THE FLORIDA LEGISLATURE

MIKE HARIDOPOLOS
President of the Senate

DEAN CANNON
Speaker of the House of Representatives

To: Interested Media

From: David Bishop, Communications Director, Office of the Senate President
Katie Betta, Communications Director, Office of the Speaker

Date: March 29, 2011

Re: Preclearance Application for Amendments 5 and 6

Today, the Florida House of Representatives and the Florida Senate jointly submitted the application for preclearance for Amendments 5 and 6 to the United States Department of Justice (DOJ).

In this application, the Legislature is requesting that DOJ preclear these amendments, under the interpretation that they are beneficial for preserving and enhancing the rights of minority voters – a statement echoed consistently by the organizations that authored, campaigned for and supported these amendments.

The submission and cover letter are attached. The exhibits that accompany the submission are available for download here.
(http://floridaredistricting.cloudapp.net/MyBlobStorageReader.aspx?container=submissionforpreclearance&friendlyTitle=March%2029,%202011%20-%20Submission%20for%20Preclearance%20of%20Amendments%205%20and%206)

Background:

Earlier this month, the Executive Office of Governor Rick Scott requested assistance from the Florida Legislature and Florida's Attorney General, regarding the application for preclearance for Amendments 5 and 6 (Article III, Sections 21 and 20, of the Florida Constitution), as adopted by Florida voters during the 2010 General Election.

The Governor requested assistance in determining who was the proper authority to actually file the preclearance application and what information should be included in that application. The original application did not substantively address the fundamental question of whether or not Amendments 5 and 6 were retrogressive to minority voters in Florida's five "covered jurisdictions," Collier, Hardee, Hendry, Hillsborough and Monroe counties.

It was determined that either the Attorney General, as the "chief legal officer" of the State, or the Florida Legislature, as the implementing authority for redistricting, should submit the application. The Legislature, House and Senate, then agreed to submit the application to the U.S. Department of Justice (DOJ).

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March 29, 2011

Chris Herron,
Chief, Voting Section
Civil Rights Division
United States Department of Justice
Room 7254-NWB
1800 G Street, N.W.
Washington, D.C. 20006

Re: Submission under Section 5 of the Voting Rights Act

Dear Mr. Herron:

Pursuant to Section 5 of the Voting Rights Act of 1965, as amended, the Florida Senate and the Florida House of Representatives submit for preclearance two recently adopted amendments to Florida's Constitution. These amendments appeared on the 2010 general election ballot as Amendment 5, entitled "Standards for Legislature to Follow in Legislative Redistricting," and Amendment 6, entitled "Standards for Legislature to Follow in Congressional Redistricting." These amendments are now found in Article III, Section 20 (Amendment 6) and Article III, Section 21 (Amendment 5) of the Florida Constitution.

The submission accompanying this letter follows the format of 28 C.F.R. § 51.27. Please let us know if you have any questions or require additional information.

Sincerely,

Andy Bardos, Special Counsel to the President
The Florida Senate
On behalf of President Mike Haridopolos

George Levesque, General Counsel
Florida House of Representatives
On behalf of Speaker Dean Cannon

Cc: The Honorable Rick Scott, Governor of the State of Florida
The Honorable Pam Bondi, Attorney General of the State of Florida
Kurt Browning, Florida Secretary of State

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Legislature's Website: *www.leg.state.fl.us*

SUBMISSION UNDER SECTION 5 OF THE VOTING RIGHTS ACT

The Florida Legislature submits for preclearance two recent amendments to Florida's Constitution (collectively, the "Amendments"). The Amendments appeared on the 2010 general election ballot as Amendment 5, entitled "Standards for Legislature to Follow in Legislative Redistricting," and Amendment 6, entitled "Standards for Legislature to Follow in Congressional Redistricting." The Amendments are now Article III, Section 20 (Amendment 6) and Article III, Section 21 (Amendment 5) of the Florida Constitution.

As required by 28 CFR § 51.27, the following materials relate to this submission:

(a) A copy of the law embodying change affecting voting.

