Assembly Constitutional Amendment  No. 5

Introduced by Assembly Members Canciamilla and Richman

February 11, 2005

Assembly Constitutional Amendment No. 5— A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Section 1 of Article XXI thereof, relating to redistricting.

LEGISLATIVE COUNSEL’S DIGEST
ACA 5, as introduced, Canciamilla. Redistricting.
Existing provisions of the California Constitution require the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the state Senate, Assembly, congressional, and Board of Equalization districts in accordance with specified standards.
This measure would delete this provision, and would instead create a procedure for the appointment of an independent redistricting commission, composed of 5 members, which would be charged with establishing congressional, Assembly, Senate, and Board of Equalization districts of equal population in a grid-like pattern across the state, adjusted as necessary to accommodate various goals, as specified.
This measure would require the establishment of a pool of 25 candidates for appointment to the independent redistricting commission, as nominated by a panel of 10 retired judges of the courts of appeal appointed by the Commission on Judicial Appointments, would require the selection and appointment from this pool of 5 commission members, according to a specified procedure, and would
provide for the manner of filling vacancies on the commission, among
other things.

This measure would require the Department of Finance to submit to
the Legislature a recommendation for estimated redistricting expenses,
to be appropriated by the Legislature by majority vote. It would
authorize the commission to contract to hire staff and consultants,
including legal representation, for purposes of this measure. It would
provide that commissioners are eligible for reimbursement of
expenses pursuant to law.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-
mandated local program: no.

Resolved by the Assembly, the Senate concurring, That the
Legislature of the State of California at its 2005–06 First
Extraordinary Session commencing on the sixth day of January
2005, two-thirds of the membership of each house concurring,
hereby proposes to the people of the State of California, that the
Constitution of the State be amended as follows:

First—That Section 1 of Article XXI is repealed.

SECTION 1. In the year following the year in which the
national census is taken under the direction of Congress at the
beginning of each decade, the Legislature shall adjust the
boundary lines of the Senatorial, Assembly, Congressional, and
Board of Equalization districts in conformance with the
following standards:

(a) Each member of the Senate, Assembly, Congress, and the
Board of Equalization shall be elected from a single-member
district.
(b) The population of all districts of a particular type shall be
reasonably equal;
(c) Every district shall be contiguous;
(d) Districts of each type shall be numbered consecutively
commencing at the northern boundary of the State and ending at
the southern boundary.
(e) The geographical integrity of any city, county, or city and
county, or of any geographical region shall be respected to the
extent possible without violating the requirements of any other
subdivision of this section.

Second—That Section 1 is added to Article XXI to read:
SECTION 1. (a) Each member of the Senate, Assembly, Congress, and Board of Equalization shall be elected from a single-member district.

(b) By February 28 of each year ending in the number one, a commission to be known as the Independent Redistricting Commission (the Commission) shall be established to provide for the redistricting of congressional, Assembly, Senate, and Board of Equalization districts. The Commission shall consist of five members. No more than two members of the Commission may be members of the same political party. Of the four members appointed pursuant to subdivisions (e) and (f), no two or more may reside in the same county. Each member shall be a registered California voter who has been continuously registered with the same political party, or registered as unaffiliated with a political party, for three or more years immediately preceding appointment and shall commit to applying this section in an honest, independent, and impartial fashion and to upholding public confidence in the integrity of the redistricting process.

Within the three years immediately preceding appointment, a member may not have been appointed to, elected to, or a candidate for any other public office, other than school district governing board member or other officer of a school district or county office of education, and may not have served as an officer of a political party, or served as a registered paid lobbyist or as an officer of a candidate’s campaign committee.

(c) A panel of 10 retired judges of the courts of appeal, appointed by the Commission on Judicial Appointments, shall nominate candidates for appointment to the Commission.

(d) By January 8 of each year ending in the number one, the panel of 10 retired judges of the courts of appeal shall establish a pool of persons who are willing to serve on and are qualified for appointment to the Commission. The pool of candidates shall consist of 25 nominees, with 10 nominees from each of the two largest political parties in California based on party registration, and 5 who are not registered with either of the two largest political parties in California.

(e) Appointments to the Commission shall be made in the order set forth below. No later than January 31 of each year ending in the number one, the Speaker of the Assembly shall make one appointment to the Commission from the pool of
nominees, followed by one appointment from the pool made in
turn by each of the following: the minority floor leader of the
Assembly, the President pro Tempore of the Senate, and the
minority leader of the Senate. Each official shall have a
seven-day period in which to make an appointment. If the
appointment by the Speaker of the Assembly is not made by
January 31, or any of the successive appointments is not made
within a period of seven days following the deadline for the
preceding appointment, that appointment is forfeited and shall be
filled pursuant to subdivision (f). In the event that there are two
or more minority parties within the Assembly or the Senate, the
leader of the largest minority party by statewide party registration
shall make the appointment.

(f) Any vacancy in the four Commission positions described in
subdivision (e) that remains as of March 1 of a year ending in the
number one shall be filled from the pool of nominees by the
panel described in subdivision (c). The appointing body shall
strive for political balance and fairness in making that
appointment.

