

THE FLORIDA LEGISLATURE



MIKE HARIDOPoulos
President of the Senate



DEAN CANNON
*Speaker of the House of
Representatives*

March 30, 2012

T. Christian Herren, Jr.
Chief, Voting Section
Civil Rights Division
United States Department of Justice
Room 7254-NWB
1800 G Street, N.W.
Washington, D.C. 20006

**Re: Submission Under Section 5 of the Voting Rights Act: Request
for Preclearance of Florida Senate Districts in Collier, Hardee,
Hendry, Hillsborough, and Monroe Counties**

Dear Mr. Herren:

Pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, the State of Florida submits for preclearance the newly enacted State Senate districts in Senate Joint Resolution 2-B (“SJR 2-B”), to the extent they affect the five Florida counties—Collier, Hardee, Hendry, Hillsborough, and Monroe Counties—covered under Section 5. SJR 2-B establishes new State Senate districts for the State of Florida.

SJR 2-B is the Florida Legislature’s second attempt to reapportion State Senate districts. On February 9, 2012, the Legislature adopted Senate Joint Resolution 1176, which apportioned state legislative districts. On March 9, 2012, the Florida Supreme Court invalidated the Senate plan under the Florida Constitution. At the same time, the Court held that “the Senate plan does not facially dilute a minority group’s voting strength or cause retrogression under Florida law.” *In re Senate Joint Resolution of Legislative Apportionment 1176*, No. SC12-1, 2012 WL 753122, at *54 (Fla. Mar. 9, 2012).

On March 27, 2012, the Legislature enacted Senate Joint Resolution 2-B to conform to the judgment of the Court. Pursuant to Article III, Section 16(e) of the Florida Constitution, the Florida Attorney General will submit SJR 2-B to the Florida Supreme Court for a determination of its validity. This submission for preclearance is made

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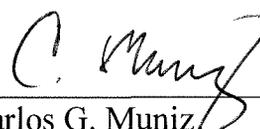
concurrently, as permitted under 28 C.F.R. § 51.22(b), to afford a full sixty days for preclearance review before the commencement of candidate qualifying on June 4, 2012. See §§ 99.061(1), 100.031, 100.061, Fla. Stat. (2011). In light of the imminent qualifying period, prompt consideration is requested.

The attached submission is organized to correspond to 28 C.F.R. §§ 51.27 and 51.28. Please let us know if you have any questions.

Sincerely,



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Special Counsel
Florida Senate



Carlos G. Muniz
Deputy Attorney General
Office of the Attorney General



George Levesque
General Counsel
Florida House of Representatives

SUBMISSION UNDER SECTION 5 OF THE VOTING RIGHTS ACT

Pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c (“Section 5”), and 28 C.F.R. Part 51, the State of Florida submits the following information in support of its request for preclearance of the State Senate districts created by Senate Joint Resolution 2-B (“SJR 2-B”), which was enacted by the Florida Legislature on March 27, 2012. SJR 2-B is a voting change that affects Florida’s five covered counties of Collier, Hardee, Hendry, Hillsborough, and Monroe. The State of Florida submits SJR 2-B for preclearance only to the extent that it affects the five covered counties.

The changes embodied in SJR 2-B comply with the United States Constitution’s one-person-one-vote requirement and preserve minority voting strength within the covered counties.

Introduction

The submitted voting change is necessitated by demographic changes documented in the 2010 Census. In 2000, the total resident population of Florida was 15,982,378. In 2010, the total resident population of Florida was 18,801,310, which represents an increase of 2,818,932, or 17.6%. Statewide, the black population increased by 728,933, from 2,471,730 to 3,200,663. Blacks now comprise 17% of Florida’s population. The Hispanic population increased by 1,541,091, from 2,682,715 to 4,223,806. Hispanics now make up 22.5% of Florida’s population.

Florida is currently divided into 40 single-member senate districts and 120 single-member representative districts. Based on the 2010 Census, SJR 2-B apportions Florida into 40 single-member senate districts of nearly equal population. The newly enacted districts will apply with respect to qualification, nomination, and election to the office of State Senator in the August primary and November general elections beginning in 2012.

Request for Prompt Consideration

The State of Florida requests that this submission be given prompt consideration because candidate qualification for the 2012 primary election will begin on June 4, 2012.

Summary of the Public Process

Florida has engaged in a fair, open, and transparent redistricting process designed in part to ensure inclusion of all racial and language minorities. The process by which the Florida Legislature enacted the new senatorial districts was the most open and accessible in the history of the State. As reflected in the attachments to this Submission, the Senate and House of Representatives held 26 public hearings throughout Florida, including locations within each of the covered counties, between June 20, 2012, and September 1,

2012. The hearings were publicized in newspapers, on the radio, and through new media. The public was invited to attend the hearings and express their views. Members from each chamber attended every hearing. More than 4,780 members of the public attended the hearings, and more than 1,600 provided testimony. See the “Publicity and Participation” folder on the accompanying DVDs for copies of the public hearing advertisements, correspondence and e-mails received by the House and Senate from the public, and other evidence of public participation.

In addition to the public hearings, legislative committees engaged with the public through social media, new media, and other means. Websites developed by both the House and Senate kept the public informed on the status of the redistricting process. The websites were constantly updated with new information. For the first time, the Legislature allowed the public to submit proposed maps through free, user-friendly, web-based redistricting applications developed by the House and Senate. With this unprecedented access, the public submitted no fewer than 177 proposed redistricting plans for state legislative and congressional districts, in addition to thousands of emails, Tweets, Facebook posts, and other communications. By comparison, the public submitted only four proposed maps to the Legislature a decade ago. As further outreach, the committees of the House and Senate communicated frequently with public-interest and voting-rights advocacy organizations, Florida’s 67 supervisors of elections, nearly every county and city commission, county school boards, every college and university in Florida, student organizations, Florida’s regional planning councils, local chambers of commerce, and other advocacy organizations.

