

REFERENCE TITLE: **independent redistricting commission; recommendations.**

State of Arizona
Senate
Fiftieth Legislature
Fourth Special Session
2011

SCM 1001

Introduced by

Senators Pearce R, Allen, Antenori, Barto, Biggs, Bundgaard, Driggs, Gray,
Griffin, Klein, McComish, Murphy, Pierce S, Shooter, Smith, Yarbrough;
Representatives Harper, Kavanagh: Senators Crandall, Gould, Melvin,
Nelson, Reagan

A CONCURRENT MEMORIAL

**URGING THE INDEPENDENT REDISTRICTING COMMISSION TO IMMEDIATELY COMMENCE A NEW
MAPPING PROCESS FOR BOTH THE CONGRESSIONAL AND LEGISLATIVE DISTRICTS THAT
COMPORTS WITH THE REQUIREMENTS OF ARTICLE IV, PART 2, SECTION 1, CONSTITUTION
OF ARIZONA.**

(TEXT OF MEMORIAL BEGINS ON NEXT PAGE)

1 To the Independent Redistricting Commission:

2 Your memorialist respectfully represents:

3 Whereas, pursuant to article IV, part 2, section 1, Constitution of
4 Arizona, the Independent Redistricting Commission shall advertise a draft map
5 of congressional districts and a draft map of legislative districts to the
6 public for comment, which comment shall be taken for at least thirty days;
7 and

8 Whereas, either or both bodies of the legislature may act within this
9 period to make recommendations to the Independent Redistricting Commission,
10 by memorial or by minority report, which recommendations shall be considered
11 by the Independent Redistricting Commission; and

12 Whereas, on October 31, 2011, the Arizona Joint Legislative
13 Redistricting Committee issued its final report in which it recommended that
14 the Senate and House of Representatives recommend to the Independent
15 Redistricting Commission that the process used to arrive at the draft
16 congressional and legislative maps is so fundamentally flawed that the
17 resulting maps have been unconstitutionally created and that the only remedy
18 is to start the process over; and

19 Whereas, the Joint Committee stated that its recommendation is
20 necessary to correct multiple violations of the criteria set forth in the
21 Arizona Constitution. Specifically, the Joint Committee found that the draft
22 congressional and legislative maps violate the constitutional criteria as
23 follows:

24 1. Compliance with the United States Constitution and the Voting
25 Rights Act.

- 26 • The draft congressional and legislative maps were drawn without the
27 benefit of any racially polarized voting analysis. Without that
28 analysis, and without additional analysis of the voting
29 effectiveness of any polarized minority populations, the
30 Independent Redistricting Commission has no objective basis to
31 assess whether its districts satisfy the Voting Rights Act.
- 32 • It appears that none of the minority groups that participated and
33 consulted with the Independent Redistricting Commission were given
34 the opportunity to review any racial voting analysis, including
35 polarized racial block voting data. Without this data and
36 analysis, and additional data demonstrating voter effectiveness, it
37 is impossible to assess whether districts satisfy the Voting Rights
38 Act. The Independent Redistricting Commission should have
39 completed this analysis before draft maps were voted on and should
40 have released this data and analysis with the draft maps so that
41 all Arizonans would have the opportunity to meaningfully evaluate
42 the draft maps.
- 43 • The Independent Redistricting Commission created minority-majority
44 districts that have wide variations in the minority voting age
45 population; some are above 60% and other adjacent districts are

1 barely majority-minority districts. Without racially polarized
2 voting analysis, there is no clear basis for this disparity.

3 2. Equal population.

- 4 • The draft congressional maps appear to satisfy this criterion.
- 5 • The draft legislative map is suspect at 5.6% overall population
6 deviation given the constitutional requirement that "legislative
7 districts shall have equal population to the extent practicable."
- 8 • The overall population of the draft legislative districts is
9 significantly less equal than the legislative districts established
10 by the 2001 Independent Redistricting Commission. The 2004
11 legislative districts plan had an overall population deviation of
12 4.23%. The 2001 Independent Redistricting Commission under
13 populated the legislative majority-minority districts to meet
14 Voting Rights Act benchmarks. Without these deliberately
15 underpopulated majority-minority districts, the overall population
16 deviation of the legislative districts established by the 2001
17 Independent Redistricting Commission is 3.0% – a full two and a
18 half points tighter deviation.

19 3. Geographical compactness and contiguity.

