



Montana Districting and Apportionment Commission

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MINUTES

April 19, 2010

Montana State University - Billings
Billings, 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 May 28, 2010, as the next meeting date.

CALL TO ORDER AND ROLL CALL

- 00:00:05 Commissioner Regnier called the hearing to order at 6:30 p.m. The Secretary took roll, all members were present (Attachment 3).
- 00:01:13 Commissioner Regnier welcomed all attendees, including those viewing the meeting via video conference from the Miles City, Montana; remote location. He asked that comments be limited to 3-5 minutes and that any written testimony be turned into the secretary. He also announced the Districting and Apportionment Commission's (DAC) website and said that public comment could be submitted there: districting@mt.gov.

INTRODUCTION TO COMMISSION, PURPOSE OF HEARINGS

- 00:05:52 Commissioner Regnier asked the Commissioners and staff to introduce themselves. He explained that the purpose of the meeting is to take public comment on the DAC's proposed legislative redistricting criteria considerations (**EXHIBIT 1**). He said that the Commission wants the process to be as open and transparent as possible, that private citizens have the right to participate in and observe the Commission's work, and that all comments would be recorded and considered by the Commissioners.

PUBLIC COMMENT ON DISTRICTING CRITERIA

• BILLINGS

- 00:07:27 **Sen. Kim Gillan, Billings Heights, SD 24**, welcomed the DAC and members of the public to Montana State University - Billings and commented on the districting criteria, saying that she thought the last redistricting was fair and represented communities of interest. She said that she does not favor lowering the population deviation to 1% because it would not allow for enough flexibility as growth occurs. She addressed comments made at previous hearings about large districts that span hundreds of miles, saying that these are rural districts and represent the low population density of eastern Montana. She said that because Billings is a regional trade center, district lines don't always follow county or community boundaries but that the cross-county boundaries do reflect communities of interest and trade areas. Sen. Gillan said that the process needs to move forward and that the citizens need to trust the Commission to do its job and that the makeup of the current legislature is indicative that the last process was fair.
- 00:10:46 **Jani McCall, Billings City Council, Ward 5**, handed out copies of her talking points (**EXHIBIT 2**) and discussed the following:
- the importance of communities of interest as a discretionary criteria;
 - SD 29, SD 23, SD 22, and SD 21, and how they are split between urban and rural communities;

- the City of Billings' support for the criteria recommended by the Billings Gazette;
- a report by Larry Swanson, director of the O'Connor Center for the Rocky Mountain West at the University of Montana;
- the population of the City of Billings and of Yellowstone County population numbers and the number of people served by the regional trade, medical, and shopping area.

00:13:55 **Abe Ulledalen, Billings City Council**, discussed the importance of having compact voting districts. He said that a main concern of the nonpartisan Council is finding good people who will represent the city well at the legislature. He said that appearance is an issue and that he know it is very difficult to reach an ideal size of districts but pointed out that an issue is travel distance expense of serving. Mr. Ulledalen said that said it is difficult to get people to serve because of these two factors and that more compact districts would help alleviate this problem.

00:16:57 **Richard Clark, Billings City Council, Ward 5**, asked the Commission to take into consideration city limits, planning limits, county limits, the planning areas, and possibly even ward boundaries when drawing district boundaries. He provided a table showing the population of Yellowstone County and the incorporated area from 1890 through 2010 (**EXHIBIT 3**), a map displaying Billings area urban neighborhoods (**EXHIBIT 4**), and a map showing neighborhood planning areas (**EXHIBIT 5**).

00:17:47 **Tom Hanel, Mayor, Billings**, said that the definition of population equality is "one man, one vote" and that it is time to amend Montana's Constitution again because the process has moved away from citizen representation toward partisan politics. He said population equality is very important and that the 5% allowance should be reduced to a smaller percentage. He said that Billings citizens feel that districts are too broken up and that he doesn't feel that the current design doesn't serve the citizens as well as they should. Mayor Hanel thanked the Commission for coming to Billings.

- **MILES CITY**

00:21:58 **Gerry Devlin, citizen, Miles City**, said that his main concern is that last the Commission seemed to want to make districts long and narrow and did not take into consideration county lines or trade areas. He said that he hoped the current Commission would make the effort to be more cognizant of the these boundaries. He said he has been through three redistricting cycles and has never seen anything like the last one. Mr. Devlin asked that the Commission not split up counties and trade areas.

00:25:09 **Geraldine Custer, Rosebud County Clerk and Recorder and Election Administrator**, asked the Commission to please consider county and city lines when drawing districts because it makes elections much easier and less expensive to administer, as well as much more convenient for citizens who have to drive long distances to vote. She said that Rosebud County got chopped up in the last cycle and asked that it not be chopped up in the same manner again.

