HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:   CS/HJR 6001   PCB SRS 12-01   Joint Resolution of Apportionment
SPONSOR(S): Senate Redistricting Subcommittee, Nehr
TIED BILLS: **IDEN./SIM. BILLS:** HJR 6009 HJR 6011 HJR 6013 CS/SJR 1176 SJR 1628

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Senate Redistricting Subcommittee	10 Y, 4 N	Poreda	Kelly
1) Redistricting Committee	14 Y, 7 N, As CS	Poreda	Kelly

SUMMARY ANALYSIS

The Florida Constitution requires the Legislature, by joint resolution at its regular session in the second year after the United States Census, to apportion state legislative districts. The United States Constitution requires the reapportionment of the United States House of Representatives every ten years, which includes the distribution of the House's 435 seats between the states and the equalization of population between districts within each state.

The 2010 Census revealed an unequal distribution of population growth amongst the State's legislative and congressional districts. Therefore districts must be adjusted to correct population differences.

Redistricting Plan S000S9008: This proposed committee bill (joint resolution) reapportions the resident population of Florida into 40 State Senate districts, as required by state and federal law.

This proposed committee bill would substantially amend Chapter 10 of the Florida Statutes.

When compared to the existing 40 State Senate districts, this proposed committee bill would:

- Reduce the number of counties split from 45 to 31;
- Reduce the number of cities split from 126 to 54;
- Reduce the total perimeter, width and height of the districts, consistently, based on various methods of measurement;
- Reduce the distance and drive time to travel the average district;
- Reduce the total population deviation from 38.60% to 1.98%; and
- Maintains elected representation for African-American and Hispanic Floridians.

Upon approval by the Legislature, within 15 days the Attorney General must petition the Florida Supreme Court to review this joint resolution. The Florida Supreme Court must enter its judgment within thirty days from the filing of the petition.

Prior to the implementation, pursuant to Section 5 of the federal Voting Rights Act (VRA), this apportionment must also be approved ("precleared") by either the District Court for the District of Columbia or the United States Department of Justice.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The 2010 Census

According to the 2010 Census, 18,801,310 people resided in Florida on April 1, 2010. That represents a population growth of 2,818,932 Florida residents between the 2000 to 2010 censuses.

After the 2000 Census, the ideal populations for each district in Florida were:

- Congressional: 639,295
- State Senate: 399,559
- State House 133,186

After the 2010 Census, the ideal populations for each district in Florida are:

- Congressional: 696,345
- State Senate: 470,033
- State House: 156,678

The 2010 Census revealed an unequal distribution of population growth amongst the State's legislative and congressional districts. Therefore districts must be adjusted to comply with "one-person, one vote," such that each district must be substantially equal in total population.

Table 1 below shows the changes in population for each of Florida's current State Senate districts and their subsequent deviation from the new ideal population of 470,033 residents.

Table 1. Florida Senate Districts 2002-2011

Florida Senate Districts 2002-2011	2000	2010
Total State Population, Decennial Census	15,982,378	18,801,310
Maximum Number of Districts	40	40
Ideal District Population (Total State Population / 40)	399,559	470,033

District	2000 Population	2000 Deviation Count	2000 Deviation %	2010 Population	2010 Deviation Count	2010 Deviation %
1	399,563	4	0.0%	424,456	-45,577	-9.7%
2	399,543	-16	0.0%	449,902	-20,131	-4.3%
3	399,512	-47	0.0%	495,081	25,048	5.3%
4	399,586	27	0.0%	433,628	-36,405	-7.7%
5	399,573	14	0.0%	515,369	45,336	9.6%
6	399,586	27	0.0%	451,464	-18,569	-4.0%
7	399,552	-7	0.0%	432,554	-37,479	-8.0%
8	399,568	9	0.0%	525,674	55,641	11.8%
9	399,552	-7	0.0%	527,435	57,402	12.2%
10	399,547	-12	0.0%	565,921	95,888	20.4%
11	399,543	-16	0.0%	433,661	-36,372	-7.7%
12	399,594	35	0.0%	531,959	61,926	13.2%
13	399,563	4	0.0%	394,766	-75,267	-16.0%
14	399,571	12	0.0%	457,489	-12,544	-2.7%
15	399,559	0	0.0%	560,770	90,737	19.3%

16	399,549	-10	0.0%	431,916	-38,117	-8.1%
17	399,577	18	0.0%	456,960	-13,073	-2.8%
18	399,553	-6	0.0%	404,822	-65,211	-13.9%
19	399,553	-6	0.0%	477,068	7,035	1.5%
20	399,578	19	0.0%	576,207	106,174	22.6%
21	399,556	-3	0.0%	529,870	59,837	12.7%
22	399,568	9	0.0%	419,763	-50,270	-10.7%
23	399,561	2	0.0%	458,330	-11,703	-2.5%
24	399,554	-5	0.0%	524,254	54,221	11.5%
25	399,580	21	0.0%	428,398	-41,635	-8.9%
26	399,517	-42	0.0%	481,892	11,859	2.5%
27	399,568	9	0.0%	551,555	81,522	17.3%
28	399,573	14	0.0%	545,085	75,052	16.0%
29	399,534	-25	0.0%	397,144	-72,889	-15.5%
30	399,553	-6	0.0%	458,703	-11,330	-2.4%
31	399,544	-15	0.0%	432,649	-37,384	-8.0%
32	399,576	17	0.0%	428,898	-41,135	-8.8%
33	399,552	-7	0.0%	404,290	-65,743	-14.0%
34	399,596	37	0.0%	481,165	11,132	2.4%
35	399,563	4	0.0%	438,861	-31,172	-6.6%
36	399,575	16	0.0%	418,626	-51,407	-10.9%
37	399,552	-7	0.0%	480,189	10,156	2.2%
38	399,540	-19	0.0%	442,810	-27,223	-5.8%
39	399,606	47	0.0%	483,183	13,150	2.8%
40	399,488	-71	0.0%	448,543	-21,490	-4.6%

The law governing the reapportionment and redistricting of congressional and state legislative districts implicates the United States Constitution, the Florida Constitution, federal statutes, and a litany of case law.

U.S. Constitution

The United States Constitution requires the reapportionment of the House of Representatives every ten years to distribute each of the House of Representatives' 435 seats between the states and to equalize population between districts within each state.

Article I, Section 4 of the United States Constitution provides that "[t]he Time, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." *See also* U.S. Const. art. I, § 2 ("The House of Representatives shall be composed of Members chosen every second Year by the People of the several States . . . ."). The U.S. Supreme Court has recognized that this language delegates to state legislatures the exclusive authority to create congressional districts. *See e.g., Growe v. Emison,* 507 U.S. 25, 34 (1993); *League of United Latin Am. Citizens v. Perry,* 548 U.S. 399, 416 (2006) ("[T]he Constitution vests redistricting responsibilities foremost in the legislatures of the States and in Congress . . . .").

In addition to state specific requirements to redistrict, states are obligated to redistrict based on the principle commonly referred to as "one-person, one-vote."[1] In *Reynolds*, the United States Supreme Court held that the Fourteenth Amendment required that seats in state legislature be reapportioned on a population basis. The Supreme Court concluded:

> …"the basic principle of representative government remains, and must remain, unchanged – the weight of a citizen's vote cannot be made to depend on where he lives. Population is, of necessity, the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies…The Equal Protection

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[1] *Baker v. Carr*, 369 U.S. 186 (1962).

Clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races. We hold that, as a basic constitutional standard, the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis."[2]

The Court went on to conclude that decennial reapportionment was a rational approach to readjust legislative representation to take into consideration population shifts and growth.[3]

In addition to requiring states to redistrict, the principle of one-person, one-vote, has come to generally stand for the proposition that each person's vote should count as much as anyone else's vote.