Exhibit A contains Article III, Sections 20 and 21 of the Florida Constitution.

(b) A copy of the law embodying voting practice that is proposed to be repealed, amended, or otherwise changed.

Exhibit B contains Article III, Section 16, which regulates state legislative redistricting, and therefore relates to Article III, Section 21 of the Florida Constitution. Previously, there was no mention of congressional redistricting in the Florida Constitution.

(c) Statement of the change explaining the difference between the submitted change and the prior law or practice.

Prior to the amendments, the Florida Legislature could draw state legislative districts in any manner that complied with federal law and the requirements of Article III, Section 16 of the Florida Constitution. Article III, section 16 requires districts to consist of contiguous, identical, or overlapping territory and specifies the allowable number of state legislative districts and the manner in which they are numbered.

Prior to the amendments, the Florida Constitution did not establish standards applicable to congressional redistricting. The Legislature previously could draw congressional districts in any manner consistent with federal law.

The proposed changes in Article III, Sections 20 and 21 of the Florida Constitution add two levels of new requirements for both state legislative and congressional redistricting:

The first-level requirements are: (i) "no apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent;" (ii) "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 (iii) "districts shall consist of contiguous territory." Article III, Sections 20 and 21 differ in that Section 21 does not contain the word "individual" in the prohibition against a district being drawn with an intent to favor or disfavor a political party or an incumbent.

The second-level requirements, which shall be applied absent conflict with the first-level requirements or federal law, are: (i) "districts shall be as nearly equal in population as practicable;" (ii) "districts shall be compact;" and (iii) "districts shall, where feasible, utilize existing political and geographical boundaries."

In addition, Article III, Sections 20 and 21 state that the order in which the standards within the first-level and the second-level "are set forth shall not be read to establish any priority of one standard over the other within that [level]."

(d) The name, title, address, and telephone number of the person making the submission.

George Levesque, General Counsel
Florida House of Representatives
On behalf of Speaker Dean Cannon
422 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399
(850) 488-7631

and

Andy Bardos, Special Counsel to the President
General Counsel, Committee on Reapportionment
On behalf of Senate President Mike Haridopolos
The Florida Senate
409 The Capitol
404 South Monroe Street
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(e) The name of the submitting authority and the name of the jurisdiction for the change.

The Florida Senate and the Florida House of Representatives, jointly as the Florida Legislature, submit this request on behalf of the five designated preclearance counties in Florida: Collier, Hardee, Hendry, Hillsborough, and Monroe.

(f) Name of county and state submitting this request.

The Florida Senate and the Florida House of Representatives, jointly as the Florida Legislature, submit this request on behalf of the five designated preclearance counties in Florida: Collier, Hardee, Hendry, Hillsborough, and Monroe.

(g) Identification of the person or body responsible for the change and mode of decision.

FairDistrictsFlorida.org, a Florida political committee ("Fair Districts"), sponsored the petition initiatives that led to the placement of the Amendments on the 2010 general election ballot. The Amendments were adopted at a statewide election pursuant to Article XI, Sections 3 and 5 of the Florida Constitution. The Florida Department of State, Division of Elections, lists the following individuals as officers of Fair Districts: Manuel A. Diaz (Chairperson), Richard A. Berkowitz (Treasurer), and Ellen Freidin (Registered Agent). *See* Exhibit C.

According to Fair Districts' website, http://www.fairdistrictsflorida.org/aboutus.php, Ellen Freidin also served as the Campaign Chair. *See* Exhibit D.

(h) Statement identifying the statutory or other authority under which the jurisdiction undertakes the change and description of procedures to follow in deciding to undertake change.

