



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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February 8, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10061

TO: All County Clerks/Registrars of Voters and Proponent

FROM:


Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1451, Related to Redistricting

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**ELIMINATES STATE COMMISSION ON
REDISTRICTING. CONSOLIDATES AUTHORITY
FOR REDISTRICTING WITH ELECTED REPRESENTATIVES.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

The proponent of the above-named measure is:

Daniel Lowenstein
c/o Fredic D. Woocher
Strumwasser & Woocher LLP
10940 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90024

(310) 576-1233

#1451

**ELIMINATES STATE COMMISSION ON
REDISTRICTING. CONSOLIDATES AUTHORITY
FOR REDISTRICTING WITH ELECTED REPRESENTATIVES.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required:694,354
California Constitution, Article II, Section 8(b)
2. Official Summary Date:Friday, 02/05/10
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elec. Code § 336) Friday, 02/05/10
 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elec. Codes §§ 336, 9030(a)).Monday, 07/05/10
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elec. Code § 9030(b)).....Thursday, 07/15/10

(If the Proponent files the petition with the county on a date prior to
07/05/10, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties.....Saturday, 07/24/10*
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(Elec. Code § 9030(d)(e)).....Friday, 09/03/10

* Date varies based on the date of county receipt.

INITIATIVE #1451
Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 07/24/10, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elec. Code §§ 9030(f)(g), 9031(a))Monday, 09/13/10*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). Monday, 10/25/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 09/13/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033).....Friday, 10/29/10*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 J STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

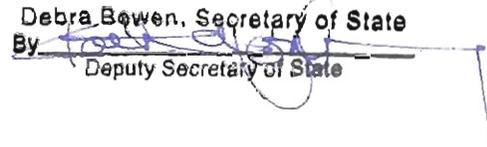
Public: (916) 445-9555
Telephone: (916) 445-4752
Facsimile: (916) 324-8835
E-Mail: Krystal.Paris@doj.ca.gov

February 5, 2010

FILED
In the office of the Secretary of State
of the State of California

FEB 05 2010

Honorable Debra Bowen
Secretary of State of the State of California
State of California Elections
1500 11th Street, 5th Floor
Sacramento, CA 95814

Debra Bowen, Secretary of State
By  Deputy Secretary of State

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code, section 9004, you are hereby notified that on this day we sent our title and summary for each of the following proposed initiatives to the respective proponent:

- 09-0099, "The Increased Lottery Funding for Schools and Lottery Public Accountability Act of 2010."
- 09-0107, "Financial Accountability in Redistricting Act."

A copy of the title and summary and text of each proposed initiative is enclosed. Thank you.

Sincerely,


KRYSTAL M. PARIS
Initiative Coordinator

For EDMUND G. BROWN JR.
Attorney General

February 5, 2010

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Proponents:

09-0099

Mr. Matthew, J. Geyer
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
Attn.: Chip Nielsen
2350 Kerner Blvd., Suite 250
San Rafael, CA 94901

09-0107

Professor Daniel Lowenstein
c/o Fredric D. Woocher, Esq.
Strumwasser & Woocher LLP
10940 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90024

February 5, 2010
Initiative 09-0107

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**ELIMINATES STATE COMMISSION ON REDISTRICTING. CONSOLIDATES
AUTHORITY FOR REDISTRICTING WITH ELECTED REPRESENTATIVES.**

INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Eliminates 14-member redistricting commission selected from applicant pool picked by government auditors.

Consolidates authority for establishing state Assembly, Senate, and Board of Equalization district boundaries with elected state representatives responsible for drawing congressional districts. Reduces budget, and imposes limit on amount Legislature may spend, for redistricting.

Provides that voters will have the authority to reject district boundary maps approved by the Legislature. Requires populations of all districts for the same office to be exactly the same.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Likely decrease in state redistricting costs totaling several million dollars every ten years.** (09-0107.)

December 28, 2009

Via Overnight Delivery

09 - 0107

Ms. Krystal Paris, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

RECEIVED
DEC 29 2009

Re: Request for Preparation of Title and Summary

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. Paris:

I am the proponent of the enclosed initiative measure, which is entitled "Financial Accountability in Redistricting Act." Pursuant to article II, section 10(d), of the California Constitution and section 9002 of the California Elections Code, I hereby request the preparation of a title and summary of the chief purposes and points of the proposed measure. Enclosed is a check for \$200 made payable to the State of California.

I am a registered voter of California. My residence address is set forth in an attachment hereto, which I request be kept confidential following verification of my status as a registered voter. I have also signed and attached the statement required pursuant to Elections Code section 9608.

