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February 19, 2009

To: Representatives from the California Bureau of State Audits

I recommend that the State Auditor publish for comment the standards to be included in the factors for selection of the pool of recommended applicants. That should be done as soon as possible. The State Auditor could seek public comment on the standards during calendar year 2009.

I recommend that the State Auditor, in publically seeking comments on the standards to be applied, publish the request for comments with a draft framework to allow the public to focus their comments on relevant issues.

For example, if diversity is defined in part by allocating inclusion in the pool of recommended applicants based on population of the state, that could be addressed by providing that at least one member included in the final recommended pool be selected from each State Senate District in California. At the time that the current districts were determined, there were approximately 846,000 +/- people in each district. Based on the increase in population of the State of California between 2000 and 2008, of approximately 4,000,000, the California Senate districts would have an average of approximately 915,000 people at the time that Proposition 11's provisions are implemented.

After the Applicant Review Panel selects those 40 pool members, two additional members could be selected from each of the 10 most populous counties. That method would satisfy a characteristic of geographical diversity.

As can be seen by the table below, that would result in the final panel of 60 having about three panelists from the County of Fresno, three or four each from Santa Clara, Alameda and Sacramento, four or five each from Riverside and San Bernardino, and about twelve from Los Angeles County. In the unlikely event there are insufficient qualified applicants from any of the ten most populous counties, the panel of 60 could be filled out by selecting up to two additional applicants from each of the next most populous counties (i.e. Ventura, San Francisco, Kern, etc.) until the panel of 60 is completed.

#### **MOST POPULOUS COUNTIES**

1. Los Angeles	10,363,850
2. San Diego	3,146,274
3. Orange	3,121,251

4. Riverside	2,088,322
5. San Bernardino	2,055,766
6. Santa Clara	1,837,075
7. Alameda	1,543,000
8. Sacramento	1,424,415
9. Contra Costa	1,051,674
10. Fresno	931,098

This information is derived from the [spreadsheet](http://www.fresnolibrary.org/ref/pop/caldof.html) on the website of the California Dept. of Finance, Demographic Research Unit.  
<http://www.fresnolibrary.org/ref/pop/caldof.html>

The State Auditor could further define the elements of diversity she intends to use, and consider the comments received from the public before finally determining the characteristics to be considered.

Once the characteristics have been determined and published, I recommend the State Auditor prepare a standard application form to be completed by all applicants. In addition to any demographic characteristics deemed relevant, an applicant should report on her/his experience with mathematics, computers, politics, and community activity, her/his level of education and professional/work history. I suggest that of particular importance would be an applicant's experience in working with groups of individuals in the context of board or committee work.

The State Auditor should also determine whether or not letters of recommendation for an applicant would be received, and, if so, any limitations that might be placed on such submissions such as length, number, etc. Further, a determination should be made and published whether letters of recommendation, if allowed, would be considered if submitted by a person who, individually, would be disqualified from consideration as a commission member by the provisions of Government Code §8252(a)(2).

I recommend, at the very least, that letters of recommendation for an applicant should not be received from any "...State Board of Equalization member, Senator, Assembly Member, congressional member, or their representatives...". California Government Code § 8252(d) Because the Applicant Review Panel may not have access to any data base that would reveal if a person recommending an applicant was a "representative" of any of the prohibited categories, it might be prudent to prohibit letters of recommendation entirely.

Further, "representative" is not defined in Government Code § 8251. Some late challenge (e.g. "That letter writer is the brother-in-law of an Assembly Member's staff person.") could threaten the validity of the actions of the Applicant Review Panel. Since those Panel members are, by law, barred from certain contacts, excluding any secondary contact incidents could be a good choice.

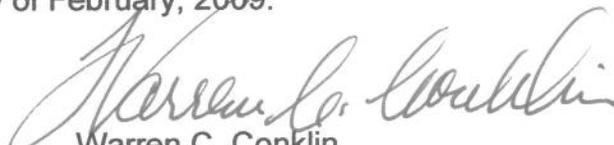
I suggest that the standard application form require each applicant to attach a copy from the office of the Registrar of Elections for her/his home county showing (1) their voter registration for the past five (5) or more years; and (2) a copy of the Voter History of Eligible Elections maintained by the Registrar as to the voting history of that particular applicant for the past three general elections. Requiring the applicant to prove eligibility under California Constitution, Article XXI, Section 2 (c) (3) would avoid any late surprises on that issue.

