

IN THE SUPREME COURT OF FLORIDA

BLACK VOTERS MATTER
CAPACITY BUILDING
INSTITUTE, INC., et al.,

Petitioners,

v.

CORD BYRD, in his official
capacity as Florida Secretary of
State, et al.,

Respondents.

Case No.: SC22-685

L.T. No.: 1D22-1470
2022-ca-000666

**APPENDIX OF EMERGENCY PETITION
FOR CONSTITUTIONAL WRIT**

VOLUMES I - VII

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INDEX

<u>Date</u>	<u>Document Description</u>	<u>Page</u>
Volume I		
2022 05-12	Trial Court Order Granting Plaintiffs’ Motion for Temporary Injunction	App. 8-28
2022 05-16	Trial Court Order Granting Plaintiffs’ Motion Vacating Stay Pending Appeal	App. 29-32
2022 05-20	First District Order Reinstating Stay.....	App. 33-34
2022 04-22	Plaintiffs’ Complaint	App. 35-72
2022 04-26	Plaintiffs’ Motion for Temporary Injunction	App. 73-77
2022 04-26	Plaintiffs’ Memorandum of Law in Support of Motion for Temporary Injunction.....	App. 78-103
	John Kennedy, <i>Florida Law Makers look to avoid running afoul of courts when redrawing districts</i> , USA TODAY NETWORK, Sept. 22, 2021 (Ex 1-B).....	App. 104-107
	Senate Meeting Packet – October 11, 2021 (Ex 1-D) ...	App. 108-181
	House Meeting Packet – November 2, 2021 (Ex 1-E) ...	App. 182-200
Volume II		
	Senate Meeting Packet – November 16, 2021 (Ex 1-H – parts 1 and 2)	App. 201-267
Volume III		
	Senate Meeting Packet – November 16, 2021 (Ex 1-H – part 3)	App. 268-284
	Senate Meeting Packet – November 29, 2021 (Ex 1-I – part 1)	App. 285-320
Volume IV		
	Senate Meeting Packet – November 29, 2021 (Ex 1-I – part 2)	App. 321-341

<u>Date</u>	<u>Document Description</u>	<u>Page</u>
	House Meeting Packet – December 2, 2021 (Ex 1-J) ...	App. 342-373
Volume V		
	Senate Meeting Packet – January 10, 2022 (Ex 1-G – parts 1 and 2)	App. 374-427
Volume VI		
	Senate Meeting Packet – January 10, 2022 (Ex 1-G – part 3)	App. 428-443
	House Meeting Packet – January 13, 2022 (Ex 1-K) ...	App. 444-484
	Senate Bill Analysis CS/SB 102 – January 14, 2022 (Ex 1-Q)	App. 485-504
	House Meeting Packet – February 24, 2022 (Ex 1-L) ..	App. 505-550
	Transcript of House Legislative Session on Redistricting – April 20, 2022 (Ex 1-V)	App. 551-627
	John Kennedy, <i>Ron DeSantis eyes court fight over Florida congressional map to reduce minority seats</i> , USA TODAY NETWORK, Mar. 3, 2022 (Ex 1-C)	App. 628-633
	Associated Press, <i>Gov. DeSantis vetoes congressional redistricting maps passed by Florida lawmakers</i> , 10 TAMPA BAY, Mar. 29, 2022 (Ex 1-T)	App. 634-637
	Gary Fineout, <i>DeSantis signs new congressional map into law as groups sue over redistricting</i> , POLITICO, April 22, 2022 (Ex 1-W)	App. 638-641
	Mary Ellen Klas, <i>DeSantis continues redistricting feud with GOP lawmakers by vetoing congressional map</i> , MIAMI HERALD, April 26, 2022 (Ex 1-S).....	App. 642-646
	About Florida Redistricting webpage (Ex 1-F).....	App. 647-649
	Florida Black Population Percentage by County webpage (Ex 1-Y)	App. 650-654
	Expert Report of Dr. Stephen Ansolabehere (Ex 2)	App. 655-715

<u>Date</u>	<u>Document Description</u>	<u>Page</u>
	Expert Report of Dr. Susan Austin (Ex 3).....	App. 716-770
	Affidavit of Joe Scott, Broward County Supervisor of Elections (Ex 11)	App. 771-773
	Affidavit of Mark S. Earley, Leon County Supervisor of Elections (Ex 12).....	App. 774-778
Volume VII		
2022 05-09	Defendant Secretary of State's Response in Opposition to Plaintiffs' Motion for Temporary Injunction	App. 779-797
	Affidavit of Tomi S. Brown, Columbia County Supervisor of Elections (Ex 1)	App. 798-801
	Affidavit of Robert Phillips, Duval County Supervisor of Elections Chief Election Officer (Ex 2)	App. 802-806
	Declaration of Mark Earley, Leon County Supervisor of Elections, <i>Common Cause v. Lee</i> (Ex 3)	App. 807-816
	Declaration of Lori Edwards, Polk County Supervisor of Elections, <i>Common Cause v. Lee</i> (Ex 4)	App. 817-824
	Plaintiff-Intervenors' Response Defendant's Motion to Stay, <i>Common Cause v. Lee</i> (Ex 5)	App. 825-886
	Eleventh Circuit Slip Opinion, <i>League of Women Voters, e t al. v. Lee</i> (Ex 6).....	App. 887-902
	General Counsel Newman Memorandum to Gov. DeSantis (Ex 7)	App. 903-910
	Declaration of Dr. Douglas Johnson (Ex 8)	App. 911-923
	Report of Robert Popper to the Florida House of Representatives (Ex 9)	App. 924-930
	Presentation to the Florida Senate by J. Alex Kelly (Ex 10)	App. 931-959
	Declaration of Dr. Mark Owens (Ex 11).....	App. 960-974

<u>Date</u>	<u>Document Description</u>	<u>Page</u>
2022 05-10	Plaintiffs' Reply in Support of Motion for Temporary Injunction	App. 975-995
	Rebuttal Report of Dr. Stephen Ansolabehere (Ex 13).....	App. 996-1034
	Affidavit of Nicholas Shannin, General Counsel for Bill Cowles, Orange County Supervisor of Elections (Ex 14)	App. 1035-1039
	Affidavit of Tracie Davis, former Deputy Supervisor of Elections, Duval County (Ex 15)	App. 1040-1043
	Affidavit of Lori Edwards, Polk County Supervisor of Elections (Ex 16).....	App. 1044-1047
	Affidavit of Christopher Moore, Deputy Supervisor of Elections, Leon County (Ex 17)	App. 1048-1052
2022 05-13	Plaintiffs' Emergency Motion to Vacate Stay Pending Appeal.....	App. 1053-1060
2022 05-16	Defendant Secretary of State's Response to Plaintiffs' Motion to Vacate Automatic Stay	App. 1061-1074
	Declaration of Dr. Douglas Johnson (Ex 12).....	App. 1075-1085
	Suggestion for Certification (Motion for Temporary Injunction) (Ex 14).....	App. 1086-1093
	Second Affidavit of Robert Phillips Duval County Supervisor of Elections Chief Election Officer (Ex 15)	App. 1094-1096
	Email from Brad McVay to Florida Supervisors of Elections (Ex 16)	App. 1097-1102
2022 05-16	Affidavit of Dr. Stephen Ansolabehere in Support of Plaintiffs' Motion to Vacate Stay Pending Appeal....	App. 1103-1108

<u>Date</u>	<u>Document Description</u>	<u>Page</u>
2022 05-12	Defendant Secretary of State's Notice of Appeal of Order Granting Motion for Temporary Injunction...App. 1109-1134	
2022 05-18	Appellant Secretary of State's Emergency Motion to Reinstate Automatic StayApp. 1135-1201	
2022 05-19	Appellees' Response to Emergency Motion to Reinstate Automatic Stay.....App. 1202-1275	
2022 05-20	Appellants' Reply in Support of Emergency Motion to Reinstate Automatic StayApp. 1276-1289	
2022 05-11	Transcript of Hearing on Plaintiffs' Motion for Temporary Injunction.....App. 1290-1495	
2022 05-16	Transcript of Hearing on Plaintiffs' Motion to Vacate Stay Pending Appeal.....App. 1496-1575	
2022 05-17	Email from Brad McVay to Florida Supervisors of Elections re Please read – 3rd Update on state redistricting case (U.S. Congressional map)App. 1576-1582	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 23, 2022 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below.

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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., EQUAL
GROUND EDUCATION FUND, INC.,
LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., LEAGUE OF WOMEN
VOTERS OF FLORIDA EDUCATION
FUND, INC., FLORIDA RISING
TOGETHER, PASTOR REGINALD
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WILEY, ANDREA HERSHORIN,
ANAYDIA CONNOLLY, BRANDON P.
NELSON, KATIE YARROWS, CYNTHIA
LIPPERT, KISHA LINEBAUGH, BEATRIZ
ALONSO, GONZALO ALFREDO
PEDROSO, and ILEANA CABAN,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
Florida Secretary of State, ASHLEY MOODY,
in her official capacity as Florida Attorney
General, the FLORIDA SENATE, the
FLORIDA HOUSE OF
REPRESENTATIVES, WILTON SIMPSON,
in his official capacity as the President of the
Florida Senate, CHRIS SPROWLS, in his
official capacity as the Speaker of the Florida
House of Representatives, RAY RODRIGUES,
in his official capacity as Chair of the Senate
Committee on Reapportionment, and TOM
LEEK, in his official capacity as Chair of the
House Redistricting Committee,

Defendants.

Case No. 2022-CA-000666

ORDER GRANTING MOTION FOR TEMPORARY INJUNCTION

The Court held an evidentiary hearing on the Plaintiffs' Motion for Temporary Injunction on May 11, 2022. The parties stipulated to the admission of all filed exhibits. The Court heard testimony, reviewed the pleadings, sworn affidavits, and other filed exhibits, and considered counsels' arguments. Moreover, it has critically read pertinent cases decided by state and federal courts and the federal and state constitutions. The Court makes the following findings of fact and conclusions of law:

INTRODUCTION

This case is one of fundamental public importance, involving fundamental constitutional rights. If this Court had the luxury of time, it would take longer to render this order. Notwithstanding, because time is of the essence, the Court renders this order now.

This lawsuit challenges the congressional district plan adopted by the Legislature and signed by Governor DeSantis after the 2020 Census (the "Enacted Plan"). Plaintiffs, who include several nonpartisan civic organizations and Florida voters, filed this suit the same day the Enacted Plan was signed. Plaintiffs are waging multiple attacks on the Enacted Plan. However, their motion for temporary injunction is directed to only one issue. The other issues pled remain to be decided another day after discovery and a trial on the merits.

Plaintiffs now move for a temporary injunction enjoining Secretary of State Laurel M. Lee from implementing the Enacted Plan during the 2022 primary and general elections for Congress regarding benchmark Congressional District 5. Plaintiffs base their motion solely on the ground that the Enacted Plan violates the non-diminishment standard of Article III, Section 20(a) of the Florida Constitution because it diminishes the ability of Black voters in North Florida to elect their candidate of choice. Plaintiffs argue that they and other Florida voters will suffer irreparable harm if the violation is not remedied prior to the 2022 elections, and furthermore claim that an injunction will serve the public interest.

After a hearing and consideration of testimony, exhibits, pleadings, legal memoranda, and oral argument, the Court grants Plaintiffs' motion for a temporary injunction. The Court enjoins implementation of the Enacted Plan and orders the implementation of Plaintiffs' Proposed Map A.

BACKGROUND

I. The Fair Districts Amendment

On November 2, 2010, Floridians voted by an overwhelming margin of 62.9% to 37.1% to enact the Fair Districts Amendment to the Florida Constitution. Pls.' Ex. 1-A. The Amendment established new standards to constrain the Legislature's once-in-a-decade exercise of its congressional reapportionment power. The amendment places two tiers of constraints on the Legislature. Article III, Section 20 of the Florida Constitution.

Among the "Tier I" standards is a requirement 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.*" Fla. Const. Art. III, § 20(a) (emphasis added). The inclusion of this italicized phrase—known as the "non-diminishment standard"—in Tier I "mean[s] that the voters placed this constitutional imperative as a top priority to which the Legislature must conform during the redistricting process." *In re S. J. Res. of Legis. Apportionment*, 83 So. 3d 597, 615, 677 (Fla. 2012).

The Florida Supreme Court has held that the non-diminishment standard prohibits the Legislature from "eliminat[ing] majority-minority districts or weaken[ing] other historically performing minority districts where doing so would actually diminish a minority group's ability to elect its preferred candidates." *Id.* at 625. To evaluate a non-diminishment claim, courts must determine whether minority voting strength has diminished under the new plan when compared to the old plan. *Id.* at 624-25.

II. Benchmark CD-5

In 2015, the Florida Supreme Court invalidated the Legislature's 2012 congressional redistricting plan under the Fair Districts Amendment after finding that partisan intent tainted the entire redistricting process. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363 (Fla. 2015) ("*LWV I*"). The Court provided specific guidance regarding numerous districts, including Congressional District 5 ("CD-5"), in North Florida. Relevant here, the Court rejected arguments that an East-West configuration of CD-5 "cause[d] the redistricting map to become significantly less compact." *Id.* at 405–06. The Court acknowledged that an East-West configuration would result in a "longer" district "with a correspondingly greater perimeter and area," but explained that "length is just one factor to consider in evaluating compactness." *Id.* at 406.

The Court eventually ordered the adoption of a congressional plan, referred to here as the "Benchmark Plan," which was in place during the 2016, 2018, and 2020 congressional election cycles. At the time of its adoption, the Benchmark Plan's version of "CD-5" had a Black voting age population of 45.12%. *Id.* at 404. As of the 2020 Census, the Benchmark Plan's version of CD-5 had a total Black population of 49.1%, a Black voting age population of 45.2% and a minority voting age population of 59.8%. Pls.' Ex. 3 ¶ 32 & tbl.1. Benchmark CD-5 extended from Jacksonville to Tallahassee and included all of Baker, Gadsden, Hamilton, and Madison Counties, as well as portions of Columbia, Duval, Jefferson, and Leon Counties. While both Tallahassee and Jacksonville have substantial Black populations, Black voters also constituted a substantial portion of the lower-density counties that made up the rest of Benchmark CD-5. Gadsden County, for instance, is 55% Black, and Jefferson, Madison, and Hamilton Counties are all more than 30% Black. Pls.' Ex. 1-Y. The Benchmark CD-5 can be seen below:



Benchmark CD-5 united historic Black communities in North Florida that pre-date the Civil War and arose from the slave and sharecropping communities that worked the state's cotton and tobacco plantations. Pls'. Ex. 3 at 8, fig. 1. For much of the state's history, Black voters in these communities—and, indeed, in the state more broadly—have been unable to participate equally in the electoral process. In the wake of Reconstruction, the State commenced a centuries-long policy of disenfranchisement that made it impossible for Black voters to even register to vote. *Id.* at 9–11. These policies had their desired effect: Between 1876 and 1992, Florida did not elect a single Black candidate to Congress. *Id.* at 10. The state's discriminatory voting practices and laws hit the Black residents of North Florida particularly hard. The federal Civil Rights Commission reported that of the 10,930 Black adults living in Gadsden County in 1958, only *seven* were registered to vote. *Id.* at 11. Political discrimination and oppression were felt in every county with a large Black population in North Florida. *Id.* at 12.

The enactment of the federal Voting Rights Act of 1965 increased voter-registration rates in the state's Black communities and provided Black Floridians a means of challenging discriminatory redistricting schemes. *Id.* at 12–17. Through decades of litigation, Black Floridians fought against districting plans that fractured the state's Black populations, particularly in North Florida, eventually obtaining a district that enabled them to elect their candidate of choice. *Id.*

III. The Enacted Plan

The Legislature commenced the redistricting process in September 2021, after receiving the 2020 census data from the U.S. Census Bureau. Both the Florida Senate and the House Legislature instructed its members that the Florida Constitution’s non-diminishment standard prohibits the Legislature from enacting a congressional plan that diminishes a minority group’s existing ability to elect their candidate of choice. *See, e.g.*, Pls.’ Ex. 1-D at 42 (recognizing that the Florida Constitution parallels federal retrogression standards); Pls.’ Ex. 1-E at 15 (same).

Among the districts that both chambers determined were protected from diminishment was CD-5. To that end, the Legislature performed a “functional analysis” on each of its proposed plans to ensure that Black voters in CD-5 maintained the ability to elect their candidates of choice. *See, e.g.*, Pls.’ Ex. 1-G at 3–4 (reporting that proposed Senate plans “[d]o not retrogress and maintain the ability . . . for racial and language minorities to participate in the political process and elect candidates of their choice”); Pls.’ Ex. 1-H at 54–57, 62–65, 70–73, 78–81 (performing functional analyses of CD-5 for proposed Senate plans). Nearly every congressional plan proposed by the House and Senate redistricting committees maintained the general configuration of CD-5 approved by the Florida Supreme Court and preserved Black voters’ ability to elect their candidates of choice in North Florida. *See, e.g.*, Pls.’ Exs. 1-G, 1-I, 1-J, 1-K, 1-L.

On March 4, 2022, the Legislature passed a redistricting plan that significantly modified CD-5—but, the Legislature maintained, would avoid diminishing Black voters’ ability to elect candidates of their choice in the district. Recognizing the plan’s vulnerability under the non-diminishment standard, however, the legislation included an alternative plan—Plan 8015, or the “Backup Map”—that was intended to take effect if courts found that the primary plan diminished Black voting power in violation of the Florida Constitution. Pls.’ Ex. 1-Q. The Backup Map retained the East-West configuration of CD-5 approved in *LVWI*.

Ultimately, Governor DeSantis vetoed the Legislature's Plan on March 29 and called a special legislative session. Pls.' Exs. 1-S, 1-T. Governor DeSantis released a congressional plan on April 13 that eliminated any district resembling the Benchmark Plan's CD-5. When asked on the House floor whether the configuration of CD-4 or CD-5 in the Enacted Plan would continue to perform for Black candidates of choice, Representative Leek responded that it would not: "[O]ur [House] staff did a functional analysis and confirm[ed] it does not perform." Pls.' Ex. 1-V at 13. The Legislature nevertheless passed the Enacted Plan on April 21, 2022, and Governor DeSantis signed it into law the next day. Pls.' Ex. 1-W.

The Enacted Plan splits the Benchmark CD-5 into four new districts: new CD-2, CD-3, CD-4, and CD-5. The Enacted Plan disperses over 360,000 voters from the Benchmark CD-5 into each of these new districts. *See* Ansolabehere Rep. ¶ 32, 51. In each of these new districts, minority voters (and Black voters) are now a substantial minority of the voters in the district and are subsumed by that district's white voters. Specifically, Black voters now make up 22.7%, 15.3%, 30.8%, and 12.1% of the voters in those districts, respectively. *Id.* at tbl. 2. The Enacted Plan is shown below:



IV. Procedural History

Plaintiffs include several Black Florida voters who resided in Benchmark CD-5 under the previous congressional plan and now reside in the new CD-2 or CD-4, *see* Pls.' Exs. 4–6 (affidavits

of voter plaintiffs Gundy, Wiley, and Young), and organizations including Black Voters Matter, the League of Women Voters of Florida, Equal Ground, and Florida Rising Together, *see* Pls.’ Exs. 7–10 (affidavits of organizational plaintiffs).

Plaintiffs filed this suit on April 22, the day that Governor DeSantis signed the Enacted Plan into law. Plaintiffs allege that the Enacted Plan violates multiple provisions of the Fair Districts Amendment, both at a plan-wide level and with regards to the configuration of specific districts. Plaintiffs filed the present motion for temporary injunction on April 26 on a limited basis, arguing only that the Enacted Plan’s configuration of CD-5 violates the non-diminishment standard of Article III, Section 20(a) of the Florida Constitution. Plaintiffs ask this Court to enjoin Secretary of State Laurel M. Lee from administering the 2022 primary and general elections under the Enacted Plan.

LEGAL STANDARD

To obtain a temporary injunction, a movant must demonstrate: “[1] a substantial likelihood of success on the merits; [2] lack of an adequate remedy at law; [3] irreparable harm absent the entry of an injunction; and [4] that injunctive relief will serve the public interest.” *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1258 (Fla. 2017) (quoting *Reform Party of Fla. v. Black*, 885 So. 2d 303, 305 (Fla. 2004) (per curiam)). “The grant or denial of an injunction is a matter that lies within the sound discretion of the trial court.” *Grant v. GHG014, LLC*, 65 So. 3d 1066, 1067 (Fla. 4th DCA 2010).

ANALYSIS

- I. **Plaintiffs have shown a substantial likelihood of proving that the enacted plan violates the non-diminishment standard of Article III, Section 20.**
 - A. **Plaintiffs have demonstrated the Enacted Plan will result in diminishment of Black voters’ ability to elect their candidate of choice.**

Under the non-diminishment standard, “the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *In re S. J. Res. of Legis. Apportionment*, 83 So. 3d at 625. The non-diminishment standard accordingly calls for a comparative analysis: “The existing plan of a covered jurisdiction serves as the ‘benchmark’ against which the ‘effect’ of voting changes is measured.” *Id.* at 624. And whether a minority group’s voting power has been diminished is determined by a “functional analysis” of “whether a district is likely to perform for minority candidates of choice.” *Id.* at 625. This inquiry requires “consideration not only of the minority population in the districts, or even the minority voting-age population in those districts, but of political data and how a minority population group has voted in the past.” *Id.* Similarly, a court’s review of minority voting power “will involve the review of the following statistical data: (1) voting-age populations; (2) voting-registration data; (3) voting registration of actual voters; and (4) election results history.” *Id.* at 627.

Plaintiffs’ expert, Dr. Stephen Ansolabehere, conducted such a functional analysis on both the Benchmark and Enacted Plans. As the Florida Supreme Court has instructed, Dr. Ansolabehere’s analysis considered “the racial composition of the population and eligible electorate, the racial composition of registered voters, the racial composition of voter participation, and an analysis of election outcomes.” Ansolabehere Rep. ¶ 17. After reviewing Dr. Ansolabehere’s reports in this matter and considering his live testimony, the Court finds his testimony to be credible.

First, considering the Benchmark Plan, Dr. Ansolabehere found that Benchmark CD-5 was a district in which Black voters had the opportunity to elect their preferred candidates. Relevant to this analysis were the following findings: Benchmark CD-5 has a minority population of 472,361

people, which is 63.1% of the total population of the district. *Id.* ¶ 32. It has a Black population of 367,467, which accounts for 49.1% of the total population. *Id.* Racial minorities are the majority of registered voters in Benchmark CD-5, and Black voters are the largest group of registered voters. Black voters comprise 45.3% of registered voters in Benchmark CD-5. *Id.* ¶ 34. Minority voters cast the majority of votes in the 2016, 2018, and 2020 general elections under Benchmark CD-5. *Id.* ¶ 35. Black voters were by far the largest group of all voters in all of these elections (ranging from 44.4% to 47.2% percent of all voters). *Id.* Black voters were the largest racial group of voters in all of the Democratic primaries under Benchmark CD-5, and a majority of all voters in two of the three primaries. Black voters vote cohesively in elections in Benchmark CD-5. *Id.* ¶ 36. Under Benchmark CD-5, Black voters elected a Black candidate in each of the U.S. House elections held under Benchmark CD-5. In 2016, 2018, and 2020, approximately 90% of Black voters in Benchmark CD-5 chose Congressman Al Lawson to be their Representative in the U.S. House. *Id.* ¶ 39.

From these factual findings, Dr. Ansolabehere concluded that Benchmark CD-5 was a district in which Black voters had the ability to elect their preferred candidates to Congress. *Id.* ¶ 40. The Court finds the same.

Next considering the Enacted Plan, Dr. Ansolabehere found that there was no district in North Florida that would allow Black voters to elect their preferred candidates. *Id.* ¶ 41. Relevant to this analysis were the following findings: The Enacted Plan divides the area and populations that comprise Benchmark CD-5 across newly enacted CD-2, CD-3, CD-4, and CD-5. *Id.* ¶ 42. None of these Enacted CDs in North Florida are majority-minority voting age population districts. *Id.* ¶ 44. None of the Enacted CDs in this area are majority-minority in voter registration. *Id.* ¶ 45. White voters are the majority of registered voters in all four of these districts. In the precincts

incorporated into each of the Enacted CDs in this area, white voters cast the majority of votes in the 2016, 2018, and 2020 general elections and primary elections. *Id.* ¶¶ 46-47. In all four of these districts, white voters cohesively voted for the candidates opposed to the Black-preferred candidates. *Id.* ¶ 48. In all four of these districts, the white-preferred candidates won the majority of votes cast in all eight of the general elections examined. *Id.* ¶ 49.

From these factual findings, Dr. Ansolabehere concluded that none of the new districts in North Florida are districts in which Black voters have the ability to elect their preferred candidates to Congress. *Id.* ¶ 41; *see also id.* ¶¶ 50-51. This conclusion is buttressed by analysis from the Florida Legislature’s redistricting staff, which conducted its own functional analysis and found that Black voters would not have the ability to elect their preferred candidates to Congress under the Enacted Map in this area. *See* Pls.’ Ex. 1-V at 13 (House Redistricting Chair Leek explaining “our staff did a functional analysis and confirmed that it does not perform [for the Black candidate of choice]”). The Court finds the same.

The Court finds the Enacted Plan would diminish the ability of Black voters to elect their candidate of choice in North Florida. The Secretary offers no credible contrary evidence; her experts neither performed a functional analysis nor contested Dr. Ansolabehere’s findings. Plaintiffs have shown a substantial likelihood of proving that the Enacted Plan violates the non-diminishment standard of Article III, Section 20.

B. Application of the Florida Constitution’s non-diminishment standard does not violate the Equal Protection Clause of the U.S. Constitution.

The Secretary argues that application of the Florida Constitution’s non-diminishment standard violates the Fourteenth Amendment of the U.S. Constitution, insofar as the former results in a configuration of CD-5 that maintains the ability of Black voters in North Florida to elect their candidate of choice. The record before this Court does not support such a finding.

Electoral districting violates the federal Equal Protection clause where “(1) race is the ‘dominant and controlling’ or ‘predominant’ consideration in deciding ‘to place a significant number of voters within or without a particular district,’ and (2) the use of race is not ‘narrowly tailored to serve a compelling state interest.’” *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 260-61 (2015) (quoting *Miller v. Johnson*, 515 U.S. 900, 913, 916 (1995), and *Shaw v. Hunt*, 517 U.S. 899, 902 (1996) (“*Shaw II*”)).

The Secretary faces a heavy burden to establish that race predominated in the drawing of 8015’s CD-5. *See Abbott v. Perez*, 138 S. Ct. 2305, 2324 (2018) (explaining that the burden of proof lies with the party claiming discriminatory intent). Courts must “exercise extraordinary caution in adjudicating claims that a State has drawn district lines on the basis of race,” given the “presumption of good faith that must be accorded legislative enactments” and the “distinction between being aware of racial considerations and being motivated by them.” *Miller*, 515 U.S. at 916.

The Secretary has not established that race was the predominant factor, rather than one of several factors, in the drawing of 8015’s CD-5. Race neutral reasons exist for Plan 8015’s CD-5. The Legislature made minimal changes between the Benchmark CD-5 and 8015’s CD-5 that were required to account for population changes, consistent with the “legitimate state objective” of “preserving the cores of prior districts.” *Karcher v. Daggett*, 462 U.S. 725, 740 (1983); *see also Tennant v. Jefferson Cnty. Comm’n*, 567 U.S. 758, 764 (2012) (“The desire to minimize population shifts between districts is clearly a valid, neutral state policy”). The record demonstrates the Legislature drew 8015 to comply with the Florida Supreme Court’s prior rulings regarding CD-5. *See League of Women Voters of Fla.*, 179 So. 3d at 272 (upholding trial court’s adoption of an “East-West” version of CD-5). As the U.S. Supreme Court has explained, a desire to avoid

litigation is specifically one of the race-neutral reasons that may motivate a Legislature to adopt a plan. *See Abbott*, 138 S. Ct. at 2327 (finding race did not predominate where the Legislature chose a plan which would “bring the litigation about the State's districting plans to an end as expeditiously as possible”). Finally, as Dr. Ansolabehere demonstrated, Plan 8015’s CD-5 closely followed the newly-enacted State House legislative district lines. This, too, is another reason that could have informed the Legislature’s decision to draw a plan like Plan 8015.

Even if the Secretary could show that racial considerations predominated in the drawing of 8015’s CD-5, the record indicates that the Legislature’s configuration of CD-5 is narrowly tailored to advance compelling state interests. First, compliance with the Fair Districts Amendment’s non-diminishment provision is a compelling state interest. While the Fair Districts Amendment is independent from the Voting Rights Act, this provision of the state constitution “follow[s] almost verbatim the requirements embodied in the [Federal] Voting Rights Act.” *In re S. J. Res. of Legis. Apportionment*, 83 So. 3d at 619 (citation omitted and second alteration in original); *see also* Pls.’ Ex. 1-D at 42 (recognizing that Florida’s Constitution parallels federal retrogression standards); Pls.’ Ex. 1-E at 15 (same). The U.S. Supreme Court has repeatedly assumed that compliance with the VRA constitutes a compelling state interest. *See, e.g., Wis. Legis. v. Wis. Elections Comm’n*, 142 S. Ct. 1245, 1249 (2022) (“We have assumed that complying with the VRA is a compelling interest.”); *Abbott*, 138 S. Ct. at 2315; *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 801 (2017) (“[T]he Court assumes, without deciding, that the State’s interest in complying with the Voting Rights Act was compelling.”). Given the substantive similarity between Section 5 of the VRA and the Fair Districts Amendment’s non-diminishment provision, compliance with the latter likewise constitutes a compelling state interest.

Second, addressing the history of voting-related racial discrimination and a lack of representation in North Florida in itself constitutes a compelling state interest for CD-5. *See Miller*, 515 U.S. at 920 (1995) (explaining that there is a “significant state interest in eradicating the effects of past racial discrimination”). Plaintiffs presented evidence that, for much of Florida’s history, Black voters in the state have been unable to participate equally in the electoral process, with Black residents of North Florida experiencing particularly severe burdens in access to the franchise. *See* Pls.’ Mem. in Supp. of Mot. For Temp. Inj. (“Br.”) at 5-6 (Apr. 26, 2022). As a result, between 1876 and 1992, Florida did not elect a single Black candidate to Congress. *Id.* at 6. As Dr. Sharon Austin describes, “[t]his lack of political representation was the result of redistricting practices that split the state’s Black population into districts where their votes would be drowned out by overwhelming White majorities.” Pls.’ Ex. 3 at 13.

