FILED
October 12, 2021
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota,

Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of Minnesota; and Kendra Olson, Carver County Elections and Licensing Manager, individually and on behalf of all Minnesota county chief election officers,

Defendants,

and

Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer,

Plaintiffs

and

ANDERSON PLAINTIFFS' MOTION TO ADOPT PROPOSED REDISTRICTING CRITERIA

ORAL ARGUMENT REQUESTED

Dr. Bruce Corrie, Shelly Diaz, Alberder Gillespie, Xiongpao Lee, Abdirazak Mahboub, Aida Simon, Beatriz Winters, Common Cause, OneMinnesota.org, and Voices for Racial Justice,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of Minnesota,

Defendant.

Plaintiffs Paul Anderson et al. submit this Motion to Adopt Proposed Redistricting Criteria pursuant to the Special Redistricting Panel's Scheduling Order No. 2, dated August 24, 2021. Plaintiffs' proposed redistricting criteria are set forth in Exhibit A, which is attached to Plaintiffs' Memorandum of Law in support of this motion. Plaintiffs request oral argument on this Motion.

This motion will be based upon the memorandum of law submitted by Plaintiffs, the arguments of counsel, and all files, records and proceedings herein.

Dated: October 12, 2021

Respectfully submitted,

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ANDERSON PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO ADOPT PROPOSED REDISTRICTING CRITERIA

ORAL ARGUMENT REQUESTED

Dr. Bruce Corrie, Shelly Diaz, Alberder Gillespie, Xiongpao Lee, Abdirazak Mahboub, Aida Simon, Beatriz Winters, Common Cause, OneMinnesota.org, and Voices for Racial Justice,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of Minnesota,

Defendant.

INTRODUCTION

Plaintiffs Paul Anderson *et al*. (the "Anderson Plaintiffs") submit this Memorandum of Law in Support of their Motion to Adopt Redistricting Criteria. Plaintiffs' proposed redistricting criteria are set forth in Exhibit A. Plaintiffs request oral argument on this motion.

The Anderson Plaintiffs move this Panel to adopt fundamentally the same set of principles and standards as the *Hippert* Panel did a decade ago. *See Hippert v. Richie,* A11-152, Order Stating Redistricting Principles and Requirements for Plan Submissions (Minn. Special Redistricting Panel, Nov. 4, 2011). As did the *Zachman* Panel the decade before it, the *Hippert* Panel adopted redistricting principles that both (1) satisfied constitutional and statutory requirements and (2) utilized and prioritized objective and neutral standards to draw district lines.[1] In so doing, the *Hippert* Panel recognized that "[w]hen the judicial

[1] *See Hippert v. Ritchie,* A11-152, Order Stating Redistricting Principles (Minn. Special Redistricting Panel, Nov. 4, 2011) ("Hippert Principles Order"); *Zachman v. Kiffmeyer*,

branch performs redistricting, it lacks the political authority of the legislative and executive branches and, therefore, must act in a restrained and deliberative manner to accomplish the task." *Hippert v. Ritchie*, 813 N.W.2d 374, 378 (Minn. 2012). Accordingly, the panel largely used "politically neutral redistricting principles that advance the interests of the collective public good and preserve the public's confidence and perception of fairness in the redistricting process." *Id.* at 379. This is likewise consistent with the directive of Minnesota's redistricting panel in 2001 that court-ordered redistricting plans must "not become entangled in the politics that might surround redistricting processes and are common to the legislative arena." Zachman Principles Order at 10 (citing *Connor v. Finch*, 431 U.S. 407, 415 (1977)). Because of that lack of political authority, the *Hippert* panel "utilize[d] a least-change strategy where feasible" in drawing district boundaries. *Id.* at 308. The *Hippert* panel's approach follows the general principle that courts should "adhere to [their] former decisions in order to promote the stability of the law and the integrity of the judicial process." *Schuette v. City of Hutchinson*, 843 N.W.2d 233, 238 (Minn. 2014). Adherence to this principle promotes "stability, order, and predictability." *Fleeger v. Wyeth*, 771 N.W.2d 524, 529 (Minn. 2009).

