

**MINUTES OF THE
REDISTRICTING COMMITTEE
Wednesday, April 26, 2001 - 9:00 a.m. S Room 129 State Capitol**

Members Present:

Sen. Michael G. Waddoups, Chair
Rep. Gerry A. Adair, Chair
Sen. Ron Allen
Sen. Beverly Evans
Sen. Pete Suazo
Rep. Patrice M. Arent
Rep. Chad E. Bennion
Rep. Ron Bigelow
Rep. Jackie Biskupski
Rep. Katherine M. Bryson
Rep. Don E. Bush
Rep. Brent H. Goodfellow
Rep. James R. Gowans
Rep. Wayne A. Harper
Rep. Thomas V. Hatch
Rep. Loraine T. Pace
Rep. Jack A. Seitz
Rep. LaWanna Shurtliff
Rep. Glenn L. Way

Members Excused:

Sen. John L. Valentine

Staff Present:

Mr. Stewart E. Smith, Redistricting Team Manager
Mr. John L. Fellows, Associate General Counsel
Mr. Mark D. Andrews, Research Analyst
Mr. John Q. Cannon, Research Analyst
Mr. Jerry D. Howe, Research Analyst
Mr. Richard C. North, Research Analyst
Mr. Mark J. Allred, Technical Support
Mr. Joseph T. Wade, Research Analyst
Ms. Alicia Gambles, Legislative Secretary

Note: A list of others present and handouts distributed are on file in the Office of Legislative Research and General Counsel.

- 1. Call to Order** - Chair called the meeting to order at 9:15 a.m.
- 2. Committee Business**

Chair Waddoups introduced committee members and staff. He welcomed the public and the media and indicated his desire that the public be educated in the process and informed on what the committee will be doing during the interim. He emphasized that the redistricting process will be open to the public for their input and that various interest groups--religious, ethnic, and work--have been invited to inform the committee about their interests and concerns. Chair Waddoups encouraged local leaders to participate in the process so that every person in the state feels properly represented. He indicated that guidelines will be established in order to accomplish the committee's goal to be fair in the process. He encouraged committee members to look at geographical boundaries and barriers that might make a difference in the redistricting process.

3. Introduction to Apportionment and Redistricting

Mr. Stewart Smith, Redistricting Team Manager, Office of Legislative Research and General Counsel, presented a slide show and overview of the redistricting process. Copies of the slide presentation were distributed to those present. He referred to the materials mailed in advance describing district population shifts and discussed other results of the 2000 Census. He reviewed the apportionment process and national population shifts to the South and the West. Mr. Smith reviewed the status of Utah's lawsuit and Utah's population ranking among the states. Utah is the 4th fastest growing state. Mr. Smith reviewed the new racial categories and options on the census forms and briefly discussed the financial implications of the census. He reviewed the redistricting staff work over the past six years, which involved working with local elected officials in preparing the geographic files and boundaries for the 2000 Census. He also discussed the levels of geography used in the process.

Mr. Smith pointed out that Utah's redistricting budget in the 1991 redistricting was the lowest in the nation. He reviewed the Utah Constitutional requirements that vest redistricting responsibility in the legislature, and establish the size of the house and senate. He presented data identifying the historical sizes of both houses. Mr. Smith showed a series of slides depicting growth rates in congressional and Utah legislative districts.

4. Legal Guidelines for Redistricting

Mr. John Fellows, Associate General Counsel, discussed the legal requirements of the redistricting process. He stated that the presumption should be that whatever plans are adopted by the committee, they will be challenged. After the 1991 redistricting, only eight states did not have a lawsuit filed to challenge their plans. He explained that if the plans are challenged, the ideal is to prove that the committee acted appropriately and did not violate any of the legal redistricting requirements established by the U.S. Constitution and federal statutes.

Mr. Fellows stated that there are three basic ways you can challenge a redistricting plan:

- ▼ You can allege that it does not meet the Constitution's equal population requirements;
- ▼ You can allege that it is a political gerrymander; and
- ▼ You can allege that it violates the Voting Rights Act prohibition against racial discrimination in voting procedures and processes.

Elaborating on these grounds for challenge, Mr. Fellows stated that equal population, as interpreted by case law, is that congressional districts have a deviation no greater than +-1 percent and that legislative and school board districts have a deviation no greater than +- 10 percent. Mr. Fellows went on to explain that even if plans are drawn to meet these deviation standards, the plan may still be challenged if it is unconstitutional, irrational, or arbitrary.

Sen. Suazo stated that many Salt Lake City residents were unhappy with the congressional plan in 1991.

Mr. Fellows explained that in order to establish a political gerrymandering claim, a plaintiff must establish both discriminatory intent -- that the districts were drawn with the intent to minimize one political party's power -- and discriminatory effect -- that the redistricting would consistently degrade a voter's or a group of voter's influence on the political process as a whole.

Mr. Fellows explained that some states have a more difficult burden when drawing plans to comply with the Voting Rights Act. States that Congress has found to have a pattern or practice of racial discrimination are required by Section 5 of the Voting Rights Act to obtain a pre-clearance. These states must submit their redistricting plan to either the United States Department of Justice or to the Federal District Court in the District of Columbia for approval before they can adopt it. The Voting Rights Act does not require Utah to obtain pre-clearance. Mr. Fellows explained that Section 2 of the Voting Rights Act applies to all states. Section 2 prohibits minority vote dilution, which is the minimization or cancelling out of minority voting strength. Mr. Fellows explained that, in order to establish a claim that a state has violated Section 2 of the Voting Rights Act, the United States Supreme Court, in *Thornburg v. Gingles*, identified three conditions that must be met. Mr. Fellows informed the committee that, in his opinion, Utah did not meet those conditions.

