SENATE PROFESSIONAL STAFF AND AUDITOR GENERAL

OCTOBER 22, 2015

11:00 a.m.

Transcribed by:

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T A P E D P R O C E E D I N G S

MR. FERRIN: Okay, all right, it is shortly after 11:00. So we will go ahead and get started here.

The purpose of this meeting is to generate a set of random district numbers per the directions of Chairman Galvano who in his memo, that was sent out last night expressed his desire to put forth an amendment that was randomly numbered in committee tomorrow.

I would like to thank the Auditor General and her staff for making themselves available today to help us with the random assignment of even and odd numbers to the districts that are currently identified in the base map 9070.

The Auditor General will use the random number generator function of Excel to generate random number values for each of the 40 districts identified in plan S000S 9078.

The random number value assigned to each district by the random number generator will be sorted by value from smallest to largest and the first 20 districts identified on the list will be assigned even district numbers. The remaining 20 districts identified on the list

will be assigned odd district numbers. The Auditor General staff will perform the random number generation and the Auditor General will witness the results.

I think the description of the methodology here is, I can walk through that, where we will have a -- each district identified by the placeholder number from 1 through 40 in plan S000S 9078.

We will then generate a random number value for each district identified. Then we will sort the districts identified by the random number value from smallest to largest and select the first 20 districts identified from this sorted list of random values to assign even district numbers.

We will then assign the remaining districts from the sorted list of random values to odd district numbers, and I will make a copy of this specific methodology available to anybody who would like one. And I think with that we are ready to go.

SENATOR CLEMENS: Do we have an opportunity -- I don't know how this is an official meeting, if it -- is it -- do we have

an opportunity to ask any questions?

MR. FERRIN: Well, the purpose of this meeting was to publicly conduct the random assignment. I mean, is your question about that or is it --

SENATOR CLEMENS: Yes. And if you can't answer the question because you are a staff member I completely understand that. But I am -- I am trying to figure out why we would do a random number generation before we have a finalized map. This is likely not to be the map that we are going to finish up with, and I think it creates more problems to do this prior to the amendments and things of that nature than it would if we did it after. Unless the plan is to do it random number generation now and then also a random number generation once the map has been complete. Do you have a sense of that?

MR. FERRIN: I don't know at this point. You know, if the map changes and needs to be renumbered again, then we can discuss probably, you know. I mean, that would be a conversation to have with the Chairman for the Legislature to make if they want to conduct the random

renumbering again.

SENATOR CLEMENS: Can I follow up on that?

MR. FERRIN: Sure.

SENATOR CLEMENS: So my worry is that we are politically tainting the process by doing the numbering beforehand. You get into knowing, you know, that potentially we are going to treat all even numbered districts one way, whether it is two or four-year terms, treat all odd numbers districts another way whether it is two or four-year terms and they will be grouped up that way and it creates a potential opportunity for a lot of political maneuvering and amendment filing that I think actually would violate our constitutional position of not -- not filing amendments or doing maps for any political purpose or to benefits any of the incumbents.

So that is the worry I have with doing this beforehand and I don't know if that is a discussion that the attorneys had or anyone else had.

MR. LeVESQUE: Well, if I could weigh in on that. We are not actually determining the way the even districts are being treated or the

odd districts are being treated.

The constitution dictates that. Odd numbered districts are to stand for election years that are divisible by four, and even numbered districts stand for election in even numbered years that are not divisible by four.

SENATOR CLEMENS: May I follow up?

MR. FERRIN: Yes.

SENATOR CLEMENS: Probably the question, I don't know if the question is better addressed to the attorney. So that, that even gives me more concern because what that -- what that will do is that will set up a map where even before amendments are made we know ostensibly which terms are going to be two-year terms and which terms are going to be four-year terms, and then sets up a process, an amendatory process whereby everybody is trying to jostle politically to support their Senate President candidate, to support the candidates who want to support a certain President candidate, who wouldn't a two-year term rather than a four-year term.

