

FILED

October 12, 2021

**OFFICE OF
APPELLATE COURTS**

**STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL
A21-0243
A21-0546**

Peter S. Wattson, et al.,

Plaintiffs,

and

Paul Anderson, et al.,

Plaintiff-Intervenors,

**SECRETARY'S PROPOSED
REDISTRICTING PRINCIPLES**

vs.

Steve Simon, et al.,

Defendants,

and

Frank Sachs, et al.,

Plaintiffs,

and

Dr. Bruce Corrie, et al.,

Plaintiff-Intervenors,

vs.

Steve Simon,

Defendant.

The Panel asked the parties to submit proposed redistricting principles to the extent that they do not agree as to redistricting principles. The following are the Secretary's proposed principles, listed in the proposed order of priority and then followed by an explanation for the Secretary's reasoning.

I. LIST OF PROPOSED PRINCIPLES

A. 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 (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 (1997); *Hippert v. Ritchie*, 813 N.W.2d 391, 394 (Minn. Special Redistricting Panel 2012). 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 (2018).

4. Congressional districts shall consist of convenient and contiguous territory. Minn. Stat. § 2.91, subd. 2 (2020). 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 (1983). Lands within the jurisdiction of federally recognized sovereign tribes also shall not be divided more than necessary to meet constitutional requirements. Additionally, plans will respect existing precinct lines unless diverging from those lines is necessary to meet constitutional requirements.

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 (2006) (*LULAC*) (stating that “maintaining communities of interest” is a traditional redistricting principle); *Miller v. Johnson*, 515 U.S. 900, 916 (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.

8. A congressional district must not be drawn in a manner that unduly favors or disfavors any political party. The commission shall use judicial standards and the best available scientific and statistical methods to assess whether a plan unduly favors or disfavors a political party.

9. Districts should be drawn to encourage electoral competition. A district is competitive if the plurality of the winning political party in the territory encompassed by the district, based on statewide state and federal partisan general and special election results during the last ten years, has historically been no more than eight percent.

10. Districts should be drawn to be reasonably compact. Compactness must be measured by using one or more statistical tests. *Shaw v. Reno*, 509 U.S. 630, 646 (1993).

11. When it is not possible to fully comply with the principles contained above, a redistricting plan shall give priority to those principles in the order in which they are listed, except to the extent that doing so would violate federal or state law.

B. Legislative Districts

1. There shall be 67 state senate districts with one senator for each district. Minn. Stat. §§ 2.021, 2.031, subd. 1 (2020). 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 forming 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 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 (2020) (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 (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 (1977); *Chapman v. Meier*, 420 U.S. 1, 26-27 (1975). The population of a legislative district shall not deviate by more than two percent from the population of the ideal district. *See Hippert v. Ritchie*, 813 N.W.2d 374, 379 (Minn. Special Redistricting Panel 2011); *Zachman*, No. C0-01-160 (Minn. Special Redistricting Panel Dec. 11, 2001) (Order Stating Redistricting Principles and Requirements for Plan Submissions); *Cotlow*, 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. Minn. Const. art. IV, § 3; Minn. Stat. § 2.91, subd. 2. 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 v. Sims*, 377 U.S. 533, 580-81 (1964). Lands within the jurisdiction of federally recognized sovereign tribes also shall not be divided more than necessary to meet constitutional requirements. Additionally, plans will respect existing precinct lines unless diverging from those lines is necessary to meet constitutional requirements.

8. Where possible in compliance with the preceding principles, communities of interest shall be preserved. *See LULAC*, 548 U.S. at 433; *Miller*, 515 U.S. at 916. 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.

10. A legislative district must not be drawn in a manner that unduly favors or disfavors any political party. The commission shall use judicial standards and the best available scientific and statistical methods to assess whether a plan unduly favors or disfavors a political party.

11. Districts should be drawn to encourage electoral competition. A district is competitive if the plurality of the winning political party in the territory encompassed by the district, based on statewide state and federal partisan general and special election results during the last ten years, has historically been no more than eight percent.

12. Districts should be drawn to be reasonably compact. Compactness must be measured by using one or more statistical tests. *Shaw*, 509 U.S. at 646.

13. When it is not possible to fully comply with the principles contained above, a redistricting plan shall give priority to those principles in the order in which they are listed, except to the extent that doing so would violate federal or state law.

II. REASONS FOR PROPOSED PRINCIPLES

The Secretary proposes the above principles in the above order for the following reasons:

A. Congressional Districts

1. **Number of districts.** The parties stipulated to this principle.

2-3. **District population and Voting Rights.** These principles are substantially identical to principles adopted by this Panel in *Hippert v. Ritchie*, No. A11-152, ¶¶ 2-3 at 5-6 (Minn. Special Redistricting Panel Nov. 4, 2011). The Secretary has only revised these versions to update the citations to authority and the ideal number of residents per district based on the current Census data.

