

HJR 1535

2004

House Joint Resolution

A joint resolution proposing an amendment to Section 16 of Article III of the State Constitution to provide for apportionment of legislative and congressional districts by a commission instead of the Legislature.

Be It Resolved by the Legislature of the State of Florida:

That the amendment to Section 16 of Article III of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2004:

ARTICLE III

LEGISLATURE

SECTION 16. Apportionment of Legislative and Congressional Districts.--

(a) APPORTIONMENT BY COMMISSION.

(1) In the year following each decennial census or when required by the United States or by court order, a commission shall divide the state into no fewer than thirty or more than forty consecutively numbered senatorial districts of either contiguous, overlapping, or identical territory and into no fewer than eighty or more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping, or identical territory as provided by this constitution and general law and shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state. Districts shall be established in accordance with the constitution of this state and the constitution of the United States and shall be as nearly

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31 equal in population as practicable.

32 (2) On or before June 1 in the year following each
 33 decennial census, or within fifteen days after legislative
 34 apportionment or congressional districting is required by law or
 35 court order, sixteen commissioners shall be certified by the
 36 respective appointing authorities to the custodian of state
 37 records. The president of the senate and the speaker of the
 38 house of representatives each shall select and certify four
 39 commissioners. Members of minority parties in the senate shall
 40 elect one member from their number who shall select and certify
 41 four commissioners. Members of minority parties in the house of
 42 representatives shall elect one member from their number who
 43 shall select and certify four commissioners. Within twenty-one
 44 days after the sixteen members are certified to the custodian of
 45 state records, the commissioners by affirmative vote of eleven
 46 members shall elect the seventeenth member, who shall be a
 47 registered voter who for the previous two years was not
 48 registered as an elector of any political party having a member
 49 holding office in the appointing legislature. If no selection is
 50 made, then the chief justice of the supreme court of Florida
 51 shall select the seventeenth member from a list of four persons
 52 who are registered electors who for the previous two years were
 53 not registered as electors of any political party having a
 54 member holding office in the appointing legislature, two of whom
 55 shall be selected by the commissioners appointed by the
 56 president of the senate and the speaker of the house of
 57 representatives and two of whom shall be selected by the
 58 commissioners appointed by the minority party representatives of
 59 each house.

60 (3) No commissioner shall have served during the four

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61 years prior to his or her certification as an elected state
 62 official, member of congress, political party officer or
 63 employee, paid registered lobbyist, or legislative or
 64 congressional employee; and no commissioner shall be a relative,
 65 as defined by law, or an employee of any of the foregoing. As a
 66 condition of appointment, each commissioner shall take an oath
 67 affirming that the commissioner will not receive compensation as
 68 a paid registered lobbyist or seek elected office in any
 69 legislative or congressional district for a period of four years
 70 after concluding service as a commissioner.

71 (4) The commission shall elect one of its members to serve
 72 as chair and shall establish its own rules and procedures. All
 73 commission actions shall require eleven affirmative votes.
 74 Meetings and records of the commission shall be open to the
 75 public, and public notice of all meetings shall be given.

76 (5) Within one hundred eighty days after the commission is
 77 certified to the custodian of state records, the commission
 78 shall file with the custodian of state records its final report,
 79 which must include all required plans.

80 (6) After the supreme court of Florida determines that the
 81 required plans are valid, the commission shall be dissolved.

82 (b) FAILURE OF COMMISSION TO APPORTION; JUDICIAL
 83 APPORTIONMENT. If the commission does not timely file its final
 84 report with the custodian of state records, the commission shall
 85 be dissolved, and the attorney general shall, within five days,
 86 petition the supreme court of Florida to make such
 87 apportionment. No later than the sixtieth day after the filing
 88 of the petition, the supreme court shall file with the custodian
 89 of state records an order making such apportionment.

90 (c) JUDICIAL REVIEW OF APPORTIONMENT. Within fifteen days

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91 after the final report of the commission is filed with the
 92 custodian of state records, the attorney general shall petition
 93 the supreme court of Florida to review and determine the
 94 validity of the apportionment. The supreme court, in accordance
 95 with its rules, shall permit adversary interests to present
 96 their views and, within thirty days after the filing of the
 97 petition, shall enter its judgment.

98 (d) EFFECT OF JUDGMENT IN APPORTIONMENT. A judgment of
 99 the supreme court of Florida determining the apportionment to be
 100 valid or ordering judicial apportionment shall be binding upon
 101 all citizens of the state. If the supreme court of Florida
 102 determines that the apportionment made by the commission is
 103 invalid, the commission, within twenty days after the ruling,
 104 shall adopt and file with the custodian of state records an
 105 amended plan that conforms to the judgment of the court. Within
 106 five days after the filing of an amended plan, the attorney
 107 general shall petition the supreme court of Florida to determine
 108 the validity of the amended plan or, if the commission has
 109 failed to file an amended plan, shall report that fact to the
 110 court.

111 (e) JUDICIAL APPORTIONMENT. If the commission fails to
 112 file an amended plan or the supreme court of Florida determines
 113 that the amended plan is invalid, the commission shall be
 114 dissolved and the supreme court shall, not later than sixty days
 115 after receiving the petition of the attorney general, file with
 116 the custodian of state records an order making such
 117 apportionment.

