

SENATE JOINT RESOLUTION NO. 9—SENATOR KIECKHEFER

MARCH 17, 2021

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to create an independent redistricting commission. (BDR C-160)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to remove the constitutional provisions governing the Legislature’s authority to apportion Senators and members of the Assembly among counties or legislative districts of the State and create an Independent Redistricting Commission vested with the power to apportion Senators and members of the Assembly in the Legislature and members of the United States House of Representatives among districts established by the Commission.

Legislative Counsel’s Digest:

1 Article 4 of the Nevada Constitution requires the Legislature to apportion
2 Senators and members of the Assembly among the counties or legislative districts
3 of the State after each decennial census. (Nev. Const. Art. 4, § 5) This resolution
4 proposes to amend the Nevada Constitution to remove the constitutional provisions
5 that require the Legislature to apportion Senators and members of the Assembly
6 and, instead, create an Independent Redistricting Commission to apportion
7 Senators, members of the Assembly and representatives in the United States House
8 of Representatives among legislative districts established by the Commission.
9 This resolution proposes adding a new section to the Nevada Constitution to
10 create the Independent Redistricting Commission and requires the Commission to
11 apportion representatives of the United States House of Representatives among
12 congressional districts established by the Commission. This proposed amendment
13 to the Nevada Constitution requires the Commission to apportion Senators,
14 members of the Assembly and members of the United States House of
15 Representatives beginning in 2031 and after each subsequent decennial census of
16 the United States. This proposed amendment to the Nevada Constitution requires:
17 (1) the Commission to be composed of seven members who are registered and



18 eligible to vote in this State; and (2) the Senate Majority Leader, Senate Minority
19 Leader, Speaker of the Assembly and Assembly Minority Leader to each appoint
20 one member. The remaining three members are required to be appointed by the four
21 members appointed by the legislative officers. The three additional members are
22 prohibited from being registered or affiliated with the largest or second largest
23 political party for at least 4 years preceding their appointment. This proposed
24 amendment to the Nevada Constitution requires the members of the Commission to
25 serve terms for the duration of the obligations of a census cycle.

26 This resolution also specifies the criteria that the Commission is required to use
27 in adopting a redistricting plan.

28 Finally, this resolution provides for certain provisions of this constitutional
29 amendment to remain in effect in the event that any other provision is deemed
30 unconstitutional.

1 RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF
2 NEVADA, JOINTLY, That a new section, designated Section 5A, be
3 added to Article 4 of the Nevada Constitution to read as follows:

4 *Sec. 5A. 1. There is hereby created within the*
5 *Legislative Department of the State Government the*
6 *Independent Redistricting Commission. It shall be the duty*
7 *of the Commission in the year 2031, and after each*
8 *subsequent decennial census of the United States, to*
9 *apportion the number of Senators and members of the*
10 *Assembly among legislative districts established by the*
11 *Commission and to apportion the number of representatives*
12 *in the United States House of Representatives among*
13 *congressional districts established by the Commission.*

14 *2. The Commission is composed of seven members who*
15 *are registered and eligible to vote in this State and who meet*
16 *the qualifications established in subsection 4. The Senate*
17 *Majority Leader, Senate Minority Leader, Speaker of the*
18 *Assembly and Assembly Minority Leader shall each appoint*
19 *one commissioner.*

20 *3. The four commissioners appointed pursuant to*
21 *subsection 2 shall appoint three additional commissioners,*
22 *each of whom must not have been registered or affiliated*
23 *with the largest or second largest political party for at least*
24 *4 years immediately preceding his or her appointment,*
25 *according to voter registration data published by the*
26 *Secretary of State as of January 1 of the redistricting year,*
27 *and none of whom, if registered or affiliated with a political*
28 *party, is affiliated or registered with the same political party*
29 *as another commissioner.*

30 *4. Within 4 years immediately preceding his or her*
31 *appointment and during his or her term, a commissioner*
32 *may not be:*



- (a) *A registered lobbyist;*
- (b) *A candidate for a federal, state or partisan local office;*
- (c) *An elected official to a federal, state or partisan local office;*
- (d) *An officer or member of the governing body of a national, state or local political party;*
- (e) *A paid consultant or employee of a federal, state or partisan local elected official or candidate, political action committee, committee sponsored by a political party or committee that seeks to influence elections to federal, state or partisan local offices;*
- (f) *An employee of the State of Nevada, except for employees in the Judicial Department of the State Government, the Armed Forces or a state institution of higher education; or*
- (g) *Related within the third degree of consanguinity or affinity to any person disqualified under paragraphs (a) to (f), inclusive, of this subsection.*

