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SENATE REAPPORTIONMENT MEETING

AUGUST 8, 2014

Reported by:

CLARA C. ROTRUCK

Court Reporter

## 1 P R O C E E D I N G S

2 CHAIRMAN GALVANO: Would the Administrative  
3 Assistant please call the roll.

4 ADMINISTRATIVE ASSISTANT: Senator Galvano.

5 CHAIRMAN GALVANO: Here.

6 ADMINISTRATIVE ASSISTANT: Senator Smith.

7 SENATOR SMITH: Here.

8 ADMINISTRATIVE ASSISTANT: Senator Bradley.

9 SENATOR BRADLEY: Here.

10 ADMINISTRATIVE ASSISTANT: Senator Gibson.

11 SENATOR GIBSON: Here.

12 ADMINISTRATIVE ASSISTANT: Senator Lee.

13 SENATOR LEE: Here.

14 ADMINISTRATIVE ASSISTANT: Senator Montford.

15 SENATOR MONTFORD: Here.

16 ADMINISTRATIVE ASSISTANT: Senator Simmons.

17 SENATOR SIMMONS: Here.

18 ADMINISTRATIVE ASSISTANT: A quorum present.

19 CHAIRMAN GALVANO: Thank you. Senators, this  
20 morning we are going to take up Senate Bill 2-A,  
21 and I see that Leader Smith is here with us this  
22 morning. And Leader Smith, I am going to ask you  
23 to take the Gavel since 2-A is under my name.  
24 There is an amendment to it.

25 LEADER SMITH: Thank you, Mr. Chair. We will

1 take up Senate Bill 2-A by Senator Galvano.  
2 Senator Galvano, you are recognized to explain the  
3 Bill.

4 CHAIRMAN GALVANO: Thank you, Mr. Leader.  
5 Senate Bill 2-A as I mentioned yesterday on the  
6 floor and in previous memos, is essentially a  
7 reenactment of the 2012 plan. This was done to  
8 have a vehicle to use to meet the very tight time  
9 frames that were imposed on the Legislature by the  
10 Circuit Court and directed to be complied with by  
11 the Joint Proclamation.

12 So Leader, there is a substitute amendment  
13 that I would like to take up.

14 LEADER SMITH: We will take up the amendment.  
15 Please explain the amendment.

16 CHAIRMAN GALVANO: And do we have the bar  
17 code?

18 ADMINISTRATIVE ASSISTANT: 726240.

19 CHAIRMAN GALVANO: Thank you. Senators, the  
20 amendment is essentially the remedial plan that has  
21 been put together in collaboration with the House  
22 of Representatives' redistricting committee, by  
23 myself and Chairman Corcoran, together with House  
24 staff and our legal counsel.

25 We began drawing maps day before yesterday, on

1 Wednesday, and the way we began was to look at the  
2 Court Orders. The July 10th Final Judgment, by  
3 Judge Lewis, followed by the August 1st Order, by  
4 Judge Lewis and to see what direction we could take  
5 from those Orders and make sure that we were doing  
6 all that we could to meet the substance and the  
7 spirit of those Orders.

8 The Judge did not give specific direction.  
9 Essentially the Order required us to go back and  
10 address concerns raised with regard to  
11 Congressional District No. 5 and Congressional  
12 District No. 10. But what we did begin with with  
13 the Order was the idea that the Judge found a lack  
14 of compactness. Also, the Judge with regard to CD  
15 5 was not comfortable with the serpentine nature of  
16 that district.

17 Additionally, the Court took issue with the  
18 appendage in CD 10 that was drawn at the time as a  
19 means to create a Hispanic opportunity district in  
20 CD 9. And so in deciding the path to go there were  
21 some discussions as to whether we take a mentalist  
22 approach. In other words, address the appendages  
23 and look at the borders where we could move them  
24 and increase compactness.

25 The other idea that we looked at was how to

1 perhaps adopt some of 9043. That was the House map  
2 that was last produced before the final enacted  
3 map. And the reason for that discussion was there  
4 was reference within the Court's judgment regarding  
5 that 9043 map. We did not interpret it as a safe  
6 harbor, but the Judge did make reference that he  
7 felt as though that map had better characteristics.

8 The other concern that I had specifically was  
9 I wanted to make sure that we were not impacting  
10 any other districts that were not -- it wasn't  
11 necessary to impact, given that we had 27 districts  
12 and really the direction from the Court was to go  
13 back and adjust only two. But the Court, as does  
14 the Joint Proclamation, recognizes that you cannot  
15 do that exercise without making conforming changes  
16 to the districts that are impacted by virtue of  
17 changing the two districts in question.

18 So what we did with the help of very talented  
19 staff, was to begin with we removed Sanford from CD  
20 5. Based on the Court's ruling discussing the  
21 non-compactness and shape of CD 5, we worked hard  
22 to make it, number one, visually more compact, and  
23 that is a very valid criteria referenced both by  
24 this Court and the Florida Supreme Court, and then  
25 to make sure that the mathematical scores could

1 increase.

2 And when I talk about mathematical scores, I  
3 am talking about the Reock test that Justice  
4 Cantero mentioned yesterday, as well as the convex  
5 hull test that was mentioned yesterday.

6 We also were very concerned that we did not  
7 diminish the black voting age population in CD 5  
8 and we set sort of a floor at 48 percent. That  
9 floor was set given that where CD or where 9043  
10 was. So that is where we began.

11 Through the iterations we were able to come up  
12 with what Chair Corcoran and myself, as well as  
13 counsel and staff, feel really meets the spirit of  
14 the Orders from the Court, the Final Judgment, as  
15 well as exceeds, in my opinion, expectations that I  
16 had going in in terms of comparison, and also  
17 impacts the least number of other Congressional  
18 districts in making the changes.

19 So you all have before you a blow up of CD 5  
20 and CD 10, and it is an overlay blow up. If the  
21 look at the red line boundaries within the black  
22 lines and outside of the black line, the red line  
23 represent the 9047 map, which was the enacted map.

24 And I would venture to say that just at first  
25 impression you can look at it and see that it is

1 substantially more visually compact and uniform.  
2 You can also see right off the bat that the  
3 appendages have been removed, thus improving the  
4 compactness, and we did so with not impacting more  
5 districts than necessary. And I say more districts  
6 than necessary, because when we looked at 9043 and  
7 putting that plan into place it would have impacted  
8 nine districts.

