all Pennsylvania voters and the democratic process. On behalf of all our FDPAs coalition partners, we urge you to seize that opportunity. Your constituents and our many thousands of supporters will thank you.

FAIR DISTRICTS PA

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Endorsing Organizations

Fair Districts PA has been endorsed by dozens of organizations from across the state.

American Association of University Women Pennsylvania

Azavea

A+ Schools: Pittsburgh's Community Alliance for Public Education

Black & White Reunion

Black Political Empowerment Project

Bucks County Women's Advocacy Coalition

Ceasefire Pennsylvania

Committee of Seventy

Common Cause Pennsylvania

Independent Lines Advocacy

Independent Pennsylvanians

Jewish Social Policy Action Network

Keystone Progress

Keystone State Education Coalition

League of Women Voters of Pennsylvania

Lehigh Conference of Churches

Libertarian Party of Pennsylvania

NAACP, Pennsylvania State Conference

PennFuture

Pennsylvania Council of Churches

Pennsylvanians for Fair Elections

Philadelphia Jewish Voice

Philadelphians Organized to Witness, Power and Rebuild

Prohibition Party

Public Interest Law Center

Pittsburgh Urban Magnet Project

Represent Us Northeast Pennsylvania Chapter

Sierra Club—Pennsylvania Chapter

Southeastern Pennsylvania Chapter: Americans for Democratic Action

Susquehanna Valley Libertarian Party

Thomas Merton Center

Unitarian Universalist Pennsylvania Legislative Advocacy Network

Resolutions of Support

County's that have passed Resolutions in support:

Allegheny, Beaver, Carbon, Centre, Clinton, Cumberland, Erie, Greene, Lehigh, Luzerne, Monroe, Northampton, Northumberland, Perry, Warren, and Wyoming

Municipalities, by county, that have passed Resolutions in support:

Allegheny	Bell Acres Boro
Allegheny	Heidelberg Boro
Allegheny	Pittsburgh City
Allegheny	Ross Township
Beaver	Aliquippa City
Beaver	Baden Boro
Beaver	Brighton Township
Beaver	Chippewa Township
Beaver	Hanover Township
Beaver	Hopewell Township
Beaver	Independence Township
Beaver	New Sewickley Township
Beaver	South Heights Boro
Berks	Kutztown Boro
Berks	New Morgan Boro
Berks	Reading City
Berks	Rockland Township
Berks	Wyomissing Boro
Bucks	Buckingham Township
Bucks	Doylestown Boro
Bucks	Doylestown Township
Bucks	Falls Township
Bucks	Haycock Township
Bucks	Langhorne Manor Boro
Bucks	Lower Makefield Township
Bucks	Middletown Township
Bucks	Morrisville Boro
Bucks	Riegelsville Boro
Bucks	Solebury Township
Bucks	Springfield Township
Bucks	Tinicum Township
Bucks	Warrington Township
Butler	Butler City

Cambria	Cambria Township
Cambria	Ebensburg Boro
Cambria	Upper Yoder Township
Centre	Bellefonte Boro
Centre	College Township
Centre	Ferguson Township
Centre	Halfmoon Township
Centre	Harris Township
Centre	Howard Boro
Centre	Patton Township
Centre	Philipsburg Boro
Centre	Rush Township
Centre	Snow Shoe Boro
Centre	State College Boro
Chester	Downingtown Boro
Chester	East Marlborough Township
Chester	East Pikeland Township
Chester	East Whiteland Township
Chester	Honey Brook Township
Chester	Kennett Square Boro
Chester	Kennett Township
Chester	London Britain Township
Chester	London Grove Township
Chester	Malvern Boro
Chester	New Garden Township
Chester	Oxford Boro
Chester	Penn Township
Chester	Phoenixville Boro
Chester	Pocopson Township
Chester	Uwchlan Township
Chester	West Bradford Township
Chester	West Chester Boro
Chester	West Goshen Township

