

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 1

Common Cause, et al.)
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v.) 4:22-cv-109
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Cord Byrd)

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TRANSCRIPTION OF AUDIO FILE
101121 Senate Committee on Reapportionment
The Florida Channel
October 11, 2021

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646



10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 2

1 (Beginning of Video Recording.)

2 CHAIR RODRIGUES: The Committee on
3 Reapportionment will now come to the order.
4 Dana, please call the roll.

5 DANA: Chair Rodrigues?

6 CHAIR RODRIGUES: Here.

7 DANA: Vice Chair Broxson? Senator
8 Bean? Senator Bracy? Senator Bradley?

9 SENATOR BRADLEY: Here.

10 DANA: Senator Burgess?

11 SENATOR BURGESS: Here.

12 DANA: Senator Gibson? Senator
13 Harrell?

14 SENATOR HARRELL: Here.

15 DANA: Senator Rodriguez?

16 SENATOR RODRIGUEZ: Here.

17 DANA: Senator Rouson?

18 SENATOR ROUSON: Here.

19 DANA: Senator Stargel? Senator
20 Stewart?

21 SENATOR STEWART: Here.

22 DANA: Quorum is present, Mr. Chair.

23 CHAIR RODRIGUES: Thank you, let the
24 records reflect that Senator Bean is excused
25 from today's meeting. Before we begin, please

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 3

1 silence all of your electronic devices. Next,
2 COVID-19 precautions are in place where
3 applicable. And the third thing to check off,
4 here anyone wishing to testify before the
5 Committee must fill out an appearance card,
6 and hand it to a member of the Sergeant's
7 Office. Should you select waive your speaking
8 time, your position will be read into the
9 record.

10 Before we get into the agenda, there
11 are a few things to update committee members
12 on. Since our last meeting on September 20th,
13 the House and the Senate have launched the
14 joint website, www.floridaredistricting.gov.
15 It went live on September 22nd. That same
16 day, we also launched our redistricting
17 application.

18 Since then, members of the public have
19 been able to draw and submit maps using the
20 same application and data used by the
21 legislature, all they have to do is to
22 register for a free account. All senators
23 also have access to the map drawing
24 application. Each of you has received
25 credentials and instructions for logging in.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 4

1 If any senator has questions on how to access
2 their account, they should contact our
3 committee staff.

4 In the time between our meetings, our
5 staff has been working with their counterparts
6 in the House to provide enhancements to the
7 map drawing application. On Friday, October
8 the 8thm voter registration, voter turnout,
9 and election result data was added. Users can
10 now access that data, and use it to conduct
11 the functional analysis needed to ensure that
12 the proposed districts are not diminishing the
13 ability of racial or minority candidates to
14 participate in the political process, and to
15 elect candidates of their choice.

16 Additionally, we have been working with
17 our partners in the House to document -- to
18 have documents, excuse me, that are posted on
19 the joint website translated. Our staff will
20 be able to use a translator to communicate and
21 provide support to any foreign language
22 speakers. Finally, several publicly submitted
23 maps have been received and made available on
24 Floridaredistricting.gov.

25 We have also implemented a new comment

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 5

1 tool. It will allow users to submit their
2 comments directly through the website. Staff
3 director Mr. Ferrin will walk us through the
4 website, and show us how to access these
5 submissions and these comments for our own
6 independent review. If a member of the
7 committee would like staff to consider
8 incorporating concepts from a submission or
9 comment, they should bring that request to the
10 attention of the committee at our next
11 meeting.

12 I suggest that prior to doing so, a
13 member reach out to the author of the plan to
14 discuss methodology and intent. So today, in
15 addition to a review of the website, Mr.
16 Ferrin will also be demonstrating the map
17 making application for us. We will also hear
18 from counsel on the legal environment and
19 redistricting related case law, that will
20 guide us through this process. Do we have any
21 questions? Senator Gibson, you're recognized.

22 SENATOR GIBSON: Thank you. Thank you,
23 Mr. Chair. Just as we start, just because
24 I've heard from constituents in in my district
25 and across the state, actually, in terms of a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 6

1 burden on the public to access information, or
2 go through the multiple steps that we have.
3 So -- for revelation I would call it. So just
4 for as we get started, in terms of registering
5 for the website, and visiting the website or
6 drawing your own maps, or saving your own maps
7 for this -- is for the public, are people --
8 do people remain anonymous? Is there any
9 capturing of who they are? How does that part
10 work?

11 And maybe we can talk about it as we
12 proceed, but I think it's important that the
13 public understands that we're not trying to
14 overburden them, but we're trying to give them
15 the opportunity to be included in the process,
16 I think. But I think some do have a question
17 about anonymity. So, thank you.

18 CHAIR RODRIGUES: Senator Gibson, what
19 I have been briefed on is, anyone can access
20 the website. So, they can create a username
21 and submit a web address, and then create any
22 username or web address they want. So, if
23 they want to access the website, that could be
24 done anonymously. However, if they wish to
25 submit a plan, it is required that they put

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 7

1 their name on the plan. And if you will
2 recall in our first meeting, we went over why
3 we're doing that this time around, to
4 eliminate any option or opportunity for a
5 shadow operation to submit maps, like the
6 court found happened in the last round of
7 redistricting.

8 So, they can go into the application
9 anonymously, but if they choose to submit a
10 map that they want to be considered, a name
11 will have to be on that map in order for a
12 senator to speak to somebody if they're going
13 to consider sponsoring it. Senator Stewart?

14 SENATOR STEWART: Thank you, Chair.
15 The only comment in -- that I have been
16 receiving in e-mail, I'm sure many of you have
17 as well, is at the beginning the public was
18 having difficulty submitting comments. But it
19 sounds to me in your explanation that that's
20 been fixed. So, I should be getting less and
21 less emails. Thank you.

22 CHAIR RODRIGUES: And I would agree
23 with that, Senator Stewart. In the beginning,
24 we were having issues with the received
25 comments, but we believe that that's been

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 8

1 corrected. Any other questions or comments?

2 SENATOR ROUSON: Chair?

3 CHAIR RODRIGUES: Senator, you're
4 recognized.

5 SENATOR ROUSON: Thank you very much.
6 And along your comments, both at the first
7 meeting and today about transparency, there
8 have been some questions raised about hiding
9 things from the public.

10 Specifically, the contract with Florida
11 State University to create a database of the
12 election, and then specifically exempting this
13 data from open records requests. Can you
14 comment on that? Like why is it exempted from
15 a public records request if it's in the
16 contract?

17 CHAIR RODRIGUES: Senator, let me begin
18 with -- and I'm glad you have raised the
19 question -- there was an allegation that the
20 contract had been hidden from the public. I'm
21 going start by -- and (inaudible) us having
22 some discussion here. The contract was
23 originally posted to the web when it was
24 executed, which would have been last year.
25 The original contract expired in October.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 9

1 At the expiration, that came down from
2 the web, and we have since executed a new
3 contract, which has been put up on the web.
4 So, I would reject that we have been hiding
5 the contract, when it's been publicly
6 available for anyone to see it, except for the
7 period of time where it was expired and then
8 we executed another one.

9 So for at least from December of last
10 year through October 1st of this year, that
11 contract was publicly available. So I
12 dismissed the concern that we have been hiding
13 that contract. Could you tell me your second
14 concern again, please?

15 SENATOR ROUSON: Well, my concern was
16 not that the contract was being hidden, it was
17 that the contract calls for the creation of a
18 database of election results, and then exempts
19 this data from public records requests.

20 CHAIR RODRIGUES: Okay. So, let's
21 start with the database, because I think we
22 need to have explained exactly what it is
23 we're getting. We executed a contract with
24 Florida State University, we received from the
25 US Census Bureau the data in census blocks,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 10

1 which is the lowest denominator that the data
2 is segregated in, or aggregated in. We get
3 from our supervisors of elections what their
4 precincts are.

5 We have the Florida State University
6 Center take the data that we have gotten from
7 the census, which is census block, and the
8 data that we have gotten from the Supervisors
9 Of Elections, which is precinct data, and tied
10 those out. Because without that, we don't
11 have any way to associate the census block
12 with the existing precinct.

13 Then when we have that data tied out,
14 it gets tied to the data we get from the
15 Division Of Elections which are the actual
16 election results by precinct, which we then
17 need to use for the functional analysis when
18 that's performed later.

19 So, this is something that's been done
20 in the previous redistricting cycles, not just
21 the last one, but the one before that. And if
22 I'm not mistaken, the one before that as well.
23 That's why we had that contract and why we
24 have done that.

25 SENATOR ROUSON: Thank you for that

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 11

1 explanation, may I follow it up with another
2 question?

3 CHAIR RODRIGUES: Yes.

4 SENATOR ROUSON: The E-S-R-I contract
5 for geocoding services, it calls for geocoding
6 services, but the allegation is that geocoding
7 services is not necessary for any
8 redistricting purpose. Are you familiar with
9 that area of the contract?

10 CHAIR RODRIGUES: Yes. And let me
11 begin by saying, I find that that portion of
12 the op-ed that was put out was inaccurate and
13 it was misleading. The geocoding service is
14 not available within the mapping application,
15 therefore it cannot be used to identify
16 incumbent legislator's addresses while drawing
17 maps.

18 There is a geocoding function, because
19 we have an interactive website and part of the
20 interactive website will be to allow the
21 public to put in their address as they've done
22 maps to see where they fall. You have to have
23 geocoding in order to have that service
24 available, but we do not have geocoding in our
25 mapping software anywhere, anyplace.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 12

1 SENATOR ROUSON: Thank you.

2 CHAIR RODRIGUES: Any other questions?

3 Okay, let's proceed to the agenda. Let's pick
4 up tab one, walkthrough of
5 Floridaredistricting.gov. Mr. Ferrin.

6 MR. FERRIN: Thank you, Mr. Chairman.
7 I wanted to take some time today, since this
8 was not live for our last committee meeting,
9 and walk through the Board Of Legislatures
10 Joint Redistricting website.

11 I hope the members of the committee
12 have had an opportunity to visit this in the
13 meantime, but if not we will go through it
14 today, so you can see everything that's on
15 there, and talk about the way we continue to
16 make improvements to the site as we progress
17 through this process.

18 So what you see in front of you on the
19 screen is the -- and I apologize, there isn't
20 a slideshow or anything for this, the website
21 is interactive, so the interaction doesn't
22 translate well to paper. But the -- so what
23 we see on the screen here is the home page for
24 the website here, and we have some information
25 about the redistricting process in general,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 13

1 mentioning that we provide through this
2 website free public access to the same data
3 and map drawing application used by the
4 legislature.

5 And on the home page here, we have this
6 interactive map that talks about the over-
7 under populations. So, at our last meeting we
8 did have these in the slides, we have got them
9 up on the website now. And so through using
10 this, you can go into any one of these maps,
11 we have the House map, the Senate map,
12 Congressional map, counties and cities.

13 And you can zoom around the map and see
14 which districts are overpopulated, under --
15 and underpopulated. And the color coding here
16 is detailed in the legend, which shows that
17 the redder or pinker districts are
18 underpopulated and will need to grow in order
19 to have the equal population as required under
20 the Florida Constitution when we redraw the
21 maps.

22 So, you can also click on these
23 districts and get some additional information
24 about the demographics within that district,
25 and this map is tied particularly to the total

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 14

1 population. So, we have the ideal population
2 for Congressional District listed, the total
3 population of the district as it is in 2020
4 numbers, and then the deviation, which is the
5 difference between the ideal and the actual
6 2020 Census population.

7 And then we express that here as a
8 percentage as well, so you can see in this
9 particular case Congressional District 3 is
10 3000 -- roughly 3000 people underpopulated,
11 which translates to less than 4 percent -- or
12 .04 percent. So, we have got this available,
13 it's a pretty nifty tool for visualizing how
14 the population demographics and population
15 growth has been uneven throughout the state.

16 We also provide it at the county level.
17 Counties obviously don't have an ideal
18 population, so we base that off of the 2010 to
19 2020 change. And so you can visualize on this
20 page which counties have potentially actually
21 lost population, so the counties that are
22 shaded darker shades of blue will have grown
23 exponentially, whereas the counties that are
24 in the pink or the red will have shrunk
25 upwards of 10 to 15 percent. There's very few

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 15

1 counties that have lost population, but
2 nonetheless that's true.

3 And as you can probably imagine in the
4 Panhandle here that some of that may be
5 related to some of the storms that we have had
6 in that area, and people moving out of the --
7 out of the area as a result.

8 The last one we have -- excuse me -- on
9 the interactive page here, on the home page,
10 is the city one. And this is the same concept
11 as it is with the counties, in that we are
12 basing this as compared to the 2010
13 population.

14 And this is just going to display the
15 growth and change by cities. And so here I
16 clicked on Wildwood and you can see the 2010
17 population in Wildwood was 6,709, in 2020 it's
18 increased to 15,730 for a change of 9,000 give
19 or take, and then a 134 percent population
20 increase. And so, this may be a useful tool
21 as you're communicating with constituents
22 about the results of the census and the growth
23 in your area that we thought would be helpful
24 for members in the public to view as well.

25 So, that's the home page of the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 16

1 website, on the about page we get into a
2 little bit more depth about redistricting.
3 So, this is going to contain information which
4 we have talked about at our last meeting,
5 about what the differences between
6 redistricting and reapportionment are, and
7 give us some information about the process.

8 We have got this table here, which
9 shows our ideal calculations for the
10 congressional seats, the ideal populations --
11 or excuse me, the Congressional Districts,
12 House Districts, and Senate Districts with
13 their 2010 ideal population, the 2020, and
14 then the difference from last year -- or last
15 cycle.

16 We have also got some information here
17 to inform the public about the sections of the
18 Voting Rights Act that may apply and a little
19 note about preclearance, and how Shelby County
20 v. Holder invalidated the preclearance
21 formula and so we no longer have coverage
22 jurisdictions in Florida.

23 But we do note that it does affect the
24 validity of the diminishment standard in the
25 Florida Constitution. We also have some

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 17

1 reference -- direct references to the language
2 that governs our process here in the
3 legislature, including Article 3 Section 16
4 which is what we derive our authority to draw
5 the districts from, or one of the sources.
6 And then, Article 3, Sections 20 and 21, which
7 were the amendments that were adopted in 2010,
8 and so that language is here for reference for
9 the public and members.

10 We also mention the statute that
11 requires us to use these census data for
12 redistricting, and then have these charts that
13 we have probably shown you all before, but
14 have the flow chart.

15 And I apologize for the smallness of
16 the text there, but this is going to show the
17 process and how it's been followed in the past
18 for passing a state legislative redistricting
19 plan or set of plans. And then the timeline
20 for Florida, which has been -- as we have
21 discussed -- somewhat generalized by the
22 delayed census data.

23 So, jumping back to the website, the --
24 there are two pages here for the respective
25 committees, so this is the House's committee

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 18

1 page. I won't go through this in great
2 detail, but you can find information about the
3 process on the House side here. And then we
4 have a similar page for the Senate committee
5 with the membership of the committee there, we
6 post any memos or correspondence that goes out
7 from the chairman or the president's office on
8 the website here as well as it relates to
9 redistricting.

