

HJR 601

2010

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 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 state. Districts

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29 shall be established in accordance with the constitution of this
30 state and of the United States, shall be single-member
31 districts, and shall be as nearly equal in population as
32 practicable.

33 (b) REAPPORTIONMENT COMMISSION.

34 (1) In each year that ends in the number one and at any
35 other time of court-ordered reapportionment, a commission shall
36 be established to prepare a redistricting plan for congressional
37 districts and a reapportionment plan for legislative districts.
38 The commission shall consist of nine electors. By March 1 of the
39 same year, the president of the senate, the minority leader of
40 the senate, the speaker of the house of representatives, and the
41 minority leader of the house of representatives shall each
42 appoint two persons who are registered in their respective
43 parties to serve on the commission. A person who has served as
44 an elected public official, a party officer or employee, a
45 registered lobbyist, or a legislative or congressional employee,
46 as such terms are defined by general law, during the two years
47 before the time commissioners are appointed may not be appointed
48 as a commissioner, and a relative of such a person, as defined
49 by general law, or an employee of such a person may not be
50 appointed as a commissioner.

51 (2) Within thirty days after the appointments have been
52 made, the eight commissioners shall select, by a vote of at
53 least five commissioners, a ninth commissioner, who shall serve
54 as chairperson. The chairperson shall be responsible for the
55 administrative duties of the commission, including supervision
56 of commission staff. The commission shall have its own staff, as

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57 provided by general law. Failure to select the ninth
58 commissioner within the time prescribed constitutes an impasse
59 that shall automatically discharge the commission. A new
60 commission shall then be appointed in the same manner as the
61 original commission. Within twenty days after the new
62 appointments have been made, the eight commissioners shall
63 select, by a vote of at least five commissioners, a ninth
64 commissioner, who shall serve as chairperson.

65 a. A person who has served as an elected public official,
66 a party officer or employee, a registered lobbyist, or a
67 legislative or congressional employee, as such terms are defined
68 by general law, during the two years before the time the
69 chairperson is selected may not be selected as chairperson, and
70 a relative of such a person, as defined by law, or an employee
71 of such a person may not be selected as chairperson.

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

74 (3) As a condition of appointment, each commissioner shall
75 take an oath that such commissioner will not seek the position
76 of state senator, state representative, or representative to
77 congress for a period of four years after a plan of
78 apportionment or redistricting is judicially determined to be
79 valid.

80 (4) Vacancies shall be filled by the person who originally
81 appointed the commissioner whose position has become vacant,
82 except that the chairperson shall be selected in the manner set
83 forth in paragraph (2).

84 (5) The legislature shall, by general appropriations,

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85 provide adequate funds to enable the commission to carry out its
86 duties.

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

102 b. A commissioner may not communicate with another
103 commissioner about matters relating to a plan of apportionment
104 outside of a meeting that is noticed and open to the public.
105 This limitation does not apply to procedural matters and
106 communications with an attorney to discuss pending litigation.
107 The legislature may enact laws that are not inconsistent with
108 the requirements of this subparagraph.

109 (c) REAPPORTIONMENT AND REDISTRICTING STANDARDS.

110 (1) Congressional districts and state legislative
111 districts for each respective house shall be as nearly equal in
112 population as is practicable, based on the population reported

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113 in the federal decennial census taken in each year ending in
114 zero. The population of each congressional district may not have
115 a population that varies by more than one-half of one percent
116 from the average population of all congressional districts in
117 the state. The population of each legislative district may not
118 have a population that varies by more than one-half of one
119 percent from the average population of all districts of the
120 respective house. The average of the absolute values of the
121 population deviations of all districts of the respective house
122 may not vary by more than one-quarter of one percent from the
123 average population of all districts. Any population variance
124 must be justifiable as necessary for compliance with the other
125 standards in this section.

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

130 (3) Districts shall 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 the United States Congress, or other person.
134 In preparing a plan, the commission may not take into account
135 the addresses of incumbent legislators or representatives to the
136 United States Congress.

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

139
140 On applying the standards prescribed in this subsection, the

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141 prohibition against drawing a district to dilute the voting
142 strength of any racial or language minority group shall be
143 controlling over the standards prescribed in paragraphs (2) and
144 (3).

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

166 (e) JUDICIAL REAPPORTIONMENT. If the commission fails to
167 adopt a plan or revised plan by January 31 of a year that ends
168 in the number two, the commission shall, within five days,

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169 notify the custodian of state records in writing of its
170 inability to adopt a plan. Within five days after the filing of
171 such notice, the attorney general shall petition the supreme
172 court to prepare a plan of apportionment or redistricting. If a
173 plan that was timely adopted is determined to be invalid in
174 whole or in part after January 31 of a year that ends in the
175 number two, the attorney general shall file such a petition
176 within five days after entry of that determination. The court
177 shall, within sixty days after receiving the petition of the
178 attorney general, file with the custodian of state records an
179 order making such apportionment or redistricting.

180 BE IT FURTHER RESOLVED that the following statement be
181 placed on the ballot:

182 CONSTITUTIONAL AMENDMENTS

183 ARTICLE II, SECTION 10

184 ARTICLE III, SECTION 16

185 LEGISLATIVE APPORTIONMENT AND CONGRESSIONAL REDISTRICTING.—
186 Proposing amendments to the State Constitution replacing
187 existing provisions providing for legislative apportionment with
188 new provisions that establish standards for legislative
189 reapportionment and congressional redistricting and that provide
190 for the creation of a nine-member commission to prepare an
191 apportionment plan for the state legislature and a redistricting
192 plan for the congressional districts of the state.