00:27:07 **Daniel Watson, Rosebud County Commissioner**, said that existing political boundaries need to be considered, primarily city and county boundaries. He said a second point is that the last three starting points have been in the northwest part of the state and suggested that the process begin in the southeast part of the state this time. He doesn't think party affiliation or protection of incumbents should be an overriding issue but might deserve some consideration.

- **BILLINGS**

00:29:46 **Bruce Simon, citizen, Billings**, said that his comments were directed to Commissioner Regnier, as Commission Chair and that the commission chair is the key to how the process turns out. He said that as a newly-elected legislator 25 years ago, he was advised to treat the other side as fairly as he wished to be treated, because everything that comes around goes around. He said that the people of Montana won't be served well if one political party is seeking revenge against the other. Mr. Simon said that bitter partisan bickering has undermined the confidence of Montanans in the political process and he urged Commissioner Regnier to keep that in mind, as chair of the Commission. Mr. Simon also commented on the proposed districting criteria, saying that he is in support of using a 1% population deviation to achieve population equity because current technology makes it possible, that existing political boundaries are important, as are communities of interest. Mr. Simon said that in his tenure as a legislator, his district was compact and contiguous and that he knew his constituents and their needs. He said that the current long and narrow districts are very difficult to represent and that the whole idea of the neighborhood was lost. Mr. Simon emphasized the importance of the chair's impartiality and said that politics must be kept out of the process and that if it wasn't, a rift would occur that would be very difficult to repair.

- **MILES CITY**

00:35:59 **Marvin Quinlan, Jr. Chair, Rosebud County Democratic Central Committee, Forsyth**, said that the criteria consideration of compactness, contiguity, existing boundaries, and communities of interest are all very important. He agreed with previous comments that Rosebud County is getting short shrift as it is currently divided. He asked the Commission to please reunite Rosebud County into one district or to combine it with a similar county, such as Musselshell or Treasure County. He said that the 5% population deviation is acceptable to the Rosebud County Democrats.

00:38:32 **Gerry Devlin, Miles City**, commented that current districts are oddly shaped and that he hopes the current Commission won't disenfranchise areas by cutting them up again.

- **BILLINGS**

00:40:21 **Sheila Llewellyn, citizen, Billings**, said that her senator is from Roundup and that she feels that her interests, as an urban dweller, aren't represented because her issues of concern don't affect him. She asked that the Commission please do something that would make her vote count.

- 00:42:36 **Rep. Dennis Himmelberger, Billings, HD 47**, commented on the proposed districting criteria, saying that compactness is very important and that a district should be no longer than it is wide. He said that communities of interest are also very important and that previous districts were relatively square and did a better job of preserving communities of interest than the current plan. He said that as a legislator, he has found it difficult to serve a wide diversity of constituents with few communities of interest. He urged the Commission to consider communities of interest and to keep the population deviation as low as possible.
- 00:45:34 **Connie Wardell, resident of SD 29 and HD 57, Billings**, said that those districts extend into Carbon County and that her opinion is that those people are not being properly represented. She described her experience as a candidate for HD 57 and the difficulty she experienced in trying to get maps to determine who she would be representing and what precincts she should campaign in. She said that neither Yellowstone nor Carbon County officials seemed to know and that neither county had precinct lists available. Ms. Wardell said that someone needs be responsible for the precinct lists because voters and candidates have a difficult time finding out where to vote. Ms. Wardell strongly urged the Commission to draw boundaries using county lines.
- 00:48:10 **Jeff Laszloffy, former legislator, Laurel**, encouraged the Commission to do everything it can to lower the current level of cynicism against the government that exists right now. He said that the Commission must rise above politics to do what is right for the people to ensure that the next generation will have the same opportunities. He encouraged the Commission to stay as close to as 1% population deviation as possible so that there is equal representation for each citizen.
- 00:50:04 **Rep. David Roundstone, Busby, HD 41**, member of Northern Cheyenne Tribe, said it has been refreshing for Montana's Indian tribes to finally have a voice in the Montana Legislature. He said that the Commissioners may not be able to fully grasp how important that has been to the Indian people of Montana. Rep. Roundstone said his district has a wide array of citizens, which he thinks is good because it reflects the diversity that is typical of the rest of the state. He said that the current districts are working, that he believes voter rights are being met, and that he supports a 5% population deviation.
- 00:53:56 **Jack Rehberg, Billings**, discussed his observations of the redistricting process as a former member of two previous commissions. Mr. Rehberg said that the commission chair is the key to the process because the chair's actions will greatly affect how the commission works. He asked who would be doing the plans and said he hoped that this cycle would be less partisan than those in the past. He urged the Commission to utilize LSD staff as much as possible. Regarding the population deviation, Mr. Rehberg said that he supports a 1% deviation. He suggested that the process begin in the northeast corner of the state this time and to make districts as compact as possible. He said the process does not have to be partisan and he thanked the Commissioners for their service.

