

Common Cause Wisconsin: Statement on Wisconsin Supreme Court state legislative & congressional redistricting decision

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After the Wisconsin Supreme Court ruled last Fall that it would consider and adjudicate only those redistricting plans submitted by various entities that embodied a concept never before considered by a court that called for “least change” from the highly partisan gerrymandered maps Republicans enacted into law in 2011, the only question left was how partisan and favorable to the Republicans would the 2021-22 state legislative and congressional maps end up being.

The answer, Thursday, from a 4 to 3 majority on the court with the three progressive justices — Ann Walsh Bradley, Rebecca Dallet and Jill Karofsky joined by conservative Justice Brian Hagedorn, who wrote the opinion, was that the new voting maps will continue to be partisan and favorable to Republicans and are not dramatically different than in 2011 but they are less partisan than the Republican majority in the Wisconsin Legislature had been seeking. Hagedorn opined that the state legislative and congressional voting maps submitted by Governor Tony Evers provided the closest adherence to the “least change” principle adopted by the court’s conservative majority in November and that further they complied with federal voting rights requirements better than the Republican maps and others submitted for consideration.

While the so-called principle of “least change” seems highly suspect as a sound or fair legal concept in which to judge redistricting plans, and while the court should have directly attacked the unfairness and partisanship of the 2011 maps which it

instead sought largely to keep intact, the decision to select the maps submitted by the Governor over those submitted by Republican legislators was a step in the direction of greater fairness and less partisanship than had the Republican maps been selected, as the three dissenting conservative justices—Chief Justice Annette Ziegler, Patience Roggensack and Rebecca Bradley had sought to do.

“This decision, while not at all ideal, at least provides Wisconsinites with the ability to be able to carry on the fight for a truly non-partisan redistricting process like our neighboring state of Iowa has had in place for over 40 years,” said Common Cause Wisconsin Board Chair Tim Cullen, who served in the State Senate from 1975 to 1987, including as the Democratic Majority Leader, and then again from 2011 to 2015. “Redistricting could conceivably occur again before 2031 and it is imperative that the Wisconsin Legislature and Governor embrace and enact the Iowa model into law before that happens,” Cullen added.

“The fight for fair maps continues and the tremendous momentum and overwhelming popular support from citizens throughout the state that has occurred over the past ten years for non-partisan redistricting is only intensifying and growing larger with each passing day. This movement is not going away,” added Jay Heck, the Common Cause Wisconsin State Director since 1996.

“We will keep pushing until a fair voting maps process is finally adopted and firmly established in Wisconsin as it has been in Iowa,” Cullen concluded.

It is possible that the Wisconsin Supreme Court’s decision will be appealed to a federal court and even to the U.S. Supreme Court but for now, state legislative and congressional boundaries for the 2022 election will now be in place.