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BEFORE THE OHIO APPORTIONMENT BOARD

- - -

In the Matter of the :
Establishment of the Ohio :
General Assembly District :
Lines in the State of :
Ohio. :

- - -

PROCEEDINGS

before Auditor Dave Yost, House Minority Leader
Armond Budish, Governor Designee Michael Grodhaus,
Senate President Tom Niehaus, Secretary of State
Designee Halle Pelger, Secretary Heather Mann, the
Ohio Apportionment Board, at Cleveland State
University, Maxine Goodman Levin College of Urban
Affairs Atrium, 1717 Euclid Avenue, Cleveland,
Ohio, called at 9:05 a.m. on Tuesday, August 23,
2011.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
FAX - (614) 224-5724

1 Tuesday Morning Session,
2 August 23, 2011.

3 - - -

4 MS. MANN: We now call to order the
5 Cleveland Regional Hearing of the Ohio
6 Apportionment Board.

7 As people who arrive who would like to
8 testify, we ask that you please fill out a witness
9 slip located over there on the table and please
10 provide them to our staff, Lisa or Kylie, who are
11 sitting over there in the corner.

12 The 2011 Apportionment Board, which is
13 responsible for drawing districts for the Ohio
14 Senate and the Ohio House of Representatives, held
15 its initial meeting earlier this month, on August
16 4th, 2011. At that meeting, the Board adopted
17 rules which require a series of public hearings
18 throughout the state, including this one here
19 today, to gather public input and comment.

20 And at that meeting, they also appointed
21 myself, Heather Mann and, also, Rick DiRossi to
22 serve as joint secretaries of the Board.

23 Seeing that Vice-Chair of the
24 Apportionment Board, State Auditor Dave Yost, is
25 here with us today, I will ask if Auditor Yost will

1 please preside over this regional hearing.

2 AUDITOR YOST: Thank you.

3 Will the secretary please call the
4 roll? During this attendance roll call, please,
5 each member, state your name and the office that
6 you represent if you are present as a designee.

7 MS. MANN: Auditor Yost?

8 AUDITOR YOST: Present.

9 MS. MANN: Leader Budish?

10 LEADER BUDISH: Present.

11 MS. MANN: Mike Grodhaus?

12 MR. GRODHAUS: Present, representing
13 Governor Kasich.

14 MS. MANN: President Niehaus?

15 PRESIDENT NIEHAUS: Present.

16 MS. MANN: Halle Pelger?

17 MS. PELGER: Here, representing
18 Secretary of State Jon Husted.

19 AUDITOR YOST: Thank you.

20 We'd first like to thank Cleveland State
21 University and President Ron Berkman, the Board of
22 Trustees, as well as my old friend Bill Napier, who
23 is here today, and Laurie Day for hosting us at
24 this hearing today.

25 In addition, we have a special guest

1 from Washington D.C. Leader Budish, I wonder if
2 you'd like to introduce your son.

3 LEADER BUDISH: Sure. Thank you.

4 I'd like to introduce my son, Ryan, who
5 is here on -- this is how he spends his summer
6 vacation, so he has something to write about, the
7 fun while he's here. And thank you for joining us.

8 AUDITOR YOST: Thank you, Leader
9 Budish.

10 I would like to remind everyone, the
11 purpose of this hearing is to gather information,
12 comments, and input regarding the upcoming
13 reconfiguration of the House and Senate district
14 lines.

15 The Apportionment Board and the panel
16 before you is not responsible for re-drawing Ohio's
17 congressional districts. New congressional
18 districts will be established by the state
19 legislature as a bill that will be voted upon by
20 the members of the Ohio House of Representatives
21 and the Ohio Senate. That bill would then go to
22 the Governor for signature or veto.

23 We would ask all the witnesses to limit
24 their comments and testimony to the matter before
25 us; that is, the Ohio House and Ohio Senate

1 districts.

2 We're here today to listen. We're not
3 here to debate you, and we're not here today to
4 debate one another. We're here today to get input
5 from Ohioans on the apportionment process and how
6 it impacts your communities and your representation
7 in the Ohio General Assembly.

8 Today, we have a limited amount of time
9 for hearing. We're scheduled for two hours and
10 have actually two other cities that we'll be
11 traveling to today. So we ask witnesses to -- we
12 may ask witnesses to limit their testimony in time
13 as a courtesy for other persons who wish to speak.
14 Although, I'm guessing, looking around, that that
15 may not be a burning issue.

16 In Ohio, as in most states, legislative
17 reapportionment occurs in years ending in 1, which
18 are also the years following the federal decennial
19 census. The census figures this year indicate Ohio
20 has a population of 11,536,504 people. That means
21 that, ideally, each of the 99 House districts
22 should contain 116,530 people and each of the 33
23 Senate districts should contain 349,590.

