



Representative Emilia Strong Sykes
Minority Leader
34th House District

November 18, 2021

Governor Mike DeWine
Riffe Center, 30th Floor
77 South High Street
Columbus, OH 43215

Dear Governor DeWine:

On behalf of the Ohio House Democratic Caucus and the approximately 4.5 million Ohioans we represent, I urge you to use your executive powers to veto Substitute Senate Bill 258, a bill that creates a congressional map that is heavily gerrymandered for the Republican Party. The bill violates the Ohio Constitution and flouts the will of the people of Ohio who demanded fair districts that follow explicit, strict anti-gerrymandering requirements.

In 2018, Governor, you said, "The rules are pretty clear -- the voters said that the redistricting process should be done in a bipartisan way and when I am governor there will be an expectation that the new district maps honor the voters' wishes." More recently, you said about the 13-2 maps offered by Senate and House Republicans, "I think it's pretty clear neither one of these maps are going to fly."

The House and Senate held a week and a half of hearings in three different committees, bringing Ohio's concerned citizens to the statehouse day after day where over 99% of the witnesses opposed the gerrymandered GOP maps. Only after these hearings did the Senate reveal the real map on Tuesday morning, and they passed it just a few hours later with no meaningful public input. "Keep it secret, keep it safe" was the GOP playbook for the last decade's gerrymandered map that was drawn in darkness, and we now know the exact same playbook was used this time as well. The hearings were a sham, the people were disrespected.

Ohio's voters went to the ballot just 3 years ago to reform the requirements for our state's congressional map. They spoke clearly and gave us plain language to follow. They said they wanted a congressional district map born of an open and transparent process, supported in a bipartisan way, without undue favoring of political parties and incumbents, and without undue splitting of our communities. They wanted an end to gerrymandering. The plain language is clear and the violations are also clear.

OHIO CONSTITUTION ARTICLE 19 VIOLATIONS:

- **Violation of Article 19, Section 1(C)(3)(a):** This provision says, "The general assembly shall not pass a plan that unduly favors or disfavors a **political party** or its incumbents." Substitute Senate Bill 258 violates this constitutional provision because it unduly favors the Republican party. It contains an excessive number of districts that favor Republicans, out of proportion to the share of

votes the party receives in our state. Ten districts, fully two thirds of our allotted 15 districts, safely favor Republicans and 3 more districts lean Republican. In total, 87% of the districts unduly favor Republicans despite the fact that Republicans only received about 54% of the vote over the last 10 years, including 53% of the vote for president in 2020.

- **Violation of Article 19, Section 1(C)(3)(a):** This provision says, “The general assembly shall not pass a plan that unduly favors or disfavors a **political party** or its incumbents.” Substitute Senate Bill 258 violates this constitutional provision because it unduly disfavors the Democratic party. It contains only two districts that favor Democrats, out of proportion to the share of votes the party receives in our state. Only 13% of the districts favor Democrats despite the fact that Democrats have received about 46% of the vote over the last 10 years.
- **Violation of Article 19, Section 1(C)(3)(a):** This provision says, “The general assembly shall not pass a plan that unduly favors or disfavors a political party or its **incumbents**.” Substitute Senate Bill 258 violates this provision because it unduly favors Republican incumbents, protecting 11 of them in our 15 districts. A map that favors the Republican political party in accordance with what the party is due would contain about 8 districts that lean Republican. But the Republican majority reenacts most of the favoritism enshrined in the last decade’s gerrymandered map in pursuit of advantage for their political party. This results in undue favoring of Republican incumbents.
- **Violation of Article 19, Section 1(C)(3)(a):** This provision says, “The general assembly shall not pass a plan that unduly favors or disfavors a political party or its **incumbents**.” Substitute Senate Bill 258 violates this constitutional provision because it unduly disfavors a Democratic incumbent, cracking apart Democratic voters in Toledo from nearby Democratic voters in another county. Instead, the Toledo area community is combined with 8 other counties in a district stretching far from Erie County to the Indiana border and now including the bill sponsor’s residence. Further, a map that favors the Republican and Democratic political parties in accordance with what the parties are due would contain about 8 districts that lean Republican. But in this map, Republicans grab far more than their fair share, unduly disfavoring an incumbent member of Congress in the process.
- **Violation of Article 19, Section 1(C)(3)(b):** This provision requires, “The general assembly shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties, then townships and municipal corporations.” Substitute Senate Bill 258 violates this constitutional provision by unduly splitting Hamilton County twice, Cuyahoga County twice, Summit County, as well as other governmental units. Some splits are due, necessary to meet the population requirement and fairness requirement in the constitution. But these excessive undue splits are the key to the Republican gerrymander and render Substitute Senate Bill 258 unconstitutional.
- **Violation of Article 19, Section 1(C)(3)(c):** This provision requires attempted compactness. Substitute Senate Bill 258 violates this constitutional provision because the districts in this map are sprawling and not as compact as the maps offered by others. This appears to be done for the purpose of partisan gerrymandering that unduly and unconstitutionally favors the Republican political party and its incumbents.

