

Subject: PUBLIC COMMENT -- Advisory Committee members

From: James Wright <[REDACTED]>

Date: 7/27/2011 9:43 AM

To: [REDACTED]

Commissioners,

Please immediately post on your website the standing membership of each and every Advisory Committee formed for any purpose. Notation should be made of the party affiliation of those members.

Though some of the public are completely aware of who the core participants on each of the Advisory Committees, the same is not obvious to the casual observer.

Jim Wright
a Voter from San Jose

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July 27, 2011



California Redistricting Commissioners
California Redistricting Commission
901 P Street, Suite 154-A
Sacramento, CA 95814

Dear Commissioners:

Last Sunday, July 24, 2011, I objected to your closed session meetings that appeared to be unrelated to any potential or threatened litigation. Today, you have calendared for closed session a discussion with counsel concerning possible referenda against maps to be approved by the Commission not later than August 15, 2011.

If this closed session is to discuss possible litigation, we caution that the Citizens Commission has no role to play in the event of referendum and any Citizens Commission involvement in the referendum process itself would violate the California Supreme Court's injunction against "government taking sides" *Stanson v. Mott*, 17 Cal.3d 206 (1976).

If the Commission needs information about the referendum process, there is no reason to get that information in closed session, since there would not be pending or threatened litigation unless and until a referendum petition were circulating and might attain the requisite signatures to be likely to qualify for the ballot. While the Commission has "sole and exclusive authority to defend" its final maps certified to the Secretary of State (Cal. Const., Art. XXI, section 3(a)), if a petition for writ of mandate is filed against the Secretary of State in the event a referendum petition has qualified or is likely to qualify against one or more certified maps (Cal. Const., Art. XXI, section

BY ELECTRONIC MAIL

Letter to California Redistricting Commissioners

California Redistricting Commission

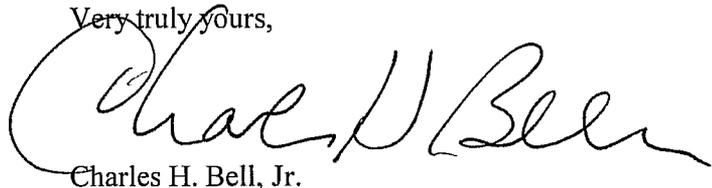
July 27, 2011

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3(b)(2)), the Constitution provides no role for the Commission in such litigation. Litigation seeking Supreme Court determination of a referendum stay question, and even the drawing of interim maps by the State Supreme Court, does not constitute a challenge to the validity of final maps for which the Commission has a duty of "defense" within the meaning of Proposition 11.

In short, we believe your questions and discussions of referendum in closed session would be inappropriate under the Bagley- Keene Open Meeting Act.

Very truly yours,

A handwritten signature in cursive script that reads "Charles H. Bell, Jr." The signature is written in black ink and is positioned to the right of the typed name.

Charles H. Bell, Jr.

CHB: sd

Subject: Public Comment: General Comment

From: Jeff Nibert <[REDACTED]>

Date: 7/27/2011 10:37 AM

To: [REDACTED]

From: Jeff Nibert <[REDACTED]>

Subject: Public Map Submissions

Message Body:

I noticed that some of the PDF files of public map submissions (specifically, most of those from CCAG) at <http://wedrawthelines.ca.gov/map-submissions.html> (which are actually stored at dropbox.com) are not readable by Adobe Reader X (v 10.0.1).

The Adobe error messages say that the files were not properly internally decoded when they were removed from an email.

I suspect that there was an error at your end when downloading the submitted maps from your email account.

Would you please correct this?

Sincerely,
Jeff Nibert

--

This mail is sent via contact form on Citizens Redistricting Commission

Subject: Public Comment: General Comment

From: Jeff Nibert <[REDACTED]>

Date: 7/27/2011 8:58 AM

To: [REDACTED]

From: Jeff Nibert <[REDACTED]>

Subject: Public Map Submissions

Message Body:

I noticed that a lot of your PDF files at <http://wedrawthelines.ca.gov/map-submissions.html> (which are actually stored at dropbox.com), or at least some more recent ones, are not readable by Adobe Reader X version 10.0.1. The error messages say that the files were not properly internally decoded when they were removed from an email.

