

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

EQUAL GROUND EDUCATION FUND,
INC., *et al.*,
Plaintiffs,

Case No. 2026-CA-000914

v.

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

GINO VACCARI, *et al.*,
Plaintiffs,

Case No. 2026-CA-000925

v.

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

COMMON CAUSE, *et al.*,
Plaintiffs,

Case No. 2026-CA-000928

v.

RON DESANTIS, Florida Governor, *et al.*
Defendants.

**THE FLORIDA HOUSE OF REPRESENTATIVES' RESPONSE TO
PLAINTIFFS' MOTIONS FOR TEMPORARY INJUNCTION**

Defendant, the Florida House of Representatives (“House”), respectfully opposes Plaintiffs’ Emergency Motion for Temporary Injunction filed in *Vaccari, et al. v. Byrd, et al.*, No. 2026-CA-00925 on May 8, 2026 (“*Vaccari Motion*”) and Plaintiffs’ Motion for Temporary Injunction filed in *Common Cause, et al. v. DeSantis, et al.*, No. 2026-CA-

00928 on May 11, 2026 (“*Common Cause Motion*”), prior to this Court’s Order on Consolidation. In support of its opposition, the House adopts the arguments made in its Response in Opposition to Plaintiffs’ Motion for Temporary Injunction and Memorandum of Law in Support of its Response to Plaintiffs’ Motion for Temporary Injunction (collectively, “*Opposition Papers*”) filed in this action on May 13, 2026 and attached as composite **Exhibit 1**.

For the reasons stated in the *Opposition Papers*, the House respectfully requests this Court deny both the *Vaccari Motion* and *Comon Cause Motion*.

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EXHIBIT 1

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**THE FLORIDA HOUSE OF REPRESENTATIVES' RESPONSE IN
OPPOSITION TO PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION**

Defendant, the Florida House of Representatives (“House”), respectfully opposes Plaintiffs’ Motion for Temporary Injunction, dated May 6, 2026 (“Motion”). For the reasons set forth below, and in the House’s accompanying memorandum of law, this Court should deny Plaintiffs’ Motion.

Plaintiffs’ Motion should be denied because Plaintiffs have failed to demonstrate a substantial likelihood of success on the merits. Plaintiff seeks relief under article III, section 20 of the Florida Constitution, which governs congressional redistricting. However, the provisions of article III, section 20 that Plaintiffs seek to enforce are unconstitutional because they are interconnected with—and not severable from—related provisions that violate the Equal Protection Clause.

Article III, section 20's express racial classifications (the "Racial Provisions"), which permanently treat people of different races differently and confer constitutional rights on some people solely based on their race, are contrary to the United States Constitutional's promise of race neutrality in official action. *See Miller v. Johnson*, 515 U.S. 900, 904 (1995); *see also City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 518 (1989) (Kennedy, J., concurring) ("The moral imperative of racial neutrality is the driving force of the Equal Protection Clause."). All express racial classifications are inherently suspect, presumptively invalid, and subject to strict scrutiny, and their proponents must carry the extraordinarily onerous burden of proving that the race-based provisions are narrowly tailored to serve a compelling state interest. *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007) (when the "government distributes burdens or benefits on the basis of individual racial classifications, that action is reviewed under strict scrutiny."); *Shaw v. Reno*, 509 U.S. 630, 642 (1993) ("Express racial classifications are immediately suspect . . ."); *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 272 (1979) ("A racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification.").

Plaintiffs fail to carry the extraordinary burden of satisfying strict scrutiny. No compelling interest justifies the express racial classifications in article III, section 20. *Louisiana v. Callais*, --- S. Ct. ----, No. 24-109, 2026 WL 1153054, at *10 (U.S. Apr. 29, 2026) (recognizing only three compelling interests justifying racially discriminatory state action). The Racial Provisions are not a remedy for a specific, identified instance of past unlawful discrimination. *Id.* (explaining that the remediation of "past discrimination in a

particular industry or region” or “the effects of societal discrimination” is insufficient (quoting *Shaw v. Hunt*, 517 U.S. 899, 909–10 (1996))). The Racial Provisions do not serve a compelling state interest and violate the Equal Protection Clause’s guarantee of race neutrality.

Even if the Racial Provisions did serve a compelling interest, Plaintiffs cannot demonstrate that the Racial Provisions are “narrowly tailored—meaning ‘necessary’—to achieve that interest.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 207 (2023). To be narrowly tailored, express racial classifications employed for remedial ends must be time-limited. *Grutter v. Bollinger*, 539 U.S. 306, 341–42 (2003). The Racial Provisions have no temporal limitation. Their indefinite duration establishes, without more, that the Racial Provisions are not narrowly tailored.

Finally, the racial provisions are not severable from the remainder of article III, section 20. As explained more fully in the accompanying memorandum, Section 20’s hierarchical structure, as well as its grammar, renders severability inappropriate. “Severability is a judicial doctrine recognizing the obligation of the judiciary to uphold the constitutionality of legislative enactments where it is possible to strike only the unconstitutional portions.” *Ray v. Mortham*, 742 So. 2d 1276, 1280 (Fla. 1999). “The severability analysis answers the question whether ‘the taint of an illegal provision has infected the entire enactment, requiring the whole unit to fail.’” *Id.* (quoting *Schmitt v. State*, 590 So. 2d 404, 414 (Fla. 1991)). The provisions of Section 20 are “functionally dependent” on each other and form an “interlocking plan” that cannot not “reasonably be

divorced” from one another. *Emerson v. Hillsborough County*, 312 So. 3d 451, 461 (Fla. 2021). Article III, section 20’s provisions are linguistically and structurally interconnected. Invalidation of one provision would disrupt the structure and function of the amendment in a manner inconsistent with voter expectations. This Court should find that severability of the unconstitutional Racial Provisions is inappropriate.

For these reasons, this Court should deny Plaintiffs’ Motion for Temporary Injunction.

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**THE FLORIDA HOUSE OF REPRESENTATIVES’
MEMORANDUM OF LAW IN SUPPORT OF ITS RESPONSE
TO PLAINTIFFS’ MOTION FOR TEMPORARY INJUNCTION**

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Defendant, the Florida House of Representatives, submits this memorandum of law in support of its response to Plaintiffs’ Motion for Temporary Injunction, dated May 6, 2026.

INTRODUCTION

The provisions of article III, section 20 that Plaintiffs seek to enforce are unenforceable because they are interconnected with—and not severable from—related provisions that are unconstitutional.

Specifically, article III, section 20 contains express racial classifications—permanent provisions that treat people of different races differently and confer constitutional rights on some people solely because of their race. These racial preferences purport to require the Legislature, whenever it redistricts, to design districts that voters of particular races will “control,” *Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec’y, Fla. Dep’t of State*, 415 So. 3d 180, 187 (Fla. 2025)—districts crafted to elect candidates preferred by the protected race and to defeat candidates preferred by unprotected races.

Express racial classifications in a state constitution are wrong—and contrary to the United States Constitution’s promise of race neutrality in official action. *See City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 518 (1989) (Kennedy, J., concurring) (“The moral imperative of racial neutrality is the driving force of the Equal Protection Clause.”). All express racial classifications are inherently suspect, presumptively invalid, and subject to strict scrutiny, and their proponents must carry the extraordinarily onerous burden of proving that the race-based provisions are narrowly tailored to serve a compelling state interest.

In their Memorandum of Law in Support of Motion for Temporary Injunction, dated May 6, 2026, Plaintiffs try but fail to demonstrate that article III, section 20's express racial classifications (the "Racial Provisions") satisfy this most rigorous standard. *See* Memo. at 46. Nor are the invalid provisions severable from the remainder of article III, section 20. The hierarchical structure and functional interdependence of that section's provisions demonstrate that the invalid provisions are interconnected with and not severable from the remainder of the section.

For these reasons, Plaintiffs cannot demonstrate a substantial likelihood of success on the merits, and this Court should deny their Motion for Temporary Injunction.

BACKGROUND

In 2010, voters approved a citizen initiative that created article III, section 20 of the Florida Constitution. That section governs congressional redistricting. It sets forth two tiers of standards. The first tier prohibits intentional partisan and incumbent favoritism and requires districts to be contiguous. Art. III, § 20(a), Fla. Const. The second requires districts to be equally populated and compact and, where feasible, to utilize political and geographical boundaries. Art. III, § 20(b), Fla. Const.

Tier One also "includes two clauses that expressly address 'racial . . . minorities.'" *Black Voters Matter*, 415 So. 3d at 186 (quoting Art. III, § 20(a), Fla. Const.). The Non-Diminishment Clause provides that "districts shall not be drawn . . . to diminish [the] ability [of racial minorities] to elect representatives of their choice." Art. III, § 20(a), Fla. Const. Under that provision, the Legislature may not "eliminate majority-minority districts or weaken other historically performing minority districts where doing so would

actually diminish a minority group’s ability to elect its preferred candidates.” *In re Senate Joint Resol. of Legis. Apportionment 100*, 334 So. 3d 1282, 1289 (Fla. 2022) (quoting *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 625 (Fla. 2012)).

Thus, if a minority group is able to elect its preferred candidate in a district, then the Non-Diminishment Clause prohibits any decrease in the minority group’s voting strength when the district is redrawn. The Legislature must perform a “functional analysis” of election and population data to identify each district in which a minority group was previously able to elect its preferred candidates and, when it draws the new district, to confirm that the new district does not diminish that ability. *Black Voters Matter*, 415 So. 3d at 186–87. The Legislature must configure the new district to ensure that the protected race “controls” the primary and general elections, as in the predecessor district. *Id.* at 187. It must pick winners and losers based on race.

In practical effect, the Non-Diminishment Clause requires the Legislature, if possible, to draw a minimum number of minority-controlled districts, maintaining at least the same number as in the prior map.

The other clause that addresses racial minorities prohibits vote dilution. *Id.* at 186. It provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process.” Art. III, § 20(a), Fla. Const. Under this provision, if members of different races prefer different candidates—*i.e.*, the minority group is politically cohesive while the majority votes sufficiently as a bloc usually to defeat the minority group’s preferred candidate—then, in some circumstances, the Legislature must draw a district

that tilts the scale in favor of the minority group’s electoral preference and enables its preferred candidates to win. *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 622–23 (Fla. 2012).

To the extent the standards in the two tiers conflict, the standards in Tier One prevail. Art. III, § 20(b), Fla. Const.; *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d at 640. Thus, in case of conflict, districts drawn to perform for minority voters in compliance with Tier One are exempt from the general rule that districts must be compact and, where feasible, utilize political and geographical boundaries. *See In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d at 640 (explaining that Tier One’s “minority voting-rights protections may require the preservation or creation of non-compact districts”). Stated differently, article III, section 20’s tiered structure ensures that the secondary goals of compactness and boundary utilization yield to the primary goal of crafting districts that perform for voters of particular races.

ARGUMENT

I. THE RACIAL PROVISIONS VIOLATE THE EQUAL PROTECTION CLAUSE.

The express racial classifications in article III, section 20 violate equal protection. On their face, they distinguish between people of different races, grant constitutional rights solely on the basis of race, and compel the government to treat people of different races differently. The Equal Protection Clause forbids such expressly race-based policies.

A. The Racial Provisions’ Proponents Bear an Extraordinary Burden to Satisfy Strict Scrutiny.

Under the Equal Protection Clause, a State may not “deny to any person within its jurisdiction the equal protection of the laws.” Amend. XIV, U.S. Const. “The central purpose of the Equal Protection Clause . . . is the prevention of official conduct discriminating on the basis of race.” *Washington v. Davis*, 426 U.S. 229, 239 (1976). Simply put, equal protection “requires equality of treatment before the law for all persons without regard to race.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 205 (2023) (quoting *Browder v. Gayle*, 142 F. Supp. 707, 715 (M.D. Ala. 1956)).

The central mandate of equal protection is “racial neutrality in governmental decision making.” *Miller v. Johnson*, 515 U.S. 900, 904 (1995). “When racial classifications are explicit, no inquiry into legislative purpose is necessary” because the purpose to differentiate on the basis of race is plain on the face of the law. *Hunt v. Cromartie*, 526 U.S. 541, 546 (1999). “A racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification.” *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 272 (1979); accord *Shaw v. Reno*, 509 U.S. 630, 642 (1993) (“Express racial classifications are immediately suspect . . .”).

When the “government distributes burdens or benefits on the basis of individual racial classifications, that action is reviewed under strict scrutiny.” *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007). To comply with the

constitutional guarantee of equal protection, express racial classifications must be “narrowly tailored to further compelling governmental interests.” *Grutter v. Bollinger*, 539 U.S. 306, 326 (2003). The party that defends the classification bears the burden of proof. *Johnson v. California*, 543 U.S. 499, 505 (2005); *Johnson v. Bd. of Regents of Univ. of Ga.*, 263 F.3d 1234, 1244 (11th Cir. 2001).

Strict scrutiny applies to express racial classifications “in every context” and even to “so-called ‘benign’ racial classifications.” *Johnson*, 543 U.S. at 505; *accord Adarand Constructors v. Pena*, 515 U.S. 200, 227 (1995) (holding, in a challenge to financial incentives to hire minority subcontractors, “that all racial classifications . . . must be analyzed . . . under strict scrutiny”). Even in the pursuit of “remedial objectives,” racial classifications may “stimulate our society’s latent race consciousness” and suggest the “propriety of basing decisions on a factor that ideally bears no relationship to an individual’s worth or needs.” *Shaw*, 509 U.S. at 643 (quoting *United Jewish Orgs. v. Carey*, 430 U.S. 144, 173 (1977) (Brennan, J., concurring)).

B. Plaintiffs Cannot Establish That the Racial Provisions Serve a Compelling Interest.

No compelling interest justifies the express racial classifications in article III, section 20. The Supreme Court has recognized only three compelling interests that justify racially discriminatory state action: (1) the avoidance of imminent and serious risks to human safety in prisons, such as race riots; (2) the remediation of specific, identified instances of past unlawful discrimination; and (3) compliance with a proper construction

of section 2 of the federal Voting Rights Act. *Louisiana v. Callais*, --- S. Ct. ----, No. 24-109, 2026 WL 1153054, at *10 (U.S. Apr. 29, 2026).

The first and third of these interests are not implicated here. The Racial Provisions have nothing to do with prisons and were not enacted to comply with the federal Voting Rights Act.

Nor are the Racial Provisions a remedy for specific, identified instances of past unlawful discrimination. “To rise to the level of a compelling state interest, an effort to remediate past discrimination must satisfy two conditions.” *Id.* (internal marks omitted). *First*, the government must “identify the specific instances of past discrimination that it aims to remediate and, in light of that specification, must determine the precise scope of the injury.” *Id.* (internal marks omitted). Generally remediating “past discrimination in a particular industry or region” or “the effects of societal discrimination” is insufficient. *Id.* (quoting *Shaw v. Hunt*, 517 U.S. 899, 909–10 (1996) (“*Shaw I*”). *Second*, the government must have a “strong basis in evidence to conclude that its remedial action is necessary.” *Id.* (quoting *Shaw II*, 517 U.S. at 910).

Enacted by citizen initiative, the Racial Provisions fail both conditions. The Racial Provisions came with “no pre-enactment record identifying the discrimination—past or present, public or private—that [they were] meant to remedy.” *Black Voters Matter*, 415 So. 3d at 196. “Nor is there pre-enactment documentation of the evidence necessary to establish a proper connection between [their] means and ends.” *Id.*

Plaintiffs might argue that the Racial Provisions are at least facially constitutional because, in drawing districts, equal protection affords States some leeway to consider

race, provided that race is not their “predominant” motive. *Miller*, 515 U.S. at 916. But the Racial Provisions go much further: they enshrine permanent racial preferences in the Florida Constitution. They impose on the Legislature a *constitutional duty* not only to consider race, but also to design a minimum number of districts that the protected race will control. And they confer on some voters a *constitutional right* to a favorable district based solely on their membership in a racial group. It is this constitutional guarantee—not the drawing of specific districts—that Plaintiffs must justify.

A stricter equal-protection standard applies in challenges to express racial classifications than in challenges to individual districts on a map. A district map “typically does not classify persons at all; it classifies tracts of land.” *Shaw*, 509 U.S. at 646. Thus, a plaintiff who challenges a district must first prove that the district “was drawn with an impermissible racial motive.” *Hunt*, 526 U.S. at 547. In contrast, the Supreme Court has struck down nearly all express racial classifications it has considered; to the extent it has upheld them, it has since reversed course. *United States v. Skrametti*, 605 U.S. 495, 571 (2025) (Alito, J., concurring in part).

Because they do not serve a compelling state interest, the Racial Provisions violate the Equal Protection Clause’s guarantee of race neutrality.

C. Plaintiffs Cannot Establish That the Racial Provisions Are Narrowly Tailored.

Even if they could establish that the Racial Provisions serve a compelling interest, Plaintiffs would be unable to demonstrate that the Racial Provisions are “narrowly

tailored—meaning ‘necessary’—to achieve that interest.” *Students for Fair Admissions, Inc.*, 600 U.S. at 207.

To be narrowly tailored, express racial classifications employed for remedial ends must be time-limited. *Grutter*, 539 U.S. at 341–42. This “requirement reflects that racial classifications, however compelling their goals, are potentially so dangerous that they may be employed no more broadly than the interest demands.” *Id.* It also assures all citizens “that the deviation from the norm of equal treatment of all racial and ethnic groups is a temporary matter, a measure taken in the service of the goal of equality itself.” *Id.* at 342 (quoting *Croson*, 488 U.S. at 510 (plurality opinion)).

The Racial Provisions have no temporal limitation. On the contrary, they reflect a permanent enshrinement of racial classifications in the Florida Constitution. Their indefinite duration establishes, without more, that the Racial Provisions are not narrowly tailored.

Finally, narrow tailoring requires “serious, good faith consideration of workable race-neutral alternatives.” *Parents Involved in Cmty. Schs.*, 551 U.S. at 734 (quoting *Grutter*, 539 U.S. at 339). The absence of evidence of any consideration of “methods other than explicit racial classifications” establishes that article III, section 20’s racial classifications are not narrowly tailored. *Id.*

II. THE RACIAL PROVISIONS ARE NOT SEVERABLE FROM THE REMAINDER OF ARTICLE III, SECTION 20.

The valid and invalid provisions of article III, section 20 are not severable from each other. The standards to draw congressional districts are arranged in a hierarchical

structure that reveals close attention to the interdependent relationships between the standards. Indeed, the Florida NAACP endorsed the citizen initiative that created article III, section 20 in reliance on the textual guarantee that, in case of conflict, minority-controlled districts would be exempt from Tier Two's compactness and boundary-utilization requirements. Because the valid and invalid provisions are not severable, the provisions that Plaintiffs invoke are unenforceable.

A. The Language and Structure of Article III, Section 20 Establish That the Racial Provisions Are Not Severable.

Section 20's hierarchical structure, as well as its grammar, renders severability inappropriate. "Severability is a judicial doctrine recognizing the obligation of the judiciary to uphold the constitutionality of legislative enactments where it is possible to strike only the unconstitutional portions." *Ray v. Mortham*, 742 So. 2d 1276, 1280 (Fla. 1999). "The severability analysis answers the question whether 'the taint of an illegal provision has infected the entire enactment, requiring the whole unit to fail.'" *Id.* (quoting *Schmitt v. State*, 590 So. 2d 404, 414 (Fla. 1991)).

In *Ray*, the Court held that initiative petitions to amend the Florida Constitution are subject to the same rules of severability that apply to ordinary legislation. Under that analysis, an invalid provision is severable from the remainder of the amendment if:

(1) the unconstitutional provisions can be separated from the remaining valid provisions, (2) the . . . purpose expressed in the valid provisions can be accomplished independently of those which are void, (3) the good and the bad features are not so inseparable in substance that it can be said that the [electorate] would have passed the one without the other and, (4) an act complete in itself remains after the invalid provisions are stricken.

Id. at 1281 (quoting *Smith v. Dep’t of Ins.*, 507 So. 2d 1080, 1089 (Fla. 1987)). To determine whether the purpose of the valid provisions can be accomplished independently of the invalid provisions, courts ask whether “the provisions of the amendment are so mutually dependent on one another that the overall purpose of the amendment cannot be accomplished absent the invalid provisions.” *Id.* at 1282 (emphasis omitted).

For example, in *Ray*, the Court considered a constitutional amendment that imposed term-limit requirements on members of Congress and state officials. The Court concluded that a State may not constitutionally limit the terms of members of Congress, but that the remainder of the amendment was “functionally independent” of the invalid provision and thus severable. *Id.* at 1283. The provision that applied to members of Congress could “be stricken without disrupting the integrity” of the provisions that applied to state officials. *Id.*

In contrast, in *Emerson v. Hillsborough County*, 312 So. 3d 451 (Fla. 2021), the Court examined a charter amendment that imposed a sales surtax and determined how the surtax revenue would be distributed. The Court invalidated the revenue-distribution provisions and concluded that those provisions were not severable from the provisions that imposed the surtax. *Id.* at 460–61. The purpose of the amendment would have been

“thwarted” if the surtax were levied without the voter-approved provisions that governed the distribution of surtax-generated revenue. *Id.* at 461. The amendment’s provisions were “functionally dependent” and formed an “interlocking plan” and could not “reasonably be divorced” from one another. *Id.*

Here, as in *Emerson*, the valid and invalid provisions are functionally dependent and form an interlocking plan. The text of article III, section 20 arranges its standards into two tiers. The effect of this tiered organization is to give precedence to certain standards over others in case of conflict. To the extent that compliance with the tier-two standards “conflicts with” tier-one standards, tier-one standards prevail and tier-two standards yield. Art. III, § 20(b), Fla. Const. The text further acknowledges the interconnectedness of the standards making clear that, within a single tier, the “order in which the standards . . . are set forth” does not “establish any priority of one standard over the other.” Art. III, § 20(c), Fla. Const. “Consequently, the Legislature is tasked with balancing the tier-two standards together in order to strike a constitutional result” *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d at 639.

Clearly, the drafters paid especially close attention to the interaction and organization of the standards and even codified the relationships between those standards. For example, the drafters elevated the Racial Provisions to tier-one status. In case of conflict, the Racial Provisions take precedence and form an exception to the background principles in Tier Two. To the extent necessary to avoid diminishment or vote dilution, article III, section 20 purports to *compel* the Legislature to depart from the general rule that districts be compact and utilize political and geographical boundaries where feasible.

If the Racial Provisions were severed, then these background principles would step into the foreground and apply universally to all districts, improperly “expand[ing] the scope of the [provision’s] intended breadth” beyond the amendment’s purpose. *State v. Catalano*, 105 So. 3d 1069, 1081 (Fla. 2012) (finding that a statutory provision was not severable because severance “would expand the statute’s reach beyond what the Legislature contemplated”). This would defeat the intent of the drafters and voters, who approved the amendment with an understanding that compactness and boundary utilization would *not* restrict the Legislature’s ability to create or maintain minority-controlled districts.

