

**IN THE SUPREME COURT OF FLORIDA**

THE LEAGUE OF WOMEN VOTERS  
OF FLORIDA et al.,

Appellants,

v.

KEN DETZNER, et al.,  
Appellees.

Case No.: SC14-1905  
L.T. No.: 2012-CA-00412;  
2012-CA-00490

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**ON APPEAL FROM THE CIRCUIT COURT, SECOND JUDICIAL  
CIRCUIT, IN AND FOR LEON COUNTY, FLORIDA, CERTIFIED BY  
THE DISTRICT COURT FOR IMMEDIATE RESOLUTION**

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**APPENDIX II**

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**Date:** Thursday, June 12, 2014 5:14:15 PM  
**Attachments:** [Proposed CORRECTED-FJ-combined \(final\) UNREDACTED.doc](#)  
[Comparison 06-12 and 06-11 Proposed Partial Final Judgment.pdf](#)  
[Proposed CORRECTED-FJ-combined \(final\) UNREDACTED.pdf](#)

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Dear Laura and Judge Lewis:

Please find attached a corrected **unredacted** Proposed Partial Final Judgment in native form and in .pdf. Additionally we have attached a comparison of the corrected proposed final judgment and yesterday's proposed final judgment. The two notable changes are fixes to CP Exhibit numbers.

As always, if you have any questions, please do not hesitate to call.

Respectfully,

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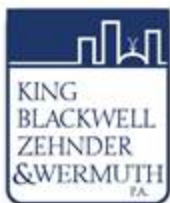
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IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

RENE ROMO, ET AL.

PLAINTIFFS,

VS.

KEN DETZNER AND PAM BONDI,

DEFENDANTS.

CASE No.: 2012-CA-00412

THE LEAGUE OF WOMEN VOTERS OF FLORIDA,  
ET AL.,

PLAINTIFFS,

VS.

KEN DETZNER, ET AL.,

DEFENDANTS.

CASE No.: 2012-CA-00490

**[PROPOSED] PARTIAL FINAL JUDGMENT**

THIS MATTER came before the Court for a non-jury trial. During trial, the Court heard the testimony of numerous fact and expert witnesses, reviewed extensive documentation, and heard argument of counsel. Based upon the evidence presented at trial, this Court makes the following findings of facts and conclusions of law and enters partial final judgment thereon.

**I. PARTIES**

1. Plaintiffs, The League of Women Voters of Florida, Common Cause, Brenda Ann Holt, J. Steele Olmstead, Robert Allen Schaeffer, and Roland Sanchez-Medina, Jr. (collectively, the “Coalition Plaintiffs”), and Rene Romo, Benjamin Weaver, William Everett Warinner, Jessica Barrett, June Keener, Richard Quinn Boylan, and Bonita Again (collectively, the “Romo Plaintiffs,” and together with the Coalition Plaintiffs, the “Plaintiffs”), challenge the 2012

congressional redistricting plan (the “2012 Congressional Plan”) enacted by the Florida Legislature (the “Legislature”) under Article III, Section 20 of the Florida Constitution.

2. Defendants are the Florida House of Representatives (“House”), the Florida Senate (“Senate”), Will Weatherford (“Weatherford”) in his official capacity as Speaker of the House, and Don Gaetz (“Gaetz”) in his official capacity as President of the Senate (collectively, “Legislative Defendants” or the “Legislature”), and Ken Detzner in his official capacity as Secretary of State, Pam Bondi in her official capacity as Florida Attorney General, and intervenor the Florida State Conference of the National Association for the Advancement of Colored People Branches (“NAACP”) (together with the Legislative Defendants, “Defendants”).

## **II. FINDINGS OF FACT REGARDING 2012 REDISTRICTING PROCESS**

3. Individual findings of fact in support of the Court’s legal conclusions must be established by a preponderance of the evidence.

4. The Court determines that Plaintiffs have carried their burden of proving all facts set forth herein by a preponderance of the evidence. If the “proof beyond a reasonable doubt standard” were applicable, however, the Court would make the same findings of fact and reach the same result in this case. Accordingly, it is not necessary to resolve the parties’ competing contentions about the burden of proof with respect to individual findings of fact to resolve the present challenges to the 2012 Congressional Plan.

### **A. General Background and Participants in 2012 Redistricting Process**

5. On November 2, 2010, Florida voters approved Amendment 6, codified as Article III, Section 20 of the Florida Constitution. Amendment 6 and its companion Amendment 5 for state redistricting plans are referred to as the “FairDistricts Amendments.” (Joint Pretrial Statement (“JPS”), Stip. Fact ¶ 1.)

6. The evidence shows that, during the redistricting process conducted between the adoption of the FairDistricts Amendments in November 2010 and the enactment of the 2012 Congressional Plan in February 2012 (the “2012 Redistricting Process”), the Legislature represented that it would conduct an open and transparent redistricting process. The Legislature conducted a series of public hearings throughout the state, developed free web-based redistricting applications known as MyDistrictBuilder (House) and District Builder (Senate), solicited proposed plans from the public, conducted several committee and subcommittee meetings that were publicly noticed and open to the public, and maintained an extensive public record. (Rough Trial Tr., 5/21/14 (Gaetz), 4:6-19, 6:12-17, 11:5-22; Rough Trial Tr. 5/23/14 (Kelly), 5:14-7:14, 13:6-14:3, 17:13-18:24, 20:25-24:22; Rough Trial Tr., 5/21/14 (Guthrie), 4:6-19; Rough Trial Tr., 6/2/14 (Guthrie), 158:10-160:19.)

7. The evidence also shows, however, that Legislative Defendants took substantial actions in the 2012 Redistricting Process outside the public eye by using personal email accounts for redistricting-related communications, intentionally deleting redistricting-related documents (including communications with political consultants) at a time when litigation was anticipated, conducting non-public meetings with political consultants and organizations dedicated to furthering the interests of the Republican Party, and making significant decisions at non-public meetings among legislators and staff at the end of the redistricting process.

8. The drawing of the 2012 Congressional Plan was overseen and directed by a small group of legislators – specifically, Gaetz, Weatherford, and then-Speaker Dean Cannon (“Cannon”). Although there were numerous members of the House Redistricting Committee and Senate Committee on Reapportionment, the committee members and other legislators had no meaningful involvement in or impact on the map-drawing process. (Rough Trial Tr., 5/20/14

(Weatherford), 132:15-133:5, 137:15-138:4, 140:13-141:5, 144:19-145:17); Rough Trial Tr., 5/22/14 (Kelly), 83:12-84:7; Precourt Dep., 3/17/14, 13:21-14:10, 14:24-15:14, 16:1-17, 16:20-17:1, 23:10-17, 94:19-21, 96:18-97:23, 99:12-15.)

9. The following legislative staffers were the primary drafters of the redistricting maps that ultimately became the 2012 Congressional Plan: Alex Kelly (“Kelly”), Jason Poreda (“Poreda”), and John Guthrie (“Guthrie”). (Rough Trial Tr., 5/21/14 (Guthrie) 190:12-191:25; Rough Trial Tr., 6/4/14, Pt. 1 (Poreda) 18:14-22, 19:18-24, 33:12-15.)

10. Before the 2012 Redistricting Process began, key Republican legislators and staff including Gaetz, Cannon, Weatherford, Kelly, Poreda, Guthrie, and other legislative insiders supported efforts to oppose the FairDistricts Amendments. (Rough Trial Tr., 5/21/14 (Gaetz), 4:25-5:10; Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 8:6-12; Rough Trial Tr., 5/20/14 (Weatherford), 161:1; Rough Trial Tr., 5/22/14 (Kelly), 59:4-13, 59:24-60:7; Rough Trial Tr., 5/21/14 (Guthrie), 193:1-5; Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 10:7-11:6.) Such efforts included, for instance, campaigning against the FairDistricts Amendments, and an attempt to pass a countervailing amendment that the Florida Supreme Court struck from the ballot. (Rough Trial Tr., 5/21/14 (Guthrie), 193:15-194:24.)

11. Kelly was staff director for the House Redistricting Committee during the 2012 Redistricting Process. Kelly reported to Cannon, who described Kelly as “loyal” to him and someone who would follow Cannon’s instructions. (Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 13:11-14:2.) Before being hired by Cannon to serve as staff director, Kelly was employed by the Republican Party of Florida (“RPOF”). (Rough Trial Tr., 5/22/14 (Kelly), 54:8-13.)

12. Poreda was a staff member for the House Redistricting Committee during the 2012 Redistricting Process. Before being hired by the House, Poreda was also employed by the RPOF. (Rough Trial Tr., 6/4/14, Pt. 1 (Poreda), 11:17-12:5.)

13. Before joining the House Redistricting Committee staff, Poreda had no redistricting experience and had never before drawn a redistricting map. (Rough Trial Tr., 6/4/14, Pt. 2 (Poreda) 7:7-13.) Kelly had limited experience, and only in his capacity as a legislative aide for a House member in 2002 when he followed the process and became somewhat familiar with redistricting issues. (Rough Trial Tr., 5/22/14 (Kelly), 56:1-12.)

14. Guthrie was staff director for the Senate Committee on Reapportionment during the 2012 Redistricting Process. Guthrie was also staff director for the Senate's redistricting efforts in the 1992 and 2002 redistricting processes. (Rough Trial Tr., 5/21/14 (Guthrie), 189:25-190:14.)

15. The Senate concedes that it did not conduct a functional analysis of minority voting strength during the 2012 Redistricting Process. (Rough Trial Tr., 5/22/14 (Guthrie), 32:19-33:11, 42:9-22.) Instead of conducting a functional analysis, the Senate drew minority districts to follow the core of the benchmark districts. (Rough Trial Tr., 6/2/14 (Guthrie), 207:3-18, 208:9-209:2, 216:12-16.) The benchmark districts were part of a 2002 congressional map that the Legislature had admittedly and intentionally drawn to favor the Republican Party and incumbents. *Martinez v. Bush*, 234 F. Supp. 2d 1275, 1340 (S.D. Fla. 2002)

16. Kelly and Poreda testified that they evaluated the ability to elect minority-preferred candidates for the House by reviewing election and demographic data electronically on MyDistrictBuilder as they drafted maps. (Rough Trial Tr., 5/22/14 (Kelly), 142:5-143:15; Rough Trial Tr., 6/4/14, Pt. 1 (Poreda), 29:5-30:7.) Kelly and Poreda performed their analysis



without notes or written calculations, and the House did not prepare any written functional analysis. (Rough Trial Tr., 6/4/14, Pt. 1 (Poreda), 30:1-4; Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 24:13-25; Rough Trial Tr. 5/22/14 (Kelly), 144:4-145:1.) Based on Kelly's and Poreda's analysis of minority voting strength, the House took the position that each of its publicly proposed redistricting plans complied with the minority protection requirements of Article III, Section 20 of the Florida Constitution and federal law, including the Voting Rights Act ("VRA"). (Rough Trial Tr., 5/22/14 (Kelly), 145:12-19; *see* CP Ex. 114 at 20.)

**B. Non-Public Meetings Among Legislators, Legislative Staff, and Political Consultants Related to the 2012 Redistricting Process**

17. On December 3, 2010, there was a non-public meeting at the RPOF headquarters between political consultants and legislative staff members and attorneys to discuss the upcoming 2012 Redistricting Process. The meeting was attended by legislative staff members Kelly and Chris Clark ("Clark"); counsel for the House and Senate; and political consultants, Richard Heffley ("Heffley"), Marc Reichelderfer ("Reichelderfer"), Patrick Bainter ("Bainter"), Benjamin Ginsberg by telephone ("Ginsberg"), Joel Springer ("Springer"), Andrew Palmer ("Palmer"), and Frank Terraferma by telephone ("Terraferma"). (CP Ex. 245; Rough Trial Tr., 5/19/14 (Reichelderfer), 18:8-19:12; Rough Trial Tr., 5/22/14 (Kelly), 64:6-65:2.)

18. Clark was the chief legislative aide for Gaetz during the 2012 Redistricting Process. (Rough Trial Tr., 5/21/14 (Gaetz), 3:25-4:5.)

19. Heffley is a political consultant who has worked with a number of Republican legislators and candidates, including Gaetz. (Rough Trial Tr., 5/21/14 (Gaetz), 6:18-7:12; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 13:17-14:20, 68:24-69:6.)

20. Starting in the summer of 2011, the RPOF paid Heffley \$20,000 per month under two contracts to provide unspecified services relating to redistricting and Senate campaign

matters. Those payments continued through the end of 2013. (Rough Trial Tr. 5/29/14, Pt. 1 (Heffley), 23:9-27:10.)

21. Reichelderfer is a political consultant who has worked with a number of Republican legislators and candidates, including Cannon. (Rough Trial Tr., 5/19/14 (Reichelderfer), 6:4-10, 7:8-17, 8:12-9:2, 9:7-15.)

22. Bainter is a political consultant who has worked with a number of Republican legislators and candidates, including Representative Daniel Webster. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 32:7-23.) Bainter is the owner of Data Targeting, Inc. ("Data Targeting"), a political consulting and polling firm located in Gainesville, Florida. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 27:17-28:5.)

23. Ginsberg is an attorney based in Washington, D.C. Ginsberg is nationally recognized in the area of redistricting and has represented the National Republican Party in redistricting matters. Heffley, Reichelderfer, and Terraferma testified that Ginsberg represented them personally during the 2012 Redistricting Process. (Rough Trial Tr., 5/29/14, Pt. 1 (Heffley) 17:17-18; Rough Trial Tr., 5/19/14 (Reichelderfer), 19:21-20:10; Rough Trial Tr., 5/23/14 (Terraferma), 195:15-21.)

24. Springer is employed by the RPOF as director of Senate campaigns. (Rough Trial Tr., 5/19/14 (Reichelderfer), 21:18-22.)

25. At the time of the December 2010 meeting, Palmer was employed by the RPOF as director of House campaigns. (Rough Trial Tr., 5/19/14 (Reichelderfer), 23:12-15.)

26. At the time of the December 2010 meeting, Terraferma was a political consultant. (Rough Trial Tr., 5/23/14 (Terraferma), 154:5-10.) As a political consultant, Terraferma worked with a number of Republican legislators and candidates, including Weatherford. (Rough Trial

Tr., 5/23/14 (Terraferma), 154:13-22.) In early 2011, Terraferma replaced Palmer as director of House campaigns for the RPOF. (Rough Trial Tr., 5/23/14 (Terraferma), 153:2-25.)

27. The attendees at the December 2010 meeting generally testified that they could not remember the particular subjects of discussion at the meeting. (Rough Trial Tr., 5/19/14 (Reichelderfer), 31:23-32:9; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 15:15-16:3; Rough Trial Tr., 5/22/14 (Kelly), 67:17-68:5.) However, one of the topics discussed was whether a privilege could be identified to prevent disclosure of redistricting-related communications among political consultants, legislators, and legislative staff members. (Rough Trial Tr., 5/19/14 (Reichelderfer), 30:9-19, 31:10-12; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 20:5-11.)

28. Reichelderfer prepared a memorandum following the December 2010 meeting that included the following topics, among others: “What is our best operational theory of the language in [Amendments] 5 and 6 related to retrogression of minority districts?”; “Central FL Hispanic seats? Pros and Cons”; “Evolution of maps – Should they start less compliant and evolve through the process – or – should the first map be as near as compliant as possible and change very little? or other recommendations?”; “Communications with outside non-lawyers – how can we make that work?” (CP Ex. 246; Rough Trial Tr., 5/19/14 (Reichelderfer), 33:3-17.)

29. In January 2011, a second meeting was held between consultants and the legislators, staff members, and counsel overseeing the redistricting process for the Legislature at the office of the House’s outside counsel. The meeting was attended by at least Gaetz, Weatherford, Kelly, Guthrie, Ginsberg by telephone, Reichelderfer, Heffley, Bainter, and counsel for the House and Senate. (Rough Trial Tr., 5/21/14 (Gaetz), 16:10-22, 17:25-18:5; Rough Trial Tr., 5/20/14 (Weatherford), 157:14-158:10; Rough Trial Tr., 5/22/14 (Kelly), 70:25-71:4, 71:8-13, 71:17-72:11.)

30. At least one topic of public policy was discussed at the January 2011 meeting: whether the Senate would join the House in federal court litigation seeking to invalidate Article III, Section 20 of the Florida Constitution. (Rough Trial Tr., 5/20/14, 160:4-15 (Weatherford); Rough Trial Tr., 5/22/14 (Kelly), 75:5-76:11.)

31. Several attendees of the January 2011 meeting testified that political consultants were told that they would not have a “seat at the table” in the redistricting process. (Rough Trial Tr., 5/19/14 (Reichelderfer), 42:23-43:10; Rough Trial Tr., 5/21/14 (Gaetz), 18:6-24; Rough Trial Tr., 5/20/14 (Weatherford), 160:4-14.) Reichelderfer recalled that the reason for this decision was that communications between the political operatives and legislators would not be privileged. (Rough Trial Tr., 5/19/14 (Reichelderfer), 28:16-29:1, 44:1-10.) Yet it appears that “nobody articulated what lines not to cross,” and it was evidently decided that the political consultants could still participate in redistricting through the public process “just like any other citizen.” (Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 20:19-21:8, 22:8-18.)

32. The evidence shows that all of the attendees of the December 2010 and January 2011 meetings were Republicans who had opposed the FairDistricts Amendments. (Rough Trial Tr., 5/19/14 (Reichelderfer), 7:8-17, 13:20-25, 25:10-15; Rough Trial Tr., 5/21/14 (Gaetz), 4:20-5:10; Rough Trial Tr., 5/20/14 (Weatherford), 160:16-161:2; Rough Trial Tr., 5/22/14 (Kelly), 61:5-62:20.) Heffley volunteered, in that regard, that he was the one to organize the December 2010 meeting, because he had just helped coordinate the effort against the FairDistricts Amendments. (Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 15:11-16:2.)

33. Cannon authorized the December 2010 and January 2011 meetings so that the attendees could discuss, among other things, the interpretation of the FairDistricts Amendments

and decide upon what would be permissible and not permissible under the FairDistricts Amendments. (Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 11:20-12:1.)

34. The December 2010 and January 2011 meetings were not open to the public, and there is no written record of what was discussed at either meeting. (*See, e.g.*, Rough Trial Tr., 5/22/14 (Kelly), 66:24-67:16, 68:12-17.)

35. On June 15, 2011, another non-public meeting was held at the Washington, D.C., headquarters of the National Republican Congressional Committee (“NRCC”). (RP Ex. 172). The NRCC is an organization that focuses on reelecting Republican members of Congress and electing new Republican members of Congress. (Rough Trial Tr., 5/20/14 (Weatherford), 113:1-5, 209:3-6.)

36. The meeting at NRCC headquarters was described as a Florida Leadership Meeting. The meeting was organized by Chris McNulty, and invitees included other representatives of the NRCC, Weatherford, Gaetz, Clark, Kris Money (an employee of the Republican Party who worked with Weatherford), and “Frank Terraferma, genius map drawer.” (RP Ex. 172; Rough Trial Tr., 5/30/14, Pt. 2 (Terraferma), 9:14-23, 13:24-14:3; Rough Trial Tr., 5/20/14 (Weatherford), 209:24-210:1.)

**C. Political Consultants’ Use of Public Intermediaries in the 2012 Redistricting Process**

37. The House Redistricting Committee and Senate Committee on Reapportionment jointly held 26 public hearings throughout the state between June 20, 2011 and September 1, 2011. (JPS, Stip. Fact ¶ 12.)

38. On June 1, 2011, Gaetz sent an email to legislators providing information about upcoming public hearings about the redistricting process. (CP Ex. 28.) The metadata for the email reveals that Gaetz blind copied Heffley and Terraferma, (CP Ex. 468), notwithstanding that Gaetz testified that he did not know Terraferma well enough to recognize him if he walked into the room, (Rough Trial Tr., 5/21/14 (Gaetz), 9:7-10). Gaetz also admitted that he knew that individuals other than the actual submitters of public maps collaborated or had input on maps, but disavowed knowledge of maps submitted by Heffley, Reichelderfer, or Terraferma specifically. (Rough Trial Tr., 5/21/14 (Gaetz), 12:2-7, 12:25-13:11.)

39. The Court does not credit Gaetz's claim that he was unaware of the consultants' efforts to involve themselves in the public process. The Court finds that Gaetz sent the June 1, 2011 email to support and facilitate Terraferma's and Heffley's efforts to influence the Legislature through secret participation in the public process.

40. From at least July 2011 through January 2012, Terraferma, Reichelderfer, Heffley, Bainter, and other political consultants exchanged among themselves state Senate and congressional redistricting plans (the "Consultant Drawn Maps") that they had drafted or to which they contributed. (Rough Trial Tr., 5/23/14 (Terraferma), 157:22-161:1; Rough Trial Tr., 5/19/14 (Reichelderfer), 65:19-66:5, 66:16-19, 66:24-67:6, 67:21-23; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley) 34:2-6, 60:16-61:14; Rough Trial Tr., 5/29/14, Pt. 2 (Bainter) 39:21-40:4; and CP Ex. 256, 257, 259, 261, 358, 359, 360, 361, 362, 366, 367, 369, 374, 376; Sealed CP Ex. 696, 717, 1368, 1370, 1371, 1374, 1375, 1386, 1387, 1392, 1401, 1436, 1444, 1445, 1446) Although several of the consultants testified that the Consultant Drawn Maps were prepared for fun or out of general interest, the Court finds that the testimony of these witnesses is not credible. From the numerous emails entered into evidence, it is apparent that Terraferma, Reichelderfer, Heffley,

Bainter, and other political consultants entered into a plan (1) to create and then submit Consultant Drawn Maps using members of the public as intermediaries, and (2) arrange for public intermediaries to make statements at public hearings. (Rough Trial Tr., 5/29/14 (Bainter), 91:9-17, 95:22-96:3; Sealed CP Ex. 676, 688, 696, 716, 717, 721, 1368, 1370, 1371, 1374, 1375, 1386, 1387, 1392, 1401, 1418, 1419, 1436). The evidence shows that the true purpose of the plan was to advance the partisan agendas of the political consultants and their Republican clients in a manner that concealed the involvement of the political consultants.

41. The Court finds that evidence of the consultants' influence on the state Senate redistricting process is probative of legislative intent with regard to the congressional redistricting process. The same legislative body conducted the state Senate and the congressional redistricting processes, and the consultants used the same methods to influence the Legislature in both cases as is set forth in more detail below.

42. In July 2011, Terraferma prepared and sent to Heffley a proposed congressional plan containing a District 3 (analogous to enacted District 5) with a Black VAP over 50% and a District 27 (analogous to enacted District 9) with a Hispanic VAP of over 40%. (CP Ex. 1445, 1446.)

43. On July 28, 2011, Heffley sent an email to Terraferma and Ginsberg attaching Congressional Public Map 17, which contained a version of District 9 with a Hispanic VAP over 40%. The message stated: "I say we just drop this baby into our map . . . and go from there." (CP Ex. 845.) This was the same public map that Poreda testified Jeff Silver and Alex Kelly may have utilized in considering the feasibility of a Hispanic district in Central Florida. (Rough Trial Tr., 6/4/14, Pt. 1 (Poreda) 52:13-53:10; Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 19:10-20:11.)

44. On October 10, 2011, Bainter sent an email to two of his employees, Matt Mitchell (“Mitchell”) and Michael Sheehan (“Sheehan”) stating, “Matt and Mike, please get w[ith] me first thing this morning re maps. We’ve got a job to do[.]” Sheehan then emailed VAP statistics to Bainter, and Bainter responded: “This is on the map they sent us?” Sheehan then emailed Bainter, attaching a state Senate map, and stated: “Here is the District Plan exported to a DBF file. It is ready for submission.” (Sealed CP Ex. 1375.) The next day, Sheehan emailed Mitchell and Bainter again, attaching another state Senate map, and stated: “Here is the second district plan exported to a DBF file. It is ready for submission.” (Sealed CP Ex. 1368.) A visual inspection of Senate Public Maps HPUBS0084 and HPUBS0085, submitted under the names Micah Ketchel and Andrew Ladd, shows that they were substantially the same as the maps circulated among Bainter and his employees in these emails. (*Compare* Sealed CP Ex. 1375 *with* CP Ex. 1394 (HPUBS0084); *compare* Sealed CP Ex. 1368 *with* CP Ex. 1395 (HPUBS0085).)<sup>1</sup>

45. On October 11, 2011, Terraferma sent an email to Weatherford stating: “Kirk P[epper] was here [*i.e.*, at the RPOF offices] meeting with Rich [Heffley]. They were huddled on a computer. Congressional redistricting if I had to guess?” (CP Ex. 352.) Heffley testified at trial that he does not recall whether he was discussing redistricting-related issues with Pepper. (Rough Trial Tr. 5/29/14, Pt. 1 (Heffley), 55:18-57:16.) The Court does not find this testimony credible. The Court instead infers from the circumstances and the timing of the conversation between Pepper and Heffley (shortly before the submission deadline for publicly submitted maps) that Pepper and Heffley were in fact discussing redistricting-related issues.

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<sup>1</sup> The identity of the individuals who publicly submitted maps is available at <http://www.flsenate.gov/Session/Redistricting/Plans>. This Court has taken judicial notice of the official redistricting record, including publicly submitted maps. (*See* CP Sealed Demonstrative Ex. 37.)



46. At the time of the 2012 Redistricting Process, Pepper was deputy chief of staff for Cannon. (Rough Trial Tr., 5/20/14 (Pepper), 3:3-18.) After Cannon's term ended, Cannon hired Pepper to work at his consulting firm. (Rough Trial Tr., 5/20/14 (Pepper), 6:10-17.)

47. On October 11, 2011, Bainter emailed Sheehan and Mitchell stating: "Stafford [is] getting me 10 more people at least. We could start by submitting the map [M]arc has sent us." (Sealed CP Ex. 1392.) "Stafford" refers to Stafford Jones, the head of a Republican organization in Alachua County, and "marc" refers to Marc Reichelderfer. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 55:18-22, 56:8-11.) Sheehan responded, attaching a state Senate map: "Using Marc's Map I modified SD11 to include east Pasco County and Wilton Simpson's residence. We can submit this today." (Sealed CP Ex. 1392.) A visual inspection of Senate Public Map HPUBS0090, submitted under the name of Christie Jones of Alachua County, confirms that it is substantially the same as the map attached to this email. (*Compare* Sealed CP Ex. 1392 *with* CP 1396 (HPUBS0090).)

48. On October 11, 2011, Mitchell sent Bainter an email titled "Map Submission," which stated "Submitted by Christie Jones, Gainesville." Bainter then forwarded this email to Heffley. (Sealed CP Ex. 676.) Bainter testified that Christie Jones is the wife of Stafford Jones. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 59:4-15.)

49. On October 12, 2011, Sheehan sent an email to Bainter stating: "I am currently building alternate maps for submitting. Each map will have altered district boundaries, names and formats. We can then make specific modifications if needed before submitting." (Sealed CP Ex. 716.)

50. On October 17, 2011, Bainter sent an email stating: "Let's get this submitted...can do tomorrow morning. I think there is a way to submit to the Senate Website.

They asked me about that the other day.” Mitchell responded: “They do have their own District Builder program, and the Senate Redistricting Committee also has an e-mail address to receive submissions ([RedistrictFlorida@flsenate.gov](mailto:RedistrictFlorida@flsenate.gov)). I can direct Stafford to have his people send these maps to that e-mail.” Bainter responded: “Yea, lets [sic] spread them around.” Sheehan then sent an email attaching a state Senate map and stated: “Here is the latest Senate plan for submission.” (Sealed CP Ex. 696.) A visual inspection of Senate Public Map SPUBS0105, submitted under the name of Henry E. Russell III of Gainesville, confirms that it is substantially the same as the map attached to this email. (*Compare* Sealed CP Ex. 696 at 5 *with* CP 1397 (SPUBS0105).) Bainter admitted that the map filed by Russell was the map prepared by his office. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 69:16-71:5.)

51. On October 18, 2011, Bainter sent an email to Sheehan and Mitchell asking, “Do we need to be a bit more ‘creative’ about how we are naming these? Seems like there is some coordination here.” Sheehan responded: “The DOJ file in the zip folder is submitted and it has a different name.” Bainter responded: “Lets [sic] be extremely careful...” (Sealed CP Ex. 721 (ellipsis in original).)

52. On October 27, 2011, Bainter sent an email to Heffley attaching a state Senate map with political performance data. (CP Ex. 360.) Bainter then sent the same map to Joel Springer, an RPOF employee. (Sealed CP Ex. 1370.) A visual inspection of Senate Public Map SPUBS0123, submitted under the name of Delena May of Gainesville, confirms that it is substantially the same as the map attached to these emails. (*Compare* Sealed CP Ex. 1370 *with* CP Ex. 1398 (SPUBS0123); *see* Sealed CP Demonstratives 38, 39, and 40.) Bainter testified that there was a “very close similarity” between the map filed by May and the map prepared by his office. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 80:23-81:5; *see also id.* at 79:5-80:2.) In

addition, Reichelderfer had several modified versions of Senate Public Map 123 in his possession. (CP Ex. 304B at 3.)

53. On November 1, 2011, Richard Johnston (“Johnston”) sent an email to Bainter titled “TLH” (a well-known abbreviation for Tallahassee) in which Johnston indicates that he is “[h]eaded up” and “[t]elling folks to look at Map 123.” (Sealed CP Ex. 697.) Johnston is a political consultant who was familiar with Bainter’s efforts to submit maps through public intermediaries. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 81:12-82:1.) Based on the circumstances surrounding the email and the occupation of the parties, the Court finds that “folks” are legislators or staffers whom Johnston told to review Senate Public Map SPUBS0123, one of the Consultant Drawn Maps.

54. On October 28, 2011, Terraferma sent Ginsberg, copying Heffley and Bainter, a state Senate map titled “Schmedlov.” (CP Ex. 361; Sealed CP Ex. 1371.) A visual inspection and statistical comparison of Senate Public Map SPUBS0143, submitted under the name of Alex Patton of Gainesville, confirms that it is substantially the same as the “Schmedlov” map. (*Compare* Sealed CP Ex. 1371 *with* CP Ex. 1399 (SPUBS0143); *see also* CP Demonstrative 25.) Bainter testified that Patton is a business partner of Stafford Jones. (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 83:10-19).

55. On October 28, 2011, Terraferma emailed Bainter a map titled “Congress Complete” that contained a number of districts that were identical to Terraferma’s July 2011 map. Like the July 2011 map, “Congress Complete” contained a District 3 (analogous to enacted District 5) with a Black VAP over 50% and a District 27 (analogous to enacted District 9) with a Hispanic VAP over 40%. (Sealed CP Ex. 1374, 1401.) On November 1, 2011, Congressional Public Maps HPUBC0132 and HPUBC0133 were submitted to the Legislature under the name

Alex Posada (“Posada”) using the email address [alexposada22@gmail.com](mailto:alexposada22@gmail.com); these maps contain six districts that were identical to districts in Terraferma’s July 2011 map and eleven districts that were identical in “Congress Complete.” (*Compare* CP Ex. 586 and 587 with CP 1445 (map) and CP 1446 (statistics); and *compare* CPs 586 and 587 with Sealed CP Ex. 1401; *see* CP Demonstratives 17, 18, 19, 20, 21, 22, and Sealed CP Demonstrative 10.) As with Terraferma’s July 2011 map and “Congress Complete,” Congressional Public Maps HPUBC0132 and HPUBC0133 contained a District 3 (analogous to enacted District 5) with a Black VAP over 50% and a District 27 (analogous to enacted District 9) with a Hispanic VAP over 40%. (*Compare* CP 586 and 587 with CP 1446; *see* CP Demonstrative 22 and Sealed CP Demonstrative 10.) Posada testified that he had never seen Congressional Public Maps HPUBC0132 and HPUBC0133, did not have an email address named alexposada22@gmail.com, and did not authorize anyone to submit the maps using his name. (Posada Dep., 5/29/14, 8:4-16, 14:21-15:1.)

56. Congressional Public Maps HPUBC0132 and HPUBC0133, with 18 Republican-performing districts, were among the most Republican-favoring maps submitted in the public process. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 119:12-121:15; RP Ex. 48.) Reichelderfer had at least 14 versions of Congressional Public Map HPUBC0132 in his possession, reflecting revisions made by Reichelderfer. (CP Ex. 304B.)

57. On November 1, 2011, Terraferma sent Bainter, copying Heffley, an email titled “Last one!” attaching a state Senate map named “Sputnik.” (Sealed CP Ex. 1386.) Later that day, Terraferma sent Bainter, copying Heffley, an email titled “this one didnt go through earlier...darn....” Terraferma noted that the “Sputnik” plan “bounced back” and asked Heffley: “Should we try to get this submitted now?” Heffley responded: “Might as well submit. The

worst they can do is not take it.” Bainter responded: “Yea, I am.” (CP Ex. 368.) Bainter forwarded Terraferma’s email and the “Sputnik” plan to Mitchell and Sheehan. Sheehan then provided a Portable Document Format (“PDF”) document reflecting the plan and political performance numbers to Bainter. (Sealed CP Ex. 1387.) A visual inspection of Senate Public Map SPUBS0147, submitted under the name of Remzey Samarra of Micanopy, confirms that it is substantially the same as the “Sputnik” plan. (*Compare* Sealed CP Ex. 1387 at 2 *with* CP Ex. 1400 (SPUBS0147).)

58. The Court does not credit the consultants’ testimony that they were unaware that the Consultant Drawn Maps were being submitted to the Legislature. Based on the credibility of the witnesses and the inferences available from the evidence presented at trial, the Court finds that Terraferma, Heffley, or Bainter either directly or indirectly through one or more agents submitted to the Legislature Consultant Drawn Maps as Senate Public Maps HPUBS0084, HPUBS0085, HPUBS0090, SPUBS0105, SPUBS0123, SPUBS0143, and SPUBS0147, and either directly or indirectly through one or more agents submitted to the Legislature Congressional Public Maps HPUBC0132 and HPUBC0133. The Court further finds that the political consultants organized their efforts so as to conceal their participation in the process from the public.

59. Bainter and his employees also provided “Grass Roots Scripts” for public intermediaries to use to advocate for specific state Senate and congressional district configurations in communications with the Legislature. (Sealed CP Exs. 1418, 1419.) In an email attaching two such scripts, Mitchell advised a colleague: “Want to echo Pat [Bainter]’s reminder about being incredibly careful and deliberative here, especially when working with people who are organizing other folks. Must be very smart in how we prep every single person

we talk to about all these issues. If you can think of a more secure and failsafe way to engage our people, please do it. Cannot be too redundant on that front. Pat and I will probably sound almost paranoid on this over the next week, but it will be so much more worthwhile to be cautious.” Mitchell’s colleague responded: “Just to ease your minds, I have tried to do most of the asking over the phone, so their [sic] is no e-mail trail if it gets forwarded. When I e-mail guidelines to people, the only thing I am putting in writing is that it is important that we show support for the redistricting process, and the way it was handled by the Senate . . . .” (CP Ex. 688.)

60. Over 125 proposed state Senate and congressional plans were submitted through the Legislature’s public portal. (See <http://www.flsenate.gov/Session/Redistricting/Plans>.) Initially, the Legislature established a November 1, 2011 deadline for submitting proposed public maps. However, the Legislature later publicly posted maps submitted after the November 1, 2011 deadline. (Rough Trial Tr., 6/2/14 (Guthrie), 163:9-165:4.)

61. In preparing the 2012 Congressional Plan and S000S9008, the initial state Senate redistricting plan (the “Initial 2012 Senate Plan”), the Legislature relied disproportionately on the nine known state Senate and Congressional Consultant Drawn Maps, as distinguished from maps apparently submitted by independent members of the public. Specifically, the Legislature relied in whole or in part on the Consultant Drawn Maps for the following enacted districts:

Congressional District 3 – Alex Posada (HPUBC0133)  
Congressional District 4 – Alex Posada (HPUBC0133)  
Congressional District 13 – Alex Posada (HPUBC0133)

(CP Ex. 60 at 15, 21, 57)

Senate District 2 – Alex Patton (SPUBS0143)  
Senate District 6 – Christie Jones (HPUBS0090)  
Senate District 11 – Alex Patton (SPUBS0143)  
Senate District 13 – Remzey Samarra (SPUBS0147)

Senate District 14 – Delena May (SPUBS0123)  
Senate District 19 – Andrew Ladd (HPUBS0085)  
Senate District 25 – Delena May (SPUBS0123)  
Senate District 27 – Remzey Samarra (SPUBS0147)  
Senate District 31 – Delena May (SPUBS0123)  
Senate District 34 – Micah Ketchel (HPUBS0084), Delena May (SPUBS0123), and Remzey Samarra (SPUBS0147)  
Senate District 35 – Micah Ketchel (HPUBS0084) and Andrew Ladd (HPUBS0085)  
Senate District 39 – Andrew Ladd (SPUBS0085)

(CP Ex. 1140 at 60-62, 65-67, 72-76, 81, 88-91, 95-96, 99-100, 103-04.)

62. Like Congressional Public Maps HPUBC0132 and HPUBC0133, Legislative Defendants also raised the Black VAP in what would become District 5 to over 50%, and raised the Hispanic VAP in what would become District 9 to over 40%. (*See* ¶ 95(a), (b), *infra.*) Legislative Defendants’ reliance on the Consultant Drawn Maps for the configuration of districts surrounding District 5 and elevating the minority VAP in Districts 5 and 9 in the same manner as the Consultant Drawn Maps resulted in Central Florida having two additional Republican-performing congressional districts. (*See* ¶ 99, *infra.*)

63. Based on the selective reliance on the Consultant Drawn Maps and minority-representation strategies reflected in those maps, communications among the political consultants indicating that they made known to the Legislature which maps they had drafted and submitted in others’ names, and the extensive efforts of the political consultants to cover up their participation in the process, this Court infers that decisionmakers in the Legislature knew of the consultants’ efforts to submit partisan plans through the public process. This inference is supported by testimony from Bainter that he is close to a lot of Senators, who are his clients., (Rough Trial Tr., 5/29/14, Pt. 2 (Bainter), 95:1-21), and the email from Johnston informing Bainter that he was telling “folks” in Tallahassee to review Senate Public Map SPUBS0123, one of the Consultant Drawn Maps, (Sealed CP Ex. 697).

64. The inference of knowing collaboration between Legislative Defendants and the political consultants is also supported by uncontested evidence revealing that Senate District 34 in the Initial 2012 Senate Plan was derived from a Consultant Map that contained the exact same configuration of that district but was not filed in the public process. (Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 69:10-17, 70:24-73:17; CP Demonstrative 24; CP Ex. 362 (native file).)

65. The inference of knowing collaboration between Legislative Defendants and the political consultants is further supported by an email from Tom Hofeller (a redistricting consultant for the Republican National Committee) to Heffley (the “Heffley Email”). In the Heffley Email, Hofeller states to Heffley: “*Congratulations on guiding the Senate through the thicket.* Looks as if, so far, the Democrats have not realized the gains they think they were going to get.” (emphasis added). Heffley responds: “Thanks. Big win. Worse case minus 2. 26-14.”

66. Based on the date of the Heffley Email (April 27, 2012), the Court infers that Hofeller and Heffley are discussing the state Senate redistricting plan enacted after the Florida Supreme Court invalidated the Initial 2012 Senate Plan. Based on the evidence in this case, the Court further infers that, if Heffley helped “guid[e] the Senate” in drafting the state Senate redistricting plans, then he also helped “guid[e] the Senate” in drafting the 2012 Congressional Plan.<sup>2</sup>

**D. Legislative Defendants’ Transmission of Draft Maps to Reichelderfer and Continuing Involvement of Political Consultants**

67. On November 28, 2011, the Senate Committee on Reapportionment released its first proposed congressional plan, S000C9002. (JPS, Stip. Fact ¶ 13.)

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<sup>2</sup> The Heffley Email was produced by the Republican National Committee on the last day of trial testimony in this case, and logistical issues prevented the Heffley Email from being admitted into evidence that day. Plaintiffs subsequently filed a motion to admit the Heffley Email into evidence, *see* Pls.’ Joint Mot. to Supplement the Record or, in the Alternative, to Recall Richard Heffley as Witness (June 9, 2014), which the Court hereby grants.



68. On December 6, 2011, the House Congressional Redistricting Subcommittee released its first seven draft congressional plans: H000C9001, H000C9003, H000C9005, H000C9007, H000C9009, H000C9011, and H000C9013. (JPS, Stip. Fact ¶ 15.)

69. From November 2011 until January 2012, Kelly transmitted multiple draft congressional maps prepared by the House Redistricting Committee to Pepper, Cannon's deputy chief of staff. (Rough Trial Tr., 5/20/14 (Pepper), 3:3-18.) Pepper then transmitted at least 24 draft maps to Reichelderfer. In most cases, Pepper provided the draft maps to Reichelderfer before their release to the public. In many cases, Pepper provided Reichelderfer with draft maps that were never released to the public. (Rough Trial Tr., 5/20/14 (Pepper), 29:14-20; Rough Trial Tr., 5/19/14 (Reichelderfer), 105:6-22; CP Ex. 1037, 1041, 1042, 1043, 1044, 263, 264, 265, 266, 267, 268, 269, 281, 282, 289, 290, 291, 293, 294, 296, 971, 972, 974, and 1056.)

70. Cannon, Pepper, and Reichelderfer are close personal friends and maintained a close business relationship in connection with their political endeavors. (Rough Trial Tr., 5/20/14 (Pepper), 11:23-12:8.) Pepper and Reichelderfer were part of Cannon's "inner circle" during and after the 2012 Redistricting Process. (Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 32:22-33:7, 34:13-15, 35:22-36:6; Rough Trial Tr., 5/20/14 (Pepper), 12:23-13:8; Rough Trial Tr., 5/19/14 (Reichelderfer), 8:21-10:11) And Pepper is still employed by Cannon, notwithstanding the revelation that he transmitted numerous non-public versions of maps to Reichelderfer during the 2012 Redistricting Process. (Rough Trial Tr., 5/28/14, Pt.1 (Cannon), 33:21-34:12; Rough Trial Tr., 5/20/14 (Pepper), 6:7-15.)

71. Although some maps may have been provided to Pepper or Reichelderfer using flash drives or other devices, Pepper most often sent the draft maps to Reichelderfer using a private email account, through which Pepper sent links to temporary Drop Box accounts from

which Reichelderfer was able to download draft maps. (Rough Trial Tr., 5/19/14 (Reichelderfer), 81:11-20; Rough Trial Tr., 5/20/14 (Pepper), 32:18-24; CP Ex. 263, 264, 265, 266, 267, 268, 269, 281, 282, 289, 290, 293, 294, 296, 972, 974). Kelly deleted all of his emails showing transmission of the draft maps to Pepper, and Pepper deleted his Dropbox files and all of his emails showing transmission of the draft maps to Reichelderfer. (Rough Trial Tr., 5/23/14 (Kelly), 138:16-139:22, 140:14-141:2; Rough Trial Tr., 5/20/14 (Pepper), 77:22-78:6, 89:13-90:21.) Cannon and Pepper likewise deleted all of their emails showing communications with Reichelderfer during the 2012 Redistricting Process. (Rough Trial Tr., 5/28/14 Pt.1 (Cannon), 63:6-25; Rough Trial Tr., 5/20/14 (Pepper), 89:13-90:21.)

72. Among the earliest dated draft congressional maps in Reichelderfer's possession were the following eight map files (the "Date-Named Maps"):

- a. Congress\_11072011(1).kmz, containing the map 'Congress\_JAK\_11072011(1).doj,' which was last modified on November 7, 2011, 7:26 a.m. (CP 1037).
- b. Congress\_11072011(1)\_A2.kmz, containing the map 'Congress\_JAK\_11072011(1)\_A2.doj,' which was last modified on November 7, 2011 at 12:40 p.m. (CP 1038).
- c. Congress\_11072011(1)\_A4.kmz, containing the map 'Congress\_JAK\_11072011(1)\_A4.doj,' which was last modified on November 7, 2011 at 3:13 p.m. (CP 1039).
- d. Congress\_11072011(1)\_A5.kmz, containing the map 'Congress\_JAK\_11072011(1)\_A5.doj,' which was last modified on November 7, 2011 at 4:39 p.m. (CP 1040).
- e. Congress\_11072011(2).kmz, containing the map 'Congress\_JAK\_11072011(2).doj,' which last modified on November 8, 2011 at 7:37 a.m. (CP 1041).
- f. Congress\_11082011(3).kmz, containing the map 'Congress\_JAK\_11082011(3).doj,' which was last modified on November 8, 2011 at 8:10 a.m. (CP 1042).

- g. Congress\_11152011(5).kmz, containing the map ‘Congress \_JAK\_11152011(5).doj,’ which was last modified on November 15, 2011 at 1:37 p.m. (CP 1043).
- h. Congress\_11162011(6).kmz, containing the map ‘Congress \_JAK\_11162011(6).doj,’ which was last modified on November 16, 2011 at 2:26 p.m. (CP 1044).

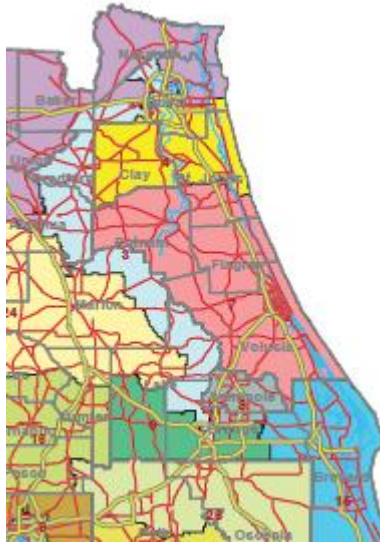
73. Witnesses for Legislative Defendants gave varied testimony as to the Date-Named Maps found in Reichelderfer’s files. Kelly acknowledged that it was highly likely that Date-Named Maps were ones that the House had worked on. (*See, e.g.*, Rough Trial Tr., 5/22/14 (Kelly), 110:5-111:19.) That testimony is corroborated, among other ways, by the fact that the Date-Named Maps each have identical Congressional Districts 1 and 2 to the final enacted map. (*Compare, e.g.*, CP Ex. 1038, with H000C9047 in Joint Exhibit 1) (reflecting that the maps have identical Black VAPs, Hispanic VAPs, and White VAPs, in Districts 1 and 2, respectively).