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This mail is sent via contact form on Citizens Redistricting Commission

Subject: Public Comment: General Comment

From: Brian Yoder <[REDACTED]>

Date: 7/27/2011 6:07 PM

To: [REDACTED]

From: Brian Yoder <[REDACTED]>

Subject: Special and Racial Interests Versus Fair Redistricting

Message Body:

My name is Brian Yoder and I live at at 972 Cornell Road, Pasadena, and I am registered as a decline to state.

Thank you for making this forum available so that we can express our views about your work.

I have been watching this process closely since the beginning. I even applied to be on the commission though I ended up being weeded out at a certain point. I have also watched a lot of the videos of hearings as an endless succession of citizens and groups come to you with interests to promote. Each one asks you to "keep my district the same", "make my district different", or "please include this or that other area with mine". My concern is of a different kind, which is to say, a matter of principle rather than a specific appeal for particular lines in specific districts.

When the people of California voted to create this commission they were expressing a rejection of the idea of Gerrymandering, and I think it is important to consider exactly what that is and why we dislike it so much. Gerrymandering is the practice of creating districts in such a way as to manipulate the results of elections to work out the way the people drawing the districts want it to be rather than because of the way the people doing the voting want them to come out.

In the past, the political parties were allowed to construct strangely-shaped districts to give them safe seats where whichever party affiliation could dominate.

Some would say that one man's gerrymandering is another man's "maintenance of a community of interest", and I would like to ask you to not imagine yourselves somehow immune to the intentional manipulation of districts to promote political outcomes that you would like to see.

Specifically, I have been concerned about the focus of so many people associated with the commission including Justin Levitt of the Brennan Center for Justice who insisted (video here: <http://vimeo.com/7310182>) that anybody on the commission should be sure to be selected to not be "afraid of strangely-shaped districts" because he claimed that districts should be created along racial lines. It appears to me that the term "communities of interest" is being used as a euphemism for "groups of people with the same racial or political views that we want to see focused on as the most important in their areas". I believe that this is a bad idea for several reasons.

Race doesn't matter. If we believe that we are all human beings with the same kinds of minds, morals, and legitimate interests then it makes no fundamental sense to treat race as though it does matter. In fact, treating it as though it matters is the only thing that actually makes it so.

Whatever racial or political groups are selected for will by virtue of that fact become significant issues in electoral politics. For example, if you decide that people who ride

bicycles deserve to be included into districts with lots of other people who do, guess what? Elected officials will be inclined to treat the creation of bike trails, reduced bike registration fees, etc. out of all proportion to their actual significance. Likewise, if race is included in the definition of districts then racial issues will be forced into the forefront of elections. I don't believe that we should be encouraging racial divisions, promoting racial clannishness, and heightening racial distrust by way of racial gerrymandering. Ignoring race in the construction of districts would remove one more reason for people to care about race and would allow them get on with their lives in ways far more important than worrying about racial politics.

Gerrymandering for whatever purpose is bad in other ways too. Strangely-shaped districts disempower voters by making it hard for them to understand where they live and who their representatives are and who their fellow district-members are. If whole cities are selected together, if obvious boundaries like rivers, mountains, freeways, and existing city and county boundaries are used then people can understand their districts. They can know who their fellow constituents are, and they might even be able to meet with them and discuss politics. If they look like my own congressional district (the 29th) it defies description and comprehension. Such districts don't exist to be understood, they exist in order to force political outcomes that the people drawing the lines like and that's not the same thing. Compact comprehensible districts are good because they can be understood. They are also good because they give the impression (usually accurate) that the people drawing the

lines aren't playing politics and influencing elections.