The requirement that each district be equal in population applies differently to congressional districts than to state legislative districts. The populations of congressional districts must achieve absolute mathematical equality, with no *de minimis* exception.[4] Limited population variances are permitted if they are "unavoidable despite a good faith effort" or if a valid "justification is shown."[5]

In practice, congressional districting has strictly adhered to the requirement of exact mathematical equality. In *Kirkpatrick v. Preisler* the Court rejected several justifications for violating this principle, including "a desire to avoid fragmenting either political subdivisions or areas with distinct economic and social interests, considerations of practical politics, and even an asserted preference for geographically compact districts."[6]

For state legislative districts, the courts have permitted a greater population deviation amongst districts. The populations of state legislative districts must be "substantially equal."[7] Substantial equality of population has come to generally mean that a legislative plan will not be held to violate the Equal Protection Clause if the difference between the smallest and largest district is less than ten percent.[8] Nevertheless, any significant deviation (even within the 10 percent overall deviation margin) must be "based on legitimate considerations incident to the effectuation of a rational state policy,"[9] including "the integrity of political subdivisions, the maintenance of compactness and contiguity in legislative districts, or the recognition of natural or historical boundary lines."[10]

However, states should not interpret this 10 percent standard to be a safe haven.[11] Additionally, nothing in the U.S. Constitution or case law prevents States from imposing stricter standards for population equality.[12]

After Florida last redistricted in 2002, Florida's population deviation ranges were 2.79% for its State House districts, 0.03% for it State Senate districts, and 0.00% for its Congressional districts.[13]

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[2] *Reynolds v. Sims,* 377 U.S. 533, 568 (1964).
[3] *Reynolds v. Sims,* 377 U.S. 584 (1964).
[4] *Kirkpatrick v. Preisler,* 394 U.S. 526, 531 (1969).
[5] *Kirkpatrick v. Preisler,* 394 U.S. 526, 531 (1969).
[6] *Kirkpatrick v. Preisler,* 394 U.S. 526, 531 (1969).
[7] *Reynolds v. Sims,* 377 U.S. 533, 568 (1964).
[8] *Chapman v. Meier,* 420 U.S. 1 (1975); *Connor v. Finch,* 431 U.S. 407, 418 (1977).
[9] *Reynolds,* 377 U.S. at 579.
[10] *Swann v. Adams,* 385 U.S. 440, 444 (1967).
[11] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Page 36.
[12] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Page 39.
[13] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Pages 47-48.

The Voting Rights Act

Congress passed the Voting Rights Act (VRA) in 1965. The VRA protects the right to vote as guaranteed by the 15th Amendment to the United States Constitution. In addition, the VRA enforces the protections of the 14th Amendment to the United States Constitution by providing "minority voters an opportunity to participate in the electoral process and elect candidates of their choice, generally free of discrimination."[14]

The relevant components of the Act are contained in Section 2 and Section 5. Section 2 applies to all jurisdictions, while Section 5 applies only to covered jurisdictions (states, counties, or other jurisdictions within a state).[15] The two sections, and any analysis related to each, are considered independently of each other, and therefore a matter considered under by one section may be treated differently by the other section.

The phraseology for types of minority districts can be confusing and often times unintentionally misspoken. It is important to understand that each phrase can have significantly different implications for the courts, depending on the nature of a legal complaint.

A "majority-minority district" is a district in which the majority of the voting-age population (VAP) of the district is African American, Hispanic, Asian or Native-American. A "minority access district" is a district in which the dominant minority community is less than a majority of the VAP, but is still large enough to elect a candidate of its choice through either crossover votes from majority voters or a coalition with another minority community.

"Minority access" though is more jargon than meaningful in a legal context. There are two types of districts that fall under the definition. A "crossover district" is a minority-access district in which the dominant minority community is less than a majority of the VAP, but is still large enough that a crossover of majority voters is adequate enough to provide that minority community with the opportunity to elect a candidate of its choice. A "coalitional district" is a minority-access district in which two or more minority groups, which individually comprise less than a majority of the VAP, can form a coalition to elect their preferred candidate of choice. A distinction is sometimes made between the two in case law. For example, the legislative discretion asserted in *Bartlett v. Strickland*—as discussed later in this document—is meant for crossover districts, not for coalitional districts.

Lastly, the courts have recognized that an "influence district" is a district in which a minority community is not sufficiently large enough to form a coalition or meaningfully solicit crossover votes and thereby elect a candidate of its choice, but is able to effect election outcomes and therefore elect a candidate would be mindful of the minority community's needs.

Section 2 of the Voting Rights Act

The most common challenge to congressional and state legislative districts arises under Section 2 of the Voting Rights Act. Section 2 provides: "No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State…in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color."[16] The purpose of Section 2 is to ensure that minority voters have an equal opportunity along with other members of the electorate to influence the political process and elect representatives of their choice.[17]

In general, Section 2 challenges have been brought against districting schemes that either disperse members of minority communities into districts where they constitute an ineffective minority—known as "cracking"[18]—or which concentrate minority voters into districts where they constitute excessive majorities—known as "packing"—thus diminishing minority influence in neighboring districts. In prior

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[14] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Page 51.
[15] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Page 51.
[16] 42 U.S.C. Section 1973(a) (2006).
[17] 42 U.S.C. Section 1973(b); *Voinovich v. Quilter*, 507 U.S. 146, 155 (1993).
[18] Also frequently referred to as "fracturing."

decades, it was also common that Section 2 challenges would be brought against multimember districts, in which "the voting strength of a minority group can be lessened by placing it in a larger multimember or at-large district where the majority can elect a number of its preferred candidates and the minority group cannot elect any of its preferred candidates."[19]

The Supreme Court set forth the criteria of a vote-dilution claim in *Thornburg v. Gingles*.[20] A plaintiff must show:

1. A minority group must be sufficiently large and geographically compact to constitute a majority in a single-member district;

2. The minority group must be politically cohesive; and

3. White voters must vote sufficiently as a bloc to enable them usually to defeat the candidate preferred by the minority group.

The three "*Gingles* factors" are necessary, but not sufficient, to show a violation of Section 2.[21] To determine whether minority voters have been denied an equal opportunity to influence the political process and elect representatives of their choice, a court must examine the totality of the circumstances.[22]

This analysis requires consideration of the so-called "Senate factors," which assess historical patterns of discrimination and the success, or lack thereof, of minorities in participating in campaigns and being elected to office.[23] Generally, these "Senate factors" were born in an attempt to distance Section 2 claims from standards that would otherwise require plaintiffs to prove "intent," which Congress viewed as an additional and largely excessive burden of proof, because "It diverts the judicial injury from the crucial question of whether minorities have equal access to the electoral process to a historical question of individual motives."[24]

States are obligated to balance the existence and creation of districts that provide electoral opportunities for minorities with the reasonable availability of such opportunities and other traditional redistricting principles. For example, in J*ohnson v. De Grandy*, the Court decided that while states are not obligated to maximize the number of minority districts, states are also not given safe harbor if they achieve proportionality between the minority population(s) of the state and the number of minority districts.[25] Rather, the Court considers the totality of the circumstances. In "examining the totality of the circumstances, the Court found that, since Hispanics and Blacks could elect representatives of their choice in proportion to their share of the voting age population and since there was no other evidence of either minority group having less opportunity than other members of the electorate to participate in the political process, there was no violation of Section 2."[26]

In *League of United Latin American Citizens (LULAC) v. Perry*, the Court elaborated on the first *Gingles* precondition. "Although for a racial gerrymandering claim the focus should be on compactness in the district's shape, for the first *Gingles* prong in a Section 2 claim the focus should be on the compactness of the minority group."[27]

In *Shaw v. Reno*, the Court found that "state legislation that expressly distinguishes among citizens on account of race - whether it contains an explicit distinction or is "unexplainable on grounds other than race,"…must be narrowly tailored to further a compelling governmental interest. Redistricting

[19] *Redistricting Law 2010*. National Conference of State Legislatures. November 2009. Page 54.
[20] 478 U.S. 30 (1986).
[21] *Johnson v. De Grandy*, 512 U.S. 997, 1011-1012 (1994).
[22] 42 U.S.C. Section 1973(b); *Thornburg vs. Gingles*, 478 U.S. 46 (1986).
[23] *Redistricting Law 2010*. National Conference of State Legislatures. November 2009. Page 57.
[24] Senate Report Number 417, 97th Congress, Session 2 (1982).
[25] *Johnson v. De Grandy*, 512 U.S. 997, 1017 (1994).
[26] *Redistricting Law 2010*. National Conference of State Legislatures. November 2009. Page 61-62.
[27] *Redistricting Law 2010*. National Conference of State Legislatures. November 2009. Page 62.

legislation that is alleged to be so bizarre on its face that it is unexplainable on grounds other than race demands the same close scrutiny, regardless of the motivations underlying its adoption."[28]

Later, in *Shaw v. Hunt*, the Court found that the State of North Carolina made race the predominant consideration for redistricting, such that other race-neutral districting principles were subordinated, but the state failed to meet the strict scrutiny[29] test. The Court found that the district in question, "as drawn, is not a remedy narrowly tailored to the State's professed interest in avoiding liability under Section(s) 2 of the Act," and "could not remedy any potential Section(s) 2 violation, since the minority group must be shown to be "geographically compact" to establish Section(s) 2 liability."[30] Likewise, in *Bush v. Vera*, the Supreme Court supported the strict scrutiny approach, ruling against a Texas redistricting plan included highly irregularly shaped districts that were significantly more sensitive to racial data, and lacked any semblance to pre-existing race-neutral districts.[31]