- **Violation of Article 19, Section 1(C)(3)(d):** This provision requires the bill to explain how the provisions of Article 19, Section 1(C)(3)(a) – (c) have been met. Substitute Senate Bill 258 violates this constitutional provision because there is no such explanation in this bill. There is an uncodified section of law in the bill that provides legislative findings. It describes some differences between this gerrymandered map and the last decade’s gerrymandered map. But such explanations are irrelevant and do not satisfy the constitutional requirement. The constitution requires an explanation of how the bill complies with the prohibitions on undue favoring or disfavoring of parties or incumbents or the provision on compactness. Such an explanation is entirely missing from the bill.
- **Violation of Article 19, Section 1(G):** This provision requires: “Before the general assembly passes a congressional district plan under any division of this section, a joint committee of the general assembly shall hold at least two public committee hearings concerning a proposed plan.” Substitute Senate Bill 258 violates this constitutional requirement because the joint committee on congressional redistricting held no hearings on the plan passed by the General Assembly. All hearings were conducted before the real map was revealed, and the public had no opportunity to speak on the real map.

OTHER LEGAL DEFECTS

The above is a non-exhaustive selection of the possible Article 19 constitutional violations that make this map and our state vulnerable to a costly legal challenge to the map. Other possible legal defects in the map bill include:

- **Violation of Article 1, Section 2:** Ohio’s Bill of Rights, specifically Article 1, Section 2 provides, “All political power is inherent in the people.” This map is an affront to the people and their right to have their voices heard on equal terms.
- **Violation of Section 2 of the federal Voting Rights Act of 1965:** The Voting Rights Act prohibits diluting the voting power of Black Americans. Section 2 provides:
 - (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).
 - (b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political

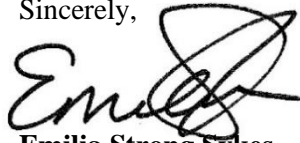
subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

This map cracks apart Black communities in Hamilton County and possibly other places in the state in ways that appear to be designed to dilute the voting power of Black Ohioans.

Governor, the people are relying on you to obey your oath to uphold the constitutions of this state and this country. That leaves you no choice but to use your power and conscience to veto this unconstitutional bill. The people deserve better. They were promised a reform that would bring transparency, bipartisanship, and explicit, strict anti-gerrymandering requirements to the process and the resulting map. The gerrymandered legislature has refused to deliver on that promise. A government that is insulated from accountability to the people can hardly be called a democracy. At a time when democracy is under attack all over the globe, it is more important than ever that we stand up for this essential American ideal. We must all be equal under the law and have an equal voice in our government. Our future is at stake.

Thank you for your prompt attention to this important matter.

Sincerely,



Emilia Strong Sykes
Minority Leader
Ohio House District 34

