



Montana Districting and Apportionment Commission

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MINUTES

April 8, 2010

Room 152, State Capitol
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

Jim Regnier, Presiding Officer
Jon Bennion
Joe Lamson
Pat Smith
Linda Vaughey

STAFF PRESENT

Rachel Weiss, Research Analyst
Joe Kolman, Research Analyst
Lisa Mecklenberg-Jackson, Attorney
Dawn Field, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2

COMMITTEE ACTION

The Districting and Apportionment Commission approved the September 24, 2009, meeting minutes and approved the proposed meeting date and location schedule, as revised.

CALL TO ORDER AND ROLL CALL

00:00:19 Commissioner Regnier called the meeting to order at 6:30 p.m. He welcomed all attendees, including those viewing the meeting via video conference from the Great Falls and Havre remote locations. The Secretary noted the roll, all members were present (ATTACHMENT 3).

FORMAL ADOPTION OF DATES/LOCATIONS FOR PUBLIC HEARINGS

00:05:58 The Commissioners reviewed the proposed meeting location and meeting date schedule (**EXHIBIT 1**). Commissioner Vaughey said that she would like to allow additional time for public comment and to digest the written comments submitted. Commissioners Lamson, Smith, and Bennion agreed. It was agreed that Ms. Weiss would coordinate schedules and determine potential meeting dates for late May or early June. **Commissioner Bennion moved to adopt the meeting dates for Missoula and Billings and to postpone the final executive session until a later date. The motion passed on a unanimous voice vote. Rachel Weiss, Research Analyst, Legislative Services Division, (LSD), suggested establishing the deadline for public comment as two weeks before the final meeting to adopt the criteria.**

ADOPT WRITTEN MINUTES FROM SEPTEMBER 24, 2009, MEETING

00:11:13 Commissioner Vaughey **moved to approve the September 24, 2009, meeting minutes, as written. The motion passed on a unanimous voice vote.**

INTRODUCTION TO COMMISSION; PURPOSE OF MEETINGS

00:11:50 Commissioner Regnier explained that the purpose of the public hearings is to take public comment on the proposed districting criteria (**EXHIBIT 2**), how the public comments would be used by the Commission, and the process and information with which the Commission would proceed with its work. He emphasized that the process would be transparent and that the Commission is committed to involving the public at every step.

OVERVIEW OF DISTRICTING CRITERIA MEMO

00:15:12 **Lisa Mecklenberg Jackson, Staff Attorney, LSD,** reviewed a legal memo outlining the requirements imposed by law for redistricting congressional and legislative districts in Montana (**EXHIBIT 3**).

PUBLIC COMMENT ON DISTRICTING CRITERIA

• HAVRE

00:22:21 **Rep. Wendy Warburton, Havre, HD 34,** urged the Commission to consider communities of interest. She discussed how Havre has been split in half and the problems resulting from the split. She said that other communities have experienced similar problems from being split into separate districts and that constituents often feel isolated from their community of interest.

00:24:25 **Richard Cronk, Chair, Blaine County Republican Central Committee**, discussed his concerns regarding the splitting of towns and counties into multiple districts. He referenced a court case in Georgia relating to redistricting and the importance of population equality in districts and the occurrence of gerrymandering. Mr. Cronk urged the Commission to reunite Blaine County and other counties split by the last Commission. He said that population equality should be the first criteria to be considered, followed by compactness, existing political boundaries, and a combination of geographic boundaries and communities of interest boundaries, in that order. He asked that the Commission remain as nonpartisan as possible.

00:27:32 **Kris Hansen, Havre**, urged the Commission to make every effort to meet, as closely as possible, Montana's requirement of plus or minus 1% deviation from the ideal population of a district.

00:29:08 **Andrew Brekke, Chair, Hill County Central Republican Committee**, asked the Commission to maintain the federal standard of one person, one vote; to keep districts as concise and intact as possible and within the 1% deviation; and to keep traditional neighborhoods as intact as possible.

00:31:18 **Terry Schend, Havre**, said that population equality is achievable, that compactness is very important, and that the Commission must be nonpartisan in order to do what is best for the citizens.

