

THE FLORIDA LEGISLATURE



ANDY GARDINER
President of the Senate



STEVE CRISAFULLI
*Speaker of the House of
Representatives*

MEMORANDUM

To: Members of the Florida Legislature
From: Senate President Andy Gardiner
House Speaker Steve Crisafulli
Subject: Special Session on Senate Redistricting
Date: July 28, 2015

The recent Florida Supreme Court decision to invalidate eight of Florida's 27 Congressional Districts introduced new legal precedent. This opinion will govern the ongoing litigation concerning the Senate map adopted by the Legislature on March 27, 2012.

Given these implications, the Senate has entered into a stipulation and consent judgment with the Plaintiffs and agreed the enacted Senate map will be revised prior to the 2016 primary and general elections.

It has been the practice of each chamber to draw its own districts. Senate professional staff, with the advice of counsel and at the express direction of the members of the Senate, drew the Enacted Senate Plan. By entering into this consent judgment, the Senate accepts full responsibility for the Enacted Senate Plan. The House was not involved in drawing the Senate map, nor did the House amend the Senate map prior to its enactment. The House did not intend to favor or disfavor any political party or incumbent, and had no knowledge of any constitutional infirmities relating to the Enacted Senate Plan. Taking these facts into account, the House does not object to the consent judgment and has agreed to be bound by its terms.

As such, the Florida Legislature will conduct Special Session 2015 C from October 19, 2015, through November 6, 2015, to enact a new map for Florida's Senate districts. Special Session C was arranged to coincide with two previously scheduled interim committee weeks to reduce additional time and expense associated with travel to Tallahassee.

Moving forward, professional staff of the Senate Committee on Reapportionment and the House Select Committee on Redistricting are directed to work with legal counsel to develop a base Senate map that complies with the Florida Supreme Court's ruling and all other relevant legal standards. This map proposal will be drafted solely by staff in collaboration with counsel,

without our participation or the participation of any other member, and will be provided simultaneously to all members and the public prior to the convening of the Special Session. As we stated in regards to the Congressional map, we believe presenting a base map that follows the Supreme Court order will make it easier to discuss all legislative actions in an open and transparent manner.

As with the creation of the base Congressional map, staff and counsel have been instructed to avoid any assessment of the political implications of any map either before or during the Special Session, except where consideration of political data is legally required to assess compliance with state and federal minority voting-rights provisions. Consistent with Section 11.26(1), Florida Statutes, redistricting staff have been instructed to have no interactions with any member of the Legislature, a member's staff or aide, political consultants or others concerning their work on the base map prior to its public release.

If any member of the House or Senate suggests to staff that a plan be changed with the intent to favor or disfavor any incumbent or political party, staff should disregard the suggestion entirely and report in writing the conversation directly to the Speaker or the President, respectively.

After the base map is introduced, every member will have a full opportunity to review, discuss, debate, and offer amendments to the base map. Any member wishing to offer a redistricting bill or amendment should recall the technical specifications used during the 2014 Special Session.

Given the Court's directive to justify district configurations, please note the following process for the submission of redistricting bills and amendments:

1. Any bill or amendment must be a contiguous and complete redistricting plan, such that the entirety of the State is assigned to Senate districts consisting of population as nearly equal as practicable.
2. **Members of the Senate** wishing to file a bill or amendment should coordinate with staff of the Reapportionment Committee when submitting a block assignment file through the Senate's District Builder application for publication to the web and generation of language for submission to Senate Bill Drafting.
3. **Members of the House** should submit plan files for any bill or amendment on a CD or DVD to staff of the House Select Committee on Redistricting, who will review proposed bills or amendments to ensure that each plan satisfies the constitutional standards of contiguity and equal population and will communicate with House Bill Drafting to place compliant proposals in the proper legislative format.

4. Given the Court's concerns about external partisan influence, and its conclusion that the legislative privilege yields to the constitutional prohibition against partisan intent and that the Legislature bears the burden to justify its decision to draw the districts in a certain way, any member wishing to offer a bill or amendment should be prepared to explain in committee or on the floor of their respective chamber the identity of every person involved in drawing, reviewing, directing, or approving the proposal; the criteria used by the map drawers; and the sources of any data used in the creation of the map other than the data contained in MyDistrictBuilder or District Builder. The member should also be able to provide a non-partisan and incumbent-neutral justification for the proposed configuration of each district, to explain in detail the results of any functional analysis performed to ensure the ability of minorities to elect the candidates of their choice is not diminished, and to explain how the proposal satisfies all of the constitutional and statutory criteria applicable to a Senate redistricting plan.
5. In order to have sufficient time to review and ensure amendments are in the appropriate technical form, both chambers will set amendment filing deadlines. Follow-up memos will be sent by the respective chambers to inform members and the public of the deadlines.

Again, both House and Senate staff will be available to all members to assist in drafting of Senate redistricting bills or amendments for consideration by the committee and on the floor.

In its recent decision, the Florida Supreme Court made procedural recommendations to conduct all meetings in which the Legislature makes decisions on the new map in public and to record any non-public meetings for preservation. While every citizen of Florida has a guaranteed constitutional right to petition our government, we encourage members to be circumspect and to avoid all communications that reflect or might be construed to reflect an intent to favor or disfavor a political party or an incumbent.

Finally, the Legislature has agreed to retain all e-mails and other documents related to redrawing the Senate map, including all draft maps. We respectfully request all members proactively compile all communications related to redistricting as they are received or made, including written correspondence and memoranda, emails, texts, or other forms of electronic communication.

Please send all documents to your respective chamber's email address: redistrictingrecords@myfloridahouse.gov or redistrictingrecords@flsenate.gov. Going forward, please send all documents to the above email address every day. Members need not include mass communications from the Speaker or the President in their compilations.