Both websites are live and can be viewed at <http://www.floridaredistricting.org> and <http://www.flsenate.gov/Redistricting>.

Public Access to Software Used to Create Plans

In July 2007, the Florida Senate began to develop redistricting software. The Senate determined early on that the best and most affordable technology for maximizing public participation would be an open-source web application. In November 2009, the Senate demonstrated for Executive Staff of the U.S. Census Bureau a District Builder prototype built on open-source technology (MapServer/PostgreSQL/Apache). That same year, the Senate demonstrated the prototype at National Conference of State Legislatures meetings. The “alpha” version of District Builder (with 2000 Census data) was used for NCSL redistricting simulation exercises in Providence, Rhode Island, and Washington, D.C.

In November 2009, the Florida House of Representatives began development of its own web-based, available to the public, open-source redistricting software. The software, known as MyDistrictBuilder™, is built on a technology stack of Microsoft Silverlight, Bing Maps, and Azure cloud servers with software source code available on Microsoft CodePlex at <http://mydistrictbuilder.codeplex.com/>.

The focus of both applications is redistricting. They provide all the functions and information required for building districts and nothing more. They give Floridians two choices with easy and direct access to the same programs, data, and plans that legislators and professional staff themselves used to navigate interactive maps, explore population characteristics, and build districts.

To use the Senate's District Builder, individuals register for a secure account. To use the House's MyDistrictBuilder™, individuals do not need any type of account or password. The application is immediately accessible via a link at <http://www.floridaredistricting.org>.

Senate and House professional staff worked collaboratively to ensure common geographic and data characteristics for the two applications. In addition, Senate and House professional staff shared public submissions. Maps, statistics, and downloads for each submission were posted on both the Senate and House websites, regardless of whether the plan was drawn using District Builder, MyDistrictBuilder™, or some other application.

Both applications remain accessible.

Legislative Process

The redistricting process in Florida was consciously designed to be transparent and inclusive.

Both the Senate and the House had committees dedicated solely to redistricting: the Senate Committee on Reapportionment and the House Redistricting Committee. The Senate Committee met on September 22, October 5, October 18, November 2, November 15, and December 6, 2011, and January 11, 2012. The House Committee met on September 19, and December 6, 2011, and January 20 and January 27, 2012. The House of Representatives also had Subcommittees on House and Senate Redistricting. The House Subcommittee on House Redistricting met on September 19, October 3, October 17, November 3, and December 8, 2011, and January 9, 2012. The House Subcommittee on Senate Redistricting met on September 19, October 3, October 17, November 1, and December 8, 2011, and January 9, 2012. Transcripts of these Committee and Subcommittee proceedings are in the "Publicity and Participation" folder, together with audio recordings of Committee meetings conducted during the extraordinary apportionment session on March 14, March 20, March 21, and March 26, 2012.

Redistricting was a primary focus of the 2012 legislative session. In fact, the Legislature began its legislative session approximately two months early in order to facilitate a timely redistricting process. *See* Fla. Const. art. III, § 3(b); Ch. 2010-91, Laws of Fla.

On February 9, 2012, the Legislature adopted Senate Joint Resolution 1176, which apportioned the state into State House and State Senate districts. On February 10, 2012, the Attorney General, pursuant to Article III, Section 16(c) of the Florida Constitution, submitted Senate Joint Resolution 1176 to the Florida Supreme Court for a determination of its validity. On March 9, 2012, the Florida Supreme Court determined that the plan for State House districts was constitutional, while the plan for State Senate districts was unconstitutional. *In re Senate Joint Res. of Legislative Apportionment 1176*, --- So. 3d ----, 2012 WL 753122 (Fla. Mar. 9, 2012). While the Court invalidated the Senate plan on various grounds unrelated to the voting rights of minorities, such as compactness and the utilization of political and geographical boundaries, it also concluded that the “Senate plan does not facially dilute a minority group’s voting strength or cause retrogression under [Article III, Section 21(a), Florida Constitution].” *Id.* at *54. The Court severed the unconstitutional State Senate districts from the State House districts, *id.* at *77, and, accordingly, on March 13, 2012, the State of Florida submitted the State House districts to the United States Department of Justice for preclearance. *See* Submission No. 2012-1324.

Pursuant to Article III, Section 16(d), Florida Constitution, the Legislature reconvened on March 14, 2012, in an extraordinary apportionment session. On March 27, 2012, the Legislature adopted SJR 2-B to remedy the defects identified by the Florida Supreme Court and enact a valid State Senate redistricting plan.

The House and Senate calendars and journals and transcripts of floor debate are included in the “Publicity and Participation” folder. The legislative sessions were televised, broadcast via the internet, and conducted in strict conformity with Florida’s Sunshine Law. *See* Fla. Const. art. III, § 4(b), (e).

Throughout the redistricting process, the Legislature encouraged the African-American and Hispanic communities to participate. Minority legislators received access to all relevant data as well as the support required to draft plans for consideration. The public was invited to address the joint House and Senate committee at all of their public meetings, and personalized invitations were mailed to civil-rights advocacy organizations. These outreach efforts were successful. The Legislature received proposed redistricting maps from the Florida State Conference of NAACP Branches, LatinoJustice PRLDEF, and other similar organizations, and the redistricting plans adopted by the Legislature borrow extensively from those proposals. *See* the “Publicity and Participation” folder, “Publicly Submitted Senate Plans” subfolder, Plans SPUBS0155 and HPUBS0102.