10 We link back to the find your elected
11 officials tool that is on the existing
12 flsenate.gov site, so that constituents that
13 are looking for redistricting information can
14 find out who their representative is and
15 contact your office appropriately.

16 We also link to the bill tracker, which
17 is also a feature of the flsenate.gov site.
18 That does also require a login, but you can
19 come in here and log in to view the bill
20 tracker and see what -- follow legislation as
21 it goes through the process. That's a free
22 account, it just requires an e-mail and
23 password creation.

24 Finally, on this page we have the
25 appearance cards and so these are -- this just

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 19

1 links to an appearance card that can be filled
2 out in preparation for appearing at one of our
3 committee meetings, or any Senate committee
4 meeting. We do have a note there that --
5 (coughs) excuse me -- in order to submit the
6 appearance card, you do have to -- you cannot
7 sit in submitted electronically, it does have
8 to be delivered to the committee meeting.
9 That's standard practice for Senate
10 committees.

11 We do link back to the Senate Committee
12 page here -- (coughs) excuse me. This is
13 going to take us back to the Reapportionment
14 Committee page where you can track all of our
15 meeting notices, packets, attendance, expanded
16 agendas, and audio and video of our committee
17 meetings.

18 This links back to a Senate
19 Redistricting page on the flsenate.gov site,
20 which is going to contain a lot of the same
21 information that we have talked about here.
22 It has just traditionally lived on that Senate
23 page, we have -- since we're doing a joint
24 site with the House, we have opted to put most
25 of that information on the joint site, but to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 20

1 keep up the Senate site as well.

2 And then lastly, we linked to the
3 Senate calendar, so that constituents can
4 track what's going on in the Senate generally.
5 As you can see here today our reapportionment
6 committee is there, and a link to watch the
7 meeting live is posted there as well.

8 So, that takes care of the Senate page,
9 I'll move on to the Resources page. So, at
10 the top of this page and we will talk a little
11 bit more about this later, and I think we will
12 have another presentation that's going to
13 touch some more on these historical plans, but
14 we have posted all the different redistricting
15 plans for the state of Florida going all the
16 way back to 1982 for the House, Senate, and
17 Congressional District plans.

18 We do go in reverse order, so the most
19 recent one you see here is the 2016 Senate
20 plan. And this is interactive, in that users
21 can zoom around the map, and explore the plan,
22 and see how the districts were configured.

23 The neat thing about this page is that
24 as you scroll down the districts will change,
25 and so you can get a historical perspective on

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 21

1 what the districts used to look like and how
2 they look today, and it will keep the same
3 extent.

4 And so, as we go back in time and see
5 some of the plans that were enacted last
6 cycle, you can see the differences as they
7 progress. Going -- here we are in 2002, we
8 can scroll all the way back to '96, and '92,
9 all the way back to the 1982 plan. That was
10 about the latest we could -- furthest back we
11 could go, prior to that it was mostly paper.

12 So, we do have those for Congressional
13 and the House as well, we have also got a
14 glossary on this page that contains a number
15 of terms that we have worked through during
16 our last committee meeting, but talk about
17 just general vernacular for redistricting.

18 This link to the Census Bureau's
19 hierarchy is a good explanation of the
20 geographical hierarchy that we use during
21 redistricting, talking about how the
22 relationships between counties, census tracts,
23 block groups, and blocks. And then, we also
24 link to the census data itself -- or excuse
25 me, that one's the apportionment results.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 22

1 We also link to the actual data where
2 users can go to download the same census data
3 that we have used in our redistricting
4 application, it's available here in multiple
5 formats. And then finally, we do link to the
6 Florida Department of State's Division Of
7 Elections page. This is where users can go to
8 download the raw data that enters into a
9 functional analysis, this is as it's submitted
10 by the supervisors of elections through the
11 division.

12 On our next page here, this is the Get
13 Involved page, which contains links to -- for
14 users to go to sign up for the redistricting
15 application, and use to access the software
16 and draw maps. We have also added a button
17 here for the public input that the chairman
18 mentioned.

19 So, this is -- and I'm sorry I forgot
20 who asked about it, but in terms of filling
21 out the form and providing comments this kind
22 of is a way around the PDF. And so, we can
23 provide here where users will type in their
24 information and agree to -- these are the same
25 terms that are on the redistricting suggestion

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 23

1 form -- but agree to this and submit their
2 comment. We will be posting the comments that
3 we have received in batches that are available
4 for public review and for review by the
5 members. And that -- I believe that will live
6 on this page as well.

7 This is the form that I was -- just
8 mentioned that is available in PDF form, we
9 have discussed that. It is fillable. And we
10 did -- so that users don't have to print it
11 out, and then return it, and scan it -- or
12 excuse me, print it out, scan it and return
13 it.

14 We did load the site with some
15 instructions on how to apply that signature
16 without having to use the scanner, we also
17 provided a link -- this is in the footer at
18 the bottom of each page where users can go to
19 download a free version of Adobe Acrobat
20 Reader that will allow them to put their mark
21 on the redistricting suggestion form and
22 submit it without having to print it.

23 Getting back to this page, we do link
24 to both the quick start guide and the help
25 manual. The quick start guide for the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 24

1 application is a relatively short overview of
2 how to access the application, including how
3 to sign up for an account, how to create a
4 plan, how to save the plan, export the plan,
5 real basic functionality.

6 The help manual goes into some more
7 depth, it does cover the same general topics
8 but is going to provide some more information
9 on the specifics and more detailed
10 functionality about exactly how to navigate
11 around the map and change the base map, zoom
12 in and out, that kind of thing.

13 There is also a series of video
14 tutorials for users, this -- subjects for
15 these are, you know, how to create account and
16 change the password, how to load a template
17 plan, and save a plan, how to import and
18 export a plan, how to use the actual map
19 drawing tools, and then how to run reports and
20 submit plans to the legislature.

21 Which brings me to the Submitted Plans
22 page. So, we were just able to add this
23 recently, this is the page where all of the
24 plans that are submitted by users -- so using
25 the application the user will submit a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 25

1 redistricting plan, we will respond to them
2 and say you know we have received your
3 submission, please complete this -- the
4 redistricting suggestion form, we will then
5 process that plan and post it on the web along
6 with the form.

7 And so users and members can go here to
8 review the submissions that we have received.
9 So, the reports that we have created are going
10 to be available for the public submissions,
11 and so you can click, for example, the
12 boundary analysis report -- that may have been
13 a bad example, no that's fine.

14 So this is the plan that was submitted,
15 this is the plan number P0006-- C0006. And
16 I'll just go ahead and explain the
17 naming convention there. So, in order to
18 standardize the naming formats and give us
19 some sense of what's been received, and what
20 kind of plans they are, we have developed this
21 standard naming convention.

22 So, the first character for a public
23 plan is the letter P. If it's a plan that was
24 submitted by these -- a Senator or the Senate
25 Committee, it will receive the letter S there,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 26

1 a House will receive H. And then the next
2 three digits are a number, so for a public
3 plan that's going to get 000, for a member of
4 the legislature that's going to get their
5 district number, and that's how we identify
6 the member author.

7 The next character is a letter, that is
8 the plan type so, S for Senate, H for House, C
9 for Congress. And then, this is a serial
10 number the last four digits that -- this plan
11 just happens to be 6, which for the public
12 plans we're going in order. I believe for the
13 Senate and House plans, we will go odd even,
14 the same way we do bill numbers. And that
15 should -- I believe that explains everything
16 about the naming convention.

17 So, jumping back to this submitted
18 plans page, the reports that are posted here
19 currently are the boundary analysis report,
20 the district compactness report, which I will
21 pull up here, and we will go through some of
22 these later on, but this is just to show you
23 what kind of reports you can get for submitted
24 plans.

25 But you can get the district

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 27

1 compactness report which reports the
2 compactness scores for each one of the
3 districts in the plan, you can get an image
4 which shows the plan as it was drawn by the
5 submitter, a KMZ which is a file that will
6 open in Google Earth and allow users to
7 interactively maneuver around the plan using
8 that application. The .plan file is a file
9 format that will open within our redistricting
10 application.

11 So, if a user wants to load up one of
12 these public plans into their account, they
13 can just download this .plan file, and when
14 they load it into their account, it will carry
15 over the same district coloring, and district
16 numbering, and demographic fields that are
17 displayed in the application for the plan as
18 it was drawn.

19 The TXT file here is a block assignment
20 file, and this is the basic format for
21 redistricting plans, this is what's been
22 recognized by the Department of Justice for
23 decades at this point as a standard format for
24 a redistricting plan.

25 And the way these work is that they

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 28

1 list each census block within the state, if
2 it's a complete plan. If it's less than a
3 complete plan, it won't have all the census
4 blocks. But that 15 digit code is actually a
5 census block identifier, those are composed of
6 the state, the county, the tracked the block
7 group, and the block all embedded into one 15
8 character code, a comma, and then the district
9 number.

10 So, a district number, you see here,
11 all these blocks that have to -- happen to be
12 listed in this instance are in District 3.
13 And using this, sort of, universal format for
14 redistricting plans users can both export and
15 import plans into our redistricting
16 application.

17 This is universally accepted as an
18 import and export method for this process, and
19 we make these available for all the submitted
20 plans on our website.

21 The other ones here, this zip file, is
22 a set of shapefiles. And so shape files are
23 GIS-based file formats that allow users to
24 import that file into another commonly used
25 GIS program, such as ArcGIS. That's what that

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 29

1 is, that embedded that includes the layers and
2 the population data embedded in it as well.

3 We have the completed redistricting
4 suggestion form here, and this -- and this
5 particular one -- so members if you're
6 reviewing a submitted plan and have an
7 interest in potentially providing that to the
8 committee for consideration, or asking for it
9 to be considered for inclusion in a -- in a
10 staff product, one would come look at this
11 form and get the author's contact information,
12 and -- as the chairman suggested -- consider
13 reaching out to them prior to offering a plan
14 up for consideration.

15 And then the last report here is the
16 VAP summary report and this is a population
17 statistics report for the redistricting plan,
18 so here you can see the total population,
19 voting age population, population -- voting
20 age population by race. This is all
21 prepopulated in this report.

22 The other thing that I wanted to
23 mention about this is the interactive map
24 that's here, so if you click the web map link,
25 this is going to take you to that submitted

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 30

1 plan and its ability to maneuver around the
2 map and see what's -- what their map looks
3 like in an interactive fashion.

4 SENATOR GIBSON: Mr. Chair? Thank you.
5 Can we go back to the voting age population?
6 I'm trying to figure out what I heard, but I
7 didn't hear. You said -- you said it's
8 prepopulated by, is it by census track?
9 What -- I didn't hear, it's prepopulated by
10 what?

11 MR. FERRIN: Thank you --

12 SENATOR GIBSON: The voting
13 (inaudible).

14 MR. FERRIN: -- Mr. Chairman. I
15 apologize, Senator, so this is by district.
16 So, this is going to show the total population
17 of the plan that was drawn by the submitter
18 for District 1 the number below that is a
19 percentage that -- of the statewide population
20 that that is made-up of that district, so it
21 should be pretty well balanced.

22 And then we have the total voting age
23 population in that district, and the
24 percentage below that indicates that the total
25 voting age population for that district makes

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 31

1 up 78 percent of the district population in
2 this instance. And I'll try to zoom in, maybe
3 that helps.

4 The single race non-Hispanic white
5 voting age population is listed here as well,
6 and that that VAP number is calculated the
7 same way as a -- or the percentage is
8 calculated the same way as a percent of the --
9 it's calculated as a percent of the total
10 voting age population.

11 And then, we have the same thing for
12 non-Hispanic black voting age population,
13 Hispanic black voting age population Hispanic
14 not black, other voting age population, all
15 Hispanic voting age population -- so of any
16 race -- and then all black voting age
17 population.

18 And this is -- in an effort to try to
19 provide a standardized report, these were the
20 fields that were selected for inclusion in the
21 default report that we're running for posting
22 of the submitted plans. If there's additional
23 demographics, such as -- and we will get to
24 this later today -- the political data for
25 conducting a functional analysis, in order to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 32

1 do that you will have to log into the -- you
2 will have to download the plan and log into
3 the application, and report it out that way.

4 SENATOR GIBSON: So, follow up?

5 CHAIR RODRIGUES: Another question? Go
6 ahead.

7 SENATOR GIBSON: On the -- on the
8 voting age population, is there something that
9 explains to the -- to the general public that
10 voting age population is certainly different
11 from the population in a district period? And
12 then, what's helpful about the voting age
13 population in drawing lines?

14 CHAIR RODRIGUES: Go ahead.

15 MR. FERRIN: Thank you, Mr. Chairman.
16 So, the -- we do define these fields and
17 provide documentation on what these fields are
18 within the help manual. And in terms of,
19 what's -- what voting age population is used
20 for in redistricting, this would be, you know,
21 in particular with regard to the creation of
22 min-- effective minority districts, where you
23 would be looking at voting age population in
24 concert with the other data that's been
25 specified as something we should be using to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 33

1 conduct the functional analysis, and ensure
2 that a district has the ability to elect a
3 racial or language minority's candidate of
4 choice.

5 We're not limited to using voting age
6 population, but as an initial drawing point, I
7 think that's traditionally used to indicate --
8 when you're attempting to draw a minority
9 district, one of things you're looking at is
10 the racial voting age population of that
11 district.

12 SENATOR GIBSON: Okay, follow up? One
13 last question.

14 CHAIR RODRIGUES: You're recognized.

15 SENATOR GIBSON: Thank you. So, in --
16 is it Columbia County? Those places where we
17 have correctional institutions, where the
18 individuals -- incarcerated individuals cannot
19 vote, but they are considered in the
20 population for drawing a district, how do we
21 explain that to folks? How it makes sense,
22 and then how that potentially impacts the
23 dis-- the next district on the side, top,
24 bottom.

25 CHAIR RODRIGUES: Senator, is your --

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 34

1 SENATOR GIBSON: Yes?

2 CHAIR RODRIGUES: -- your question why
3 we're including the population of the prison
4 in that district, or how we explain the voting
5 age aspect of that?

6 SENATOR GIBSON: Yes, the latter. How
7 we explain the voting age population. They
8 may be the age to vote, but they can't vote,
9 but they're considered in drawing the
10 population of the district. And then, that
11 impacts the next district over, up, side,
12 bottom --

13 CHAIR RODRIGUES: (Inaudible) --

14 SENATOR GIBSON: -- because the
15 population is being counted, but they can't
16 vote.

17 CHAIR RODRIGUES: Understood. And I
18 will recognize Staff Director Ferrin, but
19 before I do that the census counts the incar--
20 inmates incarcerated where they're
21 incarcerated.

22 And our state statute requires us to
23 use the census data as we're doing this, so
24 that's why we put them there. Now, I'll turn
25 it over to Staff Director Ferrin to address

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 35

1 the second part of your question.

2 MR. FERRIN: That's correct, Mr.
3 Chairman. The -- we don't alter the census
4 data, it's -- the residents are counted where
5 they are as of April 1st, 2020, which is
6 census day. The -- I believe the second part
7 of your question, which is how would you
8 account for an incarcerated population that's
9 not eligible to vote.