Lastly, In *Bartlett v. Strickland*, the Supreme Court provided a "bright line" distinction between majority-minority districts and other minority "crossover" or "influence districts. The Court "concluded that §2 does not require state officials to draw election district lines to allow a racial minority that would make up less than 50 percent of the voting-age population in the redrawn district to join with crossover voters to elect the minority's candidate of choice."[32] However, the Court made clear that States had the flexibility to implement crossover districts as a method of compliance with the Voting Rights Act, where no other prohibition exists. In the opinion of the Court, Justice Kennedy stated as follows:

> "Much like §5, §2 allows States to choose their own method of complying with the Voting Rights Act, and we have said that may include drawing crossover districts…When we address the mandate of §2, however, we must note it is not concerned with maximizing minority voting strength…and, as a statutory matter, §2 does not mandate creating or preserving crossover districts. Our holding also should not be interpreted to entrench majority-minority districts by statutory command, for that, too, could pose constitutional concerns…States that wish to draw crossover districts are free to do so where no other prohibition exists. Majority-minority districts are only required if all three *Gingles* factors are met and if §2 applies based on a totality of the circumstances. In areas with substantial crossover voting it is unlikely that the plaintiffs would be able to establish the third *Gingles* precondition—bloc voting by majority voters." [33]

Section 5 of the Voting Rights Act

Section 5 of the Voting Rights Act of 1965, as amended, is an independent mandate separate and distinct from the requirements of Section 2. "The intent of Section 5 was to prevent states that had a history of racially discriminatory electoral practices from developing new and innovative means to continue to effectively disenfranchise Black voters."[34]

Section 5 requires states that comprise or include "covered jurisdictions" to obtain federal preclearance of any new enactment of or amendment to a "voting qualification o prerequisite to voting, or standard, practice, or procedure with respect to voting."[35] This includes districting plans.

Five Florida counties—Collier, Hardee, Hendry, Hillsborough, and Monroe—have been designated as covered jurisdictions.[36]

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[28] *Shaw v. Reno*, 509 U.S. 630 (1993).
[29] "Strict scrutiny" is the most rigorous standard used in judicial review by courts that are reviewing federal law. Strict scrutiny is part of a hierarchy of standards courts employ to weigh an asserted government interest against a constitutional right or principle that conflicts with the manner in which the interest is being pursued.
[30] *Shaw v. Hunt,* 517 U.S. 899 (1996).
[31] *Bush v. Vera*, 517 U.S. 952 (1996),
[32] *Bartlett v. Strickland,* No. 07-689 (U.S. Mar. 9, 2009).
[33] *Bartlett v. Strickland,* No. 07-689 (U.S. Mar. 9, 2009).
[34] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Page 78.
[35] 42 U.S.C. Section 1973c.
[36] Some states were covered in their entirety. In other states only certain counties were covered.

Preclearance may be secured either by initiating a declaratory judgment action in the District Court for the District of Columbia or, as is the case in almost all instances, submitting the new enactment or amendment to the United States Attorney General (United States Department of Justice).[37] Preclearance must be granted if the qualification, prerequisite, standard, practice, or procedure "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color."[38]

The purpose of Section 5 is to "insure that no voting procedure changes would be made that would lead to retrogression[39] in the position of racial minorities with respect to their effective exercise of the electoral franchise."[40] Whether a districting plan is retrogressive in effect requires an examination of "the entire statewide plan as a whole."[41]

The Department of Justice requires that submissions for preclearance include numerous quantitative and qualitative pieces of data to satisfy the Section 5 review. "The Department of Justice, through the U.S. Attorney General, has 60 days in which to interpose an objection to a preclearance submission. The Department of Justice can request additional information within the period of review and following receipt of the additional information, the Department of Justice has an additional 60 days to review the additional information. A change, either approved or not objected to, can be implemented by the submitting jurisdiction. Without preclearance, proposed changes are not legally enforceable and cannot be implemented."[42]

Majority-Minority and Minority Access Districts in Florida

Legal challenges to the Florida's 1992 state legislative and congressional redistricting plans resulted in a significant increase in elected representation for both African-Americans and Hispanics. Table 2 illustrates those increases. Prior to 1992, Florida Congressional Delegation included only one minority member, Congresswoman Ileana Ros-Lehtinen.

Table 2. Number of Elected African-American and Hispanic Members in the Florida Legislature and Florida Congressional Delegation

	Congress		State Senate		State House	
	African-American	Hispanic	African-American	Hispanic	African-American	Hispanic
Pre-1982	0	0	0	0	5	0
1982 Plan	0	0-1	2	0-3	10-12	3-7
1992 Plan	3	2	5	3	14-16	9-11
2002 Plan	3	3	6-7	3	17-20	11-15

Prior to the legal challenges in the 1990s, the Florida Legislature established districts that generally included minority populations of less than 30 percent of the total population of the districts. For example, Table 3 illustrates that the 1982 plan for the Florida House of Representatives included 27 districts in which African-Americans comprised 20 percent of more of the total population. In the majority of those districts, 15 of 27, African-Americans represented 20 to 29 percent of the total

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[37] 42 U.S.C. Section 1973c.
[38] 42 U.S.C. Section 1973c
[39] A decrease in the absolute number of representatives which a minority group has a fair chance to elect.
[40] *Beer v. United States*, 425 U.S. 130, 141 (1976).
[41] *Georgia v. Ashcroft*, 539 U.S. 461, 479 (2003).
[42] *Redistricting Law 2010*. National Conference of State Legislatures. November 2009. Page 96.

population.   None of the 15 districts elected an African-American to the Florida House of Representatives.

Table 3. 1982 House Plan
Only Districts with Greater Than 20% African-American Population[43]

Total African-American Population	House District Number	Total Districts	African-American Representatives Elected
20% - 29%	2, 12, 15, 22, 23, 25, 29, 42, 78, 81, 92, 94, 103, 118, 119	15	0
30% - 39%	8, 9	2	1
40% - 49%	55, 83, 91	3	2
50% - 59%	17, 40, 63, 108	4	4
60% - 69%	16, 106,	2	2
70% - 79%	107	1	1
TOTAL			10

Subsequent to the legal challenges in the 1990s, the Florida Legislature established districts that were compliant with provisions of federal law, and did not fracture or dilute minority voting strength. For example, Table 4 illustrates that the resulting districting plan doubled the number of African-American representatives in the Florida House of Representatives.

Table 4. 2002 House Plan
Only Districts with Greater Than 20% African-American Population[44]

Total African-American Population	House District Number	Total Districts	African-American Representatives Elected
20% - 29%	10, 27, 36, 86	4	1
30% - 39%	3, 23, 92, 105	4	3
40% - 49%	118	1	1
50% - 59%	8, 14, 15, 55, 59, 84, 93, 94, 104, 108	10	10
60% - 69%	39, 109	2	2
70% - 79%	103	1	1
TOTAL			18

Equal Protection – Racial Gerrymandering

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[43] It is preferred to use voting age population, rather than total population. However, for this analysis the 1982 voting age population data is not available. Therefore total population is used for the sake of comparison.
[44] It is preferred to use voting age population, rather than total population. However, since the 1982 voting age population data is not available for Table 2, total population is again used in Table 3 for the sake of comparison.

Racial gerrymandering is "the deliberate and arbitrary distortion of district boundaries...for (racial) purposes."[45] Racial gerrymandering claims are justiciable under equal protection.[46] In the wake of *Shaw v. Reno*, the Court rendered several opinions that attempted to harmonize the balance between "competing constitutional guarantees that: 1) no state shall purposefully discriminate against any individual on the basis of race; and 2) members of a minority group shall be free from discrimination in the electoral process."[47]

To make a *prima facie* showing of impermissible racial gerrymandering, the burden rests with the plaintiff to "show, either through circumstantial evidence of a district's shape and demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district."[48] Thus, the "plaintiff must prove that the legislature subordinated traditional race-neutral districting principles…to racial considerations."[49] If the plaintiff meets this burden, "the State must demonstrate that its districting legislation is narrowly tailored to achieve a compelling interest,"[50] i.e. "narrowly tailored" to achieve that singular compelling state interest.