Article III, Sections 20 and 21 of the Florida Constitution were adopted pursuant to Article XI, Section 3 of the Florida Constitution, which grants citizens the power to propose amendments to the State Constitution. A number of other constitutional and statutory provisions govern the citizen-initiative process. *See* Fla. Const. Art. IV, § 10; Fla. Const. Art. XI, § 5; § 16.061, Fla. Stat. (duty of Attorney General to petition Florida Supreme Court for advisory opinion on initiative petitions); § 100.371, Fla. Stat. (initiatives; procedures for ballot placement); § 101.161, Fla. Stat. (referenda; ballots); § 104.185, Fla. Stat. (limitations on number of times petitions signed); § 106.011(1)(a), Fla. Stat. (definition of political committee); § 106.03, Fla. Stat. (registration as political committee).

Several administrative rules also apply. *See* Fla. Admin. Code R. 1S-2.0011 (constitutional amendment ballot position); Fla. Admin. Code R. 1S-2.009 (constitutional amendment by initiative petition; constitutional amendment petition form); Fla. Admin. Code R. 1S-2.0091 (constitutional amendment by initiative petition; submission deadline; signature verification).

Sections 20 and 21 of Article III will affect the state legislative and congressional redistricting processes. Under Article III, Section 16, the Florida Legislature is responsible for developing a redistricting plan for state legislative districts. If the Florida Supreme Court invalidates the plans adopted by the Legislature, or if the Legislature does not adopt a plan, the Court must draft the redistricting plan.

Under Article I, Section 4 of the United States Constitution, the Florida Legislature is exclusively responsible for congressional redistricting. Pursuant to its obligation to determine the times, places, and manner of conducting congressional elections, the Legislature draws districts in accordance with the number of seats apportioned to the State. Historically, Florida has adopted its congressional plans by general law, subject to gubernatorial approval. *See* Ch.

2002-12, Laws of Fla. Congressional plans are not subject to automatic review by the Florida Supreme Court.

(i) The date of adoption of the change affecting voting.

Florida voters approved the Amendments on November 2, 2010. Exhibit E contains the official election results.

(j) The date on which the change is to take effect.

Pursuant to Article XI, Section 5(e) of the Florida Constitution, the Amendments became effective on the first Tuesday after the first Monday in January, 2011. However, the Legislature will have no occasion to apply the new standards until it develops the State's redistricting plans.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

The change has not yet been enforced or administered in Florida.

(*l*) Where the change will affect less than the entire jurisdiction, explain scope.

Not applicable.

(m) Statement of the reasons for change.

Fair Districts sponsored the petition-initiative drive that led to the placement of the Amendments on the 2010 general election ballot. The voters adopted the Amendments at a statewide election under Article XI, Sections 3 and 5 of the Florida Constitution. For a discussion of the reasons for the change, see answer and exhibits at section (r) below.

(n) A statement of the anticipated effect of the change on members of racial or language minorities.

I. Background.

We recognize that the Amendments significantly change Florida's redistricting criteria in a manner which, depending on their interpretation, could be retrogressive. This section therefore identifies the Amendments' potentially retrogressive aspects and explains why, under the interpretation set forth here, the Amendments do not have a retrogressive effect.

Prior to the Amendments' adoption, the Florida Legislature had virtually unconstrained authority under state law to draw districts that enhance and preserve minority voting strength. Since the Florida Constitution placed only modest limitations on the Legislature's line-drawing discretion, *see* Art. III, § 16, Fla. Const., the most relevant limitations on the Legislature's ability to promote minority representation were the federal anti-gerrymandering constraints of *Shaw v.*

Reno and its progeny, *see Shaw v. Hunt*, 517 U.S. 899 (1996); *Miller v. Johnson*, 515 U.S. 900 (1995); *Shaw v. Reno*, 509 U.S. 630 (1993). In recent times, the Legislature successfully used its broad authority to draw districts that dramatically increased minority representation. *See* Table 1.

Table 1: Minority Members of Florida's Congressional Delegation and the Florida Legislature

	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

The new Amendments limit the Legislature's broad line-drawing discretion in a way that could create potential obstacles to the preservation or enhancement of minority voting strength. Nevertheless, if the Amendments are properly interpreted as set forth below, we believe they do not reduce the relevant discretion of the Legislature and are therefore not retrogressive.