This Panel should likewise adopt the same restrained, deliberative, least-change approach that was taken ten years ago, and should continue to utilize and prioritize constitutional requirements and objective standards in drawing district lines. Some parties to this litigation will urge the Panel to break from established precedent and wade into

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CO-01-160, Order Stating Redistricting Principles (Minn. Special Redistricting Panel, Dec. 11, 2001) ("Zachman Principles Order").

partisan issues by elevating subjective criteria over well-established objective principles, by considering partisan criteria, and/or by proposing to amend formerly neutral or objective criteria to satisfy political aims. But there is no reason in this redistricting cycle to depart from 20 years of neutral, objective principles that have served Minnesota voters well and in 2011 established fair, non-partisan electoral maps. *See, e.g.*, Editorial, *Credit Judges for Fair Representation*, Star Tribune (Feb. 22, 2012) ("To its credit, the panel opted for minimal changes in well-established political patterns … [S]peaks well of the even-handedness of the five-judge panel's work, befitting their mixed political pedigrees."). The Panel should follow the course charted by *Zachman* and *Hippert*.

In this Memorandum, we address the Anderson Plaintiffs' proposed principles consistent with this fundamental approach, and in the order items were addressed by the Hippert Principles Order. We also note where the parties have stipulated to a particular outcome.

ARGUMENT

I. The Panel should continue to use the district numbering system used in previous redistricting cycles

A. Congressional districts

Minnesota retained its eight congressional districts following the 2020 Census. There being no reason to create confusion as to the numbering of congressional districts, and, as reflected in the stipulation filed with the Panel, there being no dispute between the parties on this point, the Panel should follow past redistricting cycles in adopting the following principle regarding congressional districting numbering:

> There shall be eight congressional districts with a single representative for each district. The numbers shall begin with Congressional District 1 in the southeast corner of the state and end with Congressional District 8 in the northeast corner of the state.

Exhibit A at 1.

B. Legislative districts

While all parties agree that the numbering of Minnesota's 67 senate districts and 134 state house districts should proceed from west to east and north to south and begin with House District 1A in the northwest corner of the state, they are unable to come to an agreement as to whether the metropolitan area should be bypassed until the southeast corner of the state has been reached. Minnesota's long-standing legislative district numbering system, however, provides that legislative districts in Minnesota's metropolitan area be numbered last (with districts in the Twin Cities numbered very last). To uproot this well-established system, particularly without legislative action, would require an extensive renumbering of Minnesota's legislative districts, which would, in turn, create unnecessary confusion. There is no good reason to depart from the legislative district numbering principle adopted by the *Hippert* Panel and this Panel should again adopt the following principle:

> The legislative districts shall 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 11-county metropolitan area until the southeast corner has been reached; then to the 11-county metropolitan area outside the cities of Minneapolis and Saint Paul; then to Minneapolis and Saint Paul. *See* Minn. Const. art. IV, § 3 (requiring senate districts to be numbered in a regular series); Minn. Stat. § 200.02, subd. 24 (2010) (defining "[m]etropolitan area" for purposes of the Minnesota Election Law as the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright).

Hippert Principles Order at 7; Exhibit A at 4.

II. Nesting is required by the Minnesota Constitution and must be adopted as a redistricting principle

The Minnesota Constitution requires that no state house district be divided in the formation of a state senate district. Minn. Const. art. IV, § 3. All Special Redistricting Panels have recognized and abided by this fundamental principle. *See Hippert v. Richie,* A11-152, Order Stating Redistricting Principles and Requirements for Plan Submissions (Minn. Special Redistricting Panel, Nov. 4, 2011); *Zachman v. Kiffmeyer*, CO-01-160, Order (Minn. Special Redistricting Panel, Dec. 11, 2001). As reflected in the stipulation filed with the Panel, all parties agree that this Panel must do the same.

III. Population equality is of primary importance under the United States and Minnesota Constitutions

Of primary importance in the adoption of any redistricting plan is compliance with the constitutional guarantee that one person's vote is worth no more than another's. Indeed this guarantee is the very reason redistricting occurs every ten years. U.S. Const. art. I, § 2. Population equality is thus of paramount concern in redistricting and, in the adoption of congressional district lines, the United States Constitution "establishes a 'high standard of justice and common sense' . . . equal representation for equal numbers of people." *Karcher v. Daggett*, 462 U.S. 725, 731 (1983) (citing *Wesberry v. Sanders*, 376 U.S. 1, 7 (1964)). Thus particularly when adopted in a court-ordered plan, absolute population equality is the goal in drawing congressional district maps. *Abrams v. Johnson*, 521 U.S. 74, 98 (1997).