10 And I think that's where a functional
11 analysis comes in, and the results of that
12 analysis would indicate that perhaps the
13 population in that district, while it may have
14 a certain percentage of VAP, you will notice a
15 lower registration and turn out numbers to,
16 kind of, understand that. That's why we don't
17 consider VAP in isolation, because of other
18 factors such as that.

19 And that goes for electoral
20 participation, whether it's an area, or a
21 group of low propensity or incarceration it's
22 going to -- you know, examine a functional
23 analysis to ensure that the district will
24 perform, regardless of actually who is in it.
25 If that kind of makes sense.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 36

1 CHAIR RODRIGUES: Are there any other
2 questions? Have we completed the
3 presentation?

4 MR. FERRIN: I believe we have a couple
5 more things to go through, Mr. Chairman.

6 CHAIR RODRIGUES: Okay.

7 MR. FERRIN: So, I think that covers
8 the plan -- Submitted Plans page, the -- we do
9 have links to the benchmark plans here at the
10 top of this page, so that a user can click
11 those and quickly jump to them.

12 They're in this table as well, but
13 because we -- they were the quote, first
14 submissions, they're at the bottom of the
15 list, and so we have those buttons to get
16 there quickly, which will provide the same
17 kind of reports for the benchmark plans. And
18 then, lastly, we have the Contact Us page,
19 where users can go to get contact information
20 for the committees.

21 And then, I don't believe I have
22 mentioned this, but we do make use of the
23 Google Translate service on our website, and
24 so users can select a language to translate
25 the site into. As the chairman mentioned,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 37

1 we're also -- we have also engaged the -- or
2 are engaging the services of a translation
3 service to help us translate some of the PDFs
4 and other documents on here, and to help us in
5 the event that we find ourselves needing to
6 provide some support for a foreign language
7 speaker. We should be covered there. And Mr.
8 Chairman, I believe that concludes the website
9 walkthrough.

10 CHAIR RODRIGUES: Are there any
11 questions from the members? Senator Gibson,
12 you're recognized.

13 SENATOR GIBSON: Thank you, Mr. Chair,
14 and thank you for the transparency, it's very
15 transparent for sure. So, what -- I didn't
16 hear any discussion about coalition districts,
17 I know it was mentioned about minority access
18 districts. Are our coalition districts
19 explained, and is that -- how do we explain
20 that to the public, as well?

21 CHAIR RODRIGUES: Do we have anything
22 on the website that would direct them to
23 protect those districts, or how does that
24 work?

25 MR. FERRIN: Thank you, Mr. Chairman.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 38

1 I believe that's covered in the glossary.

2 SENATOR GIBSON: Oh, okay.

3 MR. FERRIN: I'm not sure where I left
4 off, and which tab that would be on, but I'm
5 pretty sure it's covered in the glossary. If
6 it's not, we can certainly take a look at
7 adding that to the glossary, and we will make
8 sure that a coalition district is defined
9 somewhere for public users.

10 SENATOR GIBSON: That would be great
11 (inaudible).

12 CHAIR RODRIGUES: Indeed. Seeing --

13 SENATOR GIBSON: Thank you, Mr. Chair.

14 CHAIR RODRIGUES: Thank you. Seeing no
15 further questions, we will move to the Tab 2
16 in our agenda, which is introduction to
17 redistricting law. We have our Senate council
18 on redistricting, Dan Norby, here today. Mr.
19 Norby, you're recognized.

20 MR. NORBY: Thank you, Mr. Chair and
21 members of the committee. So, my topic today
22 is an introduction to redistricting law. The
23 idea is to talk through both process and the
24 governing, constitutional, and statutory
25 standards that will guide your work in the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 39

1 weeks and months to come, as you consider maps
2 that are presented in the subcommittees and in
3 this committee.

4 As the title suggests, it's an
5 introduction to redistricting law not a high-
6 level CLE course in redistricting law. But
7 the idea here will be to equip you with the
8 knowledge of the concepts that you will be
9 confronting, and some of the vocabulary at a
10 little bit of a higher level than what was
11 described last week during the introductory
12 presentation.

13 So, the three areas that I'll be
14 covering today are the constitutional
15 authority and legislative procedures for
16 redistricting, some of the federal
17 redistricting requirements both under the US
18 Constitution and under the Federal Voting
19 Rights Act, and then the Florida redistricting
20 requirements that are imposed by Florida's
21 Constitution.

22 So, in terms of congressional
23 redistricting authority, the requirement for
24 states to redistrict Congressional Districts
25 has been found in Article 1, Section 4 of the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 40

1 United States Constitution, which provides
2 that the manner of holding elections for
3 representatives shall be prescribed in each
4 state by the legislature thereof. That's you
5 all.

6 So, that -- you have the obligation and
7 the responsibility to redistrict Congressional
8 Districts after reached decennial census.

9 The authority to redistrict legislative
10 districts is found, not surprisingly, in the
11 Florida Constitution in Article 3, Section 16,
12 which prescribes that the legislature in its
13 regular session, in the second year following
14 each decennial census shall apportion of the
15 state into not less than 30, nor more than 40,
16 consecutively numbered Senatorial Districts,
17 and into not less than 80, nor more than 120,
18 consecutively numbered Representative
19 Districts.

20 For quite some time now, the
21 legislature has exercised that authority by
22 creating the maximum number of Senate
23 Districts and the maximum number of State
24 House Districts. So, 40 Senatorial Districts
25 and 120 Representative Districts.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 41

1 The procedures for adopting
2 redistricting plans vary depending on whether
3 it's a congressional plan or a state
4 redistricting plan. Congressional Districts
5 are formally established through amendments to
6 Chapter 8 of Florida Statutes, and a bill
7 establishing Congressional Districts is
8 subject to all of the constitutional
9 requirements that apply to any other piece of
10 legislation that you will be considering on
11 any of the committees and on the floor,
12 passage by a majority vote of each House, and
13 submission to the governor for either approval
14 or veto decision.

15 So, I have on your screen here what the
16 actual redistricting legislation looks like in
17 the non-map form, it's an assignment of those
18 particular tracks and blocks to particular
19 districts. And you can look in the Florida
20 statutes and find it there in legislative
21 language.

22 For obvious reasons, based on what's on
23 the screen it's much easier to describe it in
24 terms of how the map looks and what the lines
25 look like on a map. That is -- that is the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 42

1 actual legislation that is passed.

2 The procedures for adopting legislative
3 redistricting plans are different from
4 congressional. State legislative districts
5 are formally established through amendments to
6 Chapter 10 of the Florida Statutes, and
7 they're adopted by joint resolution of the
8 House and Senate, rather than through a bill
9 that is submitted to the governor for approval
10 or veto. And that requirement is found in
11 Article 3, Section 16 of the Constitution as
12 well.

13 For legislative redistricting plans,
14 but not congressional redistricting plans,
15 Florida Constitution also provides for a
16 mandatory review of the joint resolution by
17 the Florida Supreme Court.

18 The language of the Constitution is
19 here on the screen, and I should mention that
20 throughout this presentation, what I've tried
21 to do is include the exact language of the
22 constitutional requirements that will be a
23 reference for you in the -- in the weeks and
24 months to come, so you can refer to that.

25 I have also tried to include the most

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 43

1 recent precedent on several of these issues,
2 understanding that redistricting law goes back
3 some 70 or 80 years at least. But I have
4 highlighted in particular some of the court
5 decisions from the Florida Supreme Court, or
6 from the United States Supreme Court from the
7 last decade. So, there'll be updates from the
8 last cycle of redistricting.

9 So, the judicial review of
10 apportionment is initiated within 15 days
11 after passage of the joint resolution by the
12 attorney general of the state of Florida, who
13 petitions the Florida Supreme Court for
14 declaratory judgment determining the validity
15 of the apportionment. And the Supreme Court
16 under the Constitution permits adversary
17 interests to present their views, and within
18 30 days from filing the petition enters its
19 judgment.

20 So, this is a very rapid proceeding
21 following the passage of the joint resolution.
22 And part of that, given the timelines that
23 your staff director laid out for you before
24 involves the short time period between the
25 legislative session in a year of

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 44

1 reapportionment and a candidate qualifying for
2 that fall's elections. Those two things
3 combined require a quick review by the Florida
4 Supreme Court on the validity of the plans.

5 The Florida Supreme Court's review
6 produces a judgment in apportionment, and the
7 Constitution provides that a judgment of the
8 Supreme Court of the State determining the
9 apportionment to be valid, shall be binding
10 upon all the citizens of the state.

11 If the Court decides that the
12 apportionment is invalid, violates some
13 standard that is in the Florida Constitution,
14 then the governor is directed to reconvene the
15 legislature within five days in an
16 Extraordinary Apportionment Session to
17 consider a -- adopting a joint resolution,
18 conforming to the judgment of the Supreme
19 Court.

20 And the chair mentioned during the
21 Introductory Session last time, that happened
22 in the last redistricting cycle, the Senate
23 was directed to adopt a new joint resolution
24 in an extraordinary apportionment session.

25 Following the extraordinary

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 45

1 apportionment session, if one is convened, the
2 attorney general files a second petition in
3 the Supreme Court, the Supreme Court then goes
4 through the same process again, considers the
5 validity of apportionment.

6 If the legislature fails to adopt a
7 resolution of apportionment during the
8 extraordinary session, or adopts an
9 apportionment that the Court determines is
10 invalid, then the Court within 60 days after
11 receiving the petition shall file with the
12 custodian of state records, who is the
13 Secretary of State an order making the
14 apportionment. So, this would be a judicial
15 apportionment of state legislative districts.

16 So we'll move on now to some federal
17 redistricting requirements now that I have
18 gone through the process. Under federal law,
19 there are two key sources of legal authority
20 that govern the redistricting process, the
21 first is the United States Constitution, the
22 second is the Voting Rights Act, particularly
23 Section 2 of the Voting Rights Act and Section
24 5 of the Voting Rights Act.

25 In terms of the constitutional

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 46

1 requirements, the primary federal
2 constitutional requirement that is a governing
3 standard for redistricting is equality of
4 population.

5 The United States Supreme Court decided
6 in a series of cases in the 1960s that
7 Congressional Districts must achieve precise
8 mathematical of equality of population, plus
9 or minus one person from the ideal population.

10 Some of the earlier cases suggest that
11 that standard is to be done to the extent
12 practicable for the states, while with the
13 current availability of data, more recent
14 decisions have held to that line that it is
15 essentially plus or minus one person, and that
16 is what state of Florida has done in recent
17 cycles.

18 The ideal population for Florida is now
19 28 Congressional Districts, is 769,221 people.
20 So that -- that's what we're shooting for each
21 of the 28 districts. I have included their
22 quote as well from Wesberry vs. Sanders, the
23 United States Supreme Court case from 1964
24 which grounded this equality of population
25 requirement in the language of Article 1,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 47

1 Section 2 of the Constitution. It says,
2 representatives shall be chosen by the people
3 of the several states, or construed that to
4 mean equality of population, and subsequent
5 decisions have held to that.

6 In terms of state legislative
7 districts, the United States Supreme Court and
8 the lower federal courts, have provided
9 additional flexibility for state and local
10 districts in terms of population. They have
11 to achieve, it's called substantial equality
12 of population.

13 I have on the slide here the ideal
14 population for a Florida State Senate District
15 and for a Florida House District based on 120
16 house districts and 40 State Senate districts,
17 and quote from Reynolds vs. Sims here. The
18 equal protection clause requires a state to
19 make an honest and good faith effort to
20 construct districts in both houses of its
21 legislature as nearly of equal population as
22 is practicable.

23 So, before Reynolds vs. Sims several
24 states had as a redistricting practice some --
25 a similar set up to the United States Senate,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 48

1 where the Senate districts represented count--
2 the State Senate districts represented
3 counties or larger groupings, and the State
4 House districts were more tied to population.

5 After Reynolds vs. Sims, that was no
6 longer a permissible way of drawing state
7 legislative districts, the substantial
8 equality of population is the governing
9 principle there for both houses of the state
10 legislature.

11 The courts have allowed reasonable
12 deviations from matica (phonetic) mathematical
13 equality for state legislative districts to
14 accommodate traditional districting
15 objectives, such as compactness, contiguity,
16 and respect for the boundaries of political
17 subdivisions. General rule established by
18 that federal precedent is that population
19 deviations of less than 10 percent are
20 presumptively valid. Population deviations
21 from one district to another of greater than
22 10 percent are presumptively invalid.

23 Traditionally, Florida has drawn
24 districts with the deviation of quite a bit
25 less than 10 percent, so those sort of

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 49

1 principles have not been tested. But some
2 other states have drawn districts with 10
3 percent deviation to allow them to better
4 accommodate keeping counties whole, for
5 example, for states that that require that.

6 In the last redistricting cycle here in
7 Florida as well, that explains some of the
8 population deviations from one district to
9 another. I believe there was one State House
10 district which was drawn with a greater
11 population than some of the others,
12 specifically because drawing a district a
13 little bit larger would allow it to keep
14 Charlotte County entirely within one house
15 district.

16 So, a little more population deviation
17 there. I think it was about three-and-a-half
18 percent, so still much less than the 10
19 percent that the case law is about.

20 Also, under the United States
21 Constitution one of the principles that that
22 is significant is the idea of political or
23 partisan gerrymandering claims. This was a
24 topic that required more discussion in the
25 analogous presentation to this committee ten

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 50

1 years ago, because at the time the United
2 States Supreme Court had held that partisan
3 gerrymandering claims were justiciable under
4 the Federal Constitution, that there could be
5 such a thing as a district that was redrawn in
6 two partisan away, but the Court had not
7 established what that standard would be to
8 measure how far is too far.

9 Since then, in 2019, I have Rucho vs.
10 Common Cause, the United States Supreme Court
11 has withdrawn from that field and has held it
12 as a matter of federal constitutional law.
13 Partisan gerrymandering claims present
14 political questions beyond the reach of the
15 federal courts.

16 So, we will talk later about the
17 Florida Constitution, which does heavily
18 restrict intent to favor or disfavor parties
19 or incumbents. But as a matter of Federal
20 Constitutional Law those claims are no longer
21 viable. And the United States Supreme Court
22 has said the federal courts will not take up
23 partisan or political gerrymandering claims.

24 Racial gerrymandering claims though are
25 something that the federal courts continue to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 51

1 police quite heavily. The equal protection
2 clause of the 4th -- 14th Amendment forbids
3 racial gerrymandering, which is intentionally
4 assigning citizens to a district on the basis
5 of race without sufficient justification, and
6 it also forbids intentional vote dilution,
7 invidiously minimizing or canceling out the
8 voting potential racial or ethnic minorities.

9 These claims continue to be pressed in
10 every redistricting cycle, we cited here
11 Abbott vs. Perez, a United States Supreme
12 Court case from 2018 involving Texas'
13 redistricting, which considered racial
14 gerrymandering claims.

15 In considering these types of claims,
16 what the Court looks at is whether race was a
17 quote, predominant factor motivating the
18 legislature's decision to place a significant
19 number of voters within or without a
20 particular district. If so, then the district
21 must be narrowly tailored to achieve a
22 compelling interest.