- 20 • CD 4 violates these criteria by linking municipalities and
21 communities of interest from the extreme northwestern parts of the
22 state with eastern and southeastern metropolitan areas of Maricopa
23 and Pinal counties.
- 24 • CD 4 violates these criteria by including an "arm" that intrudes
25 into and splits Gila County.
- 26 • CD 1 violates these criteria by extending into Cochise County,
27 picking up minimal population in order to create a third
28 congressional district that includes the international border.
- 29 • LD 7 is a huge area. It is larger than some states, three and a
30 half times the size of the next largest draft district, and twice
31 as large as the largest current legislative district. The enormity
32 of the draft LD 7 is partly because of the Independent
33 Redistricting Commission's unjustified insistence on removing
34 Flagstaff from the district.
- 35 • LD 6 is a large, oddly shaped district with parts of 4 counties,
36 again caused by the Independent Redistricting Commission's
37 treatment of Flagstaff. The draft district's driving distance from
38 end to end is over two hundred miles.
- 39 • LD 14 is primarily Yavapai County, but is forced all the way into
40 the metropolitan Phoenix area as a result of the treatment of
41 Flagstaff.
- 42 • LD 13 is a bizarrely shaped district that starts in Yuma and ends
43 up by a narrow neck in Litchfield Park.
- 44 • LD 8 runs from urban northwest Tucson to Payson in rural Gila
45 County.

- 1 • LD 1 begins in urban eastern Tucson and runs through rural areas of
- 2 Graham and Cochise counties.
- 3 • The Independent Redistricting Commission failed to adopt a clear
- 4 standard for "compactness" that can be objectively applied
- 5 throughout the process.
- 6 4. Respect for communities of interest.
- 7 • CD 4 commits copious violations of this criterion by linking
- 8 multiple communities of interest in rural Arizona with multiple
- 9 communities of interest within the metropolitan areas of Maricopa
- 10 County, as well as high-growth areas in Pinal County.
- 11 • CD 4 violates this criterion by unnecessarily linking multiple
- 12 rural communities of interest with a metropolitan Phoenix
- 13 population of over two hundred thousand, almost 30% of the
- 14 population of the district.
- 15 • CD 4 violates this criterion by unnaturally dividing the town of
- 16 Fountain Hills from its neighboring municipalities (Scottsdale,
- 17 Carefree and Cave Creek) and linking it with multiple rural
- 18 communities of interest.
- 19 • CD 1 violates this criterion by linking multiple communities of
- 20 interest in rural Arizona with multiple communities of interest in
- 21 high-growth areas in Pima County.
- 22 • CD 9 unnecessarily aggregates parts of several disparate
- 23 communities of interest within Maricopa County.
- 24 • CD 9 is not supported by any coherent community of interest within
- 25 Maricopa County. The claim that this is the "light rail district"
- 26 cannot be supported, as more than one-half of the light rail runs
- 27 completely outside of the district. In addition, only a very small
- 28 percentage of the population in CD 9 rides the light rail on a
- 29 regular basis.
- 30 • CD 9 groups two communities of interest, Phoenix and Tempe, which
- 31 have diametrically opposite positions regarding the Phoenix
- 32 Airport. One elected official will not be able to serve both
- 33 interests.
- 34 • LD 1 places urban areas of Pima County with distinctly rural areas
- 35 of Cochise and Graham Counties.
- 36 • LD 8 contains a relatively urban area of northwest Tucson and
- 37 combines it with eastern Pinal mining communities and southern Gila
- 38 County areas that have virtually nothing in common.
- 39 • LD 14 splits Yavapai County in order to provide a legislative
- 40 district for Flagstaff to be separate from the Navajo Nation. This
- 41 forces the legislative district south all the way into the
- 42 metropolitan Phoenix area.
- 43 • LD 13 is a bizarrely shaped district that runs from the north side
- 44 of Yuma through a narrow neck to Litchfield Park in the

1 metropolitan Phoenix area. These communities have little in
2 common.

- 3 • LD 7 includes a huge area from the northwest corner of the state to
4 Greenlee County on the south. Greenlee County is hundreds of miles
5 away from the northwest part of this district and has nothing in
6 common with the Navajo reservation or Coconino County.
- 7 • LD 24 combines the Fort McDowell and Salt River Reservations into
8 the same district as the downtown area and 19th Avenue & McDowell.
9 This was done under the theory that the Voting Rights Act requires
10 the creation of two additional minority coalition districts.
11 However, the commission has no empirical data to support the
12 effectiveness of this district.
- 13 5. Use of visible geographic features, city, town and county
14 boundaries and undivided census tracts.
- 15 • CDs 1, 4, and 9 violate these criteria by making copious,
16 unnecessary divisions of municipal, county and census tract lines.
- 17 • These criteria are violated in multiple areas throughout the draft
18 congressional map as a direct result of the unnecessary decision to
19 place the City of Flagstaff in CD 1. Several counties could be
20 kept whole if Flagstaff were placed in CD 4.
- 21 • Pinal County is unnecessarily divided.
- 22 • Cochise County is unnecessarily divided.
- 23 • Gila County is unnecessarily divided.
- 24 • Maricopa County is unnecessarily divided into 8 different
25 congressional districts.
- 26 • CD 9 violates these criteria by gratuitously dividing
27 municipalities throughout Maricopa County.
- 28 • There are numerous instances in the legislative draft map where the
29 Independent Redistricting Commission has broken municipal, county
30 and census tract lines without justification and contrary to the
31 Constitution of Arizona.
- 32 • The Independent Redistricting Commission's treatment of Flagstaff
33 causes LD 6 to break four county lines.
- 34 • LDs 8 and 11 have pieces of three different counties as a result of
35 the manner in which the Independent Redistricting Commission has
36 drawn the Pima County districts.
- 37 • The legislative district map in Pima County splits several census
38 tracts, affecting the positioning of several incumbent legislators.
- 39 • LD 7 has pieces of six different counties as a result of the
40 Independent Redistricting Commission splitting Flagstaff from that
41 draft district.
- 42 • The City of Glendale is divided into 5 different legislative
43 districts.

