

No. 16-1271

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

CALLA WRIGHT, et al.,

Plaintiffs-Appellants,

v.

WAKE COUNTY BOARD OF ELECTIONS,

Defendant-Appellee.

On Appeal from the United States District Court
for the Eastern District of North Carolina

**MOTION TO EXPEDITE APPEAL FOR BRIEFING
AND ORAL ARGUMENT**

Pursuant to Federal Rule of Appellate Procedure 2 and Local Rule 12(c),
Plaintiffs-Appellants respectfully move this Court to expedite briefing and oral
argument in the above-captioned appeal.

BACKGROUND

This appeal and its companion appeal, *Raleigh Wake Citizens Association v. Wake County Board of Elections*, No. 16-1270,¹ challenge the constitutionality of

¹ Appellants' Request to Consolidate Related Appeals, ECF No. 29, is pending before this Court.

identical redistricting plans for election of members to the Wake County Board of Education and Wake County Board of Commissioners, respectively. The challenged redistricting plans each contain seven numbered single-member districts, overlaid by two lettered single-member “super” districts. *See* Appendix A, Numbered Districts; Appendix B, Lettered “Super” Districts. Previously, members of the Board of Education were elected from nine single-member districts, and members of the Board of Commissioners were elected at-large from seven residency districts. *See* Appendix C, Previous Board of Education Districts; Appendix D, Previous Board of Commissioners Districts.

Both of the challenged redistricting plans are scheduled to take effect before the November 8, 2016 General Election. For the Board of Education, candidate filing is scheduled to begin June 13, 2016 and end July 1, 2016 in all nine districts under the new district lines. *See* 2016 Election and Filing Information, Wake County Board of Elections, http://msweb03.co.wake.nc.us/bordelec/downloads/6candidate/SW_BOE_Filing.pdf; 2013 N.C. Sess. Laws 110. For the Board of Commissioners, candidate filing concluded December 21, 2015 in Districts A and B under the new district lines and Districts 4, 5, and 6 under the former district lines, and a primary election was held March 15, 2016 in new District B. *See* 3/15/2016 Official Primary Election Results - Wake, North Carolina State Board of Elections,

http://er.ncsbe.gov/?election_dt=03/15/2016&county_id=92&office=LOC&contest=13; 2015 N.C. Sess. Laws 4.

ARGUMENT

Because elections for both the Board of Education and Board of Commissioners are presently proceeding under the new district lines while these two related appeals are pending, it is critical that briefing and oral argument be expedited in these two related appeals. Expediting the briefing and oral argument schedule will minimize voter confusion and disruption to the election process by ensuring that this litigation is concluded before candidate filing ends July 1, 2016 in all nine new districts for the Board of Education. Although candidate filing and a primary election have already taken place in the new lettered districts for the Board of Commissioners, setting aside the results of those primary elections for just two seats on the Board of Commissioners would be a relatively small task compared to setting aside those results **and** reopening filing for all nine new districts for the Board of Education. The latter is a remedy that would necessarily affect all districts up for election in November and could be more disruptive. Such potential disruption could be avoided by expediting briefing and oral argument in this appeal.

Further, the parties should be able to present the appeal on the existing consolidated record. Rule 30(f) of the Federal Rules of Appellate Procedure

provides that the Court may “dispense with the appendix and permit an appeal to proceed on the original record with any copies of the record, or relevant parts, that the [C]ourt may order the parties to file.” *See also* Fourth Circuit Local Rule 30(d) (stating that an appendix may be significantly abbreviated when a case is expedited). Consistent with this, Appellants request that the Court dispense with the requirement of a joint appendix (except for the abbreviated requirements set forth in Local Rule 30(d)) and allow the appeal to proceed on the original record. In the alternative, Appellants request that the Court permit the filing of any joint appendix to be deferred until after the parties shall have filed their briefs in this appeal.

Finally, oral argument would significantly aid the decisional process in this case for two reasons. First, one of the central questions in this appeal is whether the district court misapplied the standard of liability in a one person, one vote case that this Court articulated in *Wright, No. 14-1329, ECF No. 46 (4th Cir.)*, which was obviously not argued in the court below. Second, oral argument would be helpful because the parties will be able to significantly assist the Court as it considers an appropriate remedy, a delicate question as elections continue to proceed in the challenged districts.

**STATEMENT PURSUANT TO FOURTH CIRCUIT
LOCAL RULE 27(a)**

On March 28, 2016, counsel for Appellants notified counsel for Appellees of the intended filing of this Motion. Given the short timeframe, counsel for Appellants was not able to ascertain Appellees' position on the motion before filing this Motion.

CONCLUSION

For the reasons stated above, Plaintiffs-Appellants respectfully move this Court to expedite the briefing and oral argument schedule in this appeal.

