STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL
A11-152

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

Plaintiffs,

Kenneth Martin, Lynn Wilson, Timothy O'Brien, Irene Peralez, Josie Johnson, Jane Krentz, Mark Altenburg, and Debra Hasskamp, individually and on behalf of all citizens of Minnesota similarly situated,

Plaintiff-Intervenors,

Audrey Britton, David Bly, Cary Coop, and John McIntosh, individually and on behalf of all citizens of Minnesota similarly situated,

Plaintiff-Intervenors,

vs.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota county chief election officers,

Defendants.

BRITTON INTERVENORS' MOTION TO ADOPT REDISTRICTING CRITERIA

Plaintiff –Intervenors Audrey Britton, et al. hereby move the Panel for an Order adopting their proposed Redistricting Criteria as set forth on the attached Exhibit A. This Motion is made pursuant to the Panel's Scheduling Order No. 1 (¶ 3) dated July 18, 2011,

and is based upon the attached Memorandum and all of the files, records and proceedings herein.

Oral Argument is respectfully requested.

WEINBLATT & GAYLORD, PLC

Dated: October 5, 2011

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BRITTON INTERVENORS' MEMORANUM REGARDING REDISTRICTING CRITERIA

INTRODUCTION

In order to process timely the within case and to provide the Special Redistricting Panel and parties with guidelines for relief, Plaintiff-Intervenors Britton, et al. move the Panel to adopt the redistricting criteria set forth in Exhibit A attached hereto and incorporated herein. In support of their Motion, Plaintiff-Intervenors Britton, et al. submit the following.

I. PERMITTED POPULATION DEVIATIONS IN LEGISLATIVE PLANS

Plaintiff-Intervenors propose that any plan for legislative redistricting contain a maximum permitted population deviation of plus or minus .50 percent (one-half of one percent), subject to the goal of population equality.

The Minnesota Federal District Court in the cases of *Beens v. Erdahl*, 349 F. Supp. 97 (D. Minn. 1972), and *LaComb v. Growe,* 541 F.Supp. 145 (D. Minn. 1982), adopted a maximum permitted deviation of two percent (2%) (+or-) from absolute equality as the maximum tolerable deviation in legislative redistricting adopted by a federal court. The 1991-92 Minnesota Special Redistricting Panel adopted the same standard. *Cotlow v. Growe*, (Order dated August 16, 1991) (File MX 91-001562), as did the 2001-02 Special Redistricting Panel in *Zachman v. Kiffmeyer*, Civil File No. CO-01-160 (Dec. 11, 2011 Order). Plaintiff-Intervenors Britton, et al. herein submit that technological advances now permit plans to be drawn that contain a far smaller maximum deviation. While a very small deviation may not be required, as a constitutional matter, nevertheless, because it is reasonably possible to do so, the proposed standard should be adopted subject to a showing by a party that a greater deviation is required in particular districts in order to comply with other redistricting criteria.

Court ordered plans of state legislative reapportionment districts must meet the "as nearly of equal population as is practicable" standard set forth in *Reynolds v. Sims*, 377 U.S. 533, 577(1964), which, itself, was a state legislative districting case. The United States Supreme Court has specifically rejected the argument that there is a fixed numerical or percentage population variance small enough to be considered de minimis

and to satisfy without question the "as nearly as practicable" standard. *Kirkpatrick v. Preisler*, 394 U.S. 526, 530,531, 89 S.Ct. 1225, 1228 (1969). While *Preisler* was a congressional redistricting case, its principles and the reasons for it apply equally to court adopted legislative plans. The Court in *Preisler* stated:

