



# Legal Handbook for the Citizens Redistricting Commission

2010

Prepared by the Bureau of State Audits

# Preface

This handbook contains the full text of California laws and regulations relating to the selection process for, and work of, the Citizens Redistricting Commission (Commission). It was prepared to serve as a reference for the members of the Commission, their staff, and interested members of the public.

Various court decisions and federal laws, including the federal Voting Rights Act of 1965, govern decennial redistricting. Because those materials are voluminous and because we designed this handbook to provide only the laws and regulations unique to the Commission, we have not included the court decisions or federal laws upon which the Commission may rely when it begins drawing district lines.

The full text of this handbook may be found at [www.wedrawthelines.ca.gov](http://www.wedrawthelines.ca.gov).

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**CALIFORNIA CONSTITUTIONAL  
AND STATUTORY PROVISIONS**

# California Constitutional and Statutory Provisions Related to Redistricting

## California Constitutional Provisions<sup>1</sup>

### Section 1 of Article XXI of the California Constitution

Section 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Citizens Redistricting Commission described in Section 2 shall adjust the boundary lines of the congressional, State Senatorial, Assembly, and Board of Equalization districts (also known as “redistricting”) in conformance with the standards and process set forth in Section 2.

### Section 2 of Article XXI of the California Constitution

Sec. 2. (a) The Citizens Redistricting Commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.

(b) The commission shall: (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.

(c) (1) The selection process is designed to produce a commission that is independent from legislative influence and reasonably representative of this State's diversity.

(2) The commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.

(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.

(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The four final redistricting maps must be approved by at least nine affirmative votes which must include at least three votes of members

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<sup>1</sup> This handbook reflects the changes made to Sections 1 to 3, inclusive, of Article XXI of the California Constitution by Proposition 20 (Prop. 20, Nov. 2, 2010, eff. Nov. 3, 2010).

registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.

(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.

(d) The commission shall establish single-member districts for the Senate, Assembly, Congress, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Congressional districts shall achieve population equality as nearly as is practicable, and Senatorial, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.

(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, county, city and county, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions. A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.

(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.



(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

(f) Districts for the Congress, Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(g) By August 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve four final maps that separately set forth the district boundary lines for the congressional, Senatorial, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the four final maps to the Secretary of State.

(h) The commission shall issue, with each of the four final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.

(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.

(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the California Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.

### **Section 3 of Article XXI of the California Constitution**

Sec. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.

(b) (1) The California Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged or is claimed not to have taken timely effect.

(2) Any registered voter in this state may file a petition for a writ of mandate or writ of prohibition, within 45 days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.

Any registered voter in this state may also file a petition for a writ of mandate or writ of prohibition to seek relief where a certified final map is subject to a referendum measure that is likely to qualify and stay the timely implementation of the map.

(3) The California Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate, including, but not limited to, the relief set forth in subdivision (j) of Section 2.

## **Statutory Provisions (Government Code)**

### **Section 8251. Citizens Redistricting Commission General Provisions**

(a) This chapter implements Article XXI of the California Constitution by establishing the process for the selection and governance of the Citizens Redistricting Commission.

(b) For purposes of this chapter, the following terms are defined:

(1) "Commission" means the Citizens Redistricting Commission.

(2) "Day" means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(3) "Panel" means the Applicant Review Panel.

(4) "Qualified independent auditor" means an auditor who is currently licensed by the California Board of Accountancy and has been a practicing independent auditor for at least 10 years prior to appointment to the Applicant Review Panel.

(c) The Legislature may not amend this chapter unless all of the following are met:

(1) By the same vote required for the adoption of the final set of maps, the commission recommends amendments to this chapter to carry out its purpose and intent.

(2) The exact language of the amendments provided by the commission is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

(3) The bill containing the amendments provided by the commission is in print for 10 days before final passage by the Legislature.

(4) The amendments further the purposes of this act.

(5) The amendments may not be passed by the Legislature in a year ending in 0 or 1.

## **Section 8252. Citizens Redistricting Commission Selection Process**

(a) (1) By January 1 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall initiate an application process, open to all registered California voters in a manner that promotes a diverse and qualified applicant pool.

(2) The State Auditor shall remove from the applicant pool individuals with conflicts of interest including:

(A) Within the 10 years immediately preceding the date of application, neither the applicant, nor a member of his or her immediate family, may have done any of the following:

(i) Been appointed to, elected to, or have been a candidate for federal or state office.

(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.

(iii) Served as an elected or appointed member of a political party central committee.

(iv) Been a registered federal, state, or local lobbyist. (v) Served as paid congressional, legislative, or Board of Equalization staff.

(v) Served as paid congressional, legislative, or Board of Equalization staff.

(vi) Contributed two thousand dollars (\$2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.

(B) Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with the Governor, a Member of the Legislature, a member of Congress, or a member of the State Board of Equalization, are not eligible to serve as commission members. As used in this subdivision, a member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in-laws.

(b) The State Auditor shall establish an Applicant Review Panel, consisting of three qualified independent auditors, to screen applicants. The State Auditor shall randomly draw the names of three qualified independent auditors from a pool consisting of all auditors employed by the state and licensed by the California Board of Accountancy at the time of the drawing. The State Auditor shall draw until the names of three auditors have been drawn including one who is registered with the largest political party in California based on party registration, one who is registered with the second largest political party in California based on party registration, and one who is not registered with either of the two largest political parties in California. After the drawing, the State Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors decline to serve on the panel, the State Auditor shall resume the random drawing until three qualified independent auditors who meet the requirements of this subdivision have agreed to serve on the panel. A member of the panel

shall be subject to the conflict of interest provisions set forth in paragraph (2) of subdivision (a).

(c) Having removed individuals with conflicts of interest from the applicant pool, the State Auditor shall no later than August 1 in 2010, and in each year ending in the number zero thereafter, publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.

(d) From the applicant pool, the Applicant Review Panel shall select 60 of the most qualified applicants, including 20 who are registered with the largest political party in California based on registration, 20 who are registered with the second largest political party in California based on registration, and 20 who are not registered with either of the two largest political parties in California based on registration. These subpools shall be created on the basis of relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography. The members of the panel shall not communicate with any State Board of Equalization member, Senator, Assembly Member, congressional member, or their representatives, about any matter related to the nomination process or applicants prior to the presentation by the panel of the pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly.

(e) By October 1 in 2010, and in each year ending in the number zero thereafter, the Applicant Review Panel shall present its pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly. No later than November 15 in 2010, and in each year ending in the number zero thereafter, the President pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, and the Minority Floor Leader of the Assembly may each strike up to two applicants from each subpool of 20 for a total of eight possible strikes per subpool. After all legislative leaders have exercised their strikes, the Secretary of the Senate and the Chief Clerk of the Assembly shall jointly present the pool of remaining names to the State Auditor.

(f) No later than November 20 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall randomly draw eight names from the remaining pool of applicants as follows: three from the remaining subpool of applicants registered with the largest political party in California based on registration, three from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. These eight individuals shall serve on the Citizens Redistricting Commission.

(g) No later than December 31 in 2010, and in each year ending in the number zero thereafter, the eight commissioners shall review the remaining names in the pool of applicants and appoint six applicants to the commission as follows: two from the remaining subpool of applicants registered with the largest political party in California based on registration, two from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. The six appointees must be approved by at least five affirmative votes which must include at least two votes of commissioners registered from each of the two largest parties and one vote from a

commissioner who is not affiliated with either of the two largest political parties in California. The six appointees shall be chosen to ensure the commission reflects this state's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.

