

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE REDISTRICTING COMMITTEE

Monday, November 5, 2001
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Mike Timm, Chairman, called the meeting to order at 1:00 p.m.

Members present: Representatives Mike Timm, Ole Aarsvold, Al Carlson, William R. Devlin, Glen Froseth, Pam Gulletson, Lyle Hanson, David Monson; Senators Bill Bowman, Randel Christmann, Layton Freborg, Ray Holmberg, Ed Kringstad, Tim Mathern, Steven W. Tomac

Others present: Fred Smith, Bismarck Tribune, Bismarck

Bill Geiger, Mandan

Pat Boehm, Mandan

Bernie Meyer, Mandan

Theresa Tokach, Mandan

William F. Gietzen, Glen Ullin

Mike Ellefson, Hettinger

Lester Brackel, Mott

Roy Steiner, Hettinger County Auditor, Mott

Audrey Cleary, State Representative, Bismarck

Renee Pfenning, Bismarck

Kenneth Kroepelin, State Senator, Hope

Howard C. Ostrom, Finley

Paul E. Trauger, Morton County Auditor, Mandan

Shelby F. Schantz, Glen Ullin

Terry Schantz, Glen Ullin

Dwight Wrangham, State Representative, Bismarck

Kevin Glatt, Burleigh County Auditor, Bismarck

Harlan Fugelsten, North Dakota Association of Rural Electric Cooperatives, Fargo and Mandan

Bob Martinson, State Representative, Bismarck

Jerome Marschke, Bismarck

Wade Moser, North Dakota Stockmen's Association, Bismarck

Mel Kambeitz, Qwest Corporation, Bismarck

Bob Graveline, Utility Shareholders of North Dakota, Bismarck

David Crothers, North Dakota Association of Telephone Cooperatives, Mandan

Bob Stenehjem, State Senator, Bismarck

Wesley R. Belter, State Representative, Leonard

Aaron Krauter, State Senator, Regent

Merle Boucher, State Representative, Rolette

Jeff Delzer, State Representative, Underwood

John Mahoney, State Representative, Center

Lois Delmore, State Representative, Grand Forks

Francis J. Wald, State Representative, Dickinson

William E. Kretschmar, State Representative, Venturia

James Boehm, State Representative, Mandan

It was moved by Representative Carlson, seconded by Senator Holmberg, and carried on a voice vote that the minutes of the October 16-17, 2001, meeting be approved as distributed.

Chairman Timm said the committee has developed a redistricting plan and adopted the plan by majority vote at the last meeting. He said the purpose of today's meeting is to review the plan and the bill draft that implements the plan and make any technical changes necessary to address errors. He said the purpose of today's meeting is not to take additional testimony regarding redistricting plans. He said additional revisions to the redistricting plan can be made at the special session.

Senator Tomac said because many of the committee members had not seen the redistricting plan until the last meeting, there should be an opportunity to address concerns in the plan today and allow the public an opportunity to react to the plan.

Senator Mathern said the district boundaries for Cass County were not offered until the morning the committee voted on the plan, and there was no opportunity for feedback regarding the proposed districts.

Representative John Mahoney said it is easier to make changes now than it will be during the special session. He said the bill draft should be refined to the extent possible before the special session.

Representative Timm said proposed amendments should be requested before the special session so that the Legislative Council staff will have an opportunity to draft the amendments.

Senator Tomac said the public should have the opportunity to express their concerns so that proposed amendments can be requested to address those concerns.

Representative Carlson said it was understood that today's meeting was only to review the bill draft and correct the draft if necessary.

Senator Bowman said the committee has gone through the entire study process and there was ample time for input from the public. He said additional concerns can be addressed at the special session.

Senator Tomac said it is unfortunate the committee adopted a plan that no one had seen in

advance. He said precinct, district, and county lines have been split. He said it is a violation of the legislators' oath to the constitution to not give the public an opportunity to address the plan at this meeting.

