

**Introduced by Senator Lowenthal  
(Principal coauthors: Senators Alquist and Simitian)  
(Coauthors: Senators Kehoe, Scott, Steinberg, and Torlakson)**

April 23, 2007

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Senate Constitutional Amendment No. 10—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Article XXI thereof, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

SCA 10, as introduced, Lowenthal. Election: redistricting.

The California Constitution requires 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 State Board of Equalization districts in accordance with specified standards.

This measure would delete these requirements, and would instead create a procedure for the appointment of an independent redistricting commission, composed of 11 members, that would be charged with establishing Senate, Assembly, congressional, and State Board of Equalization districts in accordance with designated goals prioritized in a specified order.

This measure would provide that certain records of the redistricting commission are public records and would require the commission to hold public hearings.

This measure would grant the California Supreme Court original and exclusive jurisdiction over all challenges to a 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



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

6     ~~(a) Each member of the Senate, Assembly, Congress, and the~~  
 7     ~~Board of Equalization shall be elected from a single-member~~  
 8     ~~district.~~

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

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

12    ~~(d) Districts of each type shall be numbered consecutively~~  
 13    ~~commencing at the northern boundary of the State and ending at~~  
 14    ~~the southern boundary.~~

15    ~~(e) The geographical integrity of any city, county, or city and~~  
 16    ~~county, or of any geographical region shall be respected to the~~  
 17    ~~extent possible without violating the requirements of any other~~  
 18    ~~subdivision of this section.~~

19    Second—That Article XXI is added thereto, to read:

20

21

ARTICLE XXI

22

Reapportionment of Senate, Assembly, Congressional, and State

23

Board of Equalization Districts

24

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

28     (b) By February 28 of each year ending in the number one, the  
 29     Independent Redistricting Commission shall be established  
 30     pursuant to this article to provide for the redistricting of Senate,  
 31     Assembly, congressional, and State Board of Equalization districts.  
 32     As used in this article, “commission” means the Independent  
 33     Redistricting Commission.

34     (c) The commission shall consist of 11 members, and all of the  
 35     following shall apply:

36         (1) No more than four members of the commission may be  
 37         members of the same political party.

38         (2) Of the eight commission members appointed pursuant to  
 39         subdivisions (b) and (c) of Section 2, no more than two may reside  
 40         in the same county.

1 (3) Each commission member shall be registered to vote in this  
2 state, and shall have been continuously registered with the same  
3 political party, or as unaffiliated with a political party, for not less  
4 than three years immediately preceding appointment.

5 (4) Each commission member shall commit to applying this  
6 article in an honest, independent, and impartial fashion, and to  
7 upholding public confidence in the integrity of the redistricting  
8 process.

9 (d) (1) A person is not eligible to serve on the commission if,  
10 within the three years immediately preceding the date of the  
11 appointment, the person, or a member of his or her immediate  
12 family, has done any of the following:

13 (A) Been appointed or elected to, or have been a candidate for,  
14 any other public office.

15 (B) Served as an officer of a political party, or as an officer,  
16 employee, or paid consultant of a campaign committee of a  
17 candidate for elective public office.

18 (C) Been a registered lobbyist, an employee of, or a paid  
19 consultant to, a registered lobbyist.

20 (2) Legislative and congressional staff and consultants, persons  
21 under a contract with the Legislature, and any person who has  
22 contributed ten thousand dollars (\$10,000) or more to, has a  
23 financial relationship with, or is an immediate family member of,  
24 the Governor, a Member of the Legislature, a Member of Congress,  
25 or a member of the State Board of Equalization are not eligible to  
26 serve as members of the commission.

27 (3) A member of the commission shall be ineligible, during his  
28 or her term of office, and for three years thereafter, to hold elective  
29 public office in this State or to register as a lobbyist.

30 (4) For purposes of this subdivision, a member of a person's  
31 "immediate family" is one with whom the person has a bona fide  
32 relationship established through blood or legal relation, including,  
33 but not limited to, parents, children, siblings, and in-laws.