### **Section 8252.5. Citizens Redistricting Commission Vacancy, Removal, Resignation, Absence**

(a) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission may be removed by the Governor with the concurrence of two-thirds of the Members of the Senate after having been served written notice and provided with an opportunity for a response. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the Attorney General for criminal prosecution or the appropriate administrative agency for investigation.

(b) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled within the 30 days after the vacancy occurs, from the pool of applicants of the same voter registration category as the vacating nominee that was remaining as of November 20 in the year in which that pool was established. If none of those remaining applicants are available for service, the State Auditor shall fill the vacancy from a new pool created for the same voter registration category in accordance with Section 8252.

### **Section 8253. Citizens Redistricting Commission Miscellaneous Provisions**

(a) The activities of the Citizens Redistricting Commission are subject to all of the following:

(1) The commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), or its successor. The commission shall provide not less than 14 days' public notice for each meeting, except that meetings held in September in the year ending in the number one may be held with three days' notice.

(2) The records of the commission pertaining to redistricting and all data considered by the commission are public records that will be posted in a manner that ensures immediate and widespread public access.

(3) Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission that is otherwise permitted by the Bagley-Keene Open Meeting Act or its successor outside of a public hearing.

(4) The commission shall select by the voting process prescribed in paragraph (5) of subdivision (c) of Section 2 of Article XXI of the California Constitution one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same party.

(5) The commission shall hire commission staff, legal counsel, and consultants as needed. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in paragraph (2) of subdivision (a) of Section 8252 to the hiring of staff to the extent applicable. The Secretary of State shall provide support functions to the commission until its staff and office are fully functional. Any individual employed by the commission shall be exempt from the civil service requirements of Article VII of the California Constitution. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes including at least three votes of members registered from each of the two largest parties and three votes from members who are not registered with either of the two largest political parties in California.

(6) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's attendance or scheduled attendance at any meeting of the commission.

(7) The commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the commission draws any maps and hearings following the drawing and display of any commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of public display of any map.

(b) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps. Upon the commission's formation and until its dissolution, the Legislature shall coordinate these efforts with the commission.

### **Section 8253.5. Citizens Redistricting Commission Compensation**

Members of the commission shall be compensated at the rate of three hundred dollars (\$300) for each day the member is engaged in commission business. For each succeeding commission, the rate of compensation shall be adjusted in each year ending in nine by the cumulative change in the California Consumer Price Index, or its successor. Members of the panel and the commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed pursuant to this act. A member's residence is deemed to be the member's post of duty for purposes of reimbursement of expenses.

## **Section 8253.6. Citizens Redistricting Commission Budget, Fiscal Oversight**

(a) In 2009, and in each year ending in nine thereafter, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of State that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three-year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process. The Governor shall also make adequate office space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three-year period. The appropriation made shall be equal to the greater of three million dollars (\$3,000,000), or the amount expended pursuant to this subdivision in the immediately preceding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision. The Legislature may make additional appropriations in any year in which it determines that the commission requires additional funding in order to fulfill its duties.

(b) The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article VII of the California Constitution, for the purposes of this act, including legal representation.

# IMPLEMENTING REGULATIONS



# Voters FIRST Act Implementing Regulations

## CALIFORNIA CODE OF REGULATIONS TITLE 2. ADMINISTRATION DIVISION 10. BUREAU OF STATE AUDITS

### CHAPTER 1. REDISTRICTING

#### SUB-CHAPTER 1. DEFINITIONS 60800 - 60829

##### Section 60800. Ability to Be Impartial

(a) “Ability to be impartial” means that although an applicant may have strong views, and may have participated in social or political causes, the applicant has the capacity and willingness, while serving as a member of the commission, to set aside his or her personal views and all of the following considerations in order to evaluate information with an open mind and make decisions that are fair to everyone affected, including, but not limited to, the establishment of legislative and State Board of Equalization districts that are in compliance with the United States Constitution, the Voting Rights Act of 1965 (commencing with section 1971 of title 42 of the United States Code), and the criteria set forth in subdivision (d) of section 2 of Article XXI of the California Constitution:

- (1) Personal interests including, but not limited to, personal financial interests.
- (2) Biases for or against any individuals, groups, or geographical areas.
- (3) Support for or opposition to any candidates, political parties, or social or political causes.

(b) An applicant may demonstrate an ability to be impartial through a description of that ability and both of the following:

- (1) Having no personal, family, financial relationships, commitments, or aspirations that a reasonable person would consider likely to improperly influence someone making a redistricting decision.
- (2) Occupational, academic, volunteer, or other life experiences that show an ability to set aside his or her personal interests, political opinions, and group allegiances to achieve a broad objective.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60801. Applicant**

“Applicant” means a person who has submitted an application to serve on the commission.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60802. Application Materials**

“Application materials” means the electronic and other documents collected by the bureau and the panel from applicants and from members of the public commenting on applicants during the application process. Application materials shall include, but need not be limited to, the following:

- (a) Applications and supplemental applications.
- (b) Supporting materials for an application or a supplemental application, including, but not limited to, letters of recommendation.
- (c) Written public comments and responses to such comments submitted in accordance with section 60846.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60803. Application Year**

“Application year” means the calendar year 2010 or any year ending in “0” thereafter.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60804. Appointed to Federal or State Office**

“Appointed to” a federal or state office means a person has been appointed to a federal or state office by the Governor, any member of the Legislature, or any member of the State Board of Equalization, or has served in an appointed position at the pleasure of the Governor, a member of the Legislature, or a member of the State Board of Equalization. A person has been appointed to an office regardless of whether the appointment was subsequently confirmed by the Legislature.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60804.1. Appointive Federal, State, or Local Public Office**

“Appointive federal, state, or local public office” means the following:

(a) Appointive federal or state public office means a federal or state office that may be filled by appointment by the Governor, any member or members of the Legislature, any member or members of the State Board of Equalization, or any Senator or Representative in the Congress of the United States elected from California.

(b) Appointive local public office means a public office at the county or city level in California, as defined in California Code of Regulations, title 2, section 60815.1, that satisfies all of the following requirements:

(1) Is filled by appointment by a person or persons holding elective public office at the county or city level in California.

(2) Is an office in which the officeholder serves either for a fixed term or at the pleasure of the appointing authority.

(3) Entitles the officeholder to do either or both of the following:

(A) Make governmental decisions affecting persons throughout the jurisdiction of the county, city, special district, school district, joint powers authority, or other political subdivision of the state to which the office belongs and not just affecting persons in a particular geographic area or a particular industry, trade, or profession located within the jurisdiction.

(B) Receive compensation in an amount greater than \$5,000 per year, or receive per diem payments at a rate greater than \$100 per day.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution*.]

## **Section 60805. Appreciation for California’s Diverse Demographics and Geography**

(a) “Appreciation for California’s diverse demographics and geography” means all of the following:

(1) An understanding that California’s population consists of individuals sharing certain demographic characteristics that may reflect their preferences concerning political representation, including, but not limited to, race, ethnicity, gender, sexual orientation, and economic status.

(2) An understanding that the people of California reside in many different localities with distinct geographic characteristics that may reflect the preferences of the residents concerning their political representation, including, but not limited to, urban, suburban, rural, industrial, agricultural, coastal, inland, arid, and temperate.

(3) A recognition that California benefits by having effective participation in the electoral process by persons of all demographic characteristics and residing in all geographic locations, including, but not limited to, participation by those persons who in the past, as a consequence of sharing certain demographic characteristics, such as race and ethnicity, have had less opportunity than other members of the electorate to participate in the electoral process.

