

Court of Appeals, State of Michigan

ORDER

In re Apportionment - Bay County - 2001

Docket No. 235313

LC No.

RECEIVED

SEP 15 2001

William C. Whitbeck
Presiding Judge

Richard Allen Griffin

Donald S. Owens
Judge

Jensen Gilbert Smith & Borrello, P.C.
Attorneys at Law

The Court orders that the motion to intervene is GRANTED.

The Court orders, pursuant to MCR 7.206(D)(3), that the petition for review is DISMISSED for lack of merit in the grounds presented. The adopted apportionment plan satisfies the laws of this state, MCL 46.404, MCL 46.406. The total maximum population divergence of the adopted plan is approximately 8.9%, well within the allowable range of 11.9%. *Apportionment of Wayne County Board of Commissioners - 1982*, 413 Mich 224, 263; 321 NW2d 615 (1982). Contrary to petitioner's argument, all districts in the plan are contiguous. See *Board of Supervisors of the County of Houghton v Blacker*, 92 Mich 638; 52 NW 591 (1892). No other district intervenes between Essexville and the remainder of district 5. Given the geography and population distribution of the county, the districts are reasonably compact and square. Because of their relatively small populations, all cities in the county except Bay City must be combined with townships. Bay City has too large a population to form a single district and cannot be divided so perfectly that no part of Bay City combines with a township. The adopted plan preserves political boundaries by dividing only three townships and the city of Bay City, and the plan divides no precincts. The adopted plan appears to be the result of an honest and good faith effort, *Apportionment of Wayne County Board of Commissioners - 1982*, *supra* at 262, and there is no evidence that the plan was based on partisan considerations.

By proposing a plan to this Court with a low maximum population divergence of 0.17%, among other things, petitioner contends that a better plan more in conformity with equal population concerns can be adopted. Our review is not to determine what might be the best plan. *In re Apportionment of Clinton County - 1991 (Aft Rem)*, 193 Mich App 231, 236-237; 483 NW2d 448 (1992), *lv den* 439 Mich 981 (1992). This Court is not a super apportionment commission. The adoption of an apportionment plan, including the determination of which municipal entities are to be divided, is a political and legislative endeavor to which courts afford considerable deference. *Gaffney v Cummings*, 412 US 735, 748-754; 93 S Ct 2321; 37 L Ed 2d 298 (1973); *In re Apportionment of Clinton County - 1991 (Aft Rem)*, *ibid*. We find that the adopted plan represents a reasonable choice in the reasoned exercise of judgment and a reasonable balancing of the considerations set forth in MCL 46.404. *Apportionment of Wayne County Board of Commissioners - 1982*, *supra* at 256; *In re Apportionment of Clinton County - 1991 (Aft Rem)*, *ibid*.


Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 14 2001

Date


Chief Clerk