

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY DAUNT, et al,

Plaintiffs,

v

JOCELYN BENSON,

Defendant,

COUNT MI VOTE (d/b/a Voters Not
Politicians),

Intervening-Defendant.

MICHIGAN REPUBLICAN PARTY, et al,

Plaintiffs,

v

JOCELYN BENSON,

Defendant,

COUNT MI VOTE (d/b/a Voters Not
Politicians),

Intervenor-Defendant.

No. 1:19-cv-00614
(Lead)

HON. JANET T. NEFF

MAG. ELLEN S. CARMODY

No. 1:19-cv-669
(Member)

HON. JANET T. NEFF

MAG. ELLEN S. CARMODY

AFFIDAVIT OF SALLY C. MARSH

Sally C. Marsh, being first duly sworn, deposes and says as follows:

1. I have been employed by the Secretary of State as Director of Special Projects since January 3, 2019.

2. As Director of Special Projects, I have personal knowledge about efforts, plans, and requirements to implement the new constitutional amendment—commonly known as Michigan Ballot Proposal 18-2 or “Proposal 2”—creating the Independent Citizens Redistricting Commission (“the Commission”) and am the principal lead on its implementation. If called as a witness, I can testify competently to the facts stated in this affidavit.

3. The Michigan Constitution includes the following major deadlines concerning the establishment of the Commission:

- a. By January 1, 2020, the Secretary of State must mail at least 10,000 applications for the Commission to randomly selected registered voters and then continue mailing applications until the Secretary of State receives a sufficient¹ number of qualifying applications for each affiliation. Mich. Const. 1963, art. 4 §6(2)(a)(i), and §6(2)(b).
- b. June 1, 2020 is the deadline to submit completed applications to the Secretary of State. Const. 1963, art. 4 §6(2)(c).
- c. By July 1, 2020, the Secretary of State must submit to Michigan legislative leaders 200 applications that meet the eligibility criteria laid out in the Constitution and that mirror, as closely as possible,

¹ Our discussions with experts suggest that we may need to randomly mail as many as 500,000 applications in order to receive enough qualifying responses.

the geographic and demographic makeup of the State. Mich. Const. 1963, art. 4, §6(2)(d).

- d. By August 1, 2020, the legislative leaders must inform the Secretary of State whether they wish to “strike” any applicant. Const. 1963, art. 4, §6(2)(e).
- e. By September 1, 2020, the Secretary of State must randomly draw the names of the thirteen commissioners. Const. 1963, art. 4, §6(2)(f).
- f. By October 15, 2020, the Commission must be seated. Const. 1963, art. 4 §6(7).
- g. By November 1, 2021, the Commission must adopt a redistricting plan for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts. Mich. Const., art. 4 §6(7).

4. The Secretary of State’s office immediately began working on implementing the Commission once Secretary Benson took office in January 2019.

5. Since January 2019, the office of the Secretary of State has invested at least 2,000 hours of staff time preparing for this new and significant responsibility, not including staff that has devoted time to our database and print/mail development teams.

6. As part of preparing to draft the application, staff also met with the DTMB Bureau of Labor Market Information and Strategic Initiatives (LMISI),

which houses Michigan's State Demographer and manages the Federal-State Cooperative for Population Estimates (FSCPE) and the State Data Center. The purpose of these meetings was to understand the Constitution's references to "accepted statistical weighting methods" and the possible implications of that language on the application. In order to make the application as accessible to the citizens of Michigan as possible, staff also consulted "human-centered design" experts from the Center for Civic Design to advise on language, format, and design of the application form for mailing.

7. In June 2019, we began working with DTMB on the various aspects of implementation that will need to be completed *well before* the January 1, 2020 deadline for mailing applications. These include developing and printing the hard copy applications to be mailed, working through the State's process for mailing; developing an online application; and building an internal database for receiving and storing online and print applications. Staff met with DTMB teams throughout June 2019 to start the development process.

8. Upon the recommendation of LMISI, and in the interest of transparency and public confidence in the process and outcome, the Secretary of State decided to engage an independent entity to perform the various random selections required by the Constitution, including the selection of the random mailing recipients, the weighted selection of the 200 semi-finalists, and the final random selection of thirteen commissioners. Staff worked with DTMB to draft requests for proposals for that contract in adherence with all public procurement

requirements. We expect to secure an independent entity by the end of September 2019. The consultation will help staff confirm the demographic and geographic questions on the application.

9. On July 18, 2019, Secretary Benson released a draft application and draft eligibility guidelines and voluntarily opened a three-week period of public comment.

10. Between the launch of public comment on July 18, 2019 through its close on August 9, 2019, the Secretary of State received 165 submissions from members of the public. During the public comment period, the staff continued its outreach to public officials and community organizations to assist in educating Michiganders about the new process and their opportunity to apply.

