

Observations Regarding California's First Redistricting Cycle

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California's Citizen's Redistricting Commission (Commission) was a result of the 2008 Proposition 11 Voters FIRST Act (act) initiative that established a new commission of 14 private citizens to complete the redistricting of California's state senatorial, assembly and Board of Equalization districts. The act narrowly passed with 50.7% in favor and 49.3% opposed. In 2010, Proposition 20 VOTERS FIRST Act for Congress added the redistricting California congressional districts to the Commission's responsibility. Proposition 20 passed by a wide margin with 61.2% of voters in favor of having an independent commission of citizens determine California's congressional representation.

Both acts have the same strict requirements for the selection of the Commission:

Each required the California State Auditor to complete the selection of the 14 commissioners. The designation of the State Auditor as the person and entity responsible for selecting the Commission assisted in creating confidence that the process of selecting the Commission would be conducted fairly.

Each required a broad outreach by the State Auditor. In response to the State Auditor's outreach program, over 30,000 Californian's applied for the 14 commissioner positions during the first cycle.

Each required a random selection of three of the State Auditor's staff with 10 years or more audit experience and a Certified Public Accountant (CPA) license to review the applications of the individuals who applied in order to identify 60 of the Most Qualified applicants. The three auditors were designated as the Applicant Review Panel (Panel). Similar to the selection of the Commission, the Panel was required to be comprised of one member from the state's largest party, one member from the state's second largest party, and one individual not affiliated with the two largest parties. This also helped promote confidence that it would be a fair process. (Note: At the end of the first redistricting cycle, the Legislature, working with the Commission, the Commission's staff and the State Auditor's office amended the requirement that each Panel member have a CPA license. For the 2020 cycle and thereafter, the requirement to have a CPA license is removed and the Panel members are only required to have 10 years or more audit experience. This significantly increases the number of State Auditor's staff that are eligible to be Panel members.)

Each required that California's Senate Pro Tem, Senate Minority Leader, Speaker of the Assembly and Assembly Minority Leader be allowed 45 days to remove two individuals each from all three applicant pools of twenty final applicants, Democrats, Republicans and those individuals not associated with those two groups, after reviewing the application material and qualifications for all of the applicants.

And finally, each specified that the first eight commissioners would be randomly selected from the final 36 applicants and those commissioners would subsequently selected the last six commissioners from the applicants that remained using specific criteria to ensure that the last six reflected the diverse demography and geography of the state.

The extensive selection process provided the required ratio of commissioners: five Democrats, five Republicans, and four individual's not affiliated with either of the major parties as required. It also created a commission that was demographically and geographically representative of the state's diversity as required in both initiatives.

The new Commission completed the task of redistricting 177 different districts in a little under eight months. To do so, the Commission conducted 34 statewide public hearings and over 70 deliberation meetings. When they completed their task they received accolades and honors for their achievement including recognition for a state process by the National Conference of State Legislature (NCSL) in 2012 and the Roy and Lila Ash Innovation Award for Public Engagement in Government from the John F. Kennedy School of Government at Harvard University in 2017.

How did I get involved?

I started work as an auditor at the Office of the Auditor General (Auditor General) in 1985 after graduating from Chico State University. I worked for the Auditor General for seven and a half years and progressed to a Staff Auditor position. I left the Auditor General's office after Proposition 140 passed in 1990. Proposition 140 was best known for providing term limits to California legislators. A lesser known provision of the proposition reduced the legislative budget by 38%. To meet the reductions in their budget, the Legislature defunded the Auditor General and effectively eliminated the Auditor General's staff. In April of 1992, as the final budget reductions set in, I moved to the Employment Development Department (EDD) and took a position as a Senior Auditor which I held for a little over three years. At the end of June, 1995, I left state service entirely to focus on a residential appraisal business that I had been building at night and on weekends while working for the state.

During the housing market recession of 2006-2008, the first provisions of the Dodd-Frank Act were enacted to reform, among other things, the method of lending on residential properties. The reform was much needed and long overdue. Unfortunately, the reform also decimated my appraisal business because of a regulation in the new, federal Home Value Code of Conduct

that required all appraisal assignments be made by “blind assignment”. The regulation eliminated direct appraisal assignments from loan officers and lenders. With the stroke of a pen, thirteen years of business contacts with lenders who provided me with appraisal assignments disappeared.

In the middle of 2008, I was struggling with how to move forward under the new appraisal regulations. During the fall of that year I had a chance meeting with Elaine Howle, the California State Auditor and an old friend. While talking with her, I commented that my work had slowed down and that I was looking for an interim employment solution while the new appraisal regulations were sorted out. She invited me to return to the State Auditor’s office. During October, 2008, I completed the required testing and interviews for a position as a senior auditor and in November I returned to the organization that I had left 16 years earlier.

My initial assignment was the opportunity to work on the implementation of the first selection process for the redistricting commission. The assignment was supposed to be short term because it didn’t look like the initiative would pass in the November election. When it did pass, my full-time involvement lasted almost three years. During that time, I worked with three attorneys from the Bureau of State Audits (BSA) as they turned Propositions 11 and 20 into administrative code; then worked with the team to create the actual process for the selection; and, finally implemented the application intake process as the Project Manager.

After the selection of the commissioners and their transfer to the Secretary of State for assistance in becoming fully functional, I applied to be their Executive Director. The Commissioners selected me and I began my work with the Commission on January 19, 2011, less than seven months before the redistricting maps were to be presented to the Secretary of State. In those seven months, I selected the Commission’s staff, oversaw the selection of their contractors, assisted the commissioners in the creation of their outreach and community meeting plan, and worked to keep the Commission funded and on schedule while the first commissioners completed their redistricting responsibilities.

The primary work of the Commission ended after the district maps were completed and submitted to the Secretary of State on August 15, 2011. Following that, the Commission’s final task during the primary redistricting phase was to defend their Senate maps in law suits before the California Supreme Court. On October 26, 2011, the court ruled 7-0 in favor of the Commission in the first two petitions. On December 12, 2012, the court ruled that the Commission’s Senate maps would be used in the 2012 election regardless of the outcome of Proposition 40, the referendum placed on the ballot to replace the Commission’s Senate maps with Senate maps from a special master.

With the end of the Commission's immediate legal defense of its redistricting maps, I began the process of closing down the Commission's office and downsizing its staff. In May of 2012, I participated in discussions with legislative staffers and representatives from the Department of Finance regarding the Commission's future and ongoing activities. As a result of those discussions, the legislature downsized the funding for the Commission in fiscal year 2012/13, reducing the Commission's allocation to approximately \$90,000 per year and one half-time Staff Service Manager I position.

My final work related functions for the Commission included laying off all of their remaining staff except the single individual who would continue on with them in the half-time position allocated to the Commission. I also oversaw the return of all of the state equipment not assigned directly to the commissioners or their single staff person and the submission of all documents and information compiled by the Commission and its staff during the redistricting process to the State Librarian for archiving.

On June 30, 2012, the sole commission staff person transitioned to her space in the State Treasury Building and on July 1, 2012, I returned to residential appraising. The Dodd-Frank Act had been sorted out and the reforms had been modified to allow appraisers to work directly for lenders but within restricted pools that allowed a level of consistency in assignments. I could make a living as an appraiser again.

From my experience with the 2010 Commission, I compiled this list of observations made by myself and the commission's staff with the intention of presenting the observations to the 2020 Commission when it is formed. I began the list shortly before my service with the 2010 Commission ended and continued to add to it during the interim years as I thought about how the process had evolved. The list of observations is far from exhaustive but it captures some important information regarding the process. It also identifies areas where our initial plan of operation evolved and expanded as we moved forward in a process that had never been done before. While each Commission is independent and may move forward in the manner that they believe is best suited for their redistricting cycle, I believe that the first Commission's experience is insightful.

In the spring of 2018, I received an email from the State Auditor's office asking me if I would like to return as a contractor to assist in the selection and transition process for the 2020 Citizens Redistricting Commission. I accepted and retired from appraising immediately after coming back to work for the California State Auditor's office on August 9, 2018. Under the direction of the State Auditor's Project Coordinator and Chief Counsel, Stephanie Ramirez-

Ridgeway, I once again oversaw the mechanics of the selection process for the new Commission as the Project Manager. My involvement started with the conceptual planning for the application and selection methods including hiring and directing the staff needed to move the applications through the review process.

The application process went smoothly because we had the experience of the first cycle to build on. The only exception was a brief period where it was necessary to adjust the application intake deadline to allow additional time to applicants because of the public disruptions caused by the California wildfires during the summer of 2019.

The second half of the process that included the interviews of the applicants was going smoothly until we had to make the internal transition from in-person interviews to tele-conferenced interviews because of the Covid-19 Stay-at-Home restrictions. To facilitate the transition, we paused for two days, set the tele-conferencing process in place and rescheduled the applicants who missed their interviews during the two day delay. We also tested the computer systems of the remaining applicants to ensure compatibility with our contractor's equipment. On the third day after we shut down, we continued on to complete the selection of the new Commission by the deadlines required in statute.

Following the random selection of the first eight commissioners, I completed the terms of my contract with the State Auditor by assisting in the final transition of the 2020 Commission to a fully functioning, independent entity that occurred during August, 2020.

My wife, Idelle, refers to my journey through redistricting as serendipitous. I think she's right.

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1

California's Proposition 11 of 2008 and Proposition 20 of 2010 envision a collaborative effort for redistricting between the Citizens' Redistricting Commission, state government and the legislature.

Both propositions envisioned a collaborative effort between the Citizens' Redistricting Commission (Commission), the Office of the Governor, the state legislature, and the state agencies and departments responsible for assisting the Commission in the completion of its responsibilities. Proposition 11 (2008) outlined the redistricting process for the state's Assembly, Senate and Board of Equalization districts and assigned specific responsibilities for the Commission, the Governor, the Legislature, the State Auditor, the Secretary of State, and the Department of Finance. These responsibilities were set into administrative code by the State Auditor following the passing of Proposition 11 on November 8, 2010. The additional requirements of Proposition 20 (2010) that required the Commission to complete the redistricting of California's Congressional districts were added into administrative code by the State Auditor following the passing of the proposition on November 2, 2010. Each of the five entities specifically named in the original initiatives have the following responsibilities under the Constitution or in Administrative Code:

- The State Auditor is responsible for the statewide outreach and selection process for each successive Commission. Following the first redistricting cycle, the Secretary of State, the State Auditor, the Commission, the Legislature, and the Governor agreed to a change in administrative code that eliminated the role of the Secretary of State and transferred the Secretary of State's role of transitioning each newly selected Commission to a fully functioning commission to the State Auditor. The transfer of this portion of the process was done to improve the efficiency and effectiveness of the process when starting up each successive commission.
- The Governor is responsible for providing the space that the Commission and its staff occupy and for providing a three year appropriation that provides funding to

the State Auditor and the Commission that is “sufficient to meet the estimated expenses of each... in implementing the redistricting process”. During the first citizens redistricting cycle, Governor Schwarzenegger provided a \$3,000,000 appropriation across three years and provided the Commission with office space in a state leased facility.

After approximately six months, the Commission and its staff were moved to an office space in a state owned building where it remained until the final legal challenges to the Commission’s maps were settled and its remaining legal challenges were transferred to the Attorney General’s office. The transfer of the Commission’s legal responsibilities to the Attorney General’s office ended the need for full staffing and the office space required for a larger, full-time staff. In a negotiation with legislative staff, the Commission’s staff was reduced to one half-time Staff Service Manager I position for the remainder of the Commission’s ten year cycle.

Once the Commission’s staff was reduced to one part-time position, the Commission was assigned a small office space in the State’s Treasury building. That space was ultimately returned to the State by the first Commission so that it could realize a budget savings and use that funding for ongoing operations. This included activities such as holding yearly or bi-yearly telephone conference meetings and participating in legal cases in other states primarily utilizing Amicus briefs. For the years following the relinquishment of its office space, the Commission operated without a physical office space. Their half-time staff person oversaw the Commission’s operations from her home.

- The Legislature is responsible for screening the final candidates for the Commission and is given the opportunity to remove up to eight candidates in each group of twenty (Republicans, Democrats and those selected that reflect that they are not affiliated with either of those parties) prior to the final selection process.

The Legislature is also responsible for overseeing the ongoing funding of the commission if the initial, three year appropriation by the Governor is insufficient to cover the cost of the Commission’s operations, activities and/or legal expenses. Two sections of Proposition 11 place the ongoing funding responsibility with the legislature.

- Section 8253.6, Citizen’s Redistricting Commission Budget, Fiscal Oversight states: “The Legislature may make additional appropriations in any year in which

it determines that the Commission requires additional funding in order to fulfill its duties.”

- Section 3.4, Article XXI (a) of the California Constitution states: “The Commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map.”

It is important to note that neither the propositions nor the subsequent administrative code specifies what constitutes “adequate funding” or the time period for the provision of any “additional appropriations”. Both the amount of additional funding and the timing for providing those funds are decided by the legislature. In the first redistricting cycle, additional appropriations were provided in two ways:

- Yearly requests were made by submitting a Budget Change Proposal (BCP) to the Department of Finance to cover identified costs that exceeded or were going to exceed the initial \$3,000,000/three year appropriation provided by the Governor and approved by the Legislature. This is the standard budgetary process for all state agencies, departments, boards, and commissions.
- It was also necessary to request and receive a deficiency appropriation in the second year of the Commission’s operations when the legal expenses for four separate law suits exceeded all of the Commission’s available funds. To receive a deficiency appropriation, it was necessary to make the request to the Legislature through the Department of Finance. The Legislative entity responsible for this decision is the Joint Legislative Budget Committee (JLBC) which is comprised of members from both legislative bodies, the Assembly and the Senate.