When an exception to a general rule is found unconstitutional, courts have declined to sever the exception from the general rule. In *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26 (Fla. 1st DCA 2008), the court considered a statute that declared any revocation of a pharmacist’s license permanent, but that created an exception that allowed pharmacists whose licenses had been revoked to reapply for licensure “in some circumstances.” *Id.* at 30, 32–33. The court found the exception unconstitutional and refused to sever it from the general rule of permanent revocation. *Id.* at 32–33. It explained that the Legislature had manifested its intent to permit reapplication in some circumstances, and that this exception was not “merely surplusage.” *Id.* The court was unconvinced that the Legislature would have passed the permanent-revocation provision without the exception that permitted reapplication “in some instances.” *Id.*; accord *Fla. Dep’t of State, Div. of Elections v. Martin*, 916 So. 2d 763, 773–74 (Fla. 2005) (concluding that, where a statute authorized candidates for

public office to withdraw at least 42 days before an election, but authorized election officials to make exceptions and permit candidates in some instances to withdraw fewer than 42 days before an election, the exception was unconstitutional and not severable from the general rule, since the Legislature did not intend the 42-day rule to be absolute).

The same is true here. The drafters and voters established, as a general rule, that districts must be compact and, where feasible, utilize political and geographical boundaries. But that rule was never intended to be absolute; the drafters and voters also created an exception that authorized deviations from these principles in some circumstances. This exception was not merely surplusage. Under *Sloban*, it cannot be said that the voters would have approved the general provision that requires compactness and boundary utilization without the exception that allowed departures in some instances.

Tier One standards, moreover, are explicitly combined together with each clause separated from the others by the conjunctive “and.” The tier-one standards are a package deal. The drafters and voters intended this combination of standards to be implemented in unison. *See Fla. Birth-Related Neurological Injury Comp. Ass’n v. Fla. Div. of Admin. Hearings*, 686 So. 2d 1349, 1354–55 (Fla. 1997) (holding that the word “and” should be read in the conjunctive and that doing otherwise “would lead to unreasonable, absurd results and thus defeat the legislature’s intent”). If one standard is unconstitutional—which the Racial Provisions are, *see supra* Part I—then all standards must fall in their entirety. *See Ray*, 742 So. 2d at 1280 (“The severability analysis answers the question of whether ‘the taint of an illegal provision has infected the *entire enactment*, requiring the *whole unit* to fail.” (quoting *Schmitt*, 590 So. 2d at 414) (emphases added)). The Tier One

requirements “cannot reasonably be divorced” from each other, *Emerson*, 312 So. 3d at 461, and reflect article III, section 20’s multiple aims in drawing districts. The three conjunctive clauses form an “interlocking” mandate that determines how districts will be drawn, making them “functionally dependent” on each other. *Id.*

The interaction and mutual dependence of these provisions is unlike the relationship between the valid and invalid provisions in *Ray*. The relevant constitutional text in *Ray* included separate paragraphs deliberately dividing each elective office into distinct and independent sections. *See* Art. VI, § 4(c), Fla. Const. Term limits could easily be applied to state offices but not federal offices, and the voters clearly would have intended to apply term limits to as many of the offices identified in the amendment as possible.

This case is more like *Emerson*, where voters authorized a surtax and decided how surtax revenue would be distributed. These provisions operated hand in hand, and the Court was unconvinced that voters would have submitted to the surtax without the invalid distribution scheme.

Here too, article III, section 20’s provisions are structurally, functionally, and linguistically interconnected. Together, they form a reticulated scheme of intertwined standards—an integrated whole. Invalidation of one provision disrupts the structure and function of the amendment in a manner inconsistent with voter expectations.

B. Pre-Enactment Evidence of Voter Intent Opposes Severability.

Records contemporaneous with the proposal and adoption of article III, section 20 confirm the mutual dependence of its provisions and the importance of the Racial Provisions to the amendment's success at the ballot box.

On April 13, 2010, the Florida NAACP issued a two-page endorsement of the citizen initiative that created article III, section 20. *See* Ex. A. Written in question-and-answer format, one of the seven questions concerned the interaction of the Racial Provisions and the tier-two standards. *Id.* at 2 (Question 6). It asked whether the compactness and boundary-utilization standards are “inconsistent with the need to draw black majority districts that are elongated and irregularly shaped.” *Id.* The Florida NAACP conceded that deviations from compactness are often necessary to “provide an effective opportunity” for minority voters and cited three congressional districts as examples. *Id.* But it explained that, because the Racial Provisions take precedence, the compactness and boundary-utilization standards “would not come into play” if compliance with these “problematic standards” would conflict with the protection of minority voters. *Id.* (emphasis in original). The Florida NAACP concluded that “there is nothing to lose” and “urge[d] all of its officers and members to vote for the proposed amendment.” *Id.*

For its part, the initiative sponsor touted the Florida NAACP's endorsement at a joint meeting of two legislative committees. Ex. B at 19. Accompanied by a Florida NAACP representative, the sponsor's campaign chair explained that “leaders of minority communities support” the amendment and that, “after studying [its] benefits,” the Florida

NAACP “unanimously approved and endorsed” it. *Id.* The sponsor echoed the Florida NAACP’s observation that the Racial Provisions interact with and protect minority-controlled districts from the compactness and boundary-utilization standards:

Another question has been raised about how some of the other standards interact with the provisions for protection of minority voters.

It has been asked whether it would be impossible to draw minority districts while complying with the requirements of compactness and utilization of local boundaries.

The answer is, no. This question ignores the plain wording of the amendments. Protection of minority voters is expressly given priority over these requirements. Compactness and utilization of local boundaries only come into play to the extent that they can without conflicting with the protection of minority voters.

Ex. B at 21–22.

In light of this evidence, “it cannot be said that [voters] would have passed” the valid provisions without the invalid provisions. *Ray*, 742 So. 2d at 1281 (quoting *Smith*, 507 So. 2d at 1089). The sponsor touted the support of the Florida NAACP and other leaders of minority communities. The Florida NAACP considered the tier-two standards to be “problematic” but explained that the Racial Provisions will, in case of conflict, shield minority-controlled districts those standards. Ex. A at 2. With this assurance, it urged its entire membership to vote for the measure. *Id.* The amendment barely cleared the 60-percent threshold required for voter approval, receiving 62.9 percent of the vote. *See* FLA. DEP’T OF STATE, DIV. OF ELECTIONS, <https://results.elections.myflorida.com>.

Of course, it is never possible to determine with certainty whether voters would have adopted a measure under hypothetical circumstances. But the Racial Provisions

were integral to a critical endorsement precisely because, in their absence, other provisions would have been problematic. The Racial Provisions secured the Florida NAACP’s endorsement in support of a measure that barely passed.

C. The Absence of a Severability Clause Opposes Severability.

Finally, the citizen initiative that created article III, section 20 did not contain a severability clause. In *Ray*, the Court emphasized that the term-limits amendment “specifically contained a severability clause, which is persuasive of the fact that the framers intended severability to save the amendment in case portions of it were declared invalid.” 742 So. 2d at 1283. Voters therefore had “clear notice of severability” and approved the amendment with that understanding. *Id.*

The absence of a severability clause in the citizen initiative at issue here weighs heavily against severability. With a severability clause, the drafters could have expressed their preference for severability and alerted voters—and the Florida NAACP—to the possibility that invalidation of one provision might alter the balance and ordering of article III, section 20’s standards. Because the drafters did not include a severability clause, voters were never invited to contemplate a partially operative structure of redistricting standards.

Because article III, section 20 forms an integrated and interlocking plan, its Racial Provisions are not severable, and the remainder of the section is unenforceable.

CONCLUSION

For these reasons, this Court should deny Plaintiffs’ Motion for Temporary Injunction, dated May 6, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on May 13, 2026, the foregoing document was furnished by email to all individuals identified on the Service List that follows.

/s/ Andy Bardos

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Exhibit A



FLORIDA STATE CONFERENCE NAACP
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April 13, 2010

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**FLORIDA NAACP ENDORSES
FAIR DISTRICTS FLORIDA**

1. What is Fair Districts Florida?

It is a citizen-sponsored ballot initiative that has successfully placed two measures dealing with redistricting on the ballot for Florida's Nov. 2 general election. One of the measures deals with redistricting Florida's congressional districts; the other deals with redistricting Florida's state legislative districts. If the measures are approved by 60% of the voters, they will become amendments to the Florida Constitution and will provide fair standards for how the Legislature draws electoral districts in the future.

2. What is the main purpose of the proposed amendments?

The main purpose is to stop the abusive practice, known as gerrymandering, of drawing electoral districts designed to favor one political party over the other or to give incumbent officeholders an unfair advantage over non-incumbents.

3. If the ballot measures are approved by the voters and become amendments to the Florida Constitution, will it lessen the ability of Florida's black voters to elect candidates of their choice?

Absolutely not. Both ballot measures contain language making it clear that electoral districts "shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice." This language mirrors the key language of the Voting Rights Act.

4. Is it possible that the language in the ballot measures will enhance the rights that minority voters presently have under the federal Voting Rights Act?

Yes. While the courts have not yet had an opportunity to interpret the new redistricting standards, attorneys for the NAACP and other voting rights experts believe it is likely that the new standards will give Florida's minority voters even more protection than they presently have under the federal Voting Rights Act.

5. What are some of the ways in which the rights of minority voters might be enhanced by the new redistricting standards?

Several of the more significant enhancements are the following:

(a) The Supreme Court, interpreting Section 2 of the Voting Rights Act, recently held that in order to establish a claim for vote dilution in a redistricting case, a minority group must prove that it makes up more than 50% of the voting age population in the relevant geographic area. Bartlett v. Strickland, 129 S. Ct. 1231 (2009). Under

this ruling, states are not required to draw "crossover" districts in which the minority group makes up less than a majority of the voting age population even though it is large enough to elect a candidate of its choice with the help of non-minority voters who cross over the racial divide to support the minority's preferred candidate. This places a significant limitation on the ability to protect "crossover" districts under the Voting Rights Act.

By contrast, the language in the amendments to the Florida Constitution proposed by Fair Districts Florida is broader and more inclusive than Section 2, and would protect such "crossover" districts. Therefore, it likely will provide greater minority rights than federal law, including the rights of a minority group to block the dismantling of "crossover" districts.

(b) Section 5 of the Voting Rights Act prohibits "covered jurisdictions" from adopting a redistricting plan that would result in a "retrogression," or weakening, of the electoral strength that a minority group already possesses. The non-"retrogression" standard would prohibit, for example, significantly reducing the percentage of black voters residing in an existing black majority district or "crossover" district. In Florida, however, Section 5's prohibition of "retrogression" applies in only five counties – Collier, Hardee, Hendry, Hillsborough and Monroe. This is a very significant limitation.

By contrast, the amendments to the Florida Constitution that are proposed by Fair Districts Florida include a prohibition similar to Section 5's that would apply to all counties in Florida.

6. What about the additional redistricting standards in the proposed amendments that electoral districts "shall be compact" and "shall, where feasible, utilize existing political and geographical boundaries"? Aren't standards such as these inconsistent with the need to draw black majority districts that are elongated and irregularly shaped?

Often, but not always, it is necessary to draw black majority districts that are not compact in order for the district to provide an effective opportunity for blacks (or other minority) voters to elect candidates of their choice. For example, in Florida, Congressional District 3 (Rep. Corrine Brown) and Congressional District 23 (Rep. Alcee Hastings) do not satisfy some of the standard tests for measuring district compactness, while Congressional District 17 (Rep. Kendrick Meek) does satisfy such tests.

In the amendments to the Florida Constitution proposed by Fair Districts Florida, the standards of compactness and the utilization of existing political and geographic boundaries would not come into play if they would "conflict with the standards in subsection (1) [dealing with equal opportunity for minority voters] or with federal law." Clearly there would be such a conflict in some cases. Therefore, the problematic standards would not come into play in those cases to prevent the drawing of non-compact black majority districts, and districts such as those represented by Congresswoman Brown and Congressman Hastings would remain protected.

7. So, after weighing all of these considerations, what is the NAACP's conclusion?

The NAACP believes there is nothing to lose and much to be gained by supporting the Constitutional amendments proposed by Fair Districts Florida. The NAACP has endorsed the ballot initiatives and urges all of its officers and members to vote for the proposed amendments in the Nov. 2 general election.

Exhibit B

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JOINT MEETING OF THE SENATE REAPPORTIONMENT COMMITTEE
AND HOUSE SELECT POLICY COUNCIL ON STRATEGIC AND
ECONOMIC PLANNING

Held on February 11, 2010

Transcribed by:
CLARA C. ROTRUCK
Court Reporter

1 REAPPORTIONMENT (JOINT MEETING WITH HOUSE IN 212KB)

2 REPRESENTATIVE CANNON: And Senators and
3 Representatives, we are now going to convene the
4 Joint Meeting of the House Select Policy Council on
5 Strategic and Economic Planning and the Senate
6 Committee on Reapportionment and ask Tamara and
7 Michelle to commence our activities by calling the
8 role.

9 A VOICE: Senator Haridopolis.

10 SENATOR HARIDOPOLIS: Here.

11 A VOICE: Senator Smith.

12 SENATOR SMITH: Here.

13 A VOICE: Senator Bennett.

14 SENATOR BENNETT: Here.

15 A VOICE: Senator Dean.

16 SENATOR DEAN: Here.

17 A VOICE: Senator Gardiner. Senator Lawson.

18 Senator Negrón.

19 SENATOR NEGRÓN: Here.

20 A VOICE: Senator Ring.

21 SENATOR RING: Here.

22 A VOICE: Senator Siplin. Senator Storms.

23 Senator Thrasher.

24 SENATOR THRASHER: Here.

25 A VOICE: Senator Wilson.

1 A VOICE: Chairman Cannon.
2 REPRESENTATIVE CANNON: Here.
3 A VOICE: Vice Chair Grimsley. Representative
4 Aubuchon.
5 REPRESENTATIVE AUBUCHON: Here.
6 A VOICE: Brisé.
7 REPRESENTATIVE BRISE: Here.
8 A VOICE: Carroll.
9 REPRESENTATIVE CARROLL: Here.
10 A VOICE: Chestnut.
11 REPRESENTATIVE CHESTNUT: Here.
12 A VOICE: Fitzgerald. Holder.
13 REPRESENTATIVE HOLDER: Here.
14 A VOICE: Hudson.
15 REPRESENTATIVE HUDSON: Here.
16 A VOICE: Hukill.
17 REPRESENTATIVE HUKILL: Here.
18 A VOICE: Jones.
19 REPRESENTATIVE JONES: Here.
20 A VOICE: Kreegel.
21 REPRESENTATIVE KREEGEL: Here.
22 A VOICE: McKee].
23 REPRESENTATIVE McKEEL: Here.
24 A VOICE: Porth. Proctor.
25 REPRESENTATIVE PROCTOR: Here.

1 A VOICE: Thurston.

2 REPRESENTATIVE THURSTON: Here.

3 A VOICE: Weatherford.

4 REPRESENTATIVE WEATHERFORD: Here.

5 A VOICE: A quorum is present, Mr. Chairman.

6 REPRESENTATIVE CANNON: All right, thank you,
7 Tamara and Michelle, and Chairman Haridopolis and
8 Members.

9 Today we are again meeting jointly to further
10 discuss the two proposed Constitutional amendments
11 to Florida's reapportionment process proposed by
12 Fair Districts.

13 As you know this is a subject that our
14 respective committees have talked about in detail,
15 beginning last October 2009, up until the present
16 time.

17 You may recall, Members, that both in October
18 and November, our respective legal counsel gave us
19 initial reports that the language of the Fair
20 Districts' petitions may constrain the
21 Legislature's constitutional duty to redraw the
22 District boundary lines with potentially mutually
23 exclusive requirements.

24 In December of last year, our respective legal
25 counsel and staff provided us with presentations to

1 help us address similar concerns to our own that
2 were raised by Florida Congresswoman Corrine Brown
3 and Florida Congressman Mario Diaz-Blart.

4 The Congress persons primary concern was the
5 impact of the U.S. Supreme Court case of Bartlett
6 versus Strickland and how the terms of these
7 petitions may affect the ability and the discretion
8 of the Legislature to create minority access or
9 so-called crossover districts.

10 Last month we met jointly in order to
11 facilitate a public dialogue with Congresswoman
12 Brown and Congressman Diaz-Blart so that they could
13 share their concerns with us. And during that
14 meeting both of the Congress-persons stressed that
15 they felt that the petitions were unworkable, and
16 that the petitions would potentially dilute
17 minority representation in the Florida Legislature
18 and in Florida's Congressional delegation.

19 Just recently the Fair Districts' petitions
20 achieved the signature threshold necessary for
21 placement on the 2010 general election ballot, and
22 with that milestone behind them the principles from
23 Fair Districts have agreed to meet with us here
24 today, present their proposed amendments to
25 Florida's Constitution and address our questions on

1 this very important topic.

2 To Ms. Freidin, to our guests from Fair
3 Districts, please know that we are very grateful
4 for your presence today and your indulgence of our
5 questions.

6 while political preferences and viewpoints do
7 sometimes divide us, there is certainly no reason
8 that we should ever miss an opportunity to at least
9 understand each other better.

10 while our committees have tried to be very
11 deliberative, we hope that your remarks today and
12 responses can fill in some of the missing details
13 and perhaps close the door on some unanswered
14 questions and give us the opportunity to better
15 understand your intentions as the crafters of these
16 potential amendments to Florida's Constitution.

17 I think I speak for both Chairman Haridopolis
18 and myself when I say that we treat the
19 constitutional process with the utmost of respect,
20 and if these petitions do become part of Florida'
21 Constitution we intend to fully perform our duties
22 to carry out the requirements of those petitions
23 fully.

24 As we all know, redistricting is not an
25 overnight assignment and many years of both

1 planning, coordinating with the census and a lot of
2 work will go into doing the reapportionment and the
3 redistricting.

4 So if these pass we need your help to
5 determine the manner in which we can best execute
6 our constitutional duties.

7 Members, with that, before we invite Fair
8 Districts to begin their presentation, I would like
9 to briefly call your attention to the Power Point
10 presentation on the monitor. I believe you are
11 fairly familiar with these slides.

12 After the title slide, the first substantive
13 slide, these are the general redistricting
14 standards, the federal standards being one person,
15 one vote.

16 Obviously Section II and Section V of the
17 Voting Rights Act, and then the Florida standard
18 that they be contiguous.

19 The next slide has copies of the Fair
20 Districts' petitions, one for the Congressional
21 districts and the other for the legislative
22 district boundaries.

23 And then the last slide shows a comparison of
24 both the current standards and then the proposed
25 additional standards for the petitions in question.

1 Those materials are also in your packets, Members,
2 and with that we would like to call on and
3 recognize Ms. Ellen Freidin, the Campaign Chair for
4 Fair Districts.org.

5 Ms. Freidin, again, we very much appreciate
6 your taking the time to be with us today and you
7 are recognized to address the Joint Meeting.

8 MS. FREIDIN: Thank you, Mr. Chairman.
9 Mr. Chairman, Members of the Committee, I am Ellen
10 Freidin, and I am here today to talk with you on
11 behalf of close to a million voters who signed 1.7
12 million petitions to earn the Fair Districts
13 amendments, positions five and six on the November
14 2nd ballot coming up. So thanks to the wonders of
15 the podcast, which I compliment you for making
16 available to the public.

17 I have been able to listen to the many, many
18 hours of hearings that you have had, both the
19 Senate and the House Committee and the Committees
20 jointly together with your many, many lawyers
21 raising what seem, at least seemed to me to be
22 endless questions about our amendments.

23 So let's make one thing clear when we start.
24 Our amendments which are simply intended to
25 establish common sense, fairness standards for you

1 to follow when you redraw the legislative and
2 district lines.

3 These two amendments were certified because
4 voters exercised their constitutional right to sign
5 petitions so that they and others in our state
6 could have the opportunity to put these standards
7 in the Florida Constitution.

8 The signers of these petitions who are
9 Republicans, who are Democrats and who are
10 Independents are part of an effort by thousands
11 Floridians of all political persuasions, who are
12 committed to eliminating Florida's historical
13 distinction as one of the most politically
14 gerrymandered states in the Union, that this
15 probably exist is absolutely undeniable.

16 Those who are working tirelessly on this
17 monumental project are supported and they are
18 encouraged by the unanimous opinions of Florida's
19 newspaper editorial boards, which clearly explain
20 why we must take this unique opportunity to make a
21 very necessary, fundamental change in this state
22 which I know that all of us love so much.

23 Now, I want to just go over with you a few of
24 the comments that have been made by some of the
25 editorial boards in this state.

1 The Orlando Sentinel said, "This is a campaign
2 to restore some integrity to the now corrupt system
3 of drawing legislative and Congressional districts.
4 Unless the process is changed, voters won't get the
5 choices that they deserve."

6 The St. Pete Times said, "The current system
7 for drawing legislative and Congressional districts
8 is broken."

9 The Gainesville Sun said, "There is nothing
10 state lawmakers guard more jealously than their
11 power to rig legislative and congressional
12 districts to serve their own interests and their
13 party's desire for control."

14 The Tampa Tribune said, "The redistricting
15 process needs to be overhauled. It is critical to
16 remove selfish political motives from the process."

17 The Tallahassee Democrat said, "The present
18 rules of redistricting serve the interest of
19 politicians more than voters. The intent of the
20 amendments is sound and that is to give voters more
21 power and the powerful politicians less power."

22 The Florida Times Union said, "Fortunately a
23 group called Fair Districts Florida is seeking a
24 constitutional ban on gerrymandering. Lines
25 shouldn't go drawn to help a party, an incumbent or

1 anyone else."

2 Florida Today, "End the political
3 gerrymandering that harms democracy."

4 The Sarasota Herald Tribune, "Gerrymandering
5 by either party is an affront to democracy and to
6 the expectation that all men and women are equal
7 under the law."

8 The Daytona News Journal said, "Many
9 Legislators are outraged at proposals that would
10 strip them of the ability to rig districts to
11 benefit parties or individual, but Fair Districts
12 can only be good for Florida. Here is hoping that
13 the voters see through the distractions and vote to
14 protect their interests."

15 The South Florida Sun Sentinel said,
16 "Opponents of the amendments should just be honest
17 about it and admit that they don't want to change a
18 system that helps them hold onto power."

19 The Palm Beach Post said, "This bipartisan
20 campaign deserves broad bipartisan support."

21 The Bradenton Herald said, "Florida's voters
22 now have the monumental opportunity to end the
23 patently unfair practice of gerrymandering."

24 And the Miami Herald said, "Amendments V and
25 VI will give control of elections back to Florida's

1 voters where it belongs."

2 Florida presently has absolutely no
3 prohibitions against drawing districts for partisan
4 reasons or incumbency protection. It never has.
5 This is evidenced by the bizarrely shaped Rorschach
6 like districts that often snake through as many as
7 five or as many as eight counties over more than
8 100 miles, splintering communities and confusing
9 voters.