You are hereby authorized to direct all further inquiries and correspondence regarding this proposed measure to the following person:

Fredric D. Woocher, Esq.
Strumwasser & Woocher LLP
10940 Wilshire Boulevard, Suite 2000
Los Angeles, California 90024
fwoocher@strumwooch.com
(310) 576-1233

Sincerely,

Professor Daniel Lowenstein

SECTION 1. Title.

This Act shall be known and may be cited as the “Financial Accountability in Redistricting Act” or “FAIR Act.”

SECTION 2. Findings and Purpose.

The People of the State of California hereby make the following findings and declare their purpose in enacting the FAIR Act is as follows:

(a) Our political leadership has failed us. California is facing an unprecedented economic crisis and we, the people (not the politicians), need to prioritize how we spend our limited funds. We are going broke. Spending unlimited millions of dollars to create multiple new bureaucracies just to decide a political game of Musical Chairs is a waste – pure and simple. Under current law, a group of unelected commissioners, making up to \$1 million a year in cumulative salary, preside over a budget that cannot be cut even when state revenues are shrinking. This reform will cut wasteful spending on unnecessary bureaucracies whose sole purpose is to draw districts for politicians. This initiative reform provides a permanent cap on this kind of spending, and prohibits any spending increases without approval by the voters. It will save many millions of dollars.

(b) Under current law, three randomly selected accountants decide who can be one of the fourteen unelected commissioners who head a bureaucracy that wields the power to decide who represents us. This reform will ensure that those who make the decisions are accountable to the voters and that all their decisions are subject to approval by the voters.

(c) Voters should always have the final voice. Under current law, voters can be denied the right to pass a referendum against unfair Congressional district gerrymanders. A referendum means that we, the voters, have a right to say “no” to the Legislature, say “no” to a statute with which we disagree. Under current law, protections to ensure a transparent, open process can be changed against the will of the people. This initiative reform ensures that voters will always have the right to challenge any redistricting plan (including the Congressional plan) and that no government officials can deny the public the right to participate in the process.

(d) One-person-one-vote should mean something. But under current law, some people can count 10% more than others. Under current law, one district could have almost a million more people than another. That is not fair representation, it is the opposite. Historically, severely under-populated districts were called “Rotten Boroughs.” This practice must be stopped. This reform will ensure that all districts are precisely the same size and that every person counts equally.

(e) Unaccountable appointed officials cannot be trusted to serve the interests of our communities. The last time unelected officials drew districts, they split twice as many cities as those drawn by people who were accountable to the voters. This fracturing of cities diminishes the power of local communities. This reform strengthens protections against splitting counties and cities. We need reform to keep our communities and neighborhoods together so everyone has representation.

(f) Sacramento has become a full time game of Musical Chairs – where incumbent term-limited politicians serve out their maximum term in one office and then run for another office where they are a shoo in. This must stop! Current law gives State Assembly members the homefield advantage in running for the State Senate and gives State Senators the same advantage when running for the State Assembly. This is because current law mandates that in virtually all situations each State Senator represent 100% of two Assembly seats; each Assembly member represents 50% of a Senate district. Sacramento politicians already have access to millions of dollars from lobbyists and special interest groups. Stacking districts to further disadvantage

ordinary people (homeowner groups, small business, environmental and community activist groups) who don't have access to the special interest contributions that flow to Sacramento incumbents is outrageous. This reform ends this practice.

(g) "Jim Crow" districts are a throwback to an awful bygone era. Districting by race, by class, by lifestyle or by wealth is unacceptable. Yet the same proponents who backed the current failing law have also proposed mandating that all districts be segregated according to "similar living standards" and that districts include only people with "similar work opportunities." Californians understand these code words. The days of "country club members only" districts or of "poor people only" districts are over. This reform ensures these districts remain a thing of the past. All Californians will be treated equally.

SECTION 3. Amendment of Article II of the California Constitution.

SEC. 3.1. Section 9 of Article II of the California Constitution is amended to read:

SEC. 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State. None of these exceptions shall apply to any statutes or parts of statutes approving the final maps setting forth the district boundary lines for Congressional, Senate, Assembly, or State Board of Equalization districts.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

SECTION 4. Amendment of Article XXI of the California Constitution.

SEC. 4.1. Section 1 of Article XXI of the California Constitution is amended to read:

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 Congressional, State Senate, Assembly, and Board of Equalization districts in conformance with the following standards and process pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(a) Each member of ~~Congress~~ shall be elected from a single-member district.

(b) Districts shall comply with the United States Constitution. The population of all congressional districts shall be reasonably equal precisely equal with other districts for the same office. If precise population equality is mathematically impossible, a population variation of no more than plus or minus one person shall be allowed. After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4), and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving

~~compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.~~

(c) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following) and all federal law in effect at the time the districting plan is adopted.