The organization of information below corresponds to 28 C.F.R. §§ 51.27 and 51.28.

§ 51.27 Required Contents

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting.

SJR 2-B, enacted on March 27, 2012, contains the newly enacted Senate districts. It is included in the “Constitutional and Statutory Provisions” folder.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended, or otherwise changed.

Chapter 10 of the Florida Statutes contains the benchmark Senate districts. It is included in the “Constitutional and Statutory Provisions” folder.

Because the Senate districts in Senate Joint Resolution 1176 were declared unconstitutional by the Florida Supreme Court, *see In re Senate Joint Res. of Legislative Apportionment 1176*, --- So. 3d ----, 2012 WL 753122 (Fla. Mar. 9, 2012), and were never precleared under Section 5, Senate Joint Resolution 1176 was not a legally enforceable redistricting plan and is not, therefore, the appropriate benchmark.

(c) If the change affecting voting either is not readily apparent on the face of the documents provided under paragraphs (a) and (b) of this section or is not embodied in a document, a clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

Florida’s Senate districts have been affected by significant population growth, from 15,982,378 in 2000 to 18,801,310 in 2010—an increase of 17.6%. This population growth was not uniform throughout the State. The increase in population necessitated changes that affected all of the State’s Senate districts, including those that contain the five covered counties.

See the “Maps” folder for maps of the benchmark and newly enacted Senate plans in 35 by 42-inch format.

See the “Demographic Information” folder for 8.5 by 11-inch maps, statistics, and downloads for the benchmark and newly enacted Senate plans.

Interactive maps with navigation and layer controls to access much greater detail are available online:

Benchmark Senate plan: http://maps.flsenate.gov/de1/map.html?plan=fl2002_sen.

Newly enacted Senate plan: <http://maps.flsenate.gov/de1/map.html?plan=s016s9030>.

(d) The name, title, address, and telephone number of the person making the submission.

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(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

The State of Florida, on behalf of its five Section 5 covered counties.

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

Not applicable.

(g) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of State legislature, ordinance of city council, administrative decision by registrar).

SJR 2-B is a joint resolution adopted by the Florida Legislature.

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

Article III, Section 16(a) of the Florida Constitution directs the Legislature, “at its regular session in the second year following each decennial census, by joint resolution, [to] apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory.” Within 15 days after adoption of a joint resolution of apportionment, the Florida Attorney General must petition the Supreme Court of Florida “for a declaratory judgment determining the validity of the apportionment.” Fla. Const. art. III, § 16(c). The Supreme Court must enter its judgment “within thirty days from the filing of the petition.” *Id.*

The Legislature enacted Senate Joint Resolution 1176 pursuant to Article III, Section 16(a) of the Florida Constitution. On March 9, 2012, the Florida Supreme Court declared Senate Joint Resolution 1176, as it related to Senate districts, invalid under the Florida Constitution. Article III, Section 16(d), Florida Constitution, then required “the governor by proclamation [to] reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.” On March 27, 2012, the Legislature adopted SJR 2-B to conform to the judgment of the Supreme Court.

Article III, Section 16(e) of the Florida Constitution directs the Attorney General, within “fifteen days after the adjournment of an extraordinary apportionment session,” to “file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature Consideration of the validity of a joint resolution of apportionment shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.” If “the supreme court determine[s] that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the custodian of state records an order making such apportionment.” Fla. Const. art. III, § 16(f).

Additional procedures and substantive standards are contained in Article III, Sections 16 and 21 of the Florida Constitution.

(i) The date of adoption of the change affecting voting.

The Legislature adopted SJR 2-B on March 27, 2012.

(j) The date on which the change is to take effect.

SJR 2-B applies with respect to the qualification, nomination, and election of members of the Legislature in the primary and general elections held in 2012 and thereafter. *See* Fla. S.J.R. 2-B, § 8 (2012). Qualification for election to the Legislature will begin on June 4, 2012. *See* §§ 99.061(1), 100.031, 100.061, Fla. Stat. (2011). The primary election will be held on August 14, 2012. *See id.* § 100.061. The general election will be held on November 6, 2012. *See id.* §§ 100.031, 100.061.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

The change has not yet been enforced or administered.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

Not applicable.

(m) A statement of the reasons for the change.

The United States Constitution has been construed to require redistricting of the State after the decennial Census discloses population changes within the State, *see Reynolds v. Sims*, 377 U.S. 533 (1964), and the Florida Constitution directs the Legislature to reapportion state legislative districts in the second year after each decennial Census, *see* Fla. Const. art. III, § 16(a).

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

Standard of Review

The State of Florida is entitled to preclearance if the voting change “neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color, or [membership in a language minority group].” 42 U.S.C. § 1973c(a). When it reauthorized Section 5 in 2006, Congress clarified that a voting change violates this standard if it “has the purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race or color, or [membership in a language minority group], to elect their preferred candidates of choice.” *Id.* § 1973c(b);

see also id. § 1973c(d) (“The purpose of subsection (b) of this section is to protect the ability of [minority] citizens to elect their preferred candidates of choice.”).

“[T]he purpose of § 5 has always been to insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” *Miller v. Johnson*, 515 U.S. 900, 906 (1995) (quoting *Beer v. United States*, 425 U.S. 130, 141 (1976)). Section 5 also prohibits a voting change that has been enacted for a discriminatory purpose. *See* 42 U.S.C. § 1973c(c); *Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act*, 76 Fed. Reg. 7040, 7470 (Feb. 9, 2011) (“*DOJ Guidance*”).

