

**MINUTES
of the
FIRST MEETING
of the
REDISTRICTING COMMITTEE**

**June 20, 2011
Room 307, State Capitol
Santa Fe**

The first meeting of the Redistricting Committee was called to order by Senator Linda M. Lopez, co-chair, on June 20, 2011 at 10:15 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Mary Helen Garcia, Co-Chair
Sen. Linda M. Lopez, Co-Chair
Sen. Kent L. Cravens
Rep. Anna M. Crook
Sen. Phil A. Griego
Sen. Stuart Ingle
Rep. Conrad D. James
Rep. Larry A. Larrañaga
Rep. James Roger Madalena
Rep. W. Ken Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Rep. Edward C. Sandoval
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. Thomas C. Taylor

Absent

Sen. Timothy Z. Jennings
Sen. Lynda M. Lovejoy

Advisory Members

Rep. Donald E. Bratton
Sen. William F. Burt
Rep. Gail Chasey
Sen. Carlos R. Cisneros
Rep. Nora Espinoza
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Nate Gentry
Sen. Timothy M. Keller
Rep. Ben Lujan
Rep. Rodolpho "Rudy" S. Martinez
Rep. Bill B. O'Neill
Sen. Sander Rue
Rep. James E. Smith
Rep. Mimi Stewart
Sen. Peter Wirth

Rep. Paul C. Bandy
Rep. Ray Begaye
Sen. Howie C. Morales
Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Sheryl Williams Stapleton
Rep. Shirley A. Tyler

Guest Legislators

Rep. Ernest H. Chavez

Rep. Patricia A. Lundstrom

Staff

Jon Boller, Staff Attorney, Legislative Council Service (LCS)

Alise Rudio, Staff Attorney, LCS

Leslie Porter, Research Assistant, LCS

Raúl E. Burciaga, Director, LCS

John Yaeger, Assistant Director for Legislative Affairs, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and copies of written testimony are in the meeting file.

Monday, June 20

By suggestion of Senator Lopez, the members of the committee introduced themselves. Mr. Burciaga introduced the committee staff.

Mr. Burciaga introduced the legal team hired for the redistricting process: Luis Stelzner from Stelzner, Warburton, Flores, Sanchez and Dawes, P.A.; Michael Browde from the University of New Mexico School of Law; and the team hired for demographics — Brian Sanderoff and Michael Sharp, president and vice president, respectively, of Research & Polling, Inc. (R&P). Mr. Burciaga noted that Rich Olson from Hinkle, Hensley, Shanor & Martin, LLP, was unable to attend but is part of the legal team that will be assisting with redistricting.

The co-chairs briefly explained the redistricting process and emphasized the importance of public input. They noted that representing every citizen of New Mexico regardless of race, age or ethnicity is fundamental to the democratic process and explained the process for receiving public comment at every meeting, which is either to contact staff to be put on the agenda prior to the meeting or to sign up to speak while at the meeting. The co-chairs informed the public of the redistricting web site and that all handouts and plans would be posted there prior to or very soon after each meeting. They clarified that the technology necessary for webcasting the meetings is available only at the State Capitol, allowing the first and the last meetings to be webcast. They talked about the redistricting concepts that will be presented throughout the interim and emphasized that they are concepts rather than final proposals, and that these concepts are just the starting point in the discussion on how best to redistrict the various offices. Finally, the role of the committee was discussed. The committee will hear public testimony at every meeting and take that testimony into consideration. A vote will not be taken at the last meeting to "endorse" any concept, but concepts will be offered for the legislature to work from. The co-chairs assured the committee that individual members of the legislature can indeed bring forth their own redistricting plans during the session, but they encouraged members to work from the concepts that have been and will be presented rather than to begin from scratch.

Mr. Boller briefly explained the committee's charge.

Legal Principles of Redistricting

Mr. Stelzner and Mr. Browde outlined the legal principles of redistricting. Mr. Stelzner began by discussing the history of redistricting in New Mexico. He described the litigation that followed redistricting in the 1980s and explained that the court declared the use of the votes-cast formula for determining precinct population unconstitutional and that 16 house districts in six counties were illegal under Section 2 of the federal Voting Rights Act of 1965. The court also put the state under "preclearance", which meant that for the 1990 redistricting process, all plans had to be approved by the United States Department of Justice before being implemented. Though New Mexico is no longer under preclearance requirements, it is still subject to Section 2 of the Voting Rights Act, as are all other states. In 2001, he said, litigation arose due to the veto of the congressional and the state house, senate and board of education redistricting bills, leaving the state with districts that were malapportioned, which violated the constitutional standard of one person, one vote.

