

California Legislature

September 10, 2009

Daniel Claypool
Sharon Brumley
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: *Proposed Regulations to Implement Proposition 11*

Dear Mr. Claypool and Ms. Brumley:

We write on behalf of the California State Assembly and California State Senate with respect to the proposed regulations that your office has issued regarding the selection process for the Citizens Redistricting Commission. We want to commend you and your colleagues for the thought and hard work that went into developing these regulations and the care with which you explained what you did. We have only a few suggestions.

1. Timing of the Legislative Strike Process

As you may know, last March we wrote to Barbara Paget urging BSA to ensure that its regulations include provisions that ensure that the Legislature receives information about the applicants in a timely fashion. A copy of our March 16, 2009 letter is attached for your convenience. In that letter, we explained the Legislature's role in the Proposition 11 selection process and how important it is that the Legislature receive as much information as possible as soon as possible, so that it can exercise its strikes in an informed and timely fashion. We applaud your proposal to post all application materials on the bureau's website (§ 60842(f)), as well as recordings of the panel's interviews with the applicants and public comments regarding the applicants (§§ 60846(c), 60849(d)) and to present those materials to the Legislature. (§ 60852(b).) We assume that those materials will be posted in a timely fashion as they come in, but we would like to have that made clear in the regulations. In addition, we believe the Legislature should receive any investigative materials produced by the bureau or by the panel pursuant to section 60842(g), and we hope you will include that in section 60852(b).

Daniel Claypool
Sharon Brumley
September 10, 2009
Page Two

Our biggest concern is that we receive the names of the 60 applicants who are chosen for the Phase IV pool as quickly as possible. Section 60852(b) provides that the panel will send the materials over by October 1 of the application year and that the legislative leaders must submit their list of strikes by November 15 of the application year. Other than the January 1 deadline for written applications, these two deadlines appear to be the only ones in the regulations. Although we appreciate the difficulty of estimating how many people may apply and therefore how much time to allot to review applications, we also question the wisdom of allowing nine months for the first part of the process but only 45 days for the legislative leaders to act.

We suggest the following:

1. Although section 60843 provides that the application process shall open on or before January 1, we note that the BSA's tentative calendar calls for the application period to run between December 15 and February 12. We recommend that you extend the application process by two weeks, so that it runs from December 1 to February 28, rather than have it open just before the Christmas holidays. This is only two weeks later than the tentative calendar posted on the BSA website.
2. That you set a deadline by which the interview process must begin and end. We suggest that you end it by August 1st.
3. That the panel be given 30 days to decide upon the final pool of 60 applicants.
4. That the names of the 60 finalists be made public and transmitted to the Legislature by September 1st.

2. Relevant Analytical Skills (§ 60826)

We believe that the relevant analytical skills described in section 60826 place more emphasis on quantitative and technical skills than is necessary or appropriate. Our experience with the redistricting process teaches that although it is necessary to understand the legal principles that guide the process and the implications of drawing a boundary in a particular way, it is not necessary for decisionmakers to be able to draw the lines themselves. A heavy emphasis on technical and quantitative skills may discourage or disqualify many talented candidates and may skew the commission membership in ways that are not helpful to group process. We suggest that you omit references to "dense and technical written materials," "complicated statistical information," and "sophisticated software." In their place, we suggest that you refer only to "basic mathematical and computer skills."

Daniel Claypool
Sharon Brumley
September 10, 2009
Page Three

3. Protecting Minority Voting Rights

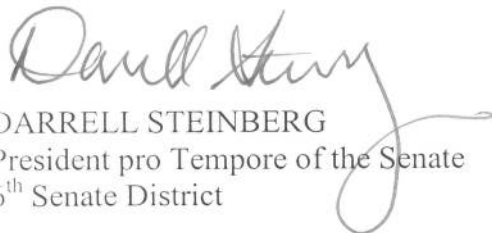
As the most diverse legislative body in the country, the California Legislature has long been at the forefront of protecting minority voting rights. Although Proposition 11 rightly lists compliance with the Voting Rights Act just below compliance with the federal and state Constitutions in the hierarchy of redistricting criteria, the proposed regulations make very little reference to the Act or the principles that it embodies. We would like to see more emphasis on protecting minority voting rights in the regulations, particularly in sections 60805 (defining "appreciation for California's diverse demographics and geography") and 60826's description of the skills necessary to apply the appropriate legal standards to drawing district boundaries.

Similarly, we would like to see more recognition of the need for geographic, cultural, and ethnic diversity on the commission. Our experience in the Legislature is that this kind of diversity is crucial to understanding the impact of line-drawing on various communities of interest. Because of the way the Legislature is elected, geographic diversity is, of course built into its deliberations. With only 14 commissioners, there cannot possibly be that kind of representation, but we urge you to include some mention of the need for commissioners who have experience with our coastal and inland areas, as well as with our urban, suburban, and rural communities.


Cultural diversity is another important attribute for the commission, not only because California has one of the most heterogeneous populations in the world, but because cultural similarities may in fact define the communities of interest that the commission is to take into account in drawing lines. The commissioners must be sensitive not only to ethnic and language communities of interest, but other communities such as the lesbian, gay, bisexual and transsexual community as well. Each of these groups, as well as many others, is represented in the Legislature. Altogether, we have 12 separate caucuses that will participate in Congressional redistricting this year. We hope that the commission will be able to demonstrate an equal commitment to diversity in its redistricting work.

Again, we commend you for the hard work and thoughtfulness your office has put into drafting the proposed regulations and thank you for your consideration.

Sincerely,



DARRELL STEINBERG
President pro Tempore of the Senate
6th Senate District



KAREN BASS
Speaker of the Assembly
47th Assembly District