While compliance with federal antidiscrimination laws—specifically, the Voting Rights Act—is a "very strong interest," it is not in all cases a compelling interest sufficient to overcome strict scrutiny.[51] With respect to Section 2, traditional districting principles may be subordinated to race, and strict scrutiny will be satisfied, where (i) the state has a "strong basis in evidence" for concluding that a majority-minority district is "reasonably necessary" to comply with Section 2; (ii) the race-based districting "substantially addresses" the Section 2 violation; and (iii) the district does "not subordinate traditional districting principles to race substantially more than is 'reasonably necessary' to avoid" the Section 2 violation.[52] The Court has held that compliance with Section 5 is not a compelling interest where race-based districting is not "reasonably necessary" under a "correct reading" of the Voting Rights Act.[53]

The Use of Statistical Evidence

Political vote histories are essential tools to ensure that new districts comply with the Voting Rights Act.[54] For example, the use of racial and political data is critical for a court's consideration of the compelling interests that may be involved in a racial gerrymander. In *Bush v. Vera*, the Court stated:

> "The use of sophisticated technology and detailed information in the drawing of majority minority districts is no more objectionable than it is in the drawing of majority majority districts. But ... the direct evidence of racial considerations, coupled with the fact that the computer program used was significantly more sophisticated with respect to race than with respect to other demographic data, provides substantial evidence that it was race that led to the neglect of traditional districting criteria…"

As noted previously, when the U.S. Department of Justice conducts a Section 5 preclearance review it requires that a submitting authority provide political data supporting a plan.[55][56] Registration and performance data must be used under Section 2 of the Voting Rights Act to determine whether geographically compact minority groups are politically cohesive, and also to determine whether the majority population votes as a block to defeat the minority's candidate of choice.

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[45] *Shaw v. Reno*, 509 U.S. 630, 640 (1993)
[46] *Shaw v. Reno*, 509 U.S. 630, 642 (1993)
[47] *Redistricting Law 2010*. National Conference of State Legislatures. November 2009. Page 72.
[48] *Miller v. Johnson*, 515 U.S. 900, 916 (1995).
[49] *Miller v. Johnson*, 515 U.S. 900, 916 (1995).
[50] *Miller v. Johnson*, 515 U.S. 920 (1995).
[51] *Shaw v. Reno*, 509 U.S. at 653-654 (1993).
[52] *Bush v. Vera,* 517 U.S. 977-979 (1996).
[53] *Miller v. Johnson*, 515 U.S. 921 (1995).
[54] *Georgia v. Ashcroft*, 539 U.S. 461, 487-88 (2003); *Thornburg v. Gingles*, 478 U.S. 30, 36-37, 48-49 (1986).
[55] 28 U.S.C. § 51.27(q) & 51.28(a)(1).
[56] Federal Register / Vol. 76, No. 73 / Friday, April 15, 2011. Page 21249.

If Florida were to attempt to craft districts in areas of significant minority population without such data (or in any of the five Section 5 counties), the districts would be legally suspect and would probably invite litigation.

Florida Constitution, Article III, Section 16

Article III, Section 16 of the Florida Constitution requires the Legislature, by joint resolution at its regular session in the second year after the Census is conducted, to apportion the State into senatorial districts and representative districts. According to Article III, Section 16(a), Florida Constitution, senatorial districts must be:

1. Between 30 and 40 in numbers;

2. Consecutively numbered; and

3. Of contiguous, overlapping, or identical territory.

Representative districts must be:

1. Between 80 and 120 in number;

2. Consecutively numbered; and

3. Of contiguous, overlapping, or identical territory.

The joint resolution is not subject to gubernatorial approval. If the Legislature fails to make the apportionment, the Governor must reconvene the Legislature in a special apportionment session not to exceed 30 days. If the Legislature fails to adopt an apportionment plan at its regular or special apportionment session, the Attorney General must petition the Florida Supreme Court to make the apportionment.[57]

Within 15 days after the Legislature adopts the joint resolution, the Attorney General must petition the Supreme Court to review the apportionment plan. The Supreme Court must "permit adversary interests to present their view and, within thirty days from the filing of the petition, shall enter its judgment."[58]

If the Court invalidates the apportionment plan, the Governor must reconvene the Legislature in an extraordinary apportionment session, not to exceed 15 days.[59]

Within 15 days after the adjournment of the extraordinary apportionment session, the Attorney General must petition the Supreme Court to review the apportionment plan adopted by the Legislature or, if no plan was adopted, report the fact to the Court.[60]

If the Court invalidates the apportionment plan adopted by the Legislature at the extraordinary apportionment session, or if the Legislature fails to adopt a plan, the Court must draft the redistricting plan.[61]

The Florida Constitution is silent with respect to process for congressional redistricting. Article 1 Section 4 of the United States Constitution grants to each state legislature the exclusive authority to apportion seats designated to that state by providing the legislative bodies with the authority to determine the times place and manner of holding elections for senators and representatives. Consistent therewith, Florida has adopted its congressional apportionment plans by legislation subject to

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[57] Article III, Section 16(b), Florida Constitution.
[58] Article III, Section 16(c), Florida Constitution.
[59] Article III, Section 16(d), Florida Constitution.
[60] Article III, Section 16(e), Florida Constitution.
[61] Article III, Section 16(f), Florida Constitution.

gubernatorial approval.[62] Congressional apportionment plans are not subject to automatic review by the Florida Supreme Court.

Florida Constitution, Article III, Sections 20 and 21

As approved by Florida voters in the November 2010 General Election, Article III, Section 20 of the Florida Constitution establishes the following standards for congressional redistricting:

> "In establishing congressional district boundaries:
>
> (a)   No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.
>
> (b)   Unless compliance with the standards in this subsection conflicts with the standards in subsection 1(a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.
>
> (c)   The order in which the standards within subsections 1(a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection."

As approved by Florida voters in the November 2010 General Election, Article III, Section 21 of the Florida Constitution establishes the following standards for state legislative apportionment:

> "In establishing legislative district boundaries:
>
> (a)   No apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.
>
> (b)   Unless compliance with the standards in this subsection conflicts with the standards in subsection 1(a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.
>
> (c)   The order in which the standards within subsections 1(a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection."

These new standards are set forth in two tiers. The first tier, subparagraphs (a) above, contains provisions regarding political favoritism, racial and language minorities, and contiguity. The second tier, subparagraphs (b) above, contains provisions regarding equal population, compactness and use of political and geographical boundaries.

To the extent that compliance with second-tier standards conflicts with first-tier standards or federal law, the second-tier standards do not apply.[63] The order in which the standards are set forth within either tier does not establish any priority of one standard over another within the same tier.[64]

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[62] *See generally* Section 8.0001, et seq., Florida Statutes (2007).
[63] Article III, Sections 20(b) and 21(b), Florida Constitution.
[64] Article III, Sections 20(c) and 21(c), Florida Constitution.

The first tier provides that no apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent. Redistricting decisions unconnected with an intent to favor or disfavor a political party and incumbent do not violate this provision of the Florida Constitution, even if their effect is to favor or disfavor a political party or incumbent.[65]

The first tier of the new standards also provides the following protections for racial and language minorities:

- Districts shall not be drawn with the intent or result of denying the equal opportunity of racial or language minorities to participate in the political process.

- Districts shall not be drawn with the intent or result of abridging the equal opportunity of racial or language minorities to participate in the political process.

- Districts shall not be drawn with the intent or result of diminishing the ability of racial or language minorities to elect representatives of their choice.

The non-diminishment standard has comparable text to Section 5 of the federal Voting Rights Act, as amended in 2006, but the text in the Florida Constitution is not limited to the five counties protected by Section 5.[66]

On March 29, 2011, the Florida Legislature submitted these new standards to the United States Department of Justice for preclearance. In the submission, the Legislature articulated that the amendments to Florida's Constitution "do not have a retrogressive effect."[67]

> "Properly interpreted, we (the Florida House of Representatives and the Florida Senate) do not believe that the Amendments create roadblocks to the preservation or enhancement of minority voting strength. To avoid retrogression in the position of racial minorities, the Amendments must be understood to preserve without change the Legislature's prior ability to construct effective minority districts. Moreover, the Voting Rights Provisions ensure that the Amendments in no way constrain the Legislature's discretion to preserve or enhance minority voting strength, and permit any practices or considerations that might be instrumental to that important purpose."[68]

Without comment, the Department of Justice granted preclearance on May 31, 2011.[69]

The first tier also requires that districts consist of contiguous territory. In the context of state legislative districts, the Florida Supreme Court has held that a district is contiguous if no part of the district is isolated from the rest of the district by another district.[70] In a contiguous district, a person can travel

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[65] In *Hartung v. Bradbury*, 33 P.3d 972, 987 (Or. 2001), the court held that "the mere fact that a particular reapportionment may result in a shift in political control of some legislative districts (assuming that every registered voter votes along party lines)," does not show that a redistricting plan was drawn with an improper intent. It is well recognized that political consequences are inseparable from the redistricting process. In *Vieth v. Jubelirer*, 541 U.S. 267, 343 (2004) (Souter, J., dissenting) ("The choice to draw a district line one way, not another, always carries some consequence for politics, save in a mythical State with voters of every political identity distributed in an absolutely gray uniformity.").

