

HJR 0667

2004

House Joint Resolution

A joint resolution proposing the repeal of Section 16 of Article III of the State Constitution, relating to legislative apportionment, and the creation of Section 10 of Article II of the State Constitution to provide for legislative reapportionment and congressional redistricting of the state, prescribe reapportionment and redistricting standards and procedures, provide for a reapportionment and redistricting commission, and provide for judicial review and judicial reapportionment or redistricting.

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

That the repeal of Section 16 of Article III of the State Constitution and the following creation of Section 10 of Article II of the State Constitution are 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 or at an earlier special election specifically authorized by law for that purpose:

ARTICLE II

GENERAL PROVISIONS

SECTION 10. Legislative reapportionment and congressional redistricting.--

(a) REAPPORTIONMENT AND REDISTRICTING OF STATE. By January 31 of each year that ends in two or when required by the United States or by court order, a commission shall divide the state into 40 consecutively numbered senatorial districts of

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30 contiguous, overlapping, or identical territory and 120
31 consecutively numbered representative districts of contiguous,
32 overlapping, or identical territory as provided by this
33 constitution or by general law and shall divide the state to
34 create as many congressional districts as there are
35 representatives in congress apportioned to this state. Districts
36 shall be established in accordance with the constitution of this
37 state and of the United States, shall be single-member
38 districts, and shall be as nearly equal in population as
39 practicable.

40 (b) REAPPORTIONMENT AND REDISTRICTING COMMISSION.

41 (1) In each year that ends in one and at any other time of
42 court-ordered reapportionment, a commission shall be established
43 to prepare a redistricting plan for congressional districts and
44 a reapportionment plan for legislative districts. The commission
45 shall consist of nine electors. By March 1 of the same year, the
46 president of the senate, the minority leader of the senate, the
47 speaker of the house of representatives, and the minority leader
48 of the house of representatives shall each appoint two persons
49 who are registered in their respective parties to serve on the
50 commission. A person who has served as an elected public
51 official, a party officer or employee, a registered lobbyist, or
52 a legislative or congressional employee, as such terms are
53 defined by general law, during the two years prior to the time
54 commissioners are appointed may not be appointed as a
55 commissioner, nor may a relative of such a person, as defined by
56 law, or an employee of such a person be appointed as a
57 commissioner.

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58 (2) Within thirty days after the appointments have been
59 made, the eight commissioners shall select, by a vote of at
60 least five commissioners, a ninth commissioner, who shall serve
61 as chairperson. The chairperson shall be responsible for the
62 administrative duties of the commission, including supervision
63 of commission staff. The commission shall have its own staff, as
64 provided by general law. Failure to select the ninth
65 commissioner within the time prescribed shall constitute an
66 impasse that shall automatically discharge the commission. A new
67 commission shall then be appointed in the same manner as the
68 original commission. Within twenty days after the new
69 appointments have been made, the eight commissioners shall
70 select, by a vote of at least five commissioners, a ninth
71 commissioner, who shall serve as chairperson.

72 a. A person who has served as an elected public official,
73 a party officer or employee, a registered lobbyist, or a
74 legislative or congressional employee, as such terms are defined
75 by general law, during the two years prior to the time the
76 chairperson is selected may not be selected as chairperson, nor
77 may a relative of such a person, as defined by law, or an
78 employee of such a person be selected as chairperson.

79 b. The chairperson may not be registered as a member of
80 the majority party or as a member of the minority party.

81 (3) As a condition of appointment, each commissioner shall
82 take an oath that such commissioner will not seek the position
83 of state senator, state representative, or representative to
84 congress for a period of four years after a plan of
85 reapportionment or redistricting is judicially determined to be
86 valid.

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87 (4) Vacancies shall be filled by the person who originally
 88 appointed the commissioner whose position has become vacant,
 89 except that the chairperson shall be selected in the manner set
 90 forth in paragraph (2).

91 (5) The legislature shall, by general appropriations,
 92 provide adequate funds to enable the commission to carry out its
 93 duties.

94 (6) The commission shall hold public hearings as it deems
 95 necessary to carry out its responsibilities under this section.
 96 The commission may take any action, except the adoption of a
 97 final plan of reapportionment or redistricting, by the
 98 affirmative vote of five commissioners. Adoption of a final plan
 99 of reapportionment or redistricting requires the affirmative
 100 vote of at least six commissioners. No ex parte communication
 101 relative to the merits, threat, or offer of reward shall be made
 102 to any commissioner. A commissioner who receives an ex parte
 103 communication, threat, or offer of reward shall place on the
 104 record or otherwise make known the existence of, and disclose,
 105 all written or oral communications, threats, or offers received
 106 and all written or oral responses made thereto. The prohibition
 107 against ex parte communications shall not apply to commission
 108 staff. The provisions of section 286.011, Florida Statutes
 109 (2003), shall apply to the commission.