74. Kelly would not confirm that certain Date-Named Maps were the work of the House – particularly, the November 7, 2011 map Congress\_11072011(1)\_A2, which had a District 3 (analogous to enacted District 5) with a Black VAP over 50%; nor the November 7, 2011 map Congress\_11072011(1)\_A4, which combined the same over-50% Black VAP district and a District 26 (analogous to enacted District 9) having a Hispanic VAP over 40%. (Rough Trial Tr., 5/22/14 (Kelly), 101:9-103:24 (regarding “A2”); Rough Trial Tr., 5/22/14 (Kelly), 105:8-107:25 (regarding “A4”).) Kelly confirmed his recollection that the House never produced a map with such characteristics until near the end of January 2012 when it finalized the enacted map. (Rough Trial Tr., 5/22/14 (Kelly), 98:8-100:19).

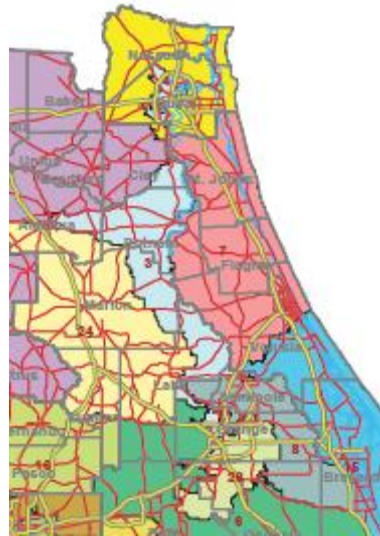
75. Like the Date-Named Map ending in “A4,” other maps in Reichelderfer’s production reflected modifications that raised the Black VAP over 50% similar to District 5 in the enacted map. (*Compare* Congressional 2, CP Ex. 1089, with, *e.g.*, Congressional 2 revised

6.kmz, CP Ex. 1050). And, about the time the initial Date-Named Maps were created, Reichelderfer was evaluating and commenting on the performance of draft congressional maps. In an email exchange on November 10, 2011 (CP Ex. 377), Reichelderfer remarked “It still performs very well” about a map, after Terraferma remarked about the map that, “I just don’t like the fact that Clay was lost to rural counties”; the following figures show that change regarding Clay County was a key difference between Congress\_11072011(1).kmz and its modified version Congress\_11072011(1)\_A4.kmz:

**Congress\_11072011(1).kmz  
Excerpt from CP Ex. 1037**



**Congress\_11072011(1)\_A4.kmz  
Excerpt from CP Ex. 1039**



76. Legislative Defendants have suggested that Reichelderfer was not involved in reviewing or revising the Date-Named Maps, particularly the maps ending in “A2” and “A4.” Poreda suggested that another House staffer, Jeff Silver, may have pieced those maps together for Kelly. (Rough Trial Tr., 6/4/14, Pt. 1 (Poreda), 51:22-53:10). Poreda, however, could only offer that he heard Silver had done such work for Kelly while Poreda was away on leave, and Poreda admitted he could not verify that these maps were prepared by Silver or Kelly. (Rough

Trial Tr., 6/4/14, Pt. 1 (Poreda), 53:8-10; Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 6/4 p.m. at 18:15-22.) Legislative Defendants did not call Silver to testify at trial.

77. Legislative Defendants also offered the written opinion of a computer forensics expert, who inspected one folder on a computer belonging to Reichelderfer, and determined that copies of the Date-Named Maps had been loaded into that folder from a flash drive on November 21, 2011. (Jt. Ex. 2 ¶¶ 2-3.) The expert, however, did not dispute that Reichelderfer could have earlier viewed, modified, and edited any of the files using the same flash drive, some other media storage device, a different folder on the same computer, or another computer. (Jt. Ex. 2 ¶ 8.)

78. The House's draft map production did not contain the Date-Named Maps, nor any map files saved between November 1, 2011 and November 18, 2011. (CP Ex. 225). To explain the absence, both Kelly and Poreda suggested that draft maps could have been saved over or renamed, as if the drafters worked on and modified only one file for each map until reaching a final version of it. (*See* Rough Trial Tr., 5/22/14 (Kelly), 114:3-115:7; Rough Trial Tr., 6/4/14, Pt. 1 (Poreda), 55:12-57:11.) Kelly admitted, however, that he did not know whether he or anyone else changed and saved over the names of the Date-Named Maps. (Rough Trial Tr., 5/22/14 (Kelly), 121:6-122:3.) Moreover, the Date-Named Maps were plainly saved as separate files, rather than being saved over.

79. The Court finds that Reichelderfer received and reviewed the Date-Named Maps about the time they were originally created, and he provided feedback to representatives of the Legislature. Reichelderfer immediately reviewed and began modifying other maps he received from Pepper (Rough Trial Tr., 5/19/14 (Reichelderfer), 81:11-82:8; *see, e.g.*, CP Ex. 264, 1045, 1046, 1047, 1050), and the Court finds it unlikely that Reichelderfer received and did nothing with the Date-Named Maps, given surrounding events, given his communications with

legislative insiders, and given the actions of legislative insiders evidently intended to conceal contacts with Reichelderfer.

80. Cannon and Kelly deny any knowledge of the transmission of the House draft plans to Reichelderfer, and Pepper claims that he transmitted the draft plans to Reichelderfer simply to help a friend stay informed about the process. (Rough Trial Tr., 5/28/14, Pt.1 (Cannon), 31:10-24; Rough Trial Tr., 5/22/14 (Kelly), 119:12-24, 122:4-19; Rough Trial Tr., 5/20/14 (Pepper), 28:16-29:20.) The Court finds that this testimony is not credible. Cannon, Pepper, and Reichelderfer were in constant communication during this period, and Reichelderfer provided feedback to both Cannon and Pepper regarding the Legislature's redistricting efforts. For example, on November 27, 2011, right after receiving an early unpublished copy of the Senate's first draft congressional map from Pepper, Reichelderfer advised Pepper that the district of Representative Daniel Webster was "a bit messed up," and Pepper responded by inquiring "performance or geography?" (CP Ex. 285.) The Court finds that Pepper's testimony, in which he attempted to explain that his question to Reichelderfer was actually a signal that they should no longer discuss the map, is not credible. In another email exchange with Reichelderfer, Cannon commented that "we are in fine shape" as long as "the Senate accommodates the concerns that you [Reichelderfer] and Rich [Heffley] identified in the map that they put out tomorrow." (CP Ex. 276.) Thus, the Court finds that Cannon knew of and authorized the transmission of the House draft plans to Reichelderfer so that Reichelderfer could provide feedback on them.

81. Reichelderfer made a number of modifications to the maps that he received from Pepper and to maps that were submitted to the Legislature in the public process. (Rough Trial Tr., 5/19/14 (Reichelderfer), 81:11-82:8; CP Ex. 264, 1045, 1046, 1047, 1048, 1049, 1050, 1051,

1052, 1053, 1054). In doing so, Reichelderfer would modify the maps to combine a District 5 with a Black VAP of over 50% and a Hispanic VAP of District 9 over 40%. (*Compare* CP Ex. 885 *with* CP Ex. 1050). As a result of such changes, the performance of Districts 5, 7, 9, and 10 went from being four Democratic performing or leaning seats in early maps such as H000C9001 to two Democratic and two Republican performing seats in the enacted map, H000C9047 based on the results of the 2008 presidential election.<sup>3</sup>

82. On November 28, 2011, Terraferma exchanged emails with Heffley and Reichelderfer regarding S000C9002, the proposed map released on that day by the Senate. Terraferma stated, “that CD 25 [analog of enacted District 26] is pretty weak :(” Heffley responded, “The House needs to fix a few of these.” Terraferma responded to Heffley, copying Reichelderfer, “Yes.” (CP Ex. 387.) In S000C9002, Districts 18 and 25 (equivalent to enacted Districts 26 and 27) did not divide the city of Homestead as did Terraferma’s July 2011 map, “Congress Complete,” and the maps publicly submitted under the name of Posada. (*Compare* CP Ex. 506 *with* CP Ex. 336; CP Ex. 1445 at 1, 5; CP Ex. 587.) Ultimately, Legislative Defendants “fixed” this issue by dividing Homestead and enhancing the Republican performance of District 26 by adopting the House configuration of Districts 26 and 27, which divided the city of Homestead. (*Compare* CP Ex. 506, map S000C9002 at District 25, *and* CP Ex. 507, map S004C9014 at District 25, *with* CP Ex. 523, map H000C9047 at District 26; *see* CP Demonstrative 73.)

83. Reichelderfer and Heffley communicated with Cannon and other legislators regarding the Legislature’s redistricting efforts and had knowledge about non-public aspects of the 2012 Redistricting Process, including the timeline for releasing proposed maps and the

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<sup>3</sup> Demographic, election, and compactness data are derived from Joint Exhibit 1, unless otherwise stated.

proposed House map likely to advance in the process. (CP Ex. 389, 965.) For example, in an email exchange on December 9, 2011, Terraferma asked Reichelderfer which of the seven House-related congressional maps was the most “relevant.” Reichelderfer responded – correctly as it turned out – that “I think it is 9011.” (CP Ex. 389.) H000C9011 was selected by the House Redistricting Committee to advance through the process and was revised to become H000C9043, the House’s final proposed congressional map that was then used as the baseline for the enacted map, H000C9047. (JPS, Stip. Fact ¶¶ 15, 17-18; Rough Trial Tr., 5/22/14 (Kelly), 154:11-155:8; Rough Trial Tr., 6/4/14, Pt. 1 (Poreda), 64:19-65:12.)

84. Cannon explained Reichelderfer and Heffley’s close involvement in the redistricting process as necessary since Reichelderfer and Heffley were used as “go betweens” because of strained relationships between the two chambers. (Rough Trial Tr., 5/28/14 (Cannon), 36:7-22.) The Court does not find this testimony credible in light of testimony from Gaetz and others that he, Weatherford, Guthrie, and Kelly maintained friendly relationships and communicated without the need for intermediaries throughout the process. (Rough Trial Tr., 5/21/14 (Gaetz), 157:8-159:1; Rough Trial Tr., 5/22/14 (Guthrie), 3:14-4:10.)

85. Terraferma and Heffley met and communicated with Tom Hofeller, the head of redistricting for the Republican National Committee, during the 2012 Redistricting Process. Hofeller came to visit Terraferma and Heffley in Tallahassee in September 2011 to go over the draft maps being prepared by Terraferma. (Rough Trial Tr., 5/23/14 (Terraferma), 194:11-195:10; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 105:5-21.) In addition, Hofeller and Terraferma discussed the draft map initially published by the Senate and agreed that District 3 (enacted District 5) “needs to be over 50% in order to justify its departure from the neutral state criteria safely.” (CP Ex. 386.)



86. Terraferma and Heffley met and communicated with Ginsberg during the 2012 Redistricting Process. (Rough Trial Tr., 5/23/14 (Terraferma), 195:11-21, 199:21-201:6; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 106:15-107:8.) In addition to the December 2010 meeting, Terraferma and Heffley travelled to Washington, D.C. to stay at Ginsberg's home and discuss redistricting with him in October 2011. (CP 353; Rough Trial Tr., 5/27/14, Pt.1 (Terraferma), 20:17-21; Rough Trial Tr., 5/29/14, Pt. 1 (Heffley), 106:15-107:8.) Terraferma and Heffley also sent several state and congressional Consultant Drawn Maps to Ginsberg for review. (Rough Trial Tr., 5/23/14 (Terraferma), 196:19-197:2; CP Ex. 361.)

**E. Non-Public Meetings to Finalize 2012 Congressional Plan**

87. On December 30, 2011, the Senate Committee on Reapportionment released its second publicly proposed congressional plan, S000C9006. (JPS, Stip. Fact ¶ 16.)

88. On January 9, 2012, the House Congressional Redistricting Subcommittee favorably reported House proposed plans H000C9009, H000C9011, and H000C9013 for presentation to the House Redistricting Committee with the new plan designations H000C9041, H000C9043, and H000C9045, respectively. (JPS, Stip. Fact ¶¶ 17-18.)

89. On January 12, 2012, Gaetz submitted and the Senate publicly released its final proposed congressional plan, S004C9014. (JPS, Stip. Fact ¶ 21.)

90. On January 17, 2012, the Senate approved plan S004C9014 as CS/SB 1174 by a vote of 34-6. (JPS, Stip. Fact ¶ 22.)

91. On January 20, 2012, the House Redistricting Committee held a workshop. After the workshop, H000C9043 emerged as the proposed plan that would move forward in the 2012 Redistricting Process, including in negotiations with the Senate. (CP Ex. 639 at 72, 111.)

92. Between January 20, 2012 and January 24, 2012, the House and Senate conducted several meetings to reconcile their respective proposed maps. (Rough Trial Tr., 5/20/14 (Weatherford), 179:11-180:9; Rough Trial Tr., 5/21/14 (Gaetz), 61:4-18; Rough Trial Tr., 5/21/14 (Guthrie), 224:15-23.) The primary negotiations at these meetings were conducted by Weatherford, Gaetz, Kelly, and Guthrie. (Rough Trial Tr., 5/22/14 (Kelly), 156:6-19; Rough Trial Tr., 5/20/14 (Weatherford), 179:11-181:24; Rough Trial Tr., 5/21/14 (Gaetz), 62:11-63:1.) Before Weatherford and Gaetz met to discuss the proposed maps, Cannon met with Weatherford, Pepper, and Kelly to provide directions for negotiations, and then-Senate President Michael Haridopolis (“Haridopolis”) met with Gaetz to provide directions for negotiations. (Rough Trial Tr., 5/20/14 (Pepper), 79:1-80:7; Rough Trial Tr., 5/22/14 (Kelly), 156:6-157:7; Rough Trial Tr., 5/20/14 (Weatherford), 175:9-21, 179:8-19; Rough Trial Tr., 5/21/14 (Gaetz), 155:12-20.) If Weatherford, Gaetz, Haridopolis, and Cannon met together in the same room, they would have been required to conduct a meeting that was open and noticed to the public under Article III, Section 4(e) of the Florida Constitution. (Rough Trial Tr., 5/21/14 (Gaetz), 156:15-23.) Instead, Weatherford, Gaetz, Haridopolis, and Cannon structured multiple seriatim meetings with only two legislators present to avoid having a public meeting. As a result, the meetings to reconcile the proposed House and Senate maps were not open to the public, and there is no written record of what was said or done at the meetings.

93. Kelly testified that, during the initial meeting between Cannon, Weatherford, and Kelly, Cannon stated that the Senate would request the Black VAP of District 5 to be increased above 50% and directed Kelly and Weatherford to accede to that position. (Rough Trial Tr., 5/22/14 (Kelly), 157:8-158:19, 162:17-163:1.) Pepper likewise recalls that increasing the Black VAP of District 5 above 50% was a major topic of discussion at this meeting. (Rough Trial Tr.,

5/20/14 (Pepper), 79:10-80:7.) Cannon denies that he gave any direction for Kelly to increase the Black VAP of District 5 above 50% at the initial meeting among House legislators and staffers. (Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 48:4-50:25.) After considering the testimony and credibility of the witnesses, the Court finds that Cannon instructed Kelly and Weatherford to agree to increase the Black VAP of District 5 above 50% during their negotiations with the Senate.

94. At these closed meetings to reconcile the proposed maps, the attendees considered S004C9014 and a modified version of H000C9043 that had not been reviewed, discussed, or approved at any public meeting of the House Redistricting Committee.

95. The attendees at the meetings to reconcile the proposed maps testified that the following items were the primary issues discussed at the meetings:

a. The Senate requested, and the House agreed, to increase the Black VAP of District 5 to over 50%. (Rough Trial Tr., 5/20/14 (Weatherford), 179:17-180:25, 181:11-182:22, 183:9-25.) There was conflicting testimony as to the reason for the request. Kelly testified that the reason for the request was to limit the risk of a possible claim under Section 2 of the VRA. (Rough Trial Tr., 5/22/14 (Kelly), 158:10-159:4.) Weatherford testified that there was a legal disagreement over whether the Black VAP should be over 50% and that increasing the Black VAP over 50% put the Legislature in a better legal standing. (Rough Trial Tr., 5/20/14 (Weatherford), 124:12-19, 179:17-180:9.) Gaetz and Guthrie testified that they did not recall making any claim that increasing the Black VAP in District 5 was necessary to avoid a claim under Section 2 of the VRA. (Rough Trial Tr., 5/21/14 (Gaetz), 63:2-64:8; Rough Trial Tr., 5/21/14 (Guthrie), 225:11-226:17.) None of the attendees at these meetings testified that they understood Section 2 to require raising the Black VAP of District 5 over 50%.

b. The Senate requested, and the House agreed, to increase the Hispanic VAP of District 9 from 39.6% in the House proposed map to 41.4%. The reason given by the Senate for the request was a general desire to increase minority voting strength in District 9. (Rough Trial Tr., 5/21/14 (Gaetz), 65:17-66:17; Rough Trial Tr., 5/20/14 (Weatherford), 189:4-21; Rough Trial Tr., 6/2/14 (Guthrie), 67:4-68:13.)

c. The Senate requested, and the House agreed, to take a portion of Hendry County out of District 25 and to put it into District 20. The reason given by the Senate for the request was to address Section 5 preclearance concerns in regard to District 20. (Rough Trial Tr., 5/22/14 (Guthrie), 5:18-6:13; Rough Trial Tr., 6/2/14 (Guthrie), 60:11-62:20.)

d. The Senate and the House decided to increase the Black and Hispanic VAP of District 14 by several percentage points beyond what was in H000C9043. (Rough Trial Tr., 5/22/14 (Kelly), 173:22-175:21.) Legislative Defendants have not offered an explanation for this increase in Black and Hispanic VAP other than that it was “less risky” under the VRA and the Florida Constitution. (Rough Trial Tr., 5/22/14 (Kelly), 175:25-176:18.). Kelly testified, however, that he did not believe that the VRA required the increase in Black and Hispanic VAP. (Rough Trial Tr., 5/22/14 (Kelly), 173:22-174:24.) Gaetz and Weatherford testified that they do not recall the discussion about increasing the minority VAP of District 14 at all. (Rough Trial Tr., 5/21/14 (Gaetz), 67:22-68:4; Rough Trial Tr., 5/20/14 (Weatherford), 215:4-216:8.)

e. The Senate rejected proposed House versions of Districts 21 and 22 that were in an east-west, rather than north-south configuration, as shown in the draft map titled H000C9047\_24Cities\_Hollywood\_2Counties\_2122. (Rough Trial Tr., 5/22/14 (Kelly), 165:12-169:7; CP Ex. 905) Kelly provided undisputed testimony that the rejected versions of Districts 21 and 22 were more compact than the versions in the 2012 Congressional Plan and broke fewer

municipal and county boundaries without affecting minority voting strength in neighboring District 20. (Rough Trial Tr., 5/22/14 (Kelly), 165:12-168:16.) Legislative Defendants have offered no reasonable explanation for their decision not to include the proposed east-west configuration of Districts 21 and 22 in the 2012 Congressional Plan.

96. As a result of these and other issues addressed at the non-public meetings, the map drawers for the Legislature made changes to nearly every district in the map. (Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 51:11-55:8.)

97. In addition to the items discussed above, Legislative Defendants elected to adopt the House's configuration of Districts 25 and 26, which divided the city of Homestead, rather than the Senate configuration, which kept Homestead whole. (Rough Trial Tr., 6/4/14, Pt.1 (Poreda), 78:11-80:8; *compare* CP Ex. 507 with CP Ex. 523; see also CP Demonstrative 73.)

98. Several actions taken by the Legislature following the non-public meetings correspond with particular points of focus for the political consultants. For example, the consultants focused on increasing the Black VAP of District 5 over 50% (*e.g.*, CP Ex. 386; CP Ex. 1445 at 1, 2; CP Ex. 1446 at 2); increasing the Hispanic VAP of District 9 over 40% (CP Ex. 87; CP Ex. 1445 at 1, 9; CP Ex. 1446 at 2; Sealed CP Ex. 1374; Sealed CP Ex. 1401); addressing the configuration of District 10 for incumbent Representative Daniel Webster (*Compare* CP Ex. 285 *with, e.g.*, CP Demonstrative 72); and resolving performance issues with the Senate District 25, which is equivalent to enacted District 26, (CP Ex. 387; *see also* CP Demonstrative 73). Each of these items was addressed in the enacted map.

99. The decision to increase the Black VAP of District 5 over 50% and the Hispanic VAP of District 9 over 40%, taken together with the Legislature's reliance on Consultant Drawn Maps for Districts 3 and 4, resulted in two additional Republican-performing districts in central

Florida. H000C9001, for instance, had different proposed Districts 3 and 4 from the enacted plan, had a Black VAP in District 5 of only 47.53%, and had a Hispanic VAP in District 9 of only 25.47%. This configuration resulted in Districts 5, 7, 9, and 10 all being Democratic-performing in H000C9001 based on the 2008 presidential election. But by using the configuration of Districts 3 and 4 taken from HPUBC0133, and by raising the Black VAP in District 5 over 50%, and raising the Hispanic VAP over 40% in District 9, the enacted version of the 2012 Congressional Plan created two strong Democrat-performing districts (Districts 5 and 9) and two Republican-leaning districts (Districts 7 and 10) based on the 2008 presidential election.

100. On January 27, 2012, the House Redistricting Committee approved map H000C9047 for presentation to the full House. (JPS, Stip. Fact ¶ 24.) H000C9047 incorporated the changes discussed between the House and the Senate at the non-public meetings described above. (CP Ex. 523.)

101. On February 2, 2012, the House approved H000C9047 as an amendment to CS/SB 1174. On February 3, 2012, the House passed the bill by a vote of 80-37. (JPS, Stip. Fact ¶ 25.)

102. On February 9, 2012, the Senate concurred in the House amendment and voted for the final passage of CS/SB 1174 (H000C9047) by a vote of 32-5. (JPS, Stip. Fact ¶ 26.)

103. On February 16, 2012, Governor Rick Scott signed CS/SB 1174 into law (Chapter 2012-2, Laws of Florida). CS/SB 1174 and H000C9047 are the enacted congressional redistricting map referred to herein as the 2012 Congressional Plan. (JPS, Stip. Fact ¶ 27.)

## **F. Spoliation of Evidence**

104. Litigation was foreseeable and, in fact, actually foreseen by Legislative Defendants throughout the 2012 Redistricting Process. Legislative Defendants took the position that litigation would increase as a result of the FairDistricts Amendments when they advocated for the proposed financial impact statement in connection with the FairDistricts Amendments. *See Advisory Op. to Attorney Gen. re Stds. for Estab. Legislative Dist. Boundaries*, 2 So. 3d 161, 165 (Fla. 2009) (“The Legislature’s assertion that additional costs will be accrued due to increased litigation challenging reapportionment under the new standards is also unavailing because history reflects that *lawsuits are traditionally filed after the Legislature adopts any redistricting plan.*”) (emphasis in original). Legislative Defendants retained expert consultants in anticipation of litigation during the 2012 Redistricting Process. (RP Ex. 119, 176.) And, in this case, Legislative Defendants represented to the Court that:

In the redistricting process, litigation was “imminent” long before the days preceding the filing of Plaintiffs’ Complaints. Litigation was more than a bare, foreseeable possibility – it was a moral certainty. From start to finish, this redistricting process, more than any other, was conducted in an atmosphere charged with litigation.

(House Response to Romo Pls.’ Mot. to Compel (Dec. 6, 2012), at p. 11; *see also* Senate Response to Romo Pls.’ Mot. to Compel (Dec. 11, 2012).) Cannon confirmed in his trial testimony that everyone contemplated that litigation was likely to follow the 2012 Redistricting Process. (Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 61:2-62:10.)

105. Despite anticipating litigation during the 2012 Redistricting Process, numerous legislators and legislative staffers destroyed redistricting-related documents both before and after the 2012 Redistricting Process, including after litigation was filed. The legislators and staffers who deleted redistricting-related emails or purged their emails generally during or after the 2012

Redistricting Process include Cannon, Pepper, Weatherford, Gaetz, and Kelly. (Rough Trial Tr., 5/28/14, Pt. 1 (Cannon), 62:7-10, 63:19-22; Rough Trial Tr., 5/20/14 (Pepper), 77:22-78:6, 89:7-90:21; Rough Trial Tr., 5/20/14 (Weatherford), 216:18-219:3; Rough Trial Tr., 5/21/14 (Gaetz), 93:20-94:8; Rough Trial Tr. (Kelly), 5/22/14, 21:21-22:23.)

106. The deletion of documents by legislators and staffers was intentional and included documents relevant to this litigation, including communications with political consultants.

### **III. LEGAL PRINCIPLES GOVERNING CONGRESSIONAL REDISTRICTING**

#### **A. Constitutional Requirements**

107. Article III, Section 20 was meant to “act as a restraint on the Legislature” and to end Florida’s unfortunate history of political and racial gerrymandering. *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 597 (Fla. 2012) (“*Apportionment I*”); *see also id.* at 639 (“There is no question that the goal of minimizing opportunities for political favoritism was the driving force behind the passage of the Fair Districts Amendment.”). Article III, Section 20 therefore impose “stringent new standards” on the Legislature’s authority to draw congressional districts. *Id.* at 597.<sup>4</sup>

108. Article III, Section 20 requires all congressional redistricting plans to comply with two “tiers” of legal criteria. *See* art. III, § 20(a)-(b), Fla. Const. Tier one provides:

No apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.

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<sup>4</sup> Although *Apportionment I* addresses Article III, Section 21, which applies to state apportionment plans, the same standards apply under Article III, Section 20. *See League of Women Voter of Fla. v. Fla. House of Representatives*, 132 So. 3d 135, 139 nn.1 & 2 (Fla. 2013) (“*Apportionment IV*”).



109. Tier two provides:

Unless compliance with the standards in this subsection conflicts with the standards in [tier one] or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.

**(1) Interaction Between Tier-One and Tier-Two Requirements**

110. “[N]o standard has priority over the other within each tier.” *Apportionment I*, 83 So. 3d at 639; *see also* art. III, § 20(c) (“The order in which the standards within subsections (a) and (b) of this section are set shall not be read to establish any priority of one standard over the other within that subsection.”).

111. Absent a conflict between the tiers, the Legislature must draw districts that “comport with all of the requirements enumerated in Florida’s constitution.” *Apportionment I*, 83 So. 3d at 615.

112. The tier-two requirements “are subordinate and shall give way where compliance” would conflict with tier one or federal law. *Id.* at 639. However, the Legislature may deviate from tier-two criteria “only to the extent necessary” to avoid a conflict. *Id.* at 640; *see also id.* at 667 (holding that “the Legislature is permitted to violate compactness only when necessary to avoid conflict with tier-one standards”); *id.* at 669 (striking down Senate District 6 because it could have been “drawn much more compactly and remain a minority-opportunity district”).

113. Moreover, “the extent to which the Legislature complies with the sum of Florida’s traditional redistricting principles [under tier two] serves as an objective indicator of the impermissible legislative purpose proscribed under tier one (i.e., intent to favor or disfavor a political party or an incumbent).” *Id.* at 639. Thus, if the Legislature departs from tier-two requirements and cannot identify a “valid justification” for doing so, then the Legislature’s departure is “indicative of intent to favor incumbents and a political party.” *Id.* at 669.

(2) **Tier-One Requirements**

a. **No intent to favor a political party or incumbents**

i. **There is no acceptable level of partisan intent**

114. The first tier-one requirement prohibits the Legislature from drawing any redistricting plan or individual district “with the intent to favor or disfavor a political party or an incumbent.” art. III, § 20(a), Fla. Const. “This new requirement in Florida prohibits what has previously been an acceptable practice, such as favoring incumbents and the political party in power.” *Apportionment I*, 83 So. 3d at 615.

115. Because the rule against partisan intent is stated in “absolute terms,” *id.* at 640, “*there is no acceptable level of improper intent*,” *id.* at 617 (emphasis added). Thus, if the Court concludes that there was any partisan intent in drawing the 2012 Congressional Plan or its individual districts, then the Court must strike down the Plan in whole or in part. *See, e.g., id.* at 615 (“[T]he voters placed this constitutional imperative as a top priority to which the Legislature must conform during the redistricting process.”); *see also Apportionment IV*, 132 So. 3d at 138 (prohibiting partisan intent in the redistricting process “is a matter of paramount public concern”) (citation and internal quotation marks omitted).

116. In evaluating the Legislature’s intent, “the focus of the analysis must be on both direct and circumstantial evidence of intent.” *Apportionment I*, 83 So. 3d at 617.

117. “[O]bjective indicators . . . can be discerned from the Legislature’s level of compliance with . . . tier-two requirements,” and a “disregard for these principles can serve as indicia of improper intent.” *Id.* at 618. The Court must therefore “evaluate the shapes of districts together with . . . objective data, such as the relevant voter registration and elections data, incumbents’ addresses, and demographics.” *Id.* Although the focus of the constitutional

analysis is on the Legislature's intent rather than result, the Court may consider "the effects of the plan" as evidence of the Legislature's intent, *id.* at 617, and should not "disregard obvious conclusions from the undisputed facts," *id.* at 619.

118. Similarly, in determining whether the Legislature intended to favor or disfavor incumbents, "the inquiry . . . focuses on the shape of the district in relation to the incumbent's legal residence, as well as other objective evidence of intent." *Id.* at 618-19. "Objective indicators of intent may include such factors as the maneuvering of district lines in order to avoid pitting incumbents against one another in new districts or the drawing of a new district so as to retain a large percentage of the incumbent's former district." *Id.* at 619; *see also id.* at 654 (striking portions of Initial 2012 Senate Plan in part because several incumbents were "given large percentages of their prior constituencies").

119. In addition to objective data of the sort considered in *Apportionment I*, the Court must also evaluate "fact-intensive claims" of improper intent. *Apportionment IV*, 132 So. 3d at 140. For example, and crucially important in this case, evidence that the Legislature or its agents communicated and collaborated with partisan political operatives during the 2012 Redistricting Process is "clearly . . . important evidence in support of the claim that the Legislature thwarted the constitutional mandate," because the "existence of a separate process to draw the maps with the intent to favor or disfavor a political party or an incumbent is precisely what the Florida Constitution now prohibits." *Id.* at 149; *see also Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977) (explaining that the "specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes," and that "[d]epartures from the normal procedural sequence . . . might afford evidence that improper purposes are playing a role"). As the Florida Supreme Court has explained, "if in fact there was

a separate, secret process undertaken by the Legislature to create the 2012 congressional apportionment plan in violation of the article III, section 20(a), standards, the voters clearly intended for the Legislature to be held accountable for violating the Florida Constitution and to curb unconstitutional legislative intent in this and future reapportionment processes.” *Apportionment IV*, 132 So. 3d at 151.

**ii. Evaluating legislative intent**

120. Because of the unique circumstances of redistricting, legislative intent is not evaluated in the same way as in traditional cases of statutory construction. *See, e.g., Apportionment IV*, 132 So. 3d at 150 (“In this context, however, the ‘intent’ standard in the specific constitutional mandate of article III section 20(a), is entirely different than a traditional lawsuit that seeks to determine legislative intent through statutory construction.”).

121. Under the plain language of Article III, Section 20, the relevant question is whether the 2012 Congressional Plan and its constituent districts were “*drawn*”—not enacted or adopted—“with the intent to favor or disfavor a political party or an incumbent.” art. III, § 20(a), Fla. Const. (emphasis added). Thus, it is appropriate to review the words and deeds of legislators, staffers, and other persons involved in the 2012 Redistricting Process to help determine whether unlawful partisan intent motivated the “draw[ing]” of the 2012 Congressional Plan or any districts within that Plan. *Id.* As the Florida Supreme Court has explained, “the communications of individual legislators or legislative staff members, if part of a broader process to develop portions of the map, could directly relate to whether the plan as a whole or any specific districts were drawn with unconstitutional intent.” *Apportionment IV*, 132 So. 3d at 150.

122. The Court’s conclusion is bolstered by the law of agency. Of course, the Florida Legislature can act only through its agents. *See* Eleventh Circuit Civil Pattern Jury Instructions

§§ 3.2.2 (2013) (“When a corporation is involved, of course, it may act only through people as its employees . . . .”); *id.* § 3.2.3 (same for “governmental agency”). And under basic principles of agency law, “a principal may be held liable for the acts of its agent that are within the course and scope of the agency.” *Roessler v. Novak*, 858 So. 2d 1158, 1161 (Fla. 2d DCA 2003).

123. Thus, in determining whether the 2012 Congressional Plan or any district within the Plan was drawn with the intent to favor a political party or incumbent, the Court must impute to the Legislature as a whole the intentions of relevant legislators, staff members, or third parties acting at the direction of (or with the knowledge of) legislators or staff members. Those intentions, in turn, may be discerned from the words and deeds of the legislators, staff members, and third parties involved in the 2012 Redistricting Process. *See, e.g., Apportionment IV*, 132 So. 3d at 149 (explaining that “if evidence exists to demonstrate that there was an entirely different, separate process that was undertaken contrary to the transparent [redistricting] effort in an attempt to favor a political party or an incumbent in violation of the Florida Constitution, clearly that would be important evidence in support of the claim that the Legislature thwarted the constitutional mandate.”); *see also, e.g., Easley v. Cromartie*, 532 U.S. 234, 254 (2001) (finding “some support” for district court’s conclusion that racial considerations predominated in drawing of district boundaries in email sent from legislative staff member to two senators); *Texas v. United States*, 887 F. Supp. 2d 133, 165 (D.D.C. 2012) (noting that an “email sent between staff members on the eve of the Senate Redistricting Committee’s markup of the proposed plan” fueled the court’s “skepticism about the legislative process that created” a challenged district).

124. Legislative Defendants have advocated for a standard more akin to traditional statutory interpretation, arguing that legislative intent should be determined solely from the text and legislative history of the 2012 Congressional Plan. But as the Florida Supreme Court has

explained, that approach is inappropriate in the context of Article III, Section 20. *See id.* at 150. For one thing, that approach fails to account for the difference between typical statutory interpretation cases (in which the “meaning” of a statute is at issue) and challenges under Article III, Section 20 (in which “the decision making process itself is the case,” *Apportionment IV*, 132 So. 3d at 150 (internal quotation marks, citation, and emphasis omitted)). For another thing, limiting the Court’s analysis in that manner would allow the Legislature to avoid judicial scrutiny of the intent behind redistricting plans simply by delegating the work of redistricting to a few legislators, staffers, or other individuals.

125. In sum, the Court concludes that the applicable intent under Article III, Section 20, is the intent of the Legislature, which may be established by evidence of the intent of individual legislators and legislative staff members who were involved in preparing or drawing the maps or individual districts that led to the 2012 Congressional Plan or who were involved in overseeing or directing the persons who prepared or drew the maps or individual districts that led to the 2012 Congressional Plan. In addition, the intent of the Legislature may be established by the intent of other individuals (including outside political consultants and operatives) who were involved in preparing or drawing the maps or individual districts that led to the 2012 Congressional Plan, provided that the Legislature knew of or was willfully blind to such individuals’ intent to favor or disfavor a political party or incumbents.

**b. No actual dilution or diminishment of minority voting strength**

126. In addition to prohibiting partisan intent in the redistricting process, tier one also commands that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice.” art. III, § 20(a), Fla. Const.

127. The minority-protection language of Article III, Section 20 tracks the language of Sections 2 and 5 of the VRA. *See Apportionment I*, 83 So. 3d at 619-20. Thus, in interpreting this provision of the Florida Constitution, the Court should be “guided by prevailing United States Supreme Court precedent” interpreting the VRA. *Id.* at 620.

128. The Florida Supreme Court has made clear that “the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625; *see also id.* at 620 (“Consistent with the goals of . . . the VRA, Florida’s corresponding state provision aims at safeguarding the voting strength of minority groups against both impermissible dilution and retrogression.”).

129. “[A] slight change in percentage of the minority group's population in a given district does not necessarily have a cognizable effect on a minority group's ability to elect its preferred candidate of choice. This is because a minority group’s ability to elect a candidate of choice depends upon more than just population figures.” *Id.* at 625; *see also id.* at 626-27 (“Because a minority group’s ability to elect a candidate of choice depends upon more than just population figures, we reject any argument that the minority population percentage in each district as of 2002 is somehow fixed to an absolute number under Florida’s minority protection provision.”). “[T]o determine whether a district is likely to perform for minority candidates of choice, the Court’s analysis . . . will involve the review of the following statistical data: (1) voting-age populations; (2) voting-registration data; (3) voting registration of actual voters; and (4) election results history.” *Id.* at 627.

130. Crucially, the Legislature must perform a proper “functional analysis” of those factors when drawing districts. *See id.* at 657 (explaining that “the ramifications of the

[Senate’s] failure to conduct a functional analysis” infected much of the 2012 Senate Plan). Without a proper functional analysis, the Legislature may not justify a district on the ground that it is intended to protect minority rights. *See id.* at 666 (“The stated justification for the configuration of District 6 is minority voting protection. As we have explained previously, because the Senate never performed an appropriate functional analysis, the reliability of this justification is questionable.”). The purpose of a functional analysis is, in part, to allow the Legislature and the Court to determine when tier-two criteria “should yield because of a conflict with the tier-one standard of minority voting protection.” *Id.* at 669.

131. Because “[i]n order to vote or to register to vote, one must be a citizen,” Citizen Voting Age Population (“CVAP”), rather than Voting Age Population (“VAP”), is the appropriate metric for use in functional analyses. *Negron v. City of Miami Beach*, 113 F.3d 1563, 1568-69 (11th Cir. 1997); *see also Perez v. Pasadena Indep. Sch. Dist.*, 165 F.3d 368, 372 (5th Cir. 1999) (“We have unequivocally held . . . that courts must consider the *citizen* voting-age population . . . when determining whether the minority group is sufficiently large and geographically compact to constitute a majority.”) (emphasis in original and citation and internal quotation marks omitted); *Barnett v. City of Chicago*, 141 F.3d 699, 704 (7th Cir. 1998) (“We think that citizen voting-age population is the basis for determining equality of voting power that best comports with the policy of the [VRA].”). In that regard, in *League of United Latin Am. Citizens v. Perry* (“*LULAC*”), the U.S. Supreme Court observed that using citizenship data “fits the language of § 2 because only eligible voters affect a group’s opportunity to elect candidates,” while constructing a district in which minorities have a “bare majority of the voting-age population” might create a majority-minority district “only in a hollow sense.” 548 U.S. 399, 429 (2006). For that reason, the *LULAC* Court criticized a state legislature for drawing a district



“to have a nominal Latino voting-age majority (without a citizen voting-age majority) for political reasons . . . . to create the facade of a Latino district.” *Id.* at 441.

**i. To ensure that the Legislature does not use minority protections as an excuse for violating other constitutional requirements, the Court must subject all race-based redistricting decisions to strict scrutiny**

132. While the Legislature has a duty to protect minority voting rights, it may not use that duty as a pretext for violating other constitutional criteria, including Article III, Section 20’s ban on partisan gerrymandering. *See, e.g., Apportionment I*, 83 So. 3d at 640 (“It is critical that the requirement to protect minority voting rights when drawing district lines should not be used as a shield against complying with Florida’s other important constitutional imperatives . . . .”). For example, the Legislature may not “pack” an excessive number of racial or language minorities into one district—thereby decreasing the minorities’ voting strength in adjacent districts—under the guise of protecting the minorities’ ability to elect their candidate of choice in the “packed” district. Similarly, the Legislature may not move minorities from district to district for political reasons under the guise of minority protection without any legitimate justification for doing so.

133. To guard against abuse of the Florida Constitution’s minority-protection language, the Court must subject all race-based redistricting decisions to strict scrutiny. *See Apportionment I*, 83 So. 3d at 627 (explaining that “‘race-based districting by our state legislatures demands *close judicial scrutiny*’”) (emphasis added) (quoting *Shaw v. Reno*, 509 U.S. 630, 657 (1993) (“*Shaw I*”)). That includes any claims by the Legislature that it drew districts primarily to avoid retrogression or dilution of minority voting strength in order to comply with the VRA. *See id.* (“‘A reapportionment plan would not be narrowly tailored to the goal of avoiding retrogression if the State went beyond what was reasonably necessary to avoid

retrogression.”) (quoting *Shaw I*, 509 U.S. at 655); *see also Shaw I*, 509 U.S. at 653 (explaining that redistricting decisions based on race are subject to strict scrutiny, even if made for purportedly “benign” or “remedial” reasons).

134. Under the strict scrutiny test, the Legislature must show that any use of race in drawing district lines was (1) motivated by a compelling state interest and (2) narrowly tailored to that interest.

135. For example, in *Apportionment I*, the Legislature argued that Senate District 6 was drawn to protect minority voting rights. The challengers disagreed, arguing that Senate District 6 “used Florida’s minority voting protection provision as a pretext for partisan favoritism.” 83 So. 2d at 665. After closely scrutinizing the relevant data, including plaintiffs’ alternative maps, the Florida Supreme Court held that Senate District 6 departed from the tier-two requirements of compactness and fidelity to pre-existing boundaries “when not necessary to do so to avoid conflict with the minority protection provision,” *id.* at 665; was not supported by a “functional analysis necessary to properly determine when compactness should yield because of a conflict with the tier-one standard of minority voting protection,” *id.* at 669; and that, as a result, Senate District 6 was unconstitutional, *id.* That line of reasoning is consistent with a strict scrutiny analysis, *see id.* at 699 (Canady, C.J., dissenting), and is consistent with the analysis of other courts applying strict scrutiny standards. *Cf. Johnson v. Mortham*, 926 F. Supp. 1460, 1490 (N.D. Fla. 1996) (Legislature claimed that it “create[d] an African-American majority-minority district” to “further the state’s redistricting interest of complying with the Voting Rights Act”; court held that “the record belie[d] this view” because “Republicans in the State Senate were more interested in aggregating Democrats in a single district . . . than in creating an African-American majority-minority district.”). Applying a similar level of scrutiny, the Florida

Supreme Court struck down several Senate districts in addition to Senate District 6 on the ground that they departed from tier-two requirements more than necessary to comply with tier-one requirements. *See Apportionment I*, 83 So. 3d at 672 (Senate District 10); *id.* at 673-74 (Senate Districts 29 and 34).

**ii. The Court must subject all race-based redistricting decisions to strict scrutiny despite the fact that the Plaintiffs have not alleged claims under the Equal Protection Clause**

136. Throughout this litigation, the Legislative Defendants have argued that the Court should not subject the Legislature's race-based redistricting decisions to strict scrutiny. The Court rejects that argument.

137. Where, as here, a Legislature insists that its primary goal in drawing certain districts was purported compliance with the VRA, the Legislature has used race as its predominant purpose in drawing district lines. *See, e.g., Miller v. Johnson*, 515 U.S. 900, 920-21 (1995) (finding race as the predominant purpose where there was "little doubt" that the state's "true interest" in creating majority-minority district was attempted compliance with Section 5 of the VRA as interpreted by the Department of Justice). And where race is the predominant purpose of redistricting decisions, those decisions must be subject to strict scrutiny. *See, e.g., id.* at 920 (where race was the predominant factor in redistricting decision, it could not be "upheld unless it satisfies strict scrutiny, our most rigorous and exacting standard of constitutional review").

138. Legislative Defendants seem to argue that the strict scrutiny requirement applies only if challengers expressly allege that a redistricting plan violates the Equal Protection Clause. The Court disagrees. The Florida Supreme Court has incorporated the racial gerrymandering standard and principles articulated in *Shaw I* and its progeny in interpreting the minority voting

provisions of Article III, Section 21, which is identical in all material respects to Article III, Section 20. *See Apportionment I*, 83 So. 3d at 627 (“A *reapportionment plan would not be narrowly tailored to the goal of avoiding retrogression if the State went beyond what was reasonably necessary to avoid retrogression.*” (emphasis added) (quoting *Shaw I*, 509 U.S. at 655). And under federal law, which preempts any contrary state law, “[e]xpress racial classifications are immediately suspect because, ‘absent searching judicial inquiry . . . , there is simply no way of determining what classifications are ‘benign’ or ‘remedial’ and what classifications are in fact motivated by illegitimate notions of racial inferiority or simple racial politics.’” *Shaw I*, 509 U.S. at 642-43 (quoting *City of Richmond v. JA. Croson Co.*, 488 U.S. 469, 493 (1989)).

139. Thus, to the extent that the Legislative Defendants invoke race as a justification for their redistricting decisions, they must carry the burden of showing that their racial classifications survive strict scrutiny. To hold otherwise would be to give the Legislature *carte blanche* to engage in outright partisan and racial gerrymandering under the guise of minority protection. *See, e.g., Apportionment I*, 83 So. 3d at 640 (“‘It is critical that the requirement to protect minority voting rights when drawing district lines should not be used as a shield against complying with Florida’s other important constitutional imperatives; the Court’s obligation is to ensure that ‘every clause and every part’ of the language of the constitution is given effect where ‘an interpretation can be found which gives it effect.’”) (quoting *In re Apportionment Law Senate Joint Resolution No. 1305, 1972 Regular Session*, 263 So. 2d 797, 807 (Fla. 1972)).

iii. **Strict scrutiny: The “compelling state interest” requirement**

(a) **To survive strict scrutiny, the Legislative Defendants must identify a compelling interest in drawing race-based districts**

140. As noted above, under the strict scrutiny test, the Legislature must show that any use of race in drawing district lines was (1) motivated by a compelling state interest and (2) narrowly tailored to that interest.