23 The Court, in a variety of decisions,
24 has assumed without deciding that compliance
25 with the Voting Rights Act represents a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 52

1 compelling interest that states are justified
2 in considering race in the assignment of
3 districts, voters to one district or another.

4 The narrow tailoring requirement under
5 Bethune-Hill vs. Virginia State Board of
6 Elections, the narrow tailoring requirement is
7 satisfied if the legislature has quote, good
8 reasons to believe that it must use race to
9 comply with the Voting Rights Act.

10 The Voting Rights Act, moving from
11 federal constitutional claims to federal
12 statutory claims, the Voting Rights Act of
13 1965, of course, was adopted to combat
14 discriminatory practices in voting and
15 elections, and to enhance minority
16 registration and participation rates.

17 There are two principal provisions of
18 the Voting Rights Act that are at issue in
19 redistricting cases, and have been for some
20 time, Section 2 of the Voting Rights Act,
21 Section 5 of the Voting Rights Act. So,
22 Section 2 of the Voting Rights Act is a
23 permanent provision, it is applicable
24 nationwide. Section 2 prohibits a state from
25 enacting a districting plan that provides less

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 53

1 opportunity for racial minorities to elect
2 representatives of their choice. And what
3 Section 2 is intent-- is most significantly
4 designed to protect is to protect minority
5 voters from practices that improperly weaken
6 or dilute minority voting strength.

7 Two of those in particular that I
8 reference here are cracking and packing. So
9 those would be either -- in the case of
10 cracking, taking a minority population that is
11 geographically compact and splitting it into
12 separate districts so that in neither district
13 can that minority voting population
14 effectively exercise its electoral power.

15 Packing is the opposite of that,
16 intentionally assigning voters to a particular
17 district to a level more than is necessary to
18 exercise an effective voting power. And in so
19 doing, diminish the minority voter's ability
20 to elect in a in a neighboring district.
21 Under certain circumstances, Section 2 of the
22 Voting Rights Act requires states to draw
23 opportunity districts in which minority groups
24 form effective majorities.

25 The standard that's been adopted by the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 54

1 courts, and I have here at Thornburg vs.
2 Jingles from 1986, which is still the
3 governing standard that is applied. And this
4 is a highly complex area of Voting Rights Act
5 law, so I'm giving a high-level view of it
6 here.

7 We will talk about it much more when
8 we're examining specific maps and districts in
9 the weeks and months to come. But the general
10 standards under Section 2 are that Section 2
11 protects a group of minority voters that
12 satisfies what are called the Jingles factors.
13 And I have listed them there.

14 A geographically compact minority
15 population, sufficient to constitute a
16 majority in a single member district, there
17 has to be political cohesion among the members
18 of the minority group, meaning that they tend
19 to vote the same way, and block voting by the
20 majority is present that would defeat the
21 minorities preferred candidate of choice.

22 If all of those factors are true, and
23 the minority groups members under the totality
24 of the circumstances have less opportunity to
25 participate in the political process and elect

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 55

1 representatives of their choice, then Section
2 2 may provide a Voting Rights Act remedy. So,
3 this is a background principle that the
4 legislature must apply when it's drawing
5 districts is to ensure that in the drawing of
6 districts that it does not violate the
7 requirements of Section 2 of the Voting Rights
8 Act.

9 In 2009, in a case called Bartlett vs.
10 Strickland, so this was right before the last
11 redistricting cycle, the Supreme Court decided
12 a question that had been unsettled before a
13 long time before then, which is whether
14 Section 2's vote dilution provisions extended
15 to kind of coalition or opportunity-type
16 districts, where the minority group would not
17 constitute a numerical majority in the
18 district.

19 The United States Supreme Court said
20 that it did not, that in order for Section 2's
21 protections to be triggered, it must be
22 possible to draw a geographically compact
23 district in which the minority group would
24 constitute a majority in a single member
25 district.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 56

1 We will move on now to Section 5 of the
2 Voting Rights Act. So, Section 5 of the
3 Voting Rights Act was a temporary measure
4 adopted in the 1960s that was not applicable
5 nationwide, it was applicable only in certain
6 covered jurisdictions that were identified
7 under a statutory formula based on voting
8 practices, turn out, and voter registration
9 rates in 1964.

10 When the original Voting Rights Act was
11 passed by the United States Congress,
12 Florida -- neither Florida as a state, nor any
13 counties or jurisdictions within Florida, were
14 considered covered jurisdictions based on the
15 application of those criteria. During a later
16 amendment to the Voting Rights Act in the mid-
17 1970s, five Florida counties were added to the
18 list of covered jurisdictions, Collier,
19 Hardee, Hendry, Hillsborough, and Monroe
20 Counties were added, along with the provisions
21 that were added on minority -- language
22 minority group provisions.

23 So, those five counties in the 1970s
24 employed English only ballots and had a
25 greater than 5 percent population that spoke a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 57

1 language other than English. Based on the
2 application of that formula, those five
3 counties became covered jurisdictions. So,
4 what does that mean?

5 Well, covered jurisdiction under
6 Section 5 could not enact election laws and
7 immediately enforce them, a covered
8 jurisdiction was prohibited from enforcing any
9 change to an election law that has the purpose
10 or will have the effect of diminishing the
11 ability of the minority group to elect their
12 preferred candidates of choice.

13 And it could not enforce that until
14 those provisions were pre-cleared by the
15 Department of Justice or by a three-judge
16 Federal District Court. So the covered
17 jurisdictions had the burden of proof to
18 establish that any election changes within
19 those counties would not diminish the ability
20 of a minority group to elect their candidates
21 of choice, this applied to both voting
22 process-type provisions, as well as
23 redistricting plans that took place and
24 affected those counties.

25 So because those counties were affected

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 58

1 by statewide redistricting plans, Florida was
2 required to submit its statewide congressional
3 maps and its state legislative maps to either
4 the Department of Justice or to a three-judge
5 Federal Court to -- and to prove that those
6 plans would not diminish the ability of
7 minority candidates to elect their
8 candidate -- minority voters to elect their
9 candidates of choice in those five covered
10 counties.

11 In *Shelby County vs. Holder*, which is a
12 2013 United States Supreme court case -- so
13 after the first round of redistricting last
14 cycle -- the United States Supreme Court found
15 that the coverage formula found in Section 4
16 of the Voting Rights Act was unconstitutional,
17 because it had not been updated based on more
18 current data.

19 The covered jurisdictions continue to
20 be identified based on the data from the 1960s
21 and the 1970s, the voting practices turnouts
22 and registration rates from the 1960s and the
23 1970s. In in 2006 the Section 4 coverage
24 formula was extended for a 25 year period
25 without changing the formula and the United

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 59

1 States Supreme Court said that as a result of
2 that, the formula no longer reflected current
3 conditions, and was unconstitutional, and
4 could not be used as a basis for subjecting
5 jurisdictions to preclearance.

6 So, the actual Section 5 requirements,
7 the non-diminishment requirements were not
8 addressed in the majority opinion of the
9 Supreme Court, it was the coverage formula.
10 Congress has not adopted a new coverage
11 formula since Shelby County vs. Holder, so as
12 we -- as we stand here today, Section 5 is not
13 applicable to these redistricting plans,
14 although the principles of Section 5, as we
15 will talk about shortly, do apply to Florida's
16 redistricting plans.

17 I will move on now to Florida
18 redistricting requirements. Chair, I don't
19 know if this would be a good time to stop and
20 ask for questions, or if you would like me to
21 save that till the end.

22 CHAIR RODRIGUES: Yeah, let's see if
23 there are any questions on what's been
24 presented so far by the committee. Seeing
25 none.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 60

1 SENATOR BRACY: Chairman, --

2 CHAIR RODRIGUES: Oh.

3 SENATOR BRACY: I got a quick question.

4 CHAIR RODRIGUES: Oh, you're
5 recognized.

6 SENATOR BRACY: Thank you. So, you are
7 saying now that Section 5 does not have to be
8 adhered to, only in principle, but it does not
9 have to be adhered to when drawing the maps.
10 Is that correct?

11 MR. NORBY: Chairman?

12 CHAIR RODRIGUES: You're recognized.

13 MR. NORBY: Senator, that's not quite
14 right and let me explain why. Section 5
15 itself is not enforceable as a result of the
16 United States Supreme Court decision. The
17 next section of my presentation will explain
18 why the Florida Constitution incorporates that
19 same non-diminishment requirement from Section
20 5 as a matter of state constitutional law.

21 So, in the drawing of congressional
22 maps and state legislative maps the
23 legislature is required to ensure non-
24 diminishment, that requirement just comes from
25 the State Constitution rather than from

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 61

1 federal law.

2 SENATOR BRACY: Thank you.

3 CHAIR RODRIGUES: Any other questions?

4 Okay, let's proceed.

5 MR. NORBY: Thank you, chair. So, now
6 I'll talk about the Florida redistricting
7 requirements that are in the State
8 Constitution. I'll talk about the Congress--
9 the constitutional standards for establishing
10 congressional and legislative district
11 boundaries, and then go into more detail with
12 the so-called Tier 1 standards and Tier 2
13 standards under the Florida Constitution, with
14 reference to some of the case law interpreting
15 those standards that developed over the last
16 redistricting cycle.

17 The first provision of the Florida
18 Constitution that provides standards for
19 congressional and legislative district
20 boundaries one that's been in place for some
21 time it's the one I cited earlier the
22 requirement that the legislature apportion the
23 state in accordance with the Constitution of
24 the state, and of the United States into a
25 certain number of Senatorial Districts, and a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 62

1 certain number of State House Districts of
2 either contiguous overlapping or identical
3 territory.

4 The more detailed set of standards were
5 the ones adopted by the voters in 2010, found
6 in Article 3, Section 20 and 21 of the Florida
7 Constitution. I've grouped them together here
8 because the subsidy standards are identical
9 between the standards that apply for
10 Congressional Districts and the standards that
11 apply for state legislative districts, they're
12 just found in two separate provisions of the
13 Constitution.

14 So, there's no distinguishing between
15 the two of them, so I've grouped together
16 here. And they're there on this slide, but
17 then I'll be breaking them down in more detail
18 in the remainder of the presentation.

19 So the first set of standards are those
20 found in Paragraph A of Article 3, Section 20
21 and Article 3, Section 21. They're called the
22 Tier 1 standards because of the priority that
23 they're given under the Constitution. These
24 standards are that no apportionment plan or
25 individual districts shall be drawn with the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 63

1 intent to favor or disfavor a political party,
2 or an incumbent.

3 Districts shall not be drawn with the
4 intent or result of denying or abridging the
5 equal opportunity of racial or language
6 minorities to participate in the political
7 process, or to diminish their ability to elect
8 representatives of their choice and their
9 requirement that districts consist of
10 contiguous territory.

11 So, three requirements are packed into
12 that one tier. First is the prohibition
13 against drawing a plan or district with an
14 intent to favor or disfavor a political party
15 or an incumbent, the second are what I'll call
16 the minority voting protection provisions of
17 Tier 1, and the third one is the requirement
18 that districts consist of contiguous
19 territory.

20 In the event of a conflict between the
21 requirements of this section of the
22 Constitution and the Tier 2 standards, the
23 Tier 1 requirements have priority. But the
24 order in which the Tier 1 standards are set
25 out does not establish any priority among the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 64

1 standards within that tier, so each of them
2 stands on equal footing.

3 I'll break them down one at a time now.
4 The first one no apportionment plan or
5 individual district shall be drawn with the
6 intent to favor or disfavor a political party
7 or an incumbent.

8 I mentioned Rucho's decision from the
9 United States Supreme Court does not consider
10 political gerrymandering claims justifiable
11 under the Federal Constitution, one of the
12 things that the United States Supreme Court
13 referenced in that -- in that decision was
14 Florida's Constitutional provision which does
15 prohibit the drawing of plans to favor a
16 political party or an incumbent, or to
17 disfavor a political party or an incumbent.

18 So it's an expressed requirement of the
19 Florida Constitution even though it's
20 nonjusticiable at a federal level. This
21 prohibition applies both to the apportionment
22 plan as a whole and to each district
23 individually. The Florida Supreme Court in
24 interpreting this provision for the first time
25 in the last redistricting cycle held that

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 65

1 the -- Florida's Constitutional provision
2 prohibits intent, not effect, because any
3 redrawing of lines, regardless of intent, will
4 inevitably have an effect on the political
5 composition of a district, and likely whether
6 a political party or incumbent is advantaged
7 or disadvantaged.

8 So that's a recognition that any moving
9 of a line, for whatever reason, will have an
10 effect. But effect is not what the
11 constitution prohibits its intent the court
12 did say though that there is no level of
13 improper intent, a malevolent or evil
14 purpose -- some colorful language there from
15 the Court -- is not required to constitute
16 improper intent there is either improper
17 intent or there's not improper intent. If
18 there is, then it's an invalid district or
19 plan under the Constitution.

20 The Supreme Court Florida examines both
21 direct and circumstantial evidence of intent.
22 So direct evidence of intent would be a member
23 stating -- which I certainly hope would not
24 happen -- but a member would state that they
25 were wrong a map for some prohibited purpose.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 66

1 Circumstantial evidence of intent though is
2 what the Court primarily looked at in the 2012
3 Redistricting Cycle opinion that I've cited
4 here.

5 They look to objective evidence, this
6 is during -- especially during the initial
7 review that the Court had of the joint
8 resolution. Objective evidence that could
9 bear on intent includes the shape of district
10 lines and the demographics of an area.

11 So, in 2012 the Supreme Court reviewed
12 voter registration, elections data,
13 incumbents, addresses to try to determine
14 incumbent favoritism, and demographics of the
15 district. All of that objective data was
16 looked at as circumstantial evidence that
17 could bear on the intent of the legislature.

18 The Court also noted that strict
19 compliance with the express terms of the Tier
20 2 redistricting standards may undercut or
21 defeat an assertion of improper intent. So,
22 the idea there is that the Tier 2 standards
23 that we will be discussing shortly,
24 compactness, respect for geographical and
25 political boundaries, if those are adhered to,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 67

1 it's evidence that rebuts an idea that a map
2 was drawn intentionally for an impermissible
3 purpose. On the other hand, disregard of
4 those traditional redistricting principles set
5 out in Tier 2 can provide evidence of improper
6 intent.

7 So, a district that breaks county
8 boundaries, is grossly non-compact for
9 example, we will need a strong justification
10 by the legislature for why drawing it that way
11 was not done for an improper purpose.

12 The Court also said in relation to that
13 where the shape of the district in relation to
14 the demographics is so highly irregular and
15 without justification that it cannot be
16 rationally understood as anything other than
17 an effort to favor or disfavor a political
18 party, improper intent may be inferred.

19 So, I think what that language reflects
20 is that what the Court said in in 2012 is that
21 the legislature is owed deference in the
22 manner in which it chooses between
23 constitutionally compliant plans, and provided
24 it acts constitutionally within that broad
25 range of deference, only under these sorts of

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 68

1 circumstances will the Court infer improper
2 intent from circumstantial evidence.

3 With respect to incumbents, similarly
4 the shape of the district in relation to the
5 legal residence of an incumbent is relevant to
6 the evaluation of intent to favor or disfavor
7 the incumbent.