Finally, Section 8253 (a)(7) requires the Commission to supplement its hearings with “other activities as appropriate to further increased opportunities for the public to observe and participate in the review process. Further, Section 8253 (a)(7)(b) requires the Legislature to have procedures “in place to provide the public ready access to redistricting data and computer software for drawing maps.” And, “upon the commission’s formation shall coordinate these efforts with the Commission.”

During the 2010 redistricting cycle, the Legislative staff working with the Commission’s staff proposed that the Commission and its staff be responsible for

providing both the public access to the redistricting data and provide computer software for drawing maps. The Commission agreed and the Legislature appropriated \$200,000 outside the Commission's budget for the project. The Commission passed the appropriation through to its line drawer, Q2, for use at four statewide regional centers where California's citizens could go and use line drawing software and the data from the statewide database to draw maps. In the end, I was told that the funding level was only sufficient for three regional centers.

- The Department of Finance (DoF) is also given direct oversight responsibilities over each Commission.
 - Section 8253.6 (b), Citizen's Redistricting Commission Budget, Fiscal Oversight states: "The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority..."

The DoF oversight extends to all major contracts and purchases. In addition, the JLBC relies on the DoF to provide the direct oversight of the Commission's expenditures, annual budget and requests for additional funding. The importance of this relationship cannot be overstated, the Legislature places significant weight on DoF recommendations regarding the Commission's requests for funding. This includes any requests made for augmentation to its budget if the Commission should fall into a deficit.

2

Other state departments and offices not specifically named in the propositions have significant impact on the Commission's functions after the Commission is fully operational.

The Commission has unique exemptions for hiring and removing staff and for judicial review of its final redistricting maps. Beyond those exemptions, the Commission is treated similarly to other State boards and commissions. Each commissioner is a sworn officer of the State with specific responsibilities that are typical for members of every other State board or commission. The Commission is expected to operate within the framework of the state's rules and regulations regarding contracting, expenditures, budgeting, and the fair treatment of all members of the Commission, its staff and the Commission's vendors. To ensure that the Commission is in compliance, the propositions provided for the direct oversight of the Commission by the Department of Finance (DoF), as previously mentioned. However, there are other state offices and departments that are directly or indirectly involved in the review of the Commission's activities because of the State's organizational structure. They include:

- The State Controller's Office (SCO) which oversees the Commission's payment for services rendered. This includes its staff's payroll, its staff's Travel Expense Claims (TECs), its payment to vendors, and the payment to each commissioner for daily service and reimbursement for travel expenses utilizing the state's TEC form and process. From start to finish, the payment process typically ranges from 40 to 60 days. It starts with the submission of the request for payment or TEC to the Department of General Services for review and approval and ends with the final issuance of the warrant of payment by the SCO.
- The Department of General Services (DGS) which oversees the facility in which the Commission resides and the contracts section and legal office which oversee the initial review and approval of the contracts with its vendors. Once the contract

section clears a proposed contract with a vendor, it is forwarded to the DGS Office of Legal Services (DGS/OLS) who reviews the contract for legal sufficiency. After all reviews by the DGS, a final review and approval is conducted by the Department of Finance (DoF) before the contract is approved.

The DGS also offered the first Commission an accounting service at a flat rate that significantly reduced the cost of obtaining staff to perform this function. This section was also responsible for reviewing and approving the Commission's TECs once they had been finalized by the Commission's staff.

- The Office of the State Treasurer which maintains the accounting for the Commission's funding sources. The Commission's staff arranges for payments for its expenses from each funding source available. During the first redistricting cycle, the Commission's accounting staff would specify which funding source was to be used for payment and the DGS accounting staff under contract would verify through the DoF that there were sufficient funds in the named account to cover the expense. The DoF confirmed that there were sufficient funds with the Treasurer's Office and then authorized payment. This authorization was then forwarded to the Controller's Office so that the warrant for payment could be issued.

As previously stated in Section 1, the Commission will start with a specified amount of funding that is provided by the Governor for a three year period of operation. In each year following the first year that the Governor's initial three year funding is insufficient to cover the commission's expenses, the Commission will submit a Budget Change Proposal (BCP) requesting additional funding for its annual operations. Each request will be balanced against the funds still available in any prior funded accounts. If funds are encumbered for payment of ongoing services from the prior year, those funds will be in one funding source and the new physical year's operations will be paid out of the current year funds.

By the second year of the first Commission's operations, the Commission staff and the accounting team within the Department of General Services were balancing funds from three different funding sources and making sure that the expenditures came from the oldest funding sources first or from the source where an encumbrance had been established.

3

How does the Commission fit into state government?

State government works well but in its own way. The Commission's short time frames required turnaround times that are not customary in state government. This can be frustrating to private citizens who do not know how state departments interact with other departments, agencies, the legislature and the Office of the Governor.

In the first cycle, some commissioners became frustrated with how much time it appeared to take for procurement of services through the Department of General Services (DGS) or to request and receive funding augmentations through the Department of Finance (DoF). Occasionally, the frustration of individual commissioner's resulted in unnecessary public disparagements of the state or legislative process and, by extension, the individuals who were working to assist the Commission. This exasperated the situation.

In actuality, many individuals were working to assist the Commission so that it could succeed. However, the general practice of state government requires that virtually every decision or negotiation be initially conducted by the Executive Director or a senior staff person until an agreement has been reached by all parties. Once there is an agreement in substance, it can be disclosed to the Commission and discussed. If the Commission doesn't agree with the relevant terms, the Executive Director or staff person involved in the discussions returns to the person and/or entity involved to try and quietly resolve any differences. The practice reduces friction between the entities involved.

Early in the process, the first commission mistook this process for a lack of cooperation. This led the Commission to a decision to by-pass their staff's contracting efforts with DGS in favor of a bolder plan to force DGS to complete the review of its contracts more quickly. The Commission Chairperson, at that time, asked whether I had written a letter to the governor's office requesting assistance in dealing with the DGS. I explained that these matters are typically handled at the staff level and that the governor's office was rarely, if ever, involved. The Chairperson believed that a letter to the governor's office would be a more direct way to obtain cooperation and the Commission, as a whole, agreed. As a

result, the Commission wrote a letter to Governor Brown requesting intervention on behalf of the Commission with the DGS.

The letter was delivered to the governor's office the following week. We were told that the governor's office contacted the Director of DGS and asked that he ensure that we were given priority assistance. To ensure that we received priority assistance, the DGS Contracts Section re-reviewed approximately 10 contracts that we had with them at that time. The re-review added additional time to the process. In the end, the letter to the governor set us back several weeks and forced us to hire a former Director of DGS to serve as our liaison with the staff at DGS until we could resolve the issues that were affecting the timeliness of DGS reviews.

In state government, it is always best to work at the appropriate levels and foster good relations. For the first commission's staff, it's what we strived for. If we had problems, we would try and minimize them with the Commission and worked with state agencies to expedite the services that we needed. My advice to subsequent Commissions is to be patient and, hire staff with significant experience working around or within state government.

4

The Commission's operational timeline is problematic for state agencies that provide support to the Commission.

In the previous section, I discussed how frustrating it can be to private citizens who do not know how each department interacts with other state agencies, the legislature and the Office of the Governor. It is similarly frustrating to state agencies because the method of the formation of the Commission and its timeline are not typical for state boards or commissions.

Typically, boards and commissions are ongoing from year to year and their members are usually knowledgeable about the board or commission mission. Almost all are permanently staffed. When a member or a staff person departs it is usually a singular event that leaves the remainder of the staff to provide the institutional knowledge to the new members or staff once they are brought into the organization. Finally, their yearly planning cycles are similar to state agencies and departments.

The Redistricting Commission is unique because it has a singular task that must be completed in one year from the selection of the full Commission to the deadline for approving the final four redistricting maps and submitting them to the Secretary of State. In that time period, the Commission must start with the hiring of all staff, the purchase of all supplies, the review and hiring of all contractors including law firms and line-drawing firms, and the planning and implementation of dozens of statewide business and public input meetings.

Following the submission of the final maps to the Secretary of State's office, the Commission must complete all legal defenses including any law suits against the Commission or its final maps. Once all law suits are settled or transferred to the Attorney General's office, the Commission's only required tasks are to remain available in case there are new challenges to its maps, a situation arises where there are changes required in the maps or if it is necessary to replace a member of the Commission to ensure that it remains capable of making decisions or changes to its maps if the need arises.

- An example of the need to change the redistricting maps would be if a legal challenge regarding how prison populations were accounted for in the districts required the Commission to redraw California's districts by counting prisoners in their last known place of residence rather than in their current prison location.
- An example of the need to replace a commissioner would be if a current Commissioner died or resigned. If it were determined that a replacement was necessary, a specific methodology in the Administrative Code that pertains to the Commission would guide the process.

For the Commission, the process of hiring contractors, putting contracts in place and making payments takes more time than in private industry. Patience, understanding and perseverance are essential because each state oversight entity working with the Commission must adjust to the Commission's short timeframes.

During the first redistricting cycle, every entity working with the Commission tried to provide the best service possible within state guidelines. To accomplish this, high level State and Legislative staff were assigned to oversee the redistricting process. When operational issues arose, those staff would often provide assistance to the commission's staff in order to resolve them. At different times during the process, this included staff from the Governor's office; from the Senate Pro Tem and Speaker of the Assembly's offices; from the offices of the Senate Minority Leader and Assembly Minority Leader; from the Department of Finance; Legislative committee staffers; principal financial officers from the Secretary of State's office; and, the Assistant Chief Counsel for the Department of General Services. It is reasonable to assume that the second Commission will receive similar assistance because it is in everyone's best interest to have a fair and successful outcome from such a visible and innovative process.

How do you replace a Commissioner?

The need to replace a commissioner can occur for a variety of reasons. A commissioner could suffer from a long term incapacitation, pass away or could resign because of family related reasons such as a serious family illness or the need to care for a family member. Regardless of the reason, there is always a possibility over the course of ten years that one or more commissioners might have to be replaced.

In the first redistricting cycle, a commissioner selected amongst the first eight resigned shortly after all the commissioners were sworn in. Fortunately, her resignation was close enough to the original selection process so that the remaining applicants who had been reviewed by the legislature but had not been selected for the final fourteen commission positions were still available and eligible. The Commission selected a man from roughly the same geographic location to replace her. There were no other vacancies for the remainder of the first Commissioner's ten year term.

How is a replacement commissioner selected?

Section 60863 of the California Code of Regulations addresses how to fill Commission vacancies. It states that if a vacancy occurs on the commission before it completes its redistricting function, it is the Commission's responsibility to pick a replacement. The Commission is required to replace a commissioner from the same, final sub-pools of most qualified applicants that were established by the State Auditor's Applicant Review Panel (Panel) and used to select the first fourteen commissioners.

The final sub-pools are initially established by the Panel when they send their final, 60 most qualified applicants to the legislative leadership for their review. At that point, the Panel has completed its responsibilities. The four legislative leaders, the Assembly Speaker, the Assembly Minority Leader, the Senate Pro Tempore and the Senate Minority Leader, may strike up to two applicants each from each of the three Panel sub-pools of 20 applicants, 20 registered as Democrats, 20 registered as Republicans and 20 not affiliated with either of those two parties. In 2010, after the legislative review there were 12 remaining applicants in each of the three final sub-pools for a total of 36 that were returned to the State Auditor for the random selection of the first eight Commissioners.

The random selection of the first eight Commissioners must occur on or before July 5th in the same year that the Legislature completes its review and exercises its strikes of the applicants contained in the Panel's final, 60 most qualified applicants. After the first eight applicants are randomly selected, three from the Democrat sub-pool, three from the Republican sub-pool and two from the applicants not associated with either of those two parties, the sub-pools of unselected applicants are reduced to nine remaining in the Democrat sub-pool, nine remaining in the Republican sub-pool and ten remaining in the sub-pool of applicants not associated from those two parties. (Note: In 2020, the Democratic sub-pool was reduced to eight unselected applicants because one applicant withdrew after the legislative review had begun.)

The first eight commissioners are required to select the final six commissioners from the remaining applicants in the final sub-pools after the random selection. To accomplish this, the State Auditor provides all of the application materials for all 36 applicants returned by the legislature to the first eight commissioners selected, including their own applications materials, for their use in selecting the final six commissioners.

Once those final six commissioners are selected, the remaining applicants who are still eligible to be selected for the Commission but remain unselected in each sub-pool should be seven Democrats, seven Republicans, and eight applicants not from either of those parties *if* the legislature exercise all of their strikes and no applicants have withdrawn. These pools of unselected applicants remain available to replace a commissioner for the entire 10 year service period of the full Commission in the event of a vacancy as long as they remain eligible, have not acquired a conflict of interest in the interim period and agree to serve.

If none of the applicants in the subject's sub-pool remain available, for whatever reason, the Commission is required to send a written notice to the State Auditor notifying him or her of the vacancy and the Commission's inability to fill the vacancy from the original sub-pool of applicants. The State Auditor is then required, as soon as practicable, to reconvene a panel to

create a new sub-pool consisting of twenty of the most qualified applicants with the same party affiliation or no party affiliation as the vacating commissioner. Note: The regulations do not specifically require the same panel that established the original, final sub-pools to establish the new sub-pool.

To create the new sub-pool, the Panel must attempt to fill the sub-pool with applicants who participated in the most recent application process, in the following order:

1. Applicants who completed the interview phase of the selection process. In every application cycle, this can be up to 60 applicants, twenty in each of the three sub-pools. However, this group can only be the applicants who were available for legislative review and would not include the applicants who were struck by the Legislative leadership during legislative review or any applicants who withdrew from the process. If all twenty of the applicants interviewed but not originally referred to the Legislature for its review are still available, that group is referred to the legislative leadership with all of their application materials including the interview videos. Once again, the legislative leaders may strike up two each from that group, returning 12 applicants from which the Commission may select a new commissioner. If there are not twenty available applicants remaining to fill the pool, the Panel would have to resort to selecting the remainder of the applicants from the second order, following.
2. Applicants who submitted supplemental applications by the date of the deadline with all the supporting material required by the State Auditor's office. In any cycle, this group should be hundreds to possibly thousands of applicants. Any applicants selected from this group to fill all of or any number of open spots available for the sub-pool of twenty would have to be interviewed by the State Auditor's Panel and added to the group recommended to the Legislative leadership. Again, once the legislative leadership strikes up to eight of the applicants, the remaining eligible applicants are referred back to the commission along with all application materials for the applicants so that the Commission can select the replacement from the group.