SJR 2-B satisfies the requirements of Section 5.

Retrogressive Effect

Section 5 covers five counties in Florida: Collier, Hardee, Hendry, Hillsborough, and Monroe. *See* 28 C.F.R. pt. 51, app. The benchmark plan contained two districts in which minorities in the covered counties had the ability to elect the candidates of their choice. SJR 2-B does not have a retrogressive effect in either of these districts.

Benchmark District 18. Benchmark District 18, which is represented by Arthenia Joyner, a black Democrat, includes population from Hillsborough as well as Pinellas and Manatee Counties. Under the 2010 Census, the ideal population of a Senate district is 470,033. Because Benchmark District 18 has a total population of 404,822, it is underpopulated by 65,211 people, or 13.9%. It has a voting-age population (“VAP”) of 307,429. Of that total VAP, 121,326, or 39.5%, is black voting-age population (“BVAP”) and 71,688, or 23.3%, is Hispanic voting-age population (“HVAP”). Benchmark District 18 includes 75,574 BVAP and 60,872 HVAP from Hillsborough County.

Enacted District 19. Under SJR 2-B, Benchmark District 18 becomes Enacted District 19. Enacted District 19 includes population from Hillsborough as well as Pinellas and Manatee Counties. Enacted District 19 has a total population of 467,143 and a VAP of 348,866. While there has been a slight decrease in BVAP from the benchmark, no one, including Senator Joyner, has suggested this is material. Also, the new District 19 has a somewhat higher Hispanic VAP (and, consequently, higher minority VAP) than the benchmark district. And the Department of Justice has treated blacks and Hispanics in Hillsborough County as politically cohesive. *See DeGrandy v. Wetherell*, 815 F. Supp. 1550, 1557-58 (N.D. Fla. 1992). Enacted District 19’s BVAP is 129,842, or 37.2% of the district’s total VAP, and its HVAP is 95,643, or 27.4% of the district’s total VAP.

Enacted District 19 also includes more Section 5 covered minority population. It contains 72,738, or 96.2%, of the 75,574 Hillsborough County BVAP from Benchmark District 18, and it contains 58,334, or 95.8%, of the 60,872 Hillsborough County HVAP

from Benchmark District 18. In addition, Enacted District 19 includes 12,880 BVAP and 26,463 HVAP from Hillsborough County that was not in Benchmark District 18.

Thus, in Enacted District 19, minorities in Hillsborough County continue to possess the ability to elect their preferred candidate of choice. Senator Joyner is this cohesive minority population's preferred candidate of choice, and it is understood that Senator Joyner will seek reelection in Enacted District 19. If a candidate other than Senator Joyner were the candidate of choice, the minority population also would retain the same ability to elect such a candidate in Enacted District 19 as it would have had under Benchmark District 18.

Benchmark District 39. Benchmark District 39, which is represented by Larcenia Bullard, a black Democrat, includes population from Monroe, Collier, and Hendry Counties, as well as Palm Beach, Broward, and Miami-Dade Counties. Because Benchmark District 39 has a total population of 483,183, it is overpopulated by 13,150 people, or 2.8%. It has a total VAP of 356,387, of which 103,883, or 29.1%, is BVAP and 153,368, or 43.0%, is HVAP. Benchmark District 39 includes 12,009 BVAP and 41,435 HVAP from Monroe, Collier, and Hendry Counties.

Enacted District 39. Under SJR 2-B, Benchmark District 39 becomes Enacted District 39. Enacted District 39 includes population from Monroe, Collier, and Hendry Counties, as well as Miami-Dade County. Enacted District 39 has a total population of 470,135 and VAP of 347,344. It has a higher BVAP and overall minority VAP than under the benchmark plan. Specifically, its BVAP is 122,776, or 35.3% of the district's total VAP, and its HVAP is 138,054, or 39.7% of the district's total VAP.

Enacted District 39 also includes nearly the same amount of Section 5 covered minority population. It contains all of the minority population from Monroe and Hendry Counties that was in Benchmark District 39. In Collier County, it contains 4,455, or 93.3%, of the 4,775 BVAP from Benchmark District 39, and it contains 15,615, or 90.4%, of the 17,269 HVAP from Benchmark District 39. In addition, Enacted District 19 includes 204 BVAP and 332 HVAP from Collier County that was not in Benchmark District 39.

Thus, in Enacted District 39, minorities in Monroe, Collier, and Hendry Counties continue to possess the ability to elect their preferred candidates of choice. Senator Bullard is precluded by the term-limits provision of the Florida Constitution from seeking reelection. *See Fla. Const. art. VI, § 4(b).* But as reflected in the increased BVAP, black voters will retain at least the same ability to elect their preferred candidates as under the benchmark.

Under SJR 2-B, the two Senate districts in which minorities have the ability to elect their preferred candidates contain, in the aggregate, 97,511 BVAP and 124,883 HVAP from Section 5 counties (Monroe, Collier, Hendry, and Hillsborough), compared to 87,583 BVAP and 102,307 HVAP in the benchmark plan.

Discriminatory Purpose

SJR 2-B was not enacted with a discriminatory purpose.

In November 2010, voters approved a state constitutional amendment (known as Amendment 5) that established new redistricting standards. *See* Fla. Const. art. III, § 21. The new standards are arranged in two tiers. In cases of conflict, standards in the first tier supersede standards in the second tier. The first tier provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice.” *Id.* § 21(a). These provisions “follow[] almost verbatim the requirements embodied in the Voting Rights Act.” *Brown v. Sec’y of State of Fla.*, No. 11-14554, 2012 WL 264610, at *8 (11th Cir. Jan. 31, 2012) (construing identical constitutional provisions applicable to congressional districts).