10 Some very small towns, like Winter Park and
11 Temple Terrace are represented in this state by as
12 many as four different members of Congress.

13 You know, I have been traveling through this
14 state for three years now talking about -- talking
15 to Florida citizens about this subject, and I often
16 start my talks by asking citizens, people in the
17 audience to raise their hand if they know who their
18 state legislators are. I almost never see a hand
19 raised.

20 The same thing happens when I ask them if they
21 know who represents them in Congress, and it is no
22 surprise, they don't know the answer to that. And
23 it is because communities are divided, neighbors
24 often don't have the same representative.

25 It is no wonder that the Florida League of

1 Cities, the Florida League of Mayors and the
2 Florida Black Caucus of local elected officials are
3 part of the local coalition supporting amendments V
4 and VI. They are tired of having their town
5 splintered and having Representatives that live far
6 away.

7 I don't know, is Rebecca O'Hare here today? I
8 think she was planning on being here to represent
9 those organizations.

10 In the last 10 years, Mr. Chairman, and
11 Members of the Committee, out of hundreds of
12 legislators up for reelection, only 10 incumbent
13 State Representatives and one incumbent State
14 Senator have been defeated.

15 No wonder Florida is considered to have among
16 the least competitive legislative elections of any
17 state in the Union. We are third from the bottom
18 on the competitiveness scale.

19 The need for change in our state and the
20 solution that we are now proposing is nothing new.
21 The effort to reform the way Florida draws its
22 district maps as far as I know started in 1978,
23 when the Constitution Revision Commission took up
24 the matter and suggested the creation of standards,
25 very much like the ones that are contained in

1 Amendments V and VI.

2 That effort didn't succeed, but then in the
3 earlier '90s, when both Houses were controlled by
4 Democrats, a bipartisan group led by then State
5 Senator and now Congressman Ander Crenshaw and
6 including our Governor Charlie Crist, who was in
7 the Senate then, proposed a constitutional
8 amendment with standards almost identical to the
9 ones that voters will have a chance to approve this
10 coming November.

11 It passed the Senate unanimously, but it died
12 in the House. In other words, this solution to a
13 long existing problem is something that was
14 embraced and has been embraced for years by
15 Republicans and Democrats alike.

16 In the 1998 Constitution Revision Commission,
17 which is where I learned about the urgent need for
18 these reforms, former State Representative Marilyn
19 Evans-Jones, a Republican from Melbourne,
20 introduced a similar proposal.

21 It came very close, but failed to pass the
22 Commission by the narrowest of margins, and then
23 there were a couple of other citizen efforts, one
24 of them led by Marilyn Evans-Jones and the other by
25 the non partisan organizations of common cause and

1 League of Women Voters.

2 In fact, the League of Women Voters has been
3 fighting these reforms for decades, and their State
4 President, Deira McNabb is here, Deira, stand up
5 and let everybody know you are here, and she is
6 here with a whole host of other members of the
7 League today that are all part of her leadership
8 team.

9 So should -- so it really should be clear that
10 this is something that Republicans and Democrats
11 have proposed many, many times over the years.

12 We at Fair Districts Florida are not the
13 originators of this idea, but 2010 is the time that
14 it is going to become a reality. It is obvious to
15 us because of the spontaneous reaction of thousands
16 of Floridians that our amendments are very, very
17 popular with people all over the state, from the
18 panhandle to Key West.

19 This decade the people of Florida want to see
20 districts in our state that make sense, that are
21 compact and that keep communities together.
22 Districts that are drawn fairly and free of
23 intentional partisan favoritism, and maps that
24 ensure that minority voters are protected from
25 diminished representation.

1 In other words, districts that will permit the
2 people to fairly choose their Representatives. The
3 practice of gerrymandering is not unique to
4 Florida. National leaders of all political
5 persuasions have recently spoken out about the
6 problem and the need for change.

7 Mayor Michael Bloomberg, who you all know is
8 an Independent in New York City. He said, "There
9 is a partisanship that has paralyzed our country."
10 Both parties have redistricted themselves, such
11 that they don't have to worry about a challenge
12 across the aisle, but they worry about a challenge
13 from their flanks so that the Conservatives are
14 less willing to move to the middle, the Liberals
15 are less willing to move to the middle and we have
16 got to get over that and we have got to understand
17 that we are all in this together.

18 Unless we have bipartisan legislation and
19 bipartisan government at the federal, state and
20 city levels we are just going to have one problem
21 after another and the future is not as bright as I
22 think it should be for America.

23 Senator John McCain says that we need to stop
24 politicians in both parties from drawing rigged
25 districts that they can never lose. And President?

1 Barack Obama says, the fact of the matter is that
2 we have now a system where too often our
3 Representatives are selecting their voters as
4 opposed to the voters selecting the
5 Representatives.

6 That is a situation that I think the American
7 people should not accept. But while there has been
8 historic broad support for redistricting reform
9 here and elsewhere, elsewhere, in the many, many
10 hours of hearings these committees have had in the
11 last few months we have heard little, but criticism
12 of these reforms.

13 There has been no explanation or even mention
14 of why these reforms are needed. And it is
15 understandable that some would be concerned about a
16 citizen's effort to place limits on political
17 gerrymandering where none have existed before.

18 Some of the questions that have been raised by
19 your lawyers and your Members, Mr. Chairman, have
20 been complicated and sometimes confusing, but I am
21 here today to try and answer them as best I can and
22 to describe the fundamental goals of these citizen
23 initiatives. The many questions raised seem to
24 fall into three categories.

25 First, will these amendments interfere with

1 the rights of minority voters and will minority
2 voters be worse off when the amendments are in the
3 Constitution.

4 Second, aren't the standards so conflicting
5 and confusing that they simply cannot be applied?

6 And third, won't these new requirements lead
7 to increased litigation?

8 The answer to each of these questions is an
9 emphatic no. I cannot possibly address every
10 nuance of every question that has been asked, so I
11 will address each of these categories and explain
12 to the best of my ability the intent of the
13 amendment.

14 These amendments will not in any way reduce
15 the rights of minority voters, and in fact, they
16 will add a guarantee to the Florida Constitution
17 that the ability of minority voters to elect
18 representatives of their choice will not be
19 diminished.

20 Presently minority voters are protected by the
21 Voting Rights Act, you all know that. A federal
22 statute that exist at the pleasure of Congress and
23 is constantly being eroded by the courts. When
24 these amendments are embedded in the Florida
25 Constitution protection from discrimination and

1 redistricting will become a lasting commitment to
2 the people of Florida.

3 Because of this, leaders of minority
4 communities support the Fair Districts' amendments.
5 I have pleased to announce today that the Florida
6 State Conference of NAACP branches after studying
7 the benefits of these amendments has unanimously
8 approved and endorsed Amendments V and VI, and here
9 today representing the NAACP is Charlie Burr, stand
10 up Charlie.

11 They have joined the Fair Districts' team
12 because they agree that in addition to reducing
13 partisan gerrymandering, the amendments will add
14 permanent protections for minority voters that are
15 greater than what exist today in Florida or any
16 other state.

17 Just look at the language. The language says,
18 "Districts shall not be drawn with the intent or
19 result of denying or abridging the equal
20 opportunity of racial or language minorities to
21 participate in the political process or to elect --
22 or to diminish their ability to elect
23 representatives of their choice."

24 That last phrase prohibits the drawing of any
25 district or plan that will reduce the ability of

1 minorities to elect minority representatives.
2 Plain and simple.

3 Now there has been a lot of talk at these
4 hearings about the impact of Bartlett versus
5 Strickland on our standards.

6 Some of your lawyers have questioned whether
7 after Bartlett our standards will permit you to
8 draw crossover districts. The language, the
9 Bartlett opinion specifically addresses that
10 question, and I don't believe that this part of
11 Bartlett has been raised in these hearings.

12 Let me read it to you. From the Bartlett case
13 directly, "Section II allows states to choose their
14 own method of complying with the Voting Rights Act
15 and we have said that that may include drawing
16 crossover districts. States that wish to draw
17 crossover districts are free to do so where no
18 other prohibition exist."

19 In other words, there is nothing in Bartlett
20 versus Strickland or in the language of the
21 amendments that would change your previous ability
22 to draw crossover districts.

23 "However, with the amendments expressed
24 prohibition of diminishing ability to elect
25 representatives of choice, you would be free after

1 Bartlett to refuse to draw crossover districts." I
2 am sorry, I made a mistake there and I want to
3 start that sentence over again, because I want to
4 make this very, very clear.

5 "However, without the amendments expressed
6 prohibition of diminishing ability to elect
7 representatives of choice, you would be free after
8 Bartlett to refuse to draw crossover districts, but
9 with the addition of the new language you will be
10 required to use every tool you have, including the
11 drawing of crossover districts to be sure that the
12 rights of minority voters are not taken away."

13 Another question has been raised about how
14 some of the other standards interact with the
15 provisions for protection of minority voters.

16 It has been asked whether it would be
17 impossible to draw minority districts while
18 complying with the requirements of compactness and
19 utilization of local boundaries.

20 The answer is, no. This question ignores the
21 plain wording of the amendments. Protection of
22 minority voters is expressly given priority over
23 these requirements. Compactness and utilization of
24 local boundaries only come into play to the extent
25 that they can without conflicting with the

1 protection of minority voters.

2 It has also been asked whether it is
3 impossible to draw minority districts without
4 violating the prohibition against favoring a party
5 or an incumbent. This question again ignores the
6 plain wording of the amendments.

7 Let me make this very, very clear. The
8 prohibition against drawing districts -- the
9 prohibition is against drawing districts with
10 intent to favor or disfavor a party or an
11 incumbent.

12 That means that you will be prohibited from
13 drawing districts or plans for the intended purpose
14 of attaining a particular partisan result. If you
15 are drawing a district in order to protect minority
16 voters against discrimination, there can be no
17 violation unless you design the district for the
18 specific purpose of favoring or disfavoring a party
19 or an incumbent, and there is no prohibition
20 against using voting data in order to accomplish
21 the permissible goal of protecting minority rights.
22 In fact, you would have to.

23 I want to remind you that Senator Smith and
24 Representative Thurston requested the opinion of
25 voting rights lawyers at Jenner and Block who

1 specialize in redistricting, and that letter is in
2 the record of these proceedings.

3 They are top lawyers in the country on voting
4 rights and redistricting. To my knowledge they are
5 completely neutral and certainly not involved --
6 haven't been involved in the drafting or the
7 promotion of the Fair Districts amendments.

8 Their letter supports every one of these
9 answers. It is their unbiased opinion that with
10 the amendments in place, Bartlett, and I quote
11 them, "In no way restricts Florida in drawing
12 districts in which minorities are able to elect
13 representatives of their choice."

14 So with these amendments you will not only be
15 free, but you will actually be required to create
16 minority access seats to the extent necessary to
17 ensure that the ability of minority voters to elect
18 representatives of their choice is not diminished.

19 In fact, the lawyers at Jenner and Block
20 conclude that our amendments would, and I am
21 quoting from their letter, "would dramatically
22 improve the redistricting process in Florida and
23 make Florida's elections fairer for all political
24 parties and candidates."

25 They also go onto say that the amendments

1 would also protect and indeed enhance the ability
2 of minorities to participate in the political
3 process and elect representatives of their choice.

4 Now, other questions have been asked about
5 whether the new standards are in conflict with each
6 other, and therefore, would be impossible to apply
7 them.

8 The implication is that you cannot as a
9 practical matter apply so many standards. I cannot
10 emphasize this enough. The standards don't
11 conflict and a good faith common sense approach
12 will allow you to comply with the standards and
13 create districts that are fairer and more
14 understandable to the citizens of Florida.

15 Fair Districts Florida did not manufacture
16 these standards. These are the same standards that
17 have been proposed in Florida numerous times
18 before.

19 I want to point out the fact that Florida has
20 fewer requirements as you see -- well, on the slide
21 that was shown earlier, the only state requirement
22 in Florida is that the districts be contiguous.

23 Florida has fewer requirements than almost any
24 other state. There are only two other states in
25 the Union that have as few requirements as Florida.

1 But more importantly, 36 states require
2 compactness, 44 states require adherence to local
3 boundaries, 12 prohibit protecting incumbents, 27
4 have their own protections for minority voters, and
5 of course, all 50 states have to comply with the
6 Federal voting right laws.

7 Many states actually have the same combination
8 of standards as Amendments V and VI. These states
9 all managed to get their maps drawn.

10 I have no doubt that this Legislature has the
11 expertise, the intelligence and the talent to be
12 able to apply these standards fairly and without
13 confusion.

14 Now, the lawyers for these committees and some
15 members have asked whether the amendments will lead
16 to lengthy and expensive litigation.

17 It has been suggested that we should remove
18 the Fair Districts designation and rename
19 Amendments V and VI, the lawyers' relief act.

20 Our answer is, if the Legislature follows the
21 standards there is not going to be need for anymore
22 litigation than in previous years.

23 The Legislature already made this argument to
24 the Florida Supreme Court and the Court held that
25 any prediction of increased litigation must be

1 based on the assumption, and now I am quoting from
2 the Florida Supreme Court, "Must be based on the
3 assumption that the Legislature will fail to adhere
4 to guidelines and fail to fulfill its
5 constitutional duty."

6 It also said, the Supreme Court also said,
7 "That it is dubious and highly speculative to try
8 and establish that there will be more litigation if
9 these amendments are in the Constitution."

10 I cannot stress enough to you that if the
11 Legislature follows the standards and the
12 Legislature can follow the standards, there will be
13 no need for increased litigation. I am confident
14 that this Legislature can follow these standards.

15 These amendments make absolutely no change in
16 the role of the courts in redistricting. That role
17 is simply to be sure that the districts are drawn
18 in compliance with the law, nothing else.

19 The Supreme Court is constitutionally required
20 to review the legislative plans and there is a
21 clear time frame for that to happen. There is no
22 change in that.

23 Citizens are free presently without these
24 amendments to challenge districts or plans in other
25 courts and that is nothing new and it does nothing

1 is added that will change that. And lawsuits have
2 always varied in number and in length from decade
3 to decade.

4 Now, some have asked specifically whether the
5 prohibition of intent to favor or disfavor in
6 section I of the amendments will make litigation
7 more likely.

8 There have been many questions about how
9 intent or lack of intent will be proved. Intent is
10 an element of all kinds of statutes that you
11 consider and you pass every single session, and it
12 is an integral part of applying the Voting Rights
13 Act.

14 It is not unusual to have to prove intent in
15 litigation. Lawyers and courts deal with it every
16 day. If districts do intend to be drawn with such
17 intent, proof will be made as it always is by
18 testimony and all of the surrounding circumstances.

19 A clear example of intent to favor or disfavor
20 has been recently reported in the press and can
21 serve as one example of what the citizens of
22 Florida want to eliminate.

23 It is well known, for example, that certain
24 legislators who are about to leave the Legislature
25 have designed Congressional districts that they can

1 run in after their terms are up. It is that sort
2 of blatant favoritism that Florida voters want to
3 end.

4 Now, there has been a big red heron raised in
5 the form of a question about public testimony and
6 its impact on proof of intent.

7 I believe that one of the Committee Members
8 asked what would happen if a voter testified that
9 she liked her district just the way it was and then
10 you drew that district just as she wanted it.

11 Well, without more, that would not be evidence
12 of intent to favor or disfavor. Such evidence
13 comes from your thoughts, your actions, your words
14 and the maps that you draw.

15 If someone suggest that you draw a district to
16 be sure that it is safely democratic or safely
17 Republican, that doesn't provide evidence of
18 intent. The issue is what you do.

19 So there is no chilling of free speech, no
20 reason to stop public comment, and in fact, we hope
21 with these standards the public will become more
22 involved in the process, because with clear
23 standards they will understand that redistricting
24 is no longer a free for all in political
25 preservation and that they can actually have an

1 impact in creating districts that make sense.

2 Mr. Chairman, I have done my best to answer
3 the questions that you, your many lawyers and your
4 Members have posed about our fairness amendments.
5 I hope I have satisfied your concerns.

6 On behalf of the Floridians who signaled their
7 dissatisfaction with the status quo by signing 1.7
8 million petitions, and the thousands of others who
9 have worked and contributed to bring these
10 amendments to the ballot, I urge you to remember
11 the first line of the Florida Constitution.

12 The first line of the Florida Constitution
13 says, "All political power is inherent in the
14 people." If these amendments pass the Legislature
15 will be called upon to exercise good faith, common
16 sense and balance to accomplish the goals that the
17 people have told you that they want.

18 I have every belief that you will respect the
19 right of the people of Florida to decide if they
20 want to end the blatant political favoritism that
21 has long pervaded redistricting in our state.

22 When the voters put the standards in the
23 Constitution we have every confidence that you will
24 follow them.

25 REPRESENTATIVE CANNON: First of all,

1 Ms. Freidin, thank you for the excellent
2 presentation. I know Members, several Members have
3 expressed an intention in asking questions. I will
4 begin with Representative Kreegel.

5 REPRESENTATIVE KREEGEL: Thank you, Mr. Chair,
6 and thank you for being here today to explain that
7 to us.

8 I am looking at the first part of the Section
9 I there where it says, "No apportionment plan shall
10 be drawn with the intent to disfavor."

11 My question to you would be short of wiring
12 the Legislature up to a polygraph, how do you plan
13 on dividing the intent?

14 MS. FREIDIN: Well, if you look at the current
15 map of Florida districts, it is -- it is so
16 blatantly obvious that the districts were drawn
17 with intent to favor or disfavor a political party
18 or an incumbent because of the way the districts
19 look.

20 They are drawn -- they go for hundreds of
21 miles. They split up communities, they travel
22 through multiple cities and counties and that would
23 certainly be the first and the very best evidence
24 of intent.

25 You know, you could think of yourselves when

1 you are drawing the lines of the districts as
2 judges, because every day judges have matters that
3 come before them, and when they have those -- when
4 they have matters that come before them they know
5 that they have to decide the case, whatever it is
6 that is before them, on the facts and on the law.

7 So they apply the facts and the law and they
8 come up with a decision. Now, that decision is
9 going to favor somebody and it is going to disfavor
10 somebody, but the judge's job is to do it
11 impartially and your job would be to do it
12 impartially in the same way.

13 You will have before you all the information
14 that you need to draw districts. You will have the
15 laws that would be -- the new law which would be
16 what Amendments V and VI will put into the
17 Constitution, and if you follow the law and you
18 apply the fact that you have before you to the law,
19 I have confidence that you will be able to come up
20 with districts that are not -- that do not
21 intentionally favor or disfavor an incumbent or a
22 political party.

23 REPRESENTATIVE CANNON: For a follow up,
24 Representative Kreegel.

25 REPRESENTATIVE KREEGEL: Thank you,

1 Mr. Chairman. And thank you for that answer by the
2 way.

3 I did have the pleasure of being able to
4 interact with several of the petition gatherers
5 outside of our courthouse and county buildings and
6 was able to speak with them a bit about it.

7 Most of them didn't -- they weren't too
8 informative because most of them were paid petition
9 gatherers, and seeing that your organization did
10 such an excellent job statewide of gathering these
11 petitions, I figured there must be a lot of
12 petition gatherers paid and other finances there.

13 Could you tell us something about who funded
14 your organization?

15 MS. FREIDIN: Well, it is all public record
16 and you, I am sure you know it probably better than
17 I do.

18 REPRESENTATIVE CANNON: Actually, Ms. Freidin,
19 there is some lack of familiarity with that. Could
20 you answer Representative Kreegel's question?

21 MS. FREIDIN: Yes, we have over -- over almost
22 3,000 people who have contributed to Fair Districts
23 Florida, and they are people who are Republicans,
24 they are people who are Democrats, they are
25 businesses, they are organizations, they are, you

1 know, it is a wide variety of people.

2 REPRESENTATIVE CANNON: For follow up,
3 Representative Kreegel.

4 REPRESENTATIVE KREEGEL: Thank you,
5 Mr. Chairman. You mentioned organizations. Are
6 there political action committees, electionary
7 communication organizations, CCEs who have
8 contributed and could you tell us who the large
9 contributors are?

10 MS. FREIDIN: I actually don't know what --
11 what -- who falls into what category, so I can't.

12 REPRESENTATIVE KREEGEL: That is all, thank
13 you.

14 REPRESENTATIVE CANNON: Okay, Representative
15 Hukill for a question.

16 REPRESENTATIVE HUKILL: Mr. Chair, back here,
17 thank you. For a series of questions, Mr. Chair.

18 REPRESENTATIVE CANNON: For a series.

19 REPRESENTATIVE HUKILL: Thank you very much.
20 Thank you, Ms. Freidin, and we are so happy that
21 you came here today to share your thoughts with us.

22 I have just a few questions for the record
23 before we begin. I want to confirm, you are the
24 Chairperson for Fair Districts Florida.org
25 Campaign, is that correct?

1 MS. FREIDIN: I am the Campaign Chair for Fair
2 Districts Florida.

3 REPRESENTATIVE HUKILL: The Campaign Chair?

4 MS. FREIDIN: Yes.

5 REPRESENTATIVE HUKILL: Is that different from
6 chairperson?

7 MS. FREIDIN: Well, I am not officially the
8 Chair of the committee. So the answer would be,
9 yes, I guess, if that is what -- if that is what
10 you are asking.

11 REPRESENTATIVE HUKILL: All right. Also, you
12 are an attorney duly admitted to practice law in
13 the state of Florida, is that correct?

14 MS. FREIDIN: I am.

15 REPRESENTATIVE HUKILL: And you were a member
16 of the 1998 Constitutional Revision Commission, is
17 that correct?

18 MS. FREIDIN: I was.

19 REPRESENTATIVE HUKILL: And you are
20 frequently, as you have been here today, a
21 spokesperson for the Fair Districts Florida.org
22 Campaign as you are often quoted in newspapers
23 articles.

24 MS. FREIDIN: Yes.

25 REPRESENTATIVE HUKILL: Is that correct? Yes.

1 so would it be fair to say that your views on the
2 Fair Districts Florida.org petitions are very
3 relevant to people who may still be considering
4 whether or not they would support these amendments?

5 MS. FREIDIN: well, I think that the language
6 of the amendments speak for themselves and I hope
7 that most people would make their decision based on
8 a reading of the amendments and a decision of their
9 own, whether they would want to support the
10 amendments or not, but I am a spokesperson and I do
11 frequently speak.

12 REPRESENTATIVE HUKILL: All right. Would you
13 concede, assuming that people make decisions on
14 their own, which I am sure they do, would you agree
15 that there will be people who will rely upon the
16 positions that you espouse either publicly in the
17 paper, on the website that are attributed to you?

18 MS. FREIDIN: I -- I have -- I would assume
19 so, but I don't know.

20 REPRESENTATIVE HUKILL: well, thank you very
21 much. I have a question for you.

22 In your opening remarks you stated that the
23 Fair Districts Florida petitions.org petitions
24 enhances the Voting Rights Act, is that correct?

