

MISSOURI STATE CONFERENCE OF)
THE NATIONAL ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED PEOPLE,)
REDDITT HUDSON, F. WILLIS JOHNSON)
and DORIS BAILEY,)
)
) Civ. No. 14-2077
Plaintiffs,)
v.)
)
FERGUSON-FLORISSANT SCHOOL)
DISTRICT, *et al.*)
)
Defendants.)

COMES NOW Defendant St. Louis County Board of Election Commissioners and files this response to Plaintiff's proposed remedial plan. The St. Louis County Board of Election Commissioners (the "Board") did not participate in the liability phase of this case. Although a nominal party to the liability phase, the Board is committed to inform the court and the parties of the processes and time constraints of implementing each proposed remedy.

A. Tabulation Software

With minor exceptions (unrelated to the three proposals) all elections are conducted using a tabulation software program called Unity. The software program was developed by Election Systems and Software. This system was instituted in 2006 and is used in various election authorities across the country. This tabulation software will not be replaced in St. Louis County in the near future due to the replacement cost estimated to be ten million dollars.

B. Election Deadlines

The most relevant deadlines for the April 4, 2017 election as set forth in the Missouri Revised Statutes are:

- December 13, 2016 First day Candidates can file for office (Sec. 115.127)
- January 17, 2017 Last day Candidates can file for office (Sec. 115.127)
- January 24, 2017 Certification of the Ballot by the School Board (Sec. 115.125)

C. Absentee Ballots

There is an additional consideration in the printing and distribution of absentee ballots. Absentee ballots are required to be printed and ready to be distributed six (6) weeks prior to the election in order to ensure voting by members of the armed services.

In order to meet these deadlines, the Board requests the parties to prepare a map of any newly configured districts. The map should represent clearly distinguishable boundaries and legal descriptions. The use of current precincts would simplify this task.

Elections are programmed so that after the program is completed, a change in one jurisdiction would require reprogramming the entire election. After the election is programmed, a court order is required to change it.

Using the equipment and software currently in use would allow the Board to accommodate any of the three options opposed by Plaintiffs. Each option would present different problems but can be accomplished provided certain time limits are present.

I. CUMULATIVE AT-LARGE VOTING

The Board's tabulation software will only allow cumulative voting under the following conditions: each candidate must be listed on the ballot several times; the number of lists depends on the number of open seats. For two candidate elections, all candidates' names must appear

twice. Elections for three open seats would require the name of each candidate three times. The Board would need to know the ballot design i.e. names presented vertically or horizontally on the ballot.

II. SEVEN SINGLE-MEMBER DISTRICTS

A seven single-member district would require district boundaries to be drawn. After those boundaries are determined, the Board would need to receive a detailed map and legal description showing proposed districts at least three (3) weeks before the Notice of Election is due to be published and submitted to the voting entity. The use of existing precinct boundaries would aid in this process. Section 115.125 of the Missouri Revised Statutes provides the date of the Notice of Election shall be “Not later than 5:00p.m. on the tenth Tuesday prior to any election...” (Exceptions are provided but do not apply unless the district is electing all seven members of a school board.) The Notice of Election date for the April 4, 2017 election is January 24, 2017. School board elections in each proposed district could be held in the manner prescribed by Sections 162.241 and 162.261 of the Missouri Revised Statutes.

III. HYBRID REDISTRICTING PLAN WITH FIVE SINGLE-MEMBER DISTRICTS AND TWO AT-LARGE LIMITED VOTING DISTRICTS

An order requiring a hybrid redistricting plan with five single-member districts and two at-large limited voting districts requires a complicated ballot form but can be accomplished.

Required details would include:

1. A map of the proposed boundaries of the five single-member districts, using existing precincts; and
2. A determination of the length of terms of the at-large members and whether their tenure would be staggered or both at-large terms are voted upon at the same time; and

3. A description of staggered terms.

Current statutes prescribe three (3) year terms with two members elected at two elections and three members elected at the third district election. A Court order must be made to determine the open seats in each election year. With complex ballots there is a significant risk that there will be an over voting, voting for more candidates that allowed. Careful instruction must be given to avoid this problem.

CONCLUSION

There are many other considerations to be determined but the Board is confident it can accommodate any of the three proposals.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses indicated on the Court's Electronic Mail Notice List.

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