

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Reapportionment

BILL: SJR 100

INTRODUCER: Senator Rodrigues

SUBJECT: Joint Resolution of Apportionment

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rojas	Ferrin	RE	Pre-meeting

I. Summary:

Senate Joint Resolution 100 apportions the state into 40 single-member State Senate districts and 120 single-member State House districts as required by the United States (U.S.) Constitution, Federal Voting Rights Act, Florida Constitution, and applicable court decisions.

II. Present Situation:

The 2020 Census revealed an unequal distribution of population growth across Florida’s state legislative districts. Therefore, districts must be adjusted to comply with the “one person, one vote” principle such that each district must be substantially equal in total population.¹

According to the 2020 Census, 21,538,187 people resided in Florida as of April 1, 2020. That represents a population growth of 2,736,877 people from 2010 to 2020, approximately a 15 percent increase.²

Table 1 below shows the changes in population for each of Florida’s current congressional and state legislative districts and their respective ideal populations.

¹ See *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

² United States Census Bureau, *2020 Census Apportionment Results* (April, 26, 2021), <https://www.census.gov/data/tables/2020/dec/2020-apportionment-data.html>.

Table 1. Florida Congressional and State Legislative Districts Summary 2010 – 2020

Florida Fast Facts	2010	2020	Difference
Statewide Population	18,801,310	21,538,187	+2,736,877
Number of Congressional Seats	27	28	+1 seat
Congressional District Ideal Population	696,345	769,221	+72,876
Florida House of Representatives District Ideal Population <i>(based on 120 seats)</i>	156,678	179,485	+22,807
Florida Senate District Ideal Population <i>(based on 40 seats)</i>	470,033	538,455	+68,422

According to the 2020 Census, the State Senate district with the largest population has 713,947 people (175,492 more than the ideal), and the State Senate district with the smallest population has 486,331 people (52,124 less than ideal). The State House district with the largest population has 237,134 people (57,689 more than the ideal), and the State House district with the smallest population has 153,589 people (25,896 less than the ideal).

Background

The terms “redistricting” and “reapportionment” are often used interchangeably to describe the process of redrawing Congressional and state legislative district boundaries after each decennial census. Redrawing districts is necessary to accommodate population growth and shifts, ensuring that each district contains equal or nearly equal populations in compliance with applicable state and federal law.

The Florida Constitution requires the Legislature to apportion the state at its regular session in the second year following each decennial census into not less 30 nor more than 40 State Senate districts and into not less than 80 nor more than 120 State House districts.³

The 2020 Census

Established by the U.S. Constitution, the census has been conducted every 10 years by the United States Census Bureau since 1790 to determine the number of people living in the United States. Article I, s. 2 of the U.S. Constitution states that “The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.”⁴

³ Art. III, s. 16(a), Fla. Const.

⁴ Art. I, s. 2, U.S. Const.

Florida is one of 21 states that explicitly requires the use of census data for redistricting.⁵ Article X, s. 8 of the Florida Constitution designates each decennial census of the state taken by the United States as the official census of the state.⁶ Florida Statutes also designate the most recent federally conducted decennial census as the official census for redistricting.⁷

Public Law (P.L.) 94-171 requires the Census Bureau to provide states the opportunity to identify the small area geography for which data is needed to conduct legislative and congressional redistricting. The law also requires the U.S. Census Bureau to furnish these tabulations of population to each state, at the county, tract, block group, and block levels, within one year of Census Day.⁸

Title 13, U.S. Code requires that the state-level apportionment population counts be delivered to the President of the United States within 9 months of the census date. In the 2020, 2010, and most 20th century censuses, the census date has been April 1, meaning that the statutory deadline for delivering the counts to the President is December 31 of the census year.⁹

The delivery of 2020 Census results was delayed due to several factors affecting the Census Bureau's collection and processing, including the COVID-19 pandemic, natural disasters that included hurricanes and wildfires, civil unrest, and legal challenges.¹⁰

The state population counts for apportionment were delivered to the President on April 26, 2021 (originally due December 31, 2020). The U.S. Census Bureau provided redistricting data as legacy format summary files, which is tabular data, for all states on August 12, 2021 (originally due April 1, 2021). The full redistricting data toolkit was delivered to all 50 states and the public on September 16, 2021 (originally due April 1, 2021).