25 MS. FREIDIN: No, I think that what I said was

1 it enhances the law that actually doesn't expressly
2 exist in the Florida Constitution today.

3 REPRESENTATIVE HUKILL: Would you repeat that?

4 MS. FREIDIN: I think that I said that it
5 enhances the law as it exist in Florida today
6 under -- under the -- in the Florida Constitution.

7 REPRESENTATIVE HUKILL: All right, well then
8 let's go back a bit. In some press accounts
9 oftentimes through statements that you have made
10 through the press, Fair Districts has suggested
11 that the petitions merely inshrine the Voting
12 Rights Act.

13 And then in other statements oftentimes also
14 attributed to you that have been made to the press,
15 Fair Districts has stated the petitions enhance
16 minority rights.

17 In fact, Former Speaker John Mills circulated
18 in March 2009, a two-page informational sheet on
19 behalf of Fair Districts with their paid political
20 advertisement disclaimer at the bottom which
21 stated, "That while minority voting rights are
22 presently guaranteed by Federal statute, the new
23 standards will inshrine them in the Florida
24 Constitution."

25 Since I seem to have misunderstood what you

1 have said in your opening remarks, which is it, do
2 the petitions duplicate the Voting Rights Act, or
3 do they confer broader rights than the Voting
4 Rights Act?

5 MS. FREIDIN: Well, I don't think that what
6 you read to me from Chairman Mills -- that Speaker
7 Mills said or shall we call him Dean Mills or
8 Professor Mills, I don't think that any of those
9 what you read is not exactly -- doesn't exactly
10 follow with what I understand your question to be.

11 But if you are asking me flat out do I think
12 that these -- that what our amendments do -- is
13 what you are asking do I -- do I think that what
14 our amendments do increases Voting Rights Act,
15 voting rights for our Florida minority voters, is
16 that what you are asking?

17 REPRESENTATIVE HUKILL: Does it inshrine the
18 rights provided by the Voting Rights Act or does it
19 enhance, increase the rights that are provided by
20 the Voting Rights Act?

21 MS. FREIDIN: Well, I think that if, you know,
22 there are -- I think that you need to look at the
23 language, itself. The language, itself, doesn't
24 exactly mirror, it is not the same exact language
25 that is in the Voting Rights Act, nor is it -- and

1 it does enhance voting rights.

2 You know there was a letter from -- that you
3 all have and that I referred to earlier from Jenner
4 and Block and actually says, their letter and they
5 are voting rights expert lawyers, I am not, and it
6 says that they would protect and indeed enhance the
7 ability of minorities to participate in the
8 political process and elect representatives of
9 their choice.

10 Now, what our rights, what our amendments do
11 is they guarantee to minority voters that they
12 will, and this is a constitutional guarantee that
13 will be permanently in the Florida Constitution,
14 not subject to being chipped away by -- by Federal
15 courts, nor subject to being repealed or reduced by
16 the Congress, because they will be permanently in
17 our Constitution.

18 And what the language says is, that districts
19 shall not be drawn with the intent or result of
20 denying or abridging the equal opportunity of
21 racial or language minorities to participate in the
22 political process, or to diminish their ability to
23 elect representatives of their choice.

24 Now, that is very clear language. There is
25 nothing unclear about that. It is there in black

1 and white and if it is in the Florida Constitution,
2 that is exactly what it is going to say.

3 Minority's ability, the ability of minority
4 voters to elect representatives of their choice is
5 not going to be diminished with this amendment.

6 REPRESENTATIVE HUKILL: All right, let's
7 follow up on that. You didn't specifically answer
8 my question, but the Voting Rights Act already
9 provides protections for minorities in
10 redistricting.

11 And my question is whether the petitions adopt
12 the Voting Rights Act or add protections beyond the
13 Voting Rights Act and in your opinion?

14 MS. FREIDIN: I am not an expert redistricting
15 lawyer and I really don't have an opinion. What I
16 do know is that these amendments will very clearly
17 by their language forbid any legislator or any
18 Legislature I should say, to adopt any plan that
19 diminishes the ability of minority voters to elect
20 representatives of their choice.

21 REPRESENTATIVE HUKILL: A follow up on that,
22 Ms. Freidin.

23 There are certain statements that have been
24 attributed to you in various press sources.

25 For instance, in the Orlando Sentinel,

1 November 18, 2009, you are quoted as saying that
2 these would not in any way conflict with the Voting
3 Rights Act.

4 In November 27, 2009, the Herald Tribune you
5 said, "Our amendment will not dilute minority
6 representation and it will add a right to the
7 Florida Constitution that doesn't exist in any
8 other state in the Union." Is that your statement?

9 MS. FREIDIN: Not the second part of it. I
10 don't think I have ever said that exactly.

11 REPRESENTATIVE HUKILL: So you disagree with
12 the statement written in the Tribune of
13 November 27, 2009, that was attributed to you?

14 MS. FREIDIN: No, I think what I said was they
15 will put into the Florida Constitution rights that
16 don't exist in other state Constitutions.

17 REPRESENTATIVE HUKILL: All right. In the
18 Tampa Tribune, January 12, 2010, attributed to you
19 is a statement that says, "It will provide greater
20 protection that exist today in Federal law."

21 Is that a statement that you attribute that
22 you made?

23 MS. FREIDIN: Well, again, every statement
24 that I have made about these rights, first of all,
25 we can't have an impact on Federal law. Federal

1 law is Federal law. That much -- that is basic
2 law, I know that.

3 But as far as the statements I have made about
4 these amendments is that there will now be in the
5 Florida Constitution rights that are there
6 permanently.

7 That is in and of itself, the permanency in
8 the Florida Constitution is in and of itself a
9 difference than from the Federal Voting Rights Act,
10 and I am certain that that is what I have been
11 saying all along.

12 REPRESENTATIVE HUKILL: Thank you, Ms.
13 Freidin, I am not trying to be contentious about
14 this, but the citizens read a petition and they
15 have to look to statements that are made,
16 representations that are made in order to help
17 understand what they are voting for, and it is very
18 important that it be clear and precise and that a
19 citizen knows what they are voting for.

20 So I am just trying to work with you and
21 understand if these statements that are attributed
22 to you, that you acknowledge have been made by you
23 and that I feel that the citizens at some point
24 will rely upon as a representative, you being a
25 representative of Fair Districts Florida.org.

1 So can you tell me that you disagree with
2 those statements or you agree that they are
3 correct?

4 MS. FREIDIN: I told you that -- I already
5 told you that I -- that I don't think that one of
6 them was exactly what I said. And what I have
7 repeatedly told you is that what all of those
8 statements say is that I have and are consistent
9 with what I am telling you right now.

10 That this inshrines in the Florida
11 constitution voting rights that don't exist today.

12 REPRESENTATIVE HUKILL: So my original
13 question of do the petitions inshrine what is in
14 the Voting Rights Act or do they extend beyond what
15 is in the Voting Rights Act?

16 My understanding is you are now saying that it
17 extends beyond. As you said, it inshrines rights
18 that do not exist today. So to me that is
19 extending beyond.

20 MS. FREIDIN: You know, with all due respect,
21 Mr. Chairman, I believe that my words are getting
22 twisted here and I don't -- and, you know, I came
23 here at my own expense. I am here to represent all
24 of the people, the thousands and thousands and
25 hundreds of thousands of people who want to see

1 this on the ballot today.

2 I am not going to be badgered by this. I
3 apologize, but I just -- I just can't do that. I
4 think I have made my position very clear. I am --
5 my position is that and has been with all of these
6 press statements, is that there are now -- if the
7 voters pass this and put it into the Florida
8 Constitution, there will be rights that are in our
9 Florida Constitution that aren't there today.

10 And this language is not exactly the same as
11 the Voting Rights Act and that is, you know, there
12 should be no more conflict about that.

13 REPRESENTATIVE CANNON: And Ms. Freidin,
14 actually there is and with all due respect we
15 represent the 18 million Floridians who elected us
16 to come here and make policy and we have a
17 constitution duty to redraw the House seats and the
18 Senate seats according to the precise language of
19 the Constitution.

20 And so I am sorry it is frustrating, it is
21 equally as frustrating for us, because there are
22 statements, in your introductory remarks commented
23 that newspapers have made this or that statement.

24 Well, I think what Representative Hukill is
25 trying to get to is, there have been two different

1 types of articulations of what these mean as a
2 matter of law, and I am sure a fellow member of the
3 Bar and somebody who was on the Constitution
4 Revision Commission you can appreciate that words
5 have meaning, particularly when they are in the
6 Constitution.

7 So I think what Representative Hukill was
8 trying to ask is, and as a precursor to this
9 question and I will try and ask it another way.

10 we are well familiar with the concept of
11 Federal preemption, at the Federal law we cannot
12 diminish, but we can as a State Legislature or our
13 Constitution can go beyond what the Federal
14 Constitution or the Federal laws provide. Do you
15 agree with that statement?

16 MS. FREIDIN: Yes.

17 REPRESENTATIVE CANNON: Okay. In the same way
18 that certain of the Federal First Amendment some
19 states confer extra First Amendment protections
20 beyond those guaranteed by Federal law. Are you
21 familiar with that?

22 MS. FREIDIN: Right.

23 REPRESENTATIVE CANNON: Okay. And in Florida
24 we have extra protections to protect, for example,
25 against eminent domain takings for economic

1 development beyond the Federal law. Are you
2 familiar with that?

3 MS. FREIDIN: Of course.

4 REPRESENTATIVE CANNON: Okay. So what
5 Representative Hukill is asking is, would the
6 language of your proposed amendments provide extra
7 protections beyond those assured today by Federal
8 law in the voting rights environment? It is a yes
9 or no question.

10 MS. FREIDIN: The language -- the language
11 says that districts cannot be drawn or plans cannot
12 be drawn to diminish the ability of minority voters
13 to elect representatives of their choice.

14 That is not presently part of the Voting
15 Rights Act, except to the extent that it might be
16 somewhat similar to what is in Section V.

17 REPRESENTATIVE CANNON: Okay. But --

18 MS. FREIDIN: So that would be an additional
19 protection.

20 REPRESENTATIVE CANNON: Thank you. Senator
21 Storms for a question.

22 SENATOR STORMS: Thank you, thank you,
23 Mr. Chair, and I just want to encourage you, ma'am,
24 to sort of toughen up there because this is going
25 to be -- it is going to be a rocky ride and if you

1 are getting a little frustrated and feeling a
2 little sensitive in this very mild environment,
3 then I encourage you to go to a couple of public
4 meetings where you have some fired up voters on
5 your hands as they're talking about it.

6 So I just really encourage you to, you know,
7 not take this --

8 MS. FREIDIN: Well, thank you, Senator, for
9 that encouragement.

10 SENATOR STORMS: Okay, you are welcome, you
11 are welcome. I just wanted to -- I have some
12 concerns about -- about the minority district.

13 I represent Beeville. I have been an elected
14 official for 12 years, and I have had a wonderful
15 experience representing Beeville. Beeville is an
16 area of my district that was settled by emancipated
17 slaves when Lincoln signed the emancipation
18 proclamation and I have had a very tight
19 relationship with my district, and particularly
20 with Beeville over the years.

21 And so I am very sensitive to anything that
22 would diminish the ability of minority folks in my
23 district and in other districts to participate in
24 the process.

25 And so I looked -- I read your letter that you

1 referenced in your comments and I just wanted to go
2 over some of those with you, because I am also an
3 attorney by training and you are, too.

4 So I read the language directly that you
5 pointed to as not diminishing the minority
6 participation, and I just wondered if you could
7 look at that with me.

8 It says, "The districts shall not be drawn to
9 deny racial nor language minorities the equal
10 opportunity to participate in the political process
11 and elect language minorities the equal -- and
12 elect representatives of their choice."

13 MS. FREIDIN: Well, that is the -- that is the
14 ballot language, but that is not the constitutional
15 language. So which are we talking about?

16 REPRESENTATIVE HUKILL: So that would be the
17 ballot summary. I guess this is your sheet that I
18 am reading from. So it is the ballot summary that
19 I am reading.

20 And then if you drop down to the full text, in
21 subparagraph (1) it says, "No apportionment plan or
22 district shall be drawn with the intent to favor or
23 disfavor a political party or an incumbent and
24 districts shall not be drawn with the intent or
25 result of denying or abridging the equal

1 opportunity of racial or language minorities to
2 participate."

3 Again, it is the same language, "to
4 participate in the political process or to diminish
5 their ability to elect representatives of their
6 choice." That is the language.

7 MS. FREIDIN: That is the constitutional
8 language.

9 REPRESENTATIVE HUKILL: And so in your letter
10 that you referenced it is saying that it would
11 provide more protection --

12 MS. FREIDIN: When you are referring to my
13 letter, I don't know what you are talking about.

14 REPRESENTATIVE HUKILL: The letter and your
15 comments about the attorney, Jenner and Block.

16 MS. FREIDIN: Let me -- let me make one thing
17 clear.

18 REPRESENTATIVE HUKILL: Excuse me just for a
19 second, Mr. Chair.

20 REPRESENTATIVE CANNON: Senator Storms.

21 SENATOR STORMS: So I recognize you are not
22 saying that this is your -- I am not saying your
23 name is on it, but it is a letter you referenced.
24 Is that better for you? In your statements you
25 referenced this letter. Mr. Chair.

1 MS. FREIDIN: May I answer?

2 REPRESENTATIVE CANNON: Ms. Freidin, sure.

3 MS. FREIDIN: I referenced the letter because
4 it is something that was requested by Senator Smith
5 and Representative Thurston.

6 It is a letter that is in the record of your
7 proceedings. It is not a letter that I requested,
8 and frankly the first time I saw it was when they
9 turned it to you and I had nothing to do with it.
10 It is not my letter.

11 So I would just simply disagree with your
12 characterization of it as my letter.

13 SENATOR STORMS: Okay. Well, I didn't mean
14 for you to take it personally, it is okay, peace.

15 MS. FREIDIN: I am not -- I am not taking it
16 personally. I just want to make sure that the
17 voters of Florida understand what is going on here.

18 SENATOR STORMS: Okay.

19 MS. FREIDIN: Because that is a letter that
20 was written by -- by your -- at the request of your
21 colleagues by neutral observers who are lawyers in
22 Washington.

23 SENATOR STORMS: Mr. Chair. I understand,
24 okay.

25 REPRESENTATIVE CANNON: Representative Storms.

1 SENATOR STORMS: I am sorry, peace, stand
2 down, I am not saying it is your letter. What I
3 mean is the letter you referenced and you said it
4 supported the position that minorities would not be
5 diminished.

6 And I would say to you, I look at page 4 of it
7 and it clearly says under subparagraph (8) that
8 within these two bounds the Legislature would have
9 substantial discretion. And it is talking about
10 drafting minority districts.

11 It specifically says, "It will be able to, but
12 would not have to formulate a plan under which
13 minorities would be able to elect more
14 representatives of their choice compared to the
15 status quo."

16 And so -- and in another place it says, "The
17 scenario envisioned by this question, a non compact
18 majority controlled district abutting a non compact
19 district in which a minority can elect a
20 representative of its choice would therefore be
21 extremely rare. In any event, under such a
22 scenario the same factors that justified the
23 creation of the minority controlled district would
24 also shield the minority controlled district, the
25 majority controlled district from attack.

1 In other words, the non compact majority
2 controlled district would be an inevitable and
3 permissible byproduct of the protection of
4 minorities' ability to elect representatives of
5 their choice."

6 Now if you go down to paragraph 11 it says,
7 "But it is clear that there were alternatives
8 presented at that time that maintained a comparable
9 ability of minorities to elect candidates of choice
10 while avoiding some of the other ills, like undue
11 non compactness that are among the targets of the
12 amendments."

13 And then finally I want to reference this
14 point before I ask the question, another question.
15 "If however the Legislature did withdraw a district
16 and therefore destroyed a minority group's current
17 ability to elect the representatives of its choice,
18 then that could indeed be a violation of the
19 amendment, but not necessarily."

20 So -- so as you read this you say that this
21 letter supports your position. I read this letter
22 and say, no, what it says is the Legislature has
23 wide discretion. And so the result is a
24 diminishment of the minority participation by a
25 minority district.

1 REPRESENTATIVE CANNON: Ms. Freidin.

2 MS. FREIDIN: I am not sure what the question
3 is.

4 REPRESENTATIVE CANNON: Senator Storms.

5 SENATOR STORMS: Mr. Chair, the question is,
6 you talked about the intent and when my colleague
7 here from the House asked what the intent was,
8 could you restate how you were able to devine the
9 intent.

10 MS. FREIDIN: The intent is to ensure that
11 districts in the state of Florida are drawn for the
12 people instead of for political preservation, while
13 also ensuring that there is no impingement or
14 infringement on minority voting rights.

15 SENATOR STORMS: Mr. Chair.

16 MS. FREIDIN: May I finish?

17 SENATOR STORMS: You are not answering the
18 question that I asked.

19 MS. FREIDIN: May I finish?

20 SENATOR STORMS: I just want to get to the
21 point. He asked you how you devine the intent of
22 the Legislature under the current districts and you
23 said, just look at any of the districts, they are
24 all over the place. That is how you devine intent,
25 because you can look at -- according to what you

1 said just a few minutes ago he asked you how do you
2 know what we intended to do.

3 And you said, well, anybody could look at the
4 maps and see that they are all over the place. So
5 we can tell your intent that it was done to protect
6 the political party. That was my understanding of
7 what you just said. I am not trying to engage in
8 gotcha. I am just trying to help you understand
9 where I am coming from.

10 MS. FREIDIN: I did say that.

11 SENATOR STORMS: Yes, okay.

12 MS. FREIDIN: So I don't understand what that
13 relates to the Jenner and Block letter.

14 SENATOR STORMS: Here is how that relates.
15 Because according to this then if -- one way or the
16 other we can say it is our intent to protect
17 minority districts, right?

18 Then we can keep all of the districts exactly
19 like they are, because if it is our intent right
20 now to protect the minority districts, all of the
21 districts could stay the same. So that all we have
22 to do is articulate one intent.

23 We want to protect minority districts and we
24 going to protect that representation. Therefore,
25 we are not going to deviate because all of the

1 districts are the same.

2 Or is it that the Legislature has more
3 discretion than that, and if they have more
4 discretion than that, isn't it true that we could
5 and possibly would be forced to reduce those
6 minority districts, because if all we have to do is
7 say it is our intent to preserve those districts
8 and we do nothing else, then we can settle that by
9 saying, we are keeping the status quo just like it
10 is today, because we are going to protect those
11 minorities districts, that is our intents.

12 And so long as we say that on the record, you
13 say that, you say that, you say that, you say that,
14 everybody says that, there is no problem. How else
15 do you determine intent?

16 MS. FREIDIN: Well, first of all, I think -- I
17 think this is a multi part question and I am going
18 to try and answer it. But the first thing you
19 asked was, can we keep all the districts the same.

20 The answer is, we can't possibly know today
21 what the census data and what the other data that
22 is necessary to draw minority districts is going to
23 be in 2012, when you are charged with the awesome
24 responsibility of drawing those districts.

25 So we don't know if the districts today can be

1 the same as what they are today. We have no idea
2 and -- and it is highly unlikely that every
3 district or even many districts could remain
4 exactly the same.

5 However, given that and given the language
6 that is in our amendment, you cannot diminish the
7 ability of representatives -- of minority voters to
8 elect representatives of their choice.

9 So that is a protection that will be in the
10 Florida Constitution. You will be violating the
11 Constitution if you diminish the ability of
12 minority voters to elect representatives of their
13 choice.

14 Now, the point, you know, you went very fast
15 on that letter, but the one thing that you did
16 point out was you were saying that within the
17 bounds, within these two bounds the Legislature
18 would have substantial discretion. It would be
19 able to, but would not have to formulate a plan
20 under which minorities would be able to elect more
21 representatives.

22 Now that is not what we are claiming nor is it
23 what the language says. What our language says is
24 that you cannot write -- make districts or create a
25 plan that diminishes the ability of minority voters

1 to elect representatives of their choice.

2 It would be illegal to have a quota or
3 anything in our Constitution that says you have got
4 to have a certain number -- you have got to make
5 sure that there ends up being a certain number of
6 minority voters. That is not the issue.

7 The issue is the ability of minority voters to
8 elect representatives of their choice. You have
9 done a very good job of ensuring that those
10 districts exist today, and I am sure that you can
11 continue doing that and making sure that that
12 ability is not diminished.

13 SENATOR STORMS: Mr. Chair, if I could --

14 REPRESENTATIVE CANNON: For a follow up,
15 Senator Storms.

16 SENATOR STORMS: Thank you, Mr. Chair. But
17 that really goes to the essence, because see I
18 guess where you and are differing on this is that
19 you talk about the intent as though -- and I think
20 the best description of it is devining intent.

21 And my question is, goes to how -- how
22 somebody if it is not going to be challengeable at
23 every turn, how do you devine intent.

24 Because if you look at say Tony Hill's seat in
25 the Senate, are you familiar with Senator Tony

1 Hill's seat?

2 MS. FREIDIN: No, I am not. I must confess to
3 not really being familiar with any individual or
4 specific seats.

5 SENATOR STORMS: Okay, well, that is an
6 important point, because Senator Hill is a minority
7 representative and his district is very
8 gerrymandered. I mean, it goes, it is a shoestring
9 and goes all the way down.

10 Okay, so -- so if we start here, if the
11 Members here say, we are going to start by
12 protecting, we don't want to diminish any minority
13 seats and minority representatives and that is
14 Congressional, State and House, Senate and House.

15 So we are doing to start with that
16 perspective. All of the minority seats are going
17 to still be gerrymandered. That means all of the
18 seats that are minority seats that are touching
19 them have to within some way gerrymandered also to
20 accommodate that sort of gerrymandering, but then
21 that goes to intent to do what.

22 How do you measure intent, because according
23 to what you said that that gerrymandering is
24 de-facto bad intent. That is de-facto bad intent.

25 You said the outcome. When he asked you how

1 do you measure intent, how do you devine intent,
2 although it is not the exactly words, you said, by
3 looking at the map and they are all gerrymandering,
4 therefore, you know.

5 That means that outcome is de-facto intent,
6 and I don't know how you protect those minority
7 seats that are gerrymandered without necessarily
8 having majority seats that touch them also be
9 gerrymandered in order to protect them.

10 I don't know how you could that without
11 subjecting it to a challenge. And so I guess what
12 my question to you is, besides outcome, which you
13 have already enumerated, what else are you going to
14 use as a tool to determine intent? How else will
15 you use it besides outcome?

16 MS. FREIDIN: Well, first of all it is not --
17 as I told you, it is -- it is the province of the
18 Legislature in terms of intent, it is the province
19 of the Legislature to avoid intent, and the way the
20 Legislature would avoid intent would be to look at
21 the facts, would be the geographical information,
22 if it is a race district, if it is a racial or
23 language minority district it is going to be a very
24 different calculus than it is going to be if it
25 is a -- if it is a non minority district.