I have a wide variety of interests and social affiliations. I am an engineer. I work in downtown LA. I speak English, Spanish, and a little Russian too. I am a mountain bike rider. I have an interest in the arts. I have a dog. I hate lawn work. I use Apple computers. You could if you wished, draw some very strangely-shaped districts to attempt to concentrate people with or without these characteristics, but of course that would be silly as well as unjust. Why is it that the commission should decide that these interests are unworthy of receiving special support for political representatives and somehow my income or racial background should? Picking and choosing populations according to your idea or anybody else's ideas of which populations deserve political power and which ones should be ignored is the reason that people don't like Gerrymandering, even though most people have preferred political parties, they don't want to see their districts drawn in such a way

as to skew elections so that this or that party (or race or gender orientation or whatever) as I see it is just as bad. It involves you and other people with political pull on the commission deciding for us what issues are important and which ones will be ignored.

I have heard a number of people mention the Voting Rights Act of 1965 as a justification for racial gerrymandering including in some of the commission's training materials, but I did a bit of research and I would like you to consider several court cases that appear to me to be very clear opinions from the court that the Act doesn't in fact require racially gerrymandered districts, notably *Bush v. Vera*, *Shaw v. Reno*, *Hunt v. Cromartie*, and *Miller v. Johnson*. I know that you have legal counsel and I would like you to read these opinions and ask your lawyers how it can be that in light of these decisions you think that you are either allowed to or required to make districting decisions based on race.

My recommendation would be for you to erase all racial data from your database and just draw the districts according to populations and let the chips fall where they may. If by some chance some districts happen to end up being more weighted toward Democrats or more Republicans or more mixed so be it. At least it is not the folks making special pleading for their political positions to supersede the will of the population. Elections are

supposed to be about the population selecting their representatives, not a way for the representatives to select their constituencies. This approach gets the decision-making exactly backwards and I urge you not to make that inversion. I believe that gerrymandering is a corrupt and wrong idea regardless whether it is done to promote a party, a race, or a political point of view and I would like all commissioners to reject it as well and draw districts strictly without regard to political, economics, and racial points of view in order to get!

the kinds of results you think are good. They should instead be impartially chosen with a mind toward comprehensibility and without regard to politics, race, income, ethnicity, or party.

I find it particularly upsetting that all of your mapping software is predisposed to compute only two things...populations and races as though race ought to be considered as important in drawing districts. I find the whole notion of doing so to be a thoroughly racist practice regardless of what I am sure that you consider to be good intentions. Need I remind you of what the paving stones of the road to hell are rumored to be composed of?

--

This mail is sent via contact form on Citizens Redistricting Commission

Subject: Release of shapefiles

From: Paul Mitchell <[REDACTED]>

Date: 7/27/2011 3:29 PM

To: Rob Wilcox <[REDACTED]> Daniel Claypool <[REDACTED]> Douglas Johnson <[REDACTED]> Matt Rexroad <[REDACTED]>

CC: "[REDACTED]" <[REDACTED]> "[REDACTED]" <[REDACTED]>

Commissioners and staff,

We keep hearing that the commission is not going to release shapefiles tonight, but only do the google maps. This is very concerning.

I hear every day about how people who do not use that technology are unable to review what the commission is doing - and how the maps that MPI and Redistricting Partners create are key to their understanding of the lines.

Additionally, the media is already calling in preparation for their Friday and Saturday stories. Without the files we will only be able to tell reporters that the commission is refusing to release the data. This is not the message that you want as a capstone to the several months work you did to make this process public and transparent.

Creating a shapefile takes 5 minutes. It is the exact same thing as converting to a KML/KMZ file. I didn't complain about these files not being put out earlier, but I and others will not hold back our frustration if they are not released tonight as promised.

Paul

Sent from my iPhone

Subject: PUBLIC COMMENT - After the Ball is Over

From: James Wright <[REDACTED]>

Date: 7/27/2011 11:16 AM

To: [REDACTED]

Commissioners,

Attached is a document containing several suggestions for your consideration. Among them are items that might affect the constitutional basis of the Commission (the law), rules regarding the formation of the Commission, a definition or two and various suggestions about how the Commission should conduct its meetings and business.

