



OFFICE OF THE CITY MANAGER

AUGUST 7, 2006

TO: CITY COUNCIL

FROM: CITY MANAGER

SUBJECT: ADDITIONAL INFORMATION ON SENATE CONSTITUTIONAL AMENDMENT 3 (LOWENTHAL): ELECTIONS: REDISTRICTING

At the Legislative Policy Committee meeting on July 25, 2006, staff presented an Agenda Report recommending that the City Council support Senate Constitutional Amendment 3 (Lowenthal) regarding election redistricting. At the meeting, the Committee concurred that this item be forwarded to the full City Council, but that staff include information from organizations opposing this legislation. Specifically, at the meeting it was mentioned that the National Association of Latino Elected and Appointed Officials (NALEO) had raised some concerns in a letter to Senator Alan Lowenthal.

Attached is the letter from NALEO to Senator Lowenthal dated March 14, 2006. Since the time the letter was sent, revisions have been made to SCA 3 that have incorporated some of NALEO's issues. Based on City staff's discussion with NALEO, there are still four issues which they have continued to communicate to Senator Lowenthal's office. Those issues are:

1. *Nesting requirement:* They are opposed to the nesting requirement which states that each State Senate District be comprised of two contiguous State Assembly Districts because this could lead to the creation of districts that deny Latino and other federally-protected minority voters the opportunity to elect the candidates of the choice. Instead, they would like more flexibility to assemble the Senate and Assembly Districts.
2. *Diversity requirement for the Commission:* They want the Commission to be diverse and are recommending that the bill contain stronger language on diversity requirements.

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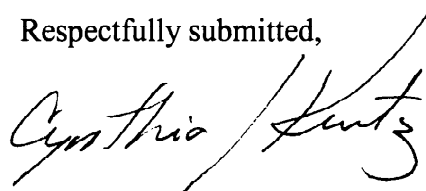
3. *Public Hearing Requirements:* They believe that language should be strengthened to require and encourage public participation and input throughout the entire process.
4. *Technical matters:* They have pointed out some inconsistencies between the interim and final plan that still need to be correct.

The latest version of the bill had not been made available to the public, so it is not certain if any of the above issues are now addressed.

Other issues which opponents of SCA 3 have raised include:

- There is no criteria governing the standards that would be used by a proposed panel of 10 retired judges of the Court of Appeals to nominate candidates for appointment to the Redistricting Commission.
- The State and Assembly Districts should be held to current Federal law in terms of population deviation. The Federal Courts have let State Senate and State Assembly Districts have a deviation as high as 10 percent unless they contain districts whose shape and size violate Federal constitutional standards.

Respectfully submitted,



CYNTHIA J. KURTZ
City Manager

CJK:es



Educational Fund empowering Latinos to participate fully in the American political process

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School Board Member, East Chicago, IN

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Taos County Commissioner, NM

Hon. Juan Zapata
Florida State Representative

Executive Director

Mr. Arturo Vargas

†Deceased

March 14, 2006

Honorable Alan Lowenthal
State Capitol, Room 3048
Sacramento, CA 95814

Dear State Senator Lowenthal:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, I am writing to share our perspectives about SCA3, the proposed legislation which would create an independent redistricting commission in California. Redistricting is a fundamental component of our representative democracy and we firmly believe that the process should be constructed in a way that guarantees adherence to the Constitution, federal law and the Voting Rights Act, and the full and meaningful participation of the public.

Our Board of Directors has developed principles that we believe should guide a redistricting process, whether it is conducted by a state legislature, an independent commission, or some other entity. In addition, our Board has set forth criteria that should be applied in the development and evaluation of independent redistricting commission proposals. These principles and criteria are contained in the attached document.

In this letter, we will set forth our concerns about several provisions of SCA3 which we believe would create a redistricting process that is not consistent with the principles adopted by our Board. We have also engaged in discussions with a coalition of California organizations that are providing you with their perspectives on SCA3, including the AARP, California Common Cause, and the League of Women Voters of California (the "Coalition"). While we agree with many of the Coalition's recommendations, there are also some issues where our perspectives are different from those of the Coalition, and we will highlight those issues where the differences are significant.