1 So, you know, if you have a non minority
2 district that is -- that is -- that is what I was
3 referring to when I said, just look at the map,
4 because I was being asked how do you devine intent
5 to favor or disfavor a political party or a
6 candidate.

7 That was the question that I was being asked.
8 I was not being asked at the time about minority
9 districts.

10 REPRESENTATIVE THURSTON: Mr. Chair.

11 SENATOR STORMS: Mr. Chair.

12 REPRESENTATIVE CANNON: Let's do this, if it
13 is all right with you Senator Storms, I have got
14 Representative Thurston, Representative Carroll, I
15 think I heard Senator Thrasher. Let's start there
16 and then we will come back as necessary.

17 So Representative Thurston for a question.

18 REPRESENTATIVE THURSTON: Thank you,
19 Mr. Chair. Thank you for being here this
20 afternoon. I want you to know that this does not
21 necessarily have to be a rocky road though. This
22 can be more gentle.

23 But I want to thank you because a couple of
24 occasions it was referenced that Fair Districts
25 were not present and I did receive a letter from

1 you a while back saying that once you reach the
2 signature threshold that you would come forward and
3 I am glad that you are here.

4 My first question and I only have two
5 questions. My first question is, you have
6 indicated that there have been a number of prior
7 efforts to get the same language passed or added to
8 the Constitution.

9 And we are making a big deal about the
10 language that we are utilizing here. Can you tell
11 me, because I am not familiar with what the
12 Constitution Revision Commission said or the prior
13 efforts of Congressman Mario Diaz-Balart was.

14 Was that language substantially different than
15 the language in your petition, and if so, tell me
16 what that was?

17 MS. FREIDIN: Well, the language of the
18 earlier efforts actually all included a
19 redistricting commission which we chose not to do,
20 because we believe that this Legislature has the
21 ability and will have the will when it is in the
22 Florida Constitution, and in good faith can draw
23 these districts in a fair manner.

24 But in terms of the standards, which all of
25 those efforts included as well, the standards were

1 essentially identical to -- I mean, with slight
2 changes in wording. So that for example, the one
3 that was in 1993, and it was sponsored by Ander
4 Crenshaw with co-sponsorship by our Governor,
5 Charlie Crist, and other Democrats and Republicans
6 together, it contained requirements of compactness.

7 It contained requirements of contiguousness.
8 It required -- it required that no district be
9 drawn to protect an incumbent's or a party, and it
10 also required that voting rights not be diminished.

11 And it had -- it had all of the components
12 that our amendment has. So this is nothing new
13 what we are doing here today.

14 REPRESENTATIVE THURSTON: Follow up,
15 Mr. Chair.

16 REPRESENTATIVE CANNON: Follow up.

17 REPRESENTATIVE THURSTON: Thank you. When you
18 began you summarized the issues that you have heard
19 in watching the previous hearings, and you listed
20 the three as a protection or interfering with
21 minorities ability to elect representatives of
22 their choice, confusion and also more litigation.

23 And I am glad you had as your number one the
24 representation, preservation of minority
25 representation. I, like many of the other members

1 on this Commission, are truly concerned about that.

2 So I guess my question is, is there anything
3 that would -- is there any intent in your petitions
4 as it relates to continued minority representation?
5 And there has been a reference saying that there
6 could be diminishment of minority representation.
7 Is there anything prohibiting that in your
8 petitions?

9 MS. FREIDIN: There is nothing in our
10 petitions that would prohibit you as a legislator
11 from continuing to create minority opportunities
12 for minority voters, nothing.

13 And not only that, there is a requirement that
14 you not diminish the ability of minority voters to
15 elect representatives of their choice. So I think
16 that that -- the establishment of the intent is in
17 the language, it is in public and private
18 statements that are made by -- by all of you and
19 all of us.

20 REPRESENTATIVE THURSTON: Thank you,
21 Mr. Chairman.

22 REPRESENTATIVE CANNON: Ms. Freidin, next we
23 have Representative Carroll and then
24 Representative -- I mean Senator Thrasher.

25 Before we do that, I just want to make sure I

1 understood your answer to Representative Thurston's
2 question.

3 Is it your testimony that we -- that the
4 Legislature would be permitted to draw non compact
5 disks -- non compact districts that would allow
6 minority access even -- even though they could not
7 be protected by the Federal Voting Rights Act? In
8 other words, that you could draw a non compact
9 district to allow a minority crossover --

10 MS. FREIDIN: Are you talking about an under
11 50 percent district?

12 REPRESENTATIVE CANNON: Correct.

13 MS. FREIDIN: Absolutely.

14 REPRESENTATIVE CANNON: Okay.

15 MS. FREIDIN: But that is not from our
16 amendments. I want to make it clear. That is not
17 only -- there is nothing in our amendments that
18 would prohibit that, but remember what I read to
19 you from the Bartlett case.

20 The United States Supreme Court says that
21 there is nothing to stop a state from dropping --
22 from continuing to draw minority access districts
23 as opposed to majority, minority districts.

24 Our amendments simply don't -- we can't change
25 what the United States Supreme Court says. What

1 our amendments say is that with regard to -- with
2 regard to ability to elect representatives of
3 choice, the Legislature cannot do anything to
4 diminish that ability. So that -- that would be
5 the answer to that question I believe.

6 REPRESENTATIVE CANNON: Okay, Representative
7 Carroll, then Senator Thrasher, then Representative
8 Proctor.

9 REPRESENTATIVE CARROLL: Thank you,
10 Mr. Chairman. Thank you so much for being here
11 today and for your passion to bring about fairness.

12 I am getting a bit confused with regards to
13 what this will do with regards to litigation. If
14 anyone of the adopted standards are infringed upon.

15 For example, we have heard a discussion with
16 regards to compactness, but yet still it seems to
17 be an oxymoron with regard to the minority access
18 in majority, minority districts.

19 So if we were to draw lines per the additional
20 standards and stay within the compactness and all
21 of the districts are compact defined by whoever is
22 supposed to define that term, and then we diminish
23 minority access and majority, minority seats, then
24 this will stand for another litigation, because it
25 goes against the compactness, because we will have

1 to redraw those lines. Can you explain that?

2 MS. FREIDIN: Well I don't know -- I don't
3 know -- I am not sure that I understand it. Are
4 you asking me if you make minority districts, I
5 mean, you as a body, if you -- if the Legislature
6 were to make minority districts that were -- if
7 they were to make minority districts more compact,
8 and therefore, have fewer ability to elect --

9 REPRESENTATIVE CARROLL: Mr. Chair, just to
10 clarify my question.

11 REPRESENTATIVE CANNON: Sure, for a follow up.

12 REPRESENTATIVE CARROLL: Not so much -- take
13 away the minority from drawing the line. We draw
14 the lines with blinders on and we make the district
15 compact according to whatever the definition of
16 compact may be.

17 And it so happened that after drawing those
18 lines of compactness according to the additional
19 standards that may be voted on, that diminishes
20 minority seats.

21 That could stand a legal challenge, because
22 now we have gone away from the other part of the
23 Voting Rights Act and the other part of the
24 additional standards in keeping minority seats. So
25 how do we do both?

1 MS. FREIDIN: You have -- you have in the
2 language very clear directive with regard to that.
3 If you look at the -- at the beginning of Section
4 II of the amendment it says, "Unless compliance
5 with the standards in this subsection conflicts
6 with standards in the subsection (1) or Federal
7 law."

8 So that then -- then you have to go on with --
9 with the compactness and the adherence to local
10 boundaries.

11 So first you have to have the minority
12 districts drawn. Once you have those districts
13 drawn you go ahead and you make the other districts
14 to the extent that you can, compact and utilizing
15 existing boundaries.

16 REPRESENTATIVE CARROLL: So it kind of
17 conflicts what you said earlier about having
18 gerrymandered districts. So we can have
19 gerrymandered districts for minority seats, but we
20 cannot have gerrymandered districts for non
21 minority seats?

22 MS. FREIDIN: Well, the definition of
23 gerrymander, the definition of gerrymander is to
24 draw district to end up with a particular political
25 result, and that isn't the same as ending up with a

1 particular constitutionally required fairness
2 result for minority voters.

3 REPRESENTATIVE CARROLL: Interesting you
4 brought up that point, too, because fairness, are
5 we going to have that defined as to what fair
6 means, because it could be subjective?

7 For example the terms of compact, fair
8 geographical boundaries. Those are ambiguous
9 terms. So is there going to be some point where
10 those terms are defined?

11 MS. FREIDIN: Well, those -- are you asking me
12 if compactness is defined?

13 REPRESENTATIVE CARROLL: Well, you brought up
14 fairness as well, because as a minority voter I can
15 say that I don't have an opportunity if I don't
16 have an incumbent, let's say Representative Holder
17 is my incumbent and I want to elect him as a
18 minority to represent me in whatever seat, then I
19 could say that you are taking away my fair choice
20 to elect him.

21 So how do we then define what is the voter's
22 choice; what is fair in this; what is compactness;
23 what is geographical boundaries? Is that going to
24 be in definitions that we are going to be able to
25 use?

1 MS. FREIDIN: These are not -- we haven't --
2 these are not unusual standards. These are
3 standards that are applied in the vast majority of
4 other states and they are -- the definitions are
5 very clear. There is no question about -- about
6 how if you read the cases from the other states,
7 they are very clear.

8 REPRESENTATIVE CARROLL: So Mr. Chairman,
9 follow up.

10 REPRESENTATIVE CANNON: Sure.

11 REPRESENTATIVE CARROLL: Then if our voters
12 may be confused as I am as to what is going to be
13 fair, what is fair for Representative Holder and
14 Thurston may not be fair for me.

15 would that confusion to the voters then, are
16 they supposed to be go look to other states for the
17 definition of fair?

18 MS. FREIDIN: No.

19 REPRESENTATIVE CARROLL: If they wanted to
20 bring a legal challenge?

21 MS. FREIDIN: And let me -- let me go back to
22 that, because I am not saying that fairness is a
23 standard in any state, nor is it -- I don't believe
24 it is mentioned anywhere in our amendments.

25 The word fairness is not -- is not there. The

1 question that I thought you were asking is, if you
2 draw some districts compactly and other districts
3 not compactly, is that -- is that fair. Is that
4 not what you are asking?

5 REPRESENTATIVE CARROLL: Well, in combination,
6 because throughout your presentation you also
7 brought about what is fair, and if that is the
8 dialogue that we are going to have in a
9 conversation we are having with our voters and we
10 are informing them that this is going to be about
11 fair districting, then fairness to almost everyone
12 may be a little bit different.

13 So we need to either define the term what fair
14 means or to have that as clarity that fair may mean
15 130,000 voters, or fair may mean that the borders
16 are going to include a river and a lake or fair may
17 mean -- whatever it may be, but I just don't want
18 our voters to be confused with regards to thinking
19 that they are getting one thing and get something
20 else just to answer your question.

21 I also want to know, early on you made a
22 mention that the petitions were signed by
23 Democrats, Independents and Republicans, and I am
24 curious to know how do you know that since the
25 petition doesn't ask for your political

1 affiliation?

2 MS. FREIDIN: Because there is a record on the
3 voting rolls of every person who signs.

4 REPRESENTATIVE CARROLL: So you guys go look
5 at who signed the petition and get a tally, that
6 sort of thing?

7 MS. FREIDIN: No, I don't have a tally, but I
8 know that they -- I know that there are many
9 Republicans who are very much involved, actively
10 involved and many Independents who are actively
11 involved, many Democrats who are actively involved
12 who I know personally who have signed. There
13 are -- we also, it is public record who signs.

14 That is easy, but, Mr. Chairman, may I respond
15 on the fairness issue that she is raising?

16 REPRESENTATIVE CANNON: Certainly.

17 MS. FREIDIN: Fairness in this context means a
18 lot of different things, but the one thing that
19 these -- there are two things that these amendments
20 were intended to do, and they both involve
21 fairness.

22 These intent -- these amendments are intended
23 to stop districts from being drawn for political
24 purposes by the legislators, to particularly to
25 advance the political goals of the legislators who

1 are drawing the districts. That is an unfair
2 situation that is intended to be stopped here.

3 The other part of the fairness that is being
4 sought here is to ensure that these amendments do
5 not create any situation that would be unfair in
6 any way or disadvantaged in any way minority
7 voters. Those are the things that we are trying to
8 accomplish here.

9 We are trying to accomplish districts that
10 make sense, districts that aren't strung out over
11 multiple counties from coast to coast in the state
12 of Florida.

13 We are trying to stop districts from dividing
14 small communities into four and five different
15 districts.

16 We are trying to stop a situation where
17 neighbors don't vote in the same district. We are
18 trying to keep communities together. All of that
19 relates to the fairness that Representative Carroll
20 was referring to.

21 And we want to make sure that in doing all
22 that there is no harm done and no diminution of
23 minority -- of the rights of minority voters.

24 REPRESENTATIVE CANNON: Okay, Senator Thrasher
25 for a question.

1 SENATOR THRASHER: Thank you, Mr. Chairman.
2 Hello, Ms. Freidin, good to see you begin.

3 MS. FREIDIN: Hello, Senator.

4 SENATOR THRASHER: I don't think I have seen
5 you since 1989.

6 MS. FREIDIN: A long time.

7 SENATOR THRASHER: It has been.

8 MS. FREIDIN: Well, maybe the early '90s
9 anyway.

10 SENATOR THRASHER: Thank you for being here.
11 I have a more direct question, more specific
12 question in respect to some of the testimony you
13 have given.

14 And I have asked, we have had as I am sure you
15 are aware of, you said you watched it, testimony
16 and references to districts in the state of Florida
17 and I am asking, I asked the staff if they had and
18 they said they did, if they would mind putting up
19 Congressional District III and I would like to ask
20 you a question about that in respect to the fair
21 district plan.

22 This is -- you said -- you said you were not
23 intimately familiar with the districts, but you
24 have used the word gerrymandering.

25 When I hear the word gerrymandering this

1 district comes to mind, I guess in terms of what I
2 have heard people quote.

3 Under the Fair Districts' plan I would just
4 like to ask you this question. Can we legally draw
5 Congressional District III or something I guess
6 similar to it in order to protect minority
7 representation in Congress?

8 MS. FREIDIN: I know that it was deemed to be
9 legally drawn in 2002. I have no idea what will
10 happen in 2012, because there is no data available.
11 So it is impossible for me.

12 I am not avoiding the comments on District
13 III, but it would be impossible for me, it would be
14 impossible for you or anybody else in this room or
15 this building to today say what can be done with
16 any particular district, because we don't have the
17 data. You know, in order to draw a district you
18 have got to have --

19 SENATOR THRASHER: Let me stop you. I get
20 that, I heard you say that earlier. In all due
21 respect, assuming we had the data and we wanted to
22 draw that district, assuming we spread the data of
23 the population consensus around the state and we
24 wanted to redraw that district, you are saying we
25 could or couldn't redraw it --

1 MS. FREIDIN: I have no idea.

2 SENATOR THRASHER: -- under your testimony?

3 MS. FREIDIN: I have no idea.

4 SENATOR THRASHER: So in your opinion then, I
5 guess, if it is no, the minority representation
6 would diminish then under the Fair Districts' plan,
7 is that correct?

8 MS. FREIDIN: You would have to be able to
9 have the data for the entire state. You would have
10 to have voting data in minority districts, in
11 minority areas. You would also have to have a
12 census data which isn't available. I can't answer
13 that question.

14 SENATOR THRASHER: Okay, fair enough. Let me
15 ask you just in a follow up then to that if I may,
16 Mr. Chairman.

17 REPRESENTATIVE CANNON: Absolutely.

18 SENATOR THRASHER: Since -- since we know the
19 shape of the district and the current partisan
20 makeup who is represented by Corrine Brown, who is
21 a Democrat, would we if we had the correct census
22 and we still wanted to draw that district, would we
23 be intending to a favor her if we drew that
24 district in a similar way or the same way?

25 MS. FREIDIN: It depends on the reasons you

1 are drawing the district for that -- for that --
2 for that purpose. I really -- I really cannot
3 comment on any particular district, but I can say
4 this.

5 That with regard to any district, I know the
6 question has been asked, if we draw a district
7 identical to the prior district, does that mean
8 that we are -- that we are favoring or disfavoring
9 a particular -- a particular incumbent, and the
10 answer is, it depends on why you are drawing the
11 district that way.

12 SENATOR THRASHER: Let me ask you.

13 MS. FREIDIN: And you know that. I can't.

14 SENATOR THRASHER: Let me ask you another
15 question then if I may, Mr. Chairman.

16 REPRESENTATIVE CANNON: Sure.

17 SENATOR THRASHER: I heard your testimony
18 earlier about, and I tried to write it down,
19 particularly about the public hearings, and I think
20 the Legislature has had a history of holding public
21 hearings around the state to hear the views of
22 citizens.

23 Suppose and your testimony I think was
24 directed that it would be okay if somebody in one
25 of those hearings said, she liked or he liked a

1 particular district.

2 what if they said, we like our particular
3 Representative or Senator or Congressman, would
4 that testimony provide improper intent for us I
5 guess?

6 MS. FREIDIN: I think it would depend on what
7 you do. The intent is yours, not -- public comment
8 is very, very important in this context. There
9 will be lots of public comment and it will be very
10 varied and certainly there is no reason for -- for
11 you as members of the committees that are dealing
12 with it or the entire Legislature to ever except
13 public comment. There is nothing wrong with that.

14 The question is what do you do when you go
15 into -- into the map drawing room and you draw the
16 map.

17 SENATOR THRASHER: I mean, say we get a bunch
18 of comments that somebody likes Senator Storms as
19 their Representative or their Senator and we go
20 back in and we draw a district, you know, similar
21 to what it is now.

22 I guess that is my dilemma. You can't answer
23 these questions. How in the world and you are the
24 ones who drew the districts -- drew the language in
25 the quote, unquote, Fair Districts of Florida, if

1 you can't answer them, this was your -- you
2 obviously understood the language you were writing.
3 How in the world do you expect us to answer those,
4 or how in the world do you expect our citizens to
5 understand that?

6 MS. FREIDIN: Well, I think that there are
7 many examples of times, and Senator Thrasher, with
8 all -- with all the experience that you have and
9 the redistricting experience, specific
10 redistricting experience you have, you know that
11 there have been many times in which and probably
12 almost every time in which districts are examined
13 to determine whether they're going to be good for
14 an existing incumbent or not or whether they're
15 going to be for a party or not.

16 We are asking you to not look at that
17 information anymore. To eliminate that
18 consideration from your calculus.

19 SENATOR THRASHER: You want us to go to
20 these --

21 MS. FREIDIN: The public --

22 SENATOR THRASHER: Let me interrupt, in all
23 due respect.

24 REPRESENTATIVE CANNON: Senator Thrasher.

25 SENATOR THRASHER: In all due respect you in

1 essence are saying, let's go to these hearings and
2 put ear muffs on.

3 MS. FREIDIN: No, I am --

4 SENATOR THRASHER: I am not going to do that,
5 I am not going to do that on behalf of my
6 constituents if I am involved in that.

7 Let me ask you the last question, Ms. Freidin.

8 MS. FREIDIN: Mr. Chairman, he is --

9 SENATOR THRASHER: Ms. Freidin.

10 MS. FREIDIN: -- you are not giving me a
11 chance to answer these questions.

12 REPRESENTATIVE CANNON: Ms. Freidin, I assure
13 you you will have ample time to answer anything you
14 want, but I am going to recognize Senator Thrasher.

15 SENATOR THRASHER: My last question,
16 Mr. Chairman. Has Fair Districts drawn any maps
17 previously that you could show us?

18 MS. FREIDIN: No.

19 SENATOR THRASHER: Okay. So you have gone out
20 then and said you have got 1.7 million signatures
21 to sign petitions and you have never even drawn a
22 map to show it will actually work, is that correct?

23 MS. FREIDIN: There is no question that these
24 are workable standards. This is not rocket
25 science. This is something -- these standards are

1 applied in almost every other state in the Union.

2 Florida is the only state in the country that
3 only uses contiguity as its only standard. I am
4 sorry, it is one of three that have as few
5 standards as we have. So that -- that would be the
6 answer. This is not a difficult thing to do and I
7 have every confidence that this Legislature is
8 totally capable of drawing maps with these
9 standards.

10 Now, I want to go back though to the question
11 that you were asking before, because I think it is
12 a very, very important question.

13 What these amendments do is they prohibit the
14 drawing of districts with the intent to favor or
15 disfavor a political party or an incumbent.

16 Now, you -- I think that what you were asking
17 me is if somebody comes before you and says, some
18 member of the public comes before you and says, I
19 want to keep -- Senator Thrasher, I want your
20 district to be exactly the same because I think you
21 are the perfect Senator and I want your district to
22 stay the same.

23 So that would be -- so your question is, if
24 they -- if the Legislature then goes back and draws
25 your district identically, does that mean that --

1 that -- that you then or the Legislature then had
2 intent to favor or disfavor.

3 The answer to that question cannot be devined
4 today, but it could be devined after you draw the
5 districts. And the way that it would be devined
6 was there could be testimony about conversations
7 that were had among legislators.

8 We want to make sure that we are protecting
9 this particular district. We want to make sure
10 that we are protecting -- we are ensuring that
11 there is as many Democratic seats as possible in
12 the Legislature. That would be one way.

13 Another way would be the data that you use to
14 rely on to draw a particular district. Now, we --
15 there is no question and this question has been
16 raised time and time again in these hearings.

17 We understand the data must be used in drawing
18 minority districts, but it doesn't have to be used
19 in drawing the non minority districts. So
20 registration and performance data shouldn't and
21 doesn't have to be used.

22 And before and after results also could be
23 used to determine what the intent of the drafters
24 of the districts was, and what the districts
25 actually look at.

1 So those -- those are the three things that
2 can be used and it is impossible to say that just
3 because somebody came before you that -- and made
4 some comment, that that would be proof of intent.
5 That doesn't make sense.

6 What makes sense is what you say, what you
7 think and what you do when you go and draw those
8 districts.

9 SENATOR THRASHER: Just a final comment,
10 Mr. Chairman.

11 REPRESENTATIVE CANNON: Certainly, Senator
12 Thrasher.

13 SENATOR THRASHER: As I understand your
14 testimony then, what you are saying is that just
15 about any plan we draw that has something to do
16 with intent is going to go challenged in the court.
17 So that is where I am going.

18 People don't understand this, you don't
19 understand it in terms of how we -- it will be
20 reflected in the courts. I don't know whether the
21 courts will have to follow the same standards of us
22 that we do. I don't know what the definition of
23 intent is, you don't. I don't know what the
24 standard of proof is, you don't. We don't what
25 evidence will be required, you don't.

