



Montana Districting and Apportionment Commission

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

Commission members:

Jim Regnier
Presiding Officer
P O Box 299
Lakeside, MT 59922

Jon Bennion
89 Whitetail
Clancy, MT 59634

Joe Lamson
612 Touchstone Court
Helena, MT 59601

Carol Williams
Missoula, MT 59801

Linda Vaughey
2505 Southridge Drive
Helena, MT 59601

Staff:

Rachel Weiss
Research Analyst
Joe Kolman
Research Analyst
Julianne Burkhardt
Attorney
Dawn Field
Secretary

MINUTES

February 12, 2013
9:00 a.m.

Montana Historical Society Auditorium
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

Jim Regnier, Presiding Officer
Jon Bennion
Joe Lamson
Linda Vaughey
Carol Williams

STAFF PRESENT

Rachel Weiss, Research Analyst
Joe Kolman, Research Analyst
Julianne Burkhardt, Attorney
Dawn Field, Secretary

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Districting and Apportionment Commission:

- approved meeting minutes for all meetings and hearings held in August through December, 2012;
- did not approve amendment a60_JB_0202;
- did not approve amendment a61_JB_0202;
- did not approve amendment a63_JB_0202;
- did not approve amendment a54_JB_Jan2;
- approved amendment a56_JL_0202;
- did not approve amendment a67_CW_0211;
- did not approve a motion to move Sen. Webb from SD 23 to SD 22;
- did not approve a motion is to form new SD 2 (HDs 3 and 5) SD 3 (HDs 4 and 6);
- did not approve a substitute motion to move Sen. Ripley to SD 10 and Sen. Hamlett to SD 12
- approved a motion to keep SD 9 open and to move Sen. Ripley from SD 9 to SD 10 and to move Sen. Hamlett from SD 10 to SD 15; and
- adopted the Districting and Apportionment Commission's Final Plan for submission to the Secretary of State.

Note: Throughout the meeting, the commissioners viewed maps on a screen in the meeting room and discussed district lines. To view the official record of the meeting (the audio/video recordings) please visit leg.mt.gov/districting.

CALL TO ORDER AND ROLL CALL

- 00:00:04 Commissioner Regnier called the meeting to order at 9:30 a.m. The Secretary took roll, all commissioners were present. Commissioner Regnier noted that Pat Smith officially resigned from the Districting and Apportionment Commission and that Carol Williams has been appointed in his place. Commissioner Regnier thanked Commissioner Smith for his excellent work and said that Ms. Williams will be a very competent and capable replacement.
- 00:02:40 Commissioner Lamson said that he is delighted with the appointment of Commissioner Williams. Commissioner Vaughey also welcomed Ms. Williams as a commissioner.
- 00:03:41 Commissioner Regnier reviewed the purpose of meeting, which is to consider the recommendations put forth by the Legislature, to consider additional amendments by the Commissioners regarding holdover senate district assignments and senate pairings and to make the final decisions on the Commission's plan.

REVIEW OF LEGISLATIVE RECOMMENDATIONS

- 00:05:23 **Rachel Weiss, Legislative Research Analyst, Legislative Services Division (LSD)**, said copies of both resolutions (EXHIBIT 1 - HR 2 and EXHIBIT 2 - SR 3) were in the meeting folders.
- 00:06:16 Commissioner Regnier noted that deviation justifications, as required by the mandatory criteria, were submitted by Commissioners Bennion and Vaughey

(EXHIBIT 3) and Commissioners Lamson and Williams (EXHIBIT 4). He said the justifications would be attached to the Final Plan as appendices.

ACTION ITEM: ADOPT MINUTES OF PREVIOUS MEETINGS

- 00:07:08 **Commissioner Vaughey moved to approve the minutes from August 13-17, 2013; October 25, 2013; November 15 and 30, 2013; and December 6 and 19, 2013.** Commissioner Lamson noted, for the record, that the minutes were written clearly, accurately, and would provide a good record of the districting process and proceedings.
- 00:08:36 Commissioner Lamson suggested that in order to ensure that the record is complete the legislative recommendations, discussion, and floor actions be linked to the Districting and Apportionment Commission webpage so that they would be included as part of the official record. He also asked that the maps be properly formatted in order to make them easily accessed and usable to the public.
- 00:09:15 **Commissioner Vaughey's motion to approve the meeting minutes passed on a unanimous voice vote.** Commissioner Regnier echoed Commissioner Lamson's comments regarding the preparation of the meeting minutes.