> The whole thrust of the 'as nearly as practicable' approach is inconsistent with adoption of fixed numerical standards which excuse population variances without regard to the circumstances of each particular case. The extent to which equality may practicably be achieved may differ from State to State and from district to district. Since 'equal representation for equal numbers of people (is) the fundamental goal for the *House of Representatives,' Wesberry v. Sanders, supra*, at 18, 84 S.Ct. at 535, the 'as nearly as practicable' standard requires that the State make a good-faith effort to achieve precise mathematical equality. See *Reynolds v. Sims*, 377 U.S. 533, 577, 84 S.Ct. 1362, 1389, 12 L.Ed.2d 506 (1964). Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small.
>
> There are other reasons for rejecting the de minimis approach. We can see no nonarbitrary way to pick a cutoff point at which population variances suddenly become de minimis. Moreover, to consider a certain range of variances de minimis would encourage legislators to strive for the range rather than for equality as nearly as practicable. The District Court found, for example, that at least one leading Missouri legislator deemed it proper to attempt to achieve a 2% level of variance rather than to seek population equality.
>
> Equal representation for equal numbers of people is a principle designed to prevent debasement of voting power and diminution of access to elected representatives. Toleration of even small deviations detracts from these purposes.
>
> *Kirkpatrick v. Preisler*, 394 U.S. 526, 530,531, 89 S.Ct. 1225, 1228 (1969).

That starting point was reaffirmed clearly in *Connor v. Finch*, 431 U.S. 407, 410, 97 S.Ct. 1828, 1831 (1977), where the Supreme Court specifically said that:

> We have made clear that in two important aspects a court will be held to stricter standards in accomplishing its task than will a state legislature:
>
> > "(U)nless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multimember

> districts, and, as well, must ordinarily achieve the goal of population equality with little more than de minimis variation."

Connor v. Finch, supra, 431 U.S. at 414, 97 S.Ct. at 1833 citing *Chapman v. Meier*, 420 U.S. 1, 26-27, 95 S.Ct. 751, 766.

The Equal Protection Clause of the United States Constitution thus requires that legislative districts be of nearly equal population so that each person's vote may be given equal weight in the election of representatives. Equal weight does not mean 98% of a vote for some and 102% of a vote for others, depending solely on where they live. *Connor, supra*, 431 U.S. 416, 97 S.Ct. 1835. This substantial deviation from population equality cannot be tolerated in a court ordered plan, in the absence of some compelling justification. It is important to note that while the 2001 Redistricting Panel's criteria allowed the 2% deviation , *Zachman v. Kiffmeyer*, No. C0-01-160, Order Stating Redistricting Principles and Requirements for Plan Submission (Dec. 11, 2001), in fact, the Panel's legislative Plan had mean deviations of .28% in the Senate and .32% in the House. Legislators represent people, not acres, trees or 98% of a person.

While a 2% deviation has been used by Federal and State courts in Minnesota for the last four decades, the Supreme Court has long held that an appropriate deviation:

> . . . does not lend itself to any such uniform formula, and it is neither practicable nor desirable to establish rigid mathematical standards for evaluating the constitutional validity of a state legislative apportionment scheme under the Equal Protection Clause. Rather, the proper judicial approach is to ascertain whether, under the particular circumstances existing in the individual State whose legislative apportionment is at issue, there has been a faithful adherence to a plan of population-based representation, with such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination.
> *Roman v. Sincock*, 377 U.S. 695, 710, 84 S.Ct. 1449, 1458 (1964).

Thus an arbitrary 2%, 5%, 10% or any other deviation is only permissible to the extent necessary to acknowledge and conform to the other legitimate factors and may not be automatic.

In this case, the Panel's Order should make clear that the suggested deviation is not a safe harbor but rather the maximum allowed even with a showing of reasonable justification.

Deviations as large as plus (+) or minus (-) 2% can no longer be justified on technical grounds. Modern high speed computers can easily generate several different plans with much smaller deviations. As noted by the Court in *Larios v. Cox*, 300 F.Supp. 2d 1320, 1324 (N.D. Ga. 2004) affirmed 542 U.S. 947, 124 S.Ct. 2806 (2004).

> Both houses of the General Assembly used Maptitude software to draw their redistricting plans. With the available technology and the use of this software, redistricting plans in 2001 could have been created with a deviation of 0 to 1 persons. The combination of technology and political data available to legislators and plan drafters also allowed for sophisticated analyses of political performance, so that maps could be drawn and then immediately analyzed politically. Thus, in drafting and considering their proposed maps, members of both houses relied on political performance projections, indicating the percentage of votes Democrats and Republicans would likely receive in future elections based upon an assessment of past election results.
>
> 300 F.Supp.2d 1320, 1324.