Likewise, in drawing legislative districts Minnesota's Constitution requires that "representation in both houses shall be apportioned equally throughout the different

sections of the state in proportion to the population thereof." (Minn. Const. IV (emphasis added). The Minnesota Constitution thus adopts a higher standard of population equality than that of "substantial equality" required under the United States Constitution's Equal Protection Clause. *See Reynolds v. Sims*, 377 U.S. 533, 579 (1964). And like congressional redistricting plans, legislative redistricting plans adopted by courts are held to even a higher standard of population equality, and "must ordinarily achieve the goal of population equality with little more than de minimis variation." *Chapman v. Meier*, 420 U.S. 1, 426-27 (1975).

Minnesota's redistricting panels have long understood the primacy of population equality in redistricting and have adopted principles designed to ensure compliance with this constitutional requirement. Most recently, the *Hippert* Panel held that "absolute population equality" is the goal in any congressional redistricting plan adopted by a judicial panel, and adopted a deviation of +/- one person in the 2011 redistricting cycle. Hippert Principles Order at 5. *See also* Zachman Principles Order at 2. Consistent with the requirements of the United States Constitution, the Anderson Plaintiffs urge this Panel to adopt, with adjustments for population, this same principle here – namely:

> The congressional districts shall be as nearly equal in population as is practicable. *Wesberry v. Sanders*, 376 U.S. 1**,** 7-8, 84 S. Ct. 526, 530 (1964). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a redistricting plan created by a legislature, absolute population equality shall be the goal. *Abrams v. Johnson*, 521 U.S. 74, 98, 117 S. Ct. 1925, 1939 (1997). Because Minnesota's total population is not divisible into eight congressional districts of equal population, the ideal result is six districts of 713,312 persons and two districts of 713,311 persons.

Hippert Principles Order at 5; Exhibit A at 1.

The Panel should likewise adopt the *Hippert* Panel's redistricting principle for population equality in legislative districts, which provided that "de minimis deviation from the ideal district population shall be the goal" while providing for a maximum deviation of two percent. Hippert Principles Order at 8. In doing so, the *Hippert* Panel adopted a principle that has been well-established and tested in Minnesota for decades, and has proven to be achievable while not sacrificing the consideration and application of other objective and traditional redistricting principles. *See* Anderson Plaintiffs' Statement of Unresolved Issues at 8-9. Indeed, the *Hippert* Panel again fell well within this maximum deviation in adopting Minnesota's 2011 redistricting plan. *See Hippert* No. A11-152, at 13 (Minn. Spec. Redistricting Panel, Feb. 21, 2012) (final order adopting a legislative redistricting plan with a maximum negative deviation of 0.61 percent and a maximum positive deviation of 0.86 percent). There being no reason to depart, the Panel here should again adopt the following well-established Minnesota principle for legislative districts:

> Redistricting plans for state legislatures shall faithfully adhere to the concept of population-based representation. *Roman v. Sincock,* 377 U.S. 695, 710, 84 S. Ct. 1449, 1458 (1964). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a plan created by a legislature, de minimis deviation from the ideal district population shall be the goal. *Connor v. Finch,* 431 U.S. 407, 414, 97 S. Ct. 1828, 1833 (1977); *Chapman v. Meier,* 420 U.S. 1, 26-27, 95 S. Ct. 751, 766 (1975). The ideal population of a Minnesota state senate district is 85,172, and the ideal population of a Minnesota House of Representatives district is 42,586. The population of a legislative district shall not deviate by more than two percent from the population of the ideal district. *See Hippert,* No. A11-152 (Minn. Special Redistricting Panel Nov. 4, 2011) (Order Stating Redistricting Principles and Requirements for Plan Submissions); *Zachman,* No. C0-01-160 (Minn. Special Redistricting Panel Dec. 11, 2001) (Order Stating Redistricting Principles and Requirements for Plan Submissions); *Catlow,* No. MX-91-1562 (Minn. Special Redistricting Panel Aug. 16, 1991) (Pretrial Order No. 2).