We have attached a mark-up of SCA3 that reflects our recommended changes for the legislation. In some cases, there have been ongoing discussions about how to draft specific legislative language to implement the changes we propose. In those cases, we have indicated a general recommendation for those provisions, with a view to providing specific legislative language in the future.

Section 1(a): Nesting requirement: We oppose the nesting requirement of this section because we believe that past redistrictings in California (particularly in 1991) have demonstrated that the requirement can result in the creation of districts that violate the Voting Rights Act of 1965 (VRA).

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Section 1(c): Size of Commission and nominee pool: We believe that the size of the redistricting commission (the "Commission") should be expanded from five to 11 members to ensure that the members are representative of the state's gender, racial, ethnic, cultural, and geographic diversity. In a state as diverse as California, it will be virtually impossible to achieve this goal with a commission composed of only five members. For this reason, we also propose that the number of nominees be increased from 25 to 55. We have proposed other conforming changes to Section 1(c) to take into account the larger commission and nominee pool size.

Section 1(d): Restrictions on political activities of Commission nominees: We understand that many members of the Coalition favor increasing the three-year limitation on political activities to 10 years. We support the three-year restriction currently in the bill, because we believe that the 10-year restriction is not reasonable, and would actually prevent and deter individuals with valuable expertise from serving on the Commission.

Section 2(a)(1): Appointment and composition of panel of retired judges that selects Commission nominees: We are aware of the ongoing discussion regarding whether the Judicial Council should be the entity responsible for appointing the panel of retired judges that selects the nominees for the Commission. We understand that the Judicial Council is primarily responsible for administrative matters relating to the operations of California's court system, and may not have the resources, capacity or expertise to make the appointments envisioned under SCA3. We hope that there will continue to be discussions about this issue, with a view to ascertaining whether there is a more appropriate entity that should be responsible for appointing the panel.

We have also added a provision requiring that the panel be equally divided between retired judges who were appointed by Governors from each major political party in the state. We understand that this provision as drafted could be problematic if a time comes when what is currently a third-party becomes one of the two largest in the state, and we are exploring some drafting alternatives to address this issue.

Additionally, we have also added provisions in this section, and in Sections 2(a)(1) and 2(e) to require diversity within the panel of retired judges and the Commission itself. Some issues regarding these provisions are discussed in more detail below.

Section 2(a)(4): Composition of nominees: We have deleted the phrase "make every effort" to strengthen the diversity mandate for the nominees pool – we believe that the panel of retired judges should ensure actually ensure that the nominees are diverse rather than merely make every effort to do so.

Section 2(b): Commissioners appointed by Legislature leadership: As noted earlier, we support increasing the number of Commission members from five to 11. Of those 11 members, we believe that the Legislature's leadership should appoint eight, and we have proposed a simple procedure allowing each leader to appoint two Commissioners.

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New Section 2(d): Selection of unaffiliated Commissioners: We propose that three of the 11 Commissioners should be selected from the nominees who are not affiliated with either major political party. We understand that there has been extensive discussion between members of the Coalition on how to best select the three unaffiliated Commissioners – we believe the most straightforward and simple approach is a “lottery” among the unaffiliated nominees.

New Section 2(e): Diversity requirement for the Commission: We propose adding a requirement that the Commission itself be representative of the state’s diversity. We understand that there have been questions raised regarding how such a provision would be enforced. In order to address this concern, we propose adding a provision later in the bill ensuring that the Commission appointment process is open for judicial review before the Commission is officially sworn in.

Section 2(f): Selection of Commission chair and vice-chair: We believe that the Commissioners themselves should be able to select their own chair and vice-chair, without a requirement that the chair be one of the unaffiliated Commissioners.