The *Larios* Court recognized, as Plaintiff-Intervenors ask this Panel to recognize, that:

> The Constitution of the United States requires that congressional and state legislative seats be apportioned equally, so as to ensure that the constitutionally guaranteed right of suffrage is not denied by debasement or dilution of the weight of a citizen's vote.
> *Larios v. Cox, supra*, 300 F.Supp.2d at 1337 citing *Reynolds v. Sims*, 377 U.S. 533, 555, 568, 84 S.Ct. 1362, 1378, 1385.

Since the technology is possible, the burden passes to the state to prove that any particular deviation is necessary in order to accomplish some other, more pressing standard. An automatic 2% deviation is antithetical to this goal. Where population deviations are not supported by other, higher priority, legitimate interests, but, rather are tainted by arbitrariness, they cannot withstand constitutional scrutiny. *Larios v. Cox*, *supra*, at 300 F.Supp. 2d 1320 at 1338, citing *Roman v. Sincock*, 377 U.S. 695, 710, 84 S.Ct. 1449, 1458 (1964).

Indeed, using any percentage deviation as a "safe harbor" may well violate the fundamental one person, one vote command of *Reynolds v. Sims*, requiring that a court "make an honest and good faith effort to construct districts . . . as nearly of equal population as practicable" and deviate from this principle only where "divergences . . . are based on legitimate considerations incident to the effectuation of a rational state policy." *Roman, supra*, 377 U.S. at 577, 579, 84 S.Ct. at 1390, 1391. In other words, only deviations that are not built in or automatic or formulary may be used. [X ?]

State legislatures have more leeway than courts to devise redistricting plans that vary from absolute population equality. *See, Below v. Gardner*, 148 N.H. 1, 963 A.2d 785, 791 (2002). The Supreme Court of New Hampshire, in *Below, supra* summarized the rules generally applicable to redistricting courts.

> With respect to "a court plan, *any* deviation from approximate population equality must be supported by enunciation of historically significant state policy or unique features." *Id.* at 26, 95 S.Ct. 751 (emphasis added). Absent persuasive justifications, a court-ordered redistricting plan of a state legislature "must ordinarily achieve the goal of population equality with little more than *de minimis* variation." *Id.* at 26–27, 95 S.Ct. 751. The latitude in court-ordered plans to depart from population equality thus "is considerably narrower than that accorded

> apportionments devised by state legislatures, and ... the burden of articulating special reasons for following ... a [state] policy in the face of substantial population inequalities is correspondingly higher." *Connor*, 431 U.S. at 419–20, 97 S.Ct. 1828.
> . . .
>
> The senate and senate president argue that because we are a state court, we should use the standard applied to state legislatures rather than the standard applied to federal district courts. We disagree.

Other traditional redistricting principles are secondary to the overriding constitutional principle of one person/one vote. *Below, supra*, 148 N.H. 1, 963 A.2d at 791.

II. PERMITTED POPULATION DEVIATION IN CONGRESSIONAL DISTRICTS

Plaintiff-Intervenors Britton, et al. submit that a court adopted congressional redistricting plan may have a deviation from absolutely zero of only plus (+) or minus (–) one person. That has been the criteria adopted in all four of the previous Minnesota redistricting cases. There is no reason to change that criteria.

Plaintiff-Intervenors Britton, et al. do not believe that any other party will disagree with the criteria, but if any does, *Kirkpatrick v. Priesler, supra*, answers the question. *See also Abrams v. Johnson*, 521 U.S. 74, 98 (1997); *Chapman v. Meier*, 420 U.S. 1, 26-27, 95 S.Ct. 751, 766 (1975); *Karcher v. Daggett*, 462 U.S. 725, 732, 103 S.Ct. 2653, 2659 (1983).

III. CONTIGUITY

Plaintiff Intervenors Britton, et al. suggest that the requirement of "contiguity" as set forth in Minnesota Constitution Article 4, § 3, be followed. The proposed standard set forth in Exhibit A does that.