141. In order to show that it had a compelling interest in drawing a district to comply with the VRA, the Legislature “must have had a strong basis in evidence to support that justification before it implements the [race-based] classification.” *Shaw v. Hunt*, 517 U.S. 899, 908 n.4 (1996) (“*Shaw I*”); *Miller*, 515 U.S. at 922 (“[W]e insist on a strong basis in evidence of the harm being remedied.”). For instance, with regard to Section 2 of the VRA, a state must have had a “strong basis in evidence” for concluding that the creation of a majority-minority district was “reasonably necessary to comply with Section 2” “before it implements the classification.” *Shaw II*, 517 U.S. at 908 n.4; *see also Bush v. Vera*, 517 U.S. 952, 978 (1996). Where there “was no reasonable basis to believe” that a VRA remedy is required, the VRA cannot provide a compelling interest. *Miller*, 515 U.S. at 923. Of particular note, “generalized assumptions about the prevalence of racial bloc voting” do not qualify as a “strong basis in evidence.” *Bush*, 517 U.S. at 994 (O’Connor, J., concurring).

(b) **The Legislature’s proffered “interest” must be the interest that actually motivated the Legislature’s decisions**

142. In order for an interest proffered by a defendant to warrant consideration as a compelling interest, it must be one that actually motivated the Legislature in making the race-based districting decision. “[A] racial classification cannot withstand strict scrutiny based upon speculation about what ‘may have motivated’ the legislature. To be a compelling

interest, the State must show that the alleged objective was the legislature's 'actual purpose' for the discriminatory classification." *Shaw II*, 517 U.S. at 908 n.4; *see also Miller*, 515 U.S. at 921 (examining state's "true interest" in drawing majority-minority district).

143. Accordingly, post-hoc rationalizations provide no basis for finding a compelling governmental interest. The Legislature cannot raise the VRA as a shield during litigation when it did not believe the VRA compelled its redistricting decisions during the legislative process.

(c) **Avoiding litigation is not a compelling interest**

144. The U.S. Supreme Court has made clear that avoiding litigation does not qualify as a compelling interest. *See Shaw II*, 517 U.S. at 908 n.4 (rejecting dissent's contention that an "acceptable reason for creating a second majority-minority district" would be the "State's interest in avoiding the litigation that would have been necessary to overcome the Attorney General's objection under § 5") (internal quotation marks omitted). The Court may "assume, *arguendo*, that a State may have a compelling interest in complying with the properly interpreted Voting Rights Act. But a State must also have a 'strong basis in evidence,' for believing that it is violating the Act. It has no such interest in avoiding meritless lawsuits." *Id.* (internal quotation marks and citations omitted).

(d) **The VRA does not require drawing majority-minority districts wherever possible**

145. Neither Section 2 nor Section 5 compels majority-minority districts wherever they are possible. The notion that the VRA requires maximizing the number of majority-minority districts has been directly refuted by the U.S. Supreme Court as violative of the U.S. Constitution. *See Johnson v. DeGrandy*, 512 U.S. 997, 1016 (1994) (rejecting "the rule of thumb apparently adopted by the District Court, that anything short of the maximum number of majority-minority districts consistent with the *Gingles* conditions would violate § 2"); *Miller*,

515 U.S. at 925 (“In utilizing § 5 to require States to create majority-minority districts wherever possible, the Department of Justice expanded its authority under the statute beyond what Congress intended and we have upheld.”). Accordingly, there can be no “reasonable basis to believe” that the VRA compels drawing a majority-minority district simply because it is possible.

(e) **No compelling interest absent *Gingles* preconditions**

146. The Legislative Defendants have argued that some of their redistricting decisions were motivated by a desire to avoid lawsuits under Section 2 of the VRA. To assert a claim under Section 2, the three *Gingles* preconditions must be present: “(1) a minority population is sufficiently large and geographically compact to constitute a majority within a single-member district; (2) the minority population is politically cohesive; and (3) the majority population votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Apportionment I*, 83 So. 3d at 622 (quoting *Thornburgh v. Gingles*, 478 U.S. 30, 50-51 (1986)). The Legislature has no compelling interest in drawing a district to avoid liability under Section 2 absent a strong basis in evidence that these preconditions are satisfied. *See Moon v. Meadows*, 952 F. Supp. 1141, 1150 (E.D. Va. 1997) (no compelling interest where the “third *Gingles* requirement of white majority bloc voting is not met”), *aff’d sub nom. Harris v. Moon*, 521 U.S. 1113 (1997); *Hays v. Louisiana*, 936 F. Supp. 360, 370 (W.D. La. 1996) (where *Gingles* preconditions “ha[ve] not been met and cannot be met,” Section 2 “cannot be relied on as a compelling governmental interest”). Thus, if the Legislature had no basis in evidence that all three *Gingles* preconditions are met, it cannot rely on the VRA as a compelling interest.

iv. **Strict scrutiny: The “narrow tailoring” requirement**

(a) **No narrow tailoring where no analysis performed or where results of analysis ignored**

147. A district cannot be narrowly tailored where the Legislature did not “t[ake] any steps” to conduct a proper voting rights analysis, cannot establish the results of any such analysis, or ignored the results of any such analysis. *Moon*, 952 F. Supp. at 1150; *see also* *Grove v. Emison*, 507 U.S. 25, 42 (1993) (“A law review article on national voting patterns is no substitute for proof that bloc voting occurred in Minneapolis.”); *Johnson*, 926 F. Supp. at 1487 (map-drawing court’s “failure to examine any evidence of vote dilution precludes a finding of Section 2 liability which necessitated creation of majority-minority districts such as District Three”).

148. Thus, where the Legislature has failed to establish that it performed the requisite analysis of minority voting rights, it can hardly claim to have narrowly tailored its use of race to VRA requirements.

(b) **Increasing minority voting strength is not narrowly tailored to Section 5’s requirements**

149. Section 5 of the VRA—which the non-diminishment provision of the Florida Constitution mirrors—does not require enhancing minority voting strength in a given district. Section 5 prohibits “retrogression,” *Beer v. United States*, 425 U.S. 130, 141 (1976), which is defined as a “decrease in the new districting plan . . . from the previous plan or scheme in the absolute number of representatives which a minority group has a fair chance to elect,” *Ketchum v. Byrne*, 740 F.2d 1398, 1402 n.2 (7th Cir. 1984). “Ameliorative changes,” on the other hand, “even if they fall short of what might be accomplished in terms of increasing minority representation, cannot be found to violate section 5 unless they so



discriminate on the basis of race or color as to violate the Constitution.” *Miller*, 515 U.S. at 924 (internal quotation marks and citation omitted).

150. The non-diminishment provisions in the VRA and Article III, Section 2 cannot justify race-based redistricting where a state seeks to *increase* a district’s performance for minority-preferred candidates. *See Bush*, 517 U.S. at 983 (holding that state did not have compelling interest in “not maintenance, but substantial augmentation” of minority population through non-compact districts); *Shaw I*, 509 U.S. at 655 (“A reapportionment plan would not be narrowly tailored to the goal of avoiding retrogression if the State went beyond what was reasonably necessary to avoid retrogression”).

**(c) A district is not narrowly tailored to Section 2’s requirements where the district is grossly non-compact**

151. Where the Legislature has drawn a grossly non-compact district, it is not narrowly tailored. *See Shaw II*, 517 U.S. at 916 (holding that because “[n]o one looking at” the district “could reasonably suggest that the district contains a ‘geographically compact’ population of any race,” “where that district sits, ‘there neither has been a wrong nor can be a remedy’”) (quoting *Grove*, 507 U.S. at 41); *Moon*, 952 F. Supp. at 1150 (“The bizarre and tortured shape of the district contradicts Defendants’ assertion that the district is narrowly tailored.”).

**(d) No narrow tailoring where less race-based alternatives were rejected**

152. A district is not narrowly tailored where “‘the state could have accomplished its compelling purpose just as well by some alternative means that was either completely race- neutral or made less extensive use of racial classifications.’” *Johnson*, 926 F. Supp. at 1484 (quoting *Shaw v. Hunt*, 861 F. Supp. 408, 445 (E.D.N.C. 1994)). Accordingly, the

*Johnson* Court found no narrow tailoring where the prior map-drawing court “was offered other more narrowly tailored plans that were less race-based and more cognizant of traditional race-neutral redistricting criteria,” but “to the extent that these plans created fewer than two African-American majority-minority districts and one African-American minority influence district, they were summarily rejected.” *Id.* at 1488.

**c. Contiguity**

153. The third tier-one criterion, which requires that “districts shall consist of contiguous territory,” is not at issue in this case.

**(3) Tier Two Requirements**

**a. Equal population**

154. The first tier-two requirement, which incorporates the “one-person, one-vote” principle from the case law interpreting the Fourteenth Amendment to the federal Constitution, *Apportionment I*, 83 So. 3d at 628, is not at issue in this case.

**b. Compactness**

155. The compactness requirement “limit[s] partisan redistricting and racial gerrymanders.” *Id.* at 632. “[I]f a district can be drawn more compactly while utilizing political and geographical boundaries and without intentionally favoring a political party or incumbent, compactness must be a yardstick by which to evaluate those other factors.” *Id.* at 636.

156. The compactness review “begins by looking at the shape of a district.” *Id.* at 634 (internal quotation marks and citation omitted). A district “should not have an unusual shape, a bizarre design, or an unnecessary appendage unless it is necessary to comply with some other requirement.” *Id.*; *see also id.* at 636 (emphasizing that “non-compact and ‘bizarrely shaped districts’ require close examination”). Districts “containing . . . finger-like extensions, narrow

and bizarrely shaped tentacles, and hook-like shapes . . . are constitutionally suspect and often indicative of racial and partisan gerrymandering.” *Id.* at 638 (internal quotation marks and alteration omitted). Thus, for example, the Florida Supreme Court struck down several Florida Senate districts in the Initial 2012 Senate Plan in part because those districts had “visually bizarre and unusual shapes.” *Id.* at 656.

157. The compactness review should also utilize “quantitative geometric measures of compactness” derived from “commonly used redistricting software.” *Id.* at 635. For example, the Florida Supreme Court has relied on the Reock method and the Area/Convex Hull method to assess compactness of voting districts. *See id.* The Reock method “measures the ratio between the area of the district and the area of the smallest circle that can fit around the district.” *Id.* The Area/Convex Hull method “measures the ratio between the area of the district and the area of the minimum convex bounding polygon that can enclose the district.” *Id.*

**c. Political and geographical boundaries**

158. The third tier-two requirement demands that the Legislature draw districts based on preexisting boundaries when feasible. Political boundaries include “cities and counties,” *id.* at 637, while geographical boundaries include “rivers, railways, interstates and state roads,” *id.* at 638. This requirement is more flexible than the compactness requirement. But “the choice of boundaries” is not “left entirely to the discretion of the Legislature,” *id.* at 637, and it may not use any boundary (e.g., a “creek or minor road”) that suits its purposes, *id.* at 638.

**(4) Relevance of Alternative Maps**

159. Romo Plaintiffs have submitted two alternative maps (individually, “Romo Map A” and “Romo Map B,” and collectively, the “Romo Maps”) for the Court’s consideration. The function of alternative maps is to illustrate how Legislative Defendants ignored or subordinated

the constitutional standards in Article III, Section 20 without any valid justification. If an alternative plan “achieves all of Florida’s constitutional criteria without subordinating one standard to another,” then the alternative plan “demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan.” *Id.* at 641. The availability of such an alternative plan “will provide circumstantial evidence of improper intent.” *Id.* Accordingly, alternative plans are a permissible, but not necessary, method for establishing a constitutional violation.

### **B. Standard of Review and Burden of Proof**

160. In enacting Article III, Section 20, “the framers and voters clearly desired more judicial scrutiny” of the Legislature’s redistricting plans, “not less.” *Apportionment IV*, 132 So. 3d at 140 (internal quotation marks and citation omitted); *Apportionment I*, 83 So. 3d at 607 (“By virtue of these additional constitutional requirements, the parameters of the Legislature’s responsibilities under the Florida Constitution, and therefore this Court’s scope of review, have plainly increased, requiring a commensurately more expanded judicial analysis.”).

161. The 2012 Congressional Plan implicates Floridians’ fundamental constitutional right to vote in congressional districts apportioned as required by Article III, Section 20. *See Apportionment IV*, 132 So. 3d at 148 (challenge to redistricting plans implicated Floridians’ “fundamental democratic right to elect representatives of their choice”); *Apportionment I*, 83 So. 3d at 600 (explaining that “the right to elect representatives—and the process by which we do so—is the very bedrock of our democracy”); *id.* at 604 (emphasizing the “critical importance of redistricting in ensuring the basic rights of citizens to vote for the representatives of their choice”). And because the 2012 Congressional Plan implicates a fundamental constitutional right, the Court must subject each individual district within the Plan, and the Plan as a whole, to

strict scrutiny. *See, e.g., Turner v. State*, 937 So. 2d 1184, 1185 (Fla. 5th DCA 2006) (“When a statute implicates fundamental rights . . . , the statute is to be analyzed under a strict scrutiny test.”); *see also Apportionment I*, 83 So. 3d at 605 (explaining that “any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized”) (quoting *Reynolds v. Sims*, 377 U.S. 533, 562 (1964)); *id.* at 699 (Canady, C.J., dissenting) (Florida Supreme Court applied the strict scrutiny test in evaluating challenged legislative redistricting plans).

162. In addition, as discussed above, Legislative Defendants have expressly invoked race as a predominant purpose for many of their redistricting decisions. That express reliance on racial classifications also requires this Court to evaluate the 2012 Congressional Plan and its constituent districts under the strict scrutiny standard. *See Shaw I*, 509 U.S. at 642-43 (redistricting decisions based on race are subject to strict scrutiny, even if made for purportedly “benign” or “remedial” reasons); *Apportionment I*, 83 So. 3d at 627 (“A reapportionment plan would not be narrowly tailored to the goal of avoiding retrogression if the State went beyond what was reasonably necessary to avoid retrogression.”) (quoting *Shaw*, 509 U.S. at 655); *id.* (“[R]ace-based districting by our state legislatures demands close judicial scrutiny.”) (quoting *Shaw*, 509 U.S. at 657).<sup>5</sup>

163. Even if a strict scrutiny standard of review did not apply, at the very least the Court must reject Legislative Defendants’ claim that Plaintiffs can prevail only if they establish the unconstitutionality of the 2012 Congressional Plan beyond a reasonable doubt.

164. The Florida Supreme Court held that a “proof beyond a reasonable doubt” standard did not apply to its review of state apportionment plans because “[u]nlike a legislative

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<sup>5</sup> To the extent that this Court’s interlocutory order on Plaintiffs’ initial motions for summary judgment suggested a standard of review different than strict scrutiny, the Court reconsiders and withdraws those portions of the initial summary judgment order.

act promulgated separate and apart from an express constitutional mandate, the Legislature adopts a joint resolution of legislative apportionment solely pursuant to the ‘instructions’ of the citizens as expressed in specific requirements of the Florida Constitution governing this process.” *Apportionment I*, 83 So. 3d at 607-08.

165. Moreover, in explaining why Plaintiffs’ interests in enforcing Article III, Section 20 outweighed the legislative privilege, the Florida Supreme Court explained that this case involves a “specific constitutional mandate” regarding congressional redistricting that renders it “entirely different than a traditional lawsuit that seeks to determine legislative intent through statutory construction.” *Apportionment IV*, 132 So. 3d at 150.

166. Although congressional redistricting does not involve a joint resolution or mandatory review process, the Florida Supreme Court’s analyses in *Apportionment I* and *Apportionment IV* make it clear that the redistricting process is one in which the citizens have imposed specific mandates and demanded more scrutiny than for an ordinary legislative enactment. Accordingly, challenges to congressional redistricting plans should not carry a different and higher burden of proof than challenges to state reapportionment plans.

167. Individual findings of fact in support of the Court’s legal conclusions must be established by a preponderance of the evidence. *See, e.g., Provenzano v. Moore*, 744 So. 2d 413, 450 (Fla. 1999) (Shaw, J., dissenting).

#### **IV. CHALLENGES TO 2012 CONGRESSIONAL PLAN**

##### **A. Overall Intent to Favor Political Party and Incumbents**

##### **(1) Objective Data and Effects of the 2012 Congressional Plan**

168. Based on 2010 general election data, registered Democrats outnumbered registered Republicans in Florida by 53% to 47%. In the 2010 gubernatorial election,

Republican Rick Scott received 50.6% of the two-party vote. In the 2008 presidential election, Republican John McCain received 48.6% of the two-party vote.<sup>6</sup> Nevertheless, under the 2012 Congressional Plan, the Republican candidates would have won 17 out of 27 districts (63%) in both the 2010 gubernatorial election and the 2008 presidential election.

169. In earlier litigation, the Legislature admitted that it prepared the 2002 congressional redistricting plan (the “2002 Congressional Plan”) with an “intent . . . to draw the congressional districts in a way that advantage[d] Republican incumbents and potential candidates.” *Martinez*, 234 F. Supp. 2d at 1275. Under the 2002 Congressional Plan, the Republican candidates would have won 17 of 25 districts (68%) in the 2010 gubernatorial election and 15 of 25 districts (60%) in the 2008 presidential election.

170. The fact that Republicans have maintained or increased their percentage of seats relative to the 2002 partisan map despite the new-found prohibition on partisan intent provides circumstantial evidence of an intent to favor the Republican Party.

171. Under the 2012 Congressional Plan, incumbents retained, on average, 69.8% of their predecessor districts from the 2002 Congressional Plan. (CP Ex. 1147 at 18.) The retention of so large a percentage of the predecessor districts from the 2002 Congressional Plan despite the addition of two congressional districts and the imposition of new constitutional requirements for redistricting provides circumstantial evidence of an intent to favor incumbents.

## **(2) History of the 2012 Redistricting Plan**

172. Throughout the 2012 Redistricting Process, the Legislature’s selections increasingly benefitted the Republican Party. The House’s seven initial proposed congressional

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<sup>6</sup> These figures are provided in *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 642 (Fla. 2012) (“*Apportionment I*”).

plans had as few as 14 Republican seats (H000C9001) based on the 2008 presidential election. The House selected H000C9011, one of the best Republican performing plans, with 16 Republican seats based on the 2008 presidential election. After further modification, the enacted map performed better for Republicans than any of the prior House or Senate proposals, with 17 Republican seats based on the 2008 presidential election.

173. The substantial changes to the 2012 Congressional Plan as a result of the non-public meetings in late January 2012 reduced the compactness of the map and broke a number of political boundaries. As between H000C9043 and H000C9047, the map became less compact, lowering its average Reock score from 0.42 to 0.40. Dr. Stephen Ansolabehere, an expert for Plaintiffs, provided unrebutted testimony that 15 out of 27 districts saw reductions in compactness from H000C9043. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 3:15-4:14.) Although Legislative Defendants claimed that city and county splits improved from H000C9043 to H000C9047, the House's draft maps show that the compactness of many districts could have been maintained, while still decreasing city and county splits from H000C9043. Draft map H000C9047\_24Cities\_Hollywood\_2Counties\_2122, for example, included more compact district configurations than H000C9047, split three fewer cities, kept one additional county whole, and split other counties (including Polk and Broward) fewer times. (CP Ex. 905.)

174. As is set forth in more detail in the Court's findings of fact with respect to Plaintiffs' individual district challenges, *infra*, Legislative Defendants' last-minute changes to the 2012 Congressional Plan could not legitimately be justified as made to protect minority voters. Because these changes occurred throughout the map and adversely affected tier-two criteria in the majority of the districts, they provide circumstantial evidence of an overall intent to favor the Republican Party and incumbents.



175. Although the Legislature repeatedly promised an open and transparent redistricting process, it conducted separate non-public redistricting efforts intended to benefit the Republican Party and incumbents. At the outset and conclusion of the 2012 Redistricting Process, the Legislature conducted non-public meetings at which significant redistricting decisions were made. The legislators and staffers overseeing the 2012 Redistricting Process were also frequently in contact with political consultants who provided advice on redistricting-related matters and influenced the map-drawing process by providing direct feedback and by submitting proposed redistricting maps through public intermediaries with the knowledge of the Legislature. Legislators and staff members overseeing the 2012 Redistricting Process used private email accounts to communicate among themselves and with consultants and then deleted the evidence of those communications. These non-public efforts undertaken in contravention of the transparent public process provide circumstantial evidence of an improper intent to benefit the Republican Party and incumbents.

176. In addition to evidencing a non-public process, the deletion of redistricting-related documents when the Legislature viewed litigation as a “moral certainty” and even after the filing of this lawsuit constitutes spoliation of evidence. The Court draws an adverse inference of improper intent from the Legislature’s spoliation of evidence.

**(3) Expert Testimony of Professor Katz**

177. Professor Jonathan Katz offered an opinion at trial regarding the partisan bias of the 2012 Congressional Plan. Professor Katz is a professor of social sciences and statistics and Chair of the Division of Humanities and Social Sciences at the California Institute of Technology. His research focuses on the development and use of statistical tools to analyze social science data, in particular with respect to elections. (Rough Trial Tr., 5/27/14, Pt. 1

(Katz), 103:6-10; 104:2-6.) Professor Katz is an expert in the statistical evaluation of elections and voting behavior. In his capacity as an expert witness, Professor Katz has testified or been deposed in approximately 18 cases, on behalf of both Republicans and Democrats, and more often for Republicans. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 105:19-106:106:19.)

178. Professor Katz explained that the widely accepted standard in the political science community by which to measure partisan bias is partisan symmetry, which requires that similarly-situated parties be treated equally by the electoral system. In other words, the symmetry standard requires that each party should receive the same fraction of legislative seats for the same percentage of the vote. A plan is symmetric if, for example, one party wins 55% of the vote to yield 65% of the seats as long as if the situation were reversed and the other party were to win 55% of the votes, it would also win 65% of the seats. Partisan bias is the deviation in favor of one party or another from partisan symmetry. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 107:7-108:3, 110:10-12.)

179. Professor Katz employed the Gelman-King model for measuring partisan bias. He is aware of no dispute in the academic literature regarding use of this method, and Defendants have offered no expert testimony disputing this method. The Gelman-King model allows for a forecast stating the fraction of the legislative seats a given party will receive for its vote share, from which to evaluate the partisan bias of the plan under review. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 115:3-12; 118:13-21; 119:21-120:8.)

180. Using this method, Professor Katz concluded that the 2012 Congressional Plan has a statistically significant partisan bias in favor of Republicans. Professor Katz determined that the partisan bias estimate of the 2012 Congressional Plan is 12.1 percentage points in favor of Republicans assuming electoral conditions as in 2008, and 15.9 percentage points in favor of

Republicans assuming electoral conditions as in 2010. A partisan bias of 15.9 percentage points means that if both Democrats and Republicans were to receive 50% of the congressional votes statewide, the underlying partisan characteristics of the map indicate that Republicans would likely receive nearly 58% of the congressional seats and Democrats would likely receive approximately 42% of the seats. A partisan bias of 12.2 percentage points means that if both Democrats and Republicans were to receive 50% of the congressional votes statewide, the underlying partisan characteristics of the map indicate that Republicans would likely receive over 56% of the congressional seats and Democrats would likely receive less than 44% of the seats. In other words, according to Professor Katz, the Florida Legislature produced a partisan gerrymander. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 109:2-5, 128:11-129:24, 130:17-131:2, 136:15-18; RP Ex. 95.)

181. Professor Katz testified that the 2012 Congressional Plan evidences a larger partisan bias than any plan he has ever analyzed in his over 15 years of studying redistricting in the United States. The largest partisan bias he has observed in his academic study of congressional plans was approximately 8 percentage points. The largest bias he has observed in the course of his work as a testifying expert prior to this case was approximately 6 percentage points. None of the states involved in those cases had a constitutional or statutory prohibition on partisan intent. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 137:21-140:19; LP Ex. 65e.)

182. Professor Katz testified that his statistical analysis of the 2012 Congressional Plan demonstrated that the Legislature did a very good job of following a simple recipe for partisan gerrymandering: it packed Democrats into as few districts as possible and spread Republicans across the rest of the districts so as to maximize the odds of Republicans winning as many districts as possible. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 113:5-114:10; 135:5-17.)

183. Professor Katz testified that, based on his research, it is unlikely such a large partisan bias would have resulted from either the creation of majority-minority districts required by the VRA or the geographic dispersion of voters. (Rough Trial Tr., 5/27/14, Pt. 1 (Katz), 137:2-20, 140:7-15; Rough Trial Tr., 5/27/14, Pt. 2 (Katz), 26:13-27:6.)

184. Defendants did not offer any expert testimony or evidence to rebut or dispute Professor Katz's conclusions about the partisan bias of the 2012 Congressional Plan.

185. This Court accepts Professor Katz's testimony and finds it to be credible, reliable, and persuasive in evaluating the overall intent of the 2012 Congressional Plan.

**(4) Expert Testimony of Professor Rodden**

186. Professor Jonathan Rodden teaches political science at Stanford University and runs that institution's special social science lab, which focuses on the study of political geography, including how voters' residential patterns can give rise to "unintentional" gerrymandering. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 33:20-35:11.)

187. Legislative Defendants cited a draft paper by Professor Rodden and his colleague Jowei Chen, a professor at the University of Michigan, in the original proceedings on the 2012 legislative maps before the Florida Supreme Court, as well as in the summary judgment proceedings before this Court in this litigation, arguing that Rodden and Chen's work supported a conclusion that the extreme Republican bias in the 2012 legislative and congressional plans can be explained by Democrats' natural tendency to cluster in cities, rather than intentional partisan gerrymandering. (RP Ex. 162; RP Ex. 163.)

188. Professor Rodden testified that his and Professor Chen's scholarly work does not stand for and cannot support the conclusion urged by the Legislature. Professor Rodden explained that the 2009 draft paper upon which the Legislature relied, although available on the

internet, was never published. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 51:10-21.) It was an early working paper of an article that was later published in the Quarterly Journal of Political Science in 2013 (the “2013 QJPS Article”), which used the same basic approach as the 2009 draft paper. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 50:1-21.)

189. In the 2013 QJPS Article, Professors Rodden and Chen attempted to mimic the process of non-partisan human map drawing by creating a computer algorithm that paid no attention to political partisanship or the racial identification of voters. (Rough Trial Tr. 5/27/14, Pt. 2 (Rodden) at 47:6-47:10.) Using this method, they could create thousands of redistricting maps and then compare the partisan distribution in those maps to the partisan distribution in an enacted plan. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 47:20-48:10, 71:8-21.)

190. Although published in 2013, the QJPS Article only examined data from the 2000 presidential election. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 46:15-19, 48:23-25, 51:10-52:8, 54:6-19.) Given that a significant Republican bias emerged in their party- and race-blind simulations using the 2000 data, Professors Rodden and Chen could not definitively opine that the 2002 congressional plan was the result of intentional partisan gerrymandering. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 46:15-19, 48:23-25, 51:10-52:8, 54:6-19.)

191. When Professors Rodden and Chen updated their analysis, however, and examined 2008 presidential election data to determine whether the Republican bias in the 2012 Congressional Plan could be attributed to Florida’s natural political geography, they discovered that the 2012 Congressional Plan is an “extreme statistical outlier” and that it is virtually impossible to explain the Plan as anything but an intentional partisan gerrymander. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 55:8-56:2; Rough Trial Tr., 5/28/14, Pt. 1 (Rodden), 6:6-9.) They reached that same conclusion whether evaluating the map using the same methodology in the

2013 QJPS paper, or a statistical model called a “logit” model, as advocated by Defendants’ expert Nolan McCarty. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 127:12-130:4).

192. Professors Rodden and Chen also discovered that, the more they modified their approach to mimic the restraints under which the Legislature claimed to have been operating based on its interpretation of Florida and federal law it actually became even *less* likely that a map that favored Republicans in 17 or more districts naturally emerged. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 89:4-92:19, 96:9-97:14, 104:22-105:2; RP Ex. 87, 88.)

193. Professor Rodden explained that the diminishment of a natural geographic Republican bias from 2000 to 2008 is the result of several substantial and notable shifts in Florida’s partisan demographics. These shifts include the transformation of the suburbs which, in Florida as elsewhere in the country, are becoming substantially more heterogeneous in terms of race and income, such that the traditional image of those areas as being homogenous, white, Republican enclaves is increasingly wrong. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 57:10-20.) Many of the people moving from central cities to medium-density suburbs and exurbs and to areas scattered along transportation corridors are minorities, and in Florida this is especially true of Hispanic voters, who are increasingly likely to vote for the Democratic Party. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), at 57:21-25.)

194. Professors Rodden and Chen discovered that, in particular, there has been a dramatic increase in the U.S. citizen Hispanic population share in the transportation corridor that runs from the Tampa/St. Petersburg area to Orlando that corresponds with a substantial transformation of the partisanship in those areas. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 58:1-60:13; RP Ex. 76.) They also discovered that there has been an increase in the Hispanic

population in parts of Northern Florida, including in some rather low-density places. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 59:24-60:2.)

195. In those places where the population has changed in these ways, Professors Rodden and Chen found that those areas also happened to be places where the simulations that they produced for the 2013 QJPS article using 2000 election data produced marginally Republican districts, but now, using the updated election information, are producing marginally Democratic districts. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 60:8-13, 65:8-67:7; RP Ex. 78; RP Ex. 79.) Professors Rodden and Chen discovered that, in particular, there is a very strong correlation between the growth of the Hispanic population and the change of the Republican presidential vote. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 61:8-62:23; RP Ex. 78.)

196. Professor Rodden testified that partisan geography is always changing and that, the shift in population and the concomitant dramatic reduction in natural “unintentional” partisan bias now occurring in Florida is consistent with trends that he has observed elsewhere, including historically in Great Britain as the result of changes in the coal industry, as well as similar shifts in present-day Colorado and Arizona, which are also the result of growth in the Hispanic populations in those states. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 56:8-21, 63:14-64:19, 67:9-70:5.)

197. Professor Rodden further testified the 2012 Congressional Plan’s *Democratic*-leaning districts contained significantly larger Democratic majorities than the Democratic-leaning districts in the plans created by the simulations; and, at the same time, all of the 2012 Congressional Plan’s marginal Republican districts are more Republican than the simulations would have predicted. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 107:10- 111:4; RP Ex. 168.) As Professor Rodden explained, one of the ways that “one tries to draw a good . . . gerrymander”

is to “put your opponents into places that are extremely partisan in their favor,” in order to give one’s own party the best opportunity to pick up as many seats as possible. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 111:3-17.) In the 2012 Congressional Plan, Republicans have the advantage in “all of the pivotal kind of close districts,” providing further evidence that the 2012 Congressional Plan was a deliberate partisan gerrymander. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 111:23-112:6.)

198. Professor Rodden also offered unrebutted testimony that, of all the maps that the Legislature publically considered, the 2012 Congressional Plan was the most favorable to the Republicans. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 114:11-25, 116:6-118:20; RP Ex. 83.) That analysis further demonstrated that it was last minute changes to the map that ultimately bumped the Republican performance up to 17 seats. (Rough Trial Tr., 5/27/14, Pt. 2 (Rodden), 118:4-11.)

199. This Court accepts Professor Rodden’s testimony and finds it to be credible, reliable, and persuasive in evaluating the overall intent of the 2012 Congressional Plan.

**(5) Rebuttal Expert Testimony of Hodge**

200. In an attempt to rebut the analysis of Professors Rodden and Chen, the Legislative Defendants presented an expert witness, Stephen Hodge, who has an undergraduate degree in computer science and works for the Florida Resource and Environmental Analysis Center at Florida State University. In addition to appearing as an expert witness in this case, Hodge worked for the Senate in the actual redistricting process, generating approximately \$40,000 for his employer. (Rough Trial Tr., 6/3/14, Pt. 2 (Hodge), 41:1-3.)

201. Hodge failed to effectively rebut the analysis and conclusions of Professors Rodden and Chen. While he claimed that an unidentified number of the simulations that



Professors Rodden and Chen prepared differed from the enacted districts with respect to compactness, contiguity, city splits, and deviation from the ideal district populations, he acknowledged that he had no opinion on whether these differences had any effect on the findings and conclusions that Professors Rodden and Chen presented. (Rough Trial Tr., 6/3/14, Pt. 2 (Hodge), 46:10-16.) He also acknowledged that he reached these conclusions without analyzing the PDF files showing the actual depictions of the simulated districts. (Rough Trial Tr., 6/3/14, Pt. 2 (Hodge), 43:5-45:1.)

202. Hodge specifically stated he is not challenging Professor Rodden's and Chen's findings that (1) the number of Republican seats in the 2012 Congressional Plan is an extreme statistical outlier, or (2) the 2012 Congressional Plan packs Democrats into overwhelmingly Democratic districts. (Rough Trial Tr., 6/3/14, Pt. 2 (Hodge), 48:8-24.)

203. In addition to not challenging Professor Rodden's and Chen's findings and conclusions, Hodge acknowledged that the 24,000 simulated districts produced by Professor Rodden's and Chen's second round of simulations were all contiguous and did not contain any county splits. (Rough Trial Tr., 6/3/14, Pt. 2 (Hodge), 49:18-20; 51:15-18.) Mr. Hodge, who is not an expert in measuring the compactness of districts, asserted that these 24,000 districts were, on average, less compact than the districts in the 2012 Congressional Plan. However, his compactness comparison improperly measured the compactness of the districts in the 2012 Congressional Plan by assuming that many districts extended at least several miles into the Atlantic Ocean or the Gulf of Mexico. Hodge acknowledged that when that assumption is corrected, the 24,000 simulated districts are, on average more compact than the districts in the 2012 Congressional Plan. (Rough Trial Tr., 6/3/14, Pt. 2 (Hodge), 56:13-23; 57:17-59:22.)

**(6) Rebuttal Expert Testimony of Professor McCarty**

204. Legislative Defendants' expert, Professor Nolan McCarty, not only failed to rebut the findings and conclusions of Professors Rodden and Chen, he actually confirmed them. When Professor McCarty, who currently serves as the chair of the politics department at Princeton University (Rough Trial Tr., 6/3/14, Pt. 2 (McCarty), 63:7-11), applied a logit model – the method that he described as “the most sophisticated way to handle predictions about party seat shares” – he determined that the 2012 Congressional Plan actually gives an advantage to the Republicans in a staggering 19 out of 27 seats. (Rough Trial Tr., 6/3/14, Pt. 2 (McCarty), 95:17-22, 97:17-98:13; RP Ex. 145.)

205. Professor McCarty further determined that each of the eight remaining seats is packed so heavily with Democrats that, in the most competitive of those, Republicans have only a 10% chance of winning. (Rough Trial Tr. 6/3/14, Pt. 2 at 98:22-101:12; Tr. Ex. RP 145.) In the others, the Republicans enjoy an abysmal zero to 1% chance of ever capturing the district. (Rough Trial Tr., 6/3/14, Pt. 2 (McCarty), 98:22-101:12; RP Ex. 145.)

206. But that hardly matters, when Republican candidates for Congress enjoy comfortable advantages in the other 19 districts in a plan drawn by their Republican legislative colleagues. (See RP Ex. 145 (predicting that Republicans have an over 50% chance of winning all remaining 19 districts, most by very wide margins).)

207. Professor McCarty agreed that if one were to go about trying to politically gerrymander a map, one way to do it as a Republican would be to create a small number of extremely safe Democratic seats (Rough Trial Tr., 6/3/14, Pt. 2 (McCarty), 99:3-8) – precisely what his own analysis demonstrates the Legislature did in the 2012 Congressional Plan. (See RP Ex. 145.)

208. This Court has considered the expert testimony of Professor Rodden and the rebuttal testimony of Hodge and Professor McCarty. After weighing the testimony of these experts, the Court accepts Professor Rodden's testimony and finds it to be credible, reliable, and persuasive in evaluating the overall intent of the 2012 Congressional Plan.

**(7) Conclusion Regarding Overall Intent of 2012 Congressional Plan**

209. After weighing the direct and circumstantial evidence of intent and all available inferences and considering the credibility of the witnesses, the Court finds that the 2012 Congressional Plan as a whole violates Article III, Section 20 because it was drawn with the intent to favor the Republican Party and incumbents.

210. Although the adverse inference drawn from Legislative Defendants' spoliation of evidence creates a sufficient basis to find improper intent, the other evidence presented at trial independently establishes that the 2012 Congressional Plan was drawn with the intent to favor the Republican Party and incumbents. Accordingly, the Court's determination that the entire plan was drawn with improper intent is supported, but is not dependent upon, the adverse inference.

**B. Individual District Challenges**

**(1) District 5**

**a. Objective Data and Development of District 5 in the 2012 Redistricting Process**

211. District 5 winds through eight counties in northeast and central Florida, keeping none of them whole as it takes in African-American voter populations in Gainesville,

Jacksonville, Orlando, Orange Park, and Sanford. At one point, District 5 narrows to the width of Highway 17. The district is visually non-compact and has a Reock score of only 0.09.<sup>7</sup>

212. Legislative Defendants drew District 5 to roughly correspond with the benchmark District 3, preserving over 80% of its territory. (Rough Trial Tr., 5/21/14 (Gaetz), 37:2-5; CP Ex. 1147 at 18.) Benchmark District 3 was, however, over 50% more compact than District 5, with a Reock score of 0.14.

213. The bill text for CS/SB 1174 states that District 5 “preserves the core of the existing district.” Although the bill text describes every other district in the 2012 Congressional Plan as “compact,” no such statement is included for District 5.

214. District 5 is less compact and retained more of the benchmark district than did the analogous state Senate district invalidated by the Florida Supreme Court. Initial Senate District 6, which similarly meandered southward from Duval County, had a Reock score of 0.12 and preserved 70.3% of the predecessor district. *See Apportionment I*, 83 So. 3d at 665-67.

215. District 5 became less compact, broke additional political boundaries, and rendered neighboring District 7 more favorable to Republicans as a result of the non-public meetings at the conclusion of the 2012 Redistricting Process. To accommodate the Senate’s request to achieve greater than 50% Black VAP in District 5, the House broke the Seminole County line to draw population from Sanford and Midway into District 5. As a result of this change, District 5 became visually less compact and its Reock score was lowered to 0.09 from 0.10 in H000C9043. The change also increased the Republican performance of neighboring District 7. In the version of District 7 in H000C9043, Alex Sink (D) would have received 48.5%

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<sup>7</sup> Demographic, elections, and compactness data are derived from Joint Exhibit 1, unless otherwise noted. The 2010 gubernatorial, 2008 presidential, and 2006 gubernatorial elections cited for individual district performance are the same elections relied upon by the Florida Supreme Court. *See, e.g., Apportionment I*, 83 So. 3d at 667-68.

of the two-party vote in the 2010 gubernatorial election, Barack Obama (D) would have received 50.5% of the two-party vote in the 2008 presidential election, and Jim Davis (D) would have received 39.7% of the two-party vote in the 2006 gubernatorial election. In the enacted version of District 7, Alex Sink (D) would have received 47.5% of the two-party vote in the 2010 gubernatorial election, Barack Obama (D) would have received 49.6% of the two-party vote in the 2008 presidential election, and Jim Davis (D) would have received 39.0% of the two-party vote in the 2006 gubernatorial election. The change resulted in a decrease in registered Democrats in District 7 from 36.0% to 35.0% based on 2010 general election data.

216. Kelly and Poreda kept Seminole County whole in all of the House's proposed maps before the non-public meetings in late January 2012 and considered that to be a positive feature of the House's proposed maps. (Rough Trial Tr., 5/22/14 (Kelly), 98:19-99:23, 161:18-162:10; Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 31:14-32:5.)

**b. Alleged Minority Protection Justification**

217. Legislative Defendants contend that the configuration of District 5 is necessary to comply with the prohibitions on vote dilution and retrogression in Article III, Section 20 and the VRA. Legislative Defendants, however, do not appear to dispute that a Black VAP of 50.1% goes beyond what is necessary to avoid retrogression. The benchmark District 3, every version of District 5 proposed by the House or Senate before the non-public meetings at the conclusion of the 2012 Redistricting Process, and the version of District 5 in the proposed map submitted by the NAACP included Black VAPs under 50%. At the time it was drawn, benchmark District 3 had a Black VAP of 46.9%. *See Martinez*, 234 F. Supp. 2d at 1307. In the 2012 Redistricting Process, House staff concluded based on their functional analyses that House variations of District 5 with Black VAPs in the range of 47%-48% did not diminish the ability of African

Americans to elect preferred candidates of choice. (Rough Trial Tr., 5/22/14 (Kelly), 145:12-147:10; Rough Trial Tr., 6/4/14 Pt.2 (Poreda), 28:11-29:23.) Dr. Brunell, an expert retained by the House, opined that there would be a 50/50 ability to elect in District 5 as long as the Black VAP was at least 43.6%. (CP Ex. 143 at 1.)

218. Legislative Defendants claim that the current majority-minority configuration of District 5 is necessary to limit the risk of a lawsuit under Section 2 of the VRA. There was, however, never any contention in public meetings or otherwise during the 2012 Redistricting Process that Section 2 of the VRA required District 5 to be a majority-minority district until the non-public meetings between legislators and staff at the end of the 2012 Redistricting Process. (Rough Trial Tr., 5/22/14 (Kelly), 158:20-161:7; Rough Trial Tr., 6/4/14, Pt.2 (Poreda), 29:24-30:18.) To the contrary, legislative staff and counsel took the position that District 5 did not implicate any concerns under Section 2 of the VRA and that proposed maps with a Black VAP under 50% were lawful and compliant with state and federal law. (*See* LD Ex. 34a, 10/17/11 House Congressional Redistricting Subcommittee Meeting Tr. at 31:7-9.)

**c. Alternative Configurations in Romo Maps**

219. The Romo Maps include alternative east-west configurations of District 5 that are more compact and divide fewer political boundaries. Proposed District 5 in Romo Map A has a Reock score of 0.12, and Proposed District 5 in Romo Map B has a Reock score of 0.13, compared with 0.09 for enacted District 5.

220. Proposed District 5 in Romo Map A has a Black VAP of 45.1% and a Black CVAP of 44.5%, and Proposed District 5 in Romo Map B has a Black VAP of 47.3% and a Black CVAP of 46.8%. (Jt. Ex. 1; RP Ex. 6.) Because of the reconfiguration of District 5, the Romo Maps are able to increase the minority population of Proposed District 10. In both Romo

Maps, Proposed District 10 has a Black VAP of 28.9% and a Hispanic VAP of 19.5%, and a Black CVAP of 27.2% and a Hispanic CVAP of 15.6%. (Jt. Ex. 1; RP Ex. 6.)

221. The House considered a district that covered roughly the same territory as Romo Map A during the 2012 Redistricting Process and concluded that the alternative district would maintain the same ability to elect as in the benchmark District 3 with a Black VAP of roughly 45%. (Rough Trial Tr., 5/22/14 (Kelly), 147:11-150:13; CP Ex. 874, 876.)

**d. Expert Testimony of Dr. Ansolabehere**

222. The Court heard expert testimony from Dr. Stephen Ansolabehere regarding Plaintiffs' individual district challenges. Dr. Ansolabehere is a professor of government from Harvard University. (Rough Trial Tr., 5/28/14, Pt. 1 (Ansolabehere), 86:18-87:1, 88:13-89:16.)

223. Dr. Ansolabehere testified that the Legislature could have better complied with tier-one and tier-two criteria by drawing an east-west version of District 5, as in the Romo Maps, instead of the north-south version in the enacted map. Dr. Ansolabehere opined that the east-west configuration would have maintained the ability of African Americans to elect candidates of their choice, improved the compactness of District 5 by 33%, and reduced the number of splits of Orange County from five to three. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 20:6-23:21, 28:18-29:8; RP Ex. 8, 9.)

224. Dr. Ansolabehere explained that the east-west configurations in Romo Maps A and B increased compliance with tier-one criteria by allowing the creation of Proposed District 10 in which African Americans and Hispanics would be able to join together to elect their jointly preferred candidates. Specifically, he described that by re-orienting Proposed District 5 to run horizontally, that made enough minority population available in the southern part of the Legislature's version of District 5 to create a minority-performing Proposed District 10. (Rough

Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 25:8-21; RP Ex. 8, 9.) Through a racial bloc voting analysis, Dr. Ansolabehere demonstrated that African Americans and Hispanics residing in Proposed District 10 prefer the same candidates and that there is enough white cross-over voting to enable African Americans and Hispanics to elect the candidates of their choice. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 26:4-27:18; RP Ex. 5.)

225. By converting Proposed District 10 into a minority-ability district while preserving the ability of African Americans to elect their preferred candidates in Proposed District 5, Romo Maps A and B contain more minority-ability districts than are in the enacted map. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 27:19-28:15.)

226. Dr. Ansolabehere also offered unrebutted testimony that the Legislature's last-minute change to District 5, increasing Black VAP by 2.1% from H000C9043 to H000C9047 was without any minority voting rights justification. (Rough Trial Tr., 5/28/14, Pt. 1 (Ansolabehere), 96:2-98:13, 104:18-105:2.) This decision, which was not supported by a functional analysis, improved Republican performance in District 7 and effectively flipped the district from Democratic leaning to Republican leaning. (Rough Trial Tr., 5/28/14, Pt. 1 (Ansolabehere), 99:21-101:17; RP Ex. 18.)