If a vacancy occurs on the Commission **after** it completes its redistricting function, and the Commission determines that it *needs* to fill the vacancy, it would follow the same processes as described above. However, if there is no necessity to fill the vacancy, the vacancy can remain open until such time as there is a need to fill it or until the term of the full Commission expires with the selection of the first commissioner for the next Commission.

How much did the first redistricting process cost and how are subsequent redistricting allocations calculated?

At the beginning of the process, the first commissioners asked how much I thought the redistricting process would cost. I told them that I no idea because the process had never been done before but that I would try to get a reasonable estimate.

My initial effort at estimating the possible cost of the process was to ask the owner/director of one of the line drawing firms that was hoping to be awarded the line drawing contract from the Commission. When I asked her, she paused briefly and then said “\$12 million dollars” which was surprisingly close to the final amount that the entire process cost.

To understand the costs of the first California redistricting process there are many factors to consider:

- The administrative costs in total which are shown in the following table.
- The cost of legal services and line drawing associated with the process which are both variable cost functions. The cost of legal services depended on the level of litigation directed at the Commission. The cost of line drawer was driven by the need for the line drawer in public input meetings, in meetings to actually draw the new districts, and to assist the Commission’s attorneys for work in preparation for and during litigation.
- The value of services provided by venue entities at no cost to the Commission which are not factored into the Commission’s costs. This included an extended set of meetings at the McGeorge Law School to draw the final maps, extensive use of the State Legislature’s Assembly and Senate hearing rooms provided to the Commission at no cost by the legislative leadership, and free meeting venues that were provided by City Counsel’s, Universities, and private citizens throughout the state. All of these free venues allowed the commission to meet and have public meetings without having to pay for the space rental out of their budget. I estimate that the provision of free meeting space saved the commission more than \$500,000 over the course of the 12 months that they were taking public testimony, conducting business meetings and deliberating over the final maps. (At approximately \$6000 per venue including all services and staff assistance that were typically included, the

34 public meetings alone would have added at least \$210,000 in expenses to the commission's costs.)

- The value of services provided by outside entities, including the value of the one-time contribution of over \$3 million by the Irving Foundation for outreach.
- The value of the Legislature's obligation to co-author training and information to the public per the constitutional requirements. In the first redistricting cycle, the Legislature and the Commission agreed to provide \$200,000 to set up three regional centers where individuals could go and be educated about redistricting. This funding was provided directly to Q2, the company that ultimately received the contract to draw the district lines for the commission, from the Legislature. Each center included a simulator that allowed members of the public to draft and modify assembly, senatorial and congressional lines as a learning tool.

The following table of actual expenditures, including the one-time, \$3 million contribution by the Irving Foundation, was compiled by the commission's staff in the final weeks of the commission's full activities during 2012. I have also estimated the adjusted cost of the first redistricting cycle using the adjustment for inflation from the California Consumer Price Index, as required by the initiatives. This is the approximate amount that should be made available to the second Redistricting Commission using the required formula as stated in Government Code, Title 2, Chapter 3.2, Section 8253.6, Citizens Redistricting Commission Budget, Fiscal Oversight which states:

“(a) In each year ending in nine, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor and the Citizens Redistricting Commission that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three-year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process, including the solicitation of applicants. The Governor shall also make adequate office and meeting space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three-year period. The appropriation shall be equal to the greater of three million dollars (\$3,000,000), or the amount expended pursuant to this subdivision in the immediately preceding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision.”

The total expenditures at the end of the table reflect the reported, rounded costs of redistricting from the selection process, through the drawing of the maps, the settlement of four of the five law suits against the commission and/or its maps, the final reduction of the commission's staff to a single staff person, to the first commission's final 2018-19 final budget. (The fifth lawsuit by Ward Connerly, was transferred to the California Department of Justice on behalf of the commission.) As previously noted, this table does not reflect

the cost of the donated meeting spaces, any services that may have been provided during those meeting such as set up or cleanup of the space that the commission was not asked to reimburse.

The final unadjusted actual state cost for the total completed first cycle of redistricting from 2008 to 2019 is \$10,718,000. Using the California Consumer Price Index (CCPI) 25% increase over time to adjust that amount to 2019, the actual state cost as of fiscal year 2019/20 would be \$13,397,000.

When the private outreach grant of \$3,313,000 from the Irvine Foundation is added as a legitimate expense of the first redistricting cycle, the final, unadjusted total expenditures from 2009 to 2019 is approximately \$14,031,000. Adjusting with the CCPI 10 year increase over time of 25%, the estimated final total of actual expenditures from all known sources as of fiscal year 2019/20 is approximately \$17,540,000. (Note: The total unadjusted and adjusted total actual expenditures calculated are for both the Outreach and Selection process by the State Auditor's office and the Redistricting process by the Commission.)

The Governor's Budget for 2020-2021, as calculated by the Department of Finance, provides almost \$17 million dollars for the entire second redistricting process including the Commission's three year budget and the State Auditor's cost of selecting the commission. See Appendix -1 for the 2020-21 Governor's Budget.

The full table of rounded, prior and adjusted expenditures for the 2010 Commission, as compiled by their staff, is shown on the following page and generally supports the actual three fiscal year funding for the 2020 Commission reflected in the Governor's 2020-2021 budget.

California State Auditor	2008-2019	CCPI	Adjt to 2019
2008-09	\$1,685,000	25%	\$2,106,000
2009-10	\$1,471,000	(2009 –	\$1,839,000
2010-11	\$872,000	2019)	\$1,090,000
State Legal Expenses: Connerly	<u>\$130,000</u>		<u>\$163,000</u>
Sub-Total:	<u>4,158,000</u>		<u>5,198,000</u>
Secretary of State			
2008-09	<u>\$125,000</u>		<u>\$156,000</u>
Total:	<u>\$4,283,000</u>		<u>\$5,354,000</u>
First Citizens Redistricting Commission			
01/01/2011 to 08/15/2011			
Mapping and Anticipated Legal Expenses			
Line Drawing, Meetings, Per Diem, Staff, Contracts	\$2,548,000		\$3,185,000
Legal Expenses: VRA	<u>\$89,000</u>		<u>\$111,000</u>
Sub-Total:	<u>\$2,637,000</u>		<u>\$3,296,000</u>
08/16/2011 to 01/31/2012			
Post Maps and Primary Litigation			
Meetings, Per Diem, Staff, Contracts	\$597,000		\$746,000
Legal Expenses: Supreme Court & Federal Court	<u>\$1,805,000</u>		<u>\$2,256,000</u>
Sub-Total:	<u>\$2,402,000</u>		<u>\$3,002,000</u>
02/01/2012 to 06/30/2012			
Commission Operations, Statutory Amendments and Shut Down	\$633,000		\$791,000
Legal: Federal & State Law Suits	<u>\$162,000</u>		<u>203,000</u>
Sub-Total:	<u>\$795,000</u>		<u>\$994,000</u>
Total:	<u>\$5,834,000</u>		<u>\$7,292,000</u>
Total Expenditures Through The End of Mission:	<u>\$10,117,000</u>		<u>\$12,646,000</u>
Ongoing Expenses of the Commission:			
Fiscal Year 2012-13	\$93,000		\$117,000
Fiscal Year 2013-14	\$71,000		\$ 89,000
Fiscal Year 2014-15	\$93,000		\$116,000
Fiscal Year 2015-16	\$90,000		\$113,000
Fiscal Year 2016-17	\$90,000		\$113,000
Fiscal Year 2017-18	\$92,000		*\$ 92,000
Fiscal Year 2018-19	<u>\$72,000</u>		<u>*\$ 72,000</u>
Sub-Total:	<u>\$601,000</u>		<u>\$712,000</u>
*Not adjusted because of recent allocation.			
Total State Expenditures - Complete Cycle:	<u>\$10,718,000</u>		<u>\$13,398,000</u>
One Time Private Outreach: Irvine Foundation	<u>\$3,313,000</u>		<u>\$4,142,000</u>
Total State Expenditures Plus Private Outreach:	<u>\$14,031,000</u>		<u>\$17,540,000</u>

Do the Commission's offices have to be located in Sacramento?

Code section 8253.6 (b) states, in part: "The Governor shall also make adequate office space available for the operation of the commission." However, there is no specific statement in either Proposition 11, the Voters FIRST Act (2008) or Proposition 20, the VOTERS FIRST Act for Congress (2010), that restricts the physical location of the Commission's offices or staff to the Sacramento area.

The first Commission discussed having the commission offices located outside Sacramento. Multiple locations were suggested including San Diego, Claremont, Los Angeles and the Bay Area. A request was never made to the Office of the Governor for a change of office space to a location outside Sacramento because the Commission came to understand that the Commission's staff had to have physical proximity to the Legislature, Department of Finance, the State Controller's Office and the Department of General Services. The Commission's staff proximity to those entities will continue to be necessary during the second redistricting cycle regardless of how the Commission conducts its business.

With regards to a request to the Office of the Governor, I don't know whether the Governor's Office would have or will provide space outside of Sacramento or would have or will allow two sets of office space, one in Sacramento and one in another location away from Sacramento. What is certain is that the Governor's office will provide at least one space in the Sacramento area and Sacramento remains the most suitable option when all factors are considered. These include: proximity to the Legislature and the State entities that oversee the Commission's functions; access to a large number of surplus state owned and leased office spaces; access to a major transportation hub; an abundance of hotels with close proximity to the Capitol and state agencies; and, access to Legislative and state

owned hearing rooms which were and may again be offered at no cost or minimal cost to the commission.

8

How were the first Commission's public hearings planned and where were they held?

When the first commission began, they started with enthusiasm and energy. One commissioner suggested starting with 80 initial statewide hearings so that the commission could meet with as many Californians as possible. In the end, the pace to complete the 34 public hearings that were held was challenging.

The logistics and cost of each public hearing made it necessary to be very selective in where hearings were held and how they were sequenced. The process of moving the Commission, its field staff, and the material and equipment necessary for each hearing became limiting factors in the total number of hearings that were possible. Also, the necessity for "phasing" the hearings to allow public comment after the first round of proposed maps were publically released made it necessary to cover the state twice to obtain additional comments in order to refine the final maps.

During the staff planning involved to present the statewide hearing plan to the Commission and on an on-going basis as the public meetings occurred, the Commission's staff worked with both private groups and knowledgeable line drawers to identify key points that were instrumental in determining the locations of the hearings. The most important were:

- The greatest numbers of districts reside in the Los Angeles region. Both of the individuals that bid for the line drawing services provided to the Commissioners stated that redistricting in California started in Los Angeles and rippled out across the state. As a result, the greatest number of hearings occurred in the major population areas, particularly the Los Angeles metropolitan area. Areas with less population were fixed with the major population centers.
- The excitement generated by the public hearings could be channeled into free or significantly reduced charges for venues around the state. With the Commission's limited initial budget, it was necessary to look for savings in every facet of our process.

The Commission's staff actively pursued multiple venues in each general geographic location selected for a public meeting and selected the venue that was provided at the lowest possible cost to the Commission. Some of the Commissioners also assisted in finding venues at low or no cost by arranging for public meetings in the areas where they lived and had connections with local officials who were willing to provide facilities such as city council chambers for Commission meetings.

- Groups who attended the public meetings with polished presentations could not fully present them to the Commission because of the limit on presentation time. Therefore, the Commission provided two public meetings between the First and Second Phase of public meetings that were dedicated solely to longer and more detailed presentations by groups. One group meeting was held in Oakland in northern California and the second was held in Northridge in southern California.

The commission started their statewide hearings after the United States Census Bureau delivered the 2010 census data to the state and to the Commission. The Commission received the discs with the census data on March 8, 2011.

At the Commission's statewide hearings, the public input regarding how the four sets of districts should be drawn was significant and increased with each meeting. As the Commission worked with their line drawers to shape the mapping of the different districts there were continual alterations based on public input. It was difficult for the public to follow all the iterations that occurred, not only during a hearing but as the hearings progressed. As a result, members of several different organizations that were closely following the process jointly requested a "black out" period or freeze of the maps at two different points in time so that the proposed maps, at that moment, could be studied to get a sense of the Commission's directions.

To accommodate the request, the Commission agreed to two one-week periods where no public hearings would be held with the line drawers. The Commission stopped as scheduled for the first black out period but did not schedule the second one because they felt that they were running out of time and needed the additional week to complete the final maps. This caused considerable consternation amongst the interested groups that had lobbied for the second black out period so that they could provide additional input before the Commission's final maps were released.

The schedule of public hearings for the first commission is shown below. Some of the hearings have a notation that they were hearing locations required by Section 5 of the Voters Rights Act (Sec. 5 VRA). Additionally, some of the hearings have a notation that they were also combined with a Commission Administrative meeting (+ Bus.) which would begin during the morning on the day of the hearing and then transition into the evening hearing with at least an hour break between the events.