8 The chair mentioned earlier incumbent
9 addresses and information is not something
10 that is in the redistricting software, it's
11 not something that's considered in the drawing
12 of plans, but it is something that the Court
13 can consider when it's evaluating improper
14 intent.

15 So, for example, in the last cycle
16 there was one district in which a member's
17 residence was found to be at the end of a of a
18 long line that shot out from the district and
19 scooped up the member's house. The Court
20 inferred from that, that that district was
21 drawn that way to favor that particular member
22 whose house was brought into that district.

23 Also with respect to the incumbent
24 favoritism --

25 CHAIR RODRIGUES: You have a question?

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 69

1 SENATOR ROUSON: Yes, I do.

2 CHAIR RODRIGUES: You're recognized.

3 SENATOR ROUSON: Thank you very much.

4 So, conversely, if that was drawn specifically
5 to include, and that was the intent found by
6 the Court, it could also be the converse if a
7 member's house is drawn out of a district, is
8 that true?

9 CHAIR RODRIGUES: You're recognized.

10 MR. NORBY: Yes, Senator, any drawing
11 of lines that could -- that are found to be
12 done in a way that could favor or dis-- that
13 would have the intent of favoring or
14 disfavoring, there was circumstantial evidence
15 of that, could be something that the Court
16 could consider.

17 Similarly, if incumbents are paired
18 within a district, that could provide under
19 some circumstances circumstantial evidence one
20 way or another, but it doesn't necessarily
21 find that. It may be that members were paired
22 within a district because that district best
23 adhered to county boundaries, or rivers, or
24 roads.

25 So, it's -- all of those factors could

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 70

1 be considered as circumstantial evidence of
2 intent.

3 CHAIR RODRIGUES: Any other questions?

4 SENATOR ROUSON: No, just a statement
5 that this is not Texas.

6 CHAIR RODRIGUES: You may proceed.

7 MR. NORBY: Chairman, I would agree.
8 Finally, the -- on intent to favor or disfavor
9 a political party or an incumbent, one of the
10 arguments made in the first round of
11 redistricting litigation in the last cycle was
12 that access to political data by the
13 legislature presumptively demonstrated
14 prohibited intent.

15 And the Florida Supreme Court rejected
16 that argument, because in fact access to
17 political data, election results data, turn
18 out data, voter registration data is actually
19 a necessary component of the functional
20 analysis that the legislature must perform to
21 evaluate whether a minority group has the
22 ability to elect representatives of its
23 choice.

24 If the legislature does not look at
25 that data, if the legislature instead looks

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 71

1 purely at racial demographics in deciding how
2 to draw districts, then that would violate --
3 or could violate either federal racial
4 gerrymandering requirements, or the
5 requirements of the Voting Rights Act, or the
6 requirements of the minority voting protection
7 provisions of the Florida Constitution.

8 So, merely having access to that
9 political data, if it's used appropriately, is
10 not -- is not a matter of demonstrating
11 improper intent.

12 The next set of standards in Tier 1
13 are, again, what I have called the Minority
14 Voting Protection Standards, districts shall
15 not be drawn with the intent or result of
16 denying or abridging the equal opportunity of
17 racial or language minorities to participate
18 in the political process, or to diminish their
19 ability to elect representatives of their
20 choice.

21 So, this long provision here really
22 imposes two requirements that protect racial
23 and language minority voters in Florida during
24 the redistricting process. One is the
25 prevention of impermissible vote dilution, the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 72

1 second is the prevention of impermissible
2 demission-- diminishment of a minority group's
3 ability to elect a candidate of its choice.

4 These two standards essentially restate
5 Section 2 and Section 5 of the Voting Rights
6 Act, respectively, which we discussed earlier.
7 Section 2 relates to claims of impermissible
8 vote dilution, Section 5 refers to attempts to
9 eradicate impermissible retrogression in a
10 minority group's ability to elect a candidate
11 of its choice.

12 The Florida Supreme Court in its first
13 opportunity to construe these provisions in
14 2012, stated that it would construe those
15 provisions as consistent with the
16 corresponding provisions of the federal Voting
17 Rights Act guided by prevailing United States
18 Supreme Court precedent.

19 That is the interpretation that was
20 offered when the Court approved the amendments
21 in 20-- that were adopted in 2010 for the
22 ballot. The sponsor of the amendment
23 represented that they should be interpreted in
24 that way, the Court did in fact interpret them
25 that way.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 73

1 So the Court will construe them
2 consistent with the case law on Section 2 and
3 Section 5 of the Voting Rights Act.

4 The anti-vote dilution provisions of
5 the Florida Constitution, like Section 2 of
6 the Voting Rights Act requires the creation of
7 a majority-minority district where the jingles
8 preconditions are satisfied, and if so, where
9 the totality of the circumstances demonstrates
10 that minority voters' political power is truly
11 diluted.

12 And the anti-retrogression provisions
13 of the Florida Constitution provides that the
14 Florida Legislature cannot eliminate majority-
15 minority districts, or weaken other
16 historically performing minority districts
17 where doing so would actually diminish a
18 minority group's ability to elect its
19 preferred candidates.

20 So, in addition to majority-minority
21 districts, coalition or crossover districts
22 the senator represent-- referenced earlier,
23 that previously provided minority groups with
24 the ability to elect a preferred candidate
25 under the benchmark plan -- so the benchmark

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 74

1 plan is the prior plan -- those must also be
2 recognized and protected against diminishment.

3 In order to determine whether there has
4 been a retrogression or a diminishment, the
5 legislature must perform a functional analysis
6 to evaluate retrogression, and to determine
7 whether a district is likely to perform for
8 minority candidates of choice.

9 This is a complex, multi-factor
10 determination, it requires consideration of
11 minority populations in the districts,
12 minority voting age population in the
13 districts, political data, turn out data,
14 voter registration data, how a minority group
15 has voted in the past. There is no
16 predetermined or fixed demographic percentage
17 used at any point in that functional analysis.

18 And in fact under some of the prior
19 provisions of federal law, states have been
20 found to violate the racial gerrymandering
21 requirements of the Federal Constitution when
22 they have pegged a percent to a particular
23 racial percentage. So, functional analysis
24 considers multiple factors to protect against
25 diminishment.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 75

1 In certain situations, compactness and
2 other traditional redistricting criteria may
3 be compromised to avoid retrogression. Under
4 the Florida Constitution, Tier 2 -- the Tier 2
5 requirements of compactness and adherence to
6 political and geographical boundaries give way
7 to the extent necessary to avoid
8 retrogression.

9 As I mentioned in response to your
10 question earlier, Section 5 of the Voting
11 Rights Act originally applied to only five
12 Florida counties. It's now unenforceable
13 following the Shelby County vs. Holder
14 decision, but the Florida Constitution's non-
15 diminishment requirements and anti-vote
16 dilution requirements in redistricting apply
17 to the entire state and they remain
18 enforceable by the Courts.

19 The final Tier 1 requirement is a
20 contiguity requirement. This has not
21 traditionally been as litigated as some of the
22 other requirements. The Supreme Court has
23 defined contiguity as being in actual contact,
24 touching along a boundary or at a point. And
25 it has found the a district lacks contiguity

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 76

1 when a part is isolated from the rest of the
2 territory of another district -- by the
3 territory of another district, excuse me, or
4 where the lands mutually touch only at a
5 common corner or right angle.

6 The principal place where this has been
7 litigated in Florida and elsewhere is
8 consideration of bodies of water. So, a
9 district that crosses a river and doesn't
10 touch it -- land on either side of the river
11 can still be contiguous, even though the
12 landmass doesn't touch. The Florida Keys are
13 another obvious example, they don't touch one
14 another other than through a roadway, but
15 they're still contiguous with one another over
16 that body of water.

17 So, moving on now to the Tier 2
18 standards of the Florida Constitution. And
19 these encompass what are often called
20 traditional redistricting criteria. Tier 2
21 states that in less compliance with the
22 standards in this subsection just here two
23 conflicts with the standards in Subsection 1A,
24 or with the federal law, districts shall be as
25 nearly equal in population as practicable,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 77

1 districts shall be compact, and district shall
2 where feasible utilize existing political and
3 geographical boundaries.

4 So, population equality to the extent
5 practicable, compactness, and then where
6 feasible the use of existing political and
7 geographical boundaries. So, these
8 requirements are subordinate to both the Tier
9 1 requirements and to the requirements of
10 federal law, and of course the Federal
11 Constitution in the event of a conflict.

12 As with Tier 1, the order in which the
13 Tier 2 standards are set out in the
14 Constitution does not establish any priority
15 among those standards within the tier. So
16 compactness, population equality, and respect
17 for geographical and political boundaries are
18 all on an equal level for the legislature's
19 consideration, one of them is not any higher
20 rank than the others.

21 In terms of population equality, the
22 Florida Supreme Court has rejected arguments
23 that the population equality language in the
24 Florida Constitution now imposes any stricter
25 requirement than prevailing federal precedent.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 78

1 The Court said that strict and unbending
2 adherence to the equal population requirement
3 will yield to other redistricting
4 considerations, as long as those
5 considerations are based on the expressed
6 constitutional standards.

7 So, population deviation in order to
8 keep existing counties whole, to follow
9 geographical or political boundaries are
10 permissible grounds for deviations in
11 population from one district to another. As
12 well as, of course, adherence to minority
13 voting protections can be a reason to adjust
14 population percentages. Because obtaining
15 equal population is an explicit constitutional
16 mandate, the deviations must be based on
17 compliance with other constitutional
18 standards.

19 Compactness is another requirement
20 under Tier 2, the Supreme Court says that
21 compactness is geographical compactness,
22 rather than a sort of community interest or
23 subjective based compactness which is one
24 argument that was made in the last cycle.

25 The review of compactness by the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 79

1 Supreme Court begins by looking at the shape
2 of a district, so what's sometimes called the
3 interocular test, how does it look when you
4 look at it with your eyes?

5 A compact district should not have
6 quote, bizarre designs. There are also
7 certain quantitative measurements of
8 compactness that have been used to assist
9 courts in assessing compactness -- I believe
10 your staff director will be going over some of
11 those, and explaining those, those are also
12 available in the redistricting software --
13 that can provide a numerical figure that
14 represents how compact a certain district is.

15 Now, the geographical -- excuse me, the
16 geometrical measurements of compactness each
17 have their own flaws, some of them attempt to
18 measure how close a district resembles a
19 circle. Well, a district that is a perfect
20 square would not necessarily score very high
21 on the compactness measure of how close it --
22 how much it looks like a circle, just as one
23 example.

24 But they can be a tool, they're tool
25 that was used by the Court during the last

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 80

1 redistricting cycle, it has traditionally been
2 used by courts across the country in
3 evaluating compactness. And it's something
4 that the redistricting software has the
5 ability to measure as one consideration of
6 compactness. I describe here the Reock Method
7 and the Convex Hull Methods as two of the ones
8 that were commonly used.

9 Geographic and minority protection
10 factors also influence the compactness of a
11 district. The Florida Constitution does not
12 require the legislature to adopt the
13 redistricting plan that achieves the highest
14 mathematical compactness scores.

15 I mentioned that geographic boundaries
16 can be a valid consideration for the
17 legislature, and obviously minority protection
18 is a valid consideration -- is a superseding
19 requirement under the Florida Constitution.
20 But non-compact and quote, bizarrely shaped
21 districts will require close examination by
22 the courts.

23 The Court referred to corridors
24 connecting isolated populations or appendages
25 from districts as something that will have to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 81

1 be justified by some other constitutional
2 requirement.

3 Another Tier 2 standard, districts
4 shall where feasible utilize existing
5 political and geographical boundaries.
6 Political boundaries primarily refers to
7 county and municipal boundaries.

8 County boundaries tend to be fixed,
9 every now and then counties -- the legislature
10 will adjust the boundary between counties for
11 one reason or another. But county boundaries
12 tend to be more permanent than municipal
13 boundaries, which change through annexations
14 and deannexations over the course of an
15 election cycle.

16 There are -- there are municipalities
17 in Florida that are non-contiguous, that's a
18 single municipality where the territory does
19 not connect one part to another. Those are
20 political boundaries that can be taken into
21 account. Geographical boundaries, the Court
22 said, our boundaries that are easily
23 ascertainable and commonly understood.

24 So, as examples these would be primary
25 and secondary roads, rivers, large bodies of

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 82

1 water, railways and so forth.

2 Not every split of a political or
3 geographical boundary violates the Florida
4 Constitution. The constitutional language
5 actually explicitly recognizes flexibility in
6 the legislature for -- by providing for the
7 use of boundaries where feasible. Just by
8 virtue of pure population demographics, there
9 are some counties that are not large enough to
10 have a Senate District all to themselves,
11 there are some counties that you could not put
12 a couple of Senate Districts in.

13 So, there will be some -- inevitably
14 some splitting of political or geographical
15 boundaries, but where feasible the
16 constitution requires the legislature to use
17 those boundaries.

18 And Mr. Chair, that is the end of this
19 portion of my presentation.

20 CHAIR RODRIGUES: Do we have any
21 questions? Seeing none.

22 SENATOR BRACY: Yes, I have a --

23 CHAIR RODRIGUES: Oh.

24 SENATOR BRACY: -- I have a question --

25 CHAIR RODRIGUES: Senator Bracey,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 83

1 you're recognized.

2 SENATOR BRACY: Thank you. I wanted to
3 go back to this Tier 1 standards, and having
4 to -- having it to apply to equal opportunity
5 and racial or language minorities. Is there a
6 certain percentage that we have to meet to
7 adhere to this standard? Let's say if it's an
8 African American community, like would 75
9 percent be enough to adhere to this standard,
10 or would just a simple majority -- I mean how
11 do you determine if we're meeting that
12 standard or not?

13 CHAIR RODRIGUES: You're recognized.

14 MR. NORBY: Senator, there is no one
15 particular number that applies in all
16 circumstances. The focus of the inquiry is to
17 determine where there are districts that
18 provided an effective opportunity to elect in
19 the benchmark plan, and then to ensure that in
20 any plans adopted by the legislature during
21 this process that there is not a diminishment
22 in the actual or effective ability to elect
23 within that district.

24 So for example, a district that -- in
25 some of the case law out of -- out of Alabama

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 84

1 or Mississippi, for example, where there are
2 districts that may be 7-- 70 percent of voting
3 age population of African American population,
4 the courts have said in in that context that
5 is not necessarily a diminishment to reduce
6 that percentage from 70 percent to 60 percent.

7 It's driven not only by the racial
8 demographics of the district, but by other
9 factors such as voter registration rates, turn
10 out rates, in some part of the state,
11 citizenship rates affect the ability to elect
12 a certain minority populations, political
13 party registration rates can affect the
14 ability to elect certain populations.

15 One of the factors that the courts
16 looked at in the last cycle was whether
17 particular racial groups would have the
18 ability to control the result in one political
19 party's primary election, or the other
20 political party's primary election, and then
21 how that would perform in the general
22 election.

23 So, the -- that's a long answer, and I
24 think to the short question, which is that
25 there's no specific percentage, it requires an

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 85

1 analysis of many, many factors.