24 Anyone who has researched or undertaken
25 the action of drawing legislative districts knows

1 that this process involves much more than somebody
2 putting roughly the same number of people in each
3 district.

4 In Ohio, the General Assembly districts
5 must conform to traditional redistricting
6 principles and other requirements that are
7 enumerated in Article 11 of the Ohio Constitution.
8 Article 11 contains specific rules covering
9 construction of these districts, including several
10 layers of sometimes complex requirements.

11 In addition to the Ohio Constitution,
12 the Board must also comply with all applicable
13 federal laws; most notably, the Voting Rights Act.
14 And those provisions are not always in harmony with
15 the rules set out in Article 11.

16 At this time, I would like to call upon
17 Halle to give us a presentation from the Secretary
18 of State's office regarding their project.

19 MS. PELGER: Thanks, Auditor Yost.

20 A few weeks ago, the Secretary of State
21 Jon Husted, with the support of the
22 legislative task force -- I'm sorry. Can you all
23 hear me?

24 The Secretary of State, along with the
25 support of the legislative task force on

1 redistricting, as well as the Apportionment Board,
2 launched a website called reshapeohio.org. The
3 goal of the website is to provide the public
4 information on these proceedings, give minutes,
5 notices, and testimony, as well as allow people to
6 try their hand at drawing the map.

7 As Auditor Yost mentioned, the process
8 is often difficult and time consuming. But ten
9 years ago, the Board set up computers around the
10 state in libraries and government buildings.
11 Technology has come a ways now that we can do that
12 and you can access the site from your own home at
13 any hour of the day and draw your own map.

14 You can also use the site to -- once
15 you've completed a map, to help you follow the
16 Apportionment Board's guidelines for submission.
17 The site has that information on it, and it can
18 also be found if you look at the table over there.

19 The goal of all of this is to provide
20 more openness and transparency in the process and
21 provide the public with as much access as
22 possible.

23 So far, we have over 300 people signed
24 up to draw maps, and we hope to get more. So visit
25 reshapeohio.org.

1 Thank you.

2 AUDITOR YOST: Thank you, Halle.

3 A few housekeeping items. We have
4 copies of Article 11, the Ohio Constitution, and
5 other information on population changes, the
6 apportionment process, and how the public may
7 submit plans that are available for you at the
8 table. We encourage you to pick these up and
9 review them, as they are the same guidelines the
10 Board has to follow as it draws legislative
11 districts.

12 These proceedings will be transcribed by
13 a court reporter so that the members of the Board
14 may consider these things that are said here today
15 during their deliberations. So please speak
16 clearly and loudly enough for the panel and the
17 audience members and our court reporter to hear.

18 If you have written testimony, please
19 submit it to the staff so it may be included with
20 the official record of the proceeding. We will
21 make sure that all testimony received at the
22 hearing is available at the Secretary of State's
23 website, reshapeohio.org.

24 As the Secretary -- whoops. We've
25 already done that.

1 So, great. Now we move right to our
2 first witness, and our first witness of the day is
3 Robert Heltzel.

4 MR. HELTZEL: Close enough.

5 AUDITOR YOST: "Heltzel."

6 MR. HELTZEL: Very good.

7 Good morning, everybody. Thank you very
8 much for being here at this convenient hour of
9 9:00 a.m.

10 In any case, really, my request is
11 fairly simple for what I would like the Board to
12 consider, both of yourselves and the people that
13 actually draw the lines here. This tends to be a
14 process that is very steeped in obscurity and not a
15 great deal of transparency happening in terms of
16 how this map is going to look.

17 So, as Mr. Budish on the end there
18 offered in earlier council that I understand
19 happened, why not consider placing this new
20 district map on-line for the public to see weeks
21 before it is voted in finality?

22 It's my understanding, from what I've
23 kind of researched in history, that governments
24 that operates in secrecy also tend to operate in
25 tyranny.

1 This is how we elect the people that we
2 want to represent us. Right now, we're having the
3 process by which we determine what area we're going
4 to live in and who's going to represent us in those
5 areas.

6 And the answer to Mr. Budish's request,
7 the answer to the public's request was no. And the
8 reasoning why was some generic response about the
9 ink having already been dried. And that, to me,
10 didn't make a great deal of sense, because then,
11 what's the harm? If it's already dried, what else
12 do you have to do beyond simply displaying the
13 information to the public?

14 So it's my query, as an Ohio citizen, do
15 you fear the criticisms of the people across the
16 state and maybe they might disagree with the
17 gerrymandering of the partisan line drawing that's
18 happening here?