Plan 8015’s CD-5 is narrowly tailored to address these compelling state interests. The legislative record includes detailed testimony that 8015’s configuration of CD-5 is necessary to ensure minority voters’ continued ability to elect candidates of their choice. *See, e.g.,* Fla. H.R. Comm. on Redistricting, recording of proceedings, at 19:45-19:54 (Feb. 25, 2022), <https://thefloridachannel.org/videos/2-25-22-house-redistricting-committee> (last accessed May 10, 2022) (Chair of House Redistricting Committee noting the Committee’s aim “to protect the minority group’s ability to elect a candidate of their choice”). The Legislature, which conducted a functional analysis on their redistricting plans, *see* Pls.’ Ex 1-V at 13, thus “had good reasons to believe that” 8015’s configuration of CD-5 “was necessary . . . to avoid diminishing the ability of black voters to elect their preferred candidates.” *Bethune-Hill*, 137 S. Ct. at 791. This “strong showing of a pre-enactment analysis with justifiable conclusions,” demonstrates a compelling state interest. *Wis. Legis.*, 142 S. Ct. at 1249 (citing *Abbott*, 138 S. Ct. at 2335).

The fact that the Enacted Plan's CD-5 is more compact or contains slightly fewer splits of political boundaries does not change this outcome. The Fair Districts Amendment explicitly categorizes compactness and utilization of political boundaries as "Tier Two" standards that must give way when in conflict with "Tier One" standards, including the non-diminishment principle. *See* Fla. Const. Art. III, § 20; *In re S. J. Res. of Legis. Apportionment*, 83 So. 3d at 615. Moreover, courts have denied racial gerrymandering claims against districts that are even less compact than Plan 8015's CD-5. In particular, the record demonstrates that Plan 8015's CD-5 is more compact than other congressional districts in the United States from the last redistricting cycle that withstood federal racial gerrymandering claims, such as Texas's 35th Congressional District. Finally, while Plan 8015's CD-5 is not the most compact district, the record also demonstrated that it is far from the least compact. Indeed, Plan 8015's CD-5 has a higher Polsby-Popper compactness score, indicating a higher degree of compactness, than 65 congressional districts in the United States.

II. Plaintiffs have no adequate remedy at law.

The Court finds that, absent injunctive relief, no other remedy exists under Florida law to remedy the harm Plaintiffs will suffer if the 2022 primary and general elections proceed under an unconstitutional districting plan. Under settled law, plaintiffs lack an adequate remedy at law where, as here, their injuries result from a violation of a fundamental constitutional right. *See, e.g., Gainesville Woman Care*, 210 So. 3d at 1263–64 (“In light of finding that the [challenged law] is likely unconstitutional, there is no adequate legal remedy at law for the improper enforcement of the [law].”); *see also League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1224 (N.D. Fla. 2018) (granting temporary injunction in voting-related case because injury could not

“be undone through monetary remedies” (quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987)); *Madera v. Detzner*, 325 F. Supp. 3d 1269, 1282 (N.D. Fla. 2018) (same).

III. Plaintiffs and other Florida voters will suffer irreparable harm absent a temporary injunction.

The Court also finds that Plaintiffs have shown they will suffer irreparable harm absent temporary injunctive relief. Florida “law recognizes that a continuing constitutional violation, in and of itself, constitutes irreparable harm.” *Bd. of Cnty. Comm’rs v. Home Builders Ass’n of W. Fla., Inc.*, 325 So. 3d 981, 985 (Fla. 1st DCA 2021) (upholding trial court’s determination “that irreparable harm was presumed based on the existence of a constitutional violation”); *see also Gainesville Woman Care*, 210 So. 3d at 1263–64 (finding that law that violated constitution would lead to irreparable harm absent injunctive relief). Indeed, “[c]ourts routinely deem restrictions on fundamental voting rights irreparable injury.” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014);¹ *see also, e.g., Larios v. Cox*, 305 F. Supp. 2d 1335, 1343–44 (N.D. Ga.) (per curiam) (three-judge court) (holding that stay of court’s order finding state legislative plans unconstitutional would result in “irreparable harm to the plaintiffs, and to all voters in Georgia who have had their votes unconstitutionally debased,” and that the court had “a responsibility to ensure that future elections will not be conducted under unconstitutional plans”), *aff’d*, 542 U.S. 947 (2004). That is because “once the election occurs, there can be no do-over and no redress” for voters whose rights were violated. *League of Women Voters of N.C.*, 769 F.3d at 247. Plaintiffs demonstrated a clear likelihood that if the 2022 primary and general elections were

¹ In weighing whether an injury cannot be remedied at law and thus constitutes irreparable harm, the Florida Supreme Court has relied on precedent from federal courts. *See, e.g., Gainesville Woman Care*, 210 So. 3d at 1263–64 (noting that U.S. Supreme Court and lower federal courts “have presumed irreparable harm when certain fundamental rights are violated”).

conducted under the unlawful Enacted Plan, Plaintiffs' constitutional rights would be violated. Unless the Plaintiffs are provided injunctive relief they will suffer irreparable harm.

IV. Granting Plaintiffs injunctive relief will serve the public interest.

Finally, the Court concludes that granting Plaintiffs' motion serves the public interest. Plaintiffs have shown a clear likelihood that the Enacted Plan violates their fundamental right to vote and "enjoining the enforcement of a law that encroaches on a fundamental constitutional right presumptively 'would serve the public interest.'" *Green v. Alachua Cnty.*, 323 So. 3d 246, 254 (Fla. 1st DCA 2021) (quoting *Gainesville Woman Care*, 210 So. 3d at 1264); *see also Gainesville Woman Care*, 210 So. 3d at 1264 (finding that it "would be specious to require . . . that the trial court make additional factual findings" to determine that enjoining unconstitutional law would be in the public interest).

Nevertheless, citing the U.S. Supreme Court's decision in *Purcell*, the Secretary argues the public would be harmed by granting Plaintiffs relief because imposing a remedial plan this close to the 2022 elections will cause voter confusion. This Court disagrees. *Purcell* is a creature of the *federal* courts, where it was created as a means of restraining federal interference in the administration of state elections on the eve of an election, as demonstrated by all the federal precedent the Secretary cites in support of the principle. It has no bearing on state courts. As New York's highest state court recently explained in enjoining that state's congressional plan after that state's candidate qualifying period had already passed, *Purcell* "does not limit state judicial authority where, as here, a state court must intervene to remedy violations of the State Constitution." *Harkenrider v. Hochul*, 2022 NY Slip Op. 02833, at 28 n.16 (N.Y. Apr. 27, 2022).

The Secretary cites *State ex rel. Haft v. Adams*, 238 So. 2d 843 (Fla. 1970). There, the Florida Supreme Court denied a writ of mandamus prohibiting the Secretary from placing certain candidates' names on the ballot three weeks before the primary election.

The Secretary also cites, *State ex rel. Walker v. Best*, 163 So. 696, 697 (Fla. 1935). There, the Florida Supreme Court refused to order a town clerk to publish a new amendment to the town charter 15 days before the election.

Neither apply here.

We are not days or weeks from an election. Florida's primary, one of the latest in the nation, is set for August 23, nearly four months away. *See* Pls.' Ex. 11. This is therefore not the typical eve-of-election case in which judicial relief may disrupt an election, and instead more resembles the many other cases in which state courts have enjoined redistricting plans in the months before an election. *See Harper v. Hall*, 868 S.E.2d 499 (N.C. 2022) (invalidating plan on February 14, 2022, about three months before North Carolina's May 17 primary elections); *League of Women Voters of Pa. v. Commonwealth*, 178 A.3d 737 (Pa. 2018) (invalidating plan on February 7, 2018, about three months prior to Pennsylvania's May 15 primary elections; plan ordered on February 23); *Rivera v. Schwab*, No. 2022-CV-000089 (Kan. D. Ct. 2022) (invalidating plan on April 25, 2022, about three months prior to Kansas's August 2 primary elections), appeal docketed No. 125092 (Kan.). And, notably, this Court finds that the Plaintiffs moved as quickly as they could have, filing suit the same day the Governor signed the Enacted Plan into law.

Even if *Purcell* did apply to state courts, the Court finds that there is time to adopt a remedial plan without creating the confusion the Secretary predicts. As Dr. Ansolabehere demonstrated through his Proposed Map A, a remedial plan would have minimal impacts on the Enacted Plan. Proposed Map A alters only five congressional districts—CDs-2, 3, 4, 5, and 6—

and, importantly, follows the lines of the state's recently enacted State House districts wherever possible. Ansolabehere Rebuttal Rep. ¶ 4. As a result, Proposed Map A will affect just a handful of counties and can be implemented quickly and without significant administrative difficulties.

In response, the Secretary cites to two affidavits from Supervisor of Elections' Offices that explain a remedial plan would cause their offices administrative burdens. The Columbia County Supervisor states that a remedial plan will create the need to cancel and reschedule a meeting with the Board of County Commissioners, Def's. Ex. 1 ¶ 9, and expend additional funds to implement a constitutional map. A representative of the Duval County Supervisor's Office also explained that a new congressional plan would impose burdens on his office, though he did not say that his office could not implement a remedial plan. Def's. Ex. 2.

This Court appreciates that its order may cause inconvenience, hard work, and expense. Notwithstanding, these concerns do not outweigh Plaintiffs' rights. *See, e.g., Taylor v. Louisiana*, 419 U.S. 522, 535 (1975) (finding that that "administrative convenience" is not a sufficient reason to uphold unconstitutional law).

Moreover, the Secretary's suggestion that a remedial plan would impose insurmountable burdens is belied by Plaintiffs' affidavits from five current and former senior officials of Supervisors of Elections offices across the state who show their offices *can* implement a remedial plan in time for the 2022 elections. Leon County Supervisor of Elections Mark Earley, one of the Supervisors who would be most affected by redrawing of CD-5, as well as his Deputy, Christopher Moore, both stated that their office can implement any remedial plan received by May 27, 2022. Pls.' Exs. 12, 17. Counsel for the Supervisor of Elections of Orange County, who is responsible for a county with over 850,000 voters, swore to the same, Pls.' Ex. 14. And the Polk County Supervisor of Elections Lori Edwards similarly testified by affidavit that her office could

implement a remedial plan imposed by May 27. Pls.' Ex. 16. Plaintiffs also submitted an affidavit by Representative Tracie Davis, who worked at the Duval County Supervisor's Office for 14 years, serving eventually as Deputy Supervisors of Elections, who explained that the Duval Supervisor's Office is capable of managing districting schemes, is practiced in handling precinct splits in congressional plans, and should be able to implement a remedial plan in time for the primary election as long as it is received by the end of May. Pls.' Ex. 15 ¶¶ 5-8.

The remedial plan the Court adopts require narrow changes to a plan already passed by the Legislature, prior to being vetoed. It is not in the public's interest to deny the Plaintiffs' relief.

V. Plaintiffs' Proposed Congressional Map A is an appropriate narrow remedy.

Because this Court has found a violation of the Florida Constitution and that there is time to remedy the violation, this Court must consider what remedy is appropriate. This Court finds that a narrow remedy—one that addresses only the diminishment discussed in this order—is the most appropriate.

Plaintiffs' expert, Dr. Ansolabehere, prepared several possible remedial plans for this Court to consider. After considering the expert reports, the affidavits from election administrators, and live testimony from Dr. Ansolabehere, the Court finds that Proposed Map A is the best remedial option available to Florida's administrators and voters. At its core, Proposed Map A takes the Legislature's version of CD-5 from Plan 8015, and places it within the existing Enacted Map. Proposed Map A is designed to minimize the administrative burden within the counties affected by Proposed CD-5 by following the boundaries of the recently enacted Florida State House map to the greatest extent possible and by minimizing the number of additional precinct splits, while still restoring CD-5 as a district where Black voters have the ability to elect the candidate of their

choice. Proposed Map A will affect only five enacted congressional districts (out of twenty-eight such districts). The districts affected are CD-2, CD-3, CD-4, CD-5, and CD-6. Compared to the Enacted Plan, Plan A will require election administrators to create a de minimis number of new precincts out of more than approximately 650 precincts in North Florida. The Court thus orders implementation of Proposed Map A for this year's congressional elections.²

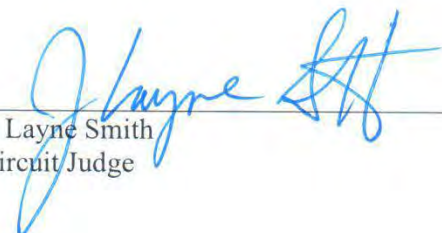
VI. Bond

Finally, in their motion, Plaintiffs requested that the Court set no more than a nominal bond and proposed that Defendants waive entry of a bond. The Secretary did not address the bond issue in her filings or oral argument. The Court sets a bond in the amount of \$1,000.

CONCLUSION

The Court grants Plaintiffs' motion for a temporary injunction. The Court orders the Secretary of State to take all necessary steps to implement the final corrected version of Proposed Map A, as submitted to the Court and to counsel for the Secretary of State on May 12, 2022, in time for the 2022 congressional elections, while the rest of this case proceeds to a trial on the merits.

DONE AND ORDERED on May 12, 2022.



J. Layne Smith
Circuit Judge

Copies to counsel of record via e-service

² During the temporary injunction hearing, the Secretary's counsel asked Dr. Ansolabehere whether Proposed Map A was contiguous. After the hearing, Dr. Ansolabehere confirmed that Proposed Map A was contiguous. Nonetheless, Dr. Ansolabehere has now assigned a portion of I-95 to CD-6, rather than CD-4, which will make for a more visually pleasing map. This change does not move any persons. Dr. Ansolabehere has prepared a corrected version of Proposed Map A, which is the version of the map this Court now orders to be implemented.

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

**BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., et al.,**

Plaintiffs,

Case No.: 2022 CA 0666

v.

**LAUREL M. LEE, in her official capacity as
Florida Secretary of State, et al.,**

Defendants.

ORDER GRANTING EMERGENCY MOTION VACATING STAY PENDING APPEAL

This Court rendered an order granting the Plaintiffs' motion for a temporary injunction on May 12, 2022. That same day, the Defendant, Secretary of State Laurel M. Lee, filed an appeal with the First District Court of Appeal. No other Defendant—the Florida Senate, the Florida House of Representatives, the Senate President, the Speaker of the House, Senator Rodrigues, or Representative Leek – defended the Enacted Map or filed an appeal.

Secretary of State Lee's appeal triggered an automatic stay of this Court's injunction per Florida Rule of Appellate Procedure 9.310(b)(2). On May 13, 2022, the Plaintiffs filed an emergency motion with this Court to vacate the automatic stay per the same appellate rule.

By agreement of the parties, Secretary of State Lee filed her response to the Plaintiffs' motion to vacate by noon today. That filing covered 249 pages. The Court spent time last Friday and over the weekend to read the applicable law. Today, the Court adjusted its schedule, spending the lunch hour and several hours during the afternoon to be prepared. After reviewing the casefile, the law, and having considered the arguments of counsel, the Court finds as follows.

On November 2, 2010, Floridians voted by an overwhelming margin to enact the Fair Districts Amendment to the Florida Constitution. That amendment provides the Legislature with

the standards it must follow for establishing congressional district boundaries. Article III, Section 20 of the Florida Constitution. It falls on the judiciary to ensure that these constitutional standards are followed. See, In re S. J. Res. of Legis. Apportionment 1176, 83 So.3d 597, 600 (Fla. 2012).

When a governmental entity files a timely notice of appeal of a lower tribunal's order, the notice shall "automatically operate as a stay pending review." Fla. R. App. P. 9.310(b)(2). The lower tribunal has the authority to "extend a stay, impose any lawful conditions, or vacate the stay." *Id.* However, "a court may vacate an automatic stay only 'under the most compelling circumstances.'" Fla. Dep't of Health v. People United for Med. Marijuana, 250 So. d 825, 828 (Fla. 1st DCA 2018) (citations omitted).

In deciding whether to vacate an automatic stay, the court must consider: (1) whether the equities overwhelmingly tilt against maintaining the automatic stay; (2) the governments likelihood of success on appeal; and (3) the likelihood of irreparable harm if the automatic stay remains. Dep't of Agric. & Consumer Servs. V. Henry & Rilla White Found., Inc., 317 So. 3d 1168 (Fla. 1st DCA 2020) (citations omitted); DeSantis v. Fla. Educ. Ass'n, 325 So. 3d 145 (Fla. 1st DCA 2020) (citations omitted).

The automatic stay rule is based upon deference to planning-level government decisions. Here, the issue is the Legislature's compliance with the state constitution—not some run-of-the-mill executive branch planning decision! Thus, the Secretary of State is due no deference. Even if she was, that deference diminishes where the equities are overwhelmingly titled against maintaining a stay. Tampa Sports Auth. V. Johnson, 914 So. 2d 1076, 1083 (Fla. 2d DCA 2005).

The Court finds overwhelmingly compelling circumstances against maintaining the stay in this action. At the temporary injunction hearing, the Court determined that the Enacted Plan violates the Fair Districts Amendment of the Florida Constitution by diminishing the ability of Black voters to elect their representative of their choice.

Fundamental constitutional rights are at stake and time is both short and of the essence. There are no do-overs when it comes to elections; in essence, there is no remedy for a Florida voter once their constitutional rights have been infringed. Considering this Court's determination that the Enacted Plan violates Article III, Section 20, and the fact that the 2022 primary is fast approaching, the equities in this case are overwhelmingly tilted against maintaining the automatic stay.


Considering the Florida Supreme Court and the United States Supreme Court precedents cited in the Court's May 12, 2022, order, it is unlikely that the Secretary of State will succeed upon appeal.

Allowing the automatic stay to remain in place would almost certainly result in irreparable harm to Plaintiffs and Florida voters. Maintaining the stay and failing to quickly determine this case on the merits, will force Plaintiffs and many North Florida voters to cast their votes according to an unconstitutional congressional district map.

The people expect this case to be decided on the merits. They deserve no less.

Accordingly, this Court **ORDERS** and **ADJUDGES** that the automatic stay per the appellate rule is **VACATED**.

DONE and **ORDERED** on May 16, 2022.


J. Layne Smith
Circuit Judge

Copies furnished to counsel of record via e-service

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850) 488-6151**

May 20, 2022

CASE NO.: 1D22-1470
L.T. No.: 2022 CA 0666

Secretary of State Laurel Lee	v.	Black Voters Matter Capacity Building Institute, Inc., Equal Ground Education Fund, Inc., League of Women Voters of Florida, Inc., League of Women Voters of Florida Education Fund, Inc., et al.
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Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

This case is an appeal of a temporary injunction, a non-final order over which this court has jurisdiction for the purpose of review.

Based on a preliminary review, the court has determined there is a high likelihood that the temporary injunction is unlawful, because by awarding a preliminary remedy to the appellees' on their claim, the order "frustrated the status quo, rather than preserved it." *Planned Parenthood of Greater Orlando, Inc. v. MMB Properties*, 211 So. 3d 918, 925 (Fla. 2017); see also *Bowling v. Nat'l Convoy & Trucking Co.*, 135 So. 541, 544 (Fla. 1931) (explaining that a temporary injunction is erroneous if "its effect would be to change the status [quo]" or "to destroy the existing condition of the subject-matter of the suit"); *id.* (defining the "status quo" in a case as "the last actual, peaceable, noncontested condition which preceded the pending controversy").

Given the exigency of the circumstances and the need for certainty and continuity as election season approaches, on the court's own motion, the stay of the temporary injunction is reinstated pending the court's disposition of the motion for review of the trial court's vacatur of the automatic stay, which will be promptly forthcoming.

The secretary's motion to file a reply is granted, and the reply attached thereto will be docketed as of the date the motion was filed.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

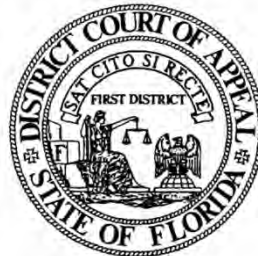
Served:

Andy V. Bardos
Bilal Ahmed Faruqui, AAG
Carlos Alberto Rey
Daniel Nordby
David M. Costello, AAG
Gary V. Perko
Henry Charles Whitaker
Jeffrey Paul DeSousa
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Frederick S. Wermuth
George N. Meros Jr.
Jason Rojas
Michael R. Beato
Tara R. Price
Hon. Gwen Marshall, Clerk

ds


KRISTINA SAMUELS, CLERK



IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., EQUAL
GROUND EDUCATION FUND, INC.,
LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., LEAGUE OF WOMEN
VOTERS OF FLORIDA EDUCATION
FUND, INC., FLORIDA RISING
TOGETHER, PASTOR REGINALD
GUNDY, SYLVIA YOUNG, PHYLLIS
WILEY, ANDREA HERSHORIN,
ANAYDIA CONNOLLY, BRANDON P.
NELSON, KATIE YARROWS, CYNTHIA
LIPPERT, KISHA LINEBAUGH, BEATRIZ
ALONSO, GONZALO ALFREDO
PEDROSO, and ILEANA CABAN,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
Florida Secretary of State, ASHLEY
MOODY, in her official capacity as Florida
Attorney General, the FLORIDA SENATE,
the FLORIDA HOUSE OF
REPRESENTATIVES, WILTON SIMPSON,
in his official capacity as the President of the
Florida Senate, CHRIS SPROWLS, in his
official capacity as the Speaker of the Florida
House of Representatives, RAY
RODRIGUES, in his official capacity as Chair
of the Senate Committee on Reapportionment,
and THOMAS J. LEEK, in his official
capacity as Chair of the House Redistricting
Committee,

Defendants.

Case No. 2022-ca-_____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs BLACK VOTERS MATTER CAPACITY BUILDING INSTITUTE, INC., EQUAL GROUND EDUCATION FUND, INC., LEAGUE OF WOMEN VOTERS OF FLORIDA, INC., LEAGUE OF WOMEN VOTERS OF FLORIDA EDUCATION FUND, INC., FLORIDA RISING TOGETHER, PASTOR REGINALD GUNDY, SYLVIA YOUNG, PHYLLIS WILEY, ANDREA HERSHORIN, ANAYDIA CONNOLLY, BRANDON P. NELSON, KATIE YARROWS, CYNTHIA LIPPERT, KISHA LINEBAUGH, BEATRIZ ALONSO, GONZALO ALFREDO PEDROSO, and ILEANA CABAN, file this Complaint for Declaratory and Injunctive Relief against Defendant Laurel M. Lee, in her official capacity as Florida Secretary of State, Defendant Ashley Moody, in her official capacity as Florida Attorney General, the Florida Senate, the Florida House of Representatives, Wilton Simpson, in his official capacity as the President of the Florida Senate, Chris Sprowls, in his official capacity as the Speaker of the Florida House of Representatives, Ray Rodrigues, in his official capacity as Chair of the Senate Committee on Reapportionment, and Thomas J. Leek, in his official capacity as Chair of the Chair of the House Redistricting Committee, and allege as follows:

NATURE OF THE ACTION

1. In 2010, the people of Florida voted overwhelmingly to enact the Fair Districts Amendment to the state's constitution, imposing constraints on the worst abuses of congressional redistricting and entrusting the Florida judiciary to enforce those safeguards. Over the next decade, states across the country have followed Florida's lead by adopting similar constitutional amendments, prompting the U.S. Supreme Court to cite the Fair Districts Amendment as an exemplar of "provisions in state statutes and state constitutions [that] can provide standards and

guidance for state courts to apply” to ensure that “complaints about districting” are not “condemn[ed] . . . to echo into a void.” *Rucho v. Common Cause*, 139 S. Ct. 2484, 2507 (2019).

2. Indeed, just seven years ago, the Florida Supreme Court invalidated the Legislature’s congressional redistricting plan under the Fair Districts Amendment after finding that partisan intent tainted the entire redistricting process. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363 (2015) (“*LWV F*”). That litigation demonstrated Florida courts’ “important duty to honor and effectuate the intent of the voters in passing Florida’s groundbreaking constitutional amendment,” “not because [courts] seek to dictate a particular result, but because the people of Florida have, through their constitution, entrusted that responsibility to the judiciary.” *Id.* at 416 (cleaned up).

3. At the beginning of this redistricting cycle, the Legislature appeared to follow the Fair Districts Amendment in good faith. Legislators and their staffs considered redistricting plans that purported to avoid unnecessary political and geographic splits without intentionally favoring one political party or diminishing minority voters’ ability to elect their candidates of choice.

4. Governor Ron DeSantis, however, had other ideas. He unilaterally declared the Fair Districts Amendment unconstitutional. He vetoed the Legislature’s congressional plan and convened a special legislative session, leaving the Legislature little choice but to consider and pass his own redistricting scheme, SB 2-C (the “DeSantis Plan”).

5. The DeSantis Plan does not comply with the Fair Districts Amendment. It does not even purport to.

6. The DeSantis Plan, for example, obliterates Congressional District (“CD-”) 5—an existing district that allowed North Florida’s Black voters to elect their candidates of choice, and that the Legislature originally sought to protect this redistricting cycle—plainly resulting in

unlawful diminishment. When asked on the House floor whether Governor DeSantis’s new CD-4 or CD-5 would perform for Black candidates of choice, Redistricting Committee Chair Leek responded simply, and honestly, “No.”

7. Both Governor DeSantis and the Legislature well knew that dismantling CD-5 would diminish the voting power of Black residents within the district and violate the plain command of the Florida Constitution. From the beginning, Governor DeSantis publicly stated that he would not accept *any* congressional plan that contained a configuration of CD-5 that protected Black voters from diminishment, based on his wrongheaded belief that compliance with the Fair Districts Amendment violates the U.S. Constitution. Governor DeSantis was tireless in his efforts, attempting to derail the Legislature’s protection of CD-5 through public statements, by filing an extraordinary request for an advisory opinion from the Florida Supreme Court on the question, and by hiring a proxy to appear on his behalf during the Legislature’s redistricting hearings. And yet despite this, the Legislature repeatedly affirmed that CD-5 was a protected district and proposed plans that maintained the same configuration the district held under Florida’s previous congressional plan (the “Benchmark Plan”). The Legislature’s about-face in enacting the DeSantis Plan therefore represents not a change of heart, but rather the knowing destruction of a district it has for months maintained is protected by the Florida Constitution.

8. The DeSantis Plan also intentionally favors the Republican Party at nearly every turn, eliminating three Democratic seats and transforming competitive seats into Republican-leaning ones. And in so doing, it needlessly produces noncompact districts that split geographic and political boundaries. As Princeton University Professor Sam Wang described, the DeSantis Plan will result in “one of the most extreme gerrymanders in the country”—precisely the result Florida voters sought to eradicate in passing the Fair Districts Amendment.

9. Governor DeSantis believes Florida’s judiciary will, just like the Legislature, stand aside while he runs roughshod over the Florida Constitution and the will of Florida voters. But “[i]t is this Court’s duty, given to it by the citizens of Florida, to enforce adherence to the constitutional requirements and to declare a redistricting plan that does not comply with those standards constitutionally invalid.” *In re S. J. Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 607 (Fla. 2012). Florida’s voters ask this Court to uphold that duty here.

JURISDICTION, PARTIES, AND VENUE

10. This Court has jurisdiction over this matter pursuant to Fla. Stat. § 26.012 and Article V, Section 5(b) of the Florida Constitution. Venue is proper pursuant to Fla. Stat. § 47.011. Plaintiffs’ action for declaratory and injunctive relief is authorized by Fla. Stat. § 86.011, as well as Fla. Stat. § 26.012(3).

11. Plaintiff Black Voters Matter Capacity Building Institute, Inc. (“Black Voters Matter”) is a 501(c)(4) nonpartisan civic organization. Its goal is to increase power in communities of color. Black Voters Matter knows that effective voting allows a community to determine its own destiny, but communities of color often face barriers to voting that other communities do not. Black Voters Matter focuses on removing those barriers. It does so by engaging in get-out-the-vote activities, educating voters on how to vote, and advocating for policies to expand voting rights and access to the political process. While Black Voters Matter reaches voters across the state, it has its greatest physical presence in North Florida, where it serves and engages with the state’s historic Black communities. The DeSantis Plan, which will decrease representation for Black voters in the state of Florida, stands as a barrier to Black Voters Matter’s mission. The DeSantis Plan will require Black Voters Matter to divert scarce resources away from its other policy

priorities toward efforts to give Black voters other avenues to make their voices heard where they no longer have effective representation.

12. Plaintiff Equal Ground Education Fund (“Equal Ground”) is a 501(c)(3) organization with a mission to register, educate, and increase engagement among Black voters in Florida. Equal Ground’s principal office is in Orlando, but the organization engages voters throughout the state. Founded in May 2019 to give the rising American electorate greater influence on issues that affect them, Equal Ground focuses on ensuring equal access to democracy in underserved communities. To achieve its goal, Equal Ground conducts extensive voter education, voter registration, and voter engagement work directly through its staff and in alliance with hundreds of faith partners throughout the state. The DeSantis Plan will require Equal Ground to divert scarce resources away from its other policy priorities toward efforts to give Black voters other avenues to make their voices heard where they no longer have effective representation.

13. Plaintiffs League of Women Voters of Florida, Inc. and League of Women Voters of Florida Education Fund, Inc. (together, the “League”) are nonpartisan voter-focused nonprofit organizations formed under section 501(c)(4) and section 501(c)(3) of the Internal Revenue Code, respectively. The League has 29 chapters across the State of Florida, from Pensacola to the Keys, and thousands of members statewide. The League’s mission is to encourage informed and active participation of citizens in government. For more than 10 years, the League has played a key role in Florida’s redistricting efforts, first helping to pass the Fair Districts Amendment 12 years ago, and then helping to defend and successfully enforce the Amendment after the last redistricting cycle. During this redistricting cycle, the League has educated numerous Floridians about the redistricting process and advocated for fair maps and adherence to the Fair Districts Amendment before the Legislature. The DeSantis Plan seeks to nullify those efforts. The DeSantis Plan will

also require the League to divert scarce resources away from its other policy priorities toward its efforts to give their members other avenues to make their voices heard where they no longer have effective representation. The League also brings these claims on behalf of their members, including its Black, Hispanic, and Asian members, who are harmed by the DeSantis Plan.

14. Plaintiff Florida Rising Together (Florida Rising) is a 501(c)(3) organization with a mission to increase the voting and political power of marginalized and excluded constituencies. Florida Rising's principal office is in Miami, although the organization engages with voters throughout the state, most extensively in Orange, Hillsborough, Osceola, Pinellas, Miami-Dade, Broward, Palm Beach, Duval, Leon, Gadsden, and Seminole Counties. Florida Rising's central focus is to expand democracy by ensuring that every eligible voter in the state, regardless of party affiliation, is able to exercise his or her fundamental and constitutionally protected right to vote. To achieve its goal, Florida Rising conducts massive voter registration, voter education, voter engagement, and election protection programs. The DeSantis Plan will require Florida Rising to divert scarce resources away from its other policy priorities toward efforts to give its constituents other avenues to make their voices heard where they no longer have effective representation. Florida Rising also brings these claims on behalf of their members and constituents, who are harmed by the DeSantis Plan.