227. Dr. Ansolabehere's testimony establishes that District 5 is not a majority-minority district based on Citizen Voting Age Population ("CVAP"). Dr. Ansolabehere opined that the Black CVAP of District 5 is 49.5%. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 20:13-1; RP Ex. 6). Legislative Defendants attempted to contradict this testimony with calculations and extrapolations performed by Poreda. Poreda was, however, neither disclosed as an expert witness nor qualified as an expert witness at trial. Poreda did not testify that he reviewed



citizenship data in his work as a House staff member during the 2012 Redistricting Process. Accordingly, Poreda's testimony was improper expert testimony offered through a lay witness.

228. This Court accepts Dr. Ansolabehere's testimony and finds it to be credible, reliable, and persuasive in evaluating Plaintiffs' challenge to District 5.

**e. Expert Testimony of Dr. Engstrom**

229. Dr. Richard Engstrom testified on behalf of the NAACP with respect to his analysis of racially polarized voting patterns as they pertain to District 5 and Proposed Districts 5 and 10 in the Romo Maps. Though he was retained by the Senate during the 2012 Redistricting Process, Dr. Engstrom never provided any racially polarized voting analysis for District 5 or any other district prior to enactment of the 2012 Congressional Plan. (Rough Trial Tr., 6/2/14 (Engstrom), 107:20-108:13.)

230. Dr. Engstrom testified that the Romo Plans diminished the ability to elect for minority voters in Proposed District 5 from the benchmark district. (Rough Trial Tr., 6/2/14 (Engstrom), 98:23-99:17) Dr. Engstrom's conclusion was based in part on his evaluation of the turnout rates for African-American voters relative to White voters in the various districts. (Rough Trial Tr., 6/2/14 (Engstrom), 94:4-95:9.) This contradicts testimony from Kelly that his evaluation of District 5 configurations similar to those included in Romo A and B revealed that a lesser percentage of African-American voters was needed in order to elect the minority group's candidates of choice in those configurations due to the higher turnout among African-voters relative to the north-south configuration of the district. (Rough Trial Tr., 5/22/14 (Kelly), 148:13-150:1.)

231. Dr. Engstrom's analysis focused primarily on the 2010 U.S. Senate election, in which he concluded Kendrick Meek was the African-American candidate of choice, even though

that election was not typical in that it included three major candidates; in fact, the Independent candidate Charlie Crist came in second to the Republican candidate Marco Rubio. The Florida Supreme Court chose not to analyze the 2010 U.S. Senate election in its analysis of legislative districts, even though it had that election data available. (Rough Trial Tr., 6/2/14 (Engstrom), 123:14-124:9.)

232. Dr. Engstrom did not provide any analysis of the 2010 gubernatorial election, which the Florida Supreme Court deemed was relevant to the diminishment analysis, and which was one of the three elections analyzed by the Florida Supreme Court in conducting this analysis of the state legislative districts. (Rough Trial Tr., 6/2/14 (Engstrom), 117:-14-17.)

233. Dr. Engstrom agreed with Dr. Ansolabehere's conclusion that African-American voters would continue to have an opportunity to elect their candidates of choice in the alternative District 5 configurations included in Romo Maps A and B, including using the 2010 U.S. Senate election. (Rough Trial Tr., 6/2/14 (Engstrom), 115:22-13, 117:18-118:17; NAACP Ex. 7, 8, 9.)

234. Dr. Engstrom likewise relied on the 2010 U.S. Senate election to conclude that Proposed District 10 in Romo Maps A and B are not "crossover" districts. He did not dispute Dr. Ansolabehere's testimony, however, that minorities would have an ability to elect their preferred candidates of choice in Proposed District 10 in Romo Maps A and B based on the 2008 and 2012 presidential elections and the 2010 gubernatorial election. He also did not dispute that Proposed District 10 in Romo Maps A and B provides a significantly higher possibility for minorities to elect their candidates of choice than District 10 in the 2012 Congressional Plan. (Rough Trial Tr., 6/2/14 (Engstrom), 128:12-21; 130:1-10; 131:10-132:1.)

235. After considering Dr. Engstrom's expert opinion and the expert opinion of Dr. Ansolabehere, along with the rest of the trial record, the Court finds that Proposed District 5

in Romo Maps A and B does not reflect diminishment in minorities' ability to elect their preferred candidates of choice. The Court further finds that Proposed District 10 in the Romo Maps performs as a "crossover district," and, even if it did not, provides minority voters an ability to elect their candidates of choice that it not provided in the 2012 Congressional Plan.

**f. Expert Testimony of Dr. Paulson**

236. Dr. Darryl Paulson testified on behalf of the NAACP about the history of voter discrimination against African Americans in the state of Florida. (Rough Trial Tr., 5/30/14, Pt. 1 (Paulson), 22:17-23:1.)

237. Dr. Paulson testified not only that Florida has a long history of voting discrimination, but also that voting discrimination against African Americans continues to the present day. Dr. Paulson specifically testified about voting laws enacted in 2011 – by the same Legislature that enacted the 2012 Congressional Plan – which restricted early voting and had a detrimental effect on African-American voting rights. (Rough Trial Tr., 5/30/14, Pt. 1 (Paulson), 56:14-59:19.)

238. The Court finds Dr. Paulson's testimony with respect to Florida's history of voter discrimination credible and reliable. His testimony was undisputed by any party.

**g. Expert Testimony of Dr. Cassanello**

239. Dr. Robert Cassanello testified on behalf of the Legislative Defendants regarding his opinions about common interests shared by African Americans who reside within enacted District 5. He did not provide any testimony or other input during the redistricting process, however, and the Legislature therefore did not rely on his opinions about the common interests of African Americans in District 5. (Rough Trial Tr., 5/30/14, Pt. 1 (Cassanello), 102:14-103:16.)

240. Dr. Cassanello acknowledged that African Americans throughout urban and rural parts of Florida share most of the same interests he identified as common to African Americans within District 5, including common interests and histories relating to voting rights, segregation, employment, and education. (Rough Trial Tr., 5/30/14, Pt. 1 (Cassanello), 105:22-106:1-2.) He also acknowledged that African Americans throughout the state vote overwhelmingly Democratic, and that a congressional voting map biased in favor of Republicans would not be in their interests. (Rough Trial Tr., 5/30/14, Pt. 1 (Cassanello), 111:3-11.)

241. The Court finds that, while Dr. Cassanello identified interests and historical issues that are common to African Americans within enacted District 5, those interests and issues are common to African Americans throughout Florida. The commonality Dr. Cassanello describes therefore does not provide a justification for the highly non-compact version of District 5 in the enacted map and did not preclude the Legislature from creating a more compact version of the district, such as the versions of Proposed District 5 in the Romo Maps.

**h. Conclusion Regarding District 5**

242. The current configuration of District 5 is not justified by the minority protection requirements of Article III, Section 20 or the VRA or any factor.

243. Neither Article III, Section 20 nor Section 2 of the VRA requires District 5 to be configured as a majority-minority district, and concern over an unfounded Section 2 claim does not allow Legislative Defendants to deviate from the constitutional requirements of compactness and respect for political and geographical boundaries.

244. The minority populations within District 5 are not geographically compact. The minority populations within District 5 snake throughout the northeastern and central part of the

state, picking up minority populations in Duval County, Alachua County, Seminole County, and Orange County through a variety of hooks and tentacles.

245. Testimony was presented that the minority groups in District 5 have common interests in issues such as affordable housing, gentrification, and urban renewal, but these are issues common to essentially any urban population. These interests are not sufficient to justify the current configuration of District 5 without regard to geographic compactness. If the rule were otherwise, the Legislature would be free to draw a district that loops through the state and picks up every urban minority population from Pensacola to Miami.

246. Because CVAP is the proper metric, District 5 is not a majority-minority district in its current configuration. Legislative Defendants' purported creation of a majority-minority district based on mere VAP while also recognizing political benefits provides circumstantial evidence of improper intent. *Cf. LULAC*, 548 U.S. at 441 (criticizing state legislature for drawing a district "to have a nominal Latino voting-age majority (without a citizen voting-age majority) for political reasons . . . to create the facade of a Latino district").

247. District 5 aggregates a greater number of minority voters into a single district than is necessary to prevent retrogression.

248. The Romo Maps show that District 5 can be drawn more compactly and with more respect for political boundaries without diminishing African Americans' ability to elect their preferred candidates of choice.

249. After considering and weighing the objective evidence, the alternative district configurations in the Romo Maps, and the expert testimony offered by the parties, the Court finds that District 5 violates Article III, Section 20 because it is not compact and does not follow political boundaries when feasible to do so. Because there is no legitimate minority protection or

other tier-one justification for the manner in which District 5 is drawn, Legislative Defendants' deviations from tier-two criteria and the availability of more compliant alternative configurations provide circumstantial evidence of improper intent.

250. After weighing the circumstantial and direct evidence and considering the available inferences, the Court determines that District 5 further violates Article III, Section 20 because it was drawn with the intent to favor the Republican Party and the incumbent.

251. As a result of the constitutional invalidity of District 5, the surrounding districts, including Districts 3, 4, 6, 7, 9, 10, 11, 12, 15, and 17, must be redrawn.

**(2) District 10**

**a. Objective Data and Development of District 10 in the 2012 Redistricting Process**

252. District 10 contains an appendage resembling a bicep that reaches up into downtown Orlando and Winter Park. The appendage was present in the Senate's proposed maps throughout the 2012 Redistricting Process, but was not present in any of the House's draft maps until the non-public meetings in late January 2012.

253. The appendage is visually non-compact and reduced the Reock score of District 10 from 0.42 in H000C9043 to 0.39 in the enacted map. The appendage benefitted the incumbent Representative Webster by returning to District 10 territory that was part of his benchmark District 8 and improved the Republican performance of District 10 in two out of the three elections relied upon by the Florida Supreme Court in *Apportionment I*. In the version of District 10 in H000C9043, Alex Sink (D) would have taken 44.9% of the two-party vote in the 2010 gubernatorial election, Barack Obama (D) would have received 48.0% of the two-party vote in the 2008 presidential election, and Jim Davis (D) would have received 39.0% of the two-party vote in the 2006 gubernatorial election. In the enacted version of District 10, Alex Sink (D)

would have received 45.6% of the two-party vote in the 2010 gubernatorial election, Barack Obama (D) would have received 47.6% of the two-party vote in the 2008 presidential election, and Jim Davis (D) would have received 38.9% of the two-party vote in the 2006 gubernatorial election. In addition, the change lowered the number of registered Democrats in District 10 from 37.2% in H000C9043 to 36.8% in H000C9047 based on 2010 general election data.

254. According to the testimony presented at trial, the appendage in District 10 was a by-product of Legislative Defendants' decision to raise the Hispanic VAP of District 9 over 40% at the request of the Senate in the non-public meetings. The Senate did not perform a functional analysis to support this request. Every map proposed by the House before the non-public meetings at the end of the 2012 Redistricting Process contained a Hispanic VAP under 40% in District 9. House staff determined based on their functional analysis that the House's configurations of District 9 with a Hispanic VAP under 40% were lawful and compliant with state and federal law. (Rough Trial Tr., 5/22/14 (Kelly), 145:15-23, 184:17-185:10, 187:6-15.)

255. The Florida Supreme Court invalidated a similar "odd-shaped appendage" reaching into roughly the same territory in initial Senate District 10 based, in part, on the lack of a functional analysis to support alleged minority protection in surrounding districts. *Apportionment I*, 83 So. 3d at 670-71.

**b. Expert Testimony of Dr. Ansolabehere**

256. Dr. Ansolabehere also testified about the changes that were made to District 9 during the closed-door meetings between the House and the Senate that altered the boundaries of that district primarily by moving 80,000 voting age people out of District 10 into District 9, while moving 71,000 voting age people out of District 9 to District 10. (Rough Trial Tr., 5/28/14, Pt. 1 (Ansolabehere), 105:9-108:8.) Dr. Ansolabehere testified that these changes were

not necessary to make District 9 a minority-performing district, because without them District 9 was already a minority-performing district, and the populations that were shifted were majority white populations. (Rough Trial Tr., 5/28/14, Pt. 1 (Ansolabehere), 106:9-107:4, 111:7-13, 112:9-15.) Defendants offered no evidence to rebut this testimony, nor was any functional analysis done by the Senate that would justify these changes to protect minority voting rights.

257. Dr. Ansolabehere opined that the only explanation for the change to Districts 9 and 10 was for political benefit. As a result of these last-minute population swaps, the decrease in Democratic registration and corresponding increase in Democratic registration in the already comfortably Democratic District 9 were of significant benefit for a competitive district such as District 10. (Rough Trial Tr., 5/28/14, Pt. 1 (Ansolabehere), 107:5-109:3; Ex. RP 18.)

**c. Conclusion Regarding District 10**

258. The configuration of District 10 is not justified by the minority protection requirements of Article III, Section 20 or the VRA or any other factor.

259. No witness has testified, and no party has shown, that an increase in the Hispanic VAP of District 9 to 41.4% was necessary to prevent retrogression or that such an increase had any impact on Hispanics' ability to elect their preferred candidate of choice in District 9.

260. Because the Senate did not conduct a functional analysis to support its request to increase the Hispanic VAP of District 9, it appears that selection of a 40% Hispanic VAP threshold was arbitrary. Accordingly, District 10's deviation from the constitutional requirement of compactness is not justified by any alleged need to avoid retrogression in District 9.

261. After considering and weighing the objective evidence and the expert testimony offered by the parties, the Court finds that District 10 violates Article III, Section 20 because it is not compact. Because there is no legitimate minority protection or other tier-one justification for



the appendage in District 10, Legislative Defendants' deviation from compactness provides circumstantial evidence of improper intent.

262. After weighing the circumstantial and direct evidence and considering the available inferences, the Court determines that District 10 further violates Article III, Section 20 because it was drawn with the intent to favor the Republican Party and the incumbent.

**(3) Districts 13 and 14**

**a. Objective Data and Development of Districts 13 and 14 in the 2012 Redistricting Process**

263. District 14 crosses Tampa Bay and splits Pinellas County and St. Petersburg to move African-American population from District 13 into District 14.

264. Legislative Defendants claim that crossing Tampa Bay and dividing Pinellas County and St. Petersburg was necessary to avoid retrogression in District 14. To support their claim, Legislative Defendants cite a Department of Justice ("DOJ") preclearance denial relating to a lower population state Senate district in 1992.

265. In H000C9043, District 14 had a combined Black and Hispanic VAP of 47.0%.<sup>8</sup> The House determined that this combined Black and Hispanic VAP complied with state and federal minority protection requirements based on its functional analysis. In the non-public meetings at the conclusion of the 2012 Redistricting Process, Legislative Defendants decided to increase the minority VAP of District 14 by a few percentage points to correspond with the Senate configuration, and the enacted version of District 14 in H000C9047 ultimately had a combined Black and Hispanic VAP of 49.6%. (Rough Trial Tr., 5/22/14 (Kelly), 174:7-175:2,

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<sup>8</sup> The combined African-American and Hispanic VAP figure is less than the raw sum of the Black VAP and Hispanic VAP figure because of the presence of Black Hispanics. To avoid double-counting Black Hispanics, the Court has reduced the combined figures by the amounts in the column labelled "Hisp. Blk. VAP" in Joint Exhibit 1.

175:7-16, 176:15-18). The Senate configuration of these districts was not supported by a functional analysis.

**b. Alternative Configuration in Romo Maps**

266. Proposed District 14 in the Romo Maps does not cross Tampa Bay or split Pinellas County or St. Petersburg. Proposed District 14 in both Romo Maps has a Black VAP of 21.7% and a Hispanic VAP of 26.9% and a Black CVAP of 20.5% and a Hispanic CVAP of 21.3%. The combined Black and Hispanic VAP in Proposed District 14 is 46.9%.

267. The configuration of District 14 in the 2012 Congressional Plan strengthens the Republican performance of District 13 and benefits the Republican incumbent in District 13 by retaining 85% of the benchmark district. The following chart outlines the performance of Districts 13 and 14 compared with Proposed Districts 13 and 14 that do not cross Tampa Bay:

Metric	Enacted CD 13	Enacted CD 14	Romo Proposed CD 13	Romo Proposed CD 14
Two-Party Vote for Sink (2010 Gub.)	51.0%	63.0%	55.0%	59.2%
Two-Party Vote for Obama (2008 Pres.)	51.9%	65.7%	56.4%	62.2%
Two-Party Vote for Davis (2006 Gub.)	45.3%	56.5%	48.0%	53.1%
Democratic Registration	36.2%	51.0%	40.4%	48.0%

**c. Testimony of Dr. Ansolabehere**

268. Dr. Ansolabehere testified that crossing Tampa Bay and dividing Pinellas County and St. Petersburg is not necessary to satisfy any minority voting rights obligations. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 35:3-36:23.) Dr. Ansolabehere opined, based on the Romo Maps, that Legislative Defendants could have better adhered to tier-one and tier-two

criteria by eliminating the splits of St. Petersburg and Pinellas County while still maintaining District 14 as a district in which African Americans and Hispanics would be able to elect the candidates of their choice. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 5/28/14, 31:1-14.)

**d. Conclusion Regarding Districts 13 and 14**

269. The configuration of Districts 13 and 14 is not justified by the minority protection requirements of Article III, Section 20 or the VRA.

270. The Court finds that the 1992 preclearance denial is not probative because it dealt with a state Senate, not congressional, district and is remote in time. In addition, the preclearance denial reflected a DOJ policy of maximizing majority-minority districts that has since been held unconstitutional. *See, e.g., Miller v. Johnson*, 515 U.S. 900, 925 (1995) (“In utilizing § 5 to require States to create majority-minority districts wherever possible, the Department of Justice expanded its authority under the statute beyond what Congress intended and we have upheld.”). Further, federal courts created and later reapproved congressional districts in the region that did not cross Tampa Bay. *See DeGrandy v. Wetherell*, 794 F. Supp. 1076 (N.D. Fla. 1992); *Johnson v. Mortham*, 1996 WL 297280, at\*1 (N.D. Fla. May 31, 1996).

271. The Romo Maps show that Districts 13 and 14 can be drawn with more respect for political and geographical boundaries without diminishing minorities’ ability to elect their preferred candidates of choice.

272. After considering and weighing the objective evidence, the alternative district configurations in the Romo Maps, and the expert testimony offered by the parties, the Court finds that Districts 13 and 14 violate Article III, Section 20 because they do not respect political and geographical boundaries when feasible to do so. Because there is no legitimate minority protection or other tier-one justification for crossing Tampa Bay and dividing Pinellas County

and St. Petersburg, Legislative Defendants' deviation from the requirement of respect for political and geographical boundaries provides circumstantial evidence of improper intent.

273. After weighing the circumstantial and direct evidence and considering the available inferences, the Court determines that Districts 13 and 14 further violate Article III, Section 20 because they were drawn with the intent to favor the Republican Party and the incumbent of District 13.

**(4) Districts 21 and 22**

**a. Objective Data and Development of Districts 21 and 22 in the 2012 Redistricting Process**

274. The House prepared a draft map with an alternate configuration of Districts 21 and 22 in an east-west, rather than north-south configuration. (CP Ex. 905.) Kelly provided undisputed testimony that the east-west configuration was more compact than the versions in the 2012 Congressional Plan, split fewer cities, and divided Broward County fewer times by keeping District 21 wholly within Palm Beach County. (Rough Trial Tr., 5/22/14 (Kelly), 165:20-168:7.) Kelly also conceded that these changes could be accomplished without affecting minority voting strength in neighboring District 20. (Rough Trial Tr., 5/22/14 (Kelly), 168:8-13.)

275. During the non-public meetings at the conclusion of the redistricting process, the Senate rejected the proposed alternative configuration of Districts 21 and 22 without explanation. (Rough Trial Tr., 5/22/14 (Kelly), 168:17-169:13.) Legislative Defendants offered no reasonable explanation at trial for their decision not to adopt the east-west configuration of Districts 21 and 22.

**b. Conclusion Regarding Districts 21 and 22**

276. Based on the admitted availability of a superior configuration of Districts 21 and 22 that would not adversely affect any tier-one criteria, the Court finds that Districts 21 and 22

violate Article III, Section 20 because they are not compact and do not respect political boundaries when feasible to do so.

**(5) District 25**

**a. Objective Data and Development of District 25 in the 2012 Redistricting Process**

277. In H000C9043, District 25 included nearly all of Hendry County, with only a small portion remaining in District 20. At the non-public meetings at the conclusion of the 2012 Redistricting Process, the Senate requested that additional parts of Hendry County be moved from District 25 to District 20. The Senate based this request on unspecified Section 5 concerns, (*see* ¶ 93(c), *supra*), but the Senate did not perform a functional analysis that would determine whether including a greater portion of Hendry County in District 20 was necessary to avoid retrogression. As with the other districts, the House determined that its proposed versions of District 20 without the increased portion of Hendry County were lawful and compliant. (*See* ¶ 16, *supra*.) The Legislature has not presented evidence, and no party has shown, that including a greater portion of Hendry County within District 20 was necessary for any legitimate minority protection reason.

278. Moving a portion of Hendry County from District 25 to District 20 reduced the Black VAP of District 20 from 50.2% in H000C9043 to 50.1% in H000C9047. The versions of Districts 20 and 25 in H000C9047 are visually less compact than the versions of Districts 20 and 25 in H000C9043 and carry lower Reock scores of 0.48 (District 20) and 0.40 (District 25), as compared with 0.49 (District 20) and 0.47 (District 25) in H000C9043. The change also increased the Republican performance of District 25. In the version of District 25 in H000C9043, Alex Sink (D) would have received 42.2% of the two-party vote in the 2010 gubernatorial election, Barack Obama (D) would have received 46.3% of the two-party vote in

the 2008 presidential election, and Jim Davis (D) would have received 38.5% of the two-party vote in the 2006 gubernatorial election. In the enacted version of District 25, Alex Sink (D) would have received 41.6% of the two-party vote in the 2010 gubernatorial election, Barack Obama (D) would have received 45.8% of the two-party vote in the 2008 presidential election, and Jim Davis (D) would have received 38.0% of the two-party vote in the 2006 gubernatorial election. In addition, the change lowered the number of registered Democrats in District 25 from 32.9% in H000C9043 to 32.4% in H000C9047 based on 2010 general election data.

**b. Alternative Configuration in Romo Maps**

279. The Romo Maps both contain a Proposed District 25 that keeps Hendry County whole. Proposed District 20 has a Reock score of 0.49, and Proposed District 25 has a Reock score of 0.42, both improvements as compared with the 2012 Congressional Plan.

280. Because of this change, Proposed District 20 in the Romo Maps becomes a majority-minority district on a CVAP basis with a Black CVAP of 50.2%, while the Black CVAP in District 20 in H000C9047 is only 47.4%. (RP Ex. 6.)

**c. Expert Testimony of Dr. Ansolabehere**

281. Dr. Ansolabehere testified that the 2012 Congressional Plan unnecessarily splits Hendry County in South Florida between CDs 20 and 25, without any minority voting rights justification for this change. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 32:8-12, 32:25-34:2.)

282. Dr. Ansolabehere opined that both Proposed District 20 and Proposed District 25 do not result in a diminishment in the ability of minorities to elect their preferred candidates of choice. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 28:4-10, 32:8-35:2.)

283. Through the Romo Maps, Dr. Ansolabehere demonstrated the adverse effects that the Legislature's decision to split Hendry County had on compliance with tier-one and tier-two criteria. The Romo maps show that by eliminating the split, the Legislature could have created a majority African-American district on a CVAP basis in District 20, preserved District 25 as a majority Hispanic district, and reduced the number of county splits in the map. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 32:8-34:2; RP Ex. 8, 9.)

**d. Expert Testimony of Dr. Moreno**

284. Dr. Dario Moreno testified on behalf of Legislative Defendants, providing opinions about whether Hispanics would be able to elect the candidates of their choice in the south Florida districts of the Romo Maps. As with other experts presented by Legislative Defendants and the NAACP, Dr. Moreno worked for the Legislature during the 2012 Redistricting Process to assist with the 2012 Congressional Plan. After working for the Legislature during the redistricting process, Dr. Moreno was retained by Legislative Defendants as a paid expert. (Rough Trial Tr., 5/30/14, Pt. 2 (Moreno), 51:7-52:5.)

285. Dr. Moreno did not rebut Dr. Ansolabehere's testimony that Proposed District 25 in the Romo Maps is a district in which Hispanics would be able to elect the candidates of their choice. Dr. Moreno acknowledged unequivocally that Hispanics would be able to elect the candidates of their choice in Proposed District 25. (Rough Trial Tr., 5/30/14, Pt. 2 (Moreno), 65:6-14.)

**e. Conclusion Regarding District 25**

286. The configuration of District 25 is not justified by the minority protection requirements of Article III, Section 20 or the VRA or any other factor.

287. The Romo Maps show that District 25 can be drawn more compactly and without dividing Hendry County and at the same time avoid diminishing African Americans' ability to elect their preferred candidates of choice.

288. After considering and weighing the objective evidence, the alternative district configurations in the Romo Maps, and the expert testimony offered by the parties, the Court finds that District 25 violates Article III, Section 20 because it is not compact and does not respect political boundaries when feasible to do so. Because there is no legitimate minority protection or other tier-one justification for dividing Hendry County and rendering Districts 20 and 25 less compact, Legislative Defendants' deviation from tier-two requirements provides circumstantial evidence of improper intent.

289. After weighing the circumstantial and direct evidence and considering the available inferences, the Court determines that District 25 further violates Article III, Section 20 because it was drawn with the intent to favor the Republican Party.

**(6) Districts 26 and 27**

**a. Objective Data and Development of Districts 26 and 27 in the 2012 Redistricting Process**

290. Districts 26 and 27 in the 2012 Congressional Plan divide the city of Homestead in half. The configuration of Districts 26 and 27 in the 2012 Congressional Plan is based on the House's proposed maps, while the Senate's proposed maps kept Homestead whole.

291. Poreda did not provide a clear explanation of why the House decided to divide Homestead. He first testified that keeping Homestead whole did not create a concern about adversely affecting the ability to elect and then suggested that dividing Homestead might "slightly affect the ability to elect . . . and also affect the visual compactness of that area," and



perhaps create concerns with equalizing population. (Rough Trial Tr., 6/4/14, Pt. 2 (Poreda), 78:11-80:8.)

**b. Alternative Configuration in Romo Maps**

292. Proposed Districts 26 and 27 in the Romo Maps do not divide the city of Homestead. Proposed District 27 is also visually more compact than the enacted District 27 and considerably improves the Reock score of the district from 0.46 to 0.59 in exchange for a drop in the Reock score of District 26 from 0.18 to 0.17.

293. Proposed District 26 in both Romo Maps has a Hispanic VAP of 65.0% and a Hispanic CVAP of 55.3%, compared with a Hispanic VAP of 68.9% and a Hispanic CVAP of 60.2% in the 2012 Congressional Plan. (Jt. Ex. 1; RP Ex. 6.) Proposed District 27 in both Romo Maps has a Hispanic VAP of 77.6% and a Hispanic CVAP of 70.7%, compared with a Hispanic VAP of 75.0% and a Hispanic CVAP of 66.2% in the 2012 Congressional Plan. (Jt. Ex. 1; RP Ex. 6.)

294. The decision to divide Homestead benefitted the Republican Party by turning what would otherwise have been one Republican and one Democratic district into two Republican leaning districts. The following chart outlines the performance of Districts 26 and 27 compared with the analogous Proposed Districts 18 and 25 in Senate proposed map S004C9014 and Proposed Districts 26 and 27 in the Romo Maps that do not divide Homestead:

Metric	Enacted CD 26	Enacted CD 27	Romo Proposed CD 26	Romo Proposed CD 27	Senate Proposed CD 18	Senate Proposed CD 25
Two-Party Vote for Sink (2010 Gub.)	49.9%	48.4%	54.5%	45.3%	47.4%	51.3%
Two-Party Vote for Obama (2008 Pres.)	49.8%	48.8%	55.2%	44.6%	47.6%	51.2%

Two-Party Vote for Davis (2006 Gub.)	47.1%	44.6%	51.7%	41.8%	44.3%	47.9%
Democratic Registration	35.8%	35.8%	39.8%	32.2%	34.2%	37.4%

**c. Expert Testimony of Dr. Ansolabehere**

295. Dr. Ansolabehere testified that there is no minority voting rights justification for dividing the predominantly African-American city of Homestead. Through the Romo Maps, Dr. Ansolabehere demonstrated that this split of Homestead could be eliminated while still maintaining both districts as majority Hispanic districts and more faithfully complying with tier-two criteria. (Rough Trial Tr., 5/28/14, Pt. 2 (Ansolabehere), 35:3-36:23.)

**d. Expert Testimony of Dr. Moreno**

296. Dr. Moreno offered testimony regarding Proposed Districts 26 and 27 in the Romo Maps. Dr. Moreno did not rebut Dr. Ansolabehere's testimony that Proposed Districts 26 and 27 in the Romo Maps are districts in which Hispanics would be able to elect the candidates of their choice. Dr. Moreno acknowledged unequivocally that Hispanics would be able to elect the candidates of their choice in Proposed District 27. (Rough Trial Tr., 5/30/14, Pt. 2 (Moreno), 65:6-14.)

297. While Dr. Moreno questioned whether Hispanics would be able to elect their preferred candidates in Proposed District 26, he did not rebut Dr. Ansolabehere's testimony on this point. First, Dr. Moreno acknowledged that in a prior analysis relating to the 2002 redistricting cycle, he had concluded that Hispanic VAP of 60% in the same general area of Proposed District 26, combined with Hispanic registration of 43%, was sufficient for Hispanics to elect their preferred candidates. Dr. Moreno acknowledged that the Hispanic percentages in Proposed District 26 are higher than those percentages, with 65% Hispanic VAP and slightly

more than 50% Hispanic registration. (Rough Trial Tr., 5/30/14, Pt. 2 (Moreno), 67:3-69:21.) Second, Dr. Moreno did not conduct a racial polarized voting analysis to measure the extent to which African Americans and Hispanics vote cohesively in the area of Proposed District 26 and thus did not account for cohesive African American voting that would further ensure that Hispanics would be able to elect their preferred candidates. (Rough Trial Tr., 5/30/14, Pt. 2, (Moreno), 60:13-61:3.) Third, Dr. Moreno concluded that under Proposed District 26, the Hispanic-preferred candidate would have won the 2012 Congressional election. (Rough Trial Tr., 5/30/14, Pt. 2 (Moreno), 78:17-25.)

**e. Conclusion Regarding Districts 26 and 27**

298. The configuration of Districts 26 and 27 is not justified by the minority protection requirements of Article III, Section 20 or the VRA or any other factor.

299. The Romo Maps show that Districts 26 and 27 can be drawn in a way that does not divide Homestead and improves the compactness of the area, while also complying with the minority protection requirements of Article III, Section 20 and the VRA.

300. After considering and weighing the objective evidence, the alternative district configurations in the Romo Maps, and the expert testimony offered by the parties, the Court finds that District 26 violates Article III, Section 20 because it does not respect the municipal boundary of Homestead when feasible to do so and that District 27 violates Article III, Section 20 because it is not compact and does not respect the municipal boundary of Homestead when feasible to do so. Because there is no legitimate minority protection or other tier-one justification for dividing the city of Homestead and reducing the compactness of District 27, Legislative Defendants' deviation from the tier-two requirements provides circumstantial evidence of improper intent.

301. After weighing the circumstantial and direct evidence and considering the available inferences, the Court determines that Districts 26 and 27 violate Article III, Section 20 because they were drawn with the intent to favor the Republican Party.

**V. LEGISLATIVE DEFENDANTS' AFFIRMATIVE DEFENSES**

302. Legislative Defendants have raised three affirmative defenses.

303. First, Legislative Defendants argue that the Court lacks subject matter jurisdiction to provide a remedy under Article I, Section 4 of the United States Constitution (the “Elections Clause”).

304. The Court rejects Legislative Defendants’ jurisdictional defense and holds that it has subject matter jurisdiction to provide an effective remedy in this case. *See, e.g., Apportionment IV*, 132 So. 3d at 140 (emphasizing, in the congressional redistricting context, “the need for judicial review of fact-intensive claims” at the trial court level); *Fla. House of Reps. v. League of Women Voters of Fla.*, 118 So. 3d 198, 207 (Fla. 2013) (holding that “the circuit court has subject matter jurisdiction to adjudicate” legislative redistricting claims); *see also* art. V, § 5(b), Fla. Const. (jurisdiction of circuit courts); § 86.011, Fla. Stat. (jurisdiction to issue declaratory relief); § 26.012(3), Fla. Stat. (jurisdiction to issue injunctive relief).

305. Second, the Legislative Defendants argued that Article III, Section 20 is inconsistent with, and violates, the Elections Clause.

306. The Court rejects Legislative Defendants’ Elections Clause defense for two reasons. As an initial matter, the House, a defendant in this case, made an identical argument in earlier federal court litigation challenging the constitutionality of Article III, Section 20 under the Elections Clause. *See Brown v. Sec’y of State of Fla.*, 668 F.3d 1271 (11th Cir. 2012). The Eleventh Circuit squarely rejected that argument. *See id.* at 1281. Thus, under the doctrines of

res judicata and collateral estoppel, neither the House nor the other Legislative Defendants (who have expressly adopted the House's argument in *Brown*, see Leg. Parties' Answers and Objections to the LOWV Pls.' Third Set of Interrogatories to Defs. at 3-4), may relitigate the issue here. See *State v. McBride*, 848 So. 2d 287, 290 (Fla. 2003); *Youngblood v. Taylor*, 89 So. 2d 503, 505 (Fla. 1956).

307. Moreover, even if the Legislative Defendants could relitigate that issue, this Court would accord significant weight to the Eleventh Circuit's *Brown* decision and find that it correctly interprets and applies federal law. See *Wylie v. Inv. Mgmt. & Research Inc.*, 629 So. 2d 898, 900 (Fla. 4th DCA 1993) (in the absence of a controlling U.S. Supreme Court decision, Florida courts should "accord unusual weight to a decision . . . of the federal circuit in which the state is located" to ensure "that the issue will be uniformly decided by both federal and state courts in the geographic area," thereby "discouraging forum shopping"). Accordingly, for the reasons stated in the *Brown* decision, Article III, Section 20 does not violate the Elections Clause.

308. Third, the Legislative Defendants argued that Plaintiffs' requested relief would violate Section 2 of the VRA and was therefore preempted by federal law.

309. The Court rejects that defense because it cannot be squared with controlling precedent from the Florida Supreme Court. In *Apportionment I*, the Florida Supreme Court made clear that there is no conflict between Article III, Section 20 and the VRA. To the contrary, Article III, Section 20 incorporates Sections 2 and 5 of the VRA and imposes virtually identical standards. See *Apportionment I*, 83 So. 3d at 619 (explaining that the minority-protection provisions in Article III, Section 20 "'follow[] almost verbatim the requirements embodied in the [Federal] Voting Rights Act' ") (quoting *Brown*, 668 F.3d at 1280); *id.* at 620 ("Moreover, all

parties to this proceeding agree that Florida's constitutional provision now embraces the principles enumerated in Sections 2 and 5 of the VRA.").

310. This affirmative defense may be a roundabout way of arguing that the Legislature was required to engage in race-based redistricting to avoid liability under Section 2 of the VRA, and that compelling the Legislature to draw districts differently would invite litigation under Section 2. The Court rejects that construction of the affirmative defense as well.

311. As explained above, no plaintiff can bring a Section 2 claim unless the three so-called *Gingles* preconditions are present: "(1) a minority population is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) the minority population is politically cohesive; and (3) the majority population votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate." *Apportionment I*, 83 So. 3d at 622 (internal quotation marks and citation omitted).

312. At trial, Legislative Defendants failed to offer evidence showing that their configuration of any particular district was necessary to avoid Section 2 liability. *See id.* at 626-27 ("If the Legislature is utilizing its interest in protecting minority voting strength as a shield, this Court must be able to undertake a review of the validity of that reason. . . . To hold otherwise would run the risk of permitting the Legislature to engage in racial gerrymandering to avoid diminishment."). It follows that Legislative Defendants cannot rely on a purported conflict with Section 2 to justify the challenged districts.

313. In sum, for the reasons stated above, the Court rejects all of the Legislative Defendants' affirmative defenses.

## VI. REMEDY

314. “Judicial relief becomes appropriate . . . when a legislature fails to reapportion according to federal and state constitutional requisites.” *Id.* at 606 (citation and internal quotation marks omitted).

315. This Court has the “duty, given to it by the citizens of Florida, to enforce adherence to the constitutional requirements and to declare a redistricting plan that does not comply with those standards constitutionally invalid.” *Id.* at 607.

316. An injunction is the appropriate enforcement mechanism in a redistricting case because elections conducted under an unconstitutional redistricting plan cause irreparable harm. *See, e.g., Johnson v. Miller*, 929 F. Supp. 1529, 1560 (S.D. Ga. 1996). This is because the right to vote is “the very bedrock of our democracy.” *Apportionment I*, 83 So. 3d at 600; *see also Apportionment IV*, 132 So. 3d at 147-48 (recognizing that the claims raised in this case “seek[] to protect the essential right of our citizens to have a fair opportunity to select those who will represent them”) (citation omitted). The loss of this fundamental right cannot be compensated through monetary damages.

317. For the reasons stated herein, the Court declares the 2012 Congressional Plan invalid and enjoins its further use for congressional elections. To determine what further remedial actions should be taken, the Court will convene a status conference at the earliest available opportunity.

**THEREFORE**, it is **ORDERED AND ADJUDGED** that:

- (1) partial final judgment is hereby entered in favor of Plaintiffs;
- (2) the 2012 Congressional Plan is declared constitutionally invalid in its entirety;

- (3) independent of the invalidity of the entire 2012 Congressional Plan, District 5, District 10, District 13, District 14, District 21, District 22, District 25, District 26, and District 27 in the 2012 Congressional Plan are constitutionally invalid;
- (4) Defendants are enjoined from conducting further congressional elections under the 2012 Congressional Plan; and
- (5) a status conference shall be convened at the earliest opportunity to determine what further remedial actions should be taken.

**DONE AND ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2014.

---

Terry P. Lewis  
Circuit Judge

Copies to all counsel of record



KING, BLACKWELL, ZEHNDER & WERMUTH, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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June 13, 2014

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VIA FEDERAL EXPRESS

The Honorable Terry P. Lewis  
301 S. Monroe Street  
Room 301-C  
Tallahassee, FL 32301

**Re: Rene Romo, et al. v. Ken Detzner, et al.**  
**Case No.: 2012-CA-00412**

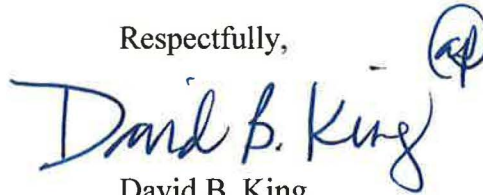
**The League of Women Voters of Florida, et al. v. Ken Detzner, et al.**  
**Case No.: 2012-CA-00490**

Dear Judge Lewis:

Enclosed for your review you'll find a thumb drive which contains demonstratives the Coalition Plaintiffs used during the course of the trial in the above referenced matter. Should you have any questions or concerns, please do not hesitate to contact me.

With kindest regards, I am

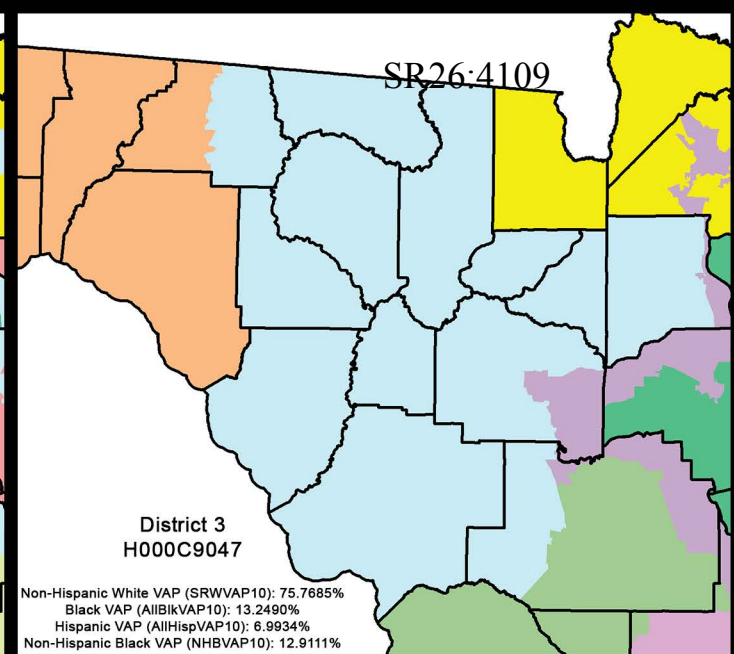
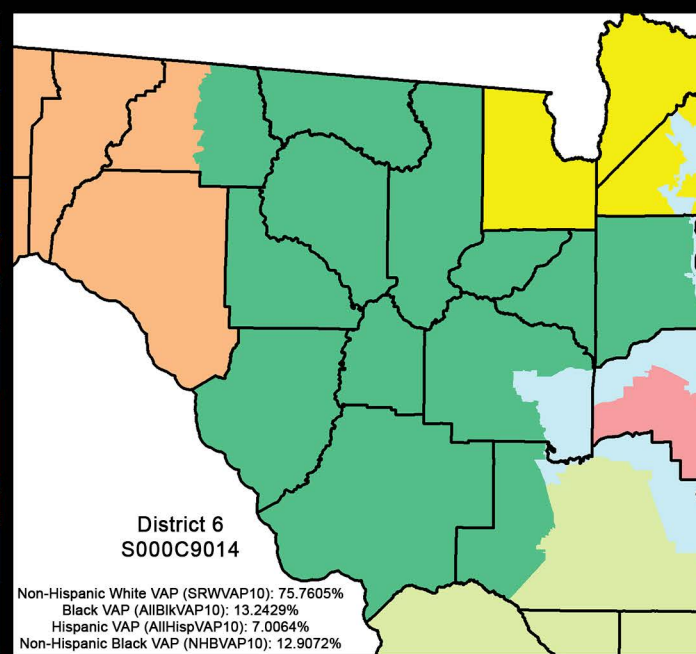
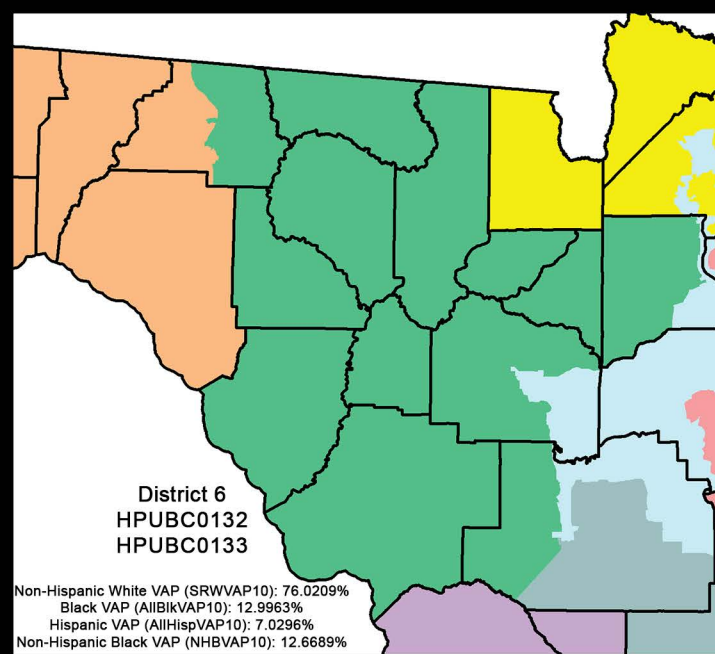
Respectfully,

A handwritten signature in blue ink that reads "David B. King". To the right of the signature is a small circular stamp containing the letters "ad".