Section 4(a)(2): Quorum and voting requirements: With a proposed 11-member Commission, we recommend that six members constitute a quorum, and at least six votes be required for the conduct of any administrative business of the Commission. We also propose that a greater number of affirmative votes – at least nine – be required for the approval of maps produced by the Commission. We believe that this requirement will ensure that those maps must be approved by at least one of the unaffiliated members of the Commission

In this connection, we note that the Coalition is considering a requirement that the final map be approved by a minimum number of Commissioners with specific partisan affiliations. We do not agree with this approach, because we believe it actually encourages Commissioners to view themselves as representatives of the political party that appointed them to the Commission whose mission on the Commission is to achieve what is best for that party. The requirement also reinforces the public perception that they are such representatives. We believe the minimum nine-member approval requirement is a more effective approach for ensuring that maps cannot be adopted without the support of at least one unaffiliated members of the Commission.

Section 4(a)(4): Additional requirement for mapping software: We have added a requirement that the Commission make available to the public redistricting data, and mapping software that can be used for the review and preparation of redistricting maps.

Sections 4(b)(1) and (2): Duties of Commission in initiating mapping: We propose eliminating the requirement that the Commission initiate the mapping process by creating districts in a “gridlike pattern” across the state. We agree with the Coalition that this is a cumbersome requirement that could actually impair the achievement of the goals and criteria set forth for the redistricting plan later in the legislation.

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Sections 4(b)(2)(A) – (G): Criteria for redistricting plans: Consistent with our Board principles, we believe that compliance with the U.S. Constitution and the VRA should be the highest-ranked priority for the redistricting maps. We support the addition of language proposed by the Coalition elaborating the need for fair and effective representation of all of the state's citizens. We propose eliminating the language explicitly mandating that districts for each level of office have equal population, because we believe that compliance with the U.S. Constitution would essentially compel this result.

Based on our Board principles, we also favor making compactness, contiguity, communities of interest, and consistency with geographic features and political subdivision boundaries of equal priority with each other. We also propose eliminating the requirement for "competitive districts." First, we believe that "competitiveness" is a somewhat vague concept, and there is no clear standard for assessing or measuring it for redistricting plans. Additionally, we believe that even if a feasible standard for competitiveness were developed, it would be difficult to achieve this standard and meet the other criteria for redistricting plans set forth in the legislation.

Section 4(b)(3) (G): Restriction on consideration of incumbents' residency: We are opposed to the restriction on consideration of the residency of incumbents during the redistricting process, because that information can be extremely relevant to ensuring VRA compliance and the ability of federally-protected voters to elect the candidates of their choice. We are aware that the Department of Justice has blocked redistricting plans where a district was created and the minority incumbent was removed from the district. Removing an incumbent from a district where a group of federally-protected voters does not make up a clear majority of the district's voters could well cause those voters to lose their elected representative of choice.

Section 4(b)(4): Public hearing requirements: We believe that the language of this section should be expanded and strengthened in order to ensure that the public has a meaningful opportunity to participate in the redistricting process. There should be a requirement for several hearings to be held in several different parts of the state, both before and after the Commission releases proposed maps. The notice requirements for such hearings should provide the public with an adequate amount of time to prepare for the hearings. This section should also include a provision explicitly allowing members of the public to submit their own proposed maps for review by the Commission. Finally, the section should require the Commission to consider holding additional hearings above any minimum required if the Commission receives a significant number of requests from the public for additional hearings.

Subdivision 5(a): Strengthening the funding provisions: We agree with the recommendation of the Coalition that the mechanism for funding the Commission be strengthened by clearly specifying an appropriate baseline of funding which will increase with each successive decade relative to the needs of each Commission and the redistricting process.

Subdivision 5(d)(3): Judicial review of appointment process: As noted earlier, we propose adding a provision ensuring that the Commission appointment process is open for judicial review before the Commission is officially sworn in.

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Thank you for your consideration of our comments on SCA3. We very much appreciate your willingness to engage in a full and robust discussion about the future of redistricting in California, and we look forward to continuing our work together on this issue which is so critical for the state's democracy.