ACTION ITEM: DISCUSS AND REVISE TENTATIVE COMMISSION PLAN

- 00:09:51 **Commissioner Bennion moved to adopt amendment a60_JB_0202 - change boundaries in TCP HDs 53 and 54, West Billings (EXHIBIT 5).** He said that since the August hearings, he has had a chance to get more input and to review the district lines. He explained how the changes would make the lines tighter and better meet criteria. Commissioner Vaughey concurred with his remarks.
- 00:12:12 Commissioner Lamson said that while he didn't have a problem with the amendment, he did object to going back and re-opening up the discussion on the House districts. He further explained his reasoning for opposing the motion.
- 00:13:51 Commissioner Williams said that her understanding was that there would be some "tune-up" changes in several of the Senate districts but that the House district decisions were complete. She said that she would resist making any changes at this point.
- 00:15:06 Commissioner Vaughey said that when the Commission approved the Tentative Commission Plan (TCP) in August, it was her understanding that "tentative" was underscored and that changes would be allowed in order to clean up areas of concern. She said that the vote likely would not have been unanimous, had she thought otherwise.
- 00:15:55 Commissioner Bennion said that the process in the Constitution allows for changes to be made at this point and that this is one of the last opportunities to comply with the Constitutional requirements. He also stated that he and Commissioner Vaughey voted for the TCP with the understanding that key areas would be revisited.

- 00:17:05 Commissioner Regnier said that he reviewed the minutes and that the Billings districts were very time consuming but that ultimately, the votes were unanimous. **Commissioner Bennion's motion failed on 2-3 voice vote. Commissioners Lamson, Williams, and Regnier voted no.**
- 00:17:51 **Commissioner Bennion moved to approve amendment a61_JB_0202 - change boundaries in TCP HDs 24 and 25, Great Falls (EXHIBIT 6).** He reviewed issues regarding compactness and compliance with the Constitution. Commissioner Vaughney said the amendment addresses mandatory criteria that was woefully shortchanged during the process.
- 00:19:58 Commissioner Lamson said the Commission should focus on the Legislature's recommendations, that he suspected that other motivations were at play here, and that he would oppose the motion. Commissioner Williams agreed and said that she listened to the legislative hearings and did not recall any debate regarding these districts.
- 00:21:38 Commissioner Vaughney repeated that her understanding of the August vote was that the TCP was approved with the caveat that certain areas of concern would be revisited, and that Great Falls was one specific area of concern that was discussed at that time.
- 00:22:57 Commissioner Lamson said that the districts in question have already been revisited and modified. He pointed out that the "infamous guitar district" was gone, in addition to several other changes made for small communities.
- 00:23:56 Commissioner Regnier agreed that the Great Falls districts were discussed at the December 6, 2012, meeting and reminded the Commissioners that his four-part compromise motion was passed unanimously. He said the motion included recommendations from both sides of the aisle.
- 00:24:53 Commissioner Bennion said that all of the changes made for these districts have been generated by the Democrats. He said that he is being persistent on this issue because he feels unsatisfied with the current districts and wants to know that Republican ideas have been heard.
- 00:26:10 **Commissioner Bennion's motion failed on 2-3 voice vote. Commissioners Lamson, Williams, and Regnier voted no.**
- 00:26:27 **Commissioner Bennion moved to approve amendment a63_JB_0202 - change boundaries in TCP HDs 81 and 82, Helena (EXHIBIT 7).** He reviewed his concerns and issues about these districts.
- 00:28:02 Commissioner Regnier asked about the deviation in HD 80. Commissioner Bennion said the amendment would only change the north-south lines of the district and would not affect the deviation. Mr. Kolman also responded to the question and explained the numbers listed on the map.