David B. King

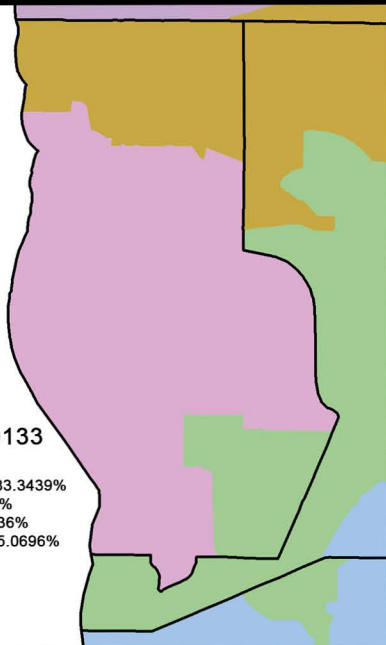
DBK/ap  
enclosure

cc: All Counsel of Record (w/out enclosure)



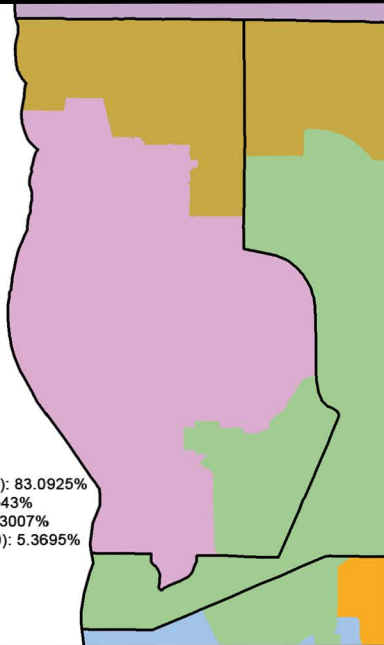
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**HPUBC0132 + HPUBC0133**

Non-Hispanic White VAP (SRWVAP10): 83.3439%  
Black VAP (AIIBIKVAP10): 5.3451%  
Hispanic VAP (AllHispVAP10): 7.3036%  
Non-Hispanic Black VAP (NHBVAP10): 5.0696%



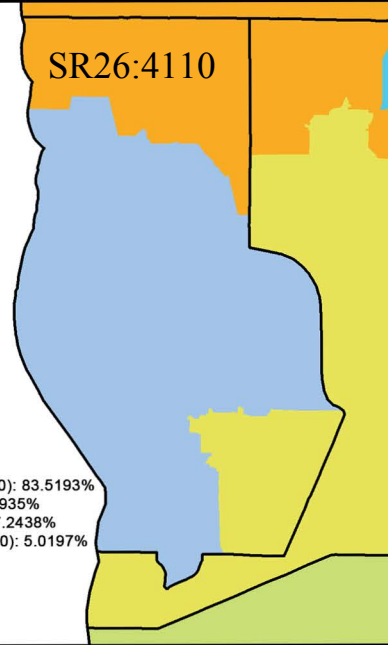
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**S000C9014**

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Black VAP (AIIBIKVAP10): 5.6543%  
Hispanic VAP (AllHispVAP10): 7.3007%  
Non-Hispanic Black VAP (NHBVAP10): 5.3695%



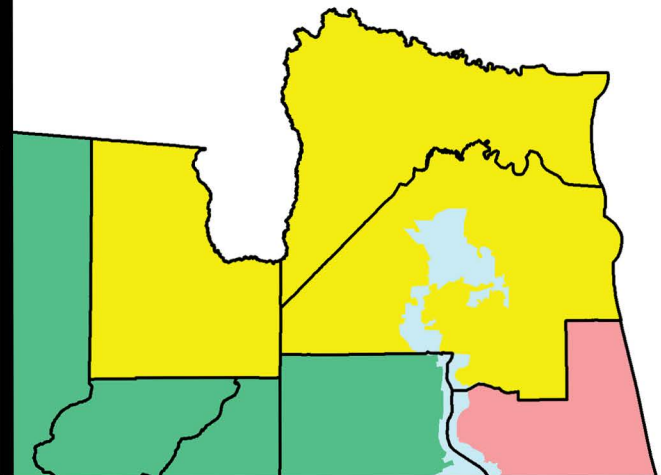
**District 13**  
**H000C9047**

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Black VAP (AIIBIKVAP10): 5.2935%  
Hispanic VAP (AllHispVAP10): 7.2438%  
Non-Hispanic Black VAP (NHBVAP10): 5.0197%



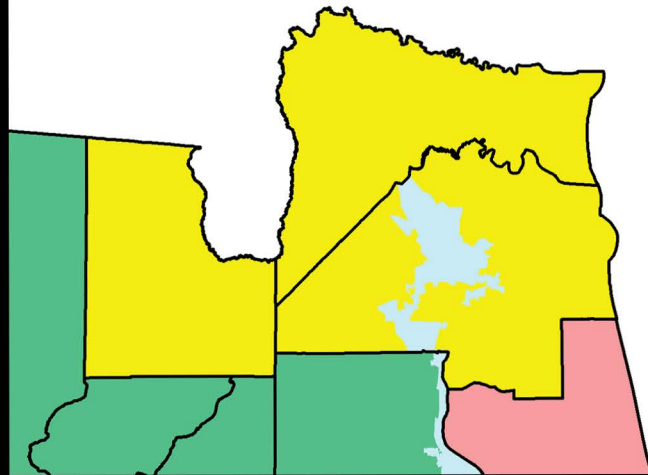
District 4  
HPUBC0132 + HPUBC0133

Non-Hispanic White VAP (SRWVAP10): 74.7292%  
Black VAP (AIIBIKVAP10): 13.1509%  
Hispanic VAP (AllHispVAP10): 6.6796%  
Non-Hispanic Black VAP (NHBVAP10): 12.7091%



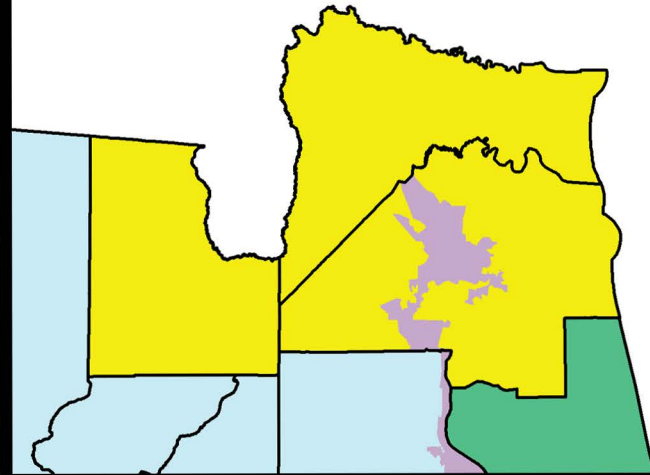
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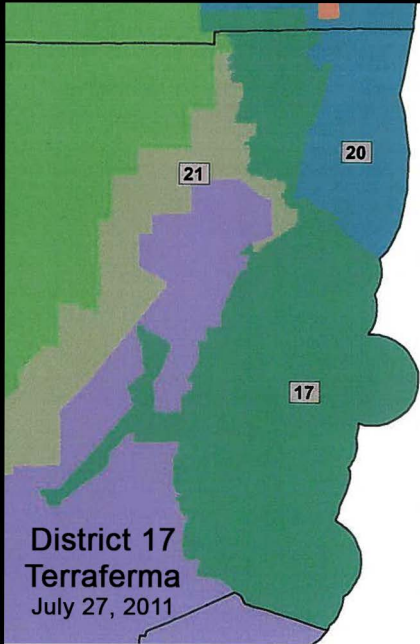
Non-Hispanic White VAP (SRWVAP10): 74.8466%  
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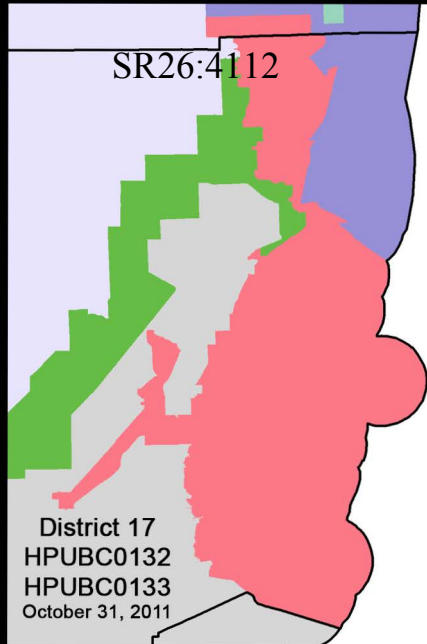
District 4  
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SR26:4111

Non-Hispanic White VAP (SRWVAP10): 74.9129%  
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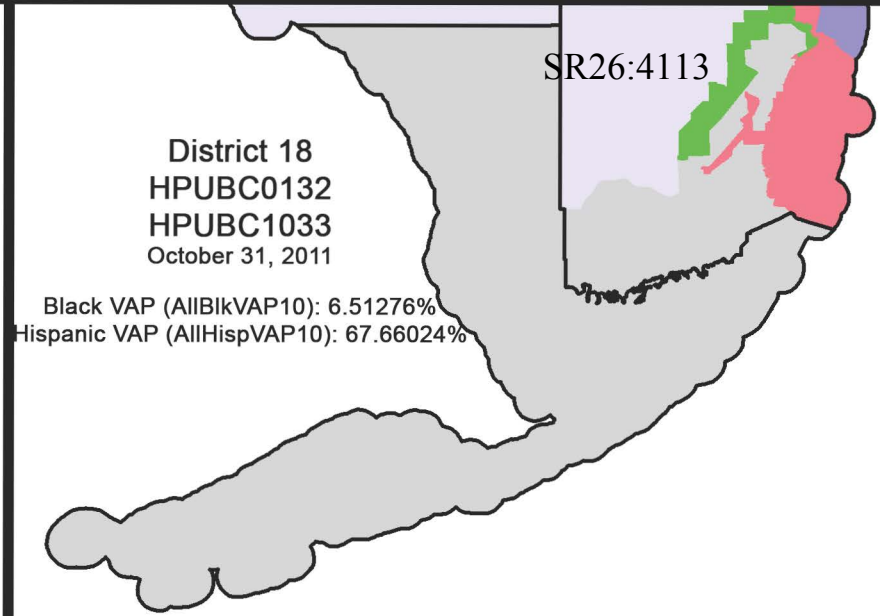
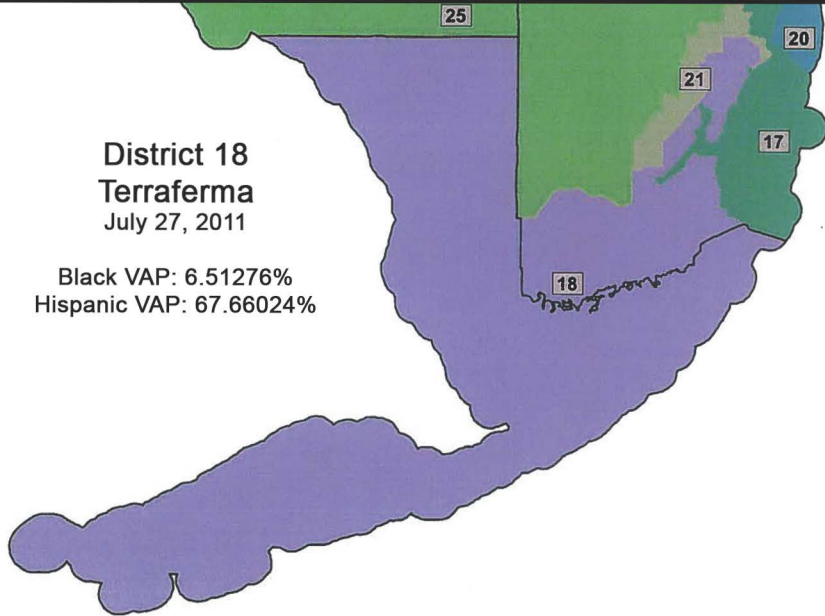


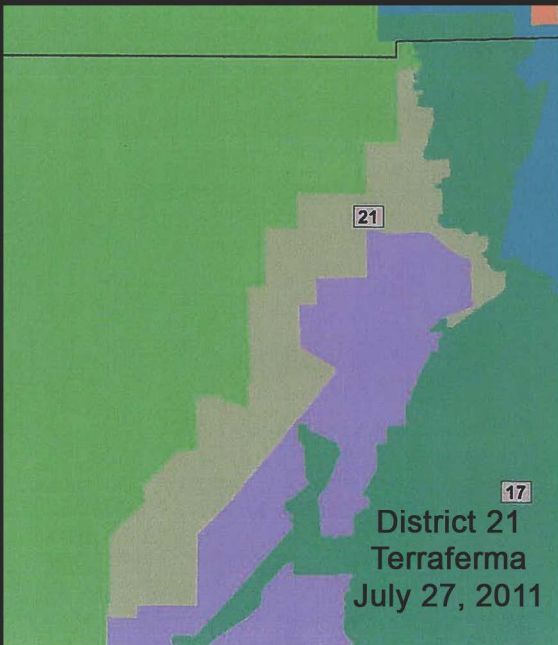


Black VAP: 58.31273%  
 Hispanic VAP: 32.39382%

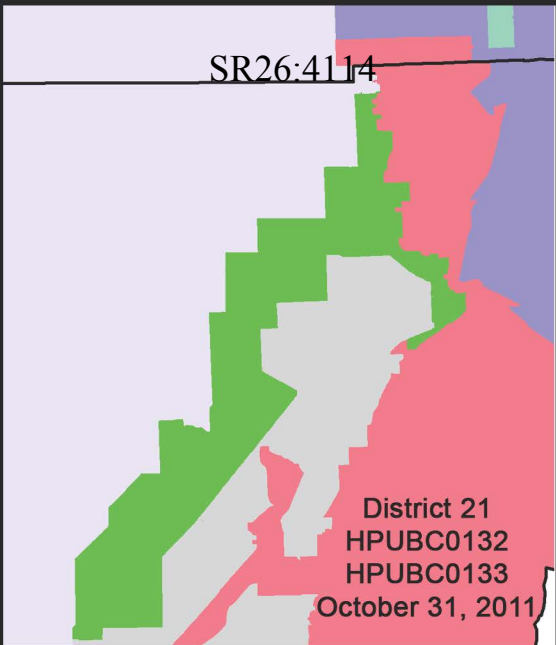


Black VAP (AllBlkVAP10): 58.31273%  
 Hispanic VAP (AllHispVAP10): 32.39382%



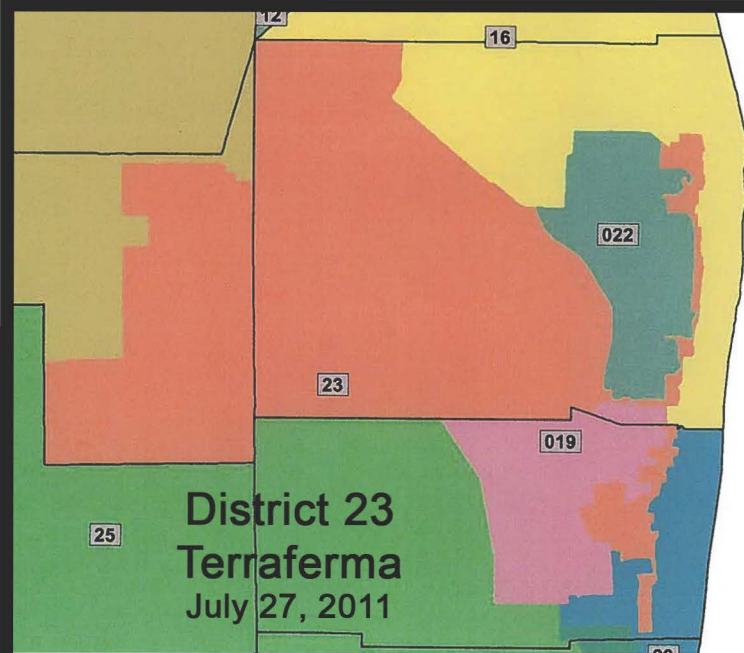


Black VAP: 6.28211%  
Hispanic VAP: 84.68772%

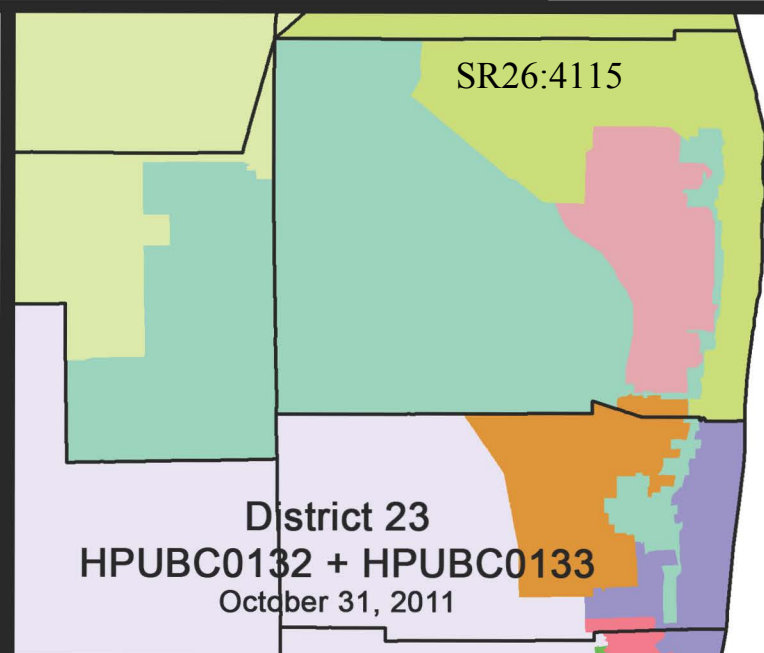


Black VAP (AllBIkVAP10): 6.28211%  
Hispanic VAP (AllHispVAP10): 84.68772%





Black VAP: 52.48326%  
Hispanic VAP: 18.07603%



Black VAP (AllBlkVAP10): 52.48326%  
Hispanic VAP (AllHisVAP10): 18.07603%



14

26

23

019

## District 25 Terraferma

July 27, 2011

Black VAP: 9.21995%  
Hispanic VAP: 57.77023%

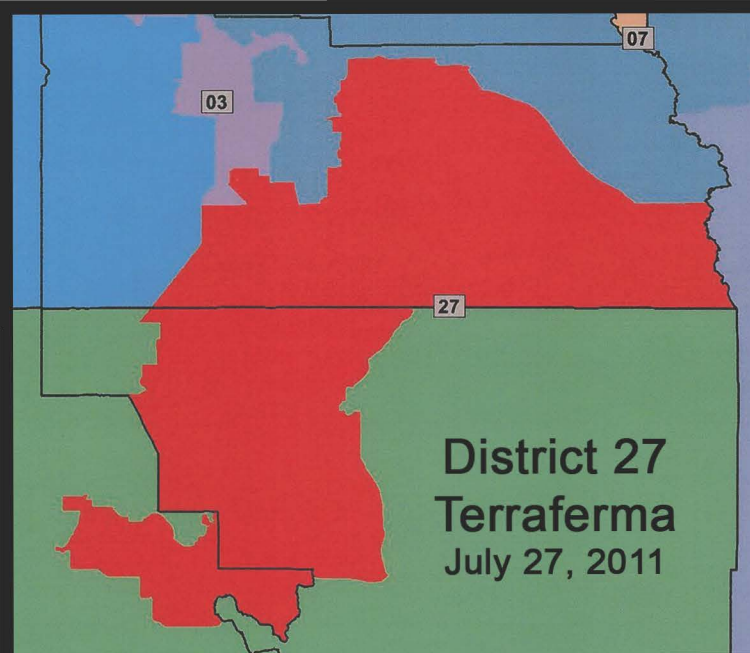
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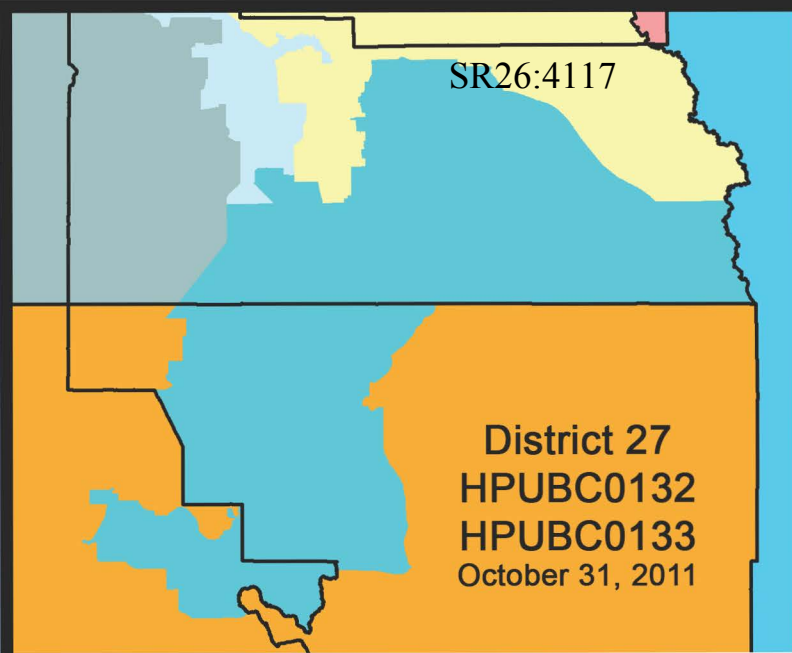
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District 25  
HPUBC0132 + HPUBC0133  
October 31, 2011

Black VAP (AllBlkVAP10): 9.21995%  
Hispanic VAP (AllHispVAP10): 57.77023%



Black VAP: 13.54243%  
Hispanic VAP: 43.32384%



Black VAP (AllBlkVAP10): 13.54243%  
Hispanic VAP (AllHispVAP10): 43.32384%

## House Draft Maps Production 01/29/14

## Chronological Order

## Poreda Ex 4

## CP 225

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## House Draft Maps Production 01/29/14

## Chronological Order

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## House Draft Maps Production 01/29/14

## Chronological Order

## Poreda Ex 4

## CP 225

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H000C9047_27Cities_EW_Backup	01/22/12 10:20 pm	KMZ	2088 kb
H000C9047_24Cities_Hollywood	01/22/12 11:24 pm	KMZ	2092 kb
H000C9047_24Cities_Hollywood_Backup	01/22/12 11:24 pm	KMZ	2092 kb
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H000C9047_24Cities_Hollywood_Brevard_Split_backup	01/22/12 11:32 pm	KMZ	2084 kb
H000C9047_24Cities_Hollywood_EW	01/22/12 11:44 pm	KMZ	2089 kb
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H000C9047_24Cities_Hollywood_2Counties	01/23/12 12:10 am	KMZ	2129 kb
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H000C9047_25Cities_Hollywood_Osceola_Hillsborough2	01/23/12 12:38 am	KMZ	2127 kb
H000C9047_25Cities_Hollywood_Osceola_Hillsborough2_Backup	01/23/12 12:38 am	KMZ	2127 kb
H000C9047_23Cities Osceola whole Hillsborough District	01/23/12 12:45 am	KMZ	2148 kb

## House Draft Maps Production 01/29/14

## Chronological Order

## Poreda Ex 4

## CP 225

Filename	Date & Time Modified	File Type	File Size
H000C9047_23Cities Osceola whole Hillsborough District_backup	01/23/12 12:45 am	KMZ	2148 kb
H000C9047_25Cities_Hollywood_2Counties_Hillsborough	01/23/12 8:28 am	KMZ	2124 kb
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Rich Heffley DOJ Map  
District 29  
October 28, 2011

Non-Hispanic White VAP (SRWVAP10): 27.5982%  
Black VAP (AIIBIKVAP10): 55.7042%  
Hispanic VAP (AllHispVAP10): 15.4697%  
Non-Hispanic Black VAP (NHBVAP10): 54.5971%

29

S000S9004  
District 29  
November 28, 2011

Non-Hispanic White VAP (SRWVAP10): 27.5982%  
Black VAP (AIIBIKVAP10): 55.7042%  
Hispanic VAP (AllHispVAP10): 15.4697%  
Non-Hispanic Black VAP (NHBVAP10): 54.5971%

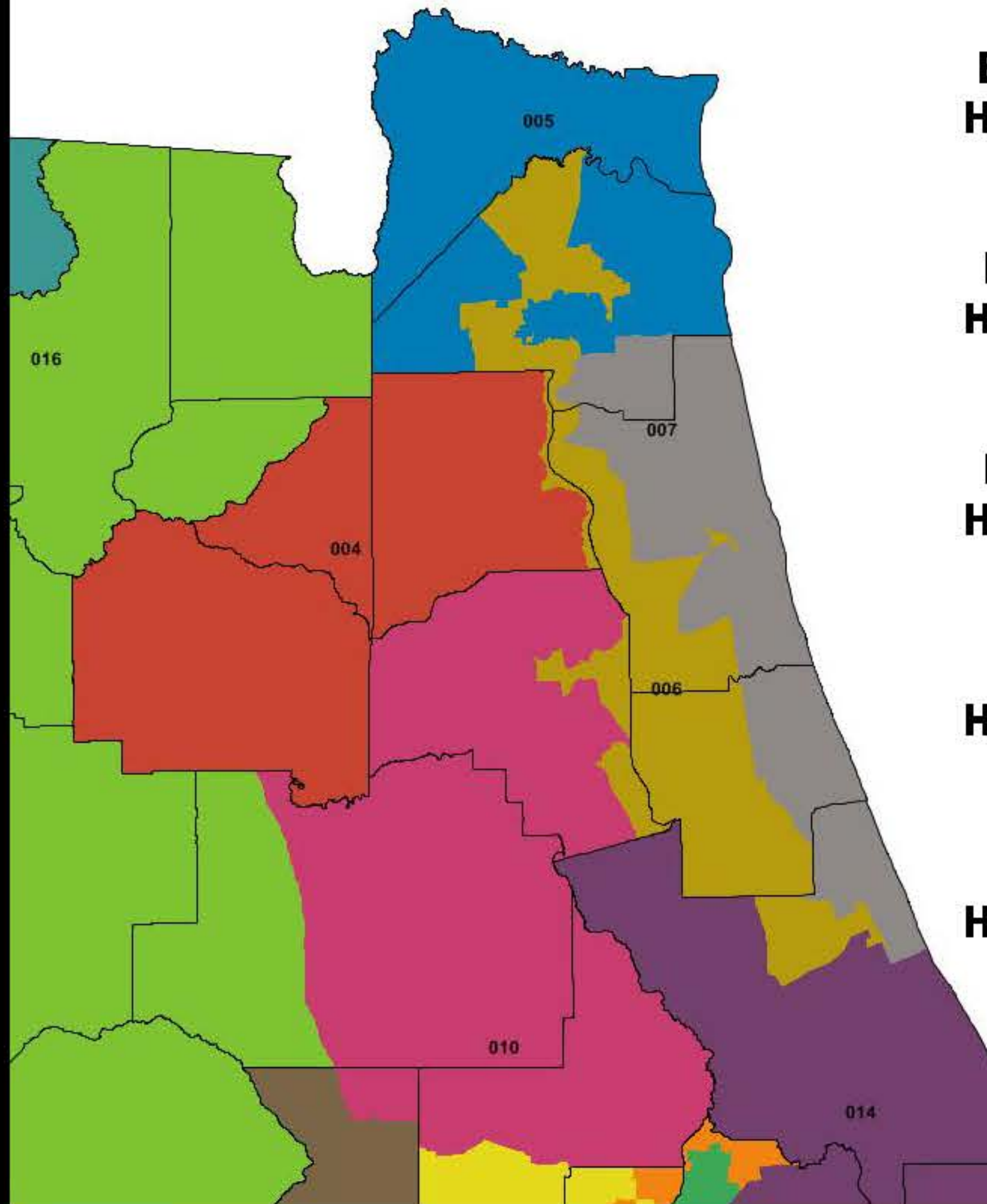
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SR26:4122  
~~S000S9008~~  
District 34  
December 30, 2011

Non-Hispanic White VAP (SRWVAP10): 27.5351%  
Black VAP (AIIBIKVAP10): 55.7581%  
Hispanic VAP (AllHispVAP10): 15.4814%  
Non-Hispanic Black VAP (NHBVAP10): 54.6500%

34





**District 4**  
**Black VAP: 15.25621%**  
**Hispanic VAP: 7.33186%**

**District 5**  
**Black VAP: 11.58414%**  
**Hispanic VAP: 6.66040%**

**District 6**  
**Black VAP: 47.34229%**  
**Hispanic VAP: 5.95196%**

**District 7**  
**Black VAP: 6.54620%**  
**Hispanic VAP: 5.86722%**

**District 10**  
**Black VAP: 8.90905%**  
**Hispanic VAP: 6.47421%**

**Schmedlov**  
**October 28, 2011**

**District 4**  
**Black VAP: 15.25621%**  
**Hispanic VAP: 7.33186%**

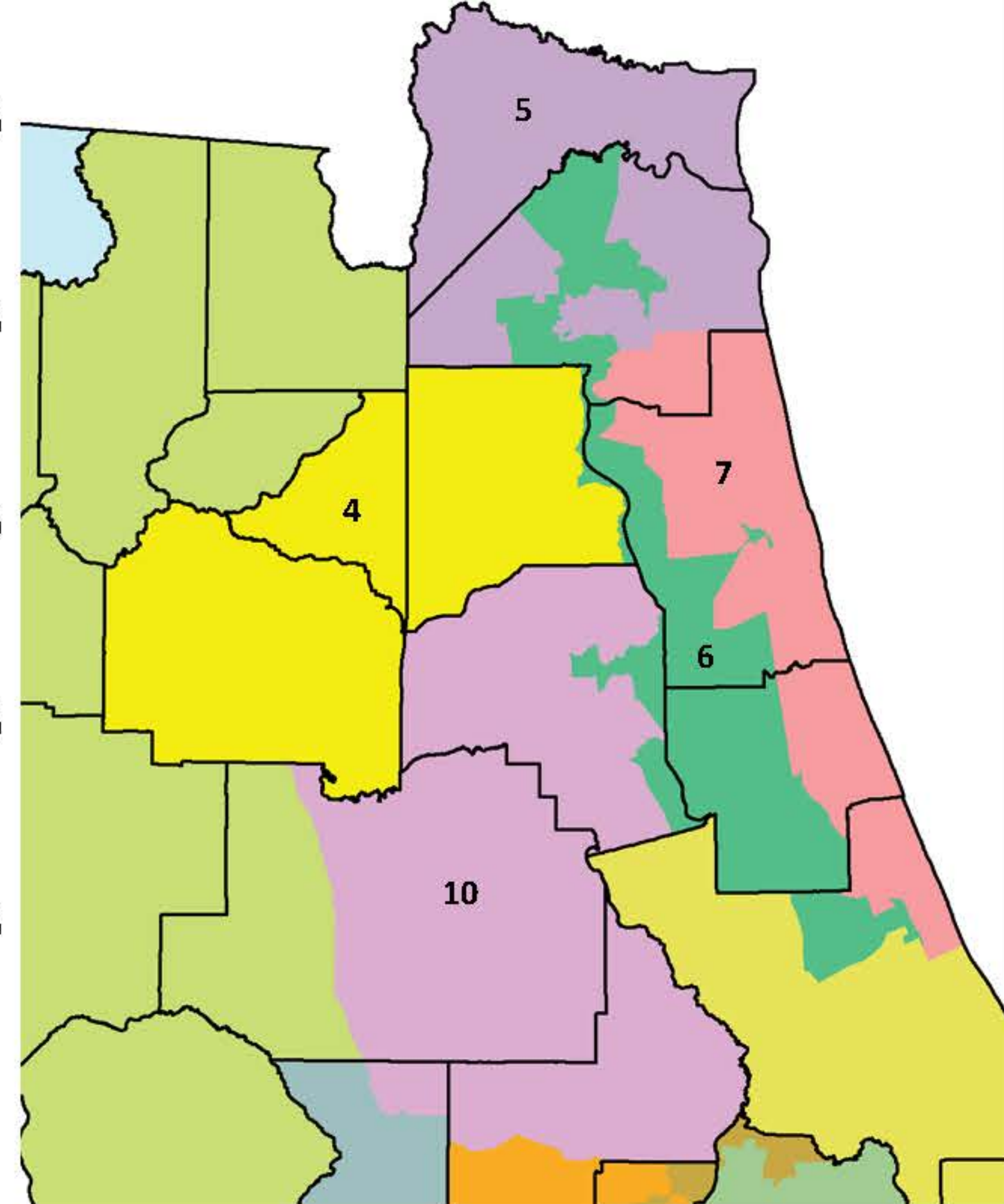
**District 5**  
**Black VAP: 11.58414%**  
**Hispanic VAP: 6.66040%**

**District 6**  
**Black VAP: 47.34229%**  
**Hispanic VAP: 5.95196%**

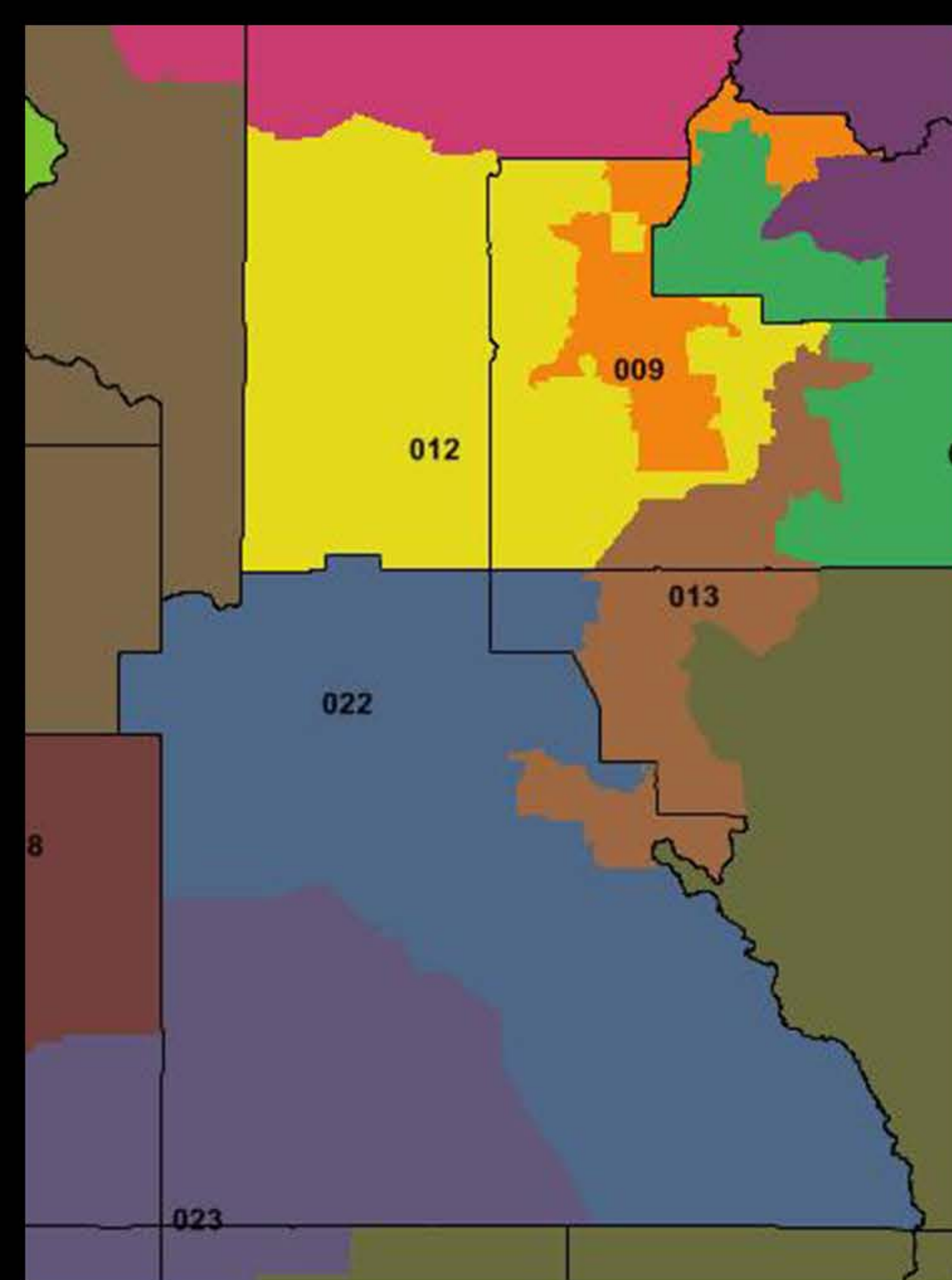
**District 7**  
**Black VAP: 6.54620%**  
**Hispanic VAP: 5.86722%**

**District 10**  
**Black VAP: 8.90905%**  
**Hispanic VAP: 6.47421%**

**SPUBS0143**  
**November 1, 2011**







**Schmedlov**  
**October 28, 2011**

**District 9**  
**Black VAP: 40.10926%**  
**Hispanic VAP: 20.70189%**

**District 12**  
**Black VAP: 8.07481%**  
**Hispanic VAP: 14.19508%**

**District 13**  
**Black VAP: 13.46410%**  
**Hispanic VAP: 48.89559%**

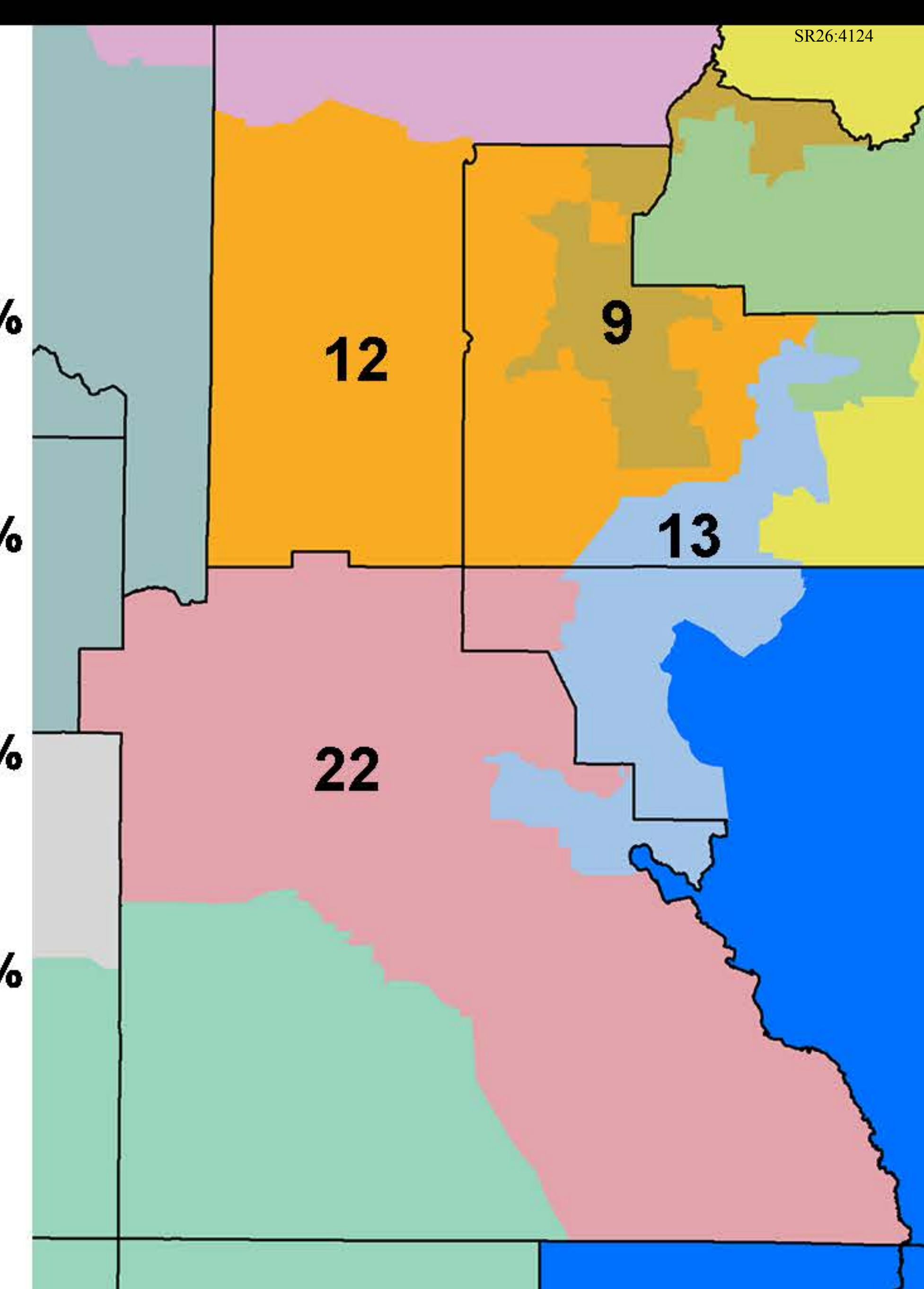
**District 22**  
**Black VAP: 13.81989%**  
**Hispanic VAP: 12.99365%**

**District 9**  
**Black VAP: 40.10926%**  
**Hispanic VAP: 20.70189%**

**District 12**  
**Black VAP: 8.07481%**  
**Hispanic VAP: 14.19508%**

**District 13**  
**Black VAP: 13.46410%**  
**Hispanic VAP: 48.89559%**

**District 22**  
**Black VAP: 13.81989%**  
**Hispanic VAP: 12.99365%**



**SPUBS0143**  
**November 1, 2011**

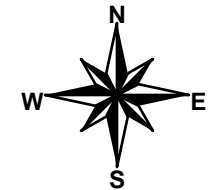
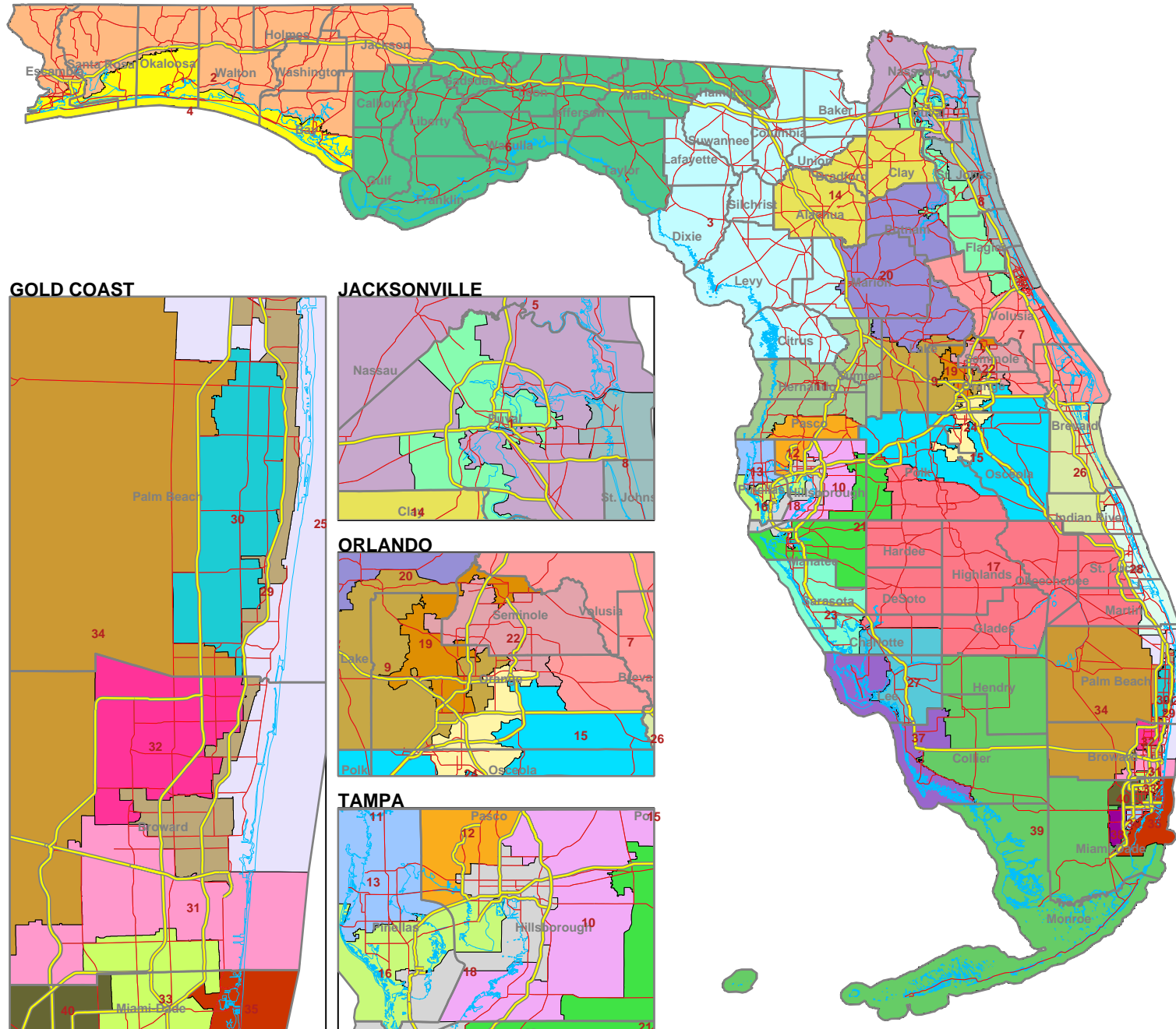


# S000S9004.D0J

SR26-4125



**Florida House of Representatives**  
**Redistricting Committee**  
402 S. Monroe Street  
House Office Building  
Tallahassee, FL 32399  
[www.floridaredistricting.org](http://www.floridaredistricting.org)