9 Just by reference, we also looked at the  
10 east/west plan that is not at issue in the  
11 Legislature at this point, but what is proposed,  
12 and that would have impacted nine districts. So  
13 the net result was that we have in CD 5 a district  
14 that is more visually and mathematically compact.  
15 Its Reock score is better than 9047. It is .13  
16 versus the .09.

17 It has also incidentally has a Reock score  
18 better and proposed Romo and the proposed League of  
19 Women Voters, .13 versus .12. It better utilizes  
20 county and geographical boundaries, like the Saint  
21 Johns River for example. Although it does reduce  
22 the BVAP. The 9047 was 49.9, yes, it went over 50,  
23 50.05, and we are now down at 48.11.

24 However, we did do a functionality analysis on  
25 that district and found that as a conclusion the CD

1 5 minority population, the opportunity to elect a  
2 candidate of its choice. In fulfilling the  
3 proposed plan with regard to CD 10, as I mentioned,  
4 we removed the appendage. That district also is  
5 visually more compact. It improved the score. The  
6 new district has a Reock score of .42 compared to  
7 .39 in 9047, and a convex hull of .83 compared to  
8 .73 in the enacted map 9047. Also I failed to  
9 mention that the convex hull's score for CD 5 has  
10 improved as well.

11 Finally with regard to the impacted districts,  
12 the way they were impacted also improved frankly  
13 the visual mathematical compactness of 6, 7, 9, 11  
14 and 17. So that is a general overview of the  
15 substitute amendment to 2-A and I guess at this  
16 point --

17 LEADER SMITH: Let's get in a proper posture.  
18 Are there any questions on the amendment? I want  
19 to get the amendment in the proper posture. Are  
20 there any questions, any objections to the  
21 amendment?

22 Without objection, the amendment is adopted.  
23 Now we are on the Bill as amended. Are there any  
24 questions on the sponsor of the Bill as amended?  
25 Senator Gibson.



1           SENATOR GIBSON: Thank you, Mr. Chair. And  
2 thank you Chairman for your hard work on this Bill.

3           The question I have from 50 percent that we  
4 passed, 50.06 percent to 48.11 percent, and I note  
5 that you mention that is not diminishing to the  
6 point that those constituents would still be able  
7 to elect the representative of their choice.

8           How many people are represented in the  
9 difference between the percentages, if you know?

10          LEADER SMITH: Senator Galvano.

11          CHAIRMAN GALVANO: Thank you, Mr. Chairman.  
12 Yes, we can tell you that number. And Mr.  
13 Chairman, if it is your pleasure.

14          LEADER SMITH: Yes.

15          CHAIRMAN GALVANO: I also have Mr. Guthrie  
16 here, as well as legal counsel.

17          LEADER SMITH: If there are any questions that  
18 are posed, please feel free to have staff answer  
19 those questions, also. Mr. Guthrie, do you want to  
20 give those numbers?

21          MR. GUTHRIE: Well, a Congressional district  
22 is 696,000, let's say roughly 700,000 persons. So  
23 each percent would be about 7,000 people. So if  
24 the black population were to shift by  
25 three percent, that would be something on the order

1 of, well, let's say two percent, two and-a-half  
2 percent, that would be two and-a-half times 7,000  
3 or roughly 18,000 or so people.

4 CHAIRMAN GALVANO: Chair, but we are talking  
5 about voting age population.

6 MR. GUTHRIE: Yes. I think the percentages  
7 would be roughly, in terms of percentages, in terms  
8 of overall people it would be that number, voting  
9 age population would be less than that.

10 LEADER SMITH: Follow up.

11 SENATOR GIBSON: Thank you, Mr. Chair, just  
12 for clarity. So the 2.5 times the seven, you are  
13 saying the 48 percent reduction from 50.06 to  
14 48 percent is actually less than the 2.5 times  
15 seven?

16 CHAIRMAN GALVANO: That is correct. The point  
17 I was making, it is voting age population, it is  
18 not just of gross population.

19 LEADER SMITH: Senator Montford. Did you have  
20 more, Senator Gibson?

21 SENATOR GIBSON: Thank you, Mr. Chair. I  
22 think I would just like a better idea of what the  
23 number is to help it make sense.

24 So we are not talking about, since we are not  
25 talking about 2.5 times seven, but our percentages

1 reflect a black voting age population, there has to  
2 be some kind of a rough number.

3 MR. GUTHRIE: A rough number, Senator Gibson,  
4 would be something like 12,000 persons. I could  
5 nail that precisely. I don't have the spreadsheet  
6 right in front of me, but it would be something on  
7 the order of 12,000 people, I believe.

8 SENATOR GIBSON: Thank you.

9 LEADER SMITH: Senator Montford.

10 CHAIRMAN GALVANO: Just a footnote on that.  
11 So we understand what we are talking about. The  
12 benchmark, the map was 49.9. Then in the enacted  
13 plan we went over 50 to 50.05, and that is where  
14 the Court said, I don't find the justification for  
15 going over 50.

16 So there was actually three numbers in play  
17 here. So from the benchmark it is down from 49.9  
18 to 48.11.

19 LEADER SMITH: Senator Montford.

20 SENATOR MONTFORD: Thank you, Mr. Chair. The  
21 question, and if you go to the three numbers, and I  
22 think, Senator Galvano, you may have answered, I am  
23 not sure.

24 But I believe yesterday in testimony, it might  
25 have been from the Justice, that certainly Judge

1 Lewis didn't say 48 percent is okay, but wasn't the  
2 testimony that at least that would be a target or  
3 acceptable or something? Wasn't that a reasonable  
4 number to shoot for?

5 CHAIRMAN GALVANO: Well, the reason we shot  
6 for doing better than 48, the Court did not  
7 establish a number. Essentially the Court just  
8 said, I don't buy that you increased it over 50 for  
9 a necessary purpose.

10 And so when we looked at the Court's opinion,  
11 the Final Judgment as a whole and saw the  
12 references to the 9043 plan we said, well, let's  
13 look at some of the characteristics of the 9043  
14 plan. The 9043 had a 48.03 BVAP.