Hippert Principles Order at 8; Exhibit A at 3.

IV. Compliance with the Voting Rights Act must be assured

In addition to population equality, the U.S. and Minnesota Constitutions, as well as federal and state law, establish other mandatory requirements for legislative and congressional redistricting. The Fourteenth and Fifteenth Amendments to the U.S. Constitution and the Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437, as amended, 42 U.S.C. § 1973 *et seq*., prohibit the use of redistricting for the purpose of diluting racial or ethnic minority voting strength. *See Bush v. Vera*, 517 U.S. 952, 959 (1996) (holding that race may not be the predominant factor for redistricting decisions). This constitutional and statutory requirement is mandatory and should also receive priority in this redistricting litigation. The Hippert Panel recognized this statutory and constitutional requirement with the following principle, which this Panel should re-adopt:

> [D]istricts shall not be drawn with either the purpose or effect of denying or abridging the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority group and must otherwise comply with the Fourteenth and Fifteenth Amendments to the United States Constitution and the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973-1973aa-6 (2006).

Hippert Principles Order at 5 & 8; Exhibit A at 1 & 3-4.

V. Ensuring districts are convenient and contiguous is required by Minnesota law, and compactness is an objective and neutral criteria long used by Minnesota's redistricting panels

The requirement that legislative districts be composed of "convenient contiguous territory" is likewise required by both the Minnesota Constitution and Minnesota statute. Minn. Const. Art. IV, § 3; Minn. Stat. § 2.91, subd. 2. And in 2011 the *Hippert* Panel

further recognized both: (1) Minnesota's history in the past four redistricting cycles of "us[ing] compactness as a redistricting criterion"; and (2) its usefulness as a traditional and neutral redistricting principle to ensure compliance with the requirements of the United States Constitution and Voting Rights Act and to avoid improper gerrymandering. Hippert Principles Order at 15-16 (citing cases). Consistent with this recognition, the *Zachman* Panel held in 2001 that "the United States Supreme Court has repeatedly recognized compactness as one means of averting gerrymandering and preventing districts from sprawling across the state." Zachman Principles Order at 11 (citing *Shaw v. Reno*, 509 U.S. 630, 647 (1993) and *Reynolds v. Sims*, 377 U.S. 533, 578-79 (1964)). Maptitude further includes a number of measures of compactness that can be utilized by the parties and the Panel in their analyses of that principle.

Indeed, no party to this redistricting litigation disputes that such criteria should be adopted by this Panel, and each has proposed, albeit in different forms, their adoption here. But there is no need for the Panel to reinvent the wheel or fix what is not broken. The Panel should adopt the same criteria adopted in the previous two redistricting cycles – namely:

> Congressional districts shall consist of convenient, contiguous territory structured into compact units. Minn. Stat. § 2.91, subd. 2 (2010); *Shaw v. Reno*, 509 U.S. 630, 646, 113 S. Ct. 2816, 2826 (1993) (stating that district lines may be drawn "to provide for compact districts of contiguous territory"). Contiguity by water is sufficient if the body of water does not pose a serious obstacle to travel within the district. Congressional districts with areas that connect only at a single point shall not be considered contiguous.
>
> Legislative districts shall consist of convenient, contiguous territory structured into compact units. Minn. Const. art. IV, § 3; Minn. Stat. § 2.91, subd. 2; *Reynolds v. Sims*, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390 (1964) (stating that a legitimate redistricting principle is to provide for compact

> districts of contiguous territory). Contiguity by water is sufficient if the body of water does not pose a serious obstacle to travel within the district. Legislative districts with areas that connect only at a single point shall not be considered contiguous.

Hippert Principles Order at 6 & 8-9; Exhibit A at 1 & 4.