[66] *Compare id.* with 42 U.S.C. § 1973c(b).

[67] Letter from Andy Bardos, Special Counsel to the Senate President, and George Levesque, General Counsel to the Florida House of Representatives, to T. Christian Herren, Jr., Chief of the Voting Section, Civil Rights Division, United States Department of Justice (Mar. 29, 2011) (on file with the Florida House of Representatives). Page 5.

[68] Letter from Andy Bardos, Special Counsel to the Senate President, and George Levesque, General Counsel to the Florida House of Representatives, to T. Christian Herren, Jr., Chief of the Voting Section, Civil Rights Division, United States Department of Justice (Mar. 29, 2011) (on file with the Florida House of Representatives). Page 7.

[69] Letter from T. Christian Herren, Jr., Chief of the Voting Section, Civil Rights Division, United States Department of Justice, to Andy Bardos, Special Counsel to the Senate President, and George Levesque, General Counsel to the Florida House of Representatives (May 31, 2011) (on file with Florida House of Representatives).

[70] *In re Senate Joint Resolution 2G, Special Apportionment Session 1992*, 597 So. 2d 276, 279 (Fla. 1992) (citing *In re Apportionment Law, Senate Joint Resolution 1E*, 414 So. 2d 1040, 1051 (Fla. 1982)).

from any point within the district to any other point without departing from the district.[71] A district is not contiguous if its parts touch only at a common corner, such as a right angle.[72] The Court has also concluded that the presence in a district of a body of water without a connecting bridge, even if it requires land travel outside the district in order to reach other parts of the district, does not violate contiguity.[73]

The second tier of these standards requires that districts be compact.[74] The meaning of "compactness" can vary significantly, depending on the type of redistricting-related analysis in which the court is involved.[75] Primarily, courts have used compactness to assess whether some form of racial or political gerrymandering exists. That said, the drawing of a district that is less compact could conversely be the necessary component of a district or plan that attempts to eliminate the dilution of the minority vote. Therefore, compactness is not by itself a dispositive factor.

Courts in other states have used various measures of compactness, including mathematical calculations that compare districts according to their areas, perimeters, and other geometric criteria, and considerations of functional compactness. Geometric compactness considers the shapes of particular districts and the closeness of the territory of each district, while functional compactness looks to practical measures that facilitate effective representation from and access to elected officials. In a Voting Rights context, compactness "refers to the compactness of the minority population, not to the compactness of the contest district"[76] as a whole.

Overall, compactness is a functional factor in reviewing plans and districts. Albeit, compactness is not regarded as a trumping provision against the carrying out of other rationally formed districting decisions.[77] Additionally, interpretations of compactness require considerations of more than just geography. For example, the "interpretation of the *Gingles* compactness requirement has been termed 'cultural compactness' by some, because it suggests more than geographical compactness."[78] In a vote dilution context, "While no precise rule has emerged governing § 2 compactness, the inquiry should take into account traditional districting principles."[79]

Florida courts have yet to interpret "compactness."

The second tier of these standards also requires that "districts shall, where feasible, utilize existing political and geographical boundaries."[80] The term "political boundaries" refers, at a minimum, to the boundaries of cities and counties.[81] Florida case law does not specifically define the term "geographical boundaries." Rather, numerous cases use the phrase generally when defining the borders of a state, county, city, court, special district, or other area of land.[82]

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[71] *Id.*

[72] *Id.* (citing *In re Apportionment Law, Senate Joint Resolution 1E*, 414 So. 2d at 1051).

[73] *Id.* at 280.

[74] Article III, Sections 20(b) and 21(b), Florida Constitution.

[75] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Pages 109-112.

[76] *League of United Latin American Citizens (LULAC) v. Perry*, 548 U.S. 26 (2006).

[77] *Karcher v. Daggett*, 462 U.S. 725, 756 (1983).

[78] *Redistricting Law 2010.* National Conference of State Legislatures. November 2009. Page 111.

[79] *League of United Latin American Citizens (LULAC) v. Perry*, 548 U.S. 27 (2006).

[80] Article III, Sections 20(b) and 21(b), Florida Constitution.

[81] The ballot summary of the constitutional amendment that created the new standards referred to "existing city, county and geographical boundaries." *See Advisory Opinion to Att'y Gen. re Standards for Establishing Legislative Dist. Boundaries*, 2 So. 3d 175, 179 (Fla. 2009).

[82] *E.g., State v. Stepansky*, 761 So.2d 1027, 1035 (Fla. 2000) ("In fact, the Fifth District acknowledged the effects doctrine as a basis for asserting jurisdiction beyond the state's geographic boundaries."); *State v. Holloway*, 318 So.2d 421, 422 (Fla. 1975) ("The arrest was made outside the geographical boundaries of said city."); *Deen v. Wilson*, 1 So.3d 1179, 1181 (Fla. 5th DCA 2009) ("An Office of Criminal Conflict and Civil Regional Counsel was created within the geographic boundaries of each of the five district courts of appeal."); *A. Duda and Sons, Inc. v. St. Johns River Water Management Dist.*, 17 So.3d 738, 740 (Fla. 5th DCA 2009) ("Cocoa Ranch, is over 18,000 acres and is located within the [St. Johns River Water Management] District's geographical boundaries.").

Similarly, the federal courts have used the phrase "geographical boundaries" in a general sense.[83] The U.S. Supreme Court has used the phrase "geographical considerations" when referring to how difficult it is to travel within a district.[84]

In addition to referring to the borders of a county, city, court, special district, the area of land referenced by "geographical boundaries" could be smaller areas, "such as major traffic streets, railroads, the river, etc.",[85] or topographical features such as a waterway dividing a county or other natural borders within a state or county.[86]

Moreover, it should be noted that in the context of geography, states use a number of geographical units to define the contours of their districting maps. The most common form of geography utilized is census blocks, followed by voter tabulation districts (VTDs). Several states also utilize designations such as counties, towns, political subdivisions, precincts, and wards.

For the 2002 redrawing of its congressional and state legislative maps, Florida used counties, census tracts, block groups and census blocks. For the current redistricting, the Florida House of Representatives' web-based redistricting application, MyDistrictBuilder™, allows map-drawers to build districts with counties, cities, VTDs, and census blocks.

It should also be noted that these second tier standards are often overlapping. Purely mathematical measures of compactness often fail to account for county, city and other geographic boundaries, and so federal and state courts almost universally account for these boundaries into consideration when measuring compactness. Courts essentially take two views:

1) That county, city, and other geographic boundaries are accepted measures of compactness;[87] or

2) That county, city and other geographic boundaries are viable reasons to deviate from compactness.[88]

Either way, county, city, and other geographic boundaries are primary considerations when evaluating compactness.[89]

Public Outreach

In the summer of 2011, the House and Senate initiated an extensive public outreach campaign. On May 6, 2011, the Senate Committee on Reapportionment and the House Redistricting Committee jointly announced the schedule for a statewide tour of 26 public hearings. The purpose of the hearings was to receive public comments to assist the Legislature in its creation of new redistricting plans. The schedule included stops in every region of the state, in rural and urban areas, and in all five counties subject to preclearance. The hearings were set primarily in the mornings and evenings to allow a variety of participants to attend. Specific sites were chosen based on their availability and their accessibility to members of each community.

Prior to each hearing, committee staff invited a number of interested parties in the region to attend and participate. Invitations were sent to representatives of civic organizations, public interest groups, school boards, and county elections offices, as well as to civil rights advocates, county commissioners

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[83] *E.g., Sbarra v. Florida Dept. of Corrections*, 2009 WL 4400112, 1 (N.D. Fla. 2009) ("Lee County is within the geographic bounds of the United States District Court for the Middle District of Florida."); *Benedict v. General Motors Corp.*, 142 F.Supp.2d 1330, 1333 (N.D. Fla. 2001) ("This was part of the traditional approach of obtaining jurisdiction through service of process within the geographic boundaries of the state at issue.").

[84] *Reynolds v. Sims,* 377 U.S. 533, 580 (1964)

[85] *Bd. of Ed. of Oklahoma City Pub. Sch., Indep. Dist. No. 89, Oklahoma County, Okl. v. Dowell,* 375 F.2d 158, 170 n.4 (10th Cir. 1967),

[86] *Moore v. Itawamba County, Miss.*, 431 F.3d 257, 260 (5th Cir. 2005).

[87] *e.g., DeWitt v. Wilson*, 856 F. Supp. 1409, 1414 (E.D. Cal. 1994).

[88] *e.g., Jamerson v. Womack*, 423 S.E. 2d 180 (1992). *See generally*, 114 A.L.R. 5th 311 at § 3[a], 3[b].