15 So I felt like, as did Chair Corcoran, if we  
16 were going to go forward and create a more compact  
17 district and use the 9043 as somewhat of a guide,  
18 at least let's not go below where it is in terms of  
19 BVAP. So we actually exceeded it.

20 SENATOR MONTFORD: Thank you.

21 LEADER SMITH: Senator Lee.

22 PRESIDENT LEE: Thank you, Mr. Chair. In  
23 terms of questions, you know, I think I understand  
24 fairly well what we have done in terms of trying to  
25 respond to the Court's substantive objections to

1 that of the 2012 map. And I realized when I  
2 entered the room Senator Galvano was commenting a  
3 little bit about the process.

4 I don't need for him to be redundant, but  
5 given the extensive commentary from the Judge about  
6 process and really very little comment about the  
7 actual map, itself, could you walk us through,  
8 Senator Galvano, sort of the process for which you  
9 had developed these maps, this amendment?

10 Who outside of the legislative realm of the  
11 Senators and the House members and our staff might  
12 have been privy to what you are doing or not been  
13 privy to what you were doing, those kinds of things  
14 that seem to create some intent defect in the eyes  
15 of the Judge?

16 So that in the abundance of caution when we  
17 get back over there next week we have the cleanest  
18 of hands to the extent that we have done this above  
19 board.

20 LEADER SMITH: Senator Galvano.

21 CHAIRMAN GALVANO: Yes, and that is a very  
22 valid question and it is something that we culled  
23 out of the Final Judgment. I guess we didn't have  
24 to cull it out, it was pretty clear in the Final  
25 Judgment and the Order going forward.

1           Initially when the committees were appointed  
2           and when I was appointed Chair I sent a memo to  
3           staff giving them direction, saying that we would  
4           like you to collaborate with the House of  
5           Representative staff and legal counsel, but we do  
6           not want you communicating with anyone beyond the  
7           legislative staff and counsel. Specifically not  
8           consultants or those who might benefit or not  
9           benefit from the map drawing process.

10           We knew it was necessary to involve both  
11           chambers out of the gate, because we were given an  
12           order that required a product by noon next Friday.  
13           We also understood that we weren't creating a new  
14           map, this is a reapportionment committee, but we  
15           are not starting from scratch. We are really very  
16           narrowing what we had to accomplish.

17           So from there the House staff and the Senate  
18           staff did have some meetings and some  
19           collaborations, some conversations. I am not aware  
20           that they communicated with anyone outside of the  
21           process other than legal counsel.

22           On Tuesday, myself and Chair Corcoran had a  
23           general meeting with staff and counsel to sort of  
24           talk about some vague ideas, and then we convened  
25           on Wednesday to start the map drawing process. And

1 that is where we began in earnest by looking at the  
2 Court Orders, having a very healthy discussion and  
3 debate and Q and A with the lawyers about where we  
4 needed to go.

5 Once we got comfortable that we had direction,  
6 Chair Corcoran and I directed the respective staffs  
7 to start drawing. We then reconvened again with  
8 counsel and with staff. We discussed where they  
9 were in the process. We addressed any issues that  
10 had come up, and then again it went back into a  
11 drawing process. And frankly, President Lee, it  
12 was a long day that ended almost at the next day,  
13 but that is how the process went.

14 It was efficient, effective and one that I can  
15 firmly say did not involve anyone other than the  
16 people that I mentioned.

17 PRESIDENT LEE: Thank you.

18 LEADER SMITH: Anymore questions on the Bill?  
19 We have some public testimony on the Bill.  
20 Beverlye C. Neal. Thank you. Yes, Ms. Neal.

21 MS. NEAL: Good morning. Good morning.

22 LEADER SMITH: If you can take the podium, it  
23 would be better.

24 MS. NEAL: Good morning.

25 LEADER SMITH: Good morning.

1 MS. NEAL: My name is Beverlye Colson Neal.  
2 Because my time is limited I have brought with me  
3 written comments that explain, I am sorry, that  
4 expand upon what I will share with you now.

5 I have been a resident of Congressional  
6 District 5, formerly Congressional District 3, for  
7 most of my life. As a child growing up I was a  
8 member of Congressional District 3. I moved to D.  
9 C. for 16 years. Coming back to Florida I led  
10 again by moving into Orlando in Congressional  
11 District 3, now District 5.

12 I have lived in Orlando and Orange County for  
13 14 years. I am here today to testify to the  
14 importance of keeping Congressional District 5  
15 running down Orlando. It may be a moot case, but I  
16 just want to go on the record with my position.

17 Over the years I have served in various roles  
18 with the National NAACP and the Florida State  
19 Conference of the NAACP. I was the Florida Voter  
20 Empowerment for the NAACP, National Voter Fund, and  
21 I was the Executive Director for the Florida State  
22 Conference from 2003 to 2009. I am currently the  
23 first Vice-President of the Orange County branch of  
24 the NAACP, which is the largest branch in the state  
25 of Florida.



1           I remember what it was like when nothing  
2 tangible was done for African-American communities  
3 by our previous Congressional Representative,  
4 Charlie Bennett. I know the frustration of black  
5 voters who are unable to elect candidates to public  
6 office, who share, are sensitive to the issues of  
7 our community. This happens too many times and  
8 this is one reason for the African-American  
9 community in terms of voting.

10           On the other hand the combination of  
11 communities that are linked in Congressional  
12 District 5 makes it possible for the same people to  
13 elect one of their own, and that is someone who  
14 understands our community, who more or less has  
15 worked with us, and it just gives us the right.

16           We fought for so many years just to have the  
17 rights to be represented and too many times we have  
18 had taxation without representation, and this is  
19 one way that we know that we will be able to  
20 continue to have that representation that we so  
21 duly deserve and that we fought for.

22           I testified as a witness for the NAACP in the  
23 trial. I talked about my experience in elections  
24 in the state. I also talked about the benefits of  
25 being able to elect a candidate of choice in

1 Congressional District 5. The infrastructure of  
2 Jacksonville, Orlando and other parts of the  
3 district has improved. Now minorities get  
4 contracts with the government, economic  
5 opportunities have improved, and not only that, but  
6 the awareness and participation of  
7 African-Americans to the federal government has  
8 certainly improved and you can tell through the  
9 voter participation that we have had in that  
10 district.

