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15 UNITED STATES DISTRICT COURT  
16 FOR THE EASTERN DISTRICT OF WASHINGTON

17 ROGELIO MONTES and MATEO ARTEAGA,

18 Plaintiffs,

19 vs.

20 CITY OF YAKIMA; MICAH CAWLEY, in his  
21 official capacity as Mayor of Yakima; and  
22 MAUREEN ADKISON, SARA BRISTOL,  
23 KATHY COFFEY, RICK ENSEY, DAVE  
24 ETTL, and BILL LOVER, in their official  
25 capacity as members of the Yakima City  
26 Council,

Defendants.

NO. 12-cv-3108-TOR

FAIRVOTE’S BRIEF OF *AMICUS  
CURIAE*

Noted for Hearing:

October 23, 2014  
Without Oral Argument

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1 **STATEMENT OF INTEREST**

2 FairVote’s familiarity with the use of the single vote method in at-large elections renders  
3 it particularly well-suited to expound on that method’s usefulness as a remedy in this case.

4 FairVote submits this brief to highlight the benefits of using the single vote method to elect  
5 multiple officers at-large in Yakima as opposed to exclusively using single-member districts.

6 FairVote is a 501(c)(3) non-profit organization founded in 1992 whose mission is to advocate for  
7 fairer political representation through election reform. FairVote’s mission rests on the belief that  
8 implementing voting methods like ranked choice voting, cumulative voting, the single vote, and  
9 other American forms of non-winner-take-all multi-member elections will lead to representation  
10 in government more reflective of society’s diversity. FairVote encourages public officials,  
11 judges, and the public to explore beyond the exclusive use of single-member districts as a  
12 remedy for unlawful elections systems. FairVote has consistently presented arguments  
13 promoting the use of fair representation voting as a legal and effective remedy for voting rights  
14 violations, including in areas where race is a divisive and controlling factor. *See generally*,  
15 FAIRVOTE, <http://www.FairVote.org>.

16 FairVote has previously filed amicus curiae briefs in cases involving the permissibility of  
17 fair representation voting as a remedy under the Voting Rights Act, 42 U.S.C. §§ 1973-1973bb-1  
18 (2013), and the California Voting Rights Act, CAL. ELEC. CODE §§ 14025-32 (2012). *See, e.g.*,  
19 *Sanchez v. City of Modesto*, 145 Cal. App. 4th 660 (2006); *United States v. Vill. of Port Chester*,  
20 704 F. Supp. 2d 411 (S.D.N.Y. 2010). In addition, FairVote has published scholarship on the  
21 topic of fair representation voting and voting rights. *See, e.g.*, Rob Richie & Andrew Spencer,  
22 *The Right Choice for Elections: How Choice Voting Will End Gerrymandering and Expand*  
23 *Minority Voting Rights, from City Councils to Congress*, 47 U. RICH. L. REV. 959, 988–1002

1 (2013); Jerome Gray, *Winning Fair Representation in At Large Elections* (1999), available at  
2 <http://www.fairvote.org/the-voting-rights-act-jerome-gray-and-fair-voting-in-alabama>  
3 (describing the effect of the single vote method and cumulative voting in 32 local jurisdictions in  
4 Alabama).

### 5 **SUMMARY OF ARGUMENT**

6 FairVote submits this brief to highlight the benefits of using the single vote method to  
7 elect multiple officers at-large in Yakima as opposed to exclusively using single-member  
8 districts. Utilizing the single vote method to elect at-large members of the Yakima City Council  
9 would guarantee that Latino voters would have the power to elect a Latino-preferred candidate  
10 when they surpass the “threshold of exclusion.” While reaching this threshold *guarantees* a  
11 preferred candidate’s victory, in any given election, some candidates are nearly certain to be  
12 elected with a share of votes below this threshold. This is due to votes from the majority  
13 community not being evenly divided among the same number of candidates as seats. Meanwhile,  
14 election of a Latino-preferred candidate to an at-large seat would mean that every Latino in the  
15 city would have a Latino-preferred representative, rather than only those confined to a majority-  
16 minority or opportunity district.