2 SENATOR BRACY: Thank you.

3 CHAIR RODRIGUES: Senator Stewart,
4 you're recognized.

5 SENATOR STEWART: Thank you. Is there
6 any rule, or any past experience on dividing
7 neighborhoods or using a street as a division
8 between districts where one side of the street
9 will be in one district and their neighbor
10 across the street would be in another? Is
11 there any direction regarding that?

12 CHAIR RODRIGUES: You're recognized?

13 MR. NORBY: Senator, the criteria that
14 would apply in that circumstance would be the
15 use of political or geographical boundaries to
16 the -- to the extent feasible.

17 So, to the extent that it's feasible
18 then, when balancing all of these other
19 factors, minority voting protections, equality
20 population, to the extent it's possible to
21 draw those lines along state highways, or
22 railways, or rivers or other things that don't
23 divide someone from one side of the street to
24 the other side of the street, that's a
25 relevant consideration.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 86

1 Particularly on Congressional
2 Districts, where the president requires exact
3 equality of populations, it is sometimes
4 necessary just to make sure that there is an
5 exactly equal population to divide other sorts
6 of streets. But those sort of things should
7 be avoided to the extent it's possible.

8 CHAIR RODRIGUES: Senator Bracey,
9 you're recognized.

10 SENATOR BRACY: Thank you, I just have
11 one more question regarding adhering to this
12 minority district. If you -- if you pack too
13 many minorities in one district, could the
14 argument be made that they're trying to help a
15 one political party in the outside districts
16 to that minority district. I mean has that
17 case ever been made in court to that -- to
18 that example I just gave?

19 CHAIR RODRIGUES: You're recognized.

20 MR. NORBY: Yes, Senator, the legal
21 term for that is exactly what you said,
22 packing of a district, intentionally assigning
23 voters to a district on the basis of race in a
24 way that would not be justified like that and
25 under certain -- some circumstances, that

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 87

1 could violate Section 2 of the Voting Rights
2 Act.

3 SENATOR BRACY: Okay.

4 CHAIR RODRIGUES: Seeing no further
5 questions, thank you for your informative
6 presentation today. It was much appreciated.

7 MR. NORBY: Thank you, Chair.

8 CHAIR RODRIGUES: We're going to move
9 to Tab 3, the 2022 redistricting application
10 demonstration. Staff Director Ferrin, you're
11 recognized.

12 MR. FERRIN: Thank you. Mr. Chairman,
13 give me one moment here. Okay, there we go.
14 Sorry about that, I just had an issue with the
15 connection to the overhead system.

16 So, we will walk through the actual map
17 drawing application and give the members a
18 chance to ask questions about this, and see
19 how this process works. I would like to just
20 point out, and we have talked about this
21 already, that this is a -- the Florida House
22 and Florida Senate agreed to jointly use the
23 same redistricting application this cycle. As
24 opposed to last cycle and prior ones, where we
25 may have used different applications.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 88

1 And we chose Esri, which is a -- they
2 offer an online, web-based GIS mapping program
3 for use and redistricting. Florida is one
4 of -- just one of many state and local
5 governments that uses their products for this
6 type of service. And Esri is in fact a
7 national industry leader in GIS applications
8 and technology.

9 We are, as has been mentioned,
10 providing access to this application at no
11 cost to the public, they can use it for free.
12 They do have to sign up for credentials and
13 log into the account, but the account is
14 being -- you know, web, cloud-based reserves
15 their plans there securely for their access.
16 And so, there are some credentials that are
17 required as we were discussing earlier.

18 So, when a user logs into the
19 application, the first thing they're going to
20 see is a prompt for -- to select a template
21 plan, and these template plans have been pre-
22 created for use in redistricting here in
23 Florida. We have three -- well, we have one
24 for Congressional, one for House, and one for
25 Senate, but there's actually two of each. So,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 89

1 there is the benchmark plans that are located
2 here and labeled as such. See if that works
3 out. I'm sorry, they're prompted to select a
4 template for either Congressional, House, or
5 Senate districts each type has two versions,
6 one is blank preformatted for use in drawing a
7 plan from scratch, the second is the benchmark
8 plan.

9 We have the benchmark plans loaded into
10 the application so that users can use them for
11 comparison purposes to the drafts that they're
12 working on, or to even start from a benchmark
13 plan, if they so choose, they could start
14 there and make adjustments for equal
15 population from there.

16 So, in doing so -- and we will just
17 open up the -- we'll do the congressional one.
18 So, if we were logged in as a user, we would
19 pop in, see that template, this is going to
20 open the benchmark template. And so, from
21 here users will notice that this is saved as a
22 read only plan, so in order to save this plan,
23 they will have to come in and click the save
24 as, and they can give it their own name.

25 And this is because they're working

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 90

1 currently off of the generic template plan, so
2 they're basically making a copy of that, and
3 adding their own changes to it. Once saved,
4 users can come in here to the open plan dialog
5 box, and you will -- they will see that they
6 have a list of their plans, which this is a
7 demonstration account there's no plans.

8 And so, -- and then the shared plans
9 which includes the same templates that they
10 just choose from. So, all users will have
11 access to these at all times, and their saved
12 plans will be stored here.

13 You can also open up a local plan. So,
14 as I was discussing, the artifacts that are
15 available on the website, we had that .plan
16 file, that is a local plan. And so, a user
17 can download one of those from the website and
18 open it in their own account. They can also
19 save their own plan, and we will go ahead and
20 talk about that.

21 So, in addition to being able to save
22 it in the account they can save it down
23 locally, and store that plan in the .plan
24 format on their -- on their machine. Plans
25 can also be imported and exported. So, the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 91

1 import as I was discussing earlier uses that
2 fixed text format, which is the block
3 assignment file.

4 And so, that will open up a browser
5 window and allow users to pop in there, and
6 select the location of the text file, that's
7 the universally formatted file. They can also
8 export that to either an image, a KML like we
9 discussed for Google Earth, again the fixed X
10 format, or a shapefile for consumption and
11 other GIS applications.

12 We have -- also have the options for
13 printing here as well, so users can print the
14 plans. But most of what's going to happen in
15 the map drawing application is going to be on
16 this create tab.

17 And so, this is where users will be
18 able to zoom in and around the map, they can
19 pan simply by clicking and dragging the map,
20 they can zoom in using the mouse wheel, which
21 as they zoom in you will notice all these
22 other lines that started appearing on the map.

23 Those are going to be track lines, and
24 as you zoom in you will see block group lines,
25 and then as you zoom in further you will see

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 92

1 the block lines. And so, that's adjusted
2 automatically as the user zooms in and out.

3 Going through the tools here over on
4 the left. So, these are the selection and
5 assignment tools right here, they allow you to
6 select geography using different methods. So,
7 this is a picking tool, so if we wanted to
8 assign just this block -- and I'm currently
9 here as unassigned, but this is where you
10 would change the district number that you're
11 working with here in this dropdown.

12 So, we could unassign this block by
13 just simply clicking on it, and that would
14 change it to unassigned. If you wanted to
15 undo that, you could use the undo button right
16 here, and that will go away. The other
17 selection methods are by rectangle, where you
18 can select a group of blocks all at once, by
19 Polygon -- so if you are trying to follow a
20 roadway perhaps, you might try to draw the
21 Polygon up the road, double click and it will
22 assign all the blocks that are touching the
23 Polygon -- and then the last type of selection
24 tool here is the line selection.

25 And so, this just allows the user to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 93

1 click a straight line and assign blocks that
2 way after double clicking. And so, you will
3 notice that didn't pick up the ones in the
4 middle, just the ones on the edge. We also
5 have a two-stage assignment tool, and so this
6 allows users to kind of preview the geography
7 that they may assign.

8 And so you see how that sort of
9 selected the block, but didn't automatically
10 assign it? But we can come down to the
11 proposed tab down here and see that if we were
12 to assign that to the unassigned group we
13 would be moving 225 people out of District 3
14 into the unassigned territory.

15 If you want to abandon those proposed
16 assignments, you click the red X here and that
17 will undo it. If you wanted to execute that
18 assignment you would click this little lasso
19 tool here, and that executes it. And if you
20 wanted to zoom to the current selection in
21 your two-stage selection, you can click the
22 magnifying glass here and that will pan to
23 that selection.

24 The binoculars next to it are used for
25 finding unassigned geography. So if you are

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 94

1 compiling a district map and you think you're
2 done and want to find areas that are
3 unassigned, you can click that and it will --
4 if there are little slivers in road medians,
5 or other places between districts that may
6 have kind of gone unassigned as you were
7 working through the state, it will pan to
8 those directly.

9 It will list those here, and as you
10 assign them you can click refresh, and it will
11 -- it will take care -- you know, it will
12 refresh the unassigned list, and the next one
13 will appear, and you go on, and so on and so
14 forth. The other tools for moving around the
15 map, we have talked about -- I mentioned the
16 pan tool -- whoops.

17 So, as you're using -- you can use this
18 hand to pan around the map, you can use the
19 zoom tools. If you're not using a mouse
20 wheel, you can draw that box and that will
21 zoom in and out for you. The arrows next to
22 it manage the extents. And extent in this
23 context is your last kind of level of
24 geography view, so it will bounce back and
25 forth to whatever you were last looking, at or

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 95

1 go forward to the next one. The tools next to
2 it have to do with the level of assignment and
3 the -- their visibility.

4 And so, as I mentioned, as I was
5 zooming in and out, the different geometry was
6 showing, you can automatically -- you can
7 leave your selection level on automatic and it
8 will work with whatever is currently visible
9 on the map, or you can specifically select one
10 of these geometry layers. So, if we selected
11 county and clicked anywhere in here in
12 Alachua, this would propose that we unassign
13 Alachua County.

14 So, this can be used for any of the
15 levels of census geometry or left on
16 automatic. These sliders here will kind of
17 automatically display based on your zoom
18 level. So, if you want to see blocks from a
19 very zoomed out level, you can adjust this
20 slider and it will show you blocks. If you
21 want to see counties at that level, you can
22 adjust it and it will remove the other lines
23 and show you counties.

24 The other tools that are selectable
25 here are the base maps and themes. So, base

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 96

1 map the default is to the street map in the
2 background, but if you wanted to use satellite
3 imagery, you could do so. Just simply come in
4 there and change the base map, and you will
5 see satellite imagery as the -- for the areas
6 that you're drawing in.

7 The themes have to do with color-coded
8 overlays, and so if you were looking to -- if
9 you were working on drawing an African
10 American district, you would come down here
11 and select either the standard or alternative
12 VAP, and the alternative is the aggregated for
13 all Hispanic and all African American. The
14 standard breaks it out into the different VAP
15 categories.

16 And so, you can select alternative,
17 tell it you want to use a percent, and it will
18 color code the levels of geometry that are
19 available on your screen here with the
20 densities. And these are adjustable for
21 users, they can change the colors, you can
22 change the transparency, you can label them
23 with different characteristics. There's a lot
24 of options there for users.

25 So, that's going to cover most of the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 97

1 create tools, I want to go through some of the
2 other items here. I did (inaudible) go
3 through all the file tab, the learn tab does
4 have links to the quick start guide, help
5 manual, and website on it.

6 So, if users are in here and they get
7 stuck, they can come find that information or
8 go to the website and contact us there. The
9 view settings have a lot to do with what's
10 being shown on the map. A user can come in
11 here and adjust the number of districts that
12 they're drawing. I should have gone up and
13 not down, I apologize.

14 So, if we were given a 30th
15 congressional seat by some chance, we would --
16 you could come in here and adjust the number
17 of districts, and the ideal population would
18 adjust automatically. The other settings here
19 have to do with visibility, so whether or not
20 your districts are showing up in color. You
21 can change or unchange that. The lines or
22 fill is an option, as well as names.

23 So, the numbers that are shown on them,
24 they can be displayed they -- the shorter
25 version without the word district can be

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 98

1 shown, and you can also show the population.

2 So, other tools are -- here are
3 available are deviation colorings. So, this
4 will -- if you want to adjust your deviation
5 to be a lower number, this will show you
6 whether or not the districts are -- which ones
7 are over or under populated, this is very
8 similar to the tool that we have on our
9 website, just incorporated into the
10 application.

11 And then we have some other tools here
12 for joining and modifying districts, joining
13 allows you to merge districts together
14 quickly, so if you wanted to merge Districts 1
15 and 2, you could come in here and do that
16 simply by selecting District 1 and District 2,
17 and hitting that button. And now we have
18 combined District 1 and 2 into District 1.
19 And we will -- that is not undoable, just for
20 the record.

21 And then, so some other -- let's see
22 here, that was the view tab. The -- I didn't
23 really talk about this and I probably should
24 have, already, apologize. But the specific
25 demographic fields that are listed in here,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 99

1 the ones we have kind of gone over already, we
2 have the total field for the total population
3 of the district, the target, and the target
4 deviation.

5 So, this is -- excuse me, this is the
6 target deviation, so this shows you how far
7 off you are from the ideal population. And
8 this is -- this target, dev P, expresses that
9 as a percentage. The other fields here for
10 SRWVAP -- and these are all defined in the
11 help manual, this is single race white voting
12 age population in raw numbers, and then
13 expressed as percentage.

14 We have the same for non-Hispanic
15 black, for Hispanic black, for Hispanic not
16 black. We have other VAP which includes all
17 the other unmentioned combinations for
18 demographics, and then our BVAP is our black
19 voting age population, and HVAP is Hispanic
20 voting a voting age population, and those are
21 both expressed as raw numbers and percentages.

22 Also here on the review tab, just going
23 back to that, we have buttons here for the
24 compactness test. And we can -- this will run
25 in a pop-up window here and provide the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 100

1 compactness scores for the districts as they
2 are drawn in the plan. And one of the things
3 that is in the meeting materials is the -- we
4 put together a little take away for the
5 senators -- for the members and posted this on
6 the website -- this is, I think, in the other
7 meeting materials documents -- on the
8 compactness metrics, and how they're used, and
9 how they're calculated.

10 This is the -- this document, if it's -
11 - if you have got it available, we should have
12 provided all the members of copy of it. But
13 the -- this is where we talk about how these
14 scores are calculated and sort of the rubber
15 band image that we have discussed in regarding
16 Convex Hull scores and the circular Reock
17 dispersion score, as well as the Polsby-Popper
18 score.

19 And as was mentioned, these all tests
20 for different things, so Convex Hull is a
21 score that tests for concavities or
22 indentations in district boundaries, and uses
23 the ratio of the area of the district to the
24 minimum convex Polygon that can enclose the
25 districts geometry, essentially the rubber

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 101

1 band. The Polsby-Popper score test for jagged
2 or squiggly district boundaries, and
3 calculates the ratio of the area of the
4 district to the area of a circle whose
5 circumference is equal to the perimeter of a
6 district.

7 And so, if you have a lot of perimeter
8 you're going to very large circle that could
9 encompass the district, and that ratio is
10 going to be low. The Reock score is --
11 basically tests for the district similarity to
12 a circle.

13 And as you heard counsel discuss,
14 circles are difficult to draw in all
15 circumstances due to Florida's geography, and
16 the fact that circles don't -- also don't
17 stack very well. Nonetheless, it's a relevant
18 score for compactness measurements, and is
19 used in in concert with the other scores, and
20 a visual interocular review as a way to
21 identify potentially outlier districts in
22 terms of compactness.