11 These are benefits we have seen because we  
12 believe we have been able to elect a candidate of  
13 our choice. The district today is not much  
14 different from the original district that was drawn  
15 by the U.S. Supreme Court. Most of the counties  
16 are the same. The Fifth District is a community of  
17 interest. The communities share a common history  
18 and culture. You find the same conditions in  
19 Jacksonville, Gainesville, all over.

20 Concerns about economic housing, education and  
21 crime. We have a Congress person who will listen  
22 and the district offices are important in giving  
23 access to government. I want Orange County to be a  
24 part of Congressional District 5. We depend on our  
25 Congress person to help us out with our community

1 issues and we have had quite a few.

2 Some of you may know about some the instances  
3 that we have come to this particular Senate asking  
4 your positions and what has been strongly, strongly  
5 viewed as a stand your ground. Our Congress person  
6 has been there with us, understanding the reason we  
7 want that law changed and how it has impacted on  
8 our community.

9 I cannot support the Plaintiffs' proposal to  
10 create a new district line that runs along the  
11 Florida, Georgia border. Because one thing, those  
12 are not voters in that district. You have got many  
13 prisons, and those prisons, although the census may  
14 show, those people can't vote, so you really don't  
15 have the true measure of one person, one vote. And  
16 this will leave the core of the district  
17 unrepresented in Congress.

18 Thousands of African-American voters in north  
19 central Florida will no longer have the opportunity  
20 to elect a candidate, and it is one thing to have  
21 something and take it away, as not to have it. My  
22 parents were fighters of the NAACP back in the  
23 '60s. I came along through the youth council of  
24 the NAACP back in the '60s. So I know what it was  
25 like not to have access. I know what it was like

1 not to be able to do and go and feel free that you  
2 had someone who had your back or someone who was  
3 just there for you.

4 When issues come up about voting for my  
5 district, I have to call my Congressional person,  
6 because the fact of it is I know where they stand  
7 because I elected them with good conscious to  
8 represent me and I have the confidence that that is  
9 what it is.

10 And in order for us to really, really  
11 participate, African-Americans are a very, very  
12 fragile community of people, and the least little  
13 bit of disenfranchisement is going to keep them  
14 from the polls. That is not what we want to do.  
15 We want to show them that we care about their  
16 voices, their voices and their voice is their vote.  
17 Thank you.

18 LEADER SMITH: Ms. Neal, I want to thank you  
19 for coming up, and also as a former youth council  
20 and President of the NAACP in the Broward Chapter,  
21 I want to thank you for all the hard work you have  
22 done around the state, it has benefited us all.

23 I think we have a question from Senator  
24 Simmons.

25 SENATOR SIMMONS: Ms. Colson Neal, that was a

1 very eloquent presentation, and thank you very  
2 much. The question I have is, do you support the  
3 amendment as presented by our Chair?

4 MS. NEAL: One hundred percent.

5 SENATOR SIMMONS: All right, thank you.

6 LEADER SMITH: Senator Lee.

7 PRESIDENT LEE: Thank you, and that was  
8 exactly the question I was going to ask as well.

9 My other question was going to be, did you  
10 support the Senate map, the Congressional map as it  
11 was passed in 2012?

12 MS. NEAL: This may be very selfish. As long  
13 as Orlando was there and represented, I did. As a  
14 matter of fact, I opposed fair districts period,  
15 just so you will know.

16 I can go on the record in saying I was not in  
17 support of fair districts, and the reason being is  
18 because if you are talking about changing the way  
19 that the maps are drawn, targeting that one  
20 Congressional minority district was just not fair.

21 It was not fair to ask African-Americans to  
22 give up their power in terms of being able to elect  
23 a candidate to represent them just so that you  
24 could have your way, and especially when a lot of  
25 these races are not contested.

1           PRESIDENT LEE: Thank you.

2           LEADER SMITH: Thank you, thank you so much.  
3 We have Mr. Whitfield Jenkins, also with the NAACP  
4 from Marion County. Thank you, Mr. Jenkins.

5           MR. JENKINS: Good morning.

6           LEADER SMITH: Good morning.

7           MR. JENKINS: And I want to thank you all for  
8 the privilege to come before this honorable group  
9 to make this presentation today.

10           I have been so involved in trying to make a  
11 difference in my home town, that this gives me  
12 another opportunity.

13           My name is Whitfield Jenkins. I have lived in  
14 Marion County all my life. I am retired from the  
15 Florida Department of Corrections. I have served  
16 on the Board of the Ocala Housing Authority, the  
17 Boys and Girls Club. I now serve on the Board for  
18 Ocala Marion County Hospice. I am a past member of  
19 the Florida Commission on Human Relations.

20           I want to thank your peer and my good friend,  
21 Senator Thompson, who I have worked with on the  
22 Commission for many years and it is nice to be here  
23 and see you today.

24           I worked on to train our leadership. I was  
25 past President of the Marion County branch of the

1 NAACP. I have served as First and Third  
2 Vice-President of Florida State Conference NAACP.  
3 I am currently the Vice Chair of the State  
4 Conference Economic Development Committee.

5 We are very active in voter registration and  
6 minority political participation in this state. I  
7 feel that the voting rights of African-American  
8 voters should be protected as provided in the  
9 Constitutional Amendment passed in 2010.

10 I also testified in the Romo-Detzner trial. I  
11 understand the Judge's ruling in the case and  
12 support the efforts of this body to create a  
13 constitutional Congressional redistricting plan. I  
14 testified in the Romo-Detzner trial about the  
15 difficulties of electing African-American  
16 candidates in public office in Marion County.

17 No African-American has ever been elected to  
18 the County Commission in Marion County under the  
19 present at large system that we have. Twenty or 25  
20 African-Americans have run for this office and only  
21 one or two have even made it to a runoff.

22 We are not only able to elect candidates in  
23 the Ocala City Council because -- we are only able  
24 to elect a candidate because of a resident district  
25 requirement that the NAACP championed. We know the

1 impact of racially polarized voting in our local  
2 elections. We don't have an early voting poll site  
3 in our community.

4 There are racial appeals in our election.  
5 Black candidates do not put their photos or  
6 pictures on campaign signs in my area. For obvious  
7 reasons, that historically it was seen as a sure  
8 way to not get minority votes if you did that.