[89] *See id.*

and administrators, local elected officials, and the chairs and executive committees of statewide political parties. In all, over 4,000 invitations were sent.

In addition to distributing individual invitations, the House and Senate utilized paid advertising space in newspapers and airtime on local radio stations, free advertising through televised and radio public service announcements, legal advertisements in local print newspapers for each hearing, opinion editorials, and advertising in a variety of Spanish-language media to raise awareness about the hearings. Staff from both the House and Senate also informed the public of the hearings through social media websites and email newsletters.

The impact of the statewide tour and public outreach is observable in multiple ways. During the tour, committee members received testimony from over 1,600 speakers. To obtain an accurate count of attendance, committee staff asked guests to fill out attendance cards. Although not all attendees complied, the total recorded attendance for all 26 hearings amounted to 4,787.

Table 5. Public Input Meeting Schedule
Attendance and Speakers

City	Date	Recorded Attendance	Speakers
Tallahassee	June 20	154	63
Pensacola	June 21	141	36
Fort Walton Beach	June 21	132	47
Panama City	June 22	110	36
Jacksonville	July 11	368	96
St. Augustine	July 12	88	35
Daytona Beach	July 12	189	62
The Villages	July 13	114	55
Gainesville	July 13	227	71
Lakeland	July 25	143	46
Wauchula	July 26	34	13
Wesley Chapel	July 26	214	74
Orlando	July 27	621	153
Melbourne	July 28	198	78
Stuart	August 15	180	67
Boca Raton	August 16	237	93
Davie	August 16	263	83
Miami	August 17	146	59
South Miami (FIU)	August 17	137	68
Key West	August 18	41	12
Tampa	August 29	206	92
Largo	August 30	161	66
Sarasota	August 30	332	85
Naples	August 31	115	58
Lehigh Acres	August 31	191	69
Clewiston	September 1	45	20
TOTAL	**26 meetings**	**4,787**	**1,637**

In addition to the public input meetings, the House Redistricting Committee and Senate Committee on Reapportionment received hundreds of additional written suggestions for redistricting, both at the public hearings and via social media.

Throughout the summer and at each hearing, legislators and staff also encouraged members of the public to draw and submit their own redistricting plans (partial or complete maps) through web applications created and made available on the Internet by the House and Senate. At each hearing, staff from both the House and Senate was available to demonstrate how members of the public could illustrate their ideas by means of the redistricting applications.

In September 2011, the chairs of the House Redistricting Committee and Senate Committee on Reapportionment sent individual letters to more than fifty representatives of public-interest and voting-rights advocacy organizations to invite them to prepare and submit proposed redistricting plans.

As a result of these and other outreach efforts, the public submitted 157 proposed legislative and congressional redistricting maps between May 27 and November 1, 2011. Since then, ten additional plans have been submitted by members of the public. During the 2002 redistricting cycle, the Legislature received only four proposed maps from the public.

Table 6. Complete and Partial Redistricting Maps
Submitted to the House or Senate by Florida Residents

Map Type	Complete Maps	Partial Maps	Total Maps
House	17	25	42
Senate	26	18	44
Congressional	54	27	81
TOTAL	**97**	**70**	**167**

Publicly submitted maps, records from the public input hearings, and other public input are all accessible via www.floridaredistricting.org.

Redistricting Plan S000S9008: Effect of Proposed Changes

Redistricting Plan Summary Statistics for the Proposed State Senate Map

Redistricting Plan Data Report for S000S9008

Plan File Name: S000S9008		Plan Type: Senate - 40 Districts	
Plan Population Fundamentals		Plan Geography Fundamentals:	
Total Population Assigned:	18,801,310 of 18,801,310	Census Blocks Assigned:	484,481 out of 484,481
Ideal District Population::	470,032	Number Non-Contiguous Sections:	1 (normally one)
District Population Remainder:	30	County or District Split :	31 Split of 67 used
District Population Range:	465,343 to 474,685	City or District Split :	54 Split of 411 used
District Deviation Range:	(-4,689) To 4,653	VTD's Split :	421 Split of 9,436 used
Deviation:	(-0.99) To 0.98 Total 1.98%		

Number of Districts by Race Language

	20%+	30%+	40%+	50%+	60%+
Current Black VAP	8	6	3	2	1
New Black VAP	8	6	3	2	0
Current Hisp VAP	14	8	6	3	3
New Hisp VAP	13	7	5	5	3

Plan Name:	S000S9008			Number of Districts		40		

Spatial Measurements - Map Based

	Base Shapes			Circle - Dispersion					Convex Hull - Indentation					Width	Height	W+H
	Perimeter	Area	P/A	Perimeter	Area	P/A	Pc/P	A/Ac	Perimeter	Area	P/A	Pc/P	A/Ac			
S9008-Map	9,975	65,934	15.12%	8,604	216,439	3.97%	86.25%	30.46%	6,818	99,074	6.88%	68.34%	66.55%	2,036	2,093	4,073
Current Map	11,470	65,934	17.39%	9,035	234,011	3.86%	78.77%	28.17%	7,143	108,049	6.61%	62.27%	61.02%	2,121	2,269	4,242
S9008-Simple	9,138	65,937	13.85%				94.16%	30.46%				74.61%	66.55%			
Current Map	10,402	65,883	15.78%				86.86%	28.15%				68.66%	60.97%			

	Straight line in miles apart				Miles to drive by fastest route				Minutes to drive by fastest route			
	Pop	VAP	VAP Black	VAP Hispanic	Pop	VAP	VAP Black	VAP Hispanic	Pop	VAP	VAP Black	VAP Hispanic
S9008-Map	21	21	21	15	28	28	28	20	38	38	37	29
Current Map	24	24	24	18	32	32	31	24	41	41	39	32

District-by-District Summary Statistics for the Proposed State Senate Map[90]

District ID	Pop Dev	TPOP10	%AllBlkVAP10	%AllHispVAP10	%HaitianPOPACS
1	3,560	473,592	12.54	5.19	0.18
2	-2,050	467,982	9.28	6.08	0.14
3	4,653	474,685	14.45	3.55	0.22
4	-3,653	466,379	11.09	6.79	0.18
5	4,376	474,408	29.61	5.29	0.45
6	-4,556	465,476	47.72	5.88	0.70
7	-3,311	466,721	15.34	7.39	0.49
8	-74	469,958	7.21	10.38	0.27
9	-4,076	465,956	6.58	5.62	0.23
10	3,996	474,028	8.29	13.39	0.50
11	-3,269	466,763	8.69	6.91	0.08
12	-4,268	465,764	39.999	20.94	5.26
13	1,142	471,174	8.29	16.58	0.30
14	-3,128	466,904	14.34	50.50	1.62
15	4,538	474,570	6.87	18.98	0.23
16	-2,123	467,909	10.31	15.61	0.70
17	1,096	471,128	5.58	7.43	0.06
18	3,051	473,083	9.30	8.16	0.67
19	-2,889	467,143	37.22	27.42	1.35
20	140	470,172	5.38	8.65	0.12
21	-4,524	465,508	11.49	17.31	0.42
22	-1,027	469,005	4.88	7.59	0.12
23	-4,689	465,343	8.52	14.64	1.51
24	-2,207	467,825	8.43	11.71	0.58
25	744	470,776	10.60	9.90	1.51
26	-1,322	468,710	11.86	17.29	0.95
27	3,100	473,132	11.18	20.72	4.55
28	-4,656	465,376	4.18	6.17	0.42
29	-4,670	465,362	6.65	11.07	1.80
30	-4,535	465,497	4.05	16.10	1.65
31	3,449	473,481	21.34	21.14	5.16
32	3,958	473,990	13.90	24.43	2.00
33	-2,900	467,132	8.32	86.88	1.01
34	2,971	473,003	55.76	15.48	11.68
35	3,562	473,594	9.25	50.43	2.36
36	4,582	474,614	14.21	30.96	2.49
37	4,641	474,673	5.365	83.68	0.54
38	1,563	471,595	58.32	27.91	16.40
39	4,301	474,333	5.22	83.34	0.87

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[90] "Pop Dev" is the population deviation above or below the ideal population. "TPOP10" is the proposed district's total resident population, according to the 2010 2010 Census. "%AllBlkVAP10" is the percentage of the proposed district's voting age population that is Black, according to the 2010 Census. "%AllHispVAP10" is the percentage of the proposed district's voting age population that is Hispanic, according to the 2010 Census. "%HaitianPOPACS" is the percentage of the proposed district's voting age population that is Haitian according to the 2005-2009 American Community Survey.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

40	4,534	474,566	35.10	39.84	6.14

District-by-District Descriptions for the Proposed State Senate Map[91]

District 1 ties coastal communities of the Florida Panhandle in Escambia, Santa Rosa, Okaloosa, Walton, and Bay Counties; is equal in population to other districts; follows political and geographical boundaries; and follows the boundaries of the state on its west, the eastern boundary of Bay County on its east, the Gulf of Mexico on its south, and the Intracoastal Waterway, the Yellow River, and Interstate 10 on its north.

