

AMENDED IN ASSEMBLY MAY 31, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

Assembly Constitutional Amendment

No. 4

Introduced by Assembly Member Villines

December 4, 2006

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by *adding Sections 2, 3, 4, 5, and 6 to, and repealing and adding Section 1 of, Article XXI thereof, relating to reapportionment.*

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as amended, Villines. Reapportionment.

The California Constitution requires the Legislature, in the year following the year in which the national census is taken at the beginning of each decade, to adjust the boundary lines of the senatorial, Assembly, congressional, and Board of Equalization districts in conformance with specified standards.

This measure would repeal these provisions and instead ~~require the provide for the establishment of the~~ Independent Citizens' Commission on Redistricting, to be comprised of ~~an unspecified membership~~ *11 voters, registered as specified, who would be required*, on or before February ~~4~~ 28 of ~~the year following the~~ *each year in which the national census is taken ending in the number one*, to adjust the boundary lines of the Senate, Assembly, congressional, and State Board of Equalization districts in conformance with certain standards, prioritized in a certain order *and applied in a manner consistent with specified federal law.*

This measure would, among other things, require the Secretary of State to implement a random selection process to select commission members from a pool of qualified registered voters, developed pursuant

to randomly generated lists submitted by each county, until 11 members and 11 alternates are selected.

This measure would provide that certain records of the redistricting commission are public records, and would require the commission to establish and implement an open and noticed hearing process for public input.

This measure would subject the final redistricting plan to a referendum by the voters. If the voters reject the final plan, the measure would require the Secretary of the State to petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of the various types of districts.

This measure would require the Governor in 2010, and annually thereafter, to include in the Governor's Budget submitted to the Legislature an amount of funding sufficient to meet the estimated redistricting expenses, and would require that the necessary appropriation be made in the annual Budget Bill. It would authorize the commission to contract and to hire staff and consultants, including legal representation, for purposes of this measure. It would provide that commissioners are eligible for the payment of \$150 per diem and the reimbursement of reasonable travel expenses.

This measure would grant the California Supreme Court original and exclusive jurisdiction over all challenges to the final redistricting plan adopted by the commission, and would authorize an affected elector to file a petition for a writ of mandate or prohibition within 45 days after the commission has certified the plan to the Secretary of State. The California Supreme Court would be required to act expeditiously on the petition. If the plan is held to violate the California Constitution, the United States Constitution, or any federal statute, this measure would require that court to provide relief as it deems appropriate to remedy that violation and to otherwise accomplish the purposes of this measure.

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 2007–08 Regular
- 3 Session commencing on the fourth day of December, 2006,
- 4 two-thirds of the membership of each house concurring, hereby
- 5 proposes to the people of the State of California, that the
- 6 Constitution of the State be amended as follows:

1 First—That Section 1 of Article XXI thereof is repealed.
2 ~~Second—That Section 1 is added to Article XXI thereof, to~~
3 ~~read:~~

4 ~~SECTION 1. (a) On or before February 1 of the year following~~
5 ~~the year in which the national census is taken, the Independent~~
6 ~~Citizens' Commission on Redistricting shall adjust the boundary~~
7 ~~lines of the Senate, Assembly, congressional, and State Board of~~
8 ~~Equalization districts in conformance with following standards.~~
9 ~~Consistent with the provisions of the federal Voting Rights Act of~~
10 ~~1965 (42 U.S.C. 1971 and following), those standards shall be~~
11 ~~prioritized according to the following order:~~

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

15 ~~(2) Each Senate district shall be comprised of two whole and~~
16 ~~complete Assembly districts. Each State Board of Equalization~~
17 ~~district shall be comprised of 10 whole and complete Senate~~
18 ~~districts.~~

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

22 ~~(4) The population of all districts of a particular type shall be~~
23 ~~reasonably equal.~~

24 ~~(5) Every district shall be geographically contiguous and~~
25 ~~compact.~~

26 ~~(6) The geographical integrity of any city, county, or city and~~
27 ~~county, or of any geographical region, shall be respected to the~~
28 ~~extent possible without violating the requirements of any other~~
29 ~~paragraph of this subdivision.~~

30 ~~(7) A maximum number of districts shall be drawn that provide~~
31 ~~for competitive elections between major political parties.~~

32 ~~(8) District boundaries shall respect communities of interest to~~
33 ~~the extent practicable.~~