Redistricting Criteria and Concepts

Florida follows various criteria and standards as it relates to drawing state legislative districts, including the United States (U.S.) Constitution, Federal Voting Rights Act, Florida Constitution, and applicable court decisions.

The United States Constitution

In addition to state specific requirements to redistrict, states are obligated to redistrict based on provisions within the United States Constitution. In *Reynolds v. Sims*, the United States Supreme Court held that the Fourteenth Amendment required that seats in state legislature be reapportioned on a population basis. This principle is commonly referred to as "one person, one vote." The Supreme Court concluded:

⁵ National Conference of State Legislatures Redistricting Law 2020, Appendix B: Redistricting and Use of Census Data

⁶ Art. X, s. 8, Fla. Const.

⁷ Section 11.031, F.S. (2021).

⁸ United States Census Bureau, *Decennial Census P.L. 94-171 Redistricting Data* (Aug. 12, 2021), <https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html>.

⁹ United States Census Bureau, *About Congressional Reapportionment* (Nov. 22, 2021), <https://www.census.gov/topics/public-sector/congressional-apportionment/about.html>.

¹⁰ Styles, Kathleen, *2020 Census: Overview* (2021),

https://www.ncsl.org/Portals/1/Documents/Redistricting/NCSSL_Census_Update_KathleenStyles.pdf.

...“the basic principle of representative government remains, and must remain, unchanged – the weight of a citizen’s vote cannot be made to depend on where he lives. Population is, of necessity, the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies...The Equal Protection Clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races. We hold that, as a basic constitutional standard, the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis.”¹¹

The Court went on to state that decennial reapportionment was a rational approach to readjust legislative representation to take into consideration population shifts and growth.¹²

In practice, Congressional districting has strictly adhered to the requirement of exact mathematical equality and in *Kirkpatrick v. Preisler*, the Court rejected several justifications for violating this principle. For state legislative districts, the courts have permitted a greater population deviation amongst districts. The populations of state legislative districts must instead be “substantially equal.”¹³

Substantial equality of population has come to generally mean that a legislative plan will not be held to violate the Equal Protection Clause if the difference between the smallest and largest district is less than ten percent.¹⁴ Nevertheless, any significant deviation (even within the 10 percent overall deviation margin) must be “based on legitimate considerations incident to the effectuation of a rational state policy,”¹⁵ including “the integrity of political subdivisions, the maintenance of compactness and contiguity in legislative districts, or the recognition of natural or historical boundary lines.”¹⁶

The Fourteenth Amendment has also been interpreted to prohibit racial predominance.¹⁷ The U.S. Supreme Court has stated: “The equal protection clause prohibits a state, without sufficient justification, from separating its citizens into different voting districts on the basis of race.” A redistricting plan “that expressly distinguishes among citizens because of their race [must] be narrowly tailored to further a compelling government interest.” Such strict scrutiny review applies not only to redistricting plans that expressly distinguish citizens because of race, but also those plans “that, although race neutral, are, on their face unexplainable on grounds other than race.”¹⁸

¹¹ *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

¹² See *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969).

¹³ See *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964).

¹⁴ See *Chapman v. Meier*, 420 U.S. 1 (1975); *Connor v. Finch*, 431 U.S. 407, 418 (1977).

¹⁵ *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964).

¹⁶ *Swann v. Adams*, 385 U.S. 440, 444 (1967).

¹⁷ See *Shaw v. Reno*, 509 U.S. 630 (1993).