(b) An applicant may demonstrate an appreciation for California's diverse demographics and geography through a description of that appreciation and through occupational, academic, volunteer, or other life experiences that show this appreciation, such as:

(1) Working on one or more projects that involve or affect Californians having different backgrounds or residing in different areas, and therefore having differing interests, yet achieving results that are acceptable to these different Californians.

(2) Studying the voting behavior of Californians in various areas of the state for the purpose of improving the effectiveness of the electoral process.

(3) Traveling throughout California and meeting with people having different backgrounds, in order to recruit them for employment or some other endeavor, or to build consensus on some issue or idea.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60806. Bona Fide Relationship**

“Bona fide relationship established through blood or legal relation” means an existing bona fide relationship between a person and his or her spouse, registered domestic partner, parent, child, sibling, or in-law. A relationship is existing if it has not been terminated by death or dissolution. A relationship is bona fide if it is so substantial in nature that it includes any of the following within the preceding 12 months: cohabitation for a period or periods cumulating 30 days or more; shared ownership of any real or personal property having a cumulative value of \$1,000 or more, or either party to the relationship providing a financial benefit to the other having a cumulative value of \$1,000 or more. A “financial benefit” includes anything of value, whether tangible or intangible, and includes any payment, gift, discount, or rendering of services.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60807. Bureau**

“Bureau” means the Bureau of State Audits.

## **Section 60808. Bureau’s Website**

“Bureau’s website” means the official state government website for the Bureau of State Audits or any other website that the State Auditor designates for use during the application process for selecting members of the commission.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60809. Campaign Committee**

“Campaign committee of a candidate for elective federal or state office” means the following:

(a) As applied to a candidate for elective federal office, any “authorized committee” of that candidate as defined in section 431(5) of title 2 of the United States Code.

(b) As applied to a candidate for elective state office, any “controlled committee” of the candidate as defined in section 82016 of the Government Code, including, but not limited to, any controlled ballot measure committee.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60810. Candidate**

“Candidate” for federal or state office means a candidate for federal or state elective office.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60811. Commissioner**

“Commissioner” means a member of the Citizens Redistricting Commission.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60812. Conflict of Interest**

“Conflict of interest” means having engaged in any of the activities or having had any of the relationships specified in subdivision (a)(2) of section 8252 of the Government Code that require disqualification from serving as either a member of the commission or a member of the panel.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60813. Consultant**

“Consultant,” means any person who has entered into an agreement to provide consulting services to a political party, campaign committee, the Governor, a member of the Legislature, a member of Congress elected from California, or a member of the State Board of Equalization, either directly or through a business entity in which the person holds at least a ten percent ownership interest. “Consulting services” means expert advice or personal services related to conducting campaign activities or to holding congressional or state office.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60814. Contributed \$2,000 or More To Any Congressional, State, or Local Candidate For Elective Public Office in Any Year**

“Contributed \$2,000 or more to any congressional, state, or local candidate for elective public office in any year” means the following:

(a) “Contributed \$2,000 or more” means having made contributions defined as follows:

(1) With respect to contributions to a congressional candidate, contributions as defined in section 431(5) of title 2 of the United States Code.

(2) With respect to contributions to a state or local candidate, contributions as defined in section 82015 of the Government Code.

(3) Notwithstanding paragraph (2), contributions shall not include payments made by a candidate for a local elective public office to support his or her own candidacy for that office.

(4) Except as provided in paragraph (3), a contribution shall be attributed to a contributor in the manner provided by the federal or California laws that govern the contribution.

(b) A congressional candidate for elective public office means any candidate for the office of Senator or Representative in the Congress of the United States elected from California.

(c) A state candidate for elective public office means any candidate for “elective state office” in California, as defined in section 82024 of the Government Code.

(d) A local candidate for elective public office means any candidate for a regional, county, municipal, district, or judicial office in California that is filled by an election.

(e) “In any year” means the period January 1 through December 31 within a single calendar year.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60815. Diversity**

“Diversity” means the variety in the racial, ethnic, geographic, economic, and gender characteristics of the population of California.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60815.1. Elective Public Office at Federal, State, County, or City Level in This State**

“Elective public office at the federal, state, county, or city level in this State” means the following:

(a) Elective public office at the federal level means an office of Senator or Representative in the Congress of the United States that may be filled by an election in California.

(b) Elective public office at the state level means an “elective state office” in California, as defined in section 82024 of the Government Code.

(c) Elective public office at the county or city level in this state means a public office at the county or city level in California that may be filled by an election.

(d) Public office at the county level means an office of county government or an office of a special district, school district, joint powers authority, or other political subdivision of the state whose boundaries coincide with the boundaries of a county or whose boundaries include at least one entire county. A public office at the county level does not mean a position within a nonprofit organization, quasi-governmental entity, or neighborhood council.

(e) Public office at the city level means an office of city government or an office of a special district, school district, joint powers authority, or other political subdivision of the state whose boundaries coincide with the boundaries of a city or whose boundaries include at least one entire city but do not coincide with the boundaries of a county or include an entire county. A public office at the city level does not mean a position within a non-profit organization, quasi-governmental entity, or neighborhood council.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution*.]

## **Section 60816. Federal Office**

“Federal office” means the office of Senator or Representative in the Congress of the United States elected from California.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60817. In-law**

“In-law” means any of the following:

- (a) The father, mother, or sibling of a person’s spouse or registered domestic partner.
- (b) The spouse or registered domestic partner of a person’s child.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60818. Legislative Leader**

“Legislative leader” means the President Pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, or the Minority Floor Leader of the Assembly.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60819. Most Qualified Applicants**

“Most qualified applicants” means those applicants who satisfy all of the following requirements:

(a) Are lawfully registered voters in the State of California who, by the date the first eight members of the Commission are selected by the State Auditor, will have been continuously registered in California with the same political party or continuously registered in California as unaffiliated with a political party for at least the five preceding years.

(b) Have voted in at least two of the last three statewide general elections held immediately prior to the date of application.

(c) Do not have a conflict of interest.

(d) In the judgment of the panel are more suited to serving on the commission than other applicants based on their relevant analytical skills, ability to be impartial, and appreciation for California’s diverse demographics and geography.

[Note: Authority cited: *Section 2, Article XXI, California Constitution; Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]



## **Section 60820. Paid Congressional, Legislative, or Board of Equalization Staff**

“Paid congressional, legislative, or Board of Equalization staff” means any person who is either of the following:

(a) Employed by and receiving compensation from the Congress of the United States to provide services to a member of Congress elected from California.

(b) Employed by and receiving compensation from the Legislature or the State Board of Equalization.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60820.1. Paid Staff for Legislature or Any Individual Legislator**

“Paid staff for the Legislature or any individual legislator” means the following:

(a) Paid staff for the Legislature means being a person employed by and receiving compensation from the Legislature.

(b) Paid staff for any individual legislator means being a person employed by and receiving compensation from a member of the Legislature, or a business entity in which a member of the Legislature holds a controlling interest, without regard for whether the duties of employment are related to seeking or holding legislative office.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution*.]

### **Section 60821. Paid Consultant**

“Paid consultant” means a person who, pursuant to a contract, provides expert advice or personal services related to conducting campaign activities or holding office, and who receives compensation for providing such advice or services.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60822. Political Party**

“Political party” means a political party that is operating in California by making expenditures to support candidates for elective public office in the state or is recognized by the Secretary of State as a qualified political party as defined in section 5100 of the Elections Code.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60823. Political Party Central Committee**

“Political party central committee” means the designated body within a political party operating in California that directs the activities of the party throughout the state or within a particular county, such as a state central committee or a county central committee.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60824. Qualified Independent Auditor**

(a) “Qualified independent auditor” means an independent auditor currently employed by the State who satisfies all of the following requirements:

(1) Currently holds an active license issued by the California Board of Accountancy.

