

AMENDED IN ASSEMBLY JUNE 20, 2007

AMENDED IN ASSEMBLY MAY 31, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

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**Assembly Constitutional Amendment**

**No. 4**

**Introduced by Assembly Member Villines ~~Members Villines and Adams~~**

December 4, 2006

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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 provide for the establishment of the Independent Citizens' Commission on Redistricting, to be comprised of 11 voters, registered as specified, who would be required, on or before ~~February 28~~ *January 31* of each year ending in the number one, to adjust the boundary lines of the Senate, Assembly, congressional, and State Board of Equalization districts ~~in conformance~~ *pursuant to a mapping process in accordance* 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 *hire or contract and to hire with staff, legal counsel, and consultants, including legal representation exempt from civil service*, 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,

1 two-thirds of the membership of each house concurring, hereby  
2 proposes to the people of the State of California, that the  
3 Constitution of the State be amended as follows:

4 First—That Section 1 of Article XXI thereof is repealed.

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

7 SECTION 1. (a) By ~~February 28~~ *January 31* of each year  
8 ending in the number one, the Independent Citizens' Commission  
9 on Redistricting shall be established pursuant to this article to  
10 adjust the boundary lines of the Senate, Assembly, congressional,  
11 and State Board of Equalization districts of this State pursuant to  
12 *a mapping process in accordance with* the standards set forth in  
13 this subdivision. Consistent with the federal Voting Rights Act of  
14 1965 (42 U.S.C. 1971 and following), the following standards  
15 shall be applied by the commission and prioritized according to  
16 the following order:

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

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

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

27 (4) The population of all districts of a particular type shall be  
28 reasonably equal.

29 (5) Each district shall be geographically contiguous and compact  
30 to the extent practicable.

31 (6) *District boundary lines shall respect communities of interest*  
32 *to the extent practicable.*

33 ~~(6)~~

34 (7) The geographical integrity of any city, county, or city and  
35 county, or of any geographical region, shall be respected so that,  
36 to the extent practicable, the boundaries of any city, county, or  
37 city and county shall be divided only to achieve reasonably equal  
38 population and to comply with the federal Voting Rights Act of  
39 1965 (42 U.S.C. 1971 and following).

40 ~~(7)~~

1 (8) A maximum number of districts shall be drawn that provide  
2 for competitive elections between major political parties. ~~Party~~  
3 ~~registration and voting history data shall be excluded from the~~  
4 ~~mapping process, except to provide competitive elections pursuant~~  
5 ~~to this paragraph.~~

6 ~~(8) District boundary lines shall respect communities of interest~~  
7 ~~to the extent practicable.~~

8 (b) (1) *In the creation of maps, party registration and voting*  
9 *history data may be considered only for purposes of determining*  
10 *whether proposed maps are in compliance with the federal Voting*  
11 *Rights Act of 1965 (42 U.S.C. Sec. 1971 and following) and with*  
12 *paragraph (8) of subdivision (a).*

13 (2) *The places of residence of incumbents or candidates shall*  
14 *not be identified or considered in the creation of a map.*

15 ~~(b)~~

16 (c) As used in this article, “commission” means the Independent  
17 Citizens’ Commission on Redistricting.

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

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

20 (a) The commission shall consist of 11 members appointed  
21 pursuant to Section 3. Each member shall be a private citizen,  
22 meeting the requirements of this section, who has been registered  
23 to vote either with the same political party or as declined to state  
24 for the five years immediately preceding his or her appointment  
25 to the commission, and has voted in each of the last two statewide  
26 general elections immediately preceding his or her appointment  
27 to the commission.

28 (b) The Secretary shall select commission members and  
29 alternates who are representative of the gender, ethnic, urban and  
30 rural population, and geographic diversity of this State to the  
31 greatest degree practicable.

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

35 (1) Has had, at any time during the 10 years immediately  
36 preceding appointment to the commission, any financial  
37 relationship with any other individual, or group of individuals,  
38 who themselves would be ineligible to serve on the commission  
39 pursuant to this article.