- **First Phase**

Redding	April 9, 2011	Region 9
Marysville (Sec. 5 VRA)	April 10, 2011	Region 9
San Luis Obispo	April 13, 2011	Region 5
Bakersfield	April 14, 2011	Region 6
Hanford (Sec. 5 VRA)	April 15, 2011	Region 6
Merced (Sec. 5 VRA)	April 16, 2011	Region 6
Long Beach (+ Bus.)	April 27, 2011	Region 4
Los Angeles (+ Bus.)	April 28, 2011	Region 4
San Gabriel	April 29, 2011	Region 4
San Fernando	April 30, 2011	Region 4
Antelope Valley	May 1, 2016	Region 4
Riverside/Norco (+ Bus.)	May 5, 2011	Region 2
Santa Ana (+ Bus.)	May 6, 2011	Region 3
Palm Springs/Indio	May 12, 2011	Region 2
Escondido/San Marcos	May 13, 2011	Region 1
San Diego	May 14, 2011	Region 1
Auburn	May 19, 2011	Region 9
Santa Rosa (+ Bus.)	May 20, 2011	Region 8
Oakland (+ Bus.)	May 21, 2011	Region 8
Salinas (Sec 5 VRA)	May 22, 2011	Region 7
San Jose	May 23, 2011	Region 7

As previously noted, the group presentations were scheduled for one hearing in the northern part of the state in Oakland followed by one hearing in the southern part of the state in Northridge. On the day following the Northridge hearing, the Commission remained at the campus of the California State University at Northridge to provide preliminary instruction the line drawer on how the districts should reflect the public input from the group presentations. The instructions to the line drawer continued for three additional days in Sacramento before the Commission started its second phase of public input meetings.

- **Intermediate Group Presentations and Map Adjustments:**

Oakland Group Presentation	May 24, 2011	Region 8
Northridge Group Presentation	May 26, 2011	Region 4
Northridge Line Drawer Session	May 27, 2011	
Sacramento Line Drawer Sessions	June 1, 2 & 7, 2011	

As previously discussed, the commission agreed to two one-week “blackout” periods. The first was scheduled for after the group presentations and before the second phase of public hearings began. The first blackout period was June 12 – 15, 2011. The commission began the second phase of statewide hearings on June 16, 2011, at Culver City.

- **Second Phase**

Culver City	June 16, 2011	Region 4
Whittier-Cerritos	June 17, 2011	Region 4
Fullerton	June 18, 2011	Region 3
San Bernardino	June 19, 2011	Region 2
San Diego	June 20, 2011	Region 1
Oxnard	June 22, 2011	Region 5
Fresno (+ Bus.)	June 23, 2011	Region 6
Stockton (+ Bus.)	June 24, 2011	Region 6
San Jose	June 25, 2011	Region 7
San Francisco	June 27, 2011	Region 8
Sacramento – Regional Wrap Up	June 28, 2011	Region 9

Following the end of the second phase, the commission produced drafts of its maps for a 14 day public display as required by regulation. During the public display period, the Commission continued to work with their line drawer to refine the final presentations to the Secretary of State. All further Commission hearings and deliberations were held in Sacramento. The Commission had agreed to have the second blackout period from July 8 through 12, but cancelled the event because they did not feel, as a group, that they had enough time to have the blackout period and complete the final draft maps and reports.

The commission continued to work on the refinement of its maps and the accompanying reports through July 29, 2011, when it released the Final Draft Maps and Reports at a business meeting scheduled on that date.

The Commission line drawers worked on the final presentation of the maps and final reports from August 1st through August 11th and then presented the final maps and reports to the commission for their review and approval during a three day period starting on August 12th and ending August 14th.

On Monday, August 15, 2011, the required Constitutional submission date, the Commission presented the final maps and reports to Secretary of State Debra Bowen in-person at her public counter in Sacramento. Secretary Bowen was present at the public counter to receive the maps. The maps presented were paper, hard-copy documents with the original signatures of each commissioner.

The Commission also presented copies of the final maps and reports on flash drives to the Secretary of State, the California State Auditor, the President Pro Tempore of the Senate, the Speaker of the Assembly, the Senate Minority Leader, the Assembly Minority Leader, the Secretary of the Senate, and the Chief Clerk of the Assembly. In addition, a flash drive was provided to each commissioner, the Executive Director, the Commission’s Chief Counsel, and the Commission’s Media Director.

Redistricting Outreach

Outreach for the Commission's mission began during the year-long selection process conducted by the State Auditor's office. During that time, the State Auditor entered into a contract with the public relations firm, Ogilvy Consulting, to conduct a statewide outreach campaign to announce the goals of the Commission and to attract applicants. At the same time, the State Auditor's staff conducted internal outreach by establishing contacts to advertise the redistricting mission and selection process with virtually all libraries in the state, the University of California system, the California State University system, the California junior college system, almost all private universities and colleges in the state, and almost all county boards and city councils. The State Auditor's messaging explained the redistricting process and the anticipated timelines while encouraging California's citizens to apply.

When the first Commission was fully formed, they directed their attention to the selection of their Executive Director, Chief Counsel and Media Director. The first Chief Counsel was Kirk Miller who had extensive private and state legal experience. The first Media Director was Rob Wilcox who had a long history in public relations. The immediate responsibility for promoting the Commission's outreach process and public hearings fell to Rob.

The Commission's start was chaotic. The Secretary of State's office was responsible for providing support for the Commission until "its staff and office were fully functional". However, there was no definition of what constituted "fully functional" and no precedent for this type of process. As a result, the Secretary of State's staff released the Commission with only four staff persons in place, which included the three principal officers noted, and an office space that was minimally furnished. The majority of the Commission's initial staff time was taken up with finding additional staff persons to fill administrative and field positions, locating basic office equipment and trying to establish spending authority so that

supplies could be purchased. As one commissioner described it, “we were building an airplane while we were flying it” and we had very little time to build it.

The process that suffered most from the initial development of the Commission’s mission and process was the requirement to provide a “thorough outreach program to solicit broad public support” and the sub-component of Government Code Section 8253 which required that the Commission and the Legislature to coordinate efforts “from the Commission’s formation until its dissolution” to provide the public with “ready access to redistricting data and computer software for drawing maps.”

To fulfill the requirement to complete a thorough outreach program, the Commission initially considered having a private non-profit organization, the Center for Collaborative Policy, associated with Sacramento State University, provide an elevated outreach effort to educate California’s citizens about the importance of redistricting and to promote the Commission’s public hearings. During July, 2011, staff from the Center gave a presentation to the Commission and proposed a budget of approximately \$900,000 for their outreach plan. The amount was too high for the Commission whose total budget at the time was \$2,875,000 for all facets of the process.

Instead, the Commission’s effort centered around an outreach approach of hearing and meeting notification to ensure that the public was aware of where and how they could address the Commission in person or by email or mail. Public service announcements and email “blasts” preceded the Commission’s public hearings. The email blasts were to the interested person’s list that was generated from the Commission website, We Draw the Lines. Finally, other notification assistance was obtained from outreach by the Commission’s shareholders such as Common Cause, the National Association for the Advancement of Colored People (NAACP), the League of California Voters, the Asian Pacific American Legal Center (APALC) and the Mexican American Legal Defense and Educational Fund (MALDEF).

Outside the Commission budget, the James Irvine Foundation, a private nonprofit foundation, provided public outreach and education efforts. The foundation supported six nonprofit organizations in developing public education materials, conducting outreach and providing training to individuals to enable them to apply for the Commission. The foundation gave a number of grants that varied between \$50,000 and \$165,000 and involved assisting groups in finding applicants for the selection process. After the Commission was fully selected, the Foundation also provided larger grants such as the \$250,000 grant awarded to California Common Cause that covered costs associated with their efforts during the selection of the Commission and the Commission’s deliberation

phase. Altogether, it was reported that the Irvine Foundation provided over \$3,500,000 in grants to organizations that were active in the redistricting process.

And, as previously mentioned, a timely offer was extended by a staff member of the Speaker's Office to provide funding for four regional centers where individuals could go and be educated about redistricting. Each center including a simulator that allowed members of the public to draft and modify Assembly, Senatorial and Congressional lines as a learning tool. This also satisfied the legislative obligation for a coordinated effort between the Commission and the legislature to provide access to redistricting data and computer software for drawing maps. Ultimately, the legislature provided approximately \$200,000 beyond the Commission's budget for this use and it was awarded to Q2, the company that also received the contract to draw the district lines for the commission. Once the project started, it was reported that the funding provided was only enough to fund three regional centers for the duration of the project.

During the 2020 cycle, some of the exterior support, such as assistance from the Commission's shareholders, will most likely be available and should be sought after to reach hard to reach and/or under-served populations. Other assistance, such as the major assistance by the James Irvine Foundation, may or may not be available. However, this process has a way of attracting outside funding and the Commission should accept any assistance that expands the opportunity to provide education and outreach to the public.

The one area where the next Commission should thoroughly and thoughtfully explore is the coordinated effort with the legislature to provide access to the redistricting data and computer software for drawing maps. The second commission should be proactive in identifying new methods and technologies that will provide a cost effect method of introducing redistricting education and participation to Californians and present that plan to the legislature for its review and consideration.

Resistance to the Commission's Mission and Maps

There is typically opposition to any change in the status quo, particularly when the change has such profound and long lasting consequences as decennial redistricting. No matter how transparent the process, there is a level of mistrust that attaches to the final maps if the outcomes appear less than favorable to a group or individual. Even when there is general consensus that the redistricting was well done and unbiased, some of the decisions made by the Commission were perceived by groups or individuals as wrong in principal or worse, intentionally ill conceived.

The opposition generated against Proposition 11 and, to a lesser extent, Proposition 20 during the run up to the votes for the propositions remained substantially in place as the first Commission began its process of implementing the strict legal requirements for completing the state's redistricting of the Congressional, Senate, Assembly and Board of Equalizations districts.

The importance of the process and the apprehension of the unknown regarding how a citizens redistricting process would work in practice could be seen in a variety of ways. At the meeting level, the Commission's meetings were always attended by Legislative staffers from both parties in the Senate and Assembly. These staffers were helpful in navigating bureaucratic obstacles such as obtaining places for the Commission to meet for its meetings and hearings without having to search and contract for locations or with setting up meetings to resolve funding issues when the Commission was running out of funds for the legal defense of its maps. However, it appeared that the primary reason those staffers were present was to observe the process to ensure its basic integrity.

When the Commission completed its maps and submitted them to the Secretary of State on August 15, 2020, opponents of the Commissions redistricting maps quickly filed legal petitions against the Commission's Congressional and Senate maps and started a petition drive to sponsor a referendum for the recall of the Senate district maps.

Proposition 40 (2012), Redistricting. State Senate Districts. Referendum, was sponsored by Julie Vandermost, a political consultant from Orange County. The referendum had to have the qualifying signatures for placement on the ballot by November 13, 2011, three months after the Senate maps were presented to the Secretary of State. In order to qualify the referendum for the ballot, the sponsors needed to collect 504,760 legitimate signatures. The sponsors collected almost 711,000 signatures by the deadline and the Secretary of State's office announced that the measure had qualified for the ballot on February 24, 2012. The cost of the collecting the signatures to qualify the referendum for the ballot was reported to be \$584,000.

While the signatures were being collected for the referendum, legal petitions were filed against the Commission in both the California Supreme Court and California's Superior Court. The Commission's Congressional and Senate maps were challenged in the Supreme Court as the first venue for challenges to any of the Commission's maps. A challenge to the validity of the methodology for selecting the Commission itself was filed in California's Superior Court which was the appropriate venue for that petition.

The first petition, *Vandermost v. Bowen*, No. S196493, California Supreme Court, filed on September 15, 2011, was a challenge to the state Senate maps based on alleged violations of state constitutional criteria and the federal Voting Rights Act. The Supreme Court denied the challenge on October 26, 2011 with a 7-0 decision.

The second petition, *Radanovich v. Bowen*, No. S196852, California Supreme Court, filed on September 29, 2011, was a challenge to the state Congressional maps based on alleged racial gerrymandering, violations of the state constitutional criteria, and violations of the federal Voting Rights Act. The Supreme Court denied the challenge on October 26, 2011, again, with a 7-0 decision.

The third petition, *Connerly v. California*, No. 34-2011-80000966, California Superior Court, filed on October 4, 2011, was a challenge to the selection of the commissioners themselves. The plaintiff maintained that it was illegal to utilize diversity as a criteria, including race, ethnicity, and/or gender, when selecting the Commission. The challenge was lodged under the state constitution, which prohibits discrimination or favorable treatment based on race in public employment, education or contracting. The case was initially dismissed on December 21, 2012 but the California Court of Appeals reversed the decision on September 13, 2014 with instructions to the plaintiff to file an amended complaint with new legal theory.

Finally, a fourth petition was filed, *Vandermost v. Bowen II*, No. S198387, California Supreme Court (court), filed on December 2, 2011. The petition alleged the likelihood that

the Proposition 40 would qualify for the ballot and that possibility that it would successfully overturn the Commission's Senate maps. A request that the court prepare alternative Senate districts to the Commission's districts was also included in the petition. On January 27, 2012, the court ruled that if the referendum qualified, the Court would use the Commission's Senate maps as temporary lines, given the absence of better alternatives, even though the long-term viability of the Commission's Senate maps would be in question.

Following the Supreme Court decisions, the sponsors of Proposition 40 provided no argument in support of the referendum because of the Supreme Court's December 2, 2011 ruling in *Vandermost v. Bowen II* that effectively affirmed the use of the Commission's Senate maps in the upcoming 2012 election cycle regardless of the outcome of the referendum. The referendum remained on the November 6, 2012, General election ballot and received 28.1% of the vote in favor of rejecting the Commission's Senate. In the official ballot language, the sponsors of the referendum stated:

"As sponsors of Proposition 40, our intention was to overturn the commission's State Senate districts for 2012. However, due to the State Supreme Court's ruling that kept these districts in place for 2012, we have suspended our campaign and no longer seek a NO vote.

JULIE VANDERMOST, Sponsor Proposition 40"

The Connerly case remained in the courts for years after the Commission's maps were in used in California's elections and did not overturn the composition of the 2010 Commission. In addition, the case had no effect on the selection process for the 2020 Commission.

Public Input, Public Hearings and Administrative Meetings.

At the Commission’s public hearings and administrative meetings, input came from private individuals, local public officials and from interested groups. Many of the groups and some individual’s traveled to more than one meeting to provide more detailed testimony for the Commission’s consideration. As the process moved forward, the hearings grew in size reaching numbers that could not possibly be accommodated in a single evening. At one public hearing in Los Angeles, the public hearing exceeded seven hours and not all the people who attended were able to provide testimony.