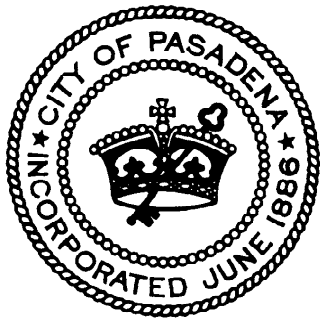
Sincerely,



Arturo Vargas
Executive Director

Attachments

cc: Members of the California Senate Committee on Elections, Reapportionment and
Constitutional Amendments
Members of the California Assembly Committee on Elections and Redistricting
The Honorable Don Perata, California State Senate President Pro Tem
The Honorable Fabian Núñez, Speaker of the Assembly



Agenda Report

TO: CITY COUNCIL **DATE:** July 31, 2006
THROUGH: LEGISLATIVE POLICY COMMITTEE (July 25, 2006)
FROM: CITY MANAGER
SUBJECT: RECOMMENDATION TO SUPPORT SCA 3 (LOWENTHAL)
ELECTIONS: REDISTRICTING

RECOMMENDATION

It is recommended that the City Council support Senate Constitutional Amendment 3 "Election Redistricting" authored by Senator Alan Lowenthal and Senator Roy Ashburn which will reform the redistricting process. And authorize the Mayor to send correspondence to the appropriate authorities stating Pasadena's position.

BACKGROUND:

Current law provides that in the year following the year in which the Federal census is taken, the State Legislature shall adjust the boundary lines of the Senate, Assembly, Congressional, and Board of Equalization districts in conformance with certain established guidelines. Senate Constitutional Amendment 3 (SCA 3) is designed to enhance government responsiveness, restore trust through transparency, and eliminate barriers to access and participation by creating an independent redistricting commission composed of 11 members representative of California's diversity, partisan balance, and geography, for all future redistricting.

Critics of the current redistricting process argue congressional and legislative elections are not competitive largely due to the process of adopting new districts. Last November, Proposition 77, another initiative intended to create a redistricting panel, failed passage by a 59.8 percent to 40.2 percent vote on the November 8, 2005 Statewide Special Election ballot. The initiative would have

required a three-member panel of retired judges, selected by legislative leaders, to adopt a new redistricting plan for California's Senate, Assembly, congressional and Board of Equalization districts immediately upon passage and again after each federal decennial census. However, there is still support for a redistricting process that would take the power to draw lines out of the hands of the incumbents and place it in the hands of an independent, representative, and balanced commission. SCA 3 represents the blueprint for a process that has been characterized as being fair and open in election redistricting.

Highlights of SCA 3 include:

- Provide that certain records of the redistricting commission are public records
- Grant the California Supreme Court original and exclusive jurisdiction over all challenges to a redistricting plan adopted by the commission
- Require the establishment of a pool of 50 candidates for appointment to the commission, as nominated by a panel of 10 retired judges of the Court of Appeal, would require the selection and appointment of the 11 commission members from this pool according to a specified procedure, and would provide for the filling of vacancies on the commission.
- Require the Governor in 2009, and annually thereafter, to include in the Governor's Budget an amount of funding sufficient to meet the estimated redistricting expenses.

The following organizations are on record as supporting SCA 3:

League of Women Voters of California
American Association of Retired Persons, California
California Common Cause
California Metals Coalition

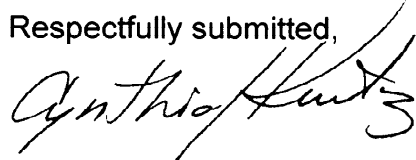
Bill Status

SCA 3 is currently awaiting a floor vote in the Senate before it moves on to the Assembly. If successful, it could still make the November 2006 election ballot.

FISCAL IMPACT:

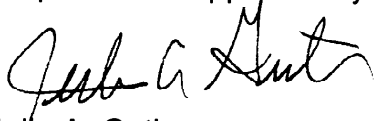
No fiscal impact will be incurred as a result of supporting SCA 3.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cynthia J. Kurtz', written in a cursive style.

CYNTHIA J. KURTZ
City Manager

Prepared and approved by:

A handwritten signature in black ink, appearing to read 'Julie A. Gutierrez', written in a cursive style.