¹⁸ *Id.*

The Federal Voting Rights Act

The Federal Voting Rights Act (VRA) prohibits any state or political subdivision from enacting a map that results in the denial or abridgement of any U.S. citizen's right to vote on account of race, color, or status as a member of a language minority group and purposeful discrimination.¹⁹ The VRA also protects against retrogression—or backsliding—in the ability of racial and language minorities to elect representatives of their choice.²⁰

Section 2 of the VRA requires the creation of a district that performs for racial and language minorities where a minority population is geographically compact and sufficiently numerous to be a majority in a single-member district, the minority population is politically cohesive, the majority votes sufficiently as a bloc to enable it usually to defeat the minority-preferred candidate, and under all of the circumstances, the minority population has less opportunity than others to participate in the political process and elect representatives of its choice.²¹

Section 5 of the VRA prohibits purposeful discrimination and protects against retrogression—or backsliding—in the ability of racial and language minorities to elect representatives of their choice.²² Section 5 contains a coverage formula that was applied to “covered jurisdictions” to determine if there was a history of discrimination against racial or language minorities.²³ Such jurisdictions had to be “precleared” before any of the changes could take effect, meaning that any substantial changes made to voting laws, including redistricting plans, in these “covered jurisdictions” could not be implemented without first obtaining federal permission.²⁴ In Florida, Collier, Hardee, Hendry, Hillsborough, and Monroe counties were subject to Department of Justice preclearance in regards to redistricting until the coverage formula was invalidated in 2013 in *Shelby County v. Holder*.²⁵ However, as *Apportionment I* states, “Florida's new constitutional provision, codified the non-retrogression principle of Section 5 (VRA) and has now extended it statewide. In other words, Florida now has a statewide non-retrogression requirement independent of Section 5.”²⁶

The Florida Constitution

Article III, s. 16(a) of the Florida Constitution requires that “the legislature at its regular session in the second year following each decennial census,” apportion the state by joint resolution “in accordance with the constitution of the state and 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.”²⁷ Once

¹⁹ 52 U.S.C.A. s. 10301.

²⁰ 52 U.S.C.A. s. 10303.

²¹ *Thornburg v. Gingles*, 478 U.S. 30, 106 S. Ct. 2752, 92 L. Ed. 2d 25 (1986).

²² 52 U.S.C.A. s. 10303.

²³ *Id.*

²⁴ *Id.*

²⁵ *Shelby Cty., Ala. v. Holder*, 570 U.S. 529, 133 S. Ct. 2612, 186 L. Ed. 2d 651 (2013).

²⁶ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So. 3d 597, 624 (Fla. 2012).

²⁷ Art. III, s. 16(a), Fla. Const.

the joint resolution is adopted, the state legislative plans are then subject to review by the Florida Supreme Court determining the validity of the apportionment.²⁸

A district is contiguous if no part of the district is isolated from the rest of the district by another district.²⁹ In a contiguous district, a person can travel from any point within the district to any other point without departing from the district.³⁰ A district is not contiguous if its parts touch only at a common corner, such as a right angle.³¹ The Florida Supreme Court has also held that the presence in a district of a body of water without a connecting bridge, even if it requires land travel outside the district in order to reach other parts of the district, does not violate contiguity.³²

Districts must be consecutively numbered, but it is not necessary that adjacent districts receive consecutive numbers.³³ For example, districts in a 40-district redistricting plan may be numbered from 1 to 40, but District 1 and District 2 need not be adjacent to one another.³⁴ In 2010, voters amended the Florida Constitution to create additional standards for establishing state legislative district boundaries.³⁵ The standards are set forth in two tiers.

Tier – One Standards

Article III, s. 21(a) of the Florida Constitution prohibits line-drawing that intentionally favors or disfavors a political party or an incumbent. It also affords protection to racial and language minorities. Districts may 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. Finally it reiterates that districts must be contiguous. The order in which the tier-one standards are set out in the Constitution does not establish any priority among those standards within the tier.³⁶

The tier-one standards provide that “[n]o apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent.”³⁷ The Florida Supreme Court has held that Florida’s constitutional provision “prohibits intent, not effect” because “any redrawing of lines, regardless of intent, will inevitably have an effect on the political composition of a district and likely whether a political party or incumbent is advantaged or disadvantaged.”³⁸ Nonetheless, there is no acceptable level of improper intent.³⁹

²⁸ Art. III, s. 16(c), Fla. Const.