II. Potentially Retrogressive Aspects of the Amendments.

The most obvious retrogression issue is that Subsection (2) of the new Amendments requires that districts "shall be compact" and "where feasible, utilize existing political and geographical boundaries," unless "compliance with [those] standards" conflicts with the standards in Subsection (1) or with federal law. Among other things, Subsection (1) states that "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" (the "Voting Rights Provisions").

Previously, the Legislature could disregard compactness and break through political and geographical boundaries in order to create districts in which minorities were able to elect their preferred candidates, even where the federal Voting Rights Act (the "VRA") did not require such districts. Thus, the Legislature could—and did—downplay geometric compactness and breach political and geographical boundaries to create districts in which minority-preferred candidates had an opportunity to be elected, even where the minority voting-age population comprised less than a numerical majority, and where the district was not, therefore, required by Section 2 of the VRA. *See Bartlett v. Strickland*, 129 S. Ct. 1231, 1246 (2009) (Kennedy, J., plurality opinion). For example, State Senate District 1, which includes parts of five counties within its irregular boundaries, has consistently elected an African-American Senator, though African-Americans

form less than a majority of the district's voting-age population. *See* Exhibit S. The minority population of Senate District 29, though a majority, is not geometrically compact under some definitions, falling within a narrow line that runs perpendicularly through a county boundary. *Id*. And the minority population of Congressional District 3, which has elected a minority representative for ten consecutive two-year terms, is neither a numerical majority nor, under some definitions, geometrically compact. The district combines parts of nine counties, capturing parts of Orlando, Gainesville, and Jacksonville within its boundaries. *Id*.

Depending on the Amendments' interpretation, however, the Legislature could hereafter create or preserve such districts only where *required* by the federal VRA or the Voting Rights Provisions. (Obviously, if the Voting Rights Provisions are construed merely to incorporate federal voting-rights standards, then there is no difference between the requirements of federal law and those of the proposed changes.) Thus, under one interpretation of the Amendments, the compactness and local-boundary requirements of Subsection (2) are retrogressive because they diminish the Legislature's ability to create or preserve districts in which minorities have an ability to elect their preferred candidates. It could, for example, be argued that a district line may not cross a political boundary to create a district with less than a numerical majority of minority voting-age population, since this is not mandated by Section 2 of the VRA (or perhaps the Voting Rights Provisions) and thus there is no "conflict with the standards in subsection (1) or federal law" that would justify splitting the boundary to create a performing minority district.

The provision of the Amendments that prohibits districts "drawn with the intent to favor or disfavor a political party or an incumbent" also creates potential retrogression. To protect and enhance minority voting strength, the Legislature traditionally has taken into account the incumbency status of minority office-holders and the partisan composition of minority districts. *See, e.g.*, *Martinez v. Bush*, 234 F. Supp. 2d 1275, 1302-10 (S.D. Fla. 2002) (finding support for congressional districts in their political composition and the electability of incumbents). Indeed, in some cases, the VRA requires affirmative consideration of incumbency and partisan affiliation when relevant to maintaining the ability of minorities to elect their preferred candidates. *See* Exhibit H: *Amici Curiae* Brief of Florida State Conference of NAACP Branches and Democracia Ahora in Support of Petitioners at 5, *Roberts v. Brown*, 43 So. 3d 673 (Fla. 2010) (No. SC10-1362) ("To be sure, courts have recognized that legislatures may, under appropriate circumstances, consider certain types of incumbency data for the purpose of complying with [the VRA].").