Julie A. Gutierrez
Assistant City Manager

AMENDED IN SENATE JUNE 13, 2006
AMENDED IN SENATE MARCH 22, 2006
AMENDED IN SENATE MARCH 9, 2006
AMENDED IN SENATE JANUARY 4, 2006
AMENDED IN SENATE JULY 5, 2005
AMENDED IN SENATE JUNE 27, 2005
AMENDED IN SENATE JUNE 13, 2005

Senate Constitutional Amendment

No. 3

Introduced by Senators Lowenthal and Ashburn
(Principal coauthor: Senator Simitian)
(Principal coauthor: Assembly Member Richman)
(Coauthors: Senators Alquist, Kehoe, and Soto)
(Coauthors: Assembly Members Canciamilla, Leno, Nation, and
Wolk)

December 6, 2004

Senate Constitutional Amendment No. 3—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 3, as amended, Lowenthal. Elections: redistricting.
Existing provisions of the California Constitution require that each member of the Senate, Assembly, Congress, and the State Board of Equalization be elected from a single-member district.

This measure would require that each of the 40 Senate districts be divided into 2 Assembly districts.

Existing provisions of the California Constitution require the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the state Senate, Assembly, congressional, and State Board of Equalization districts in accordance with specified standards.

This measure would delete this provision, and would instead create a procedure for the appointment of an independent redistricting commission, composed of 11 members, that would be charged with establishing Senate, Assembly, congressional, and State Board of Equalization districts of equal population ~~in a grid-like pattern~~ across the state, adjusted as necessary to accommodate various goals, as specified.

This measure would provide that certain records of the redistricting commission are public records.

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 commission 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 be unconstitutional, this measure would require the court to provide relief as it deems appropriate.

This measure would, among other things, require the establishment of a pool of ~~25~~ 50 candidates for appointment to the commission, as nominated by a panel of 10 retired judges of the Court of Appeal, would require the selection and appointment of the 11 commission members from this pool according to a specified procedure, and would provide for the filling vacancies on the commission.

This measure would require ~~the Department of Finance to submit to the Legislature a recommendation for the Governor in 2009, 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, to be appropriated by the Legislature by majority vote and would require the Legislature to make the necessary appropriation in the annual Budget Bill.~~ It would authorize the commission to contract and to hire staff and consultants, including legal representation, for purposes of this measure. It would provide

that commissioners are eligible for reimbursement of expenses pursuant to law.

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

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2005–06 Regular
3 Session commencing on the sixth day of December 2004,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 First—That Article XXI thereof is repealed.

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

9

10 ARTICLE XXI

11 Reapportionment of Senate, Assembly, Congressional, and
12 State Board of Equalization Districts

13

14 SECTION 1. (a) Each member of the Senate, Assembly,
15 Congress, and the State Board of Equalization shall be elected
16 from a single-member district. The territory of each Senate
17 district established pursuant to this section shall be divided into
18 two Assembly districts.

19 (b) By February 28 of each year ending in the number one, the
20 Independent Redistricting Commission shall be established to
21 provide for the redistricting of Senate, Assembly, congressional,
22 and State Board of Equalization districts. As used in this article,
23 “commission” means the Independent Redistricting Commission.

24 (c) The commission shall consist of 11 members and all of the
25 following shall apply:

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

28 (2) Of the eight commission members appointed pursuant to
29 subdivisions (b) and (c) of Section 2, no two or more may reside
30 in the same county.

31 (3) Each commission member shall be a registered California
32 voter who has been continuously registered with the same
33 political party, or has been registered as unaffiliated with a
34 political party, for three or more years immediately preceding
35 appointment.

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

5 (d) (1) Within the three years immediately preceding
 6 appointment, a commission member may not have done either of
 7 the following:

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

10 (B) Served as an officer of a political party, a registered-~~paid~~
 11 lobbyist, or an officer of a candidate's campaign committee.

12 (2) Legislative and congressional staff and consultants,
 13 persons under a contract with the Legislature, and any person
 14 with a financial or family relationship with the Governor, a
 15 Member of the Legislature, a Member of Congress, or a member
 16 of the State Board of Equalization, are not eligible to serve as
 17 members of the commission.

18 (3) A member of the commission shall be ineligible, during his
 19 or her term of office, and for three years thereafter, to hold public
 20 office in this State or to register as a ~~paid~~ lobbyist.

21 SEC. 2. (a) (1) A panel of 10 retired judges of the Court of
 22 Appeal, appointed by the Judicial Council, shall nominate
 23 candidates for appointment to the commission.