²⁹ In re Apportionment Law Appearing as Senate Joint Resolution 1 E, 1982 Special Apportionment Session; Constitutionality Vel Non, 414 So. 2d 1040 (Fla. 1982).

³⁰ In re Senate Joint Resolution 2G, Special Apportionment Session 1992, 597 So. 2d 276 (Fla. 1992), amended sub nom. In re Constitutionality of Senate Joint Resolution 2G, Special Apportionment Session 1992, 601 So. 2d 543 (Fla. 1992).

³¹ *Id.*

³² *Id.*

³³ Art. III, s. 16(a), Fla. Const.; In re Apportionment Law Appearing as Senate Joint Resolution 1 E, 1982 Special Apportionment Session; Constitutionality Vel Non, 414 So. 2d 1040 (Fla. 1982).

³⁴ *Id.*

³⁵ Art. III, s. 21, Fla. Const.

³⁶ Art. III, s. 21(c), Fla. Const.

³⁷ Art. III, s. 21(a), Fla. Const.

³⁸ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So. 3d 597 (Fla. 2012).

³⁹ *Id.*

The tier-one standards also provide protections for racial and language minorities. Districts may “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.”⁴⁰

The Court has interpreted the tier-one constitutional provisions that relate to racial or language minorities’ ability to participate in the political process or elect a candidate of their choice to mean that “the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates...in addition to majority-minority districts, coalition or crossover districts that previously provided minority groups with the ability to elect a preferred candidate under the benchmark plan must also be recognized.”⁴¹

The Court went on to say, “that under Florida’s provision, a slight change in percentage of the minority group’s population in a given district does not necessarily have a cognizable effect on a minority group’s ability to elect its preferred candidate of choice. This is because a minority group’s ability to elect a candidate of choice depends upon more than just population figures.”⁴² In order to draw districts that comply with the tier-one standards, a functional analysis is required to be performed.

A “functional analysis,” as it has been termed, is an inquiry into a racial or language minority group’s ability to elect a candidate of choice that requires “consideration not only of the minority population in the districts, or even the minority voting-age population in those districts, but of political data and how a minority population group has voted in the past.”⁴³ The map drawing application in use for the 2022 Redistricting Cycle includes 231 data points in the following categories to enable users to perform this type of analysis:⁴⁴

2012 – 2020 General Election Voter Registration Information;

- Registration by Party
- Registration by Race or Ethnicity
- Registration by Race or Ethnicity and Party
- Registration by Party and Race or Ethnicity

2012 – 2020 General Election Voter Turnout Information;

- Turnout by Party
- Turnout by Party and Race or Ethnicity
- Turnout by Race or Ethnicity and Party

2012 – 2020 Primary Election Voter Turnout Information;

- Turnout by Party and Race or Ethnicity

⁴⁰ Art. III, s. 21(a), Fla. Const.

⁴¹ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So. 3d 597, 625 (Fla. 2012).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ See Florida Senate Committee on Reapportionment, *Functional Analysis* (October, 2021), available at: https://www.flsenate.gov/Committees/Show/RE/MeetingPacket/5264/9438_MeetingPacket_5264_3.pdf.

2012 – 2020 Elections Results;

- General Elections results by candidate
- Primary Elections results by candidate

The last tier-one standard requires that all districts “consist of contiguous territory”. The premise is similar to that in Article III, s. 16 of the Florida Constitution.

Tier – Two Standards

The tier-two standards of the Florida Constitution encompass what are often called “traditional redistricting criteria,” but make it clear these standards are subordinated to the tier-one standards. Article III, s. 21(b) states that unless compliance with these standards conflicts with tier-one standards or with federal law, districts shall be as nearly equal in population as practicable, districts shall be compact, and districts shall, where feasible, utilize existing political and geographical boundaries.⁴⁵ As with tier-one, the order in which the tier-two standards are set out in the Constitution does not establish any priority among those standards within the tier.⁴⁶

The first tier-two standard set forth by the Florida Constitution states that districts shall be as nearly equal in population as is practicable. As interpreted by the United States Supreme Court, the Equal Protection Clause of the Fourteenth Amendment mandates that “state legislatures be apportioned in such a way that each person's vote carries the same weight—that is, each legislator represents the same number of voters.”⁴⁷