9 We have segregated housing patterns. A  
10 lawsuit was settled in -- it was filed really  
11 against the City of Ocala in 1979, and a consent  
12 decree agreed to in 1984, against our city because  
13 of discrimination in the provision of municipal  
14 services and employment.

15 Our residents suffers from high illiteracy,  
16 unemployment and substandard housing and poverty.  
17 I was a named plaintiff in a lawsuit that created  
18 the boundaries of Congressional District 3  
19 formerly. African-American voters in Marion County  
20 have benefited from being a part of that district.  
21 We are now able to elect our representatives to  
22 Congress.

23 We have common interest. We have other  
24 communities in the district. All of us share a  
25 history that has been partially remedied. We still



1 suffer the effects of the past that did not allow  
2 us to be a part of the political process. Taking  
3 away the opportunity to elect our own candidates to  
4 Congress will have a negative impact on minority  
5 voters.

6 I do not support any proposal to remove Marion  
7 County from District 5. Creating an alternative  
8 district that runs from the Florida to Georgia  
9 border between Jacksonville and Tallahassee, will  
10 leave thousands of African-American voters no  
11 longer able to elect a candidate of their choice to  
12 Congress.

13 African-American voters that have been unified  
14 around the need to register and vote in order to be  
15 able to elect a candidate of choice would be  
16 negatively impacted.

17 Thank you very much for the opportunity.

18 LEADER SMITH: Mr. Jenkins, probably a few  
19 questions probably. Senator Bradley.

20 SENATOR BRADLEY: Thank you, Mr. Chairman, and  
21 thank you for your testimony, Mr. Jenkins. We talk  
22 about these legal concepts of retrogression and we  
23 tend to talk about it in a very sanitized way with  
24 numbers and spreadsheets, but you really give a  
25 voice and art to that concept and make us

1 understand why it is so important that we recognize  
2 it and it is part of our Constitution.

3 I have the same question for you that Senator  
4 Simmons had for Ms. Neal. And that is, do you  
5 support the map that we are considering right now?

6 MR. JENKINS: Yes, I do fully.

7 SENATOR BRADLEY: Thank you.

8 LEADER SMITH: Any further questions? Thank  
9 you very much.

10 MR. JENKINS: Mr. Smith, I did submit down to  
11 your staff, a statement from our state office, a  
12 Mr. Dale Landry. He is in the House session now  
13 and is not able to make it over. So I have his  
14 statement. I won't read it, but each of you should  
15 have a copy.

16 LEADER SMITH: We have copies of your  
17 statement and Ms. Colson, and I think staff has Mr.  
18 Landry's, it will be part of the record. Thank you  
19 very much, sir.

20 MR. JENKINS: I heard a lot of good things  
21 about you.

22 LEADER SMITH: Thank you. If you want to say  
23 all those good things you get more time.

24 That is it for our public testimony right now.  
25 We are back to comments on the Bill. I want to go

1 back to a quick question.

2 Does this Bill include a time table of  
3 elections, or is this just a map?

4 CHAIRMAN GALVANO: This Bill will include both  
5 an effective date and an applicability date. The  
6 applicability date for the Bill is for any election  
7 occurring after the 2014 general election.

8 And the purpose for that is not to somehow  
9 circumvent the Court's Order. I think that Judge  
10 Lewis has as much as said that can't occur. But in  
11 the event there is an election, a special election  
12 thereafter, for whatever reason, whether it is  
13 court ordered or a seat becomes vacated, this will  
14 be the law of the land and the effective districts  
15 and maps that will apply.

16 LEADER SMITH: Senator, we are going to revert  
17 back to questions. We have a little bit of time.  
18 So I will entertain questions and answers. Senator  
19 Lee for a question.

20 PRESIDENT LEE: Well, you had mentioned that  
21 is the end of public testimony?

22 LEADER SMITH: Yes, sir.

23 PRESIDENT LEE: So we have no one, but the gal  
24 that was here for the League of Women Voters  
25 yesterday encouraging us on. She is not here today

1 to comment on the map?

2 LEADER SMITH: We just have two appearance  
3 cards from two persons today.

4 PRESIDENT LEE: Okay.

5 LEADER SMITH: Any other questions? Senator  
6 Montford, do you have a question before we go back  
7 to debate?

8 SENATOR MONTFORD: Thank you, Mr. Chair. It  
9 is more of a general question, not on this  
10 particular issue if that is okay.

11 LEADER SMITH: Sure.

12 SENATOR MONTFORD: I am a little concerned and  
13 confused about who I can talk to and about what. I  
14 think the Senator made a very good point yesterday.  
15 I don't want to step outside the boundaries, but at  
16 the same time I feel an obligation to gather as  
17 much information as I can.

18 I have 11 counties and I have got a feeling  
19 that I have got 11 Supervisors of Elections for  
20 example that may like to give me their input. I  
21 know it is a simple question, but is that allowed?

22 Where do I -- and I have constituents who may  
23 not be here today that want their input and I am  
24 not trying to cause trouble, it is just that I  
25 don't want to get outside of the realm there.

1           So I respect Senator Galvano's direction to us  
2           and I will follow it to the letter. I just need to  
3           know what that letter is and just a little bit of  
4           clarification.

5           LEADER SMITH: And we have received written  
6           documents from the Senate, as well as the Chair  
7           giving some direction. But I will let the Chair  
8           speak a little more towards that specifically.

9           CHAIRMAN GALVANO: Thank you, Leader. Let me  
10          start by saying this. No rules have changed for  
11          the Florida Senate, no laws have changed in the  
12          statute books that would specifically change your  
13          conduct as a member of the Florida Senate.

14          And I don't want the process and how we have  
15          gone about it to be misapplied or misinterpreted.  
16          Essentially I just felt like it was important that  
17          when staff began their work in collaboration with  
18          the House and with legal counsel, that in order to  
19          be efficient, be effective, meet the timelines and  
20          avoid getting into the issues that we did the last  
21          go around, that staff be directed not to  
22          communicate with others outside of the process.

23          Now, you are a member of the Florida Senate,  
24          sir, and you are able to conduct yourself in any  
25          way you deem appropriate within the law.

1 LEADER SMITH: Questions then? We are going  
2 to go into debate on the Bill. Do we have debate?  
3 I will start to my left with Senator Gibson.