1 So to me this sets up what I have said all
2 along, an obstacle for this Florida Legislature to
3 design a plan that obviously meets your criteria,
4 and ultimately it is going to be challenged in the
5 courts and the courts are going to make that
6 determination which I believe is your intent.
7 Thank you, Mr. Chairman.

8 MS. FREIDIN: Mr. Chairman --

9 REPRESENTATIVE CANNON: Senator Haridopolis.

10 MS. FREIDIN: -- may I respond to that,
11 because he just made some comments that -- about
12 things that I don't think are true about what my
13 thought is and I just want to clarify.

14 REPRESENTATIVE CANNON: Sure.

15 MS. FREIDIN: I want to clarify something.

16 REPRESENTATIVE CANNON: Sure.

17 MS. FREIDIN: It is not the intent of Fair
18 Districts Florida to have this end up in the
19 courts, and if the districts are drawn according to
20 the standards there will be no more litigation than
21 ever before.

22 The Supreme Court of Florida has -- this is an
23 issue that was raised before the Supreme Court of
24 Florida, and the Supreme Court of Florida rejected
25 it soundly that there would even be more

1 litigation.

2 with regard to intent, I just gave you three
3 standards that we certainly can rely on in terms of
4 whether or not there is intent and we need to be
5 really careful how we are throwing this word intent
6 around, because the only intent here that is --
7 that we are talking about at this moment is the
8 intent to favor or disfavor a political party or an
9 incumbent.

10 And we all know that for the last, and it is
11 not just the last 10 years and it is not just the
12 last 20 years, it is as far as anybody can remember
13 back in Florida districts have been drawn for the
14 purpose of accomplishing a particular political
15 result. And that is the -- it is the intent to
16 that, that Fair Districts Florida is trying to
17 eliminate.

18 REPRESENTATIVE CANNON: Ms. Freidin, with all
19 due respect, the word intent and the things you
20 mentioned, testimony, data, evidence, the actual
21 intent could only be determined by a court, could
22 it not, as a matter of law?

23 MS. FREIDIN: No, I think that the intent
24 starts with you and I think that if you -- if
25 legislators understand that they are not supposed

1 to be drawing districts to accomplish a particular
2 political result, then -- then it never needs to
3 get to a court.

4 There are many states that have the
5 requirement of drawing districts not to favor a
6 political party or an incumbent, there are many
7 states that do that and they all manage to get
8 their maps drawn.

9 There are many other states that give it to --
10 give the responsibility to a commission and those
11 commissions are not -- are charged with not drawing
12 for a particular political purpose. They manage to
13 get their maps drawn and then the maps, they all
14 have the requirement of no intent.

15 They have no problem getting their maps drawn
16 and their districts in place and having their
17 elections held. There is no reason in the world
18 that Florida can't do that, too.

19 REPRESENTATIVE CANNON: Chairman Haridopolis.

20 CHAIRMAN HARIDOPOLIS: Thank you. I just have
21 a question. I think your words, it doesn't take
22 rocket science to do this, and as far as the
23 records show I think roughly three and-a-half
24 million dollars have been spent, that is a pretty
25 big business enterprise, but it is so easy maybe a

1 legislator can draw these lines.

2 But let me ask you, we have information from
3 2002, we have a lot of folks here who are very
4 intelligent folks on your side who believe
5 passionately in this and I respect that.

6 we have the ability, what we would like to do,
7 it is a pretty easy thing, you have described it,
8 it is pretty easy to do. We will give you the
9 software, we will give you a week, maybe two weeks
10 if that is enough time because it is so easy to do
11 and we would like you to come back and show us how
12 each of the criteria that are so easy to do, it is
13 not rocket science can be done.

14 Because to this point all of the members,
15 Republican and Democrat who have been up here
16 trying to understand this are having great
17 difficulty and today you are not helping your
18 cause.

19 so to help your cause we would respectfully
20 ask you to come back in a week with the 2002 data
21 that is not rocket science and show us how -- we
22 wouldn't even ask you to do all 120, that is a lot
23 of work, not even 40 Senate districts, have a good
24 25 Congressional seats and draw those for us and
25 show us just how easy that is. Could you help us

1 do that?

2 MS. FREIDIN: I couldn't do it today and you
3 couldn't do it today, Senator.

4 CHAIRMAN HARIDOPOLIS: I have already admitted
5 that I can't do it. We said --

6 MS. FREIDIN: We all know --

7 CHAIRMAN HARIDOPOLIS: No, don't tell me that.

8 REPRESENTATIVE CANNON: Ms. Freidin, please
9 let Senator Haridopolis speak.

10 CHAIRMAN HARIDOPOLIS: You just described it
11 as rocket science. It is not rocket science, okay.
12 So what I would like to ask, please look at me, I
13 am speaking with you, I am asking you a simple
14 question.

15 You describe it as a very easy process to use
16 the technology that is readily available and draw
17 25 districts that meet your easy to reach criteria
18 and I will give you one week, would you like two
19 weeks, because the people of Florida are going to
20 vote in November, and you have represented certain
21 ideas.

22 would you like one week or two weeks with your
23 team of lawyers, spend three and-a-half million
24 dollars and show us the districts. I don't think
25 it is an unfair request, considering this is an

1 important process, and remember, this is a
2 constitutional requirement every 10 years. So can
3 you do it or can you not do it?

4 MS. FREIDIN: Nobody can do it.

5 REPRESENTATIVE CANNON: So it is impossible?

6 MS. FREIDIN: May I finish the answer?

7 REPRESENTATIVE CANNON: Sure.

8 MS. FREIDIN: Nobody can do it, and Senator,
9 this is -- it is like this is not really a possible
10 thing that you are asking me to do. You know, I
11 would ask have you all drawn maps.

12 REPRESENTATIVE CANNON: Actually we did in the
13 current districts we all sit in.

14 CHAIRMAN HARIDOPOLIS: And met Federal
15 requirements according to the United States
16 Constitution and Federal law.

17 MS. FREIDIN: Well, but you haven't drawn them
18 with the new criteria.

19 CHAIRMAN HARIDOPOLIS: And that is what we are
20 asking. You came up with the idea, you spent three
21 and-a-half million dollars and now you say I won't
22 do it?

23 MS. FREIDIN: Actually, we didn't come up with
24 the idea. Members of the Legislature who had just
25 gone through a redistricting came up with the idea

1 in 1993, of these particular standards.

2 The answer is that in order to draw these maps
3 you must have not only data, but you must have
4 census information. You must have voting data, you
5 must have census information, you must have
6 geographical information and you have also got to
7 have a balancing by a legislative body of all of
8 the criteria.

9 And the balancing factor can't be -- can't be
10 applied by me, nor could I possibly draw a map
11 without the data that exist, that doesn't exist
12 today.

13 REPRESENTATIVE CANNON: Senator Haridopolis.

14 CHAIRMAN HARIDOPOLIS: The data exist, the
15 data exist from 2002. It is known data and we can
16 figure that up, we can do it with 2002 data,
17 because as you mentioned before, you said Senator
18 Thrasher had some experience with redistricting.

19 He has zero experience with redistricting. He
20 was not here in 1992, he was not here in 2002, and
21 all we are saying is that I read your newspaper
22 accounts. We have read the hyperbole in the
23 responses and we are saying, it is like health
24 carry form.

25 Everyone is for it, then once it actually

1 comes to a piece of legislation, people make a
2 decision. If you are the expert on this, you have
3 been dealing with this 1998. You led a campaign
4 which raised over three and-a-half million dollars.
5 You have the editorial support of so many folks and
6 that is impressive.

7 So at the end of the day what matters is that
8 something that works, because theory is one thing,
9 practice is another.

10 You have an outstanding group of folks who got
11 this thing on the ballot, which is not an easy
12 thing to do and we have existing data from 2002,
13 that is so available. It is a yes or no question.

14 Are you willing to draw maps so that we can
15 have a better idea how we can serve our
16 constitutional requirements as members of the
17 Legislature, yes or no?

18 MS. FREIDIN: Are you suggesting, Senator,
19 that maps, that redistricting maps can be drawn
20 simply by plugging information into a computer?

21 REPRESENTATIVE CANNON: Ms. Freidin, the
22 question Senator Haridopolis asked was, if
23 essentially if the language that you are proposing
24 were in the Constitution back pre 2000, and we have
25 got that historical data and Senator Thrasher asked

1 some questions about it, if the standards that you
2 are proposing be injected into the Florida
3 Constitution had been in place, how could the maps
4 have been drawn. And I think Senator Haridopolis'
5 question is, could you show us that?

6 MS. FREIDIN: I am going to answer your
7 question one more time. To draw a good plan, to
8 draw a map under any criteria you need census data,
9 you need voting performance and registration data
10 for minority districts.

11 You need the input of the public and you need
12 the collegial work of all of the legislative body.
13 The answer is, I can't do that, because I don't
14 have any of that.

15 REPRESENTATIVE CANNON: We will supply you all
16 of the data -- all of the objective data --

17 MS. FREIDIN: And you can't --

18 REPRESENTATIVE CANNON: Ms. Freidin, please
19 excuse me. We will supply you all of that
20 historical voter data, all of the census block
21 tract and number data from 2000, and we would
22 simply ask you to prepare a set of Congressional
23 districts that you contend actually would pass
24 muster under your proposed constitutional
25 amendment, will you do it or not?

1 MS. FREIDIN: The answer is the data is not
2 available and the -- and the collegial, the
3 collegial work -- I don't have a Legislature to
4 work with me on this, nor do I have public hearings
5 to do this, and I don't have the data and it cannot
6 be done by me and it can't be done by anybody else.

7 It can't be done retrospectively, because we
8 don't know what went into the decision-making in
9 2002, to draw the districts that were drawn.

10 REPRESENTATIVE PROCTOR: Mr. Chairman, I have,
11 I am back in the back.

12 REPRESENTATIVE CANNON: If I may, I have got a
13 long list if it is all right. Representative
14 Proctor for a question. Senator, and then we will
15 go Proctor, Negron, Weatherford and we actually
16 have several from there. Representative Proctor.

17 REPRESENTATIVE PROCTOR: Thank you,
18 Mr. Chairman. Ma'am, I appreciate you being here
19 with us and I would like to address a question to
20 four terms that are used and I am not clear on them
21 and perhaps you will tell me that they have been
22 defined elsewhere and that well may be. I am not
23 aware of that, but first let me ask this.

24 When you use the term, contiguous, you said it
25 shall be contiguous. And when you use the term,

1 compact, you say, it shall be compact. And when
2 you use boundaries, you say, where feasible. And
3 when you say, equal in population, you say, as
4 practicable.

5 And the term shall, is that synonymous here
6 with should or is it imperative?

7 MS. FREIDIN: It is imperative.

8 REPRESENTATIVE PROCTOR: So it is imperative
9 that the districts be compact?

10 MS. FREIDIN: Yes.

11 REPRESENTATIVE PROCTOR: All districts?

12 MS. FREIDIN: All districts unless to do so
13 would interfere with the criteria that are stated
14 in Section I or Federal law.

15 Now, that Federal law includes the Voting
16 Rights Act and it also includes the equality of
17 population requirements.

18 REPRESENTATIVE PROCTOR: So if I am trying to
19 understand the extent to which I must apply the
20 criteria of compactness, I have to temper that with
21 Section I and the Voting Rights Act, is that
22 correct?

23 MS. FREIDIN: Yes.

24 REPRESENTATIVE PROCTOR: So with regard to
25 compactness, is there any analytical tool, standard

1 that I may use to determine if a district is
2 compact?

3 MS. FREIDIN: I am not sure that I understand
4 your question. Is there any analytical tool? Do
5 you mean is there any formula?

6 REPRESENTATIVE PROCTOR: I might look at a
7 district and believe it to be compact. You might
8 see it otherwise.

9 Is there any quantitative criteria or
10 analytical tool that will tell us whether or not a
11 district is compact? Go ahead.

12 MS. FREIDIN: There are many cases that deal
13 with the question of compactness. It is a term of
14 art in redistricting, and I am not aware of any
15 formula of any sort that would be -- that would be
16 used to -- to --

17 REPRESENTATIVE PROCTOR: So people of good
18 faith could disagree upon whether a district is
19 compact?

20 MS. FREIDIN: I would imagine they could.

21 REPRESENTATIVE PROCTOR: So now let me move
22 just a moment to the word, diminish. Used the
23 sense that we don't want to diminish the rights of
24 minorities to participate.

25 If we have a district that we have, let us say

1 currently is 29 percent minority and we follow all
2 of the guidelines. We draw, it is contiguous,
3 reasonable people would say it is compact. We have
4 used boundaries where it is feasible and we have
5 something approaching equal population, and we
6 reduce that minority representation from 29 to 27
7 and the results are the loss of the minority seat.
8 Would that be evidence of intention?

9 MS. FREIDIN: I can't possibly comment on any
10 particular hypothetical situation, because there is
11 so much else that goes into it.

12 REPRESENTATIVE PROCTOR: But I just put every
13 standard that you applied in and I said, as a
14 result of using all those standards with good
15 intent, and I had to reduce the minority
16 representation by two percentage points, and as a
17 result we diminished the minority representation.
18 Could we be accused of doing that intentionally?

19 MS. FREIDIN: Okay. You need to look at the
20 language. The language says that -- that districts
21 shall not be drawn to diminish the ability of
22 minority voters to elect representatives of their
23 choice and that is the only thing -- that is the
24 only thing --

25 REPRESENTATIVE PROCTOR: Well, we didn't do it

1 for that reason --

2 MS. FREIDIN: That is the only --

3 REPRESENTATIVE PROCTOR: -- we did it to
4 comply with all of the criteria as honestly as we
5 could. Unfortunately it did reduce the minority
6 population by two percent.

7 The results then, would the results be proof
8 of intent to lose that district to the minority?

9 MS. FREIDIN: It is my understanding that
10 the -- and it is the intent of Fair Districts that
11 there can never be a guarantee of a result in a
12 particular election.

13 The issue here is whether you as a legislator
14 decide to draw a plan for a district that
15 diminishes the ability of minority voters to elect
16 representatives of their choice.

17 REPRESENTATIVE PROCTOR: Let me see if I can
18 clarify my question. My intent is quite obvious.
19 I have gone by every criteria you have established.
20 I have used compactness, I have used
21 contiguousness, I have used population and I have
22 used geographical and political boundaries, but
23 unfortunately to achieve all that I had to reduce
24 the minority representation in that district.

25 Let's say, let's take it a little longer.

1 Let's say I reduced it from 29 percent to
2 25 percent. Couldn't someone reasonably claim if
3 the results lost the seat that that was my intent?

4 MS. FREIDIN: Mr. Chairman, I think I have
5 already answered this question two or three times.

6 REPRESENTATIVE CANNON: If you can answer the
7 question, please answer the question, otherwise, I
8 am going to recognize Representative Proctor for a
9 follow up.

10 REPRESENTATIVE PROCTOR: And your answer is
11 nobody can tell what my intent was?

12 MS. FREIDIN: No, that was not my answer.

13 REPRESENTATIVE PROCTOR: I am sorry, what is
14 your answer, ma'am?

15 MS. FREIDIN: My answer is that you need to
16 look at the language of the -- of the amendments.

17 REPRESENTATIVE PROCTOR: I am looking at it.
18 I used all --

19 MS. FREIDIN: The language of the amendment
20 says that you can't draw districts to diminish the
21 ability to elect representatives of choice and that
22 is -- that is the prohibition.

23 REPRESENTATIVE PROCTOR: So my question to
24 you --

25 REPRESENTATIVE CANNON: And if I can help out

1 Representative Proctor, the language Representative
2 Proctor is talking to you says intent or result.

3 REPRESENTATIVE PROCTOR: That is right.

4 REPRESENTATIVE CANNON: It is not just intent,
5 it is result as well.

6 REPRESENTATIVE PROCTOR: Yes, or results. So
7 based on the results --

8 MS. FREIDIN: We are talking about ability to
9 elect a representative.

10 REPRESENTATIVE PROCTOR: Ma'am, could you put
11 ability into a quantitative term for me? Had I
12 reduced it from 29 to 20, would they have still had
13 the ability?

14 MS. FREIDIN: I -- I cannot.

15 REPRESENTATIVE PROCTOR: Can I move on,
16 Mr. Chairman?

17 REPRESENTATIVE CANNON: Certainly.

18 REPRESENTATIVE PROCTOR: Because I don't think
19 I am getting the clarity I am seeking on this one.

20 REPRESENTATIVE CANNON: Yes, sir.

21 REPRESENTATIVE PROCTOR: Let me ask you about
22 this term, language minorities. Are there a
23 limited number of minorities that have to be
24 protected? Does it extend to all types of
25 minorities?

1 MS. FREIDIN: Are you asking me if every --
2 every person who speaks a different language is
3 protected?

4 REPRESENTATIVE PROCTOR: Well, it says if you
5 read it --

6 MS. FREIDIN: Under the current -- under the
7 current Federal law as that term is defined, it is
8 Hispanic language minority are the minorities that
9 are protected.

10 REPRESENTATIVE PROCTOR: So we would be
11 required to draw districts that we could be assured
12 reasonably represented all language minorities
13 equally with opportunity to elect candidates of
14 their choice?

15 MS. FREIDIN: Under the present -- I think I
16 just answered that question. And it was not what
17 you said. I said under the present state of the
18 law language minority is considered to be Hispanic
19 language minority.

20 REPRESENTATIVE PROCTOR: Just one more
21 question I think.

22 REPRESENTATIVE CANNON: For a follow up,
23 Representative Proctor.

24 REPRESENTATIVE PROCTOR: Ma'am, when you
25 started someone said they thought think would

1 invite litigation. And I thoroughly agree with
2 that, because so many of the terms I can't get
3 concrete definitions of.

4 So if I sit down and have to put something
5 concrete on a map, I should know what all the
6 operative terms mean. And I have trouble getting
7 those definitions.

8 So let me invite you to do this. You look at
9 this set of standards and you say the intent --
10 Senator Thrasher if I understand him, looks at the
11 exactly the same set of standards and he says the
12 intent is that you assert the legislative authority
13 and put the issue in the court. Now, who is right
14 on intent and how do you decide?

15 MS. FREIDIN: Well, I think the voters are
16 going to decide when they read the language on
17 November 2nd. They're going to go into the voting
18 booths and they're going to make a decision about
19 whether they want to see you eliminate political
20 partisanship from the calculus of your district
21 drawing in 2012.

22 REPRESENTATIVE PROCTOR: Closing statement if
23 I may?

24 REPRESENTATIVE CANNON: Representative
25 Proctor.

1 REPRESENTATIVE PROCTOR: Exactly my point.
2 You went back to results and the example I gave
3 you, if I diminished the minority by reducing it
4 four points, even though I adhered to all your
5 criteria I would be accused of intent based on
6 results which is just what you used in answer to my
7 question. You said the results proves the intent.
8 Thank you, ma'am.

9 MS. FREIDIN: Chairman --

10 REPRESENTATIVE CANNON: Thank you.
11 Representative Weatherford for a question.

12 REPRESENTATIVE WEATHERFORD: Thank you,
13 Mr. Chairman. I have got a brief series, I will
14 try to keep it brief.

15 Thank you very much for being here. I
16 appreciate your patience in taking all of these
17 questions, I know it is a lot of them, but it is an
18 important issue.

19 MS. FREIDIN: It is taking a lot of patience,
20 sir.

21 REPRESENTATIVE WEATHERFORD: Well, we
22 appreciate it, so keep it up. In reference, I want
23 to go back very briefly to a comment that Senator
24 Storms said earlier in regard to the Jenner Block
25 letter.

1 Is it my understanding that although you
2 didn't write the letter and you stated that, that
3 you agree with the analysis that was in the Jenner
4 Block letter that went to the two Senators?

5 MS. FREIDIN: I agree with some of the
6 analysis, most of the analysis. Actually I agree
7 with the analysis. I don't agree with some of the
8 suppositions that are made.

9 REPRESENTATIVE WEATHERFORD: But is it your
10 opinion that it accurately reflects what the
11 petition actually does?

12 MS. FREIDIN: You know, I can't make a comment
13 on -- I don't want -- I don't want to make such a
14 broad comment because I don't have the letter
15 committed to memory, but what I do agree with is
16 what they say that these amendments would make the
17 elections fairer for all political parties and
18 candidates and that they would also protect and
19 indeed enhance the ability of minorities to
20 participate in the political process and elect
21 representatives of their choice. That is the part
22 I am sure I agree with.

23 If you want to ask me a specific question, I
24 will try and answer it, but if I could ask, if you
25 could go a little slower than Senator Storms went,

1 because I really was not able to keep up with all
2 of the different quotes she was putting at me.

3 REPRESENTATIVE WEATHERFORD: Senator Storms, I
4 am not as sharp as Senator Storms. So I will
5 certainly be going slower.

6 MS. FREIDIN: Obviously, me either.

7 REPRESENTATIVE WEATHERFORD: I -- I have
8 another question in regard to your website. It
9 states that the voter registration in the state of
10 Florida is 42 percent Democrat, 36 percent
11 Republican and 19 percent Independent in Florida.
12 Is that correct?

13 MS. FREIDIN: That is my understanding of what
14 the voter registration is, and it is on our
15 website.

16 REPRESENTATIVE WEATHERFORD: Yes. And I am
17 assuming that partisan equality and balance are
18 very important principles and probably the genesis
19 for what your petitions -- why you have brought
20 these petitions forth. Would that be correct?

21 MS. FREIDIN: No. I -- I think -- I wouldn't
22 put it that way. I would say that partisan
23 fairness and the lack of partisan rigging of
24 districts is what we are about.

25 REPRESENTATIVE WEATHERFORD: But not partisan

1 equality?

2 MS. FREIDIN: Not necessarily, no. This is,
3 you know, you have to remember that this is
4 something -- listen, when Democrats were in charge
5 of the Legislature this is something that
6 Republicans introduced.

7 Now the fact -- and it has been -- it has been
8 championed by Republicans and Democrats in Florida
9 for many, many years. I don't think anybody is
10 looking for partisan equality. I think what we are
11 trying to avoid is a situation what exist today
12 where the Legislature draws these maps to
13 accomplish a particular political result where
14 districts are assigned to be, Republicans districts
15 or Democratic districts as opposed to districts for
16 the people and that is what we are trying to
17 accomplish here.

18 REPRESENTATIVE WEATHERFORD: Okay, well then I
19 guess my question is generally trying to figure out
20 what a statistical result or results would meet the
21 petitions' intent.

22 So for example, if a single district was drawn
23 to be 55 percent Democrat or 55 percent Republican,
24 does that district violate the intent of the
25 petition?

1 MS. FREIDIN: It depends on why it was drawn
2 that way. If it was drawn for the purpose of
3 making it 55 percent of one party or the other, it
4 absolutely would violate the petition.