Thus, Section 5 of the VRA requires consideration of the effect of a new redistricting plan on minority incumbents, even if the effect is unintended. *See, e.g.*, Objection Letter from Bill Lann Lee, Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to David Mendez, Bicerstaff, Heath, Smiley, Pollan, Kever & McDaniel (June 5, 2000) (objecting in part because of effect on "incumbent African-American Trustee"), *in* 2 Voting Rights Act: Section 5 of the Act – History, Scope, and Purpose, Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary, 109th Cong. (2005), at 2508-12 ("VRA Hearing"); Objection Letter from Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to the Honorable Geoffrey Connor, Acting Secretary of State, State of Texas, (Nov. 16, 2001) (objecting in part because plan "pairs a nonminority and a

Hispanic incumbent"), *in* VRA Hearing at 2518-23; Objection Letter from William Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to the Honorable Charles Stavely, Terrell County Judge (Jan. 13, 1986) (objecting in part because of effect on "lone Mexican-American incumbent in Precinct 2"), *in* VRA Hearing at 2227-29.

Similarly, because Section 5 prohibits a diminishment in the ability of minorities to elect their preferred candidates, the Legislature is obliged, with respect to minority districts within covered jurisdictions, to consider election returns and partisan affiliations to avoid the prohibited result. *See* Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act; Notice, 76 Fed. Reg. 7470, 7471 (Feb. 9, 2011) ("[E]lection history and voting patterns within the jurisdiction, voter registration and turnout information, and other similar information are very important to an assessment of the actual effect of a redistricting plan."). As noted, a similar analysis is required under Section 2 to assess the opportunity of minorities to elect their preferred candidates. *See Martinez*, 234 F. Supp. 2d at 1302-10. Under one interpretation of the Amendments, however, the Legislature would no longer have the same freedom to consider a plan's effects on minority incumbents and minority-supported political parties in its efforts to preserve and enhance minority voting strength.

III. Non-Retrogressive Construction of the Amendments.

Properly interpreted, we 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. In promoting minority voting strength, the Legislature may continue to employ whatever means were previously at its disposal.

This interpretation comports with the language of the Amendments and the clearly expressed intent of the sponsors and proponents of the Amendments. It is also compelled by Section 5. Were the Amendments interpreted to restrict the methods by which the Legislature can promote minority voting strength, the Amendments would be retrogressive.

Under the proper, non-retrogressive interpretation of the Amendments, therefore, the Legislature may continue to preserve and enhance minority voting strength without respect to the compactness and local-boundary requirements of Subsection (2), even if those districts are not strictly necessary to avoid a diminishment in the ability of minorities to elect the representatives of their choice. *Cf.* Exhibit Q: Memorandum from the Florida State Conference of NAACP Branches 2 (Apr. 13, 2010) ("NAACP Memorandum") ("Often . . . it is necessary to draw black majority districts that are not compact in order for the district to provide an effective opportunity for black[] . . . voters to elect candidates of their choice.") Further, under a non-retrogressive interpretation of the Amendments, the Legislature would retain the authority to promote minority voting strength through its consideration of the incumbency status of minority office-holders, *see* Exhibit P: Letter from Paul M. Smith & Michael B. DeSanctis to State Senator Christopher

Smith & State Representative Perry Thurston 2 (Dec. 7, 2009) (the "Smith Letter") ("Notably, the amendments do not prohibit redistricting plans that produce favorable *results* for incumbents—only plans that *intend* to favor incumbents."), and of the partisan composition of minority and adjacent districts, *see id.* ("It is perfectly acceptable, under the amendments, for the Legislature to use 'information regarding the political makeup [of a district] in order to comply with the Voting Rights Act and the amendments' requirement that minorities be able to elect representatives of their choice."); *id*. at 1 ("[T]he use of [political vote histories, registration data, and historical election results] to enable minorities to elect representatives of their choice is perfectly *consistent* with the amendments . . . ."). And, of course, the Legislature may, as it has traditionally done, continue to consider districting principles, such as respect for communities of interest and the cores of existing districts, to preserve and enhance minority voting strength. *See Lawyer v. Dep't of Justice*, 521 U.S. 567, 581 (1997); *Miller v. Johnson*, 515 U.S. 900, 916 (1995). Nothing in the Amendments prohibits consideration of such race-neutral criteria.

