

Minutes
Senate Redistricting Subcommittee Meeting

Room 308, Gressette Building, Columbia, S.C.
April 13, 2011 9:00 a.m. scheduled

Senator McConnell called the meeting to order at 9:20 a.m. The Redistricting Subcommittee members present were: Senator McConnell, Senator Ford, Senator Larry Martin, Senator Hutto, Senator Malloy, and Senator Shoopman. The Senate Redistricting staff persons present were: Charles Terreni, Debbie Hammond, Katherine Wells, Bonnie Anzelmo, Dwight Jones, Laurie Traywick, and Paula Benson.

Senator McConnell thanked the subcommittee members for attending the public hearings. He also thanked the citizens who attended the hearings. He mentioned that some of the public complimented the website and said he hoped it continued to be useful.

Senator McConnell recognized Katherine Wells who explained how the media contacts had been compiled and how information had been distributed to the media. She indicated that information had been distributed to 300-350 media addresses and that over 700 people attended the public hearings with 140 speakers.

Senator McConnell recognized Charles Terreni to provide information about selection of criteria. Senator McConnell explained that the staff drafted proposal was developed from information received at the public hearings, from consulting past criteria, and from looking to applicable case law, particularly from the Colleton case.

Mr. Terreni addressed the requirements of federal law as to the Senate plan, as applied to legislative and congressional districts. He explained the concepts of deviation and range, and described what courts have held concerning deviation and range. He said that, while states should strive for equality in population, the courts have held a state may deviate within a 10% range. The proposed staff criteria would require a good faith attempt to achieve equal population yet allow for a + or - 5% variance per district in order to comply with traditional redistricting criteria.

Senator Hutto asked if the criteria could be based on - 4% and + 6%?

Mr. Terreni answered: (1) the limit cited in case law was 10%; (2) ultimately, the General Assembly must pass a plan and if needed could justify variance from criteria; (3) case law establishing an overall 10% variance is long standing; (4) more recent case law has looked more closely at the justifications for deviation; and (5) if need to depart from + or - 5%, would have to make that definitive statement.

Senator Hutto asked if the criteria could be changed in the future.

Mr. Terreni explained they could, but that certain federal law standards would have to be met including that: (1) for congressional districts, courts have a stricter standard of + or - 1 person; and (2) criteria must allow compliance with the Voting Rights Act and applicable case law.

Senator Hutto asked if minority voting strength was defined by law.

Mr. Terreni said the test was whether a minority community has the chance to elect a candidate of choice in the district and whether the district avoids retrogression.

Senator Malloy asked if a district retrogressed if it went from 60% to 53% minority population.

Mr. Terreni replied retrogression was determined through a district-by-district analysis. He indicated that if the minority population percentage had decreased, but the minority voting strength was not diluted, that would not be a Section 5 violation.

Senator Hutto asked if the analysis involved whether a district had a higher voter turnout.

Mr. Terreni said yes.

Mr. Terreni then explained that racial gerrymandering was prohibited, but consideration of race is not prohibited as long as that consideration did not subordinate other issues and did not predominate absent a compelling state interest. He continued, concerning the proposed criteria, that the contiguity language was identical to language adopted during the previous redistricting.

Senator Hutto asked about point-to-point contiguity. Mr. Terreni answered, then continued reviewing the other proposed criteria, including: communities of interest, constituent consistency, not dividing county or municipal lines, and maintaining cores of existing districts. He said the subcommittee had received much testimony asking that a plan not divide counties. However, he pointed out that the subcommittee received different testimony about boundaries depending upon the area. He said that compactness relates to a means of effective communication.

Senator Hutto said the testimony and news stories emphasized competitiveness in districts. He asked if that was a standard considered by the courts.

Mr. Terreni said some court had attempted to consider political competitiveness, but it was difficult to articulate a justiciable standard for judging political competitiveness.

Senator Hutto asked if the majority-minority districts had to be drawn first. Mr. Terreni said there was no required order to drawing districts, just that a plan had to avoid retrogression.

Senator McConnell asked for a vote. The criteria was adopted unanimously by a vote of 7-0.

Senator Hutto asked what the subcommittee duties would be over the next few weeks.

Mr. Terreni said staff would accept plans from the public. In addition, he said that staff would meet with members and begin formulation of a draft plan.

Senator Hutto asked if a single district could be submitted.

Mr. Terreni said in order to be helpful a submission must be complete. He referenced the Public Submission Policy available on the Senate Redistricting website.

Senator McConnell adjourned the subcommittee meeting at 9:59 a.m.