District 2 ties rural communities in North Florida and the Nature Coast; includes all of Baker, Citrus, Columbia, Dixie, Gilchrist, Lafayette, Levy, Suwannee, and Union Counties; includes portions of Marion County west of Interstate 75 and the Ocala city line; is equal in population to other districts; and follows political and geographical boundaries.

District 3 ties rural Panhandle communities in Escambia, Santa Rosa, Okaloosa, Walton, Bay, Washington, Holmes, and Jackson Counties; is equal in population to other districts; follows political and geographical boundaries; follows the boundaries of the state on the western, northern, and eastern sides of the district; and follows the Yellow River, Interstate 10, the Intracoastal Waterway, and city lines in Pensacola and in Bay County on the south side of the district.

District 4 includes all of Nassau County and a portion of Duval County not included in a minority-opportunity district; is equal in population to other districts; follows political and geographical boundaries; and is bounded by the State of Georgia on the west and north, the Atlantic Ocean on the east, and the Duval County line on the south.

District 5 ties counties of the Capital Region that associate with Tallahassee, which lies near the geographic center of the district; includes all of Calhoun, Franklin, Gadsden, Gulf, Hamilton, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties; is equal in population to other districts; and follows political and geographical boundaries.

District 6 ties communities of similar socioeconomic characteristics in the northeastern portion of the state from the St. Johns River basin to Interstate 95 between Daytona Beach and Jacksonville, consistent with traditional, race-neutral redistricting principles; has a near majority black voting-age population, comparable to that of the existing district; is equal in population to other districts; and follows political and geographical boundaries.

District 7 includes all of Alachua, Bradford, and Clay Counties in north central Florida; is equal in population to other districts; and follows political and geographical boundaries.

District 8 ties communities south and west of Daytona Beach in Volusia County with northern Brevard County and eastern Orange County; is equal in population to other districts; follows political and geographical boundaries; follows the western border of Volusia County, the northern border of Orange County, the Econlockhatchee River, the Beachline Expressway through Orange and Brevard Counties, the northern boundary of Cape Canaveral, and the Atlantic Ocean; and follows the city lines of DeBary, Port Orange, Daytona Beach, and Daytona Beach Shores for portions of its boundary.

District 9 ties the coastal communities of northeast Florida from the mouth of the St. Johns River to Daytona Beach; is equal in population to other districts; follows political and geographical boundaries; is adjacent to a minority-opportunity district to its west; is bordered by the Atlantic Ocean on the east; and is traversed by Interstate 95.

District 10 includes communities in Lake and Orange Counties from Leesburg to Orlando; is adjacent to two minority-opportunity districts in central Florida; is equal in population to other districts; follows political and geographical boundaries; follows the western boundary of Lake County and the southern

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[91] District descriptions were provided by the Florida Senate and are available at www.flsenate.gov.

boundaries of Lake and Orange Counties; and is traversed by the Florida Turnpike, Interstate 4, and Highway 441.

District 11 ties rural areas in eastern Marion County, western Putnam County, and northern and eastern Lake County; is equal in population to other districts; follows political and geographical boundaries; follows the Lake and Putnam County lines on the north, east, and south; and includes The Villages Community Development District in Sumter County, the City of Ocala, and portions of Marion County east of Interstate 75.

District 12 ties urban communities of similar socioeconomic characteristics in Orange and Seminole Counties, consistent with traditional, race-neutral redistricting principles; has a majority-minority voting-age population, comparable to that of the existing district; is equal in population to other districts; follows political and geographical boundaries; and includes parts of Orlando, Ocoee, Winter Garden, Apopka, Maitland Winter Park, and Sanford, as well as the City of Eatonville.

District 13 includes portions of Seminole County and Orange Counties, including communities in Altamonte Springs, Casselberry, Lake Mary, Maitland, Longwood, Oviedo, and Winter Springs; is adjacent to a minority-opportunity district; follows the Seminole County line and municipal boundaries; is equal in population to other districts; and follows political and geographical boundaries.

District 14 ties communities in Orange, Osceola, and Polk Counties of similar language, cultural, and socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; is equal in population to other districts; follows political and geographical boundaries; and has a majority Hispanic voting-age population.

District 15 ties communities in northwest Hillsborough County and south Pasco County; is equal in population to other districts; follows political and geographical boundaries; is bounded by the Hillsborough County line on the west, State Road 52, U.S. Highway 98, and city lines on the north, and the Pasco County line and Interstate 275 on the east; and is adjacent to a minority-opportunity district to the south.

District 16 links rural communities in Osceola, Polk, and Orange Counties; is equal in population to other districts; follows political and geographical boundaries; is adjacent to a minority-opportunity district; follows the Polk County and Osceola County lines, the Beachline Expressway, and State Road 60; and is traversed by the Florida Turnpike and Interstate 4.

District 17 includes the cities of Belleair, Belleair Bluffs, Clearwater, Dunedin, Largo, Oldsmar, Safety Harbor, and Tarpon Springs in northern Pinellas County; is equal in population to other districts; follows political and geographical boundaries; is bounded by the Pinellas County line on the north and east, the Gulf of Mexico and Intracoastal Waterway on the west, and municipal boundaries on the south.

District 18 ties Space Coast communities along U.S. 1 and Interstate 95 in southern Brevard County with northern and western Indian River County, including the cities of Sebastian and Fellsmere; is equal in population to other districts; follows political and geographical boundaries; follows the borders of Brevard and Indian River Counties on the west and south; is bounded on the east by the Atlantic Ocean and Interstate 95; and is bounded on the north by the Beachline Expressway, the Cocoa city line, and the barge canal that crosses Merritt Island and empties to the Atlantic Ocean at Port Canaveral.

District 19 which ties urban communities in the Tampa Bay area of similar socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; has a majority-minority voting-age population, comparable to that of the existing district; is equal in population to other districts; follows political and geographical boundaries, including at its center and Interstate 75 on the east; and is traversed by Interstate 275.

District 20 ties communities of northern and western Pasco County with all of Hernando County and most of Sumter County; is equal in population to other districts; follows political and geographical boundaries; and is bounded by the Gulf of Mexico on the west, the boundaries of Hernando and Sumter

County on the north and east, and State Road 52, U.S. Highway 98, and city lines of San Antonio and St. Leo in Pasco County on the south.

District 21 is equal in population to other districts; follows political and geographical boundaries; ties Hillsborough County communities east and south of Tampa, including Brandon, Sun City Center, and Apollo Beach; and follows the boundaries of Hillsborough County on the north and south, Interstate 275, a minority-opportunity district that generally abuts Interstate 75, and Tampa Bay on the west, and State Road 39 and the outskirts of Plant City on the east.

District 22 ties the southern and beach communities in Pinellas County with south Tampa; is equal in population to other districts; follows political and geographical boundaries; includes all of the beach communities in Pinellas County from Belleair Beach to St. Pete Beach; is bounded on the west by the Gulf of Mexico; and follows city lines across Pinellas County and Interstate 275, State Road 60, and Tampa Bay in Hillsborough County.

District 23 ties southern Charlotte and eastern Lee Counties; is equal in population to other districts; follows political and geographical boundaries; follows the county boundaries of Lee and Charlotte Counties on the east and south and the Caloosahatchee River, the municipal boundary of Cape Coral, and Charlotte Harbor on the west; and is traversed by Interstate 75.

District 24 which includes the portion of Manatee County not included in a minority-opportunity district with communities in eastern Hillsborough and western Polk County; is equal in population to other districts; follows political and geographical boundaries; follows the boundaries of Manatee County; follows highways and the outskirts of Plant City in Hillsborough County; and follows highways and passes between Mulberry and Bartow in Polk County.

District 25 ties the Treasure Coast communities of Indian River, St. Lucie, Martin, and northern Palm Beach Counties; is equal in population to other districts; follows political and geographical boundaries; is bounded on the east by the Atlantic Ocean; and is generally bounded on the west by the Florida Turnpike and Interstate 95.

District 26 includes rural agricultural areas from the Kissimmee basin to Lake Okeechobee; includes all of Hardee, Desoto, Glades, Highlands, and Okeechobee Counties, as well as southern Polk County, northern Charlotte County, and eastern Martin and St. Lucie Counties; is equal in population to other districts; follows political and geographical boundaries; follows the western boundaries of Hardee and DeSoto Counties, the southern boundaries of Glades and Martin Counties, and the northern boundaries of St. Lucie and Okeechobee Counties; and follows State Road 60 through much of Polk County and County Road 74 through most of Charlotte County.