Please consider these items after 15 August when you discuss matters from other sources that you might wish to act on for submission to the Legislature, for your future meetings and to recommend to a following Commission.

You may wish to change the language of any of these proposals. My intent is to convey to you the ideas in as much detail as I can. Your consideration is appreciated. Thank You.

Jim Wright
a Voter from San Jose

—Attachments:—

After the Ball is Over_5.pdf

113 KB

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Meeting notices

Reference Constitution: [8253 (a)(1)]

Business Meetings

- a. Require only a ten (10) day notice for posting of agendas for Commission business meetings. Each such notice must also be sent via eMail to the interested parties list. Agendas may be posted earlier at the option of the Commission and/or Staff.
- b. Major items of business for each meeting must be well described in the initial posting of the agenda and may not be changed after the posting restriction period commences. Such changes are not considered to be revisions.
- c. Changes to the detail (not major items) of an agenda may be made and posted, as a “revised agenda”, until 24 hours prior to the start of the noticed business meeting. Each such revision must be clearly noted as to date within the body of the revised meeting notice and in the title as posted on the Commission website.
- d. A noticed meeting may be cancelled upon posting a “revised agenda - (cancellation)” online at least 48 hours prior to the start of the meeting and such notice must persist on the website until the meeting would have concluded. This is preferable to having the meeting notice simply disappear.

Input Only Hearings

- e. Meeting notices for input-only hearings must follow the same posting process as for Commission business meetings, but will lack any agenda items. If there are scheduled presentations for any input-only hearing, these must be indicated on the posting with approximate times (subject to last-minute changes).

Discussion

Meeting notices in this information age are typically posted on the World-Wide-Web in a Commission managed website and distributed to interested persons with eMail broadcasts. Posting of a paper notice on a bulletin board or door somewhere is simply not practiced anymore. Given that interested persons will, as has been demonstrated during 2011, actively monitor the Commission website for new and changed notices, a reasonably shortened interval for posting prior to commencement of any meeting is acceptable.

Change to Vacancy Refill Rules

Reference Constitution: [8252.5 (b)] and Regulation: [¶60863]

Before completing maps

Single vacancy on the Commission

- a. Continue Commission activity.
- b. Determine that there are at least 2 candidates in the affected subpool who are available and willing to stand for selection.
- c. Available candidates must submit to a 90 minute interview by a three member committee formed from the remaining Commissioners (1,1,1)¹ unless a subpool refill process has been recently effected by the BSA² which included such interviews.
- d. Refill the vacancy as soon as possible as a noticed major agenda item for the immediate next or with a newly scheduled Commission business meeting.

Multiple vacancies in the same subpool

- a. Cease all Commission activity.
- b. Determine that there are at least “2n” or more candidates available and willing to stand for selection in the affected subpool. “n” being the number of vacancies in the subpool.
- c. Available candidates must submit to a 90 minute interview by a three member committee from the remaining Commissioners (1,1,1) unless a subpool refill process has been recently effected by the BSA which included such interviews.
- d. Schedule and notice a new Commission business meeting as soon as possible, the sole purpose of which is to fill the vacancies in the applicable subpool.
- e. Since it will be impossible to constitute a quorum if the vacancies are in the Other/DTS subpool, or if there are three vacancies in either of the other two sub pools, a lottery is to

¹ (1,1,1) refers to membership including one Commissioner from the party with largest registration in California, one Commissioner from the party with second largest registration in California and one Commissioner from any other party or decline to state.

² BSA is the California Bureau of State Audits.

be held among those candidates remaining and available in the affected subpool(s) using the bingo-balls.

Multiple vacancies, but no more than one per subpool

- a. Cease all Commission activity.
- b. Determine that there are at least 2 candidates available and willing to stand for selection in each of the affected subpools.
- c. Available candidates must submit to a 90 minute interview by a three member committee from the remaining Commissioners (1,1,1) unless a subpool refill process has been recently effected by the BSA which included such interviews.
- d. Schedule and notice a new Commission business meeting as soon as possible, the sole purpose of which is to fill the vacancies.

After completing maps and publishing them.