5 If it resulted in -- in being 55 percent one
6 party or the other, then that would not be a
7 violation.

8 REPRESENTATIVE WEATHERFORD: But given the
9 fact that the state is 42 percent Democrat,
10 36 percent Republican and 19 percent Independent,
11 by not adhering to those numbers and drawing
12 anything else -- and have any type of other
13 statistical data or registration, wouldn't it be in
14 violation of the petition?

15 MS. FREIDIN: In order -- are you asking me if
16 the petition prohibits you from setting up a
17 district in a particular partisan way?

18 REPRESENTATIVE WEATHERFORD: well, that is
19 what I am trying to figure out, yes.

20 MS. FREIDIN: The answer is it absolutely does
21 prohibit you from setting up a district in a
22 particular partisan way.

23 REPRESENTATIVE WEATHERFORD: But if a district
24 is not set up for a particular partisan way, but
25 happens to have 55 percent Democrat and/or

1 Republican, that doesn't violate any of the
2 principles --

3 MS. FREIDIN: Right.

4 REPRESENTATIVE WEATHERFORD: -- or the
5 classifications within the petition?

6 MS. FREIDIN: Correct.

7 REPRESENTATIVE WEATHERFORD: So, okay, let's
8 suppose there is a Democrat or Republican seat that
9 is at 60 percent Republican or Democrat today, but
10 during the redistricting process goes down to
11 55 percent or 50 percent for that matter.

12 Are you saying that that would not be
13 disfavoring a political party and/or a person's
14 district or a member?

15 MS. FREIDIN: Representative Weatherford, the
16 intent and the language of these amendments is to
17 avoid the situation that exist today when districts
18 are drawn specifically for the purpose of
19 incorporating a certain number of Democrats or a
20 certain number of Republicans in the district.

21 If districts are drawing compactly and they
22 adhere to community boundaries as is required and
23 there is no intent to -- to place a particular
24 number of one party or another or independents into
25 that district, then that would be compliant with

1 the standards.

2 REPRESENTATIVE WEATHERFORD: Okay. I will
3 tell you, Mr. Chairman, it is unfortunate what is
4 happening on the Space Coast and the fact that we
5 have so many scientists that are no longer working
6 on shuttle launches, but I can tell you we are
7 going to need to hire them about a year from now to
8 help us figure out this constitutional amendment if
9 it passes, because it is quite confusing.

10 REPRESENTATIVE CANNON: Senator Negron for a
11 question.

12 SENATOR NEGRON: Thank you, Mr. Chairman. You
13 said earlier, ma'am, in response to a question
14 about determining intent, that you gave the example
15 of, you know, did a legislator or legislators have
16 conversations about this would help my district.

17 so would you agree that it is a reasonable
18 probability that whenever the inevitable court
19 challenge comes to redistricting which has happened
20 and will likely to continue to happen, that it is
21 very probable that all 160 members of the
22 Legislature would be subpoenaed in that case in
23 order to determine intent?

24 And if you agree with that, should we avoid
25 conversations about reapportionment, should we keep

1 records about all our conversations that we have,
2 or is it acceptable to you that 160 legislators
3 would have to be called as witnesses in a court
4 proceeding to determine intent?

5 MS. FREIDIN: Well, I think that is a highly
6 unlikely situation, especially because I have full
7 confidence that this Legislature will if the
8 standards are in the Constitution, draw districts,
9 not for the purpose of creating a particular
10 political result, but draw districts that are
11 fairly, geographically fair, that make geographical
12 sense, that don't divide communities and then it
13 will be -- there will be no need for anybody to be
14 called to talk about whether they intended to
15 accomplish a particular political result, whether
16 they intended to favor or disfavor a political
17 party or an incumbent.

18 REPRESENTATIVE WEATHERFORD: But would you
19 agree that some people may not be as willing to
20 just accept our word or accept the benevolence in
21 the process, and if there is litigation, which is
22 probable, you would agree that the only way that
23 you could prove intent would be to actually have a
24 legislator on the stand being examined and cross
25 examined about what was going on in their mind at

1 the time they made a certain decision?

2 MS. FREIDIN: No, I think if you had -- you
3 would have information about what data was used to
4 draw a particular district. You would also have
5 exactly -- take a look at the district.

6 I mean, if you have a district that goes from
7 one end of the state to the other, one side of the
8 state to the other, then it is going to be --
9 somebody is going to take a look at that district
10 and say, why was that drawn that way, because it
11 doesn't make geographical sense.

12 It crosses the other way, it crosses Lake
13 Okeechobee or goes from the Space Coast to the --
14 to the Tampa Bay area. That is the sort of thing
15 that would cause somebody to look at a district and
16 say, that looks like a gerrymander district. .

17 But if the districts make sense and are
18 understandable to the people geographically there
19 shouldn't be -- there would be very little or no
20 reason to challenge them on the basis of what
21 somebody might have said about them, about their
22 intent in drawing them I should say.

23 REPRESENTATIVE WEATHERFORD: Then I will move
24 on with the Chair's permission to another area.

25 REPRESENTATIVE CANNON: Sure.

1 REPRESENTATIVE WEATHERFORD: But I am willing
2 to state on the record right now, a prediction that
3 there will be litigation resulting no matter how
4 the lines are drawn.

5 Secondly, ma'am, in your opening remarks you
6 gave the example of Winter Park and an example of a
7 policy that you don't support would that be that
8 there is more than one Representative, separate
9 Representatives for the Winter Park area.

10 If I could give you an example in my district,
11 which is Senate District 28. There is a community
12 called Okeechobee, it is a municipality and I
13 represent part of Okeechobee and Senator J. D.
14 Alexander represents part of Okeechobee.

15 would you at least concede that an equally
16 compelling argument could be made that in actuality
17 the residents of Okeechobee, that it is a benefit
18 to them to have two members of the State Senate,
19 particularly one who is new, myself, the other
20 Senator is the Chairman of the Ways and Means
21 Committee and in charge of the appropriation
22 process in the Senate, so he is the kind of person
23 you would want to be your State Senator.

24 So would you at least acknowledge that while
25 you -- I understand your point, but there is also a

1 counter argument that having multiple members
2 represent a community such as Okeechobee, which is
3 a relatively small rural community, that that is
4 actually an advantage for the residents of
5 Okeechobee and something that is good for them?

6 MS. FREIDIN: Senator, I have heard that
7 argument before, but I have also been to the League
8 of Cities, the Leagues of Mayors and the League of
9 Local Black Elected Officials, and all of them, all
10 of those organizations have voted unanimously to
11 support the Fair Districts amendments.

12 They are the people who I would rely on to
13 tell me if it is good to have cities represented by
14 chopped up into pieces so that they are represented
15 by many different people.

16 I can't answer your question other than to say
17 that the experts, the people who are dealing with
18 it from the point of view of the cities and the
19 mayors and the other local, black local elected
20 officials at least, from their point of view they
21 don't apparently want to see that anymore, because
22 they have voted unanimously to support Fair
23 Districts Florida.

24 REPRESENTATIVE WEATHERFORD: I guess I am
25 asking your opinion as the Chairman of the

1 campaign, Chairperson of the campaign.

2 Are you willing to concede there is any
3 validity in the exact illustration that I just gave
4 you about the city of Okeechobee, or do you
5 discount that that has any merit?

6 MS. FREIDIN: I -- I actually don't an opinion
7 on it.

8 REPRESENTATIVE WEATHERFORD: Okay, that is
9 fine. Could I have one more question,
10 Mr. Chairman?

11 REPRESENTATIVE CANNON: Sure.

12 REPRESENTATIVE WEATHERFORD: There is an
13 article in Creative Loafing dated December 16th,
14 2009, that has a quote from you saying, let me read
15 it here, "That the state's population is a little
16 more than one-third Republican, yet the Legislature
17 is two-thirds Republicans."

18 And the premises of that observation would
19 seem to me to be that you would assume that
20 Republicans wouldn't vote for Democrats or that
21 Democrats wouldn't vote for Republicans, and there
22 is something amiss when the party registration
23 differs from the results.

24 I just want to give you two quick examples and
25 ask you if you would reconsider the premises in

1 your statement, at least as I interpret it.

2 Going back again to Okeechobee. That is a
3 county in my district, it is majority Democrat
4 county and I won 71 percent of the district,
5 because apparently a lot of the Democrats decided
6 for whatever reasons to vote for me.

7 I am sure you are aware that when Republicans
8 took over control of the House in 1996, and Speaker
9 webster became Speaker, that was done based on
10 lines that the Democrats drew earlier, four years
11 earlier.

12 So would you be willing to acknowledge that
13 there are national trends, there are many other
14 factors?

15 And so that your contention that because there
16 are more of one party than another based on
17 registration, that you are under estimating or
18 ignoring the individual rights of voters to vote
19 across part lines both ways?

20 MS. FREIDIN: I actually don't have an opinion
21 on that either.

22 REPRESENTATIVE WEATHERFORD: Okay, thank you.

23 REPRESENTATIVE CANNON: All right, Members, we
24 have been doing for a while, since 1:00. I am
25 going to propose that we take a five-minute recess.

1 Is there any objection to a five-minute recess?

2 Seeing none, we will pick back up with Senator
3 Bennett right after the recess. Please, ladies and
4 gentleman, try to be back in five minutes, thank
5 you. We will stand in recess.

6 (Brief recess.)

7 REPRESENTATIVE CANNON: Ms. Freidin, welcome
8 back. Okay, you are welcome back any time.

9 And Senator Bennett, you are recognized for a
10 question.

11 SENATOR BENNETT: Thank you, Mr. Chairman.
12 Welcome. A couple of questions and it really
13 bothers me and I am assuming a lot of people don't
14 want to talk about it because they get really
15 nervous about anything we talk about having racial
16 ideas or something like that, but, you know, you
17 said before that the first thing we would have to
18 do to draw these seats would be to draw the
19 minority seats first. Is that correct pretty much
20 in your estimation?

21 MS. FREIDIN: Well, I think that that would be
22 one approach that you could take, but I am not a
23 person who has ever drawn a map.

24 SENATOR BENNETT: It is obvious, it really is.
25 However --

1 MS. FREIDIN: I am sure it is.

2 SENATOR BENNETT: But let me ask you
3 something. If in fact all but one of the black
4 members of the Florida Legislature are Democrat, if
5 we drew those seats, wouldn't you be, in fact,
6 favoring the Democrat party and somebody could say
7 that, you know, challenge us in court because you
8 have favored the Democrat party, even though you
9 are trying to say, well, we are trying to protect
10 the minority seats, couldn't it be interpreted
11 because of that huge representation of blacks who
12 serve in the Democrat party in the Legislature,
13 wouldn't you, in fact, be favoring the Democrat
14 party?

15 MS. FREIDIN: There are districts that make it
16 possible for minority voters to elect
17 representatives of their choice.

18 SENATOR BENNETT: I don't think what is what
19 it says. I think it says to participate in the
20 political process.

21 MS. FREIDIN: And --

22 SENATOR BENNETT: To participate in the
23 political process could be as simple as voting. I
24 don't think it means you have got to get elected.

25 MS. FREIDIN: Well, but there is a second part

1 of it that says that -- that we have to have -- we
2 have to ensure that we don't diminish the ability
3 of minority voters to elect representatives of
4 their choice.

5 And that is a permissible consideration. If
6 it turns out that -- that those minority voters are
7 Democratic, then, in fact, that wouldn't be the
8 reason that you are drawing those districts.

9 Now, on the other hand if it turns out that
10 because there are many minority representatives in
11 this body in the House and the Senate who are
12 Republican, who -- and that -- neither would that
13 be favoring them.

14 It would be if you are drawing districts in
15 order to favor minority voters, in order to create
16 the ability of minority voters to elect
17 representatives of their choice, you are not making
18 the decision to favor or disfavor a particular
19 political party.

20 SENATOR BENNETT: But I think you would agree
21 that it could be a subject of a challenge that you
22 have actually drawn those districts --

23 MS. FREIDIN: I would not agree.

24 SENATOR BENNETT: Let me ask you,
25 Mr. Chairman, if I could on the last question. You

1 have been very, very good about representing the,
2 what did you say, one and a half million, 1.7
3 million people who have signed this petition, is
4 that something --

5 MS. FREIDIN: It is close to 1.7 million.

6 SENATOR BENNETT: 1.7 million people. And I
7 appreciate the fact that you are trying to
8 represent them, and obviously you owe a debt to
9 them because of all the efforts that they have gone
10 and taken the time.

11 So since you owe a debt to them, wouldn't you
12 feel that to pay that debt, it would be encumbent
13 upon you all to try to show them that they didn't
14 waste their time and, therefore, by taking up
15 senator Haridopolis' offer to go ahead and draw the
16 districts, you could show these people that what
17 they signed and what they were purported by your
18 representative was true and just, here is an
19 example of what we have asked you to do, therefore,
20 we have approved it.

21 So don't you feel like you owe them that
22 opportunity, since we are saying we can't do it,
23 don't you feel that some kind of debt to show them
24 that they didn't waste their time?

25 MS. FREIDIN: Every day that you pass laws

1 that you consider laws, you do a balancing of a
2 number of factors and you come up with what you
3 consider to be the proper law.

4 Redistricting is really nothing different.
5 The people of Florida if they agree that these are
6 criteria that they want you to follow, if they want
7 you to stop partisan gerrymandering and to start
8 following these criteria instead, then I have every
9 confidence that this is something that you will be
10 able to do.

11 SENATOR BENNETT: Mr. Chairman, if I could
12 just make a comment. Right now as we know our
13 budget is about three million upside down and I am
14 going to pass legislation this coming week that we
15 are going to get that \$3 million out of heaven,
16 because I am sure somebody is going to do it and I
17 think it is about the same analogy. Just because,
18 you know, you want it doesn't necessarily mean it
19 is going to happen.

20 REPRESENTATIVE CANNON: Representative Hudson
21 for a question.

22 REPRESENTATIVE HUDSON: Thank you,
23 Mr. Chairman. Thank you for your testimony today.
24 Certainly it has been an interesting, interesting
25 day.

1 But I want to go back and just kind of clarify
2 some of the things that I heard you say. You
3 mentioned a word a number of times and it has been
4 a source of great debate today, but you said that
5 this amendment was simply intended, that it was
6 intentional to avoid party favoritism.

7 You said that -- well, you said quite frankly
8 that it is not unusual to have intent proved in
9 litigation.

10 wouldn't it be easier to understand the intent
11 prior to that so we don't have litigious
12 litigation?

13 MS. FREIDIN: Representative Hudson, you know
14 as well as I do, that from the beginning of
15 redistricting in Florida the intent of the
16 Legislature has been to protect its own seats and
17 those of the party that is in control of the
18 Legislature.

19 Now, all we are trying to do is ask the voters
20 of Florida if they would like to stop that and to
21 create a set of standards that will require that
22 instead of drawing districts with the intent to
23 feather a particular political nest, that the
24 districts be drawn with no intent to do that, and
25 be drawn to make sense, to keep communities

1 together, to keep cities, counties or other
2 geographical areas together whenever possible.
3 That is all we are asking. And we are confident
4 that this Legislature can do that.

5 REPRESENTATIVE HUDSON: Follow up, Mr. Chair?

6 REPRESENTATIVE CANNON: Follow up.

7 REPRESENTATIVE HUDSON: Thank you. Well, I
8 absolutely would not agree with you and I have no
9 earthly idea what happened at the turn of the
10 century when it comes to redistricting and
11 balancing things, and quite frankly, I don't think
12 anyone else here does as well. And to presume that
13 quite frankly is not right.

14 At the end of the day people elect you because
15 they either like you or they don't. It is just
16 that simple.

17 Now, what is the intent? How do we define
18 intent? When we take public testimony and we
19 ultimately vote on this, will every legislator be
20 called for subpoena? Will we all stand before a
21 judge and say, hey, this is what we were thinking
22 or not thinking?

23 MS. FREIDIN: Representative, I already
24 asked -- answered that question from the other
25 side. I am not sure who it was that answered it,

1 but I think I have answered that.

2 REPRESENTATIVE HUDSON: No, you didn't. Yes
3 or no?

4 MS. FREIDIN: The answer about did I expect
5 that 170 people would be called? It was no, I
6 already answered that question.

7 REPRESENTATIVE HUDSON: Okay. Let's move to
8 another topic. Our plan ultimately would have to
9 go before the Supreme Court for a review.

10 MS. FREIDIN: As it does now.

11 REPRESENTATIVE HUDSON: Correct, without
12 question. And they have a 30-day period of time in
13 which to review that, correct?

14 MS. FREIDIN: As far as I know, yes.

15 REPRESENTATIVE HUDSON: Okay. Now previously
16 the Supreme Court has indicated that it would be
17 highly problematic for them to be able to review a
18 Voters Right Act plan within 30 days.

19 Given the additional things that are up on the
20 screen right now, going from three to a myriad, how
21 could they possibly get that done within 30 days?

22 MS. FREIDIN: They have a constitutional
23 requirement to do it and they will do what they can
24 do, and if the Legislature chooses not to follow
25 the standards, that can be litigated in other

1 forums. Just like many other issues in
2 redistricting have always been litigated in other
3 forums.

4 REPRESENTATIVE HUDSON: So we are back to
5 litigation. Okay, thank you for your answer.

6 REPRESENTATIVE CANNON: Representative
7 Fitzgerald for a question.

8 REPRESENTATIVE FITZGERALD: Thank you,
9 Mr. Chairman. And I have a few, but I will try to
10 be as quick as I can. I am a little bit confused
11 by some of the confusion.

12 Would you agree with me that in characterizing
13 the process of drawing districts, that what
14 implicitly or explicitly a legislator or whatever
15 body has to engage in, is coming up with a set of
16 rules for solving the problem of how to draw the
17 lines on the map? I mean, isn't that what you are
18 doing?

19 MS. FREIDIN: Yes, of course.

20 REPRESENTATIVE FITZGERALD: And the technical
21 term for a set of rules to solve a problem is an
22 algorithm, correct?

23 MS. FREIDIN: I actually don't know the term.

24 REPRESENTATIVE FITZGERALD: That is what it is
25 called.

1 MS. FREIDIN: But I will accept it if you say
2 it.

3 REPRESENTATIVE FITZGERALD: In evaluating the
4 complexity of solving a problem, does having more
5 criteria make it more complex or does have fewer
6 criteria make it more complex?

7 MS. FREIDIN: I quite frankly think -- I don't
8 want to talk in a vacuum, Representative
9 Fitzgerald, but let's talk about these particular
10 criteria.

11 REPRESENTATIVE FITZGERALD: Okay.

12 MS. FREIDIN: I think these criteria, although
13 I understand that there has been a huge effort here
14 today to make it sound like it is -- that it is
15 very complex, but I think that if you have the
16 more -- the more limits that you have, the easier
17 it becomes to draw the district.

18 REPRESENTATIVE FITZGERALD: So an algorism
19 could be written in the form of a computer program
20 in some cases, correct?

21 MS. FREIDIN: Forgive me, because I don't know
22 about the word, algorism, but I do know that a
23 computer --

24 REPRESENTATIVE FITZGERALD: Well, it is what
25 you call a computer program.

1 MS. FREIDIN: -- that you certainly could put
2 these criteria into a computer and ask the computer
3 to draw districts.

4 REPRESENTATIVE FITZGERALD: And in fact, isn't
5 that what happens in the state of Iowa and a few
6 other states, that they have a nonpartisan
7 commission that defines criteria, they write a
8 computer program and they draw the district lines
9 on that basis?

10 MS. FREIDIN: Yes, but I think also that there
11 is always public input and there is always
12 discussion, even in the states that have
13 redistricting commissions. There is discussion
14 among the members as there would be discussion and
15 debate among the Representatives here.

16 REPRESENTATIVE FITZGERALD: So as I read this
17 and I will start with Amendment V. It says, "No
18 apportionment plan or district shall be drawn with
19 the intent to favor or disfavor a political party
20 or an incumbent."

21 So that is removing two rules or criteria from
22 the problem of drawing the line. Just saying you
23 can't take that into consideration, so in fact, it
24 is simplifying the process, not making it more
25 complex which the drawing of the lines.

1 MS. FREIDIN: Absolutely.

2 REPRESENTATIVE FITZGERALD: So we do have
3 questions of intent clearly. Is -- is it an
4 unusual, as a lawyer, I am not a lawyer, is there
5 anything unusual in civil or criminal law to have
6 as an aspect the proceedings, findings about intent
7 based on evidence?

8 MS. FREIDIN: Absolutely not. Intent is -- is
9 considered all the time.

10 REPRESENTATIVE FITZGERALD: And with or
11 without these criteria as part of the equation in
12 drawing these boundaries, would a court challenge
13 in all likelihood involve questions of intent?

14 MS. FREIDIN: It certainly could in the Voting
15 Rights Act context.

16 REPRESENTATIVE FITZGERALD: So in fact we have
17 not added complexity, we have removed it by saying
18 we cannot intend to do these, but we certainly have
19 to have some evidentiary finding if someone asserts
20 that that has taken place, a separate process,
21 correct?

22 MS. FREIDIN: Correct.

23 REPRESENTATIVE FITZGERALD: Okay. And so all
24 of these terms that are confusing people, like
25 intent already presently involved in the process,

1 correct?

2 MS. FREIDIN: Correct.

3 REPRESENTATIVE FITZGERALD: Compactness is a
4 feature of the Florida Constitution, it is not an
5 addition to -- by your amendment.

6 MS. FREIDIN: Well, compactness --

7 REPRESENTATIVE FITZGERALD: I mean,
8 compactness --

9 MS. FREIDIN: -- is, contiguity.

10 REPRESENTATIVE FITZGERALD: Contiguity, sorry.
11 So we add compactness. That is a level of
12 complexity.

13 Are there other states that have that as a
14 requirement in their process?

15 MS. FREIDIN: Contiguity?

16 REPRESENTATIVE FITZGERALD: No, compactness.

17 MS. FREIDIN: Compactness, yes, I think that
18 there are 36 other states that use compactness.

19 REPRESENTATIVE FITZGERALD: And is it the case
20 that they all navigate these waters fairly --
21 fairly successfully?

22 MS. FREIDIN: Thirty-six states, they all have
23 districts and they all have -- and they all have
24 representatives elected from the districts.

25 REPRESENTATIVE FITZGERALD: Now I have a

1 couple of questions more and they may in some ways,
2 I guess dispute a little an answer you gave
3 earlier.

4 You were asked about whether we could do, you
5 could do in a week or two weeks this solution. I
6 think we have heard statements already that this
7 Legislature is already engaged in the process of
8 drawing these districts.

9 So that is not exactly a commensurable
10 standard, but on the other hand if we eliminated
11 party or incumbency as a criterion, isn't it the
12 case that you could write a computer program that
13 would do this?

14 MS. FREIDIN: Well, I think that the very
15 principal of districting and the way it has always
16 been done in the past is to do it after public
17 comment and with collegial collaboration among the
18 members.

19 So do I think that you could come up with some
20 sort of a map, but it would not be necessarily an
21 appropriate map nor would it necessarily be
22 compliant.