15. The Voter Plaintiffs are citizens of the United States and are qualified, registered Florida voters. They are registered Democratic voters and intend to vote in upcoming primary and general elections for Congress. They reside in the following congressional districts:

Plaintiff	County	CD (Benchmark Plan)	CD (DeSantis Plan)
Pastor Reginald Gundy	Duval	CD-5	CD-4
Sylvia Young	Leon	CD-5	CD-2
Phyllis Wiley	Duval	CD-5	CD-4
Andrea Hershorin	Duval	CD-4	CD-4
Anaydia Connolly	Seminole	CD-7	CD-7
Brandon P. Nelson	Orlando	CD-10	CD-10
Katie Yarrows	Pinellas	CD-13	CD-13
Cynthia Lippert	Pinellas	CD-13	CD-14
Kisha Linebaugh	Hillsborough	CD-14	CD-14
Beatriz Alonso	Miami-Dade	CD-27	CD-27
Gonzalo Alfredo Pedroso	Miami-Dade	CD-27	CD-27
Ileana Caban	Miami-Dade	CD-26	CD-28

16. Pastor Reginald Gundy is a Black Florida citizen and qualified registered voter in Jacksonville, Florida. Pastor Gundy was previously a voter in CD-5 under the Benchmark Plan and resides in the new CD-4 under the DeSantis Plan. Pastor Gundy is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

17. Plaintiff Sylvia Young is a Black Florida citizen and qualified registered voter in Tallahassee, Florida. Ms. Young was previously a voter in CD-5 under the Benchmark Plan and resides in the new CD-2 under the DeSantis Plan. Ms. Young is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

18. Plaintiff Phyllis Wiley is a Black Florida citizen and qualified registered voter in Jacksonville, Florida. Ms. Wiley was previously a voter in CD-5 under the Benchmark Plan and resides in the new CD-4 under the DeSantis Plan. Ms. Wiley is a registered Democrat who has

consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

19. Plaintiff Andrea Hershorin is a Florida citizen and qualified registered voter in Jacksonville, Florida. Ms. Hershorin was previously a voter in CD-4 under the Benchmark Plan and resides in the new CD-4 under the DeSantis Plan. Ms. Hershorin is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

20. Plaintiff Anaydia Connolly is a Florida citizen and qualified registered voter in Altamonte Springs, Florida. Ms. Connolly was previously a voter in CD-7 under the Benchmark Plan and resides in the new CD-7 under the DeSantis Plan. Ms. Connolly is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

21. Plaintiff Brandon P. Nelson is a Black Florida citizen and qualified registered voter in Orlando, Florida. Mr. Nelson was previously a voter in CD-10 under the Benchmark Plan and resides in the new CD-10 under the DeSantis Plan. Mr. Nelson is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

22. Plaintiff Katie Yarrows is a Florida citizen and qualified registered voter in St. Petersburg, Florida. Ms. Yarrows was previously a voter in CD-13 under the Benchmark Plan and resides in the new CD-13 under the DeSantis Plan. Ms. Yarrows is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

23. Plaintiff Cynthia Lippert is a Florida citizen and qualified registered voter in St. Petersburg, Florida. Ms. Lippert was previously a voter in CD-13 under the Benchmark Plan and resides in the new CD-14 under the DeSantis Plan. Ms. Lippert is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

24. Plaintiff Kisha Linebaugh is a Florida citizen and qualified registered voter in Tampa, Florida. Ms. Lippert was previously a voter in CD-14 under the Benchmark Plan and resides in the new CD-14 under the DeSantis Plan. Ms. Linebaugh is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

25. Plaintiff Beatriz Alonso is a Florida citizen and qualified registered voter in Miami, Florida. Ms. Alonso was previously a voter in CD-27 under the Benchmark Plan and resides in the new CD-27 under the DeSantis Plan. Ms. Alonso is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

26. Plaintiff Gonzalo Alfredo Pedroso is a Florida citizen and qualified registered voter in Miami, Florida. Mr. Pedroso was previously a voter in CD-27 under the Benchmark Plan and resides in the new CD-27 under the DeSantis Plan. Mr. Pedroso is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

27. Plaintiff Ileana Caban is a Florida citizen and qualified registered voter in Homestead, Florida. Ms. Caban was previously a voter in CD-26 under the Benchmark Plan and resides in the new CD-28 under the DeSantis Plan. Ms. Caban is a registered Democrat who has

consistently voted for Democratic candidates for the U.S. House of Representatives and intends to do so in the future.

28. Defendant Laurel M. Lee is sued in her official capacity as the Florida Secretary of State. Defendant Lee is Florida's chief election officer and is charged with administering and overseeing the state's elections. *See* Fla. Stat. § 97.012.

29. Defendant Ashley Moody is sued in her official capacity as the Florida Attorney General. Defendant Moody is Florida's chief legal officer. *See* Fla. Const. art. IV, § 4(b); Fla. Stat. § 16.01. As Attorney General, she is properly named in an action seeking a statute of the Florida Legislature to be declared unconstitutional. Fla. Stat. § 86.091.

30. Defendant Florida Senate (the "Senate") is one of two houses of the Legislature of the State of Florida. The Senate is responsible for drawing reapportionment plans for the U.S. House of Representatives from the State of Florida that comply with the Florida Constitution.

31. Defendant Florida House of Representatives (the "House") is one of two houses of the Legislature of the State of Florida. The House is responsible for drawing reapportionment plans for the U.S. House of Representatives from the State of Florida that comply with the Florida Constitution.

32. Defendant Wilton Simpson is the President of the Florida State Senate and is named as a Defendant in his official capacity.

33. Defendant Chris Sprowls is the Speaker of the Florida House of Representatives and is named as a Defendant in his official capacity.

34. Defendant Ray Rodrigues is the Chair of the Senate Committee on Reapportionment and is named as a Defendant in his official capacity.

35. Defendant Thomas J. Leek is the Chair of the House Redistricting Committee and is named as a Defendant in his official capacity.

LEGAL BACKGROUND

I. The people of Florida amended the Florida Constitution to reform the congressional redistricting process.

36. On November 2, 2010, the people of Florida voted by an overwhelming margin of 62.9% to 37.1% to enact the Fair Districts Amendment to the Florida Constitution.¹ The Fair Districts Amendment established stringent new standards to constrain the Legislature’s once-in-a-decade exercise of its congressional reapportionment powers.

37. The “overall goal” of the Fair Districts Amendment “is to require the Legislature to redistrict in a manner that prohibits favoritism or discrimination, while respecting geographic considerations.” *Advisory Op. to Att’y Gen. re Standards for Legislature to Follow in Cong. Redistricting*, 2 So. 3d 175, 181 (Fla. 2009). “These express new standards imposed by the voters clearly act as a restraint on the Legislature in drawing apportionment plans.” *In re S. J. Res.*, 83 So. 3d at 597.

38. The Fair Districts Amendment standards are enumerated within two “tiers” in Article III, Section 20 of the Florida Constitution. The “Tier I” standards provide that (1) no congressional plan “shall be drawn with the intent to favor or disfavor a political party or an incumbent;” (2) “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

¹ See *November 2, 2010 General Election*, Fla. Dep’t of State, <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/2/2010&DATAMODE=> (last visited Apr. 15, 2022). Florida voters adopted a virtually identical constitutional amendment—by a similarly significant margin—to reform Florida’s legislative apportionment process. See *id.*; Fla. Const. art. III, § 21. Unless otherwise noted, the “Fair District Amendment” as used in this Complaint refers specifically to the *congressional* amendment. See Fla. Const. art. III, § 20.

diminish their ability to elect representatives of their choice;” and (3) “districts shall consist of contiguous territory.” Fla. Const. art. III, § 20(a).

39. The “Tier II” standards provide that (1) “districts shall be as nearly equal in population as is practicable;” (2) “districts shall be compact;” and (3) “districts shall, where feasible, utilize existing political and geographical boundaries.” *Id.* § 20(b).

40. The “Tier II” standards “are subordinate and shall give way where compliance ‘conflicts with the [Tier I] standards or with federal law.’” *In re S. J. Res.*, 83 So. 3d at 639 (quoting Fla. Const. art. III, § 20(b)). But while “the tier-two standards are subordinate to the tier-one requirements, the constitution further instructs that no standard has priority over the other within each tier.” *Id.* (citing Fla. Const. art. III, § 20(c))

41. This Court’s duty to enforce the Fair Districts Amendment “arises from the well settled principle that the state Constitution is not a grant of power but a limitation upon power.” *Id.* at 599 (cleaned up). This principle applies with force in the context of reapportionment. “Indeed, the right to elect representatives—and the process by which we do so—is the very bedrock of our democracy. To ensure the protection of this right, the citizens of the state of Florida, through the Florida Constitution, employed the essential concept of checks and balances, granting to the Legislature the ability to apportion . . . in a manner prescribed by the citizens and entrusting this Court with the responsibility to review the apportionment plans to ensure they are constitutionally valid.” *Id.* at 600.

A. The Florida Constitution protects racial and language minorities against discriminatory intent and results in the congressional redistricting process.

42. The protection of racial and language minorities is a Tier I standard, “meaning that the voters placed this constitutional imperative as a top priority to which the Legislature must conform during the redistricting process.” *In re S. J. Res.*, 83 So. 3d at 615.

43. Article III, Section 20(a) of the Florida Constitution provides 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.” (emphasis added). This portion of Section 20(a) prevents both vote dilution and diminishment of a minority group’s ability to elect candidates of its choice.

44. The Florida Supreme Court has labeled this latter requirement as the “non-diminishment standard.” *See Advisory Op. to Gov.*, No. SC22-139, 2022 WL 405381, at *1 (Fla. Feb. 10, 2022); *LWV I*, 172 So. 3d at 402; *In re S. J. Res.*, 83 So. 3d at 677. It prohibits congressional districting plans that have “the purpose or will have the effect of diminishing the ability of any citizens on account of race or color to elect their preferred candidates of choice.” *In re S. J. Res.*, 83 So. 3d at 620 (cleaned up).

45. “Accordingly, the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625. The non-diminishment standard accordingly calls for a comparative analysis: “The existing plan of a covered jurisdiction serves as the ‘benchmark’ against which the ‘effect’ of voting change is measured.” *Id.* at 624.

46. This comparative or “functional” analysis requires “consideration not only of the minority population in the districts, or even the minority voting-age population in those districts, but of political data and how a minority population group has voted in the past.” *Id.*

47. Unlawful intent can be discerned from both direct and circumstantial evidence. *See LWV I*, 172 So. 3d at 388–89. Direct evidence of improper intent is often found in the statements and communications of those “responsible for drafting districting plans.” *Id.* (citing *Easley v. Cromartie*, 532 U.S. 234, 254 (2001)).

48. Circumstantial evidence, however, can be enough by itself to show improper intent. Indeed, the “specific sequence of events leading up to the challenged decision also may shed light on the decisionmaker’s purposes.” *LWV I*, 172 So. 3d at 389 (quoting *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977)). “Departures from the normal procedural sequence also might afford evidence that improper purposes are playing a role.” *Id.* (quoting *Arlington Heights*, 429 U.S. at 267).

49. In determining intent, courts have also “considered the role of alternative plans,” because if “an alternative plan can achieve the same constitutional objectives that prevent vote dilution and retrogression of protected minority and language groups and also apportions the districts in accordance with tier-two principles . . . this will provide circumstantial evidence of improper intent.” *In re S. J. Res.*, 83 So. 3d at 641.

B. The Florida Constitution prohibits the drawing of congressional districts to favor or disfavor a political party.

50. The Florida Constitution’s prohibition on partisan gerrymandering is also a Tier I standard.

51. “The acceptability of partisan political gerrymandering in this state dramatically changed” after the people of Florida amended the Constitution with the Fair Districts Amendment. *LWV I*, 172 So. 3d at 374.

52. Article III, Section 20(a) of the Florida Constitution provides that “[n]o apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent.” This requirement “prohibits what has previously been an acceptable practice, such as favoring incumbents and the political party in power.” *In re S. J. Res.*, 83 So. 3d at 615. “While some states have sought to minimize the political nature of the apportionment process by establishing independent redistricting commissions to redraw legislative districts, Florida voters

have instead chosen to place restrictions on the Legislature by constitutional mandate in a manner similar to the constitutions of other states.” *Id.* at 616.

53. The Florida Constitution “prohibits drawing a plan or district with the intent to favor or disfavor a political party or incumbent; there is no acceptable level of improper intent.” *Id.* at 617. It “does not reference the word ‘invidious’ as the term has been used by the United States Supreme Court in equal protection discrimination cases, and Florida’s provision should not be read to require a showing of malevolent or evil purpose.” *Id.* (cleaned up). The Florida Constitution’s prohibition on partisan gerrymandering, moreover, “applies to both the apportionment plan as a whole and to each district individually.” *Id.*

FACTUAL BACKGROUND

II. The Fair Districts Amendment is enforceable against Florida’s congressional reapportionment plans.

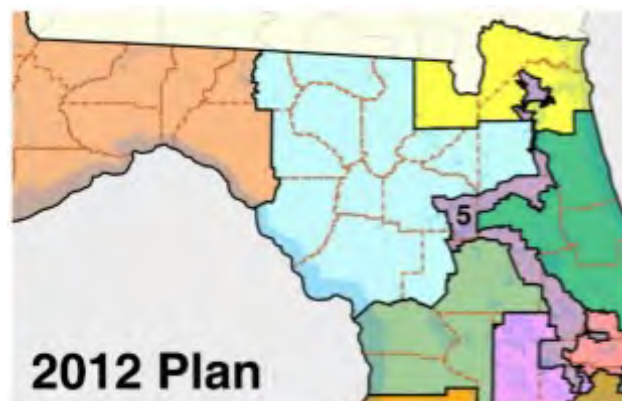
54. When the U.S. Supreme Court held that partisan gerrymandering claims could not be brought in federal court, it explained that its holding did not “condemn complaints about districting to echo into a void.” *Rucho*, 139 S. Ct. at 2507. The task of reforming the redistricting process is one for the states and their citizens because “[p]rovisions in state statutes and state constitutions can provide standards and guidance for state courts to apply.” *Id.*

55. The U.S. Supreme Court pointed to Florida as a model for the nation. Citing favorably to the Florida Supreme Court’s decision to strike down the Legislature’s 2012 congressional redistricting plan, the U.S. Supreme Court held that federal courts were not similarly empowered to adjudicate partisan gerrymandering claims because “[t]here is no ‘Fair Districts Amendment’ to the Federal Constitution.” *Rucho*, 139 S. Ct. at 2507 (citing *LWV I*, 172 So. 3d at 363). And it observed that other states, including Missouri, Iowa, and Delaware, followed Florida’s lead by amending their constitutions in similar fashion. *Id.* at 2507–08.

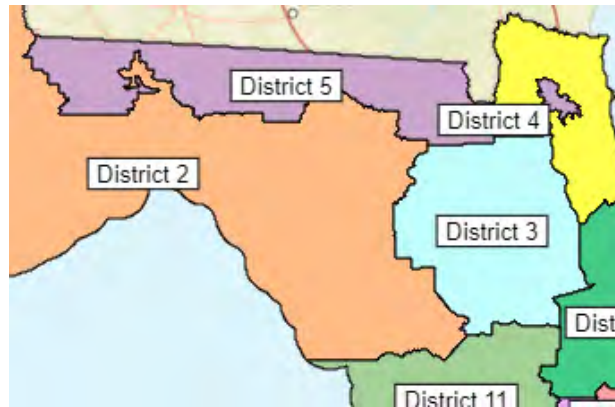
56. In *LWV I*, plaintiffs alleged that Florida’s 2012 congressional plan was drawn to benefit the Republican Party in violation of the Fair Districts Amendment’s prohibition on partisan gerrymandering. The trial court agreed, enforcing the Fair Districts Amendment against the Legislature’s plan. *See Romo v. Detzner*, No. 2012-CA-000412, 2014 WL 3797315, at *3 (Fla. 2d Cir. Ct. July 10, 2014).

57. The Florida Supreme Court agreed that the Legislature had made a “mockery” out of the Fair Districts Amendment in drawing its 2012 congressional plan. *LWV I*, 172 So. 3d at 377. The Court gave no deference to the Legislature’s justifications for the challenged district boundaries given its finding that the entire map had been “tainted by unconstitutional intent to favor the Republican Party and incumbent lawmakers.” *Id.* at 369 (cleaned up). It then ordered the Legislature “to redraw, on an expedited basis, Congressional Districts 5, 13, 14, 21, 22, 25, 26, 27, and all other districts affected by the redrawing.” *Id.* at 371–72.

58. The Court also provided precise guidelines to ensure that the Legislature redrew the map in accordance with the Florida Constitution. For example, the Court ordered the Legislature to redraw North Florida’s CD-5, which, as shown below, was “visually not compact, bizarrely shaped” and contravened “traditional political boundaries as it [wound] from Jacksonville to Orlando, narrowing at one point to the width of a highway.” *Id.* at 402.



59. The Florida Supreme Court rejected the Legislature’s assertion that this north-to-south configuration was necessary to comply with the Fair District Amendment’s non-diminishment standard, explaining that the Legislature “placed more black voters in the district than [was] necessary to ensure that they can elect a candidate of choice—thereby diluting the influence of Democratic minorities in surrounding districts.” *Id.* at 402. It then ordered the Legislature to redraw CD-5 in an East-West configuration as legislative staffers had initially done in draft plans, *id.* at 403–04, and subsequently affirmed the redrawn configuration as shown below:



See *League of Women Voters of Fla. v. Detzner* (“*LWV II*”), 179 So. 3d 258, 271–72 (Fla. 2015).

60. The Florida Supreme Court rejected arguments that the East-West configuration of CD-5 “causes the redistricting map to become significantly less compact.” *LWV I*, 172 So. 3d at 405–06. While the redrawn CD-5 had a longer perimeter than the Legislature’s version, “length is just one factor to consider in evaluating compactness.” *Id.* at 406. Indeed, “the phrase ‘as compact as possible’ does not mean ‘as small in size as possible, but rather ‘as regular in shape as possible.’” *Id.* (cleaned up). After all, “numerical compactness scores actually favor[ed] the East-West orientation.” *Id.* The redrawn CD-5 also produced fewer city and county splits. *Id.*

61. The Court provided additional guidance for redrawing the Tampa Bay-based CDs-13 and 14. It explained that the Legislature adopted a configuration of these districts that was “known to have been favored by political operatives” in which CD-14 “crossed Tampa Bay,

add[ing] more Democratic voters to an already safely Democratic District 4, while ensuring that District 13 was more favorable to the Republican Party.” *Id.* at 406–07. The Court then ordered CDs-13 and 14 to be “redrawn to avoid crossing Tampa Bay.” *Id.* at 409.

62. The Court further held that CDs-21, 22, 25, 26, and 27 were likewise drawn with impermissible partisan intent, in each instance rejecting the Legislature’s justifications for the district lines and providing specific guidance for redrawing the district boundaries. *See id.* at 410–13.

63. After the Florida Supreme Court issued its decision and remanded, the Legislature quickly convened a special session that ended without agreement. In the absence of an agreed plan, the trial court analyzed and recommended remedial districts drawn by the House, Senate, and plaintiffs. *LWV II*, 179 So. 3d at 261. The Florida Supreme Court adopted the trial court’s recommendation in December 2015, resulting in the congressional map that would be used in Florida’s next three congressional elections—the Benchmark Plan. *See id.*

64. The Court acknowledged that *LWV II* was “neither the first, nor likely the last time” that the Florida judiciary would need to “confront a challenge to a redistricting plan enacted by the Legislature.” 172 So. 3d at 415. Future courts, it pressed, must continue to “endeavor[] to give meaning to the intent of the framers and voters who passed the Fair Districts Amendment.” *Id.* at 415.

III. After the Legislature indicated that they would protect CD-5 from diminishment, Governor DeSantis hijacked the process and declared the Amendment unconstitutional.

65. The U.S. Census Bureau released the 2020 census data needed for redistricting on August 12, 2021. The Florida Senate and House commenced the redistricting process by holding initial hearings in September 2021, kicking off an iterative process of drafting congressional maps.

66. Throughout the process, both chambers repeatedly asserted that CD-5 was a protected district under the Florida Constitution’s non-diminishment standard and explained the importance of keeping the district intact.

67. That process culminated in the Senate approving, on a bipartisan basis, a congressional redistricting plan that retained the east-west configuration of CD-5.² The Senate Reapportionment Committee voted to advance its congressional plan to the full Senate on January 13, 2022.³ The full Senate then voted overwhelmingly—by a vote of 31 to 4—in favor of the plan.⁴ That plan was expected to produce 16 Republican seats and 12 Democratic seats.

68. At that time, the House was also in the process of finalizing a congressional map that retained the core of CD-5. But before it could do so, Governor DeSantis upended the redistricting process by threatening to veto the House and Senate plans over the configuration of CD-5. Describing CD-5 as an “unconstitutional gerrymander,” Governor DeSantis then claimed repeatedly that he would “not be signing any congressional map that has an unconstitutional gerrymander in it. That is going to be the position that we stick to. Take that to the bank.”⁵

69. On February 1, 2022, Governor DeSantis requested that the Florida Supreme Court issue an advisory opinion on whether the Fair Districts Amendment’s non-diminishment standard “requires the retention” of CD-5 in either the east-west configuration adopted in *LWV I* or the

² See *CS/SB 102: Bill Analysis and Fiscal Impact Statement* at 13, Fla. Sen. (Jan. 14, 2022), <https://www.flsenate.gov/Session/Bill/2022/102/Analyses/2022s00102.re.PDF>.

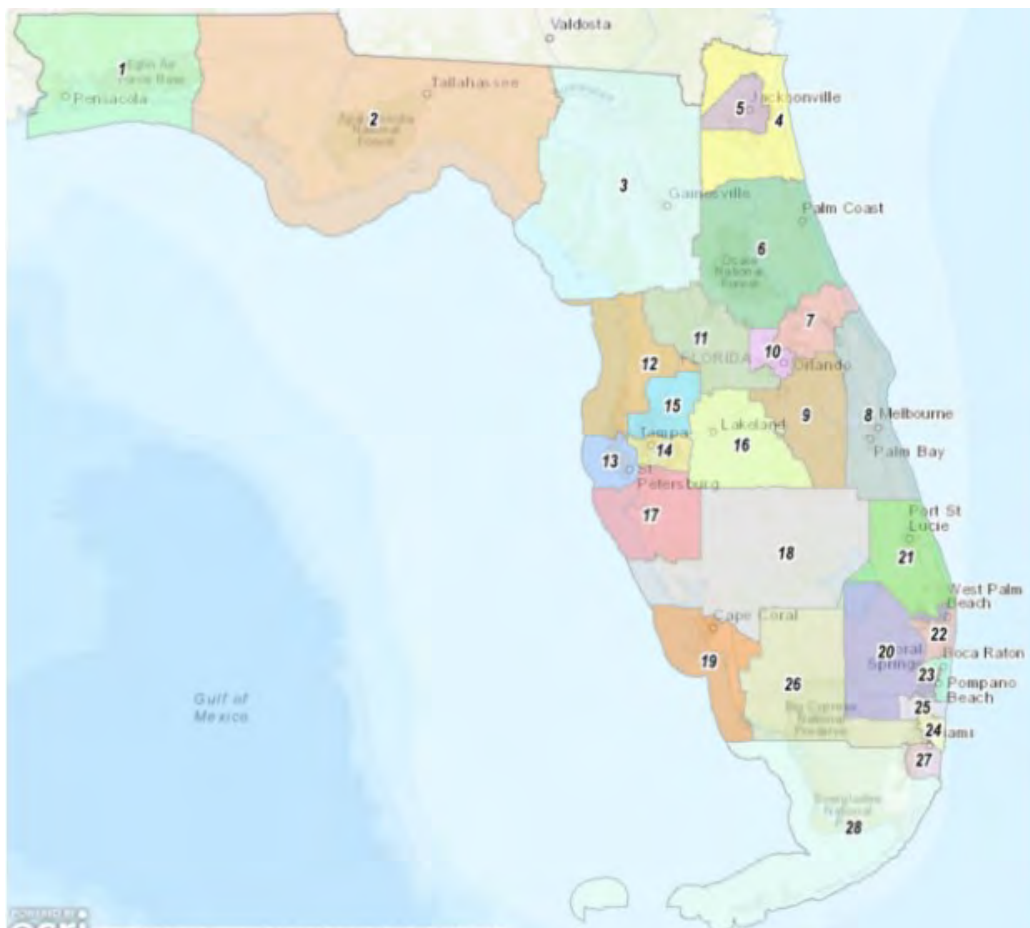
³ See *CS/102: Establishing the Congressional Districts of the State*, Fla. Sen., <https://www.flsenate.gov/Session/Bill/2022/102> (Mar. 29, 2022).

⁴ See *id.*

⁵ *DeSantis Says He Will Not Sign Legislation That Has ‘Unconstitutional Gerrymander,’* WTXL (Feb. 11, 2022) <https://www.wtxl.com/news/local-news/desantis-says-he-will-not-sign-legislation-that-has-unconstitutional-gerrymander>.

north-south version preceding it. *See Advisory Op.*, 2022 WL 405381, at *1. The Court denied the request.

70. The Legislature attempted to appease Governor DeSantis by passing a redistricting plan on March 4, 2022, that modified CD-5 to make it more compact and eliminated the so-called “sprawling” nature of the district, which Governor DeSantis had opposed. While the modified version, as shown below, substantially reduced the Black population of the district, the Legislature contended that it still would have allowed the Black candidate of choice to prevail in a majority of elections:⁶



⁶ CS/SB 102: *Establishing the Congressional Districts of the State*, Fla. Sen., <https://www.flsenate.gov/Session/Bill/2022/102/?Tab=BillHistory> (Mar. 29, 2022).

71. The Legislature’s March 4 plan favored Republicans even more than the Senate’s version; it was anticipated to produce 18 Republican seats and 10 Democratic seats.

72. The Legislature’s plan also included an alternative map that the Legislature intended to take effect if courts found that the primary map diminished Black voting power in violation of the Florida Constitution. The alternative map retained the East-West configuration of CD-5 and, like the primary plan, was expected to produce 18 Republican seats and 10 Democratic seats.

73. On March 29, 2022, Governor DeSantis vetoed the Legislature’s plan despite the changes the House made to appease him and called a special legislative session. Governor DeSantis claimed that the Legislature’s plan still contained “unconstitutional racial gerrymanders.”⁷

74. In advance of the special session, House Speaker Sprowls and Senate President Simpson informed lawmakers that legislative staff would not draw new maps and that the Legislature would instead consider a congressional plan from Governor DeSantis.⁸ The intent of the special session, they explained, “is to provide the Governor’s Office opportunities to present [a plan] before House and Senate redistricting committees.”⁹

75. Governor DeSantis released his proposed congressional plan on April 13, 2022.

76. During the special session, the Governor’s Deputy Chief of Staff, Alex Kelly, and Legal Counsel, Ryan Newsom, presented the DeSantis Plan to the House and Senate.

⁷ *Gov. DeSantis Vetoes Congressional Redistricting Maps Passed by Florida Lawmakers*, WTSP (Mar. 29, 2022), <https://www.wtsp.com/article/news/politics/desantis-vetoes-congressional-redistricting-maps/67-f04f20fd-9113-4cb7-9704-1fb0aac22159>.

⁸ Associated Press, *Florida Legislature Gives up, Asks DeSantis for Congressional Maps*, WTXL (Apr. 11, 2022), <https://www.wtxl.com/news/local-news/florida-legislature-gives-up-asks-gov-for-congressional-map>.

⁹ *Id.*

77. During his testimony, Mr. Kelly confirmed that Governor DeSantis had hired Adam Foltz, a well-known Republican redistricting operative, to help draw the map.

78. The Legislature passed the DeSantis Plan on April 21, 2022, without amendment, over the vigorous protest of the chambers' Black representatives.

IV. The DeSantis Plan violates the Florida Constitution by diminishing the ability of Black voters to elect representatives of their choice.

79. As the 2020 census revealed, Florida is home to over 3.7 million Black residents, a substantial increase from the last decennial census. Today, Florida has three times the Black population of Alabama and a larger Black population than Georgia.

80. Under the Benchmark Plan, as ordered by the Florida Supreme Court in 2015, Black voters could and did elect their candidates of choice in four districts across the state: CD-5, in North Florida; CD-10, in Central Florida; and CDs-20 and 24 in South Florida.

81. Under the Benchmark Plan, CD-5 consisted of the historic Black population in North Florida.

82. While CD-5 was known for its inclusion of Tallahassee and Jacksonville, both of which have substantial Black populations, Black voters also comprise a substantial portion of the lower-density counties that made up the rest of CD-5. Gadsden County, for instance, is 55% Black, and Jefferson, Madison, and Hamilton Counties are all more than 30% Black.

83. Under the Benchmark Plan, Black voters made up 46.2% of the citizen and total voting-age populations of CD-5. At this threshold, CD-5 elected Black voters' candidates of choice in every election since the Benchmark Plan's adoption:

Election	Black Candidate of Choice	Vote Share
2016	Al Lawson (D)	64.2%
2018	Al Lawson (D)	66.8%
2020	Al Lawson (D)	65.1%

84. The DeSantis Plan obliterates CD-5 and Black voters' ability to elect their candidate of choice in North Florida.

85. Specifically, the DeSantis Plan takes existing CD-5 and carves up its Black population among four new districts: the new CD-2, CD-3, CD-4, and CD-5. The resulting Black populations of those districts are now 23.3%, 16.3%, 29.6%, and 11.8%, respectively. The white populations of those districts now subsume the Black populations considerably in each district.

86. As a result, there are no districts in North Florida that will permit Black voters to elect their candidates of choice.

87. While it does so in more subtle ways, the DeSantis Plan also cracks Black voters and diminishes their ability to elect in other parts of the state, including Central Florida, Tampa Bay, and South Florida.

88. At the beginning of this cycle's redistricting process, both chambers of the Legislature stated they would attempt to comply with the Fair Districts Amendment's non-diminishment principle in redrawing Florida's congressional boundaries. Every legislative staff member and legislator involved in redrawing those boundaries acknowledged that, as to CD-5 in particular, compliance with the Fair Districts Amendment required that the Black voters of North Florida be able to elect their candidates of choice. The Senate's proposed plan, for example, would have maintained the voting strength of Black voters in CD-5 as provided in the Benchmark Plan. And while the Legislature's March 4 plan was a step backwards from the Benchmark Plan, that

plan—which Governor DeSantis nonetheless vetoed—would have given Black voters a plausible opportunity to elect their candidates of choice, instead of none at all.

89. In passing the DeSantis Plan, the Legislature did not even attempt to argue that the DeSantis Plan’s obliteration of CD-5 complied with the Florida Constitution’s non-diminishment standard. Rather, legislative leadership stated only that they believed there was a “legitimate question” as to whether they were required to honor that provision of the Fair Districts Amendment.

V. The DeSantis Plan violates the Florida Constitution by intentionally diminishing the ability of Black voters to elect representatives of their choice.

