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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 SUSAN SOTO PALMER, *et al.*,

Cause No. C22-5035RSL

7 Plaintiffs,

8 v.

ORDER OF JOINDER

9 STEVEN HOBBS, *et al.*,

10 Defendants.

11 This matter comes before the Court on defendant Steven Hobbs’ “Motion to Join
12 Required Parties.” Dkt. # 53. Plaintiffs filed this lawsuit to challenge the redistricting plan for
13 Washington’s state legislative districts, alleging that the Washington State Redistricting
14 Commission (“the Commission”) intentionally configured District 15 in a way that cracks apart
15 politically cohesive Latino/Hispanic¹ populations and placed the district on a non-presidential
16 election year cycle in order to dilute Latino voters’ ability to elect candidates of their choice.
17 Plaintiffs assert a claim under Section 2 of the Voting Rights Act (“VRA”), 52 U.S.C.
18 § 10301(a), and request that the Court enjoin defendants from utilizing the existing legislative

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21 ¹ The Complaint and this Order use the terms “Hispanic” and “Latino” interchangeably to refer
to individuals who self-identify as Hispanic or Latino and to persons of Hispanic Origin as defined by
the United States Census Bureau and United States Office of Management and Budget.

1 map and order the implementation and use of a valid state legislative plan that does not dilute,
2 cancel out, or minimize the voting strength of Latino voters in the Yakima Valley.

3 Plaintiff chose to sue Steven Hobbs, Washington's Secretary of State, Laurie Jinkins, the
4 Speaker of the Washington State House of Representatives, and Andy Billig, the Majority
5 Leader of the Washington State Senate. The claims against Representative Jinkins and Senator
6 Billig were dismissed on the ground that plaintiffs failed to plausibly allege an entitlement to
7 relief from either of them. Dkt. # 66 at 4-5. Secretary Hobbs, on the other hand, has the
8 responsibility of overseeing elections in the State of Washington. RCW 29A.04.216 and
9 29A.04.230. To the extent plaintiffs seek an order enjoining enforcement of the existing maps,
10 Secretary Hobbs would be the appropriate recipient of that order. He asserts, however, that he
11 does not have an interest in defending the existing districting plan and that he would not have
12 the power to implement a new plan even if plaintiffs are successful in this litigation. He argues
13 that the Commission, its members, and/or the State of Washington should be joined as
14 defendants in order to ensure that plaintiffs' Section 2 claim is resolved through the adversarial
15 process and that complete relief can be afforded.

16 Rule 19(a) of the Federal Rules of Civil Procedure establishes the circumstances in which
17 a party must be joined if feasible:

18 (1) Required Party. A person who is subject to service of process and whose
19 joinder will not deprive the court of subject-matter jurisdiction must be joined as a
20 party if:

21 (A) in that person's absence, the court cannot accord complete relief among
22 existing parties; or

1 (B) that person claims an interest relating to the subject of the action and is
2 so situated that disposing of the action in the person's absence may:

3 (i) as a practical matter impair or impede the person's ability to
4 protect the interest; or

5 (ii) leave an existing party subject to a substantial risk of incurring
6 double, multiple, or otherwise inconsistent obligations because of
7 the interest.

8 The parties apparently agree that the Commission, its members, and the State of Washington are
9 subject to service of process and that their participation in this lawsuit would not deprive the
10 Court of subject matter jurisdiction. The primary issue, as far as the Court is concerned, is
11 whether complete relief can be granted with Secretary Hobbs as the only defendant.

12 As noted above, plaintiffs seek not only an injunction against the use and enforcement of
13 the existing legislative redistricting plan, but also a Court order directing "the implementation
14 and use of a valid state legislative plan." Dkt. # 1 at 42. Controlling precedent makes clear that,
15 if the Court finds that the existing plan violates Section 2, the political apparatus of the State
16 gets "the first cut at drawing a new map." *Singleton v. Merrill*, __ F. Supp.3d __, 2022 WL
17 265001 (N.D. Ala. Jan. 24, 2022). *See North Carolina v. Covington*, 138 S. Ct. 2548, 2554
18 (2018) ("State legislatures have primary jurisdiction over legislative reapportionment . . . and a
19 legislature's freedom of choice to devise substitutes for an apportionment plan found
20 unconstitutional, either as a whole or in part, should not be restricted beyond the clear
21 commands of federal law." (internal quotation marks, alterations, and citations omitted)); *Wise*
22 *v. Lipscomb*, 437 U.S. 535, 540 (1978) ("When a federal court declares an existing

1 apportionment scheme unconstitutional, it is therefore, appropriate, whenever practicable, to
2 afford a reasonable opportunity for the legislature to meet constitutional requirements by
3 adopting a substitute measure rather than for the federal court to devise and order into effect its
4 own plan.”). Under Washington law, the Legislature, its four caucus leaders, and the
5 Commission all play a role in the redistricting process. Wash. Const. art. II, § 43; RCW
6 44.05.030; RCW 44.05.080; RCW 44.05.100. By statute, the Commission that developed the
7 redistricting plan at issue in this litigation remains in existence until July 1, 2022. RCW
8 44.05.110(2). If changes to the legislative plans are necessary after the Commission ceases to
9 exist, “the legislature may, upon an affirmative vote in each house of two-thirds of the members
10 elected or appointed thereto, adopt legislation reconvening the [C]ommission for the purpose of
11 modifying the redistricting plan.” RCW 44.05.120(1).

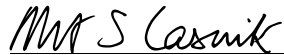
12 We are currently in a period in which it is unclear which state entity, if any, has the
13 power to modify the redistricting map. The Commission completed its statutory redistricting
14 tasks, and the plan, with its legislative amendments, became final on February 8, 2022. There is
15 no indication that the Commission retains the power to further alter or modify the plan. The
16 legislature’s power to reconvene the Commission for the purpose of modifying the plan arises
17 “[i]f a commission has ceased to exist,” which is not yet the case. RCW 44.05.120(1).² As
18 Secretary Hobbs aptly observes, “[t]he multiple actors and interwoven responsibilities create

20 ² Contrary to plaintiffs’ bald assertion, Representative Jinkins and Senator Billig do not have the
21 power, much less the sole power, to reconvene the Commission or to otherwise provide the affirmative
22 relief plaintiffs seek.

1 procedural complications [if the Court finds that the 2021 redistricting plan violated the VRA
2 and orders the creation of a new, compliant plan]. Ordering the joinder of the State of
3 Washington would cut the Gordian knot.” Dkt. # 53 at 6.
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5 For all of the foregoing reasons, the Court finds that, at this unique procedural juncture in
6 the redistricting process, the State of Washington’s participation in this lawsuit is necessary to
7 ensure that the Court has the power to provide the relief plaintiffs request. The Court therefore
8 orders joinder pursuant to Rule 19(a)(1)(A). Plaintiffs shall, within seven days of the date of this
9 Order, file an amended complaint adding the State of Washington as a defendant.
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11 Dated this 6th day of May, 2022.

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13 Robert S. Lasnik
14 United States District Judge
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