Respectfully submitted this 28th day of March, 2016.

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CERTIFICATE OF SERVICE

I certify that on March 28, 2016, the foregoing document was served on all parties or their counsel of record through the CM/ECF system.

/s/ Allison J. Riggs

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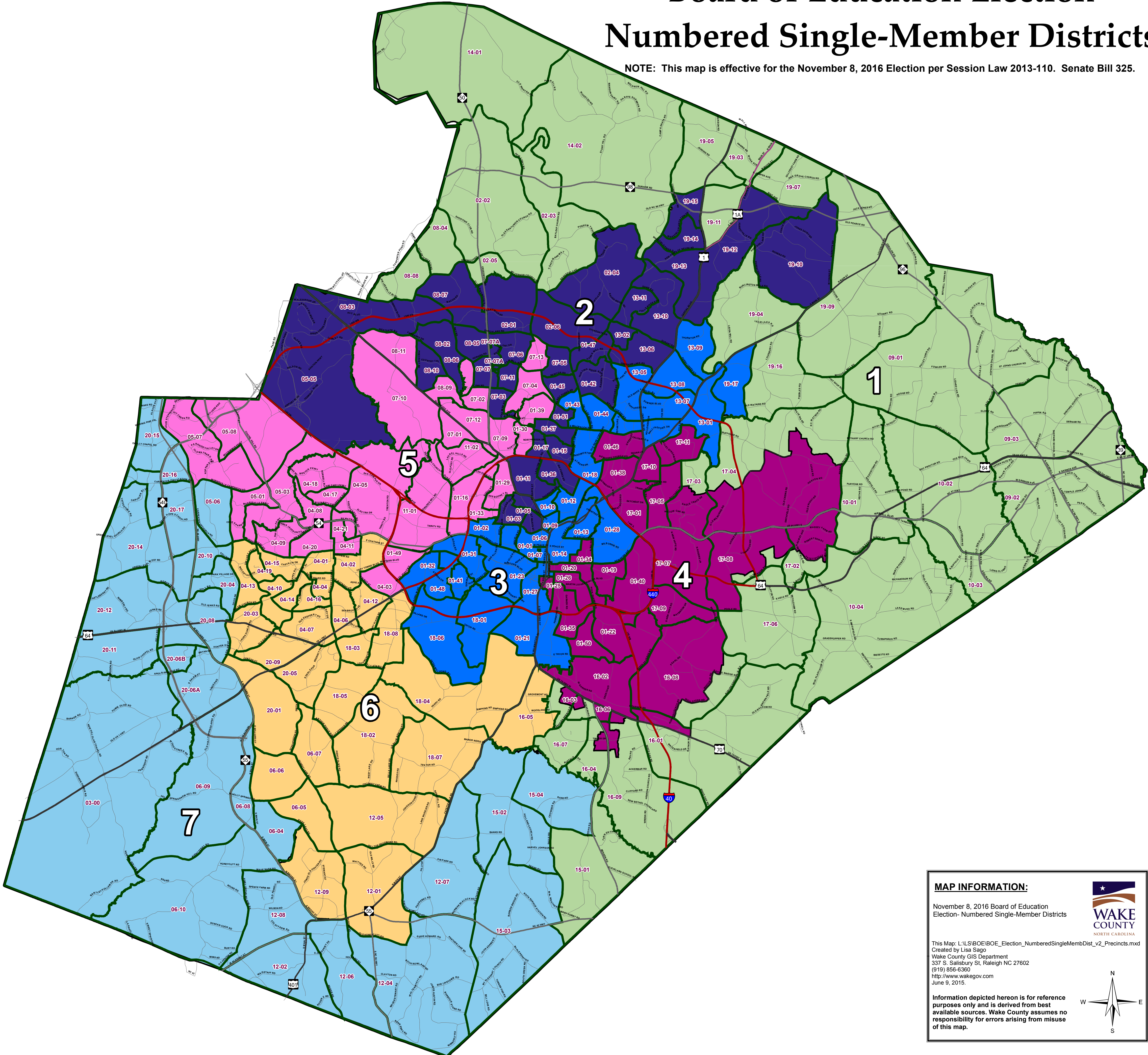
Appendix A

November 8, 2016

Board of Education Election

Numbered Single-Member Districts

NOTE: This map is effective for the November 8, 2016 Election per Session Law 2013-110. Senate Bill 325.



MAP INFORMATION:

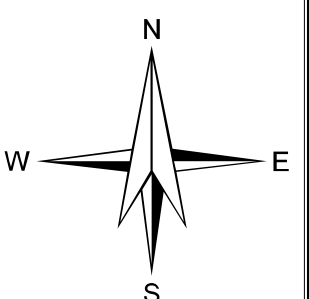
November 8, 2016 Board of Education
Election- Numbered Single-Member Districts

This Map: L:\LS\BOE\BOE_Election_NumberedSingleMembDist_v2_Precincts.mxd
Created by Lisa Sago
Wake County GIS Department
337 S. Salisbury St. Raleigh NC 27602
(919) 856-6360
<http://www.wakegov.com>
June 9, 2015.

