

12/16/11

Jimiken

COMMENTS ON ATTACHMENT A

I commend the draftsmen of Attachment A for providing a far more sensible solution to the correction of errors and omissions in redistricting plans than the previously used section 4. In a recent conversation with Vicky Dalton, I was interested in her observation to the effect that the current proposal is a huge improvement over the prior language.

That being said, I have several problems with the draft.

First, I would like to observe that we do have a difference of opinion regarding the population standard to be satisfied in redistricting. If the commission's apparent interpretation of the population standard is the correct one, I am puzzled that population, in the current draft of Attachment A, is relegated to a relatively limited role in resolving errors and omissions. My original proposal, furnished to the Commission on November 8, was rather convoluted because I made an effort to protect the stringent interpretation of the population standard which I understand the Commission holds. As you know, my interpretation is different from yours. The correction of errors and omissions is far less likely to violate my understanding of the population standard than it is yours. I believe there is some inconsistency between your professed population standard and the limited role allowed to population in the errors and omissions correction provisions of Attachment A.

Second, as I proposed in my draft of November 8, I believe the first resort in correcting errors and omissions should be to use precinct boundaries. I applaud the focus on county and municipal boundaries in Attachment A. However, I'd like to point out that since precincts do not cross county or municipal boundaries, the use of precincts as the primary error and omission correction factor protects against crossing either a county boundary or a municipal boundary. The application of the provisions of Attachment A as written may have the result of either requiring the creation of new precincts for areas assigned pursuant to the proposed Attachment A or complicating election administration, because even though the assignment determined through Attachment A will keep the assigned territory within its county and municipality, if any, it is entirely possible that the boundary eliminated by the addition of the misassigned or unassigned territory may actually be the boundary of some other kind of governmental entity, such as, for example, a school district. There are several counties in the state in which no precinct crosses a school district boundary. In many other counties, school district boundaries are generally, though not exclusively, used as precinct boundaries. It may be that the assignment required by Attachment A may cause the assignment of territory across the boundary of some other governmental entity. Using precinct boundaries as the first factor in correction of errors and omissions will significantly reduce the risk of this happening.

Third, I see dealing with uninhabited water areas differently from uninhabited land areas to represent a failure to deal completely with the contiguity problems resulting from erroneous assignment of uninhabited areas. If an uninhabited area separates areas assigned to a district, thereby rendering the district noncontiguous, I see no reason why it should be handled one way if it's water and a different way if it's land. The problem seems to me to be the same in both cases. The uninhabited territory should be reassigned to the noncontiguous district to assure its contiguity.

Fourth, I am uncertain as to whether there is a difference in effect between my preferred language on boundary length and the language of Attachment A. Attachment A directs that territory not otherwise assigned under preceding provisions of Attachment A be assigned based upon the longest shared boundary of the area to be assigned with districts eligible to receive it. My approach is to look

at the effect of the assignment on boundary length after assignment. It is possible that the two provisions may lead to identical results, but I am not certain that this is the case.

I have redrafted my proposal to remove population as a factor in the correction of errors and omissions. I believe that my proposal is considerably simpler than Attachment A while at the same time being a more comprehensive solution to the correction of errors and omissions.

Alternative Language for Attachment A

An area not assigned to any district but surrounded by (or adjacent to only) a single district.

Any area not specifically included within the boundaries of any of the districts described in this plan and which is completely surrounded by (or adjacent to only) one district shall be part of that district.

An area not assigned to any district nor surrounded by (or adjacent to only) a single district.

Any area not specifically included within the boundaries of any of the districts described in this plan and which is adjacent to two or more districts shall, if it is part of any precinct, be assigned to the same district as is the remainder of the precinct. If it is not part of any precinct or is part of a precinct divided between districts or if it is part of a precinct composed of non-contiguous parts, it shall be assigned to the district in the same county, municipality, if any, and precinct, if any, whose perimeter would be most reduced or least increased by the addition of the area.

An area assigned to two or more districts.

Any area specifically included in more than one district in this plan shall be a part of a district to which it is adjacent which contains the rest of the precinct, if any, in which the area is located. If it is not in any precinct or if it is in a precinct divided between districts or if it is part of a precinct composed of non-contiguous parts, it shall be assigned to that adjacent district within the same county, municipality, if any, and precinct, if any, whose perimeter would be most reduced or least increased by the addition.

An unpopulated area assigned to a district to which it is not contiguous.

Any unpopulated area specifically included within the boundaries of any of the districts described in this plan but which is not contiguous to the district within which it is included shall be assigned to an adjacent district which includes territory in the same precinct, if any. If the area is not in any precinct or if it is in a divided precinct or if it is part of a precinct composed of non-contiguous parts, it shall be added to an adjacent district in the same county, municipality, if any, and precinct, if any, whose perimeter would be most reduced or least increased by the addition.

A populated area assigned to a district to which it is not contiguous.

Any populated area specifically included within the boundaries of any of the districts described in this plan but which is not contiguous to the district within which it is included shall nevertheless be

assigned to that district if it is separated from its district by unpopulated territory. That unpopulated territory shall be assigned to the district as necessary to unite the area to the district with which it was included but from which it was separated by another district. If this transfer of unpopulated territory should result in the creation of a new area which is not contiguous to the district within which it is included, the unpopulated territory shall be assigned to the district which would have the larger non-contiguous population and the non-contiguous populated area in the other district shall be assigned as if it had not been included in any district.