



**MEMORANDUM**

**TO:** Senator Ray Rodrigues  
Chair, Committee on Reapportionment  
**FROM:** Daniel E. Nordby  
**DATE:** April 14, 2022  
**RE:** Initial Review of Proposed Congressional Map

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At your request, I have conducted an initial review of the proposed congressional map submitted for the Legislature's consideration by J. Alex Kelly on behalf of the Office of the Governor on April 13, 2022 (P000C0109). Based upon that review, I note that the new proposed congressional map differs substantially from the two previous congressional maps submitted by the Governor's Office (P000C0079 and P000C0094). The changes reflected in the new proposal more closely align its configuration with the Legislature's prior work product throughout many regions of the state.

Specifically, the congressional districts in Southeast Florida in the new proposal now appear to be generally consistent with the configuration initially passed by the Florida Senate in January and with the configuration ultimately passed by the Legislature in CS/SB 102. The congressional districts surrounding Orlando in Central Florida are now generally aligned consistent with the approach taken by the Florida House of Representatives in its Congressional Redistricting Subcommittee. The Gulf Coast congressional districts in the new proposal (from Citrus to Charlotte Counties) have been re-aligned from any prior iteration in a manner that appears to focus on the increasing the number of counties kept

whole, region-wide improvements in visual compactness, and improved use of political and geographical boundaries as compared to CS/SB 102 and the Governor's prior submissions. The Western Panhandle districts in the new proposal are identical to the configuration passed in CS/SB 102.

The Northeast Florida congressional districts in the Governor's proposal are divided by the St. Johns River. Consistent with the Governor's veto message, these districts have been drawn on the basis of a different legal premise than the Legislature's prior maps regarding an unresolved issue of law: whether the Florida Constitution's non-diminishment standard can be constitutionally applied, consistent with the Fourteenth Amendment, under the unique geographic and demographic circumstances present in Florida's current court-imposed Congressional District 5. The Governor presented this question in a request for an advisory opinion from the Florida Supreme Court, but neither that Court—nor any other court—has rendered an opinion on this specific legal issue. Intervening judicial precedent from the United States Supreme Court following the 2022 Regular Session has, however, emphasized the narrow circumstances under which the Fourteenth Amendment permits the “race-based sorting of voters.” See, e.g., *Wisconsin Legislature, et al. v. Wisconsin Elections Comm’n, et al.*, 142 S.Ct. 1245 (2022) (applying strict scrutiny and invalidating Wisconsin State Assembly and Senate maps as inconsistent with the Equal Protection Clause).

The Governor's veto letter provides citation to valid legal precedents in support of his arguments regarding the constitutional standards that should govern the drawing of congressional districts in Northeast Florida. In the absence of controlling judicial precedent contrary to the Governor's position on the precise question presented, the alternative approach to these districts reflected in proposed congressional map P000C0109 is worthy of careful consideration by the Florida Senate as it evaluates congressional redistricting legislation in the upcoming Special Session.