On March 29, 2011, the Legislature submitted the constitutional amendment to the Department of Justice for preclearance. The Legislature argued that Amendment 5 is not “retrogressive” with respect to the electoral position of minorities. It took the position that Amendment 5 “preserve[s] without change the Legislature’s prior ability to construct effective minority districts” and that, “in promoting minority voting strength, the Legislature may continue to employ whatever means were previously at its disposal.” The Legislature argued that Amendment 5 is not retrogressive because the Tier-One standards “hold[] minorities harmless from the new restrictions imposed by” Amendment 5. None of the interested parties who filed written comments on the Legislature’s submission disputed this ultimate conclusion, and the Department granted preclearance on May 31, 2011.

Beginning in 1992, the Florida Legislature markedly expanded opportunities for minorities through redistricting. The new standards contained in the state constitutional amendment confirmed and continued this effort to provide effective and meaningful opportunities to voters and candidates of all races. The Legislature’s interpretation of the new amendment, as revealed in its preclearance submission, reflects this understanding, and the legislative record compiled in the redistricting process discloses the Legislature’s purpose to promote electoral opportunities for all citizens. For example, at its meeting on November 15, 2011, the Senate Committee on Reapportionment agreed by unanimous consent that:

[T]he Constitution’s Tier 1 priority is to ensure the ability of minorities . . . to elect candidates of their choice, and that that ability not be diminished. Therefore, the Committee would instruct professional staff to draw districts in which minorities are as likely as in the current districts to elect the candidates of their choice. . . . If at the same time these districts can be made more compact, . . . then they need to be made more compact, but if

not, then the Committee instructs professional staff that the preservation of minority voting rights should come first, and in drawing these districts, as with all districts, staff would be directed to take into account traditional redistricting principles as found under the law.

See “Committee and Session Proceedings” in the “Publicity and Participation” folder. The Chairman of the Senate Committee on Reapportionment reiterated on the floor that “operating by unanimous consent the committee directed staff to maintain minority opportunity districts and preserve minority voting rights in all regions of the state.” *Id.* As these statements of purpose as well as the Legislature’s extensive public outreach efforts demonstrate, the Legislature took particular care to ensure that the newly enacted Senate districts do not diminish minorities’ ability to elect their preferred candidates.

On March 9, 2012, the Florida Supreme Court invalidated Senate Joint Resolution 1176, which reflected the Legislature’s first effort to establish State Senate districts. In doing so, however, the Court concluded that “the Senate plan does not facially dilute a minority group’s voting strength or cause retrogression under Florida law.” *In re Senate Joint Res. of Legislative Apportionment 1176*, --- So. 3d ----, 2012 WL 753122, at *54 (Fla. Mar. 9, 2012). SJR 2-B, enacted to remedy the invalidities identified by the Florida Supreme Court, made minor alterations to only one of the ability-to-elect districts that Senate Joint Resolution 1176 had established in Florida’s five covered counties.

The direct and circumstantial evidence of purpose uniformly shows that the Legislature, far from entertaining a discriminatory intent, intended to promote minority opportunities. As explained above, the redistricting process in Florida was designed to be open and non-discriminatory. In particular, the African-American and Hispanic communities were encouraged to participate throughout the redistricting process. Minority legislators received access to all relevant data as well as support required to draft plans for consideration. The public was invited to address the House and Senate Committees at all of their public meetings, and personalized invitations were mailed to civil-rights advocacy organizations. These outreach efforts yielded a great deal of input from the minority communities, including proposed redistricting maps from the Florida State Conference of NAACP Branches and LatinoJustice PRLDEF. The redistricting plans adopted by the Legislature incorporate extensive portions of these proposed plans and reflect other suggestions expressed by Florida’s minority populations. *See* NAACP Senate Map SPUBS0155 in “Publicly Submitted Senate Plans” under the “Publicity and Participation” folder.

There cannot be any serious issue concerning discriminatory purpose in the covered counties. The minority districts there largely followed the districts recommended by civil-rights groups and materially preserved the ability of minority voters in those counties to elect their preferred candidates.

(o) A statement identifying any past or pending litigation concerning the change or related voting practices.

See §§ 51.27(h) and 51.27(n) above for discussions of past litigation.

Within fifteen days after the adjournment of the extraordinary apportionment session, the Florida Attorney General will submit SJR 2-B to the Florida Supreme Court for a determination of its validity. Fla. Const. art. III, § 16(e). The Constitution directs the Court to enter its judgment within 30 days after the filing of the petition. *See id.* art. III, § 16(a), (e). This litigation in the Florida Supreme Court does not delay the Justice Department’s sixty-day statutory deadline for preclearance review. *See* 42 U.S.C. § 1973c(a). Although SJR 2-B must be presented to the Florida Supreme Court for “approval,” this “final approving action” by the Florida Supreme Court does “not subject [SJR 2-B] to alteration.” 28 C.F.R. § 51.22(b). Rather, the Florida Supreme Court merely provides up-or-down approval of the redistricting plan, and may establish a redistricting plan only if it invalidates SJR 2-B as unconstitutional. Thus, under the Justice Department’s preclearance regulations, “the Attorney General may make a determination concerning [SJR 2-B] prior to such approval.” *Id.* And the materials submitted with this memorandum constitute a complete preclearance submission under the Attorney General’s regulations. *See Morris v. Gressette*, 432 U.S. 491, 502 (1977); *Georgia v. United States*, 411 U.S. 526, 539 (1973).

