

CORRESPONDENCE



December 6, 2012

Chairman Don Gaetz
Senate Reapportionment Committee
The Florida Senate
Tallahassee, FL 32399

Re: Congressional plan sp10c0039 and Senate plan sp10s0040

Dear Chairman Gaetz:

As you know, The League of Women Voters of Florida, Democracia, Inc., (now part of The National Council of La Raza), and Common Cause of Florida have been monitoring the redistricting process since it began. Throughout the process, we have been hopeful that the Legislature would follow its constitutional mandate to create maps that comply with the FairDistricts standards.

Since they were filed on December 6, 2011, we have had a chance to fully review the Senate's proposed Congressional and Senate redistricting plans, SB 1174 and SJR 1176. We believe these plans fail to adhere to the spirit and the letter of Florida's new constitutional requirements and, therefore, offer alternative Congressional and Senate redistricting plans which we have uploaded to your redistricting website. Our Congressional plan has been assigned number sp10c0039 and our Senate plan has been numbered sp10s0040. We hope you will consider supporting them.

Whether or not you favor our plans, it is our hope that you, as Chairman of the Committee, will extend a courtesy to our organizations by filing our Congressional and Senate redistricting plans as strike all amendments to SB 1174 and SJR 1176 and submitting them for a vote of the Senate Reapportionment Committee at its January 11 meeting.

If for some reason you are not willing to extend this courtesy, we request that another member of the Reapportionment Committee – whether they support our approach or not – submit our plans to bill drafting and offer them as amendments so they can be fully discussed and voted up or down.

The FairDistricts criteria – which were supported by 63% of Floridians – demand the thoughtful, principled and nonpartisan approach that our maps represent. In the spirit of

openness and fairness, we hope you will bring these maps forward as amendments at your January 11 meeting so the members of the committee can have a full opportunity to consider them.

Thank you for your assistance in this matter and please consider supporting the Congressional and Senate plans submitted by our organizations.

Sincerely,



Deirdre Macnab
LWV of Florida



Eric Rodriguez
National Council of La Raza



Peter Butzin
Common Cause of Florida

CC: All members of The Senate Reapportionment Committee



January 12, 2012

Chairman Don Gaetz
Senate Reapportionment Committee
The Florida Senate
Tallahassee, FL 32399

Re: Congressional Plan SPUBC0170 and Senate Plan SPUBS0171

Dear Chairman Gaetz:

It is the responsibility of the Legislature, and not the responsibility of public interest organizations, to develop redistricting plans that comply with Article III, Sections 20 and 21 of the Florida Constitution. Throughout this process, we had been hopeful that the Senate Reapportionment Committee would develop plans that complied with the Constitution. We anxiously awaited those plans at each of the Committee's scheduled public hearings. However, the Committee did not offer any proposed plans until just over a month ago, long after those hearings concluded. Although our organizations had no obligation to offer any redistricting plans into the record, we did so because the Senate's proposed plans do not comply with the Florida Constitution. Our proposed alternatives to the Senate and Congressional plans were introduced within one month of the release of this Committee's plans.

We are profoundly disappointed that despite receiving the plans in advance of your amendment-filing deadlines, neither you nor any member of the Senate Reapportionment Committee extended our organizations the courtesy of introducing our proposed Congressional and Senate redistricting plans as strike-all amendments and submitting our plans for a vote at the Committee's meeting on January 11, 2012. Because our non-partisan organizations do not have a seat at the legislative table, it now appears that the only plans that will reach the Senate floor are those that we believe were drawn in violation of the criteria.

Unlike the plans developed by the Committee, our organizations' proposed plans do not favor political parties or incumbents. Our plans have districts that are more compact than the plans offered by the committee and our plans pay greater respect to political subdivisions by splitting fewer county and city lines. In short, our proposed plans comply with the Florida Constitution while this Committee's plans do not.

Our plans also respect the Florida Constitution's admonition 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. At the Committee's hearing on January 11, 2012, in a

discussion of our proposed plans, certain Senators suggested that our plans “retrogressed” minority rights. Committee staff was called upon to offer a prepared report regarding the percentages of minority voters in certain districts in our proposed plans as compared to the benchmark plans. It is plain that the Committee studied our plans and that certain Senators are under the misimpression that any decrease at all in the percentage of minority population within a district would constitute retrogression.