Events like the Los Angeles hearing caused the Commission and staff to review and adapt. This often included the rapid formulation and adoption of policies and procedures to adjust to the increasing pace and pattern of the hearings. The following sections discuss the Commission and staff experiences and the policies and procedures that evolved from those experiences.

Public Testimony

The number of participants at the Commission’s public hearings quickly became too large to be reasonably accommodated in a single evening. After a particularly long set of meetings in Los Angeles, the Commission settled on a five hour hearing format that included opening and closing statements by the commissioners and scheduled public officials. At a maximum, this format allowed approximately 110 speakers to provide Community of Interest (COI) testimony at 2 minutes of testimony per speaker and the transition time between speakers.

It was also necessary to regulate how the speakers were allowed to give their testimony. The first Commissioners were aware that they had a requirement to be fair and unbiased in their

maps and this extended to being fair and unbiased in their hearings. As the meeting process evolved, instances occurred where some speakers ignored the 2 minute limit and continued to address the Commission. There were other individuals who walked past individuals waiting to speak, past the Commission's staff and up to the microphone to address the Commission.

Finally, there were individuals who signed up for multiple, contiguous slots and presumed that they would be allowed to continue speaking for the total time allowed for all of the slots that they had claimed. With each nuance, the Commission refined the protocols for the hearings.

Consider When Public Hearings Can Draw the Most Participants

At the beginning of the process at the Commission's public administrative meetings, different groups and individuals would provide suggestions regarding how and where the public hearing should be held. Amongst the many suggestions was the almost universal opinion that meetings needed to be held during the evenings after 6:00 p.m. so that working people had the time to get off work and then travel to the hearing sites. As a result, all of the Commission's public hearings, except for those held for group presentations in Oakland and Northridge, were held in the evenings. It will probably be necessary for successive Commission's to hold their meetings in the evenings for the same reason.

Be Consistent With the Time Allowed for Testimony

The public hearings started as open-ended events. In Redding, the hearing was completed in under 1½ hours because of low turnout. The Commission continued with their open ended hearings until the first tour of the Los Angeles area. As already noted, the Los Angeles City Hall hearing lasted over seven hours with speakers only allowed 2 minutes each and not all individuals who came to the hearing were given the opportunity to speak. After the Los Angeles hearing, the Commission recognized that the number of individuals coming to testify were generally accelerating at each successive venue and agreed to limit the public testimony hearings to five hours including opening and closing statements.

I would recommend that successive Commission's should adopt the same public hearing time limit of no more than five hours per hearing because of the physical and mental strain that longer hearings have on commissioners, their staff and their vendors including the line drawer's staff, videographers, ASL interpreters and court reporters who are typically involved in the meetings.

Length of Testimony

The Commission's first three meetings were under-attended and the chairperson allowed each speaker to provide up to 15 minutes of testimony. Immediately following the first meeting, an

individual who was following the Commission on behalf of the AFL-CIO asked me whether everyone at all of the Commission's hearings would be allowed 15 minutes each to speak. I explained to her that it would be determined by the number of people who came to speak. She politely explained to me that it would be considered inequitable to the hundreds of individuals who were going to ask to speak in the larger metropolitan areas if they weren't allowed the same amount of time as the people in Redding. At the time, we believed that it was sufficient to allow as much testimony from each person as could be reasonably fit into the announced length of the meeting. However, the inequity of the length of speaking time at different hearings did come up periodically as the Commission reduced the amount of speaking time to accommodate more speakers at larger hearings.

Following the initial meetings, the Commission and its staff began refining how the public hearings were held. Ultimately, the length of time allowed for each testimony at each public hearing was determined by a recommendation from the Commission's staff to the Commission Chairperson. The staff working at the venue would note how many individuals were signed up to speak. If the number of speakers signed up was less than 80, the Commission's staff would recommend to the chairperson that each speaker be allowed to speak for 3 minutes and the meeting would last slightly longer than five hours with the opening and closing comments. If the number of number of speakers signed up were above 80, the Commission's staff would recommend to the chairperson that each speaker only be allowed to speak for 2 minutes. There were no meetings where speakers were allowed less than 2 minutes. Instead, the Commission would cap the number of speakers for the hearing at the number that could be heard at two minutes apiece within five hours including opening and closing comments.

My recommendation to future Commission's is to settle on a testimony length policy before having public hearings. That policy should specify a hearing format where speakers are allowed a specific amount of time per hearing as determined by the number of speakers that sign up in person on the day of the hearing. However, no hearing should allow more than 3 minutes of testimony per speaker regardless of the number of individuals who are attending the meeting. If the Commission has a meeting where there are significantly less speakers than a five hour meeting will accommodate, the Commission chairperson can allow speakers to return to the microphones for an additional 3 minute period. This will provide a defensible position with regards to the equity of the length of testimony at each venue.

Testimony Sign Up and Controlling the Flow of Speakers

The first Commission maintained a sign up policy that provided speaking "slots" in the order of sign up. The Commission's staff initially utilized a paper number system where a person signing up was given a number printed on card stock designating their sign up position. However, many participants kept the printed numbers as souvenirs. So the Commission's staff

switched to a ticket dispenser to provide applicants with a printed number that corresponded with their position in line. During the hearings, a member of the Commission's staff would line up 10 participants at a time in order of their turn to speak. These individuals would move forward into position to give their testimony as each previous speaker completed their testimony. As each person moved to the microphone, the timekeeper would note their number, check it against the name and number provided on the sign-in sheet, and announce their name before they spoke.

Another benefit to assigning numbered slots to the speakers was that the staff could accurately predict within a half-an-hour when the speaker would give their testimony in the five hour span of the meeting. This enabled the Commission's field staff to tell individuals within a half-an-hour when they would be coming to the microphone to address the commission. As a result, speakers could leave and come back in time to speak rather than having to wait at the venue through the entire five hour hearing. Sometimes individuals missed their scheduled time after leaving. When this occurred, the speaker was placed at the end of the line at no fault to the commission. This process significantly reduced the number of people waiting at the venue which reduced the strain on the facilities and the occasional incidents of arguments between individuals waiting to give testimony.

Enforcing the Length of Testimony

As previously noted, the Commission needed to control individuals that might seize the microphone or simply disregard the time limit allowed to them. The Commission's staff purchased a basketball timer that counted down the announced time limit on speaking. The timer was visible to the speaker, the Commission's timekeeper, and to the commissioners. Each speaker had a short period to set up props if they had any and then the timer was started when the speaker began to give testimony. The speaker was given a subtle "30 seconds" notice from the timekeeper and then the microphone was turned off 15 seconds after the time limit ended. After this procedure was put into place, it was rare that an individual would refuse to quit speaking once the microphone was turned off; however, it did occur. When individuals kept going after the microphone was turned off, it was necessary for the Chairperson to ask them to end their testimony.

Follow-up Questions from Commissioners

At the beginning of the public hearing process, commissioners frequently asked speakers questions about their public testimony. Many of the questions were wide-ranging and would often result in a lengthy back-and-forth conversation between one or more of the commissioners and the individual. This process would either decrease the number of individuals who could provide public testimony during the public hearing or increase the length

of the hearing. As the commissioners became more experienced in the process, they moved to less follow-up questions and, when necessary, asked specific questions that elicited shorter and more precise responses.

First Come, First Served

As previously noted, the Commission took all participants in the order that they signed up. This was considered a fairness issue where the Commission recognized all participants' equality in the hearing process. However, this policy was not without friction. In one instance, a staffer for a State Senator asked that the Senator be allowed to speak as soon as he arrived so that he could provide testimony about his Senate District. The Commission required that he wait his turn which he did graciously. At another venue, a City Councilman requested that he be allowed to speak out of turn immediately after he arrived at the venue. The Commission required that he wait his turn. He didn't. He waited briefly in agitation and then walked to the podium and spoke out of turn. He spoke for a brief period during which he noted the inequity of having to wait given his position as a Councilman and then left. There was no good solution for dealing with that particular situation but it informed the Commission and their staff of the possibility that the situation could occur at any time.

Opening Comments by the Commissioners

Typically, the commissioners used the opening comments to greet the members of the public and to thank them for taking the time to present to the commission. The commissioners then thanked the hosts of the venue and allowed them the opportunity to address the public. As the meeting format evolved, the commissioners would use the opportunity to provide information to the public regarding the redistricting process. This included explaining the population size/numbers required for each Congressional, Senate, Assembly, and Board of Equalization districts and the requirement that they be compact and nested. This allowed the members of the audience to consider the complexity of deciding how the districts would be drawn before each person gave their testimony. Finally, at some venues, the commissioners would use the opening comments to welcome attendees in Spanish. The first time that one of the commissioners addressed the meeting in Spanish, there was a commission discussion regarding whether the non-Spanish speaking members of the commission should be provided interpretation of the statements being made. Ultimately, a prepared greeting was produced with an English translation. At each subsequent meeting where a greeting in Spanish was appropriate, the greeting was given by a rotating commissioner with fluency in Spanish.

Opening Comments by Public Officials

In the evolution of the public meetings, public officials or prominent individuals who wished to speak without queuing were allowed to address the Commission in the opening comments.

Typically, the public officials were mayors, council persons, or Assembly or Senate members representing the areas where the hearings were being held. This increased the opening comment period from approximately 15 minutes to 30 minutes but significantly reduced the chance that there would be an incident during the remainder of the hearing. To establish this procedure, it required pre-notification to the entities providing the venue so that they could sign up these individuals in advance. If the individuals who were scheduled to speak failed to appear in time for the opening comments, the commission required them to sign up along with all other participants.

Chaining Testimony Slots and Ceding Testimony Time

From the beginning of the public hearing process, there were individuals at public hearings that represented statewide groups and organizations and there were individuals who were passionate about their point of view. These groups and individuals often followed the Commission from venue to venue to provide on-going COI testimony. These groups and individual would also request additional time or expanded slots in which to provide larger blocks of information. As will be discussed, two hearings were provided for the exclusive testimony of groups or individuals that wished to provide large blocks of testimony but this didn't stop the same groups and individuals from going to the public hearings. In some cases, the groups and individuals were interested in both gathering local information similar to the Commission and providing additional public testimony as long as they were there.

Initially, groups or individuals would sign up for multiple, consecutive slots to "chain" them for longer testimony. The Commission immediately recognized that this would reduce the number of speaking slots for local individuals who came to speak specifically about their local COI and their issues with their local representation. The Commission's first response was to not allow the chaining of individual slots. However, after further consideration, the Commission compromised and a policy was established where individuals or groups could "chain" up to five contiguous slots. This allowed each group or individual to have a single presentation of up to 10 to 15 minutes depending on how much time the Chairperson had allowed per slot for that particular meeting. However, each "chained" time slot had to have a separate person sign up for it and each individual whose name appeared on the signup sheet had to be physically present during the actual testimony. When each 2 or 3 minutes in the "chained" slot was completed, the next individual would step forward and announce his or her name and state that they were, in fact, ceding their presentation time to the primary speaker. This process was necessary to keep individuals from signing up a number of names and noting on the signup sheets that those slots were "ceded" to the primary speaker without knowing who had, in fact, signed in for the slot. The adopted process was a good compromise to allow longer, more

comprehensive presentations while keeping the majority of the slots for local citizens that had come to address the Commission about local issues.

Ensure That Everyone Has the Opportunity to be Heard in Their Own Language

Each Commission will have testimony from individuals who don't speak English or are uncomfortable providing their testimony in English. The first Commission adopted a policy of providing interpreters when the Commission's staff was provided notification at least one week before a public hearing. This allowed the staff enough time to find interpreters for the venues and to contract for their services. Typically, the request would come from community organizations that were familiar with the local populations that might come to provide testimony. To ensure fair representation, the Commission would provide an interpreter for each language requested provided it was possible to find an interpreter. On occasion, interpreters would be present but not used. That was a "sunk cost" of ensuring that there was a fair opportunity for individuals to give testimony. On other occasions, the Commission staff might be unable to find a qualified interpreter or an individual would sign up that spoke a language where the Commission had no prior expectation or notification that an interpreter would be needed. When this occurred, the Commission asked if there was a family member accompanying the individuals who could provide interpretation. If not, the Commission would ask if there were members of the public who could provide an interpretation. These procedures handled virtually all of interpretation challenges that the first Commission had during its public hearings.

Give Speakers Who Will Not Be Given the Opportunity to Speak an Option.

The number of individuals who came to the first Commission's hearings often exceeded the number of speaking slots that could be provided in a five hour hearing. For the individuals that did not get an opportunity to speak, the Commission had additional signage at the sign-up area that stated that testimony could be submitted on line or by mail, including supporting documents, and that their testimony would be coded to the hearing where they had planned to speak. In addition, the signage emphasized that their submitted testimony would be read by the commissioners and that their submitted testimony would carry equal weight to the verbal testimony from the actual hearing. This generally satisfied the overflow of individuals who had traveled to the hearing and expected to give testimony. For the commission's part, the commission's staff provided the information submitted on-line or by mail to each commissioner for their review as the information was received.

Provide Public Information to the Participants While They're Waiting That Will Inform Them

The typical participant giving Community of Interest (COI) testimony has no idea how many persons must be in each Congressional, Senate, Assembly or Board of Equalization district.

They also don't know that the Commission has little discretion for the total number of Californians that must be in each Congressional Districts (+/- 1% between the total number of districts) or that Commission has limited discretion in the total number of Californians that must be in each of the 40 Senate Districts, 80 Assembly Districts or the four Board of Equalization Districts. Once the first Commission realized the limit of the public's knowledge, they had staff make up sign boards in English and Spanish that detailed these facts. The field staff placed the sign boards at the entrance of each meeting place and along the way as the individuals lined up to give testimony. In addition, the Commission had the staff print up hearing fliers in multiple languages that outlined these facts and posted the information on line so that they could be viewed when individuals logged onto the Commissions website. Finally, as previously noted, the Commissioners adopted the policy of explaining the sizes of the districts to the public at each hearing in their opening statements. The opening remarks and the sign boards allowed the public to consider the magnitude of the numbers of people that had to be put into a district before they gave their testimony and made it easier to explain to the public at large that it was not possible to make a district that would only represent certain, specific interests.

