

By Senator Geller

31-1167-07

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Senate 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 prescribe reapportionment standards and procedures.

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 this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE II

GENERAL PROVISIONS

SECTION 10. Legislative apportionment.--

(a) APPORTIONMENT AND DISTRICTING COMMISSION.--By January 31 of each year that ends in the number 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 contiguous, overlapping, or identical territory and 120 consecutively numbered representative districts of contiguous, overlapping, or identical territory as provided by this constitution or by general law and shall divide the state to create as many congressional districts as there are representatives in congress apportioned to this

1 state. Districts shall be established in accordance with the  
2 constitution of this state and of the United States, shall be  
3 single-member districts, and shall be as nearly equal in  
4 population as practicable.

5 (b) REAPPORTIONMENT COMMISSION.--

6 (1) In each year that ends in one and at any other  
7 time of court-ordered reapportionment, a commission shall be  
8 established to prepare a redistricting plan for congressional  
9 districts and a reapportionment plan for legislative  
10 districts. The commission shall consist of nine electors. By  
11 March 1 of the same year, the president of the senate, the  
12 minority leader of the senate, the speaker of the house of  
13 representatives, and the minority leader of the house of  
14 representatives shall each appoint two persons who are  
15 registered in their respective parties to serve on the  
16 commission. A person who has served as an elected public  
17 official, a party officer or employee, a registered lobbyist,  
18 or a legislative or congressional employee, as such terms are  
19 defined by general law, during the two years prior to the time  
20 commissioners are appointed may not be appointed as a  
21 commissioner, nor may a relative of such a person, as defined  
22 by law, or an employee of such a person be appointed as a  
23 commissioner.

24 (2) Within thirty days after the appointments have  
25 been made, the eight commissioners shall select, by a vote of  
26 at least five commissioners, a ninth commissioner, who shall  
27 serve as chairperson. The chairperson shall be responsible for  
28 the administrative duties of the commission, including  
29 supervision of commission staff. The commission shall have its  
30 own staff, as provided by general law. Failure to select the  
31 ninth commissioner within the time prescribed shall constitute

1 an impasse that shall automatically discharge the commission.

2 A new commission shall then be appointed in the same manner as  
3 the original commission. Within twenty days after the new  
4 appointments have been made, the eight commissioners shall  
5 select, by a vote of at least five commissioners, a ninth  
6 commissioner, who shall serve as chairperson.

7 a. A person who has served as an elected public  
8 official, a party officer or employee, a registered lobbyist,  
9 or a legislative or congressional employee, as such terms are  
10 defined by general law, during the two years prior to the time  
11 the chairperson is selected may not be selected as  
12 chairperson, nor may a relative of such a person, as defined  
13 by law, or an employee of such a person be selected as  
14 chairperson.

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

17 (3) As a condition of appointment, each commissioner  
18 shall take an oath that such commissioner will not seek the  
19 position of state senator, state representative, or  
20 representative to congress for a period of four years after a  
21 plan of apportionment or redistricting is judicially  
22 determined to be valid.

23 (4) Vacancies shall be filled by the person who  
24 originally appointed the commissioner whose position has  
25 become vacant, except that the chairperson shall be selected  
26 in the manner set forth in paragraph (2).

27 (5) The legislature shall, by general appropriations,  
28 provide adequate funds to enable the commission to carry out  
29 its duties.

30 (6) The commission shall hold public hearings as it  
31 deems necessary to carry out its responsibilities under this

1 section. The commission may take any action, except the  
2 adoption of a final plan of apportionment or redistricting, by  
3 the affirmative vote of five commissioners. Adoption of a  
4 final plan of apportionment or redistricting requires the  
5 affirmative vote of at least six commissioners. No ex parte  
6 communication relative to the merits, threat, or offer of  
7 reward shall be made to any commissioner. A commissioner who  
8 receives an ex parte communication, threat, or offer of reward  
9 shall place on the record or otherwise make known the  
10 existence of, and disclose, all written or oral  
11 communications, threats, or offers received and all written or  
12 oral responses made thereto. The prohibition against ex parte  
13 communications shall not apply to commission staff. The  
14 provisions of section 286.011, Florida Statutes, shall apply  
15 to the commission.