An interpretation that holds minorities harmless from the new restrictions imposed by the Amendments finds support in the broad and muscular protections of Subsection (1), which guarantees an "equal opportunity to participate in the political process" and prohibits any diminishment in the "ability [of minorities] to elect representatives of their choice." These protections show that the Amendments were not intended to make minorities worse off, as would be the case if the Amendments imposed new constraints on the Legislature's ability to preserve and enhance minority voting strength."[1]

This conclusion is confirmed by the representations of the Amendments' sponsors and proponents, who consistently maintained that there would be "no harm done" to the rights of minorities. *See* Exhibit M: Joint Meeting of the Fla. Senate Comm. on Reapportionment and H.R. Select Policy Council on Strategic & Econ. Planning, Tr. at 71 (Feb. 11, 2010); *id*. at 18 ("These amendments will not in any way reduce the rights of minority voters . . . ." (statement of Ellen Freidin)); *id*. at 67 ("So first you have to have the minority districts drawn. Once you have those districts drawn you go ahead and you make the other districts[,] to the extent that you can, compact and utilizing existing boundaries." (statement of Ellen Freidin)); *id*. at 70-71 ("[T]here are two things that these amendments were intended to do, and they both involve fairness. . . . The other part of the fairness . . . is to ensure that these amendments do not create any situation that would be unfair in any way or disadvantage in any way minority voters." (statement of Ellen Freidin)); *id*. at 130 ("[T]here is not a reason to think that this is going to impact negatively minority representation." (statement of Ellen Freidin)); *id*. at 131 ("And there is no reason to

[1] At a minimum, the Voting Rights Provisions include a non-retrogression requirement, independent of the territorial limitations of Section 5. *Compare* Art. III, §§ 20 & 21, Fla. Const. (providing that "districts shall not be drawn . . . to diminish [the] ability [of minorities] to elect representatives of their choice"), *with* 42 U.S.C. § 1973c (prohibiting standards, practices, or procedures that "diminish[] the ability of any citizens . . . on account of race or color . . . to elect their preferred candidates of choice"); *see also* Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act; Notice, 76 Fed. Reg. 7470 (Feb. 9, 2011).

think and I have not heard a sustainable legal argument that . . . would indicate in any way that this does reduce minority voting rights." (statement of Ellen Freidin)).

Indeed, the sponsors and proponents represented that the intent of the Amendments is to enhance the position of racial minorities. *See* Smith Letter at 1 ("[The Amendments] would also protect, and indeed enhance, the ability of minorities to participate in the political process and elect representatives of their choice."); NAACP Memorandum at 1 ("[A]ttorneys for the NAACP and other voting rights experts believe it is likely that the new standards will give Florida's minority voters even *more* protection than they presently have under the federal Voting Rights Act."); Catherine Whittenburg, *Plan to Redraw State Districts Called Unfair*, Tampa Tribune, Jan. 12, 2010 ("These amendments have been drafted very carefully to ensure that minority voters do not lose representation in Florida. In fact, they provide greater protection than exists today in federal law." (quoting Ellen Freidin)); Brandon Larrabee, *Race Enters Debate Over Redrawing Florida Political Districts*, Florida Times-Union, Dec. 13, 2009 ("These amendments have been so carefully drafted, not only to protect the voting rights of minorities but to enhance the rights of minorities in the state of Florida." (quoting Ellen Freidin)).

It would contravene the stated intent of the Amendments—and produce retrogression—if the Amendments were construed to impinge on the freedom formerly exercised by the Legislature to draw districts that preserve or enhance minority voting strength. This further confirms that the Voting Rights Provisions permit the Legislature to preserve and enhance minority voting strength, unconstrained by the other criteria in the Amendments, in the same manner that the Legislature was previously free to create minority districts. While the courts have not yet construed the Amendments, this analysis should alleviate concerns about the numerous retrogressive tendencies of the Amendments. If applied according to this construction, the proposed changes will not have a retrogressive effect.

(o) A statement identifying any past or pending litigation concerning the change or related voting practices.