(2) By the time of selection to serve on the panel will have acquired at least ten years of experience practicing the skills of an independent auditor.

(3) Does not have a conflict of interest as defined in subdivision (a) of section 8252 of the Government Code.

(b) As used in this section:

(1) “Independent auditor currently employed by the State” means an auditor who is currently employed as a permanent employee of the Bureau of State Audits, which, as provided in section 8543 of the Government Code, is independent of the executive branch and legislative control.

(2) “Experience practicing the skills of an independent auditor” means experience acquired while working as an auditor or investigative auditor for the Bureau of State Audits, for its predecessor, the California Auditor General, or for some other agency of state government, provided that such other agency conducted audits of private entities, local governmental entities, or state departments that were external to itself although under its oversight or investigative authority.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60825. Randomly Draw**

“Randomly draw” means to select by the following process for random drawing.

(a) At least ten days prior to any random drawing, the bureau shall provide notice to the public regarding the time and place of the drawing by posting a notice on the bureau’s website and by any other means deemed appropriate by the State Auditor.

b) Prior to the drawing, the members of the pool from which the drawing will be made shall be divided into three subpools according to the party affiliation of the members of the pool. One subpool shall consist of members registered with the largest political party in California based on registration, another subpool shall consist of members registered with the second largest political party in California based on registration, and a third subpool shall consist of members not registered with either of the two largest political parties in California based on registration. The names of the members of each subpool shall be recorded on a list, with the names sequentially numbered so that each member is assigned a unique identifying number that is also recorded on the list.

(c) On the day of the drawing, the following procedures shall be followed:

(1) The drawing shall be open to the public.

(2) The drawing shall begin with the preparation of the balls that will be used for the drawing. The balls used for the drawing shall consist of 75 newly purchased prenumbered bingo balls of uniform composition, weight, size, shape, and texture that are delivered to the location of the drawing in the manufacturer's original packaging. Each of the sets shall be designated for use in selecting members from a corresponding subpool. The balls shall be prepared by extracting from each set of balls those balls that bear the number assigned to a member of the corresponding subpool, with all remaining balls set aside. The balls for each subpool shall be kept together and segregated for use in three separate subpool drawings.

(3) The balls for each subpool drawing shall be placed in a bingo cage. The cage shall be rotated vigorously to ensure that the balls are thoroughly mixed. The cage will drop a number of balls equal to the number of persons who must be drawn from the subpool, including any persons who are to serve as alternates. The number and name of the persons drawn during each subpool drawing shall be announced and duly recorded.

(4) After each subpool drawing, the bingo cage shall be emptied to allow the bingo cage to be used for the next subpool drawing until all of the subpool drawings are completed.

(d) At the conclusion of the drawing, the names of all those selected during each subpool drawing shall be posted on the bureau's website and otherwise announced to the public as deemed appropriate by the State Auditor.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60826. Registered Federal, State or Local Lobbyist**

"Registered federal, state, or local lobbyist" means a person registered as a lobbyist with the United States Senate, the United States House of Representatives, the California Secretary of State, or any political subdivision of the State of California.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60827. Relevant Analytical Skills**

(a) “Relevant analytical skills” means the learned abilities that a commissioner may need to successfully complete the work of the commission.

(b) Abilities related to performing the following tasks shall be considered relevant analytical skills: gathering and comprehending information that bears upon redistricting; evaluating the validity and significance of the information gathered by the commission in order to make sound decisions about the proper placement of communities in districts; applying the appropriate legal standards, including, but not limited to, the United States Constitution and the Voting Rights Act of 1965 (commencing with section 1971 of title 42 of the United States Code), to drawing district boundaries; and working effectively as a member of a group to promote redistricting decisions that are factually and legally defensible and that the commission can agree upon.

(c) The following are examples of relevant analytical skills grouped according to the tasks listed in subdivision (b):

(1) Gathering and comprehending information that bears upon redistricting:

(A) An ability to read and understand dense and technical written materials, including, but not limited to, maps and statistical information.

(B) An ability to participate effectively in public hearings regarding redistricting by listening carefully and critically to the testimony of witnesses and formulating concise questions that will elicit relevant information.

(2) Evaluating the validity and significance of the information gathered by the commission in order to make sound decisions about the proper placement of communities in districts:

(A) Basic mathematical skills.

(B) Familiarity with using computers and working with software programs such as spreadsheet programs, mapping websites or programs, or word processing programs.

(C) An ability to assess the credibility of information provided by staff, consultants, and members of the public, distinguish facts from opinions, distinguish relevant facts from irrelevant facts, and assess the relative strength of competing arguments.

(D) An ability to resolve complex problems, particularly those involving factual ambiguities as may arise when all of the relevant facts are not apparent or when there are conflicting claims about the facts.

(3) Applying the appropriate legal standards to drawing district boundaries:

(A) An ability to understand the legal principles that govern redistricting as communicated through written materials and advice provided by the commission’s legal counsel.

(B) An appreciation for the importance of applying proper legal standards to redistricting decisions.

(4) Working effectively as a member of a group to promote redistricting decisions that are factually and legally defensible and that the commission can agree upon:

(A) Effective communication skills, including, but not limited to, basic writing skills.

(B) An ability to interact effectively with other commissioners to build consensus on proposed decisions through reasoned discussion and negotiation.

(d) An applicant may demonstrate his or her possession of relevant analytical skills through a description of those skills and through occupational, academic, volunteer, or life experiences such as:

(1) Compiling information from a variety of sources, including, but not limited to, statistical reports, expert opinions, and members of the public to develop an understanding of an issue or problem.

(2) Assessing the value of information received from various sources to determine how much weight should be given to certain information versus other information when making a decision concerning an issue.

(3) Receiving expert advice, particularly of a legal nature, and applying that advice to decisions.

(4) Participating in group decision-making as a member of a commission, board, grand jury, task force, or other collection of individuals whose mission was to produce a report, plan, or other work product addressing some issue or problem.

### **Section 60828. Staff**

“Staff” as used in subdivision (a)(2)(B) of section 8252 of the Government Code means any person directly employed, with or without compensation, by the Governor, a member of the Legislature, a member of the Congress of the United States elected from California, or a member of the State Board of Equalization.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60829. State Office**

“State office” means every office, agency, department, division, bureau, board, and commission within the government of the State of California.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **SUB-CHAPTER 2. APPLICANT REVIEW PANEL 60830 - 60837**

### **Section 60830. Selection of Panel Members and Alternate Panel Members**

(a) The State Auditor shall randomly draw the members of the panel from a pool consisting of all qualified independent auditors as defined in section 60824.

(b) The random drawing shall be conducted in the manner prescribed by section 60825.

(c) Immediately after drawing a member of the panel from any of the subpools that have been established based on party affiliation, the State Auditor may randomly draw an alternate panel member from the same subpool to serve in the event that the panel member’s position on the panel becomes vacant.

(d) If any position on the panel becomes vacant, and the alternate panel member randomly drawn from the same subpool is not available to fill the position, the State Auditor shall conduct another random drawing as necessary to fill the position.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60831. Information About Prospective and Selected Panel Members**

The bureau shall post on the bureau’s website the following information about prospective and selected members of the panel:

(a) At least 10 days prior to any random drawing of members of the panel, the bureau shall post party affiliations, and relevant qualifications of the qualified independent auditors who will constitute the pool from which the members will be drawn. This information shall remain posted until the random drawing is concluded.