- 00:28:55 Commissioner Vaughey said that the proposed amendment would take care of her concerns also about the very long and skinny district, as well as concerns regarding separating the Helena Valley from urban Helena.
- 00:30:50 Commissioner Lamson discussed his concern that the amendment, if approved, would create a majority district for the Republicans.
- 00:31:45 Commissioner Williams commented that she listened to the legislative proceedings but did not hear the concerns referenced by Commissioner Bennion.
- 00:34:12 **Commissioner Bennion's motion failed on 2-3 voice vote. Commissioners Lamson, Williams, and Regnier voted no.**
- 00:34:32 **Commissioner Bennion moved to approve amendment a54_JB_Jan2 - revise multiple House Districts in Butte-Silver Bow, Anaconda-Deer Lodge, to make HD 77 contiguous to HD 74 (EXHIBIT 8).** He said the amendment is strongly supported by the Jefferson County Commissioners and others. He explained how the amendment would adjust the district pairings.
- 00:36:54 Commissioner Lamson strongly opposed the motion. He elaborated on his objections.
- 00:38:14 Commissioner Bennion said the amendment was not intended to affect the assignment of the holdover senators and that he was willing to discuss that issue.
- 00:38:36 Commissioner Williams said she could not support the amendment.
- 00:39:08 **Commissioner Bennion's motion failed on 2-3 voice vote. Commissioners Lamson, Williams, and Regnier voted no.**
- 00:39:27 **Commissioner Lamson moved to approve amendment a56_JL_0202 - adjust boundaries in Ravalli County north of Hamilton and south of Corvallis, affecting HDs 85 and 86 (EXHIBIT 9).** He explained the purpose of the amendment, saying it was a technical adjustment requested by the Ravalli County Clerk and Recorder. **The motion passed on a unanimous voice vote.**
- 00:41:16 Commissioner Bennion stated that it would be a waste of time for him to move more house amendments and asked if it was an appropriate time to discuss the Senate issues. Commissioner Lamson asked to discuss an amendment dealing with the Hi-Line. Ms. Weiss distributed copies of amendment a67_CW_0211 - (EXHIBIT 10).
- 00:44:51 Commissioner Lamson reviewed the background of the proposed amendment, which is to deal with ripple effects of certain decisions affecting the Hi-Line districts, specifically how Sen. Greg Jergeson how would be impacted. He also discussed how the ripple effects created problems in a number of northeastern and eastern counties.

- 00:47:50 Commissioner Williams agreed with Commissioner Lamson's concerns and spoke in support of the proposed amendment.
- 00:48:36 Commissioner Bennion questioned Commissioner Lamson about when the amendment was prepared. He objected to the amendment being offered at this point in time, saying that it had not been submitted before the deadline, posted on the website, or otherwise available to the public or other members of the Commission for comment. He discussed other objections to the amendment.
- 00:51:06 **Commissioner Lamson's motion failed on voice vote. Commissioners Bennion, Vaughey, and Regnier voted no.**
- 00:51:29 Commissioner Regnier recessed the meeting at 10:28 am for a short break.
BREAK
- 01:04:33 Commissioner Regnier called the meeting back to order. He said the Commission would begin work on the Senate assignments.
- 01:04:50 **Commissioner Bennion moved to move Sen. Webb from SD 23 back to SD 22 where he was elected.** He explained the intent and effect of the amendment.
- 01:06:42 Commissioner Lamson spoke in opposition to the amendment.
- 01:09:26 Commissioner Williams also spoke against the amendment.
- 01:10:07 Commissioner Regnier said that he studied this district and is not convinced by the numbers discussed by Commissioner Bennion.
- 01:12:20 Commissioner Bennion discussed the importance of people feeling that they are being properly represented and that the 2012 election results very clearly indicate that Republican representation is preferred in SD 22. He said that the people in SD 22 elected Sen. Webb in an overwhelming vote and that moving him to a new district flies in the face of common sense.
- 01:14:41 The Commissioners held a vigorous discussion of the issue. Discussion points included concerns about the potential for disenfranchising voters, the risk of having to re-calculate other districts if this change was made, use of obsolete election data, and other concerns.
- 01:20:05 Commissioner Vaughey said that rather than focusing on the senator, the voters ought to be the first consideration and for that reason, she supported the amendment.
- 01:21:03 **Commissioner Bennion's motion failed on a 2-3 voice vote. Commissioners Lamson, Williams, and Regnier voted no.**
- 01:22:09 Commissioner Lamson presented an amendment regarding the Whitefish and Columbia Falls districts and discussed the strong community of interest between the two communities. He said the current pairing ignores that community of interest and that Rep. Ed Lieser, in the House hearing, presented new

information that warrants the Commission's reconsideration of the current pairings. Commissioner Lamson said that in addition to the historical community of interest bonds between the two communities, Rep. Lieser also pointed out that the two communities share staff, including the City Attorney, planning staff, and other municipal interests. He said that forming new Senate Districts would address the concerns discussed by Rep. Lieser and would not create ripple effects on surrounding districts. He would keep the holdover senator assignments the same. **Commissioner Lamson moved to form a new SD 2 (HDs 3 and 5) and new SD 3 (HDs 4 and 6).**