(p) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure for the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

The benchmark plan for Senate districts was precleared by the United States Department of Justice on June 20, 2002. *See* “Preclearance of 2002 Senate Districts” in the “Constitutional and Statutory Provisions” folder. The procedure for the adoption of the change was not required to be precleared. Since 1968, the Florida Constitution has specified the same procedure for the adoption of joint resolutions of apportionment. *See* Fla. Const. art. III, § 16. And until November 1, 1972, no part of Florida was subject to Section 5. *See* 28 C.F.R. pt. 51 app.

(q) For redistrictings, the items listed under § 51.28(a)(1) and (b)(1).

See the discussion under § 51.28 below.

(r) Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in § 51.28 and is most likely to be needed with respect to redistrictings, annexations, and other complex changes. In the interest of time such information

should be furnished with the initial submission relating to voting changes of this type.

See the discussion under § 51.28 below.

§ 51.28 Supplemental Contents

(a) Demographic Information

(1) Total and voting age population of the affected area before and after the change, by race and language group. If such information is contained in publications of the U.S. Bureau of the Census, reference to the appropriate volume and table is sufficient.

In the “Demographic Information” folder, see:

- “Benchmark State Senate Plan” for reports and spreadsheets describing the benchmark plan.
- “Enacted State Senate Plan” for reports and spreadsheets describing the newly enacted plan.

Census population counts for districts are derived from the Census 2010 Redistricting Data (Public Law 94-171) Summary File – Florida [machine readable data files prepared by the U.S. Census Bureau, 2011].

Consistent with *DOJ Guidance*, 76 Fed. Reg. at 7472-73, counts of black population and black voting-age population include persons who self-identified as black or African-American alone or in combination with one or more other races. “NHB” (non-Hispanic black) is the population that self-identified as black and not Hispanic. “HB” is the population that self-identified as both black and Hispanic. “HxB” is the population that self-identified as Hispanic and not black. “SRW” is the population who self-identified as white alone, excluding Hispanic persons. “Oth” is the population that does not fall into one of the other four mutually exclusive categories.

The HB population is “allocated alternatively to the Latino category and the minority race category.” *DOJ Guidance*, 76 Fed. Reg. at 7473. NHB plus HB is the total count of black persons. HxB plus HB is the total count of Hispanic persons. Total counts of blacks and Hispanics are provided in some reports, including the one below.

The table below summarizes total and voting-age population from the 2010 Census by race and language group for each newly enacted or benchmark district that overlaps any of the five counties. Sums are cross-tabulated by newly enacted district (New), benchmark district (Bench), and county (County). Gray-filled cells indicate districts that (1) are entirely outside the five counties and (2) overlap a district in either the proposed or benchmark plan but not both.

New	Bench	County	TotalPop	BlackPop	HispPop	TotalVAP	BlackVAP	HispVAP
14	17	Polk	4,390	991	2,007	2,855	583	1,194
15	10	Polk	31,361	13,418	4,845	22,924	8,963	2,956
15	17	Polk	83,203	16,193	8,575	64,099	10,436	5,610
17	10	Pasco	73,698	5,182	8,496	59,508	3,295	5,585
17	11	Pasco	22,593	397	1,079	18,311	266	768
17	12	Hillsborough	199,597	17,865	57,637	154,853	12,382	41,809
17	12	Pasco	118,219	9,229	19,299	87,658	6,103	12,940
17	16	Hillsborough	60,126	4,304	11,483	45,581	3,057	8,317
17	18	Hillsborough	337	86	118	262	55	93
18	10	Pasco	94	2	20	64	0	8
18	12	Pasco	71,617	4,005	9,239	55,726	2,694	5,808
19	10	Hillsborough	46,928	10,207	12,335	33,869	6,429	7,945
19	12	Hillsborough	43,800	8,075	17,965	33,881	5,600	13,175
19	13	Pinellas	341	106	7	318	89	6
19	16	Hillsborough	10,776	1,109	6,855	8,662	851	5,316
19	16	Pinellas	641	58	64	609	54	59
19	18	Hillsborough	247,277	106,785	79,976	184,630	72,738	58,334
19	18	Manatee	34,574	12,491	12,014	24,581	8,592	7,119
19	18	Pinellas	76,452	49,623	3,356	57,902	34,704	2,276
19	21	Manatee	6,354	1,285	2,350	4,414	785	1,413
20	16	Pinellas	82,681	7,002	9,851	67,264	4,947	6,715
21	17	Highlands	78,596	8,361	12,477	64,348	5,534	8,390
21	17	Okeechobee	32,002	3,267	8,206	24,303	2,362	5,278
21	17	Polk	165,091	23,088	28,362	126,322	15,865	18,073
21	17	St. Lucie	4,201	786	472	3,503	696	352
22	13	Pinellas	154,727	4,989	8,915	132,088	3,165	6,491
22	16	Hillsborough	85,979	5,318	10,869	68,910	3,704	8,033
22	16	Pinellas	191,713	13,128	17,153	155,766	8,404	12,263
22	18	Hillsborough	15,046	1,882	1,952	13,200	1,436	1,594
22	18	Pinellas	21,540	3,055	1,441	18,586	2,269	1,110
23	21	Lee	29,511	7,512	10,955	19,472	4,303	6,873
23	27	Lee	151,776	12,238	35,983	120,853	7,901	23,657
23	37	Collier	277,186	15,651	56,036	227,982	9,988	39,141
23	37	Lee	1,141	0	15	1,108	0	14
23	39	Collier	6,228	482	2,433	4,642	320	1,654
24	10	Hillsborough	361,948	45,035	76,849	266,847	29,540	49,308
24	12	Hillsborough	98,726	17,355	15,632	77,150	12,572	11,348
24	18	Hillsborough	6,788	1,681	1,038	6,008	1,345	851
25	27	Palm Beach	90,603	9,767	14,643	70,332	6,625	10,083
25	39	Palm Beach	28,333	18,724	7,443	20,094	13,141	4,921