34 ~~(b) Party registration and voting history data shall be excluded~~
35 ~~from the mapping process, but may be used to test maps for~~
36 ~~compliance with subdivision (a).~~

37 ~~(e) The Independent Citizens' Commission on Redistricting~~
38 ~~charged with adjusting the boundary lines of the Senate, Assembly,~~
39 ~~congressional, and State Board of Equalization districts shall be~~
40 ~~comprised as follows: _____.~~

1 ~~(d) The district boundaries established pursuant to this section~~
2 ~~shall go into effect commencing with the statewide primary election~~
3 ~~next following the adoption of the final maps by a _____ vote of~~
4 ~~the Independent Citizens' Commission on Redistricting.~~

5 *Second—That Section 1 is added to Article XXI thereof, to read:*

6 *SECTION 1. (a) By February 28 of each year ending in the*
7 *number one, the Independent Citizens' Commission on*
8 *Redistricting shall be established pursuant to this article to adjust*
9 *the boundary lines of the Senate, Assembly, congressional, and*
10 *State Board of Equalization districts of this State pursuant to the*
11 *standards set forth in this subdivision. Consistent with the federal*
12 *Voting Rights Act of 1965 (42 U.S.C. 1971 and following), the*
13 *following standards shall be applied by the commission and*
14 *prioritized according to the following order:*

15 *(1) Each Member of the Senate, Assembly, Congress, and the*
16 *State Board of Equalization shall be elected from a single-member*
17 *district.*

18 *(2) Each Senate district shall be comprised of two whole,*
19 *complete, and adjacent Assembly districts. Each State Board of*
20 *Equalization district shall be comprised of 10 whole, complete,*
21 *and adjacent Senate districts.*

22 *(3) Districts of each type shall be numbered consecutively*
23 *commencing at the northern boundary of the State and ending at*
24 *the southern boundary.*

25 *(4) The population of all districts of a particular type shall be*
26 *reasonably equal.*

27 *(5) Each district shall be geographically contiguous and*
28 *compact to the extent practicable.*

29 *(6) The geographical integrity of any city, county, or city and*
30 *county, or of any geographical region, shall be respected so that,*
31 *to the extent practicable, the boundaries of any city, county, or*
32 *city and county shall be divided only to achieve reasonably equal*
33 *population and to comply with the federal Voting Rights Act of*
34 *1965 (42 U.S.C. 1971 and following).*

35 *(7) A maximum number of districts shall be drawn that provide*
36 *for competitive elections between major political parties. Party*
37 *registration and voting history data shall be excluded from the*
38 *mapping process, except to provide competitive elections pursuant*
39 *to this paragraph.*

1 (8) District boundary lines shall respect communities of interest
2 to the extent practicable.

3 (b) As used in this article, “commission” means the Independent
4 Citizens’ Commission on Redistricting.

5 Third—That Section 2 is added to Article XXI thereof, to read:

6 SEC. 2. The commission shall be comprised as follows:

7 (a) The commission shall consist of 11 members appointed
8 pursuant to Section 3. Each member shall be a private citizen,
9 meeting the requirements of this section, who has been registered
10 to vote either with the same political party or as declined to state
11 for the five years immediately preceding his or her appointment
12 to the commission, and has voted in each of the last two statewide
13 general elections immediately preceding his or her appointment
14 to the commission.

15 (b) The Secretary shall select commission members and
16 alternates who are representative of the gender, ethnic, urban and
17 rural population, and geographic diversity of this State to the
18 greatest degree practicable.

19 (c) A person shall be ineligible to serve on the commission if
20 he or she or an immediate family member has done any of the
21 following:

22 (1) Has had, at any time during the 10 years immediately
23 preceding appointment to the commission, any financial
24 relationship with any other individual, or group of individuals,
25 who themselves would be ineligible to serve on the commission
26 pursuant to this article.

27 (2) Has served, or currently serves, as an elected or appointed
28 Member of the Congress, Member of the Legislature, statewide
29 officer in this State, or member of the State Board of Equalization,
30 or as a member of a city council or board of supervisors of a city,
31 county, or city and county in this State.

32 (3) Has served or currently serves as a federal, state, or local
33 lobbyist.