I just, I find doing this process before we actually have a map actually put us in a

position that will cause greater difficulty in having the Supreme Court pass it, and I am curious why we would want to do it right now when that exists.

MR. LeVESQUE: Well, I believe that is a question for Senator Galvano as to whether -- why he wants to do the numbering for his map now in this manner. Certainly if somebody wants to change it or propose something different, they are free to do that. Whether they are -- how their map is numbered and whether it addresses any of those things or the intent behind that is something I think that would be appropriate for legislative inquiry, and I don't think this necessarily indicates one way or another how that future amendment might be perceived.

SENATOR GIBSON: I have a question. So yesterday when we had discussion about numbers and how that was going to play out and I thought we were having that discussion tomorrow actually, it was said that we would number districts the same if they didn't change drastically, although we didn't have a definition for what drastically was.

So today instead of doing it that way we are doing the random, the random, the random drawing?

And my second question goes to, I was on the Reapportionment Committee when we came up with the current map, and we did the Senate Lotto after the map was already done.

We had two ball cages that did the number whether it was going to be even or odd, it just came out of the thing. So why would we be assigning numbers now when we don't have a completed map? So those two, if you could address those or Justice Cantero.

MR. FERRIN: I think the second part of that, or the second question there was very similar to Senator Clemens just asked and probably the same answer would apply.

But the first question as to you thought we were -- there has been -- the Chairman has made clear in his memo last night that he put forth the amendment, that his plan 9078 as was renumbered by commonality with the enacted districts. He has also directed me to conduct this random process today because we would like to have an alternative that is randomly

numbered available for the committee members to exercise their -- their ability as a member of the committee to voice their preference for one numbering method over the other.

SENATOR GIBSON: Well, the difference is between today and I thought the Justice said we didn't have to go through this kind of a process. The difference is when we did the numbering before it was in the blind.

So if we place numbers on districts, odd, even, which obviously affects terms, then it is not in the blind anymore. So I don't understand that. It is -- it is prejudicial as far as I am concerned.

MR. LeVESQUE: If I may, and while I was just an observer the last time you renumbered the districts, it was my understanding that they renumbered the districts in an open meeting. But as a matter of passing a Bill, the members were still in a position where they would know how they were affected before they voted on a Bill, because that language designating this geographic area as District 1 and this geographic area as District 2 was something that would have had to have been in

the legislation before you voted on it.

It wasn't something where you could pass a map and then somebody could come in after the fact and fill those things out. So there is always going to be the issue of, I am voting on something and I know who the winners and losers are going to be, at least in terms of the two and four-year term aspects of it.

SENATOR GIBSON: This is my last comment. And I know the reason we did Senate Lotto was because the Court sent it back and said that the way we did it the first time did -- was not a neutral numbering system. So they sent it back to us to do the ball cages.

SENATOR BRANDES: Mr. Ferrin, I have a question. So my understanding of this is that it is going to provide us two different methodologies. One being the current methodology, that if we do nothing and the current methodology of we are going to use the numbers from 2012, is that would be option one and for today that is the only option.

This simply provides us another methodology which the Senate may consider at some future date for option two, which would be

a new set of random numbers, is that correct?

MR. FERRIN: That is correct, Senator Brandes, and I brief it is the Chairman's intention and he has expressed this publicly as well, to offer the carry over numbering as the main amendment on to SJR 2-C tomorrow and then offer a substitute amendment that is the random number.

And so if the random numbering amendment is defeated tomorrow then the amendment before the committee would be the one with the carry over numbers.

If the randomly numbered amendment is accepted, that would then be the substance of that amendment as it moves forward.

SENATOR BRANDES: But barring this process today there will be no substitute amendment tomorrow?

MR. FERRIN: Correct.

SENATOR BRANDES: So we have some type of random numbers. So the only reason we have -- the reason that we are doing it today is so that there is that ability?