Far from retrogressing, our plans actually create new opportunities for minorities to participate in the political process and elect their representatives of choice. It is well known that packing a district with more minority voters than is necessary to create an opportunity to elect representatives of choice “bleaches” surrounding districts and thus limits the influence of minorities overall. In Florida for the last twenty years, this sort of packing of African American voters into highly Democratic congressional districts has been used to ensure the election of a disproportionate number of Republican candidates. Each of Florida’s districts that have elected African American representatives contains substantially more African American population than is needed to allow African Americans an opportunity to elect their preferred representatives. We believe this practice violates the constitutional mandate to avoid partisan favoritism and protect minority rights at the same time.

In keeping with guidance from the United States Department of Justice, at a number of public hearings your Committee’s own attorneys have advised that no magic number can be used to determine whether a district’s minority voters will have the ability to elect a candidate of choice. This Committee’s attorneys have said that an analysis of the other voters in the district and how they have voted in past elections is essential and that this analysis is unique to each district. We are confident that pursuant to such analyses, our plans do not diminish the ability of minorities to participate in the political process and elect their candidates of choice.

We regret that despite discussing our plans at your January 11, 2012 meeting, you and your Committee members chose not to permit our plans to move forward as alternatives for the legislature to formally consider. In so doing, this Committee precluded the full Senate and Legislature from voting for plans that actually comply with the Florida Constitution. This is a grave disappointment not only to our organizations, but also to the 63% of Florida voters who supported the Fair Districts amendments and were counting on you to see that they were properly implemented.

Sincerely,

Deirdre Macnab
LWV of Florida

Eric Rodriguez
National Council of La Raza

Peter Butzin
Common Cause of Florida

CC: All members of The Senate Reapportionment Committee

January 24, 2012
Chairman Will Weatherford
Page 2

We have sent copies of this request to all members of the Redistricting Committee so if for some reason you are not willing to extend this courtesy, we request that another member of the Redistricting Committee – whether they support our approach or not – submit our plans to bill drafting and offer them as amendments so they can be fully discussed and voted up or down.

The FairDistricts criteria – which were supported by 63% of Floridians – demand the thoughtful, principled and nonpartisan approach that our maps represent. In the spirit of openness and fairness, we hope you will bring these maps forward as amendments at your January 27 meeting so the members of the committee can have a full opportunity to consider them.

Thank you for your assistance in this matter and please consider supporting the Congressional, Senate and House plans submitted by our organizations.

Sincerely,



Deirdre Macnab
LWV of Florida



Eric Rodriguez
National Council of La Raza



Peter Butzin
Common Cause of Florida

CC: All members of the House Redistricting Committee

D. Intent to Favor or Disfavor an Incumbent

The Florida Constitution clearly prohibits the Legislature from drawing maps to favor or disfavor an incumbent. In drawing its maps, the Coalition endeavored to use an even hand: the Coalition did not use information concerning incumbents' addresses or the like. As such, our districts are truly incumbent-neutral, neither favoring nor disfavoring any particular incumbent legislator.

In contrast, the Senate and House Proposed Maps were plainly drawn to favor incumbents. Under the Senate and House Proposed Maps, some districts were clearly designed to help shore up vulnerable Republican incumbents or to create seats for Republican state legislators planning to run for higher office. As has been widely reported in the press, here are just a few examples of the incumbency protection plan proposed by the Legislature:

i. Comparing the Senate's Congressional Map

The new districts bear an overwhelming resemblance to the old gerrymandered districts: approximately 73% of the existing constituents are kept in the same districts under the Senate's proposed Congressional map. This purposefully provides incumbents an advantage as compared to challengers.

Additionally, it is readily apparent that the Senate strategically used Florida's two new Congressional districts to offload selected voters from vulnerable incumbents' districts, thereby shoring up their chances for reelection. District 26, one of the two new districts, was used to remove pockets of voters from incumbents' districts in an effort to make their seats safer, and to create a new safely Republican district. For example, an enclave of Republican voters was removed from District 3 to preserve Democrat Corrine Brown's strongly Democratic district and contribute to District 26's Republican lean. Similarly, Republican Cliff Stearns was able to shed a more Democratic-leaning area in his district, Congressional District 6, to improve his district's solidly Republican performance.