- 01:24:57 Commissioner Williams supported the motion.
- 01:25:36 Commissioner Bennion said that there are differing opinions on what defines a "community of interest" and that the public testimony received on this area does not support Commissioner Lamson's amendment.
- 01:26:43 Commissioner Vaughey concurred with Commissioner Bennion's comments and said that the testimony overwhelmingly supports the current configuration. She said that she would not support the motion.
- 01:27:15 Commissioner Lamson said that for the record, public testimony would support the strong community of interest between Columbia Falls and Whitefish.
- 01:28:05 **Commissioner Lamson's motion failed on a 2-3 voice vote. Commissioners Bennion, Vaughey, and Regnier voted no.**
- 01:28:23 Commissioner Regnier prefaced his motion regarding the Llew Jones situation by discussing the January 27, 2013, bipartisan letter sent to the Commission urging the Commission to amend SD 9 in order to allow Sen. Jones to run in that district in 2014. He discussed the issues and concerns detailed in the letter. He said that in the spirit of the bipartisan letter, he hoped the Commission could find a bipartisan solution, and that he tried to craft a solution that would be acceptable to all of the Commissioners. He said that unfortunately, that does not appear to be the case, but that he would offer an amendment, nonetheless.
- 01:30:40 **Commissioner Regnier moved to keep SD 9 open, to move Sen. Rick Ripley from SD 9 to SD 10 and to move Sen. Hamlett from SD 10 to SD 15.** He discussed his motion.
- 01:31:37 Commissioner Lamson said that he also was impressed by the bipartisan letter because redistricting is one of most contentious activities of government. He said that the civil manner with which the current Commission has dealt with it is a significant achievement. He said that he would support the motion, partly because it is a bipartisan request and also because it would do no harm to an existing senator.
- 01:35:30 Commissioner Williams asked who signed the letter. Commissioner Lamson listed the signers of the letter. He discussed the rationale for the proposed changes and said that he has not talked to Sen. Peterson but predicted he would

find it fair. Commissioner Williams asked if the issue has been discussed with Sen. Hamlett. Commissioner Lamson said that Sen. Hamlett is aware of the situation.

- 01:38:53 Commissioner Bennion explained why he would resist the motion and offer a substitute motion, saying that there is a more effective way to move Sen. Ripley and Sen. Hamlett. He discussed each senator's district and why it would make more sense to move them according to his proposal.
- 01:42:30 **Commissioner Bennion made a substitute motion to move Sen. Ripley to SD 10 and Sen. Hamlett to SD 12.**
- 01:42:43 Commissioner Williams asked how Senator Anders Blewett will be accommodated. Commissioner Bennion said that because of the reconfiguration, it can't be said definitively that this is Senator Blewett's district or not. He explained further and noted that Senator Mitch Tropila will be termed out and that Sen. Blewett could run there.
- 01:44:14 Commissioner Lamson said that the people in the affected neighborhoods may not agree. He said that Sen. Hamlett does an excellent job representing his constituents and would no doubt provide good representation for a new district.
- 01:46:24 Commissioner Regnier said that he is still not clear how the amendment would affect Sen. Blewett. Commissioner Lamson responded, saying that there is no guarantee who will win a seat but that Sen. Blewett is not termed out so has more at stake.
- 01:48:13 Commissioner Vaughney agreed with Commissioner Bennion and said that rather than thinking of the senators and representatives involved, the impetus ought to be with the voters and how they will be represented. She said she would support the amendment.
- 01:49:24 Commissioner Williams said that while she is interested in accommodating Sen. Jones, she finds it very odd that the Commission, in order to accommodate a Republican senator, would impact two Democrat senators. She suggested moving Sen. Hamlett to Sen. Buttrey's seat so that one Democrat and one Republican would be affected. Commissioner Bennion said that would be assuming that his amendment would negatively affect the Democrats. He predicted that Sen. Hamlett would do very well in SD 12, leaving Sen. Blewett an open seat to run for.
- 01:53:20 Commissioner Regnier asked Commissioner Bennion if he thought Commissioner Williams' suggestion was a viable option. Commissioner Bennion said no and explained how it would create problems. He said he wants to focus on the numbers and that he feels he has made a case for that.
- 01:54:05 Commissioner Regnier commented that he was disappointed that the Commission could not agree upon a bipartisan solution to the issue.