IV. COMMUNITIES OF INTEREST

In adopting any districting plan, the Panel should include recognition and maintenance of communities of interest as an important principle. While parties may differ over what types of communities shall be included, Plaintiff-Intervenors urge the Panel to adopt the definition contained in the attached Exhibit A which adds (a) neighborhoods, (b) economic interests, and (c) transportation corridors as additional elements of the definition.

Neighborhoods by definition are communities of interest. While some neighborhoods may have to be divided between districts in order to achieve population equality or because use of census tracts or blocks requires such division, this category is a reasonable addition to the list of factors that should at least be considered. There should be no reason to totally ignore neighborhoods as a community of interest without some basis in law or fact. Common neighborhood divisions may include major, arterial and feeder roads.

Economic factors also bear upon the definition of a community of interest. Factors such as median income, median housing prices, or school lunch participation, in adjoining geographic areas give strong weight in deciding what is a "community of interest."

Transportation routes and corridors is a factor that clearly impacts communities of interest. The ability to easily get from one geographic area to another ties people together and helps create a sense of community. While it is not a controlling factor, it certainly merits significant consideration. Data from the Minnesota Planning Department and the

Metropolitan Council make this an easy factor to consider. Article 4, §3, of the Minnesota Constitution says that districts should be of "convenient contiguous territory." Convenience in the 21st Century means *inter alia* ease of access by public roads.

V. COMPACTNESS

For the following reasons, Plaintiff-Intervenors herein strongly argue that "compactness" should not be a principle required for legislative or congressional districts except in those situations where it is also alleged that districts have been drawn for a prohibited racial reason.[1]

A. "Compactness" is Not Mandated by the United States Constitution or Any Federal Statute.

There is no federal statutory or constitutional requirement that state electoral boundaries conform to any particular ideal of geographic compactness. *Shaw v. Hunt,* 517 U.S. 899, 934, 116 S. Ct. 1894, 1915 (1996)(Stevens J. dissenting). No matter how bizarre or convoluted a district appears, that fact, standing alone, does not implicate the U.S. Constitution. *Shaw v. Reno*, 509 U.S. 630, 645-646, 113 S.Ct. 2816, 2826-27 (1993).

B. "Compactness" is not mandated by the Minnesota Constitution.

There is no provision in Minnesota's Constitution mandating consideration of "compactness" as a criterion. Article 4, Sec. 3, requires only that state Senate districts be comprised of convenient and contiguous territory.

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[1] Even in such cases compactness as an aesthetic norm may be unrelated to the evil sought to be cured. *Dillard v. Baldwin County Board of Education*, 686 F.Supp. 1459, 1465-66 (MD Ala. 1988).

Even those states that do have such a constitutional requirement differ in their interpretations. *See e.g., Kenai Peninsula Borough v. State*, 743 P.2d 1352 (Alaska 1987)(small perimeter), *Acker v. Love*, 496 P.2d 75 (Col. 1972) (equidistant to boundaries); *Jamerson v. Womak*, 244 Va. 506, 514-516, 423 S.E.2d 180, 184-85 (1992) (does not mean geographic compactness). The most common meaning attached to the term is "closely united territory." *See, e.g., People ex rel Burris v. Ryan*, 588 N.E.2d 1023 (1991); *Matter of Legislative Districting of State*, 299 Md. 658, 475 A.2d 428 (Md. 1984); *Priesler v. Kirkpatrick*, 528 S.W.2d 422 (Mo. 1975).

C. "Compactness" is not a legally sound criterion.

Beyond the constitutional issue, it is generally recognized that "compactness" is a weak consideration at best. *Diaz v. Silver,* 932 F. Supp. 462, 464 (E.D. NY 1996). Irregular district shapes may be justified because the district line follows a significant geographic feature or political subdivision (e.g. county, city, precinct) boundary or promotes population equality. *Smith v. Beasley,* 946 F. Supp. 1174, 1179 (D.So.Car. 1996). Further, a district may lack compactness due to geographic (e.g. rivers) or demographic reasons but still serve the traditional goal of joining communities of interest. *Hunt v. Cromartie,* 526 U.S. 541, 555 fn.1, 119 S.Ct. 1545, 1554 (1999) *(Stevens J., concurring).* Finally, municipal boundaries, towns, census districts and voting precincts are not usually compact. This criterion is artificial, signifying nothing.