17 Drawing on the experiences of other local jurisdictions, FairVote encourages the parties  
18 and the court to consider remedial election methods that elect more than two members at-large  
19 with a fair representation voting method. As Plaintiffs note in their remedial redistricting plan,  
20 the threshold of exclusion decreases as the number of candidates increases. The simplest  
21 approach, administratively, would be to slightly modify Defendants’ proposed remedial plan by  
22 retaining Yakima’s four residency districts and three at-large seats, but restrict voting in the  
23 residency districts to voters living in those districts, redraw district lines to create one majority

1 Latino district, and elect the three at-large seats in a non-staggered election by a fair  
2 representation voting method such as the single vote method, which the City of Yakima has  
3 already proposed. Doing so would guarantee the election of any candidate with more than one-  
4 fourth of the votes cast, and would provide practical access to representation for candidates with  
5 lower vote shares. In addition, FairVote suggests the parties support voter outreach efforts  
6 regardless of the remedy to ensure that Yakima’s electorate is aware of the new rules and able to  
7 seize the opportunities they provide for voters to elect preferred candidates.

8 **ARGUMENT**

9 I. THE SINGLE VOTE METHOD OFFERS A BETTER REMEDY FOR LATINO  
10 VOTER DILUTION THAN SINGLE-MEMBER DISTRICTS

11 Although single-member districts are often used to remedy voting rights violations, fair  
12 representation voting in at-large elections, under appropriate conditions, has promoted voter  
13 participation, created fair representation, and provided flexibility as electorates change. These  
14 methods, including the single vote method, allow politically cohesive minority groups to elect at  
15 least one candidate of choice without requiring the majority vote share required to guarantee  
16 election under a winner-take-all method.

17 Political scientists represent this winning proportion of the vote, known as the threshold  
18 of exclusion, with the following mathematical formula: one divided by the sum of one plus the  
19 number of seats to be filled (plus one vote), or:

$$Threshold = \frac{1}{(Seats + 1)} + 1 Vote$$

21 Steven J. Mulroy, *The Way Out: A Legal Standard for Imposing Alternative Electoral Systems as*  
22 *Voting Rights Remedies*, 33 HARV. C.R.-C.L. L. REV. 333, 340–41 (1998). For example, in a  
23 single-seat race, a candidate would need one-half of the votes cast (plus one vote) to be  
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1 guaranteed to win; for a two-seat race, a candidate would need one-third of the votes cast (plus  
2 one vote) to be guaranteed to win; for a three-seat race, a candidate would need one-fourth of the  
3 votes cast (plus one vote) to be guaranteed to win; and so on. Note that the threshold is *not* the  
4 minimum number of votes required to be elected; candidates can win election with less than that  
5 threshold. Rather, it merely is the proportion of the vote that *guarantees* election.

6 FairVote has advocated for three forms of fair representation voting as remedies for vote  
7 dilution claims brought under the Voting Rights Act: ranked choice voting, cumulative voting,  
8 and the single vote method. FairVote most strongly recommends ranked choice voting as a  
9 general reform and as a remedy for vote dilution claims under the Voting Rights Act because it  
10 provides for fair representation while simultaneously fostering meaningful competition among  
11 diverse candidates and improving the tenor of campaigns. *See generally*, Andrew Spencer and  
12 Rob Richie, *supra*. However, because Defendants have recommended the use of the single vote  
13 method, this brief focuses on that method.

14 A. The Single Vote Method Can Serve as an Effective Remedy in Yakima

15 The Voting Rights Act does not require the use of single-member districts alone as  
16 remedies for violations of the Voting Rights Act. *United States v. Euclid City School Bd.*, 632  
17 F.Supp.2d 740, 751–52 (N.D. Ohio 2009) (adopting the defendants’ proposed at-large single  
18 vote plan over the plaintiffs’ proposed single member district plan). Rather, the inquiry must  
19 look to the facts specific to each individual case. *See Harper v. City of Chicago Heights*, 223  
20 F.3d 593 (7th Cir. 2000), 600 (“[A]t-large procedures that are discriminatory in the context of  
21 one election scheme are not necessarily discriminatory under another election scheme.”). Setting  
22 aside the remedial nature of Defendants’ proposed districts, whether the single vote method for  
23 at-large seats is sufficiently remedial turns on whether the threshold of exclusion is low enough

1 to provide Latino-preferred candidates with the opportunity to be elected. *Euclid City School Bd.*,  
2 632 F.Supp.2d at 761–62.