34 SEC. 2. (a) (1) The Judicial Council, panelists, Members of  
35 the Legislature, and the Fair Political Practices Commission, or  
36 its successor agency, shall work to ensure that the panelists, pool  
37 of candidates, and commissioners, as applicable, are representative  
38 of this State's racial, ethnic, cultural, geographic, and gender  
39 diversity.

1 (2) A panel of 10 retired superior court judges or judges of the  
2 Court of Appeal, appointed by the Judicial Council, shall nominate  
3 candidates for appointment to the commission. The Judicial  
4 Council shall adopt rules and procedures for appointing qualified  
5 panelists and for selecting alternates in the event that a panelist is  
6 unable to carry out his or her duties.

7 (3) Of the 10 panelists, five shall be registered voters affiliated  
8 with each of the two largest political parties in California based  
9 on party registration.

10 (4) Each panelist shall be a registered voter in this State who  
11 has been continuously registered with the same political party for  
12 not less than three years immediately preceding his or her  
13 appointment.

14 (5) By January 8 of each year ending in the number one, the  
15 panel shall establish a pool of qualified persons who are willing  
16 to serve on the commission, and submit a list of the names of those  
17 persons to the President pro Tempore of the Senate, the Minority  
18 Floor Leader of the Senate, the Speaker of the Assembly, the  
19 Minority Floor Leader of the Assembly, and the Fair Political  
20 Practices Commission or its successor agency.

21 (6) The pool of candidates shall consist of 55 nominees, with  
22 20 nominees from each of the two largest political parties in  
23 California based on party registration, and 15 who are not  
24 registered with either of those two political parties.

25 (b) (1) No later than January 31 of each year ending in the  
26 number one, the President pro Tempore of the Senate, the Minority  
27 Floor Leader of the Senate, the Speaker of the Assembly and the  
28 Minority Floor Leader of the Assembly may each strike from the  
29 pool of candidates up to two candidates. Each legislative leader  
30 shall, in the following order, appoint to the commission from the  
31 remaining candidates in the pool two candidates who are registered  
32 with the same political party as that legislative leader:

33 (A) The President pro Tempore of the Senate.

34 (B) The Minority Floor Leader of the Senate.

35 (C) The Speaker of the Assembly.

36 (D) The Minority Floor Leader of the Assembly.

37 (2) The Fair Political Practices Commission, or its successor  
38 agency, shall appoint three persons, by random selection from the  
39 pool of candidates, who are not registered with either of the two

1 largest political parties in this State, under a process that is open  
2 to public disclosure.

3 (c) Any vacancy in the 11 commission positions described in  
4 subdivision (b) that remains as of March 1 of a year ending in the  
5 number one shall be filled from the pool of nominees by the panel  
6 of retired judges described in subdivision (a).

7 (d) The 11 members of the commission shall, by affirmative  
8 vote of six or more members, select one of the three members  
9 appointed pursuant to paragraph (2) of subdivision (b) to serve as  
10 the chair of the commission.

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

14 SEC. 3. (a) After having been served written notice and  
15 provided with an opportunity for a response, a member of the  
16 commission may be removed by the Governor, with the  
17 concurrence of two-thirds of the Senate, for substantial neglect of  
18 duty, gross misconduct in office, or inability to discharge the duties  
19 of office.

20 (b) (1) If a member of the commission vacates his or her office  
21 or is removed pursuant to subdivision (a) prior to the completion  
22 of his or her term for any reason, the panel of retired judges  
23 described in subdivision (a) of Section 2 shall fill the vacancy from  
24 the pool of nominees selected pursuant to that subdivision within  
25 the first 30 days after the vacancy occurs.

26 (2) The nominee chosen shall be of the same political party  
27 membership or nonpartisan status, as the case may be, held by the  
28 vacating member at the time of his or her appointment. The panel  
29 shall work to ensure diversity and fairness in filling that vacancy.  
30 If the vacating member was the chair of the commission, the  
31 commission shall select a new chair.

