

VOLUME NO. 35

Opinion No. 50

REAPPORTIONMENT — Plan, how submitted to legislature; REAPPORTIONMENT — Plan, how submitted to secretary of state. Article V, section 14, Constitution of Montana; sections 43-115, 43-116, and 43-117, R.C.M. 1947.

HELD: 1. The reapportionment plan should be submitted, with a cover letter signed by each commission member, to each house of the legislature by the tenth day of the 1974 legislative session.

2. Within 30 days of the return of the reapportionment plan from the legislature, the final plan should be submitted, with a cover letter signed by each commission member, to the secretary of state for filing.

December 26, 1973

Mr. Joseph R. Marra, Chairman
Reapportionment Commission
414 Davidson Building
Great Falls, Montana 59401

Dear Mr. Marra:

You have requested by opinion as to the manner in which the reapportionment commission should: 1) submit the reapportionment plan to the legislature, and 2) submit the final plan to the secretary of state.

Article V, section 14 (3), Constitution of Montana, 1972, provides:

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

Pursuant to this constitutional provision the Montana legislature enacted the following statutes, Revised Codes of Montana, 1947:

Section 43-115:

The first commission shall submit its plan to the 1974 legislature by the tenth legislative day; each subsequent commission shall submit its plan to the legislature by the tenth legislative day of the first regular session after its appointment or after the census figures are available.

Section 43-116:

Within thirty (30) days after the commission submits its plan to the legislature, the legislature shall return the plan to the commission with its recommendations.

Section 43-117:

Within thirty (30) days after receiving the plan and the legislature's recommendations, the commission shall file its final plan with the secretary of state. Upon filing, the plan shall become law and the commission shall be dissolved.

Neither these statutes nor the rules of procedure of the legislature specify the method to be followed in submitting the reapportionment plan. It is my recommendation, however, that the following procedure be used for submission.

The commission should submit the reapportionment plan to both the Senate and the House of Representatives of the Montana Legislative Assembly by the tenth legislative day of the 1974 legislative session. An introductory and explanatory cover letter, signed by each member of the reapportionment commission, should be addressed to both the President of the Senate and the Speaker of the House of Representatives to be read into the record of each house of the legislative assembly. These letters should be submitted with duplicate copies of the reapportionment plan to the Secretary of the Senate and to the Clerk of the House of Representatives.

Within 30 days following the return of the plan from the legislature to the commission, the final reapportionment plan must be filed with the secretary of state. A letter signed by each reapportionment commission member and accompanied by the final completed reapportionment plan in duplicate should be submitted to the secretary of state in order that the plan may be properly filed. The letter should signify that the final reapportionment plan was duly and regularly adopted by the reapportionment commission as the reapportionment plan for the state of Montana.

THEREFORE, IT IS MY OPINION:

The following procedure be used in submitting the reapportionment plan:

1. The reapportionment plan should be submitted, with a cover letter signed by each commission member, to each house of the legislature by the tenth day of the 1974 legislative session; and
2. Within 30 days of the return of the reapportionment plan from the legislature, the final plan should be submitted, with a cover letter signed by each commission member, to the secretary of state for filing.

Very truly yours,

ROBERT L. WOODAHL
Attorney General