(b) As soon as practicable following any random drawing of members of the panel, the bureau shall post the names, party affiliations, and relevant qualifications of the qualified independent auditors who were selected to serve as members and alternate members of the panel. This information shall remain posted until the first eight members of the commission have been randomly drawn by the State Auditor.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60832. Training of Panel Members**

Prior to any member of the panel performing the duties of a panel member, the bureau shall provide the panel member with training in preparation for the performance of those duties. The training shall include, but not necessarily be limited to, all of the following subjects:

- (a) The requirements for conducting a public meeting, including, but not limited to, the requirements imposed by the Bagley-Keene Opening Meeting Act (commencing with section 11120 of the Government Code).
- (b) The duties of the panel as described in the Voters FIRST Act and the regulations implementing its provisions.
- (c) California's diverse demographics and geography.
- (d) The responsibilities of the Commission as set forth in the Voters FIRST Act, the United States Constitution and the Voting Rights Act of 1965 (commencing with section 1971 of title 42 of the United States Code).
- (e) The process for performing redistricting, including, but not limited to, the use of computer software to draw district lines.

## **Section 60833. Duties of Panel Members**

While serving on the panel, the members of the panel, in addition to complying with section 8252, subdivision (d) of the Government Code, shall comply with all of the following requirements:

- (a) Perform the work of the panel in a manner that is consistent with the statutes and regulations governing the panel's work.
- (b) Refrain from engaging in any conduct described in section 19572 of the Government Code that would be cause for employee discipline.
- (c) Refrain from communicating with any applicant for the Commission except as authorized by the application process set forth in sections 60841 through 60851.
- (d) Limit any discussion of specific applicants or application materials to discussions with other panel members during public meetings and to discussions with bureau staff assigned to assist the panel.
- (e) Conduct the work of the panel in a manner that is impartial and that reinforces public confidence in the integrity of the panel's work.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60834. Removal of Panel Members**

(a) The State Auditor shall have the authority to remove from the panel any member that the State Auditor determines cannot serve as a member of the panel due to any of the following:

(1) Resignation from the panel.

(2) Failure or inability to satisfy any of the requirements for being a Qualified Independent Auditor as described in section 60824.

(3) Failure or inability to perform the duties of a panel member as described in section 60833.

(b) Upon the removal of any member of the panel, the State Auditor shall replace the panel member with an alternate panel member drawn from the same subpool. If the alternate panel member randomly drawn from the same subpool is not available to fill the position, the State Auditor shall conduct another random drawing as necessary to fill the position.

(c) The replacement of a panel member with an alternate panel member shall not affect the validity of any decision previously made by the panel.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60835. Panel Administration**

(a) The bureau shall provide the panel with administrative, technical, and clerical support as needed by the panel to carry out its responsibilities under the Act. This support shall include, but not be limited to, the provision of office equipment, facilities, and staff sufficient to perform the following tasks:

(1) Process applications.

(2) Collect information concerning applicants.

(3) Schedule meetings.

(4) Maintain files.

(5) Make travel arrangements.

(6) Communicate with the public regarding panel decisions.

(b) The bureau shall provide the panel with legal counsel. To the extent permitted by law, all work performed by the bureau's legal counsel and all communications between the bureau's legal counsel and the panel shall be confidential and protected from disclosure by any applicable privileges.



(c) The bureau shall retain the records concerning the application process, including, but not limited to, correspondence, applicant lists, applications and supporting materials, public comments and responses, and video recordings for a period of at least 12 years.

(d) If a position on the panel becomes vacant, the bureau shall provide the person filling the vacancy with all of the documents that were provided to the outgoing panel member.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60836. Panel Meetings**

(a) The panel shall meet in Sacramento.

(b) The panel shall elect a panel chair during its first meeting. The chair shall preside over all panel meetings. A majority of the panel members may replace the chair or appoint an acting chair to serve in the chair's absence.

(c) Two members of the panel constitute a quorum.

(d) The panel is subject to the provisions of the Bagley-Keene Opening Meeting Act (commencing with section 11120 of the Government Code). Consistent with that act, panel members may independently review applications prior to any public meeting.

(e) All deliberations by members of the panel regarding applicants shall take place in open session.

(f) Except in instances where it conflicts with state law, the panel shall conduct the meetings of the panel in accordance with the most recent edition of Robert's Rules of Order.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60837. Panel Voting**

Panel decisions relating to the removal of an applicant from an applicant pool, or the reconsideration of a decision to remove an applicant from an applicant pool, shall be by a unanimous vote of all three panel members. All other panel decisions may be made by majority vote.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **SUB-CHAPTER 3. CITIZENS REDISTRICTING COMMISSION 60840 – 60863**

### **ARTICLE 1. APPLICATION PROCESS**

#### **Section 60840. Outreach Program**

(a) In conjunction with initiating an application process for selecting the members of the commission, the bureau shall conduct an outreach program to alert the public to the application process and to encourage the submission of applications by a diverse pool of qualified applicants. The bureau's outreach program shall, at a minimum, include all of the following:

(1) Posting a calendar on the bureau's website indicating the key dates and deadlines for the application process, including, but not limited to, when established, the period during which the bureau will accept applications.

(2) Producing outreach materials regarding the role of the commission, the eligibility and qualifications requirements for serving as a commissioner, and the process for selecting commissioners.

(3) Identifying community partners and requesting that they assist in recruiting qualified applicants.

(4) Creating and distributing public service announcements and print advertisements regarding the application process for placement in local, regional, and ethnic media.

(5) Upon posting an electronic application form on the bureau's website, widely publicizing both the availability of the application and the deadline for its submission.

(b) The breadth and scope of the bureau's outreach program is dependent on the funding that is available for the program.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

#### **Section 60841. Overview of the Application Process**

The application process shall consist of six phases.

(a) During Phase I, applicants shall be required to complete and submit an initial application form, as described in California Code of Regulations, title 2, section 60843, to determine their eligibility to become members of the initial applicant pool.

(b) During Phase II, applicants shall be required to complete and submit a supplemental application form and supporting materials, as described in California Code of Regulations, title 2, section 60847, for an evaluation of their relative qualifications. From this pool of applicants, the panel shall reduce the applicant pool to a pool of not more than 120 applicants, who shall proceed to Phase III of the application process.

(c) During Phase III, the panel shall interview the applicants remaining in the applicant pool, as described in California Code of Regulations, title 2, section 60849, and reduce the applicant pool to 60 of the most qualified applicants, who shall proceed to Phase IV of the application process.

(d) During Phase IV, the panel shall submit a list of the names of the 60 applicants remaining in the applicant pool to the Legislature, where, as described in California Code of Regulations, title 2, section 60852, not more than 24 names shall be removed from the list by the legislative leaders.

(e) During Phase V, the State Auditor shall randomly draw the names of eight applicants from those remaining after the legislative leaders have exercised their right to remove applicants. The eight applicants whose names are drawn by the State Auditor shall become the first eight members of the commission.

(f) During Phase VI, the first eight members of the commission shall select the final six members of the commission.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60842. General Requirements Applicable to Every Phase of the Application Process**

All of the following requirements apply to each phase of the application process:

(a) Except for individuals qualifying for a reasonable accommodation under the Americans with Disabilities Act of 1990 (commencing with section 12101 of title 42 of the United States Code), applicants shall fill out and submit all applications electronically using the bureau's website. The bureau shall neither make available nor accept paper applications, and all application materials, except letters of recommendation, shall be submitted to the bureau electronically.

(b) All deadlines established by the bureau and the panel, including, but not limited to, deadlines for the submission of application materials are final. Application materials not timely received or deemed incomplete by the bureau or the panel shall not be considered.

