



LEAGUE OF WOMEN VOTERS® OF PENNSYLVANIA
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**Common Cause Pennsylvania and League of Women Voters of Pennsylvania
Written Testimony Regarding Redistricting Reform
Senate State Government Committee
April 24, 2018**

To: Senator Mike Folmer, majority chair of PA Senate state government committee and Senator Anthony Williams, minority chair of PA Senate state government committee and the members of the PA Senate state government committee.

My name is Micah Sims, Executive Director of Common Cause Pennsylvania and I'm honored to share this testimony and report with Suzanne Almeida Esq., Executive Director and Susan Carty, President of League of Women Voters of Pennsylvania.

It is important to establish from the onset of this testimony that Common Cause Pennsylvania and the League of Women Voters of Pennsylvania have led the efforts in redistricting reform for over 30 years. In addition, our respective organizations have organized and led coalition and legislative redistricting achievements in states such as California, Arizona, and others. Currently both organizations are fully engaged in the legislative efforts in states such as Ohio, Indiana and Pennsylvania. We believe our vast history and experience regarding redistricting is beneficial to the current conversation and development of any meaningful legislation around redistricting. In full transparency, our two organizations are part of the formation organizations of the Fair Districts PA coalition.

Our interest in reforming the current redistricting process is not dictated by which political party is in power. Instead, our goal is to ensure that all eligible Pennsylvanians are able to vote in fairly and transparently drawn districts that take into account the values of our Commonwealth.

Our testimony and report submitted will cover key topics that we believe the committee needs a further grasp to establish a full comprehensive understanding of the functionality of an independent redistricting commission. We have included some data from verifiable resources and our own expert opinions concerning the reasoning and viability of a citizens redistricting

commission to address the public outcry for a process that moves us away from extreme partisan gerrymandering.

Why a citizens redistricting commission?

Presently the general public carries a heavy disdain and lack of trust for our government. This is exemplified at the local, county, state and federal level. Ironically, people still possess a very high regard for their own local elected officials. We believe this addresses the question of why, citizens desire a process that they can see, hear, trust and participate in. Our country is built around the concept of a representative democracy, however as social, cultural, racial, gender and economic divisions have remained constant within our country, citizens have expressed the need to find ways for further engagement and less political partisan divides.

A citizens redistricting commission has been a beacon of hope in actually realizing a government of the people, by the people and for the people. Citizens have witnessed far too many political power grabs and partisan bickering which have left everyday people frustrated with our government. Our organizations believe that one of the most valued pieces of our democracy is the right to vote. However, we have seen how votes can be diluted, packed, cracked and left without voice or consideration in the drawing of legislative districts.

It is important that the Pennsylvania legislature help our citizens feel like their concerns, their voice and their vote matters. We should not be the last state to see the needs of concerned citizens for fair maps and a fair process materialized. We don't believe that as citizens we expect bureaucratic and governing perfection, but we do expect fairness, equality and opportunity for all.

Traditionally, state legislatures have been responsible for redistricting for state legislative and congressional districts. Since the landmark Supreme Court decisions of the 1960s that established the one-person, one-vote principle, a number of states have shifted redistricting of state legislative district lines from the legislature to a board or commission. There are pros and cons to removing the process from the traditional legislative process to a commission. Reformers sometimes mistakenly assume that commissions will automatically be less partisan than legislatures when conducting redistricting. However that depends largely on the design of the board or commission, including factors such as qualifications of commissioners, the role of the legislature in selecting commissioners and approving the maps, and the criteria for each individual district

The *citizen redistricting commission* isn't a strike against the character or work of our legislature, but does address the continual lack of progress felt by many citizens regarding key areas of democracy like redistricting. We believe that your willingness to listen, hold hearings and respond to meetings on this subject matter is why so many trust that you will do the right thing. A commission will enable legislators to spend more time on other critical legislation and

no longer expend energy or political capital on legislative maps. We know one thing is certain, any legislator who works to improve the lives of their constituents has a stronger likelihood of re-election.