In similar fashion, District 27 was used as a way to remove high-performing Democratic areas from vulnerable incumbent Republicans' districts, thereby making their seats safer. Republican Daniel Webster's district had performed Democratic in recent presidential and gubernatorial elections, but after pulling his district's Democratic voters into the new District 27, Webster's proposed new district performs over 50% Republican. As another example of blatant incumbent protection, Republican Sandra Adams had previously represented a vulnerable Republican district. Her new district excludes the significantly Democratic voters she currently represents, thereby increasing the Republican lean in her new district. Republican Dennis Ross's new District 12 shed a group of Democratic voters by giving them to the new District 27, and now is a safe Republican seat. And Republican Bill Posey, of Congressional District 15, was able to shed Democratic voters into the new District 27 and now has a safely Republican seat.

And beyond making strategic use of the two new districts, the Senate has used the map-drawing process to shore up districts for potentially vulnerable Republican incumbents across the

state. For example, in District 21, Congressman Mario Diaz-Balart received more Republican voters to make his seat safer by about two points.

ii. Comparing the House's Congressional Map

Similarly, our analysis of the House's Congressional Map confirms that incumbent favoritism largely dictated those district lines. Under the House's Map at least 16 of the 25 incumbents will run in safely Democratic or Republican districts in 2012.

Additionally, just as the Senate's proposal does, the House's proposed Congressional map strategically shores up support for previously vulnerable incumbents. For example, Republican Dennis Ross's new District 15 is approximately two points safer than his old District 12, which had been moving toward becoming a competitive seat in recent elections. The House was also able to improve the Republican performance of Republican Ileana Ros-Lehtinen's district by about 1.5%, thereby reducing her vulnerability. In recent elections, Ros-Lehtinen's district that had been trending increasingly Democratic.

Perhaps the best example is that of Republican Mario Diaz-Balart, whose old District 21 had been trending more Democratic in recent years. Under the House's proposed map, Diaz-Balart's will run in District 25, a district that votes solidly Republican.¹ In similar fashion, Republican Daniel Webster's seat is made much safer by the new House congressional map. His old district had been trending Democratic in recent elections. However, under the House's proposed map, the district in which he will run is solidly Republican. Additionally, Webster's district under the House's proposed Congressional map sheds population strategically. As compared to a previous version of the Congressional map (H9027), the House's most recent proposal (H9047) recovers almost 11% of Webster's initial constituency, giving him a competitive edge in future elections.

iii. Comparing the Senate Map

The Senate's proposed State Senate Map is an example of precisely the sort of incumbent favoritism that Floridians intended to prevent when they passed the FairDistricts Amendments. Virtually no incumbent senator is likely to lose a seat, as the Senate Proposed Map keeps performance numbers in all districts at approximately the same levels as the existing plan. Indeed practically every single incumbent member of the Senate who is not term limited will hold a seat that is no less advantageous than his or her old seat, and the majority of incumbents will hold safe Democratic or Republican seats.

As further evidence of clear incumbent favoritism, on average, the Senate's new State Senate districts retain nearly two-thirds of their current populations. But districts where no incumbent can run due to term limits retain only slightly more than half of their original populations. In effect, where no incumbent had an interest in a district, those districts were

¹ Representative Diaz-Balart is currently challenging the validity of the FairDistricts Congressional Amendment. After being defeated at the district court level, he has appealed to the Eleventh Circuit, where an opinion is pending.

substantially reworked; in districts where incumbents had an interest in retaining their same constituencies, the constituencies overwhelmingly stayed within the incumbents' districts.

Moreover, an amendment offered to the Senate Reapportionment Committee on December 30, 2011 strategically provided new numbering for the State Senate districts of certain incumbents. Due to the renumbering, the Senate's plan provides incumbents new terms of either 8 or 10 years. In renumbering the districts, the Senate plainly had to consider where incumbents lived. This policy on its face was designed to advantage incumbents by granting select incumbents terms of 10 years rather than 8.

Looking deeper into particular districts, it becomes evident that certain districts in the map were clearly designed to keep incumbents in office. Proposed Senate Districts 1 and 3 in the panhandle are drawn horizontally in order to avoid incoming Senate President Gaetz and Senator Evers being pitted against each other. In order to do this, each of the districts splits five counties. The Senate's concern with incumbent protection eclipsed its constitutional obligation to respect political boundaries where feasible.²

Additionally, in its relentless pursuit to protect incumbents, the Senate's map compromises other redistricting principles such as compactness. The best example of this is the Senate's proposed Senate District 10, which is gerrymandered into a bizarre shape for Senate Majority Leader Gardiner. His old district had been trending more Democratic, and his new district is safely Republican. It takes up parts of Lake and western Orange Counties but has a hand that winds down around Orlando, extending up into Winter Park, catching the Majority Leader's residence on its way. In order to include the northeastern part of Orange it narrows at one point so that its boundaries almost touch each other. In doing this, the Senate was able to give Gardiner a new, safer seat that is solidly Republican. His old seat had been leaning more Democratic in recent elections. The Senate's new District 10 also barely misses incumbent Republican David Simmons's new District 13, preventing two incumbent Republicans from being pitted against one another and preserving safe Republican seats for each of them. District 13 reaches down from Altamonte Springs to scoop up Simmons's residence in Maitland, keeping this area out of Majority Leader Gardiner's District 10.