The courts have allowed reasonable deviations for mathematical equality for state legislative districts to accommodate traditional redistricting objectives, such as compactness, contiguity and respect to the boundaries of political subdivisions.⁴⁸ In *Apportionment I*, the court stated that “Because obtaining equal population “if practicable” is an explicit and important constitutional mandate under the Florida Constitution, any deviation from that goal of mathematical precision must be based upon compliance with other constitutional standards.”⁴⁹

The second tier-two requirement established by Section 21 of the Florida Constitution is compactness. The constitutional amendments adopted in Florida in 2010 state that districts “shall be compact.”⁵⁰

The Florida Supreme Court held that “compactness is a standard that refers to the shape of the district. The goal is to ensure that districts are logically drawn and that bizarrely shaped districts are avoided. Compactness can be evaluated both visually and by employing standard mathematical measurements.”⁵¹

⁴⁵ Art. III, s. 21(b), Fla. Const.

⁴⁶ Art. III, s. 21(c), Fla. Const.

⁴⁷ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So.3d 597 (2012).

⁴⁸ Art. III, s. 21(b), Fla. Const.

⁴⁹ *Id.*

⁵⁰ Art. III, s. 21 (b), Fla. Const.

⁵¹ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So.3d 597 (2012).

Florida has historically used three scores to gauge compactness mathematically, all of which fall within a range of 0-1, where a score closer to one indicates a more compact district.⁵² The first score used is the Convex Hull score, which tests for concavities or indentations in district boundaries by calculating the ratio of the area of the district to the area of the minimum convex polygon that can enclose the district's geometry.⁵³ The second score used is the Polsby-Popper score, which tests for jagged or squiggly district boundaries by calculating the ratio of the area of the district to the area of a circle whose circumference is equal to the perimeter of the district. The third score used is the Reock score, which indicates a district's similarity to a circle by calculating the ratio of the area of the district to the area of the smallest circle that can be drawn around the district.⁵⁴

The Court also held that “Since compactness is set forth in section 21(b), the criteria of section 21(a) must predominate to the extent that they conflict with drawing a district that is compact. However, if a district can be drawn more compactly while utilizing political and geographical boundaries and without intentionally favoring a political party or incumbent, compactness must be a yardstick by which to evaluate those other factors.”⁵⁵

The final tier-two standard established by the Florida Constitution is that districts shall, “where feasible, utilize existing political and geographical boundaries.”⁵⁶ The Florida Supreme court has defined geographic boundaries as features that are “easily ascertainable and commonly understood” such as “rivers, railways, interstates, and state roads.”⁵⁷ Moreover, political boundaries primarily consist of county and municipal boundaries.⁵⁸

The boundaries of Florida's municipalities are not static. Between January 1, 2010 and December 31, 2019, 200 cities annexed or deannexed parcels, changing their boundaries 3,552 times.⁵⁹ Additionally, while Florida Statutes⁶⁰ permit municipalities to annex contiguous and compact unincorporated territory, many of Florida's cities are not contiguous, neither visually nor mathematically compact, and contain holes or enclaves.⁶¹ Of Florida's 412 cities, 136 are discontinuous, and 170 have holes or enclaves.⁶²

⁵² See Florida Senate Committee on Reapportionment, *Compactness* (October, 2021) , available at:https://www.flsenate.gov/Committees/Show/RE/MeetingPacket/5264/9438_MeetingPacket_5264_3.pdf.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So.3d 597 (2012).

⁵⁶ Art. III, s. 21(b), Fla. Const.

⁵⁷ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So.3d 597 (2012).

⁵⁸ *Id.*

⁵⁹ Boundary change data obtained from the U.S. Census Bureau: <https://www.census.gov/geographies/reference-files/timeseries/geo/bas/annex.html> As noted, The U.S. Census Bureau makes no claims to the completeness of the annexation data in the boundary change files. The data in these files were collected through programs in which state, county, and local governments voluntarily participated.

⁶⁰ Section 171.0413(1), F.S. (2021).