Chester	West Grove Boro
Chester	West Marlborough Township
Chester	West Nottingham Township
Clarion	Clarion Boro
Clarion	Highland Township
Clarion	Knox Boro
Clarion	Limestone Township
Clinton	Allison Township
Clinton	Avis Boro
Clinton	Bald Eagle Township
Clinton	Beech Creek Boro
Clinton	Beech Creek Township
Clinton	Castanea Township
Clinton	Chapman Township
Clinton	Colebrook Township
Clinton	Crawford Township
Clinton	Dunnstable Township
Clinton	East Keating Township
Clinton	Flemington Boro
Clinton	Gallagher Township
Clinton	Greene Township
Clinton	Grugan Township
Clinton	Lamar Township
Clinton	Leidy Township
Clinton	Lock Haven City
Clinton	Logan Township
Clinton	Loganton Boro
Clinton	Mill Hall Boro
Clinton	Noyes Township
Clinton	Pine Creek Township
Clinton	Porter Township
Clinton	Renovo Boro
Clinton	South Renovo Boro
Clinton	Wayne Township
Clinton	West Keating Township
Clinton	Woodward Township
Cumberland	Carlisle Boro
Cumberland	East Pennsboro Township
Cumberland	Lower Frankford Township
Cumberland	Mechanicsburg Boro
Cumberland	Middlesex Township

Cumberland	Mount Holly Springs Boro
Cumberland	Newville Boro
Cumberland	Penn Township
Cumberland	Silver Spring Township
Cumberland	Upper Allen Township
Dauphin	Derry Township
Dauphin	Elizabethville Boro
Dauphin	Harrisburg City
Dauphin	Highspire Boro
Dauphin	Lower Paxton Township
Dauphin	Middletown Boro
Dauphin	Millersburg Boro
Dauphin	Paxtang Boro
Dauphin	Susquehanna Township
Dauphin	Swatara Township
Dauphin	West Hanover Township
Delaware	Chester Heights Boro
Delaware	Haverford Township
Delaware	Lansdowne Boro
Delaware	Radnor Township
Delaware	Rose Valley Boro
Delaware	Swarthmore Boro
Delaware	Yeadon Boro
Franklin	Chambersburg Boro
Franklin	Greencastle Boro
Indiana	Indiana Boro
Lackawanna	Benton Township
Lackawanna	Dickson City Boro
Lackawanna	Dunmore Boro
Lackawanna	Scranton City
Lackawanna	South Abington Township
Lackawanna	Vandling Boro
Lackawanna	Waverly Township
Lancaster	East Petersburg Boro
Lancaster	Lancaster City
Lancaster	Lancaster Township
Lancaster	Manheim Boro
Lancaster	Marietta Boro
Lancaster	Millersville Boro
Lehigh	Lower Macungie Township
Lehigh	Lynn Township
Lehigh	North Whitehall Township

Lehigh	South Whitehall Township
Lehigh	Upper Milford Township
Lehigh	Upper Saucon Township
Lehigh	Weisenberg Township
Lehigh	Whitehall Township
Luzerne	Conyngham Boro
Luzerne	Dallas Township
Luzerne	Edwardsville Boro
Luzerne	Exeter Township
Luzerne	Forty Fort Boro
Luzerne	Hazleton City
Luzerne	Jackson Township
Luzerne	Kingston Township
Luzerne	Lehman Township
Luzerne	Plains Township
Luzerne	Plymouth Boro
Luzerne	Wilkes-barre City
Monroe	Eldred Township
Montgomery	Abington Township
Montgomery	Ambler Boro
Montgomery	Bryn Athyn Boro
Montgomery	Cheltenham Township
Montgomery	Collegeville Boro
Montgomery	Horsham Township
Montgomery	Jenkintown Boro
Montgomery	Lansdale Boro
Montgomery	Lower Frederick Township
Montgomery	Lower Merion Township
Montgomery	Narberth Boro
Montgomery	North Wales Boro
Montgomery	Pottstown Boro
Montgomery	Springfield Township
Montgomery	Upper Dublin Township
Montgomery	Upper Providence Township
Montgomery	West Conshohocken Boro
Montgomery	Whitemarsh Township
Montgomery	Whitpain Township
Northampton	Bethlehem City
Northampton	Bethlehem Township
Northampton	Easton City
Northampton	Williams Township
Susquehanna	Clifford Township

Susquehanna	Herrick Township
Tioga	Mansfield Boro
Warren	Warren City
Washington	Washington City
Wayne	Honesdale Boro
York	Hanover Boro
York	Jefferson Boro
York	West York Boro