Do nothing unless there are at least two vacancies on the Commission.

Multiple vacancies in the same subpool ...

...will require cessation of all Commission activity and determining that at least “2n” candidates in the affected subpool are available and willing to stand for selection. “n” being the number of vacancies in the subpool.

Use of the lottery process with the bingo-balls to fill the vacancies will be required.

Multiple vacancies in separate subpools but no more than one in any one subpool ...

... will require determining that at least 2 candidates in each of the affected subpools are available and willing to stand for selection.

Selection of the replacement Commissioners may be made by a super majority of the remaining Commissioners.

Multiple vacancies in separate subpools and more than one in any one subpool ...

... will require cessation of all Commission activity and determining that at least “2n” candidates in each of the affected subpools are available and willing to stand for

selection. “n” being the number of vacancies in the subpool.

Use of the lottery process with the bingo-balls to fill the vacancies will be required.

General Requirements

Available candidates must submit to a 90 minute interview by a three member committee from the remaining Commissioners (1,1,1) unless a subpool refill process has been recently effected by the BSA which included such interviews and the videos of those interviews are available.

Candidate availability and suitability must be confirmed prior to the start of a selection meeting.

Schedule and notice a new Commission meeting or add an agenda item to an already scheduled Commission meeting for action as soon as possible.

Discussion

The intent of a Commissioner to resign is the same as having actually submitted a resignation. A Commissioner who has made such a decision immediately becomes no different than any other member of the general public. They are no longer a member of the Commission and may not participate in Commission discussions (public comment is available to them at appropriate times and by appropriate means), may not receive per diem for any Commission session starting at the moment the resignation intent becomes known, may not receive reimbursement for travel expenses incurred post resignation. and may not vote on any Commission motions.

Death of a Commissioner, though unfortunate, is equivalent to a resignation and is a vacancy.

At various times during the life of the Commission, a vacancy might occur. The actions taken to fill that vacancy depend in large part on when in the course of events it has occurred. These recommendations are intended to cover all eventualities in a reasonable manner in compliance with the intent of Propositions 11 and 20.

Final map publication date

Reference Constitution: [8253, Sec. 3.2. Section 2 (g)]:

Change final map publication date

Establish a target date of 15 September 2nn1 for publication of the final maps. “nn” ranges from “01” to “99”.

Discussion

For various reasons, the 15 August date places a significant burden on the Commission to complete their maps without hurrying through the final steps of the process. Keep in mind that the bulk of the most important work of the Commission will occur during the summer months which is also a prime vacation time. It is, of course, incumbent on the Commission to develop a reasonable schedule to accommodate each of the activities for which they are responsible. However, when you factor in the start-up events such as hiring staff and consultants within the context of existing state regulations, it is difficult for the Commission to complete those personnel activities without pushing the actual work of the Commission into the last two or three months prior to publication.

Note that since the Department Of Justice review process takes approximately 14 days. Therefore, the Commission must essentially reach final agreement by 1 September xxx1.

One relief might be to exempt the Commission from some of the state hiring practices or modify scheduling requirements of those processes within the context of this Commission only.

Chair and Vice-Chair

Reference regulation [¶60858 (e)]:

Definition, Scope and Assignment

- a. The Chair and Vice-Chair of the Commission are at all times to be from a different SUBPOOLS, not Party.
- b. This applies to both the meetings of the first eight members and to the functioning of the full fourteen member Commission.
- c. Chair and Vice-Chair shall be monthly assignments. A new chair and vice-chair shall assume their duties on the first day of any month. The prior vice-chair shall become the current chair and a new vice-chair shall be chosen (from a different subpool).

Discussion

A flaw in the wording of Propositions 11 and 20 was to permit the Commission Chair and Vice-Chair to be selected from the same subpool (implicit) but not party. It was, therefore, possible for both the Chair and Vice-Chair to be from the “Other” subpool. Perhaps one registered with the Green party and one registered as decline-to-state. That flaw was in the choice of words used in the original propositions and should be repaired before the next Commission is chosen and seated.