Commissioner Bennion's substitute motion failed on a 2-3 voice vote. Commissioners Lamson, Williams, and Regnier voted no.

01:54:33 **Commissioner Regnier's motion passed on a 3-2 voice vote. Commissioners Bennion and Vaughey voted no.**

Public Comment

01:55:15 No public comment was offered.

Action ITEM: adopt final legislative redistricting plan

01:55:29 **Commissioner Regnier moved to adopt the final legislative redistricting plan.** He said that despite the disagreements, he has very strong and warm feelings as to how the Commission has functioned. He said that he is sincerely grateful to Commissioner Bennion for bringing in the low deviations and that if Commissioner Bennion had not set the bar so high, the low deviations may not have been achieved. He also commended Commissioner Vaughey for her persuasive arguments and contributions in the eastern Montana districts. He thanked Commissioner Lamson and former Commissioner Smith for their hard work for majority-minority districts, saying that their efforts resulted in strong districts for Montana's Native Americans which will serve as an example to other western states. He commended Commissioner Williams for agreeing to participate and thanked her for contributions to the process.

01:57:57 Commissioner Regnier reviewed the draft letter to the Secretary of State (EXHIBIT 12).

01:58:27 Commissioner Vaughey requested that the Commission take a brief recess.

BREAK

02:06:22 Commissioner Regnier called the meeting back to order at 11:42 am.

02:06:30 Commissioner Williams thanked the Commission for the opportunity to serve on the Commission as Pat Smith's replacement. She said that Mr. Smith did a wonderful job and she thanked the other Commissioners for their work also.

02:07:09 Commissioner Lamson said that he hoped the Commissioners could unanimously approve the Final Plan.

02:07:49 Commissioner Vaughey commented on her service as a Commissioner and thanked the other Commissioners for their work, particularly Commissioner Bennion for his work on population deviations. She also commented on remaining concerns and disappointments, including lack of compactness in districts.

02:12:05 Commissioner Bennion gave his final remarks also, thanking his fellow Commissioners and LSD staff for their work and contributions to the process. He said it was a privilege to serve and agreed that significant gains were made regarding population deviations, minority voting rights, and public participation. He said that he remains disappointed that many of the suggestions made by

citizens did not get the attention he would have liked and that certain mandatory criteria was ignored.

02:17:12 Commissioner Regnier said, in response to Commissioner Bennion's concerns about mandatory criteria and compactness, that his opinion is that the decisions made by the Commission meet the Constitutional requirements but that the issue could be studied and tuned up for future Commissions.

02:18:32 Commissioner Lamson said that each Commission faces different challenges and issues of that time. He said that for example, the 2000 Commission discussion was dominated by Indian voting rights. He also commented on the population deviation issue, saying that he thought great progress had been made and noted, for the record, that he offered a plan with only a 1% deviation. He gave a special thank you to Pat Smith for his work as a Commissioner and to Democratic staff Kendra Miller for her assistance throughout the process.

02:21:56 Commissioner Williams commented that neither side got everything it wanted, which indicates that compromises were made and that good work was done.

02:23:03 **The motion to approve the Final Plan passed on a 3-2 voice vote. Commissioners Bennion and Vaughey voted no.**

02:23:22 Ms. Weiss discussed the steps remaining in the process before delivering the Final Plan to the Secretary of State's Office.

02:24:33 Commissioner Regnier recessed the Commission at 12:00 p.m. until 1:30 p.m.

LUNCH BREAK

04:01:08 Commissioner Regnier called the meeting back to order. Ms. Weiss reported that all of the changes have been made and that the Final Plan was in order and ready for delivery to the Secretary of State.

04:03:03 The Commissioner signed three copies of the letters (EXHIBIT 12): one copy for Legislative Services Division records and two copies for the Secretary of State.

04:05:41 Ms. Weiss reviewed the process and timeline for delivering the signed letters to the Secretary of State.

Adjourn

04:06:44 The final meeting of the Districting and Apportionment Commission was adjourned at 1:42 p.m.

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