19 The republican party was in charge of
20 this process, I believe, in 2001, 1991. The
21 democratic party in 1981. And it's generally the
22 same, from what I understand. They draw the
23 districts so that their representatives have the
24 most fortuitous opportunities to, basically, get
25 their reps in.

1 So what I'm asking is that you post
2 on-line, at least two weeks before it's being voted
3 on, so everybody can actually look at it. Doesn't
4 seem too complicated. I think we have the
5 technology to post a jpeg image of a map on-line
6 well before it's actually to be voted on.

7 But, I mean, you know, I don't know.
8 I'm of the Echo Boomers generation here. Maybe
9 we're just a little bit more technology inclined
10 than anybody sitting up at the table. Mr. Niehaus,
11 I read that you're good at blogging or whatever, so
12 maybe I'm wrong. Mr. Yost, I think I've heard that
13 you power on a computer.

14 In any case, that more or less truncates
15 my remarks here in terms of what else I've got to
16 say. I can go on all day, and this massive
17 audience, I'm sure, has plenty more statements that
18 they'd like to make on the matter. Again,
19 9:00 a.m. is the perfect time to have one of these
20 meetings. Generally, nobody's at work yet and this
21 is a morning person country.

22 So thank you very much. And, again, I'm
23 going to ask you to put the map on-line so people
24 can actually see it. If you're afraid of
25 transparency, then none of you should probably be

1 government officials because you're public
2 servants.

3 Have a good day.

4 AUDITOR YOST: Thank you.

5 Are there any questions for the
6 witness?

7 Leader Budish.

8 LEADER BUDISH: I will not -- mine is
9 not a question, but more of a comment.

10 First, I appreciate your comments. I
11 appreciate you taking the time to come out today.

12 And I did propose that, before we even
13 have these hearings, that we first have a map that
14 we can have input on from the public. I thought
15 that made a lot of sense.

16 Just to correct one thing you said.
17 Auditor Yost did support my position on that.
18 Unfortunately, three others did not, so it did not
19 succeed.

20 But I'm hoping that when the map or maps
21 are prepared, that the public will still have an
22 opportunity. I will still push for that, and I'm
23 hoping my colleagues here will support that at that
24 time.

25 MR. HELTZEL: Thanks a lot. Rock on,

1 man.

2 AUDITOR YOST: Any other questions,
3 comments?

4 Thank you very much for your testimony,
5 sir.

6 Our next witness is Carol Gibson of the
7 League of Women Voters. Let the record reflect
8 that the witness has tendered written testimony,
9 which we've received into the record without
10 objection.

11 MS. GIBSON: Good morning. I am Carol
12 Gibson, co-president of the Cuyahoga Area League of
13 Women Voters. Thank you for the opportunity to
14 provide public testimony on the issue of drawing
15 new Ohio Senate and House district lines.

16 Redistricting is an issue that goes to
17 the heart of our democratic system of government
18 because representative democracy depends on voters
19 choosing their elected officials. When, instead,
20 officials choose their voters - and I know you've
21 heard this before - when officials choose their
22 voters by creating districts that strongly favor
23 one political party, our system doesn't work as
24 intended.

25 What is at stake when it comes to how

1 political district lines are drawn is whether
2 voters choose our leaders or leaders choose our
3 voters.

4 At the most basic level, redistricting
5 must support the constitutional principle of one
6 person, one vote.

7 Ultimately, the redistricting process
8 determines how a voter -- how a voter's community is
9 defined, who a voter has the opportunity to vote
10 for, what kinds of policies and issues get debated,
11 what happens to voter tax dollars, and how the
12 complex set of challenges we face are handled or
13 not.

14 To ensure the most democratic outcome
15 for the current redistricting process, the League
16 of Women Voters recommends the formation of
17 districts that are compact, competitive,
18 contiguous, and of similar population numbers. In
19 Cuyahoga County, diversity also needs to be a
20 consideration factor again.

21 Any stranger to our region looking at a
22 map of the current districts in Cuyahoga County
23 could see problem in the U-shape of Ohio Senate
24 District 24 that sweeps around three edges of the
25 county. Such partisan gerrymandering needs to be

1 set aside.

2 August 21 was the deadline for
3 submission to the League's contest to design new
4 Senate and House district maps. The maps we're
5 designing, that are found to be most supportive of
6 democracy, will be well publicized around the state
7 and they will be sent to the Apportionment Board to
8 aid and encourage your work, as they were last
9 year -- or in the previous round.

10 Voters are finding it harder than ever
11 to think of their votes as important in this
12 recessionary and bitterly partisan times. If the
13 Apportionment Board rose to this occasion by
14 actually creating manifestly doable fair districts,
15 Ohio would immediately become famous for achieving
16 a home run for democracy.

