

TO: Members of the Integrity Commission
FROM: David Jonas, Office of the Counselor to the Governor
RE: Redistricting in California and Arizona
DATE: 11/3/2014

California

In November 2008, voters in California approved a ballot measure that enacted the Voters FIRST Act. This measure amended the California state constitution to create a commission consisting of 14 “citizens” who would then draw the boundaries for state Senate, House, and Boards of Equalization (which handle tax collection) districts.¹ In November of 2010, voters passed a similar ballot measure that gave the California Citizens Redistricting Commission authority to draw federal congressional boundaries as well.²

By law, the 14 citizen commission members must consist of five registered Democrats, five registered Republicans, and four unaffiliated or “other party” registrants.³ It takes a supermajority of nine votes to approve any official action (such as certification of the final maps), and this supermajority must include at least three votes from the Democratic, Republican, and other/no affiliation group of voters.⁴

Commission Selection Process

The Voters FIRST Act “requires the State Auditor to initiate an application process for selecting the members of the commission.”⁵ This entailed the random selection of three qualified independent auditors to serve on the Applicant Review Panel. The Panel then reviewed the more than 31,000 applications from citizens wishing to serve on the commission. As the state’s redistricting website notes:

“The application process is open to every registered California voter who:

- Will have been continuously registered in California with the same political party, or with no political party, for the five years immediately prior to being appointed to the commission; and
- Has voted in at least two of the last three statewide general elections.”⁶

The redistricting website further notes:

¹ <http://wedrawthelines.ca.gov/regulation.html>

² Ibid.

³ http://www.leginfo.ca.gov/.const/.article_21

⁴ Ibid.

⁵ http://wedrawthelines.ca.gov/downloads/eligibility_requirements.pdf

⁶ http://wedrawthelines.ca.gov/downloads/eligibility_requirements.pdf

“However, an applicant is ineligible to serve on the commission if the applicant has a conflict of interest as defined by the Act. An applicant has a conflict of interest if, during the 10 years prior to submitting an application, the applicant, or a member of his or her immediate family with whom the applicant has a “bona fide” relationship, as will be defined in regulation, has:

- Been appointed to, elected to, or a candidate for a California congressional or state office;
- Served as an officer, employee, or paid consultant of a California political party or of the campaign committee of a candidate for California congressional or elective state office;
- Served as an elected or appointed member of a political party central committee in California;
- Been a registered federal lobbyist;
- Been a lobbyist registered with the State of California or a California local government;
- Served as paid California congressional, legislative, or State Board of Equalization staff; or
- Contributed \$2,000 or more to any California congressional, state, or local candidate for elective public office in any year.”⁷

The Panel then narrowed down the 31,000 applicants to the 60 most qualified. (The Applicant Review Panel has not stated their exact criteria for what constitutes “most qualified”, although the ultimate commission members tended to have advanced degrees, a background in government, or had significant business experience.) The final 60 were composed of 20 applicants from each major party and 20 with no party/other party affiliation.

Leaders from the California Assembly then struck eight names from each of the three categories of applicants, leaving 36 applicants in total. From there, eight applicants were chosen randomly, and those eight on the Commission selected the six remaining applicants to join them. This left five Democrats, five Republicans, and four from no party/other party registration. These 14 applicants then formally became the California Citizens Redistricting Commission.

⁷ http://wedrawthelines.ca.gov/downloads/eligibility_requirements.pdf

Map-Drawing Process

In drawing its maps, the Commission is required by law to follow certain ranked principles:

1. *Population Equality*: Districts must comply with the U.S. Constitution's requirement of "one person, one vote"
2. *Federal Voting Rights Act*: Districts must ensure an equal opportunity for minorities to elect a candidate of their choice.
3. *Geographic Contiguity*: All areas within a district must be connected to each other, except for the special case of islands.
4. *Geographic Integrity*: Districts must minimize the division of cities, counties, local neighborhoods and communities of interests to the extent possible, without violating previous criteria. A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.
5. *Geographic Compactness*: To the extent practicable, and where this does not conflict with previous criteria, districts must not bypass nearby communities for more distant communities.⁸

The Committee first met in January of 2011 and selected outside counsel, geographic data consultants, and administrative support to help them draw their maps. They continued to hold meetings a few times a month until April of that year. On June 10, 2011, the Commission presented its four draft boundaries to the public. The Commission had until August 15, 2011 to select their final map and required a super-majority of nine votes out of 14 to approve.

The final maps were certified by the Commission on August 15, 2011, with the commission voting 13-1 in favor on the Senate and Assembly maps and 12-2 on the congressional maps.