34 (4) Has served as an employee of the federal government, the
35 Congress, the government of this State, the Legislature, any
36 statewide officeholder in this State, or the State Board of
37 Equalization, or of any city, county, city and county, or other
38 political subdivision of this State, at any time during the 10 years
39 immediately preceding his or her appointment to the commission.
40 However, a person who either has retired from active duty in any

1 *branch of the Armed Forces of the United States, or currently*
2 *serves or has previously served in the Armed Forces Reserve, is*
3 *not ineligible as a result of that military service.*

4 *(5) Has been employed, or compensated in any manner, by the*
5 *campaign committee of any candidate for the Congress, the*
6 *Legislature, statewide office in this State, the State Board of*
7 *Equalization, or for the city council or the board of supervisors*
8 *of any city, county, or city and county, or for the governing body*
9 *of any other political subdivision of this State, at any time during*
10 *the 10 years immediately preceding his or her appointment to the*
11 *commission.*

12 *(6) Has been elected or appointed to, employed, or compensated*
13 *in any manner by any national political party, or by any state or*
14 *local political party organization in this State.*

15 *(d) For purposes of this section, “immediate family” includes*
16 *a current or former spouse, an in-law, a parent, a current or former*
17 *stepparent or stepchild, a sibling, or a child or current or former*
18 *dependent.*

19 *Fourth—That Section 3 is added to Article XXI thereof, to read:*

20 *SEC. 3. (a) (1) On or before January 10 of each year ending*
21 *in the number one, each county elections official shall generate a*
22 *random list containing the lesser of 1,000 names, addresses, and*
23 *telephone numbers of registered voters in the county, or 5 percent*
24 *of all registered voters in the county, and shall forward that list*
25 *to the Secretary of State. The Secretary of State shall combine the*
26 *names of these voters from each county into a single pool, and*
27 *shall randomly select from that pool the names of potential*
28 *commission members. The Secretary of State shall contact each*
29 *person whose name has been drawn, in the order that the name*
30 *was randomly selected, to determine whether that person wishes*
31 *to serve on the commission and to verify that person’s eligibility*
32 *for membership on the commission. The Secretary of State shall*
33 *proceed in this manner until 11 members and 11 alternates are*
34 *selected, with each set of 11 persons (A) consisting of four persons*
35 *registered with the largest political party in this State based on*
36 *statewide voter registration, four persons registered with the*
37 *second largest political party in this State based on statewide voter*
38 *registration, and three persons who are not registered with either*
39 *of those political parties, at least one of whom has declined to*

1 *state a party affiliation, and (B) meeting the requirement of*
2 *subdivision (b) of Section 2.*

3 *(2) After the Secretary of State has completed the process by*
4 *which the 11 members of the commission are selected, the*
5 *Secretary of State shall establish the time, date, and location of*
6 *the first meeting of the commission, and shall make that*
7 *information available to the public.*

8 *(3) The names of the alternates shall be kept in the confidential*
9 *possession of the Secretary of State, and may be disclosed only if*
10 *it becomes necessary to fill any vacancy.*

11 *(b) (1) Seven members of the commission, three of whom shall*
12 *be from the largest political party in this State based on statewide*
13 *voter registration and three of whom shall be from the second*
14 *largest political party in this State based on statewide voter*
15 *registration, shall constitute a quorum. The chair and vice chair*
16 *may each be one of the members counted to establish a quorum*
17 *of the commission.*

18 *(2) Seven or more affirmative votes, three of which shall be cast*
19 *by members registered with the largest political party in this State*
20 *based on statewide voter registration and three of which shall be*
21 *cast by members registered with the second largest political party*
22 *in this State based on statewide voter registration, shall be required*
23 *for any official action of the commission, except that the approval*
24 *of any preliminary or final redistricting plan shall require an*
25 *affirmative vote of not less than eight members of the commission,*
26 *three of whom shall be registered with the largest political party*
27 *in this State, three of whom shall be registered with the second*
28 *largest political party in this State, and two other members who*
29 *shall either be registered with other political parties in this State*
30 *or registered as declined to state.*

31 *(3) The members of the commission shall, by seven or more*
32 *affirmative votes as described in paragraph (2), select one member*
33 *to serve as the chair and another member to serve as the vice chair.*
34 *The vice chair shall not be registered with the same political party*
35 *as the chair, nor may the chair and vice chair both be registered*
36 *as declined to state.*

37 *(c) The term of office of each member of the commission expires*
38 *upon the appointment of the first member of the succeeding*
39 *commission.*

