**Traditional Districting Principles**

We turn now to the "traditional districting principles" of the state. We must **\*647** consider these principles along with the federal mandates imposed by the one-person, one-vote requirement of the Equal Protection Clause and the racial fairness and nonretrogression principles of the Voting Rights Act, but we apply them only to the extent that they do not conflict with the federal principles. *See Abrams,* 521 U.S. at 79, 117 S. Ct. 1925; *Upham,* 456 U.S. at 39, 102 S. Ct. 1518.

Generally speaking, traditional redistricting principles in South Carolina have directed courts to maintain, where possible, recognized communities of interest and the cores of existing districts, as well as political and geographical boundaries delineated within the state. *See South Carolina State Conference of Branches of the NAACP v. Riley,* [533 F. Supp. 1178](https://law.justia.com/cases/federal/district-courts/FSupp/533/1178/1507760/), 1180 (D.S.C.), *aff'd,* 459 U.S. 1025, 103 S. Ct. 433, 74 L. Ed. 2d 594 (1982). This includes maintaining county and municipal boundaries where possible, and protecting the cores of existing districts by altering old plans only as necessary to achieve the requisite goals of the new plan. *See id.* at 1180-81.

Maintaining the residences of the incumbents who serve those core constituents within the district is also a districting principle that historically has been observed in South Carolina. *See id.* Although this is usually referred to as "incumbency-protection," we view the principle as more accurately protecting the core constituency's interest in reelecting, if they choose, an incumbent representative in whom they have placed their trust. Provided it does not conflict with other nonpolitical considerations such as communities of interest and compactness, it is one worthy of consideration by this court. *See, e.g., Bush,* 517 U.S. at 964, 116 S. Ct. 1941 ("[W]e have recognized incumbency protection, at least in the form of avoiding contests between incumbents, as a legitimate state goal.") (internal quotation marks and alteration omitted); *Johnson,* 922 F. Supp. at 1565 (noting the protection of incumbents as a legitimate consideration, albeit an inherently more political one).

Metropolitan areas that overflow county boundaries, such as Charleston/Berkeley/Dorchester, Greenville/Spartanburg, and Richland/Lexington, previously have been recognized as sharing a special community of interest. *See Riley,* 533 F. Supp. at 1181. And, of course, South Carolina has traditionally adhered to the principle that "districts should be as compact as reasonably possible" and "that district boundaries are not gerrymandered to dilute the voting strength of minorities," *id.*

The amount of deference owed to the historical districting principle of maintaining county boundaries, and the position it holds in the hierarchy of pertinent considerations, was the subject of a fair amount of dispute at trial. In the 1980s redistricting process, the three-judge court in *Riley* noted the State's "substantial interest in the preservation of county lines," primarily "because the residents of a county have a community of interest." *Id.* at 1180. As noted then, county residents "are accustomed to voting together for county officials. There is much administrative convenience in drawing district lines along county lines, and it facilitates the process of organizing constituencies and campaigning for the support of constituents." *Id.* The *Riley* court, however, did not elevate the respect for county lines to the level of excluding all other factors. Rather, it likewise noted the state's historical concern for preserving the core of existing districts and protecting the incumbents who serve them, the state's recognition of other non-county-based communities of interest, the need for compact districts, and the principle of racial fairness. *See id.* at 1181.

**\*648** Ten years later, the three-judge court in *Burton* seemed to elevate the importance of maintaining county lines. There, the court stated that, "in the quarter century since *Reynolds* the General Assembly has consistently stated, through its plans and specific statements of policy, that among various state policies, preserving county lines should enjoy a preeminent role in South Carolina's redistricting process. This preeminence is highly rational." *Burton,* 793 F. Supp. at 1341. Although the *Burton* court stated that the preservation of county lines was "[t]he only cognizable state policy [it] considered," *id.* at 1360, the court split 27 of the state's 46 counties in its Senate plan. Ultimately, *Burton* was summarily vacated by the Supreme Court and remanded for "further consideration in light of the position presented by the Solicitor General in his brief for the United States filed May 7, 1993." *Statewide Reapportionment Advisory Comm. v. Theodore,* 508 U.S. 968, 968, 113 S. Ct. 2954, 125 L. Ed. 2d 656 (1993). The Solicitor General had maintained that the three-judge court failed to apply a proper analysis under § 2 of the Voting Rights Act and, as a part of that failure, placed undue emphasis upon preserving county and precinct lines.

We likewise recognize South Carolina's strong preference for minimizing the splits of counties within her borders. Many governmental services, such as fire and police protection, are organized along political subdivision lines, and counties and cities are often representative of a naturally existing community of interest. *See Burton,* 793 F. Supp. at 1341 & n. 29; *Riley,* 533 F. Supp. at 1180. We also understand the desire expressed by county representatives, particularly those in small counties, to remain "whole" in a district, or a substantial part of a district, in order to maximize their voice on a state level.

Nevertheless, we are also cognizant of the evidence that the trend of population movement continues to be from small rural counties to urban/suburban and coastal counties, and that often the cost of keeping small counties "whole" or their splits minimal is to increase the number of splits in more populated counties. Furthermore, as demonstrated by the testimony and other evidence presented to us in this proceeding, the principle of preserving county lines, while accorded much importance, has not been an inviolate policy or even a superior policy in all districts. Different parts of a county may also lack commonality of interest, most notably those counties located in coastal and metropolitan regions of the state which are now divided rather starkly upon rural/resort or rural/urban lines.

Finally, we note that it has long been recognized that "[t]he policy of maintaining the inviolability of county lines ..., if strictly adhered to, must inevitably collide with the basic equal protection standard of one person, one vote." *Connor,* 431 U.S. at 419, 97 S. Ct. 1828. These population shifts and the stringent deviation to which we are held make maintaining county lines a more difficult goal for the court to achieve, particularly in the context of the smaller House districts, than for the state's elected officials who possess more latitude in this regard.

For these reasons, we agree that we must honor South Carolina's important and longstanding state policy of maintaining county boundaries, but only insofar "as that can be done without violation of the [one-person, one-vote] principle of *Wesberry v. Sanders* and consistently with other state interests." *Riley,* 533 F. Supp. at 1180. Like all traditional districting principles adhered to by the state legislature, the principle of preserving county lines occupies a subordinate role to the federal **\*649** directives embodied in the United States Constitution and the Voting Rights Act when the court is called upon to implement remedial redistricting plans. We do not find that the preservation of county lines continues to enjoy a preeminent role in the court's redistricting task. It is required to be considered as an important, guiding principle in our decision and, where appropriate, accorded great, but not necessarily greater, weight.

Having considered the history of redistricting in South Carolina and the evidence of traditional districting principles presented in this proceeding, we find that the traditional districting principles and existing redistricting policies observed in South Carolina direct us first and foremost to remedy the population deviations in existing districts by maintaining the core of those districts present in the malapportioned plan, while adding or subtracting population in a compact and contiguous manner to achieve the population equality required by the Constitution. In doing so, we consider all of the districting principles historically observed by the state. Generally speaking, however, we find that the cores in existing districts are the clearest expression of the legislature's intent to group persons on a "community of interest" basis, and because the cores are drawn with other traditional districting principles in mind, they will necessarily incorporate the state's other recognized interests in maintaining political boundaries, such as county and municipal lines, as well as other natural and historical communities of interest.