

HB 7231 — Standards for Establishing Legislative and Congressional District Boundaries

by Select Policy Council on Strategic and Economic Planning; and Rep. Hukill (CS/CS/SJR 2288 by Ethics and Elections Committee; Reapportionment Committee; and Senators Haridopolos, Siplin, and Lawson)

The joint resolution puts a proposed amendment to the State Constitution on the 2010 general election ballot for approval by 60 percent of the electors or rejection. The amendment provides:

- In establishing legislative and congressional boundaries or plans, the state shall apply federal requirements and balance and implement standards in this constitution.
- The state shall take into consideration the ability of racial and language minorities to participate in the political process and elect candidates of their choice, and communities of interest may be respected and promoted, both without subordination to any other provision of Article III of the State Constitution.
- Districts and plans are valid if the balancing and implementation of standards is rationally related to the standards contained in this constitution and is consistent with federal law.

Two other constitutional amendments relating to standards for redistricting were proposed using the initiative method and put on the 2010 general election ballot for approval by 60 percent of the electors or rejection (*see* s. 3, Art. XI, State Constitution). Amendment 5 relates to legislative redistricting. Amendment 6 relates to congressional redistricting. The amendments provide:

- Districts shall not be drawn with the intent to favor or disfavor a political party or an incumbent;
- Districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice;
- Districts shall consist of contiguous territory;
- Districts shall be as nearly equal in population as is practicable;
- Districts shall be compact; and
- Districts shall, where feasible, utilize existing political and geographical boundaries.

The Senate Reapportionment Committee considered Amendments 5 and 6 at multiple meetings and discussed how the individual standards in Amendments 5 and 6 are mutually exclusive if strictly applied:

- “Favor or disfavor a political party or an incumbent” is a tautology, and requirements that no district be so drawn are logically impossible to meet. The term “intent” does not lessen the requirements (*see, Davis v. Bandemer*, 478 U.S. 109, 129 (1986)). If the requirements are relaxed to mean that each district must be neutral with respect to political parties and incumbents, difficult technical obstacles remain.
- Under the Equal Protection Clause of the United States Constitution, race cannot be a predominant factor for creating districts. Therefore, minority majority and minority access districts may not be exempt from requirements for political neutrality, incumbent neutrality, compactness, and using political boundaries.

- A functional definition of compactness, related to considering communities of common interests and reasonably avoiding barriers to travel, may fit Florida's geography and historical population patterns better than a geometric definition.
- Precise population equality comes at the expense of splitting subdivisions more than otherwise required.
- Political boundaries are subject to frequent change, they may not be compact, and they may not align with communities of common interests. Citizens in different parts of the state have varying preferences about which political and geographical boundaries matter for effective representation.
- Amendments 5 and 6 make no specific provisions for considering communities of common interests. Prior to redistricting in 1982, 1992, and 2002, the Legislature conducted hearings at locations throughout the state to get public input about communities of common interests and preferences for districts. Records from those hearings frequently were cited to explain district boundaries.

The amendment to the State Constitution proposed in HJR 7231, if approved by 60 percent of electors, will establish a framework for balancing standards and drawing districts that are rationally related to constitutional requirements and that can withstand legal challenges. The amendment will:

- Recognize the Legislature's duty to balance and implement competing standards;
- Formally set communities of common interests as a priority consideration; and
- Clarify that districts are valid if drawn in a manner that is rationally related to standards in the State Constitution and consistent with federal law.

If approved by 60 percent of the electors in the 2010 general election, these provisions take effect January 1, 2011.

Vote: Senate 25-14; House 74-40