Keep the Public in Front of You

The first Commission hearing to gather Community of Interest (COI) testimony was held in Redding, California. Redding was also selected because the Commission and staff believed that it would be a small venue that would allow the Commission to start with manageable crowds while it acclimated to taking public testimony. The crowd was small and the Commissioners thought that it would be suitable to sit in the middle of the group and treat the meeting like a round table discussion. As the meetings progressed and the crowds got larger and more animated, the Commission adopted the traditional setting of sitting in front of the speakers while testimony was given. However, the people who came to provide testimony continued to try and fill into seats or spaces behind the Commissioners and/or the Commission's staff while they waited for their turn to speak to the Commission.

The presence of individuals behind the Commissioners presented problems. First, some people behind the Commissioners and their staff would deliberately read what the Commissioners and their staff had up on their computer screens or what they had on their desks while the testimony was being given. This included personal emails, private data browsing, etc. In addition, some people would try to engage the Commissioners individually while testimony was being given. As a result, the Commission adopted an informal policy of keeping attendees away from the rear of both the Commissioners and attending staff where the computer screens and material on the desks could not be observed. In addition, individuals were asked not to approach the Commissioners during testimony or to approach them during recess.

Meeting Safety and Security

At the beginning of the public hearing process the Commission's staff regulated the crowds. This could include settling minor disputes regarding a person's position in line or arguments between persons waiting to give testimony. As the hearings got longer and the crowds got larger it became apparent that the Commission's staff was not capable or appropriate for providing security. As previously discussed, some Commissioners were approached in the hallways and the bathrooms by individuals who wanted to further explain their testimony or to attempt to discredit the testimony of others. As the Commission came closer to completing the final maps the tension appeared to increase at each successive hearing. After one particularly contentious hearing about one third of the way through the first public hearing cycle, the Chairperson advised me that the Commissioners were getting nervous about being approached and with how close the crowds got to the Commissioners during the hearings. After that hearing, we hired local off-duty police officers or private security companies to provide two or three security persons at each hearing. We would have one individual stand near the entrance and at least one near the Commissioners while the public testimony took place. For the most part, this resolved the issue. As a good business practice, the commission should have security at all public hearings starting with the first hearing.

Code the Testimony Received to the Correct Geographic Reference

As previously discussed, the Commission often had hearings where there were too many speakers for the length of the meeting and those individuals were encouraged to submit their testimony online or by mail. As also discussed, the Commission had individuals and groups follow them from venue to venue to continue giving testimony in two minute increments or in "chained" testimony up to 10 to 15 minutes long. Testimony submitted in public or by email or mail might be related to the hearing and community where the Commission was meeting or related to another community in the State. For a brief period the Commission tried unsuccessfully to discourage public testimony that was unrelated to the location where they were having the public meeting. Once it was apparent that this would be an ongoing issue, the Commission moved to a format that allowed individuals to give their testimony regarding any community or region that they had come to speak about and then instructed staff to tie the testimony to the Community of Interest (COI) to which it was related. Similarly, testimony coming by email or mail could be for any community in the State and was coded to the specific community referenced. In this way, the record of the public testimony and testimony provided by email or mail would relate to the location that was under discussion when it came time to determine a district.

Group Hearings

In order to accommodate larger, more organized group presentations, two additional public hearings were scheduled for only groups or individuals with presentations. Each group or individual that signed up was allowed a longer block of time to present their recommendations. From the stand point of planning and input, this was a good compromise.

The groups tended to provide more specific data but needed greater blocks of time to make their presentation. The first Commission allowed 15 minutes per group during the public group hearings in Oakland and Northridge. I would suggest that the next commission have four, two day sessions where groups are allowed 30 minutes each to make their presentations. Two of the presentations should be after the first, initial sweep of the state and the second two should be deeper into the process as the commission is finalizing their maps. The four presentation sites should be in different geographic areas of the state to allow maximum participation and exposure. The presentations should be after a reasonable break in public testimony, such as the one week period agreed to by the first Commission.

Prior to each group hearing, the groups should be required to request time slots in advance of each meeting and preference should be given to first time presenters if there are not enough presentation slots. This is because some of the well-financed groups will be present in all four locations and at most of the public hearings where individuals from the groups are also trying to provide testimony to the Commission.

Administrative Meetings

In addition to public hearings and deliberation meetings where the Commission determined the actual districts, the Commission also had an extensive number of administrative meetings. These were typically business meetings where the Commission discussed its ongoing business. These meetings included staff reports regarding the progress of the Commission's staff in completing contracts and obtaining payments for services; the hiring of staff persons and contractors; and, reports from Commission sub-committee meetings regarding the Commission's legal proceedings or administrative issues. The business meetings typically lasted 6 to 8 hours and often spanned multiple days during the first two months after the Commission's formation. As with all of the Commission's meetings, these meetings were required to adhere to the requirements of the Bagley-Keene Open Meeting Act which meant that they were in public, videotaped with transcription, and the public was given notice of the meeting 14 days in advance. (Note: The Act requires 14 days public notification which exceeds the ten day public notice of a meeting required by Bagley-Keene.)

Once the Commission began the public hearing process, they spent more time traveling from venue to venue than in Sacramento. To maximize their time, they would frequently have an

administrative meeting before a public hearing. For these meetings, the Commission's field staff and all required field vendors would typically arrive at the venue two hours before the beginning to set up the sub-committee meeting rooms and the main hearing room. The sub-committee meetings typically started at 10:00 a.m., were video-conferenced, and were usually two hours long. The sub-committee meetings would usually be followed by an hour for lunch and then a meeting of the full Commission that could last up to four hours. Following the end of the administrative meetings, there would be at least an hour break and then the Commission public hearing would be held in the same venue. Usually, the public hearing would begin at 6:00 p.m. to allow speakers to get to the venue after work. The hearing would run for five hours and end at 11:00 p.m. or thereafter. The Commission's staff and vendors would spend the next hour or two breaking down the meeting equipment and moving the Commission's signage to rental vehicles for transport to the next venue which was often the next day. The staff were also responsible for ensuring that all Commissioners were in a vehicle with their equipment and moving away from the venue to ensure that no one was left behind. The policy to monitor the commissioners leaving the venue was created after one commissioner was left without transportation at a Los Angeles venue. The staff were also responsible for ensuring that the Commission's vendor's, including the line drawing staff, were in their vehicles with their equipment and away from the venue before the staff could leave the venue.

- The entire day for a commissioner would be from as early as 9:30 a.m. to as late as 11:30 p.m., up to 14 hours, at the venue.
- The entire day for the Commission's field staff and video vendor's would be as early as 8:00 a.m. to as late as 1:00 a.m., up to 17 hours at the venue.
- The entire day for the Commission's line drawer staff could be from 4:00 p.m. to 12:00 a.m., up to 8 hours at the venue.

I would recommend that future Commissions have Administrative meetings followed by Public Hearings as infrequently as possible and only when there is a clear administrative need for the meetings. The long days are hard on commissioners, staff and vendors, particularly when there were hearings the following day. The extended meeting/hearing format is also expensive when hourly staff work 2 or 9 hours of overtime during a single day.

Managing Contractors

At the beginning of my work with the Commission, they were insistent that their funds be safeguarded against waste and mismanagement. As sworn state officers, all commissioners and board members serving in California are required to safeguard the State's funds and can be held personally accountable for the mismanagement of their budgets. As the Citizens Redistricting Commission Executive Director, it was my responsibility to ensure that the Commission's funds were spent correctly and that the Commission was protected from any accusation of mismanagement and I took my responsibility seriously. That included requiring each contractor to provide the services, the deliverables and the documentation that they agreed to provide in their contract at the agreed upon price before I authorized payment.

Each Commission will hire a variety of external contractors including, but not limited to, their outside Counsel, Voter Rights Act attorneys and/or specialists, their line drawer, videographers, court reporters, American Sign Language interpreters, language interpreters and local law enforcement officers. Some of these contractors remain with the Commission for the entire time that the Commission is involved in the actual redistricting process and some contractors are specific to individual hearings or administrative meetings.

For the major contracts, the outside legal counsel and the line drawer, a significant benefit to being awarded the contract is the prestige associated with the project. The law firm representing the Commission will have the opportunity to represent the Commission in front of the California Supreme Court should the Commission's maps be challenged as they were three times in the 2010 redistricting cycle. The line drawing firm representing the Commission will be able to qualify for any future redistricting process for any other state or local entity on the single qualification of having drawn the 177 Congressional, Senate, Assembly and Board of Equalization districts for the most populace state in the country.

For all contractors hired, the Commission's success becomes their success. Each contractor receives compensation in the amount provided by their contract. In addition, and possibly of

greater importance, each contractor receives the notoriety that comes with completing a highly visible project, and the sense of contribution that comes from completing a unique and important mission.

During the first Commission, individual relationships formed between commissioners, the Commission's staff and the staff of longer termed contractors that ranged from close friendship to animus. These relationships influenced the day-to-day operations of the Commission and were noticeable during some of the hearings and meetings as the process progressed. For the most part, the Commission functioned objectively; however, there were moments when there was enmity.

With regards to managing contractors, the first Commission developed separate standards for the evaluation of their contractors based on how they established their relationships with them. The closer the personal relationship was between some of the commissioners and a contractor, the greater the tendency was to want to be favorable in the evaluation of that contractor's invoices or requests for payment for services, particularly services provided outside the contract.

For example, on two separate occasions the Commission was notified of a request by a contractor for payment of additional services that the contractor considered to be outside the terms of their contract. The first was from outside counsel. During staff review of an invoice by the law firm, the Commission's staff questioned their request for payment for additional services that the staff considered were within the scope of the firm's contract. This was reported to the Commission and the commissioners agreed unanimously with the staff determination that the amount charged was for a deliverable already included under their primary contract and no additional payments were warranted. When notified, the firm agreed and adjusted their invoice by removing the charges.

The second was from one the Commission's primary vendors. The vendor asserted that a portion of the required work with the Commission's outside counsel were not part of the original contract for services. The Commission's staff disagreed with the request because the staff believed that the vendor's services provided to the outside counsel were a part of the original contract and had been anticipated when the bidding process had occurred. In my review of the staff analysis, I agreed with their analysis that the vendor was requesting additional payment for services that should have been provided under the original contract.

In this instance, the Commission asked that the invoice be re-reviewed with a commissioner conducting the review and with the assistance of the same staff that had conducted the first review. The result of the second review was to award the vendor approximately one-third of

the \$75,000 be sought in the invoice. The remaining two-thirds of the request were disallowed.

Following the completion of the second review, the Commission appointed two commissioners to act as a liaison with the vendor to assist that company with its dealings with the Commission. In my opinion, this arrangement was counterproductive at best because it created a two commissioner advocacy for a vendor when submitting invoices for services. In my mind, the Commission had commissioners negotiating with their own staff on behalf of their contractor and then casting a vote in favor of a favorable outcome for that contractor.

I would recommend that all future redistricting Commissions place the management of its staff and contractors under its Executive Director and only become involved in a vendor dispute after the full Commission has reviewed the supporting documentation provided by its staff. The settlement of the dispute should be in a public meeting and the decision of the Commission should be made public at that meeting. If additional information is necessary, the Commission should select one commissioner to work with the Executive Director in a secondary review of the documentation supporting the staff decision. Once the review is complete, the commissioner and the Executive Director should report back to the full Commission for a discussion and a vote.

Under no circumstance should a commissioner work directly or indirectly with a vendor to establish a claim against the Commission without the knowledge of the full Commission. In the event that the Commission directs a commissioner to work with a vendor to establish a claim, that commissioner assigned to assist the vendor should recuse him or herself from any vote regarding the payment of the claim.

To ensure that contractors are paid fairly and to resolve disputes regarding the provision of services, the commissioners and their staff should construct contracts with their vendor's that allow flexibility in payments and clarity in the services that must be provided.

Contracting for Services

In California, each redistricting cycle is unique. There are no specific guidelines regarding how many public input meetings are required or how much time must be allocated for completing the actual district maps. Each successive Commission is allowed to complete the process as they see fit and each will probably face legal challenges regarding their decisions. During the course of the actual redistricting process, each Commission may find it necessary to add or subtract the number of public meetings planned because of public demand or time constraints.

During the 2010 cycle, the constantly evolving redistricting process presented challenges in how to structure contracts for vendors that allowed them to be equitably and timely paid for the services that they provided and to ensure that any work product was the property of the Commission. In retrospect, we developed the following recommendations from that experience:

- When constructing the Requests for Proposals (RFP) for the Line Drawing companies that will bid to represent the Commission, it is important to structure the RFP so that the Commission receives a response that will demonstrate the contractor's ability to complete the task without requiring state level line drawing experience. Few contractors have statewide experience because of the infrequency of the opportunities. A greater number will have a lesser experience, such as the redistricting of a large county or major metropolitan area, which would make them capable of completing statewide line drawing. If the next Commission desires a larger pool of proposals to select from, it may be necessary to be more creative with the RFP. In the first cycle, we ultimately requested experience at the Metropolitan Statistical Area (MSA) level in order to find more than one qualified line drawer. Even with this adjustment, we only received proposals from two qualified bidders to provide these services. If we had more time, we would have expanded the search to the national level; however, there is no guarantee that this would have increased the number of bidders for this service.