⁶¹ Compactness scores, parts, and holes based on 2020 U.S. Census TIGER geometry for the places layer available at: <https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.2020.html>.

⁶² See Florida Senate Committee on Reapportionment, *Municipal Boundaries* (October, 2021) , available at:https://www.flsenate.gov/Committees/Show/RE/MeetingPacket/5264/9438_MeetingPacket_5264_3.pdf.

Unlike other objective tier-two standards in the Florida Constitution, there is no widely accepted measurement for compliance with the requirement to, where feasible, utilize existing political and geographic boundaries.⁶³

Simply counting the cities or counties kept whole, meaning they have either all geographic territory or all population in a single district⁶⁴, fails to account for the degree of usage of existing county or municipal boundaries. It also disregards the co-equal constitutional mandate to, where feasible, use political and geographical boundaries.⁶⁵

Professional staff of the Florida House of Representatives and the Florida Senate worked to develop a set of quantitative metrics that measure the coincidence of a district's border with easily ascertainable and commonly understood political and geographic features, and make it publicly available to all users in the redistricting application. This Boundary Analysis independently measures the extent to which district boundaries overlap city boundaries, county boundaries, primary and secondary roads (interstates, U.S. highways, and State highways), railroads, and significant water bodies (contiguous area hydrography features greater than 10 acres) as defined by the U.S. Census Bureau's TIGER/Line files. Districts' coincidence with these existing political and geographic boundaries is independently calculated and presented along with the extent to which district boundaries do not follow any of the specified features.

In this way, users are presented with a Boundary Analysis that shows the degree of utilization for each type of existing political or geographic boundary as specified by the Florida Constitution and interpreted by the Florida Supreme Court. To facilitate the utilization of existing political and geographic boundaries, each of the feature layers used in the computation of the Boundary Analysis is provided in the map-drawing application.

Judicial Review of State Legislative Districts

During the regular session of the Legislature in the second year following the decennial census, the Legislature is required to adopt a joint resolution that apportions the state into State Senate and State House districts. The Legislature is directed to apportion the state into no fewer than 30, nor more than 40 State Senate districts, and into no fewer than 80, nor more than 120 State House districts. Because the Legislature adopts a joint resolution, rather than passing a general bill, the measure does not require the Governor's approval, nor is it subject to a veto.⁶⁶

The state constitution prescribes a mandated review process for state legislative redistricting plans by the Florida Supreme Court.⁶⁷ During a constitutionally mandated review, the Florida Supreme Court determines if the newly created State Senate and State House districts are valid. When the Florida Supreme Court enters a judgment that the plan is valid, the plan becomes binding upon all citizens of the state.⁶⁸

⁶³ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So.3d 597 (2012).

⁶⁴ In Apportionment VIII, the Court held that unpopulated county splits are "not considered to include part of the county for the purpose of counting splits. See *League of Women Voters of Fla. v. Detzner*, 179 So. 3d 258 (Fla. 2015).

⁶⁵ In re Senate Joint Resolution of Legislative Apportionment 1176, 83 So.3d 597 (2012).

⁶⁶ Art. III, s. 16(a), Fla. Const.

⁶⁷ Art. III, s. 16(c), Fla. Const.

⁶⁸ Art. III, s. 16(d), Fla. Const.

If the Legislature Adopts a Joint Resolution of Apportionment during Regular Session

Within fifteen days after the Legislature passes a joint resolution to apportion state legislative districts, the Attorney General must petition the Florida Supreme Court for a declaratory judgment that determines the validity of the apportionment.⁶⁹ The Court must allow adversary interests to present their views challenging the validity of the apportionment,⁷⁰ and must enter its judgment within thirty days after the Attorney General submits the petition.