D. "Compactness" is not a useful tool.

Compactness is not a useful or operational criterion for judging whether a districting plan is fair. Young, *Measuring The Compactness of Legislative Districts*, XIII

Legislative Studies Quarterly 105, 106 (Feb 1988). Compactness is such a hazy and ill-defined concept that it is impossible to apply, in any rigorous sense, to matters of law *Young*, op. cite at 113. Indeed, reliance on any one or more of the 36 potential measures of compactness opens the door to subtle types of gerrymandering (the result sought to be avoided) "in which high speed computers manipulate data bases in order to create plans that meet superficial mathematical criteria of equality and compactness while being grossly gerrymandered in the political sense. *Id. See, Dillard v. Baldwin County Board of Education,* 686 F. Supp. 1459, 1465-66 (MD Ala. 1988).

It has been recognized that there are 36 different measures of "compactness". Each of them is flawed in one or more ways. *See* Altman, *The Consistency and Effectiveness of Mandatory District Compactness Rules,* page 9 (unpublished paper found at http://data.fas.harvard.edu/micah_altman/papers/cpt_cst2_3.pdf.), and Niemi, Grofman, et al, *"Measuring Compactness and the Role of a Compactness Standard in a Test for Partisan and Racial Gerrymandering,"* 53 Journal of Politics 1155 at 1179 (1991); *see also* Young, *supra*. Indeed, it is not unfair to describe these measures as "junk science."

E. Pick your favorite measure.

Because there are so many measures of compactness, because they are so vague and because they are nearly all outcome determinative (choose the "test" that gets you the desired result) courts generally have been reluctant to enforce them. Pildes and Niemi, *Expressive Harms, "Bizarre Districts" and Voting Rights: Evaluating Election-District Appearances after Shaw v. Reno,* 92 Mich. L. Rev. 483, 529-533 (1993). This Panel

should not adopt a measure or principle without evidence of its consequences, intentional or unintentional. *See, e.g.,* testimony of Kimball W. Brace in *Jamerson v. Womak, supra.*

F. Not a neutral factor.

While population equality is a principle that favors neither the Republicans nor the Democrats, "compactness" is not similarly neutral. It has been recognized that:

> "On the whole, the adoption of compactness as a criterion for drafting or evaluating districting plans will systematically advance the interests of the Republican Party and correspondingly disadvantage the Democratic Party." Lowenstein and Steinberg, *The Quest for Legislative Districting in the Public Interest: Elusive or Illusory* 33 UCLA L. Rev. 1, 21-27 (1985).

G. Not a Meaningful or Objective Measure

At least of equal importance is the conclusion "... that the presence or absence of compact districts does not assure either the presence or absence of ... gerrymandering." *id.* Reaching the same conclusion, *see* Altman, *Modeling the Effect of Mandatory District Compactness on Partisan Gerrymanders*, 17 Political Geography 989 (1988). It seems clear that the reason for the worthlessness of compactness as a criterion is that compactness has none of the characteristics that make population equality and contiguity desirable districting criteria. Lowenstein and Steinberg, op. cite at pages 25 et seq. For example, applying a subjective measure of compactness will further embroil the court in the substantive political controversies inherent in districting. *Id.* Furthermore, while the plans that the parties submit may have political consequences (they generally do), the plan that this Panel adopts will not be a gerrymandered one.