16 (c) REAPPORTIONMENT AND REDISTRICTING STANDARDS.--  
17 (1) Congressional districts and state legislative  
18 districts for each respective house shall be as nearly equal  
19 in population as is practicable, based on the population  
20 reported in the federal decennial census taken in each year  
21 ending in zero. No congressional district shall have a  
22 population that varies by more than one-half of one percent  
23 from the average population of all congressional districts in  
24 the state. No legislative district shall have a population  
25 that varies by more than one-half of one percent from the  
26 average population of all districts of the respective house.  
27 The average of the absolute values of the population  
28 deviations of all districts of the respective house shall not  
29 vary by more than one-quarter of one percent from the average  
30 population of all districts. Any population variance must be  
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1 justifiable as necessary for compliance with the other  
2 standards in this section.

3 (2) Districts should be composed of convenient  
4 contiguous territory and, consistent with paragraph (1),  
5 should be drawn to coincide with the boundaries of local  
6 political subdivisions, as such terms are defined by general  
7 law.

8 (3) Districts should be compact in form.

9 (4) A district may not be drawn for the purpose of  
10 favoring any political party, incumbent legislator,  
11 representative to the United States Congress, or other person.  
12 In preparing a plan, the commission shall not take into  
13 account the addresses of incumbent legislators or  
14 representatives to the United States Congress.

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

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18 On applying the standards prescribed in this subsection, the  
19 prohibition against drawing a district to dilute the voting  
20 strength of any racial or language minority group shall be  
21 controlling over the standards prescribed in paragraphs (2)  
22 and (3).

23 (d) JUDICIAL REVIEW.--Within five days after adopting  
24 a plan of apportionment or redistricting, the commission shall  
25 file such plan with the custodian of state records. Within  
26 fifteen days after the filing of an apportionment or  
27 redistricting plan by the commission, the attorney general  
28 shall petition the supreme court for a declaratory judgment  
29 determining the validity of the plan, including its compliance  
30 with all criteria specified in this section, applicable  
31 federal law, and the constitution of the United States. The

1 supreme court, in accordance with its rules, shall permit  
2 adversary interests to present their views and, within sixty  
3 days after the filing of the petition, shall enter its  
4 judgment. If the supreme court determines the apportionment or  
5 redistricting plan to be invalid in whole or in part, the  
6 commission shall forthwith reconvene and shall, within thirty  
7 days, adopt a revised plan that conforms to the judgment of  
8 the supreme court. The revised plan shall be reviewed by the  
9 supreme court in the same manner as the original plan. Upon  
10 approval by the supreme court, a plan of apportionment or  
11 redistricting shall be filed with the custodian of state  
12 records and, upon filing, shall be the official plan for the  
13 state.

14 (e) JUDICIAL REAPPORTIONMENT.--If the commission fails  
15 to adopt a plan or revised plan by January 31 of a year that  
16 ends in the number two, the commission shall, within five  
17 days, notify the custodian of state records in writing of its  
18 inability to adopt a plan. Within five days after the filing  
19 of such notice, the attorney general shall petition the  
20 supreme court to prepare a plan of apportionment or  
21 redistricting. If a plan that was timely adopted is determined  
22 to be invalid in whole or in part after January 31 of a year  
23 that ends in the number two, the attorney general shall file  
24 such a petition within 5 days after entry of that  
25 determination. The court shall, not later than sixty days  
26 after receiving the petition of the attorney general, file  
27 with the custodian of state records an order making such  
28 apportionment or redistricting.

29 BE IT FURTHER RESOLVED that the following statement be  
30 placed on the ballot:

31 CONSTITUTIONAL AMENDMENTS

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ARTICLE II, SECTION 10  
ARTICLE III, SECTION 16  
LEGISLATIVE APPORTIONMENT AND CONGRESSIONAL  
REDISTRICTING.--Proposing amendments to the State Constitution  
replacing existing provisions providing for legislative  
apportionment with new provisions that establish standards for  
legislative reapportionment and congressional redistricting  
and that provide for the creation of a nine-member commission  
to prepare an apportionment plan for the state legislature and  
a redistricting plan for the congressional districts of the  
state.