(g) At a meeting called by the Secretary of State, the four
Commission members appointed pursuant to subdivisions (e) and
(f) shall select by majority vote from the nomination pool a fifth
member who is not registered with any party already represented
on the Commission. If the four members fail to appoint a fifth
member within 15 days, the panel described in subdivision (c),
striving for political balance and fairness, shall appoint the fifth
member from the nomination pool. The fifth member, as
appointed pursuant to this subdivision, shall serve as chairperson
of the Commission.

(h) The five members of the Commission shall select by
majority vote one of their members to serve as vice chairperson.

(i) After having been served written notice and provided with
an opportunity for a response, a member of the Commission may
be removed by the Governor, with the concurrence of two-thirds
of the Senate, for substantial neglect of duty, gross misconduct in
office, or inability to discharge the duties of office.

(j) If a member of the Commission vacates his or her term of
office prior to its completion for any reason, within the first 30
days after the vacancy occurs the panel described in subdivision
(c) shall nominate a pool of three candidates. The nominees shall
be of the same political party membership, or independent status, held by the member who vacated the office at the time of his or her appointment. The appointment of the successor member shall be made from the pool of nominees by the person, persons, or entity that, pursuant to subdivision (e), (f), or (g), appointed the member vacating the office, except that a successor appointed pursuant to subdivision (g) under these circumstances is not thereby made the chairperson of the Commission and, in the event of that appointment, a new chairperson shall be appointed by the remaining members. If the appointment of a replacement member is not made within 14 days following the presentation of the nominees, the panel described in subdivision (c) shall make the appointment, striving for political balance and fairness. The newly appointed member shall serve out the remainder of the original term.

(k) Three members, one of whom is the chairperson or vice chairperson, constitute a quorum. Three or more affirmative votes are required for any official action. The Commission shall conduct business only in meetings open to the public, and shall provide not less than 48 hours’ public notice of each meeting.

(l) A person serving as a member of the Commission shall be ineligible, during his or her term of office and for three years thereafter, for public office in this State, other than school district governing board member or other officer of a school district or county office of education, and for registration as a paid lobbyist.

(m) The Commission shall establish congressional, Assembly, Senate, and Board of Equalization districts. The mapping process for each of the districts shall consist initially of the creation of districts of equal population in a grid-like pattern across the State. The Commission shall then adjust the grid as necessary to accommodate each of the following goals, prioritized in the order listed:

(1) Districts shall comply with the United States Constitution and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.).

(2) Congressional, Assembly, Senate, and Board of Equalization districts shall each have equal population with other districts for the same office, to the extent practicable.

(3) Districts shall be geographically compact and contiguous to the extent practicable.
(4) District boundaries shall respect communities of interest to the extent practicable.

(5) To the extent practicable, district lines shall use visible geographic features, city and county boundaries, and undivided census tracts.

(6) To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals listed in this subdivision.

(n) Party registration and voting history data shall be excluded from the initial phase of the mapping process but may be used to test maps for compliance with the goals set forth in subdivision (m). The places of residence of incumbents or candidates may not be identified or considered for purposes of this section.

(o) The Commission shall display a draft map of congressional, Assembly, Senate, and Board of Equalization districts to the public for comment, in a manner designed to achieve the widest public dissemination reasonably possible, and public comment shall be taken for at least 30 days from the date of public display. Either the Assembly or the Senate, or both, may act within this period to make recommendations to the Commission by majority or by minority report, which recommendations shall be considered by the Commission. The Commission shall then establish final boundaries for congressional, Assembly, Senate, and Board of Equalization districts, and shall certify those districts to the Secretary of State.

(p) The provisions of this section are self-executing.

(q) In each year ending in the number nine, the Department of Finance or its successor shall submit to the Legislature a recommendation for an appropriation adequate to meet the estimated expenses of the subsequent redistricting process occurring pursuant to this section, and shall make adequate office space available for the operation of the Commission. Notwithstanding Section 12 of Article IV, the Legislature shall make the necessary appropriation by bill passed by rollcall vote entered in the journal, a majority of the membership of each house concurring.

(r) The Commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants for the purposes of this section, including legal representation.
(s) The Commission has standing in legal actions regarding a redistricting plan and to establish whether funds or other resources provided for the operation of the Commission are adequate. The Commission has sole authority to determine whether the Attorney General or counsel hired or selected by the Commission shall represent the people of California in the legal defense of a redistricting plan.

(t) Members of the Commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed for the Commission pursuant to law, and a member’s residence is deemed to be the member’s post of duty for purposes of reimbursement of expenses.

(u) The term of office of each member of the Commission expires upon the appointment of the first member of the succeeding Commission. The Commission may not meet or incur expenses after the redistricting plan becomes final pursuant to subdivision (o), except with respect to any pending litigation or government approval concerning the plan, to revise districts if required by court order, or if the number of congressional, Assembly, Senate, or Board of Equalization districts is changed.

(v) For purposes of this section, “day” means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.