(c) The bureau or the panel may inquire about or seek additional information from an applicant during any phase of the application process.

(d) The bureau or the panel may exclude or remove from an applicant pool any applicant who does any of the following:

- (1) Submits more than one Phase I or Phase II application.
- (2) Submits an incomplete application.

(3) Fails to timely submit supporting materials, including, but not limited to, letters of recommendation.

(4) Fails to comply with deadlines established by the bureau or the panel.

(5) Fails to timely respond to inquiries, or to provide additional information as requested by the bureau or the panel.

(e) All applications shall include a certification by the applicant that he or she has provided true and correct information.

(f) All application materials collected and maintained by the bureau are public records and therefore subject to disclosure as provided by the California Public Records Act (commencing with section 6250 of the Government Code), unless exempted from disclosure by a specific provision of the California Public Records Act or disclosure is prohibited by some other state or federal law.

(g) To enhance the transparency of the application process, the bureau shall, as soon as practicable, post application materials on the bureau's website, except that it may decline to post any material, or specific information in any material, that bureau staff determines to be either of the following:

(1) Personal in nature, such as residence addresses, telephone numbers, or so private that it would be inappropriate for public disclosure.

(2) Offensive or harassing in nature due to sexual, profane, racist, or otherwise bigoted content.

(3) Exempt from disclosure under the California Public Records Act or disclosure is prohibited by some other state or federal law.

(h) In a manner consistent with state and federal law, as well as bureau policy, the bureau shall protect and keep confidential any materials or information that is prohibited from public release.

(i) All information provided by or about an applicant through an application, public comment, or by any other means may be subject to investigation and verification by the bureau or the panel.

(j) Except as provided in section 60851, an applicant may not seek reconsideration of any decision by the bureau or the panel.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60843. Phase I Initial Application**

(a) On or before January 1 of the application year, the bureau shall initiate Phase I of the application process by posting an initial application form on the bureau's website. Except for individuals qualifying for a reasonable accommodation under the Americans with Disabilities Act of 1990 (commencing with section 12101 of the United States Code), applicants shall complete the application electronically and submit it using the bureau's website.

(b) The Phase I initial application period shall extend a minimum of 60 days.

(c) The initial application form shall solicit information from the applicant to determine his or her eligibility to become a member of the initial applicant pool. The information the bureau shall seek via the initial application includes all of the following:

(1) The full name and contact information for the applicant, including, electronic mail address, physical residential address, mailing address, and telephone numbers.

(2) The applicant's race, ethnicity, gender, age, date of birth, and household income.

(3) The applicant's voter registration status and party affiliation.

(4) Whether the applicant will be able to satisfy the eligibility requirements for commission membership set forth in subdivision (c)(3) of section 2 of Article XXI of the California Constitution.

(5) Whether the applicant has a conflict of interest.

(d) The applicant shall certify that the information he or she provides on the initial application is true and correct.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

## **Section 60844. Phase I Initial Application Review**

(a) The bureau shall review each application that is submitted during the Phase I application period and exclude from the initial applicant pool any applicant who has not complied with the application process or is not eligible to serve on the commission due to any of the following:

(1) Submitting more than one application.

(2) Submitting an incomplete or untimely application.

(3) Not satisfying the eligibility requirements of subdivision (c)(3) of section 2 of Article XXI of the California Constitution.

(4) Having a conflict of interest.

(b) Applicants not excluded as provided in subdivision (a) shall be placed in the initial applicant pool and invited by the bureau to participate in Phase II of the application process.

(c) Applicants excluded from the initial applicant pool shall be notified by the bureau and advised of the grounds.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60845. Publication of Names of Applicants in Initial Applicant Pool**

Having excluded from the initial applicant pool those applicants who, based on their initial application, were not eligible to serve as members of the commission because of an inability to satisfy the requirements of subdivision (c)(3) of section 2 of Article XXI of the California Constitution, or due to a conflict of interest, the bureau shall post on the bureau's website a list of the names of the applicants who have been placed in the initial applicant pool.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

### **Section 60846. Written Public Comments and Responses**

(a) Beginning on the date that the names of the successful Phase I applicants are posted on the bureau's website, and continuing throughout the remainder of the application process until the 14 members of the commission are selected, the bureau shall provide opportunities for the public to submit written comments regarding the applicants being considered. The bureau shall post a form for submitting written comments on the bureau's website. The public may submit comments electronically or by facsimile, United States mail, or other common carrier.

b) The panel may only consider written comments that it receives regarding applicants who have been placed in a pool of applicants for the panel's evaluation and have not been removed. To be considered by the panel, a written comment must satisfy all of the following requirements:

(1) The bureau received the written comment prior to the deadline established by the bureau for receiving written comments concerning the applicants being considered during the current phase of the application process.

(2) The comment contains specific facts related to an applicant's eligibility and qualifications to serve as a member of the commission or is related to the accuracy of any statement made by the applicant as part of the application process.

(3) The information that is contained in the comment appears sufficiently credible to warrant consideration.

(4) The name and contact information for the person providing the comment is included in the comment.

(5) The comment contains a certification by the person providing the comment that the information included in the comment is true and correct and based on the author's personal knowledge.

(c) Subject to the provisions of California Code of Regulations, title 2, section 60842, subdivision (f), the bureau shall, as soon as practicable, post on the bureau's website all written comments that may be considered by the panel pursuant to subdivision (b), including the name of the person providing the comment.

(d) The bureau shall send a copy of any written comments received about an applicant to the applicant, with a notice stating how the applicant may submit a written response and the deadline for submitting the response.

(e) Written comments and responses about an applicant submitted during any phase of the application process shall be included in the applicant's application materials and may be considered in the evaluation of the applicant during all subsequent phases of the application process during which the applicant remains in a pool of applicants being evaluated for selection to the commission. Comments and responses received after the deadline for receiving comments during a particular phase of the application process may be considered in the evaluation of the applicant during a subsequent phase provided the applicant remains in a pool of applicants being considered for selection to the commission.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60847. Phase II Supplemental Application**

(a) In Phase II of the application process, the bureau shall direct the members of the initial applicant pool to submit a supplemental application with supporting materials. The bureau shall post supplemental application forms on the bureau's website for use by the members of the applicant pool. Except for individuals qualifying for a reasonable accommodation under the Americans with Disabilities Act of 1990 (commencing with section 12101 of title 42 of the United States Code), applicants shall complete the supplemental application forms and supporting materials electronically and submit them using the bureau's website. Notwithstanding this requirement, applicants may submit letters of recommendation by facsimile, United States mail, or other common carrier as an alternative to submitting the letters through the bureau's website.

(b) The Phase II supplemental application period shall extend a minimum of 30 days.

(c) The supplemental application, with supporting materials, shall consist of all of the following:

(1) Questions designed to elicit information from the applicant describing his or her qualifications to serve on the commission, including essay questions to be answered in 3200 characters (approximately 500 words) or less.

(2) Questions designed to elicit information about the applicant, including, but not limited to:

(i) Former names, former residences, and felony convictions, if any.

(ii) Educational and employment history.

(iii) Involvements with, and financial contributions to, professional, social, political, volunteer, and community organizations and causes.

(3) Questions about an applicant's immediate family members.

(4) A requirement that the applicant submit three letters of recommendation from individuals or organizations.

(5) Notice that the applicant will be required to submit a Statement of Economic Interests (FPPC Form 700) if the applicant is later identified by the panel as an applicant that may be directed to participate in an interview by the panel.