5. *The term of office of each commissioner expires once the Commission has completed its obligations for a census cycle, but not before any judicial review of the redistricting plan is complete, or upon the release of the subsequent decennial census of the United States, whichever is earliest.*

6. *All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony and participate in hearings before the Commission. All Commission materials are public records.*

7. *The Commission shall adopt rules to govern its administration and operation.*

8. *The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.*

And be it further

RESOLVED, That a new section, designated Section 5B, be added to Article 4 of the Nevada Constitution to read as follows:

Sec. 5B. 1. The Independent Redistricting Commission shall draw districts for a redistricting plan using the following criteria, in the order listed:

(a) *Districts comply with the United States Constitution and applicable federal law.*



1 (b) Districts have an approximately equal number of
2 inhabitants.

3 (c) Districts are geographically contiguous.

4 (d) Districts are not drawn with the intent or result of
5 denying or abridging the equal opportunity of racial or
6 language minorities to participate in the political process or
7 elect representatives of their choice, whether by themselves
8 or voting in concert with other persons.

9 (e) Districts do not unduly advantage or disadvantage a
10 political party, when considered on a statewide basis.

11 (f) Districts reflect county, city and township
12 boundaries, to the extent practicable.

13 (g) Districts do not divide communities of interest, to the
14 extent practicable. Communities of interest are areas with
15 recognized similarities of interests, including, without
16 limitation, racial, ethnic, economic, social, cultural,
17 geographic or historic identities, but not including
18 communities based on political affiliation.

19 (h) Districts are reasonably compact.

20 (i) Districts are politically competitive, to the extent
21 practicable without impairing compliance with paragraphs
22 (a) to (h), inclusive. A district is politically competitive if
23 there is a reasonable potential for the party affiliation of the
24 district's representative to change at least once between
25 each federal decennial census.

26 2. Not later than July 1, 2031, and not later than 180
27 days after each subsequent decennial census of the United
28 States, the Commission shall approve a redistricting plan
29 for the Nevada State Senate, the Nevada State Assembly and
30 all congressional districts in this State, after providing
31 public notice of each proposed final plan and allowing
32 sufficient time for public review and comment. The
33 Commission may only approve a final plan with at least five
34 affirmative votes, including at least one from a
35 commissioner registered with the largest political party, one
36 from a commissioner registered with the second largest
37 political party and one from a commissioner not registered
38 or affiliated with the largest or second largest political party,
39 according to voter registration data published by the
40 Secretary of State as of January 1 of the redistricting year.

41 And be it further

42 RESOLVED, That a new section, designated Section 5C, be added
43 to Article 4 of the Nevada Constitution to read as follows:

44 *Sec. 5C. If any part of this amendment is declared*
45 *invalid, or the application thereof to any person, thing or*



1 *circumstance is held invalid, such invalidity shall not affect*
2 *the remaining provisions or application of this amendment*
3 *which can be given effect without the invalid provision or*
4 *application, and to this end the provisions of this*
5 *amendment are declared to be severable. This section shall*
6 *be construed broadly to preserve and effectuate the purpose*
7 *of this amendment.*

8 And be it further

9 RESOLVED, That Section 5 of Article 4 of the Nevada
10 Constitution be amended as follows:

11 Sec. 5. Senators and members of the Assembly shall be
12 duly qualified electors in the respective counties and districts
13 which they represent, and the number of Senators shall not be
14 less than one-third nor more than one-half of that of the
15 members of the Assembly.

16 It shall be the mandatory duty of the Legislature at its first
17 session after the taking of the decennial census of the United
18 States in the year 1950, and after each subsequent decennial
19 census, to fix by law the number of Senators and
20 ~~[Assemblymen, and apportion them among the several~~
21 ~~counties of the State, or among legislative districts which may~~
22 ~~be established by law, according to the number of inhabitants~~
23 ~~in them, respectively.]~~ *members of the Assembly.*

24 And be it further

25 RESOLVED, That the Secretary of the Senate prepare and
26 transmit a copy of this resolution to the Nevada Secretary of State.

27 And be it further

28 RESOLVED, That this resolution becomes effective upon
29 passage.