A nonpartisan citizen redistricting commission should be established to replace the current congressional and state legislative redistricting processes. We believe that one of the intent is to avoid gerrymandering, or at least the appearance of gerrymandering, By creating a nonpartisan body to comprise the commission drawing district lines, we believe the resulting maps will be less likely to be an unacceptable partisan gerrymander favoring either party . The commission should be structured so that, if membership includes representatives from political parties, no political party interests can advance a plan without support from other political parties; and, so that the two major political parties cannot collude to create a plan without support from other members not affiliated with either major political party. Approval of redistricting plans should require approval by a super-majority or consensus of the commission members. Commissions should reflect the geographic, racial, ethnic, gender, age and other diversity of the state.

We hope that the committee see the benefits for the creation of such commission. It will have the freedom, luxury to engage citizens for testimonies and concerns, eliminate the noise of special interest groups and conduct work at a pace to ensure reaching all deadlines. This commission will be a new sounding board and pool of ideas to help improve, not only the process of redistricting, but improving government relationships with the public. Our public needs individuals who can shed the political and partisan baggage which has impaired far too many of our elected officials.

Super Majority

The term *super majority* within the context of redistricting is defined as achieving more than half of the votes on a redistricting commission. In most cases a *super majority* would represent three-fifths or more votes for passage. Several redistricting commissions in our country go for a supermajority for decisions such as the appointment of additional commissioners, the hiring of experts, and the approval of draft and final maps. We believe that due to the need to have more than just a single party or group control the commission a *super majority* is the proper approach.

A *super majority* ensures that all parties have in some manner voted in the affirmative for a plan. It eliminates the notion of a political party power grab or severe influence possibly arranged through some proposed side deal. If a commission is structured to rule only through *super majority* we believe more interaction, relationship building and trust will arise because one side or group can't determine the outcome. In addition, a super majority helps diminish any litigation based around an extreme partisan gerrymander because more than the members of one party have voted in the affirmative for a plan.

Three-fifths (60%), two-thirds (67%), or three quarters (75%) which would bring in votes from more than one political affiliation. We believe this best reflects a choice of more constituents than a simple majority for the ratification of a map. It is our hope that work done by this committee would receive close to unanimous votes since this commission is comprised of individuals looking to serve the betterment of the citizens and not a specific party or ideological viewpoint.

Special Master

Several commissions across the country have instituted a failsafe in the creation of legislative maps. We have witnessed dysfunction within legislative bodies which has impaired voting for their representatives. In a measure to avoid map drawing falling into the hands of any elected official or officials or executive branch or judicial branch, legislation will indicate the usage of a special master. Depending on the state, the special master may be appointed by a member of the executive branch, by the independent redistricting commission itself or by the state supreme court.

We believe that for the aforementioned reasons, any redistricting bill could possibly include such a failsafe to ensure that our voters have maps in a timely manner.

Review

We applaud this second public hearing offered by the chairs of this committee. We would like to see the committee move forward with a vote on one or several of the bills and/or look at some true alternative to address the process of drawing legislative maps.

Our support has been for SB22, however we are neither naïve nor unreasonable to admit that legislative success often times can't be vested in a particular bill, but a willingness for a true resolution. We do hold fast that the core tenet of any bill on redistricting must have a structure featuring citizens who are not current or former elected officials, family members of current or former elected officials, government staff or lobbyists. Maps should be drawn by citizens.

The specific issues of random selection, super majority and special master have been addressed in our testimony and report, however we don't view those issues as non-negotiable matters in any redistricting legislation. Once again what we believe is non-negotiable is the usage of non-elected officials in the drawing of congressional, state house and state senate legislative maps.

Improved redistricting practices can enhance and expand civic participation, help restore public confidence and participation in elections and governance and build a modern democracy that serves as a beacon of inclusion and representation.

We are committed to defending our democracy, agree on the following baseline principles to inform redistricting in this decade and future decades, as well as to present a framework upon which to build possible reforms toward a more perfect union and stronger commonwealth

