

Approved: February 1, 2012  
(date)

## MINUTES OF THE HOUSE COMMITTEE ON REDISTRICTING

The meeting was called to order by Chairman Michael O'Neal at 11:05 a.m. on January 9, 2012, in Room 152-S of the Capitol.

All members were present except Representative Aurand, who was excused.

### Committee staff present:

Corey Carnahan, Kansas Legislative Research Department  
Reed Holwegner, Kansas Legislative Research Department  
Mary Torrence, Revisor of Statutes' Office  
Jason Long, Revisor of Statutes' Office  
Gary Deeter, Committee Secretary

Conferees appearing before the Committee: None

Others attending: See attached list.

Chairman O'Neal welcomed members of the Committee and requested Staff Corey Carnahan to review the guidelines and criteria for Kansas legislative and congressional redistricting (Attachment 1). Regarding the legislative guidelines, Mr. Carnahan noted that the ideal population for each House district should be 22,716 with an allowable deviation of plus/minus 5%. Redistricting should not dilute minority voting strength; districts should be contiguous, as compact as possible, and should recognize "communities of interest." Contests between incumbents will be avoided whenever possible.

Answering a question, Mr. Carnahan replied that the 5% allowable deviation was established by court decisions to be a "safe harbor"; anything beyond the 5% opened the possibility of further court involvement. Members discussed the implications of the 5% deviation rule. A motion by Representative Ward to change the deviation from 5% to 1% was seconded by Representative Kuether. A substitute motion by Representative Knox to establish deviations within regional sections of the state failed for lack of a second.

Members further discussed the 5% deviation rule. Staff Jason Long, responding to a question, said the 5% was considered a safe harbor from a court challenge. Any district that exceeded the 5% deviation would need to present clear reasoning in order to withstand a court challenge. Unless a district displayed obvious and egregious gerrymandering, the court considered the 5% as sacrosanct. To another question, Mr. Long replied that no court cases had addressed the anticipated growth of a given district. The motion failed.

A motion was made and seconded to lower the 5% allowable deviation to 3%. (Motion by Representative Kinzer; seconded by Representative Ward) The motion failed, 6-13.

Representative Suellentrop made a motion, seconded by Representative Peterson, to adopt the 2012 Legislative Guidelines as presented.

The Chair noted that Item 4(e) could be interpreted by constituents as showing preference for incumbents. A consensus among members was to leave the guidelines unchanged. The motion passed.

A motion was made, seconded, and passed to adopt the Kansas Congressional Redistricting Guidelines. (Motion, Representative Kuether; second, Representative Grant)

Mr. Carnahan reviewed the Technical Committee Rules for the 2012 redistricting (Attachment 2). The Chair noted that the 5/10-day mapping lead time was flexible; it was intended to provide a cushion to allow staff adequate time to prepare maps. The Chair outlined proposed future meetings for the Committee:

- January 9 – Initial meeting of House Redistricting Committee
- January 20 – Deadline for House plan(s) to KLRD for introduction approval
- January 27 – Deadline for introducing House plan(s)
- January 30-30 – Public Hearings
- February 2 – Deadline for submitting House Redistricting Committee plan amendments
- February 10 – Deadline for Committee action
- February 15 – Deadline to submit House plan floor amendment(s)
- February 24 – Deadline to pass House plan

A motion was made, seconded, and passed to adopt the Technical Committee Rules. (Motion by Representative Landwehr and seconded by Representative Davis)

Mr. Long briefed the Committee on recent redistricting case law (Attachment 3). He explained that relevant case law falls into two categories: those cases involved in Section 2 of the Voting Rights Act, and those involving unlawful gerrymandering. Regarding the first category, he said that any redistricting which dilutes minority voting rights violates the Act. Although a legislature is allowed to compensate a loss in one area with a gain in another, redistricting that creates a non-compact district also violates the Act. However, in a North Carolina case, the U.S. Supreme Court stated that Section 2 only addresses majority districts and does not speak to the creation of minority or “crossover” districts. Regarding gerrymandering, Mr. Long stated that, although courts have proposed several standards for gerrymandering, to date no manageable standard has been accepted by the courts.

Mr. Carnahan referenced a study of voting patterns by race/ethnicity in recent Kansas statewide elections, which he noted was a resource for members but not a definitive document (Attachment 4). He said that only Blacks and Hispanics had sufficient population to be included in the study. He commented briefly on the elections that were polarized by race or ethnicity.

The Chair encouraged regional clusters to complete their work in a timely manner.

The meeting was adjourned 12:20 p.m.