Mr. Fellows informed the committee that courts have recognized that traditional redistricting principles are a credible defense to a challenge to a plan and identified several principles that the courts have recognized as "traditional redistricting principles." He recommended that if the committee adopts redistricting principles, they follow those principles faithfully.

Mr. Fellows told the committee that his goal as legal counsel to the committee is to assist the committee to prepare plans that meet legal and constitutional requirements so that the committee will prevail if the plan is challenged. He also explained that at times he will have an attorney-client relationship with the committee, as represented by the committee chairs, while at other times, if consulted by an individual legislator or committee member, he may have an attorney-client relationship with that legislator. He asked committee members to be sensitive to his sometimes conflicting roles and recommended that they consider consulting with attorneys from their political party on some personal legal questions. Committee discussion followed.

Rep. Arent asked which *Gingles* factors were not met in counsel's analysis. Mr. Fellows responded that factors one and three were not met.

5. Redistricting Principles

Mr. Stewart Smith presented slides describing various redistricting principles that the committee could adopt. He discussed how the voting precincts were established and explained what the traditional redistricting principles entail. He also discussed the redistricting procedural guidelines which include: plan authorizations, security of information, and public access to information and open meetings. Committee discussion followed.

Rep. Pace asked if it was legal counsel's opinion that the committee needs to adopt guidelines. Mr. Fellows recommended that the committee formally adopt redistricting principles.

MOTION: Rep. Adair moved that the congressional plans include 3 and 4 seats with 29 seats in the Senate and 75 seats in the House.

SUBSTITUTE MOTION: Rep. Harper moved to adopt 3 and 4 congressional seats, 29 Senate seats, 11-15 School Board members, and 75-79 House seats.

Rep. Hatch requested that the motion be divided, that the committee vote separately on the number of Congressional and Senate Districts, the number of House Districts, and the number of State School Board Districts.

Senate 29 and Congressional Districts 3 and 4
House Districts 75-79

The motion passed unanimously.
The motion failed with Rep. Harper voting in favor.

State School Board Districts 11-15

The motion failed with Rep. Bennion, Rep. Bush, Rep. Harper, and Rep. Hatch voting in favor with Rep. Bryson absent for the vote.

SUBSTITUTE MOTION: Rep. Bigelow moved to adopt the original plan of 75 House seats, 29 Senate seats, 5 School Board members, and both 3 and 4 congressional seats, but that it not prevent more plans from coming forth. The motion failed with Rep. Bigelow, Rep. Harper, Rep. Hatch, and Rep. Way voting in favor and with Rep. Bryson absent for the vote.

The committee returned to the original motion of Rep. Adair. The motion passed with Rep. Bigelow, Rep. Harper, and Rep. Hatch voting in opposition and Rep. Bryson absent for the vote.

MOTION: Rep. Adair moved to have single member districts. The motion passed unanimously with Rep. Bryson absent for the vote.

MOTION: Rep. Harper moved that a redistricting principle be that districts shall be contiguous and reasonably compact. The motion failed with Rep. Arent, Rep. Biskupski, Rep. Goodfellow, Rep. Harper, and Rep. Shurtliff voting in favor with Rep. Bryson absent for the vote.

Sen. Waddoups stated that his intention is to do what is fair and in the best interest of the state's citizens.

6. Future Meeting Schedule

The committee discussed future meetings to be held during the interim.

MOTION: Rep. Hatch moved to visit Richfield and Cedar City on June 28, 2001. The motion passed with Rep. Arent voting in opposition with Bryson absent for the vote..

MOTION: Rep. Evans moved to remove Moab from the list. The motion passed with Sen. Allen, Sen. Suazo, Rep. Arent, Rep. Biskupski, Rep. Goodfellow, and Rep. Gowans voting in opposition with Rep. Bryson absent for the vote.

MOTION: Rep. Harper moved to meet in Price midday and Provo in the evening on July 12, 2001. The motion passed unanimously with Rep. Bryson absent for the vote.

MOTION: Rep. Allen moved to meet in Salt Lake for the evening and Tooele midday on August 9, 2001. The motion passed unanimously with Rep. Bryson absent for the vote.

MOTION: Sen. Evans moved to meet in Park City in the evening, July 16, 2001. The motion passed unanimously with Rep. Bryson absent for the vote.

MOTION: Rep. Shurtliff moved to meet in Brigham City on May 10, 2001 in the evening. The motion passed unanimously with Rep. Bryson absent for the vote.

MOTION: Rep. Bennion moved to make a 2-day road trip created by staff.

SUB MOTION: Sen. Evans moved to adopt the tentative schedule outlined by staff and to meet in Tooele midday and Salt Lake in the evening on June 7, 2001. The motion passed with Rep. Bennion voting in opposition and Rep. Bryson absent for the vote.

7. Adjourn

MOTION: Rep. Seitz moved to adjourn the meeting. The motion passed unanimously. Sen. Waddoups adjourned the meeting at 1 p.m.