90. The DeSantis Plan does not result in diminishment by happenstance; it was intended to have that precise effect.

91. Governor DeSantis stated that he intended to dismantle the historically black CD-5 when he released his redistricting plan in advance of the special legislative session. At a news conference following the release of the DeSantis Plan, the Governor stated that “[w]e are not going to have a 200-mile gerrymander That is wrong. That’s not the way we’ve governed in the state of Florida.”¹⁰

92. Indeed, the special legislative session came on the heels of months of repeated statements from Governor DeSantis and his staff pledging to eliminate CD-5. Following the release of the first iteration of the DeSantis Plan earlier this year, Governor DeSantis’s press secretary was unequivocal: “We eliminated this flagrant gerrymander.” And Governor DeSantis

¹⁰ Jane C. Timm & Marc Caputo, *DeSantis Draws Congressional Map That Would Dramatically Expand GOP’s Edge in Florida*, NBC News (Apr. 13, 2022), <https://www.nbcnews.com/politics/elections/desantis-draws-congressional-map-dramatically-expanding-gops-edge-flor-rcna24317>.

used similar language regarding CD-5 in explaining his decision to veto the Legislature’s proposal in March.¹¹

93. Governor DeSantis’s desire to eliminate CD-5 was also apparent in his request for an advisory opinion from the Florida Supreme Court on “whether Article III, Section 20(a) of the Florida Constitution requires the retention of [CD-5].” *Advisory Op.*, 333 So. 3d at 1107–08.

94. The Legislature passed the DeSantis Plan with full knowledge and acceptance of the fact that the plan would eliminate a historically performing Black district.

95. During the special session, when asked on the House Floor whether new CD-4 or CD-5 would perform for Black candidates of choice, Chair Leek responded that it would not. He further explained, “[O]ur [House] staff did a functional analysis and confirmed it does not perform.”

96. And in signing the plan, Governor DeSantis made good on a promise he had made months earlier to veto any plan that complied with the Fair Districts Amendment’s protection of CD-5 as a Black-opportunity district.

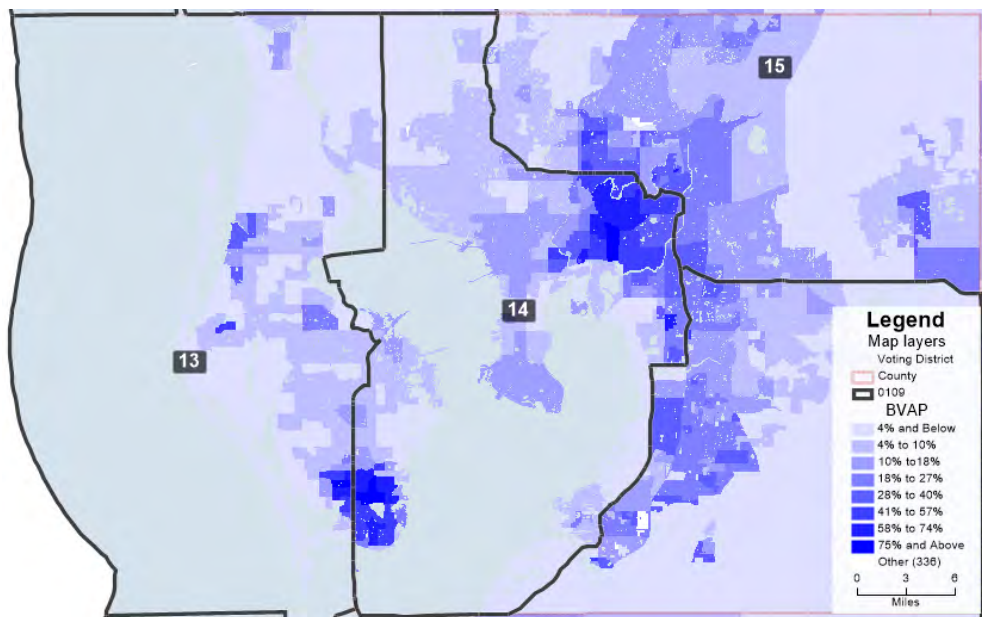
97. Beyond knowingly dismantling CD-5, the DeSantis Plan also engages in race-based line drawing throughout the state to abridge and diminish the voting strength of minority voters.

98. In Central Florida, for example, the DeSantis Plan pulls *hundreds of thousands* of minority voters out of their existing districts and subsumes them into white districts. Most notably, the DeSantis Plan removes approximately 300,000 people from CD-10, which previously performed for Black candidates of choice and no longer clearly does so. The majority of those

¹¹ Steve Contorno, *DeSantis Vetoes New Florida Congressional Map and Calls for Special Session*, CNN (Mar. 29, 2022), <https://www.cnn.com/2022/03/29/politics/desantis-vetoes-florida-congressional-map/index.html> (Governor DeSantis describing CD-5 as “pure racial gerrymander” that must be eliminated).

removed are persons of color who have now been pushed into CD-11, a predominantly white district.

99. In Tampa Bay too the DeSantis Plan splits St. Petersburg's Black population in half, cracking Black voters in CD-13 between two congressional districts, thereby diminishing and abridging the Black community's ability to influence elections. The picture below shows the new split of the Black population in Pinellas County, shown in blue:



100. Across the state, the DeSantis Plan intentionally and repeatedly carves out Black voters from districts where they previously exercised electoral power.

VI. The DeSantis Plan violates the Florida Constitution by intentionally favoring the Republican Party and disfavoring the Democratic Party.

101. With nearly every line-drawing decision, the DeSantis Plan advantages the Republican Party.

102. Under the Benchmark Plan, Democrats were expected to consistently win 11 of the state's 27 congressional districts: one in North Florida, three in Central Florida, two in Tampa Bay, and five in South Florida. Several more congressional seats beyond those 11 were competitive

between the parties: Under the Benchmark Plan, depending on prevailing national trends, the Democratic Party could have plausibly claimed 13 or 14 seats (or roughly half) of Florida’s 27 congressional districts.

103. While the Benchmark Plan was widely thought to exhibit a slight Republican bias, it at least gave Democrats a roadmap to compete for half the state’s congressional seats. This was a reasonable outcome in a fiercely competitive swing state, which most recently elected a Republican governor and Republican U.S. senator in 2018 by less than half of a percentage point.

104. During the regular legislative session, the Legislature produced at least some plans that resulted in a roughly similar breakdown of seats as the Benchmark Plan. For example, while the Senate’s final congressional plan exhibited a Republican bias, it was still expected to elect 16 Republicans and 12 Democrats to Congress.

105. The DeSantis Plan, however, is expected to consistently elect 20 Republicans and only 8 Democrats to Congress.

106. As Princeton University Professor Sam Wang described, the DeSantis Plan will result in “one of the most extreme gerrymanders in the country.”¹²

107. As a Florida campaign consultant similarly described, the DeSantis Plan “is the conservative dream map. It aims to compact Democrats into as few districts as possible while cracking minority communities elsewhere.”¹³

108. That is exactly what the DeSantis Plan does: It intentionally favors Republicans at nearly every turn. The result is devastatingly effective, resulting in an anticipated loss of three

¹² Paul LeBlanc, *Ron DeSantis Is Drawing Democrats out of the Equation in Florida*, CNN (Apr. 14, 2021), <https://www.cnn.com/2022/04/14/politics/desantis-florida-redistricting-what-matters/index.html>.

¹³ Matthew Isabel, *Issue 44: A Good Friday Analysis of a Bad Redistricting Map*, MCIMAPS Report (Apr. 15, 2022).

safely held Democratic seats and transforming two previously competitive seats into Republican-leaning seats, as compared to the Benchmark Plan.

109. Both as a whole, and as considered at an individual district level, the DeSantis Plan is an intentional partisan gerrymander.

110. Below are just a few of the examples of how the DeSantis Plan intentionally favors Republicans across the state:

A. North Florida

111. In the Benchmark Plan, North Florida consistently elected one Democrat to Congress: Al Lawson, from CD-5. As discussed, the DeSantis Plan obliterates CD-5, cracking its Black (and Democratic-leaning) populations across the new CDs-2, 3, 4, and 5, creating four safe-Republican seats. Because CDs-1 and 6 also remain reliably Republican, no district in North Florida will elect a Democrat under the DeSantis Plan.

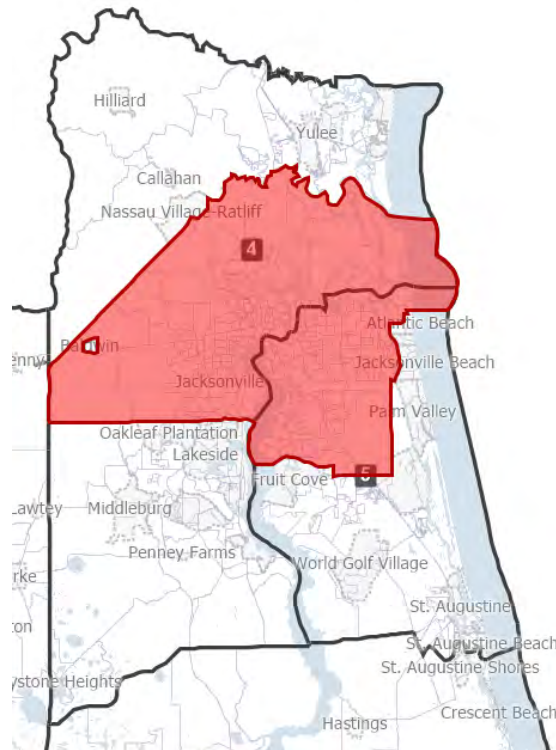
112. Even taken at face value, Governor DeSantis’s articulated desire to comply with the U.S. Constitution (and the consequent elimination the East-West configuration of CD-5) does not plausibly explain the elimination of a Democratic seat in North Florida.

113. As the Legislature’s March 4 map demonstrated, before it was vetoed by Governor DeSantis, it was possible to draw a compact, Jacksonville-only district with a substantial Black population. That version of CD-5 would have consistently elected Democrats.

114. Governor DeSantis vetoed that plan, decrying what he deemed to be the plan’s unfair treatment of Jacksonville, which was divided in the Legislature’s plan, even while it kept the city’s Black population substantially together.

115. Governor DeSantis’s plan, however, still cleaves Jacksonville—and its Black population—in two. It just now does so in a way that disadvantages both Black voters and

Democrats, resulting in two safe-Republican seats. The DeSantis Plan's division of Jacksonville is shown below:



B. Central Florida

116. In the Benchmark Plan, Central Florida consistently elected three Democrats to Congress, from CDs-9, 10, and 7. Of these districts, CD-7 was the most competitive for Republicans, though it still elected a Democrat by more than 10 percentage points in 2020.

117. The DeSantis Plan ensures that Republicans will safely be elected in CD-7.

118. In the Benchmark Plan, CD-7 sat in the northeast corner of Orlando and its suburbs, encompassing the University of Central Florida. The Benchmark CD-7 encompassed all of Seminole County and took a portion of Orange County to the south. The district was relatively compact.

119. At the start of this redistricting cycle, CD-7 needed to lose only a small amount of population to reach population equality. It did not need to be drastically reconfigured.

120. The DeSantis Plan wholly reconfigures CD-7. The new CD-7 exits Orange County entirely, then reaches out all the way to the Space Coast to take the southern half of Volusia County. The new district sheds about 300,000 residents from the prior district, the majority of whom are persons of color, retaining only about 30% of its prior area. The resulting district is far whiter and Republican, resulting in a reliably safe-Republican seat.

121. Moreover, by moving into Volusia County, the new CD-7 creates an additional unnecessary county split in the map, further diminishing its compliance with Tier II criteria.

C. Tampa Bay

122. In the Benchmark Plan, Tampa Bay consistently elected two Democrats to Congress, from CDs-13 and 14.

123. In the Benchmark Plan, CD-13 was situated wholly in Pinellas County and included all of St. Petersburg. CD-14 was similarly situated wholly in Hillsborough County.

124. The Benchmark Plan's configuration of CDs-13 and 14 was the result of three years of litigation. In *LWV I*, the plaintiffs alleged that the Legislature's enacted configuration of these districts—in which CD-14 jumped across Tampa Bay to pack Democratic voters from St. Petersburg into CD-14—was an intentional partisan gerrymander. The trial court and Florida Supreme Court agreed, ordering the configuration of CDs-13 and 14 as found in the Benchmark Plan.

125. The DeSantis Plan does precisely what the Florida Supreme Court told the Legislature it could not do in 2015: jump across Tampa Bay to pack Democratic voters into CD-14 and drain them away from CD-13, thereby turning CD-13 from a safe-Democratic seat to a safe-Republican seat.

126. The DeSantis Plan's treatment of CDs-13 and 14 is not easily explained by the need to meet population equality or improve upon other Tier II criteria.

127. At the start of this redistricting cycle, CD-13 needed to gain approximately 40,000 people to reach population equality. CD-14, conversely, needed to lose approximately 20,000 people. CD-13 thus needed to expand slightly, and CD-14 needed to contract slightly.

128. In the DeSantis Plan, however, CD-14 jumps across Tampa Bay to seize nearly 200,000 of Pinellas County's residents from CD-13, the district that needed to *gain* population. This configuration splits one of Florida's major cities—and specifically, splits St. Petersburg's Black population in half, cracking Black voters in CD-13 and packing them into CD-14 to ensure a new safely held Republican seat in Tampa Bay. In so doing, the DeSantis Plan reduces the compactness of CD-13.

D. South Florida

129. In the Benchmark Plan, South Florida had two fiercely competitive seats: CDs-26 and 27. Both seats were winnable by either party. For example, both seats switched hands from a Republican in 2016, to a Democrat in 2018, and back to a Republican in 2020.

130. The DeSantis Plan redraws both districts to ensure Democrats cannot realistically win either seat going forward. CD-26 (now CD-28), for example, shaves off Palmetto Estates and West Perrine, communities with substantial Democratic populations. It trades those communities for Fontainebleau, which is more reliably Republican. CD-27 makes similar moves, trading its Democratic-heavy portions of Miami Beach for more reliably Republican areas.

131. The result is to put both districts out of reach for Democrats.

CLAIMS FOR RELIEF

COUNT I

Violation of Article III, Section 20 of the Florida Constitution Diminishment of Minority Ability to Elect (Tier I Violation)

132. Plaintiffs reallege and reincorporate by reference paragraphs 1 through 131 of this Complaint as though fully set forth herein.

133. Under the Florida Constitution, 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

134. The DeSantis Plan and individual districts in the plan, including but not limited to CD-5, result in diminishment of Black voters' ability to elect their candidates of choice in violation of Article III, Section 20 of the Florida Constitution.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

a. Declaring that the DeSantis Plan and/or individual districts in the DeSantis Plan violate Article III, Section 20 of the Florida Constitution;

b. Enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing enforcing, or giving any effect to the DeSantis Plan, including enjoining Defendants from conducting any elections for the U.S. House of Representatives under the DeSantis Plan;

c. Ordering or adopting a new congressional districting plan that complies with Article III, Section 20 of the Florida Constitution;

d. Issuing an order requiring Defendants to pay Plaintiffs' costs and expenses incurred in the prosecution of this action, as authorized by Fla. Stat. § 86.081; and

e. Granting such other and further relief as the Court deems just and proper.

COUNT II

Violation of Article III, Section 20 of the Florida Constitution Intent to Abridge and Diminish Minority Voting Strength (Tier I Violation)

135. Plaintiffs reallege and reincorporate by reference paragraphs 1 through 131 of this Complaint as though fully set forth herein.

136. The DeSantis Plan was intended to result in diminishment of Black voters' ability to elect their candidates of choice in violation of Article III, Section 20 of the Florida Constitution.

137. The DeSantis Plan further intentionally abridges and diminishes the equal opportunity of minority voters to participate in the political process by targeting minority populations in North Florida, Tampa Bay, and Central Florida to draw them out of minority-opportunity districts.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that the DeSantis Plan and/or individual districts in the DeSantis Plan violate Article III, Section 20 of the Florida Constitution;
- b. Enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing enforcing, or giving any effect to the DeSantis Plan, including enjoining Defendants from conducting any elections for the U.S. House of Representatives under the DeSantis Plan;
- c. Ordering or adopting a new congressional districting plan that complies with Article III, Section 20 of the Florida Constitution;
- d. Issuing an order requiring Defendants to pay Plaintiffs' costs and expenses incurred in the prosecution of this action, as authorized by Fla. Stat. § 86.081; and
- e. Granting such other and further relief as the Court deems just and proper.

COUNT III

**Violation of Article III, Section 20 of the Florida Constitution
Intent to Favor or Disfavor a Political Party (Tier I Violation)**

138. Plaintiffs reallege and reincorporate by reference paragraphs 1 through 131 of this Complaint as though fully set forth herein.

139. The DeSantis Plan and individual districts in the plan, including but not limited to CDs-4, 5, 7, 10, 11, 13, 14, 26, and 27, were drawn with the intent to favor the Republican Party and to disfavor the Democratic Party in violation of Article III, Section 20 of the Florida Constitution.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that the DeSantis Plan and/or individual districts in the DeSantis Plan violate Article III, Section 20 of the Florida Constitution;
- b. Enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing enforcing, or giving any effect to the DeSantis Plan, including enjoining Defendants from conducting any elections for the U.S. House of Representatives under the DeSantis Plan;
- c. Ordering or adopting a new congressional districting plan that complies with Article III, Section 20 of the Florida Constitution;
- d. Issuing an order requiring Defendants to pay Plaintiffs' costs and expenses incurred in the prosecution of this action, as authorized by Fla. Stat. § 86.081; and
- e. Granting such other and further relief as the Court deems just and proper.

COUNT IV

**Violation of Article III, Section 20 of the Florida Constitution
Non-Compactness (Tier II Violation)**

140. Plaintiffs reallege and reincorporate by reference paragraphs 1 through 131 of this Complaint as though fully set forth herein.

141. The DeSantis Plan and individual districts in the plan, including but not limited to CDs-7, 13 and 14, are not compact in violation of Article III, Section 20 of the Florida Constitution.

These violations were not in service of any Tier I criteria; on the contrary, these violations were made in service of the Tier I violations set forth in the previous claims.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that the DeSantis Plan and/or individual districts in the DeSantis Plan violate Article III, Section 20 of the Florida Constitution;
- b. Enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing enforcing, or giving any effect to the DeSantis Plan, including enjoining Defendants from conducting any elections for the U.S. House of Representatives under the DeSantis Plan;
- c. Ordering or adopting a new congressional districting plan that complies with Article III, Section 20 of the Florida Constitution;
- d. Issuing an order requiring Defendants to pay Plaintiffs' costs and expenses incurred in the prosecution of this action, as authorized by Fla. Stat. § 86.081; and
- e. Granting such other and further relief as the Court deems just and proper.

COUNT V

**Violation of Article III, Section 20 of the Florida Constitution
Political and Geographic Boundary Splits (Tier II Violation)**

142. Plaintiffs reallege and reincorporate by reference paragraphs 1 through 131 of this Complaint as though fully set forth herein.

143. The DeSantis Plan and individual districts in the plan, including but not limited to CDs-4, 5, 13, and 14, do not use political and geographic boundaries where feasible in violation of Article III, Section 20 of the Florida Constitution. These violations were not in service of any Tier I criteria; on the contrary, these violations were made in service of the Tier I violations set forth in the previous claims.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that the DeSantis Plan and/or individual districts in the DeSantis Plan violate Article III, Section 20 of the Florida Constitution;
- b. Enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing enforcing, or giving any effect to the DeSantis Plan, including enjoining Defendants from conducting any elections for the U.S. House of Representatives under the DeSantis Plan;
- c. Ordering or adopting a new congressional districting plan that complies with Article III, Section 20 of the Florida Constitution;
- d. Issuing an order requiring Defendants to pay Plaintiffs' costs and expenses incurred in the prosecution of this action, as authorized by Fla. Stat. § 86.081; and
- e. Granting such other and further relief as the Court deems just and proper.

Dated: April 22, 2022

/s/ Frederick S. Wermuth

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Thomas A. Zehnder

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**Pro hac vice application forthcoming*

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., EQUAL
GROUND EDUCATION FUND, INC.,
LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., LEAGUE OF WOMEN
VOTERS OF FLORIDA EDUCATION
FUND, INC., FLORIDA RISING
TOGETHER, PASTOR REGINALD
GUNDY, SYLVIA YOUNG, PHYLLIS
WILEY, ANDREA HERSHORIN,
ANAYDIA CONNOLLY, BRANDON P.
NELSON, KATIE YARROWS, CYNTHIA
LIPPERT, KISHA LINEBAUGH, BEATRIZ
ALONSO, GONZALO ALFREDO
PEDROSO, and ILEANA CABAN,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
Florida Secretary of State, ASHLEY MOODY,
in her official capacity as Florida Attorney
General, the FLORIDA SENATE, the
FLORIDA HOUSE OF
REPRESENTATIVES, WILTON SIMPSON,
in his official capacity as the President of the
Florida Senate, CHRIS SPROWLS, in his
official capacity as the Speaker of the Florida
House of Representatives, RAY RODRIGUES,
in his official capacity as Chair of the Senate
Committee on Reapportionment, and TOM
LEEK, in his official capacity as Chair of the
Chair of the House Redistricting Committee,

Defendants.

Case No. 2022-ca-000666

PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION

Pursuant to Florida Rule of Civil Procedure 1.610, Plaintiffs BLACK VOTERS MATTER
CAPACITY BUILDING INSTITUTE, INC., EQUAL GROUND EDUCATION FUND, INC.,

LEAGUE OF WOMEN VOTERS OF FLORIDA, INC., LEAGUE OF WOMEN VOTERS OF FLORIDA EDUCATION FUND, INC., FLORIDA RISING TOGETHER, PASTOR REGINALD GUNDY, SYLVIA YOUNG, PHYLLIS WILEY, ANDREA HERSHORIN, ANAYDIA CONNOLLY, BRANDON NELSON, KATIE YARROWS, CYNTHIA LIPPERT, KISHA LINEBAUGH, BEATRIZ ALONSO, GONZALO ALFREDO PEDROSO, and ILEANA CABAN, for the reasons set forth herein and in the memorandum of law filed concurrently with this motion, and as supported by the allegations of the Complaint, associated verifications, and affidavits submitted with the memorandum of law, respectfully move for an order temporarily enjoining Defendants from enforcing the boundaries of the congressional districts as drawn in the congressional plan (P000C0190) drawn and signed into law by Governor Ron DeSantis on April 22, 2022 (the “DeSantis Plan”).

A temporary injunction is warranted here because Plaintiffs are likely to succeed on the merits of their claim that the DeSantis Plan violates the non-diminishment provision of Article III, Section 20 of the Florida Constitution by dismantling the former Congressional District (“CD-”) 5, a North Florida district in which Black voters were previously able to elect their candidates of choice. Rather than preserve a North Florida district where Black voters would retain their ability to elect their candidates of choice to Congress, the DeSantis Plan cracks Black voters among four majority-white districts, thus diminishing their voting strength in violation of the Fair Districts Amendment. *See In re S. J. Res. of Legis. Apportionment 1176*, 83 So. 3d 597, 624–27 (Fla. 2012) (describing non-diminishment standard).

Moreover, Plaintiffs lack an adequate remedy at law because their injuries result from a violation of a fundamental constitutional right—the right to vote. *See, e.g., Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1263–64 (Fla. 2017) (finding “no adequate legal remedy at

law for the improper enforcement of” unconstitutional law). Plaintiffs will suffer irreparable injury to their fundamental voting rights without immediate injunctive relief because Florida “law recognizes that a continuing constitutional violation, in and of itself, constitutes irreparable harm.” *Bd. of Cnty. Comm’rs v. Home Builders Ass’n of W. Fla., Inc.*, 325 So. 3d 981, 985 (Fla. 1st DCA 2021); *see also, e.g., League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“Courts routinely deem restrictions on fundamental voting rights irreparable injury.”). And “enjoining the enforcement of a law that encroaches on a fundamental constitutional right presumptively ‘would serve the public interest,’” *Green v. Alachua Cnty.*, 323 So. 3d 246, 254 (Fla. 1st DCA 2021) (quoting *Gainesville Woman Care*, 210 So. 3d at 1264 (Fla. 2017))—especially where, as here, there is more than enough time to feasibly implement a remedial congressional plan in advance of this year’s primary and general elections.

Plaintiffs therefore request that the Court temporarily enjoin implementation of the DeSantis Plan. Plaintiffs further request that the Court expedite its consideration of this motion, including the scheduling of any hearings, to ensure that a necessary remedy is timely adopted and a lawful congressional plan is in place in North Florida in time for the 2022 congressional elections.

Plaintiffs also request that the Court, in determining the posting of bond as required by Florida Rule of Civil Procedure 1.610(b), set no more than a nominal bond, because the relief sought is against the State and to remedy a congressional plan that fails to comply with the Florida Constitution.¹

¹ Plaintiffs have requested that Defendants waive the requirement of a bond, but Defendants have not responded to that request as of the time of this filing. *See Dubner v. Ferraro*, 242 So. 3d 444, 447-48 (Fla. 4th DCA 2018) (“[A] bond is ordinarily required for a temporary injunction absent evidence of financial inability to maintain a bond, agreement of both sides, or any other recognized ground.”).

WHEREFORE, Plaintiffs request that the Court temporarily enjoin implementation of the DeSantis Plan (P000C0190), require no more than a nominal bond for injunctive relief, and expedite consideration of this matter to ensure that a necessary remedy is timely adopted and a lawful congressional plan is in place in North Florida in time for the 2022 congressional elections.

Dated: April 26, 2022

/s/ Frederick S. Wermuth
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 26, 2022 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below. I further certify that I have caused to be served, via Process Server, the foregoing on Defendants who have not yet made an appearance in this case.

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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., EQUAL
GROUND EDUCATION FUND, INC.,
LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., LEAGUE OF WOMEN
VOTERS OF FLORIDA EDUCATION
FUND, INC., FLORIDA RISING
TOGETHER, PASTOR REGINALD
GUNDY, SYLVIA YOUNG, PHYLLIS
WILEY, ANDREA HERSHORIN,
ANAYDIA CONNOLLY, BRANDON P.
NELSON, KATIE YARROWS, CYNTHIA
LIPPERT, KISHA LINEBAUGH, BEATRIZ
ALONSO, GONZALO ALFREDO
PEDROSO, and ILEANA CABAN,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
Florida Secretary of State, ASHLEY MOODY,
in her official capacity as Florida Attorney
General, the FLORIDA SENATE, the
FLORIDA HOUSE OF
REPRESENTATIVES, WILTON SIMPSON,
in his official capacity as the President of the
Florida Senate, CHRIS SPROWLS, in his
official capacity as the Speaker of the Florida
House of Representatives, RAY RODRIGUES,
in his official capacity as Chair of the Senate
Committee on Reapportionment, and TOM
LEEK, in his official capacity as Chair of the
Chair of the House Redistricting Committee,

Defendants.

Case No. 2022-ca-000666

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR TEMPORARY INJUNCTION

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	3
I. The Florida Supreme Court ordered the creation of the prior CD-5 to comply with the Fair Districts Amendment.	3
II. Benchmark CD-5 unites North Florida’s historic Black communities.	5
III. After the Legislature indicated that it would protect CD-5 from diminishment, Governor DeSantis vetoed its plans and forced a special session.	7
LEGAL STANDARD.....	11
ARGUMENT.....	11
I. Plaintiffs are substantially likely to prove that the DeSantis Plan violates the non-diminishment standard of Article III, Section 20.	11
A. Benchmark CD-5 gave North Florida’s historic Black communities the ability to elect their preferred congressional candidates.	13
B. The DeSantis Plan diminishes the ability of Black voters in North Florida to elect their preferred candidates by dissolving CD-5.....	14
C. The Legislature could have preserved Benchmark CD-5.	15
II. Plaintiffs have no adequate remedy at law.	16
III. Plaintiffs and other Florida voters will suffer irreparable harm absent a temporary injunction.....	17
IV. Injunctive relief will serve the public interest.	18
CONCLUSION.....	20

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Advisory Op. to Governor</i> , No. SC22-139, 2022 WL 405381 (Fla. Feb. 10, 2022)	8, 12
<i>Bd. of Cnty. Comm’rs v. Home Builders Ass’n of W. Fla., Inc.</i> , 325 So. 3d 981 (Fla. 1st DCA 2021)	17
<i>Bethune-Hill v. Va. State Bd. of Elections</i> , 368 F. Supp. 3d 872 (E.D. Va. 2019)	18
<i>Common Cause Fla. v. Lee</i> , No. 4:22-cv-109-AW/MAF (N.D. Fla. Apr. 8, 2022), ECF No. 73	20
<i>Gainesville Woman Care, LLC v. State</i> , 210 So. 3d 1243 (Fla. 2017).....	11, 16, 17, 18
<i>Green v. Alachua Cnty.</i> , 323 So. 3d 246 (Fla. 1st DCA 2021)	18
<i>Larios v. Cox</i> , 305 F. Supp. 2d 1335 (N.D. Ga.), <i>aff’d</i> , 542 U.S. 947 (2004).....	17
<i>League of Women Voters of Fla. v. Detzner</i> , 172 So. 3d 363 (Fla. 2015).....	<i>passim</i>
<i>League of Women Voters of Fla. v. Detzner</i> , 179 So. 3d 258 (Fla. 2015).....	5
<i>League of Women Voters of Fla. v. Detzner</i> , 314 F. Supp. 3d 1205 (N.D. Fla. 2018).....	16
<i>League of Women Voters of N.C. v. North Carolina</i> , 769 F.3d 224 (4th Cir. 2014)	17
<i>Madera v. Detzner</i> , 325 F. Supp. 3d 1269 (N.D. Fla. 2018).....	16
<i>Merrill v. Milligan</i> , 142 S. Ct. 879 (2022).....	20
<i>Personhuballah v. Alcorn</i> , 155 F. Supp. 3d 552 (E.D. Va. 2016)	18

<i>Purcell v. Gonzalez</i> , 549 U.S. 1 (2006) (per curiam).....	19
<i>In re S. J. Res. of Legis. Apportionment 1176</i> , 83 So. 3d 597 (Fla. 2012).....	2, 3, 12, 15
<i>Shelby County v. Holder</i> , 570 U.S. 529 (2013).....	7

Other Authorities

Florida Constitution Article III, Section 20	1, 3, 11, 17
Florida Constitution Article III, Section 21	3

INTRODUCTION

It is settled law that the Florida Constitution prohibits the Legislature from enacting a congressional redistricting plan that diminishes the ability of racial minorities to elect representatives of their choice. *See* Art. III, § 20(a), Fla. Const. This “non-diminishment standard” requires courts to determine whether minority voting strength has diminished under the new plan when compared to the old plan. And the Florida Supreme Court has made clear that courts have an obligation to invalidate congressional redistricting plans when they violate the Florida Constitution. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 416 (Fla. 2015).