4 SENATOR GIBSON: Thank you, Mr. Chair. Again,  
5 I want to thank Chair Galvano for his efforts and  
6 this committee as well.

7 When I look back at the numbers, and certainly  
8 the benchmark, the benchmark numbers and not so  
9 much the 50 percent numbers, because we are  
10 developing from the benchmark, it doesn't appear to  
11 be as egregious in terms of numbers. I am going to  
12 certainly crunch them again probably over the  
13 weekend just to have a good look at even the small  
14 diminishing that is taking place, because a  
15 benchmark can go up or down.

16 I mean, when you use a benchmark you can go up  
17 or down in the figures. And I just want to make  
18 sure that it continues to be a district that those  
19 constituents can have a representative of their  
20 choosing collectively.

21 And I listen to the testimony and when I look  
22 at the map it is kind of a sad state of affairs  
23 that we find ourselves here trying to battle to  
24 make sure that African-Americans can be included in  
25 a process for their federal representation with one

1 individual.

2 I mean, unless you are down in more south  
3 Florida, our entire state, we don't have  
4 representation other than one district. And I  
5 lament that because we are in 2014, and I am  
6 hopeful that we don't find ourselves back after we  
7 have done our duty at the conclusion of session,  
8 back here again for something like this.

9 And I hope that around this state we can have  
10 acceptance and representation by African-Americans  
11 in more than one spot above a certain line in the  
12 state. I hope that all of our constituents  
13 recognize the important roles of all minorities and  
14 all minority voices in the state. Obviously, that  
15 has nothing to do with this map, but it is  
16 certainly relevant to that point.

17 So with that, I just can support the map  
18 today. I will do my homework, so I will do a  
19 little more over the weekend before we reconvene  
20 next week. Thank you.

21 LEADER SMITH: Senator Montford.

22 SENATOR MONTFORD: Thank you, Mr. Chair. It  
23 is not a question, but rather a comment. I would  
24 like to thank Senator Galvano and the staff for  
25 this amendment, because you have taken what was

1 considered to be is a very complicated issue and it  
2 seems as though you have done your homework, you  
3 have done it well. So thank you for that. I look  
4 forward to studying it over the weekend and  
5 hopefully maybe support it on Monday.

6 I think Senator Gibson made a good point. I  
7 think we really need to focus, too, on the whole  
8 state and not just this one particular issue, and  
9 look at it in its entirety. But thank you for your  
10 hard work, Mr. Chairman.

11 LEADER SMITH: Senator Simmons.

12 SENATOR SIMMONS: Thank you, Mr. Chair. I  
13 want to start out by saying that I really believe  
14 that the makeup of the Florida Legislature, as well  
15 as the Congressional delegation would be markedly  
16 different, but for the fact of first the Voting  
17 Rights Act, and then secondly, the proper  
18 interpretation of fair districts.

19 Because I believe many people have, and I  
20 listened to Ms. Colson Neal as she eloquently spoke  
21 in favor of the Chair's Congressional District 5  
22 proposal, which makes such good sense. But there  
23 is a misunderstanding about -- a fundamental  
24 misunderstanding about what the fair districts does  
25 to.



1           It is a constitutional adoption,  
2 re-affirmation of the Voting Rights Act and that  
3 means that we are prohibited as a tier one  
4 obligation from diminishing the ability of  
5 minorities to elect representatives of their  
6 choice. So that is incorporated into fair  
7 districts.

8           And I believe, I believe for whatever the good  
9 intentions are of the League of Women Voters has  
10 thoroughly misapplied fair districts. We are  
11 obligated, they are obligated, the court is  
12 obligated to assure that the ability of minorities  
13 to elect representatives of their choice is not  
14 diminished.

15           Fortunately the Judge in his decision affirmed  
16 that. As a matter of that, in his affirmation he  
17 says on page 4, commonly referred to as  
18 retrogression, this clause tracks Section 5 of the  
19 Voting Rights Act and prohibits backsliding in the  
20 ability of minority groups to elected candidates of  
21 their choice. What does that mean?

22           That means that this Judge has adopted what is  
23 the proper interpretation of fair districts and we  
24 are prohibited here today from backsliding. We  
25 cannot have retrogression, and so that is the

1 reason that I believe that the Chair's proposal  
2 makes very good sense.

3 It is an excellent proposal that we should all  
4 be supporting. I notice just as several of the  
5 Senators have noticed, that there has been no  
6 proposal or even public presentation by the very  
7 people who have attacked this particular plan.  
8 They have made public pronouncements that we should  
9 not be supporting the Chair's plan, but at the same  
10 time they're not even here today to present to us  
11 the reasons that we should not have that.

12 I do see that looking at the Judge's Order as  
13 he discussed what we were supposed to do, he said  
14 that if somebody is going to present a plan, and if  
15 there is any doubt about what he said, I would ask  
16 someone, anyone to look at pages 25 and 26 where he  
17 says, one of the political consultants lamented  
18 that if he had submitted maps in this own name he  
19 would probably have come under attack accused of  
20 trying to favor his party or its incumbents.

21 Well, of course, his submission might be  
22 closely scrutinized in the same way that a proposed  
23 map submitted by the Florida Democratic Party might  
24 be taken with a grain of salt. That is how it  
25 should be if one is concerned about improper

1 partisan intent influencing the drawing of the map.

2 And then he goes on and he says that if we are  
3 going to be relying upon somebody's map, we, to  
4 prevent us from being duped and have their improper  
5 intent imputed to us, he says on page 27, and if so  
6 relying upon publicly submitted maps may not be the  
7 best way to protect against partisan influence.

8 Well, I believe that he is fundamentally  
9 wrong, but let's just go with the fact, because I  
10 believe we are here, we are not a judiciary, we are  
11 a Legislature. We have people coming to us and we  
12 are open just like ER rooms. We take them all,  
13 whoever you are we have to listen to you.

14 You know, when I first got here Brian Pitts,  
15 who the Judge might call a gadfly, presents to us  
16 literally every day of session and we listen to  
17 him, and believe it or not there are some good  
18 ideas that come from him. The fact of it is I  
19 don't care who you are, I don't care what you  
20 represent, I don't care what your political  
21 affiliation is. I don't care if you are gay,  
22 lesbian, black, white, Caucasian, Asian, you are  
23 entitled to come here and talk to us because you  
24 have the constitutional right and you don't even  
25 have to do it in your own name.