(d) Districts shall be geographically contiguous.

(e) The geographical integrity of any city, county, city and county, or community of interest shall be respected in a manner that minimizes its division. No contiguous city, county, or city and county that has fewer persons than the ideal population of a district established by subdivision (b) shall be split except to achieve population equality, contiguity, or to comply with all federal constitutional and statutory requirements including the Voting Rights Act (42 U.S.C. Sec. 1971 and following).

~~(e) Congressional districts~~ (f) Districts for the same office shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

~~(d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings, provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open hearing requirements of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the Government Code, or its successor provisions of statute.~~

SEC. 4.2. Section 2 of Article XXI of the California Constitution is amended to read:

~~SEC. 2. (a) The Citizens Redistricting Commission shall draw new district lines (also known as "redistricting") for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.~~

~~(b) The Citizens Redistricting Commission (hereinafter the "commission")~~ SEC. 2. (a) The Legislature shall:
(1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves ~~itself~~ with integrity and fairness; and (4) apply this article in a manner that reinforces public confidence in the integrity of the redistricting process.

(b) The Legislature shall provide not less than 14 days public notice for each meeting dealing with redistricting. No bill setting forth the district boundary lines for Congressional, Senate, Assembly, or State Board of Equalization districts shall be amended in the three days prior to the passage of the bill in each house in its final form.

(c) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps.

(d) The records of the Legislature pertaining to redistricting and all data considered by the Legislature are public records and shall be posted in a manner that ensures immediate and widespread public access.

(e) The Legislature shall retain at least one legal counsel who has extensive experience and expertise in the implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following) and other federal and state legal requirements for redistricting.

(f) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of views expressed by such employee in any legislative session or hearing relating to redistricting.

(g) The Legislature shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and shall be promoted through a thorough outreach program in order to solicit broad public participation in the redistricting public review process. The hearing process shall include, at a minimum, (1) hearings to receive public input before the release of data by the United States Census Bureau for the most recent applicable decennial census, (2) hearings to receive public input before the Legislature draws any maps, and (3) hearings to receive public input following the drawing and display of any maps. In addition, hearings shall be supplemented with other activities as appropriate in order to further increase opportunities for the public to observe and participate in the review process. The Legislature shall display proposed maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of the initial public display of maps.

(h) For the two-year period beginning with November, 2010, and in each three-year period beginning with the year ending in nine thereafter, the Legislature shall expend no more than the lesser of (1) two and one-half million dollars (\$2,500,000), or (2) the amount expended pursuant to this subdivision in the immediately preceding redistricting process, to implement the redistricting process required by this article. For each of the redistricting processes beginning with the year 2020 and thereafter, the above amounts shall be adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision. This provision shall be deemed to constitute an absolute spending cap on the expenditure of public funds by the Legislature for the costs of implementing the redistricting process required by this article during the specified period.

~~—(c) (1) The selection process is designed to produce a Citizens Redistricting Commission that is independent from legislative influence and reasonably representative of this State's diversity.~~

~~—(2) The Citizens Redistricting Commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.~~

~~—(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.~~

~~—(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.~~

~~—(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The three final maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.~~

~~—(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning~~

from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.

~~—(d) The commission shall establish single member districts for the Senate, Assembly, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:~~

~~—(1) Districts shall comply with the United States Constitution. Senate, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.~~

~~—(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).~~

~~—(3) Districts shall be geographically contiguous.~~

~~—(4) The geographic integrity of any city, county, city and county, neighborhood, or community of interest shall be respected to the extent possible without violating the requirements of any of the preceding subdivisions. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.~~

~~—(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.~~

~~—(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.~~

~~—(c) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.~~

~~—(f) Districts for the Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.~~

~~(g) (i) By September 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve three Legislature shall enact one or more statutes approving four final maps that separately set forth the district boundary lines for the Congressional, Senate, Assembly, and State Board of Equalization districts. Every such statute shall be subject to referendum pursuant to Section 9 of Article II of this Constitution. Upon approval, the commission shall certify the three final maps to the Secretary of State.~~

~~—(h) The commission shall issue, with each of the three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.~~

~~—(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.~~

~~—(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance~~

~~with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.~~

SEC. 4.3. Section 3 of Article XXI of the California Constitution is amended to read:

~~SEC. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.~~

~~(b) (1) SEC. 3. (a) The California Supreme Court has original and exclusive jurisdiction in all state judicial proceedings in which a certified final map is challenged.~~

~~(2) (b) Any registered voter registered in this state may file a petition for a writ of mandate or writ of prohibition with the California Supreme Court, within 45 days after the enactment of commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the redistricting plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.~~

~~(3) The Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate.~~

~~(c) If final maps are not enacted in a timely manner, or if the Supreme Court determines that a final map violates this Constitution, the United States Constitution, or any federal statute, the California Supreme Court shall fashion the relief that it deems appropriate in accordance with the redistricting criteria and requirements set forth in Section 1 of this article. This relief may but need not extend the time for the Legislature to carry out its responsibilities.~~

SECTION 5. Amendment of Government Code.

