
Consequences of Florida’s Proposed Amendment 3: Diminishing the Voting Power of the State’s Black and Latinx Voters

Overview: Amendment 3, proposing a change to Florida’s primary election model from a “closed primary” to a “top-two primary,” will appear on the state’s 2020 General Election ballot this November.¹ The implications of shifting state primary models are not nearly as straightforward as the amendment title – “All Voters Vote” – implies, and a closer look shows that it could have significant negative impacts on Black and Latinx voting strength and representation.

A “top-two primary” is distinct and relatively rare primary model that may have negative consequences on the voting power of voters of color. Florida’s Amendment 3, “All Voters Vote in Primary Elections for State Legislature, Governor and Cabinet,” proposal would shift Florida’s primary elections from a “closed primary,” in which voters must be registered with a political party to participate in that party’s primary election, to a “top-two primary” model. Although supporters are billing this proposal as a type of “open primary,” in which voters may choose which party’s ballot to vote, the “top-two primary” is a distinct and much less common model.

Similar to an “open primary,” the “top-two primary” allows a voter to cast a vote across party lines. However, a “top-two primary” model lists all candidates, regardless of party affiliation, on one ballot and the two candidates with the most votes advance to the general election.² While 15 states currently host “open primaries,” only two states, Washington and California, use a “top-two primary” system for Congressional and state-level elections (Nebraska and Louisiana share some common traits, but are also distinct).³ The “top-two primary” methodology is relatively new – Washington was the first state to adopt the system in 2004 and California followed in 2010 – and the impacts are still being monitored.⁴

Supporters of Florida’s Amendment 3 are focusing on the inclusion of unaffiliated voters in primary races, part of a laudable goal to ensure more voter participation. However, recent analyses have highlighted that another result of the amendment could be to dilute the voting strength of Florida’s voters of color.⁵ Given the history of racist voter suppression and the fact

¹ If approved by 60 percent of the voters, the shift would be implemented in 2024. Amendment 3, Constitutional Amendment Petition Form. <https://dos.elections.myflorida.com/initiatives/fulltext/pdf/64632-5.pdf>

² For an overview of state primary models, see NCSL: *State Primary Election Types*. <https://www.ncsl.org/research/elections-and-campaigns/primary-types.aspx>

³ Ibid.

⁴ See, for example, Highton, B., Huckfeldt, R., & Hale, I, *Some General Consequences of California's Top-Two Primary System*. California Journal of Politics and Policy (2016) <http://dx.doi.org/10.5070/P2cjpg8230564>

⁵ See Isbell, Matthew, “Top-Two” will Bleach Minority Districts in Florida (July 16, 2020). <https://mcimaps.com/top-two-will-bleach-minority-districts-in-florida/>



that Florida’s counties are no longer subject to the preclearance requirement of Section 5 of the Voting Rights Act after *Shelby County v. Holder*,⁶ it is incumbent upon us all to be especially vigilant in monitoring voting shifts that impact the voting power of voters of color.

Amendment 3 could diminish Black and Latinx voting power in Florida. Independent data consultant Matthew Isbell recently examined the potential impacts of Amendment 3 on Florida’s majority-minority districts and on its “minority access” districts (also known as “minority-opportunity” or “influence districts”), those in which voters who are not a racial majority of the statewide electorate may still be able to influence the outcome of an election in their district, without constituting a district-wide majority.⁷ Isbell finds that the results of implementing Amendment 3 would constitute “a severe reduction in the ability of African-Americans to control the outcome of several districts where they currently have members.” He reports that the inclusion of predominantly white Republican voters may not swing the partisan balance of seats in these districts; however, it could cause districts to swing races toward white Democrats, further reducing the number of lawmakers of color.⁸

Majority-minority and “minority opportunity” districts are determined through a variety of metrics including the voting-age population and a district’s political performance.⁹ Focusing on the political history of a district, Isbell’s functional analysis includes such metrics as registration by party, race, and outcomes of recent elections to determine the potential impact of Amendment 3 on minority districts in Florida. Isbell finds that 10 State Senate Districts would see a reduction in the voting power of voters of colors, mostly at the expense of African Americans; 15 State House Districts would lose control of the voting power of the District, again at the expense of African Americans.¹⁰

