

January 16, 2012

**The Austin City Charter Should Require
That Any City Election District Boundaries Be Drawn By An
Independent Citizen Commission**

If this Charter Revision Commission recommends that any members of the Austin City Council should be elected in the future from districts rather than at-large, it should also recommend that the City Charter be amended to require that the boundaries of such districts must be drawn now and in the future by an independent citizen commission.

Historically the lines of election districts have been drawn or enacted by the legislative or governing board of the affected jurisdiction. For example, in Texas, the legislature usually draws the boundaries of state legislative districts; a county commissioners' court draws the boundaries of county commissioner precincts; and in cities and school districts utilizing single-member districts, the council or board of trustees draws the districts.

However, redistricting by a legislative or governing body is dominated by personal and partisan interests instead of the public good. District boundaries are frequently gerrymandered in bizarre and contorted shapes to benefit incumbents, their friends, or a political group, candidate or interest, or to punish or defeat a particular incumbent. Neutral redistricting considerations and the public interest are overshadowed, even ignored. One of the clearest examples of such gerrymandering is found in the shape of Texas' congressional and state legislative districts. Similar bizarre shapes can be found in the redistricting plans of virtually every state and local government where the officials drawing the district boundaries are the same officials that must seek election in the approved districts.

Further problems exist. If properly done, redistricting is a complicated and time-consuming task. During redistricting, office-holders rarely have sufficient time to focus on the needs of the public in redistricting, while also dealing effectively with other issues and duties. This is especially true when an office-holder views the outcome of the redistricting process as likely to determine his or her political future. In such circumstances, redistricting simply dominates the office-holder's time and attention. It is common for substantive decisions to languish and for office-holders to trade votes on important legislation in return for another member's support or opposition to a particular redistricting plan or boundary change. In other words, the mere presence of redistricting as an issue before a legislative or governing body often affects the outcome on critical policy issues like the budget, taxes, roads, zoning, etc.

Perhaps the foremost problem, however, is the skeptical, even cynical, view that most people hold about a legislative or governing body redistricting itself. The public sees office-holders acting in their own selfish interest – no matter how many public hearings may accompany the redistricting process, or how many times the office-holder may insist that he or she is acting for the good of the people. This lack of trust has played a major role in the

unwillingness of the voters of Austin to approve a single-member district structure in the past, and will do so again unless the voters trust the redistricting process.

Several states and local governments have addressed this lack of public trust in a legislative or governing body redistricting itself by vesting the task of redistricting in a commission. The extent to which such a commission is independent of the legislative or governing body varies greatly. Commissions with only advisory authority have little effect on the final redistricting plan. Commissions with members chosen by current office-holders do little to avoid public cynicism because the members of the commission are often seen as stand-ins for the office-holders with the same political interests. To be effective both in producing redistricting plans in the public interest and in winning public trust, the commission must be truly independent of control by office-holders and personal interests that affect the integrity of the redistricting process and final plans.

I personally believe the best model for the City of Austin is found in the citizen commission utilized in California. A similar redistricting commission operates on behalf of the City of San Diego.

The independence of a commission is affected by several factors:

- Who Selects the Commission. Finding a truly fair and apolitical means of choosing the members of a redistricting commission is of critical importance. By referendum adopted in 2008, the voters of California approved a constitutional amendment creating a citizens commission to redistrict the state in 2011 and afterward. The members of the commission are chosen from among qualified voters that apply to serve on the commission. The complicated selection process utilizes the state auditor to select the 60 most qualified applicants and requires the random selection from those applicants of some commission members and a final commission composed of fourteen members that has a racial, ethnic, geographic, gender and political balance. The City of San Diego adopted its charter amendment in 2000 and utilizes municipal judges to achieve this same result.
- Who is Eligible to Serve on the Commission. In California, each applicant is required to meet several strict requirements designed to minimize use of redistricting for personal or political gain. For example, a person is ineligible to serve on the commission if she or he (or a member of their immediate family) has previously been a candidate for any elected office, or held any appointed office, or registered as a lobbyist, or served as a paid staff member or paid consultant for a political party or official, or contributed \$2,000, or more, to a candidate.
- What Restrictions Exist on the Commission Members After Serving. To avoid a member of the commission possibly using redistricting to further his or her own political ambitions, restrictions should exist on what a member may do after serving on the redistricting commission. For example, the California Constitution makes a

redistricting commission member ineligible for five years to be a candidate for elected office, or to serve as paid staff or a paid consultant for a party or office-holder, or to register as a lobbyist. _

- What Legal and Neutral Criteria Must be Used in Redistricting. In any redistricting process, legal constraints on redistricting take priority. Any redistricting by the State of California or the City of Austin must comply with the United States Constitution and the Voting Rights Act of 1965. In addition to expressly recognizing the preeminence of these legal constraints, the California Constitution requires that the districts be contiguous and recognize the integrity of local governments and local neighborhoods and communities of interest. It encourages compactness. It also prohibits consideration of the residence of any incumbent or candidate for office during redistricting.

The redistricting process followed and redistricting plans adopted by the California Citizen Commission in 2011 have generally received good grades. The final plans were approved by the fourteen member bipartisan commission with only one dissenting vote. The congressional and state legislative districts are visibly more compact than in the past, more clearly follow geographical and community lines, and are devoid of obvious efforts at retaliation against any particular incumbent. There are numerous instances in which office-holders of both major parties are paired and there are many open and competitive districts. A surprising number of incumbents from both parties have chosen not to seek reelection under the new plans. However, the media reports that Republicans are divided in their opinion about the redistricting plans. Some members of the Republican Party have launched legal challenges to the state senate and congressional plans. Some Republicans have proposed a statewide referendum to overturn the redistricting plans. The result in the City of San Diego has been openly applauded, with the commission described as “behaving honorably” and the city plan described as “admirable.” Apparently no litigation has erupted challenging the city plan.

If this Charter Revision Commission recommends an election system consisting wholly or partially of single-member districts, it should also recommend allowing the voters of Austin the opportunity to create an independent citizen commission for drawing the boundaries of such districts. An independent citizen commission provides the best mechanism for limiting the influence of politics and self-interest on the process. The citizens of Austin deserve a redistricting process that is transparent and designed to achieve election districts that truly reflect the public interest. The failure by this Charter Revision Commission or the city council to give the public an opportunity to create such a commission may doom any chance of convincing voters to change from the current at-large election system.