MR. FERRIN: Correct, yes, sir.

SENATOR BRANDES: Thank you.

SENATOR CLEMENS: Mr. Ferrin, just as a follow up to that. So what happens if we just don't accept that one map and if there are changes made to the map that change the numbers?

It -- I just don't -- there has been no good reason given why we have to do that, why we have to do this right now. There has really been no good reason for why this has to happen and -- and I think I truly believe and I don't know if you are going to answer this question because it is more of a statement, but I truly believe that what we are doing right now here is setting up another marker, yet another one and we had one earlier this week that is going to cause the courts to look at what we are doing with consternation and say that we are being overly political in this process.

So I just wanted to get that on the record somewhere in a public meeting that when this comes back to bite us because there was some sort of fete accompli with the maps and they are not going to accept any amendments and they are going to -- we are going to know what all the numbers are beforehand this is another

moment in time where somebody has made a really poor decision to do something that we didn't need to do for political purposes.

MR. FERRIN: Go ahead, Senator Montford.

SENATOR MONTFORD: Thank you, Mr. Ferrin. Let me try to make a couple of observations. It seems to where we are, the Committee Chair has directed your staff director to do this today. To me that is a moot point. I don't think we have a decision to make here today as to whether or not we are going to do this.

My question though is, are we not getting the horse before the cart and I think, Mr. Justice, you may have answered the question, but you may have to help me again.

Would, if we go through this process, when we go through this process today and the numbers are assigned to districts, if the map, itself, is amended and changed, even if it is by unanimous consent, would we not have to renumber those districts again?

MR. LeVESQUE: I don't believe you would necessarily have to, but you certainly could to address -- to address that issue. Practically speaking, and I think this may go to Senator

Clemens' earlier point, that the district, the districts and the numbers represent geography and they also represent who stands for election when based upon the way the constitution operates.

Even without the numbers there is already at least from my understanding of the process, people generally know, okay, well, I currently live in this area and that is where I am and that is where I would likely run, or I might move or do something different.

So the idea that -- that the numbering somehow puts everybody on the line and limits or restricts the ability to make changes, I think might be something that is not looking at the broader scope in that every change could be criticized from that standpoint, whether the numbers are randomly numbered or whether they are assigned by the staff or not.

SENATOR MONTFORD: A follow up to that then if I may. We are about to assign numbers to a proposed map, and that proposed map has a legal description in terms of what those districts are. Take District 3, for example, it is real simple.

You follow the -- you got 11 counties there, and it will be assigned a number. If in the process that one county is changed for another one, then that legal description of that particular district has changed, and would that not bring into question even though it is a simple change maybe, would that not bring into question the validity of that number for a district that is not -- that does not carry the same legal description as previously?

MR. LeVESQUE: I think if you -- if the number remained the same it would be in the situation where the newly drawn district would reflect a geographical change, but I don't believe there is nothing or there is anything specific regarding the carrying over of the number that is problematic, because for all other intents and purposes, the numbers' main determiner is when that district is supposed to stand for election.

Odd numbers in years that are divisible by four, even numbers in year -- even numbered years that are not divisible by four.

SENATOR MONTFORD: A follow up to that. But that is my point, and it is maybe splitting

hairs, but when we are talking about a district that has a number, to me if that district changes at all it is not the same district. And so I don't see how you can lay claim to a number if it is not -- if it does not carry the same legal description for that particular district.

It, I am not a lawyer, but I have been sued a lot now. So that is what I am wondering, and I -- I asked the question yesterday, well, if this is such a big issue why don't we just go ahead and renumber it.

That is what we are trying to do. Now I am asking the other question, why are we doing it now. So I -- I have a serious question about the process. That is -- I don't want to get involved in a process that can be questioned later on.