District 27 includes communities in southern and central Palm Beach County between Interstate 95 and the Florida Turnpike; is equal in population to other districts; follows political and geographical boundaries; is adjacent to the minority-opportunity district to the east; in places follows the municipal boundaries of Boca Raton, Greenacres, and other cities; combines the Century Village retirement communities in Palm Beach County as well as western Boca Raton and its suburbs; and is traversed by major transportation routes that run from north to south through heavily populated areas in Palm Beach County.

District 28 includes all of Sarasota County and the western portion of Charlotte County; is equal in population to other districts; follows political and geographical boundaries; follows the Gulf of Mexico on the west, the boundary of Sarasota County on the north and east, and Charlotte Harbor in the south; ties the communities of Longboat Key, Sarasota, Venice, North Port, and Port Charlotte; and is traversed by Interstate 75.

District 29 ties the coastal communities of Broward and Palm Beach Counties; is equal in population to other districts; follows political and geographical boundaries; is adjacent to a minority-opportunity district to its west and the Atlantic Ocean to the east; and follows the municipal boundaries of West

Palm Beach and Palm Beach Gardens in the northwest, the Loxahatchee River in the northeast, and the Ft. Lauderdale city boundary in the south.

District 30 ties coastal communities in Lee and Collier Counties; is equal in population to other districts; follows political and geographical boundaries; is bounded on the west by the Gulf of Mexico, on the north by the Lee County line, and on the south by the Collier County line; is adjacent to a minority-opportunity district; includes all of Naples and Marco Island in Collier County; includes the barrier islands west of the Intracoastal Waterway and the entire City of Cape Coral in Lee County; and is traversed by Interstate 75 and the Tamiami Trail.

District 31 ties inland communities in north Broward County, including Coconut Creek, Coral Springs, Margate, North Lauderdale, Parkland, and Tamarac; is equal in population to other districts; follows political and geographical boundaries; follows the Sawgrass Expressway on the west, the Broward County line on the north, a minority-opportunity district on the east, and city lines on the south; and is traversed by the Florida Turnpike, Interstate 95, and the Sawgrass Expressway.

District 32 which includes western portions of Palm Beach and Broward County; is equal in population to other districts; follows political and geographical boundaries; follows the Broward and Palm Beach County lines on the north, south, and west, and city lines on the east; includes the cities of Loxahatchee Groves, Royal Palm Beach, Southwest Ranches, Wellington, and Weston, and portions of Pembroke Pines, Davie, and Sunrise; includes the entire Everglades Agricultural Area and conservation areas in western Broward and Palm Beach Counties; and is traversed by the Florida Turnpike, Sawgrass Expressway, Interstate 75, and U.S. 98.

District 33 ties communities in northwest Miami-Dade County of similar language, cultural, and socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; includes the municipalities of Hialeah, Hialeah Gardens, Miami Springs, Medley, Miami Lakes, Virginia Gardens, and most of Doral; has a majority Hispanic voting-age population, comparable to that of the existing district; is equal in population to other districts; follows political and geographical boundaries; follows the Miami-Dade County boundary on the north and State Road 997 on the west; and is adjacent to other minority districts to the east and south.

District 34 ties communities of similar socioeconomic characteristics along Interstate 95 and U.S. 1 in Palm Beach and Broward Counties, consistent with traditional, race-neutral redistricting principles; has a majority black voting-age population, comparable to that of the existing district; is equal in population to other districts; follows political and geographical boundaries; includes all of Lauderhill and Lauderdale Lakes; and is bounded on the south in part by the municipal boundaries of Plantation, Fort Lauderdale, and Dania Beach.

District 35 includes all the coastal communities in Miami-Dade County; is equal in population to other districts; follows political and geographical boundaries; generally includes areas east of U.S. 1 from the Miami-Dade County boundary in the north to Homestead in the south; is bounded on the east by the Atlantic Ocean; and is adjacent to minority-opportunity districts.

District 36 ties communities in south Broward County, including Cooper City, Dania Beach, Davie, Hallendale Beach, Hollywood, Miramar, and Pembroke Pines; is equal in population to other districts; follows political and geographical boundaries; follows the Broward county line and the boundary of a minority district in the south, the Atlantic Ocean in the east, and city boundaries and Interstate 595 in the north; and is traversed by Interstates 75, 95, and 595, and several major thoroughfares that cross the district east to west.

District 37 ties neighborhoods of similar language, cultural, and socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; includes Allapatah, Little Havana, South Miami, and West Miami, the portion of Coral Gables north of U.S. 1, and unincorporated neighborhoods of Miami-Dade County south of Miami International Airport; has a majority Hispanic voting-age population, comparable to that of the existing district; is equal in population to other districts; and

follows political and geographical boundaries, including U.S. 1, the South Miami and Coral Gables city lines, and Coral Way, Southwest 97th Avenue, and Southwest 107th Avenue.

District 38 ties communities in north Miami-Dade and south Broward Counties of similar socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; is equal in population to other districts; follows political and geographical boundaries; includes all of Miami Gardens, Opa-Locka, Biscayne Park, West Park, and Pembroke Park, plus portions of North Miami, North Miami Beach, Hallandale Beach, Hollywood, Miramar, and Pembroke Pines; has a majority black voting-age population, comparable to that of the existing district; and is traversed by Interstate 95 and the Florida Turnpike.

District 39 ties communities in western Miami-Dade County of similar language, cultural, and socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; is equal in population to other districts; follows political and geographical boundaries; follows Tamiami Trail, the Dolphin Expressway, Southwest 97th Avenue, Southwest 107th Avenue, the Homestead Extension, and State Road 997; and has a majority Hispanic voting-age population, comparable to that of the existing district.

District 40 includes the Miami neighborhoods of Brownsville, Gladeview, Liberty City, Little Haiti, Overtown, and Pinewood, the City of El Portal, agricultural and conservation areas in Miami-Dade and Collier Counties, including Everglades National Park and the Big Cypress National Preserve, and all of Hendry and Monroe Counties; ties communities of similar socioeconomic characteristics, consistent with traditional, race-neutral redistricting principles; is equal in population to other districts; follows political and geographical boundaries; and has a majority-minority voting-age population, comparable to that of the existing district.

B. SECTION DIRECTORY:

Section 1   Provides that the 2010 Census is the official census of the state for the purposes of this joint resolution; Lists and defines the geography utilized for the purposes of this joint resolution in accordance with Public Law 94-171.

Section 2   Provides for the geographical description of the apportionment of the 120 State House districts.

Section 3   Provides for the geographical description of the apportionment of the 40 State Senate districts.

Section 4   Provides for the apportionment of any territory not specified for inclusion in any district.

Section 5   Provides for the apportionment of any noncontiguous territory.

Section 6   Provides that the districts created by this joint resolution constitute and form the representative and senatorial districts of the State.

Section 7   Provides a severability clause in the event that any portion of this joint resolution is held invalid.

Section 8   Provides that this joint resolution applies with respect to the qualification, nomination, and election of members of the Florida Legislature in the primary and general elections held in 2012 and thereafter.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

3. The 2012 reapportionment will have an undetermined fiscal impact on Florida's election officials, including 67 Supervisor of Elections offices and the Department of State, Division of Election. Local supervisors will incur the cost of data-processing and labor to change each of Florida's 11 million voter records to reflect new districts. As precincts are aligned to new districts, postage and printing will be required to provide each active voter whose precinct has changed with mail notification. Temporary staffing will be hired to assist with mapping, data verification, and voter inquiries.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

3. The 2012 reapportionment will have an undetermined fiscal impact on Florida's election officials, including 67 Supervisor of Elections offices and the Department of State, Division of Election. Local supervisors will incur the cost of data-processing and labor to change each of Florida's 11 million voter records to reflect new districts. As precincts are aligned to new districts, postage and printing will be required to provide each active voter whose precinct has changed with mail notification. Temporary staffing will be hired to assist with mapping, data verification, and voter inquiries.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   None.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
   None.

2. Other:
   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

When compared to the 40 State Senate Districts in HJR 6001 (Plan S000S9004), Amendment 1 (Plan S000S9008):

- Lowers population deviations among districts from 2.50% to 1.98%
- Reduces the number of cities split from 78 to 54.

Specifically, Amendment 1 makes the following changes:

- District lines better follow county and city boundaries, as well as geographic boundaries like water bodies and major roads.
- Assigns odd-numbered districts in a manner equitable to senators elected to terms of two years or less prior to redistricting and assigns even-numbered districts in a manner equitable to senators elected to four year terms prior to redistricting.