3 The threshold of exclusion is not too high for Latino voters to successfully elect a  
4 candidate of choice at-large under Defendants’ proposed remedial plan. While Plaintiffs  
5 accurately represent the operation of the threshold of exclusion, Plaintiffs’ Motion for Entry of  
6 Proposed Remedial Plan and Final Injunction at 9, No. 12-CV-3108 (Oct. 3, 2014) [hereinafter  
7 ACLU Brief], their characterization could benefit from some additional detail. It is true that  
8 Latino voters would need to exceed the threshold of exclusion to *guarantee* election, but  
9 candidates can be elected with less than the threshold under fairly ordinary circumstances. If  
10 even one majority-favored candidate receives more than the threshold number of votes or if  
11 majority-favored candidates outnumber the seats available, and each such candidate attracts at  
12 least some votes, a Latino-preferred candidate would no longer need to reach the threshold.  
13 Needing to surpass the threshold of exclusion to win is only necessary if 100% of the majority  
14 group not only votes for other candidates but also coordinates to perfectly split their support  
15 evenly among the necessary number of majority-group candidates.

16 For example, suppose four candidates ran for the two at-large seats: two competitive  
17 majority-preferred candidates, one less competitive majority-preferred candidate, and one  
18 Latino-preferred candidate. Suppose 75% of voters voted for the other three majority-preferred  
19 candidates and split their votes such that 50% voted for one candidate, 20% to the second, and  
20 5% to the third. That would mean that the Latino-preferred candidate could be elected to one of  
21 the two seats with just over 20% of the vote. In addition, more than 70% of voters would be  
22 represented by a candidate for whom they voted. In short, Latino voters will be able to elect  
23

1 candidates of choice with two at-large seats elected by the single vote method provided at least  
2 some non-Latino voters vote for them as well.

3         The amount of crossover voting from white voters in Yakima’s prior elections indicates  
4 that Latino-preferred candidates can be elected in at least one of the at-large seats with the single  
5 vote method. Yakima’s past primary election results allow for an approximation of how the  
6 single vote method would work in Yakima elections for two seats. The primary has effectively  
7 been a single vote system, with the two “winning” candidates advancing to the general election  
8 in November. The second-place “winner” in these primary elections has had vote shares as low  
9 as **28.62%**, YAKIMA COUNTY CANVASSING BOARD, PRIMARY 2007 AMENDED CANVASS REPORT  
10 (2007), *available at* <http://www.yakimacounty.us/vote/English>Returns/2007Primaryresults.pdf>  
11 (Susan Whitman, 2007 District 4 primary), **25.71%**, YAKIMA COUNTY CANVASSING BOARD,  
12 CUMULATIVE REPORT (2011), *available at* [http://www.yakimacounty.us/vote/English>Returns/](http://www.yakimacounty.us/vote/English>Returns/2011PrimaryResults.pdf)  
13 [2011PrimaryResults.pdf](http://www.yakimacounty.us/vote/English>Returns/2011PrimaryResults.pdf) (Rich Marcley, 2011 District 2 primary), and **21.44%**, YAKIMA  
14 COUNTY CANVASSING BOARD, CUMULATIVE REPORT (2013), *available at*  
15 <http://www.yakimacounty.us/vote/English>Returns/Primary2013.pdf> (Charles Noel, 2013 at-  
16 large position 5 primary). In both elections cited by this Court as examples of polarized voting,  
17 the Latino candidates of choice who lost in the single winner general elections had in fact “won”  
18 one of two positions in the primary election. In 2009, Sonia Rodriguez and Benjamin A. Soria  
19 both advanced to the general election with 38.15% of the vote and 31.82% of the vote in their  
20 respective primaries. *Montes et al. v. City of Yakima et al.*, No. 12-CV-3108 at 36-37 (E.D.  
21 Wash. Aug. 22, 2014). It is therefore inaccurate to portray the use of the single vote method as  
22 “an experiment in minority vote dilution.” ACLU Brief at 11.