32 (3) The newly appointed member shall serve the remainder of  
33 the original term of the vacating member.

34 SEC. 4. (a) The activities of the commission shall be subject  
35 to all of the following:

36 (1) Six members of the commission, one of whom may be the  
37 chair or vice chair, shall constitute a quorum.

38 (2) Six or more affirmative votes shall be required for any  
39 official action.

1 (3) The commission shall comply with the Bagley-Keene Open  
2 Meeting Act (Article 9 (commencing with Section 11120) of  
3 Division 3 of Title 2 of the Government Code), or its successor.  
4 The commission shall provide not less than 14 days' public notice  
5 for each meeting.

6 (4) The records of the commission pertaining to redistricting  
7 and all data considered by the commission are public records, open  
8 to inspection by members of the public upon request, except that  
9 the commission may withhold from public inspection preliminary  
10 drafts, notes, and communications between commission members,  
11 staff, and consultants.

12 (5) Written or verbal communication with any commission  
13 member outside of a public hearing, other than by staff or by legal  
14 counsel, is prohibited as to any matter on which the commission  
15 is required to meet pursuant to paragraph (3). This paragraph does  
16 not prohibit any communication between commission members  
17 that is permitted by the Bagley-Keene Open Meeting Act or its  
18 successor outside of a public hearing.

19 (b) The duties of the commission shall include all of the  
20 following:

21 (1) Establishing Senate, Assembly, congressional, and State  
22 Board of Equalization districts pursuant to a mapping process for  
23 each district in accordance with the goals specified in paragraph  
24 (2).

25 (2) Establishing districts pursuant to paragraph (1) as necessary  
26 to achieve each of the following goals, prioritized according to the  
27 following order:

28 (A) Congressional districts shall each have equal population  
29 with other districts for the same office in compliance with the  
30 United States Constitution. Senate, Assembly, and State Board of  
31 Equalization districts shall each have equal population with other  
32 districts for the same office, to the extent practicable, in compliance  
33 with the United States Constitution.

34 (B) Districts shall comply with the federal Voting Rights Act  
35 of 1965 (42 U.S.C. Sec. 1971 and following).

36 (C) Districts shall be geographically contiguous to the extent  
37 practicable.

38 (D) District boundaries shall respect communities of interest to  
39 the extent practicable.

1 (E) District lines shall use visible geographic features and city  
2 and county boundaries to the extent practicable.

3 (F) Districts shall be geographically compact to the extent  
4 practicable.

5 (c) (1) The commission shall establish and implement an open  
6 and noticed hearing process for public input and deliberation. The  
7 public hearing process shall include at least the following three  
8 stages: (A) hearings to receive public input before the commission  
9 draws any maps; (B) hearings following each drawing and display  
10 of proposed maps; and (C) hearings following the drawing and  
11 display of the proposed final maps.

12 (2) The commission shall propose and implement a plan to  
13 provide the public access to United States census data and to make  
14 software available to the public for drawing maps and providing  
15 input through the public hearing process. At the first two stages,  
16 the commission shall display the maps created pursuant to  
17 subdivision (b) of Senate, Assembly, congressional, and State  
18 Board of Equalization districts to the public for comment, in a  
19 manner designed to achieve the widest public dissemination  
20 reasonably possible, and public comment shall be taken for at least  
21 30 days from the date of public display. Either the Senate or the  
22 Assembly, or both, may act within this period to make  
23 recommendations to the commission by majority or by minority  
24 report, which recommendations shall be considered by the  
25 commission.