New	Bench	County	TotalPop	BlackPop	HispPop	TotalVAP	BlackVAP	HispVAP
26	10	Hillsborough	51,892	2,827	13,926	41,159	1,800	8,552
26	17	DeSoto	31,313	4,589	10,219	24,017	3,475	6,895
26	17	Glades	7,385	1,515	899	6,232	1,324	632
26	17	Hardee	27,731	2,108	11,895	20,056	1,504	7,414
26	17	Highlands	20,190	1,718	4,680	16,466	1,127	3,277
26	18	Hillsborough	6	0	0	6	0	0
26	18	Manatee	2,802	323	491	2,254	187	311
26	21	Charlotte	18,816	1,623	1,100	15,450	1,136	755
26	21	DeSoto	3,549	44	206	3,010	32	146
26	21	Manatee	276,705	16,848	33,071	223,018	10,467	21,307
26	23	Charlotte	21,855	2,512	1,587	18,369	1,868	1,097
26	23	Manatee	2,398	9	29	2,283	6	27
26	27	Charlotte	276	1	12	245	0	10
26	27	Glades	5,499	126	1,821	4,235	82	1,234
27	27	Palm Beach	189,570	41,880	69,776	144,451	27,573	49,503
29	39	Broward	0	0	0	0	0	0
30	27	Charlotte	72	11	9	42	2	2
30	27	Lee	104,774	4,449	11,758	88,320	2,942	8,057
30	37	Lee	200,947	25,452	34,498	162,787	17,124	24,088
32	17	St. Lucie	2,858	36	92	2,738	28	70
34	27	Palm Beach	8,985	1,861	872	7,607	1,205	647
35	39	Miami-Dade	71,165	13,415	41,719	52,331	9,155	30,304
37	39	Miami-Dade	9,890	1,560	7,285	7,644	1,174	5,656
38	39	Miami-Dade	2,092	1,475	636	1,506	1,055	467
39	27	Hendry	0	0	0	0	0	0
39	33	Miami-Dade	69,596	53,192	15,190	51,269	38,390	11,658
39	34	Miami-Dade	12,717	1,331	7,805	10,149	1,251	5,944
39	35	Miami-Dade	1,258	392	615	1,036	319	509
39	36	Miami-Dade	13,835	5,733	7,455	10,830	4,165	6,102
39	37	Collier	915	357	522	562	204	332
39	38	Miami-Dade	18,451	1,505	10,199	13,357	1,020	6,975
39	39	Collier	37,191	6,486	24,186	25,687	4,455	15,615
39	39	Hendry	39,140	5,468	19,243	28,254	3,846	12,729
39	39	Miami-Dade	203,887	96,257	93,643	144,068	65,733	66,717
39	39	Monroe	73,090	4,630	15,071	62,089	3,388	11,437
39	40	Miami-Dade	55	7	47	43	5	36
40	39	Miami-Dade	12,167	2,165	4,853	10,072	1,616	3,868

(2) The number of registered voters for the affected area by voting precinct before and after the change, by race and language group.

See “Registered Voters By Precinct” in the “Demographic Information” folder.

(3) Any estimates of population, by race and language group, made in connection with the adoption of the change.

Not applicable. All population numbers are based on the Census.

(4-6) Demographic data.

See “Demographic Data” in the “Demographic Information” folder for a block-level shapefile with relevant population attributes and district assignments for the plans listed below:

- sd_bench (Benchmark State Senate Plan)
- sd_new (Enacted State Senate Plan)

For reference, see the document labeled “fl2010v2_block_shapefile_data_description” in the same folder.

(b) Maps. Where any change is made that revises the constituency that elects any office or affects the boundaries of any geographic unit or units defined or employed for voting purposes (e.g., redistricting, annexation, change from district to at-large elections) or that changes voting precinct boundaries, polling place locations, or voter registration sites, maps in duplicate of the area to be affected, containing the following information:

(1) The prior and new boundaries of the voting unit or units.

See “Benchmark State Senate Plan” and “Enacted State Senate Plan” in the “Demographic Information” folder for statewide and regional maps showing district boundaries, major roads, and waters in 8½ by 11-inch format.

See “Benchmark Senate Districts” and “Enacted Senate Districts” in the “Maps” folder for statewide maps showing district boundaries, major roads, and waters (with insets) in 35 by 42-inch format.

(2) The prior and new boundaries of voting precincts.

SJR 2-B does not change the boundaries of voting precincts.

(3) The location of racial and language minority groups.

See “Black and Hispanic VAP” in the “Maps” folder for choropleth maps showing concentrations of racial and language minorities (with insets) in 35 by 42-inch format.

(4) Any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units.

The plans were drawn using Census geography, which includes the locations of rivers, oceans, and other bodies of waters.

See “Benchmark State Senate Plan” and “Enacted State Senate Plan” in the “Demographic Information” folder for statewide and regional maps showing district boundaries, major roads, and waters in 8½ by 11-inch format.

See “Benchmark Senate Districts” and “Enacted Senate Districts” in the “Maps” folder for statewide maps showing district boundaries, major roads, and waters (with insets) in 35 by 42-inch format.

(5) The location of prior and new polling places.

SJR 2-B does not change polling places. Polling places are established at the county-level.

(6) The location of prior and new voter registration sites.

SJR 2-B does not change voter registration sites. Voter registration sites are established at the county-level.

(c) Annexations.

Not applicable.