If compactness is not a reasonable measure of anything and is unfair to Democrats by reason of its political favoritism of Republican interests, then why has it been often stated as a criterion but not generally applied? One author suggests an answer:

> When physical geography is stretched too thin, when it is twisted, turned, and tortured – all in the apparent pursuit of fair and effective minority representation – at some point, too much becomes too much. That appears to be the judicial impulse that accounts for *Shaw*: in the conflict of territory and interest, the Constitution requires policymakers somehow to hold the line and accommodate both.
>
> But judicial impulses are one thing, legal doctrine another. That most people, judges included, recoil instinctively from willfully misshapen districts is understandable enough. Yet defining the values and purposes that might translate this impulse into an articulate, justifiable set of legal principles is no easy task. Leading academic experts in redistricting have long argued that this impulse reflects untutored intuition, an instinctive response that careful analysis reveals to be unwarranted."

Pildes and Niemi, op. cite at p. 484. Plaintiff-Intervenors argue that unless racial discrimination is shown in a plan, the use of compactness as a measure of anything offers only an opportunity for mischief and should be rejected.

The mere fact that prior redistricting panels used this criterion without evidence of its consequences or the absence of any virtue does not justify its reuse by this Panel. If "compactness" does not measure "gerrymandering" or racial discrimination accurately, it is of no use except for partisan advantage or to do mischief. Even those states whose constitution requires "compact" districts have defined that term to mean "a close union of territory" and not a requirement that is dependent on a district being of any particular size or shape. *See, e.g., In Re Legislative Districting*, 299 MD 658, 681, 475 A.2d 428, 440 (1984). *See also, Jamerson v. Womak*, 244 VA 506, 514-516, 423 S.E.2d 180, 184-85

(1992). In no event should any particular "measure" of compactness be given precedence over any of the others. *See* Section D, *infra*.

For all of these reasons, the concept of "compactness" whatever it means, should take a back seat to the other criteria.

VI. PREVIOUS OR PROJECTED VOTING BEHAVIOR BY PARTY AND POLITICAL COMPETITIVENESS

Plaintiff-Intervenors submit that where a plan is to be drawn by a court, this factor should have no bearing.

While there is nothing legally, constitutionally or ethically wrong in the use of political data by a legislative body or by any party to this litigation, the Panel, itself, should not become engaged in the practice of drawing district lines for partisan advantage. To do so would enmesh the judiciary in precisely the "political thicket" horrible predicted by *Colegrove v. Green*, 328 U.S. 549, 66 S. Ct. 1198 (1946). *See* Grofman, *Criteria for Redistricting, A Social Science Perspective*, 33 UCLA L. Rev. 77, 123-4 (1985). *See also*, Hon. Thomas J. Kalitowski and Elizabeth M. Brama, *Should Judges Get Out of Redistricting?,* Bench & Bar of Minnesota, Vol. 61, No. 3, (March 2004).

Furthermore, there are no measurable judicial standards for a court adopted partisan political plan whether Republican, DFL, independent or "competitive". Instead, the Panel should adopt the very best plan that it can fashion, giving the greatest weight to population equality and communities of interest principles. Above all, do no harm. *Davis v. Bandemer*, 478 U.S. 109, 106 S. Ct. 2797 (1986), does not require or authorize a

court to become a political body when drawing a districting plan. There should be no political litmus test.

VII. MINORITY REPRESENTATION

Plaintiff-Intervenors believe that a criteria pertaining to minority representation including, but not limited to, African American, Native American and Asian Pacific citizens, should be adopted by the Panel. They urge the Panel to adopt the standards set forth in Exhibit A for both congressional and legislative districts.

VIII. PRESERVING POLITICAL SUBDIVISIONS

The criteria of recognition of and honoring existing political subdivision boundaries has merit. The rubric of blind adherence to those boundaries does not. Plaintiff-Intervenors request that the proposal set forth in Exhibit A attached to this Memorandum be adopted. Legislators represent people, not trees, acres, counties, towns or cities. Population equality must be predominant.

Respectfully submitted,

Dated: October 5, 2011

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EXHIBIT A - BRITTON INTERVENORS' PROPOSED REDISTRICTING CRITERIA

Congressional Districts

1. There will be eight congressional districts with a single representative for each district.

2. The districts must be as nearly equal in population as is practicable. Because a court-ordered congressional redistricting plan must conform to a higher standard of population equality than a legislatively drawn congressional redistricting

plan, absolute population equality will be required. Each proposed congressional district shall contain 660,991 with a deviation of not more than plus (+) or minus (-) 1 person.