Controlling precedent requires the issuance of temporary injunctive relief against the congressional plan drawn and signed into law by Governor Ron DeSantis on April 22, 2022 (the “DeSantis Plan”). In 2015, the Florida Supreme Court held that the non-diminishment standard required the creation of a congressional district that spans from Duval to Leon and Gadsden Counties to avoid diminishing the voting strength of Black voters in North Florida. *See League of Women Voters of Fla.*, 172 So. 3d at 403. That district—Congressional District (“CD-”) 5—has enabled Black voters to elect their candidate of choice in every election since it was adopted. And the Legislature, mindful of the Florida Supreme Court’s earlier ruling in *League of Women Voters of Florida*, chose to retain it in every draft congressional plan that it debated during the 2021–2022 redistricting process—including the plan that Governor DeSantis vetoed late last month before calling a special session to ensure the passage of his own plan.

The DeSantis Plan completely dismantles CD-5, and there is no serious dispute that it violates the non-diminishment standard in doing so. Rather than preserve a North Florida district where Black voters would retain their ability to elect their congressional candidates of choice, the DeSantis Plan cracks Black voters among four new districts in which they have no realistic chance to elect their candidate of choice. Legislative leaders freely acknowledged during the special

session that the dissolution of CD-5 violates the non-diminishment standard. Governor DeSantis did not dispute this. Instead, he derided CD-5 as an unconstitutional “racial gerrymander” and claimed that the Florida Supreme Court erred in ordering its adoption. But Governor DeSantis has no authority to overrule Supreme Court precedent, which binds this Court and makes clear that CD-5 is a lawful district, the elimination of which inarguably violates the non-diminishment standard.

Plaintiffs seek temporary relief enjoining Defendants from administering the 2022 primary or general election for Congress under the DeSantis Plan. Plaintiffs have no adequate remedy at law for such a clear violation of their constitutional rights, and it is well settled that infringement of voting rights safeguarded by the constitution—even for just one election—causes irreparable injury. Injunctive relief in this case would serve the public interest and is feasible under the current election timeline. While Plaintiffs have challenged the DeSantis Plan in its entirety, this motion seeks temporary relief solely on the ground that the elimination of CD-5 violates the Florida Constitution’s non-diminishment standard. Any injunction would therefore be limited to a handful of districts in North Florida and thus would not impact election preparations throughout most of the state. As Florida’s Supervisors of Elections attest, such a narrow injunction is easily workable ahead of Florida’s primary on August 23, 2022, one of the latest in the country.

The Florida Supreme Court has made clear that “[i]t is this Court’s duty, given to it by the citizens of Florida, to enforce adherence to the constitutional requirements and to declare a redistricting plan that does not comply with those standards constitutionally invalid.” *In re S. J. Res. of Legis. Apportionment 1176*, 83 So. 3d 597, 607 (Fla. 2012). By dismantling a congressional district that enabled Black voters to elect their candidates of choice under the previous plan, the

DeSantis Plan inarguably violates the Florida Constitution, and it is now *this* Court’s responsibility to enjoin its use in the upcoming elections.

BACKGROUND

I. The Florida Supreme Court ordered the creation of the prior CD-5 to comply with the Fair Districts Amendment.

On November 2, 2010, Floridians voted by an overwhelming margin of 62.9% to 37.1% to enact the Fair Districts Amendment to the Florida Constitution.¹ Ex. 1-A². The Amendment established new standards to constrain the Legislature’s once-in-a decade exercise of its congressional reapportionment power, which are enumerated within two “tiers” in Article III, Section 20 of the Florida Constitution. Among the “Tier I” standards is a requirement 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.*” Art. III, § 20(a), Fla. Const (emphasis added). The inclusion of this italicized phrase—known as the “non-diminishment standard”—in Tier I “mean[s] that the voters placed this constitutional imperative as a top priority to which the Legislature must conform during the redistricting process.” *In re S. J. Res.*, 83 So. 3d at 615, 677.

The Florida Supreme Court first enforced the non-diminishment standard in *League of Women Voters of Florida v. Detzner* (“*LWV P*”), 172 So. 3d at 363 (Fla. 2015). There, the plaintiffs challenged Florida’s 2012 congressional plan as a violation of the Fair Districts Amendment’s prohibition on partisan gerrymandering. While the plaintiffs alleged that numerous districts in the 2012 plan were the product of intentional partisan bias, the “focal point of the challenge” was CD-

¹ Florida voters adopted a virtually identical constitutional amendment—by a similarly lopsided margin—to reform Florida’s legislative apportionment. Ex. 1-A; *see also* Art. III, § 21, Fla. Const. Unless otherwise noted, “Fair Districts Amendment” refers to the congressional amendment only.

² Due to the volume of the exhibits to be filed in support of this Motion and Memorandum, Notices of Filing attaching Exhibits 1-12 will be filed contemporaneously herewith.

5—a district described by the Florida Supreme Court as “visually not compact” and “bizarrely shaped” as it “[wound] from Jacksonville to Orlando, narrowing at one point to the width of a highway”:



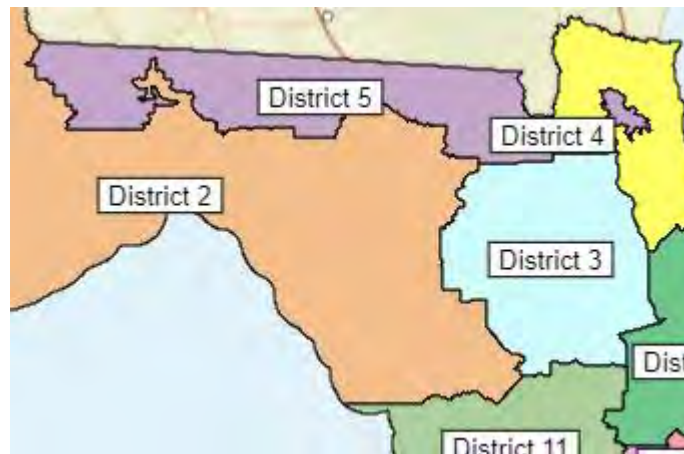
Id. at 402 (quotation omitted).

The *LWW I* plaintiffs alleged that this configuration of CD-5 “overpack[ed] Democratic-leaning black voters into the district . . . thereby diluting the influence of Democratic minorities in surrounding districts.” *Id.* at 402–04. But the State contended that drawing CD-5 in this manner was necessary to comply with the non-diminishment standard, noting that Black voters in the Jacksonville area had a reasonable opportunity to elect candidates of their choice under the prior redistricting plan. *See id.* at 402 (citing *Martinez v. Bush*, 234 F. Supp. 2d 1275, 1300–01 (N.D. Fla. 2002) (per curiam) (three-judge court)). The Court confirmed that the Florida Constitution required the Legislature to avoid diminishment of Black voters’ ability to elect their candidate of choice, but disagreed that the North-South configuration was necessary to do so, noting that legislative staffers initially drew CD-5 in an East-West configuration spanning from Jacksonville to Leon and Gadsden Counties that resulted in a more compact district and similarly preserved the ability of Black voters to elect candidates of their choice. *Id.* at 403. The Court ordered the Legislature to redraw CD-5 in this East-West manner, concluding that this configuration was the “only alternative option” that complied with the constitutional non-diminishment standard. *Id.*

That configuration of CD-5—“Benchmark CD-5”—has been in place for the last three election cycles.

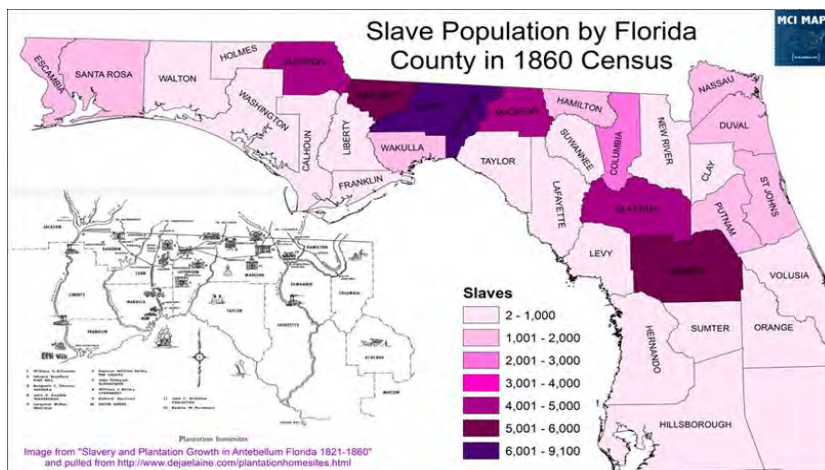
II. Benchmark CD-5 unites North Florida’s historic Black communities.

Benchmark CD-5 extends from Jacksonville to Tallahassee and includes all of Baker, Gadsden, Hamilton, and Madison Counties, as well as portions of Columbia, Duval, Jefferson, and Leon Counties:



League of Women Voters of Fla. v. Detzner, 179 So. 3d 258, 271–72 (Fla. 2015). While both Tallahassee and Jacksonville have substantial Black populations, Black voters also make up a substantial portion of the lower-density counties that make up the rest of Benchmark CD-5. Gadsden County, for instance, is 55% Black, and Jefferson, Madison, and Hamilton Counties are all more than 30% Black. Ex. 1-Y.

Benchmark CD-5 unites historic Black communities in North Florida that pre-date the Civil War and arose from the slave and sharecropping communities that worked the state’s abundant cotton and tobacco plantations, as shown below:



Ex. 3 at 8, Fig. 1. For much of the state’s history, Black voters in these communities—and, indeed, in the state more broadly—have been unable to participate equally in the electoral process. As in many other southern states, Black voters in Florida had early electoral victories in the wake of Reconstruction: In 1870, for example, the state elected its first Black member of Congress, Josiah Walls. *Id.* at 9. But immediately after, the State commenced a centuries-long policy of disenfranchisement that erased these gains and made it impossible for Black voters to even register to vote. *Id.* at 9–11. These policies had their desired effect: Between 1876 and 1992, Florida did not elect a single Black candidate to Congress. *Id.* at 10.

The state’s discriminatory voting practices and laws hit the Black residents of North Florida particularly hard. The federal Civil Rights Commission reported that of the 10,930 Black adults living in Gadsden County in 1958, only *seven* were registered to vote. *Id.* at 11. Political discrimination and oppression were felt in every county with a large Black population in North Florida. “According to a second U.S. Civil Rights Commission report, Black voters were confronted with threats, violence, and harassment when attempting to register. These tactics included cross burning, fire bombings, and threatening phone calls.” *Id.* at 12.

Black voters in Florida found relief only after the passage of federal civil rights legislation. The enactment of the Voting Rights Act of 1965 sharply increased voter-registration rates in the

state’s Black communities. *Id.* at 12. It also provided Black Floridians a means of challenging discriminatory redistricting schemes. *Id.* at 13–17. Through decades of litigation, Black Floridians fought against districting plans that fractured the state’s Black populations, particularly in North Florida, to great effect. *Id.* In 1992, after Black and other minority voters successfully argued that the Voting Rights Act requires the creation of majority-Black and Black-opportunity districts, Florida finally elected its first Black representatives to Congress since Reconstruction. As history shows, without these hard-won districts, Black voters would be unable to elect their candidates of choice. *Id.*

III. After the Legislature indicated that it would protect CD-5 from diminishment, Governor DeSantis vetoed its plans and forced a special session.

After release of the 2020 census data, the Florida Senate and House of Representatives commenced the redistricting process by holding initial hearings in September 2021. From the beginning, both chambers stressed that the Legislature’s redistricting effort would be guided by established law. Representative Tom Leek, Chair of the House Redistricting Committee, “promise[d]” his members that the House would “do this right” and “within the law.” Ex. 1-B; *see also* Ex. 1-C. To that end, the redistricting committees in both chambers provided their members with extensive presentations on the legal principles and standards that govern the process.

In those presentations and throughout the redistricting process, the Legislature emphasized the Florida Constitution’s non-diminishment standard. Each chamber instructed its members that this standard prohibits the Legislature from enacting a congressional plan that diminishes a minority group’s existing ability to elect their candidate of choice. *See, e.g.*, Ex. 1-D at 42 (recognizing that Florida Constitution incorporates federal retrogression standards); Ex. 1-E at 15 (same). And they explained that while the U.S. Supreme Court’s decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), “means the preclearance process established by the Voting Rights

Act is no longer in effect,” that decision “does not affect the validity of the diminishment standard in the Florida Constitution.” Ex. 1-F.

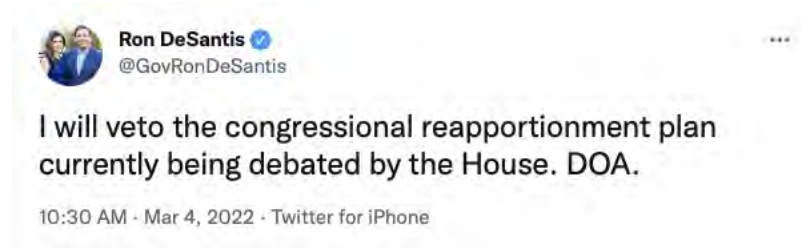
Among the districts that both chambers determined were protected from retrogression was CD-5. To that end, the Legislature performed a “functional analysis” on each of its proposed plans to ensure that Black voters in CD-5 maintained the ability to elect their candidates of choice. *See, e.g.*, Ex. 1-G at 3–4 (reporting that proposed Senate plans “[d]o not retrogress and maintain the ability . . . for racial and language minorities to participate in the political process and elect candidates of their choice”); Ex. 1-H at 54–57, 62–65, 70–73, 78–81 (performing functional analyses of CD-5 for proposed Senate plans). Indeed, until the very last moment, every single congressional plan proposed by the House and Senate redistricting committees maintained the general configuration of CD-5 as it was drawn by the Florida Supreme Court and preserved Black voters’ ability to elect their candidates of choice in North Florida. *See, e.g.*, Exs. 1-G, 1-I, 1-J, 1-K, 1-L.

Governor DeSantis, by contrast, aggressively lobbied for a plan that would dismantle Benchmark CD-5. He made it plain in public speeches that he would reject any proposal that maintained CD-5’s configuration, *see* Ex. 1-M; invited the Florida Supreme Court to find CD-5 unconstitutional, which the Court declined to do, *see Advisory Op. to Governor*, No. SC22-139, 2022 WL 405381, at *1 (Fla. Feb. 10, 2022); and called on the assistance of a proxy to convince the House that its proposal for CD-5 was unlawful, *see* Ex. 1-N. Despite this pressure, and until just days before passing its first congressional plan, the Legislature remained steadfastly determined to protect CD-5 as required under the Fair Districts Amendment. *See* Ex. 1-O (“The Legislature refused to go along with the governor’s demands during the two-month session, when leaders in both the House and Senate relied on a state constitutional requirement and preserved

Florida’s minority-heavy districts[.]”). Indeed, in a rare moment of bipartisan unity, Democratic and Republican members of the House combined forces to challenge the position offered by Governor DeSantis’s proxy. *See* Ex. 1-P.

The Senate ultimately passed, on a bipartisan basis, a congressional redistricting plan that retained the East-West configuration of Benchmark CD-5 that Governor DeSantis opposed. Ex. 1-Q. Thereafter, the Legislature attempted to appease Governor DeSantis by passing a redistricting plan on March 4, 2022, that significantly modified CD-5—but, the Legislature maintained, would avoid diminishing Black voters’ ability to elect candidates of their choice in the district. Recognizing the plan’s vulnerability under the non-diminishment standard, however, the legislation included an *alternative* plan—Plan 8015, or the “Backup Map”—that was intended to take effect if courts found that the primary plan diminished Black voting power in violation of the Florida Constitution. Ex. 1-Q. The Backup Map retained the East-West configuration of CD-5 approved in *LVW I*. The Legislature’s attempt at prophylaxis reflected its position that Governor DeSantis’s view of CD-5 was unconstitutional.

On the eve of those plans’ passage, however, Governor DeSantis upended the redistricting process by again threatening to veto the plan’s configuration of CD-5 and declaring it “dead on arrival”:



Ex. 1-R. Ultimately, true to his word, Governor DeSantis vetoed the Legislature’s plan on March 29, 2022, and called a special legislative session. Exs. 1-S, 1-T. In advance of the special session, House Speaker Chris Sprowls and Senate President Wilton Simpson informed lawmakers that

legislative staff would not draw new plans, and that the Legislature would instead take up Governor DeSantis's preferred congressional plan. Ex. 1-U. The intent of the special session, they explained, was "to provide the Governor's Office opportunities to present [a plan] before House and Senate redistricting committees." *Id.*

Governor DeSantis released his congressional plan on April 13, 2022, which eliminated any district resembling Benchmark CD-5, as shown below:

The Benchmark Plan (Attachment to Ex. 2):



The DeSantis Plan (Attachment to Ex. 2):



Throughout the special session, legislative leaders all but acknowledged that the DeSantis Plan resulted in the diminishment of Black voters' ability to elect their candidates of choice. Indeed, when asked on the House floor whether the configuration of CD-4 or CD-5 in the DeSantis Plan would continue to perform for Black candidates of choice, Representative Leek responded that it would not: "[O]ur [House] staff did a functional analysis and confirm[ed] it does not perform."

Ex. 1-V. The Legislature nevertheless passed the DeSantis Plan on April 21, 2022, and Governor DeSantis signed it into law the next day. Ex. 1-W.

Plaintiffs include several Black Florida voters who resided in Benchmark CD-5 under the previous congressional plan and now reside in the new CD-2 or CD-4, where they cannot elect their candidates of choice to Congress. *See* Exs. 4–6 (affidavits of voter plaintiffs Gundy, Wiley, and Young). Plaintiffs also include several organizations, including Black Voters Matter, the League of Women Voters of Florida, Equal Ground, and Florida Rising Together, all of which are harmed by the DeSantis Plan. *See* Exs. 7–10 (affidavits of organizational plaintiffs).

LEGAL STANDARD

To obtain a temporary injunction, a movant must demonstrate: “[1] a substantial likelihood of success on the merits; [2] lack of an adequate remedy at law; [3] irreparable harm absent the entry of an injunction; and [4] that injunctive relief will serve the public interest.” *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1258 (Fla. 2017) (quoting *Reform Party of Fla. v. Black*, 885 So. 2d 303, 305 (Fla. 2004) (per curiam)).

ARGUMENT

I. Plaintiffs are substantially likely to prove that the DeSantis Plan violates the non-diminishment standard of Article III, Section 20.

The DeSantis Plan openly violates the commands of the Florida Constitution because it results in the diminishment of Black voters’ ability to elect their candidates of choice.³ Article III, Section 20(a) prohibits “diminish[ment]” of the ability of racial or language minorities “to elect representatives of their choice.” The Florida Supreme Court has labeled this provision the “non-

³ While Plaintiffs further allege that the DeSantis Plan *intended* to diminish Black electoral power, *see generally* Compl., Plaintiffs seek a temporary injunction only on the basis that the DeSantis Plan *results* in diminishment in North Florida in violation of Article III, Section 20(a) of the Florida Constitution. Plaintiffs reserve their right to make additional arguments about other ways in which the plan is unconstitutional and invalid, and seek appropriate relief, as this matter moves forward.

diminishment standard.” *Advisory Op.*, 2022 WL 405381, at *1. This standard prohibits congressional districting plans that have “the purpose of or *will have the effect* of diminishing the ability of any citizens on account of race or color to elect their preferred candidates of choice.” *In re S. J. Res.*, 83 So. 3d at 620 (cleaned up) (emphasis added). The protection of racial and language minorities is a Tier I standard, “meaning that the voters placed this constitutional imperative as a top priority to which the Legislature must conform during the redistricting process.” *Id.* at 615.

Under the non-diminishment standard, “the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625. The non-diminishment standard accordingly calls for a comparative analysis: “The existing plan of a covered jurisdiction serves as the ‘benchmark’ against which the ‘effect’ of voting changes is measured.” *Id.* at 624. And whether a minority group’s voting power has been diminished is determined by a “functional analysis” of “whether a district is likely to perform for minority candidates of choice.” *Id.* at 625. This inquiry requires “consideration not only of the minority population in the districts, or even the minority voting-age population in those districts, but of political data and how a minority population group has voted in the past.” *Id.* Similarly, a court’s review of minority voting power “will involve the review of the following statistical data: (1) voting-age populations; (2) voting-registration data; (3) voting registration of actual voters; and (4) election results history.” *Id.* at 627.

The DeSantis Plan unmistakably violates the non-diminishment standard. Benchmark CD-5 was a Black-performing district that tied together historic Black communities in North Florida and enabled Black voters in those communities to elect their candidates of choice in every election following its 2015 enactment. The DeSantis Plan dissolves that configuration of CD-5 and cracks

Black voters into four new districts with white majorities that consistently vote *against* Black-preferred candidates—rendering Black voters in North Florida unable to elect their candidates of choice in any of the new districts.

A. Benchmark CD-5 gave North Florida’s historic Black communities the ability to elect their preferred congressional candidates.

Benchmark CD-5 was a Black-performing district, and inarguably so. The East-West configuration of Benchmark CD-5 traced the boundaries of historic Black communities in North Florida that predate the Civil War. Ex. 3 at 7-9. Those communities were home to a significant number of the slaves and sharecroppers who worked Florida’s cotton and tobacco fields, the descendants of whom “account for a sizeable portion of the Black population” that the DeSantis Plan now disperses into overwhelmingly white districts. *Id.* While these communities have existed for more than a century and half, their residents were unable to elect candidates of their choice until the modern era due to deliberate efforts by the State to disenfranchise Black voters. *Id.* at 9–17. These efforts were enormously successful. For example, the federal Civil Rights Commission reported in 1958 that only *seven* of Gadsden County’s 10,930 Black adults were registered to vote. *Id.* at 11.

Benchmark CD-5 gave these voters a voice in Congress. Dr. Stephen Ansolabehere shows that Black voters in Benchmark CD-5 have been able to consistently elect their candidates of choice since the district was created in 2015. Black voters are the largest racial group of registered voters in the district and “account[] for 49.1 percent of the total population and 77.7 percent of the minority population in this district.” Ex. 2 ¶¶ 32–34. Black voters were also the largest group of voters in each Democratic primary election since 2015 and cast a plurality of votes in the 2016 and 2018 general elections. *See id.* ¶¶ 35–36. Given the extraordinary political cohesion of Black voters in Benchmark CD-5, *id.* ¶ 37, Dr. Ansolabehere concludes that Black voters had the ability to elect

their preferred candidates in that district—and, indeed, elected Black Democrat Al Lawson to Congress in 2016, 2018, and 2020. *Id.* ¶¶ 38–40.

B. The DeSantis Plan diminishes the ability of Black voters in North Florida to elect their preferred candidates by dissolving CD-5.

Black voters in North Florida had the ability to elect candidates of their choice in Benchmark CD-5, but the DeSantis Plan diminishes that ability by carving up the district and cracking its Black population among four new districts: CDs-2 through 5. Ex. 2 ¶ 42. The resulting Black populations of those districts are now 22.7%, 15.3%, 30.8%, and 12.1%, respectively. *Id.*, tbl. 2. White voters, meanwhile, comprise a majority of the registered voters and population in each of these districts and would have cast the majority of votes in 2016, 2018, and 2020 in both the general and Democratic primary elections. *Id.* ¶¶ 45–47. Black voters are so strategically diluted across these districts that of the 367,467 Black Floridians in Benchmark CD-5, “not one of these individuals will reside in a district in which they have the ability to elect their candidates of choice.” *Id.* ¶ 4. The white majorities in these districts cohesively support candidates opposed by Black voters. In the new CD-4, for example, “82% of White voters chose Republican candidates, while only 18% chose Democratic candidates, *i.e.*, the candidates preferred by 89% of Black voters (and 83% of all minority voters).” *Id.* ¶ 48. And in all four of the new North Florida congressional districts, white-preferred candidates won in all eight of the statewide general elections examined by Dr. Ansolabehere. *Id.* ¶ 49; *see also* ¶ 20 (listing those elections). The upshot of this data is clear: The DeSantis Plan “disperses the Black voters that previously resided in Benchmark CD-5 among majority-white districts where the white residents vote cohesively for candidates that are

not supported by Black voters. Accordingly, under the [DeSantis Plan], Black voters will no longer be able to elect their candidate of choice in North Florida.” *Id.* ¶ 51.

Legislative leaders conducted their own functional analysis of the DeSantis Plan that corroborates Dr. Ansolabehere’s conclusions. According to House Redistricting Chair Leek, legislative staff “did a functional analysis and confirm[ed] [that the new configuration of districts in North Florida] does not perform” for Black voters. Ex. 1-V. Indeed, at no point during the special session did legislative leaders assert that the DeSantis Plan complies with the non-diminishment standard.

In sum, Dr. Ansolabehere evaluated the statistical data required to conduct a functional analysis, including statistics on the voting-age populations, voter registration and turnout data, and election results. *See In re S. J. Res.*, 83 So. 3d at 615. These data show that the DeSantis Plan cracks Black voters in Benchmark CD-5 into four new districts in which they have no opportunity to elect candidates of their choice to Congress, which is precisely the sort of diminishment in voting power that the Florida Constitution prohibits.

C. The Legislature could have preserved Benchmark CD-5.

The redistricting process that ensued in the Legislature following the release of 2020 census data makes clear that it is possible to preserve Benchmark CD-5 and avoid diminishment of Black voters’ ability to elect their candidates of choice. *Every* draft congressional plan proposed and debated by the Legislature, until the very last one, maintained the general configuration of Benchmark CD-5. *See* Exs. 1-G, 1-I, 1-J, 1-K, 1-L. Legislative staff conducted a functional analysis of each plan, confirming that Black voters in the proposed CD-5s remained capable of electing candidates of their choice. *See* Exs. 1-G, 1-H.

The existence of these alternative maps as prepared by the Legislature demonstrates that the dissolution of Benchmark CD-5 was unnecessary to equalize population or otherwise comply

with Florida law. Two legislative maps from this cycle provide telling examples: Plan 8060, initially passed by the Senate, and Plan 8016, the Backup Map that the full Legislature passed in the event their first map was invalidated as unlawful under the Fair Districts Amendment. Ex. 2 ¶¶ 13–14. Both maps made minor changes to Benchmark CD-5 and would have resulted in a district with a majority-minority voting-age population in which Black voters would have been able to elect their candidates of choice. Ex. 2 ¶¶ 52–67.

II. Plaintiffs have no adequate remedy at law.

No other remedy exists under Florida law to remedy the harm Plaintiffs will suffer if the 2022 primary and general elections proceed under an unconstitutional districting plan. Plaintiffs lack an adequate remedy at law where, as here, their injuries result from a violation of a fundamental constitutional right. *See, e.g., Gainesville Woman Care*, 210 So. 3d at 1263–64 (“In light of finding that the [challenged law] is likely unconstitutional, there is no adequate legal remedy at law for the improper enforcement of the [law].”); *see also League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1224 (N.D. Fla. 2018) (granting temporary injunction in voting-related case because injury could not “be undone through monetary remedies” (quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987))); *Madera v. Detzner*, 325 F. Supp. 3d 1269, 1282 (N.D. Fla. 2018) (same).⁴ Harms caused by constitutional violations are quintessentially irreparable, especially those that strike the fundamental right to vote. *See, e.g., League of Women Voters of Fla.*, 314 F. Supp. 3d at 1224; *Madera*, 325 F. Supp. 3d at 1282.

⁴ In weighing whether an injury cannot be remedied at law and thus constitutes irreparable harm, the Florida Supreme Court has relied on precedent from federal courts. *See, e.g., Gainesville Woman Care*, 210 So. 3d at 1263–64 (noting that U.S. Supreme Court and lower federal courts “have presumed irreparable harm when certain fundamental rights are violated”).

III. Plaintiffs and other Florida voters will suffer irreparable harm absent a temporary injunction.

Plaintiffs are likely to suffer irreparable harm absent temporary injunctive relief. Plaintiffs have a constitutional right guaranteed to them by Article III, Section 20 to vote in congressional districts free of diminishment of minority electoral ability. If the 2022 primary and general elections were conducted under the unlawful DeSantis Plan, Plaintiffs' constitutional rights would be irreparably injured. Florida "law recognizes that a continuing constitutional violation, in and of itself, constitutes irreparable harm." *Bd. of Cnty. Comm'rs v. Home Builders Ass'n of W. Fla., Inc.*, 325 So. 3d 981, 985 (Fla. 1st DCA 2021) (upholding trial court's determination "that irreparable harm was presumed based on the existence of a constitutional violation"); *see also Gainesville Woman Care*, 210 So. 3d at 1263–64 (finding that law that violated constitution would lead to irreparable harm absent injunctive relief). Indeed, "[c]ourts routinely deem restrictions on fundamental voting rights irreparable injury." *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *see also, e.g., Larios v. Cox*, 305 F. Supp. 2d 1335, 1343–44 (N.D. Ga.) (per curiam) (three-judge court) (holding that stay of court's order finding state legislative plans unconstitutional would result in "irreparable harm to the plaintiffs, and to all voters in Georgia who have had their votes unconstitutionally debased," and that court had "a responsibility to ensure that future elections will not be conducted under unconstitutional plans"), *aff'd*, 542 U.S. 947 (2004). That is because "once the election occurs, there can be no do-over and no redress" for voters whose rights were violated. *League of Women Voters of N.C.*, 769 F.3d at 247. Because Plaintiffs' injury results from a constitutional violation, they will suffer irreparable harm absent injunctive relief.

IV. Injunctive relief will serve the public interest.

The public interest requires this Court to issue an injunction preventing the use of the DeSantis Plan in the 2022 congressional elections. As Florida courts have consistently found, “enjoining the enforcement of a law that encroaches on a fundamental constitutional right presumptively ‘would serve the public interest.’” *Green v. Alachua Cnty.*, 323 So. 3d 246, 254 (Fla. 1st DCA 2021) (quoting *Gainesville Woman Care*, 210 So. 3d at 1264); *see also Gainesville Woman Care*, 210 So. 3d at 1264 (finding that it “would be specious to require . . . that the trial court make additional factual findings” to determine that enjoining unconstitutional law would be in public interest). This Court should enjoin the DeSantis Plan to ensure that this year’s congressional elections occur under a lawful congressional plan.

Several factors make temporary injunctive relief particularly feasible here. First, an injunction would have limited geographic scope, as it would affect only a handful of congressional districts in North Florida. *See* Ex. 2 ¶ 68 (“Incorporating the North Florida configurations of either the Senate Map or the Backup Map would leave untouched 21 of the congressional districts in the Enacted Map.”). In *LWV I*, the Florida Supreme Court ordered the Legislature to redraw only certain congressional districts found unconstitutional, explaining that “requiring the entire map to be redrawn is not the remedy commensurate with the constitutional violations found in [that] case.” 172 So. 3d at 413; *see also Bethune-Hill v. Va. State Bd. of Elections*, 368 F. Supp. 3d 872, 877–78 (E.D. Va. 2019) (three-judge court) (“In choosing a remedial plan, we endeavor to minimize the number of districts affected by our revisions, recognizing that districts immediately adjacent to the invalidated districts may be subject to significant changes.”); *Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 564 (E.D. Va. 2016) (three-judge court) (adopting remedy that “minimizes the disruptive impact of the remedial plan” by “not alter[ing] any districts outside of the [challenged] District and those abutting it”). Similarly, it is possible here to swap the DeSantis Plan’s CD-5 for

a configuration that retains Black voters’ ability to elect their candidates of choice without changing any districts south of Marion and Volusia Counties. Ex. 2 ¶ 68. For that reason, a remedial map would require no effort from most of Florida’s supervisors of elections. *See, e.g.*, Ex. 11 (Broward Supervisor Scott confirming that changing DeSantis Plan’s CD-5 to Plan 8015’s CD-5 would “impose no burden on my office,” but that his office “will diligently implement *any* plan adopted by the Court if it allows [] voters to elect their preferred candidates under a plan consistent with the United States and Florida Constitutions” (emphasis added)).