1 The single vote method would be more consistently effective as a vote dilution remedy if  
 2 Yakima were to adopt a four district remedial plan with three seats elected at-large. As Plaintiffs  
 3 note, the threshold of exclusion lowers as more seats are elected at-large on the same ballot.  
 4 Under Defendant’s proposed remedial plan, only two of the seven seats are elected at-large,  
 5 which results in a threshold of one-third of the votes cast (plus one vote). If three seats were  
 6 elected at-large instead, allowing Yakima to retain its current four district map, then the  
 7 threshold would be only one-quarter of the votes cast (plus one vote).<sup>1</sup> The Hispanic/Latino share  
 8 of registered voters in 2013 was 19.9%, and it has steadily risen by about 1 percentage point  
 9 every year. See the following table, generated using data from L2 VoterMapping technology  
 10 (<http://www.votermapping.com/>):

Election	Hispanic/Latino	
	Absolute Total	Share of Electorate
2013 General	7172	19.9%
2013 Primary	6955	19.6%
2011 General	5565	17.5%
2011 Primary	5448	17.3%
2009 General	4566	15.9%
2009 Primary	4514	15.8%

16  
 17 This fact, coupled with the expected rate of crossover voting and the fact that the Latino vote  
 18 share would not actually need to exceed the threshold for a Latino-preferred candidate to be

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21 <sup>1</sup> If four seats were elected at-large, the threshold would be only one-fifth of the vote cast (plus  
 22 one vote), though as the number of district seats goes down, it will be more difficult to draw one  
 23 that is majority Latino.

1 elected as mentioned above, suggest that with three seats elected at-large by the single vote  
2 method, a Latino-preferred candidate could be reliably elected in the near future, if not presently.

3         Regardless of remedy, we recommend that Yakima conduct a voter education campaign.  
4 Remedies can best achieve their full potential if eligible voters and candidates are aware of the  
5 change and the potential it creates for fair representation. *See Vill. of Port Chester*, 704 F. Supp.  
6 2d at 451. Latino turnout has been disproportionately low in Yakima city elections, making  
7 public awareness of the election date important.<sup>2</sup> This is especially true where vote dilution is  
8 due in part to historical discrimination in education and socio-economic factors, a point Plaintiffs  
9 are right to raise. *Id.* Combined with voter education in both English and Spanish, the use of the  
10 single vote method can address vote dilution in Yakima.

11         B. The Single Vote Method Serves Latino Voting Rights Better than Single-Member  
12         Districts Alone

13         In addition to effectively remedying racial minority vote dilution, fair representation  
14 voting methods like the single vote carry a number of other benefits. Because single member  
15 districts are winner-take-all, large numbers of voters remain unrepresented when those voters do  
16 not compose a majority of a district. If Yakima were to adopt a seven-district plan and Latino  
17 voters were then able to elect preferred candidates in two districts, all Latino voters in the other  
18 five districts would still be unable to elect a candidate of choice in the event of ongoing racially  
19 polarized voting. On the other hand, if two or three at-large seats in a single vote system were

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21 <sup>2</sup> One alteration that would likely enhance equitable turnout would be to hold the municipal  
22 election on even-numbered years to consolidate it with state and federal general elections.

23 Although this would be a novel practice in Washington, it is common in California.

1 used to remedy vote dilution, the entire Latino population would be empowered to elect a  
2 preferred candidate. All Latinos in the Yakima would then have a direct connection to a  
3 representative whom they could approach regarding constituency services.

4 Fair representation voting methods avoid the problem of “virtual representation.” Instead  
5 of grouping voters by district and then having all seven council members represent a different  
6 majority group in each district, methods like the single vote allow voters to “self-district” by  
7 choosing representatives themselves. A smaller number of districts would still ensure that local  
8 concerns are addressed, and at least one such district should be majority-Latino, but there are  
9 also concerns that deserve recognition outside of voters’ district boundaries, and groups outside  
10 each district’s majority deserve representation as well.

11 Plaintiffs note that the use of the single vote method does “not address the barriers  
12 Latinos face running for at-large positions in terms of money and resources.” ACLU Brief at 10.  
13 Although campaigns would be citywide, candidates would be competing for a smaller share of  
14 votes than a majority, because the threshold of exclusion is no higher than one-third of votes in a  
15 two-winner race and one-quarter of votes in a three-winner race, allowing candidates to focus on  
16 smaller communities within the larger city. Fair representation systems like the single vote  
17 method have consistently elected the preferred candidates of racial minorities when their  
18 participation rates approach the threshold of exclusion, and this has included elections in which  
19 those racial minority candidates were heavily outspent. *See* Steven Hill & Rob Richie, *New*  
20 *Means for Political Empowerment in the Asian Pacific American Community*, 11 HARV. J. ASIAN  
21 AM. POL’Y REV. 335, 340 (2000–2001) (citing the election of Bobby Agee in Chilton County,  
22 Alabama despite being outspent 20-1 by the highest-spending candidate).