1 (d) (1) *If a member of the commission vacates his or her office*
2 *for any reason prior to the completion of his or her term, the*
3 *Secretary of State shall fill the vacancy with an alternate member*
4 *within 30 days after the vacancy occurs. The Secretary of State*
5 *shall fill the vacancy consistent with subdivision (b) of Section 2.*

6 (2) *The new commission member shall be registered with the*
7 *same political party or as declined to state, as the case may be,*
8 *as the vacating member and shall comply with the eligibility*
9 *criteria established for membership pursuant to subdivision (c) of*
10 *Section 2 at the time of his or her appointment. If the vacating*
11 *member was the chair or vice chair of the commission, the*
12 *commission shall select a new chair or vice chair in accordance*
13 *with paragraph (3) of subdivision (b). The newly appointed member*
14 *shall serve the remainder of the original term of the vacating*
15 *member.*

16 (e) *The commission shall conduct hearings pursuant to this*
17 *subdivision as part of its preparation of a redistricting plan. In*
18 *order to implement an open and noticed hearing process for public*
19 *input, the commission shall establish and publish a schedule of*
20 *hearings and locations for those hearings as soon as reasonably*
21 *possible after its first meeting. The hearing process shall include*
22 *hearings to receive public input before the commission draws any*
23 *map. The commission shall also conduct hearings following the*
24 *drawing and display of draft commission maps. The commission*
25 *shall display the draft maps to the public for comment in a timely*
26 *manner designed to achieve the widest public dissemination*
27 *reasonably possible. The commission shall work to ensure that*
28 *the hearings and display periods provide opportunity for*
29 *meaningful input from the public, including elected and appointed*
30 *public officials, at every stage of the redistricting process. The*
31 *commission shall take submissions of plans and comments, and*
32 *conduct hearings, subject to the following:*

33 (1) *Any member of the public may offer a complete or partial*
34 *proposed redistricting plan, and written comments or oral*
35 *testimony.*

36 (2) *The commission shall adopt procedures and rules for the*
37 *submission of proposed redistricting plans and written comments,*
38 *and to facilitate the orderly receipt of materials and the taking of*
39 *testimony at public hearings. The procedures and rules shall*
40 *provide for full and fair public consideration and debate regarding*

1 *draft and proposed final redistricting plans and written public*
2 *comments. The commission is exempt from the Administrative*
3 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*
4 *Division 3 of Title 2 of the Government Code) or its successor*
5 *statute, in adopting rules and regulations.*

6 *(3) The commission shall hold hearings in various regions of*
7 *the State so as to allow the widest public participation reasonably*
8 *possible.*

9 *(f) (1) In its hearings and meetings, the commission is subject*
10 *to the Bagley-Keene Open Meeting Act (Article 9 (commencing*
11 *with Section 11120) of Division 3 of Title 2 of the Government*
12 *Code), or its successor statute. The commission shall provide*
13 *public notice of not less than 7 calendar days or 5 working days,*
14 *whichever is longer, for any hearing or other meeting of the*
15 *commission.*

16 *(2) Any written or verbal communication with any commission*
17 *member outside of a public hearing, other than by staff or by legal*
18 *counsel, is prohibited as to any matter on which the commission*
19 *is required to meet. This subdivision does not prohibit any*
20 *communication between commission members that is otherwise*
21 *permitted by the Bagley-Keene Open Meeting Act, or its successor*
22 *statute, to occur outside of a public meeting.*

23 *(g) The records of the commission pertaining to the drawing of*
24 *district boundary lines and all data considered by the commission*
25 *are public records, open to public inspection upon request pursuant*
26 *to the California Public Records Act (Chapter 3.5 (commencing*
27 *with Section 6250) of Division 7 of Title 1 of the Government*
28 *Code), or its successor statute.*

29 *(h) The commission shall provide for access to United States*
30 *census data and shall make software available to the public for*
31 *drawing proposed district boundary lines.*

32 *(i) The commission shall issue, with its final redistricting plan,*
33 *a report that explains the basis on which the commission made its*
34 *decisions in achieving compliance with the standards listed in*
35 *subdivision (a) of Section 1, particularly where compliance with*
36 *one standard resulted in less than full compliance with another.*
37 *The report shall define or describe, as applicable, the terms and*
38 *standards used in drawing the district boundary lines.*

39 *Fifth—That Section 4 is added to Article XXI thereof, to read:*

1 *SEC. 4. (a) In its final redistricting plan, the commission shall*
2 *establish the boundaries of maps for Senate, Assembly,*
3 *congressional, and State Board of Equalization districts. Upon*
4 *approval of a final redistricting plan, the commission shall certify*
5 *the districts in that plan to the Secretary of State.*