Striking Process

Reference Constitution [8253.x]

Reference Regulation [¶60852 (c)]:

- a. Each of the four legislative leaders may strike a single (one) candidate from the twenty (20) in each pool of candidates.
- b. This leaves sixteen (16) in each pool since only four (4) would be dismissed from each pool or twelve (12) in total, leaving forty-eight (48, 80%) to enter the lottery.
- c. *(Presently each may strike two leaving 36 or 60%).*

Discussion

The selection process concludes by sending sixty names to the leaders of the legislature with twenty names in each of the three subpools. Those four sitting legislators then can each select two names to strike from each of the subpools for whatever reason they may chose (and not disclose). That results in a 40% reduction in the number of available candidates and that percentage is substantial. If they were required to disclose their reasons for such strikes, the process might be more acceptable, but as it is, one has to wonder the reasons why superbly qualified candidates are not passed on to the remainder of the selection process.

By reducing the strikes as suggested, only 20% of the original list would be affected and hence more of the qualified candidates would be available to serve. It would still be very nice to have the reasoning for any of the strikes available because the filtering process may actually have missed something important.

An argument could also be made to eliminate all strikes on the basis that the Commission's selection process is intended to be free of any influence from political parties and sitting elected officials.

Formation of ARP:

The BSA should form the ARP by 1 December in any year ending in a nine (xxx9).

Discussion

An earlier formation date permits the participants and their management to prepare for this very large task by rescheduling their workload and assignments anticipated during the following year.

Advisory Committees:

The Commission may form advisory committees

... from the Commission membership as standing committees. Advisory committees shall be formed for each of the following foci:

- i. Legal
- ii. Outreach/Public Information
- iii. Technical
- iv. Finance and Administration.

A focus person shall be established for each advisory committee and shall serve either for the duration or be rotated at the first of each month.

The standing membership of each Advisory Committee shall be posted on the Commission website with indication of party affiliation and an indication as to which member is the focal person.

Other advisory committees may be formed if necessary

... that will schedule their meetings with a minimum of a five (5) day notice by posting an agenda unless those meetings are within the extent of a Commission meeting agenda. No changes to the posted agenda are permitted. Advisory committee meetings are otherwise subject to Bagley-Keene and must be stenographically reported and video recorded. The video may be streamed live. The public must be permitted to attend and make comment.

... that may not make any decisions on behalf of the Commission, but must take their recommendations to the full Commission for decision.

... must be composed of at least three Commissioners with one selected from each of the subpools. A quorum for an Advisory Committee meeting is three Commissioners who are permanent members of the Advisory Committee (1,1,1). There shall be no more than 5 Commissioners as permanent members of any Advisory Committee. Other Commissioners may attend any Advisory committee meeting and participate in the discussion. They are on an equal footing with the public unless the Advisory Committee meeting occurs within a Commission business meeting. They will have no vote in any recommendations to be taken to the whole Commission.

Discussion

The advisory committee structure adopted by the 2011-2020 Commission has worked very well in enabling a strong focus to be brought to important detail subjects of interest and concern to the

Commission as a whole. Without tying the hands of future Commissions, the existing basic structure should be strongly suggested to following Commissions.

Emergency Commission meetings

... may be called with 24-hour notice by posting an easily and widely noticed single item agenda and the distribution of eMail notices to interested parties. The 24-hour period commences at least 24 hours prior to the start of the subject meeting.

No restrictions on when during the Commission tenure that such meetings may be formed.

Reasons for an emergency Commission meeting include but are not limited to the following:

1. Contract or contractor problems requiring immediate attention.
2. Staff personnel problems requiring immediate attention.
3. Legal challenges requiring timely decision.
4. During the final 30-days prior to scheduled publication of the final maps.
5. Notification by DOJ of failure to pre-qualify new final maps.

Discussion

Things happen. Action needs to be taken on matters well beyond the authority of staff. Therefore, the Commission needs to be able to meet, discuss and decide such matters.

It is hard to conceive of any other matters (than in the above list) which might prompt a rapidly called meeting of the Commission.