23 We have also provided on the last page
24 of this handout just a kind of table of some
25 common shapes for illustration purposes, and

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 102

1 some of their mathematical compactness scores.
2 And so you can kind of look through the list
3 here and see you know how a circle would score
4 on all of them, how a coil, or a crescent, or
5 a triangle, squares, we provide all these
6 different examples just as reference points so
7 that we can understand how they all work.

8 So, for example, a coil would get a
9 reasonably well Reock score, in Convex Hull,
10 score but do very poorly on Polsby-Popper
11 because it's essentially got a very long
12 perimeter that's wrapped around itself.

13 So, jumping back into the application
14 real quick, so the compactness test is
15 available as an independent button, as well as
16 in this review -- reports drop down here. So,
17 we talked a little bit earlier about the VAP
18 summary report that that can be generated
19 using this tool.

20 When a user comes in here to select
21 this, they have several different options, one
22 they can name it and title it at whatever they
23 would like to, so they can enter the name of
24 their plan there. They can format it as
25 either a PDF, excel, or HTML document, they

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 103

1 can e-mail it to themselves or -- and they can
2 select all the different fields that are
3 available in that report.

4 It defaults to the ones that we have
5 listed in the VAP summary reports on our
6 website, but this is also how users will
7 access the data for functional analysis. So,
8 you see here these last three categories are
9 registered voters, voter turnout, and election
10 results, and each one of these can be dropped
11 down and there's a number of fields here.

12 All of these fields are going to be
13 listed in the handout that says functional
14 analysis. They're described in the help
15 documentation in general terms, but we went
16 ahead and listed them out here. but each one
17 of these is going to be selectable by the user
18 to include in their own functional analysis
19 and determine how the districts are going to
20 perform accordingly.

21 So, we have the voter turn -- the voter
22 registration, we have the voter turnout, and
23 then we have the election results. So, for
24 the registered voters, that's available for
25 general elections the turnout is available for

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 104

1 both primary and general elections. So, the
2 way these are coded, you see here it says
3 GE20VT, that means that's voter turnout for
4 the general election in 2020.

5 And this goes all the way back from
6 2022 to 2012. And so, we have primary and
7 general turnout available, this is all broken
8 down by race and party, as would be done for a
9 functional analysis. That's what this data is
10 here for.

11 And then lastly, we have the statewide
12 election results from for the last ten years
13 where the statewide elections. So we go from
14 the 2020 presidential election, we have
15 cabinet contests, U.S. Senate contests,
16 gubernatorial contests -- and I think
17 that's -- I think I'm covering them all there,
18 and as well as the primaries broken down by
19 party.

20 So, here would be an example of the
21 2014 CFO contest in the general, and then here
22 it is in the -- that may be a bad example --
23 the primary is coded very similarly but with P
24 at the beginning. So, you have the primary
25 for attorney general here within the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 105

1 democratic ticket.

2 And so, that's how that data is
3 accessed via the reports, other reports that
4 are available include we have the bill text,
5 but that's probably not something that's going
6 to get used by many users. That actually
7 generates text that can be converted into to
8 bill language that was displayed earlier.

9 The compactness report is here as well
10 so if a user wants to export the compactness
11 report or pull it up in a different format,
12 they can do that here. It's going to generate
13 the same set of numbers. And then the means
14 and bounds types of reports that are available
15 currently, one of the things that's available
16 in the application is a boundary analysis.
17 And we do have another set within the handout
18 materials for this.

19 The boundary analysis is something that
20 was brought into existence after passage of
21 the amendments in 2010 to try to measure the
22 compliance with that criteria, and to try to
23 define political and geographic boundaries.
24 And we have refined that since then.

25 The way it was worked in in 2012 we

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 106

1 have improved upon that, and so for this cycle
2 it's going to calculate the coincidence with
3 each type of geographical feature which
4 includes primary and secondary roads,
5 railroads, significant water bodies which are
6 contiguous water bodies that are greater than
7 10 acres. So at Bay or river that is a
8 Polygon and not a line.

9 So, not a -- not a stream, or a creek,
10 or a ditch, but a river or some other body
11 that's contiguous and can be followed for an
12 area that's up to 10 -- that's over 10 acres.
13 And then the municipal and -- or city and
14 county boundaries.

15 And so these reports will generate the
16 coincidence of that for each type of those
17 categories, and then it also is going to
18 generate the coincidence, or a -- or the
19 amount of distance that a district boundary
20 does not follow one of those types of
21 specified geography.

22 And so in that way this tool can be
23 used to identify outlier districts that do not
24 follow political or geographic boundaries, and
25 it can also be used to measure the consistent

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 107

1 use of a particular political or geographic
2 boundary type within a district or plan.

3 And it's -- it takes a few minutes to
4 run, but it's running here and so, we will
5 just -- I will just keep going through the
6 remaining materials while that's running so we
7 can -- everybody can take a look. But there
8 is an example of that report available in the
9 materials as well.

10 The other thing worth mentioning, and
11 we have kind of touched on this today a little
12 bit, is the municipal boundaries. Oh, hey I
13 forgot to mention that you have to turn off
14 pop-up blockers, so.

15 But the municipal boundaries handout
16 talks a little bit about the differing -- the
17 changing nature of municipal boundaries in
18 Florida. So, we did some calculation based
19 off of information that was reported to the
20 Census Bureau.

21 And that suggested that Florida has had
22 over 3,500 annexations since the 2010 between
23 the 2010 census geography cutoff date, and the
24 2020 census geography cutoff date. So, that's
25 between January 1st, 2010, and January 1st,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 108

1 2020.

2 And we looked at that and did some
3 calculations on the geometry and other
4 geographical features of these cities, and
5 noticed that a number of Florida's cities are
6 -- as has been discussed -- not very compact,
7 and also have discontinuities and holes. And
8 so, we kind of looked at that in relation to
9 population size and geographic size, and
10 noticed that as cities get larger they tend to
11 have more of those type of features whether
12 they be holes, or discontinuities, or
13 compactness scores.

14 It's an item of note, just as we're
15 having the discussion about the use of
16 municipal boundaries and how those change so
17 frequently, that it's likely that our
18 municipal boundaries that we have embedded in
19 the 2020 Census data as of January 1, 2020,
20 may have already changed from a practical
21 standpoint.

22 And so, we have just included for
23 reference some of these information about the
24 number of boundary changes that have happened
25 in these municipalities over the last decade.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 109

1 And I think there's 200 cities that have
2 changed their boundaries out of our 412. And
3 information as well about discontinuities
4 within cities and the count of the holes or
5 enclaves within cities. And this is all just
6 for note as we're having the discussion
7 related to this.

8 So, getting back to the software,
9 having gone through the reports, I want to
10 make mention of the compare tool. So, this --
11 as you're in the review tab, this open plan
12 button will allow users to open up a plan
13 that's existing within their account, or one
14 of the benchmark plans, or the benchmark -- or
15 the blank templates, and they can open that
16 plan and compare it against the plan that
17 they're working on.

18 This will facilitate comparison
19 between -- and you can do this for any of your
20 draft plans or the existing plans -- it's
21 going to -- the way the system handles this is
22 it creates cross marks or hatches across the
23 areas that are different.

24 And so, in this particular case we were
25 comparing the benchmark Congressional map to

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 110

1 the Senate benchmark map, and we could see
2 that the District 1 is showing as being the
3 same in this area because we're comparing kind
4 of apples to oranges here.

5 But it's an example of how this could
6 work, it's going to work a little bit better
7 if you're looking at two Senate plans side by
8 side that are -- you're checking for
9 similarities. These can be -- you can use
10 this tool to turn on or off the compare plan
11 which is the one you just loaded up, or the
12 active plan which is the one you're working
13 on.

14 So, you can kind of toggle those to
15 view the visibility of them and check whether
16 or not you want to see those differences,
17 which is going to make those disappear --
18 those cross marks disappear and you will just
19 be left with the outlines of the districts.
20 And you can also zoom to the differences in
21 the comparisons, and most -- probably most
22 importantly you can merge the differences.

23 And the way this works is it allows the
24 user to designate whether they want the
25 differing areas to become unassigned, to jump

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 111

1 to kind of take on the form of your active
2 plan, or the one that you're working on, or
3 the comparison one with -- the one that you
4 just loaded up. And so, that's -- how that
5 tool works.

6 The next thing to mention is the submit
7 tab. The submit tab is where a user -- well
8 actually, I apologize, let me back up and talk
9 about integrity reports -- integrity checks
10 real quick.

11 So, prior to submitting a plan, users
12 should run these integrity checks and these
13 are going to check for things like dual --
14 duly assigned territory population summary,
15 making sure that your population is in
16 balance, that all districts have been
17 assigned, that you're within your maximum
18 deviation for the districts, and your overall
19 range for the plan.

20 The null assignment checks for
21 unassigned territory. And then the
22 connectivity check checks for little slivers
23 that may be discontinuous. And so all of
24 these are going to be used to help ensure that
25 the plan meets the basic, constitutional,

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 112

1 right criteria of having the right number of
2 districts, the correct population assignment
3 is contiguous, and doesn't have any unassigned
4 territory.

5 So, after running that kind of type of
6 test, users can come submit the plan. And if
7 you click to submit -- this is still a read
8 only draft, so I don't -- I can't actually
9 walk through the submit process, but it's
10 going to prompt you for a few fields, such as
11 what is -- you know it's going to load preload
12 the plan name, allow -- ask for a username and
13 e-mail address, and then also offer the author
14 and opportunity to enter in some other
15 information about what their objectives were
16 in drawing the plan.

17 Once we receive when you submit that
18 plan, it's going to send us a -- we will get a
19 message that the plan has been submitted and
20 we will respond to the author at their
21 designated e-mail address with the
22 redistricting suggestion form that we would
23 ask them to fill out and return to us, so that
24 we can then post their plan on the web.

25 SENATOR BRACY: I have a question.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 113

1 CHAIR RODRIGUES: (Inaudible).

2 SENATOR BRACY: And this question may
3 be for you, Chairman, but how are we going to
4 go about the business of our work in creating
5 maps? I understand this is for the public,
6 but what would be our process?

7 CHAIR RODRIGUES: At the next committee
8 hearing we're going to take the data that we
9 have gotten today from our counsel, regarding
10 what the requirements are from the Florida
11 Supreme Court in the last round of
12 redistricting, and we're going to put forth
13 the standards that will be used for the
14 drawing of maps.

15 That is what we will provide staff in
16 the charge, here are the standards we wish you
17 to draw maps around. And that's how staff
18 will move forward, based upon the input we
19 have given them. As members, we're free to go
20 into the site ourselves and begin working on
21 drawing maps, if that's what we choose to do,
22 as any senator in the body can do.

23 SENATOR BRACY: Follow up. So, the
24 staff will create the maps, will there be --
25 will there be a couple iterations of maps by

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 114

1 staff, and are we able to amend those as a
2 committee?

3 CHAIR RODRIGUES: Okay, so this will be
4 next week will be a full committee meeting,
5 where we together as a committee put together
6 the charge to the staff. Following that, the
7 subcommittees will meet. So, the staff will
8 put together proposals -- plural -- for each
9 of the subcommittees for them to consider.

10 The select subcommittees will review
11 those proposals, provide input to staff on
12 areas where they believe the proposals can be
13 improved, and the maps will get better as they
14 go through, as they take the input from the
15 members and go through the subcommittee
16 meetings.

17 The subcommittees in their third
18 meeting will then make a recommendation of
19 maps -- and I'm going to say I believe it will
20 be plural -- that they're recommending come up
21 to the full committee. Because they're select
22 committees, it will be recommendation and
23 there won't be a vote, it will be consensus.
24 Those maps will come to us.

25 When those maps come to us, we then

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 115

1 have the ability -- like any other piece of
2 legislation to debate it, consider it, and
3 amend it. And then, if we decide either of
4 the maps -- plural, I'm not sure what that
5 number is going to be, that will depend upon
6 the subcommittees -- are acceptable as they
7 are, we could in theory vote one of those maps
8 out.

9 If we decide none of those maps are
10 acceptable, then we can direct staff to areas
11 where we believe those maps may be improved.
12 And then we will go through a similar process,
13 potentially, that subcommittees went through,
14 where there's a different iteration of the
15 map, and it improves as it goes.

16 SENATOR BRACY: And then, once we have
17 our final maps, and we have the entire Senate
18 body vote on the maps, what is the process of
19 working with the House? Do we have a process
20 like we do with the budget, where we
21 (inaudible).

22 CHAIR RODRIGUES: The process would be
23 map that comes out of the committee --
24 supported by a majority of the committee would
25 then go to the floor of the Senate for

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 116

1 consideration. I believe the process would be
2 similar to what we do with the budget, we will
3 vote maps off of the Senate floor, if our maps
4 match perfectly with the maps that the House
5 has done, then, you know, we could be done.

6 If those maps do not match, then I sus-
7 - like the budgets never match, then I suspect
8 there will be a conference. And then we will
9 confer with the House and produce maps that
10 will then come back to the body.

11 SENATOR BRACY: Thank you.

12 CHAIR RODRIGUES: Sure. Senator
13 Thompson -- I'm sorry, Senator Gibson and then
14 I'll go to Senator Rousson. Senator Gibson,
15 you're recognized. Accidentally.

16 SENATOR GIBSON: (Inaudible). Thank
17 you, Mr. Chair. I have three questions, I
18 think. So, the first one I want to ask, since
19 we were on the data -- well, it's all data, on
20 the descriptions of population where you have
21 black voter -- what's it called? BVAP, other
22 VAP, did we use -- and I asked this earlier,
23 the census had different descriptors in terms
24 of ethnicity, we talked about when we first
25 started to race, or -- if you go back to that

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 117

1 screen, if it's not too much trouble?

2 Where the numbers that -- I mean, the
3 demographic descriptions -- which we're really
4 acronyms -- are, to see if they, kind of, line
5 up so people actually understand what they
6 mean. Not only what they mean, but what the
7 neighborhood, or the community looks like, or
8 the district would look like.

9 And I think on the map too -- and also
10 while, we're going back when an individual is
11 using the site to put together their map, and
12 they're looking at the demographics of a
13 current district maybe as the benchmark for
14 drawing the new one, is there any indication
15 of the change in the demographics in that
16 particular district since it was established
17 in -- when we did it in 2012, 13, 14, 15, 16?

18 CHAIR RODRIGUES: Do we have the
19 ability to see that?

20 MR. FERRIN: Thank you, Mr. Chairman.
21 I think if I understand your question, you're
22 asking if while you're drafting the plan you
23 can visualize changes in the district from one
24 census to the next, is that correct?

25 SENATOR GIBSON: The demographics in

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 118

1 the district and if those match. Is that the
2 one?

3 MR. FERRIN: So, --

4 SENATOR GIBSON: The census
5 descriptions, like two race, other, how does
6 that categorize on the -- when individuals go
7 into to draw their districts?

8 CHAIR RODRIGUES: You're recognized.

9 SENATOR GIBSON: If that makes sense.

10 MR. FERRIN: Let me try to answer the
11 categorization by race --

12 SENATOR GIBSON: Okay.

13 MR. FERRIN: -- first so SRWVAP is
14 single race, non-Hispanic, white voting age
15 population, the NHBVAP is non-Hispanic black
16 voting age population.