3. The congressional district numbers will begin with district one in the southeast corner of the state and end with district eight in the northeast corner of the state.

4. Districts will consist of convenient, contiguous territory. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Districts with areas that connect at only a single point will be considered noncontiguous.

5. Congressional districts shall not be drawn with either the purpose or effect of diluting racial or ethnic minority voting strength and must otherwise comply with the Voting Rights Act of 1965, as amended, and the Fourteenth and Fifteenth Amendments to the United States Constitution.

6. The districts will be drawn with reasonable attention to county, city, and township boundaries. A county, city, or township will not be divided into more than one district except to meet equal population requirements or to form districts that are composed of convenient and contiguous territory. When any county, city, or township must be divided into one or more districts, it will be divided into as few districts as possible.

7. Communities of interest will be preserved where possible in compliance with the preceding principles. For purposes of this principle, "communities of interest" include, but are not limited to, groups of Minnesota citizens with clearly recognizable similarities of social, geographic, political, cultural, ethnic, economic, transportation routes and corridors or other interests. Additional communities of interest will be considered if persuasively established and not in violation of applicable law.

8. Districts may not be drawn for the purpose of protecting or defeating an incumbent. However, as a factor subordinate to all other redistricting criteria, the panel may view a proposed plan's effect on incumbents to determine whether the plan results in either undue incumbent protection or excessive incumbent conflicts.

Legislative Districts

1. There will be 67 Senate districts with a single senator for each district. There will be 134 House of Representative districts with a single representative for each district. The ideal population for each Senate District is 79,163. The ideal population for each House of Representative district is 39,582.

2. No representative district shall be divided in the formation of a senate district.

3. Legislative redistricting plans will faithfully adhere to the concept of population-based absolute equality. The plans will not exceed a maximum population deviation of plus or minus .5% (1/2 percent) but that maximum shall not be considered a safe harbor. Because a court-ordered legislative redistricting plan must conform to a higher standard of population equality than a legislatively created legislative redistricting plan, *de minimis* from the ideal district population will be the goal.

4. The legislative districts must be numbered in a regular series, beginning with House District 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the seven-county metropolitan area until the southeast corner has been reached; then to the seven-county metropolitan area outside the cities of Minneapolis and St. Paul; then to Minneapolis and St. Paul.

5. Districts will consist of convenient and contiguous territory. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Districts with areas that connect at only a single point will be considered noncontiguous.

6. Legislative districts shall not be drawn with either the purpose or effect of diluting racial or ethnic minority voting strength and must otherwise comply with the Voting Rights Act of 1965, as amended, and the Fourteenth and Fifteenth Amendments to the United States Constitution.

7. The districts will be drawn with reasonable attention to county, city, and township boundaries. A county, city, or township will not be divided into more than one district except to meet equal population requirements or to form districts that are composed of convenient and contiguous territory. When any county, city, or township must be divided into one or more districts, it will be divided into as few districts as reasonably possible.

8. Communities of interest will be preserved where possible in compliance with the preceding principles. For purposes of this principle, "communities of interest" include, but are not limited to, groups of Minnesota citizens with clearly recognizable similarities of social, geographic, political, neighborhood, cultural, ethnic, economic, transportation routes and corridors or other interests. Additional communities of interest will be considered if persuasively established and not in violation of applicable law.

9. Districts may not be drawn for the purpose of protecting or defeating an incumbent. However, as a factor subordinate to all other redistricting criteria, the panel may view a proposed plan's effect on incumbents to determine whether the plan results in either undue incumbent protection or excessive incumbent conflicts.

PLAN SUBMISSION REQUIREMENTS

All redistricting plans shall be submitted to the Special Redistricting Panel no later than November 18, 2011.

Redistricting Plans

1. Each plan must be in the form of a separate electronic block equivalency file showing the district to which each census block in the state has been assigned.