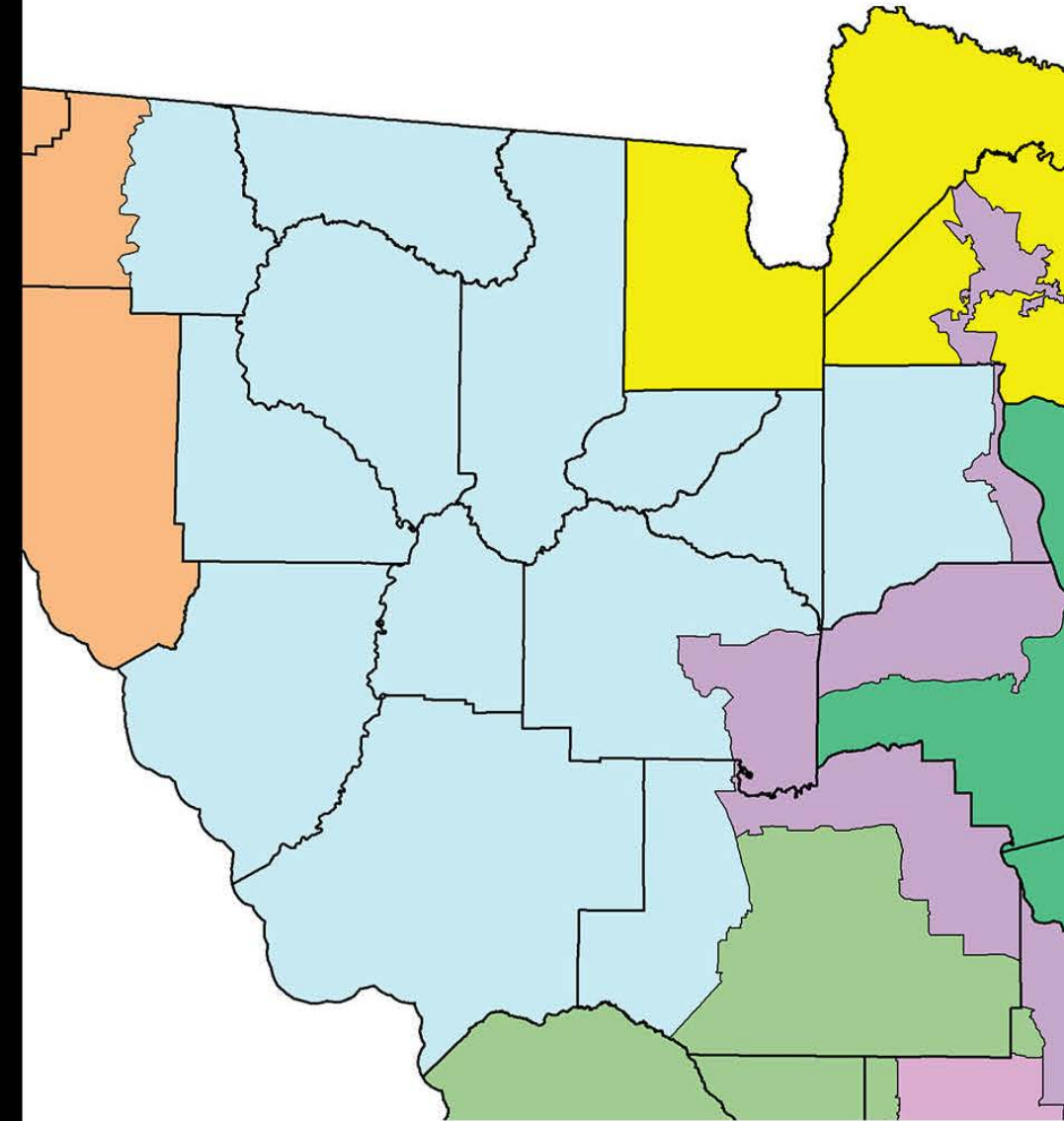


## Legend

- 7 District Number
- District Boundary
- County Boundary
- Interstate Highway
- Major Highway
- Shoreline

District ID	Pop Dev	TPOP10	%AllBlkPop10	%AllBlkVAP10	%AllHispPop10	%AllHispVAP10	%SRWPop10	%SRWVAP10	%NHBPop10	%NHBVAP10	%HBPop10	%HBVAP10	%HxBPop10	%HxBVAP10	%OthPop10	%OthVAP10	%AsianPOP10	%AsianVAP10	%WIndiesPOPACS	%HaitianPOPACS
1	-1598	468434	51.46467	47.85233	6.45235	5.873549	39.34834	43.26738	50.46624	47.1226	0.9984331	0.7297223	5.453917	5.143827	3.733077	3.736464	2.450078	2.567764	1.62421	0.70202
2	4135	474167	15.8674	14.4512	4.001122	3.545189	76.15819	78.09284	15.58312	14.25982	0.284288	0.1913813	3.716834	3.353807	4.257572	4.102157	1.678944	1.765506	0.7273314	0.2169349
3	-2050	467982	10.30275	9.277004	7.11694	6.084334	80.76058	82.84003	9.936921	9.013261	0.365826	0.2637435	6.751114	5.820591	2.185554	2.062379	0.9573018	0.9630072	0.7987402	0.1380676
4	4078	474110	14.41775	12.54057	5.956424	5.193185	74.88579	77.52954	13.99169	12.24823	0.4260615	0.2923396	5.530362	4.900846	5.166101	5.029046	2.660142	2.824162	0.6566118	0.1808544
5	-5730	464302	12.39947	10.92535	7.572873	6.820556	73.81941	76.32501	11.85026	10.52207	0.5492115	0.4032847	7.023661	6.417272	6.757455	6.332369	4.934719	4.801376	0.7478882	0.1734792
6	4376	474408	31.41241	29.60516	5.649989	5.290589	60.22917	62.44628	30.96533	29.23851	0.4470835	0.3666536	5.202906	4.923935	3.155512	3.024628	1.886351	1.850438	1.465063	0.4490599
7	-5575	464457	8.477427	7.180133	12.31094	10.49221	77.13868	80.25809	7.731609	6.642023	0.7458172	0.5381105	11.56512	9.954097	2.818775	2.607683	1.464721	1.427469	1.183573	0.2717397
8	-1553	468479	7.475469	6.403104	6.412241	5.581771	82.62889	84.75263	7.062857	6.114456	0.4126119	0.2886482	5.999629	5.293123	3.896012	3.551143	2.383885	2.337599	0.9300071	0.2193144
9	-1783	468249	8.722282	7.763812	15.30703	13.71131	70.32305	73.01698	7.899643	7.12284	0.8226392	0.6409721	14.48439	13.07034	6.470275	6.148864	4.644751	4.614138	1.723354	0.4844481
10	-4710	465322	12.83348	11.45245	19.8873	17.31846	62.71657	66.69278	11.66676	10.5482	1.166719	0.9042531	18.72058	16.41421	5.729366	5.440561	4.149384	4.104049	1.871484	0.4152547
11	2027	472059	6.1594	5.363146	10.23283	8.60206	81.68916	84.18601	5.639549	4.990972	0.5198503	0.3721742	9.712981	8.229886	2.438466	2.220955	1.164897	1.101804	0.551541	0.1178471
12	4411	474443	7.853841	6.917548	20.73505	19.05969	67.40915	70.1346	6.764986	6.066969	1.088856	0.8505787	19.6462	18.20911	5.090812	4.738743	3.72247	3.623503	1.449993	0.2291456
13	1096	471128	6.863315	5.577198	8.979513	7.434118	80.91304	83.97518	6.444108	5.298608	0.4192067	0.2785895	8.560307	7.155529	3.663336	3.292094	2.361566	2.249315	0.3605013	0.06289054
14	-3311	466721	17.20621	15.33913	7.795021	7.328076	69.8038	72.03046	16.63585	14.91145	0.5703622	0.427678	7.224659	6.900399	5.765329	5.730012	4.065598	4.278143	1.259156	0.4851669
15	-973	469059	12.03942	10.35068	17.64	15.23401	67.59107	71.66438	11.11161	9.672474	0.9278151	0.678203	16.71218	14.55581	3.657322	3.429138	2.364095	2.304233	1.841433	0.6900631
16	1329	471361	6.129909	4.95623	8.609324	7.600868	80.18589	82.6842	5.657447	4.644448	0.4724617	0.3117819	8.136864	7.289086	5.54734	5.07049	4.004362	3.78391	0.5336152	0.1165117
17	-3166	466866	13.00502	11.71092	20.77641	17.51659	64.28997	68.84908	12.27911	11.19756	0.7259042	0.5133553	20.05051	17.00323	2.654509	2.436778	1.440242	1.391259	2.386517	0.9379461
18	-5944	464088	40.73042	37.32575	28.97597	27.50815	29.81633	34.2209	38.39207	35.41228	2.33835	1.913475	26.63762	25.59468	2.81563	2.858668	1.775525	1.889232	3.243542	1.366634
19	-3912	466120	43.2762	40.01819	21.87613	20.73163	31.58843	35.46418	41.33378	38.41534	1.942418	1.602855	19.93371	19.12877	5.201665	5.388858	3.433236	3.636644	9.584187	5.242748
20	345	470377	10.93315	9.129343	8.247214	6.626514	78.94987	82.39512	10.50519	8.842896	0.4279546	0.2864465	7.81926	6.340067	2.297731	2.13547	1.173739	1.117427	0.794055	0.1012009
21	-2021	468011	10.12946	8.432615	14.52594	11.70877	73.19956	77.76293	9.604048	8.063206	0.525415	0.3694091	14.00053	11.33936	2.67045	2.46509	1.604022	1.57142	1.050386	0.5798612
22	3987	474019	9.029596	8.299185	18.21952	16.73938	68.02491	70.30387	8.002211	7.492308	1.027385	0.8068764	17.19214	15.9325	5.753356	5.464447	4.245189	4.209156	1.945872	0.3510262
23	-5595	464437	5.345827	4.23858	7.476364	6.145953	85.30091	87.91682	5.010583	4.000031	0.3352446	0.2385491	7.141119	5.907404	2.212141	1.937192	1.25959	1.157065	1.124346	0.4329177
24	-1237	468795	15.51915	14.35106	53.14668	50.53257	29.07006	32.30578	12.10892	11.38173	3.410233	2.969324	49.73645	47.56325	5.674335	5.779917	4.188611	4.392113	4.135818	1.622434
25	-5253	464779	7.976264	6.636659	12.26131	11.07094	76.7709	79.45132	7.540788	6.295851	0.4354758	0.3408075	11.82584	10.73014	3.427005	3.18188	2.211374	2.1226	2.875287	1.727122
26	3051	473083	11.05324	9.30035	9.514821	8.163196	76.34728	79.47766	10.4098	8.861156	0.6434389	0.4391935	8.871382	7.724002	3.728098	3.497985	2.17298	2.186999	2.292906	0.6736955
27	-5011	465021	10.56296	8.524478	17.94457	14.639	69.81448	75.14667	9.835685	8.02226	0.727279	0.5022185	17.21729	14.13678	2.405268	2.192077	1.349831	1.28533	2.560057	1.515988
28	486	470518	12.74978	10.60217	11.93196	9.894152	73.55341	77.77185	12.25883	10.27141	0.4909483	0.3307596	11.44101	9.563392	2.255812	2.062584	1.280929	1.242385	2.711682	1.515681
29	3544	473576	59.96165	55.70422	15.84371	15.46965	23.24083	27.59816	58.64106	54.5971	1.320591	1.107123	14.52312	14.36253	2.274397	2.335094	1.283427	1.397548	20.70875	11.73468
30	2183	472215	13.71452	11.25845	23.55749	20.79088	60.50782	65.78305	12.78062	10.55023	0.9338967	0.7082205	22.62359	20.08266	3.154072	2.875836	2.251305	2.148234	6.614251	4.573699
31	5826	475858	15.61537	14.19746	32.25143	31.01025	47.96053	50.69434	14.20193	13.0217	1.413447	1.175764	30.83798	29.83448	5.58612	5.273713	4.251688	4.161743	6.689053	2.488148
32	3449	473481	24.06981	21.34242	22.11514	21.13685	49.60621	53.28582	22.83724	20.35252	1.232573	0.9899083	20.88257	20.14694	5.441401	5.224818	3.802687	3.728293	11.43031	5.16295
33	3767	473799	60.50118	57.75225	27.11931	27.99309	12.6847	14.22256	57.34985	54.85057	3.151336	2.901676	23.96797	25.09141	2.846144	2.933781	1.9713	2.123482	26.39901	16.21289
34	4885	474917	14.88976	13.79839	25.71692	24.33702	55.3701	57.90285	14.06856	13.13371	0.8211961	0.6646726	24.89572	23.67235	4.844426	4.626415	3.515351	3.484795	5.37941	1.989888
35	5769	475801	10.40771	9.649246	50.77354	50.53561	37.15356	38.0271	8.838779	8.179505	1.568933	1.469741	49.20461	49.06587	3.234125	3.257782	2.275321	2.362334	4.288244	2.366131
36	4821	474853	5.644484	5.4389	82.46826	83.4357	12.94274	12.20564	2.953756	2.706541	2.690727	2.732359	79.77753	80.70335	1.635243	1.652118	1.302508	1.367341	1.096796	0.5339339
37	-5514	464518	5.228861	4.043809	18.84082	16.11389	74.37645	78.3536	4.665051	3.626287	0.5638102	0.4175227	18.27701	15.69637	2.117679	1.90622	1.248606	1.197304	2.298558	1.649405
38	5191	475223	5.287623	5.276268	82.32367	83.48299	11.60781	10.41937	3.702051	3.721665	1.585571	1.554603	80.7381	81.92838	2.366468	2.375978	1.896162	1.951408	2.7404	0.8779339
39	-890	469142	36.96812	35.11433	41.16792	39.54861	22.38405	25.59315	34.72872	33.11176	2.239407	2.002578	38.92851	37.54604	1.719309	1.746488	0.8754279	0.9424576	9.042332	6.271262
40	-2900	467132	8.390347	8.31899	85.37009	86.87804	7.426167	6.078989	5.93922	5.827221	2.451127	2.491769	82.91896	84.38628	1.264525	1.215743	1.027761	1.02453	1.924551	1.009405

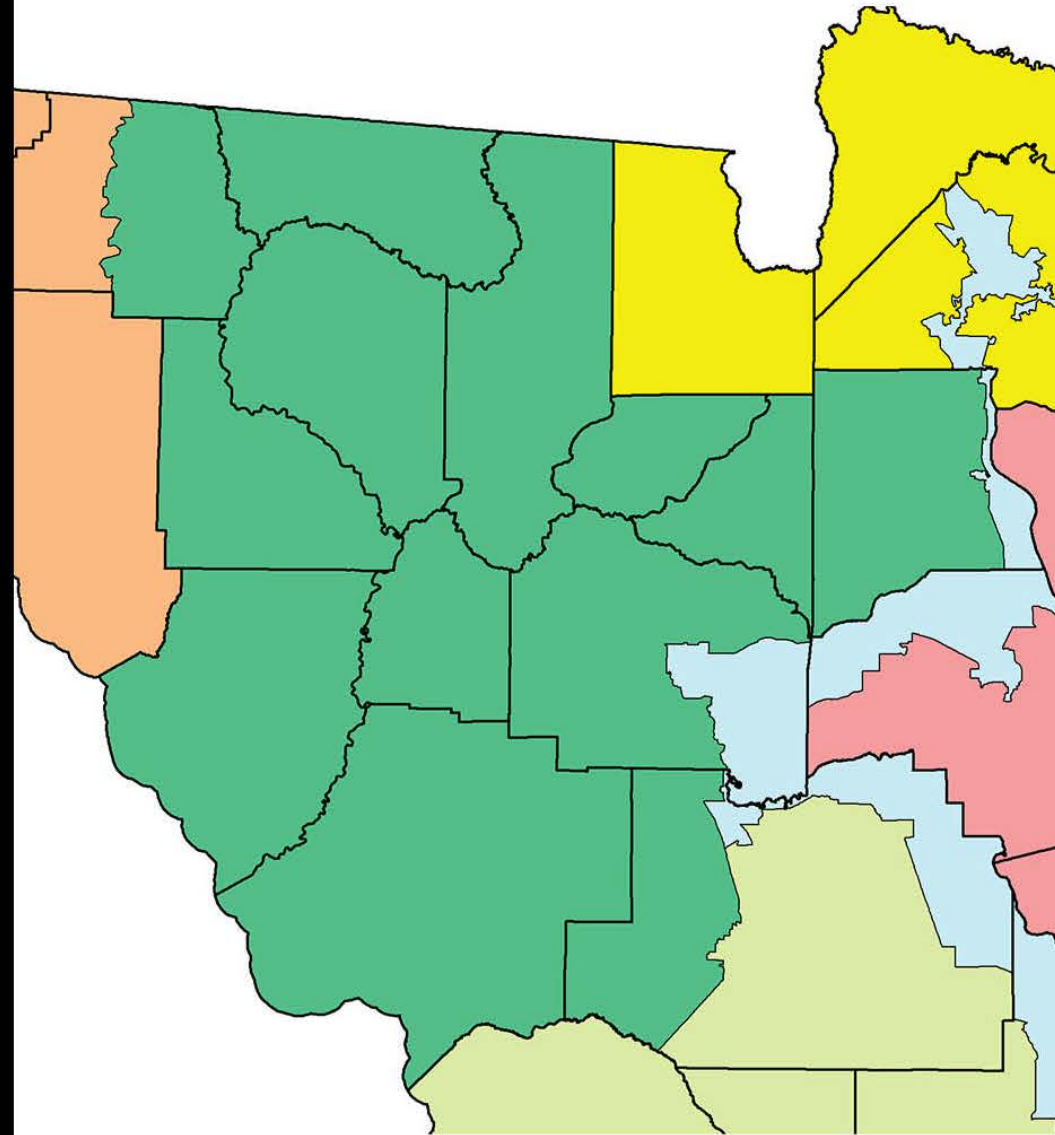
**H000C9043**  
**District 3**  
**January 4, 2012**



Difference from  
H000C9047

Black VAP: 13.35% (0.10%)  
Hispanic VAP: 7.01% (0.02%)  
Hispanic Black VAP: 0.34% (0.00%)

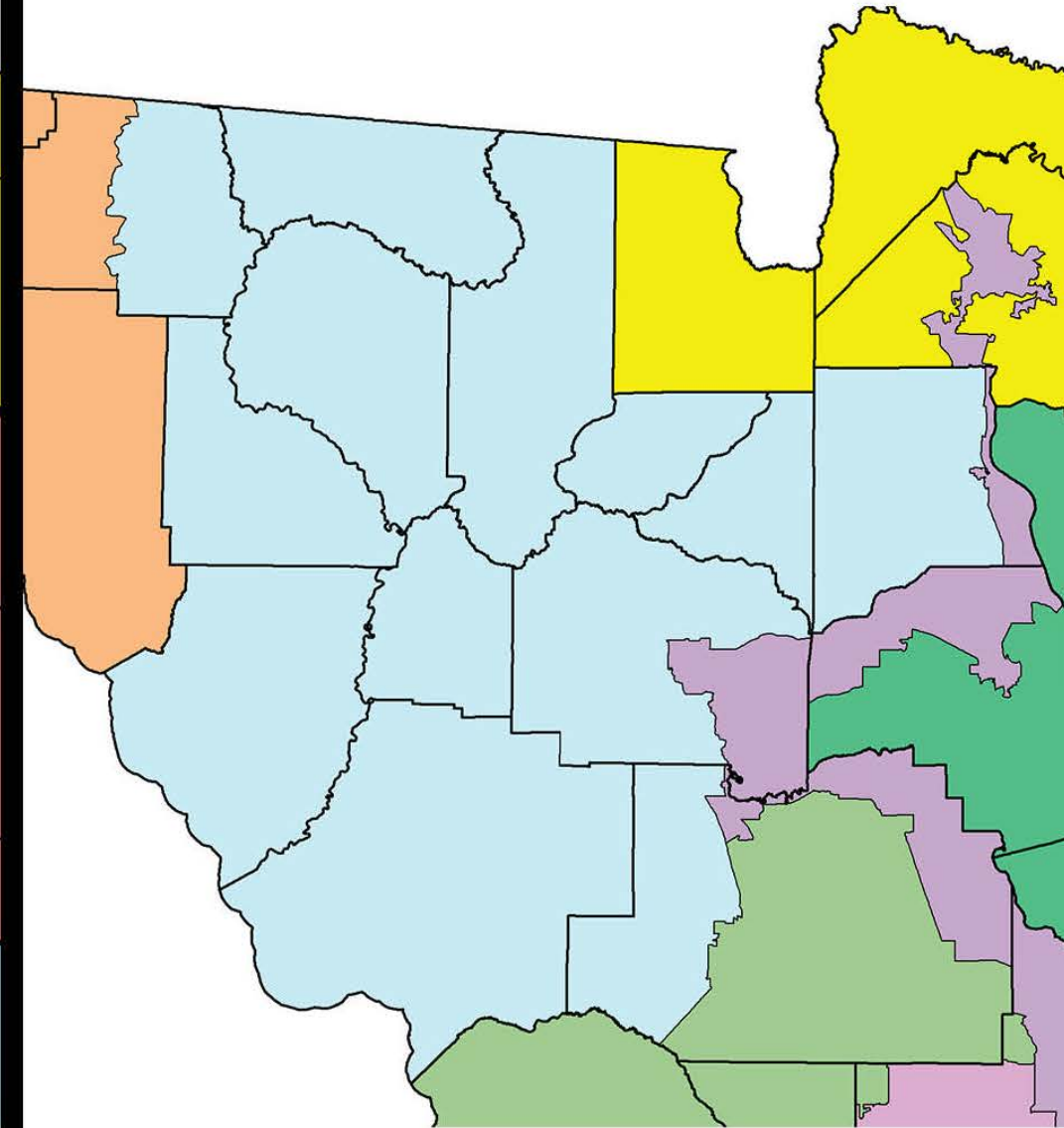
**S000C9014**  
**District 6**  
**January 12, 2012**



Difference from  
H000C9047

Black VAP: 13.24% (0.01%)  
Hispanic VAP: 7.01% (0.02%)  
Hispanic Black VAP: 0.34% (0.00%)

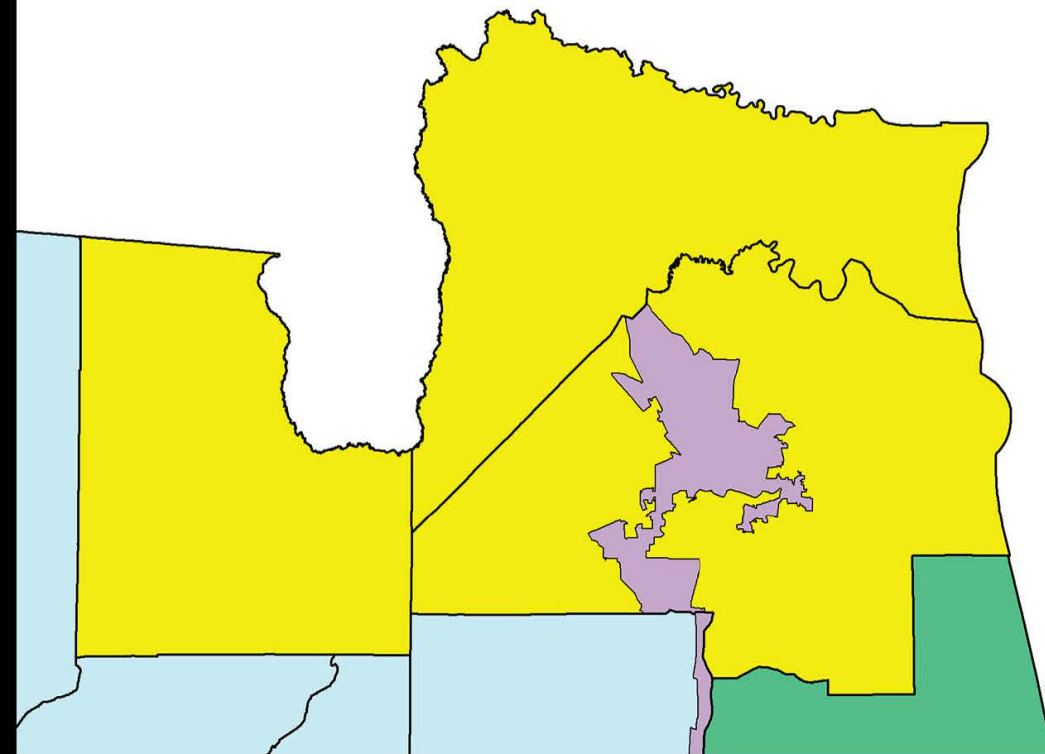
**H000C9047**  
**District 3**  
**January 25, 2012**



Black VAP: 13.25%  
Hispanic VAP: 6.99%  
Hispanic Black VAP: 0.34%



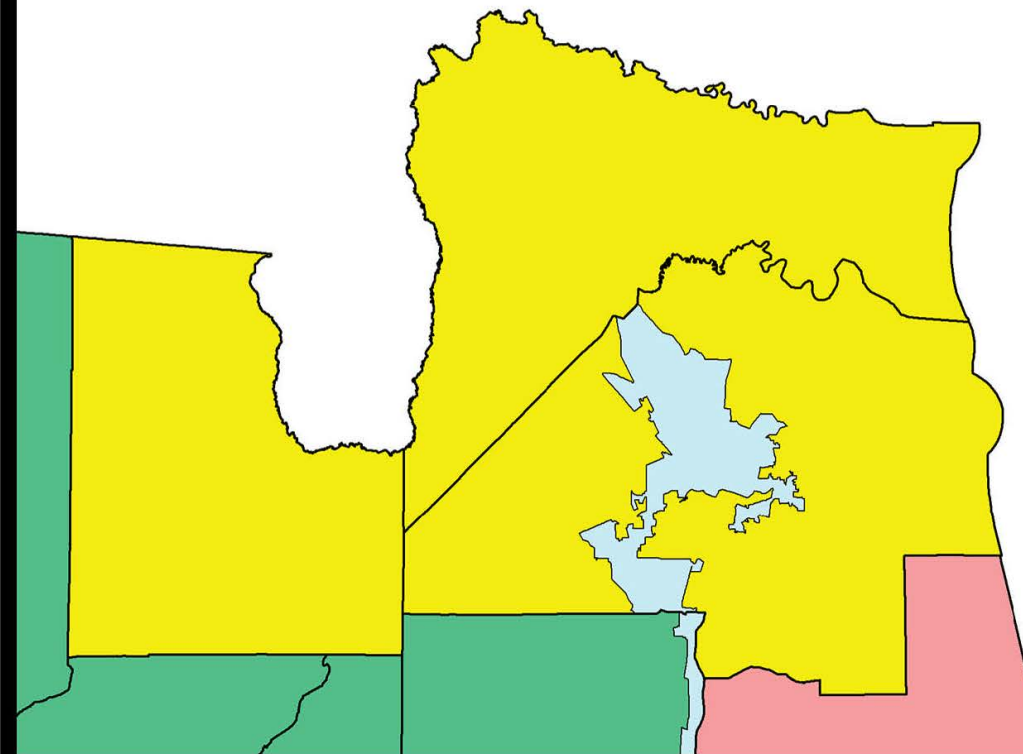
**H000C9043**  
**District 4**  
**January 4, 2012**



Difference from  
H000C9047

Black VAP: 12.98% (0.07%)  
Hispanic VAP: 6.72% (0.00%)  
Hispanic Black VAP: 0.44% (0.00%)

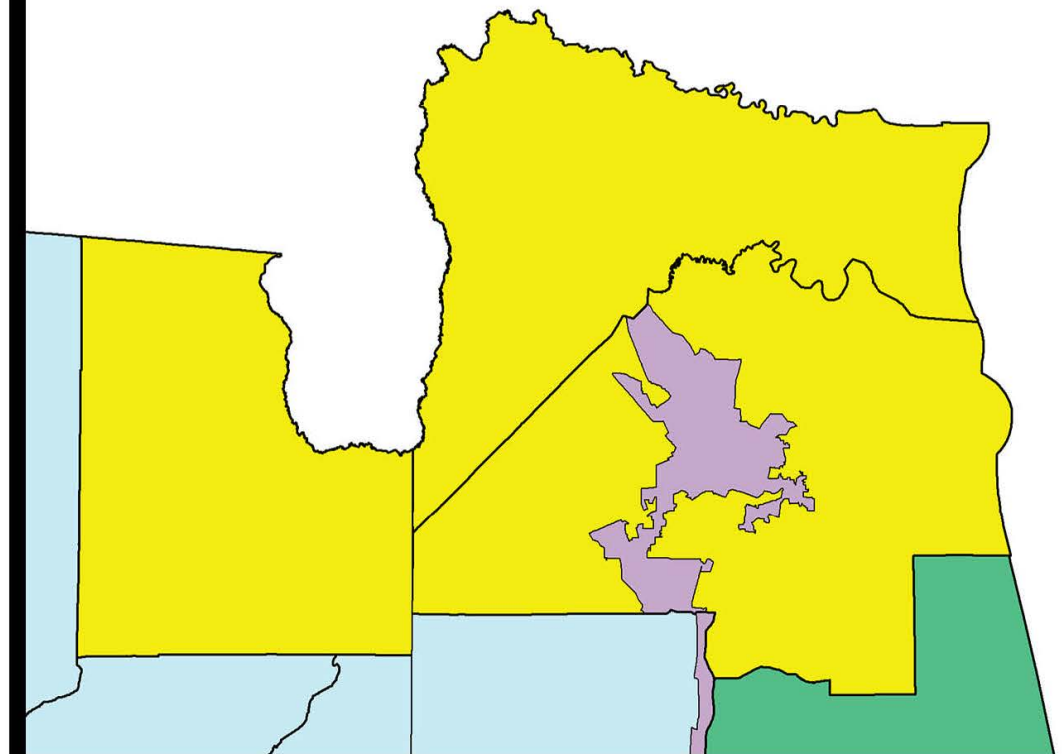
**S000C9014**  
**District 4**  
**January 12, 2012**



Difference from  
H000C9047

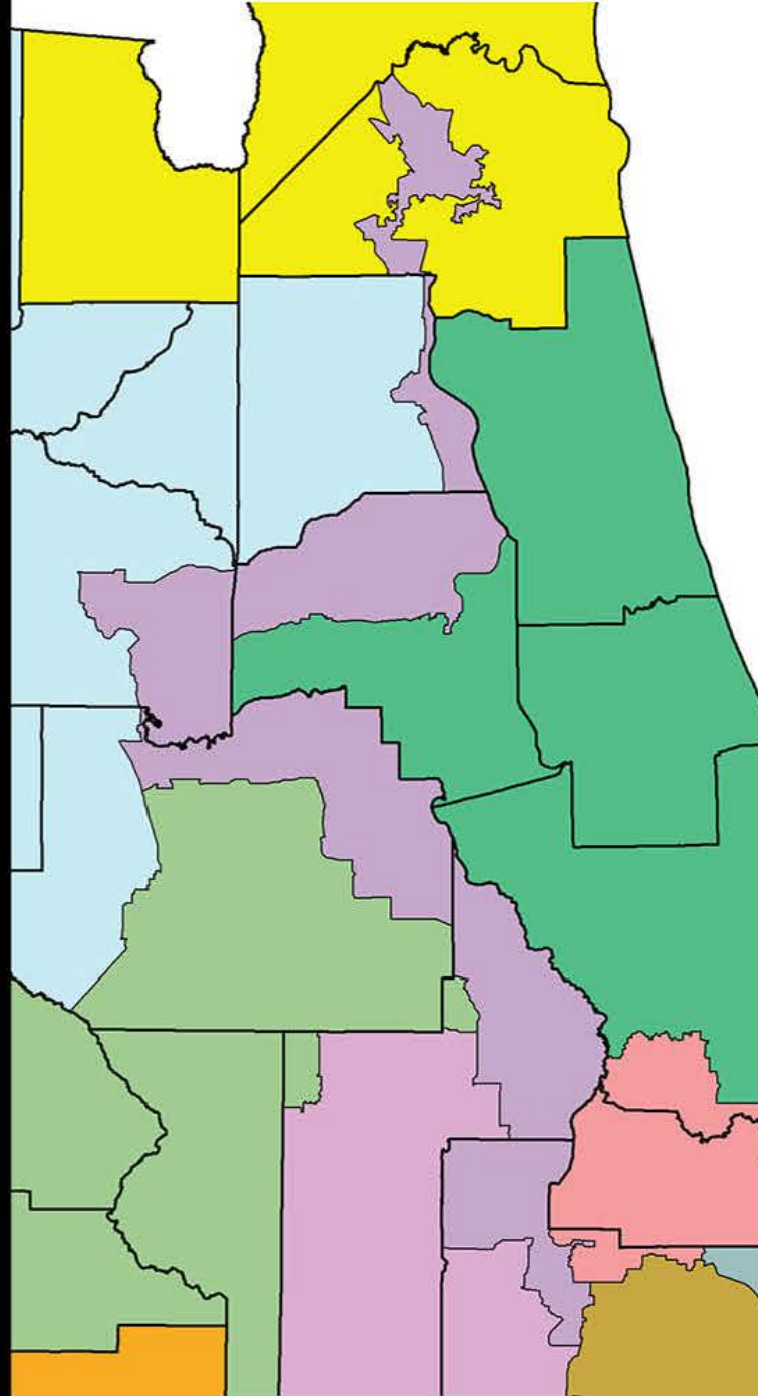
Black VAP: 12.96% (0.05%)  
Hispanic VAP: 6.72% (0.00%)  
Hispanic Black VAP: 0.44% (0.00%)

**H000C9047**  
**District 4**  
**January 25, 2012**



Black VAP: 12.91%  
Hispanic VAP: 6.72%  
Hispanic Black VAP: 0.44%

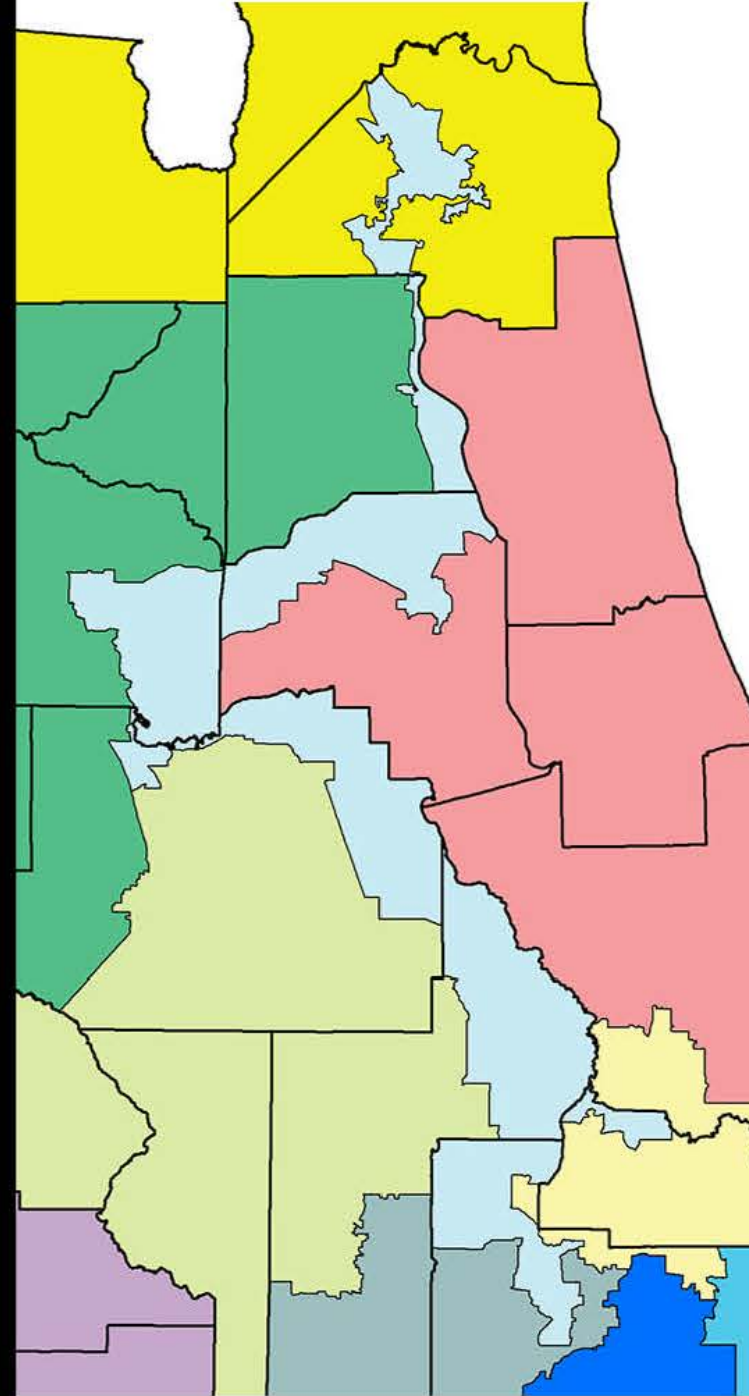
**H000C9043**  
**District 5**  
**January 4, 2012**



Difference from  
H000C9047

Black VAP: 48.03% (2.03%)  
Hispanic VAP: 11.12% (0.04%)  
Hispanic Black VAP: 1.06% (0.04%)

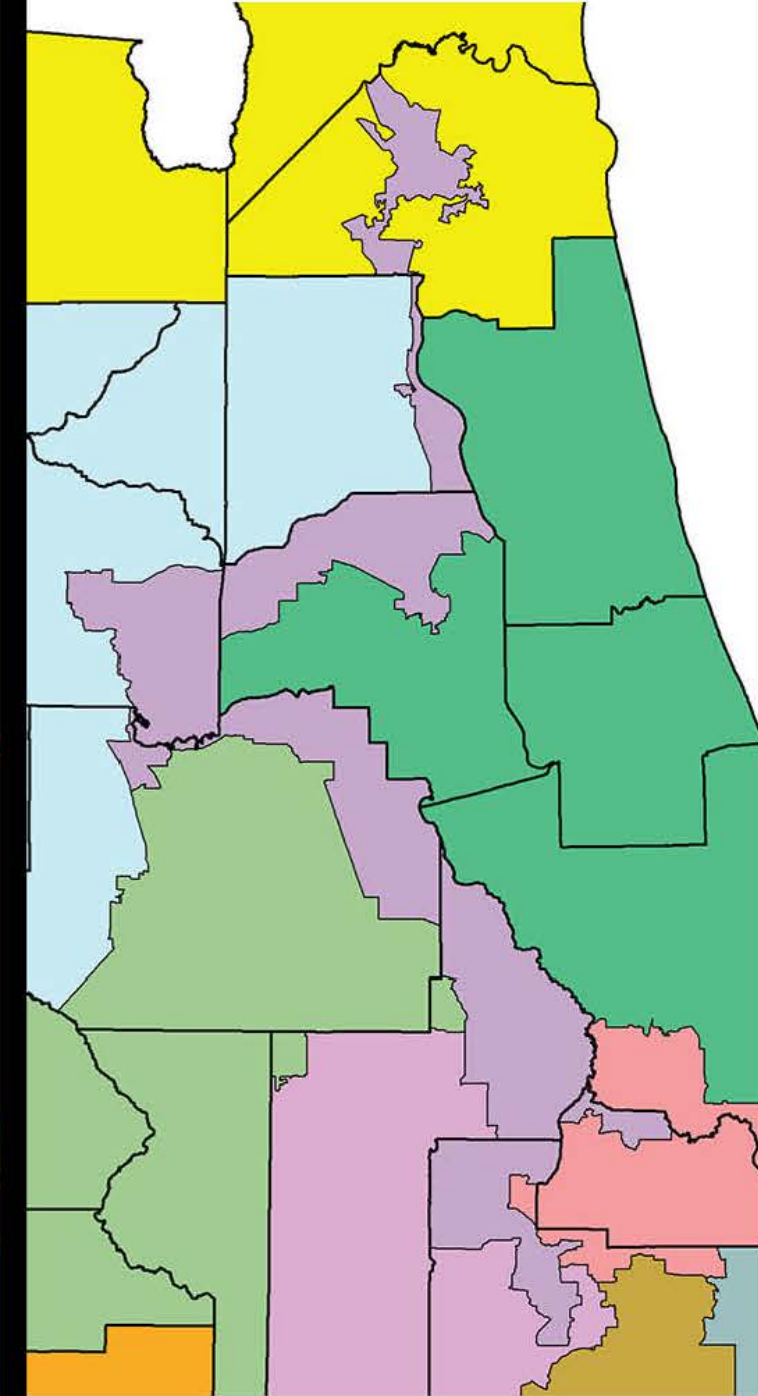
**S000C9014**  
**District 3**  
**January 12, 2012**



Difference from  
H000C9047

Black VAP: 49.96% (0.10%)  
Hispanic VAP: 11.09% (0.01%)  
Hispanic Black VAP: 1.10% (0.00%)

**H000C9047**  
**District 5**  
**January 25, 2012**



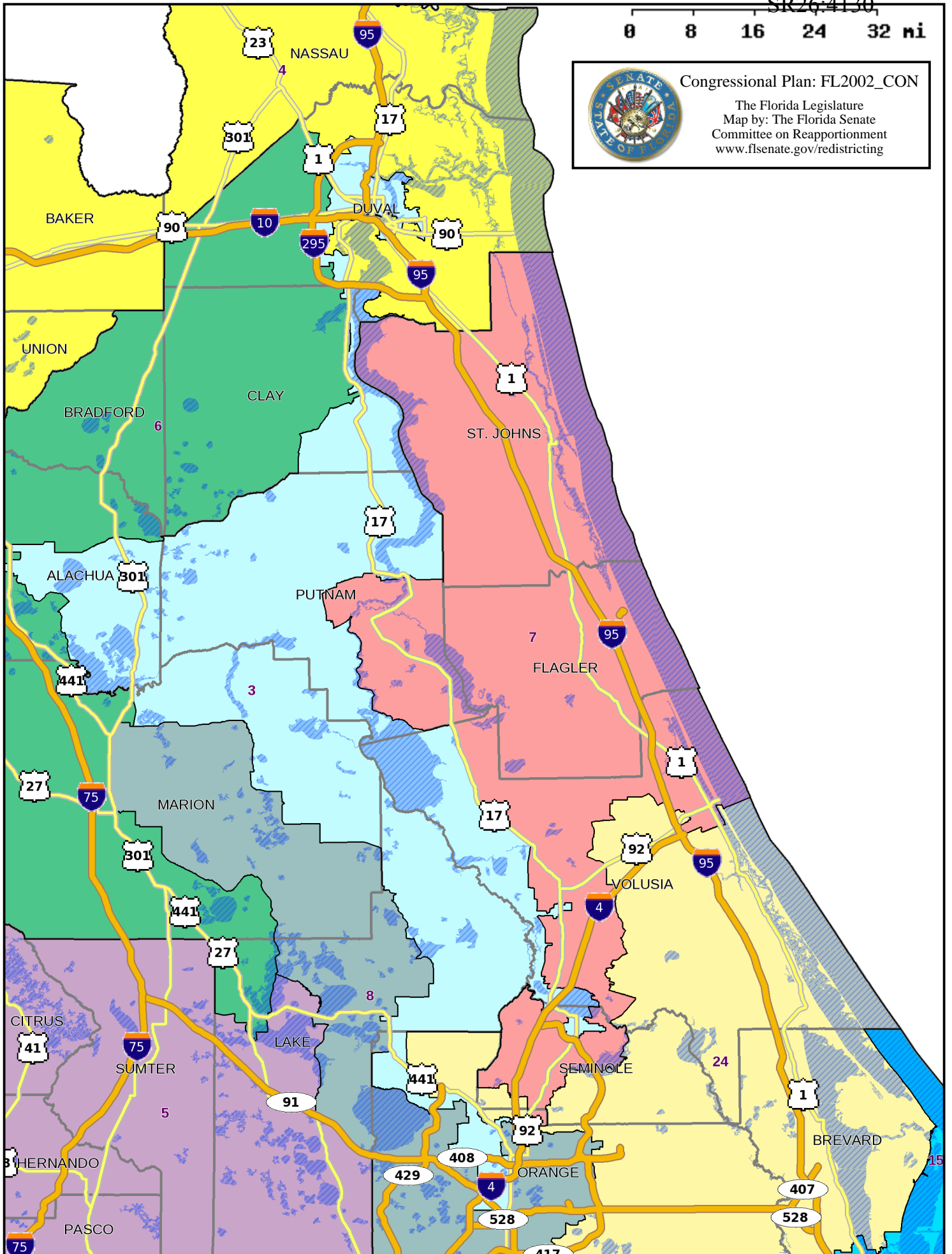
Black VAP: 50.06%  
Hispanic VAP: 11.08%  
Hispanic Black VAP: 1.10%



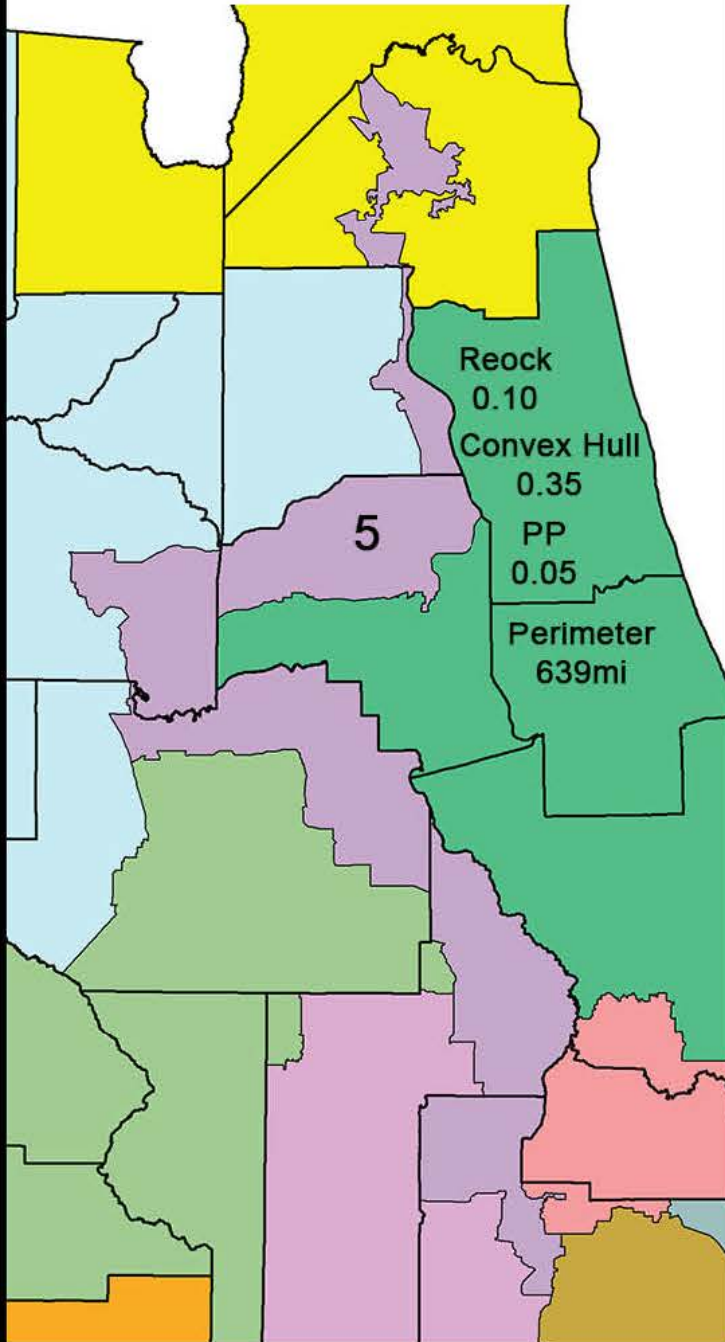


Congressional Plan: FL2002\_CON

The Florida Legislature  
Map by: The Florida Senate  
Committee on Reapportionment  
[www.flsenate.gov/redistricting](http://www.flsenate.gov/redistricting)