6 *(b) If the commission fails to adopt a final redistricting plan for*
7 *the Assembly, Senate, Congress, and the State Board of*
8 *Equalization within 180 days prior to the first primary election to*
9 *be held using the adjusted district boundary lines, the Secretary*
10 *of State shall file an action with the Supreme Court for an order*
11 *directing the appointment of special masters to adjust the boundary*
12 *lines of districts for those offices in accordance with the standards*
13 *set forth in Section 1.*

14 *(c) The final redistricting plan adopted by the commission shall*
15 *be subject to referendum in the same manner as a statute is subject*
16 *to referendum under Section 9 of Article II. The date of certification*
17 *to the Secretary of State shall be deemed the enactment date for*
18 *purposes of Section 9 of Article II. If the final redistricting plan is*
19 *rejected by the voters in a referendum, the Secretary of State shall*
20 *immediately petition the Supreme Court for an order directing the*
21 *appointment of special masters to adjust the boundary lines of*
22 *Assembly, Senate, congressional, and State Board of Equalization*
23 *districts in accordance with the standards set forth in Section 1.*
24 *No action taken by special masters appointed by the Supreme*
25 *Court shall be subject to referendum.*

26 *Sixth—That Section 5 is added to Article XXI thereof, to read:*

27 *SEC. 5. (a) In 2010, and annually thereafter, the Governor*
28 *shall include in the Governor's Budget submitted to the Legislature*
29 *pursuant to Section 12 of Article IV an amount of funding sufficient*
30 *to meet the estimated expenses of the subsequent redistricting*
31 *process occurring pursuant to this article, and shall make adequate*
32 *office space available for the operation of the commission. The*
33 *Legislature shall make the necessary appropriation in the annual*
34 *budget bill.*

35 *(b) (1) The commission, in consultation with the Department*
36 *of Finance or its successor, shall have procurement and*
37 *contracting authority and may hire staff, legal counsel and*
38 *consultants, all of whom shall be exempt from the civil service*
39 *requirements of Article VII, for the purposes of this article,*
40 *including legal representation.*

1 (2) Pursuant to paragraph (1), the commission shall establish
2 standards for the hiring and removal of staff, legal counsel, and
3 consultants. Any staff hired by the commission shall be subject to
4 the eligibility criteria that apply to members of the commission
5 pursuant to subdivision (c) of Section 2, except where this
6 requirement is waived by the commission by an affirmative vote
7 of not less than eight members of the commission, as required for
8 the approval of a preliminary or final redistricting plan pursuant
9 to paragraph (2) of subdivision (b) of Section 3.

10 (c) The commission shall have standing in any legal action
11 regarding a final redistricting plan. The commission has sole
12 authority to determine whether the Attorney General or legal
13 counsel hired or selected by the commission shall provide
14 representation in the commission's legal defense of a final
15 redistricting plan.

16 (d) Members of the commission are eligible for \$150 per diem
17 for each day the commission or a subcommittee of the commission
18 meets and for reimbursement of reasonable travel expenses
19 incurred in connection with the duties performed pursuant to this
20 article. After January 1, 2020, the Legislature may, by statute,
21 increase the per diem amount. For purposes of the reimbursement
22 of travel expenses, a member's residence is deemed to be the
23 member's post of duty.

24 Seventh—That Section 6 is added to Article XXI thereof, to read:

25 SEC. 6. (a) The Supreme Court shall have original and
26 exclusive jurisdiction in all proceedings in which the final
27 redistricting plan adopted by the commission is challenged.

28 (b) Any affected elector may file a petition for a writ of mandate
29 or writ of prohibition to challenge the final redistricting plan within
30 45 days after the commission has certified the plan to the Secretary
31 of State pursuant to subdivision (b) of Section 5, to bar the
32 Secretary of State from implementing the plan on the grounds that
33 the filed plan violates this Constitution, the United States
34 Constitution, or any federal statute.

35 (c) The court shall act expeditiously on a petition filed under
36 subdivision (b). If the court determines that the final redistricting
37 plan adopted by the commission violates this Constitution, the
38 United States Constitution, or any federal statute, the court shall
39 fashion the relief that it deems appropriate to remedy that violation
40 and otherwise accomplish the purposes of this article.

- 1 (d) *This article is self-executing.*

O