Senator Bob Stenehjem said the bill draft will be heard by a joint committee at the special session and there will be opportunity for testimony at that time.

Senator Aaron Krauter said limiting input on the bill draft gives a bad taste to the public regarding this process.

At the request of Chairman Timm, committee counsel reviewed two revisions to the 47-district plan which addressed the population deviations in Districts 4 and 28. He said the changes were necessary because mistakes were found in the population totals for those districts after the conclusion of the last meeting of the committee.

It was moved by Representative Devlin, seconded by Representative Monson, and carried on a roll call vote that the revisions to Districts 4 and 28 be approved. Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gullekson, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

Representative Jeff Delzer said he may have some concerns with the impact on District 8 of the revision to District 4. However, he said, he will address those concerns at the special session if necessary.

At the request of Chairman Timm, committee counsel reviewed the bill draft which implements the legislative redistricting plan approved by the committee. He said the bill draft contains legal descriptions for the 47 legislative districts, provides for the staggering of House and Senate terms, authorizes the Secretary of State to modify election deadlines and procedures if necessary due to a delay in implementation of the Act, provides for an effective date of December 7, 2001, and states that although the Act is effective on December 7, implementation will not affect current officeholders until November 30, 2002.

In response to a question from Senator Mathern, committee counsel said references in the bill draft to district numbers with respect to the staggering of House and Senate terms refer to the new districts unless otherwise specified.

In response to a question from Representative Gullekson, committee counsel said if city limits or the Fort Berthold Reservation boundary migrate, the legislative district boundaries will not be affected. He said the city limits and reservation boundaries are the boundaries according to the 2000 census maps. He said references to the other Indian reservation boundaries were not made because the Fort Berthold Reservation boundary is the only reservation boundary that serves as a legislative district boundary.

In response to a question from Senator Mathern, committee counsel said the bill draft provides for an effective date of December 7 rather than December 1

because of the possibility of the bill not being filed with the Secretary of State by December 1.

Senator Mathern said he is concerned with the broad authority granted to the Secretary of State to change election deadlines. He said he does not see a need for that section in the bill draft.

Committee counsel said the section was included in the bill draft to address the possibility of a delay in implementation of the legislation due to a referral or a lawsuit or due to the fact that the bill would become effective at a later date if it were adopted at a reconvened session of the Legislative Assembly rather than a special session called by the Governor.

In response to a question from Senator Mathern, committee counsel said if a member of the Legislative Assembly resigned following adoption of the redistricting bill and a successor is appointed to fill the position, the district executive committee for the new district would likely make the appointment because the district committee from the old district would likely have disbanded.

Representative Mahoney said because the new district officers take office, they would be the logical choice to make any appointment due to a resignation.

Chairman Timm opened the meeting for public comment.

Mr. Kevin Glatt, Burleigh County Auditor, said he is concerned with district boundaries that follow city limits because city limits change. He said it is difficult to administer elections based on boundaries that follow city limits.

In response to a question from Representative Timm, Mr. Glatt said it is easier to follow a boundary based upon a geographical landmark such as a road rather than a city limit that is based likely on lot lines. He said it is easier dealing with combining city and rural precincts that are based on geographical landmarks than dealing with the problems associated with boundaries based on city limits.

In response to a question from Representative Froseth, committee counsel said the maps approved by the committee, which are based on census maps, are a part of the record of the boundaries adopted by the committee.

In response to a question from Senator Bowman, Mr. Glatt said he has expressed his concerns to Bismarck legislators and attended a previous meeting of the committee. However, he said, he was not aware of the district boundaries following city limits until he saw the bill draft today.

Senator Stenehjem said Bismarck legislators are looking at the possibility of amending the bill draft during the special session to address some of the boundaries based on city limits.

Representative Jim Boehm, District 31, said he had been hoping the committee would approve a 51-district plan. He said he will likely voice opposition to the 47-district plan at the special session. He said he is also concerned with the way District 31 has been carved into three districts. He said if the Legislative Assembly is concerned with the growth of state

government, it would not have approved the adding of 155 state employees during the last legislative session. He said there is one state employee for every 55 people in the state while there is only one legislative district for over 13,000 people.