SEC. 5.1. Chapter 3.2 (commencing with Section 8251) of Division I of Title 2 of the Government Code is repealed:

~~Chapter 3.2. Citizens Redistricting Commission~~

~~8251. Citizens Redistricting Commission General Provisions.~~

~~(a) This chapter implements Article XXI of the California Constitution by establishing the process for the selection and governance of the Citizens Redistricting Commission.~~

~~(b) For purposes of this chapter, the following terms are defined:~~

~~(1) "Commission" means the Citizens Redistricting Commission.~~

~~(2) "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.~~

~~—(3) "Panel" means the Applicant Review Panel.~~

~~—(4) "Qualified independent auditor" means an auditor who is currently licensed by the California Board of Accountancy and has been a practicing independent auditor for at least 10 years prior to appointment to the Applicant Review Panel.~~

~~—(c) The Legislature may not amend this chapter unless all of the following are met:~~

~~—(1) By the same vote required for the adoption of the final set of maps, the commission recommends amendments to this chapter to carry out its purpose and intent.~~

~~—(2) The exact language of the amendments provided by the commission is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor.~~

~~—(3) The bill containing the amendments provided by the commission is in print for 10 days before final passage by the Legislature.~~

~~—(4) The amendments further the purposes of this act.~~

~~—(5) The amendments may not be passed by the Legislature in a year ending in 0 or 1.~~

~~8252. Citizens Redistricting Commission Selection Process.~~

~~—(a) (1) By January 1 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall initiate an application process, open to all registered California voters in a manner that promotes a diverse and qualified applicant pool.~~

~~—(2) The State Auditor shall remove from the applicant pool individuals with conflicts of interest including:~~

~~—(A) Within the 10 years immediately preceding the date of application, neither the applicant, nor a member of his or her immediate family, may have done any of the following:~~

~~—(i) Been appointed to, elected to, or have been a candidate for federal or state office.~~

~~—(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.~~

~~—(iii) Served as an elected or appointed member of a political party central committee.~~

~~—(iv) Been a registered federal, state, or local lobbyist.~~

~~—(v) Served as paid congressional, legislative, or Board of Equalization staff.~~

~~—(vi) Contributed two thousand dollars (\$2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.~~

~~—(B) Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with the Governor, a Member of the Legislature, a member of Congress, or a member of the State Board of Equalization, are not eligible to serve as commission members. As used in this subdivision, a~~

member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in laws.

~~—(b) The State Auditor shall establish an Applicant Review Panel, consisting of three qualified independent auditors, to screen applicants. The State Auditor shall randomly draw the names of three qualified independent auditors from a pool consisting of all auditors employed by the state and licensed by the California Board of Accountancy at the time of the drawing. The State Auditor shall draw until the names of three auditors have been drawn including one who is registered with the largest political party in California based on party registration, one who is registered with the second largest political party in California based on party registration, and one who is not registered with either of the two largest political parties in California. After the drawing, the State Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors decline to serve on the panel, the State Auditor shall resume the random drawing until three qualified independent auditors who meet the requirements of this subdivision have agreed to serve on the panel. A member of the panel shall be subject to the conflict of interest provisions set forth in paragraph (2) of subdivision (a).~~

~~—(c) Having removed individuals with conflicts of interest from the applicant pool, the State Auditor shall no later than August 1 in 2010, and in each year ending in the number zero thereafter, publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.~~

~~—(d) From the applicant pool, the Applicant Review Panel shall select 60 of the most qualified applicants, including 20 who are registered with the largest political party in California based on registration, 20 who are registered with the second largest political party in California based on registration, and 20 who are not registered with either of the two largest political parties in California based on registration. These subpools shall be created on the basis of relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography. The members of the panel shall not communicate with any State Board of Equalization member, Senator, Assembly Member, congressional member, or their representatives, about any matter related to the nomination process or applicants prior to the presentation by the panel of the pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly.~~