1           You can get somebody else to talk for you and  
2           you don't have to tell us who you are, but we have  
3           a listen. That is what we were elected to do. We  
4           were elected to listen and then make a decision.  
5           And it doesn't make any difference what somebody  
6           has been paid to do a map, but we have been  
7           obligated by this Order to inquire into that.  
8           Otherwise we are deemed to have taken the intent of  
9           that person, that improper intent and somehow  
10          tainted what we are doing as if we can't make a  
11          decision on our own.

12           The Judge goes on, says on page 27, if you  
13          choose however to accept and perhaps rely upon  
14          publicly submitted maps, it seems to me that you  
15          should have a way to address the possible, nay  
16          probable partisan intent of the drafters of at  
17          least some of those maps. The Legislature's answer  
18          was apparently to ignore it.

19           Well, that was the right thing for us to do,  
20          because constitutionally we weren't supposed to be,  
21          or didn't have to be inquiring into it. We  
22          certainly could, but the quality of a map depends  
23          upon just that, its own innate inherit quality and  
24          we can make that decision.

25           However, however, we have been told that what

1 we are supposed to do is if somebody submits a map  
2 to us, we better find out the same things that are  
3 in this litigation. We are supposed to probably we  
4 need to see how much money was spent preparing it,  
5 who prepared the map, did they really go and check  
6 to see what the voting performances were so that it  
7 was really drafted so that it would support either  
8 an incumbent or a political party.

9 We need to see the e-mails that were all  
10 surrounding the preparation of such a map. Well, I  
11 notice that the League of Women Voters isn't here  
12 to present a map or even discuss it. I have read  
13 the newspaper accounts that say that this was being  
14 paid by someones else besides them, but they have a  
15 constitutional right, but they should be here.

16 They don't have to do their own map, they can  
17 use somebody else's money and they can use somebody  
18 else's intent, but the Judge has said whoever comes  
19 here has to, in fact, provide all of that  
20 information, otherwise we will potentially be  
21 duped. I humorously call it the dupe doctrine, we  
22 will be duped into taking their intent, their bad  
23 intent unless we act as if we are a court rather  
24 than a Legislature and that we, in fact, delve into  
25 every one of the intricacies of who, in fact,

1 prepared the map, paid for the map and what they  
2 did about the map and all the e-mails.

3 Because when you see the court case, all of  
4 these e-mails that are going back and forth that  
5 are ultimately irrelevant, but the fact of it is  
6 that is probably why we don't see here today a  
7 member of the League, whom I have the greatest  
8 respect for, I really do.

9 I received their Visionary Legislator Award  
10 this last spring. I respect them, they should be  
11 here, they're not here, they had the opportunity to  
12 be here. Our job now is to do what the Judge has  
13 told us to do until there is a reversal or a change  
14 in that. That is the way it is, we respect the  
15 rule of law. I respect Judge Lewis.

16 We are here, we are doing what we were told to  
17 do. This, members, is an excellent, excellent plan  
18 presented by our Chair and I ask you to support it.

19 LEADER SMITH: Senator Lee.

20 PRESIDENT LEE: Well, thank you, Mr. Chair. I  
21 just think it is only appropriate that we all  
22 acknowledge not just the work of Senator Galvano,  
23 but your input, too, as well, sir, as the Vice  
24 Chair, ranking member of this committee, and I  
25 appreciate the way you participated in the process

1 as well.

2 I have thought a lot over night about Senator  
3 Simmons' comments yesterday, many of which he has  
4 reiterated again today. I think he makes some  
5 really, really valid points about the awkwardness  
6 of where we find ourselves, the questions that it  
7 raises about the legislative process. How we can  
8 conduct our business and environment that erodes  
9 the free speech rights of people, and I am not sure  
10 where all of that takes us, but we are where we  
11 are.

12 And I think the reason why I am so  
13 appreciative of the work of Senator Galvano and  
14 Senator Smith and our counterparts in the House, is  
15 because I think we have taken a little mature view,  
16 role in this process, and rather than be  
17 reactionary to a Judge that has been critical of a  
18 process in the past or has rejected a map based  
19 upon that process, as this lady from the NAACP said  
20 earlier, it was already approved by the Florida  
21 Supreme Court and validated as constitutional.

22 We could have taken a very different approach.  
23 I think the fact that we are here, the fact that we  
24 have attempted to draw a map with a process that is  
25 responsive to the Judge's concerns, and a map that

1 is also structurally responsive to the defects that  
2 he in his ruling identified, says a lot about the  
3 maturity of this process and its willingness to  
4 collaborate with other branches of government under  
5 the separation of powers provisions that we have in  
6 our Constitution.

7 So I think it is a good day for us to be in  
8 this place and I appreciate the work of all the  
9 parties in helping us get here. Thank you.

10 LEADER SMITH: Senator Bradley.

11 SENATOR BRADLEY: Just very briefly. I just  
12 want to thank Chairman Galvano, Vice Chairman Smith  
13 for the work that both of you have done and the  
14 leadership that you have provided.

15 I echo President Lee's sentiments that this is  
16 a proud day for the Senate, and I think this  
17 committee has done its work as it has been asked  
18 and instructed to do by the courts, and I am  
19 looking forward to supporting the map before us.

20 LEADER SMITH: Before I go to Senator Galvano  
21 to close out, today I echo the confidence that I  
22 have in Senator Galvano and our staff as to what  
23 they were able to do. But I take a little  
24 different direction as to those that are not here.

25 Maybe the ones that aren't here is because of



1 their lack of confidence, and maybe today will go a  
2 long way to gaining their confidence again. When  
3 you look at the Judge's findings and the e-mails  
4 may be antidotal, but look at it, it erodes  
5 confidence in this process by those that want to be  
6 active in the process.

7 So when you look at what has transpired in the  
8 past, what the Judge has found that has transpired  
9 in the past, that has eroded confidence in this  
10 process. I bring that up to say that I hope today  
11 we will begin to gain back some of that confidence  
12 as we move forward, and we do have issues and  
13 people on the other side or have a different point  
14 of view, they have the confidence in this body  
15 again, that there were some concerns and you can  
16 read them, when they read the Judge's findings there  
17 was some concerns.