Mr. Stelzner noted that the litigation following the 2001 legislative redistricting session cost the state more than \$3.5 million, given that the state paid the legal fees and costs of all 15 parties to the litigation. Mr. Boller noted that total costs for the redistricting process before litigation ensued, including committee travel around the state and all costs of the special session, were approximately \$1.5 million.

Mr. Browde emphasized two tasks that the committee must attend to while developing the redistricting plans: compliance with the constitutional requirement of meeting the one-person-one-vote standard and compliance with the Voting Rights Act. Congressional districts, he explained, must be as equal in population as is practicable, while state districts may be drawn in a manner resulting in districts with populations within plus or minus five percent of the ideal population numbers. However, he added that this 10 percent deviation is not necessarily a safe harbor that makes a state legislative plan absolutely immune from an attack of the one-person-one-vote standard; if the state ignores traditional redistricting principles, which are articulated in the guidelines adopted by the New Mexico Legislative Council, a plan may still be vulnerable to attack under the one-person-one-vote standard. With respect to Section 2 of the Voting Rights Act, Mr. Browde explained that the state must be careful not to dilute minority voting strength and thus must look at the racial composition of districts to ensure that minorities have an adequate opportunity to elect representatives of their choice. However, he also discussed the importance of using race-neutral principles in redistricting, noting that race cannot be the predominant factor in creating districts and that traditional redistricting principles cannot be ignored when creating districts; thus, the affirmative obligation under Section 2 of the Voting Rights Act to consider race and ethnicity must be balanced by adherence to traditional redistricting principles to avoid an equal protection challenge.

Discussion ensued among the committee members about preclearance, what criteria judges may use to evaluate redistricting plans if litigation arises and how to deal with majority-minority districts in a majority-minority state. Extensive discussion arose between members of the committee and Mr. Stelzner and Mr. Browde regarding the state paying the legal fees and costs of all the parties to litigation. Mr. Stelzner explained that the best way to limit attorney fees is to have plans signed into law because it is much more difficult for a party to prevail when

challenging an enacted plan; whereas if a plan is vetoed, there is no question that the existing districts are malapportioned, and thus it is much easier to prevail on the claim. Asked if the state can challenge the awarding of legal fees, Mr. Stelzner replied that it is possible, though there is no guarantee that this would end up costing the state less in the long run.

Introduction to 2011 State and Congressional Redistricting

Mr. Sanderoff went through the basic principles of redistricting, explaining that in New Mexico, precincts are the basic building blocks for all districts. Districts should be compact, contiguous and respectful of communities of interest, he said. He reviewed the current deviations within the congressional, house, senate and Public Regulation Commission districts, noting that variations in the growth among the counties throughout the state may require the pairing of some incumbents in the house and senate. Mr. Sanderoff warned the legislators not to look at their districts in a vacuum but as part of a regional system where changes to a single district may affect how 30 other districts are structured. The handout developed by R&P illustrating Mr. Sanderoff's presentation can be found both in the meeting file and on the legislature's web site.

Mr. Sanderoff went on to explain that R&P would provide information on the average election performance of Democrats and Republicans at the precinct and district levels in all of the statewide political races, eliminating the outliers, from 2004 to 2010. He stressed that this data should not be viewed as a measure of the competitiveness of any particular district but rather as a benchmark to determine how newly drawn districts may compare with their predecessors in partisan strength. He also noted that popular incumbent candidates in a legislative district often outperform their party's statewide candidate in that district.

Finally, congressional concepts A through G were presented and explained.

Committee members inquired about precincts and the pairing of incumbents and asked for clarification on performance measures.

Committee Work Plan

Mr. Boller explained that the proposed work plan was based on the itinerary and meeting schedule from the 2001 Redistricting Committee, but the current plan has an abbreviated schedule because the first meeting is being held in June instead of in May, as it was 10 years ago. He said the locations were chosen with the intent that the people of New Mexico would not have to travel too far to attend at least one meeting and to cover all sections of the state.

In response to a letter addressed to the committee from the All Indian Pueblo Council (AIPC) requesting a meeting to be held at the Pueblo of Acoma, the committee voted to meet at the Pueblo of Acoma on August 4, 2011 instead of in Gallup.

The committee also voted to meet in Las Vegas instead of Santa Fe on August 30, 2011.