23 REPRESENTATIVE FITZGERALD: Right, but my
24 question is --

25 MS. FREIDIN: There is too much that goes into

1 it.

2 REPRESENTATIVE FITZGERALD: If we wanted to
3 give up the value of the collegiality and the input
4 and so forth and maximize speed in order to do
5 this, it is done in other states, it has been done
6 and it probably could be done given a certain
7 commitment of resources.

8 MS. FREIDIN: I am actually not familiar with
9 the answer to that question. It sounds like you
10 are from your question, but I don't know.

11 REPRESENTATIVE FITZGERALD: Let me ask you a
12 final question then.

13 Are you familiar with a study by a couple of
14 authors, one named Jotway (phonetic) Chen and the
15 other Jonathan Rocker, the first from the
16 University of Michigan at Anabor and the other at,
17 I believe Stamford University called Tobbler's Law
18 Urbanization Electoral Bias. Have you heard of
19 this study?

20 MS. FREIDIN: No.

21 REPRESENTATIVE FITZGERALD: Are you aware that
22 it is actually done exactly what Senator
23 Haridopolis proposed would be done? In other
24 words, it took the 2000 -- it actually had a unique
25 dataset that used the outcome of the 2000 election,

1 as opposed to the voter registration files, but it
2 used that to draw a series of district boundaries
3 in the state of Florida to see what the impact of a
4 applying compact, compactness and contiguity as
5 criteria would be.

6 MS. FREIDIN: I am not aware of it.

7 REPRESENTATIVE FITZGERALD: The study has been
8 done, it exist, it is on line, it is published.
9 The sub title by the way, and this will be my final
10 comment, of that study was, "why compact contiguous
11 districts are bad for Democrats," and that is where
12 I will stop.

13 MS. FREIDIN: I don't know anything about it.

14 REPRESENTATIVE CANNON: Senator Lawson for a
15 question.

16 SENATOR LAWSON: well, I don't know that I
17 have a question. I have had the opportunity to
18 listen to all of the comments and maybe I do have a
19 question. And I also had the opportunity, maybe
20 only one or two of us go through two
21 reapportionments since I have been in the
22 Legislature.

23 And my question probably would center around
24 the fact that -- that when -- when reapportionment
25 took place in 2000, the NAACP, SCLC, the Voters

1 League, League of Women Voters and many groups
2 signed off on -- on the reapportionment that was
3 being proposed.

4 And -- and when we gathered information, we
5 gathered information based on many of the criteria
6 that are listed up there.

7 And one of the things that occurred is as a
8 result from the first reapportionment to the second
9 that it increased the number of African-Americans
10 serving in the Legislature because of that.

11 And some of the conversation which I was
12 involved very seriously in the Legislature is how
13 do you increase the number of African-Americans.

14 The only concern that has been expressed from
15 some minority groups around the state is that with
16 Fair Districts will that conversation still
17 continue with how to keep the number of
18 African-Americans in the Legislature, because if I
19 understand the way lines were drawn, if the lines
20 are drawn with the perspective that we have now on
21 Fair District, the number of African-Americans in
22 the Legislature certainly would decrease.

23 And I guess the answer would be even though
24 you said earlier in remarks that the NAACP, you
25 know, signed on and so forth and so on, but just

1 judging from where we are now, there wouldn't be
2 any -- there wouldn't be as many African-Americans
3 in the Legislature, even in Congress without
4 gerrymandering.

5 So it brings you to the point to determine,
6 the question would be probably even though they say
7 those minority districts would be protected, then
8 Fair District would involve with some
9 gerrymandering in order to protect those districts,
10 because some of them are gerrymandering.

11 Do you see that as being a factor, or do you
12 see that that would take place, because I don't see
13 any other way from my perspective in just looking
14 at it that it could happen otherwise?

15 MS. FREIDIN: I absolutely cannot say this
16 more unequivocally. That I do not believe and
17 these amendments are not intended to and the
18 reason, NAACP has signed on after hiring counsel
19 and counsel studying the issue. So they don't
20 believe that there is going to be any problem with
21 maintaining the minority representation in the
22 state of Florida after these amendments are.

23 This is not going to be -- there is not a
24 reason to think that this is going to impact
25 negatively minority representation. In fact, that

1 is the reason that the language is in there to
2 ensure that the ability to elect minority -- the
3 ability of minority voters to elect representatives
4 of their choice will not be diminished.

5 I mean, that is an absolute requirement that
6 takes priority. So the term gerrymandering is not
7 in these amendments. There is nowhere in these
8 amendments does it say, is that word used.

9 There are two things that we are looking at.
10 One is favoring or disfavoring a particular party
11 or a particular incumbent. The other is ensuring
12 that minority voters don't have their rights
13 diminished in Florida.

14 And there is no reason to think and I have not
15 heard a sustainable legal argument that -- that
16 would indicate in any way that this does reduce
17 minority voting rights.

18 SENATOR LAWSON: Okay, if I may.

19 REPRESENTATIVE CANNON: Certainly.

20 SENATOR LAWSON: The reason why I made that
21 statement is because I was a part of the Democratic
22 majority, and in collaboration with Republican
23 colleagues and I know from the standpoint of being
24 at the table at night and everything else, that in
25 order, and I understand where you are coming from

1 and I just want to make sure that I am on the
2 record as saying it, but I know that in order for
3 the minorities that are represented here today in
4 this Legislature, if it hadn't been the
5 collaboration between the Democratic leadership and
6 the Republican leadership at the time of what was
7 fair for the state, because they have been left out
8 for 125 years, that they would not be in the
9 Legislature today.

10 My concern stems around, I am for fair
11 districts, how can this collaboration take place?
12 I haven't been able to see by saying that it is
13 just going to happen and you won't take a back
14 seat, but I know what took place at the table at
15 night and looking at the maps and drawing the maps
16 and looking at the population and how people would
17 be affected and what lines you had to go down in
18 order to ensure it and to see where it would really
19 work.

20 We don't have that ability to do that anymore
21 and this is with Democrats at leadership, because I
22 was a part of leadership at that time. If we don't
23 have that opportunity to participate because we are
24 elected, it is a citizen initiative that is given,
25 but we are the ones that write the district.

1 I have to be concerned even though I support
2 fair district on how to make sure that this
3 continues in the state of Florida and not just say
4 because these districts are going to be drawn, I
5 don't have a minority district, you know, and never
6 have in 28 years.

7 So I would say, well, it really doesn't affect
8 me, but I am concerned about some of the members
9 around the state of Florida that I know that when
10 we analyze and their districts, we drew their
11 districts in a way where they would have the
12 opportunity to get elected and have the opportunity
13 to be represented in those communities.

14 And that is the thing that I am concerned
15 about. It may be something that -- I am not going
16 to ask you to answer that question.

17 MS. FREIDIN: Well, I would like to.

18 SENATOR LAWSON: Okay. You can go ahead, yes.

19 MS. FREIDIN: Not only is there nothing in
20 these amendments that would prohibit all the things
21 that you are talking about, which is sitting around
22 a table and looking at the maps and looking at the
23 census data and looking at all of the information
24 that you need to ensure that minority districts
25 continue to be drawn, but in fact, I think that it

1 is required.

2 And in part you have answered the question
3 about -- about why it would be impossible for
4 anybody today to just sit down with a computer and
5 draw a map, that would be a map that you would
6 actually put out there and make the law of Florida
7 for the next 10 years.

8 There is nothing that prohibits that. What is
9 prohibited is drawing districts with intent to
10 protect a particular incumbent or a particular
11 political party. There is nothing that prohibits,
12 and in fact, everything protects the right of or
13 the requirement that all of you do everything you
14 can to protect minority voters. Does that answer
15 the question?

16 SENATOR LAWSON: Well, somewhat, and you know,
17 this might be a little bit funny, but when we drew
18 them we thought we were drawing them to protect
19 Democrats and they got defeated, you know.

20 So, you know, you know, and in a way, you
21 know, being honest with you when we were drawing
22 the district there was incumbent Democrats that we
23 thought we were protecting and they got defeated.

24 And so, you know, I am just saying, I
25 understand exactly what you are saying, but there

1 was very powerful members around that table that
2 were concerned about their district. I am the only
3 Democrat in the Senate between Pensacola and
4 Jacksonville and -- and those districts were drawn
5 at that time where it would have been other members
6 that would have got elected, but they did not get
7 elected.

8 So, you know, I have a little trepidation
9 about everything, because it could happen with the
10 Republican time. My goal might to be get rid of as
11 many Republicans as I possibly could before I
12 leave, you know, but -- so I might be the right
13 person to stick around and draw the districts, I
14 don't know, if it goes just the reverse. But I am
15 serious --

16 MS. FREIDIN: The lights just went out on you.

17 SENATOR LAWSON: I have been trying to get rid
18 of Bennett for a while, but that is the thing I am
19 saying. Some people have also left out the intent
20 that we had back in 2000, and I was just wondering
21 how the fair district worked that way.

22 We had no opposition from the Republicans so
23 to speak, everybody was working, you know,
24 together. It was members that, you know, were
25 concerned about their geographical location,

1 somebody didn't want to go here and someone didn't
2 want to go there, but overall, when the gavel went
3 down people were pretty happy.

4 I remember the NAACP saying this is a great
5 plan, you know, and I remember other groups saying
6 it was a great plan. And now that plan is still
7 been in existence, but now when we come back to do
8 reapportionment now, it is obvious that maybe the
9 citizens who signed this would say, well, they
10 really didn't agree with the plan that we had back
11 in 2000, and now we would like to have the plan,
12 make sure we take all these variables out when you
13 are designing the plan.

14 So I think that is thing that we have to
15 wrestle with in the Legislature, because I really
16 want to draw the plans, you know, because I have
17 done it and I know that it is intense and I know to
18 a lot of members who have never done it before, it
19 might seem like it is simple, but it is really not
20 simple. It is very complex. But that is my
21 statement, you know.

22 MS. FREIDIN: Thank you, Senator.

23 Mr. Chairman, having stood up here now for over
24 three hours I must tell you that I really don't
25 think that I have the ability to stay here much

1 longer.

2 So how much longer can we think we could wrap
3 this up?

4 REPRESENTATIVE CANNON: The meeting was
5 noticed to run until 6:00 p.m.

6 MS. FREIDIN: I understand, but you didn't
7 expect me to stand here for all those hours, did
8 you, because I am -- I must admit that it is a long
9 time.

10 REPRESENTATIVE CANNON: Actually, if you need
11 to take another break we will, but, yes, we did.
12 There have been multiple meetings of both the House
13 and Senate Committees and you are the only person
14 who has shown up for Fair Districts so far --

15 MS. FREIDIN: And when --

16 REPRESENTATIVE CANNON: Excuse me one moment.
17 You are the only person who has shown up so far.
18 It may be appropriate at future meetings that we
19 invite speaker Mills to come as well, because I
20 understand he had some role in authoring the
21 language, but if we need to take a break, we can
22 take them, but I know that I have got a long list
23 and a growing list of Senators and House members
24 who have questions, including myself.

25 So if it is all right with you we are going to

1 continue at least a little bit longer.

2 MS. FREIDIN: Well, I will stay a little bit
3 longer, but I want to also have on the record that
4 when I was asked to come today, I very clearly, I
5 made it very clear that I had somewhere I had to be
6 at 6:00.

7 Actually, I am sorry, at 5:00, because I am
8 trying to catch a 6:00 plane. So it is now a
9 little after 4:00. I am happy to stay a little bit
10 longer, but I hope that we can wrap it up
11 relatively soon.

12 SENATOR THRASHER: Mr. Chairman.
13 Mr. Chairman?

14 REPRESENTATIVE CANNON: Yes, Senator Thrasher.

15 SENATOR THRASHER: And I respect that, I do,
16 but I think along the same lines. We have invited
17 other folks to come. I think Former Speaker Mills
18 was the author of this language or at least
19 attributed to him.

20 He has authored some other pieces of paper. I
21 would love to have him come and hopefully maybe
22 since you couldn't answer a lot of the questions,
23 Ms. Freidin, ask maybe him some of these questions
24 that we have asked today.

25 Now, I would love to that have. I would hope

1 that you would invite him to come.

2 SENATOR HARIDOPOLIS: Before I give this to
3 Speaker Representative Cannon. I mean, this is a
4 pretty serious matter. I mean, I know you had a
5 5:00 or 6:00 flight, but we are going to change the
6 Florida Constitution and you have worked since 1998
7 to work on that.

8 I would hope that you would be willing to come
9 back and share your expertise or as former Speaker
10 Thrasher asked, at least invite the person who
11 created this document to come in and testify.

12 I think the people of Florida deserve that,
13 because there is a reason why the people of Florida
14 raised the standard to 60 percent for a
15 constitutional amendment. And these are very
16 serious questions that the elected representatives
17 of the people would like to ask you.

18 So I hope you would be willing to come back if
19 today is not as convenient for you as you like. I
20 think that might be helpful to all of us.

21 MS. FREIDIN: Well, first of all, let me say
22 this. That John Mills was involved in drafting
23 these amendments, along with probably a dozen, at
24 least a dozen other people. So I just want to make
25 that clear, he is not the drafter of the

1 amendments.

2 Now as far as me, me coming back, if it is
3 your will to keep me here for another couple of
4 hours I will do it. I am here because I represent
5 all the people in Florida who really want to see
6 the partisanship in redistricting stop.

7 I will stay if that is your will. I will be
8 happy to continue answering your questions as best
9 I can, but I want to make clear that the reason I
10 came at all was because I have been working
11 tireless, really not since 1998, but for the last
12 two or three years.

13 I have put my life into this because it is
14 something that I feel very passionately about. I
15 am a volunteer. Nobody has -- I am not getting
16 paid to do this. I probably work 80 hours a week
17 on this and it is something that I feel so strongly
18 about, that is such an unfair thing in the state of
19 Florida and it is something that needs to be
20 stopped and I --

21 REPRESENTATIVE CANNON: Mr. Chair.

22 MS. FREIDIN: -- will stay if you -- if you
23 want me to stay, I will continue. I thought we
24 could probably wrap it up, but if not, go for it.

25 SENATOR HARIDOPOLIS: Sure, thank you, I

1 appreciate your comments today. Representative
2 Cannon.

3 REPRESENTATIVE CANNON: Thank you, Chairman
4 Haridopolis. I want to pick up on something that
5 Senator Lawson alluded to.

6 We spent a pretty good amount of time talking
7 about Congressional District III and I would love
8 to know if the staff could bring that map back up,
9 because I just want to make sure that I do
10 understand the things that you have testified to.

11 And again, I share Chairman Haridopolis'
12 concern and I also appreciate both the sincerity
13 and the work that you have put into this and I know
14 what you said you intended to do.

15 The problem is writing words into the Florida
16 Constitution binds all of us in how we draw these
17 maps and we take that duty remarkably seriously.

18 This is Congressional District III. It was
19 drawn as part of the 2000 reapportionment and it
20 had at the time 46 percent African-American
21 population.

22 I think I understood you to say, and we know
23 that Bartlett v. Strickland has clarified that the
24 Federal Voting Rights Act no longer or doesn't
25 require the creation or the drafting of a minority

1 access seat if it has less than 50 percent minority
2 voting age population. Would you agree with that
3 statement?

4 MS. FREIDIN: Yes, but while -- could I
5 interrupt for one second? Would it be possible to
6 get me a table and a chair to sit at?

7 REPRESENTATIVE CANNON: Absolutely.

8 MS. FREIDIN: So I don't have to stand here
9 any longer.

10 REPRESENTATIVE CANNON: But as you alluded,
11 Bartlett also allows that it states, and I think
12 the quote from the case is, "States that wish to
13 draw crossover districts are free to do so where no
14 other prohibition exist," correct? Or would you
15 agree with that?

16 MS. FREIDIN: Right.

17 REPRESENTATIVE CANNON: So it is your
18 testimony then or at least we agree that while
19 Bartlett says the Federal Voting Rights Act no
20 longer requires or doesn't require states to draw
21 minority access seats with less than 50 percent
22 minority population, we could do that if a
23 different prohibition did not exist.

24 If no other prohibition exist, then let's say
25 we wanted to honor what Senator Lawson spoke about

1 and we wanted to draw a district that looked like
2 this and it only had 46 percent African-American
3 population.

4 My question to you is, and I think I
5 understand you to say, we are going to need to get
6 Ms. Freidin a microphone and we will take a break
7 if we need to after this.

8 My question is, subsection two of your
9 amendment requires that districts shall be compact,
10 correct?

11 MS. FREIDIN: Correct.

12 REPRESENTATIVE CANNON: And it says unless one
13 of the provisions of subsection one contravenes
14 that.

15 MS. FREIDIN: Right.

16 REPRESENTATIVE CANNON: So is it your
17 testimony that preserving minority representation,
18 such as that currently held by Congresswoman
19 Corrine Brown in a 46 percent access seat, that the
20 preservation of the minority voting rights trumps
21 the compactness requirement?

22 In other words, it is primary before you get
23 to compactness, first you must not diminish the
24 ability of language or racial minorities to elect
25 the representative of their choice?

1 MS. FREIDIN: Okay. First of all, let me make
2 it clear, I am not commenting on any particular
3 district. So my comment, my answer to your
4 question doesn't relate to District III, it relates
5 to a general concept and the answer is yes.

6 REPRESENTATIVE CANNON: Very good. But you
7 would say that the preservation or to use the
8 language from the amendment, the non diminution of
9 the ability of language in racial minorities to
10 elect representatives in their current capacity
11 can't be diminished and that that trumps
12 compactness?

13 MS. FREIDIN: It trumps compactness.

14 REPRESENTATIVE CANNON: Okay, very good.
15 Okay, so it is true that if a district has to be
16 drawn none compact in order to avoid diminution of
17 minority representation, that is okay, that is your
18 intent of the language and that is what you think
19 this language does?

20 MS. FREIDIN: Yes.

21 REPRESENTATIVE CANNON: And let's just use
22 this district. I will grant you that I am not
23 asking you to testify about this specific district,
24 but a district shaped like this. Okay, take a look
25 at the shape. Would you say that is compact?

1 MS. FREIDIN: I am not going to comment on any
2 particular district. I am telling you that right
3 now, I won't.

4 REPRESENTATIVE CANNON: We need certainty, and
5 frankly the voters before they walk into the voting
6 booth in November, to decide whether to vote this
7 in or out of the Constitution are entitled to some
8 certainty.

9 So I am not asking you to comment about this
10 district, just the shape. Assume it is not in
11 Jacksonville, assume it down near Fort Myers. Is
12 that shape compact?

13 MS. FREIDIN: I don't -- I can't comment on
14 any particular district. You have a particular
15 district up on the board. I will not comment on
16 any particular district, but I will agree that
17 compactness is trumped by voting rights.

18 REPRESENTATIVE CANNON: Perfect, okay.

19 MS. FREIDIN: Would it be possible to get a
20 microphone so that I could sit down?

21 REPRESENTATIVE CANNON: Yes, we will take a
22 five-minute break until we get a mike and it will
23 be on its way. Thank you very much.

24 Members, we will stand in recess for five
25 minutes.

1 (Brief recess.)

2 REPRESENTATIVE CANNON: And actually it
3 occurred and I think Chairman Haridopolis makes a
4 very good point, which is if you are feeling tired
5 and not up to testifying, we don't want to extend
6 the meeting beyond that at all.

7 We do appreciate your testimony and your
8 passion and your hard work. So if it is all right
9 with the Members and I have gotten sort of general
10 head nods that they are okay allowing the meeting
11 to end here.

12 We would ask you to come back and I will say
13 that our staff has found both the software and all
14 of the data from the 2000 reapportionment, and not
15 just the data, but as well all of the public
16 hearings, all of the testimony that the Department
17 of Justice used when they reviewed the plan back in
18 2000.

19 We would also as Chairman Haridopolis and I
20 have agreed, be willing to make our staff available
21 and because you are a volunteer, pay for any of the
22 time or staff time necessary to have you draw a set
23 of maps, but we do want to renew the request that
24 we have heard testimony, I know back in 2000, both
25 common cause and the Florida League of Women

1 voters, they drew plans.

2 so it is possible and we would sincerely ask
3 you to do that, to demonstrate to us that it is, in
4 fact, possible to draw a set of Congressional maps
5 that you would contend would comport with the
6 language of the amendments.

7 so we will make that available to you and once
8 again, we very, very much appreciate your testimony
9 here today and hope to see you back in conjunction
10 with our staff at a meeting either next week or
11 shortly thereafter.

12 SENATOR SIPLIN: Mr. Chair.

13 REPRESENTATIVE CANNON: Senator Siplin.

14 SENATOR SIPLIN: Yes, thank you. I don't know
15 if it would be an inconvenience, but I would like
16 to request of the Chairmanship if there is other
17 interested parties who were the founders or the
18 originators of this movement, to come and present,
19 too, because I, you know, as a member of the Black
20 caucus would like to understand the theory and the
21 purpose from which this amendment initiated.

22 And I think it would be relevant under the
23 record concerning the issues that have brought it
24 forward. So I would recommend that those other
25 parties who are a part of this conceptualization or

1 this amendment be invited, also, so we can address
2 the questions to them, also.

3 REPRESENTATIVE CANNON: I think it is a great
4 idea and we will have our staff work with your
5 staff, Ms. Freidin, and once again, we really
6 appreciate your participation today. We will
7 reimburse you for the travel necessary to attend
8 those future meetings as well.

9 MS. FREIDIN: I appreciate that and I just
10 want to make it very clear to everybody in this
11 room and everybody else who is listening, that our
12 goal at Fair Districts Florida is simply to draw
13 districts. To have you all draw districts that
14 benefit the people of Florida and not the
15 politicians of Florida.

16 We want to see brakes put on the political
17 favoritism in redistricting. We want to give
18 voters a choice, a real choice. We want to have
19 districts that make sense geographically. We want
20 to have districts that voters can understand.

21 We want to end this crazy quilt of Rorschach
22 districts that exist in the state today, and we
23 want to make sure that there is equal opportunity
24 for minority voters in all of Florida. We want to
25 stop the legalized conflict of interest. And I

1 thank you for having me here today.

2 REPRESENTATIVE CANNON: And Ms. Freidin, we
3 look forward to you demonstrating to us that that
4 is possible and we will see you at the next
5 meeting. With that Senator Negron moves we rise.
6 without objection, show that motion approved.

7 (Whereupon, the meeting was concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA)
COUNTY OF LEON)

I hereby certify that the foregoing transcript
is of a tape-recording taken down by the undersigned,
and the contents thereof were reduced to typewriting
under my direction;

That the foregoing pages 2 through 149
represent a true, correct, and complete transcript of
the tape-recording;

And I further certify that I am not of kin or
counsel to the parties in the case; am not in the
regular employ of counsel for any of said parties; nor
am I in anywise interested in the result of said case.

Dated this 18th day of February, 2010.

CLARA C. ROTRUCK
Notary Public
State of Florida at Large