17 You have within your power the ability
18 to give Ohioans a lift by creating districts that
19 make sense. You can do it. Put Ohio on the map
20 for fairness.

21 Thank you.

22 AUDITOR YOST: Thank you.

23 Are there any questions from members of
24 the Board?

25 Leader Budish.

1 LEADER BUDISH: Thank you, again, for
2 your testimony and for coming out today. We
3 appreciate it.

4 Would you describe a little bit more, if
5 you could, the process and purpose for the League
6 of Women Voters map drawing competition that's been
7 on-line?

8 MS. GIBSON: A little. I mean, I'm not,
9 you know -- I'm not the -- Ann Henkener is our
10 Columbus-based expert on redistricting, so I'm not
11 presenting myself as that. Although, I wrote
12 the -- this testimony myself.

13 We have been on this issue for decades
14 about redistricting. The League has always
15 championed doing it in a more democratic way, such
16 as Iowa or Arizona has managed to do. No system is
17 perfect, but we could do it much better.

18 The contest -- the first one was in the
19 last round of redistricting, and it was -- it was
20 borne out of frustration with getting attention to
21 the issue of redistricting. And I think, for the
22 first time, people are starting to pay attention
23 to -- maybe I'm wrong, but I feel like the public
24 is waking up to redistricting.

25 When we tried to talk about it, even to

1 ourselves, I remember my own reaction.

2 "Redistricting? You know, what?" It's sort of
3 esoteric insider baseball, but people are starting
4 to get it.

5 So it was borne out of frustration. We
6 got to do something sexy; to take the white gloves
7 off and the little old lady tennis shoes. Do
8 something that will catch the attention of the
9 voters, and it did.

10 I mean, the very fact that -- I might be
11 wrong about this, but I think we were first in
12 doing a -- imitation is the -- and if so, imitation
13 is the best compliment. And I'm happy to see the
14 Secretary of State's office is conducting one,
15 also. The more it's out there, the more people
16 will find it important.

17 LEADER BUDISH: Follow up.

18 AUDITOR YOST: Leader Budish.

19 LEADER BUDISH: Mr. Chairman.

20 The map drawing contest, I assume, is
21 more than just being done for academic interests or
22 fun for competition. I assume that your goal is
23 that we, as a Board, utilize the maps that are
24 submitted to help guide us and direct us in our --

25 MS. GIBSON: Absolutely.

1 LEADER BUDISH: -- deliberation.

2 MS. GIBSON: And some attention -- we
3 could see some attention having been paid the last
4 time around to -- today, we have in the audience -
5 I don't know whether he signed up to give testimony
6 or not - but one of the people that drew districts
7 the last time around, that was one of our top
8 entries, and I hope he'll come up and talk to you.
9 He could give you more detail.

10 AUDITOR YOST: Thank you, Ms. Gibson.

11 I'm sorry.

12 LEADER BUDISH: Follow up.

13 AUDITOR YOST: Please.

14 LEADER BUDISH: Okay. Switching gears
15 for a second. Last cycle, last year, in
16 particular, I worked closely with members of the
17 League. You were not one of the people, but
18 members of the league, along with then-Senator
19 Husted, in coming up with a different approach to
20 redistricting reapportionment.

21 The House passed a plan. The Senate,
22 with President Niehaus, passed a plan. They were
23 different, but both of them made significant
24 improvements to the current reapportionment
25 process.

1 Were you familiar with those plans? Do
2 you -- are you in a position to comment on --

3 MS. GIBSON: No, I'm not.

4 LEADER BUDISH: Okay.

5 MS. GIBSON: I wish I were, but I'm
6 not.

7 LEADER BUDISH: Then I won't push the
8 question any further.

9 MS. GIBSON: You're welcome.

10 AUDITOR YOST: Are there any other
11 questions?

12 Yes, President Niehaus.

13 PRESIDENT NIEHAUS: Thank you,
14 Mr. Chairman.

15 Ms. Gibson, how many people participated
16 in this contest the League has put on? And, you
17 know, what is their geographic representation?
18 What parts of the state?

19 MS. GIBSON: I only have a general
20 impression of that, in that the League -- the State
21 League Board considers it very successful, and
22 that, again, perhaps the gentleman here who
23 participated could speak more from that. I just
24 don't have that figure in my head, but they
25 considered it very successful.

1 PRESIDENT NIEHAUS: Thank you.

2 MS. GIBSON: And -- and around the
3 state. And it was definitely not limited to League
4 members. I can safely say that, those two things.