Second, both this Court and the Legislature will be aided by the significant work already accomplished by the Legislature when it crafted various configurations that maintained CD-5 prior to Governor DeSantis’s intervention. *See LWV I*, 172 So. 3d at 413, 417 (requiring Legislature to adopt East-West configuration of District 5 already drawn by legislative staffers). Indeed, the Senate already passed a congressional plan that maintains the voting strength of CD-5’s Black voters, as did the full Legislature when it passed Plan 8015—the Backup Map. Ex. 2 ¶¶ 52–67. Either of these maps would require little to no change outside of North Florida. *See id.* ¶ 68.

Third, Florida’s election calendar provides more than enough time to impose injunctive relief ahead of the 2022 primary election. While many other states have primaries that begin this month, Florida’s primary is not until *August 23*, making it one of the latest in the country. *See* Ex. 1-X; Ex. 11 (Broward Supervisor Scott noting that Florida’s primary is “among the latest” and not for another 17 weeks). This case is therefore unlike instances in which federal courts have declined to uphold “orders affecting elections” in the *month* preceding an election. *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006) (per curiam) (decision rendered in October preceding November general election); *Merrill v. Milligan*, 142 S. Ct. 879, 889 (2022) (Kavanaugh, J., concurring) (decision rendered in February preceding absentee voting that purportedly commenced in March). Indeed, the Secretary

of State (the “Secretary”) represented in federal court proceedings that a congressional plan could be put in place as late as June 13, 2022. *See* Defendant Secretary of State Laurel Lee’s Reply in Support of Her Motion to Stay at 6, *Common Cause Fla. v. Lee*, No. 4:22-cv-109-AW/MAF (N.D. Fla. Apr. 8, 2022), ECF No. 73. By the Secretary’s own estimation, this Court has seven weeks to order the adoption of a lawful congressional plan.

Florida’s Supervisors agree that relief before the 2022 elections is feasible in this case. As Leon Supervisor of Elections Mark Earley has explained, his office can implement a remedial plan if he receives notice of the new plan by May 27, 2022—a month away from now. *See* Ex. 12 ¶ 13. As Supervisor Earley notes, “while it may impose slightly more work for my office to implement a revised congressional plan should Florida state courts order one, my office will be glad to do so if it means that my voters can elect their congressional candidates under a plan consistent with the Florida Constitution.” *Id.* ¶ 15.

Ultimately, granting temporary relief in this matter is not only practicable—it is imperative. A new, lawful congressional plan can be readily implemented in North Florida before the 2022 election machinery goes into motion. And as a matter of sound public policy—of basic principle—this Court should work swiftly to ensure that flagrant violations of the Florida Constitution are not tolerated. As Florida Supervisors agree, failing to remedy such violations can lead to a decrease in confidence in the outcome of elections. *Id.* ¶ 14. The public interest is best served when elected representatives are forced to follow the law as written and, in turn, the will of the electorate. Nothing less can or should be countenanced by this Court.

CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court temporarily enjoin implementation of the DeSantis Plan. Plaintiffs further request that the Court expedite its consideration of this motion, including the scheduling of any hearings, to ensure that a necessary

remedy is timely adopted and a lawful congressional plan is in place in North Florida in time for the 2022 congressional elections. As noted in their motion, Plaintiffs also request that the Court require no more than a nominal bond, because the relief sought is against the state and to remedy a congressional plan that fails to comply with the Florida Constitution.

Respectfully submitted,

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**Pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 26, 2022 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below. I further certify that I have caused to be served, via Process Server, the foregoing on Defendants who have not yet made an appearance in this case.

/s/ Frederick S. Wermuth

Frederick S. Wermuth

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Exhibit B

Florida lawmakers look to avoid running afoul of courts when redrawing districts

 tallahassee.com/story/news/politics/state/2021/09/22/florida-republicans-follow-law-redistricting-census-political-lines-elections-legislature-2022/5821280001

'My promise to you is ... we will do this right,' one lawmaker said

John Kennedy, Capital Bureau

USA TODAY NETWORK-FLORIDA

Courtroom clashes that prompted a judge to condemn ruling Republicans for making a mockery of redistricting ten years ago continued to shade the Legislature's initial steps this week toward redrawing House, Senate and congressional boundaries.

The House redistricting committee met Wednesday for the first time, with chair Tom Leek, R-Ormond Beach, vowing that his side will work carefully within state law to avoid any kind of repeat of the three years of lawsuits that followed the Legislature's last attempt to redraw political lines.

"My promise to you is ... we will do this right," Leek told committee members.

"And within the law," he added.

Because of population growth, Florida will have a new congressional district – most likely in Central Florida – bringing the state's delegation to 28 members. The 120 House seats and 40 Senate districts also will be reconfigured because of population shifts over the past 10 years.

Republicans have solid command in the Legislature and a majority of the state's congressional delegation. But their dominance could easily be enhanced in redistricting, a fear for Democrats.

Republicans cheated: After past 'mockery,' Florida GOP to begin new high-stakes redistricting effort

Florida grows: Texas will gain 2 congressional seats. Seven states to lose 1 seat, Census Bureau data shows

Senate redistricting chair Ray Rodrigues, R-Estero, in his panel's first hearing Monday, acknowledged that a decade ago a "shadow process" fouled the redrawing. He pointed out that Republican political operatives "wrote scripts and recruited speakers" to advocate for specific maps designed to help the party gain power.

The House and Senate plan to blunt such behavior – which violated the state constitution – will require lawmakers this time around to sponsor maps – as they do legislation – rather than just letting the public to put their own map ideas in play.

Speakers testifying before redistricting committees also must acknowledge whether they have been paid, had travel costs covered or represent any organization that has an interest in the outcome of the recasting of House, Senate and congressional maps.

While the House and Senate on Wednesday unveiled a new website, www.floridaredistricting.gov, that provides information to Floridians about the process and lets people draw their own maps, the Senate will allow these to be reviewed or considered only if a lawmaker requests staff to do so in writing.

Just as Floridians may face new limits on participation because of past wrongdoing by ruling Republicans in the Legislature, court decisions in earlier redistricting cases also are being cited as reducing the need for a vigorous round of public hearings, such as in 2012.

The U.S. Supreme Court's Shelby v. Holder decision, which weakened the Voting Rights Act, diminished the necessity for lawmakers to strive to keep “communities of interest” together in redrawn districts.

The state's Fair Districts constitutional standards, which demand that districts not be drawn to favor incumbents or a party, also don't address communities of interest, Rodrigues pointed out. The state Supreme Court, in a ruling from the last redistricting cycle, also reinstated the importance of lawmakers adhering to Fair Districts.

Before lawmakers began map-making 10 years ago, they held more than two dozen public hearings around the state, gauging the view of Floridians about how lines should be drawn. These hearings, though, also were marked by Republicans secretly planting operatives who proposed maps intended to help the GOP expand its power in Florida.

Rodrigues said that public hearings a decade ago largely involved testimony about such communities – a neighborhood or regional area that wanted to be kept in a district. Without the need to consider such interests, public hearings are likely to be modest, lawmakers said, although no final decisions have been made.

Leek also said that time is tight for lawmakers to complete their work by the Legislature's conclusion in March.

State Rep. Joe Geller of Aventura, the ranking Democrat on the House committee, said it was clear that “old style road shows are so pre-Covid.” But he argued that some form of online hearings should be held.

Leek said that's still being considered. But he added that the state's new redistricting website gave the public more access to data and ability to draw maps than ever before.

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Exhibit D

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
REAPPORTIONMENT
Senator Rodrigues, Chair
Senator Broxson, Vice Chair

MEETING DATE: Monday, October 11, 2021
TIME: 3:00—6:00 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Rodrigues, Chair; Senator Broxson, Vice Chair; Senators Bean, Bracy, Bradley, Burgess, Gibson, Harrell, Rodriguez, Rouson, Stargel, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Walkthrough of www.floridaredistricting.gov		Presented
2	Introduction to Redistricting Law		Presented
3	2022 Redistricting Application Demonstration		Presented
4	Public Comment		Discussed
Other Related Meeting Documents			

Introduction to Redistricting Law

Prepared for the Florida Senate
Committee on Reapportionment

Daniel Nordby
Shutts & Bowen LLP
October 11, 2021



Overview

- Constitutional Authority and Legislative Procedures for Redistricting
- Federal Redistricting Requirements
- Florida Redistricting Requirements



Constitutional Authority and Legislative Procedures for Redistricting

Constitutional Authority and Legislative Procedures for Redistricting

- Congressional Redistricting Authority
- Legislative Redistricting Authority
- Procedures for Adopting Redistricting Plans

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting Authority

Legislative Redistricting
Authority

Procedures for Adopting
Redistricting Plans

Congressional Redistricting Authority

“The . . . Manner of holding Elections for . . .
Representatives, shall be prescribed in each State by the
Legislature thereof . . .”

Art. I, § 4, U.S. Const.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority

**Legislative Redistricting
Authority**

Procedures for Adopting
Redistricting Plans

Legislative Redistricting Authority

“The Legislature at its regular session in the second year following each decennial census . . . shall apportion the state . . . into not less than thirty nor more than forty consecutively numbered senatorial districts . . . and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts . . .”

Art. III, § 16(a), Fla. Const.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority

Legislative Redistricting
Authority

**Procedures for Adopting
Redistricting Plans**

Procedures for Adopting Congressional Redistricting Plans

- Congressional districts are formally established through amendments to Chapter 8 of the Florida Statutes.
- A bill establishing congressional districts is subject to the constitutional requirements that apply to all legislation, including passage by a majority vote in each house and executive approval/veto. Art. III, § 8(c), Fla. Const.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority

Legislative Redistricting
Authority

Procedures for Adopting
Redistricting Plans

8.0002 Division of state into congressional districts.—For the election of representatives to the Unites States House of Representatives, the state is divided into 27 consecutively numbered, single-member congressional districts of contiguous territory, to be designated by such numbers as follows:

(1) District 1 is composed of:

(a) All of Escambia County.

(b) All of Okaloosa County.

(c) All of Santa Rosa County.

(d) All of Walton County.

(e) That part of Holmes County consisting of:

1. All of voting tabulation districts 1, 2, 3, 4, and 5.

2. That part of voting tabulation district 6 consisting of:

a. That part of tract 9601 consisting of blocks 1023, 1024, 1031, 1032, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1074, 1075, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2023, 2024, 2025, 2026, 2027, 2028, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2105, 2106, 2107, 2108, 2109, and 2110.

b. That part of tract 9603 consisting of blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2131, 2138, 2139, and 2145.

c. That part of tract 9604 consisting of blocks 1008, 1009, 1010, and 2000.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority

Legislative Redistricting
Authority

**Procedures for Adopting
Redistricting Plans**

Procedures for Adopting Legislative Redistricting Plans

- State legislative districts are formally established through amendments to Chapter 10 of the Florida Statutes.
- Unlike congressional districts, legislative redistricting plans are adopted by joint resolution of the Florida Senate and Florida House of Representatives and are not subject to gubernatorial approval. Art. III, § 16(a), Fla. Const.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority

Legislative Redistricting
Authority

**Procedures for Adopting
Redistricting Plans**

Procedures for Adopting Legislative Redistricting Plans

- The Florida Supreme Court conducts a mandatory review of the joint resolution establishing state legislative districts.
- Judicial Review of Apportionment: “Within fifteen days after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.” Art. III, § 16(c), Fla. Const.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority

Legislative Redistricting
Authority

**Procedures for Adopting
Redistricting Plans**

Procedures for Adopting Legislative Redistricting Plans

Florida Supreme Court review (continued)

- Effect of Judgment in Apportionment: “A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state.” Art. III, § 16(d), Fla. Const.
- Extraordinary Apportionment Session: “Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.” Art. III, § 16(d), Fla. Const.

Constitutional Authority and Legislative Procedures for Redistricting

Congressional Redistricting
Authority


Legislative Redistricting
Authority

**Procedures for Adopting
Redistricting Plans**

Procedures for Adopting Legislative Redistricting Plans

Florida Supreme Court review (continued)

- Extraordinary Apportionment Session; Review of Apportionment: “Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court.” Art. III, § 16(e), Fla. Const.
- Judicial Reapportionment: “Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the custodian of state records an order making such apportionment.” Art. III, § 16(f), Fla. Const.



Federal Redistricting Requirements

Federal Redistricting Requirements

- United States Constitution
- Voting Rights Act
 - Section 2
 - Section 5

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

United States Constitution

Equality of Population

- Congressional districts must achieve precise mathematical equality of population: +/- one person from ideal population.
- Ideal population for Florida's 28 Congressional Districts: 769,221
- "We hold that, construed in its historical context, the command of Art. I, s. 2, that Representatives be chosen 'by the People of the several States' means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

Wesberry v. Sanders, 376 U.S. 1 (1964)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

United States Constitution

Equality of Population

- State legislative districts must achieve substantial equality of population.
- Ideal population for Florida Senate District: 538,455
- Ideal population for Florida House District: 179,485
- “[T]he Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable.”

Reynolds v. Sims, 377 U.S. 533 (1964)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

United States Constitution

Equality of Population

- When drawing state legislative districts, reasonable deviations from mathematical equality are permitted to accommodate traditional districting objectives such as compactness, contiguity, and respect for the boundaries of political subdivisions.
- General rule established by federal precedent on state and local districts:
 - Population deviations of less than 10% are presumptively valid
 - Population deviations greater than 10% are presumptively invalid

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

United States Constitution

Political Gerrymandering Claims

- “Partisan Gerrymandering” challenges involve claims that excessive partisanship in a state’s redistricting plan violates the First Amendment, the Equal Protection Clause, the Elections Clause, or Article I, section 2, of the federal constitution.
- “We conclude that partisan gerrymandering claims present political questions beyond the reach of the federal courts.”

Rucho v. Common Cause, 139 S. Ct. 2484 (2019)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

United States Constitution

Racial Gerrymandering Claims

- The Equal Protection Clause of the Fourteenth Amendment forbids both:
 - Racial gerrymandering: intentionally assigning citizens to a district on the basis of race without sufficient justification; AND
 - Intentional vote dilution: invidiously minimizing or canceling out the voting potential of racial or ethnic minorities.

Abbott v. Perez, 138 S. Ct. 2305 (2018)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

United States Constitution

Racial Gerrymandering Claims

- If race is the “predominant factor” motivating the legislature’s decision to place a significant number of voters within or without a particular district, the district must be narrowly tailored to achieve a compelling interest.
- The Supreme Court has assumed, without deciding, that states have a “compelling interest” in complying with the Voting Rights Act.
- The “narrow tailoring” requirement is satisfied if a legislature has “good reasons to believe” it must use race to comply with the Voting Rights Act.

Bethune-Hill v. Virginia State Bd. of Elections, 137 S. Ct. 788 (2017)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

Voting Rights Act

- The Voting Rights Act of 1965 was adopted to combat discriminatory practices in voting and elections and to enhance minority registration and participation.
- Two principal provisions of the Voting Rights Act are at issue in redistricting cases: Section 2 and Section 5

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

Voting Rights Act: Section 2

- Permanent provision of the Voting Rights Act, applicable nationwide.
- Prohibits a state from enacting a districting plan that provides “less opportunity” for racial minorities “to elect representatives of their choice.”

42 U.S.C. § 1973

- Designed to protect minority voters from practices that improperly weaken or dilute minority voting strength.
 - “Cracking” and “Packing” – the dispersal of a protected class of voters into districts in which they constitute an “ineffective minority” of voters or from the concentration of those voters into districts where they constitute an “excessive majority.”
- Under certain circumstances, states must draw “opportunity districts” in which minority groups form “effective majorities.”

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

Voting Rights Act: Section 2

Section 2 protects any group of minority voters:

1. That satisfies the three *Gingles factors*:

- a geographically compact minority population sufficient to constitute a majority in a single-member district;
- political cohesion among the members of the minority group; and
- bloc voting by the majority to defeat the minority's preferred candidate.

AND

2. Whose members, under the totality of the circumstances, have less opportunity to participate in the political process and elect representatives of their choice.

Thornberg v. Gingles, 478 U.S. 30 (1986)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

Voting Rights Act: Section 2

- Section 2's vote-dilution provisions do not extend to minority groups that are too small to comprise a numerical majority in a single-member district.

Bartlett v. Strickland, 556 U.S. 1 (2009)

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

Voting Rights Act: Section 5

- Temporary measure applicable only in “covered jurisdictions” identified under a statutory formula based on voting practices, turnout, and voter registration rates in 1964.
 - In Florida, Collier, Hardee, Hendry, Hillsborough, and Monroe Counties added as covered jurisdictions in 1975 based on the addition of language minority group protections.
- Prohibits a covered jurisdiction from adopting any change that “has the purpose of or will have the effect of diminishing the ability of [the minority group] to elect their preferred candidates of choice.”

42 U.S.C. § 1973c

- Before any change in voting procedures could be enforced in a covered jurisdiction, the change must be approved by the Department of Justice or a three-judge federal district court in a process known as “preclearance.”

Federal Redistricting Requirements

United States Constitution

Voting Rights Act

Section 2

Section 5

Voting Rights Act: Section 5

- In *Shelby County v. Holder*, 570 U.S. 529 (2013), the Supreme Court found Section 4's coverage formula unconstitutional, as it was based on "decades-old data" regarding literacy tests and low voter registration and turnout in the 1960s and early 1970s.
- The coverage formula failed to reflect "current conditions" when it was extended for 25 years without amendment in 2006.
- As a result, the Section 4 formula adopted in the 1960s and 1970s cannot be used as a basis for subjecting jurisdictions to preclearance.
- Congress has not adopted a new coverage formula based on current conditions.



Florida Redistricting Requirements



Florida Redistricting Requirements

- Constitutional Standards for Establishing Congressional and Legislative District Boundaries
- Tier-One Standards
- Tier-Two Standards

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Tier-Two Standards

Constitutional Standards for Congressional and Legislative District Boundaries

- “The Legislature . . . shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory.”

Art. III, § 16(a), Fla. Const.

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

Minority Voting
Protection

Contiguity

Tier-Two Standards

Constitutional Standards for Establishing 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.”

Art. III, §§ 20, 21, Fla. Const.

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

- “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.”

Art. III, §§ 20(a), 21(a), Fla. Const.

- Tier One encompasses three requirements:
 - A prohibition against drawing a plan or district with the intent to favor or disfavor a political party or an incumbent;
 - A prohibition against drawing districts 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.
- In the event of a conflict with the requirements of Tier Two, the Tier One requirements have priority.
- The order in which the Tier One standards are set out in the Florida Constitution does not establish any priority among the standards within the tier.

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

**Intent to Favor or
Disfavor a Political
Party or an Incumbent**

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent”

- Unlike the federal constitution, the Florida Constitution expressly prohibits drawing a plan or district with the intent to favor or disfavor a political party or incumbent.
- Prohibition applies both to the apportionment plan as a whole and to each district individually.

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

**Intent to Favor or
Disfavor a Political
Party or an Incumbent**

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent”

- The Florida Supreme Court has held that Florida’s constitutional provision “prohibits intent, not effect” because “any redrawing of lines, regardless of intent, will inevitably have an *effect* on the political composition of a district and likely whether a political party or incumbent is advantaged or disadvantaged.”
- Nonetheless, “there is no acceptable level of improper intent” and “malevolent or evil purpose” is not required to constitute improper intent.

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

**Intent to Favor or
Disfavor a Political
Party or an Incumbent**

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent”

- The Florida Supreme Court examines “direct and circumstantial evidence of intent.”
- “Objective evidence” that could bear on intent includes the shape of district lines and the demographics of an area.
 - In 2012, the Florida Supreme Court reviewed voter registration and elections data, incumbents’ addresses, and demographics.
- Strict compliance with the express terms of the Tier Two redistricting standards may undercut or defeat an assertion of improper intent; disregard of the traditional redistricting principles set out in Tier Two can provide evidence of improper intent.

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

**Intent to Favor or
Disfavor a Political
Party or an Incumbent**

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent”

- Where the shape of a district is relation to the demographics “is so highly irregular and without justification that it cannot be rationally understood as anything other than an effort to favor or disfavor a political party,” improper intent may be inferred.

*In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)*

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

**Intent to Favor or
Disfavor a Political
Party or an Incumbent**

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent”

- The shape of a district in relation to the legal residence of an incumbent is relevant to the evaluation of intent to favor or disfavor the incumbent.
- “Maneuvering of district lines in order to avoid pitting incumbents against one another in new districts” or “drawing of a new district so as to retain a large percentage of the incumbent’s former district” may demonstrate an intent to favor an incumbent.

*In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)*

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

**Intent to Favor or
Disfavor a Political
Party or an Incumbent**

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent”

- “Mere access to political data cannot presumptively demonstrate prohibited intent” because it “is a necessary component of evaluating whether a minority group has the ability to elect representatives of choice.”

*In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)*

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

**Minority Voting
Protection**

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts 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 Florida Constitution imposes two requirements that serve to protect racial and language minority voters in Florida:
 - Prevention of impermissible vote dilution
 - Prevention of impermissible diminishment of a minority group’s ability to elect a candidate of its choice
- These two standards are essentially restatements of Sections 2 and 5 of the Voting Rights Act, respectively.
 - Section 2 relates to claims of impermissible vote dilution
 - Section 5 attempts to eradicate impermissible retrogression in a minority group’s ability to elect a candidate of choice.

*In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)*

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

**Minority Voting
Protection**

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts 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 Florida Supreme Court construes the Minority Voting Protection provisions of the Florida Constitution as consistent with the corresponding provisions of the Voting Rights Act, guided by prevailing United States Supreme Court precedent.

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

**Minority Voting
Protection**

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts 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 anti-vote dilution provisions of the Florida Constitution, like Section 2 of the Voting Rights Act, require the creation of a majority-minority district where the *Gingles* preconditions are satisfied and, if so, whether the “totality of the circumstances” demonstrates that minority voters’ political power is truly diluted.

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

**Minority Voting
Protection**

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts 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 anti-retrogression provisions of the Florida Constitution provide that the Legislature “cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.”
- In addition to majority-minority districts, “coalition” or “crossover” districts that previously provided minority groups with the ability to elect a preferred candidate under the benchmark plan must also be recognized.

*In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)*

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

**Minority Voting
Protection**

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts 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”

- A “functional analysis” is required to evaluate retrogression and to determine whether a district is likely to perform for minority candidates of choice.
 - Requires consideration of minority population in districts, minority voting-age population in districts, political data, how a minority population group has voted in the past.
 - No “predetermined or fixed demographic percentage” is used at any point in the assessment.
- In certain situations, compactness and other redistricting criteria will be compromised to avoid retrogression.
 - Under the Florida Constitution, Tier Two standards may give way to the extent necessary to avoid retrogression.

*In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)*

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

**Minority Voting
Protection**

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts 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”

- Although Section 5 of the Voting Rights Act applied to only five Florida counties, and is now unenforceable following the United States Supreme Court’s decision in *Shelby County v. Holder*, the Florida Constitution’s prohibition against retrogression in redistricting applies to the entire state and remains enforceable.

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Intent to Favor or
Disfavor a Political
Party or an Incumbent

Minority Voting
Protection

Contiguity

Tier-Two Standards

Tier-One Standards

“[D]istricts shall consist of contiguous territory”

- The Florida Supreme Court has defined contiguity as “being in actual contact: touching along a boundary or at a point.”
- “A district lacks contiguity ‘when a part is isolated from the rest by the territory of another district’ or when the lands ‘mutually touch only at a common corner or right angle.’ ”

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Tier-Two Standards

As Nearly Equal in
Population as Practicable

Compactness

Utilizing Existing Political
and Geographical
Boundaries, Where
Feasible

Tier-Two Standards

- “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.”

Art. III, §§ 20(b), 21(b), Fla. Const.

- Tier Two encompasses three requirements:
 - A requirement that districts be as nearly equal in population as is practicable;
 - A requirement that districts be compact; and
 - Where feasible, a requirement that districts use existing political and geographical boundaries.
- The Tier Two requirements are subordinate to both the Tier One requirements and the requirements of federal law, in the event of a conflict.
- As with Tier One, the order in which the Tier Two standards are set out in the Florida Constitution does not establish any priority among the standards within the tier.

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Tier-Two Standards

**As Nearly Equal in
Population as
Practicable**

Compactness

Utilizing Existing Political
and Geographical
Boundaries, Where
Feasible

Tier-Two Standards

“[D]istricts shall be as nearly
equal in population as is practicable”

- The Florida Supreme Court has rejected arguments that the “population equality” requirement imposes a stricter standard than prevailing federal precedent.
- “[S]trict and unbending adherence to the equal population requirement will yield to other redistricting considerations, but that those considerations must be based on the express constitutional standards.”
- Because obtaining equal population “if practicable” is an explicit and important constitutional mandate under the Florida Constitution, any deviation from that goal of mathematical precision must be based upon compliance with other constitutional standards.

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Tier-Two Standards

As Nearly Equal in
Population as Practicable

Compactness

Utilizing Existing Political
and Geographical
Boundaries, Where
Feasible

Tier-Two Standards

“[D]istricts shall be compact”

- The Florida Supreme Court has defined “compactness” as “geographical compactness.”
- A review of compactness begins by looking at the “shape of a district.”
 - A compact district “should not yield ‘bizarre designs.’”
- Quantitative geometrical measures of compactness have been used to assist courts in assessing compactness.
 - Reock Method (circle-dispersion method): measures the ratio between the area of a district and the area of the smallest circle that can fit around the district.
 - Convex Hull Methods: measures the ratio between the area of the district and the area of the minimum convex bounding polygon that can enclose the district.

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Tier-Two Standards

As Nearly Equal in
Population as Practicable

Compactness

Utilizing Existing Political
and Geographical
Boundaries, Where
Feasible

Tier-Two Standards

“[D]istricts shall be compact”

- Geographic and minority-protection factors also influence compactness of a district.
- The Florida Constitution “does not mandate . . . that districts within a redistricting plan achieve the highest mathematical compactness scores.”
- Non-compact and “bizarrely shaped districts” require close examination.
 - “Corridors” and “appendages”

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Florida Redistricting Requirements

Constitutional Standards

Tier-One Standards

Tier-Two Standards

As Nearly Equal in
Population as Practicable

Compactness

**Utilizing Existing
Political and
Geographical
Boundaries, Where
Feasible**

Tier-Two Standards

“[D]istricts shall, where feasible, utilize existing political and geographical boundaries”

- “Political boundaries” primarily encompasses county and municipal boundaries.
- “Geographical boundaries” include boundaries that are “easily ascertainable and commonly understood” such as “rivers, railways, interstates, and state roads.”
- Not every split of a political or geographical boundary violates the Florida Constitution; the constitutional language explicitly recognizes flexibility by providing for use of boundaries “where feasible.”

In re Senate Joint Resolution of Legislative Apportionment 1176,
83 So. 3d 597 (Fla. 2012)

Conclusion

Questions?



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

11 October 2021

Committee

Redistricting

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State

Zip

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

App. 0160

Boundary Analysis

Unlike other objective Tier Two criteria in the Florida Constitution, there is no widely accepted measurement for compliance with the requirement to “where feasible, utilize existing political and geographic boundaries.” Simply counting the cities or counties kept whole fails to account for the degree of usage of existing county or municipal boundaries. It also disregards the co-equal constitutional mandate to, where feasible, use “easily ascertainable and commonly understood”¹ geographic boundaries, “such as rivers, railways, interstates, and state roads.”²

During the 2012 Redistricting Cycle, professional staff of the Florida Senate developed a set of quantitative metrics that measured the coincidence of a district’s border with easily recognizable and identifiable boundaries, including political and geographic features. However, the calculation of these boundary metrics was not included as part of the interactive redistricting application.

For the 2022 Redistricting Cycle, the professional staff of the Florida House of Representatives and the Florida Senate have worked to refine the analysis and make it available to all users in the redistricting application. The refined Boundary Analysis independently measures the extent to which district boundaries overlap city boundaries, county boundaries, primary and secondary roads (interstates, U.S. highways, and State highways), railroads, and significant water bodies (contiguous area hydrography features greater than 10 acres) as defined by the U.S. Census Bureau’s TIGER/Line³ files. Districts’ coincidence with these existing political and geographic boundaries is independently calculated and presented along with the extent to which district boundaries do not follow any of the specified features.

To accomplish this, five feature layers were created from TIGER/Line edge files provided by the US Census Bureau⁴ for each type of political or geographic boundary using geoprocessing tools:

- County boundaries (MTFCC⁵ = G4020);
- Municipal boundaries (incorporated places) (MTFCC = G4110);

¹ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So. 3d 597, 638 (Fla. 2012)

² *Id.*

³ “TIGER/Line files” are Topologically Integrated Geographic Encoding and Referencing layers for use with GIS software.

⁴ Railroad TIGER geometry comes from the Census Bureau in a national file (tl2020_us_rails.zip), or in the county-level “edges” files. Other reference features are available on the state level. All TIGER geometry is available for download at <https://www.census.gov/cgi-bin/geo/shapefiles/index.php>.

⁵ “MTFCC” is a MAF/TIGER Feature Class Code. The Census Bureau’s definition of a county is “the primary division of a state.” The definition of an incorporated place is “a legal entity incorporated under state law to provide general-purpose governmental services to a concentration of population...usually is a city, borough, municipality, town, village...” See 2020 TIGER/Line Shapefiles Technical Documentation available at: <https://www.census.gov/programs-surveys/geography/technical-documentation/complete-technical-documentation/tiger-geo-line.2020.html>.

- Primary and secondary roads including Interstate highways, US highways, and state highways where RTTYP⁶ = I, U, or S (MTFCC = S1100⁷ and S1200⁸);
- Railroads (MFTCC – R1011); and
- Significant water bodies (Area Hydrography features combined to create single-part features, and then selected to include only those greater than 10 acres in area).

Each of the five feature layers was joined using the TLID⁹ field that uniquely identifies each line segment in the TIGER/Line files, and (isCounty, isCity, isRoad, isRail, isWater) fields were added to the edges layer. The fields were populated with “Y” or “N” for each qualifying edge.

When the Boundary Analysis tool in the redistricting application is run, the length of the district boundary coincidence for each type of political and geographic boundary is calculated based on the edge’s tag, divided by the total length of the perimeter of the district, and expressed as a percentage. Likewise, the length of district boundary coincidence for which all tags are “N” is calculated and then divided by the total length of the perimeter of the district and expressed as a percentage.