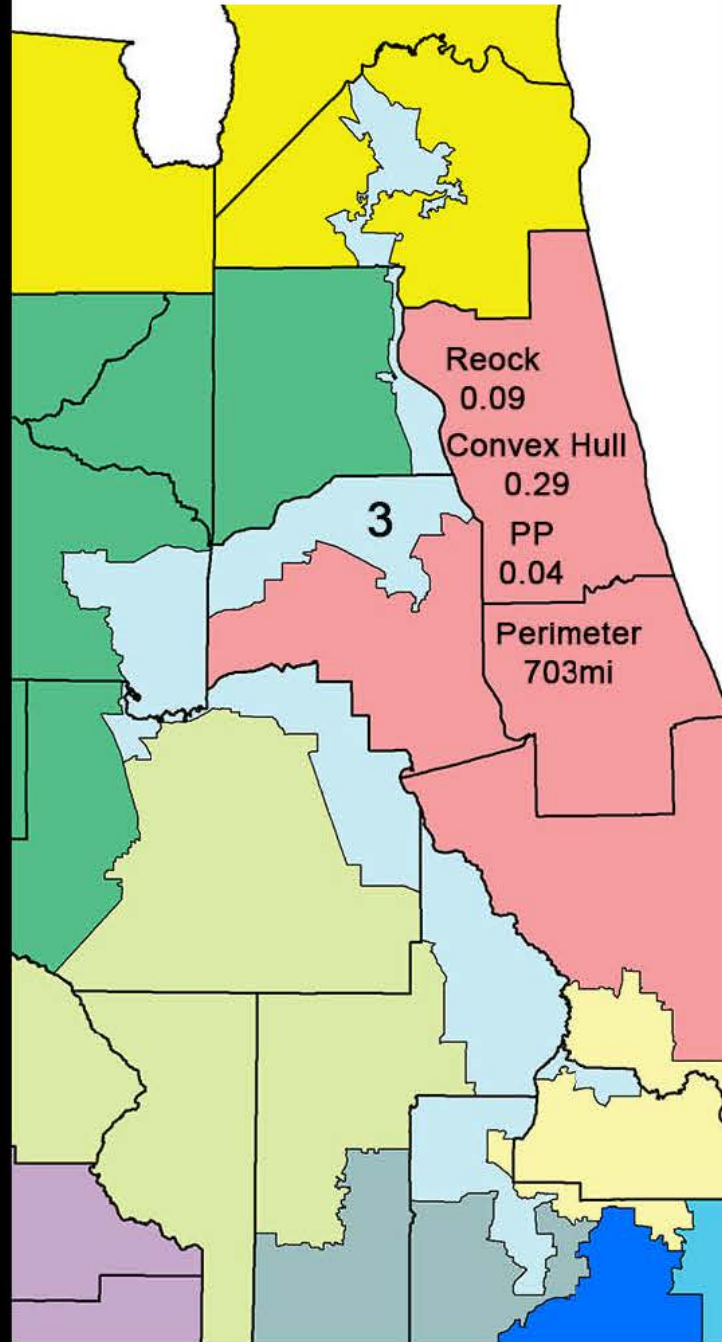
**H000C9043**  
**District 5**  
**January 4, 2012**



Difference from  
H000C9047

Black VAP: 48.03% (2.03%)  
Hispanic VAP: 11.12% (0.04%)  
Obama 2008 Vote: 69.2% (1.8%)  
Sink 2010 Vote: 65.4% (1.8%)

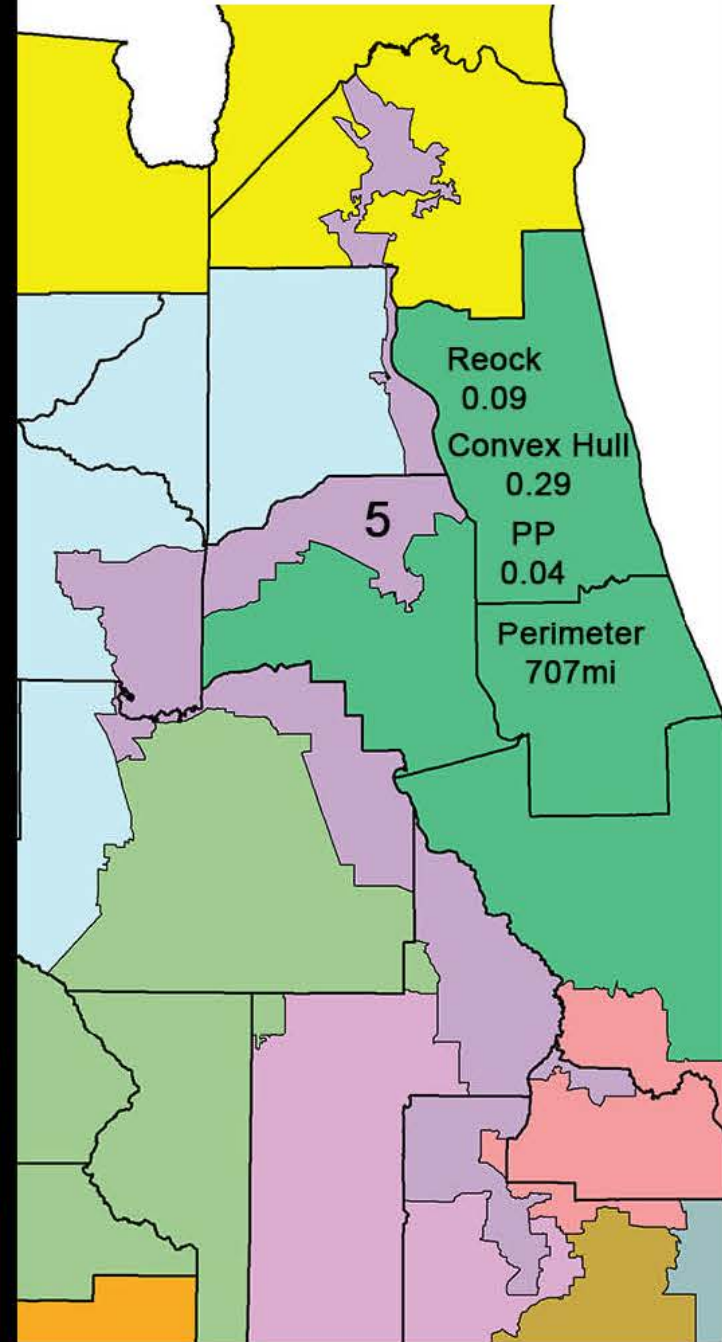
**S000C9014**  
**District 3**  
**January 12, 2012**



Difference from  
H000C9047

Black VAP: 49.96% (0.10%)  
Hispanic VAP: 11.09% (0.01%)  
Obama 2008 Vote: 70.9% (0.1%)  
Sink 2010 Vote: 67.1% (0.1%)

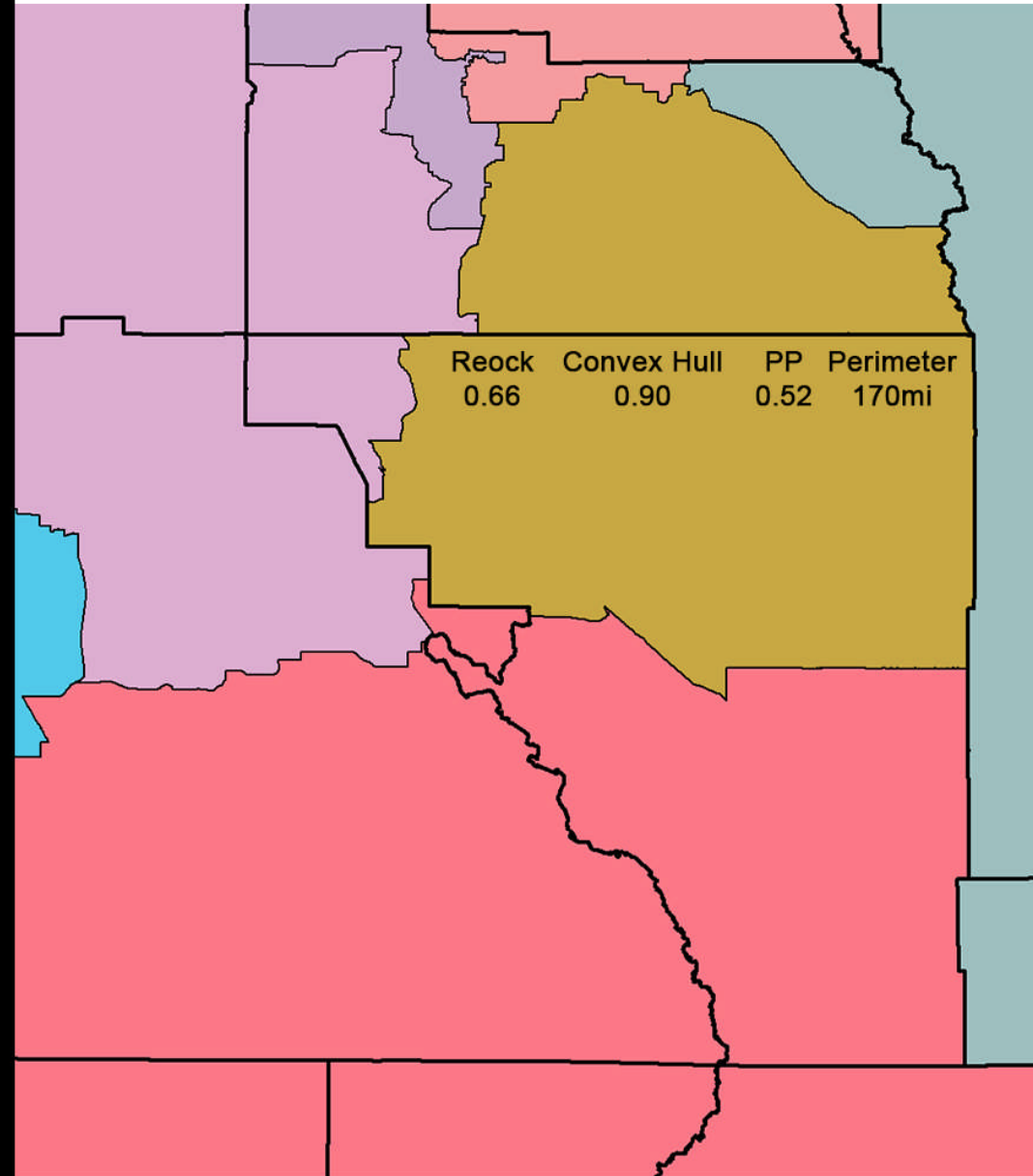
**H000C9047**  
**District 5**  
**January 25, 2012**



Black VAP: 50.06%  
Hispanic VAP: 11.08%  
Obama 2008 Vote: 71.0%  
Sink 2010 Vote: 67.2%

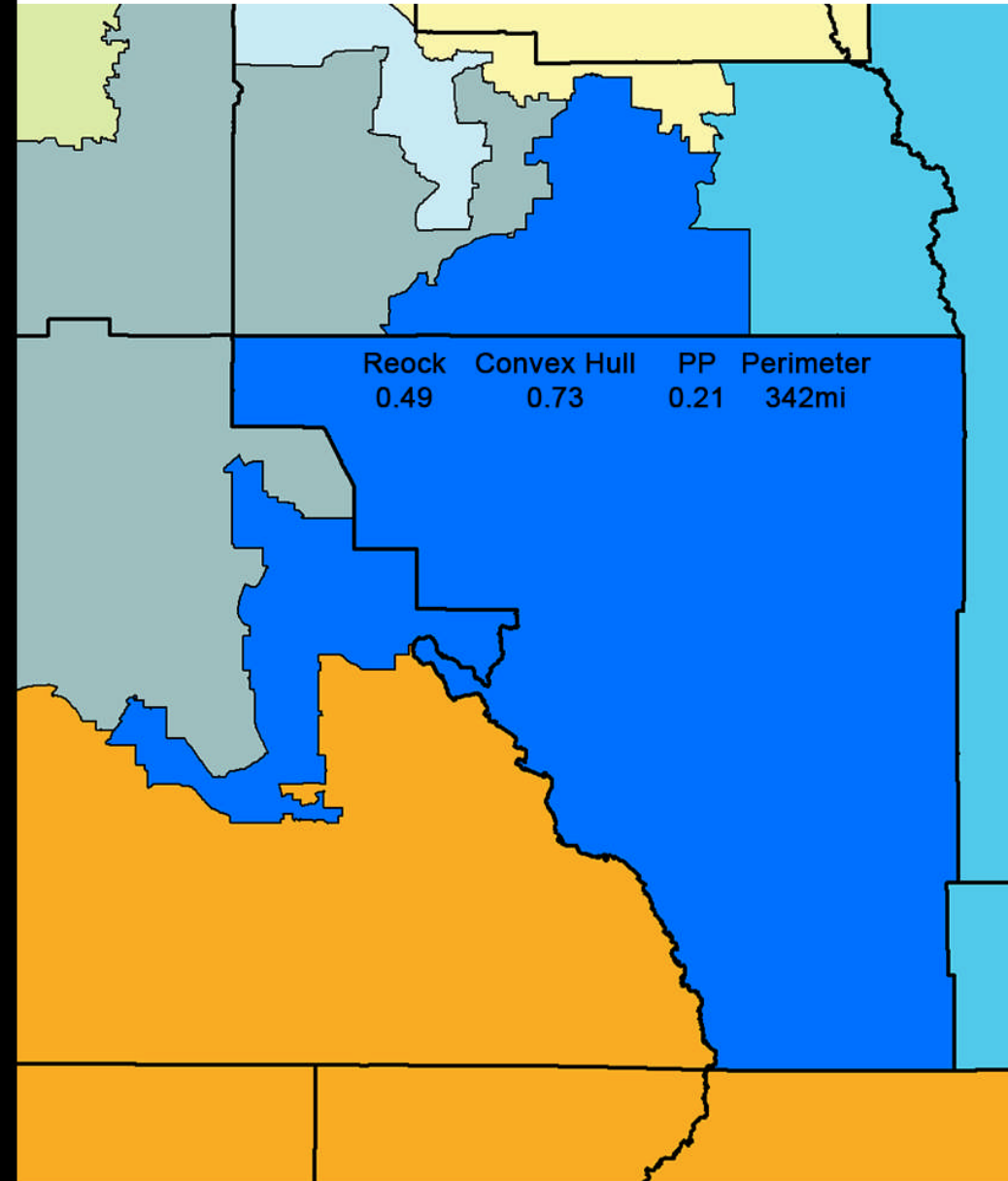


**H000C9043**  
**District 9**  
**January 4, 2012**



	Difference from H000C9047
Black VAP: 11.53%	(0.87%)
Hispanic VAP: 39.59%	(1.80%)
Obama 2008 Vote: 59.6%	(1.0%)
Sink 2010 Vote: 55.0%	(0.1%)

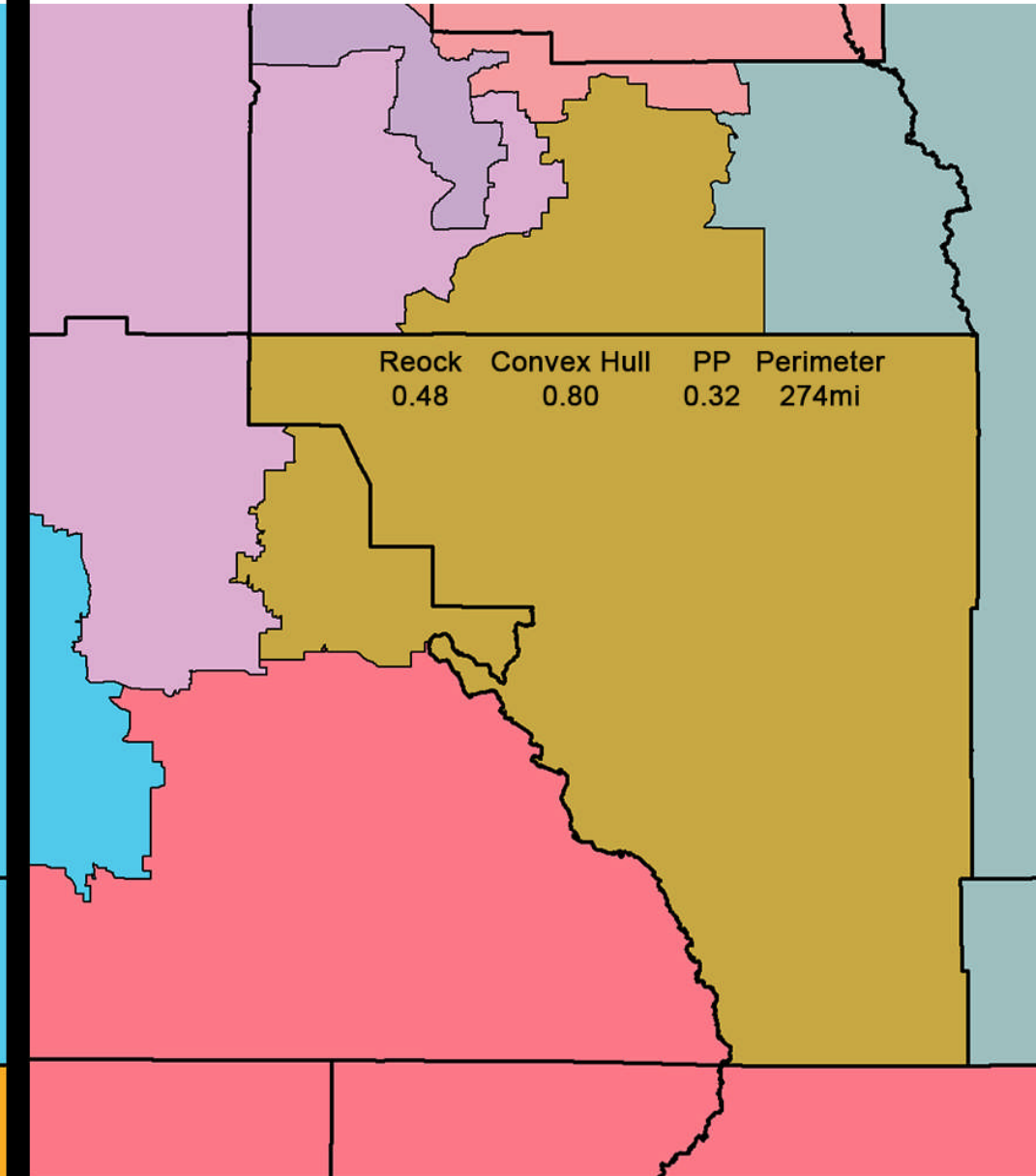
**S000C9014**  
**District 27**  
**January 12, 2012**



	Difference from H000C9047
Black VAP: 12.17%	(0.23%)
Hispanic VAP: 41.30%	(0.09%)
Obama 2008 Vote: 60.3%	(0.3%)
Sink 2010 Vote: 54.7%	(0.4%)

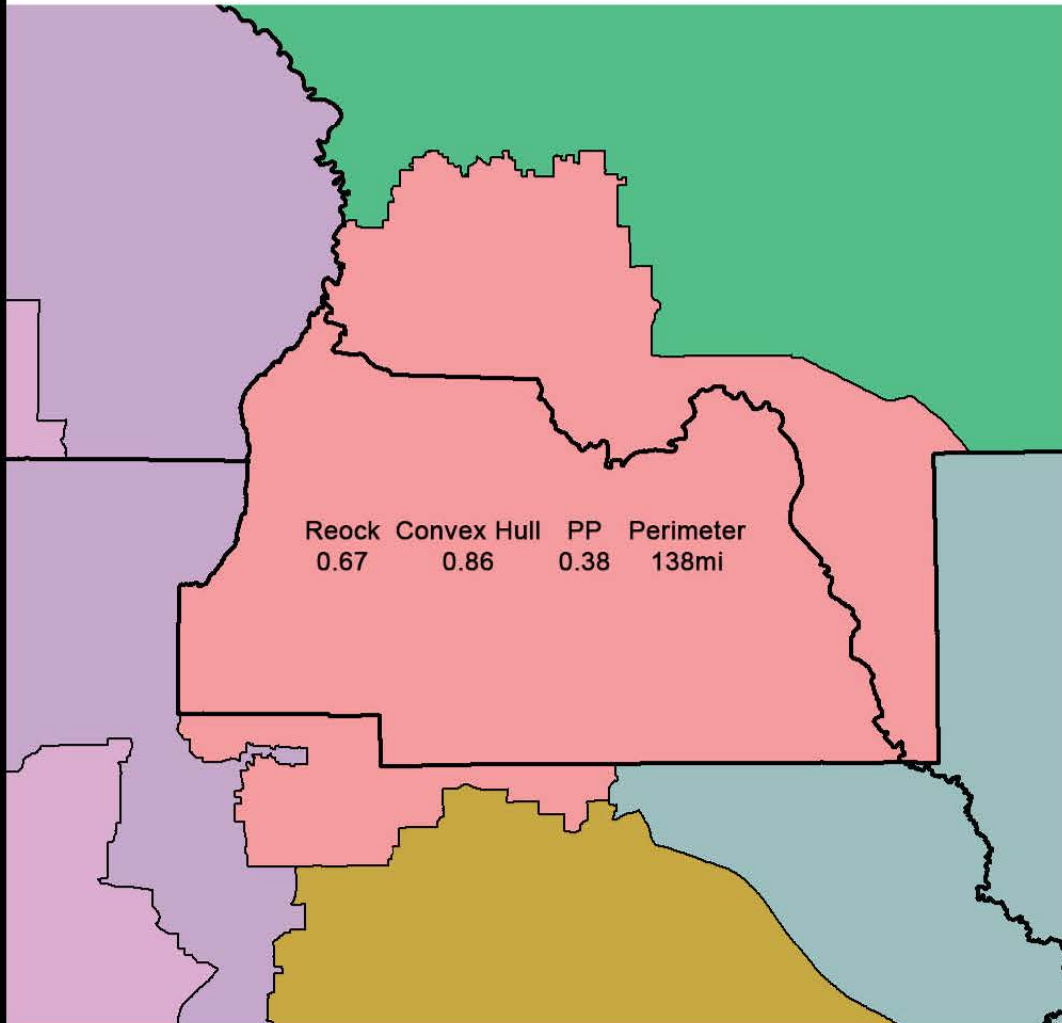
**H000C9047**  
**District 9**  
**January 25, 2012**

SP26:4132



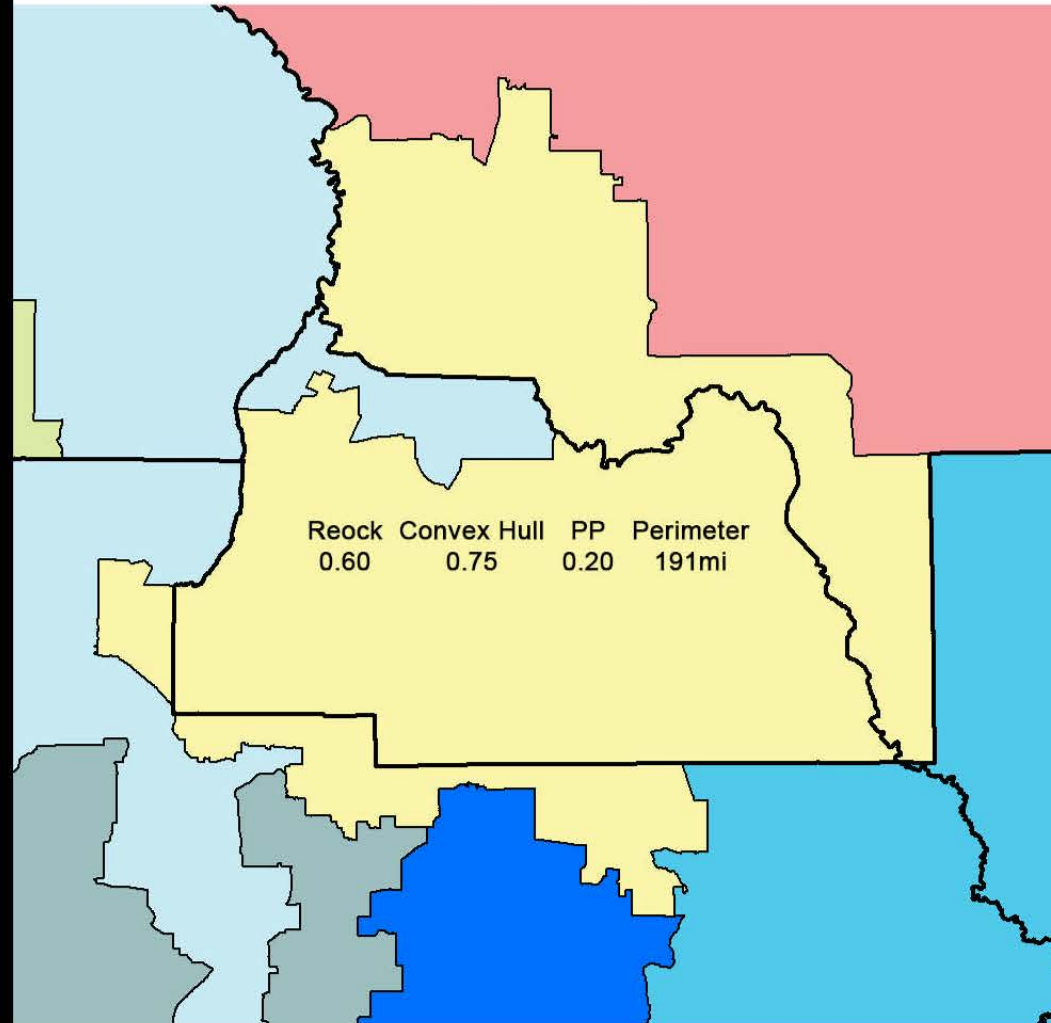
Black VAP: 12.40%
Hispanic VAP: 41.39%
Obama 2008 Vote: 60.6%
Sink 2010 Vote: 55.1%

**H000C9043**  
**District 7**  
**January 4, 2012**



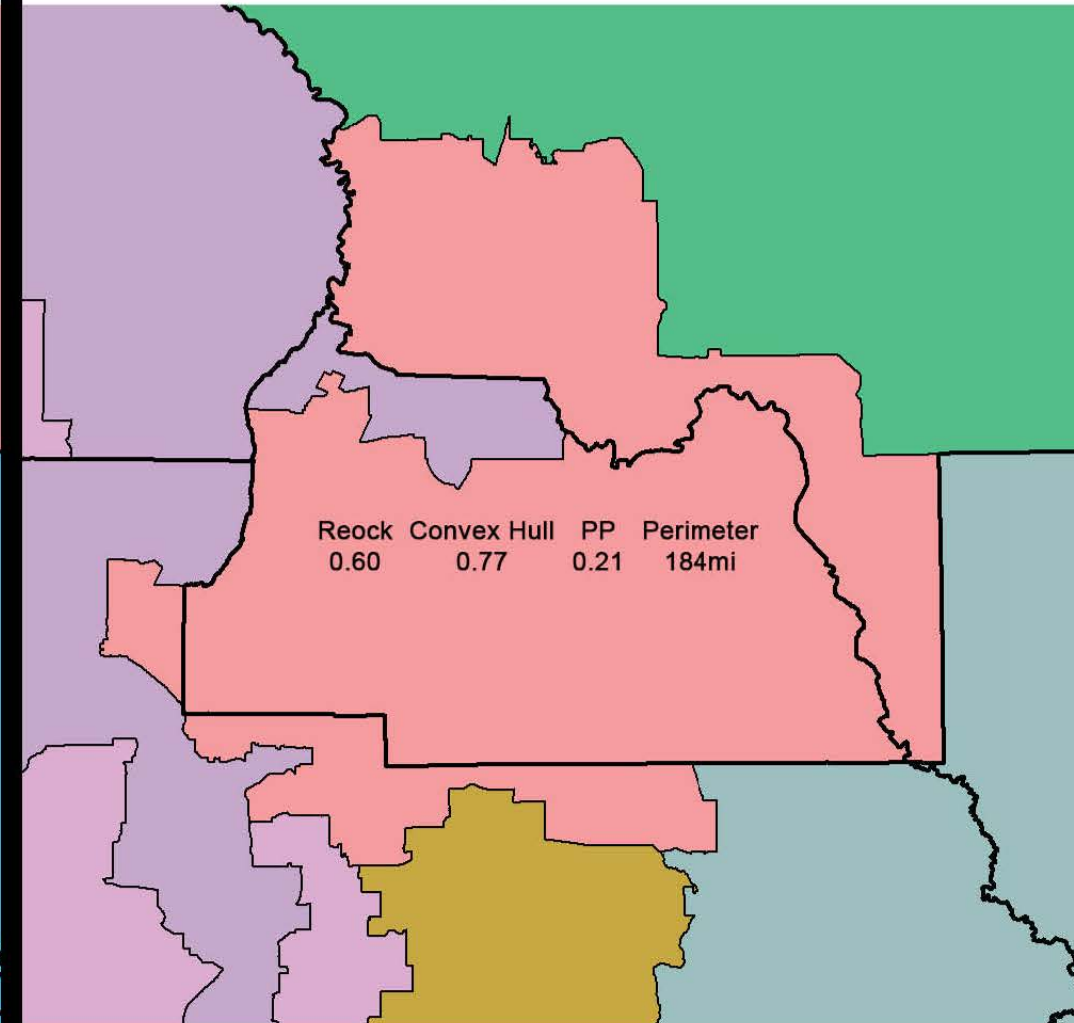
	Difference from H000C9047
Black VAP: 10.46%	(1.43%)
Hispanic VAP: 16.21%	(0.76%)
Obama 2008 Vote: 50.5%	(0.9%)
Sink 2010 Vote: 48.5%	(1.0%)

**S000C9014**  
**District 24**  
**January 12, 2012**



	Difference from H000C9047
Black VAP: 9.25%	(0.22%)
Hispanic VAP: 17.49%	(0.52%)
Obama 2008 Vote: 49.7%	(0.1%)
Sink 2010 Vote: 47.4%	(0.1%)

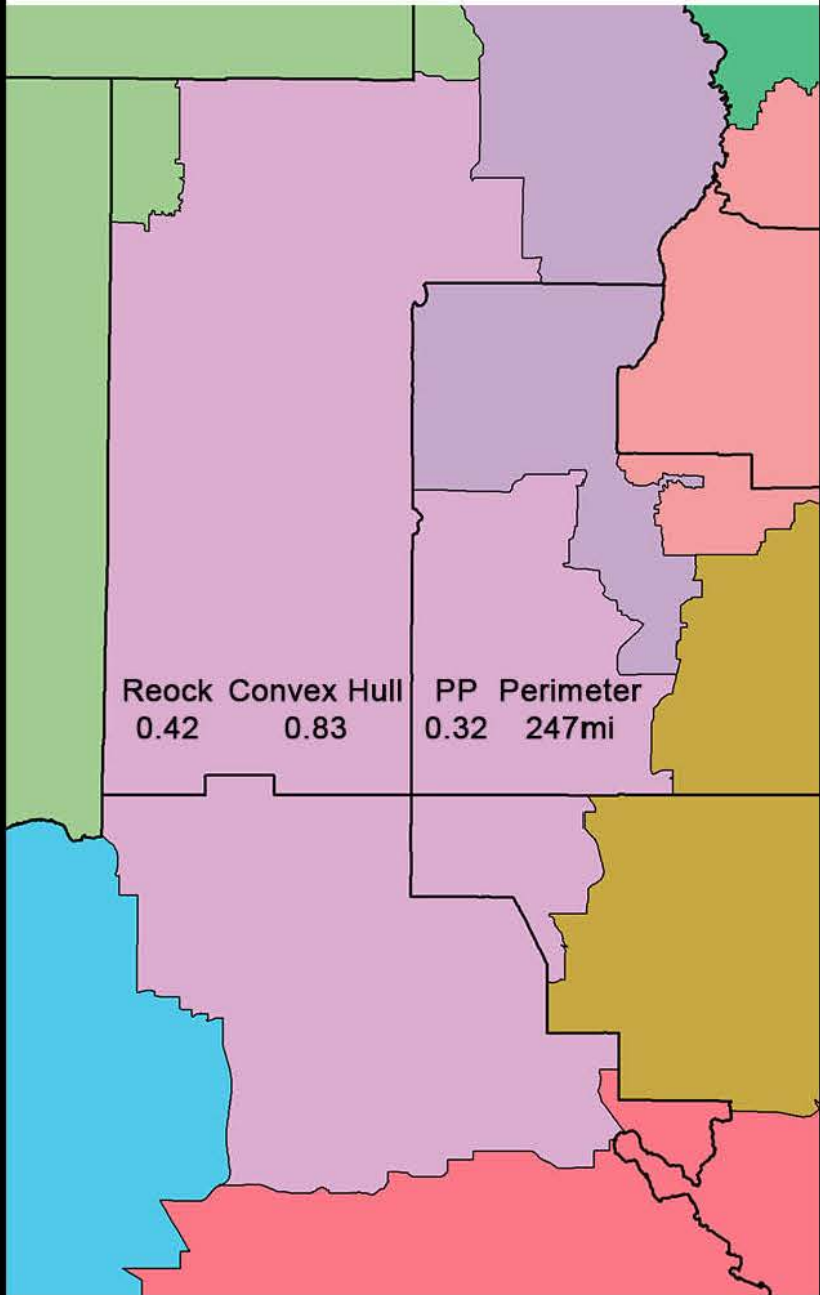
**H000C9047**  
**District 7**  
**January 25, 2012**



Black VAP: 9.03%
Hispanic VAP: 16.97%
Obama 2008 Vote: 49.6%
Sink 2010 Vote: 47.5%



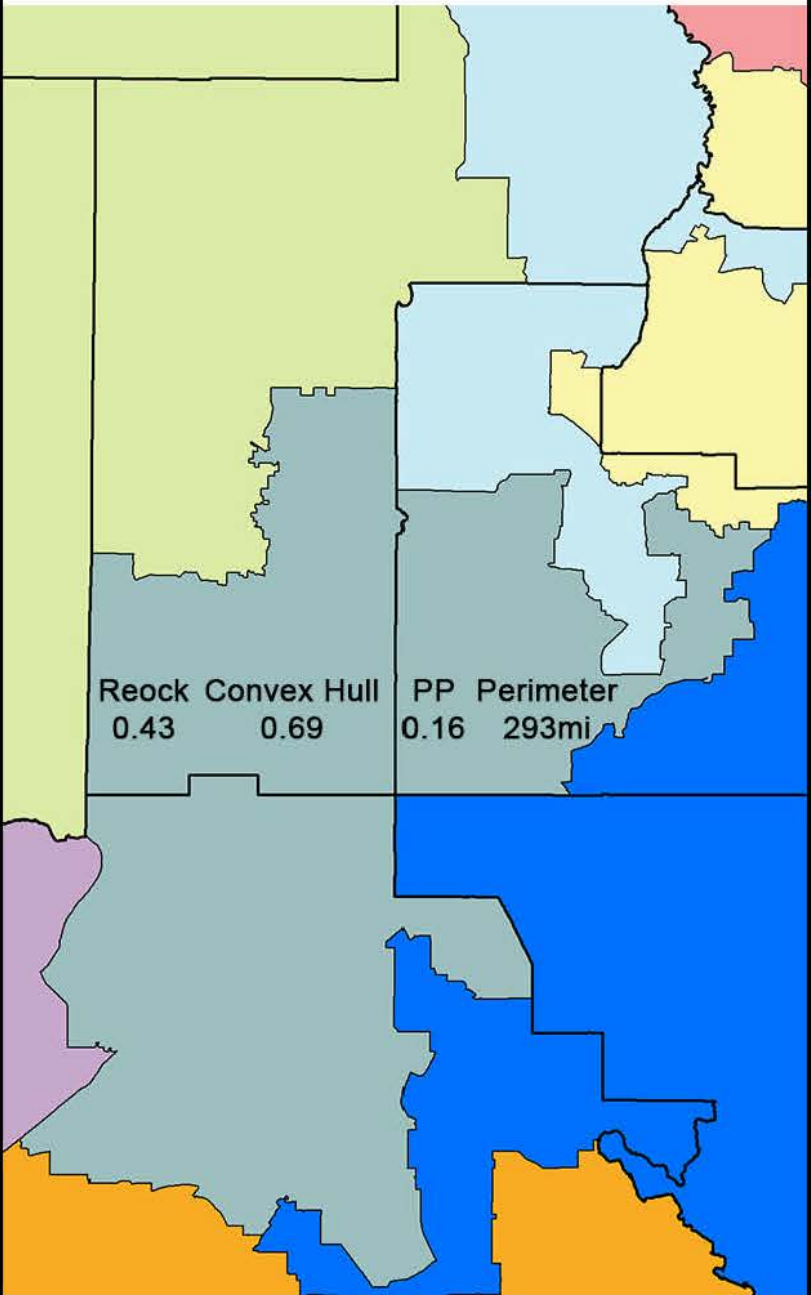
**H000C9043**  
**District 10**  
**January 4, 2012**



Difference from  
H000C9047

Black VAP: 12.08% (0.94%)  
Hispanic VAP: 15.91% (1.71%)  
Obama 2008 Vote: 48.0% (0.4%)  
Sink 2010 Vote: 44.9% (0.7%)

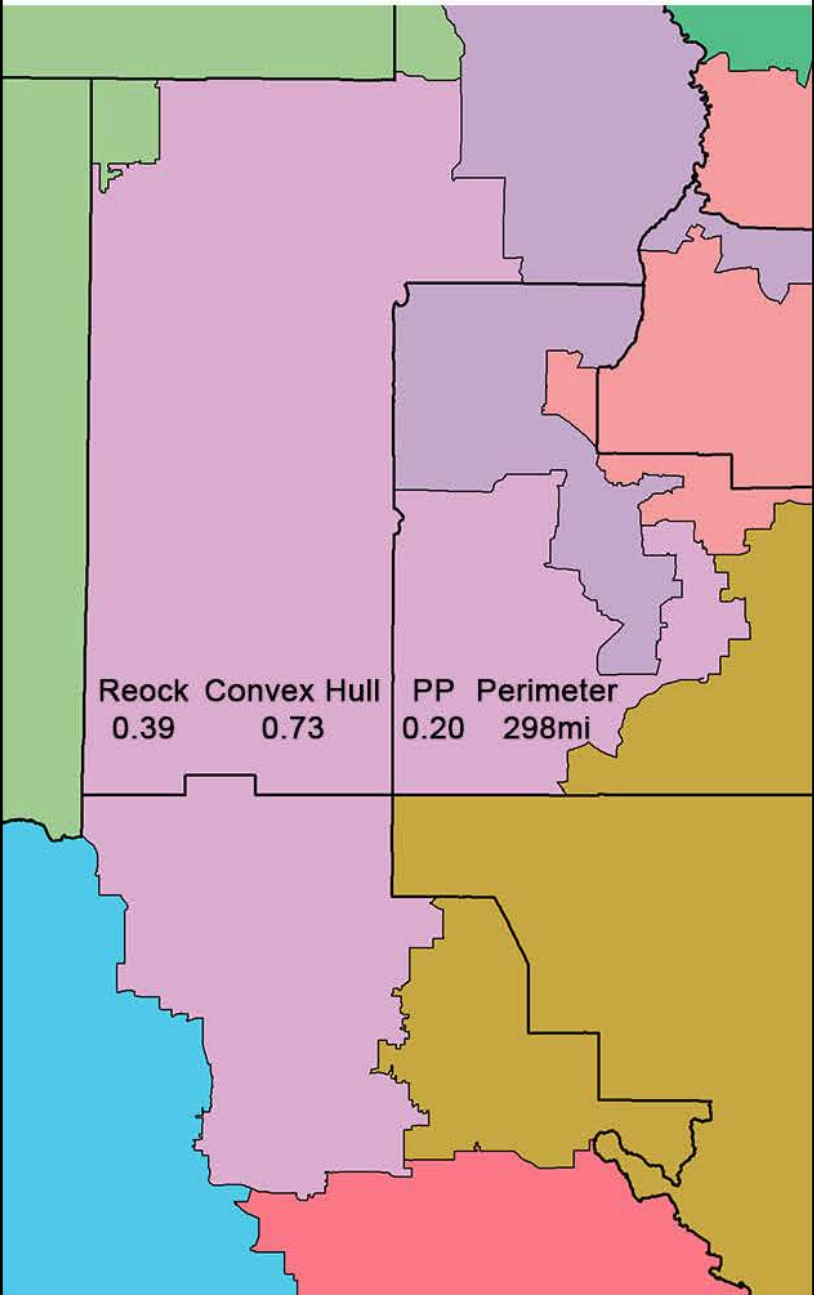
**S000C9014**  
**District 8**  
**January 12, 2012**



Difference from  
H000C9047

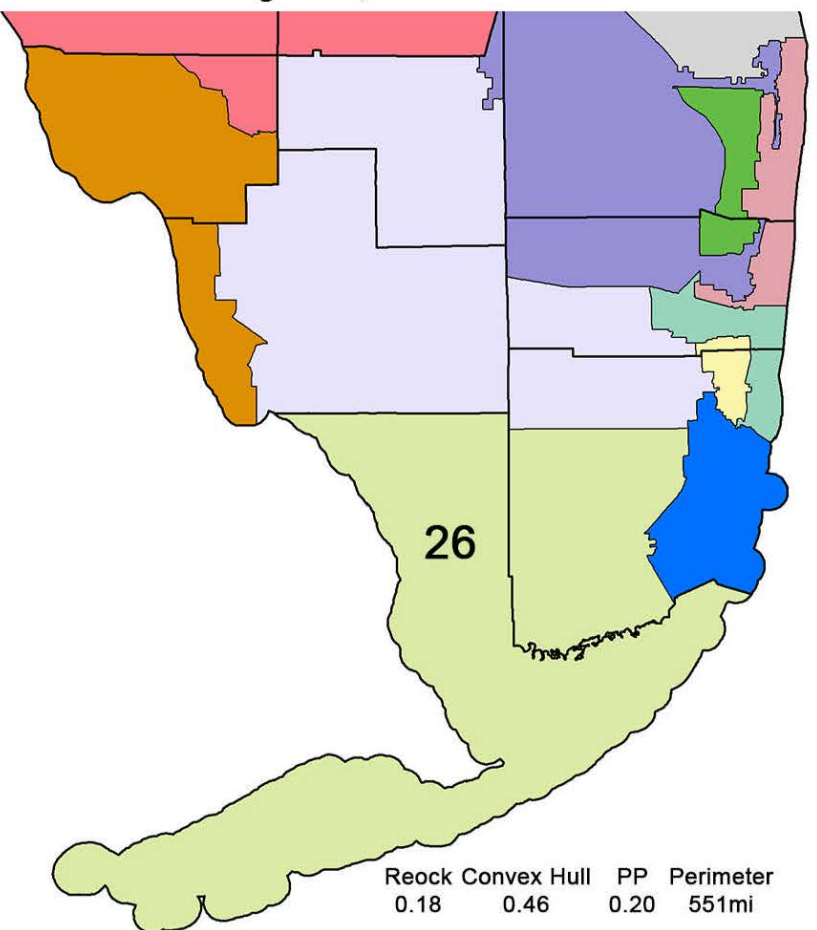
Black VAP: 12.55% (1.41%)  
Hispanic VAP: 15.10% (0.90%)  
Obama 2008 Vote: 49.5% (1.9%)  
Sink 2010 Vote: 47.0% (1.4%)

**H000C9047**  
**District 10**  
**January 25, 2012**



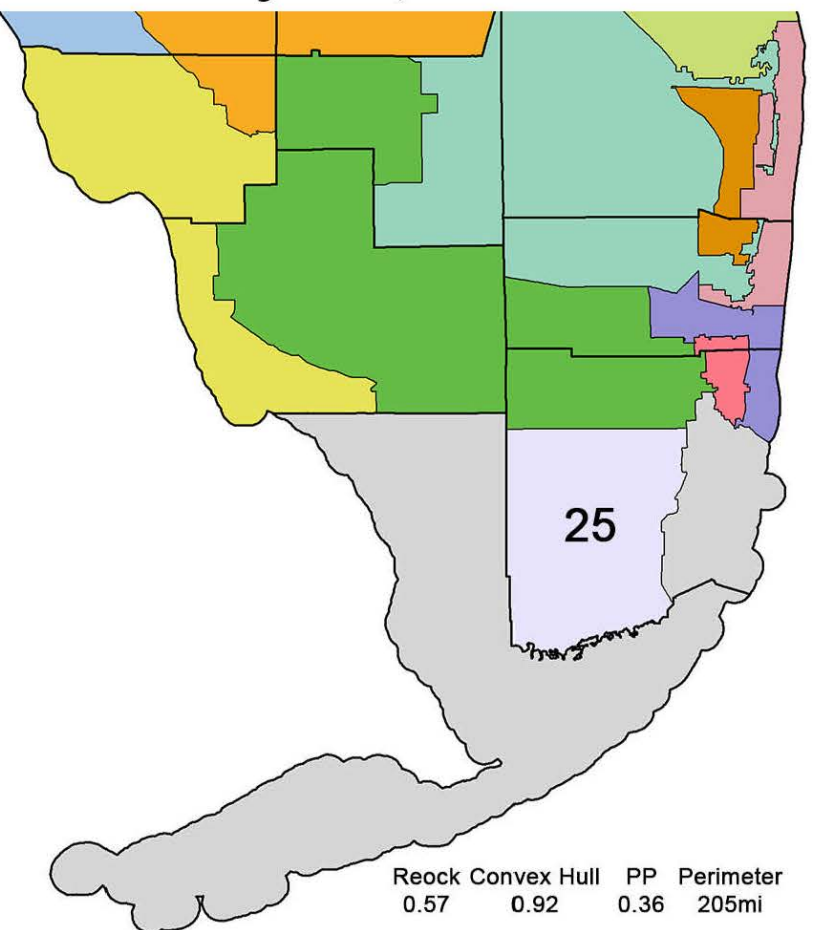
Black VAP: 11.14%  
Hispanic VAP: 14.20%  
Obama 2008 Vote: 47.6%  
Sink 2010 Vote: 45.6%