Information depicted hereon is for reference purposes only and is derived from best available sources. Wake County assumes no responsibility for errors arising from misuse of this map.

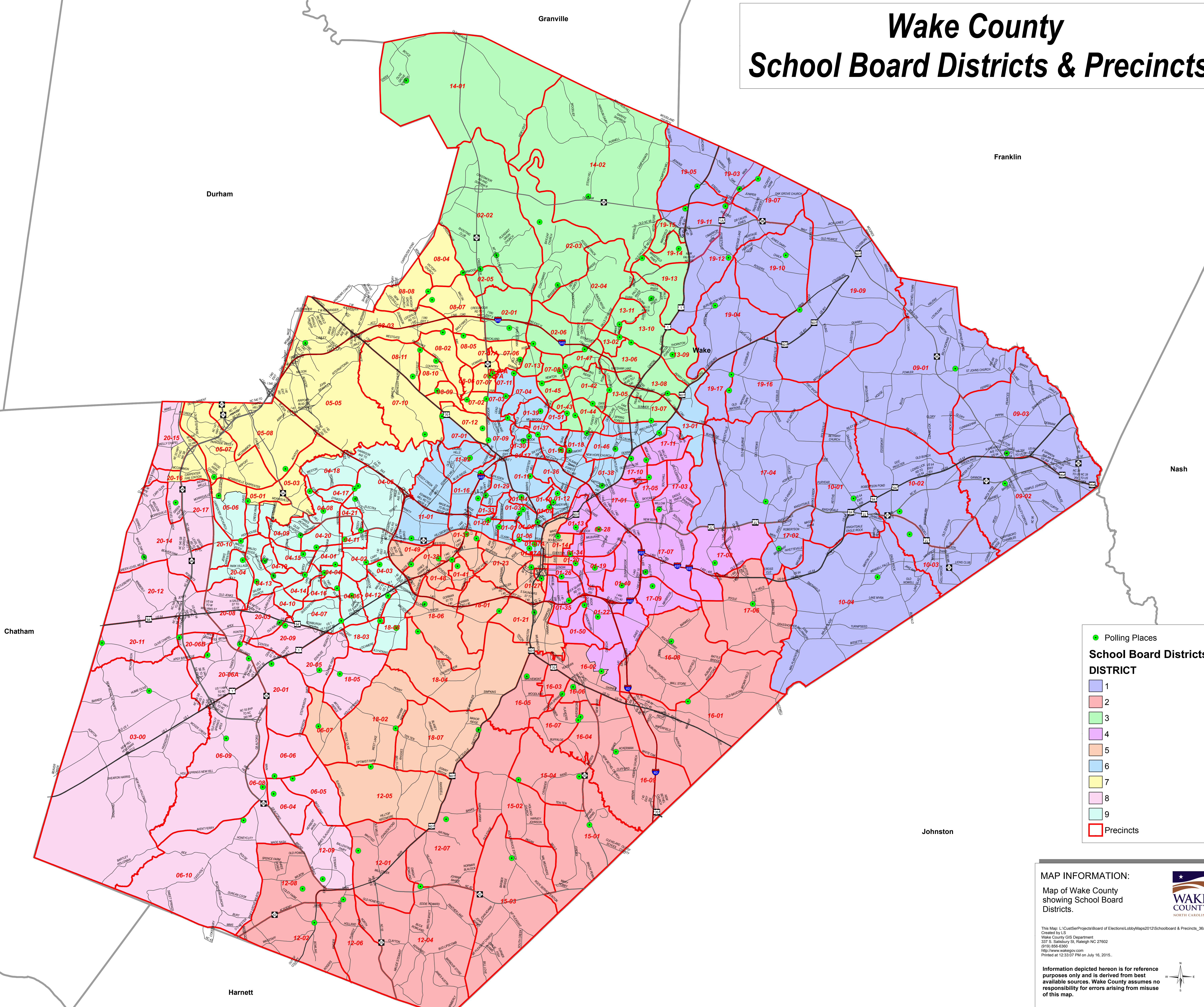
WAKE COUNTY
NORTH CAROLINA

Appendix B



Appendix C

Wake County School Board Districts & Precincts



● Polling Places

School Board Districts


DISTRICT

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9

▬ Precincts


MAP INFORMATION:

Map of Wake County showing School Board Districts.



This Map: L:\CustSer\Projects\Board of Elections\LobbyMaps\2012\Schoolboard & Precincts_36x36.mxd
Created by: L.S.
Wake County GIS Department
337 S. Salisbury St, Raleigh NC 27602
(919) 656-6300
http://www.wakegov.com
Printed at 12:33:07 PM on July 16, 2015.