1 (2) Has served, or currently serves, as an elected or appointed  
2 Member of the Congress, Member of the Legislature, statewide  
3 officer in this State, or member of the State Board of Equalization,  
4 or as a member of a city council or board of supervisors of a city,  
5 county, or city and county in this State.

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

8 (4) Has served as an employee of the federal government, the  
9 Congress, the government of this State, the Legislature, any  
10 statewide officeholder in this State, or the State Board of  
11 Equalization, or of any city, county, city and county, or other  
12 political subdivision of this State, at any time during the 10 years  
13 immediately preceding his or her appointment to the commission.  
14 However, a person who either has retired from active duty in any  
15 branch of the Armed Forces of the United States, or currently  
16 serves or has previously served in the Armed Forces Reserve, is  
17 not ineligible as a result of that military service.

18 (5) Has been employed, or compensated in any manner, by the  
19 campaign committee of any candidate for the Congress, the  
20 Legislature, statewide office in this State, the State Board of  
21 Equalization, or for the city council or the board of supervisors of  
22 any city, county, or city and county, or for the governing body of  
23 any other political subdivision of this State, at any time during the  
24 10 years immediately preceding his or her appointment to the  
25 commission.

26 (6) Has been elected or appointed to, employed, or compensated  
27 in any manner by any national political party, or by any state or  
28 local political party organization in this State.

29 (d) For purposes of this section, “immediate family” includes  
30 a current or former spouse, an in-law, a parent, a current or former  
31 stepparent or stepchild, a sibling, or a child or current or former  
32 dependent.

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

34 SEC. 3. (a) (1) On or before ~~January 10~~ *December 10* of each  
35 year ending in the number ~~one zero~~, each county elections official  
36 shall generate a random list containing the lesser of 1,000 names,  
37 addresses, and telephone numbers of registered voters in the  
38 county, or 5 percent of all registered voters in the county, and shall  
39 forward that list to the Secretary of State. The Secretary of State  
40 shall combine the names of these voters from each county into a

1 single pool, and shall randomly select from that pool the names  
2 of potential commission members. The Secretary of State shall  
3 contact each person whose name has been drawn, in the order that  
4 the name was randomly selected, to determine whether that person  
5 wishes to serve on the commission and to verify that person's  
6 eligibility for membership on the commission. The Secretary of  
7 State shall proceed in this manner until 11 members and 11  
8 alternates are selected, with each set of 11 persons (A) consisting  
9 of four persons registered with the largest political party in this  
10 State based on statewide voter registration, four persons registered  
11 with the second largest political party in this State based on  
12 statewide voter registration, and three persons who are not  
13 registered with either of those political parties, at least one of whom  
14 has declined to state a party affiliation, and (B) meeting the  
15 requirement of subdivision (b) of Section 2.

16 (2) After the Secretary of State has completed the process by  
17 which the 11 members of the commission are selected, the  
18 Secretary of State shall establish the time, date, and location of  
19 the first meeting of the commission, and shall make that  
20 information available to the public.

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

24 (b) (1) Seven members of the commission, three of whom shall  
25 be from the largest political party in this State based on statewide  
26 voter registration and three of whom shall be from the second  
27 largest political party in this State based on statewide voter  
28 registration, shall constitute a quorum. The chair and vice chair  
29 may each be one of the members counted to establish a quorum  
30 of the commission.

31 (2) Seven or more affirmative votes, three of which shall be  
32 cast by members registered with the largest political party in this  
33 State based on statewide voter registration and three of which shall  
34 be cast by members registered with the second largest political  
35 party in this State based on statewide voter registration, shall be  
36 required for any official action of the commission, except that the  
37 approval of any preliminary or final redistricting plan shall require  
38 an affirmative vote of not less than eight members of the  
39 commission, three of whom shall be registered with the largest  
40 political party in this State, three of whom shall be registered with

1 the second largest political party in this State, and two other  
2 members who shall either be registered with other political parties  
3 in this State or registered as declined to state.

4 (3) The members of the commission shall, by seven or more  
5 affirmative votes as described in paragraph (2), select one member  
6 to serve as the chair and another member to serve as the vice chair.  
7 The vice chair shall not be registered with the same political party  
8 as the chair, nor may the chair and vice chair both be registered  
9 as declined to state.