VI. Political Subdivisions must be protected under Minnesota law

The protection of counties, cities, townships, and federally recognized American Indian reservations is another mandatory redistricting requirement under Minnesota law. That is, "political subdivisions [should] not be divided more than necessary to meet constitutional requirements." Minn. Stat. § 2.91, subd. 2. *See Reynolds v. Sims*, 377 U.S. 533, 580-81, 84 S. Ct. 1362, 1391-92 (1964) (recognizing that preservation of political subdivisions is "[a] consideration that appears to be of more substance in justifying some deviations from population-based representations."). As did the *Hippert* panel, this Panel should treat cities and townships as political subdivisions and preserve those "municipalities" within districts where possible while complying with the mandate of substantial population equality. *See Hippert*, A11-152, Final Order Adopting a Legislative Redistricting Plan at 15-16 (Minn. Special Redistricting Panel Feb. 22, 2012). This Panel should likewise follow the *Hippert* Panel in seeking to draw districts that "demonstrate a respect for the reservation boundaries of federally recognized Indian tribes." *Id.* at 17-18.[2]

[2] While not historically treated as "political subdivisions" in previous redistricting cycles, federally recognized sovereign tribes are undisputedly sovereign political entities. *See, e.g.*, *Michigan v. Bay Mills Indian Comm'n*, 372 U.S. 782, 788 (2014) ("Indian tribes are 'domestic dependent nations' that exercise 'inherent sovereign authority . . ..'" Quoting *Oklahoma Tax Comm'n v. Citizen Bank Potawatomi Tribe of Oklahoma*, 498 U.S. 505, 509 (1991)); *see also Plains Com. Bank v. Long Fam. Land & Cattle Co.*, 554 U.S. 316, 327-28 (2008) (recognizing authority of tribes to legislate within their borders). The

As the Zachman panel concluded, it is "particularly important to respect the boundaries of the state's political subdivisions" because they "constitute some of Minnesota's most fundamental communities of interest and centers of local government." *Zachman*, CO-01-160, Final Order Adopting a Legislative Redistricting Plan at 3 (Minn. Special Redistricting Panel, March 19, 2002). This approach "give[s] political subdivisions a stronger, unified voice, and will minimize confusion for the state's voters." *Id*.

Ultimately, the *Hippert* panel appropriately adopted a principle which matched verbatim the statutory requirement. *See Hippert*, A11-152 (Minn. Special Redistricting Panel Nov. 4, 2011) ("Political subdivisions shall not be divided more than necessary to meet constitutional requirements."). This Panel should do the same.

VII. Communities of interest should be preserved to the extent such preservation complies with the foregoing principles

Again, all parties agree that the preservation of communities of interest is an appropriate principle for the Panel to consider in adopting congressional and legislative redistricting plans. Such a principle is, however, subordinated to the preceding principles in that it is neither constitutionally or statutorily mandated nor capable of objective definition and delineation, no matter what tests a party might try to attach to it. Additionally, "communities of interest" can take all different forms and can overlap, such that establishing a district in favor of one identified community of interest may effectively

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boundaries of reservations of such federally recognized sovereign tribes should, therefore, be treated no different than any other political subdivision in redistricting, and should "not be divided more than necessary to meet constitutional requirements." Minn. Stat. § 2.91.

disadvantage another community, particularly where a community does not have the resources to participate in the redistricting process.

Thus in at least the previous two redistricting cycles, Minnesota's redistricting panels have appropriately adopted such a principle with the qualifier that communities of interest should be preserved only "where possible in compliance with the preceding principles . . .." Hippert Principles Order at 6 & 9 and Zachman Principles Order at 3 & 5. The "preceding principles" being those that are objective and constitutionally or statutorily mandated – *i.e.*, (1) population equality, (2) nesting, (3) compliance with the Voting Rights Act, (4) requiring convenient, contiguous, and compact territory, and (5) the preservation of political subdivisions.

The difficult and subjective nature of identifying and delineating "communities of interest" is specifically evidenced even in this case by the varying ways in which the parties have defined what constitutes a "community of interest," including the exceedingly broad definition articulated by at least three parties – namely, "any group with shared experiences and concerns . . .." The subjective nature of this redistricting principle leaves it ripe for partisan and political manipulation, and both the *Zachman* Panel and the *Hippert* Panel struck the appropriate balance by identifying the preservation of communities of interest as a valid principle to consider, without elevating it above objective and neutral criteria mandated by both federal and state law. This Panel should follow suit by again adopting, in the order identified on *Exhibit A*, the following principle adopted in 2011:

> Where possible in compliance with the preceding principles, communities of interest shall be preserved. *See League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 433, 126 S. Ct. 2594, 2618 (2006) (*LULAC*) (stating that

> "maintaining communities of interest" is a traditional redistricting principle); *Miller v. Johnson*, 515 U.S. 900, 916, 115 S. Ct. 2475, 2488 (1995) (including respect for "communities defined by actual shared interests" in a list of "traditional race-neutral redistricting 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, or other interests. Additional communities of interest will be considered if persuasively established and if consideration thereof would not violate applicable law.