If the Court finds the apportionment valid, the Court's judgment is binding on all citizens of the state.⁷¹

If the Court finds the apportionment invalid, the Governor must reconvene the Legislature, by proclamation, within 5 days, in an extraordinary apportionment session that may not exceed fifteen days.⁷² The Legislature must then adopt a joint resolution of apportionment that conforms to the Court's judgment.⁷³

If the Legislature adopts a joint resolution during the extraordinary apportionment session, the Attorney General must petition the Court and provide the apportionment resolution within fifteen days after adjournment of the session. The Court must then consider the validity of the resolution as though adopted at a regular or special apportionment session.⁷⁴ Again, the Court must allow adversary interests to present their views and render its judgment within thirty days after the Attorney General submits the petition.⁷⁵ If the Legislature did not adopt a joint resolution during the extraordinary apportionment session, the Attorney General must so inform the Court.⁷⁶

If the Legislature did not adopt an apportionment resolution during an extraordinary apportionment session, or if the Court declares an apportionment resolution adopted during an extraordinary apportionment session invalid, the Court must, within sixty days after receiving the Attorney General's petition, file an order with the custodian of state records making an apportionment.⁷⁷

If the Legislature does not Adopt a Joint Resolution of Apportionment during Regular Session

If the regular session of the Legislature in the second year following the decennial census is adjourned without adoption of a joint resolution apportioning the state into the necessary legislative districts, the Governor must, within thirty days, issue a proclamation reconvening the Legislature in a special apportionment session.⁷⁸ That session may not exceed thirty consecutive

⁶⁹ Art. III, s. 16(c), Fla. Const.

⁷⁰ *Id.*

⁷¹ Art. III, s. 16(d), Fla. Const.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Art. III, s. 16(e), Fla. Const.

⁷⁵ Art. III, s. 16(c), Fla. Const.

⁷⁶ Art. III, s. 16(e), Fla. Const.

⁷⁷ Art. III, s. 16(f), Fla. Const.

⁷⁸ Art. III, s. 16(a), Fla. Const.

days and no other business may be transacted.⁷⁹ The state constitution specifies that, “[i]t is the Legislature’s mandatory duty to adopt a joint resolution of apportionment during that session.”⁸⁰

If the Legislature adjourns the special apportionment session without adopting a joint resolution of apportionment, the Attorney General must, within five days, petition the Court to make the apportionment.⁸¹ Within sixty days after the Attorney General files the petition, the Court must file an order with the state custodian of records making the apportionment.⁸²

III. Effect of Proposed Changes:

Consistent with the United States (U.S.) Constitution, Federal Voting Rights Act, Florida Constitution, and applicable court decisions, the Joint Resolution apportions the state into 40 single-member State Senate districts and 120 single-member State House districts.

Section 1 of the Joint Resolution provides definitions regarding Census geography and the electronic versions of districts. Additionally, it designates the United States Decennial Census of 2020 as the official census of the state for the purposes of legislative redistricting as provided by Art. X of the Florida Constitution.

Section 2 of the Joint Resolution describes the state's 120 State House districts using Census geography.

Section 3 of the Joint Resolution describes the state's 40 State Senate districts using Census geography.

Section 4 of the Joint Resolution designates the process for territory not specified for inclusion in any district.

Section 5 of the Joint Resolution designates the process for assigned territory that is noncontiguous.

Section 6 of the Joint Resolution establishes the districts described in Sections 2 and 3 as the official State House and State Senate districts of the state.

Section 7 of the Joint Resolution designates electronic maps as the authoritative representation of the state's legislative districts. Additionally, it establishes the Office of Economic and Demographic Research as the official custodian of electronic maps representing the legislative districts described in Sections 2 and 3.

Section 8 provides severability if any provision of the Joint Resolution is invalidated.

Section 9 of the Joint Resolution changes the applicable starting date for the qualification, nomination, and election of the new districts from 2012 to 2022.

⁷⁹ *Id*

⁸⁰ *Id*

⁸¹ Art. III, s. 16(b), Fla. Const.

⁸² *Id*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The 2022 reapportionment will have an undetermined fiscal impact on Florida's election officials, including 67 Supervisor of Elections offices and the Department of State, Division of Elections. Local supervisors will incur the cost of data processing and labor to change each of Florida's approximately 14 million voter records to reflect new districts. As precincts are reconfigured for new districts, postage and printing will be required to provide each eligible voter whose precinct has changed with official notification.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