The committee adopted the work plan without objection.

Public Comment

Lissa Knudsen, policy director and lobbyist, American Civil Liberties Union (ACLU), stated that there is nothing more fundamental than the right to vote. She mentioned the population explosion on the west side of Albuquerque and said that the ACLU filed a lawsuit opposing the City of Albuquerque's plans to postpone the redistricting process. She added that the ACLU looks forward to working with the committee to meet key constitutional standards.

Sterling Fluharty, president and owner, Southwest Political Services, said that he is concerned about the public's role in redistricting and thanked the committee for scheduling hearings around the state. He noted that Arizona has an independent commission for redistricting and that Utah citizens can draw their own maps. He suggested that with advances in technology, the legislature could put together a web site where citizens could upload their own maps. He also discussed the importance of transparency, including providing citizens with the addresses and home precincts of legislators.

Cheryl Haaker, League of Women Voters, pointed the public to several redistricting web sites. On behalf of the League of Women Voters, she thanked the legislature for undertaking the redistricting process.

Joe Keefe, state communications chair, League of Women Voters, offered to provide video production services free of charge for the purpose of recording the committee meetings. He is also the chair of the Torrance County Health Council and expressed his concern for the residents of Torrance County who receive state-funded health services. He explained that due to budget cuts, necessary medical services were shifted from Albuquerque to Las Cruces, meaning that the non-insured residents in need of state-funded services must go to Las Cruces for care. He said the bus service that provided transportation was discontinued a year ago. He explained that because residents have been unable to obtain necessary routine medical appointments, they are going to Albuquerque via medical helicopter or ambulance or after they have died. He urged the committee to consider the impact of each redistricting concept and the relationships between counties that have been key to residents of rural areas. He noted that one redistricting concept that has been presented breaks the ties between Torrance and Bernalillo counties, and he expressed concern about the difficulty of dealing with three congressional districts in his county. He urged the committee to visit Torrance County.

Jean Montoya, a resident of Rio Rancho, relayed the importance of keeping Rio Rancho together in one district.

Alonzo F. Clayton, member, Rio Rancho Tea Party, and former Rio Rancho city councilor, expressed his concern about Rio Rancho becoming a "pawn" in the redistricting process. He urged the committee to think of Rio Rancho as a "community of interest" and stated that it is large enough to be all-inclusive in a contiguous district. He mentioned the lack of community services or ties with Albuquerque. He said that Rio Rancho does not have proper representation in its current district. Finally, he noted the lack of American flags in the committee room.

Patricia Morlin, a resident of Algodones, expressed her dismay at the number of uncontested elections in the state and her fear that this problem will be exacerbated after

redistricting. She said that she does not feel she is represented because there is a lack of communication with constituents.

Wayne Bladh, resident and lobbyist, Pueblo of Laguna, thanked the committee for approving the meeting at the Pueblo of Acoma.

David Garcia, resident, Pueblo of Acoma, also thanked the committee for approving the meeting at the Pueblo of Acoma. As a member of the AIPC, he has concerns about the minority Native American population, and he will be submitting these concerns in writing throughout the hearings.

Mary Wilson, resident, Torrance County, encouraged the committee to find additional outreach resources to reach smaller communities that will be greatly affected by the redistricting process. She said that it is not practical for Torrance County residents to provide public input at the committee meetings and that it will be difficult to submit testimony because the meetings will contain area-specific concepts. She appreciates the web site and supports the ideas of the League of Women Voters.

Judith Binder, a New Mexico voter, urged the committee to listen to constituents and to maintain integrity throughout the process.

Loren Bernally, Navajo Nation Human Rights Commission, explained that her office is charged with tracking the redistricting activities in New Mexico, Arizona and Utah. She informed the committee that her office will be interfacing with the committee and suggested that a meeting location be added in northwestern New Mexico.

Members of the committee gave feedback on comments made by the public, including the topics of webcasting throughout the state, the unequivocal American allegiance of the members and the possibility of legislators holding local meetings within their districts.

The committee discussed its proposed letter to the governor requesting a special session for redistricting beginning September 6, 2011 that is dedicated strictly to redistricting and the possibility of calling another special session if other issues need to be addressed immediately following the redistricting special session. The committee opted, however, to refer that matter to the New Mexico Legislative Council.

Adjournment

There being no further business, the first meeting of the Redistricting Committee for the 2011 interim adjourned at 4:20 p.m.