H000C9043  
District 26  
January 4, 2012



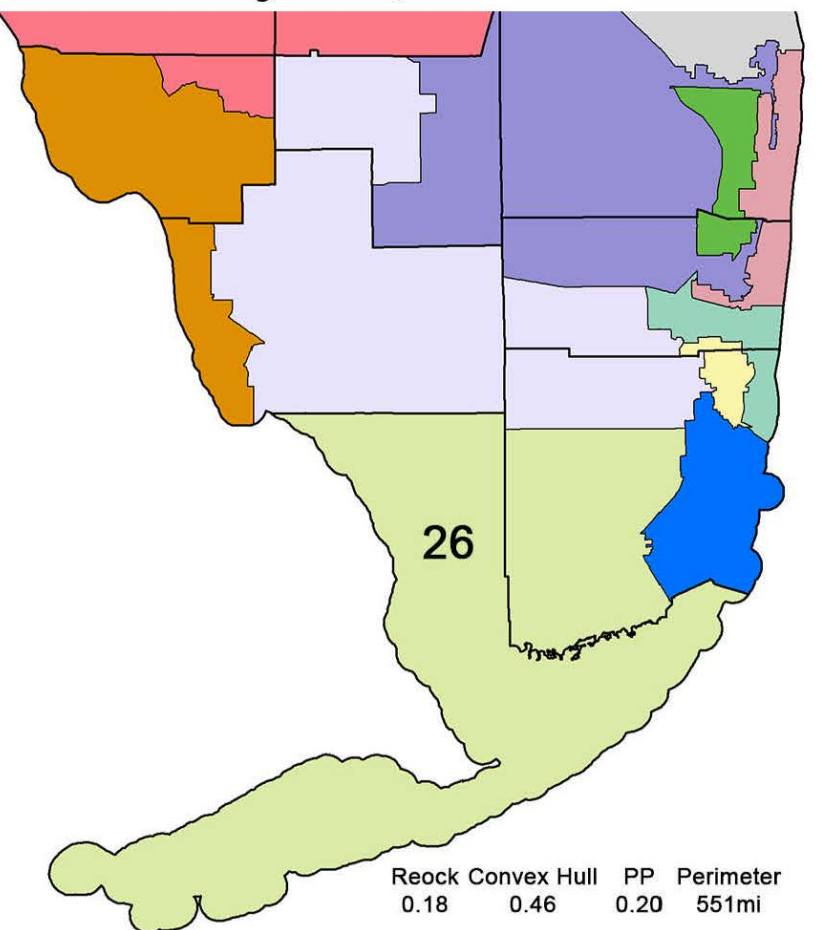
	Difference from H000C9047
Black VAP: 10.02%	(0.00%)
Hispanic VAP: 68.91%	(0.00%)
Obama 2008 Vote: 49.8%	(0.0%)
Sink 2010 Vote: 49.9%	(0.0%)

S000C9014  
District 25  
January 12, 2012



	Difference from H000C9047
Black VAP: 12.32%	(2.30%)
Hispanic VAP: 74.13%	(5.22%)
Obama 2008 Vote: 51.2%	(1.4%)
Sink 2010 Vote: 51.3%	(1.4%)

H000C9047  
District 26  
January 25, 2012



Black VAP: 10.02%
Hispanic VAP: 68.91%
Obama 2008 Vote: 49.8%
Sink 2010 Vote: 49.9%



**2011 10-26 PO CongressComplete (October 26, 2011) (CP 1401)**  
**Compared to**  
**Alex Posada HPUBCO132 (November 1, 2011) (CP 586)**

**District 1**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>13.1933</b>	<b>4.5490</b>	<b>77.5589</b>	<b>12.9371</b>
1 Posada 132	13.1933	4.5490	77.5589	12.9371

**District 2**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>23.8426</b>	<b>4.7524</b>	<b>68.4452</b>	<b>23.5310</b>
2 Posada 132	23.8426	4.7524	68.4452	23.5310

**District 3**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>50.0748</b>	<b>9.2022</b>	<b>38.1424</b>	<b>49.0840</b>
3 Posada 132	50.1277	9.2929	37.9902	49.1342

**District 4**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>10.6243</b>	<b>6.6157</b>	<b>77.4347</b>	<b>10.2169</b>
4 Posada 132	13.1509	6.6796	74.7291	12.7090

**District 5**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>6.1849</b>	<b>9.1839</b>	<b>82.4435</b>	<b>5.7844</b>
5 Posada 132	4.3758	7.0450	86.6868	4.0786

**District 6**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>14.6749</b>	<b>6.6287</b>	<b>74.3491</b>	<b>14.3205</b>
6 Posada 132	12.9963	7.0296	76.0209	12.6689

**District 7**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>9.9133</b>	<b>8.5801</b>	<b>79.3961</b>	<b>9.4614</b>
7 Posada 132	8.7814	8.0963	80.8292	8.3675

**District 8**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>10.0976</b>	<b>10.6461</b>	<b>75.4000</b>	<b>9.5979</b>
8 Posada 132	9.8685	11.7025	74.4109	9.3184

**District 9**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>3.9149</b>	<b>10.1690</b>	<b>82.6409</b>	<b>3.5319</b>
9 Posada 132	7.1279	14.5825	73.9951	6.5208

**District 10**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>11.2055</b>	<b>6.8184</b>	<b>78.1779</b>	<b>10.8692</b>
10 Posada 132	5.3451	7.3035	83.3439	5.0696

**District 11**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>22.0874</b>	<b>25.9345</b>	<b>48.6916</b>	<b>20.3864</b>
11 Posada 132	28.5714	26.0940	43.3790	26.9354

**District 12**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>12.0699</b>	<b>14.5135</b>	<b>71.3204</b>	<b>11.5485</b>
12 Posada 132	12.5115	13.2362	72.1035	11.9609

**District 13**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>8.2786</b>	<b>15.1762</b>	<b>74.1669</b>	<b>7.7633</b>
13 Posada 132	6.8950	11.9203	78.5766	6.3864

**District 14**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>6.6122</b>	<b>14.5532</b>	<b>77.1563</b>	<b>6.1245</b>
14 Posada 132	6.6122	14.5532	77.1563	6.1245

**District 15**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>11.0385</b>	<b>7.7905</b>	<b>78.4749</b>	<b>10.6454</b>
15 Posada 132	10.9315	7.6102	78.7790	10.5448

**District 16**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>7.4099</b>	<b>12.1384</b>	<b>78.3409</b>	<b>7.0117</b>
16 Posada 132	7.4099	12.1384	78.3409	7.0117

**District 17**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>58.3133</b>	<b>32.3929</b>	<b>10.0795</b>	<b>55.3968</b>
17 Posada 132	58.3127	32.3938	10.0784	55.3964

**District 18**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>6.9125</b>	<b>66.7005</b>	<b>25.9089</b>	<b>5.0948</b>
18 Posada 132	6.5127	67.6602	25.1541	4.9178

**District 19**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>11.6503</b>	<b>23.0671</b>	<b>60.6431</b>	<b>10.8939</b>
19 Posada 132	11.6499	23.0682	60.6429	10.8935

**District 20**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>9.5081</b>	<b>32.9007</b>	<b>55.2945</b>	<b>8.3396</b>
20 Posada 132	9.5116	32.8993	55.2930	8.3430

**District 21**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>9.1864</b>	<b>80.8426</b>	<b>10.2203</b>	<b>6.5103</b>
21 Posada 132	6.2821	84.6877	9.8421	3.7583

**District 22**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>12.1319</b>	<b>18.9805</b>	<b>66.0926</b>	<b>11.4539</b>
22 Posada 132	12.1319	18.9805	66.0926	11.4539

**District 23**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>52.4832</b>	<b>18.0760</b>	<b>27.7190</b>	<b>51.2861</b>
23 Posada 132	52.4832	18.0760	27.7190	51.2861

**District 24**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>8.6404</b>	<b>15.0847</b>	<b>72.3056</b>	<b>7.8902</b>
24 Posada 132	8.6423	15.6442	71.6629	7.8673

**District 25**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>5.8233</b>	<b>63.1296</b>	<b>30.0806</b>	<b>4.7148</b>
25 Posada 132	9.2199	57.7702	31.6333	7.7490

**District 26**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>5.7111</b>	<b>10.0276</b>	<b>82.5794</b>	<b>5.4174</b>
26 Posada 132	5.3346	11.3479	81.6568	5.0673

**District 27**

	%AllBikVAP10	%AllHisVAP10	%SRWVAP10	%NHBVAP10
<b>CongressComplete</b>	<b>13.5424</b>	<b>43.3238</b>	<b>39.0391</b>	<b>11.0193</b>
27 Posada 132	13.5424	43.3238	39.0391	11.0193

plan #	submittal site	last name	first name	residence	date
c0001	hpub	Ortiz	Nicholas	St. Johns County	5/27/2011
c0003	hpub	Libby	John	Duval County	7/8/2011
c0004	hpub	Kelley	Henry	Okaloosa County	7/12/2011
c0005	hpub	Kelley	Henry	Okaloosa County	7/12/2011
c0006	hpub	Homburg	Justin	Pinellas County	7/12/2011
c0008	hpub	Edmonston	Tom	Lake County	7/13/2011
c0009	hpub	Sullivan	Patricia	Lake County	7/13/2011
c0015	hpub	Dubois	Andy	Lake County	7/26/2011
c0017	hpub	Perez (PRLDEF)	Emilio	Goldenrod	7/27/2011
c0019	hpub	Libby	John	Duval County	8/2/2011
c0020	hpub	Gates, Sarah and Dr. David Bradford		Brevard County	8/3/2011
c0021	hpub	Carillo	Kathy	Lake County	8/5/2011
c0022	hpub	Moore	Carol	Lake County	8/5/2011
c0023	hpub	Perez (PRLDEF)	Emilio	Goldenrod	8/5/2011
c0026	hpub	Kulcsar	David	Hillsborough County	8/9/2011
c0030	spub	Andre	Natalie	Delray Beach	8/13/2011
c0031	hpub	Phillippi	Sean	Broward County	8/14/2011
c0032	spub	Andre	Natalie	Delray Beach	8/13/2011
c0033	spub	Russo	Joseph	Palm Beach Gardens	8/18/2011
c0035	hpub	Lafortune	Jean-Robert	Miami-Dade County	8/23/2011
c0036	hpub	Carman	Jeffrey	Manatee County	8/23/2011
c0038	hpub	Cracchiolo	Peter	Pasco County	8/23/2011
c0039	hpub	Danish	Michael	Pasco County	8/23/2011
c0041	hpub	Carman	Jeffrey	Manatee County	8/24/2011
c0042	hpub	Danish	Michael	Pasco County	8/24/2011
c0043	hpub	Lafortune, Jean-Robert and others		Miami-Dade County	8/24/2011
c0044	hpub	Carman	Jeffrey	Manatee County	8/25/2011
c0046	hpub	Weinbaum	Michael	Hillsborough County	8/28/2011
c0049	hpub	Hitchcock	Virginia	Sarasota County	8/30/2011
c0050	hpub	Casademunt	Andrew	Collier County	8/31/2011
c0051	spub	Russo	Joseph	Palm Beach Gardens	8/31/2011
c0054	hpub	Brown	Brian	Osceola	9/3/2011
c0057	hpub	Terrell	Ryan	Broward County	9/7/2011
c0062	spub	Libby	John	Jacksonville	9/9/2011
c0065	hpub	Boyle	Matthew	Palm Beach County	9/25/2011
c0068	spub	King	Bruce	Nokomis	9/25/2011
c0069	hpub	Boyle	Matthew	Palm Beach County	9/27/2011
c0073	hpub	McCormick	Judy Davis	Hillsborough County	10/5/2011
c0075	hpub	Leuchs	Edward	Broward County	10/6/2011
c0076	hpub	Leuchs	Edward	Broward County	10/6/2011
c0077	spub	Miller	Steve	Orange Park	10/5/2011
c0081	hpub	Agner	Bonnie Sue	Taylor County	10/10/2011
c0088	spub	King	Bruce	Nokomis	10/11/2011
c0093	hpub	Weinbaum	Michael	Hillsborough County	10/15/2011
c0096	hpub	McCormick	Judy Davis	Hillsborough County	10/19/2011
c0097	hpub	Cracchiolo	Peter	Pasco County	10/19/2011
c0098	hpub	Evans	Charles	Broward County	10/19/2011
c0099	hpub	Weinbaum	Michael	Hillsborough County	10/19/2011
c0100	hpub	Evans	Charles	Broward County	10/20/2011
c0103	hpub	Perez (PRLDEF)	Emilio	Orange County	10/20/2011

c0104	spub	Libby	John	Jacksonville	10/20/2011
c0106	hpub	Yost	Mike	Duval County	10/23/2011
c0109	spub	Spooney	Robert	Orlando	10/26/2011
c0110	hpub	Weinbaum	Michael	Hillsborough County	10/29/2011
c0111	hpub	Weinbaum	Michael	Hillsborough County	10/29/2011
c0115	hpub	Faunce	Carolyn	Putnam County	10/31/2011
c0124	spub	Wolff	Jack	Plant City	10/31/2011
c0125	hpub	Eubanks	Kenny	Putnam County	11/1/2011
c0129	hpub	Kenney	Jessica	Sarasota County	11/1/2011
c0130	hpub	Whitten	Evan	Leon County	11/1/2011
c0131	hpub	Whitten	Evan	Leon County	11/1/2011
c0132	hpub	Posada	Alex	Leon County	11/1/2011
c0133	hpub	Posada	Alex	Leon County	11/1/2011
c0136	hpub	McAlister	John	Hillsborough County	11/1/2011
c0139	hpub	Weinbaum	Michael	Hillsborough County	11/1/2011
c0140	hpub	Hale, Heaven and others		Hillsborough County	11/1/2011
c0141	hpub	Dolan	Stacy	Pinellas County	11/1/2011
c0149	hpub	Cline, Austin and others		Hillsborough County	11/1/2011
c0150	hpub	Rigsby, Alex and others		Charlotte County	11/1/2011
c0151	hpub	Montesi, Philip and others		Hillsborough County	11/1/2011
c0152	hpub	Petrovich	Dallas	Lee County	11/1/2011
c0153	hpub	Haeffner	Kent	Broward County	11/1/2011
c0154	spub	Obe Nweze (NAACP)	Adora	Miami	11/1/2011
c0157	hpub	Timothe, Kassandra and others		Hillsborough County	11/1/2011

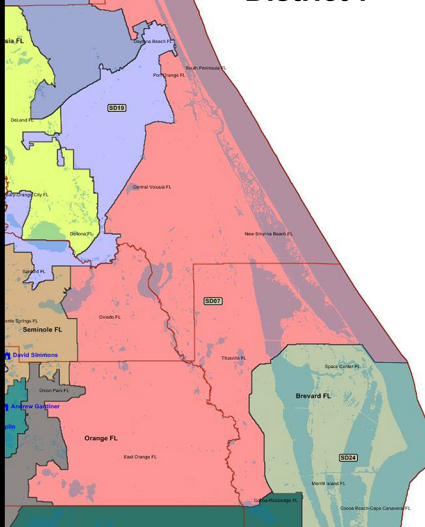
Public Submissions  
Senate Maps

SR26:4139

plan #	submittal site	last name	first name	residence	date
s0007	hpub	Kelley	Henry	Okaloosa County	07/12/11
s0010	hpub	Sullivan	Patricia	Lake County	07/13/11
s0014	hpub	Dubois	Andy	Lake County	07/26/11
s0025	hpub	Cracchiolo	Peter	Pasco County	08/09/11
s0028	hpub	Kulcsar	David	Hillsborough County	08/09/11
s0034	hpub	Laytham	Keith	Polk County	08/23/11
s0053	hpub	Brown	Brian	Osceola County	09/03/11
s0056	hpub	Terrell	Ryan	Broward County	01/09/00
s0058	hpub	Laytham	Keith	Polk County	09/07/11
s0060	hpub	Maas	Jeffrey	Bonita Springs	09/08/11
s0063	hpub	Wendell	Edd	Lee County	09/11/11
s0064	spub	Libby	John	Jacksonville	09/15/11
s0066	spub	King	Bruce	Nokomis	09/25/11
s0071	hpub	Maxwell	Bradley	Leon County	09/27/11
s0072	hpub	Boyle	Matthew	Palm Beach County	10/05/11
s0078	hpub	Laytham	Keith	Polk County	10/06/11
s0080	hpub	Agner	Bonnie Sue	Taylor County	10/10/11
s0083	spub	Terrell	Ryan	Broward County	10/12/11
s0084	hpub	Ketchel	Micah	Leon County	10/12/11
s0085	hpub	Ladd	Andrew	Leon County	10/12/11
s0086	hpub	King	Bruce	Nokomis	10/11/11
s0089	hpub	FGCU class		Lee County	10/12/11
s0090	hpub	Jones	Christy	Alachua County	10/15/11
s0091	spub	Libby	John	Jacksonville	10/14/11
s0092	hpub	Weinbaum	Michael	Hillsborough County	10/15/11
s0094	hpub	Smith	John	Palm Beach County	10/15/11
s0095	hpub	Terrell	Ryan	Broward County	10/19/11
s0102	hpub	Perez	Emilio	Orange County	10/20/11
s0105	spub	Russell	Henry	Gainesville	10/21/11
s0108	spub	Pine	Eric	Clearwater	10/25/11
s0113	hpub	Foster	Herald	Miami-Dade County	10/31/11
s0114	hpub	Faunce	Carolyn	Putnam County	10/31/11
s0117	hpub	Phillippi	Sean	Broward County	10/31/11
s0121	hpub	Eubanks	Kenny	Putnam County	10/31/11
s0123	hpub	May	Delena	Gainesville	10/28/11
s0142	spub	Fischman	Akiva	Aventura	11/01/11
s0143	spub	Patton	Alex	Gainesville	11/01/11
s0144	spub	Hernandez	Mimi	Miami-Dade County	11/01/11
s0145	spub	Hernandez	Mimi	Miami-Dade County	11/01/11
s0146	spub	Martin	Barbara	High Springs	11/01/11
s0147	spub	Samarri	Remzey	micanopy	11/01/11
s0148	spub	Spooney	Robert	Orlando	11/01/11
s0155	spub	Obi Nweze (NAACP)	Adora	Miami	11/01/11

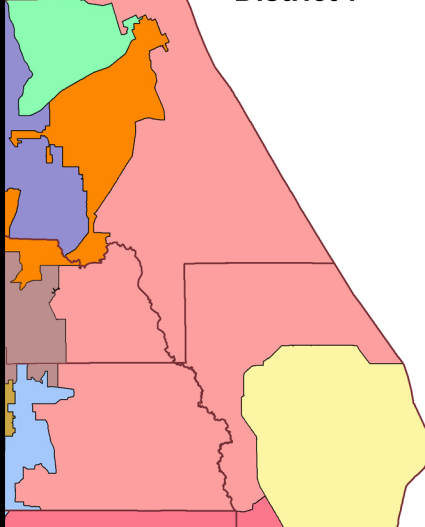


**Senate 7b**  
**October 27, 2011**  
**District 7**



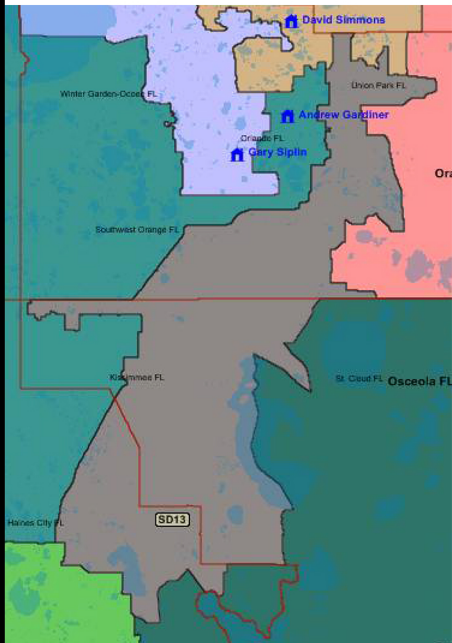
**Population: 451,986**  
**Hispanic %: 12.86345%**  
**DOJ Non-Hispanic Black %: 7.00641%**

**SPUBS0123**  
**SR26:40**  
**October 28, 2011**  
**District 7**



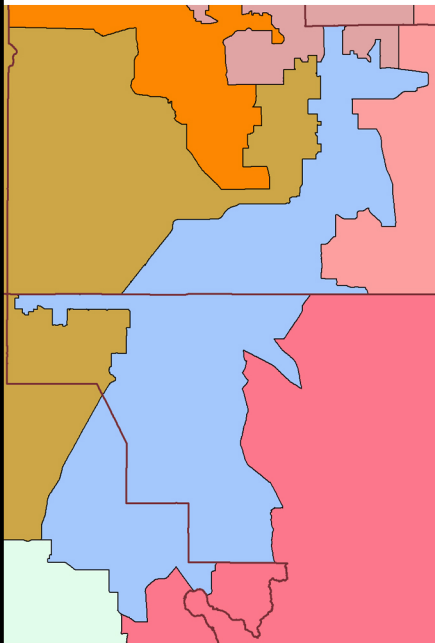
**Population: 451,986**  
**Hispanic %: 12.86345%**  
**DOJ Non-Hispanic Black %: 7.00641%**

**Senate 7b**  
**October 27, 2011**  
**District 13**



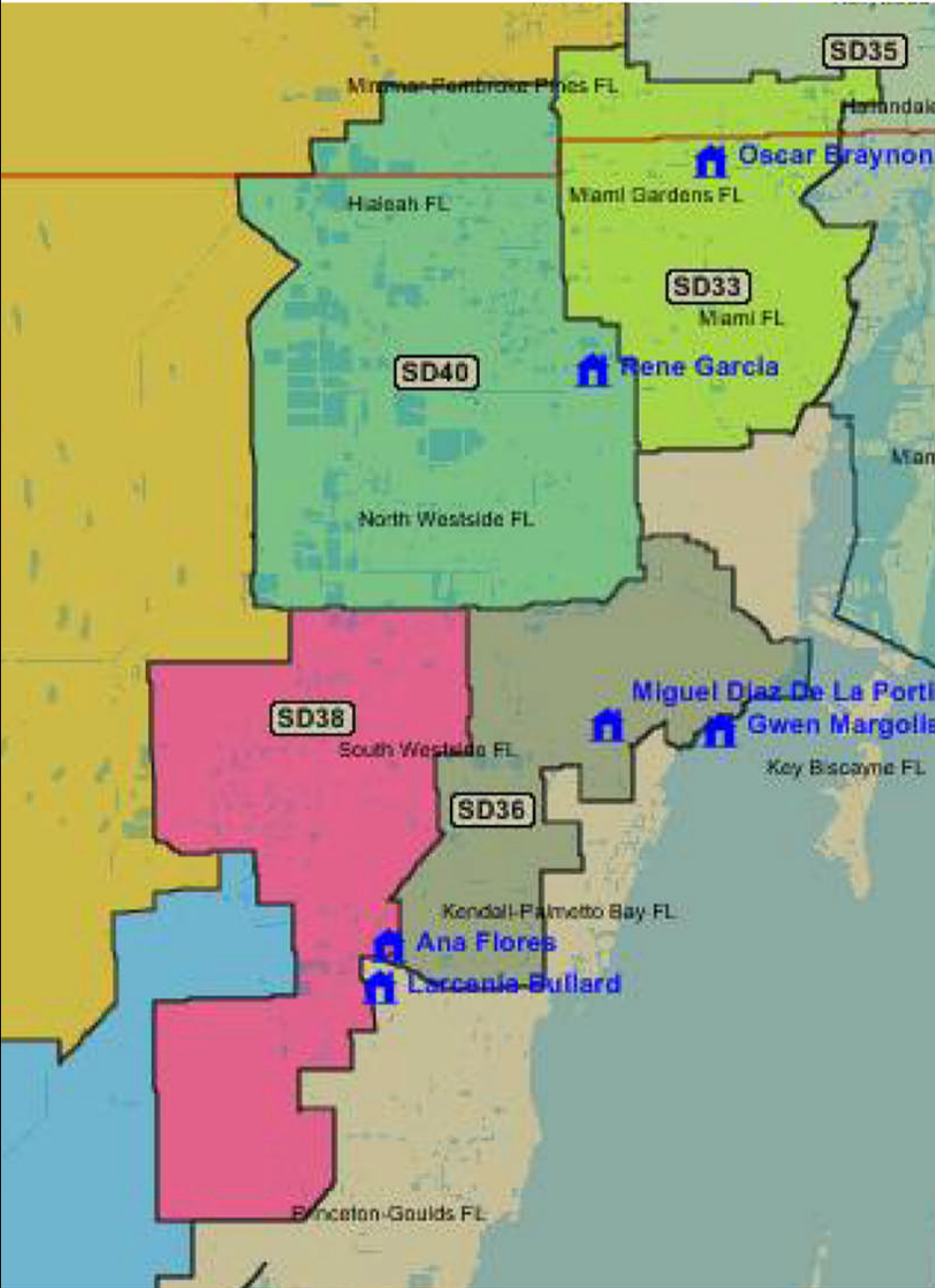
**Population: 480,885**  
**Hispanic %: 50.43784%**  
**DOJ Non-Hispanic Black %: 10.93629%**

**SPUBS0123**  
**SR26-4141**  
**October 28, 2011**  
**District 13**



**Population: 480,885**  
**Hispanic %: 50.43784%**  
**DOJ Non-Hispanic Black %: 10.93629%**

Senate 7b  
October 27, 2011  
Miami Area



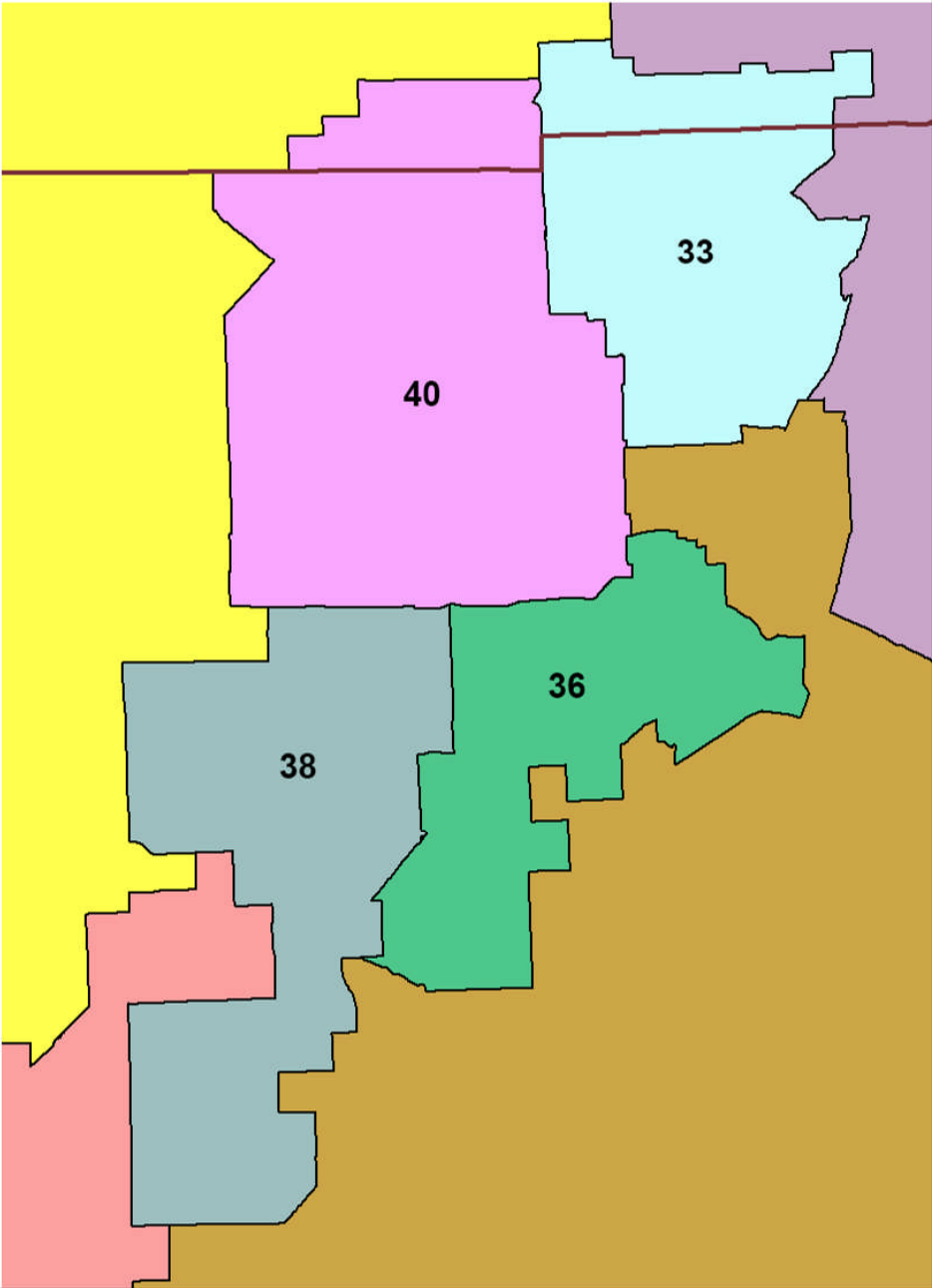
**District 33**  
Population: 473,632  
Hispanic %: 28.56690%  
DOJ Non-Hispanic Black %: 59.86166%

**District 36**  
Population: 468,375  
Hispanic %: 78.82978%  
DOJ Non-Hispanic Black %: 1.81457%

**District 38**  
Population: 471,960  
Hispanic %: 83.91156%  
DOJ Non-Hispanic Black %: 2.49767%

**District 40**  
Population: 469,107  
Hispanic %: 83.36286%  
DOJ Non-Hispanic Black %: 5.79122%

SPUBS0123  
October 28, 2011  
Miami Area



**District 33**  
Population: 473,632  
Hispanic %: 28.56690%  
DOJ Non-Hispanic Black %: 59.86166%

**District 36**  
Population: 469,144  
Hispanic %: 78.74427%  
DOJ Non-Hispanic Black %: 1.81245%

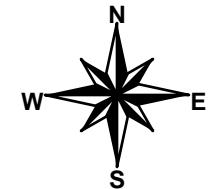
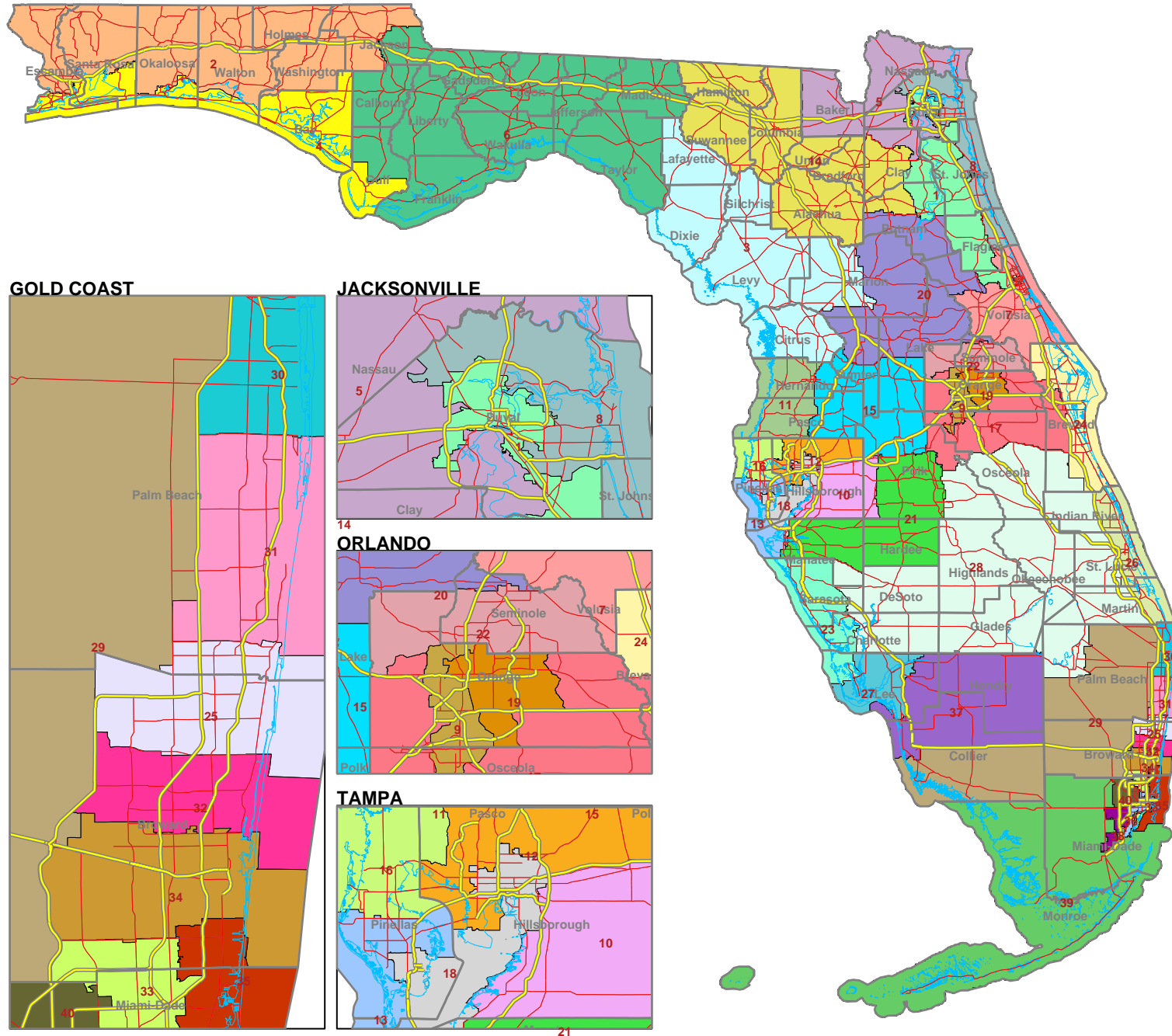
**District 38**  
Population: 471,960  
Hispanic %: 83.91156%  
DOJ Non-Hispanic Black %: 2.49767%

**District 40**  
Population: 469,107  
Hispanic %: 83.36286%  
DOJ Non-Hispanic Black %: 5.79122%



# SENATE 4C - 11182011

**Florida House of Representatives**  
 Redistricting Committee  
 402 S. Monroe Street  
 House Office Building  
 Tallahassee, FL 32399  
[www.floridaredistricting.org](http://www.floridaredistricting.org)



## Legend

- 7 District Number
- District Boundary
- County Boundary
- Interstate Highway
- Major Highway
- Shoreline



District ID	Pop Dev	TPOP10	%AllBlkPop10	%AllBlkVAP10	%AllHispPop10	%AllHispVAP10	%SRWPop10	%SRWVAP10	%NHBPop10	%NHBVAP10	%HBPop10	%HBVAP10	%HxBPop10	%HxBVAP10	%OthPop10	%OthVAP10	%AsianPOP10	%AsianVAP10	%WIndiesPOPACS	%HaitianPOPACS
1	26933	496965	44.13913	41.31405	6.52219	5.976648	45.98875	49.25157	43.28393	40.66843	0.855191	0.6456289	5.666999	5.331019	4.205125	4.103354	2.883101	2.93039	1.291661	0.4733804
2	-1576	468456	19.11129	17.47525	4.117996	3.677651	72.84014	74.94994	18.7817	17.2439	0.3295934	0.2313508	3.788403	3.446301	4.260165	4.12851	1.731646	1.832904	0.8506745	0.2654312
3	-20531	449501	10.06294	8.699991	7.836468	6.596157	80.01807	82.67445	9.666052	8.431695	0.3968845	0.2682961	7.439583	6.327861	2.479416	2.297694	1.298774	1.257229	0.7101579	0.06532058
4	917	470949	11.09632	9.405155	5.842246	5.060318	78.23246	80.7348	10.71241	9.150246	0.3839057	0.2549101	5.458341	4.805408	5.212879	5.054635	2.640201	2.796434	0.5153836	0.1195587
5	22214	492246	14.66198	12.78275	6.889441	6.078933	74.3033	77.03645	14.06065	12.37152	0.6013253	0.4112314	6.288116	5.667701	4.746611	4.51309	3.050101	3.076461	0.923624	0.3896107
6	-1551	468481	31.08088	29.29996	5.529573	5.203542	60.64429	62.80776	30.64308	28.93845	0.4377979	0.3615132	5.091775	4.842029	3.183053	3.050251	1.899757	1.862422	1.479584	0.4508334
7	-14990	455042	8.146061	6.845311	11.18556	9.434487	78.60901	81.65967	7.46107	6.360702	0.6849917	0.4846095	10.50057	8.949878	2.744362	2.545145	1.537221	1.489215	1.210982	0.4015164
8	-310	469722	11.62986	10.03078	7.706686	6.826824	75.36224	78.10366	11.04568	9.610797	0.5841753	0.4199843	7.122511	6.40684	5.885396	5.458722	4.100085	4.017089	0.9845728	0.2424975
9	19972	490004	34.2438	31.43993	34.9891	33.73868	27.03243	30.52879	31.60852	29.16702	2.635285	2.272908	32.35382	31.46577	6.369948	6.565508	4.503841	4.733049	9.169633	4.943504
10	25522	495554	13.02098	11.47256	22.16509	18.95747	62.18757	66.84967	11.90143	10.62124	1.119555	0.8513168	21.04554	18.10615	3.745909	3.571622	2.33133	2.371312	1.399599	0.2336486
11	-4057	465975	4.452814	3.565512	10.23295	8.697351	82.94115	85.50576	3.903214	3.184099	0.5496003	0.3814131	9.683352	8.315937	2.922689	2.612787	1.651805	1.545046	0.6706197	0.09174816
12	5112	475144	10.59237	9.575201	24.44775	22.70939	59.99487	62.76206	9.208366	8.474249	1.384001	1.100952	23.06375	21.60844	6.349022	6.054299	4.84632	4.763463	1.568867	0.3523431
13	-10561	459471	5.587948	4.269161	7.851856	6.519142	82.59325	85.55417	5.216869	4.031042	0.3710789	0.2381195	7.480777	6.281023	4.338032	3.895646	3.025871	2.822409	0.586105	0.1910698
14	-996	469036	18.69409	17.06318	7.078135	6.704998	70.02682	71.90348	18.25638	16.7176	0.4377063	0.3455745	6.640429	6.359424	4.638663	4.673916	3.136859	3.33638	1.116516	0.3622268
15	1057	471089	11.8623	10.33014	15.40176	13.07323	69.97149	73.89594	11.05884	9.747641	0.8034575	0.5824954	14.5983	12.49074	3.567903	3.283181	2.081136	1.993979	1.70072	0.4212832
16	-19249	450783	6.882247	5.691564	10.26525	8.652102	79.19686	82.27869	6.40175	5.364582	0.4804973	0.3269824	9.784752	8.32512	4.136137	3.704621	2.788038	2.621305	0.4097973	0.07651351
17	30280	500312	13.69146	12.51665	25.61662	23.13563	56.15516	59.60664	12.15002	11.2784	1.541438	1.238241	24.07518	21.89739	6.078207	5.979318	4.303315	4.447795	3.083912	1.033909
18	1915	471947	37.81844	33.96934	22.52584	21.08515	38.24137	43.12279	35.86293	32.41556	1.955516	1.55378	20.57032	19.53137	3.36987	3.376494	2.215291	2.297157	2.911475	1.23976
19	6796	476828	12.85726	11.76004	29.83633	27.34436	53.62772	56.96201	10.94839	10.2138	1.908864	1.546231	27.92747	25.79813	5.587549	5.479829	4.221648	4.281381	2.488496	0.7377763
20	-14747	455285	11.42867	9.613552	9.751035	7.855779	77.00363	80.76996	10.88417	9.213087	0.5444941	0.4004645	9.206541	7.455315	2.361158	2.161174	1.238126	1.151736	0.988634	0.2342295
21	10688	480720	13.06374	11.16352	16.37086	13.5073	68.21851	72.99216	12.47816	10.75876	0.58558	0.404764	15.78528	13.10254	2.932476	2.741775	1.851598	1.809246	1.334131	0.8821138
22	4628	474660	12.85383	11.6166	18.303	16.59816	64.94585	67.87918	11.7916	10.79178	1.062234	0.8248147	17.24076	15.77335	4.95955	4.730878	3.492605	3.479653	1.953266	0.4534289
23	-34991	435041	4.912411	3.875027	7.334481	6.006982	85.86869	88.42552	4.609681	3.663131	0.3027301	0.2118965	7.031751	5.795085	2.18715	1.904362	1.235516	1.129303	0.817744	0.2950403
24	-5343	464689	10.0295	8.351921	8.081534	6.973023	78.70188	81.52219	9.419203	7.941083	0.6103007	0.4108378	7.471233	6.562185	3.797379	3.563711	2.180168	2.188018	2.244851	0.6579923
25	1905	471937	19.30554	16.99525	18.0344	16.87992	58.5593	62.04357	18.41348	16.30107	0.8920682	0.6941787	17.14233	16.18574	4.992827	4.775443	3.146818	3.051584	7.513303	4.805619
26	-9918	460114	13.64358	11.35779	11.87532	9.775593	72.78109	77.17253	13.10588	11.00279	0.5376928	0.3550067	11.33762	9.420586	2.237706	2.049088	1.259688	1.216705	2.941861	1.674085
27	-4243	465789	7.770901	6.227619	15.21118	12.63847	75.20272	79.3907	7.143363	5.783778	0.6275374	0.4438404	14.58364	12.19463	2.442737	2.187051	1.380239	1.296756	1.65326	1.162217
28	-13337	456695	14.79412	13.12938	18.75869	15.80416	64.75066	69.38064	14.09168	12.63005	0.7024382	0.4993264	18.05625	15.30484	2.398975	2.185141	1.238682	1.201426	3.480456	1.470163
29	7740	477772	12.46745	11.3865	26.29539	24.70284	56.67808	59.50731	11.58209	10.64557	0.8853595	0.7409315	25.41003	23.96191	5.444438	5.144269	4.222516	4.127447	5.617724	2.041783
30	-4043	465989	22.28658	19.35178	24.99222	22.91251	50.85249	55.78996	21.16402	18.44807	1.122559	0.9037045	23.86966	22.00881	2.991272	2.849455	2.038245	2.041965	5.908527	3.418573
31	-21110	448922	17.25935	14.34847	14.59585	12.68743	65.68669	70.65501	16.65234	13.90675	0.6070097	0.4417235	13.98884	12.24571	3.06512	2.750806	2.118408	1.990449	8.430346	6.647507
32	-4762	465270	38.91805	34.38122	17.80493	17.21686	40.93043	45.86896	37.71165	33.40495	1.206396	0.976275	16.59853	16.24058	3.552991	3.509232	2.412793	2.457193	17.96647	7.616298
33	13853	483885	54.35961	51.33513	32.09502	33.17428	13.80617	15.44195	51.34546	48.5483	3.014146	2.786828	29.08088	30.38745	2.75334	2.835467	1.955217	2.084958	22.45537	13.43499
34	3725	473757	22.23207	20.27933	26.14547	24.97163	48.291	51.35859	20.90481	19.19414	1.327263	1.085193	24.81821	23.88644	4.658718	4.475644	3.320479	3.353889	7.991059	3.283917
35	-15766	454266	22.59579	20.15351	37.72437	38.1533	38.43827	40.28729	20.84153	18.5635	1.754259	1.590014	35.97012	36.56329	2.995822	2.995909	1.974834	2.057745	12.45245	9.058408
36	-6265	463767	12.81894	12.03624	73.81789	75.42963	14.69057	13.95242	9.735924	8.890767	3.083014	3.145478	70.73487	72.28416	1.755623	1.727178	1.343131	1.37186	2.161689	1.073446
37	1438	471470	9.868496	8.222631	29.53168	25.51039	59.24788	64.865	9.124228	7.680108	0.7442679	0.5425242	28.78741	24.96787	2.09621	1.944501	1.160837	1.161067	3.717472	2.501672
38	-2723	467309	4.036515	3.986431	81.67294	82.63479	13.59529	12.66526	2.61005	2.587456	1.426465	1.398975	80.24648	81.23582	2.121722	2.112495	1.714711	1.744401	1.927387	0.6181262
39	23654	493686	26.25657	24.36966	51.63849	50.97207	21.92932	24.14008	24.05416	22.40954	2.202412	1.960121	49.43608	49.01195	2.37803	2.478307	1.58299	1.711586	5.937402	2.760705
40	2750	472782	5.064067	5.112963	88.32655	89.78882	7.512553	6.082788	2.865803	2.875154	2.198265	2.237809	86.12828	87.55101	1.2951	1.253238	1.065184	1.070641	1.078863	0.4282561