

May 29, 2009

TO: Elaine M. Howle, California State Auditor
FROM: Brian Lawson,

RE: Comments on the State Auditor's role in relation to the Redistricting Commission

Having read over the transcripts of the six public hearings I would like to make some suggestions which I hope do not duplicate earlier comments. I hope these comments will assist the Bureau of State Audits to design an effective process. I have a Ph.D. in political science and an MPA, which focused on intergovernmental management.

The first three comments are directly related to the application process. The remaining points are issues I would encourage the Bureau of State Audits (or perhaps the Secretary of State's office) to begin thinking about.

Suggestions for the Application Process

1. On the application form list the dates of the last three general elections (Nov. 04, 06, 08) and leave a space next to each election for applicants to indicate the county in which they voted.
 - (a) Why? Because voting histories are kept at the county level. It would also indicate to applicants that the Bureau plans to check this information.
2. Individuals with legal and technical expertise should be among the group of 60 potential commission members.
 - (a) Why? Although the redistricting commission will hire legal and technical staff the commission should be able to independently evaluate the advice given by staff and counsel.
3. I would suggest including information on the application form that gives applicants a realistic overview of what the job will involve. Although some suggestions were made in the public comments section along these lines (e.g. comments requesting that the Bureau give applicants some idea of the expected time commitment), I think you would be remiss if you did not, in addition to basic information about the commission, also give applicants a sense of the political context in which they will be carrying out their duties.
 - (a) Why include this type of politically charged information? For one thing, all the things described below are accurate and should be known by anyone who applies. Second, the more of this type of information that is included, the less likely it is that members will resign as a result of discomfort with the politics of the process. Multiple resignations can be problematic because they will force the Bureau to repeatedly go through the complex process of generating potential new members.
 - (b) Things applicants should be aware of:
 - i. Redistricting is a politically controversial process. Your actions as a member of the commission will be covered and from time to time criticized in a very public way. You should be able to take constructive and non-constructive public criticism.
 - ii. It is likely that powerful political figures will attempt to influence the redistricting process through the public media and perhaps other ways. You should be able to withstand political pressure and make an impartial, independent judgment. Members should be aware of what constitutes illegal or unethical attempts to influence them and should be willing to bring those efforts to light.

- iii. There will be a redistricting process going on at the same time, using the same data, drawing Congressional districts. Members of the commission should not be influenced by how this process is carried out. Members should not try to “compensate” for perceived unfairness in the Congressional process; alternatively they should not be swayed to follow the standards or procedures enunciated by those who draw the Congressional districts.
- iv. Commission members must be able to understand maps. This may seem obvious, but if a member doesn’t understand maps, they will ultimately be voting based on what other people tell them the map means.
- v. It is quite possible that the commission will be sued and in the worst case, litigation could drag on for years. As stated in Article XXI Section 2 (c) 4 members serve until the next commission is formed — 10 years down the road. Members should be prepared for a long term commitment (and the Bureau should be prepared to deal with multiple vacancies if there are long legal cases).
- vi. Over the course of the commission carrying out its work you may have strong disagreements with other commission members. Given the super-majority voting system required it is very important that you be able to work with people with which you disagree.

Additional Suggestions

4. *Prepare “hand-off” from Bureau of State Audits to Secretary of State’s office.* Based on 8253 (a) 5 the Bureau should make sure that by Nov. or Dec. 2010 (or earlier) the Secretary of State’s office is prepared to provide temporary staff to the commission so that it can hit the ground running. In fact, maybe the Bureau could argue that the topics covered below should be carried out by the Secretary of State’s Office rather than the Bureau of State Audits.
 - (a) Why? It is very important that the commission should be assisted on these points by one of these two agencies. Covering these points make it much more likely that the commission will have a chance to succeed. If these “process” points are allowed to fall through the cracks my guess is that the commission will probably have a very hard time.
 - (b) The Secretary of State’s office might actually be more motivated than the Bureau to carry out these actions because the Secretary of State is dependent on having the maps completed on time to be able to administer the elections.
5. *Provide training in group decision-making.* The Bureau (or Secretary of State’s office) should prepare a workshop to train commission members on how to carry out decision-making in a group setting. It would probably be easiest if the decision-making process was a simplified version of Robert’s Rules. Of course the process would have to take into account the unique super-majority and minimum group voting requirements which the commission must follow.
 - (a) Why? Members will have different levels of prior experience with group decision-making, so a workshop clearly outlining the process (preferably with a role-play component) would make sure all members would be able to participate equally.
 - (b) This training should be given to the 8 randomly selected individuals. They should then decide, using the voting standard given in 8252(g) (at least 2 Dem, 2 Rep and 1 Ind) how the remaining 6 members of the commission will be chosen and voted on (either vote on the 6 person-by-person, or as a slate).
 - (c) After all 14 members are selected the 6 new members (probably along with the initial 8) should be trained in the decision-making procedure that will be used. Obviously, once the

full commission is formed they could choose any procedure they wished (within the bounds of the statute).

6. *Provide information on the duties of the commissioners.* The Bureau (or Secretary of State's office) should prepare a workshop for the commissioners outlining the duties of the commission and what happens if they are unable to produce a set of maps. Giving them an overview of the timeline would be very helpful. Historical background about previous redistricting experiences in California would probably also be very helpful, especially emphasizing the possibility of legal suits which could drag on for years (to encourage the commissioners to be extra careful to keep their actions well within the law).
- (a) Why? Different members will have different knowledge and experience with the redistricting process in California. Also this would be very helpful in preparing members for what they are likely to encounter — especially since they will have a very limited amount of time (basically Jan. 2011 to Aug. 2011) to draw the maps.
 - (b) I would suggest the following potential timeline for the commission. This is a very ambitious timeline and yet, it only allows for one initial set of maps and then three revisions to those maps. Going over this timeline should give the commission an idea of the intense time pressure they will be up against.
 - i. Jan 2011 – organize how the commission will operate, hire staff that will take over from temporary staff provided by the Secretary of State's office
 - ii. Feb–Mar 2011 – hold initial hearings throughout the state
 - iii. Apr 2011 – deadline by which the Census Bureau must provide data (called PL 94-171 data) to the states to facilitate map drawing for 2012 elections.
 - iv. May 2011 – produce initial set of maps, hold hearings on maps, receive feedback
 - v. Jun 2011 – integrate feedback and produce second set of maps (first revision), hold hearings, receive feedback
 - vi. Jul 2011 – same for third set of maps (2nd revision)
 - vii. Aug 2011 – same for fourth set of maps (3rd revision)
 - viii. Drop dead deadline Sep 15, 2011.

In making these comments I found it very helpful to access the state constitution (Article XXI) on the web at

http://www.leginfo.ca.gov/.const/.article_21

and the Government codes related to redistricting at

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=08001-09000&file=8251-8253.6>

The Bureau might consider putting these links on the redistricting commission webpage.