5 PRESIDENT NIEHAUS: Thank you.

6 AUDITOR YOST: Anything further?

7 Thank you for your testimony, ma'am.

8 Our next witness today is Brendan
9 Barrington.

10 MR. BARRINGTON: Hello.

11 AUDITOR YOST: Please state your name
12 for the record and the organization you may
13 represent.

14 MR. BARRINGTON: My name is Brendan
15 Barrington. I'm a student here at the Levin
16 College of Urban Affairs. I'm actually upstairs.

17 So I had a quick question. I am a grad
18 student here at the Urban Affairs College and, as
19 grad students, we write a lot of papers. And I was
20 thinking, if I were to write a paper about the
21 instate redistricting, would you have a topic for
22 that paper that would focus on that; would help me
23 generate a good topic for discussion?

24 AUDITOR YOST: I'm not sure that that's
25 within the scope of this hearing, but since we

1 don't have a long list of witnesses, I'll just
2 start with the Secretary of State's office. Would
3 you have a suggestion for the gentleman?

4 COURT REPORTER: I'm sorry. I can't
5 hear you.

6 MS. PELGER: I just asked if he tried to
7 draw a map on the Reshape Ohio site.

8 MR. BARRINGTON: I think that would be a
9 good place to start.

10 AUDITOR YOST: Anybody else?

11 SPECTATOR: We can't hear the
12 conversation.

13 AUDITOR YOST: Does anyone else want to
14 offer a suggestion?

15 Thank you, sir. Do you have any other
16 testimony?

17 Oh, you raised your hand, Leader
18 Budish.

19 LEADER BUDISH: I did.

20 How about a topic, something like, how
21 political power undermines one man, one vote in
22 Ohio?

23 MR. BARRINGTON: Thank you for your
24 input.

25 AUDITOR YOST: Do you have any

1 testimony?

2 MR. BARRINGTON: Not at the moment.

3 AUDITOR YOST: Thank you for your
4 interest in the process.

5 MR. BARRINGTON: You're welcome.

6 AUDITOR YOST: Our next witness is T.
7 Tony Dejak.

8 MR. DEJAK: I'm not a witness.

9 AUDITOR YOST: Not a witness. I'm
10 sorry. You're welcome to testify.

11 MR. DEJAK: No, thank you.

12 AUDITOR YOST: Do we have any other
13 witnesses?

14 We have one more witness in process, so
15 we will wait for a moment.

16 While we're waiting for that, I'd like
17 to make special note that, this year, we have
18 eleven hearings around the state over a five-day
19 period. Traditionally, we have not had that many
20 hearings, public hearings, in this process.

21 Also, traditionally, the elected
22 officials have not been present, habitually or
23 customarily, and today we have both President of
24 the Senate, Tom Niehaus, and Minority Leader from
25 the House, Armond Budish. And it certainly is

1 exciting to see this develop at such a high level
2 and not the staff folks. Gentlemen,
3 congratulations for taking the time. It's
4 appreciated.

5 Our next witness is Tim Clarke.

6 MR. CLARKE: Hi. My name is Tim
7 Clarke. It wasn't actually my intention to come up
8 and speak today, but when Leader Budish asked about
9 some of the details about the contest, I felt I
10 could give a little more detailed explanation of
11 what was going on.

12 I was a participant in the contest just
13 completed last Sunday, and I was also a winner of a
14 similar contest held by the League of Women Voters
15 and a number of other organizations back in 2009.

16 Basically, what they did back then is,
17 it was a competition set up to redraw the 20 -- the
18 2001 congressional lines based on the 2001 census
19 data and the 2000 President election, based on the
20 objective criteria of compactness, county
21 preservation - let me make sure of the other ones -
22 competitiveness and political fairness. Basically,
23 making sure that the -- that the representation
24 would be relatively equal to the overall political
25 balance in the state.

1 In 2001, a similar consortium of
2 organizations set up a contest; started last July.
3 And in that contest, the participants were
4 permitted to submit both state legislative
5 districts and congressional legislative districts
6 based on the 2010 census. The congressional
7 contest is still ongoing. That has a deadline of
8 September 11.

9 But the state legislative competition
10 had a deadline on Sunday. We don't yet know what
11 the results are. For all I know, I finished at
12 last.

13 I would be happy to answer any other
14 questions about the -- about the makeup of the
15 contest.

16 AUDITOR YOST: Questions from the
17 Board?

18 Leader Budish.

19 LEADER BUDISH: As you proceeded through
20 the map drawing for this year's League of Women
21 Voters contest, is it accurate -- is it right to
22 say -- were you using current census data for this
23 contest?

24 MR. CLARKE: That is correct. We were
25 re-drawing the lines based on the same data that

1 the Apportionment Board is using for its
2 apportionment.