1 6. Competitiveness.

2 • As a whole, the draft congressional map is less competitive than
3 the existing congressional map.

4 • CD 1 is significantly less competitive than the current CD 1. It
5 contains 80% of the area and 67% of the population from the current
6 CD 1. However, in terms of Democrat and Republican voter
7 registration, it is about 6% points higher in Democrat voter
8 registration.

9 • The elections from 2004 and 2006 have not been taken into account
10 in the Independent Redistricting Commission's measures of
11 competitiveness. This makes any analysis of competitiveness by the
12 Independent Redistricting Commission highly suspect. The 2010
13 election year was an aberration in that Republican candidates in
14 Arizona received unusually strong support from voters of all types.
15 Emphasizing 2010 election returns without smoothing data from
16 several prior elections skews the results of any competitiveness
17 analysis.

18 • CD 9 was designed with the primary purpose of being competitive in
19 complete disregard of the other constitutional criteria.

20 • By failing to define the constitutional term "competitive," the
21 Independent Redistricting Commission has made it possible for the
22 term to have more than one meaning. Without a specific meaning for
23 the term, it is impossible to assess whether competitiveness has a
24 "significant detriment" on any other constitutional criteria. The
25 Independent Redistricting Commission should create a specific
26 definition for "competitive" so that the term can be applied in
27 conjunction with the other constitutional criteria.

28 7. Party registration and voter history.

29 • While initially party registration and voting history data were not
30 considered during the drawing of the grid map, the grid map lines
31 were erased and replaced with lines that did take party
32 registration and voting history into consideration. By abandoning
33 the grid map instead of making logical incremental adjustments to
34 it, the draft congressional map has violated these constitutional
35 criteria.

36 8. Improper consideration of places of residence of incumbents and
37 candidates.

38 • Of the eight incumbent congressmen, two Republicans have been
39 divided from the vast majority of their current districts. No
40 Democrat congressman has been significantly divided from the
41 population of his or her current district.

42 • Two incumbent congressmen were moved into new districts over the
43 course of a weekend. In one case the change required intricate,
44 pinpoint mapping. The drafter of the map drafted at the block
45 level. The two Republican incumbent congressmen were affected by a

1 map that was drafted over a weekend and then introduced and voted
2 on the same day, October 3, 2011.

3 • The legislative draft map has numerous instances where census tract
4 lines are broken in an apparent attempt to place incumbents in
5 particular districts contrary to the Constitution.
6 • There are at least 10 legislators who are drawn in or out of
7 districts by a distance of a few hundred feet. Several of these
8 instances exist because the Independent Redistricting Commission
9 has broken census tracts contrary to the Constitution.
10 • The most numerous examples of drafting focusing on places of
11 residence appear to occur in Pima County where several Democrat
12 incumbents appear to have been protected by breaking census tracts
13 and one incumbent stays with the bulk of his district by block
14 redistricting literally down the middle of his street.

15 9. Additional constitutional problems.

16 • The Independent Redistricting Commission accepted and adopted in
17 substantial part maps from outside sources. As a consequence, the
18 Independent Redistricting Commission could not assess whether the
19 constitutional criteria were followed when these maps were
20 constructed. This is a systemic failure that potentially could
21 have a deleterious effect on many or all of the constitutional
22 criteria.
23 • The Independent Redistricting Commission has violated the
24 constitutional comment requirement. The public and the Legislature
25 cannot assess the draft congressional map for compliance with the
26 Voting Rights Act without polarized racial block voting analysis
27 and the associated voting effectiveness data. The Independent
28 Redistricting Commission has not made this data available to the
29 public or the Legislature. Commenting on minority districts is a
30 meaningless exercise without the benefit of the essential data on
31 which those districts must be based.
32 • The Independent Redistricting Commission did not follow the
33 constitutionally required redistricting process by adjusting the
34 grid maps to account for the six mandated constitutional criteria.

35 Wherefore your memorialist, the Senate of the State of Arizona, the House of
36 Representatives concurring, prays:

37 1. That the Independent Redistricting Commission immediately commence
38 a new mapping process for both the congressional and legislative districts
39 that comports with the requirements of article IV, part 2, section 1,
40 Constitution of Arizona.

41 2. That the Secretary of State of the State of Arizona transmit copies
42 of this Memorial and the report of the Arizona Joint Legislative
43 Redistricting Committee to the Independent Redistricting Commission, each
44 member of the Independent Redistricting Commission and to each Member of
45 Congress from the State of Arizona.