The redistricting process was also used to bolster previously vulnerable incumbent candidates. For example, Republican Joe Negron previously represented District 28, a district that only leaned Republican. Under the Senate's new map, Negron will run in District 25, a safe Republican seat. Jack Latvala, a Republican senator rumored to be eyeing the Senate Presidency, is likewise placed in a district with stronger Republican performance. Similarly, the Senate's new District 15 is gerrymandered to favor incumbent Republican Jim Norman. The district encompasses parts of Pasco and Hillsborough. Although he lives in Tampa, in 2010 Norman enjoyed strong support in Pasco and did not do as well in Hillsborough. Additionally,

² The Senate tried to excuse this non-compliance by referring to the weight of public testimony at the public hearings. However an examination of the transcripts of hearings in the Panhandle shows that in fact, more people advocated for keeping counties whole than for a horizontal division.

Hillsborough voters would likely remember the recent federal criminal investigation of Norman for financial dealings while he was on the Hillsborough County Commission. The proposed District gives Norman much more of Pasco and sheds the Temple Terrace and New Tampa areas, where he lost in 2010. To keep Democrats Eleanor Sobel and Gwen Margolis safe, the Senate map removes African-American and Hispanic voters from their districts and places them into surrounding districts. This effectively bleaches Sobel's and Margolis' districts, allowing these incumbents to retain many of the constituencies they now serve—and insulating them from the minority voters with which they are unfamiliar.

iv. Comparing the House Map

On average, the House's map draws House districts that are very similar to the 2002 House Map's districts. The new districts contain almost 60% of their old constituencies, which indisputably gives incumbents an advantage as compared to challengers. Additionally, as compared to the House's prior proposal (H9027), the plan proposed on January 25, 2012 (H9049) made some strategic changes in the composition of particular incumbents' districts. Representatives Daniel Davis, Mark Pafford, and John Wood all gained a significant share of their old constituencies back: over 11%, over 12% and almost 14%, respectively. This was plainly done to offer these incumbents a competitive edge during reelection.

Just as the Senate's plan does, the House's redistricting plan endeavors to protect incumbents. As just one example, the House's District 17 is gerrymandered to favor incumbents Republicans Doc Renuart and Janet Adkins. District 17's northern border barely catches Renuart's residence; he lives on the border. By carefully keeping Renuart in District 17 and Adkins in District 11, he and Adkins, who lives nearby in Fernandina Beach, are not pitted against one another. Similarly, District 11, currently represented by Republican Dana Young's district had been trending Democratic in recent elections. Under the House's proposed State House Plan, she will be running in District 11 and her chances for reelection improve.

And as further evidence of its effort to favor incumbents, the House's map draws its 120 districts without regard to the Senate's district lines. There is no coordination between these two maps, even though simple math and common sense would convince an objective map-drawer to divide each of the Senate districts into 3 House districts. The "nesting" of House districts within Senate districts creates more compact and clearly defined electoral communities throughout the state. But nesting would also diminish the Legislature's ability to draw lines as necessary to favor incumbents. The Coalition Map nests its House districts within its Senate districts. This has the effect of making it easier for voters to know who represents them, and provides a more efficient and logical form of representation.

Additionally, in what can only be understood as evidence of intent to favor its own members, the leaders of the House and Senate chambers and their respective Redistricting Committees agreed that each chamber would draw its own map, and that the other chamber would simply pass that map. If these sitting legislators had truly wished to comply with Article III, Section 21, they would not have sought exclusive, unreviewable authority to redraw their own districts. "The Senate did not involve itself in the House's business and my hope is the House will follow suit," Gaetz said according to a recent Miami Herald article.

In contrast, the League of Women Voters, the National Council of La Raza, and Common Cause have only the voters' interest in mind. To protect that interest, the Coalition drew districts that prioritize the expressed will of the voters: the requirements in Florida Constitution, Article III, Section 21, rather than any incumbent legislator or political party.

