

## VOTING RIGHTS ACT COUNSEL SCOPE OF WORK

Under the general direction of the Commission, the VRA Counsel shall provide legal counsel services to the Commission, including providing independent legal advice and participating in litigation, when requested from time to time, in each of the areas described below:

### **General Considerations:**

1. Perform all normal and customary duties required of a VRA legal counsel in connection with legal issues related to Redistricting Activities.
2. Advise the Commission, Commission staff and consultants as to procedures, legality of documents, policy concerns, and legal implications concerning the Redistricting Activities, and specifically work with Commission, Commission staff and consultants with respect to legal issues in connection with drawing new district boundaries.
3. Ensure that all constitutional, statutory, and regulatory requirements and court decisions governing the Commission's activities are properly interpreted, including but not limited to the California Elections Code, and the federal Voting Rights Act of 1965.
4. Advise the Commission, Commission staff and consultants regarding the requirements of State and Federal laws relevant to Redistricting Activities, and in particular demonstrate expertise and experience with Section 2 and Section 5 of the Voting Rights Act, including but not limited to issues with respect to the *Shaw v. Reno* 509 U.S. 630 (1993) and *Miller v. Johnson* 515 U.S. 900 (1995) line of cases and appropriate population analysis in "majority/minority districts."
5. Advise the Commission, Commission staff, and consultants regarding *Shelby County v. Holder*, 570 U.S. 529 (2013), and of the progress of legislative proposals to affect that decision, including, but not limited to, H.R. 1 (117th Congress), the "For the People Act of 2021," and the John Lewis Voting Rights Advancement Act, previously introduced as H.R. 4 (116th Congress).
6. Advise the Commission, Commission staff and consultants of litigation risks associated with Redistricting Activities and approaches to limit such risks.
7. Attend various Commission public meetings and hearings and other legal proceedings, as assigned by the Commission or Commission staff. The attorney or firm may be required to submit written interim and final reports and summaries as requested by the Commission or Chief Counsel.

### **Specific Considerations:**

1. Provide, as soon as possible following acceptance of this contract by both parties, a thorough briefing to the Commission regarding the principal legal issues under the Voting Rights Act and applicable provisions of the federal constitution the Commission will face in its work. This should include anticipated litigation risks and advice about minimizing such risks.
2. Work with the technical consultant to review recent and ongoing developments regarding population shifts, as well as other related census issues, such as population growth or demographic shifts or minority groups covered by the Voting Rights Act, where prisoners should be counted, and issues with respect to racial discrimination in the electoral process and racially polarized voting, in order to advise the Commission regarding map drawing in geographic areas where these issues are presented.
2. Propose and make available to the Commission any advice relevant to community groups and members of the public as to how they can most effectively provide input to the Commission on redistricting matters.

4. Engage on an on-going basis with the technical consultant and other experts in order to provide legal advice regarding the preparation of the proposed and final maps. This includes regularly receiving information from the technical consultant and others, as needed, regarding the information submitted at the community outreach meetings across the state, working with consultants and other experts on analyzing racially polarized voting relevant to compliance with the Voting Rights Act, and advice to the technical consultant and the Commission about legal options, balancing and minimizing legal risk. This may also include retaining additional consultants and experts, subject to the approval of the Commission or Commission staff, to perform racially polarized voting and other analyses necessary to ensure compliance with the Voting Rights Act and other legal requirements applicable to the proposed and final maps.
5. Participate in Commission business meetings and such other public outreach meetings, as agreed to by the Commission or Commission staff, as necessary and appropriate, in order to advise the Commission on all legal issues associated with preparing and finalizing the new maps.
6. Prepare and deliver to the Commission a report supporting the approved maps and their compliance with the Voting Rights Act and related constitutional provisions (California and federal). This report will be integrated into the final report accompanying the statewide maps produced by the Commission.