17 SENATOR GIBSON: Um-hum.

18 MR. FERRIN: HBVAP is Hispanic black
19 voting age population. In order to get to the
20 BVAP, which is all black voting age
21 population, you can add the NHB and the HBVAP.
22 So, you're adding not-- Hispanic is treated as
23 a different question than race in the census
24 data, so you can be black and Hispanic, or
25 black and non-Hispanic.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 119

1 And in our circumstances, we treat all
2 multiracial responses, if they include African
3 American or black, we count them as such. And
4 that's per DOJ guidance.

5 SENATOR GIBSON: Um-hum.

6 MR. FERRIN: So, if an individual was
7 African American and Asian, we would still
8 count them -- and non-Hispanic, they would be
9 counted in this non-Hispanic black voting age
10 population, provided they were over 18. And
11 so, we -- the way this this all works, and so
12 the other VAP category catches the other ones.
13 So, if a -- an individual is Asian and Native
14 American, --

15 SENATOR GIBSON: Um-hum.

16 MR. FERRIN: -- and not African
17 American and not Hispanic, they would fall
18 into the other VAP category for our purposes.
19 And when you add these up, you can add up
20 single race white, non-Hispanic black,
21 Hispanic black, Hispanic not black, and other
22 and you will get the total. And that's a big
23 part of the way -- we why we break it down,
24 because you can count --

25 SENATOR GIBSON: Um-hum.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 120

1 MR. FERRIN: -- there's a lot of
2 different ways to categorize and pull data,
3 but we want to make sure that it adds up to
4 100 percent.

5 SENATOR GIBSON: Um-hum.

6 MR. FERRIN: And that the sub to-- the
7 subgroups equal the total.

8 SENATOR GIBSON: And so it --

9 CHAIR RODRIGUES: You're recognized.

10 SENATOR GIBSON: So, I guess it just --
11 it doesn't really matter what the district
12 looked back before, because you're not really
13 tracking that, you just want to see what it
14 looks like now? But I thought that was the
15 benchmark part?

16 CHAIR RODRIGUES: You're recognized.

17 MR. FERRIN: So, the -- we're because
18 we're only drawing on 2020 data, that's sort
19 of what matters. We can review the benchmark
20 plans, but we're reviewing them with the 2020
21 population figures. Reviewing them with the
22 2010 population figures is not going to yield
23 an apples-to-apples comparison, because of
24 Florida's uneven and distribution of
25 population growth.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 121

1 And so if we were to look at --
2 specifically at the 2010 numbers and try to
3 compare them to the 2020, there may have been
4 a lot of population shifts within that
5 district that would throw that off. And
6 that's why we try to -- we standardize it all
7 on 2020 data. So, we would be looking at the
8 benchmark district configurations with the
9 2020 Census data applied.

10 SENATOR GIBSON: Okay. One last follow
11 up?

12 CHAIR RODRIGUES: You're recognized.

13 SENATOR GIBSON: Thank you Mr. Chair.
14 I wanted to go back to the map -- the maps and
15 the submission of maps by the public, after
16 they fill out the form, and I guess we
17 received the map when they fill out the form
18 first? And then, if a map is to be considered
19 that is submitted by the public, does a
20 senator have to file that map? Or do they --
21 they don't have, to but the only way that map
22 could be considered is if it were filed by a
23 senator, or what?

24 CHAIR RODRIGUES: That's correct.

25 SENATOR GIBSON: Okay.

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 122

1 CHAIR RODRIGUES: And the reason we
2 have done that is if you look at the
3 technology that's available, the ability to
4 draw district maps has largely been automated.
5 It's theoretically possible that we could be
6 flooded with thousands of maps.

7 SENATOR GIBSON: Um-hum.

8 CHAIR RODRIGUES: And so, for two
9 reasons, one to ensure that we don't have a
10 shadow operation there needs to be a sponsor,
11 which is a member of the body who has met with
12 the person who has submitted the map,
13 determined that there's no ill intent, and
14 understands the methodology that they have
15 chosen to draw the map, and can then present
16 that to us for consideration.

17 But the second is, we don't want our
18 staff overwhelmed with thousands of
19 submissions and not even looking at what the
20 senators are preparing, or what we have
21 directed them to prepare with the criteria
22 that we will give the charge to next week.

23 So, by treating this like every other
24 piece of legislation, which is nothing gets in
25 a bill until a member of the public gets a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 123

1 member of the body to sponsor it, we feel like
2 we're being consistent and we're preserving
3 the most precious element that exists at this
4 point, which is time for committee staff to
5 work on that which the body, the senators,
6 want them to be working on.

7 SENATOR GIBSON: Thank you, Mr. Chair.
8 And that's more clarity so, you know, I'm
9 interested in making sure, and I know we all
10 are that the public fully understands this
11 process, and that they also understand a
12 submission is one thing, but how it gets to
13 the -- to the committee is it's absolutely
14 something else.

15 CHAIR RODRIGUES: Indeed.

16 SENATOR GIBSON: Thank you.

17 CHAIR RODRIGUES: Senator Rouson, you
18 had a question?

19 SENATOR ROUSON: Yes, and it concerns
20 the public comment. Has there been any more
21 thought or consideration to how the public
22 will comment and interact with us as committee
23 members, other than submitting a map on their
24 own?

25 CHAIR RODRIGUES: The question of

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 124

1 whether we will do the virtual hearings,
2 because I know you have asked that in the
3 past, is still under consideration. I
4 anticipate we will have a final answer on that
5 soon, if not this week then at the next
6 committee week.

7 In the interim, until that decision is
8 made one way or the other, we still have the
9 ability for the public to comment like they do
10 with any other committee which is hearing
11 committee and submit public testimony.

12 And we have gone I think even further
13 with the website by updating the comment
14 section to accommodate anyone who cannot make
15 it to a committee hearing, but wishes to get
16 their comment on the record which will be
17 reviewed by us as members as well. But to the
18 question of the virtual hearings, that still
19 under consideration at this point.

20 CHAIR RODRIGUES: Any other questions?
21 Seeing none. We will move at this time to the
22 next tab on the agenda, which is public
23 comment. We have one public comment card
24 that's been submitted if anyone wishes to
25 comment please prepare a card and get it to a

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 125

1 member of the sergeant's office. Cecile Scoon
2 with the League of Women Voters. Welcome
3 back.

4 MS. SCOON: Thank you. Thank you for
5 this opportunity. My name is Cecile Scoon,
6 I'm president of the League of Women Voters of
7 Florida, and really listened intently and was
8 taking notes at everything that was said and
9 presented that is very, very helpful. And I
10 want to thank counsel, we really gave a primer
11 on about 3 topics all in one.

12 So, as a practicing lawyer myself, I
13 was really impressed. I also want to thank
14 the committee for listening to the people, and
15 listening to the League and others in our Fair
16 Districts Coalition, we had asked for some
17 changes with regards to the Adobe, and people
18 not having printers at home, and we feel
19 heard.

20 And there were some changes made, and
21 we want to continue that ongoing conversation
22 with you as you're, you know, struggling to
23 capture so many balancing acts of Tier 1, Tier
24 2, State, Federal it's just -- it's a lot, you
25 know, it's really -- it's really a lot. But

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 126

1 that is really important for us to advocate
2 for the citizenry.

3 I also wanted to say that we strongly
4 believe in the hearing process. Why? Because
5 so many people are not going to be able to
6 drive, and take off work, and stay in
7 Tallahassee and do that from across this
8 massive, beautiful state that we have.

9 And so that interaction of being able
10 to actually talk to you virtually is next to
11 being actually being physically present. And
12 that's really, really important to hear your
13 response, or if there's a question, you might
14 question as you did last time.

15 You have that opportunity that is
16 nonexistent with putting a comment in a box.
17 And you also want to encourage people to
18 believe in the system, and to feel like
19 they're heard. And there's nothing like
20 having a conversation to actually give that
21 impression.

22 I had a couple of questions with
23 regards to so much that we heard today, that
24 Es-- the E-S-R-I application which allows for
25 the functional analysis, when was that added

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 127

1 to the website?

2 CHAIR RODRIGUES: October the 8th.

3 MS. SCOON: Okay. And when was it made
4 accessible to the public?

5 CHAIR RODRIGUES: October the 8th.

6 MS. SCOON: All right.

7 CHAIR RODRIGUES: And just for the
8 record, when we rolled the website out, we did
9 not have that voter data at that time. So,
10 when we received the voter data we immediately
11 put it on the website.

12 MS. SCOON: Okay.

13 CHAIR RODRIGUES: And it's important
14 for me to say that because there was an op-ed
15 out there, that many people have seen, that
16 alleged that we were hiding data from the
17 public. We were not, we did not have
18 possession of the data at the time the website
19 went up. When we received the data, we put it
20 on the website.

21 MS. SCOON: And when did the data get
22 received then, I guess?

23 CHAIR RODRIGUES: October the 8th we
24 received it and we put it out. The website
25 went up September 22nd, with the data we had

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 128

1 available. And then when we received the
2 voter data, we put it on the website.

3 MS. SCOON: Thank you, that's helpful.
4 You were mentioning articles, and of course
5 we're all trying to keep abreast of the many
6 things that are out there so we can educate
7 ourselves.

8 And you were quoted in an article the
9 Florida Phoenix, and they expressed that it
10 was your belief that because of the change in
11 the Shelby case, of taking away preclearance,
12 I guess, that there was not a need for a
13 traveling show on the redistricting. Is that
14 your belief?

15 CHAIR RODRIGUES: They actually did not
16 recount the conversation correctly, that came
17 out of the press guy (inaudible) at the first
18 committee meeting. And what I said was, as a
19 result of the Shelby case, there's no longer a
20 requirement that we have the public hearing
21 traveling roadshow.

22 That was directly tied to the Shelby
23 decision, where we had to go out and take
24 public input. Specifically, if you go back
25 and look at what we received in public input

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 129

1 during those tours of the last two
2 redistricting cycles, it was primarily the
3 public letting the legislature know these are
4 the communities of interest that we want you
5 to keep together. So, what I said was it's no
6 longer required.

7 Now what I raised was the question, now
8 that Fair District has passed and the Court
9 made clear in the 2012 litigation that the
10 Fair Districts Coalition brought forward that
11 the legislature can't consider communities of
12 interest, because it is not in the objective
13 standards spelled out in the Fair Districts
14 Amendment that does beg the question of
15 whether we need to have a traveling roadshow
16 to receive that information, if we can't use
17 it once we have it.

18 MS. SCOON: Would you agree with me
19 that the communities of interest also include
20 racial and language minorities?

21 CHAIR RODRIGUES: I don't believe
22 that's traditionally how it's been defined,
23 but if you would like to set up a meeting with
24 me, I would be happy to sit down and have a
25 conversation with you. But this is public

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 130

1 comment, so rather than us continue with the
2 back and forth, please continue with your
3 comments.

4 MS. SCOON: Okay.

5 CHAIR RODRIGUES: Thank you.

6 MS. SCOON: Thank you, I will take you
7 up on that offer. I appreciate that. Let's
8 see, there was some discussion on the
9 geocoding that's going to be available, I
10 think, that was mentioned so that citizens
11 could check to see, you know, where they are
12 where their family might be with any districts
13 or maps that they may be drawing, did I hear
14 that correctly?

15 CHAIR RODRIGUES: Ma'am, we're not
16 going to continue with Q&A. You can make your
17 comments, if you have questions, you and I can
18 sit down directly --

19 MS. SCOON: Okay.

20 CHAIR RODRIGUES: -- and have a
21 conversation.

22 MS. SCOON: I will convert that into a
23 comment then. The concern was that, frankly,
24 I believe I heard that citizens could use it
25 to check their -- where they were in the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 131

1 district.

2 And that same ability to check where
3 you are in a district that you're -- being
4 drawn, there's a concern that representatives,
5 or senators, or persons might also look to see
6 and that may influence their decision making
7 if they're looking to see also. So, the
8 concern is the use of the geocoding and that's
9 open for everybody to use.

10 And I want to thank you again for the
11 very broad review, and certainly the legal
12 review was very helpful. Thank you and we
13 will follow up with a meeting between us.
14 Thank you very much.

15 CHAIR RODRIGUES: I look forward to it.
16 Okay, seeing no other public comment cards
17 that concludes public comment. We're at the
18 portion of the meeting where we can do final
19 comments and thoughts. I have couple of
20 things that I want to address before I move to
21 the committee members.

22 The first is Senator Rouson, I
23 appreciate the questions you had earlier
24 regarding the op-ed that was out there. We
25 were able to clarify a number of the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 132

1 misrepresentations that were in that op-ed.
2 Some of the other misrepresentations that were
3 later clarified by the presentations from
4 Staff Director Ferrin was the op-ed said that
5 data could not be downloaded from our website
6 and then uploaded into another third party
7 application, and conversely data from a third
8 party application could not be uploaded into
9 our system as we learned when both of those
10 systems were demonstrated. That is
11 inaccurate, we can allow for the downloading
12 of data and for the uploading of data. And so
13 we have that ability.

14 Another inaccuracy that needs to be
15 addressed was thankfully brought up by our
16 speaker from the League Women Voters that we
17 were able to address, the allegation that we
18 were hiding data. We were not hiding data.
19 And just to make sure that I'm completely
20 clear with the answer I gave you, the 10-8 was
21 when the data have been completely integrated
22 into the software.

23 As soon as that data was integrated, it
24 was uploaded. But prior to that, it had not
25 been integrated into the software. And so, I

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 133

1 want to make sure I'm completely clear on
2 that. But as soon as we had that, we made it
3 available.

4 There was another allegation in that
5 op-ed that we were asserting legislative
6 privilege and telling FSU with our contract
7 with them not to fulfill public records
8 request, that is inaccurate. Public records
9 request can be fulfilled, what is required is
10 that FSU must notify us when a public records
11 request has been received.

12 And the reason for that is, we are the
13 custodians of the record, and the mere request
14 of a public record, is in of itself a public
15 record that would have to be maintained by us
16 as well.

17 And so, we never asserted legislative
18 privilege, we never told FSU to not fulfill
19 any public records request, we just made it
20 clear that should they receive those public
21 records requests the legislature must be
22 notified for us to fulfill our
23 responsibilities under the Government Sunshine
24 Statutes.

25 And so, I think that covers the

10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 134

1 misrepresentations that were out there that we
2 need to have clarified on the record. And at
3 this point, I will turn to other members if
4 there are any comments or other business that
5 needs to be brought forward. Seeing none.
6 Chair Broxson moves that we adjourn. Is there
7 any objection? Seeing none, show the motion,
8 adopted. We are adjourned. Thank you.

9 (End of Video Recording.)
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10/11/2021

Common Cause, et al. v. Cord Byrd

Audio Transcript

Page 135

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CERTIFICATE

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I, Wendy Sawyer, do hereby certify that I was

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authorized to and transcribed the foregoing recorded

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proceedings, and that the transcript is a true record, to

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the best of my ability.

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DATED this 15th day of March, 2023.

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WENDY SAWYER, CDLT

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