26 (d) The commission shall, after consideration of public  
27 comments and recommendations made by the Senate or Assembly  
28 pursuant to subdivision (c), and having made every effort to draw  
29 the proposed maps in compliance with the goals listed in paragraph  
30 (2) of subdivision (b), establish the boundaries of the final maps  
31 for Senate, Assembly, congressional, and State Board of  
32 Equalization districts, and shall certify those districts to the  
33 Secretary of State. The approval of the final boundaries shall be  
34 by majority vote of the membership of the commission, and  
35 requires that one or more votes for approval be cast by members  
36 of the commission registered with each of the two largest political  
37 parties in California based on party registration, and that one or  
38 more votes for approval be cast by members of the commission  
39 who are not registered with either of these two political parties.

1 (e) The commission shall issue, with its final plan, a report that  
2 explains the basis on which the commission made its decisions in  
3 achieving compliance with the goals listed in paragraph (2) of  
4 subdivision (b), particularly where compliance with one goal  
5 resulted in less than full compliance with another. The report shall  
6 define or describe, as applicable, the terms and standards used in  
7 drawing the maps.

8 SEC. 5. (a) In 2009, and annually thereafter, the Governor  
9 shall include in the Governor’s Budget submitted to the Legislature  
10 pursuant to Section 12 of Article IV an amount of funding  
11 sufficient to meet the estimated expenses of the subsequent  
12 redistricting process occurring pursuant to this article, and shall  
13 make adequate office space available for the operation of the panel  
14 and commission. The necessary appropriation for this purpose  
15 shall be made in the annual Budget Act.

16 (b) The panel and commission, with fiscal oversight from the  
17 Department of Finance or its successor, shall have procurement  
18 and contracting authority and may hire staff and consultants,  
19 exempt from the civil service requirements of Article VII, for the  
20 purposes of this article, including legal representation. The  
21 commission shall establish criteria for the hiring and removal of  
22 staff and consultants, and may apply the provisions of subdivision  
23 (d) of Section 1 to the hiring of staff and consultants to the extent  
24 practicable.

25 (c) The commission has standing in legal actions regarding a  
26 redistricting plan and to establish whether funds or other resources  
27 provided for the operation of the commission are adequate. The  
28 commission has sole authority to determine whether the Attorney  
29 General, or legal counsel hired or selected by the commission,  
30 shall represent the people of the State in the legal defense of a  
31 redistricting plan.

32 (d) (1) The California Supreme Court has original and exclusive  
33 jurisdiction in all proceedings in which the validity or interpretation  
34 of a redistricting plan adopted by the commission is at issue.

35 (2) Any affected elector may file a petition for a writ of mandate  
36 or a writ of prohibition to challenge a redistricting plan, within 45  
37 days after the plan has been certified by the commission to the  
38 Secretary of State, to bar the Secretary of State from implementing  
39 the plan on the grounds that the filed plan violates this Constitution,  
40 the United States Constitution, or any federal statute.

1 (3) The court shall act expeditiously on the petition. If the court  
2 determines that a redistricting plan adopted by the commission  
3 violates this Constitution, the United States Constitution, or any  
4 federal statute, the court shall fashion the relief that it deems  
5 appropriate to remedy that violation and otherwise accomplish the  
6 purposes of this article.

7 SEC. 6. (a) Members of the panel and the commission are  
8 eligible for reimbursement of personal expenses incurred in  
9 connection with the duties performed for the commission pursuant  
10 to law. For purposes of the reimbursement of expenses, a member's  
11 residence is deemed to be the member's post of duty.

12 (b) The commission may not meet or incur expenses after the  
13 redistricting plan becomes final pursuant to subdivision (d) of  
14 Section 4, except with respect to any pending litigation or approval  
15 by the federal government concerning the plan, to revise districts  
16 if required by court order, or if the number of Senate, Assembly,  
17 congressional, or State Board of Equalization districts is changed.

18 (c) For purposes of this article, "day" means a calendar day,  
19 except that if the final day of a period within which an act is to be  
20 performed is a Saturday, Sunday, or holiday, the period is extended  
21 to the next day that is not a Saturday, Sunday, or holiday.

22 (d) This article is self-executing.