118 ~~SECTION 16. Legislative apportionment.~~

119 ~~(a) SENATORIAL AND REPRESENTATIVE DISTRICTS. The~~
 120 ~~legislature at its regular session in the second year following~~

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121 ~~each decennial census, by joint resolution, shall apportion the~~
 122 ~~state in accordance with the constitution of the state and of~~
 123 ~~the United States into not less than thirty nor more than forty~~
 124 ~~consecutively numbered senatorial districts of either~~
 125 ~~contiguous, overlapping or identical territory, and into not~~
 126 ~~less than eighty nor more than one hundred twenty consecutively~~
 127 ~~numbered representative districts of either contiguous,~~
 128 ~~overlapping or identical territory. Should that session adjourn~~
 129 ~~without adopting such joint resolution, the governor by~~
 130 ~~proclamation shall reconvene the legislature within thirty days~~
 131 ~~in special apportionment session which shall not exceed thirty~~
 132 ~~consecutive days, during which no other business shall be~~
 133 ~~transacted, and it shall be the mandatory duty of the~~
 134 ~~legislature to adopt a joint resolution of apportionment.~~

135 ~~(b) FAILURE OF LEGISLATURE TO APPORTION; JUDICIAL~~
 136 ~~REAPPORTIONMENT. In the event a special apportionment session~~
 137 ~~of the legislature finally adjourns without adopting a joint~~
 138 ~~resolution of apportionment, the attorney general shall, within~~
 139 ~~five days, petition the supreme court of the state to make such~~
 140 ~~apportionment. No later than the sixtieth day after the filing~~
 141 ~~of such petition, the supreme court shall file with the~~
 142 ~~eustodian of state records an order making such apportionment.~~

143 ~~(c) JUDICIAL REVIEW OF APPORTIONMENT. Within fifteen days~~
 144 ~~after the passage of the joint resolution of apportionment, the~~
 145 ~~attorney general shall petition the supreme court of the state~~
 146 ~~for a declaratory judgment determining the validity of the~~
 147 ~~apportionment. The supreme court, in accordance with its rules,~~
 148 ~~shall permit adversary interests to present their views and,~~
 149 ~~within thirty days from the filing of the petition, shall enter~~
 150 ~~its judgment.~~

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151 ~~(d) EFFECT OF JUDGMENT IN APPORTIONMENT; EXTRAORDINARY~~
 152 ~~APPORTIONMENT SESSION. A judgment of the supreme court of the~~
 153 ~~state determining the apportionment to be valid shall be binding~~
 154 ~~upon all the citizens of the state. Should the supreme court~~
 155 ~~determine that the apportionment made by the legislature is~~
 156 ~~invalid, the governor by proclamation shall reconvene the~~
 157 ~~legislature within five days thereafter in extraordinary~~
 158 ~~apportionment session which shall not exceed fifteen days,~~
 159 ~~during which the legislature shall adopt a joint resolution of~~
 160 ~~apportionment conforming to the judgment of the supreme court.~~

161 ~~(e) EXTRAORDINARY APPORTIONMENT SESSION; REVIEW OF~~
 162 ~~APPORTIONMENT. Within fifteen days after the adjournment of an~~
 163 ~~extraordinary apportionment session, the attorney general shall~~
 164 ~~file a petition in the supreme court of the state setting forth~~
 165 ~~the apportionment resolution adopted by the legislature, or if~~
 166 ~~none has been adopted reporting that fact to the court.~~
 167 ~~Consideration of the validity of a joint resolution of~~
 168 ~~apportionment shall be had as provided for in cases of such~~
 169 ~~joint resolution adopted at a regular or special apportionment~~
 170 ~~session.~~

171 ~~(f) JUDICIAL REAPPORTIONMENT. Should an extraordinary~~
 172 ~~apportionment session fail to adopt a resolution of~~
 173 ~~apportionment or should the supreme court determine that the~~
 174 ~~apportionment made is invalid, the court shall, not later than~~
 175 ~~sixty days after receiving the petition of the attorney general,~~
 176 ~~file with the custodian of state records an order making such~~
 177 ~~apportionment. BE IT FURTHER RESOLVED that the title and~~
 178 ~~substance of the amendment proposed herein shall appear on the~~
 179 ~~ballot as follows:~~

180 APPORTIONMENT OF LEGISLATIVE AND

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CONGRESSIONAL DISTRICTS BY COMMISSION

Proposes an amendment to Section 16 of Article III of the State Constitution to provide for apportionment of legislative and congressional districts by a 17-member commission by the filing of plans with the custodian of state records in the year following each decennial census; prohibits elected state officials, members of Congress, political party officers or employees, paid registered lobbyists, legislative or congressional employees, or relatives or employees of any of the foregoing from being members; requires commissioners to swear not to seek legislative or congressional office or be paid lobbyists for 4 years after concluding their service; provides that 16 members are selected equally by the majority and minority parties; requires the 17th member to be a registered elector who for the previous 2 years was not registered in any political party having members in the appointing Legislature, to be appointed by the other members, if possible, or by the Chief Justice of the state Supreme Court; requires 11 votes for official commission action; deletes existing provisions that provide for apportionment of legislative districts by the Legislature by joint resolution in the second year following each decennial census in regular or extraordinary apportionment session; retains review and apportionment by the state Supreme Court for failure to adopt a plan or adoption of an invalid plan.