1. Consistent with the requirements of the Constitution, all persons who reside in a state or local jurisdiction -- regardless of age, citizenship, immigration status, ability or eligibility to vote -- should be counted for purposes of reapportionment and redistricting. Districts should be populated equally, as defined by law, counting all residents as constituents to be represented by elected officials.
2. The Census Bureau should continue to improve its outreach and data collection to ensure as full and accurate a count of all communities as possible, including a full and accurate count of the population by race, ethnicity, and national origin. Redistricting decision-makers should use legally-permitted population deviation among districts in state and local redistricting to serve legitimate redistricting considerations, including underpopulation of districts to ensure adequate representation of undercounted communities.
3. Incarcerated or detained persons should be considered residents of their immediate pre-incarceration location or their family residence for purposes of reapportionment and redistricting. The Census Bureau should collect and release the data necessary to implement this principle in all jurisdictions.
4. Compliance with the letter and spirit of the federal Voting Rights Act and its prohibition of vote dilution and of retrogression must remain a primary consideration in redistricting. While the elimination of racial discrimination in voting is a critical goal, that goal and the protection of civil rights are undermined by decision-makers who deny, without sufficient evidentiary proof, the continued existence of factors, including racially polarized voting, that support the creation of remedial districts under the Voting Rights Act. In light of long-established historical pattern, the prudent course, absent compelling evidence of changed circumstances, is for decision-makers to preserve extant remedial districts under the Voting Rights Act and to create new opportunity districts consistent with growth in relevant populations. Moreover, the requirements of the Voting Rights Act should be viewed as a floor, and not a ceiling, with respect to the voting rights of voters of color in redistricting. To advance these foundational goals, redistricting decision-makers should always make it a priority to exercise their considerable latitude within the law to create coalition and/or influence districts for voters of color where the creation of Voting Rights Act-compliant opportunity districts, in which voters of color comprise the majority of the voting-age population in a district, is not possible.
5. Consideration of communities of interest is essential to successful redistricting. Maintaining communities of interest intact in redistricting maps should be second only to compliance with the United States Constitution and the federal Voting Rights Act as a consideration in redistricting.

6. Transparency in redistricting is essential to a successful process. Meetings of decision-makers, among themselves or with legal and mapping consultants, must be open and accessible to the public in all but the most limited of circumstances.

7. Full access requires the development and implementation of measures to facilitate public attendance and meaningful participation. This includes outreach, informational materials, and interpretation services provided in languages other than English where the constituency involved warrants the provision of such services. This also includes means to permit the participation of constituents in remote locations. All efforts must recognize that certain communities face greater barriers to full participation, and outreach, education, and weighting of input should reflect this recognition. Full access to the redistricting process must also include maximized opportunity for input and participation. This requires facilitating participation through the availability of data and equipment well in advance of the consideration of specific proposals. This also requires timely disclosure of proposed maps being voted upon to allow ample opportunity for public input before adoption. Finally, meaningful participation requires that the decision-making body demonstrate its due consideration of the public input provided.

8. Public confidence in redistricting requires the decision-makers to reflect a broad range of viewpoints and be representative and appreciative of the full diversity of the population. Public confidence is furthered when relevant financial and other information about decision-makers and their paid retained consultants is disclosed. Fairness requires the development of clear conflict-of-interest criteria for disqualification of decision-makers and consultants.

9. Public trust in redistricting requires disclosure of information about any relationships between decision-makers and significant non-decision-making participants. Transparency requires the avoidance of rules that provide an incentive for outside participants to conceal their relationship to incumbents or candidates for the offices being redistricted. Rules that require participants in the redistricting process to disclose information must be applied evenly.

10. Accountability in redistricting requires public access to information about any non-public discussions of redistricting between redistricting decision-makers. This requires advance abrogation of any statutory or common-law legislative privilege that would protect such discussions of redistricting by decision-makers from disclosure during or after conclusion of the process.

Therefore, we would like to offer the following requests. We respectfully request that:

- 1) The committee hold no more than one additional hearing on redistricting;
- 2) The committee vote on one or several redistricting bills within the next 30 days;
- 3) A bipartisan Senate work group be formed along with representatives from nonpartisan good government groups to work on meaningful redistricting reform;

- 4) Consider defining the criteria for the fifth member as selected by the PA Supreme Court under the current Legislative Reapportionment Commission;
- 5) Place the congressional maps under the current structure of the Legislative Reapportionment Commission with the fifth member based on defined criteria on congressional maps selected by the PA Commonwealth Court.

We thank you for allowing us to submit this testimony and report. We commit ourselves to be available to this committee and each senator to further secure legislation that ends extreme partisan gerrymandering in Pennsylvania.

Humbly Submitted,

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