To me I -- it is probably quite frankly is a discussion that may be need to be taken tomorrow when the full committee is here and certainly when our Chair has an advantage, an opportunity to hear and not Mr. Ferrin as our staffer.

MR. FERRIN: Right. I think we are here

today to conduct an administrative, you know, ministerial process. I think if we want to discuss the policy tomorrow is the appropriate time for that when we are in the full committee. So is there anything else?

All right, are we ready?

(Brief pause.)

MR. FERRIN: Okay, so the districts' numbers are in the left most column there and the -- the order that they are sorted in is smallest to largest which was the methodology that has been established.

And so the first 20 in the number, in the column there on the left, 1 through 20, the districts associated with those will receive even numbers and the remaining districts will receive odd numbers.

I will go back this afternoon and renumber the plan and publish it and make it available later this afternoon. If it is -- yes.

SENATOR GIBSON: Where does the number come from, because I don't know the methodology? So where does the random number assigned come from? Where does that number come from, the middle column?

MR. FERRIN: That is the randomly assigned value, that is an Excel function.

SENATOR GIBSON: Huh.

SENATOR THOMPSON: Would you say again how you determine whether it is an even number or an odd number?

MR. FERRIN: The districts right now in the left most column, everything is ranked according to the random value that was assigned. The smallest random value is at the top, the largest random value is at the bottom. And so the districts as they were numbered in the placeholder, the placeholder numbers associated with the plan are in the left most column.

The first 20 districts there in the placeholder numbering in plan 9078 will receive even numbers. The last 20 will receive odd numbers. And I will go, I will start in the north end of the state with 2 and then 4 and then number the way down the state.

SENATOR THOMPSON: So the first 20 are even, the last 20 are odd?

MR. FERRIN: Correct.

SENATOR THOMPSON: Thank you.

MR. FERRIN: The first 20 districts in the left most column will receive even numbers. The last 20 will receive odd numbers.

SENATOR GIBSON: So first you put them in numerical order in column A.

MR. FERRIN: Correct.

SENATOR GIBSON: And then in column B -- what happened in column B?

MR. FERRIN: I am passing down a description of the methodology that explains probably in more detail. But the districts were listed 1 through 40 in the left most column.

SENATOR GIBSON: Right.

MR. FERRIN: Then a random value was associated with that.

SENATOR GIBSON: Right.

MR. FERRIN: In the center column, then it was all sorted.

SENATOR GIBSON: In C.

MR. FERRIN: It was sorted in B. C is just a list to show us which one is the 20th district. So it is just sequentially numbered. That is the rank essentially, associated with the value. Is that correct?

MR. LeVESQUE: Yes.

MR. FERRIN: Everybody is nodding their head yes.

SENATOR GIBSON: And so now you will take the column C and start with the number 2?

MR. FERRIN: No, district -- District 17 will be the first district. District 17 in the left column there down through, if you will scroll down District 1 will receive even numbers. And I will do that in a manner in which the low district numbers are in the north end of Florida and the higher numbers are in the south. That is pretty consistent with Senate practice.

Anything else?

SENATOR THOMPSON: Yes. Are those the current numbers or the placeholder numbers?

MR. FERRIN: Those are the placeholder numbers in 9078. A new plan will be published with the new numbers. I will send out an e-mail to the world with that plan attached when I get it done.

SENATOR GIBSON: How are the numbers in column A are the placeholder numbers that are on the map, they are not --

MR. FERRIN: Yes.

SENATOR GIBSON: -- current.

MR. FERRIN: Correct. I want to thank you all very much for your time, I appreciate it.

(Whereupon, the proceedings were adjourned.)

C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF LEON)

I hereby certify that the foregoing transcript is of a tape-recording taken down by the undersigned, and the contents thereof were reduced to typewriting under my direction;

That the foregoing pages 2 through 21 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 6th day of November, 2015.

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CLARA C. ROTRUCK

Notary Public

State of Florida at Large

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Commission NO.: FF 174037