24 (2) *Of the 10 panelists, 5 shall be registered with each of the*
 25 *two largest political parties in California based on party*
 26 *registration.*

27 (3) *Each panelist shall be a registered voter in this State who*
 28 *has been continuously registered with the same political party for*
 29 *three or more years immediately preceding his or her*
 30 *appointment.*

31 ~~(2)~~

32 (4) By January 8 of each year ending in the number one, the
 33 panel shall establish a pool of qualified persons who are willing
 34 to serve on the commission, *and submit a list of the names of*
 35 *those persons to the President pro Tempore of the Senate, the*
 36 *minority floor leader of the Senate, the Speaker of the Assembly,*
 37 *and the minority floor leader of the Assembly.*

38 ~~(3)~~

39 (5) The pool of candidates shall consist of ~~25~~ 50 nominees,
 40 with ~~10~~ 19 nominees from each of the two largest political parties

1 in California based on party registration, and ~~5~~ 12 who are not
2 registered with either of the two largest political parties in this
3 State.

4 ~~(4)~~

5 (6) The panel shall make every effort to ensure that the pool of
6 candidates is representative of both genders and this State's
7 racial, ethnic, and cultural diversity.

8 (b) (1) No later than January 31 of each year ending in the
9 ~~number one, the Speaker of the Assembly shall make two~~
10 ~~appointments to the commission from the pool of nominees,~~
11 ~~followed by two appointments from the pool made in turn by~~
12 ~~each of the following:~~

13 ~~(A) The minority floor leader of the Assembly.~~

14 ~~(B) The President pro Tempore of the Senate.~~

15 ~~(C) The minority floor leader of the Senate.~~

16 ~~(2) Each official shall have a seven-day period in which to~~
17 ~~make an appointment. If the appointment by the Speaker of the~~
18 ~~Assembly is not made by January 31, or any of the successive~~
19 ~~appointments is not made within a period of seven days~~
20 ~~following the deadline for the preceding appointment, that~~
21 ~~number one, the President pro Tempore of the Senate, the~~
22 ~~minority floor leader of the Senate, the Speaker of the Assembly~~
23 ~~and the minority floor leader of the Assembly may each strike~~
24 ~~from the pool of candidates up to two candidates who are~~
25 ~~registered with a political party, other than the political party of~~
26 ~~that legislative officer or leader, that is one of the two largest~~
27 ~~political parties in California based on party registration. Each~~
28 ~~legislative officer or leader shall, in the following order, appoint~~
29 ~~to the commission from the remaining candidates in the pool two~~
30 ~~candidates who are registered with the same political party as~~
31 ~~that legislative officer or leader:~~

32 ~~(A) The President pro Tempore of the Senate.~~

33 ~~(B) The minority floor leader of the Senate.~~

34 ~~(C) The Speaker of the Assembly.~~

35 ~~(D) The minority floor leader of the Assembly.~~

36 (2) If an appointment to be made under paragraph (1) by any
37 of the legislative officers or leaders is not made and submitted to
38 the Secretary of State by January 31, that appointment is
39 forfeited and shall be filled pursuant to subdivision (d). In the
40 event that there are two or more minority parties within the

1 Assembly or the Senate, the leader of the largest minority party
2 by statewide party registration shall make the appointment.

3 (c) Any vacancy in the eight commission positions described
4 in subdivision (b) that remains as of March 1 of a year ending in
5 the number one shall be filled from the pool of nominees by the
6 panel of retired judges described in subdivision (a). The panel
7 shall strive for political balance and fairness in making that
8 appointment.

9 (d) At a meeting called by the Secretary of State, the eight
10 commission members appointed pursuant to subdivisions (b) and
11 (c) shall select by majority vote from the nomination pool three
12 additional members who are not registered with any party already
13 represented on the commission. If the eight members fail to
14 appoint one or more of the three additional members within 15
15 days of that meeting, the panel of retired judges described in
16 subdivision (a) shall appoint from the nomination pool, for those
17 positions remaining unfilled, the additional members who are not
18 registered with any party already represented on the commission.
19 One of the three additional members appointed pursuant to this
20 subdivision, as selected by majority vote of the eight members
21 appointed pursuant to subdivision (b), shall serve as the chair of
22 the commission.