(d) The bureau shall remove from the initial applicant pool any applicants who fail to submit a completed supplemental application with supporting materials by the deadline established by the bureau.

(e) The bureau shall transmit a copy of every complete and timely received supplemental application with supporting materials to the panel. Subject to the provisions of section 60842, subdivision (f), the bureau shall also post the supplemental application with supporting materials on the bureau's website.

(f) After posting the supplemental applications with supporting materials on its website, the bureau shall establish a deadline for the receipt of written public comments during Phase II of the application process.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60848. Phase II Supplemental Application Review**

(a) During Phase II, each member of the panel shall review the application materials submitted regarding each applicant remaining in the applicant pool, for the purpose of determining which applicants shall be removed from the pool to leave no more than 120 of the most qualified applicants who will be invited to participate in Phase III of the application process.

(b) The maximum of 120 most qualified applicants who will be invited to participate in Phase III of the application process shall consist of the following three subpools:

(1) 40 applicants who are registered with the largest political party in California.



(2) 40 applicants who are registered with the second largest political party in California.

(3) 40 applicants who are not registered with either of the two largest political parties in California.

(c) At the panel's request, the State Auditor may assign staff to assist the members of the panel with their review of the application materials. This assistance may include, but need not be limited to, preparing summaries of applicants' qualifications and making recommendations to the panel members regarding the relative qualifications of the applicants.

(d) The panel shall remove from the applicant pool any applicant who the panel determines has a conflict of interest or does not meet the requirements of subdivision (c)(3) of section 2 of Article XXI of the California Constitution.

(e) In reducing the applicant pool to not more than 120 of the most qualified applicants, the panel shall evaluate the applicants based on their relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography.

(f) As the application process is designed to produce a commission that is reasonably representative of the State's diversity, as specified in subdivision (c)(1) of section 2 of Article XXI of the California Constitution, the panel shall also consider whether the composition of the pool of applicants to participate in Phase III of the application process is reflective of the State's diversity. The panel shall not use formulas or specific ratios in identifying which applicants will participate in Phase III of the application process.

(g) During the panel's review of the application materials and reduction of the applicant pool, the panel shall identify those applicants it considers likely to be among the 120 of the most qualified applicants, and direct those applicants to submit a Statement of Economic Interests (Form 700) within a period of 30 days, so that the panel may consider the applicants' statements prior to identifying the pool of 120 most qualified applicants.

(h) The bureau shall post on the bureau's website a list of the applicants remaining in the applicant pool who will therefore be invited to participate in Phase III of the application process. The bureau shall also notify the applicants removed from the applicant pool that they have been removed from the pool.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60849. Phase III Interviews**

(a) In Phase III of the application process, the panel shall direct the applicants remaining in the applicant pool to participate in public interviews conducted by the panel in Sacramento.

(b) The bureau shall schedule the interviews at the convenience of the panel, providing at least 7 calendar days notice to the applicants of the date, time, and location of the interviews.

(c) The bureau shall pay the reasonable and actual expenses for an applicant to attend an interview as described in this subdivision. The bureau shall also reimburse applicants for the reasonable and necessary travel expenses that they incur to attend an interview, including, the following:

(1) If the bureau determines that an applicant requires air travel to attend an interview, the bureau shall directly purchase airline tickets for that applicant.

(2) Non-air transportation expenses shall be reimbursed and computed in accordance with the applicable regulations of the Department of Personnel Administration in effect on the date that the expenses are incurred. Reimbursement shall not exceed the maximum reimbursement rates established for nonrepresented state employees.

(3) Living expenses shall be reimbursed in an amount not to exceed the maximum reimbursement rates for nonrepresented state employees claimed and computed in accordance with the Department of Personnel Administration regulations in effect on the date the expenses are incurred. This includes overnight accommodations if the bureau determines such accommodations are necessary.

(4) An applicant may request a reasonable advance from the bureau if incurring the expenses described in paragraph (2) would create an undue financial hardship. All requests are subject to approval by the State Auditor or the State Auditor's designee.

(d) During the interviews, questions may only be posed by members of the panel, panel staff, and legal counsel for the panel. The questioning may concern anything that is relevant to an applicant's eligibility and qualifications to serve on the commission.

(e) The panel shall record all of the interviews that it conducts and post the recordings on the bureau's website as soon as practicable after each interview is completed.

(f) The bureau shall establish a deadline for the receipt of written public comments during Phase III of the application process. The deadline shall be set for a date following the conclusion of all of the interviews.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60850. Phase III Applicant Review**

(a) During Phase III, the panel shall review the applicants who participated in interviews by the panel, along with all of the application materials submitted regarding those applicants, for the purpose of determining which applicants shall be removed from the applicant pool to leave 60 of the most qualified applicants who will participate in Phase IV of the application process.

(b) The 60 applicants who will participate in Phase IV of the application process shall consist of the following three subpools:

(1) 20 applicants who are registered with the largest political party in California.

(2) 20 applicants who are registered with the second largest political party in California.

(3) 20 applicants who are not registered with either of the two largest political parties in California.

(c) The panel shall remove from the applicant pool any applicant who the panel determines has a conflict of interest or does not meet the requirements of subdivision (c)(3) of section 2 of Article XXI of the California Constitution.

(d) In reducing the applicant pool to 60 of the most qualified applicants, the panel shall evaluate the applicants based on their relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography.

(e) As the application process is designed to produce a commission that is reasonably representative of the State's diversity, as specified in subdivision (c)(1) of section 2 of Article XXI of the California Constitution, the panel shall also consider whether the composition of the pool of applicants to participate in Phase IV of the application process is reflective of the State's diversity. The panel shall not use formulas or specific ratios in identifying which applicants will participate in Phase IV of the application process.

(f) The bureau shall post on the bureau's website a list of the applicants remaining in the applicant pool who will therefore be invited to participate in Phase IV of the application process. The bureau shall also notify the applicants removed from the applicant pool that they have been removed from the pool.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60851. Reconsideration**

(a) An applicant who is excluded or removed from an applicant pool, by either the bureau or the panel, based on any of the following grounds, may seek timely reconsideration of the decision by the entity making the decision:

(1) Conflict of interest.

(2) Failing to satisfy the eligibility requirements for serving as a member of the commission, as set forth in subdivision (a)(3) of section 2 of Article XXI of the California Constitution.

(3) Failing to comply with a procedural requirement of the application process.

(b) All other decisions by the bureau and the panel, including, but not limited to, decisions to exclude or remove applicants from an applicant pool, except for the decisions described in subdivision (a), are final at the time the decisions are made, and an applicant has no right to seek reconsideration of those decisions by either the bureau or the panel.

(c) An applicant seeking reconsideration of a decision described in subdivision (a) shall submit to the bureau a written request for reconsideration that complies with all of the following requirements:

(1) Is received by the bureau within 10 days after the date that the bureau issued a notice to the applicant that he or she was being excluded or removed from an applicant pool for any of the reasons stated in subdivision (a).

(2) Includes a statement of facts, with supporting evidence, establishing by a preponderance of evidence that the applicant was excluded or removed from an applicant pool erroneously.

(3) Contains a certification that the facts alleged in the request for reconsideration are true and correct.

(d) All requests for reconsideration that do not satisfy the requirements of subdivision (c) shall be summarily denied by the bureau or the panel. Upon the bureau or the panel denying a request for reconsideration of a decision described in subdivision (a), or upon the period for filing such a request expiring without a request being received, whichever occurs first, the decision shall become final and the applicant will have no further right to seek reconsideration of the decision.