- 00:57:36 Commissioner Regnier clarified that this round of hearings is to approve the adoption of the discretionary criteria and that the Commission will be visiting many communities when a plan is ready for public comment.
- 00:58:59 **Rep. Cary Smith, Billings, HD 55**, said that his house district is suburban in nature and does the requirements for compactness and communities of interest but that the senate district he lives in does not. He said that it is much easier to represent a district that meets the criteria and that like other citizens who commented, he does not feel adequately represented by his senator, who lives in Roundup.
- 01:00:29 **Sen. John Esp, Big Timber, SD 31**, noted that he was speaking as a private citizen and not as a legislator. He said that communities of interest are very important but that they don't necessarily need to follow county lines and that trade areas can also be good boundaries to use. He discussed the trade route of the Yellowstone valley in senate districts 30 and 31 as a good example. Regarding the other proposed criteria, Sen. Esp said that a 1% population deviation is reasonable and will make districts more fair. He said that compactness is also important and discussed the 1 to 3 ratio used in subdivision law. He said above all, it is very important that the Commission be fair and to treat everyone as equally as possible.
- 01:03:29 **Adam Gilbertson, representing himself and Yellowstone County Young Republicans**, asked that the Commission use an open and up-front single software operating system, that a 1% population deviation be used where possible, and to make decisions be made irrespective of political affiliation. He said that candidates should be able to win elections based on their philosophy and values, not because of a redistricting decision that created a bullet-proof voting district.
- 01:05:38 **Sen. Taylor Brown, Huntley, SD 22**, discussed his senate district, which he said was over 140 miles long and in certain places, less than 10 miles wide. Regarding the criteria, he said his district has none of the criteria. He said that while he loves his district, it is extremely diverse and, in his opinion, does not have any sort of community of interest. Sen. Brown said that dividing cities just for the purpose of influencing party affiliation does not serve the citizens well and that doing so takes away the people's political voice. He said the system has been abused and that it is not the Commission's job to balance the state politically or to draw districts that will keep one party or the other in power. He said that is the voter's job and that the Commission should set aside partisan agendas and do what is right for the State of Montana.
- 01:09:23 **Rep. Ken Peterson, Billings, HD 46**, provided copies of his testimony (**EXHIBIT 6**). He thanked the Commission for allowing citizens to comment at the beginning of the process. Rep. Peterson discussed the following points:
- adjusting the 100 districts in order to make appropriate senate districts;
 - that there is no role for politics in the redistricting process;
 - Article V, Section 14 of the Montana Constitution;

- that many citizens think that the redistricting based on the 2000 census was skewed and politically motivated; and
- the proposed criteria for the 2010 census redistricting process.

01:19:17 **10 minute break**

01:37:07 **Theresa Keaveny, Montana Conservation Voter League, Billings**, said that the last redistricting cycle resulted in more competitive districts and better compliance with the Voter Rights Act. She asked that the current districts be used as a starting point for this districting cycle. She asked that the Commission continue to use the traditional 5% population deviation and to draw competitive and fair legislative districts.

01:39:44 **Randen Schoppe, Billings**, discussed SD 21 and the impact that the Big Horn County portion has on the Yellowstone County portion. He pointed out that within SD 21, the house districts divide Hardin practically right down the middle. He said Hardin should be put into one house district because it is a community of interest and would have the voice it needs. He said that the Crow Reservation and Northern Cheyenne Reservations should be kept together in a senate district in order to preserve the community of interest there, but that the lines for house districts need to be tweaked.

01:41:45 **Weldon Birdwell, Billings**, strongly encouraged the Commission to use a 1% population deviation, to create compact and contiguous voting districts, to honor existing geographic and political boundaries, and that communities of interest should be preserved. Mr. Birdwell said he believes that the last Commission ignored the criteria in 30-40% of the voting districts and discussed several examples. Mr. Birdwell said that party affiliation or incumbency should not be a consideration and that the criteria must be applied fairly and honestly across the board. He said that in the last districting process, three plans were prepared by LSD staff but were ignored in favor of a party plan, which was a waste of staff time and tax dollars. He asked that the current Commission not do that again. Regarding the placement of sitting state senators after the next process, Mr. Birdwell noted past Senator John Bohlinger of Billings as an example of a displaced senator and said that senators should be placed in a district in which they have received a majority of votes.