While not required by the Constitution, a voter-referendum was initiated to throw out the new maps. This ballot initiative was defeated on November 6, 2012.⁹

Arizona

In November 2000, voters in Arizona approved Proposition 106, which amended the state Constitution to establish a bipartisan commission tasked with drawing congressional and state legislative boundaries.¹⁰

⁸ http://www.leginfo.ca.gov/.const/.article_21

⁹ http://ballotpedia.org/California_Proposition_40,_Referendum_on_the_State_Senate_Redistricting_Plan_%282012%29

¹⁰ <http://azredistricting.org/about-irc/FAQ.asp>

Commission Selection Process

According to the non-partisan Arizona Legislative Council:

The Redistricting Commission would consist of five members, no more than two of whom can be from the same political party or the same county. Persons would be eligible for membership on the commission if they meet certain voter registration requirements, and if during the last three years, they have not been candidates for public office or appointed to public office, except for school board members or officers, have not served as an officer of a political party or as an officer of a candidate's election committee and if they have not been a paid lobbyist. The Speaker of the Arizona House of Representatives, the Minority Party Leader of the Arizona House of Representatives, the President of the Arizona State Senate and the Minority Party Leader of the Arizona State Senate would each appoint one person to the Redistricting Commission. These four members of the Redistricting Commission would then meet and vote to appoint a fifth member to chair the commission. The commission would provide at least 30 days for the public to review the preliminary lines drawn by the commission, and then the commission would make the lines final, subject to approval by the United States Department of Justice.¹¹

Members of the Commission can be removed “by the Governor, with the concurrence of two-thirds of the Senate, for substantial neglect of duty, gross misconduct in office, or inability to discharge duties of the office.”¹²

The proposition allocated \$6 million from general state revenue to fund the commission.

Map-Drawing Process

In drawing its maps, the Commission is required to “first draw districts that are equal in population in a grid-like pattern across the state, with adjustments to meet the following goals:

1. Districts shall comply with the United States Constitution and the federal Voting Rights Act.
2. Both legislative and congressional districts shall be equal in population, to the extent practicable. This establishes a new strict population equality standard for legislative districts.
3. Districts shall be geographically compact and contiguous, as much as practical.
4. District boundaries shall respect "communities of interest," as much as practical.

¹¹ <http://www.azsos.gov/election/2000/info/pubpamphlet/english/prop106.htm>

¹² Section 10 of Proposition 106

5. District lines shall follow visible geographic features, and city, town and county boundaries and undivided "census tracts" as much as practical.
6. Political party registration, voting history data and residences of incumbents and other candidates may not be used to create district maps.
7. Competitive districts are favored if competitive districts do not significantly harm the other goals listed.”¹³

Like California, Arizona’s redistricting commission hired outside map-drawing consultants to help draw boundaries.

On November 1, 2011, Governor Jan Brewer impeached the chairwoman of the redistricting commission, with the Senate formally removing the chair on a 21-6 vote.¹⁴ Two weeks later, the Arizona Supreme Court reinstated the chairwoman, saying that the Governor gave no evidence of misconduct to provide grounds for removal.¹⁵

Final maps were completed on January 17, 2012, on a 3-2 vote.

Supreme Court Challenge

In October of 2014, the Supreme Court of the United States agreed to hear a challenge by the Arizona legislature that the independent redistricting commission violates the U.S. Constitution’s requirement that state legislatures set congressional boundaries.¹⁶ As an article in Reuters notes:

“The state's Republican-controlled legislature is objecting to a 2000 ballot initiative endorsed by the state's voters that set up an independent commission to work out the U.S. House of Representatives districts in Arizona.

The legislature contends that the amendment to the state constitution violated a provision of the U.S. Constitution that requires state legislatures to set congressional district boundaries.

In February, a special three-judge panel of the U.S. district court in Arizona ruled in favor of the commission.

¹³ <http://www.azsos.gov/election/2000/info/pubpamphlet/english/prop106.htm>

¹⁴ http://www.nytimes.com/2011/11/03/us/arizona-republicans-oust-colleen-mathis-head-of-redistricting-panel.html?_r=2&

¹⁵ <http://www.nytimes.com/2011/11/18/us/arizona-court-orders-redistricting-official-reinstated.html>

¹⁶ <http://www.reuters.com/article/2014/10/02/us-usa-court-arizona-election-idUSKCN0HR1JQ20141002>

The court ruled that the language in the Constitution that says legislatures have the role of setting the “times, places and manner” of federal elections refers not to a specific legislative body but to the state’s general authority to legislate on the issue as it sees fit.”¹⁷

¹⁷ Ibid.