- Construct your RFP's with your line drawers, videography staff and interpreter providers with maximum flexibility to expand the number of meetings over a base number of meetings that you know that you will have. For example: The line drawer will provide three different types of services. They will be present at public meetings and will draw visual representations of communities of interest (COI) based on public testimony. These visual representations will be stored for later consideration by the commission as they complete their district deliberations. The line drawer will also work with the commission in all day public sessions at the end of the process to complete the final maps. The first commission completed their deliberations at McGeorge Law School in Sacramento. Finally, the line drawer will provide services and training for the Commission's outside counsel.

For the first two services, public meetings and line drawing sessions, a total cost and "per meeting" cost for a minimum and a maximum number of meetings for each service should be established. This will establish a basis of comparison of the overall cost and cost per meeting between proposals from different line drawers competing for contracts with the Commission. It will also allow the Commission to expand the number of meetings necessary to complete the redistricting process in a way that ensures that the line drawer is fairly compensated for the services provided regardless of how many meetings are conducted.

- Require separate line items for services that one vendor may have to provide to another. This is particularly true of the provision of services from the line drawers to the Commission's legal representatives. In the first cycle, it was necessary for the Commission's line drawer to provide significant levels of service to the legal staff of one of the law firms representing the Commission. These services were covered under a line item in the line drawer's contract that specified that this type of assistance would be required. However, there was no way for the line drawer to anticipate the level of services that would be ultimately be needed. The line item in the contract should be structured similarly to the per-meeting structure. The line drawer should be required to provide a base cost for a set number of hours of assistance to the commission's lawyers and then have a cost per hour for every hour of services provided beyond that limit.
- Protect the Commission's interests. In the first cycle, there was a question as to who "owned" the Commission's work product and what services were to be provided to the Commission after the maps were submitted to the Secretary of State. In the next cycle, the contract with all entities should specify that all videos, legal papers and positions, and maps drawn, including all iterations of the maps, are the sole property of the Commission

and the Commission has complete authority over their content, use and distribution. In addition, the contract with the line drawer should specify that the line drawer is responsible for the provision of all datasets requested for the duration of the ten year term that the Commission is seated as long as the Commission pays the line drawer for any reasonable expenses incurred in providing the data.

- Make it a requirement of the RFP and the contract that all of contractors have a dedicated, full time accounting person with knowledge of the state accounting and billing process. The Commission's staff should be able to make contact with this person to discuss the progress of invoices, invoice issues and the timely presentation of all documentation regarding billable services during any normal business hour during the work week. In addition, make it a requirement of the RFP and the contract that an invoice for services is required from each vendor no later than 10 days after the end of each billable period during which services have been provided.

In the first redistricting cycle, one contractor failed to present the Commission with an invoice for services for the first three months that services were provided to the Commission. At the end of the third month, I asked the Commission's business manager to contact the contractor regarding the lack of invoices. When he spoke to the individual hired by the company as a part-time accountant, he found that individual did not fully understand the process for submitting invoices to the state or that the state could take up to 45 days or longer to process invoices from vendors. Because the contractor was critical to the commission's operations, I asked the Commission's business manager to drive to the location of the contractor's business to work with the part-time accountant. The Commission's business manager helped generate three months of invoices in an afternoon and returned with them so that we could submit them the following day for review by the Department of General Services (DGS). We also requested a special, expedited review by both DGS and the State Controller's Office (SCO) to get the invoices processed and the vendor paid in a little more than two weeks. Both the DGS and SCO understood the need to get the contractor paid and both expedited their reviews. However, the SCO also put the Commission's staff on notice that the special, expedited service was a one-time occurrence and we would be expected to follow the state's guidelines for submitting invoices for all services in the future.

If the contracts are structured with this type of flexibility and attention to responsible business practices, it will allow a fair basis of comparison between bidders, flexibility in scheduling public meetings, equitable payment to contractors working on behalf of the Commission and protection of the Commission's work product.

Staff Hiring

Section 8253.6 (b) of the Government Code states that the Commission, “with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article VII of the California Constitution, for the purposes of this act, including legal representation.”

This section is extremely important to the Commission because it exempts the Commission from the civil service requirements for hiring and terminating staff and, instead, allows the hiring and removal of staff with a “super majority” vote of the Commission. A super majority is three members from the largest party, three members from the second largest party and three members of the commission not affiliated with the two largest parties. Nine total votes allows instantaneous staffing increases or decreases. This provision significantly enhances the Commission’s ability to react to the need for additional staff or the release of surplus staff.

By comparison, when hiring staff, other state agencies are required to justify a staff position, advertise for the position, interview for the position and then make an offer. When terminating staff, other state agencies are required to document the need to lay-off or dismiss a staff person. While documenting the reason that an individual is dismissed is always a wise course of action and should be done to the extent possible, it is not a requirement for the Commission.

The first staff hires by the first Commission were the Executive Director, the Chief Legal Counsel and the Director of Communications. The Secretary of State, who had the responsibility for assisting the first Commission until it was fully functional, advertised through traditional state hiring outlets and used state job descriptions and pay scales that were applicable to these positions. The Secretary of State’s staff assisting the Commission believed that it was important

to staff the positions with individuals who understood state government because the Commission is required to operate within the state's administrative parameters.

Once the Commission had hired me but before the commission fully occupied the space provided by the Governor's office, the Commission asked me to develop a full staffing plan. I approached the staffing plan believing that the Commission would need a staff structure similar to other state agencies. I estimated that the Commission would need approximately 25 full time staff in various positions in their offices and in the field. The Commission did not approve the plan. It was the opinion of one of the commissioner's that we should approach the staffing similar to a "small startup company" and the remainder of the commissioners appeared to agree in concept. There was no vote but also no disagreement to having a smaller, flat structure and little support for having a staff structure similar to other boards and commissions.

Small and flexible

I downsized my staffing proposal to a small, flat organizational structure with five key personnel; the Executive Director, the Chief Counsel, the Media Director, a business manager, and an Information Technology (IT) specialist. There was no secretary, we all answered the phones and routed them to the appropriate individual in charge and we all wrote our own purchase contracts, requests for proposals (RFPs), budget change proposals (BCPs), letters and memos. Decisions were made in real time and, when necessary, presented to the Commission for a vote.

As the Commission moved forward, we added staff below the four principals. Ultimately, we had two part-time attorneys working with the Chief Counsel; an individual assisting the Media Director; a budget specialist and assistant; two procurement specialists; two field staff working for the business manager; and, up to six assistants working with the IT specialist. This group expanded and contracted with our workload but the total staff never exceeded 20 persons. It was an extremely lean staff structure for the magnitude of the project.

Salaried Staff versus Hourly Staff

To the extent possible, I sought to hire as many staff as possible into the Staff Service Manager series of state government. Staff Service Managers (SSM) (I, II and III) are paid higher monthly wages than the Staff Service Analyst (SSA) and Associate Governmental Program Analyst (AGPA) positions that are typical for general tasks such as data entry or procurement. However, SSMs are salaried workers and are not paid overtime while SSAs and AGPAs are hourly staff. During the first cycle, there was virtually no pay difference between the Commission's SSMs and the

SSAs and AGPAs because of the vast amount of overtime that was incurred by the Commission's small staff. However, there was a significant difference in the performance capabilities of the SSMs compared to the less experienced SSAs and AGPAs.

Retired Annuitants

We also hired Retired Annuitants (RA) and temporary staff on personal services contracts to fill short term needs and to augment permanent staff. This also held down the cost of staffing for the Commission. RA's can only work 960 hours in any fiscal year. While most were paid at the SSM level, they all remained retired in the state's retirement system. The savings to the Commission and the state in health care benefits and retirement benefits were significant, especially given the level of experience that these individuals brought to the Commission. RA's were predominantly used as attorneys, procurement specialists and accounting specialists.

Temporary Staff

The temporary staff were Information Technology (IT) data entry personnel. We hired most of our staff from local high schools and junior colleges and used them five to six at a time depending on the amount of work that we had available related to the Commission's public hearing schedule. Every student that we used was proficient in the use of computers and worked diligently to input and code the Community of Interest (COI) testimony that the Commission received from the public meetings, email or through the postal service. There were literally thousands of documents and recorded materials that were referenced and cross-referenced to the individuals and places where the testimony was received. The students were well mannered and generally punctual. For compensation, we placed each student under a personal services contract which allowed a one-time payment of up to \$5,000 for services provided. We monitored each individual's actual hours worked and released them when they had billed for approximately \$4,800 in compensation. We also gave them a certificate signed by all the commissioners that thanked them for their service.

Commission and Staff Interactions

As previously noted, the first Commission required a small staff. To cover all of the commission's activities, it was necessary to hire staff for specific tasks and give them a high degree of independence. In the office, we had four areas of expertise: the attorneys, the communications staff, the business staff, and, the IT staff. The IT staff comprised the bulk of the Commission's hires. In addition, we had two individuals who were the field staff. These two individuals planned, set up and attended the venues for the public and administrative meetings.

When we hired staff, I asked each of them to be mindful of their relationship with the commissioners. I explained to each of them that the commissioners were responsible for drawing the district maps and our job was to support them. My standing rule for all staff was to maintain a professional relationship with each individual commissioner and to treat them equally. This requirement was particularly true of the field staff, who spent long hours at meetings, hearings and on the road with the commissioners.

I had an additional rule for the field staff, do not bring any gossip back from the field. Stories about happened at different venues were acceptable but it was not acceptable to discuss a personal aspect of a commissioner or their relationships between each other amongst staff.

Unfortunately, at one point, late in the process, as the Commission was getting near the end of the public input phase, two commissioners went to dinner with one of the field staff and, as it was restated to me, had a discussion about dismissing the majority of the Commission's staff.

Rather than calling me or the Commission's business manager to report the conversation with the two commissioners, the field staff person returned to the Commission offices and had discussions with three other staff persons about an impending organizational change that included the firing of most of the existing staff. As could be expected, the information roiled our small office staff and, before I could sort out the issue, most of them had come to my office to ask me individually about the validity of the information and whether they should start looking for new jobs.

When the information was given to me by the first senior staff person, I brought in a second individual who had been involved in the initial conversation in our office and that individual confirmed that the office conversation had occurred and that the specifics of the impending firings were an accurate representation of what the field staff person had discussed in the office. When I discussed it with the field staff person, that individual stated that the dinner and the conversation had occurred. Following that confirmation, I discussed the entire issue with the Commission's current chairperson and vice-chairperson. In a subsequent meeting in my office with the chair person, the vice-chair person, the Commission's Chief Counsel and the two commissioners who had been identified as being at the dinner with the staff person, both commissioners confirmed that they had gone to dinner with the staff person but both denied that the conversation regarding the firing of commission staff had occurred. In the aftermath of the incident, it was necessary to assure the office staff that there would be no firings and that they should continue to work towards the planned ending dates for the Commission's process.

The point of this narrative is to illustrate the importance of keeping a professional distance between the commissioners and their staff. It is natural for commissioners and staff to be friendly with one another and to care about each other's well-being. Friendly conversations between commissioners and staff are to be expected; however, going to dinner or having a drink with staff should not be expected and can put the Commission's staff in an awkward position. In this particular case, the field staff person subsequently left the Commission but not without damage to the morale of the Commission's office staff and to the relationship between the Commission's senior staff and the Commission.

Commissioner and Staff Equipment

When the first Commission began their work, they used their own personal computers and cell phones because the transition to state owned cell phones, computers and signal boosters was slower than it should have been. The commission's Chief Counsel and Information Technology (IT) specialist both worried about the commissioner's using their own personal equipment. The Chief Counsel was aware that any equipment being used by the commission was "discoverable" and that each commissioner was at risk of having their phones and computer's taken by a Public Records Act request. Taking the information could be by download or after a full seizure of the equipment.

The commission's IT specialist worried about the commissioner's computers being inadequate to handle the size of the files that were going to be needed in completing the redistricting process. There was also a significant difference in the quality of the computers that each commissioner used personally which put some commissioners at a technical disadvantage to others.

For these reasons, I suggest that the commission not conduct any business using personal cell phones or computers. The first equipment that is provided to the commission by the State Auditor's office should be a state purchased cell phone and computer and each new commissioner should cease using their own cell phone and computer for any redistricting related purpose as soon as they have a state provided device. If the State Auditor does not provide a computer, the Commission should make the purchase of new lap top computers and cell phones a high priority.

The commissioners will also need signal boosting devices for their cell phones and computers. The level of coverage has vastly improved since the first commission conducted their public meetings. However, there are still large areas of the state where signal coverage is less than desirable for the commission's needs. The commission will have limited time to complete its

redistricting duties; therefore, it should make every effort to ensure that nothing hinders its capabilities. Initially, the signal boosting devices will not be essential but the commission should be equipped with them before they start their public meetings or if they live in rural areas with poor cell phone coverage.

The commission also needs at least two high speed scanner/copiers and at least one should be able to print in color. The commission will want to have handout material at all of their public hearings. During the first commission, we used a contract with a local UPS store to make color copies of handouts and signage. There will still be a need for a similar contract but the cost of color copies and the speed at which the commission will need handouts for hearings makes a color copier a necessity.

Finally, the commission will still need a state computer and cell phone after they scale down their operations because their appointment is for a ten year term. Leased equipment can be returned and any other equipment purchased by the commission can be returned to the state for distribution to other state agencies for continued use.

Personnel Considerations and Other Issues

Holdover and Transition Staff from the First Commission

The second commission may come with “holdover” and transition staff that were put in place by the first commission and/or the State Auditor. For over six years, the commission had a single staff person that maintained the commission’s website, processed the commission’s Travel Expense Claims, as needed, and set up meetings on an “as needed” basis. That person left the commission approximately two years ahead of the selection of the second commission. Before she left, she brought in two retired annuitants to split her duties. In addition, the State Auditor will provide “interim” staff to assist the Commission in the transition to a fully functional status.

The second commission is under no obligation to retain staff or to honor any agreements entered into by the first Commission or the State Auditor that may have been intended to extend beyond the first Commission’s term of office which ends on or before July 5th, 2020 or the transition period with the State Auditor’s office. Staff retention should be determined by the second Commission’s Executive Director, a position that all retained or assigned staff may apply for independent of their current assignment.

