

**Assembly Constitutional Amendment**

**No. 5**

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**Introduced by Assembly Members Canciamilla and Richman**

February 11, 2005

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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:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the  
2 Legislature of the State of California at its 2005–06 First  
3 Extraordinary Session commencing on the sixth day of January  
4 2005, two-thirds of the membership of each house concurring,  
5 hereby proposes to the people of the State of California, that the  
6 Constitution of the State be amended as follows:

7 First—That Section 1 of Article XXI is repealed.

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

14 (a) ~~Each member of the Senate, Assembly, Congress, and the~~  
15 ~~Board of Equalization shall be elected from a single-member~~  
16 ~~district.~~

17 (b) ~~The population of all districts of a particular type shall be~~  
18 ~~reasonably equal.~~

19 (c) ~~Every district shall be contiguous.~~

20 (d) ~~Districts of each type shall be numbered consecutively~~  
21 ~~commencing at the northern boundary of the State and ending at~~  
22 ~~the southern boundary.~~

23 (e) ~~The geographical integrity of any city, county, or city and~~  
24 ~~county, or of any geographical region shall be respected to the~~  
25 ~~extent possible without violating the requirements of any other~~  
26 ~~subdivision of this section.~~

27 Second—That Section 1 is added to Article XXI to read:

1 SECTION 1. (a) Each member of the Senate, Assembly,  
2 Congress, and Board of Equalization shall be elected from a  
3 single-member district.

4 (b) By February 28 of each year ending in the number one, a  
5 commission to be known as the Independent Redistricting  
6 Commission (the Commission) shall be established to provide for  
7 the redistricting of congressional, Assembly, Senate, and Board  
8 of Equalization districts. The Commission shall consist of five  
9 members. No more than two members of the Commission may  
10 be members of the same political party. Of the four members  
11 appointed pursuant to subdivisions (e) and (f), no two or more  
12 may reside in the same county. Each member shall be a  
13 registered California voter who has been continuously registered  
14 with the same political party, or registered as unaffiliated with a  
15 political party, for three or more years immediately preceding  
16 appointment and shall commit to applying this section in an  
17 honest, independent, and impartial fashion and to upholding  
18 public confidence in the integrity of the redistricting process.  
19 Within the three years immediately preceding appointment, a  
20 member may not have been appointed to, elected to, or a  
21 candidate for any other public office, other than school district  
22 governing board member or other officer of a school district or  
23 county office of education, and may not have served as an officer  
24 of a political party, or served as a registered paid lobbyist or as  
25 an officer of a candidate's campaign committee.

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

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

37 (e) Appointments to the Commission shall be made in the  
38 order set forth below. No later than January 31 of each year  
39 ending in the number one, the Speaker of the Assembly shall  
40 make one appointment to the Commission from the pool of

1 nominees, followed by one appointment from the pool made in  
2 turn by each of the following: the minority floor leader of the  
3 Assembly, the President pro Tempore of the Senate, and the  
4 minority leader of the Senate. Each official shall have a  
5 seven-day period in which to make an appointment. If the  
6 appointment by the Speaker of the Assembly is not made by  
7 January 31, or any of the successive appointments is not made  
8 within a period of seven days following the deadline for the  
9 preceding appointment, that appointment is forfeited and shall be  
10 filled pursuant to subdivision (f). In the event that there are two  
11 or more minority parties within the Assembly or the Senate, the  
12 leader of the largest minority party by statewide party registration  
13 shall make the appointment.

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

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

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

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

37 (j) If a member of the Commission vacates his or her term of  
38 office prior to its completion for any reason, within the first 30  
39 days after the vacancy occurs the panel described in subdivision  
40 (c) shall nominate a pool of three candidates. The nominees shall

1 be of the same political party membership, or independent status,  
2 held by the member who vacated the office at the time of his or  
3 her appointment. The appointment of the successor member shall  
4 be made from the pool of nominees by the person, persons, or  
5 entity that, pursuant to subdivision (e), (f), or (g), appointed the  
6 member vacating the office, except that a successor appointed  
7 pursuant to subdivision (g) under these circumstances is not  
8 thereby made the chairperson of the Commission and, in the  
9 event of that appointment, a new chairperson shall be appointed  
10 by the remaining members. If the appointment of a replacement  
11 member is not made within 14 days following the presentation of  
12 the nominees, the panel described in subdivision (c) shall make  
13 the appointment, striving for political balance and fairness. The  
14 newly appointed member shall serve out the remainder of the  
15 original term.

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

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

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

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

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

39 (3) Districts shall be geographically compact and contiguous  
40 to the extent practicable.

1 (4) District boundaries shall respect communities of interest to  
2 the extent practicable.

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

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

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

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

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

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

37 (r) The Commission, with fiscal oversight from the  
38 Department of Finance or its successor, shall have procurement  
39 and contracting authority and may hire staff and consultants for  
40 the purposes of this section, including legal representation.

1 (s) The Commission has standing in legal actions regarding a  
2 redistricting plan and to establish whether funds or other  
3 resources provided for the operation of the Commission are  
4 adequate. The Commission has sole authority to determine  
5 whether the Attorney General or counsel hired or selected by the  
6 Commission shall represent the people of California in the legal  
7 defense of a redistricting plan.

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

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

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

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