11. The Secretary's Legal and Communications offices have spent over 1,000 hours during the past eight months to understand the amendment, to research ways to establish the Commission, to work with partners, and to create systems and processes. Despite these efforts, it remains an extremely aggressive timeline with much remaining to do before the January 1, 2020 constitutional deadline for the mailing of applications.

12. Staff have already begun testing application prototypes, working with two separate application design teams: one for the mailing application and another for the online application. The mailing design and online application/database teams provided separate and distinct price estimates and timeline benchmarks the Secretary of State must meet in order to have the constitutionally required

minimum of 10,000 random applications mailed no later than January 1, 2020. The online application project team developed an online application interface prototype, which is expected to be ready for initial testing in September. The online application team has bi-weekly in-person meetings, as well as scheduled meetings up to 8 hours per week between September and October to complete the online application's security plan with the developers. As of the end of August, the Secretary of State has spent just shy of \$24,000 on DTMB-related costs for the Independent Citizens Redistricting Commission.

13. Several of the Secretary's staff have also begun planning for additional public outreach during the application period, an effort that will accelerate in September and October. The office will work with community leaders and provide them with information to share with the public about how and why to apply. The office will also facilitate and participate in a series of workshops, panels, meetings, and town halls across the state to encourage citizens to apply, and to invite wide public participation from different regions of the state. These types of public events will continue throughout the entire application period.

14. Because the Constitution requires the applications to be sworn, the office is also working with election clerks, and other notaries registered throughout the state to assist in making notaries available for applicants. Additionally, staff are working to commission multiple notary publics in each of the 131 Secretary of State Branch Offices across Michigan to ensure that every eligible and interested Michigan citizen will be able to get their application notarized free of cost. This

process must begin as quickly as possible in order to provide a list of free notary options for applicants to use once the applications are made available.

15. Staff are also developing the application intake process and a system for following-up with applicants, both of which must be in place by the start of the application period beginning January 1, 2020. We are attempting to determine what resources we will need to properly review potentially thousands of applications for completeness and eligibility.

16. In October or, at the latest, early November 2019, staff will launch the application online. This date was targeted for multiple reasons.

- a. First, multi-phase implementation (starting with online, then following with mail) allows our database development team to make any necessary changes over the period of several weeks before they have to code the random-mailing recipients into the database and start accepting two different types of applications. Launching as early as possible allows us to make sure the interface on both ends (applicant and administrator) is usable and has the features necessary to comply with constitutional requirements.
- b. Second, staff will launch the application in the late fall in order to generate public awareness and begin a public outreach and education campaign.

17. In November 2019, staff will finalize the mailing design, make any online form or database adjustments as needed, and finalize the intake and review

processes. The firm or entity providing statistical assistance will perform the random drawing of at least 10,000 Michigan registered voters (likely many more) from the Qualified Voter File.


18. Starting in November and finishing early December 2019, staff will prepare the applications for mailing to the randomly selected applicants. The mail team will print envelopes and applications with certain personal information about each randomly selected applicant and prepare them to be sent at the end of December. Because of the holidays and other time constraints, it would be difficult for the mailing center to perform this essential, constitutionally required function in a shorter time frame.

19. In the same late November/early December timeframe, the database developers will input the information of the randomly-selected mailing recipients so that, if an applicant who received a mailing chooses to apply online, the application is still captured as having been sent from a mailing recipient.

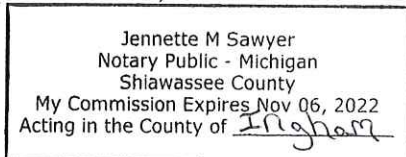
20. By the end of December 2019, random mailings will be in the mail and the Secretary of State's office will review the applications received to date so staff can modify our outreach efforts as needed in order to ensure we are inviting "wide public participation" from communities across the State, as the Constitution requires.

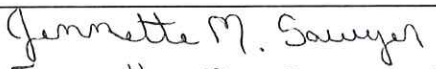
21. In January 2020, the randomly drawn recipients will receive their mailed applications. We will make a second significant media and outreach push in January and continue through the end of May 2020.

22. As demonstrated by the work completed so far, and the work required to be completed before the October 15, 2020 deadline to seat the Commissioners, each constitutional requirement for the Secretary of State requires *months* of prior work and planning, which must be done within constitutionally-mandated time constraints and financial obligations. Any delay in implementing any step would substantially impair Secretary Benson's ability to fulfill her constitutional duties and negatively affect Michigan voters who wish to apply to serve on the Commission.


Sally C. Marsh

Subscribed and sworn to before me on
September 19, 2019.




Jennette M. Sawyer