1 Further, the inclusion of single vote at-large seats will incentivize Latino-preferred  
2 candidates to activate Latino voters, who currently vote at much lower rates than white voters,  
3 thus increasing representation and empowering voters throughout Yakima. *See Vill. of Port*  
4 *Chester*, 704 F. Supp. 2d at 453; *see also* Briffault, *Lani Guinier and the Dilemmas of*  
5 *Democracy*, 95 COLUM. L. REV. 418, 424 (1995) (“The [Voting Rights] Act was intended to  
6 initiate a process of political mobilization [and] grass roots organization.”). This will be  
7 especially true if the Court requires Yakima to engage in a voter education campaign as part of  
8 its remedy. The more Latino voters participate, the more reliably they will elect a preferred  
9 candidate, as their share of registered and active voters approaches their share of eligible voters.

10 Finally, the single vote and all other fair representation voting methods are wholly race  
11 neutral. As such, they completely avoid concerns of “racial gerrymandering” and “balkanization”  
12 mentioned in the *Shaw* line of cases. *See Miller v. Johnson*, 515 U.S. 900, 920 (1995); *Vill. Of*  
13 *Port Chester*, 704 F. Supp. 2d at 453 (finding that cumulative voting avoids the constitutional  
14 concerns with racial gerrymandering). In fact, there is compelling evidence that fair  
15 representation voting fosters the construction of cross-racial coalitions among both voters and  
16 legislators. *See*, Steven J. Mulroy, *Alternative Ways Out: A Remedial Map for the Use of*  
17 *Alternative Electoral Systems as Voting Rights Act Remedies*, 77 N.C. L. REV. 1867, 1903  
18 (1999); Richard H. Pildes & Kristen A. Donoghue, *Cumulative Voting in the United States*, 1995  
19 U. CHI. LEGAL F. 241, 297 (1995).

20 II. FAIR REPRESENTATION VOTING HAS SERVED AS AN EFFECTIVE  
21 SECTION 2 REMEDY IN OTHER JURISDICTIONS

22 About 100 jurisdictions in the United States elect officers using either ranked choice  
23 voting, cumulative voting, or the single vote method. The term “limited voting” generally refers

1 to the election of officers at-large or in multi-member districts in which voters have fewer votes  
2 than the number of seats to be elected, and some variant of limited voting is used in dozens of  
3 U.S. cities, including most municipal offices in Connecticut (including for the Hartford,  
4 Connecticut city council) and many local offices in Pennsylvania (including the at-large  
5 positions on the Philadelphia, Pennsylvania city council). Fair representation voting methods,  
6 including the single vote method, have a strong backing in academic literature surrounding the  
7 Voting Rights Act. *See generally* Lani Guinier, *supra*; Pildes & Donoghue, *supra*. Almost all  
8 adoptions of fair representation systems have followed actual or threatened litigation under the  
9 Voting Rights Act. *See* Engstrom, *Cumulative and Limited Voting: Minority Electoral*  
10 *Opportunities and More*, 30 ST. LOUIS U. PUB. L. REV. 97, 98 (2010). They have been approved  
11 by courts even in situations where the method employed is not provided for in state law. *Vill. of*  
12 *Port Chester*, 704 F. Supp. 2d at 449.

13 Fair representation voting methods have proven highly effective as remedies for Voting  
14 Rights Act cases. Many jurisdictions with minority populations that had gone unrepresented  
15 under winner-take-all at-large systems elected representatives preferred by those minority  
16 populations for the first time using fair representation voting methods. *See, e.g.*, Engstrom,  
17 *supra*, at 125 (first Latino representative); Robert R. Brischetto & Richard L. Engstrom,  
18 *Cumulative Voting and Latino Representation: Exit Surveys in Fifteen Texas Communities*, 78  
19 SOC. SCI. Q. 973, 975 (1997) (first Latino and Native American representatives); Pildes &  
20 Donoghue, *supra*, at 272–73 (first black representative). In one instance, a jurisdiction where  
21 African Americans were 11.3% of population was able to elect its representative of choice in the  
22 very first use of the system in 1988, and that candidate has continued to win ever since,  
23 consistently earning strong support among African American voters. *See* Pildes & Donoghue,



1 *supra*, at 262. In cities and counties across the country, fair representation methods like the  
2 single vote method are giving minority groups a voice and a stake in their government that they  
3 have never before enjoyed.