Representative Francis J. Wald, District 37, said the boundaries for Districts 36 and 37 have changed dramatically. He said a significant amount of territory has been taken from each district and put into the other district. He proposed a revision to the plan with respect to Districts 36 and 37, a copy of which is on file in the Legislative Council office.

Mr. Paul E. Trauger, Morton County Auditor, said he agrees with Mr. Glatt regarding the use of city limits for district boundaries. He said as a city expands its boundaries, confusion is created for the voters and election officials. He said he is also concerned with the division of Morton County, particularly the division along Interstate Highway 94. He said if the county is to be divided, a north and south division would be easier to administer.

Ms. Theresa Tokach said District 31 Republican Party officials are not happy with the splitting of District 31. She said it appears that the plan could have been created with straighter lines and less cutting of counties.

Representative William E. Kretschmar, District 28, said he has concerns with the rural areas of the state. He said he is hopeful the Legislative Assembly will ultimately adopt a 51-district plan. He said a 51-district plan will create less disruption for the rural areas of the state. Of the three branches of government, he said, the Legislative Assembly is the closest branch to the people. He said he has not heard cries from the public for reducing the size of the Legislative Assembly. If there were a demand for smaller government, he said, the state would not still have 53 counties and over 1,000 organized townships.

Senator Kenneth Kroeplin, District 23, said he favors having 49 or more districts. He said he is particularly concerned with the splitting of Steele County. He said the county has been designated an empowerment zone and has great potential for economic development. He said Steele County residents were not aware of the plan to split the county until very recently.

In response to a question from Senator Holmberg, Senator Kroeplin said his preference for 49 or more districts has been conveyed to the leadership in his party.

It was moved by Representative Carlson, seconded by Representative Monson, and carried on a roll call vote that the Legislative Council staff be requested to revise the bill draft to clarify that the senator from District 12 will be elected for a two-year term in 2002 and to correct a portion of the legal description in District 32; that the revised bill draft be approved for recommendation to the Legislative Council; and that the Legislative Council staff be requested to prepare a report and the bill draft recommended by the committee and

to present the report and recommended bill draft to the Legislative Council. Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "aye." Representatives Aarsvold, Gulleon, and Hanson and Senators Mathern and Tomac voted "nay."

In response to a question from Senator Tomac, committee counsel said the Legislative Council staff has not yet had an opportunity to prepare information regarding the percentage of change of population in each legislative district.

Representative Carlson said that information should not be necessary because the committee has already made a decision regarding which incumbents will be required to run for election after redistricting.

Representative Gulleon said because there have been dramatic changes in the legislative district boundaries and because some voters in the state will not have the opportunity to cast ballots for legislative candidates for six years as a result of redistricting, the requested information is necessary.

Senator Mathern said if there has been a substantial change in the residents of a district, the Legislative Assembly should decide whether an election should be held in that particular district.

In response to a question from Senator Mathern, committee counsel said the Legislative Assembly is not required to establish House subdistricts in the districts containing the Indian reservations. However, he said, if the redistricting plan were challenged, the challengers of the plan would have to prove the following to prevail in a legal challenge:

1. The minority group would constitute a majority in a single-member district;
2. The minority group is politically cohesive; and
3. Bloc voting by the majority usually defeats the preferred candidates of the minority.

Committee counsel said although the challengers to the redistricting plan in 1991 were unable to satisfy the first portion of the three-part test with respect to the Fort Berthold Reservation, American Indian population on the reservations has increased to the point where the first test could be satisfied for the Fort Berthold Reservation and possibly for the Standing Rock and Spirit Lake Reservations. He said the other two tests generally have to be proved by the use of statistical evidence.

No further business appearing, Chairman Timm adjourned the meeting at 3:30 p.m.

John Bjornson
Committee Counsel

Jay E. Buringrud
Assistant Director