23 (e) The 11 members of the commission shall select by
24 majority vote one of their members to serve as the vice chair.

25 (f) The term of office of each member of the commission
26 expires upon the appointment of the first member of the
27 succeeding commission.

28 SEC. 3. (a) After having been served written notice and
29 provided with an opportunity for a response, a member of the
30 commission may be removed by the Governor, with the
31 concurrence of two-thirds of the Senate, for substantial neglect of
32 duty, gross misconduct in office, or inability to discharge the
33 duties of office.

34 (b) (1) If a member of the commission vacates his or her
35 office or is removed pursuant to subdivision (a) prior to the
36 completion of his or her term for any reason, the panel of retired
37 judges described in Section 2 shall nominate a pool of three
38 candidates within the first 30 days after the vacancy occurs.

39 (2) The nominees shall be of the same political party
40 membership, or nonpartisan status, as the case may be, held by

1 the vacating member at the time of his or her appointment. The
2 appointment of the successor member shall be made from the
3 pool of nominees by the person, persons, or entity that, pursuant
4 to subdivision (b), (c), or (d) of Section 2, appointed the member
5 vacating the office, except that a successor appointed pursuant to
6 subdivision (d) of Section 2 under these circumstances is not
7 thereby made the chair of the commission and, in the event of
8 that appointment, a new chair shall be selected by a majority vote
9 of the remaining members.

10 (3) If the appointment of a replacement member is not made
11 within 14 days following the presentation of the nominees, the
12 panel described in Section 2 shall make the appointment, striving
13 for political balance and fairness. The newly appointed member
14 shall serve out the remainder of the original term of the vacating
15 member.

16 SEC. 4. (a) The activities of the commission are subject to all
17 of the following:

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

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

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

27 (4) The records of the commission pertaining to redistricting,
28 and all data considered by the commission, are public records,
29 open to inspection by members of the public upon request, except
30 that the commission may withhold from public inspection
31 preliminary drafts, notes, and communications between
32 commission members.

33 (5) Any written or verbal communication with any
34 commission member outside of a public hearing, other than by
35 staff or by legal counsel, is prohibited as to any matter on which
36 the commission is required to meet pursuant to paragraph (3).
37 This paragraph does not prohibit any communication between
38 commission members that is otherwise permitted by the
39 Bagley-Keene Open Meeting Act or its successor.

40 (b) The duties of the commission include all of the following:

1 (1) To establish Senate, Assembly, congressional, and State
2 Board of Equalization districts based on a mapping process for
3 each district that shall consist initially of the creation of districts
4 of equal population ~~in a gridlike pattern~~ across the State.

5 (2) To adjust the ~~grid~~ *districts* established pursuant to
6 paragraph (1) as necessary to accommodate each of the following
7 goals, prioritized according to the following order:

8 (A) Districts shall comply with the United States Constitution.
9 Senate, Assembly, congressional, and State Board of
10 Equalization districts shall each have equal population with other
11 districts for the same office, to the extent practicable.

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

14 (C) Districts shall be geographically contiguous to the extent
15 practicable.

16 (D) District boundaries shall respect communities of interest to
17 the extent practicable.

18 (E) To the extent practicable, district lines shall use visible
19 geographic features, city and county boundaries, and undivided
20 census tracts.

21 (F) Districts shall be geographically compact to the extent
22 practicable.

23 ~~(G) To the extent practicable, competitive districts should be~~
24 ~~favoured where to do so would create no significant detriment to~~
25 ~~the other goals listed in this paragraph.~~

26 (3) Party registration and voting history data shall be excluded
27 from the ~~initial phase of the mapping process~~ *mapping process*
28 *described in paragraphs (1) and (2)*, but may be used to test
29 maps for compliance with this subdivision. The places of
30 residence of incumbents or candidates may not be identified or
31 considered ~~for purposes of this article in the creation of a map~~
32 *pursuant to paragraphs (1) and (2), but maybe considered in*
33 *establishing the boundaries of final maps pursuant to paragraph*
34 *(5).*

35 (4) The commission shall display a ~~draft map~~ *the map created*
36 *pursuant to paragraphs (1) and (2)* of Senate, Assembly,
37 congressional, and State Board of Equalization districts to the
38 public for comment, in a manner designed to achieve the widest
39 public dissemination reasonably possible, and public comment
40 shall be taken for at least 30 days from the date of public display.