As a concrete example, Isbell points to Senate District 19 in the Tampa Bay Area, a majority-minority district that has been drawn to cross the Tampa Bay since the 1990s in order to create a more representative seat. The district is currently comprised of 48% Black voters among

⁶ *Shelby County v. Holder*, 133 S. Ct. 2612 (2013). For a list of Florida Counties previously covered, see Department of Justice, *Jurisdictions Previously Covered by Section 5*.

<https://www.justice.gov/crt/jurisdictions-previously-covered-section-5>

⁷ For definitions of majority-minority districts and minority opportunity districts, see for example, Brennan Center, *Where Should the Lines be Drawn* (2010).

<https://www.brennancenter.org/sites/default/files/legacy/CGR%20Reprint%20Single%20Page.pdf>

⁸ Isbell, Matthew, “*Top-Two*” will Bleach Minority Districts in Florida (July 16, 2020).

<https://mcimaps.com/top-two-will-bleach-minority-districts-in-florida/>

⁹ Like all states, Florida must comply with constitutional equal population requirements and Section II of the Voting Rights Act. Florida also provides additional constraints in its state constitution stating that districts may not be drawn “with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice.” See FLA. CONST. Art III, Sections 20-21; Amendments 5 and 6 (which became Art. III, §§ 20 and 21 of the Florida Constitution when passed in 2010), were precleared by the Department of Justice on May 31, 2011. A challenge was rejected on September 9; the decision was affirmed on January 31. See Brennan Center’s *Redistricting in the Courts*.

<https://www.brennancenter.org/issues/gerrymandering-fair-representation/redistricting/redistricting-courts>

¹⁰ Isbell, Matthew, “*Top-Two*” will Bleach Minority Districts in Florida (July 16, 2020).

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Democrats and 80% white Republican voters. As shown below, the impact of Amendment 3 would provide white voters in the district a 17% advantage over Black voters.¹¹

Senate District 19 Registered Voters									
Party	Black		Hispanic		White		Asian/Other		Total
Democrats	93,461	48.19%	25,871	13.34%	61,473	31.70%	13,131	6.77%	193,936
NPA/Other	21,121	18.67%	22,616	19.99%	54,717	48.36%	14,698	12.99%	113,152
Dem & NPA	114,582	37.31%	48,487	15.79%	116,190	37.84%	27,829	9.06%	307,088
Republicans	3,567	4.24%	8,632	10.27%	67,134	79.88%	4,706	5.60%	84,039
All Voters	118,149	30.21%	57,119	14.60%	183,324	46.87%	32,535	8.32%	391,127

Source: Isbell, Matthew, *“Top-Two” will Bleach Minority Districts in Florida* (July 16, 2020).

Amendment 3 would also impact election results in Latinx-access districts in Florida. A “safe” Democrat Latinx district, like Senate District 15, has 47% Latinx voters and 28% white voters. By including the 70% white Republican voters in the same electorate, Amendment 3 would result in a near-perfect split between white voters and Latinx voters, at which point it is crucial to note the well-documented turnout deviation between the two populations. In November 2018, the turnout rate was 43% for Latinx voters and 62% for white voters. This resulted in the electorate that actually participated in Senate District 15’s election being 48% white, 33% Latinx.¹² This election data show that, if Republicans are included in the electorate of Latinx-access districts in Florida, the outcome of elections will not be decided by Latinx voters, undermining the power they have within the current primary system.

Conclusion: The “top-two primary” would constitute a significant shift in Florida’s elections with potentially detrimental consequences. District-level analysis shows that Amendment 3 could impact the voting strength of voters of color and make it more difficult for candidates of color to win legislative races.

¹¹ Ibid.

¹² Isbell, Matthew, *“Top-Two” will Bleach Minority Districts in Florida* (July 16, 2020). <https://mcimaps.com/top-two-will-bleach-minority-districts-in-florida/>