In this way, users are presented with a Boundary Analysis that shows the degree of utilization for each type of existing political or geographic boundary as specified by the Florida Constitution and interpreted by the Florida Supreme Court. To facilitate the utilization of existing political and geographic boundaries, each of the feature layers used in the computation of the Boundary Analysis is provided in the map-drawing application¹⁰. An example of the Boundary Analysis for the benchmark Congressional districts is provided below:

⁶ “RTTYP” is an MTFCC field code that describes the type of road. See <https://www.census.gov/library/reference/code-lists/route-type-codes.html>.

⁷ “S1100” is the MTFCC code for primary roads. Primary roads are limited-access highways that connect to other roads only at interchanges and not at at-grade intersections. This category includes Interstate highways as well as other highways with limited access (some of which are toll roads). See 2020 TIGER/Line Shapefiles Technical Documentation available at: <https://www.census.gov/programs-surveys/geography/technical-documentation/complete-technical-documentation/tiger-geo-line.2020.html>

⁸ “S1200” is the MTFCC code for secondary roads. Secondary roads are main arteries that are not limited access, usually in the U.S. highway, state highway, or county highway systems. These roads have one or more lanes of traffic in each direction, may or may not be divided, and usually have at-grade intersections with many other roads and driveways. Secondary roads often have both a local name and a route number. See 2020 TIGER/Line Shapefiles Technical Documentation available at: <https://www.census.gov/programs-surveys/geography/technical-documentation/complete-technical-documentation/tiger-geo-line.2020.html>. Note that country roads that are not also secondary roads are not included in the Boundary Analysis.

⁹ “TLID” means TIGER/Line Identifier. Each edge has a unique TLID value.

¹⁰ See pp. 15-16 of the

Boundary Analysis Report

FLCD2016						
DISTRICT	City	County	Road	Water	Rail	Non Geo/Pol
1	3%	94%	0%	60%	0%	6%
2	7%	75%	11%	48%	1%	10%
3	19%	75%	14%	25%	0%	7%
4	9%	58%	18%	51%	1%	15%
5	7%	59%	17%	10%	2%	16%
6	8%	82%	4%	62%	0%	4%
7	16%	65%	10%	51%	0%	19%
8	0%	89%	2%	41%	0%	10%
9	17%	49%	14%	5%	6%	17%
10	19%	70%	15%	21%	0%	11%
11	14%	66%	14%	40%	0%	12%
12	11%	77%	11%	36%	0%	9%
13	38%	74%	2%	89%	0%	4%
14	43%	38%	10%	32%	1%	28%
15	25%	28%	13%	17%	0%	24%
16	12%	61%	10%	56%	0%	6%
17	4%	69%	9%	28%	3%	9%
18	10%	65%	3%	45%	0%	20%
19	4%	66%	9%	60%	0%	15%
20	30%	35%	10%	11%	1%	33%
21	29%	24%	12%	30%	1%	37%
22	25%	28%	12%	32%	2%	32%
23	58%	15%	13%	29%	3%	17%
24	64%	13%	15%	29%	7%	19%
25	8%	70%	12%	22%	0%	7%
26	1%	88%	6%	87%	0%	1%
27	21%	26%	25%	61%	0%	8%

Compactness

While the U.S. Supreme Court said in *Shaw v. Reno*, “reapportionment is one area in which appearances do matter”, and numerous courts have made use of mathematical compactness measurements, they have resisted adopting a threshold for determining if a district is compact or not compact. Instead, courts consider compactness in the context of the geography being redistricted and commonly use a combination of the “eyeball” compactness scores to identify outliers.

The constitutional amendments adopted in Florida in 2010 state that districts “shall be compact.” In *Apportionment I*, the Florida Supreme Court interpreted this Tier Two criteria for the first time. The Court held that “...compactness is a standard that refers to the shape of the district. **The goal is to ensure that districts are logically drawn and that bizarrely shaped districts are avoided.** Compactness can be evaluated both visually and by employing standard mathematical measures (emphasis added).”

Florida has historically used three scores to gauge compactness mathematically, all of which fall within a range of 0-1, where a score closer to 1 indicates a more compact district:

- The **Convex Hull¹ (CH)** score, which tests for concavities or indentations in district boundaries, calculates the **ratio of the area of the district (A_D) to the area of the minimum convex polygon (A_{MCP}) that can enclose the district’s geometry.**

$$CH = \frac{A_D}{A_{MCP}}$$



¹ Source for formulas, descriptions, and images: <https://fisherzachary.github.io/public/r-output.html>.

- The **Polsby-Popper² (PP)** score, which test for jagged or squiggly district boundaries, calculates the **ratio of the area of the district (A_D) to the area of a circle whose circumference is equal to the perimeter of the district (P_D)**.

$$PP = 4\pi \times \frac{A_D}{P_D^2}$$



- The **Reock³ (R)** score, which indicates a district's similarity to a circle, calculates the **ratio of the area of the district (A_D) to the area of the smallest circle that can be drawn around the district (A_{MBC})**.












$$R = \frac{A_D}{A_{MBC}}$$



² *Id.*

³ *Id.*

For illustrative purposes, the table below displays some common shapes and their mathematical compactness scores.

Common Shapes and Mathematical Compactness				
Shapes		Compactness Measures		
		Reock	Convex Hull	Polsby-Popper
Circle		1.00	1.00	1.00
Coil		0.69	0.76	0.03
Crescent		0.53	0.75	0.60
Equilateral Triangle		0.41	1.00	0.60
Hexagon		0.77	1.00	0.90
Octagon		0.80	1.00	0.94
Pentagon		0.74	1.00	0.86
Rectangle		0.47	1.00	0.67
Right Triangle		0.32	1.00	0.54
Square		0.63	1.00	0.78
Star		0.48	0.67	0.45

Functional Analysis

The Florida Supreme Court has interpreted the Tier One constitutional provisions that relate to racial or language minorities' ability to participate in the political process or elect a candidate of their choice to mean that "the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group's ability to elect its preferred candidates...in addition to majority-minority districts, coalition or crossover districts that previously provided minority groups with the ability to elect a preferred candidate under the benchmark plan must also be recognized."¹

The Court went on to say, "that under Florida's provision, a slight change in percentage of the minority group's population in a given district does not necessarily have a cognizable effect on a minority group's ability to elect its preferred candidate of choice. This is because a minority group's ability to elect a candidate of choice depends upon more than just population figures."²

A "functional analysis," as it has been termed, is an inquiry into a racial or language minority group's ability to elect a candidate of choice that requires "consideration not only of the minority population in the districts, or even the minority voting-age population in those districts, but of political data and how a minority population group has voted in the past."³ The United States Department of Justice (DOJ) has defined what a functional analysis of electoral behavior entails:

"In determining whether the ability to elect exists in the benchmark plan and whether it continues in the proposed plan, the Attorney General does not rely on any predetermined or fixed demographic percentages at any point in the assessment. Rather, in the Department's view, this determination requires a functional analysis of the electoral behavior within the particular jurisdiction or election district. [C]ensus data alone may not provide sufficient indicia of electoral behavior to make the requisite determination. Circumstances, such as differing rates of electoral participation within discrete portions of a population, may impact on the ability of voters to elect candidates of choice, even if the overall demographic data show no significant change. Although comparison of the census population of districts in the benchmark and proposed plans is the important starting point...election 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."⁴

The DOJ Guidance cited refers to preclearance under Section 5 of the Voting Rights Act, which is no longer required after the U.S. Supreme Court's decision in *Shelby County v. Holder*. However, as *Apportionment I* states, "Florida's new constitutional provision, however, codified the non-retrogression principle of Section 5 and has now extended it statewide. In other words, Florida now has a statewide non-retrogression requirement independent of Section 5."⁵

¹ *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 625 (Fla. 2012)

² *Id.*

³ *Id.*

⁴ DOJ Guidance Notice, 76 Fed. Reg. at 7471.

⁵ *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 624 (Fla. 2012)

Accordingly, the Florida Legislature is making the following data points available in its map-drawing application within the Reports function so that all users can conduct a functional analysis:

Category	Election Type	Election Year	Field Name	Description
Voter Registration	General	2020	GE20RV_Tot	2020 General Election Registered Voters TOTAL
			GE20RV_Dem	2020 General Election Registered Voters that are Democrat
			GE20RV_Rep	2020 General Election Registered Voters that are Republican
			GE20RV_NPAoth	2020 General Election Registered Voters that are NPA or Other
			GE20RV_Black	2020 General Election Registered Voters that are Black
			GE20RV_Hispanic	2020 General Election Registered Voters that are Hispanic
			GE20RV_Dem_Black	2020 General Election Registered Voters Democrats that are Black
			GE20RV_Dem_Hispanic	2020 General Election Registered Voters Democrat that are Hispanic
			GE20RV_Rep_Black	2020 General Election Registered Voters Republicans that are Black
			GE20RV_Rep_Hispanic	2020 General Election Registered Voters Republican that are Hispanic
			GE20RV_NPAOth_Black	2020 General Election Registered Voters NPA or Other that are Black
			GE20RV_NPAOth_Hispanic	2020 General Election Registered Voters NPA or Other that are Hispanic
			GE20RV_Black_Dem	2020 General Election Registered Voters Black that are Democrat
			GE20RV_Black_Rep	2020 General Election Registered Voters Black that are Republican
			GE20RV_Black_NPAOth	2020 General Election Registered Voters Black that are NPA or Other
			GE20RV_Hispanic_Dem	2020 General Election Registered Voters Hispanic that are Democrat
			GE20RV_Hispanic_Rep	2020 General Election Registered Voters Hispanic that are Republican
			GE20RV_Hispanic_NPAOth	2020 General Election Registered Voters Hispanic that are NPA or Other
Voter Registration	General	2018	GE18RV_Tot	2018 General Election Registered Voters TOTAL
			GE18RV_Dem	2018 General Election Registered Voters that are Democrat
			GE18RV_Rep	2018 General Election Registered Voters that are Republican
			GE18RV_NPAoth	2018 General Election Registered Voters that are NPA or Other
			GE18RV_Black	2018 General Election Registered Voters that are Black
			GE18RV_Hispanic	2018 General Election Registered Voters that are Hispanic
			GE18RV_Dem_Black	2018 General Election Registered Voters Democrats that are Black
			GE18RV_Dem_Hispanic	2018 General Election Registered Voters Democrat that are Hispanic
			GE18RV_Rep_Black	2018 General Election Registered Voters Republicans that are Black
			GE18RV_Rep_Hispanic	2018 General Election Registered Voters Republican that are Hispanic
			GE18RV_NPAOth_Black	2018 General Election Registered Voters NPA or Other that are Black
			GE18RV_NPAOth_Hispanic	2018 General Election Registered Voters NPA or Other that are Hispanic
			GE18RV_Black_Dem	2018 General Election Registered Voters Black that are Democrat
			GE18RV_Black_Rep	2018 General Election Registered Voters Black that are Republican
			GE18RV_Black_NPAOth	2018 General Election Registered Voters Black that are NPA or Other
			GE18RV_Hispanic_Dem	2018 General Election Registered Voters Hispanic that are Democrat
			GE18RV_Hispanic_Rep	2018 General Election Registered Voters Hispanic that are Republican
			GE18RV_Hispanic_NPAOth	2018 General Election Registered Voters Hispanic that are NPA or Other

Category	Election Type	Election Year	Field Name	Description
Voter Registration	General	2016	GE16RV_Tot	2016 General Election Registered Voters TOTAL
			GE16RV_Dem	2016 General Election Registered Voters that are Democrat
			GE16RV_Rep	2016 General Election Registered Voters that are Republican
			GE16RV_NPAoth	2016 General Election Registered Voters that are NPA or Other
			GE16RV_Black	2016 General Election Registered Voters that are Black
			GE16RV_Hispanic	2016 General Election Registered Voters that are Hispanic
			GE16RV_Dem_Black	2016 General Election Registered Voters Democrats that are Black
			GE16RV_Dem_Hispanic	2016 General Election Registered Voters Democrat that are Hispanic
			GE16RV_Rep_Black	2016 General Election Registered Voters Republicans that are Black
			GE16RV_Rep_Hispanic	2016 General Election Registered Voters Republican that are Hispanic
			GE16RV_NPAOth_Black	2016 General Election Registered Voters NPA or Other that are Black
			GE16RV_NPAOth_Hispanic	2016 General Election Registered Voters NPA or Other that are Hispanic
			GE16RV_Black_Dem	2016 General Election Registered Voters Black that are Democrat
			GE16RV_Black_Rep	2016 General Election Registered Voters Black that are Republican
			GE16RV_Black_NPAOth	2016 General Election Registered Voters Black that are NPA or Other
			GE16RV_Hispanic_Dem	2016 General Election Registered Voters Hispanic that are Democrat
			GE16RV_Hispanic_Rep	2016 General Election Registered Voters Hispanic that are Republican
			GE16RV_Hispanic_NPAOth	2016 General Election Registered Voters Hispanic that are NPA or Other
Voter Registration	General	2014	GE14RV_Tot	2014 General Election Registered Voters TOTAL
			GE14RV_Dem	2014 General Election Registered Voters that are Democrat
			GE14RV_Rep	2014 General Election Registered Voters that are Republican
			GE14RV_NPAoth	2014 General Election Registered Voters that are NPA or Other
			GE14RV_Black	2014 General Election Registered Voters that are Black
			GE14RV_Hispanic	2014 General Election Registered Voters that are Hispanic
			GE14RV_Dem_Black	2014 General Election Registered Voters Democrats that are Black
			GE14RV_Dem_Hispanic	2014 General Election Registered Voters Democrat that are Hispanic
			GE14RV_Rep_Black	2014 General Election Registered Voters Republicans that are Black
			GE14RV_Rep_Hispanic	2014 General Election Registered Voters Republican that are Hispanic
			GE14RV_NPAOth_Black	2014 General Election Registered Voters NPA or Other that are Black
			GE14RV_NPAOth_Hispanic	2014 General Election Registered Voters NPA or Other that are Hispanic
			GE14RV_Black_Dem	2014 General Election Registered Voters Black that are Democrat
			GE14RV_Black_Rep	2014 General Election Registered Voters Black that are Republican
			GE14RV_Black_NPAOth	2014 General Election Registered Voters Black that are NPA or Other
			GE14RV_Hispanic_Dem	2014 General Election Registered Voters Hispanic that are Democrat
			GE14RV_Hispanic_Rep	2014 General Election Registered Voters Hispanic that are Republican
			GE14RV_Hispanic_NPAOth	2014 General Election Registered Voters Hispanic that are NPA or Other
Voter Registration	General	2012	GE12RV_Tot	2012 General Election Registered Voters TOTAL
			GE12RV_Dem	2012 General Election Registered Voters that are Democrat
			GE12RV_Rep	2012 General Election Registered Voters that are Republican
			GE12RV_NPAoth	2012 General Election Registered Voters that are NPA or Other
			GE12RV_Black	2012 General Election Registered Voters that are Black
			GE12RV_Hispanic	2012 General Election Registered Voters that are Hispanic
			GE12RV_Dem_Black	2012 General Election Registered Voters Democrats that are Black
			GE12RV_Dem_Hispanic	2012 General Election Registered Voters Democrat that are Hispanic
			GE12RV_Rep_Black	2012 General Election Registered Voters Republicans that are Black
			GE12RV_Rep_Hispanic	2012 General Election Registered Voters Republican that are Hispanic
			GE12RV_NPAOth_Black	2012 General Election Registered Voters NPA or Other that are Black
			GE12RV_NPAOth_Hispanic	2012 General Election Registered Voters NPA or Other that are Hispanic
			GE12RV_Black_Dem	2012 General Election Registered Voters Black that are Democrat
			GE12RV_Black_Rep	2012 General Election Registered Voters Black that are Republican
			GE12RV_Black_NPAOth	2012 General Election Registered Voters Black that are NPA or Other
			GE12RV_Hispanic_Dem	2012 General Election Registered Voters Hispanic that are Democrat
			GE12RV_Hispanic_Rep	2012 General Election Registered Voters Hispanic that are Republican
			GE12RV_Hispanic_NPAOth	2012 General Election Registered Voters Hispanic that are NPA or Other

Category	Election Type	Election Year	Field Name	Description
Voter Turnout	General	2020	GE20VT_Tot	2020 General Election Voter Turnout TOTAL
			GE20VT_Dem	2020 General Election Voter Turnout that are Democrat
			GE20VT_Rep	2020 General Election Voter Turnout that are Republican
			GE20VT_NPAoth	2020 General Election Voter Turnout that are NPA or Other
			GE20VT_Black	2020 General Election Voter Turnout that are Black
			GE20VT_Hispanic	2020 General Election Voter Turnout that are Hispanic
			GE20VT_Dem_Black	2020 General Election Voter Turnout Democrats that are Black
			GE20VT_Dem_Hispanic	2020 General Election Voter Turnout Democrat that are Hispanic
			GE20VT_Rep_Black	2020 General Election Voter Turnout Republicans that are Black
			GE20VT_Rep_Hispanic	2020 General Election Voter Turnout Republican that are Hispanic
			GE20VT_NPAOth_Black	2020 General Election Voter Turnout NPA or Other that are Black
			GE20VT_NPAOth_Hispanic	2020 General Election Voter Turnout NPA or Other that are Hispanic
			GE20VT_Black_Dem	2020 General Election Voter Turnout Black that are Democrat
			GE20VT_Black_Rep	2020 General Election Voter Turnout Black that are Republican
			GE20VT_Black_NPAOth	2020 General Election Voter Turnout Black that are NPA or Other
Voter Turnout	Primary	2020	PE20VT_Tot	2020 Primary Election Voter Turnout TOTAL
			PE20VT_Dem	2020 Primary Election Voter Turnout that are Democrat
			PE20VT_Rep	2020 Primary Election Voter Turnout that are Republican
			PE20VT_Black	2020 Primary Election Voter Turnout that are Black
			PE20VT_Hispanic	2020 Primary Election Voter Turnout that are Hispanic
			PE20VT_Dem_Black	2020 Primary Election Voter Turnout Democrats that are Black
			PE20VT_Dem_Hispanic	2020 Primary Election Voter Turnout Democrat that are Hispanic
			PE20VT_Rep_Black	2020 Primary Election Voter Turnout Republicans that are Black
			PE20VT_Rep_Hispanic	2020 Primary Election Voter Turnout Republican that are Hispanic
			PE20VT_Black_Dem	2020 Primary Election Voter Turnout Black that are Democrat
			PE20VT_Black_Rep	2020 Primary Election Voter Turnout Black that are Republican
			PE20VT_Hispanic_Dem	2020 Primary Election Voter Turnout Hispanic that are Democrat
Voter Turnout	General	2018	GE18VT_Tot	2018 General Election Voter Turnout TOTAL
			GE18VT_Dem	2018 General Election Voter Turnout that are Democrat
			GE18VT_Rep	2018 General Election Voter Turnout that are Republican
			GE18VT_NPAoth	2018 General Election Voter Turnout that are NPA or Other
			GE18VT_Black	2018 General Election Voter Turnout that are Black
			GE18VT_Hispanic	2018 General Election Voter Turnout that are Hispanic
			GE18VT_Dem_Black	2018 General Election Voter Turnout Democrats that are Black
			GE18VT_Dem_Hispanic	2018 General Election Voter Turnout Democrat that are Hispanic
			GE18VT_Rep_Black	2018 General Election Voter Turnout Republicans that are Black
			GE18VT_Rep_Hispanic	2018 General Election Voter Turnout Republican that are Hispanic
			GE18VT_NPAOth_Black	2018 General Election Voter Turnout NPA or Other that are Black
			GE18VT_NPAOth_Hispanic	2018 General Election Voter Turnout NPA or Other that are Hispanic
			GE18VT_Black_Dem	2018 General Election Voter Turnout Black that are Democrat
			GE18VT_Black_Rep	2018 General Election Voter Turnout Black that are Republican
			GE18VT_Black_NPAOth	2018 General Election Voter Turnout Black that are NPA or Other
			GE18VT_Hispanic_Dem	2018 General Election Voter Turnout Hispanic that are Democrat
			GE18VT_Hispanic_Rep	2018 General Election Voter Turnout Hispanic that are Republican
			GE18VT_Hispanic_NPAOth	2018 General Election Voter Turnout Hispanic that are NPA or Other

Category	Election Type	Election Year	Field Name	Description
Voter Turnout	Primary	2018	PE18VT_Tot	2018 Primary Election Voter Turnout TOTAL
			PE18VT_Dem	2018 Primary Election Voter Turnout that are Democrat
			PE18VT_Rep	2018 Primary Election Voter Turnout that are Republican
			PE18VT_Black	2018 Primary Election Voter Turnout that are Black
			PE18VT_Hispanic	2018 Primary Election Voter Turnout that are Hispanic
			PE18VT_Dem_Black	2018 Primary Election Voter Turnout Democrats that are Black
			PE18VT_Dem_Hispanic	2018 Primary Election Voter Turnout Democrat that are Hispanic
			PE18VT_Rep_Black	2018 Primary Election Voter Turnout Republicans that are Black
			PE18VT_Rep_Hispanic	2018 Primary Election Voter Turnout Republican that are Hispanic
			PE18VT_Black_Dem	2018 Primary Election Voter Turnout Black that are Democrat
			PE18VT_Black_Rep	2018 Primary Election Voter Turnout Black that are Republican
			PE18VT_Hispanic_Dem	2018 Primary Election Voter Turnout Hispanic that are Democrat
			PE18VT_Hispanic_Rep	2018 Primary Election Voter Turnout Hispanic that are Republican
Voter Turnout	General	2020	GE16VT_Tot	2016 General Election Voter Turnout TOTAL
			GE16VT_Dem	2016 General Election Voter Turnout that are Democrat
			GE16VT_Rep	2016 General Election Voter Turnout that are Republican
			GE16VT_NPAOth	2016 General Election Voter Turnout that are NPA or Other
			GE16VT_Black	2016 General Election Voter Turnout that are Black
			GE16VT_Hispanic	2016 General Election Voter Turnout that are Hispanic
			GE16VT_Dem_Black	2016 General Election Voter Turnout Democrats that are Black
			GE16VT_Dem_Hispanic	2016 General Election Voter Turnout Democrat that are Hispanic
			GE16VT_Rep_Black	2016 General Election Voter Turnout Republicans that are Black
			GE16VT_Rep_Hispanic	2016 General Election Voter Turnout Republican that are Hispanic
			GE16VT_NPAOth_Black	2016 General Election Voter Turnout NPA or Other that are Black
			GE16VT_NPAOth_Hispanic	2016 General Election Voter Turnout NPA or Other that are Hispanic
			GE16VT_Black_Dem	2016 General Election Voter Turnout Black that are Democrat
			GE16VT_Black_Rep	2016 General Election Voter Turnout Black that are Republican
			GE16VT_Black_NPAOth	2016 General Election Voter Turnout Black that are NPA or Other
Voter Turnout	Primary	2016	PE16VT_Tot	2016 Primary Election Voter Turnout TOTAL
			PE16VT_Dem	2016 Primary Election Voter Turnout that are Democrat
			PE16VT_Rep	2016 Primary Election Voter Turnout that are Republican
			PE16VT_Black	2016 Primary Election Voter Turnout that are Black
			PE16VT_Hispanic	2016 Primary Election Voter Turnout that are Hispanic
			PE16VT_Dem_Black	2016 Primary Election Voter Turnout Democrats that are Black
			PE16VT_Dem_Hispanic	2016 Primary Election Voter Turnout Democrat that are Hispanic
			PE16VT_Rep_Black	2016 Primary Election Voter Turnout Republicans that are Black
			PE16VT_Rep_Hispanic	2016 Primary Election Voter Turnout Republican that are Hispanic
			PE16VT_Black_Dem	2016 Primary Election Voter Turnout Black that are Democrat
Voter Turnout	General	2014	GE14VT_Tot	2014 General Election Voter Turnout TOTAL
			GE14VT_Dem	2014 General Election Voter Turnout that are Democrat
			GE14VT_Rep	2014 General Election Voter Turnout that are Republican
			GE14VT_NPAOth	2014 General Election Voter Turnout that are NPA or Other
			GE14VT_Black	2014 General Election Voter Turnout that are Black
			GE14VT_Hispanic	2014 General Election Voter Turnout that are Hispanic
			GE14VT_Dem_Black	2014 General Election Voter Turnout Democrats that are Black
			GE14VT_Dem_Hispanic	2014 General Election Voter Turnout Democrat that are Hispanic
			GE14VT_Rep_Black	2014 General Election Voter Turnout Republicans that are Black
			GE14VT_Rep_Hispanic	2014 General Election Voter Turnout Republican that are Hispanic
			GE14VT_NPAOth_Black	2014 General Election Voter Turnout NPA or Other that are Black
			GE14VT_NPAOth_Hispanic	2014 General Election Voter Turnout NPA or Other that are Hispanic
			GE14VT_Black_Dem	2014 General Election Voter Turnout Black that are Democrat
			GE14VT_Black_Rep	2014 General Election Voter Turnout Black that are Republican
			GE14VT_Black_NPAOth	2014 General Election Voter Turnout Black that are NPA or Other
			GE14VT_Hispanic_Dem	2014 General Election Voter Turnout Hispanic that are Democrat
			GE14VT_Hispanic_Rep	2014 General Election Voter Turnout Hispanic that are Republican
			GE14VT_Hispanic_NPAOth	2014 General Election Voter Turnout Hispanic that are NPA or Other

Category	Election Type	Election Year	Field Name	Description
Voter Turnout	Primary	2014	PE14VT_Tot	2014 Primary Election Voter Turnout TOTAL
			PE14VT_Dem	2014 Primary Election Voter Turnout that are Democrat
			PE14VT_Rep	2014 Primary Election Voter Turnout that are Republican
			PE14VT_Black	2014 Primary Election Voter Turnout that are Black
			PE14VT_Hispanic	2014 Primary Election Voter Turnout that are Hispanic
			PE14VT_Dem_Black	2014 Primary Election Voter Turnout Democrats that are Black
			PE14VT_Dem_Hispanic	2014 Primary Election Voter Turnout Democrat that are Hispanic
			PE14VT_Rep_Black	2014 Primary Election Voter Turnout Republicans that are Black
			PE14VT_Rep_Hispanic	2014 Primary Election Voter Turnout Republican that are Hispanic
			PE14VT_Black_Dem	2014 Primary Election Voter Turnout Black that are Democrat
			PE14VT_Black_Rep	2014 Primary Election Voter Turnout Black that are Republican
			PE14VT_Hispanic_Dem	2014 Primary Election Voter Turnout Hispanic that are Democrat
			PE14VT_Hispanic_Rep	2014 Primary Election Voter Turnout Hispanic that are Republican
Voter Turnout	General	2012	GE12VT_Tot	2012 General Election Voter Turnout TOTAL
			GE12VT_Dem	2012 General Election Voter Turnout that are Democrat
			GE12VT_Rep	2012 General Election Voter Turnout that are Republican
			GE12VT_NPAOth	2012 General Election Voter Turnout that are NPA or Other
			GE12VT_Black	2012 General Election Voter Turnout that are Black
			GE12VT_Hispanic	2012 General Election Voter Turnout that are Hispanic
			GE12VT_Dem_Black	2012 General Election Voter Turnout Democrats that are Black
			GE12VT_Dem_Hispanic	2012 General Election Voter Turnout Democrat that are Hispanic
			GE12VT_Rep_Black	2012 General Election Voter Turnout Republicans that are Black
			GE12VT_Rep_Hispanic	2012 General Election Voter Turnout Republican that are Hispanic
			GE12VT_NPAOth_Black	2012 General Election Voter Turnout NPA or Other that are Black
			GE12VT_NPAOth_Hispanic	2012 General Election Voter Turnout NPA or Other that are Hispanic
			GE12VT_Black_Dem	2012 General Election Voter Turnout Black that are Democrat
			GE12VT_Black_Rep	2012 General Election Voter Turnout Black that are Republican
			GE12VT_Black_NPAOth	2012 General Election Voter Turnout Black that are NPA or Other
			GE12VT_Hispanic_Dem	2012 General Election Voter Turnout Hispanic that are Democrat
			GE12VT_Hispanic_Rep	2012 General Election Voter Turnout Hispanic that are Republican
			GE12VT_Hispanic_NPAOth	2012 General Election Voter Turnout Hispanic that are NPA or Other
Voter Turnout	Primary	2012	PE12VT_Tot	2012 Primary Election Voter Turnout TOTAL
			PE12VT_Dem	2012 Primary Election Voter Turnout that are Democrat
			PE12VT_Rep	2012 Primary Election Voter Turnout that are Republican
			PE12VT_Black	2012 Primary Election Voter Turnout that are Black
			PE12VT_Hispanic	2012 Primary Election Voter Turnout that are Hispanic
			PE12VT_Dem_Black	2012 Primary Election Voter Turnout Democrats that are Black
			PE12VT_Dem_Hispanic	2012 Primary Election Voter Turnout Democrat that are Hispanic
			PE12VT_Rep_Black	2012 Primary Election Voter Turnout Republicans that are Black
			PE12VT_Rep_Hispanic	2012 Primary Election Voter Turnout Republican that are Hispanic
			PE12VT_Black_Dem	2012 Primary Election Voter Turnout Black that are Democrat
			PE12VT_Black_Rep	2012 Primary Election Voter Turnout Black that are Republican
			PE12VT_Hispanic_Dem	2012 Primary Election Voter Turnout Hispanic that are Democrat
			PE12VT_Hispanic_Rep	2012 Primary Election Voter Turnout Hispanic that are Republican