Pending Litigation

Diaz-Balart v. Scott, Case No. 1:10-CV-23968-UU (S.D. Fla.). Plaintiffs, members of the Congress, challenge Article III, Section 20 of the Florida Constitution. They contend that Article III, Section 20 violates the Supremacy and Due Process Clauses of the United States Constitution. They also contend that federal law preempts Article III, Section 20. The Florida House of Representatives has intervened as a plaintiff. The case files are included as Exhibit F.

The League of Women Voters v. Scott, Case No. 4:11-CV-10006-KMM (S.D. Fla.). In this case, the plaintiffs ask the federal district court to compel the Governor or his executive agency to submit the Amendments for preclearance. The case files are included as Exhibit G.

Past Litigation

Roberts v. Brown, 43 So. 2d 673 (Fla. 2010). In this case, the plaintiffs argued to the trial court that the ballot summaries of the proposed Amendments were misleading and should be removed from the ballot. The Florida Secretary of State petitioned the Florida Supreme Court to prohibit trial court jurisdiction. The Court ruled in the Secretary's favor and held that it had exclusive jurisdiction to consider pre-election challenges to petition initiatives. The trial court then dismissed the case. The case files are included as Exhibit H.

Florida Department of State v. Florida State Conference of NAACP Branches, 43 So. 2d 662 (Fla. 2010). This was a challenge to legislatively proposed Amendment 7 to the Florida Constitution (relating to state legislative and congressional redistricting). Plaintiffs argued that Amendment 7's ballot title and summary were misleading. The trial court agreed and ordered Amendment 7 removed from the ballot. The Florida Supreme Court affirmed. The case files are included as Exhibit I.

Advisory Opinion to Attorney General re Standards for Establishing Legislative District Boundaries, 2 So. 3d 175 (Fla. 2009). In this case, the Florida Attorney General requested an advisory opinion from the Florida Supreme Court regarding the validity of the ballot titles and summaries for the Amendments. The Supreme Court advised that the Amendments were appropriate for the ballot. The case files are included as Exhibit J.

(p) A statement that the prior practice has been precleared.

Not applicable.

(q) For redistricting and annexations: the items listed under 28 C.F.R. § 51.28(a)(1) and (b)(1); for annexations only, the items listed under 28 C.F.R. § 51.28(c)(3).

Not applicable.

(r) Other information required for evaluation.

Florida's 2010 Census Redistricting Data [P.L. 94-171] Summary Files

The United States Census Bureau made Florida's 2010 Census Redistricting Data available on March 17, 2011. To download the Census data, visit http://www.census.gov/rdo. A comparison of current congressional and state legislative districts' populations, based on the 2010 Census, with the new ideal populations is included as Exhibit K.

Fair Districts

Relevant information from Fair Districts is included as Exhibit L.

Legislative Records

A transcript of the February 11, 2010, joint meeting of the Florida House Select Policy Council on Strategic & Economic Planning and Florida Senate Committee on Reapportionment, as well as a PowerPoint presentation from that meeting, are included as Exhibit M.

House Joint Resolution 7231, adopted by the Legislature at its regular session in 2010, resulted in proposed constitutional Amendment 7, which was subsequently ordered removed from the ballot. The bill analyses provide background on issues surrounding Florida standards for redistricting. They are included as Exhibit N.

Records from the Florida Legislature's Office of Economic and Demographic Research

This office prepares financial impact statements for proposed constitutional amendments. The financial impact statements and supporting and opposing letters are included as Exhibit O.

Jenner & Block

Jenner & Block LLP prepared a legal opinion on the Amendments for State Senator Christopher Smith and State Representative Perry Thurston. This letter is included as Exhibit P.

NAACP

A letter and memorandum from the Florida State Conference of NAACP Branches to Senator Mike Haridopolos and Representative Dean Cannon regarding the Amendments are included as Exhibit Q.

Political Advertisement

A paid political advertisement produced by Fair Districts and former Speaker of the Florida House Jon Mills that discusses the Amendments is included as Exhibit R.

District Maps

Maps of Congressional District 3 and Senate Districts 1 and 29 are included as Exhibit S.