Of course, the Commission may call any meeting with a longer lead time which is less than the 14 (or 10) days specified in the regulations and laws with appropriate justification.

Budget

Reference Constitution section [8253.6 (a)]:

A budget shall be established for the Bureau of State Audit of \$1,500,000.00 (indexed for inflation) to accomplish review of established regulations regarding the Commission and to direct and complete selection of the Commissioners.

The Commission budget shall be \$10,000,000.00 (indexed for inflation) over three fiscal years (xxx0-xxx1, xxx1-xxx2, xxx2-xxx3).

\$2,500,000.00 of that amount is to be reserved to respond to possible litigation occurring prior to publication of the maps in years ending in a one and two (xxx1, xxx2).

The legislature shall allocate a minimum of \$1,000,000.00 annually (indexed for inflation) in fiscal year budgets commencing in years ending in 2-9 (xxx2, xxx3, ...) for Commission meetings, Commissioner per diem, Commissioner and travel expenses, contractor costs, meeting venue costs, data archive, website health, freedom of information requests and other clerical matters regarding the history and actions of the Commission.

The legislature shall provide sufficient funding to support legal challenges to the final published maps which have also received DOJ approval. These funds shall support work required by the State Supreme Court, the State Attorney General, Commission staff, Commission contractors and any legal counsel retained by the Commission in defense of their product.

Discussion

The initial Commission budget for the 2011-2020 Commission has proven to be woefully inadequate and required augmentation. Fortunately, the Legislature and Governor stepped up to the requirements of the Commission and provided barely adequate additional monies.

By starting with a larger budget and a mandate to spend less, a future Commission will be able to perform their duties without the need to interact with a perhaps compliant Legislature and Governor.

The specification of a following year(s) budget ensures that the data used and produced by the Commission will remain vibrant and available for PRA requests as well as to seed the actions of the following Commissions.

Completion of selection process

Reference Constitution section [8251 (g)]:

Upon selection of the final commissioner (number 14), the Commission shall hold their first business meeting within 20 days. During that meeting, the Commission shall advertise for the following positions:

- a. Executive Director.
- b. Recording Secretary.
- c. Website management consultant.
- d. Other offices and staff as desired.

The Commission shall also schedule additional meetings for the near term to take action on staff and consultant appointments.

Upon selection of an Executive Director, the Commission shall advertise for the following positions.

- a. Permanent legal counsel.
- b. Communications, Outreach, Public Awareness and Press liaison person.
- c. Other staff as may be necessary.

Discussion

The 2011-2020 Commission struggled to get their staff in place and commence operations. By requiring an early meeting and that the Commission start the staff selection process, many of the delays recently experienced may be avoided. These delays were principally caused by adherence to California state hiring and contracting practices.

If the Commission were to be exempt from the schedule imposed by these practices, events could progress more swiftly. Of course, the Commission should not be exempt from the intent of those very same practices.

Prison populations

The prison population shall be considered local to the city (if any) and county of the facility where they are incarcerated.

Discussion

Cities and Counties do frequently, not, have any significant say in the placement state prison facilities in their communities. Sometimes, they lobby to obtain exactly such facilities for a variety of reasons. Be that as it may, the impact of any state prison facility on a community is significant in that it provides direct employment for some citizens and indirect employment in the community through the services and goods which are needed for operation and maintenance of the facility. There is, also, some degree of risk to the community through the possibility of prisoner escapes and transport of prisoners through the community among other reasons.

Recognizing that those convicted of major offenses are felons and thus unable to vote unless pardoned, they are no different than other non-citizen individuals and should be counted in the same manner and have no different an effect on the community hosting their incarceration. Their numbers in that location will increase the strength of representation for each local district which will, somewhat, offset the negative impact of the facility upon that location.

Section 5 Counties:

Encourage each Section 5 County (Merced, Kings, Monterey, Yuba) in California to apply to withdraw from VRA Section 5 protection status.

Discussion

The ample discussion and testimony during discussion leading to the 2011 District maps for California has provided substantial information indicating that there is no longer a need for VRA section 5 protection in any of the four counties.