Hippert Principles Order at 6-7 and 9; Exhibit A at 2 & 4.

VIII. Undue incumbent protection or conflict can be considered, subordinate to all other criteria

The previous three Minnesota Special Redistricting Panels have ordered that districts may "not be drawn for the purpose of protecting or defeating an incumbent." Hippert Principles Order at 7, 9; Zachman Principles Order at 3, 5; *Cotlow v. Growe*, No. C8-91-985 (Minn. Special Redistricting Panel Sept. 13, 1991) (Pretrial Order No. 3). However, all three Panels allowed that as a "subordinate" factor to all other criteria, the Panel could consider whether a proposed plan results in "undue incumbent protection or excessive incumbent conflicts." *Id*. This approach allows the Panel to "prevent an unfair result for either incumbents or potential challenges and to preserve the public's confidence and perception of fairness in the redistricting process." *Hippert*, A11-152 (Minn. Special Redistricting Panel Nov. 4, 2011). As with other, more prioritized criteria, there is no reason to depart from established precedent in this Panel's treatment of incumbents.

CONCLUSION

Previous Special Redistricting Panels have appropriately adopted neutral, objective criteria required by Minnesota Constitution or statute. That approach properly avoids

entangling the judiciary in the political thicket of partisan redistricting, and has resulted in fair, competitive elections in Minnesota. This Panel should not deviate from established precedent, and should adopt the same set of criteria and standards—adjusted for population growth—used by the Hippert panel in 2011.

Dated: October 12, 2021

Respectfully submitted,

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EXHIBIT A

ANDERSON PLAINTIFFS' PROPOSED REDISTRICTING CRITERIA

Congressional Districts

1. There shall be eight congressional districts with a single representative for each district. The district numbers shall begin with Congressional District 1 in the southeast corner of the state and end with Congressional District 8 in the northeast corner of the state.

2. The congressional districts shall be as nearly equal in population as is practicable. *Wesberry v. Sanders*, 376 U.S. 1**,** 7-8, 84 S. Ct. 526, 530 (1964). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a redistricting plan created by a legislature, absolute population equality shall be the goal. *Abrams v. Johnson*, 521 U.S. 74, 98, 117 S. Ct. 1925, 1939 (1997). Because Minnesota's total population is not divisible into eight congressional districts of equal population, the ideal result is six districts of 713,312 persons and two districts of 713,311 persons.

3. Congressional districts shall not be drawn with either the purpose or effect of denying or abridging the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority group and must otherwise comply with the Fourteenth and Fifteenth Amendments to the United States Constitution and the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973-1973aa-6 (2006).

4. Congressional districts shall consist of convenient, contiguous territory structured into compact units. Minn. Stat. § 2.91, subd. 2 (2010); *Shaw v. Reno*, 509 U.S. 630, 646, 113 S. Ct. 2816, 2826 (1993) (stating that district lines may be drawn "to provide for compact districts of contiguous territory"). Contiguity by water is sufficient if the body of water does not pose a serious obstacle to travel within the district. Congressional districts with areas that connect only at a single point shall not be considered contiguous.

5. Political subdivisions shall not be divided more than necessary to meet constitutional requirements. Minn. Stat. § 2.91, subd. 2; *Karcher v. Daggett,* 462 U.S. 725, 733 n.5, 740-41, 103 S. Ct. 2653, 2660 n.5, 2663-64 (1983).

6. Where possible in compliance with the preceding principles, communities of interest shall be preserved. *See League of United Latin Am. Citizens v. Perry,* 548 U.S. 399, 433, 126 S. Ct. 2594, 2618 (2006) *(LULAC)* (stating that "maintaining communities of interest" is a traditional redistricting principle); *Miller v. Johnson,* 515 U.S. 900, 916, 115 S. Ct. 2475, 2488 (1995) (including respect for "communities defined by actual shared interests" in list of "traditional race-neutral districting 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, or other interests. Additional communities of interest will be considered if persuasively established and if consideration thereof would not violate applicable law.