Category	Election Type	Election Year	Field Name	Description
Election Results	General	2020	G20PRE_TOTAL	2020 General Election Votes for President TOTAL
			G20PRE_D_Biden	2020 General Election Votes for Democrat President Joe Biden
			G20PRE_R_Trump	2020 General Election Votes for Republican President Donald Trump
Election Results	General	2018	G18GOV_TOTAL	2018 General Election Votes for Governor TOTAL
			G18GOV_R_DeSantis	2018 General Election Votes for Republican Governor Ron DeSantis
			G18GOV_D_Gillum	2018 General Election Votes for Democrat Governor Andrew Gillum
			G18ATG_TOTAL	2018 General Election Votes for Attorney General TOTAL
			G18ATG_R_Moody	2018 General Election Votes for Republican Attorney General Ashley Moody
			G18ATG_D_Shaw	2018 General Election Votes for Democrat Attorney General Sean Shaw
			G18CFO_TOTAL	2018 General Election Votes for Attorney Chief Financial Officer TOTAL
			G18CFO_R_Patronis	2018 General Election Votes for Republican Chief Financial Officer Jimmy Patronis
			G18CFO_D_Ring	2018 General Election Votes for Democrat Chief Financial Officer Jeremy Ring
			G18AGR_TOTAL	2018 General Election Votes for Commissioner of Agriculture TOTAL
			G18AGR_R_Caldwell	2018 General Election Votes for Republican Commissioner of Agriculture Matt Caldwell
			G18AGR_D_Fried	2018 General Election Votes for Democrat Commissioner of Agriculture Nicole "Nikki" Fried
			G18USS_TOTAL	2018 General Election Votes for U.S. Senator TOTAL
			G18USS_R_Scott	2018 General Election Votes for Republican U.S. Senator Rick Scott
			G18USS_D_Nelson	2018 General Election Votes for Democrat U.S. Senator Bill Nelson
Election Results	Primary	2018	P18GOV_R_TOTAL	2018 Primary Election Votes for Republican Governor TOTAL
			P18GOV_R_Baldauf	2018 Primary Election Votes for Republican Governor Don Baldauf
			P18GOV_R_DeSantis	2018 Primary Election Votes for Republican Governor Ron DeSantis
			P18GOV_R_Devine	2018 Primary Election Votes for Republican Governor Timothy M. Devine
			P18GOV_R_Langford	2018 Primary Election Votes for Republican Governor Bob Langford
			P18GOV_R_Mercadante	2018 Primary Election Votes for Republican Governor John Joseph Mercadante
			P18GOV_R_Nathan	2018 Primary Election Votes for Republican Governor Bruce Nathan
			P18GOV_R_Putnam	2018 Primary Election Votes for Republican Governor Adam H. Putnam
			P18GOV_R_White	2018 Primary Election Votes for Republican Governor Bob White
			P18GOV_D_TOTAL	2018 Primary Election Votes for Democrat Governor TOTAL
			P18GOV_D_Gillum	2018 Primary Election Votes for Democrat Governor Andrew Gillum
			P18GOV_D_Graham	2018 Primary Election Votes for Democrat Governor Gwen Graham
			P18GOV_D_Greene	2018 Primary Election Votes for Democrat Governor Jeff Greene
			P18GOV_D_King	2018 Primary Election Votes for Democrat Governor Chris King
			P18GOV_D_Levine	2018 Primary Election Votes for Democrat Governor Philip Levine
			P18GOV_D_Lundmark	2018 Primary Election Votes for Democrat Governor Alex "Lundy" Lundmark
			P18GOV_D_Wetherbee	2018 Primary Election Votes for Democrat Governor John Wetherbee
			P18ATG_R_TOTAL	2018 Primary Election Votes for Republican Attorney General TOTAL
			P18ATG_R_Moody	2018 Primary Election Votes for Republican Attorney General Ashley Moody
			P18ATG_R_White	2018 Primary Election Votes for Republican Attorney General Frank White
			P18ATG_D_TOTAL	2018 Primary Election Votes for Democrat Attorney General TOTAL
			P18ATG_D_Torrens	2018 Primary Election Votes for Democrat Attorney General Ryan Torrens
			P18ATG_D_Shaw	2018 Primary Election Votes for Democrat Attorney General Sean Shaw
			P18AGR_R_TOTAL	2018 Primary Election Votes for Republican Commissioner of Agriculture TOTAL
			P18AGR_R_Caldwell	2018 Primary Election Votes for Republican Commissioner of Agriculture Matt Caldwell
			P18AGR_R_Grimsley	2018 Primary Election Votes for Republican Commissioner of Agriculture Denise Grimsley
			P18AGR_R_McCalister	2018 Primary Election Votes for Republican Commissioner of Agriculture Mike McCalister
			P18AGR_R_Troutman	2018 Primary Election Votes for Republican Commissioner of Agriculture Baxter Troutman
			P18AGR_D_TOTAL	2018 Primary Election Votes for Democrat Commissioner of Agriculture TOTAL
			P18AGR_D_Fried	2018 Primary Election Votes for Democrat Commissioner of Agriculture Nicole "Nikki" Fried
			P18AGR_D_Porter	2018 Primary Election Votes for Democrat Commissioner of Agriculture Jeffrey Duane Porter
			P18AGR_D_Walker	2018 Primary Election Votes for Democrat Commissioner of Agriculture Roy David Walker
			P18USS_R_TOTAL	2018 Primary Election Votes for Republican U.S. Senator TOTAL
			P18USS_R_DeLaFuente	2018 Primary Election Votes for Republican U.S. Senator Roque "Rocky" De La Fuente
			P18USS_R_Scott	2018 Primary Election Votes for Republican U.S. Senator Rick Scott
Election Results	General	2016	G16PRE_TOTAL	2016 General Election Votes for President TOTAL
			G16PRE_R_Trump	2016 General Election Votes for Republican President Donald Trump
			G16PRE_D_Clinton	2016 General Election Votes for Democrat President Hillary Clinton
			G16USS_TOTAL	2016 General Election Votes for U.S. Senator TOTAL
			G16USS_R_Rubio	2016 General Election Votes for Republican U.S. Senator Marco Rubio
			G16USS_D_Murphy	2016 General Election Votes for Democrat U.S. Senator Patrick Murphy

Category	Election Type	Election Year	Field Name	Description
Election Results	Primary	2016	P16USS_R_TOTAL	2016 Primary Election Votes for Republican U.S. Senator TOTAL
			P16USS_R_Beruff	2016 Primary Election Votes for Republican U.S. Senator Carlos Beruff
			P16USS_R_Rivera	2016 Primary Election Votes for Republican U.S. Senator Ernie Rivera
			P16USS_R_Rubio	2016 Primary Election Votes for Republican U.S. Senator Marco Rubio
			P16USS_R_Young	2016 Primary Election Votes for Republican U.S. Senator Dwight Mark Anthony Young
			P16USS_D_TOTAL	2016 Primary Election Votes for Democrat U.S. Senator TOTAL
			P16USS_D_DeLaFuentes	2016 Primary Election Votes for Democrat U.S. Senator Roque "Rocky" De La Fuente
			P16USS_D_Grayson	2016 Primary Election Votes for Democrat U.S. Senator Alan Grayson
			P16USS_D_Keith	2016 Primary Election Votes for Democrat U.S. Senator Pam Keith
			P16USS_D_Luster	2016 Primary Election Votes for Democrat U.S. Senator Reginald Luster
			P16USS_D_Murphy	2016 Primary Election Votes for Democrat U.S. Senator Patrick Murphy
Election Results	General	2014	G14GOV_TOTAL	2014 General Election Votes for Governor TOTAL
			G14GOV_R_Scott	2014 General Election Votes for Republican Governor Rick Scott
			G14GOV_D_Crist	2014 General Election Votes for Democrat Governor Charlie Crist
			G14ATG_TOTAL	2014 General Election Votes for Attorney General TOTAL
			G14ATG_R_Bondi	2014 General Election Votes for Republican Attorney General Pam Bondi
			G14ATG_D_Sheldon	2014 General Election Votes for Democrat Attorney General George Sheldon
			G14CFO_TOTAL	2014 General Election Votes for Chief Financial Officer TOTAL
			G14CFO_R_Atwater	2014 General Election Votes for Republican Chief Financial Officer Jeff Atwater
			G14CFO_D_Rankin	2014 General Election Votes for Democrat Chief Financial Officer William "Will" Rankin
			G14AGR_TOTAL	2014 General Election Votes for Commissioner of Agriculture TOTAL
			G14AGR_R_Putnam	2014 General Election Votes for Republican Commissioner of Agriculture Adam H. Putnam
			G14AGR_D_Hamilton	2014 General Election Votes for Democrat Commissioner of Agriculture Thaddeus "Thad" Hamilton
Election Results	Primary	2014	P14GOV_R_TOTAL	2014 Primary Election Votes for Republican Governor TOTAL
			P14GOV_R_Adeshina	2014 Primary Election Votes for Republican Governor Yinka A. Adeshina
			P14GOV_R_CuevasNeunder	2014 Primary Election Votes for Republican Governor E Cuevas-Neunder
			P14GOV_R_Scott	2014 Primary Election Votes for Republican Governor Rick Scott
			P14GOV_D_TOTAL	2014 Primary Election Votes for Democrat Governor TOTAL
			P14GOV_D_Crist	2014 Primary Election Votes for Democrat Governor Charlie Crist
			P14GOV_D_Rich	2014 Primary Election Votes for Democrat Governor Nan H. Rich
			P14ATG_D_TOTAL	2014 Primary Election Votes for Democrat Attorney General TOTAL
			P14ATG_D_Sheldon	2014 Primary Election Votes for Democrat Attorney General George Sheldon
			P14ATG_D_Thurston	2014 Primary Election Votes for Democrat Attorney General Perry E. Thurston
Election Results	General	2012	G12PRE_TOTAL	2012 General Election Votes for President TOTAL
			G12PRE_R_Romney	2012 General Election Votes for Republican President Mitt Romney
			G12PRE_D_Obama	2012 General Election Votes for Democrat President Barack Obama
			G12USS_TOTAL	2012 General Election Votes for U.S. Senator TOTAL
			G12USS_R_Mack	2012 General Election Votes for Republican U.S. Senator Connie Mack
			G12USS_D_Nelson	2012 General Election Votes for Democrat U.S. Senator Bill Nelson
Election Results	Primary	2012	P12USS_R_TOTAL	2012 Primary Election Votes for Republican U.S. Senator TOTAL
			P12USS_R_Mack	2012 Primary Election Votes for Republican U.S. Senator Connie Mack
			P12USS_R_McCalister	2012 Primary Election Votes for Republican U.S. Senator Mike McCalister
			P12USS_R_Stuart	2012 Primary Election Votes for Republican U.S. Senator Marielena Stuart
			P12USS_R_Weldon	2012 Primary Election Votes for Republican U.S. Senator Dave Weldon
			P12USS_D_TOTAL	2012 Primary Election Votes for Democrat U.S. Senator TOTAL
			P12USS_D_Burkett	2012 Primary Election Votes for Democrat U.S. Senator Glenn A. Burkett
			P12USS_D_Nelson	2012 Primary Election Votes for Democrat U.S. Senator Bill Nelson

Municipal Boundaries

The boundaries of Florida's municipalities are not static. Between January 1, 2010 and December 31, 2019, two hundred cities annexed or deannexed parcels, changing their boundaries 3,552 times¹.

Additionally, while Florida Statutes² permit municipalities to annex contiguous and compact unincorporated territory, many of Florida's cities are not contiguous, neither visually nor mathematically compact, and contain holes or enclaves³.

The table below provides the average number of parts, average area, average compactness scores, and the average number of holes in Florida's municipalities. A review of it suggests that as cities increase in both geographical and population size they tend to be less compact and have more discontinuous parts and enclaves.

Averages for Florida's 412 Cities by 2020 Population and Total							
Population Range	Number of Parts	Area (sq. mi.)	Perimeter (mi.)	Convex Hull	Reock Ratio	Polsby-Popper	Holes
<1,000	1.3	3.3	10.1	0.76	0.39	0.40	0.2
1,001-5,000	1.9	8.2	21.9	0.73	0.38	0.33	1.9
5,001-10,000	2.0	11.5	34.6	0.69	0.33	0.26	2.9
10,001-25,000	3.8	15.2	46.6	0.68	0.35	0.21	8.5
25,001-50,000	5.9	21.7	64.3	0.65	0.37	0.16	13.0
50,001-100,000	4.2	40.4	69.4	0.72	0.39	0.21	15.3
> 100,000	3.4	135.4	102.5	0.69	0.36	0.21	11.2
All Cities	2.8	19.8	38.2	0.71	0.37	0.28	5.6

The additional tables below list:

- Cities that have changed their boundaries between the 2010 and 2020 deadlines for states to submit geographical boundary changes to the Census Bureau for inclusion in the decennial census;
- Cities that are not contiguous; and
- Cities with holes or enclaves.

¹ Boundary change data obtained from the U.S. Census Bureau: <https://www.census.gov/geographies/reference-files/time-series/geo/bas/annex.html>. As noted, The U.S. Census Bureau makes no claims to the completeness of the annexation data in the boundary change files. The data in these files were collected through programs in which state, county, and local governments **voluntarily** participated.

² Section 171.0413(1), F.S. 2021

³ Compactness scores, parts, and holes based on 2020 U.S. Census TIGER geometry for the places layer available at: <https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.2020.html>.

Discontiguous Cities in Florida (136)							
City	Parts	City	Parts	City	Parts	City	Parts
Alachua	3	Gainesville	4	North Port	3	Temple Terrace	4
Altha	2	Greenacres	2	Oak Hill	13	Titusville	8
Apopka	3	Gretna	2	Oakland	2	Umatilla	4
Astatula	2	Groveland	7	Ocoee	4	Webster	7
Auburndale	9	Haines City	2	Oldsmar	13	Weeki Wachee	2
Avon Park	15	Hollywood	2	Orange City	3	Welaka	2
Bartow	2	Horseshoe Beach	3	Orlando	11	West Melbourne	2
Belle Glade	4	Indiantown	2	Ormond Beach	8	West Park	2
Bonita Springs	6	Inverness	2	Palatka	11	Westville	2
Bradenton	4	Jasper	4	Palm Bay	3	Wildwood	4
Bunnell	6	Jupiter	2	Palm Beach	2	Winter Garden	10
Bushnell	12	Kenneth City	8	Palm Beach Gardens	2	Winter Haven	4
Callaway	6	Key West	2	Palm Coast	2	Winter Park	2
Casselberry	2	Lady Lake	45	Palm Shores	3	Worthington Springs	3
Cedar Key	9	Lake Alfred	2	Panama City	37	Zephyrhills	11
Chiefland	3	Lake City	2	Panama City Beach	3	Zolfo Springs	4
Clearwater	22	Lake Helen	4	Parkland	2		
Clermont	3	Lake Placid	4	Pembroke Pines	3		
Cocoa Beach	2	Lake Wales	2	Pierson	3		
Cottdale	2	Largo	75	Pinellas Park	13		
Crystal River	2	Lee	2	Polk City	6		
Dade City	10	Leesburg	27	Ponce de Leon	2		
Dania Beach	6	Longwood	4	Port Richey	7		
Davenport	2	Lynn Haven	6	Punta Gorda	3		
Davie	4	Macclenny	2	Quincy	3		
Daytona Beach	2	Madison	4	Rockledge	4		
Daytona Beach Shores	2	Marathon	10	Safety Harbor	4		
DeLand	7	Medley	3	San Antonio	2		
Dunedin	3	Melbourne	4	Sanford	5		
Eatonville	2	Melbourne Beach	2	Sarasota	3		
Edgewater	11	Midway	3	Sebastian	2		
Edgewood	2	Minneola	5	Sebring	2		
Fellsmere	2	Montverde	2	Seminole	12		
Fort Lauderdale	7	Mulberry	11	South Miami	12		
Fort Pierce	17	New Port Richey	2	Southwest Ranches	4		
Fort Walton Beach	4	New Smyrna Beach	82	St. Cloud	3		
Fort White	2	Newberry	4	St. Petersburg	5		
Freeport	4	Niceville	15	Tallahassee	2		
Frostproof	6	North Miami	2	Tarpon Springs	3		
Fruitland Park	2	North Miami Beach	2	Tavares	5		

Florida Cities with Holes or Endaves (170)									
City	Holes	City	Holes	City	Holes	City	Holes	City	Holes
Alachua	25	Delray Beach	4	Lake City	10	Palm Shores	3	Wauchula	2
Altamonte Springs	18	Deltona	2	Lake Helen	3	Palmetto	11	Welaka	1
Apopka	89	Destin	5	Lake Placid	6	Panama City	23	West Melbourne	17
Arcadia	1	Dundee	5	Lake Wales	19	Panama City Beach	8	Wildwood	23
Archer	1	Dunedin	30	Lakeland	4	Parkland	1	Wilton Manors	1
Astatula	2	Eagle Lake	4	Largo	59	Pensacola	1	Winter Garden	53
Auburndale	28	Eatonville	1	Lee	1	Pierson	13	Winter Haven	37
Avon Park	1	Edgewater	24	Leesburg	26	Pinellas Park	131	Winter Park	7
Bartow	14	Estero	5	Longwood	7	Polk City	7	Winter Springs	9
Belle Glade	6	Eustis	34	Lynn Haven	18	Port Orange	15	Zephyrhills	33
Bellevue	2	Fanning Springs	2	Macclenny	1	Port Richey	4		
Bonifay	5	Fellsmere	8	Marianna	5	Port St. Joe	1		
Boynton Beach	3	Fernandina Beach	1	Melbourne	28	Port St. Lucie	15		
Bradenton	11	Fort Meade	4	Mexico Beach	1	Punta Gorda	5		
Brooksville	13	Fort Myers	5	Miami Beach	13	Riviera Beach	1		
Bunnell	58	Fort Pierce	98	Midway	5	Rockledge	9		
Bushnell	29	Fort Walton Beach	4	Minneola	8	Royal Palm Beach	1		
Callaway	7	Freeport	7	Monticello	6	Safety Harbor	48		
Cape Coral	15	Frostproof	2	Mount Dora	31	Sanford	81		
Carrabelle	6	Fruitland Park	8	New Port Richey	5	Sarasota	1		
Casselberry	8	Gainesville	1	New Smyrna Beach	35	Sebastian	3		
Cedar Key	4	Grand Ridge	1	Newberry	47	Sebring	4		
Clearwater	156	Green Cove Springs	2	Niceville	23	Seminole	12		
Clermont	17	Greenacres	2	North Miami	2	South Miami	2		
Cocoa	3	Groveland	31	North Miami Beach	2	Springfield	15		
Cocoa Beach	1	Haines City	15	North Port	1	St. Augustine	3		
Coconut Creek	7	Havana	1	Oak Hill	8	St. Augustine Beach	1		
Cooper City	4	Hialeah	1	Oakland	6	St. Cloud	14		
Coral Springs	1	High Springs	13	Oakland Park	2	St. Lucie Village	1		
Cottondale	3	Hollywood	3	Ocala	25	St. Petersburg	2		
Crestview	17	Jacksonville	1	Ocoee	36	Stuart	1		
Crystal River	2	Jasper	1	Oldsmar	9	Sunrise	3		
Dade City	7	Jupiter	8	Orange City	4	Tallahassee	1		
Dania Beach	1	Kenneth City	1	Orlando	42	Tarpon Springs	15		
Davenport	8	Keystone Heights	1	Ormond Beach	19	Tavares	21		
Daytona Beach	34	Kissimmee	2	Oviedo	10	Temple Terrace	4		
Daytona Beach Shores	3	LaBelle	3	Palatka	24	Titusville	30		
DeBary	1	Lady Lake	40	Palm Bay	4	Umatilla	5		
DeFuniak Springs	1	Lake Alfred	15	Palm Beach Gardens	5	Venice	13		
DeLand	18	Lake Buena Vista	1	Palm Coast	6	Waldo	1		

CourtSmart Tag Report

Room: KB 412
Caption:

Case No.: -
Judge:

Type:

Started: 10/11/2021 3:00:34 PM

Ends: 10/11/2021 5:33:27 PM

Length: 02:32:54

3:00:33 PM Meeting called to order; roll call
3:00:41 PM Quorum present
3:01:08 PM Chair Rodrigues makes announcements; annouces Sen. Bean is excused
3:03:28 PM Sen. Gibson asks a question
3:06:07 PM Chair Rodrigues responds
3:07:07 PM Sen. Stewart asks a question.
3:07:34 PM Chair Rodrigues responds
3:07:40 PM Sen. Rouson asks a question
3:09:06 PM Chair Rodrigues responds
3:10:36 PM Sen. Rouson asks a follow-up
3:10:45 PM Chair Rodrigues repsonds
3:11:52 PM Sen. Rouson asks a follow-up question
3:13:10 PM Chair Rodrigues responds
3:13:16 PM Tab 1: Walkthrough of FloridaRedistricting.gov by Jay Ferrin, Staff Director
3:36:09 PM Sen. Gibson asks a question
3:36:24 PM Jay Ferrin, Staff Director responds
3:37:59 PM Sen. Gibson asks a follow-up question
3:38:29 PM Jay Ferrin, Staff Director responds
3:39:40 PM Sen. Gibson asks a follow-up question
3:40:59 PM Jay Ferrin, Staff Director responds
3:44:12 PM Sen. Gibson asks a question
3:44:54 PM Jay Ferrin, Staff Director responds
3:45:46 PM Tab 2: Introduction to Redistricting Law presented by Daniel Nordby, Shutts & Bowen LLP
4:08:04 PM Sen. Bracy asks a question
4:08:15 PM Daniel Nordby, Shutts & Bowen LLP responds
4:17:00 PM Sen. Rouson asks a question
4:17:22 PM Daniel Nordby, Shutts & Bowen LLP responds
4:31:32 PM Sen. Bracy asks a question
4:32:09 PM Daniel Nordby, Shutts & Bowen LLP responds
4:33:50 PM Sen. Stewart asks a question
4:33:58 PM Daniel Nordby, Shutts & Bowen LLP responds
4:35:16 PM Sen. Bracy asks a question
4:35:26 PM Daniel Nordby, Shutts & Bowen LLP responds
4:36:11 PM Tab 3: 2022 Redistricting Application Demonstration presented by Jay Ferrin, Staff Director
5:07:34 PM Sen. Bracy asks a question
5:08:46 PM Chair Rodrigues responds
5:09:23 PM Sen. Bracy asks a follow-up question
5:09:40 PM Chair Rodrigues responds
5:11:31 PM Sen. Bracy asks a follow-up question
5:11:44 PM Chair Rodrigues responds
5:12:35 PM Sen. Gibson asks a question
5:16:31 PM Jay Ferrin, Staff Director responds
5:18:00 PM Sen. Gibson asks a follow-up question
5:18:17 PM Jay Ferrin, Staff Director responds
5:18:57 PM Sen. Gibson asks a follow-up question
5:19:38 PM Chair Rodrigues responds
5:21:17 PM Sen. Rouson asks a question
5:21:35 PM Chair Rodrigues responds
5:22:32 PM Tab 4: Public Comment
5:22:49 PM Cecile Scoon, President of League of Women Voters gives public comment
5:30:46 PM Chair Rodrigues gives closing remarks
5:33:02 PM Vice Chair Broxson moves to adjourn

5:33:16 PM Meeting Adjourned



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR AARON BEAN

President Pro Tempore
4th District

COMMITTEES:
Appropriations Subcommittee on Health and
Human Services, *Chair*
Appropriations, *Vice Chair*
Environment and Natural Resources
Health Policy
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission

October 10, 2021

Senator Ray Wesley Rodrigues
Chair, Reapportionment
305 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Rodrigues:

Please excuse my absence from your Reapportionment Committee scheduled on Monday, October 11, 2021. Unfortunately, due to a previously scheduled event I am unable to attend.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Aaron Bean".

Aaron Bean
Florida State Senator | District 4

/da

REPLY TO:

- ☐ Duval Station, 13453 North Main Street, Suite 301, Jacksonville, Florida 32218 (904) 757-5039 FAX: (888) 263-1578
- ☐ 404 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

App. 0181

Exhibit E

A blue-tinted photograph of the Florida House of Representatives chamber. The room features a semi-circular arrangement of desks and chairs for members. On the left wall, a row of framed portraits of past speakers is visible. The text "Florida House of Representatives Redistricting Committee" is overlaid in white.

Florida House of Representatives Redistricting Committee

Chair Thomas J. Leek
November 2, 2021



Agenda

1. Federal Redistricting Law
2. Florida Redistricting Law





Federal Redistricting Law

Voting Rights Act

The Voting Rights Act was signed into law in 1965 to enforce the Fifteenth Amendment, which provides:

“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

Voting Rights Act

Section 2

Section 2 of the Voting Rights Act (VRA) prohibits a State from imposing any voting qualification or prerequisite to voting or standard, practice, or procedure in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color or membership in a language minority group.



Voting Rights Act

Section 2

Thornburg v. Gingles, 478 U.S. 30 (1986)

A State must create a minority opportunity district if:

- (1) a minority population is sufficiently large and geographically compact to constitute a majority in a single-member district;
- (2) the minority population is politically cohesive;
- (3) the majority votes sufficiently as a bloc to enable it usually to defeat the minority population's preferred candidate; and

based on the totality of circumstances, members of the minority group have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.



Voting Rights Act

Section 5

Section 5 of the VRA prohibited changes to election laws that caused “retrogression” in the position of racial minorities.

- Section 5 applied only to select jurisdictions. In Florida, it applied to Collier, Hardee, Hendry, Hillsborough, and Monroe Counties.
- Section 5 required States to obtain federal “preclearance” of all changes to election laws enforced in covered jurisdictions.

In ***Shelby County v. Holder, 570 U.S. 529 (2013)***, the U.S. Supreme Court determined that the VRA’s selection of jurisdictions for coverage no longer reflected current conditions and was therefore constitutionally unenforceable.



U.S. Supreme Court Ruling

Racial Gerrymandering

Miller v. Johnson, 515 U.S. 900 (1995)

- Race may not be “the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.”
- Race *may* be the predominant factor in limited circumstances, when justified by a compelling state interest, such as the need to comply with the Voting Rights Act.

U.S. Supreme Court Ruling

Partisan Gerrymandering

Rucho v. Common Cause, 139 S. Ct. 2484 (2019)

- “[P]artisan gerrymandering claims present political questions beyond the reach of the federal courts,” and are therefore non-justiciable in federal court.
- “Deciding among just these different visions of fairness . . . poses basic questions that are political, not legal. There are no legal standards discernible in the Constitution for making such judgments, let alone limited and precise standards that are clear, manageable, and politically neutral.”



A blue-tinted photograph of the Florida State Capitol building, featuring a prominent central dome and classical columns. The image serves as a background for the title text.

Florida Redistricting Law

Florida Constitution

Article III, Section 16

- Directs the Legislature at its Regular Session in the second year after each decennial census (2022) to redraw state legislative boundaries
- 30-40 senatorial districts
- 80-120 representative districts
- Districts shall be contiguous and consecutively numbered
- Provides directives and timelines for establishing new districts



Florida Constitution

Article III, Sections 20 & 21

Tier 1 Standards

No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent

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

Districts shall consist of contiguous territory

Tier 2 Standards

Districts shall be as nearly equal in population as is practicable

Districts shall be compact

Districts shall, where feasible, utilize existing political and geographical boundaries

Constitutional Standards

Apportionment Ruling

Tier 1 Standard

No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party...

In re Senate Joint Resolution of Apportionment 1176, 83 So. 3d 597 (2012):

"Florida's constitutional provision prohibits intent, not effect..."

"[T]here is no acceptable level of improper intent."

"We also reject the suggestion that once the political results of the plan are known, the Legislature must alter the plan to bring it more in balance with the composition of voters statewide."

"The Florida Constitution does not require the affirmative creation of a fair plan, but rather a neutral one in which no improper intent was involved."

Constitutional Standards

Apportionment Ruling

Tier 1 Standard

No apportionment plan or individual district shall be drawn with the intent to favor or disfavor...an incumbent

In re Senate Joint Resolution of Apportionment 1176, 83 So. 3d 597 (2012):

"[T]he inquiry for intent to favor or disfavor an incumbent focuses on the shape of the district in relation to the incumbent's legal residence, as well as other objective evidence of intent," such as "the maneuvering of district lines in order to avoid pitting incumbents against one another in new districts or the drawing of a new district so as to retain a large percentage of the incumbent's former district."



Constitutional Standards

Apportionment Ruling

Tier 1 Standard

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

In re Senate Joint Resolution of Apportionment 1176, 83 So. 3d 597 (2012):

This provision “is essentially a restatement of Section 2 of the [VRA], which prohibits redistricting plans that afford minorities ‘less opportunity’ than other members of the electorate to participate in the political process.”

Constitutional Standards

Apportionment Ruling

Tier 1 Standard

Districts shall not be drawn...
to diminish [the] ability [of
racial or language minorities]
to elect representatives of
their choice

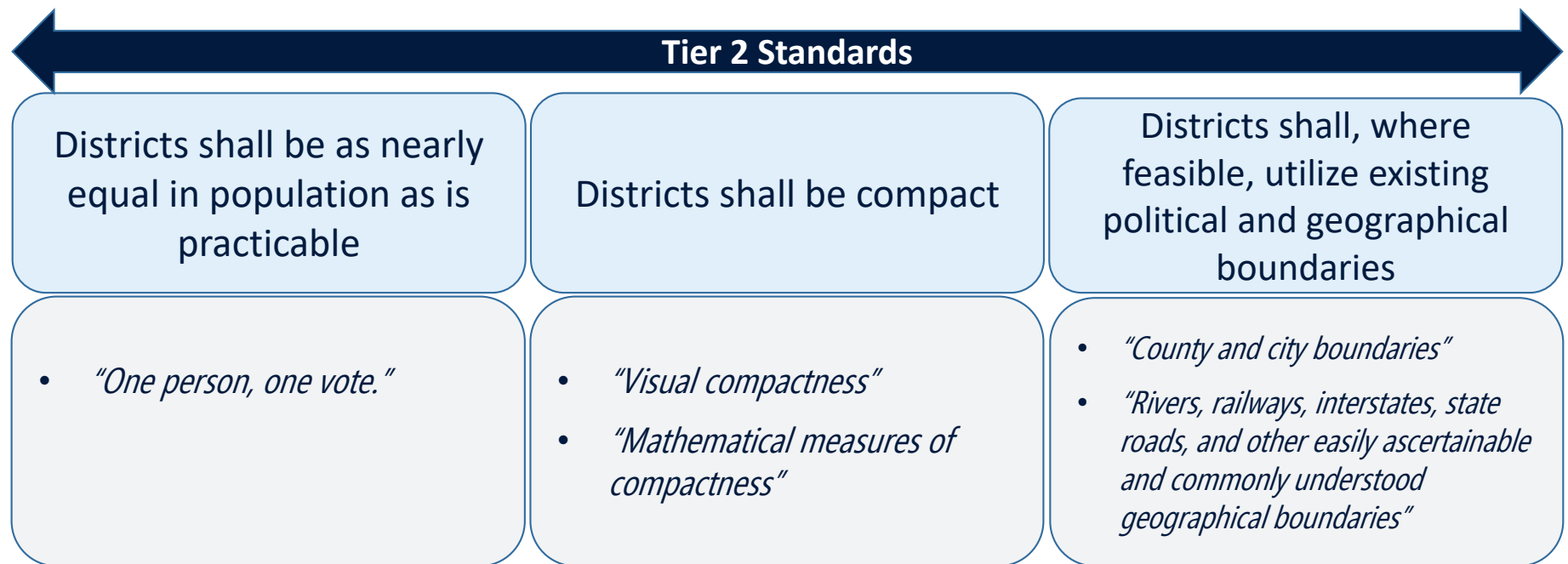
In re Senate Joint Resolution of Apportionment 1176, 83 So. 3d 597 (2012):

"[T]he Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group's ability to elect its preferred candidates."

"[D]etermining whether the ability to elect exists in the benchmark plan and whether it continues in the proposed plan . . . requires a functional analysis of the electoral behavior within the particular jurisdiction or election district."

Constitutional Standards

Apportionment Ruling





Redistricting Committee

Rep. Thomas J. Leek, Chair
Redistricting Committee Staff
850-717-5234

RedistrictingCommittee@myfloridahouse.gov
www.FloridaRedistricting.gov