4. **Convenient and contiguous territory.** This principle is similar to a principle adopted in *Hippert* requiring congressional districts to consist of convenient, contiguous, and compact territory. *Id.*, ¶ 4 at 6. The Secretary proposes separating compactness and including it as a lower-level principle. Minnesota's redistricting statute identifies only convenient and contiguous territories as a redistricting principle. Minn. Stat. § 2.91, subd. 2. Compactness is not listed. *Id.* While compactness has some value, the Secretary believes that it is substantially less important than contiguity or convenience. Compactness is also less valuable than principles such as preserving political subdivisions and communities of interest.

5. **Political subdivisions.** Preserving the boundaries of political subdivisions such as municipalities is especially important to state and local election officials. District maps that split jurisdictions unnecessarily impose significant administrative and financial burdens on the state, on municipalities, and on voters. Moreover, while tribal lands are not political subdivisions as defined in law, the Secretary believes that the Panel should favor leaving them intact for the same reasons that apply to political subdivisions.

6-7. **Communities of interest and Impact on incumbent officeholders.** These principles are substantially identical to principles adopted by this Panel in *Hippert*, ¶¶ 6-7 at 6-7.

8. **Partisan advantage.** While the Panel did not explicitly identify this principle in *Hippert*, district maps should not be drawn to favor a political party. The Secretary submits that districts should be drawn based on the interests of residents and voters, not candidates, parties, or other organizations. The interest in avoiding a partisan advantage is particularly strong with a court-drawn map.

9. **Electoral competition.** Competition is vital in electoral districts. When districts are “safe,” voters may be discouraged, as they may feel results are predetermined; candidates may ignore particular groups of constituents; and the actual contest may be moved to a partisan primary in which many fewer voters participate. Conversely, a truly competitive district fosters meaningful discussion of the issues and interests that are of concern to Minnesotans.

10. **Compactness.** The Secretary believes that compactness has value and should be considered, but only after the principles identified above.

11. **Priority of Principles.** The Secretary believes that the order of priority reflected in his proposed list of principles reflects the proper weight of the issues addressed.

B. Legislative Districts

1-2. **Number of districts and Nesting.** The parties stipulated to these principles.

3-5. **District Numbering, District population, and Voting rights.** These principles are substantially identical to principles adopted by this Panel in *Hippert*, ¶¶ 3-5

at 7-8. The Secretary has only revised these versions to update a small number of citations to authority.

6. **Convenient and contiguous territory.** This principle is similar to a principle adopted in *Hippert* requiring legislative districts to consist of convenient, contiguous, and compact territory. *Id.*, ¶ 6 at 8-9. The Secretary proposes separating compactness and including it as a lower-level principle. While compactness has some value, the Secretary believes that it is substantially less important than contiguity or convenience. Compactness is also less valuable than principles such as preserving political subdivisions and communities of interest.

7. **Political subdivisions.** Preserving the boundaries of political subdivisions such as municipalities is especially important to state and local election officials. District maps that split jurisdictions unnecessarily impose significant administrative and financial burdens on the state, on municipalities, and on voters. Moreover, while tribal lands are not political subdivisions as defined in law, the Secretary believes that the Panel should favor leaving them intact for the same reasons that apply to political subdivisions.

8-9. **Communities of interest and Impact on incumbent officeholders.** These principles are substantially identical to principles adopted by this Panel in *Hippert*, ¶¶ 8-9 at 9.

10. **Partisan advantage.** District maps should not be drawn to favor a political party. The Secretary submits that districts should be drawn based on the interests of residents and voters, not candidates, parties, or other organizations. The interest in avoiding a partisan advantage is particularly strong with a court-drawn map.

11. **Electoral competition.** Competition is vital in electoral districts. When districts are “safe,” voters may be discouraged, as they may feel results are predetermined; candidates may ignore particular groups of constituents; and the actual contest may be moved to a partisan primary in which many fewer voters participate. Conversely, a truly competitive district fosters meaningful discussion of the issues and interests that are of concern to Minnesotans.

12. **Compactness.** The Secretary believes that compactness has value and should be considered, but only after the principles identified above.

13. **Priority of Principles.** The Secretary believes that the order of priority reflected in his proposed list of principles reflects the proper weight of the issues addressed.

Dated: October 12, 2021

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

s/Nathan J. Hartshorn

ANGELA BEHRENS, Atty. # 0351076

NATHAN J. HARTSHORN, Atty. # 0320602

Assistant Attorneys General
445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2134
(651) 757-1252 (Voice)
(651) 297-1235 (Fax)
nathan.hartshorn@ag.state.mn.us

ATTORNEYS FOR DEFENDANT SIMON

#5077885