



December 12, 2022

**CALIFORNIA CITIZENS
REDISTRICTING COMMISSION**

Mr. Joe Stephenshaw
Director of Finance
Department of Finance
915 L Street
Sacramento, CA 95814

Honorable Nancy Skinner, Chair
Joint Legislative Budget Committee
1020 N Street, Room 553
Sacramento, CA 95814

Subject: California Citizens Redistricting Commission's (CCRC) Amicus
Funding Authority

Commissioners:
Isra Ahmad
Linda Akutagawa
Jane Andersen
Alicia Fernández
Neal Fornaciari
J. Ray Kennedy
Antonio Le Mons
Sara Sadhwani
Patricia S. Sinay
Derric Taylor
Pedro Toledo
Trena Turner
Angela Vázquez
Russell Yee

Alvaro E. Hernandez
Executive Director

Dear Mr. Stephenshaw and Honorable Chair Skinner,

We write in response to the recent communication from the Department of Finance (DOF) denying the release of appropriated funds for the CCRC.

In short, CCRC's interpretation of the California constitutional language differs from that of DOF, and subsequently the CCRC does not believe withholding of the requested funds is appropriate.

On August 30, 2022, the DOF Chief Counsel Kari Krogseng requested our Chief Counsel's presence for a conference call regarding a November 18, 2021 release of funds request from the CCRC for legal services. At the time, the CCRC was contemplating filing an amicus brief in the *Moore v. Harper*¹ case, which is currently before the United States Supreme Court.² As you may be aware, California voters, through Proposition 20 in 2010, **added** Congressional

¹142 S.Ct. 1089 (2022)

² As background, *Moore* addresses, in part, whether only a state legislature *and not* any other entity, such as a Commission, has the authority to draw lines for federal elections.





boundaries to the CCRC's map drawing mandate. As explained to Ms. Krogseng, an adverse decision in *Moore* could result in the United States Supreme Court invalidating at least 52 of the 176 districts the CCRC created this past year.³

Given the potential jeopardy to its recently approved congressional lines, the CCRC considered that filing an amicus would fall within the definition of "defense of the maps" and per the California Constitution, "the commission has **sole legal standing** to defend **any action** regarding a certified final map", to determine an appropriate level of funding for that defense, and "to determine whether the Attorney General or other legal counsel retained by the Commission shall assist in the defense of a certified final map".⁴

What is more deeply concerning is that during the meeting with Ms. Krogseng on August 30, 2022, she repeatedly mentioned to the CCRC staff that the "Governor had some concerns" about the CCRC speaking on this issue via an amicus, and that it was preferable for the Attorney General, who represents the Governor's administration, to speak for California on *Moore*. Then, on September 21, 2022, DOF Chief Deputy Director Erika Li wrote to the CCRC and concluded that the DOF did not believe that the CCRC's amicus filing in *Moore* was "necessary," and consequently denied the CCRC's release of funds request.⁵

The CCRC can reasonably interpret its own statutory scheme, free from other departmental influence. California voters created the CCRC through the initiative process specifically to remove political influence from the CCRC's mandate of drawing and defending the maps.⁶ The CCRC believes that there was ample reason to request and be provided funds for its amicus efforts. In fact, when the CCRC informed legislative staff of its request for funds, those staff agreed to recommend that the legislature allocate up to \$200,000 to the CCRC for this effort. The DOF's

³ See p. 25 of *Moore* amicus brief filed by Gov. Arnold Schwarzenegger: https://www.supremecourt.gov/DocketPDF/21/21-1271/244008/20221026133703371_Gov.%20Schwarzenegger%20amicus%20brief%20-%20Moore%20v.%20Harper%20-%20No.%2021-1271.pdf

⁴ See Cal. Const. Art XXI, Sec 3: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%203.&article=XXI

⁵ Sec. 3 of the Constitution goes on to further state that the CCRC must inform the Legislature of the need for additional funding to defend the maps, and it did so, multiple times.

⁶ See p. 18 of Voter Information Guide 2010: https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2304&context=ca_ballot_props





withholding and denial of already appropriated funds from the CCRC because the administration disagrees with a CCRC policy decision, directly undermines the voters' intent to create an independent redistricting commission.

Recalling the Past and Preparing for the Future

Funding for the legal defense of the maps drawn by the CCRC in 2011 was initially denied by the DOF, and payment to the Commission's external counsel was so significantly delayed that one of the two firms retained by the CCRC resigned due to nonpayment. In 2022, funding for an amicus to argue in favor of protecting the Commission's maps was denied by the DOF even though it was supported by legislative staff and the clear language of Article XXI of California's Constitution.

The CCRC would like to engage the DOF in discussion to clarify roles and responsibilities regarding funding for the legal defense of the Commission's maps that will prevent such misunderstandings in the future.

We look forward to working with you to resolve these differences.

Sincerely,

Linda Akutagawa

Chair, California Citizens Redistricting Commission

cc: Members of the Joint Legislative Budget Committee
Mr. Derric Taylor, Vice Chair, Citizens Redistricting Commission
Ms. Corina Leon, Staff Services Manager, Citizens Redistricting Commission