110 (c) REAPPORTIONMENT AND REDISTRICTING STANDARDS.

111 (1) Congressional districts and state legislative
 112 districts for each respective house shall be as nearly equal in
 113 population as is practicable, based on the population reported
 114 in the federal decennial census taken in each year ending in
 115 zero. No congressional district shall have a population that

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116 varies by more than one-half of one percent from the average
 117 population of all congressional districts in the state. No
 118 legislative district shall have a population that varies by more
 119 than one-half of one percent from the average population of all
 120 districts of the respective house. The average of the absolute
 121 values of the population deviations of all districts of the
 122 respective house shall not vary by more than one-quarter of one
 123 percent from the average population of all districts. Any
 124 population variance must be justifiable as necessary for
 125 compliance with the other standards in this section.

126 (2) Districts should be composed of convenient contiguous
 127 territory and, consistent with paragraph (1), should be drawn to
 128 coincide with the boundaries of local political subdivisions, as
 129 such terms are defined by general law.

130 (3) Districts should be compact in form.

131 (4) A district may not be drawn for the purpose of
 132 favoring any political party, incumbent legislator,
 133 representative to congress, or other person. In preparing a
 134 plan, the commission shall not take into account the addresses
 135 of incumbent legislators or representatives to congress.

136 (5) A district shall not be drawn to dilute the voting
 137 strength of any racial or language minority group.

138
 139 On applying the standards prescribed in this subsection, the
 140 prohibition against drawing a district to dilute the voting
 141 strength of any racial or language minority group shall be
 142 controlling over the standards prescribed in paragraphs (2) and
 143 (3).

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144 (d) JUDICIAL REVIEW. Within five days after adopting a
145 plan of reapportionment or redistricting, the commission shall
146 file such plan with the custodian of state records. Within
147 fifteen days after the filing of a reapportionment or
148 redistricting plan by the commission, the attorney general shall
149 petition the supreme court for a declaratory judgment
150 determining the validity of the plan, including its compliance
151 with all criteria specified in this section, applicable federal
152 law, and the constitution of the United States. The supreme
153 court, in accordance with its rules, shall permit adversary
154 interests to present their views and, within sixty days after
155 the filing of the petition, shall enter its judgment. If the
156 supreme court determines the reapportionment or redistricting
157 plan to be invalid in whole or in part, the commission shall
158 forthwith reconvene and shall, within thirty days, adopt a
159 revised plan that conforms to the judgment of the supreme court.
160 The revised plan shall be reviewed by the supreme court in the
161 same manner as the original plan. Upon approval of the supreme
162 court, a plan of reapportionment or redistricting shall be filed
163 with the custodian of state records and, upon filing, shall be
164 the official plan for the state.

165 (e) JUDICIAL REAPPORTIONMENT OR REDISTRICTING. If the
166 commission fails to adopt a plan or revised plan by January 31
167 of a year that ends in two, the commission shall, within five
168 days, notify the custodian of state records in writing of its
169 inability to adopt a plan. Within five days after the filing of
170 such notice, the attorney general shall petition the supreme
171 court to prepare a plan of reapportionment or redistricting. If
172 a plan that was timely adopted is determined to be invalid in

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173 whole or in part after January 31 of a year that ends in two,
174 the attorney general shall file such a petition within five days
175 after entry of that determination. The court shall, not later
176 than sixty days after receiving the petition of the attorney
177 general, file with the custodian of state records an order
178 making such reapportionment or redistricting.

179 BE IT FURTHER RESOLVED that the title and substance of the
180 amendment proposed herein shall appear on the ballot as follows:

181 LEGISLATIVE APPORTIONMENT AND CONGRESSIONAL REDISTRICTING

182 Proposes the repeal of Section 16 of Article III and the
183 creation of Section 10 of Article II of the State Constitution
184 to replace existing provisions that provide for legislative
185 apportionment with new provisions that provide for legislative
186 reapportionment and congressional redistricting of the state,
187 that establish standards for legislative reapportionment and
188 congressional redistricting, that provide for the creation of a
189 nine-member commission to prepare a reapportionment plan for the
190 state legislature and a redistricting plan for the congressional
191 districts of the state, and that provide for judicial review and
192 judicial reapportionment or redistricting; removes the
193 Legislature as the body responsible for reapportioning and
194 redistricting the state.