- **GREAT FALLS**

00:32:48 **Steve Malicott, CEO, Great Falls Area Chamber of Commerce**, said it is important to keep neighborhoods intact and suggested using school districts or geographical and natural boundaries to establish districts. Mr. Malicott said it is important to honor traditional boundaries and to make districts inclusive of existing neighborhoods. He urged that there be as little population deviation as possible to keep legislative districts as equal in size as possible.

00:35:08 **Michael DesRosier, Glacier County Commissioner**, said that 80% of his constituents live on the Blackfeet Reservation. He encouraged the Commission to maintain continuity in districts and to protect minority voting rights.

00:36:29 **Rhonda Wiggers, Great Falls**, asked the Commission to be cognizant of communities and neighborhoods, and to draw districts accordingly. Ms. Wiggers said that computer technology will allow the Commission to create districts that fall within the 1% deviation. She said that growth and movement make it inevitable that district boundaries must change but that any changes must make sense for the affected district because citizens need to be truly represented by the people they elect.

- **HELENA**

00:39:48 **Barbara Spilker, 20 Carriage Lane, Helena**, read a statement into the record (**EXHIBIT 4**). Points discussed by Ms. Spilker included the importance of creating districts made up of people of similar policy interests, designing districts with the

differences between county and city residents as a consideration, and using the knowledge and expertise of the legislative staff to the fullest extent possible.

- 00:43:32 **Dennis Taylor, 920 Strawberry Drive, Helena**, said that, with his experience as a city manager who worked closely with neighborhoods, it is very important that the Commission include smaller incorporated cities in a single district and in the larger jurisdictions, to respect the long and enduring neighborhoods. He suggested that the Commission ask cities what its citizens consider as their neighborhood, saying that it would fine tune districts. Mr. Taylor discussed his own neighborhood, saying that he feels disenfranchised within his own neighborhood under the current district line. He said that neighborhoods and how they define themselves should be a criterion in considering how to draw a district.
- 00:47:16 **Lorraine Peterson on behalf of Sen. Jim Peterson, SD 15, Buffalo**, read his testimony into the record (**EXHIBIT 5**). Sen. Peterson's testimony included a physical description of his large senate district, the importance of creating compact and contiguous districts while balancing the protection of minority voting rights, that race should not be the predominant factor in designing boundaries, the importance of balancing districts between rural and urban areas, and that with the availability of current technology, it is very possible to achieve a higher population equality standard. Sen. Peterson also requested that the Commissioners keep the process as nonpartisan as possible when analyzing the facts and making decisions.
- 00:50:30 **Sen. Dave Lewis, Helena, SD 42**, described his district, saying that it stretches from Missoula County to Yellowstone County. Sen. Lewis said there is no possible way to define a community of interest among the six counties he represents and that even though he has worked hard to cover all of his districts, it is an impossible task and is very expensive. He said he doesn't have a chance of meeting all of his constituents or to develop a relationship with them, and that it would be a kindness to put them into more compact districts. He urged the Commission to take a look at the big, long districts.
- 00:54:46 **Russ Cargo, professor of public administration and nonprofit management, Helena**, said that as a professor, he sees the tremendous responsibility of the Commission to establish a pattern or model in order to inject greater confidence in the political system. He said that students have become disillusioned with the current situation and that the Commission is in a position to make a difference. He suggested that the standard deviation be as low as possible, which would go a long way in restoring confidence in the system. He said that the Commission has not only a legal responsibility to follow the law but also a moral responsibility to bring confidence back into the system. He said that perceptions matter a great deal and asked the Commissions to set an example for the younger generation charged with continuing our democracy.
- 00:57:07 **Liane Johnson, Glacier County**, discussed House District 15, saying that the former Commission overlooked that traditional history of the Blackfeet, Salish, Kootenai, and the Pend d'Oreille tribes (**EXHIBIT 6**).