01:47:21 **Sen. Sharon Stewart-Peregoy, Crow Agency, SD 21**, asked that the Commission keep voting rights at the forefront of the process because of its importance to people of color or of poverty. She said it hasn't been that long since voter rights were violated and that while great progress has been made, it is often the least in society that get pushed aside. She said that the American Indians have had the opportunity to voice their concerns and that the senators and representatives of Indian heritage represent all tribes, even though they may not all share the same beliefs or philosophies. Sen. Stewart-Peregoy said she agrees with all those who asked that political affiliation be laid aside because it is more important that process be fair, and that people have equal access and an equal voice. She said that communities of interest and compactness of districts are important. She said that population shifts will be identified as the new census

numbers come out which will affect communities, and that while the effect is not always wanted, demographics must be considered.

01:52:38 **Rep. Carolyn Pease-Lopez, Billings, HD 42**, said that she testifies with a happy heart because for the last ten years, her people finally feel that their votes have counted. She said that the decisions of the former Commission changed the lives of the people in her area. Rep. Pease-Lopez said that voter apathy has disappeared and that her constituents don't take their right to vote for granted. She implored the Commission to uphold section 2 and section 4 of the Voter Rights Act, saying that the changes made in the last cycle made a huge difference to her people, that the right to vote is the heartbeat of America, and that Indians treasure their right to vote and knowing that their vote is heard.

01:56:15 **Earl Blakley, Billings**, emphasized that communities of interest and compactness are very important. He said that people will feel disenfranchised if they think their vote won't count. He said that many people who are apathetic think their vote won't count. He asked that the Commission rise to the occasion and do what is right for the people.

01:57:36 **Sen. Jeff Essmann, Billings, SD 28**, said he was speaking as a private citizen. He thanked the Commission for the opportunity to be heard at this point in the redistricting process. He discussed the proposed criteria (**EXHIBIT 1**) and said that party affiliation or incumbency should not be considerations, to start fresh and not use existing districts. Sen. Essmann agreed with Sen. Steward-Peregoy's comments about equality and said that a 1% population deviation should be followed. Regarding communities of interest, Sen. Essmann said that using communities of interest and existing political boundaries should be strongly considered. He suggested that, when drawing district lines, using existing elementary school boundaries would be a good place to start in urban communities. He said that trade areas and traditional neighborhoods also provide good boundaries. Regarding a starting point, Sen. Essmann encouraged the Commission to "think outside the box" when drawing district lines and suggested that a first step be to draw the majority-minority districts and compliance with the Voter Rights Act within that small deviation. Then go to the larger urban counties and cities and then to use geographic and trade center boundaries.

02:06:04 Commissioner Regnier thanked the public for their comments. Commissioner Regnier said that all comments would be duly considered by the Commission.

Commissioner Lamson said the comments provided a good cross section of all of the different views that the Commission will have to deal with. He said that he will keep an open mind and will listen to all points of view.

Commissioner Bennion said that participation is the best way to make sure that no one interest is in control and that everyone has an equal seat at the table. He urged the public to stay involved in the process and that this Commission wants to keep it an open and transparent process.

02:07:52 Commissioner Vaughey agreed with Commissioner Bennion's comments. She asked that any additional testimony be provided to the Commission before the mid-May deadline.

02:08:31 Commissioner Smith thanked everyone for participating. He said that he likes "out of the box" thinking and that the comments will be extremely valuable when the decision making begins. He encouraged everyone to submit written testimony and said that the outcome may not please everybody but that the process would be fair and open.

DISCUSSION AND ADOPTION OF DATE AND TIME FOR EXECUTIVE ACTION

02:10:09 **Commissioner Bennion moved to approve May 28, 2010, as the next meeting date of the DAC. The motion passed on a unanimous voice vote.** Ms. Weiss said that the minutes from the April hearings would not be complete transcripts but summary minutes. She said that copies of the minutes, along with other additional comments would be provided to the Commissioners. Commissioner Smith said sooner rather than later would be ideal.

02:12:01 Commissioner Vaughey asked if setting a deadline of May 14 to take public comment was reasonable. Ms. Weiss said it was.

ADJOURNMENT

02:13:04 With no other business before the Commission, the meeting was adjourned. The next meeting of the Districting and Apportionment Commission will be held on Friday, May 28, 2010, in Helena, Montana.

The Commissioners also received a packet of public comment submitted in advance of the meeting (EXHIBIT 7). 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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