4 Plaintiffs’ characterization of Defendants’ proposed plan as replacing “the City’s current  
5 hybrid at-large system with a new hybrid at-large system,” ACLU Brief at 4, ignores the critical  
6 distinction between electing at-large by a winner-take-all method, like the use of numbered  
7 positions, and electing at-large by a single vote method that gives minorities the power to  
8 achieve adequate representation. *See Chapman v. Meier*, 420 U.S. 1, 16 n.10 (1975) (“criticism  
9 of multi-member districts is rooted in their winner-take-all aspects”) (quoting *Whitcomb v.*  
10 *Chavis*, 403 U.S. 124, 158–59 (1971)). Similarly, every case to which Plaintiffs cite as striking  
11 down a hybrid system deal only with at-large seats elected on a winner-take-all basis. ACLU  
12 Brief at 6.

13 Indeed, courts routinely uphold systems that include at-large elections with fair  
14 representation voting as remedies for vote dilution claims. *See, e.g., Vill. of Port Chester*, 704 F.  
15 Supp. 2d 448-49 (adopting cumulative voting in at-large districts); *Dillard v. Chilton County Bd.*  
16 *of Educ.*, 699 F. Supp. 870, 876 (M.D. Ala. 1988) (upholding cumulative voting in at-large  
17 districts); *Banks v. Peoria*, No. 87-2371 (C.D. Ill. 1987) (approving cumulative voting in at-large  
18 districts). At least one court has imposed the use of cumulative voting (similar to the single vote  
19 method) in at-large elections after a finding of Section 2 liability after the defendant jurisdiction  
20 did not propose any remedy itself. *Cottier v. Martin*, 475 F. Supp. 2d 932, 932 (D.S.D. 2007).

21 Fair representation voting at-large satisfies the “one person, one vote” requirement more  
22 precisely than districts, especially given shifts in population over time. *Id.* at 939 (cumulative  
23 voting “achieves precise population equality” because it uses only one district in which all voters

1 have the exact same number of votes); *McCoy v. Chicago Heights*, 6 F. Supp. 2d 973, 984 (N.D.  
2 Ill. 1998) *rev'd sub nom. on other grounds by Harper v. City of Chicago Heights*, 223 F.3d 593  
3 (7th Cir. 2000); *Cane v. Worcester Cnty.*, 847 F. Supp. 369, 374 n.8 (D. Md. 1994), *rev'd on*  
4 *other grounds*, 35 F.3d 921 (4th Cir. 1994)<sup>3</sup>; *see also* Lani Guinier, (*E*)*Racing Democracy*, 108  
5 HARV. L. REV. 109, 135–36 (describing how cumulative voting satisfies one person, one vote). It  
6 has also been approved by courts even when in tension with state law. *Vill. of Port Chester*, 704  
7 F. Supp. 2d at 449; *see also Voinovich v. Quilter*, 507 U.S. 146, 157 (1999) (state redistricting  
8 law superseded after a finding of a violation of the Voting Rights Act); *Cleveland Cnty. Ass'n for*  
9 *Gov't by the People v. Cleveland Cnty. Bd. Of Comm'rs*, 142 F.3d 468, 476 (D.C. Cir. 1998) (the  
10 Supremacy Clause of Article VI of the U.S. Constitution allows Voting Rights Act remedies to  
11 supersede state law).

## 12 CONCLUSION

13 For the foregoing reasons, this Court should give deference to Yakima's preference for a  
14 non-winner-take-all, fair representation system at-large. A remedial map consisting of at least  
15 three at-large seats elected by the single vote or other fair representation voting method would be  
16 preferable, accompanied by a city-backed plan of voter outreach, and would provide the above-  
17 mentioned benefits to the city of Yakima.

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18  
19 <sup>3</sup> Both *Chicago Heights* and *Worcester Cnty* were reversed because the defendant jurisdiction  
20 proposed the use of districts, and courts defer to a defendant jurisdictions choice of legally  
21 acceptable remedy. *Worcester Cnty*, 35 F.3d at 928–29; *Chicago Heights*, 223 F.3d at 602. In  
22 this case, Defendants have proposed the use of the single vote method, and so that deference  
23 militates in favor of upholding its use.

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