(d) Election returns. Where a change may affect the electoral influence of a racial or language minority group, returns of primary and general elections conducted by or in the jurisdiction, containing the following information:

(1) The name of each candidate.

(2) The race or language group of each candidate, if known.

(3) The position sought by each candidate.

(4) The number of votes received by each candidate, by voting precinct.

(5) The outcome of each contest.

(6) The number of registered voters, by race and language group, for each voting precinct for which election returns are furnished. Information with respect to elections held during the last ten years will normally be sufficient.

(7) Election related data containing any of the information described above that are provided on magnetic media shall conform to the requirements of § 51.20(b) through (e). Election related data that cannot be accurately presented in terms of census blocks may be identified by county and by precinct.

In the “Election Returns” folder, see:

- “Election Returns 2002,” “Election Returns 2004,” “Election Returns 2006,” “Election Returns 2008,” and “Election Returns 2010,” for precinct-level election results.
- “Registered Voters By Precinct 2008” for a spreadsheet that aggregates total, black, and Hispanic registered voters by precinct for the 2008 general election.
- “Registered Voters By Precinct 2010” for a spreadsheet that aggregates total, black, and Hispanic registered voters by precinct for the 2010 general election.
- “Candidates and Race” is a spreadsheet that shows each candidate’s name and position sought, together with the race or language group of each candidate, if known by the Florida Legislature.

(e) Language usage. Where a change is made affecting the use of the language of a language minority group in the electoral process, information that will enable the Attorney General to determine whether the change is consistent with the minority language requirements of the Act. The Attorney General’s interpretation of the minority language requirements of the Act is contained in Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 CFR part 55.

Not applicable.

(f) Publicity and participation. For submissions involving controversial or potentially controversial changes, evidence of public notice, of the opportunity for the public to be heard, and of the opportunity for interested parties to participate in the decision to adopt the proposed change and an account of the extent to which such participation, especially by minority group members, in fact took place.

See the “Publicity and Participation” folder.

(1) Copies of newspaper articles discussing the proposed change.

See “Newspaper Clippings” in the “Publicity and Participation” folder.

(2) Copies of public notices that describe the proposed change and invite public comment or participation in hearings and statements regarding where such public notices appeared (e.g., newspaper, radio, or television, posted in public buildings, sent to identified individuals or groups).

See “Public Notice, Advertisements, and Invitations” in the “Publicity and Participation” folder for records of:

- Advertisements and notices for 26 public hearings.
- Invitations to participate in 26 public hearings.
- Invitations to participate in committee meetings.

(3) Minutes or accounts of public hearings concerning the proposed change.

See “Public Hearing Participation and Transcripts” in the “Publicity and Participation” folder for:

- Attendance records for 26 public hearings.
- Hearing reports for 26 public hearings.
- Transcripts for 26 public hearings.

See “Publicly Submitted Congressional Plans,” “Publicly Submitted House Plans,” and “Publicly Submitted Senate Plans” in the “Publicity and Participation” folder for maps, statistics, and downloads for the 177 redistricting plans submitted by members of the public:

Public Plans	Complete Plans	Partial Plans	Total Plans
House	20	24	44
Senate	29	18	47
Congressional	61	25	86
TOTAL	110	67	177

(4) Statements, speeches, and other public communications concerning the proposed change.

See “Communications and Websites” in the “Publicity and Participation” folder for:

- Press releases issued by the Florida House.
- Press releases issued by the Florida Senate.
- Opinion-editorial pieces authored by members of the Florida Legislature and published in Florida newspapers.

- Website archives for the Florida House Committee on Redistricting. The House Redistricting website is live at <http://www.floridaredistricting.org>.
- Website archives for the Florida Senate Redistricting website. The Senate website is live at <http://www.flsenate.gov/Redistricting>.

See “Redistricting Software” in the “Public Notice, Advertisements, and Invitations” subfolder of the “Publicity and Participation” folder for a description of web applications developed by the Florida Legislature for maximizing public participation.

(5) Copies of comments from the general public.

See “Public Comments” in the “Publicity and Participation” folder for comments from the public to the Florida Legislature.

(6) Excerpts from legislative journals containing discussion of a submitted enactment, or other materials revealing its legislative purpose.

See “Committee and Session Proceedings” in the “Publicity and Participation” folder for:

- House and Senate Calendars.
- House and Senate Journals.
- Transcripts of House and Senate committee meetings and floor debate.
- Audio Recordings of House and Senate committee meetings from the extraordinary apportionment session.
- Maps, statistics, and downloads for plans considered during House committee meetings and floor debate.
- Maps, statistics, and downloads for plans considered during Senate committee meetings and floor debate.

(g) Availability of the submission.

(1) Copies of public notices that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection (e.g., at the county courthouse) and invite comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

See the “Availability of the Submission” folder for the draft of a public notice that will be published in newspapers in the five Section 5 counties.

(2) Information demonstrating that the submitting authority, where a submission contains magnetic media, made the magnetic media available to be copied or, if so requested, made a hard copy of the data contained on the magnetic media available to be copied.

The House and Senate will post on their websites links to the contents of this submission. The House and Senate will provide copies of the DVDs submitted herewith to the general public upon request. Hard copies of content upon request will also be provided to the general public at the nominal rate provided by state law.

(h) Minority group contacts. For submissions from jurisdictions having a significant minority population, the names, addresses, telephone numbers, and organizational affiliation (if any) of racial or language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

See the “Minority Group Contacts” folder.

FLORIDA
SUBMISSION UNDER SECTION 5 OF THE VOTING RIGHTS ACT
REQUEST FOR PRECLEARANCE, FLORIDA STATE SENATE DISTRICTS

Electronic Media
DVD-ROM

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