



August 6, 2014



Honorable Will Weatherford
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Honorable Don Gaetz
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Honorable Weatherford and Honorable Gaetz:

When you last took on the process to draw congressional districts, legislative leaders repeatedly emphasized that the process would be an open, transparent and apolitical process done in full compliance with Florida's Constitution as amended by our citizens in 2010. During hearings around the state, and during the redistricting process in Tallahassee, Floridians were assured by both of you, and your colleagues, that the Legislature's approach complied fully with the requirement that reapportionment be done without the intent to help a political party or an incumbent, and that it would take place in the sunshine so all of Florida could observe the Legislature's fidelity to our Constitution.

We now know that those assurances were less than accurate. We know that partisan, paid political operatives had fully infected the map drawing process; that maps were regularly being shared with partisan operatives through private emails and private dropboxes; that meetings with partisan operatives and between legislative staff and the leadership of the reapportionment committees were conducted out of the sunshine; and that legislative leaders and political operatives maintained an entirely parallel and secretive process that would have gone undetected had we not been compelled to hire lawyers and expend great resources to reveal these efforts to thwart an honest, open and constitutional reapportionment process.

With that backdrop, and in a spirit of cooperation, we would respectfully suggest approaches to the upcoming Special Session regarding (1) the transparency and document retention rules that the Legislature ought to follow, and (2) issues that the Legislature ought to address that were raised in the recent litigation.

Also, we will be submitting, by separate letter, an alternative map we believe complies with the Court's Order. We would suggest, most respectfully, that a Member of each reapportionment committee introduce the map for your consideration.

Document retention and transparency. We appreciate your recent admonishment to legislators that they not include partisan operatives in the next attempt to reapportion, and your request that legislators preserve their emails. This is especially important because trial court in its recent order found that “the Legislators and the political operatives systematically deleted almost all of their e-mails and other documentation relating to redistricting.”

We would, however, respectfully request the following:

- That legislators and staff are advised to preserve any draft or proposed maps and other documentation relating to the reapportionment process, including their official emails and all emails and text messages sent or received on their private email accounts and cell phones.
- That legislators and staff use their official email accounts to the greatest extent possible and refrain from using private email accounts, cell phones, dropbox accounts, flash drive transmissions, and other private methods of communication in conducting the reapportionment process.
- That all discussions among two or more legislators relating to redistricting and, specifically, any maps be held in a duly noticed meeting open to the public.
- That no discussions regarding the subject of this Special Session be held in areas not open to the public including the Members Lounge and on the floor of either chamber outside the earshot of the public.
- That all drafts of maps, requests sent to bill drafting, and other documentation relating to the reapportionment process (including emails and text messages) be treated as public records available for production upon request.

Issues raised in the litigation. The Legislature’s conduct in their last attempt to draw a constitutional congressional map raises many concerns that, frankly, the Legislature itself ought to find troubling. While Floridians were told almost daily how fully compliant the process was, it is clear that there was a methodical attempt to entirely frustrate Florida’s Constitution by legislative leaders and their agents. We would hope that the Legislature, as a body, would want to know what happened and why. To assist you, we have attached Judge Lewis’s Order in this matter; our initial Closing Argument which, though redacted to keep confidential information the Judge received under seal, lays out our argument; and, finally, a small sampling of the emails that were exhibits in the case that demonstrate the involvement of partisan political consultants throughout the redistricting process. In that regard, we have provided merely a few examples of the over 24 draft maps that were transmitted to a partisan operative by House staff.

The following are some of the issues the Legislature may want to know about:

- Judge Lewis expressed concern that staffers and legislators in leadership positions “systematically deleted” redistricting communications and commented that “you have to wonder why they didn’t” retain their documents.
 - Why were staff and legislators using private, non-official, emails and dropboxes to communicate with political operatives regarding development of maps?
 - Have there been any efforts taken to ensure that emails and other documents from this process are retained?
 - Are members or staffers still communicating with personal email accounts on redistricting matters?
- Considering that the political operatives are usually agents of legislators, why were they involved in any way given the clear and contrary mandate of Florida’s Constitution?
 - How far-reaching was the operatives’ involvement?
 - Given that the Legislature destroyed its emails, are there other districts, or maps, that were impacted by the political operatives?
- What, specifically, was the process of drawing the new map after Judge Lewis’s decision?
 - Judge Lewis found that a group of political consultants “did in fact conspire to manipulate and influence the redistricting process.” Judge Lewis said that these consultants “made a mockery of the Legislature’s proclaimed transparent and open process of redistricting.” There was evidence that certain staffers and members in leadership positions provided draft maps to these consultants and met with and exchanged emails with them in private. What steps were taken to make sure that this sort of thing did not happen again?
 - Did any member or committee staff person engage in discussions with political consultants about the new map?
 - Did any member or committee staff person engage in discussions with the Republican Party of Florida about the new map?
 - Was the work product of the House or Senate provided to anyone outside the reapportionment committees?
 - To the extent the Legislature’s proposed Congressional District 5 is the same as any prior version, isn’t it a product of the same process that Judge

Lewis found was tainted?

- Judge Lewis indicated in his decision that the District 5 in the enacted map was “visually not compact, bizarrely shaped, and does not follow traditional political boundaries as it winds from Jacksonville to Orlando.” He noted that “[a]t one point, [it] narrows to the width of Highway 17.” He also said that draft versions of District 5 very similar to the version that is being presented here are “not model tier-two compliant districts.”
 - If the Legislature is proposing to simply remove the appendage into Sanford, does that really address what the Judge said in his decision?
 - What efforts were taken to draw a more compact version of District 5?
 - The current version is much less compact than the versions enacted in 1996 and 2002 – before the new amendments were passed. Why couldn’t the Legislature draw the district in a way that better adheres to the amendments?
 - Why draw a District 5 that breaks up every county it touches, when there is an alternative more compact version that keeps 4 counties whole?
 - Alex Kelly, the House’s primary map drawer, testified at trial that the sort of east-west configuration proposed by the plaintiffs would maintain minorities’ ability to elect in central Florida. An east-west configuration would be more compact, would improve the compactness of other districts, and would allow for a new minority influence district in central Florida. Why shouldn’t an east-west configuration of District 5 be implemented?
 - Did someone prepare an analysis determining that the east-west configuration would result in retrogression?
 - Who?
 - The Legislature relied on staff’s analysis throughout the initial redistricting process. Why isn’t Mr. Kelly’s analysis on retrogression good enough here?

As Judge Lewis and the Florida Supreme Court have correctly acknowledged, the redistricting process goes to the very core of our representative government. For that reason, we believe that the Legislature should provide the open, transparent, and apolitical process that it promised, but did not provide, during the initial reapportionment effort. We also believe that the public deserves a fulsome and public discussion of the issues pertinent to the redistricting process, including the questions outlined above. We encourage Members of the Legislature to raise and discuss these questions in committee hearings and on the floor of the Legislature during the Special Session.

Thanks for your efforts on this matter,

Deidre Macnab
League of Women Voters of Florida

A handwritten signature in black ink that reads "Peter Butzin". The signature is written in a cursive style with a large, looping initial "P".

Peter Butzin
Common Cause

Enclosures.
cc. Florida Legislature (*with enclosures*)