

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0115

California Legislature

June 1, 2010

Gloria Gamino
Legal Analyst
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Proposed Regulations to Implement Proposition 11

Dear Ms. Gamino:

We write on behalf of the California State Assembly and California State Senate with respect to the proposed regulations regarding the selection of the final six members of the Citizens Redistricting Commission. As an initial matter, we want to commend the Bureau of State Audits for its effort to ensure that the selection process is transparent, fair and inclusive.

We have one suggestion regarding the proposed regulations. Section 60859 would impose an outright prohibition on any oral communications between the first eight Commission members and members or representatives of the State Board of Equalization, the Legislature, and Congress regarding the selection of the final six members. We believe that provision is both inconsistent with Proposition 11 and would result in a much less robust selection process. Instead, elected representatives should be able to address the Commission members at open meetings, just like every other member of the public.

Proposed Section 60859 is inconsistent with Proposition 11 because the measure does not prohibit oral communications between Commission members and members of the Legislature, Congress, and Board of Equalization in open meetings. The only prohibition about communications with Commission members is the provision that applies to everyone: Commission members and staff cannot communicate about redistricting matters with anyone outside a public meeting [Gov. Code, § 8253(a)(3)]. Thus, elected representatives are free to communicate with Commission members at open hearings, just like anyone else. There is no reason to depart from that rule for the short period during which the first eight Commission members select the final six members. Members of those legislative bodies should be treated no differently than any other member of the public or, for that matter, other state elected officials.

There is an equally important reason Section 60859 should be deleted from the final regulations: it would deny Commission members important information about both the qualifications of the remaining applicants and the factors to be considered when finalizing Commission membership. As you know, the Legislature has a critical role to play in the selection of the Commission by exercising up to 24 strikes. In the course of undertaking that responsibility, the Legislature will no doubt carefully examine the qualifications of the applicants and will gain a unique perspective on the applicants. The Commission members should not be denied access to that information when they decide who should be selected for the final six positions. In addition, more than perhaps any other individuals involved in the selection process, these elected representatives have a deep and unique understanding of California's racial, ethnic, geographic, gender and economic diversity, and therefore can provide the Commission with invaluable information about factors to consider to ensure that the Commission reflects the state's diversity.



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Moreover, under Proposition 11, these communications would occur during public meetings, thereby eliminating any concerns about transparency or undue influence.


In sum, to deny the first eight Commission members invaluable information about the selection process, or limit such information to prepared written testimony, would be contrary to the plain language and intent of Proposition 11 and would result in a less rigorous and informed selection process. For these reasons, we suggest that section 60859 be deleted from the final regulations and instead members of the Legislature, Congress, and Board of Equalization be subject to the same prohibition about communications with Commission members that apply to everyone.

Thank you for considering this proposal.

Sincerely,



DARRELL STEINBERG
President Pro Tempore
California State Senate



JOHN A. PÉREZ
Speaker
California State Assembly