As the first Executive Director, I was able to select my own staff which was critical to ensuring that I had individuals working for me that I had selected for specific tasks. The holdover and interim staff will have the opportunity to apply for the Executive Director position or for any new Commission positions identified by the new Executive Director and if they are the best qualified staff to work in those positions, the Executive Director will recommend that the new Commission hire them.

Prior Policies and Procedures

The first Commission put together a comprehensive policy and procedures manual and the second Commission should evaluate those policies and procedures and adopt the guidelines that are suited for the way the second commission chooses to operate. If there are policies or procedures that are no longer relevant or suitable to the commission's mission, the second or subsequent commissions are under no legal obligation to retain them. Each Commission is allowed to operate in the fashion that it, as a whole, deems appropriate.

Daily Compensation of Individual Commissioners

One policy of the first Commission that should be reviewed is how the Commission is individually compensated.

Government Code section 8253.5, Citizens Redistricting Commission Compensation, states: "Members of the Commission shall be compensated at the rate of three hundred dollars (\$300) for each day the member is engaged in commission business. For each succeeding Commission, the rate of compensation shall be adjusted in each year ending in nine by the cumulative change in the California Consumer Price Index, or its successor. Members of the panel and the Commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed pursuant to this act. A member's residence is deemed to be the member's post of duty for purposes of reimbursement of expenses." The estimated current rate of daily compensation is approximately \$376 per day after the California CPI adjustment that is required every 10 years.

Compensation for reimbursement of personal expenses was and is handled by a straightforward process. Commissioners were and will be compensated at the rates set by the state and utilized by all state employees and contractors. To be reimbursed, each Commissioner was required to submit the state's Travel Expense Claim (TEC) for reimbursement for both daily compensation and personal expenses including travel expenses. However, the first Commission labored over the meaning of "members shall be compensated... for each day the member is engaged in commission business" and how it should apply to their compensation.

During the January 13, 2011 meeting where the Commission set its compensation policy, I advised the Commission's chairperson that the literal meaning of Government Code section 8253.5 was that a commissioner is entitled to daily reimbursement if the commissioner engages in any Commission business on a particular day. The code does not prescribe the number of hours that need to be worked to qualify for compensation. My opinion was based on Government Code section 8251.(b)(2) which specifies that a "Day" means a calendar day.

Nevertheless, the Commission felt like there should be a standard of hours set to trigger compensation. After several proposals, the final interpretation of the meaning of “each day” was a work day of six hours. By vote, it was agreed that each commissioner would be required to keep a log of the number of hours and specific activities to support any request for “daily” compensation regardless of whether the hours and activities spanned more than one day. In addition, the Commission’s restrictions prohibited claiming the time it took to travel to and from hearings and meetings.

James Wright, an applicant for both commissions and avid supporter of the redistricting commission’s mission and purpose, wrote an email to the first commission on January 27, 2011 and noted that the information in the email was intended to be a public comment. In his comment, Mr. Wright discussed the commission’s compensation and how it should be calculated. He noted that the definition of “Day” as stated in Government Code section 8251 (b)(2) means “a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.” He continued with the language of Government Code section 8253.5 stated above and concluded “using these statements in the law, there is no provision for accumulating time over several calendar days. The discussion and decision made on 13 January (2011) needs to be revisited during a future Commission meeting.”

I believe that Mr. Wright saw the issue as I did, that this restrictive methodology for daily compensation significantly reduced the amount of compensation that each commissioner could claim and was counter to the intent of the original Act. I believe the original intention of the Act was to provide a level of daily compensation that, to the extent possible, allowed individuals of lesser economic means to serve on the Commission with as little financial hardship as possible. By arbitrarily defining each day that a commissioner engages in Commission business to mean a six hour day with rules that narrowly define what qualifies as a billable event, the amount that each commissioner can claim is unreasonably reduced and extends the timing of reimbursement until a six hour increment can be documented. For some commissioners on the 2010 Commission, the amount and timing of reimbursement was of little consequence. However, for other commissioners, the amount and timing of reimbursement was critical to their ability to participate on the Commission. This will remain true for all future Commissions.

For comparison, Government Code Section 8902, Legislative Compensation, allows a member of the California State legislature to be compensated for each day that the member is required to be in Sacramento attending a session or on any day that a member is traveling to and from attending a meeting or authorized function. This includes all travel reimbursements at a rate established by the Department of General Services (DGS).

The legislative method makes daily compensation task driven rather than hourly driven. If the Commission adopted the same system of compensation, each commissioner that has a legitimate task that must be performed, such as a teleconference with outside counsel or working with Commission media representatives, would be entitled to compensation for that day without regard to the time it takes. The incremental cost to the Commission would be higher but not unreasonable given the length of time that commissioners spend traveling and in meetings. However, the additional funds to the participating commissioners would be more equitable for the magnitude of work that the Commission is undertaking and would also ease the pressure on those commissioners who need timely and equitable compensation in order to participate.

An unfortunate side effect of the first Commission's policy was that it put the Commission in a position where some of its members felt it was necessary to present alternative plans to try and obtain additional compensation to help ease the cost of participation. One idea discussed at a Commission business meeting was to have commissioners who had higher personal income get less per diem and have commissioners who had lower personal income get more per diem. It wasn't necessary to point out that this was not legally possible; an ensuing disagreement regarding the equity of this proposal immediately ended its consideration. A second idea was to have day care expenses paid for commissioners with children. This idea was researched by staff and ultimately dismissed because it would never be approved by anyone in state government because of the precedent that it would set for all of state government.

Commissioner Oversight of Each Other

A second policy that should be closely examined is the first commission's decision that only commissioners could oversee each other. While this should be true in most areas, such as any disciplinary decision made by the Commission with regards to an individual commissioner, it should not apply to oversight of commissioner compensation or travel expenses.

In other state agencies, departments, boards and commissions, staff oversee the review of the reimbursement of daily compensation and Travel Expense Claims. In my opinion, proceeding Commissions should place the review of all commissioner reimbursement under the Executive Director and his or her staff based on Commission approved policies and procedures. If disputes arise, the Executive Director and his or her staff may present an individual commissioner's request for additional review to the Chairperson and Vice-Chairperson for review and consensus along with any necessary documentation and/or staff analysis. If the Chairperson and Vice-Chairperson disagree with the staff determination, they have the authority to reverse or amend the staff decision. If they do not reverse or amend the staff decision, the commissioner requesting additional review could request a review and decision by the full commission. In this way, any friction over compensation is primarily between the

commissioner and the Commission's staff and not between commissioners. This is critical to maintaining harmony.

Harassment

In state government, harassment is a serious issue and comes with specific actions that must be followed after there has been an accusation. Defined by California Penal Code 646.9(a), harassment is the crime of making a credible threat to another with the intent of placing that person in reasonable fear for his or her safety. If an accusation of harassment is made, the state requires that an investigation be immediately conducted and that responsible individuals in the organization take all reasonable steps to prevent further harassment. For the Commission, the Executive Director and Chief Legal Counsel must immediately investigate the allegation including interviewing all parties and witnesses to the incident. Finally, the facts of the investigation must be communicated to the Commission. If the allegation is substantiated, there are specific remedies.

During the public testimony phase of the first Commission, an allegation of harassment was made by one commissioner against another. The commissioner who made the allegation claimed that the other commissioner had harassed a contractor in the parking lot of a venue where a public hearing was taking place. Other commissioners supported the claim.

I was in Sacramento when the accusation was made. The Commission was in southern California. I asked one of our attorneys to fly down the next day, investigate and take testimony. The attorney flew into Burbank in the morning and drove to Northridge where the Commission was conducting a two day set of meetings for large group presentations. I flew to Burbank that afternoon. When I arrived, we met with the chairperson and vice-chairperson, the commissioner who made the accusation and the commissioner accused of harassing the contractor. Later, after the public meeting, we met with the contractor and her staff as they were packing up to leave.

In our conversation with the contractor, she stated that the commissioner accused of harassment had gone out to the parking lot and had asked why she and her staff would not answer his questions during the meeting. An argument ensued and the commissioner left shortly after. This was a similar version of the story related to us by the commissioner accused of the harassment. When I asked the contractor whether she felt like she had been harassed, she stated that she was not the one who had been harassed, it was her employee. That employee had also been present in the parking lot during the argument but had never been identified as the person that had been harassed. When we asked that person whether she felt like she had been harassed, she said she wasn't sure and then declined to discuss the matter any further.

In the end, we determined that there was no credible evidence of any harassment, as defined in statute. In my opinion at that time, it had simply been an argument over whether the commissioner should have been given the same level of courtesy and attention as the other commissioners. We concluded that the accusation of harassment was unwarranted. In addition, the process was time consuming and expensive. I believe that if all the individuals initially involved had stepped back and taken the time to sort out the details, the investigation would have been avoided.

Retrospective Examinations of the Commission

At end of the redistricting process, when the commission was downsizing its operations and staff, the James Irvine Foundation commissioned a retrospective examination of the California redistricting process. The examination was conducted and written by Dr. Raphael J. Sonenshein and ended with a report entitled: When the People Draw the Lines – An Examination of the California Redistricting Commission. It is a well written assessment of the many things that went right for the first Commission and it also details some of the pitfalls along the way. During the data collection phase, I discussed some of the issues that I have written about in this document with Dr. Sonenshein in a telephone conversation and appreciated the opportunity to provide some staff insight regarding the process.

During the final weeks that I worked with the Commission, legislative staff and state staff that were knowledgeable of the Commission's operations were also examining the Commission's ongoing needs following the completion of their primary redistricting functions. My focus was arranging for a staff assignment and a budget for their transition to a less active status. Initially, the legislative staff that I worked with believed that the commission had no further reason for meeting and shouldn't receive staff assistance or appropriations unless there was a specific need under law for them to resume meeting. I was able to persuade them that the Commission needed a minimum level of support because the Commission is an ongoing entity that needs to have a public access point when individuals or organizations need to contact the commissioners. In addition, I stressed that there would be ongoing issues with redistricting where the Commission could be useful in conveying the message and progress that this process had brought about in California. As a result, the group agreed to one half-time staffing position and a modest yearly budget.

During the same time period that I was working to determine the Commission's future funding, the Commission was working to gather information regarding the positive and negative aspects of the Commission's process. The Commission obtained feedback from each commissioner and from the "shareholders" who had worked with the commission to make it a success. However, no request was made for staff input.

In order to preserve as much of the management and staff experience as possible, I wrote and perfected this document with the intention of presenting it to the 2020 Commission. I believe that the first Commission had an extraordinary staff of resilient and capable individuals who were committed to the Commission's mission and purpose. Hopefully, their experiences will make it easier for subsequent Commissions.

A Ten Year Commitment

Section 2 (a) of Article XXI of the California Constitution states that the Commission is created in each year ending in the number zero and section 2 (b)(4) states that the term of office for each commissioner expires upon the appointment of the first member of the succeeding commission. This creates a 10 year commitment of service for each commissioner.

Although Propositions 11 and 20 do not specifically address a post-redistricting mission for the commission, both propositions do make the commission the sole defender of its maps should any defense be necessary during the ten years the maps are used. The propositions also provide a mechanism for the replacement of a commissioner should there be a necessity during the Commission's tenure. In addition, the Commission may be asked to provide a qualified opinion on pending legislation that may affect redistricting, such as how prisoners are counted, and may involve itself in outreach to support a better understanding of how redistricting is performed in California.

In the early weeks of my work with the Commission, I suggested that the first Commission should think about a post-redistricting mission. The collective feeling appeared to be expressed by one commissioner who said that when the maps were finished, they would "go home". With no prior experience to inform the Commission regarding the possibilities, it was difficult, at that time, to foresee the number of tasks in which they would want to participate as the ten years of their term passed.

After the maps were submitted and the law suits were settled, the first Commission found new opportunities to provide public service. They supported other redistricting commission's outside of California with Amicus briefs, gave talks around California to discuss what they had done and visited other states to speak about the California process. They applied for and were awarded a prestigious award, the Roy and Lila Ash Innovations Award for Public Engagement in

Government from Harvard's Government Innovations Award Program. They engaged with local and national groups to help influence a growing movement towards fair and equitable redistricting utilizing citizen participation similar to theirs.

The importance of thinking ahead from the beginning is to pave the way for maximum effectiveness during the post-redistricting years. Part of this effort will be to secure better staffing and funding after the completion of the primary tasks associated with redistricting and part of this effort will be to secure more support for your efforts.

APPENDIX - 1

LEGISLATIVE, JUDICIAL, AND EXECUTIVE

2020-21 GOVERNOR'S BUDGET — LJE 1

0911 Citizens Redistricting Initiative

The "Voters First Act" (Proposition 11) and the "Voters First Act for Congress" (Proposition 20) reformed the redistricting process and established an independent 14-member Citizens Redistricting Commission to draw the decennial district boundaries for California's Congressional delegation, state Senate, state Assembly, and Board of Equalization.

3-YEAR EXPENDITURES AND POSITIONS

					Expenditures		
		2018-19	2019-20	2020-21	2018-19*	2019-20*	2020-21*
0730	Support	0.4	-	0.4	\$72	\$-	\$92
0731	Citizens Redistricting Commission	-	0.4	-	-	12,517	-
0732	Post Redistricting Process	-	-	-	-	4,297	-
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		0.4	0.4	0.4	\$72	\$16,814	\$92
FUNDING		2018-19*		2019-20*		2020-21*	
0001	General Fund			\$72	\$16,814	\$92	
TOTALS, EXPENDITURES, ALL FUNDS				\$72	\$16,814	\$92	

LEGAL CITATIONS AND AUTHORITY

Government Code Title 2, Division 1, Chapter 3.2, Sections 8251 to 8253.6, as added by Proposition 11, with amendments as a result of Proposition 20.