

Commonwealth of Kentucky

HOUSE OF REPRESENTATIVES

GREGORY D. STUMBO

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SPEAKER OF THE HOUSE

MEMORANDUM

To: The Members of the Kentucky House of Representatives

From: Speaker Gregory D. Stumbo

Date: January 18, 2012

RE: Voting Rights Law

My Fellow House Members:

I voted against the Republican redistricting plan because it unconstitutionally deprives minority voters in Lexington of hard won voting rights.

The Minority Leader took the floor yesterday to demand an apology, and accuse me of misrepresenting the facts. It is time that this important debate addressed the hard facts, not political spin.

My dear friend the Gentleman from Fayette 77 (Representative Jesse Crenshaw) has long and proudly represented a vibrant community with a sizable black and Hispanic population.

Black and Hispanic people make up 51% of the people in the 77th. This is what is known as a "majority/minority district", and we as a nation are dedicated to preserving these districts.

The 2000 Census found that 44% of the people in the 77th were black, and 7% were Hispanic, for a total of 51% minority population.

The 2010 Census found that 36% of the people in the 77th were black, and 15% were Hispanic, again resulting in a steady 51% minority population.

The Republican plan makes the district 64% white, cuts black voters down to 23% and Hispanic voters down to 13%.

This practice is known as "fracturing" the minority vote. It has long been declared illegal and unconstitutional.

Even if we ignore the sizable Hispanic population in Fayette County, as the Minority Leader did yesterday, and focus solely on the black voters in the 77th district, the Republican plan is still illegal.

In fact, an identical plan was struck down in Ohio, where a House District containing 35% black voters was fractured, in direct violation of the Voting Rights Act of 1965. See: *Armour v. Ohio*, 775 F Supp 1044 (N. D. Ohio 1991).

The same federal law is applied in Tennessee, where "minority influence" districts of between 25% and 55% are entitled to protection from racial gerrymandering. See: *Rural West Tennessee African-American Affairs Council, Inc. v. Wherter*, 877 F Supp 1096, (W. D. Tennessee 1995).

It does not matter that some minority voting rights are preserved in Jefferson County. The United States Supreme Court has firmly stated that "the vote dilution injuries suffered by these persons are not remedied by creating a safe majority-black district somewhere else in the State." See: *Shaw v. Hunt*, 517 US 899, at 917,(1996).

Our own redistricting manual published for the use of every legislature in the nation, makes plain that "a majority-minority district is a district in which the majority of the population is either African American, Hispanic, Asian or Native American." (See: *Redistricting Law 2010*, National Conference of State Legislatures, at p. 66.)

This same guidebook explains that "more than one minority group, working in a coalition, can form a majority to elect their preferred candidates." (See: *Redistricting Law 2010*, at p. 69.)

When that minority coalition is forcibly broken, as happened here in the Republican plan, courts step in to protect voting rights by striking down the discriminatory act.

When I spoke on the House floor against the measure, I addressed the sponsor of the amendment with respect, and inquired as to whether the Republican plan complied with the voting rights laws. It eventually emerged that the plan had a "problem" which I believe should have been revealed to the members of the House prior to the taking of a vote. I do not regret exposing the shortcomings of the plan. Indeed, I view it as my duty to protect the most fundamental of our political freedoms, the right to an effective vote.

More than a century ago, the U.S. Supreme Court described the right to vote as fundamental because it is “preservative of all rights.” (*Yick Wo v Hopkins*, 118 US 356 (1886)).

As United States Supreme Court Justice Hugo Black said in 1964, “[o]ther rights are illusory if the right to vote is undermined.”

We did the right thing in forcefully rejecting this flawed and unfair plan, and adopting one that preserves the essential basis of our democracy, the right to a meaningful vote.

We should be proud of our efforts, and stand strong together to protect the rights of every Kentuckian, regardless of race, gender or creed.

I am proud of you for doing exactly that.