2. Each block equivalency file must assign district numbers using the following conventions:

   a. Congressional district numbers shall contain one character and be labeled 1 through 8.

   b. Senate district numbers shall contain two characters and be labeled 01 through 67.

   c. House district numbers shall contain three characters and be labeled 01A through 67B.

3. Each party's block equivalency files must be submitted to the Panel on its electronic filing system.

4. The geographic areas and population counts used in maps, tables and legal descriptions of the district must be those used by the Geographic Information Systems Office of the Legislative Coordinating Commission (LCC-GIS). The population counts will be the block population counts provided under Public Law Number 94-171, subject to correction of any errors acknowledged by the United States Census Bureau or by the state demographer after consultation with the director of geographic information systems.

In order to accomplish this uniformity, the State of Minnesota is directed to provide each party, forthwith and without charge, with all data available to the LCC-GIS.

Paper Maps

The parties shall also submit one paper original and nine paper copies of each legislative and congressional map and shall simultaneously serve one paper copy on each opposing counsel. The senate and house plans must be combined on a single map. The maps shall be plotted on 17" by 22" paper, but 8-1/2" by 11" paper is acceptable so long as the maps are clear and comprehensible.

1. For its legislative plan, each party must include paper maps of: (1) the entire state; (2) Minneapolis and St. Paul surrounded by first-tier suburbs; (3) the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud; and (4) each municipality that is split. Senate district areas must be drawn as a color themed area on the bottom layer with house district boundaries as overlying lines. Each district must be labeled with its house district number.

2. For its congressional plan, each party must include paper maps of: (1) the entire state; (2) the metropolitan area and each municipality that is split. Each district must be labeled with its district number and population.

3. State maps shall include county boundaries and names, and the parties are encouraged to include major bodies of water, interstate highways, U.S. highways and state highways where relied upon.

4. Metro area and individual city maps must show the names and boundaries of minor civil divisions as well as the same information as on the state maps.

5. Each map must clearly state whether it shows congressional or legislative districts and identify the party who has submitted it.

6. The paper maps may include such other details as the parties wish to add, so long as the above boundaries, areas, lines, and labels are generally discernible.

Reports

Each party shall also submit one original and nine copies of the following reports for each congressional, senate, and house plan. Each party must label every page of a report with the report's name, the corresponding plan, and the responsible party. Each report should contain the components listed below as well as its standard summary data.

1. Population Summary Report showing district populations as the total number of persons and deviations from the ideal as both a number of persons and percentage of the population.

2. Plan Components Report listing the names and populations of counties within each district and, where a county is split between districts, the names and populations of the portion of the split county and each of its whole or partial minor civil divisions within each district.

3. Contiguity Report showing all districts that are noncontiguous either because two areas of a district do not touch or because they are linked by a point.

4. Split Political Subdivisions Report listing the split counties, minor civil divisions, and voting districts (precincts), and the district to which each portion of a split political subdivision or voting district is assigned.

These requirements do not preclude the parties from submitting additional maps, reports, or justification for their maps. Any party may waive its right to receive paper copies of the above reports or maps, or may arrange with a plan originator to receive plans, paper maps, and reports by electronic mail, floppy disk or CD-ROM.

ORAL ARGUMENT

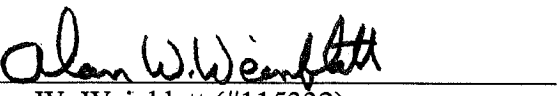
Oral argument regarding redistricting plans shall be set by the Special Redistricting Panel.

The parties will each have 45 minutes to present their plans and are encouraged to prepare visual presentations to supplement their arguments. The parties will also have 15 minutes each to present arguments in favor of their plans or in opposition to others. Each party may also utilize an additional five minutes for rebuttal.

A party that declines to submit redistricting plans may nonetheless argue in favor of or against a particular proposed plan. The parties will notify the panel in writing seven days before the oral argument whether they intend to participate in either session of the oral argument and whether they require particular technical equipment to present their plans. At the close of oral argument, the parties shall provide the panel with copies of their electronic, overhead, or slide presentations.

WEINBLATT & GAYLORD, PLC

Dated: October 5, 2011



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