7. Congressional districts shall not be drawn for the purpose of protecting or defeating incumbents. But the impact of redistricting on incumbent officeholders is a factor subordinate to all redistricting criteria that the panel may consider to determine whether proposed plans result in either undue incumbent protection or excessive incumbent conflicts.

Legislative Districts

1. There shall be 67 state senate districts with one senator for each district. Minn. Stat.§§ 2.021, 2.031, subd. 1 (2010). There shall be 134 state house districts with one representative for each district. Minn. Stat. §§ 2.021, 2.031, subd. 1.

2. No state house district shall be divided in the formation of a state senate district. Minn. Const. art. IV, § 3.

3. The legislative districts shall be numbered in a regular series, beginning with House District 1A in the northwest comer of the state and proceeding across the state from west to east, north to south, but bypassing the 11-county metropolitan area until the southeast corner has been reached; then to the 11-county metropolitan area outside the cities of Minneapolis and Saint Paul; then to Minneapolis and Saint Paul. *See* Minn. Const. art. IV, § 3 (requiring senate districts to be numbered in a regular series); Minn. Stat. § 200.02, subd. 24 (2010) (defining "[m]etropolitan area" for purposes of the Minnesota Election Law as the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright).

4. Redistricting plans for state legislatures shall faithfully adhere to the concept of population-based representation. *Roman v. Sincock*, 377 U.S. 695, 710, 84 S. Ct. 1449, 1458 (1964). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a plan created by a legislature, de minimis deviation from the ideal district population shall be the goal. *Connor v. Finch,* 431 U.S. 407, 414, 97 S. Ct. 1828, 1833 (1977); *Chapman v. Meier,* 420 U.S. 1, 26-27, 95 S. Ct. 751, 766 (1975). The ideal population of a Minnesota state senate district is 85,172, and the ideal population of a Minnesota House of Representatives district is 42,586. The population of a legislative district shall not deviate by more than two percent from the population of the ideal district. *See Hippert,* No. A11-152 (Minn. Special Redistricting Panel Nov. 4, 2011) (Order Stating Redistricting Principles and Requirements for Plan Submissions); *Zachman,* No. C0-01-160 (Minn. Special Redistricting Panel Dec. 11, 2001) (Order Stating Redistricting Principles and Requirements for Plan Submissions); *Catlow,* No. MX-91-1562 (Minn. Special Redistricting Panel Aug. 16, 1991) (Pretrial Order No. 2).

5. Legislative districts shall not be drawn with either the purpose or effect of denying or abridging the voting rights of any United States citizen on account of race, ethnicity, or

membership in a language minority group and must otherwise comply with the Fourteenth and Fifteenth Amendments to the United States Constitution and the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973-1973aa-6.

6. Legislative districts shall consist of convenient, contiguous territory structured into compact units. Minn. Const. art. IV, § 3; Minn. Stat. § 2.91, subd. 2; *Reynolds v. Sims,* 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390 (1964) (stating that a legitimate redistricting principle is to provide for compact districts of contiguous territory). Contiguity by water is sufficient if the body of water does not pose a serious obstacle to travel within the district. Legislative districts with areas that connect only at a single point shall not be considered contiguous.

7. Political subdivisions shall not be divided more than necessary to meet constitutional requirements. Minn. Stat. § 2.91, subd. 2; *Reynolds,* 377 U.S. at 580-81, 84 S. Ct. at 1391-92.

8. Where possible in compliance with the preceding principles, communities of interest shall be preserved. *See LULAC,* 548 U.S. at 433, 126 S. Ct. at 2618; *Miller,* 515 U.S. at 916, 115 S. Ct. at 2488. 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, or other interests. Additional communities of interest will be considered if persuasively established and if consideration thereof would not violate applicable law.

9. Legislative districts shall not be drawn for the purpose of protecting or defeating an incumbent. But the impact of redistricting on incumbent officeholders is a factor subordinate to all redistricting criteria that the panel may consider to determine whether proposed plans result in either undue incumbent protection or excessive incumbent conflicts.