- 01:05:09 **Bowen Greenwood, Helena**, discussed a table listing the makeup of Montana House Districts for 2004, 2006, and 2008 (**EXHIBIT 7**). He said that the table shows that in the past, partisan affiliation and election results seem to have played a role in how districts were designed. He said it would be better to have a system in which a candidate would have to work harder in order for the people get a fair voice.
- 01:07:41 Commissioner Lamson asked Mr. Greenwood if he was speaking on anyone's behalf. Mr. Greenwood said that he was speaking as the Executive Director of the Montana Republican Party. He said that Montana Republicans want fair districts for the people, rather than for political parties.
- 01:08:14 **Vince Vaccaro, Townsend**, asked the Commission to disregard current district borders and to form districts based on communities of interest. He said that HD 83 is an example of a district that would benefit from redrawing its lines and that his top priority is to keep to a 1% difference. Mr. Vaccaro discussed several other priorities, including consideration of population changes, communities of interest, using natural boundaries, and swing districts.
- 01:10:43 **Barbara Rush, Helena**, said that after the last redistricting commission, she has serious concerns about the fair and equal representation in the legislature. She asked that districts not be shaped by political interest and said that districts should be created based on what is best for the common interests of the electorate. Ms. Rush provided a copy of her testimony (**EXHIBIT 8**).
- 01:12:48 **BREAK**
- 01:24:43 Back to order - continued public comment.
- 01:25:19 **Beth Ries, Chair, Lewis and Clark Republican Central Committee and resident of HD 78**, said that the current legislative districts in Lewis and Clark County don't meet Constitutional requirements. She agreed with previous testimony regarding a 1% population deviation for districts. Ms. Ries encouraged the Commission to design compact districts that take into consideration traditional and natural boundaries because cutting neighborhoods is not in the best interest of residents. She said that a legislator cannot properly represent a district that is not compact and that districts should not be designed upon the political leanings of a district.
- 01:27:33 **Jim Brown, attorney, Chair, Beaverhead County Republican Central Committee, and past candidate for HD 72**, said he is happy with his district because the criteria was properly followed and that he receives excellent representation. Mr. Brown said that SD 36 does have part of Jefferson County and suggested that that portion be placed back into a more representative district for them. Mr. Brown said that population equality must be the primary criteria for the Commission and that the deviation should not be more than 1%, considering current technology ability. He suggested that the Commission begin with the largest seven cities and then move on to counties and try to keep them as contiguous as possible. Mr. Brown suggested that party affiliation and

consideration of incumbency as criteria may be unconstitutional and should be disregarded. He asked that Beaverhead County be kept whole and contiguous as one house district and to keep Madison and Beaverhead Counties as one senate district.

- 01:32:07 **Mary Ann Harwood, Toole County Clerk and Recorder and Election Administration**, said that Toole County has two senate districts and three house districts, which means she has to prepare three different ballots for the different precincts. She said it has been difficult for residents to figure out where they vote and which ballot they use and suggested that the Commission consider that issue when making boundary decisions.
- 01:33:44 **Don Judge, Helena, candidate for HD 80**, said he didn't necessarily agree that urban and rural areas should be separated because there are communities of interest that exist between these two populations, and cited an example of a rural dweller who commutes to a larger city for employment or doing business. Mr. Judge said that the last Commission designed districts in which neither party has been able to maintain a majority, so one could argue that the redistricting was nonpartisan and successful; and he suggested that the issue of partisanship be set aside. Mr. Judge said Montana's growing population in the urban areas must be dealt with, that it is not always feasible to follow traditional or geographical boundaries and that while it is important that the Commission strive to adhere to the 1% population deviation, strict adherence to the deviation may actually cause harm in some situations.
- 01:40:06 **Scott Crichton, Executive Director, American Civil Liberties Union (ACLU) of Montana, Helena**, discussed his concerns regarding the Commission's proposed criteria (**EXHIBIT 9**). Mr. Crichton suggested that the Commission include the racial fairness and nondilution provisions Section 2 of the Voting Rights Act and the Fourteenth Amendment. Complying with the Voting Rights Act should be secondary in importance to complying with the equal population standard. Mr. Crichton also discussed the issues of population equality, saying that the ACLU does not favor lowering the standard for state and local districting; compactness and contiguity; and discretionary criteria of existing political boundaries and communities of interest. He said that the ACLU does not support partisan line drawing and that while "communities of interest" is a vague concept, it still should be a consideration since one of the communities of interest identified in the past has been Indian communities.
- 01:45:01 **Kelly Flynn, Townsend, candidate for HD 68**, asked the Commission to look at existing political boundaries and to consider the difficulties created when towns are split into multiple districts. He discussed how HD 68 splits numerous towns and suggested using school district boundaries as guidelines.
- 01:46:14 **Rep. Mike Miller, Helmsville, HD 84**, agreed with Sen. Lewis's testimony regarding how current districts are carved out, saying that one of the criteria should be to be able to drive a district without having to travel on Forest Service or gravel roads in order to move from one section of a district to another.