Additionally, the existence of the four as Section 5 counties has proved a substantial impediment to production of rational and well thought out/designed maps which adhere to the guidelines of Propositions 11 and 20. Their status has had the effect of producing districts which do not satisfy all of the criteria and has resulted in many less than optimum decisions. Though this result can not be sufficient reason for them to succeed in withdrawing from Section 5, it is nevertheless testimony to the present difficulty in maintaining prior benchmarks for those counties because of shifts in where the target populations reside. People have moved and the population densities of minority persons within those counties has, in most cases, declined. Such a decline in actual densities of targeted classes is not accommodated in the Voters Rights Act.

For the Commission to issue a statement of support to each of these counties for withdrawing from Section 5 with possible data including public testimony and the opinions of Commissioners on the matter might be of significant assistance in their efforts.

Population Deviations:

Population deviations within any type of district (Assembly [AD], Senate [SD], Congressional [CD], Board of Equalization [BD]) shall be considered as a total deviation in percent or count. That is, the sum of the largest positive deviation with the largest negative deviation shall not exceed the value in the following table.

<u>Type of District</u>	<u>Percent Deviation</u>	<u>Deviation in Count</u>
CA State Assembly	2.0%	N/A
CA State Senate	5.0%	N/A
CA Board of Equalization	8.0%	N/A
Congressional (CA)	N/A	1 Person

In all cases (excepting Congressional), a greater deviation in a single district beyond these limits may be used if it can be well proved that a significant overriding factor exists to justify individual deviations.

Discussion

One item that the current Commission has struggled with, is recognition that populations in some areas of the state are skewed through the persistent presence of persons who are either not citizens or not legal residents of the United States. California is in many ways dependent upon some of these individuals to provide labor needed in the agricultural, high technology, the services sector and other industries, so tends to tolerate their presence more than perhaps other states do.

Note that persons from many countries obtain work visas, education visas or pursue other legal means for being long term legal residents of the United States. Such persons, also are counted in the census, and have an effect on the formation of election districts by their presence. Among these are the citizens of foreign countries who are the legal spouses of United States citizens and applicant candidates awaiting citizenship.

Robert's Rules of Order

Reference regulation: [¶60858,f]

The Commission shall, at all times in all meetings, rigorously adhere to the procedures as stated in the most recent version of *Robert's Rules of Order*.

All decisions of the Commission shall be the result of a motion-second and vote.

Discussion

During most of the deliberations of the 2011-2020 Commission, adherence to Robert's Rules of Order has been mostly adhered to. There have been extended instances when the motion-second-discussion-decision pattern has not been followed.

Examples include several meetings when the proposed maps were being considered and the chair called for a showing of hands with 9 or more needed to indicate agreement. This certainly accelerated progress during these discussions, but lacked formal decision in providing guidance to the mapping contractor on how to draw the maps. And it was obvious as to the intent of each action, however, the only record was informal in the video and stenographic recording of the meetings. This process would have been wholly acceptable if ... at various points during the meeting a motion were offered referring to the prior discussion to formalize acceptance of all actions proposed and informally accepted therein.

Since, there was no formal motion and vote recorded, one could surmise that the mapping contractor was free to use their own good judgement in changing various aspects of the maps.

Memos from staff to Commissioners

All memos and other written communications conveyed to the body of Commissioners by staff shall be simultaneously made available to the public via posting on the Commission website.

Exempted are only those single topic memos dealing with personnel, finance or litigation matters.

Discussion

Though staff to Commission communications should occur in a free and open manner, many of those communications could be of concern to the public. Staff does not always have the luxury of passing information to the Commissioners in open meeting and the information being conveyed may be time-sensitive so should be communicated as soon as possible. Therefore, staff is free to communicate with the Commissioners via eMail, as long as those communications not exempted are also available to the public as if they were conveyed during an open meeting.

Of further concern are eMail communications from one Commissioner to all other Commissioners. These skate the edge of Bagley-Keene and could easily be considered to be public communications that should also be available for public view.