E. Minority Protection

The Coalition Maps end the excessive packing of minority districts, which has been the mainstay of Republican gerrymanders for decades. In so doing, the Coalition Maps are able to create compact districts that still provide minorities with an opportunity to elect candidates of choice.

The best example of this is in the Congressional map. The Coalition's Congressional Map transforms District 3 by no longer taking the district down into Orlando. Instead, District 3 is comprised primarily of parts of Jacksonville and Gainesville. While this reduces the African-American percentage of citizens of voting age in the District to approximately 35%, our analyses show that African-Americans can still elect candidates of choice in the Democratic primary and those candidates will win the general election in this Democratic-leaning district. Moreover, by not packing African-American voters into District 3, the Coalition Map creates an opportunity for African-American voters to influence the electoral outcome in District 8.

In contrast, the proposed Senate and House Redistricting Committee Maps simply continue the practice of wasting minority votes by packing minorities into as few districts as possible and "bleaching" the surrounding districts. This has the effect of diminishing the ability of minorities to participate in the political process and elect candidates of their choice. District 3 in the Senate's Congressional map is a blatant racial gerrymander that wastes minority votes. It was drawn with the purpose of keeping the minority composition the same as the 2002 map, although a lower concentration of minority voters would have still permitted African-Americans to elect their candidate of choice. Currently, District 3 as drawn is comprised of 48.9% African-American. To draw this district, the Senate had to subvert numerous other constitutional requirements. Similarly, District 5 in the House's Congressional map, a narrow district comprised of roughly 46.8% African-Americans, spans no fewer than six counties: Alachua, Clay, Duval, Lake, Marion, Orange, and Putnam. In order to connect three dispersed metropolitan areas-- Jacksonville, Gainesville, and Orlando-- it twists and curls down the center of the state in a bizarre fashion. The district starts in Jacksonville, picking up enclaves of African-American voters, and travels all the way down to Orlando. On its way, it narrows to only the width of Highway 17, as it jumps from Orange Park across the neck of Doctors Lake.

The same issues are present in the proposed Senate maps. While the Coalition's proposed Senate District 1 is contained entirely in Duval County and provides African-Americans with the ability to elect a candidate of their choice, the Senate's proposed District 6 meanders through five counties in what appears to be a blatant racial gerrymander.

In short, the Coalition maps comply fully with the amendments' mandate not to diminish minority opportunity to elect candidates of choice, while still maintaining fidelity to the constitutional criteria of compactness and respect for political and geographic boundaries.

F. Compactness

Although in your letter of January 24, 2012, you stated that “most of the proposed districts [in our proposed House map] appear very non-compact,” the Coalition Maps are comparable to or exceeding the Legislature’s maps in virtually every accepted measure of compactness.

i. Comparing the Proposed Congressional Maps

On the Congressional maps, the Coalition Map scores better than the Senate’s Map. Specifically, the Coalition’s Reock and Polsby-Popper scores are both better than the Senate’s average scores.

	Coalition Map	Senate’s Map	House’s Map
Reock Score	.42	.39	.40
Polsby-Popper Score	.31	.28	.30

ii. Comparing the Proposed Senate Maps

On the State Senate maps, the Coalition Map has an average Reock score that is better than the Senate Map’s score, and matches the Senate’s map on its mean Polsby-Popper score.

	Coalition Map	Senate Map
Reock Score	.40	.35
Polsby-Popper Score	.28	.28

iii. Comparing the Proposed House Maps

The Coalition’s map, while much more compact than the 2002 House map, does not compare as favorably to the House’s proposal on compactness scores because the Coalition’s map utilizes existing city and county boundaries “where feasible,” as mandated by the Amendments. The irregularity of Florida’s municipal boundaries affects compactness scores.

	Coalition Map	House Map
Reock Score	.41	.43
Polsby-Popper Score	.29	.43

In sum, we believe that we have provided the Committee with alternative proposals that comply with the FairDistricts Amendments, while the proposals currently under consideration by the Committee and those already passed by the Senate fail to comply with those amendments. We hope that you will give our alternative proposals – including our Senate proposal – your full consideration.

Sincerely,

Sincerely,



Deirdre Macnab
LWV of Florida



Eric Rodriguez
National Council of La Raza



Peter Butzin
Common Cause of Florida

CC: All members of the House Redistricting Committee
Alex Kelly, Staff Director