10 (c) The term of office of each member of the commission expires  
11 upon the appointment of the first member of the succeeding  
12 commission.

13 ~~(d) (1) If a member of the commission vacates his or her office~~  
14 ~~for any reason prior to the completion of his or her term, the~~

15 *(d) (1) The Governor may request in writing, or either house*  
16 *of the Legislature may request by resolution, that a member of the*  
17 *commission be removed for substantial neglect of duty, gross*  
18 *misconduct in office, or inability to discharge the duties of his or*  
19 *her office. After having been served written notice of the request*  
20 *for removal and having been provided with an opportunity for a*  
21 *response, a member of the commission may be removed by rollcall*  
22 *vote entered in the journal, two-thirds of the membership of each*  
23 *house of the Legislature concurring. In the event of a removal from*  
24 *the commission or other vacancy, the Secretary of State shall fill*  
25 *the vacancy with an alternate member within 30 days after the*  
26 *vacancy occurs. The Secretary of State shall fill the vacancy*  
27 *consistent with subdivision (b) of Section 2.*

28 (2) The new commission member shall be registered with the  
29 same political party or as declined to state, as the case may be, as  
30 the vacating member and shall comply with the eligibility criteria  
31 established for membership pursuant to subdivision (c) of Section  
32 2 at the time of his or her appointment. If the vacating member  
33 was the chair or vice chair of the commission, the commission  
34 shall select a new chair or vice chair in accordance with paragraph  
35 (3) of subdivision (b). The newly appointed member shall serve  
36 the remainder of the original term of the vacating member.

37 (e) The commission shall conduct hearings pursuant to this  
38 subdivision as part of its preparation of a redistricting plan. In  
39 order to implement an open and noticed hearing process for public  
40 input, the commission shall establish and publish a schedule of

1 hearings and locations for those hearings as soon as reasonably  
2 possible after its first meeting. The hearing process shall include  
3 hearings to receive public input before the commission draws any  
4 map. The commission shall also conduct hearings following the  
5 drawing and display of draft commission maps. The commission  
6 shall display the draft maps to the public for comment in a timely  
7 manner designed to achieve the widest public dissemination  
8 reasonably possible. The commission shall work to ensure that the  
9 hearings and display periods provide opportunity for meaningful  
10 input from the public, including elected and appointed public  
11 officials, at every stage of the redistricting process. The  
12 commission shall take submissions of plans and comments, and  
13 conduct hearings, subject to the following:

14 (1) Any member of the public may offer a complete or partial  
15 proposed redistricting plan, and written comments or oral  
16 testimony.

17 (2) The commission shall adopt procedures and rules for the  
18 submission of proposed redistricting plans and written comments,  
19 and to facilitate the orderly receipt of materials and the taking of  
20 testimony at public hearings. The procedures and rules shall  
21 provide for full and fair public consideration and debate regarding  
22 draft and proposed final redistricting plans and written public  
23 comments. The commission is exempt from the Administrative  
24 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
25 Division 3 of Title 2 of the Government Code) or its successor  
26 statute, in adopting rules and regulations.

27 (3) The commission shall hold hearings in various regions of  
28 the State so as to allow the widest public participation reasonably  
29 possible.

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

37 (2) Any written or verbal communication with any commission  
38 member outside of a public hearing, other than by staff or by legal  
39 counsel, is prohibited as to any matter on which the commission  
40 is required to meet. This subdivision does not prohibit any



1 communication between commission members that is otherwise  
2 permitted by the Bagley-Keene Open Meeting Act, or its successor  
3 statute, to occur outside of a public meeting.

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

10 (h) The commission shall provide for access to United States  
11 census data and shall make software available to the public for  
12 drawing proposed district boundary lines.

13 (i) The commission shall issue, with its final redistricting plan,  
14 a report that explains the basis on which the commission made its  
15 decisions in achieving compliance with the standards listed in  
16 subdivision (a) of Section 1, particularly where compliance with  
17 one standard resulted in less than full compliance with another.  
18 The report shall define or describe, as applicable, the terms and  
19 standards used in drawing the district boundary lines.