1 Either the Senate or the Assembly, or both, may act within this
2 period to make recommendations to the commission by majority
3 or by minority report, which recommendations shall be
4 considered by the commission.

5 (5) The commission shall ~~then establish final boundaries~~, *after*
6 *consideration of public comments and recommendations made by*
7 *the Senate or Assembly pursuant to paragraph (4), establish the*
8 *boundaries of final maps for Senate, Assembly, congressional,*
9 *and State Board of Equalization districts, and shall certify those*
10 *districts to the Secretary of State. The approval of the final*
11 *boundaries shall be by majority vote of the membership of the*
12 *commission, and requires that one or more votes for approval be*
13 *cast by members of the commission registered with each of the*
14 *two largest political parties in California based on party*
15 *registration, and that one or more votes for approval be cast by*
16 *members of the commission not registered with either of these*
17 *two political parties.*

18 SEC. 5. (a) ~~In each year ending in the number nine, the~~
19 ~~Department of Finance or its successor shall submit to the~~
20 ~~Legislature a recommendation for an appropriation adequate to~~
21 ~~In 2009, and annually thereafter, the Governor shall include in~~
22 ~~the Governor's Budget submitted to the Legislature pursuant to~~
23 ~~Section 12 of Article IV an amount of funding sufficient to meet~~
24 ~~the estimated expenses of the subsequent redistricting process~~
25 ~~occurring pursuant to this article, and shall make adequate office~~
26 ~~space available for the operation of the commission.~~
27 ~~Notwithstanding Section 12 of Article IV, the Legislature shall~~
28 ~~make the necessary appropriation by bill passed by rollcall vote~~
29 ~~entered in the journal, a majority of the membership of each~~
30 ~~house concurring.~~ *commission. The Legislature shall make the*
31 *necessary appropriation in the annual budget bill.*

32 (b) The commission, with fiscal oversight from the
33 Department of Finance or its successor, shall have procurement
34 and contracting authority and may hire staff and consultants,
35 exempt from the civil service, for the purposes of this article,
36 including legal representation.

37 (c) The commission has standing in legal actions regarding a
38 redistricting plan and to establish whether funds or other
39 resources provided for the operation of the commission are
40 adequate. The commission has sole authority to determine

1 whether the Attorney General or legal counsel hired or selected
2 by the commission shall represent the people of California in the
3 legal defense of a redistricting plan.

4 (d) (1) The California Supreme Court has original and
5 exclusive jurisdiction in all proceedings in which a redistricting
6 plan adopted by the commission is challenged.

7 (2) To challenge a redistricting plan, any affected elector may
8 file a petition for a writ of mandate or writ of prohibition, within
9 45 days after the commission has certified the plan to the
10 Secretary of State, to bar the Secretary of State from
11 implementing the plan on the grounds that the filed plan violates
12 this Constitution, the United States Constitution, or any federal
13 statute.

14 (3) The court shall act expeditiously on the petition. If the
15 court determines that a redistricting plan adopted by the
16 commission violates this Constitution, the United States
17 Constitution, or any federal statute, the court shall fashion the
18 relief that it deems appropriate.

19 SEC. 6. (a) Members of the commission are eligible for
20 reimbursement of personal expenses incurred in connection with
21 the duties performed for the commission pursuant to law, and a
22 member's residence is deemed to be the member's post of duty
23 for purposes of reimbursement of expenses.

24 (b) The commission may not meet or incur expenses after the
25 redistricting plan becomes final pursuant to paragraph (5) of
26 subdivision (b) of Section 4, except with respect to any pending
27 litigation or government approval concerning the plan, to revise
28 districts if required by court order, or if the number of Senate,
29 Assembly, congressional, or State Board of Equalization districts
30 is changed.

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

36 (d) This article is self-executing.

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