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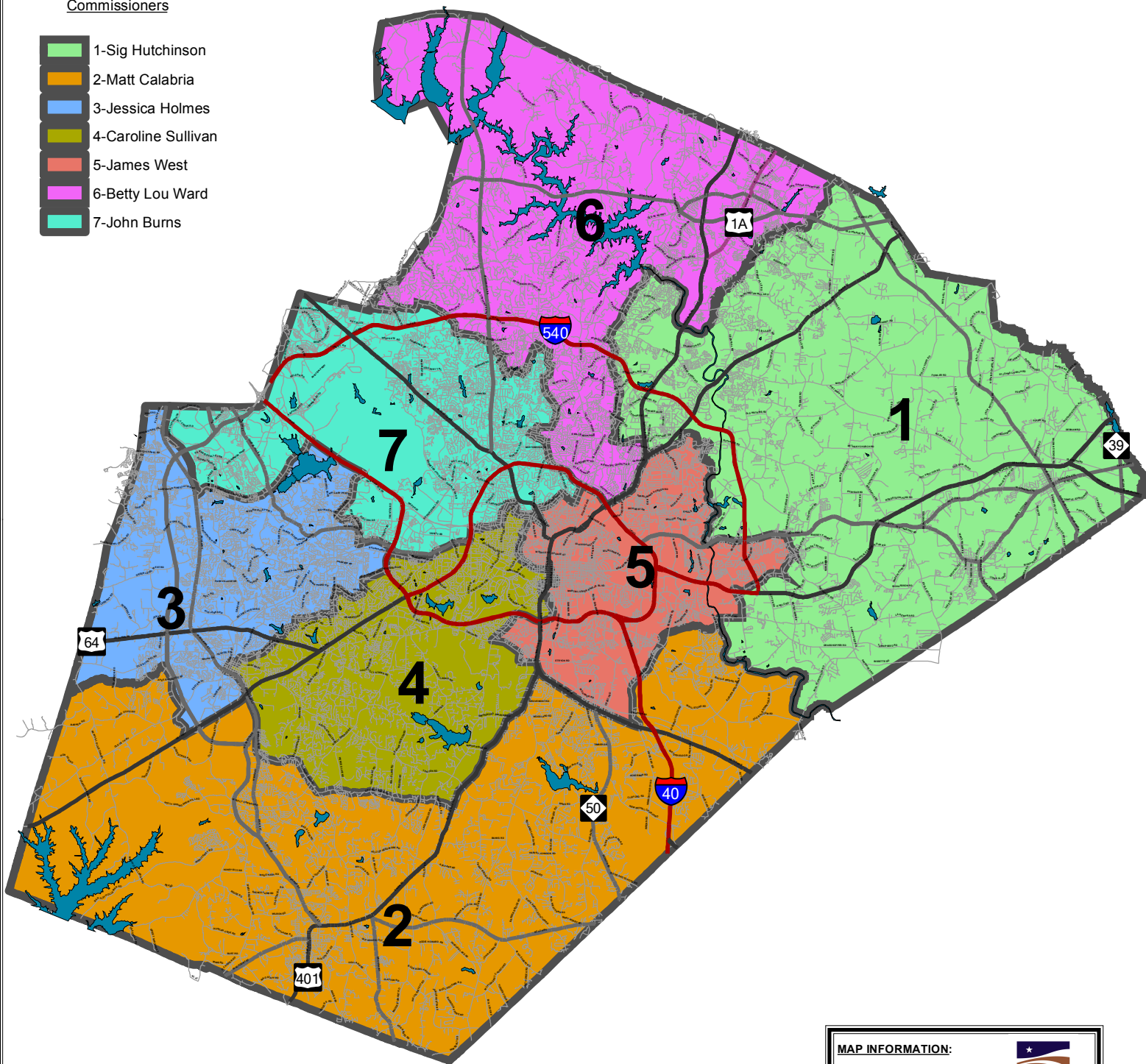


Appendix D

WAKE COUNTY COMMISSIONERS' DISTRICTS

Commissioners

- 1-Sig Hutchinson
- 2-Matt Calabria
- 3-Jessica Holmes
- 4-Caroline Sullivan
- 5-James West
- 6-Betty Lou Ward
- 7-John Burns



MAP INFORMATION:

Map of Wake County
showing Commissioners'
Districts.



This Map: L:\CustSerProjects\Board of Elections\CommissionerDist_8x11.mxd
Created by: Tomm Bennekin
Wake County GIS Department
337 S. Salisbury St, Raleigh NC 27602
(919) 856-6360
<http://www.wakegov.com>
November 5, 2014

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of this map.