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

21 SEC. 4. (a) In its final redistricting plan, the commission shall  
22 establish the boundaries of maps for Senate, Assembly,  
23 congressional, and State Board of Equalization districts. Upon  
24 approval of a final redistricting plan, the commission shall certify  
25 the districts in that plan to the Secretary of State.

26 (b) If the commission fails to adopt a final redistricting plan for  
27 the Assembly, Senate, Congress, and the State Board of  
28 Equalization within 180 days prior to the first primary election to  
29 be held using the adjusted district boundary lines, the Secretary of  
30 State shall file an action with the Supreme Court for an order  
31 directing the appointment of special masters to adjust the boundary  
32 lines of districts for those offices in accordance with the standards  
33 set forth in Section 1.

34 (c) The final redistricting plan adopted by the commission shall  
35 be subject to referendum in the same manner as a statute is subject  
36 to referendum under Section 9 of Article II. The date of  
37 certification to the Secretary of State shall be deemed the enactment  
38 date for purposes of Section 9 of Article II. If the final redistricting  
39 plan is rejected by the voters in a referendum, the Secretary of  
40 State shall immediately petition the Supreme Court for an order

1 directing the appointment of special masters to adjust the boundary  
2 lines of Assembly, Senate, congressional, and State Board of  
3 Equalization districts in accordance with the standards set forth in  
4 Section 1. No action taken by special masters appointed by the  
5 Supreme Court shall be subject to referendum.

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

7 SEC. 5. (a) In 2010, and annually thereafter, the Governor  
8 shall include in the Governor's Budget submitted to the Legislature  
9 pursuant to Section 12 of Article IV an amount of funding  
10 sufficient to meet the estimated expenses of the subsequent  
11 redistricting process occurring pursuant to this article, and shall  
12 make adequate office space available for the operation of the  
13 commission. The Legislature shall make the necessary  
14 appropriation in the annual budget bill.

15 (b) (1) The commission, in consultation with the Department  
16 of Finance or its successor, shall have procurement and contracting  
17 authority and may hire *or contract with* staff, legal counsel, and  
18 consultants, ~~all of whom as appropriate. Any individual hired~~  
19 ~~under this paragraph shall be exempt from the civil service~~  
20 ~~requirements of Article VII, for the purposes of this article,~~  
21 ~~including legal representation.~~

22 (2) ~~Pursuant to~~ *For purposes of* paragraph (1), the commission  
23 shall establish standards for the hiring and removal of staff, legal  
24 counsel, and consultants. ~~Any staff hired by the commission shall~~  
25 ~~be subject to the eligibility criteria that apply to members of the~~  
26 ~~commission pursuant to subdivision (c) of Section 2, except where~~  
27 ~~this requirement is waived by the commission by an affirmative~~  
28 ~~vote of not less than eight members of the commission, as required~~  
29 ~~for the approval of a preliminary or final redistricting plan pursuant~~  
30 ~~to paragraph (2) of subdivision (b) of Section 3. criteria for the~~  
31 ~~terms and conditions of hiring and removal and contracting.~~

32 (c) The commission shall have standing in any legal action  
33 regarding a final redistricting plan. The commission has sole  
34 authority to determine whether the Attorney General or legal  
35 counsel hired or selected by the commission shall provide  
36 representation in the commission's legal defense of a final  
37 redistricting plan.

38 (d) Members of the commission are eligible for \$150 per diem  
39 for each day the commission or a subcommittee of the commission  
40 meets and for reimbursement of reasonable travel expenses incurred

1 in connection with the duties performed pursuant to this article.  
2 After January 1, 2020, the Legislature may, by statute, increase  
3 the per diem amount. For purposes of the reimbursement of travel  
4 expenses, a member's residence is deemed to be the member's  
5 post of duty.

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

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

11 (b) Any affected elector may file a petition for a writ of mandate  
12 or writ of prohibition to challenge the final redistricting plan within  
13 45 days after the commission has certified the plan to the Secretary  
14 of State pursuant to subdivision (b) of Section 5, to bar the  
15 Secretary of State from implementing the plan on the grounds that  
16 the filed plan violates this Constitution, the United States  
17 Constitution, or any federal statute.

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

24 (d) This article is self-executing.