18 People feel that going there really doesn't  
19 make a difference because these other things are  
20 happening. Well, on this one, I am convinced thus  
21 far and my understanding of Senator Galvano who I  
22 have known for many years, I am confident that he  
23 has threaded lightly and has threaded rightly in  
24 this process.

25 I do have some concerns with the timing of the

1 elections and how this map will affect future  
2 elections. I asked our learned counsel yesterday  
3 about holding elections and asked for a few cases  
4 and I was just handed a lot of weekend reading as  
5 to how elections will be conducted with this map.  
6 So be careful what you ask for, you get a phone  
7 book back.

8 So I do have a few of those concerns. I do  
9 look forward to dealing with this map and others on  
10 the floor, and I understand there is an amendment  
11 that has been filed. So I am going to support the  
12 map today to move forward to the floor, but I  
13 support Senator Galvano and our staff, and  
14 especially our staff who even in a critical opinion  
15 was said to be forthright, and in dealing with Mr.  
16 Guthrie, I have dealt with him for many years, he  
17 has always been responsible and forthright and  
18 trustworthy in my opinion, and even in a critical  
19 opinion by a Judge it was also stated that.

20 So I am going to support this today, I am in  
21 support of Mr. Guthrie and Senator Galvano's work  
22 product so far and look forward to the whole Senate  
23 looking at it on Monday. And Senator Galvano to  
24 close.

25 CHAIRMAN GALVANO: Thank you, Leader Smith.

1 Let me start by answering your question  
2 specifically, Senator Gibson. The number  
3 difference would be 9,400 in the diminishment.

4 So let me start by reminding the committee  
5 where I started. We had the Senate President and  
6 the Speaker of the House call a special session.  
7 And in doing so they put forth a Joint  
8 Proclamation, and within that Joint Proclamation  
9 they directed the Legislature to address the  
10 concerns raised specifically in the Final Judgment  
11 of the Circuit Court.

12 Once that became a Joint Proclamation, then in  
13 my mind whether I agreed with the opinion or  
14 disagreed with the opinion, and I have some  
15 opinions, was not what was paramount. Instead I  
16 had to meet the mandates of that Joint  
17 Proclamation, this committee had to meet the  
18 mandates of that Joint Proclamation.

19 So I can earnestly tell you that the approach  
20 taken today by this committee in preparation for  
21 this committee putting together the amendment was  
22 very simple. Look at CD 5, look at CD 10 and  
23 decide how we can abide by the Federal  
24 Constitution, the State Constitution, Federal law  
25 and at the same time address the concerns raised by

1 Judge Lewis in his Order and that is exactly what  
2 we did.

3 And with the talented staff that we have and  
4 Mr. Guthrie did a phenomenal job, the great advise  
5 from legal counsel through the process, and they  
6 were not advising us on legal strategy, but instead  
7 in how to interpret, how the Court interpreted the  
8 last enacted map.

9 But with that input and working together with  
10 Chairman Corcoran, we were able to, in my opinion,  
11 get further than I imagined, and what I mean by  
12 that is, we were able to take a district, actually  
13 two districts, cure some of the irregularities, the  
14 appendages, the serpentine type nature, create a  
15 greater visual and mathematical compactness, and at  
16 the same time maintain the functionality of that CD  
17 5 as a minority district.

18 And we did do a functional analysis of CD 5  
19 and I ran the numbers and I studied them very  
20 closely. We looked at the 2012 election, we looked  
21 at 2010, and we looked at turn out. And I am  
22 confident by keeping the voting age, minority  
23 voting age population over 48 percent, at 48.11  
24 that we have, in essence, provided a district in  
25 this revised map that will enable the minority

1 population to elect a candidate of its choice.

2 So the other aspect was impacting other  
3 districts, because we are not here to start anew,  
4 that is not what the Court wanted. The Court was  
5 very specific. In fact, if you go through the  
6 Judgment you will see an analysis, a district by  
7 district analysis. Justice Cantero was very  
8 eloquent yesterday and clear when he went through  
9 that analysis for us.

10 So we knew our work was cut out for us, it was  
11 limited and it wasn't for us to get more expansive  
12 than necessary. We only impacted total seven  
13 districts, including the two in question. And the  
14 good news is, the ones that were impacted, we did  
15 it in such a way that their scores increased.

16 We actually made conforming changes that  
17 benefited the surrounding areas. I don't know  
18 whether political consultants or political  
19 interests or others who are watching this may be  
20 happy or sad about these new districts and how they  
21 will impact elections to come, but I do know that  
22 based on the criteria of our constitution, our  
23 Federal laws and the Court Order, we have answered  
24 the call.

25 So I appreciate all the comments that were

1           made here today. I appreciate the input that I  
2           have had from you all on a committee basis, as well  
3           as an individual basis, and I would also ask that  
4           you support this Bill as amended.

5           LEADER SMITH: Having closed on the Bill,  
6           Secretary, please call the roll.

7           SECRETARY: Senator Bradley.

8           SENATOR BRADLEY: Yes.

9           SECRETARY: Senator Gibson.

10          SENATOR GIBSON: Yes.

11          SECRETARY: Senator Lee.

12          SENATOR LEE: Yes.

13          SECRETARY: Senator Montford.

14          SENATOR MONTFORD: Yes.

15          SECRETARY: Senator Simmons.

16          SENATOR SIMMONS: Yes.

17          SECRETARY: Senator Galvano.

18          CHAIRMAN GALVANO: Yes.

19          SECRETARY: Senator Smith.

20          LEADER SMITH: Yes. And by your vote you show  
21          the Bill will be reported favorably to the entire  
22          body. I will turn the Chair back over to Senator  
23          Galvano.

24          CHAIRMAN GALVANO: Thank you, Leader Smith.

25          If there is no other business before the committee

1 unless any member has any other business. If not,  
2 Leader Smith moves that this committee rise.

3 (Whereupon, the proceedings were concluded.)  
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I, CLARA C. ROTRUCK, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 02 through 46, is a true and correct record of my stenographic notes.

Dated this 11th day of August, 2014, at Tallahassee, Leon County, Florida.

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CLARA C. ROTRUCK

Court Reporter