~~—(e) By October 1 in 2010, and in each year ending in the number zero thereafter, the Applicant Review Panel shall present its pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly. No later than November 15 in 2010, and in each year ending in the number zero thereafter, the President pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, and the Minority Floor Leader of the Assembly may each strike up to two applicants from each subpool of 20 for a total of eight possible strikes per subpool. After all legislative leaders have exercised their strikes, the Secretary of the Senate and the Chief Clerk of the Assembly shall jointly present the pool of remaining names to the State Auditor.~~

~~—(f) No later than November 20 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall randomly draw eight names from the remaining pool of applicants as follows: three from the remaining subpool of applicants registered with the largest political party in California based on registration, three from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. These eight individuals shall serve on the Citizens Redistricting Commission.~~

~~—(g) No later than December 31 in 2010, and in each year ending in the number zero thereafter, the eight commissioners shall review the remaining names in the pool of applicants and appoint six applicants to the commission as follows: two from the remaining subpool of applicants registered with the largest political~~

party in California based on registration, two from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. The six appointees must be approved by at least five affirmative votes which must include at least two votes of commissioners registered from each of the two largest parties and one vote from a commissioner who is not affiliated with either of the two largest political parties in California. The six appointees shall be chosen to ensure the commission reflects this state's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.

~~8252.5. Citizens Redistricting Commission Vacancy, Removal, Resignation, Absence.~~

~~—(a) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission may be removed by the Governor with the concurrence of two thirds of the Members of the Senate after having been served written notice and provided with an opportunity for a response. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the Attorney General for criminal prosecution or the appropriate administrative agency for investigation.~~

~~—(b) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled within the 30 days after the vacancy occurs, from the pool of applicants of the same voter registration category as the vacating nominee that was remaining as of November 20 in the year in which that pool was established. If none of those remaining applicants are available for service, the State Auditor shall fill the vacancy from a new pool created for the same voter registration category in accordance with Section 8252.~~

~~8253. Citizens Redistricting Commission Miscellaneous Provisions.~~

~~—(a) The activities of the Citizens Redistricting Commission are subject to all of the following:~~

~~—(1) The commission shall comply with the Bagley Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), or its successor. The commission shall provide not less than 14 days' public notice for each meeting, except that meetings held in September in the year ending in the number one may be held with three days' notice.~~

~~—(2) The records of the commission pertaining to redistricting and all data considered by the commission are public records that will be posted in a manner that ensures immediate and widespread public access.~~

~~—(3) Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission that is otherwise permitted by the Bagley Keene Open Meeting Act or its successor outside of a public hearing.~~

~~—(4) The commission shall select by the voting process prescribed in paragraph (5) of subdivision (c) of Section 2 of Article XXI of the California Constitution one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same party.~~

~~—(5) The commission shall hire commission staff, legal counsel, and consultants as needed. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in paragraph (2) of subdivision (a) of Section 8252 to the hiring of staff to the extent applicable. The Secretary of State shall provide support~~

functions to the commission until its staff and office are fully functional. Any individual employed by the commission shall be exempt from the civil service requirements of Article VII of the California Constitution. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes including at least three votes of members registered from each of the two largest parties and three votes from members who are not registered with either of the two largest political parties in California.

—(6) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's attendance or scheduled attendance at any meeting of the commission.

—(7) The commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the commission draws any maps and hearings following the drawing and display of any commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of public display of any map.

—(b) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps. Upon the commission's formation and until its dissolution, the Legislature shall coordinate these efforts with the commission.

8253.5. Citizens Redistricting Commission Compensation.

—Members of the commission shall be compensated at the rate of three hundred dollars (\$300) for each day the member is engaged in commission business. For each succeeding commission, the rate of compensation shall be adjusted in each year ending in nine by the cumulative change in the California Consumer Price Index, or its successor. Members of the panel and the commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed pursuant to this act. A member's residence is deemed to be the member's post of duty for purposes of reimbursement of expenses.

8253.6. Citizens Redistricting Commission Budget, Fiscal Oversight.

—(a) In 2009, and in each year ending in nine thereafter, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of State that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process. The Governor shall also make adequate office space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three year period. The appropriation made shall be equal to the greater of three million dollars (\$3,000,000), or the amount expended pursuant to this subdivision in the immediately preceding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this

~~subdivision. The Legislature may make additional appropriations in any year in which it determines that the commission requires additional funding in order to fulfill its duties.~~

~~—(b) 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, exempt from the civil service requirements of Article VII of the California Constitution, for the purposes of this act, including legal representation.~~

SECTION 6. Conflicting Ballot Propositions.

(a) In the event that this measure and another measure(s) relating to the redistricting of Senate, Assembly, Congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and given full force of law.

SECTION 7. Severability.

The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect any other provisions or applications that can be given effect without the invalid provision or application.