3 LEADER BUDISH: Follow up.

4 AUDITOR YOST: Uh-huh.

5 LEADER BUDISH: I want to do this
6 correctly.

7 AUDITOR YOST: Yes.

8 LEADER BUDISH: With the line drawing
9 that you were doing, is it my understanding that
10 you were to follow the Voting Rights Act, as well
11 as the Constitutional requirements set forth in
12 Ohio's Constitution. And was there anything else
13 involved?

14 MR. CLARKE: The way it was set up
15 now -- as far as the Voting Rights Act was
16 concerned, the way it was set up is that we were
17 required to create districts which included, on the
18 State House side, four majority black districts in
19 Cuyahoga County, along with one majority black
20 district in Franklin County, and on the Senate
21 side, two majority black districts in Cuyahoga
22 County. So that was a threshold requirement.

23 As far as a Constitutional -- as far as
24 the Constitutional requirements, we were required
25 to follow the Constitutional requirements, except

1 that, because the program did not handle -- it did
2 not specify the ward lines, making it much more
3 difficult for participants to follow the ward
4 lines. The contest did not disqualify someone for
5 failing -- for -- for dividing -- for dividing
6 multiple wards.

7 Now, the entry that I submitted, I went
8 out, found -- made sure I found the ward lines and
9 followed the -- and followed the ward lines to the
10 letter. So as far as -- as far as I believe, the
11 submission that I -- that I made was in strict
12 compliance with the Ohio Constitution, but because
13 of technical limitations, that was not a strict
14 requirement of the competition.

15 It was -- by the way, it was
16 specifically recommended that you follow the ward
17 lines to your -- the best of your ability.

18 LEADER BUDISH: In drawing your map
19 then, is it correct that you were trying to
20 maintain counties intact, and then townships, and
21 then cities, in order of the way the Constitution
22 provides?

23 MR. CLARKE: The -- the contest
24 specifically -- specified that you -- that you were
25 being scored on how many county -- on how many

1 counties you were breaking up.

2 On the other hand, you still had to
3 follow the Constitution on saying you could only --
4 you had to keep -- you had to keep the counties and
5 townships and the cities and, to the extent you
6 could, city wards, and you can't divide more than
7 one political -- you can't divide more than one
8 political subdivision. That was a requirement.

9 The contest was designed to follow the
10 Ohio Constitution, so that it -- so that the maps
11 that were created would potentially be adopted by
12 the Apportionment Board.

13 LEADER BUDISH: I'm assuming that you're
14 not an attorney; is that --

15 MR. CLARKE: Actually, that's not true.
16 I am an attorney.

17 LEADER BUDISH: Oh, great. Okay. Then
18 let me ask the question this way:

19 In your experience, the current map that
20 we have right now in the House and Senate, it's my
21 understanding that it divides hundreds of
22 subdivisions up. Based on your understanding of
23 what the Constitution requires, is the current map
24 constitutional?

25 MR. CLARKE: I don't know that I can

1 find -- I don't know that I would necessarily -- to
2 be honest, I don't know that I would necessarily
3 find it unconstitutional. I read through the -- as
4 part of the -- as part of -- we try to read the
5 Constitution; make sure I got the constitutional
6 requirements right.

7 I read the legal description from the
8 20 -- from the 2001 apportionment, and other than
9 the fact that -- you know, it seemed that the Board
10 took the position that noncon- -- that dividing --
11 separating noncontiguous portions of township and
12 city wards would not be considered, that township
13 and city ward.

14 Having worked on this map myself, I can
15 understand why they did that. There is only one
16 situation I saw that there were -- that there were
17 a couple of wards out of Dayton. There's one
18 district -- or a couple wards in Dayton and a
19 couple wards from Kettering that could conceivably
20 be treated as dividing multiple subdivisions, but
21 otherwise, I didn't see anything that
22 specifically -- that was specifically out of line.

23 Although, I will say this: When I did
24 take a look at it and said, "Okay. Let's see what
25 the Board's doing," I kind of assumed that the

1 Board knew what it was doing. I wasn't really
2 looking to try to -- to try to take down what the
3 Board did in 2001.

4 Obviously, I'd like to see it a lot less
5 politicized, but -- and, you know, I can take -- I
6 can take a look and I can say, "Well, you know -- "

7 I do think that comparing what I did
8 with what the -- with what the Board did in 2001, I
9 felt in -- in all the criteria, I met the criteria
10 that the -- that was set out by the competition
11 better than what the Board did in 2001, but I
12 wasn't really -- I wasn't really thinking, "Did
13 they -- did the Apportionment Board act
14 unconstitutionally in 2001?"