Whether those copies should be certified by the Registrar(s) of Elections would be an option to be determined by the State Auditor.

Lastly, I recommend that the State Auditor publish by January 1 of each year ending in the number zero a schedule of deadlines for applicants for appointment to the Commission. Since all applicants must be certified to the Applicant Review Panel by August 1, 2010 and subsequent years ending in the number zero, an earlier deadline should be established for the State Auditor to receive applications.

I recommend that the State Auditor select April 30 (May 1, 2010 is a Saturday) as the initial deadline date for receipt of applications. That would allow the State Auditor to advise an applicant by June 1 whether her/his application was complete in form and substance. Any errors or omissions could then be corrected by the applicant, with a final submission of the application due not later than July 1. This would allow sufficient time for the State Auditor to screen all finalized applications, and publicize the names in the applicant pool and provide copies of the applications to the Applicant Review Panel. California Government Code §8251(c)

Respectfully submitted this 19<sup>th</sup> day of February, 2009.



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To: Representatives from the California Bureau of State Audits

It was a pleasure appearing today and being given the opportunity to share some thoughts with you at your public hearing on behalf of the State Auditor.

This letter is in the nature of, as they say in Congress, "permission to revise and extend my remarks".

First, one of my statements today was in error. After the hearing, it was pointed out to me that §8252(b) of the California Government Code prescribes that the Applicant Review Panel shall be selected "...from a pool consisting of all auditors employed by the state...". Accordingly, I withdraw my comments about possible selection of the Applicant Review Panel from outside auditors in the state. That would appear to be unauthorized.

Secondly, I would like to support the comments of the gentleman, who made reference to the San Diego meeting, about publication of the names of applicants. I agree that transparency of the process would require that all the names of the persons submitting applications for inclusion in the Citizens Redistricting Commission be published. To that end, it would appear that there should be three lists published. The first list would consist of all applicants submitting an application to the State Auditor. The second list would consist of all applicants submitted to the Applicant Review Panel. And the third would consist of all applicants finally certified by the Applicant Review Panel for review by the legislators and ultimately selection by random draw for inclusion in the original eight persons on the Citizens Redistricting Commission.

In context of the foregoing, the following questions occurred to me.

1. Will the State Auditor screen the initial applications for characteristics that could disqualify the applicant from being considered other than those set forth in Government Code §8252(a)(2)?
2. If so, will that preliminary screening be published with any reasons for deselection other than those provided by statute?
3. Will demographic characteristics of the applicant pool members be published along with the names certified to the Applicant Review Panel?
4. If the answer is yes, will that information be published prior to receiving applications?

Applicants should be advised up front that their names would be published at least once, and perhaps as many as three times. Those who apply but are disqualified would need to understand that the omission of their name from the pool certified to the Applicant Review Panel would indicate their exclusion. The State Auditor should determine whether or not reasons will be given for any exclusions.

Unless giving reasons is required by statute, I believe a preferable process would be to publish the list of those certified, and not discuss why any given individual was not included on the list.

With full transparency, it can be anticipated that the State Auditor will be receiving many communications about various names on the first, and perhaps the second published list. Since the Applicant Review Panel is prohibited from receiving communications from certain individuals, the State Auditor should publicize how the communications will be received and considered, and by whom.

I have already made my comments about the potential problems presented by applicants including letters of recommendation with their application. I did occur to me, however, that with multiple publications, public comment in various forms will be inevitable, and a process needs to be developed to process those communications.

Lastly, I want to revise my recommendation on the selection of the last 20 potential Commission members. If the one potential Commissioner per Senate district method is used by the Applicant Review Panel, my recommendation would be to select 2 each from the 5 most populous counties, and 1 each from the next 10 most populous counties to complete the list.

Respectfully submitted this 19<sup>th</sup> day of February, 2009.

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