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**CALL FOR PUBLIC COMMENT**  
**PRIOR TO COMMENCEMENT OF RULEMAKING**  
**Voters FIRST Act (Proposition 11) Regulations**  
**Subchapter 1**  
**(Commencing with Section 60800)**  
**Division 10 of Title 2 of the California Code of Regulations**  
**January 15, 2010**

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The State Auditor intends to commence a rulemaking process on or about March 1, 2010, to further implement various aspects of the Voters FIRST Act. Due to time constraints, the bureau will not hold any interested persons meetings prior to commencing that rulemaking, but is using this call for public comment to request that interested persons submit their suggestions, in writing, by no later than **February 16, 2010**. The rulemaking process that will commence on or about March 1, 2010, will also provide opportunity for public comment, consistent with the California Administrative Procedure Act (Gov. Code § 11340 et seq.).

**The Voters FIRST Act**

The Voters First Act, approved by the voters in the November 4, 2008, general election as Proposition 11 (the act), requires the State Auditor to initiate an application process for a Citizens Redistricting Commission (commission). The commission, composed of fourteen members, is responsible for redrawing district lines for the Senate, Assembly, and State Board of Equalization based on the most recent census information. To serve as a member of the commission, an applicant must be a registered California voter who has voted in at least two of the last three statewide general elections and has been continuously registered with the same political party, or no political party, for at least five years immediately prior to selection. Additionally, an applicant cannot have a conflict of interest as defined by the act.

The act requires the State Auditor to select an Applicant Review Panel (panel) that will review the applications of persons wishing to serve on the commission. On November 15, 2009, the State Auditor selected this panel by randomly drawing the names of three auditors from a pool of qualified independent auditors who are licensed by the State Board of Accountancy and have 10 or more years of experience working as an independent auditor. Under the act, the panel evaluates all of the applications submitted, and based on that evaluation, identifies a pool of 60 of the most qualified applicants. This pool of 60 applicants must consist of three subpools of 20 applicants each, with one subpool comprised of applicants registered with the state's largest political party, another subpool comprised of applicants registered with the state's second largest political party, and a third subpool comprised of applicants not registered with either of the state's two largest political parties. The State Auditor sends a list of the names of the 60 applicants to specified leaders in the Legislature who may strike not more than 8 applicants from each of the subpools. The legislative leaders are then required to return the remaining names to the State Auditor, who randomly draws from the names of

**Citizens Redistricting Commission**

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applicants not stricken in each of the subpools 3 applicants registered with the largest political party, 3 applicants registered with the second largest political party, and 2 applicants not registered with either of the two largest political parties. These applicants drawn by the State Auditor become the first eight members of the commission. Those first eight commissioners select the additional six members who will serve on the commission from those remaining in the three subpools.

The State Auditor adopted regulations on October 20, 2009, that related to the following subject areas of the act: the creation and operation of the panel; a comprehensive outreach program designed to increase awareness of the opportunity to serve on the commission; several phases of the application process; the method for screening applicants to determine whether they meet the eligibility requirements to serve on the commission; the process for evaluating applicants to identify the pool of 60 of the most qualified applicants; the procedure for transmitting a list of the names of the 60 finalists to the Legislature; and the process for randomly drawing the first eight members of the commission (2 C.C.R. § 60800 et seq.). This prior rulemaking package did not address the final stage of the application process, wherein, pursuant to section 8252, subdivision (g), the first eight randomly selected commissioners choose the remaining six commissioners.

### **Call for Comments**

The act provides little guidance about how the first eight members of the commission will select the final six members. Therefore, consistent with the authority to adopt regulations related to the application process, the State Auditor intends to commence a rulemaking process that would further define the specifics of that final phase in the application process.

Of special note for this rulemaking are the provisions of the act which state that the six commissioners be “*chosen to ensure the commission reflects the state’s diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial*” (Gov. Code § 8252, subd. (g)). Those provisions, however, are silent on the specific methods and protocols that the first eight members might use in order to make their final selection, consistent with the criteria set out in the act. The State Auditor is particularly interested in receiving comments from the public on how this selection should occur, so that it is consistent with the criteria contained in the act, and invites comments on this issue.

In addition, the State Auditor also invites comments on other aspects of the act which interested persons believe require further clarification.

If you have any questions regarding this CALL FOR COMMENTS, please contact, Donna Neville, Legal Division, at (916) 445-0255 or in writing at the following address:

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