15 AUDITOR YOST: Any other questions for
16 this witness?

17 I would like to ask a couple.

18 You're aware that the current map --
19 current districts, that map was challenged for its
20 constitutionality, correct?

21 MR. CLARKE: I didn't specifically look
22 that up, but I'll take your word for it.

23 AUDITOR YOST: Okay. And you referred
24 to the criteria for the contest you participated
25 in.

1 MR. CLARKE: Yes.

2 AUDITOR YOST: And what is the -- how
3 many minority districts does it require?

4 MR. CLARKE: It required a total of five
5 minority districts in the -- on the House side and
6 two on the Senate.

7 AUDITOR YOST: And only in Cleveland and
8 Franklin County?

9 MR. CLARKE: That's correct.

10 AUDITOR YOST: So since you've worked
11 with the numbers and the maps, is it your opinion,
12 as a lawyer, that the only minority districts that
13 this ward should be concerned about exist in
14 Franklin County and Cuyahoga County?

15 MR. CLARKE: I'm not sure I want to --
16 I've got to be careful -- I've got to be careful
17 about this.

18 I -- I would tend to -- I would tend to
19 agree with that. Although, it's one of those
20 things, as I look -- you know, as I looked at the
21 numbers, could you draw additional
22 minority/majority districts? Yes, you definitely
23 could. There are a handful of other places you
24 could draw majority and minority districts.

25 I'm not really an expert on the Voting

1 Rights Act, so it's hard for me to say, does the
2 Voting Act -- Voting Rights Act require additional
3 majority and minority districts. I can't really
4 say that. I can't really say that specifically.

5 But, you know, just -- as far -- you
6 know, for competition purposes, I took the seven
7 majority/minority districts as being what the
8 requirement was and I made sure -- I made sure I
9 met that.

10 AUDITOR YOST: Okay. And back to the
11 criteria of the competition. Was there any
12 requirement for minority influence districts to be
13 considered?

14 MR. CLARKE: There was no -- there was
15 no requirement for minority influence districts.
16 It was -- it was recommended, but no plan was going
17 to be excluded for not having any minority
18 influence districts.

19 AUDITOR YOST: So would it be fair then
20 to say that, given the Voting Rights Act and
21 jurisprudence surrounding it, that the standards
22 this Board faces with regard to minority
23 representation are substantially more stringent
24 than the criteria set out in this competition?

25 MR. CLARKE: Again, I'm not an expert on

1 the Voting Rights Act, so I'm not -- I don't -- I'm
2 not -- I don't think I can offer an opinion about
3 exactly what the -- about exactly what the
4 requirement of the Board is going to face in
5 complying with the Voting Rights Act.

6 AUDITOR YOST: Thank you.

7 Are there any follow-up questions from
8 the Board?

9 Seeing none, I thank you for your
10 testimony, sir. Good luck to you in the
11 competition.

12 MR. CLARKE: Thank you.

13 AUDITOR YOST: The next witness before
14 the Board will be Sean Logan.

15 MR. LOGAN: Members of the Apportionment
16 Board, my testimony is simple. Please respect
17 Article 11, Section 9 of the Ohio Constitution and
18 keep Columbiana County a single and whole county
19 Ohio House district.

20 As a resident of Columbiana County, I
21 believe that we represent one of the intended
22 primary purposes of the 1967 Amendment to the 1851
23 Constitution. The drafters of the Amendment
24 understood the significance, as do many Ohioans, to
25 have a single voice representing our collective

1 interest as a single and whole county.

2 If we don't agree with the
3 representation we are receiving, then a single --
4 then as a single, whole county district, we can
5 vote for a change of voice.

6 As you know, Section 9 provides what I
7 call extra protection to keep a county as a single,
8 whole county district by allowing the ratio of
9 representation to deviate between 90 percent and
10 110 percent of the quotient. The quotient, of
11 course, or otherwise known in our Constitution as
12 the ratio of representation, as provided for in
13 Article 3, is the state's total population divided
14 by 99.

15 Generally, Ohio House districts are not
16 to be less than 95 percent and not more than 105
17 percent of the ratio -- ratio of representation.
18 The exception to the above general rule is also
19 enunciated in Section 3, except -- quote, "Except
20 in those instances where reasonable effort is made
21 to avoid dividing a county in accordance with
22 Section 9 of this article."

23 This extra protection is specifically
24 contemplated at the beginning of the apportionment
25 process, not at the end.

1 Further, with the numbering system
2 delineated in Section 10, it begins with single,
3 whole county districts.

4 So, please, don't merge portions of an
5 adjacent county with Columbiana County or split
6 Columbiana County between other House districts.