- 01:47:29 **Rep. Mike Menahan, Helena, HD 82**, urged the Commission to begin its redistricting process by using the current legislative districts as a starting point. He said that the plan crafted by the previous commission has resulted in much better representation for Montana's American Indian population in the legislature. He said that this is a very politically-charged process but that in looking at the makeup of the legislature, it is highly representative of the state's people and the diverse opinions of the citizenry. Rep. Menahan said that no district will be perfect but that they should be made as competitive as possible in order ensure that Montana's citizens are fairly represented.
- 01:51:38 **Lori Hamm, East Helena**, emphasized the main points testified to previously, saying that the Commission must maintain the federal requirement of one man, one vote; that current technology makes population equality very achievable; that in addition to creating compact and contiguous districts, communities of interest must be maintained; and to be careful when dealing with minority voting issues. She asked that the Commission take care to keep politics out of their deliberations.
- 01:56:02 **Cyndi Forbes, Helena**, said that the Commission has a strong and visible leadership role and she asked the Commission to keep politics out of the process. She asked that the Commission use modern technology to the extent possible, to take geographical boundaries into consideration, and to remember that the people of Montana are watching the Commission's work. She said the people want to be able to respect what the Commission has done.
- 01:58:49 **Chris Shipp, Carroll College student, Helena**, said that he and fellow students have studied gerrymandering and that students of all opinions believe that the previous Commission's decisions display several examples of gerrymandering and partisanship. He asked that the current Commission to scrap the current districts. He urged the Commission to draw districts that students can study and see as examples of fairness, bipartisanship, not partisanship and gerrymandering.
- 02:00:26 **Jon Rush, 720 Holter Avenue, Helena**, discussed the negative impact on his own neighborhood after being split by the last Commission. Additionally, Mr. Rush recalled that when he attended a districting meeting 10 years ago, at no time did any witness testify in favor of the boundaries of his district, including a Democrat legislator who represented the district. He said that communities of interest are important and should be taken into consideration.
- 02:04:46 Commissioner Regnier thanked everyone for their comments and assured the audience that the commissioners would give the comments serious consideration.
- 02:05:18 Commissioner Lamson thanked the audience for exercising their civic responsibility by coming to and participating in the hearing. As a member of the previous Commission, he responded to comments made about Havre being split into two districts and how American Indian voting rights were addressed by the last Commission. He stated that there was a great deal of support for the last

Commission's work and that it was "fair to a fault". He said that the current Commission is just beginning its work and will consider all ideas and information.

02:09:17 Commissioner Bennion thanked the audience for the comments made. He asked that, for future meetings, people be more specific in the location of their neighborhood or area being discussed, in order to give the Commissioners a clearer idea of the location being discussed.

02:10:05 Commissioner Smith thanked the audience for the comments and said it was helpful for him to hear the complexities and conflicting opinions.

02:10:45 Commissioner Vaughey thanked the audience for coming to the hearing and said that she hopes that the public will continue to be very involved with the Commission.

ADJOURNMENT

02:11:31 With no further business before the Districting and Apportionment Commission, the meeting was adjourned at 8:42 p.m. The Districting and Apportionment Commission's next meeting will be Monday, April 12, 2010, in Missoula, Montana.

*The Commissioners also received a packet of public comment submitted in advance of the meeting (**EXHIBIT 10**). All public comment is available for viewing on the Commission's website: http://leg.mt.gov/css/Committees/interim/2009_2010/districting/default.asp*

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