7 To place a finer point on this request
8 for common sense, my research, as the table below
9 illustrates, there has been only one county that
10 has always been a single, whole county Ohio House
11 district since the adoption of this 1967 one man,
12 one vote Amendment; Columbiana County.

13 As shown above, past deviations have
14 ranged from the high of 109.4 percent - Wood
15 County, 2000 - and a low of 91.1 percent -
16 Ashtabula, 1990.

17 Columbiana County's 2010 population, and
18 all of the 2010 census-eligible counties, are
19 within existing precedence and, therefore, protect
20 the integrity of Section 9 of the Apportionment
21 Amendment.

22 It is interesting to note that, as far
23 back as 1857, Ohioans have been voting on various
24 ways to provide for apportionment of Ohio House
25 districts. After the landmark U.S. Supreme Court

1 cases of Baker versus Carr in 1962 and Reynolds
2 versus Sims in 1964, Ohioans defeated proposed
3 constitutional amendments in May 1965, as well as
4 in May 1967.

5 Finally, on November 7th, 1967, by 59
6 percent, Ohioans voted to replace the 1851
7 provision with at least one state representative
8 for each county with the current Article 11.

9 While I am in no way a historian, or the
10 cynic that the Plain Dealer's Tom Suddes is, I will
11 be the first to recognize the irony that a
12 democrat, me, is attempting to protect the last
13 remaining vestiges of the pre-1967 republican-
14 benefited scheme of at least one state
15 representative for each county.

16 However, this appearance is far from
17 reality when you consider the consistent history
18 and common sense approach that Section 9 has
19 provided to hundreds of thousands of Ohioans living
20 in a single, whole county district.

21 Further, with the words "reasonable
22 efforts shall be made," Section 9 sets a high bar
23 to deviate from its provisions and the consistent
24 history of the previous four apportionment boards
25 to split or add to a protected, single, whole

1 county district, such as Columbiana.

2 In other words, you would have to be
3 going out of your way to add Carroll County or
4 parts of Stark, Mahoning, or Jefferson Counties to
5 a Columbiana County district, or to make it clearer
6 and cover all bases, or splitting Columbiana County
7 among one or more of them, even though there's
8 protection of going more than once in a split.

9 Any reconfiguration of Columbiana
10 County, other than a single, whole county district,
11 would be really hard-pressed to pass a straight
12 face test when you consider we border Pennsylvania
13 and West Virginia. Meaning, there are fewer
14 compelling reasons, slash, factors to not make a
15 reasonable effort to keep us whole and single when
16 our ratio -- when our 2010 ratio is 92.5. -- of
17 92.5 is 1.4 percent from the greatest past
18 deviation - Ashtabula in 1990 - and 2.5 percent
19 from the low end, 90 percent, of the constitutional
20 provisions in Article -- in Section 9.

21 To add a personal and, hopefully,
22 humorous story to this topic, I will always
23 remember when then-State Representative Lynn
24 Watchman stopped me at the bank of elevators on the
25 third floor of the Riffe Center in Columbus shortly

1 after the 1990 election. I was still a new member
2 of the Ohio House, representing Columbiana County
3 at age 24.

4 And he said, quote, "So, Sean, do you
5 want to be part of West Virginia or Pennsylvania?"

6 I smugly replied, while he was slapping
7 his knee, "Article 11, Section 9."

8 I may be the only person in our county
9 that cares so much about this issue, but I'm
10 thankful for this opportunity to express my views,
11 and thank you for your time in dealing with this
12 very serious matter.

13 Columbiana County has survived four
14 rounds of reapportionment as a single, whole county
15 Ohio House district. Please make it five and
16 respect the Ohio Constitution.

17 Thank you.

18 AUDITOR YOST: Thank you, sir.

19 Questions from the panel?

20 Thank you for your testimony. Thank you
21 for your service.

22 MR. LOGAN: Thank you.

23 AUDITOR YOST: Are there any other
24 witnesses that wish to address the committee
25 today?

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Seeing none, without objection, I'll
adjourn this, pursuant to our next hearing at the
University of Akron at 1:00 today at the Martin
University Center Ballroom, 105 Fir Hill, Akron,
Ohio.

Thank you very much for being here.

(Thereupon, the hearing was adjourned at
9:52 a.m.)

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1 STATE OF OHIO)
2) ss:
3 COUNTY OF LORAIN.)

4 CERTIFICATE

5
6 I do certify that the foregoing is a true
7 and correct transcript of the proceedings taken by
8 me in this matter on Tuesday, August 23, 2011, and
9 carefully compared with my original stenographic
10 notes.

11
12
13 _____
14 Laurel M. Keller, RPR
15 Registered Professional Reporter
16 and Notary Public within and for
17 the State of Ohio.
18 My commission expires 12/11/10.
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