(e) If the bureau or the panel determines that an applicant has, in a written request for reconsideration, established by a preponderance of evidence that he or she was erroneously excluded or removed from an applicant pool for one of the reasons stated in subdivision (a), the bureau or the panel shall place the applicant in that applicant pool and the applicant shall participate in the application process in the same manner as if the applicant had not been excluded or removed.

(f) Notwithstanding subdivisions (b) and (d), at any time during the application process, the panel may, solely at its own discretion, reconsider and correct a past decision of the panel or the bureau during the application process due to gross error or other compelling circumstances.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60852. Phase IV: Applicant Name Striking Process**

(a) During Phase IV of the application process, the panel shall present to the Legislature a list containing the names of 60 of the most qualified applicants identified by the panel during Phase III of the application process for legislative leaders to exercise their right to strike up to 24 names from the list.

(b) On or before October 1 of the application year, the panel shall present to the Secretary of the Senate and the Chief Clerk of the Assembly, by hand-carried letter, the list containing the names of 60 of the most qualified applicants divided into three subpools of twenty each, based on their party affiliation and nonaffiliation. The bureau shall also make available to the legislative leaders the application materials and recorded interviews of each of the applicants

on the list, and any factual materials gathered by the bureau or the panel concerning those applicants.

(c) On or before November 15 of the application year, the State Auditor shall accept from the Secretary of the Senate and the Chief Clerk of the Assembly a joint presentation of the list of names described in subdivision (a) with no more than a total of eight names stricken by the legislative leaders from each of the subpools. Time permitting prior to the expiration of the November 15 deadline, if the Secretary of the Senate and the Chief Clerk of the Assembly jointly present a list of names to the State Auditor that does not retain at least twelve names in each subpool, the State Auditor shall return the list to the Secretary of the Senate and the Chief Clerk of the Assembly for correction.

(d) An applicant whose name has been stricken from a subpool by a legislative leader shall be removed from the selection process and may not serve as a member of the commission. An applicant removed from the selection process because his or her name was stricken from a subpool by a legislative leader may not appeal or seek reconsideration of the removal from the bureau or the panel.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60853. Phase V: Random Drawing of First Eight Members of the Commission**

(a) During Phase V of the application process, the State Auditor, as provided in section 8252, subdivision (f) of the Government Code, shall randomly draw the names of eight applicants from those remaining after the legislative leaders have exercised their right to strike the names of up to 24 applicants from the pool of 60 of the most qualified applicants identified by the panel. The State Auditor shall conduct the random drawing on or before November 20 of the application year in the manner prescribed by California Code of Regulations, title 2, section 60825.

(b) Notwithstanding subdivision (a), the State Auditor shall randomly draw the names of 8 applicants from the names of all the applicants in the pool of 60 most qualified applicants identified by the panel, rather than from a reduced collection of names, if the Secretary of the Senate and the Chief Clerk of the Assembly do not jointly present, by November 15 of the application year, a list containing the names of no fewer than 12 applicants in each of the three subpools that comprise the list.

(c) The eight applicants whose names are drawn by the State Auditor shall become members of the commission.

(d) As soon as practicable following the random drawing of the first eight members of the commission, the bureau shall notify the applicants of their selection and post on its website the names, party affiliations, and relevant qualifications of those first eight members.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

## **Section 60854. Transmission of Remaining Application Materials to Commission**

After the State Auditor randomly draws the names of the first eight commissioners, the bureau shall provide the eight commissioners with the application materials and recorded interviews of each of the applicants remaining in the applicant pool.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code*.]

## **Section 60855. Training of First Eight Members of Commission**

Prior to any of the first eight members of the commission performing the duties necessary to select the final six members of the commission, the bureau shall provide the first eight members of the commission with training in preparation for the performance of those duties. The training shall include the following subjects:

(a) The requirements for conducting a public meeting, including the requirements imposed by the Bagley-Keene Open Meeting Act (commencing with section 11120 of the Government Code).

(b) The duties of the first eight members of the commission in selecting the final six members of the commission as described in the Voters FIRST Act and the regulations implementing its provisions.

(c) California's diverse demographics and geography.

(d) The responsibilities of the Commission as set forth in the Voters FIRST Act, the United States Constitution, and the Voting Rights Act of 1965 (commencing with section 1971 of title 42 of the United States Code).

(e) The process for performing redistricting, including the use of computer software to draw district lines.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Sections 8252 and 8253, Government Code*.]

## **Section 60856. Administrative Support for First Eight Members of Commission**

(a) The bureau shall provide administrative, technical, and clerical support to the first eight members of the commission as necessary for them to carry out their responsibility under the Voters FIRST Act to select the final six members of the commission. This support shall include the provision of office equipment, facilities, and staff sufficient to perform the following tasks:

(1) Collect and manage the application materials and recorded interviews provided to the first eight members of the commission pursuant to California Code of Regulations, title 2, section 60854.

(2) Gather additional information as provided in California Code of Regulations, title 2, section 60860, subdivision (a).

(3) Schedule public meetings, prepare meeting agendas, and post on the bureau's website the notices and agendas for meetings.

(4) Make travel arrangements.

(5) Process claims for reimbursement and compensation.

(6) Provide technical and administrative support for public meetings.

(7) Communicate with the public regarding decisions made by the first eight members of the commission.

(b) The bureau shall provide the first eight members of the commission with legal counsel. To the extent permitted by law, all work performed by legal counsel and all communications between legal counsel and the first eight members of the commission shall be confidential and protected from disclosure by any applicable privileges.

(c) The bureau shall retain the records concerning the work of the first eight members of the commission in selecting the final six members of the commission for a period of at least 12 years.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Sections 8252, 8253, 8253.5, and 8253.6 Government Code.*]

### **Section 60857. Payments to First Eight Members of Commission**

For the purposes of section 8253.5 of the Government Code, which entitles members of the commission to receive compensation and reimbursement for expenses, "commission business" and "duties performed pursuant to this act" shall include the activities of the first eight members of the commission in training for the selection and selecting the final six members of the commission.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8253.5 Government Code.*]

### **Section 60858. Phase VI: Meetings of First Eight Members of Commission**

(a) The authority of the first eight members of the commission is limited to selecting the final six members of the commission. The first eight members of the commission therefore may only take those actions that are necessary for the selection of the final six members of the commission, and all other actions must be deferred until the full 14-member commission is established.

(b) The first eight members of the commission shall meet in Sacramento for the purpose of selecting the final six members of the commission. The first eight members shall schedule and hold one or more meetings for the purpose of selecting the final six members of the commission by no later than December 31, 2010.

(c) Five of the first eight members of the commission shall constitute a quorum for a meeting of the first eight members of the commission.

(d) The first eight members of the commission are subject to the provisions of the Bagley-Keene Open Meeting Act (commencing with section 11120 of the Government Code). Consistent with that act, the first eight members of the commission:

(1) May, prior to any meeting, independently review the application materials relating to the remaining applicants.

(2) Shall comply with the notice requirements for meetings that are contained in the Bagley-Keene Open Meeting Act, but are not subject to the notice requirements specified in subdivision (a)(1) of section 8253 of the Government Code, as those requirements only apply to the full 14-member commission.

(3) Shall conduct all deliberations in public and not meet in closed session except as permitted by the Bagley-Keene Open Meeting Act.

(e) During their first meeting, the first eight members of the commission shall, in open session, elect one of the members to serve as a temporary chair and another member to serve as a temporary vice chair. The temporary chair shall preside over the meetings held by the first eight members of the commission for the purpose of selecting the final six members. The temporary vice chair shall preside over meetings in the temporary chair's absence. The temporary chair and the temporary vice chair shall not be registered with the same political party. The temporary chair and temporary vice chair shall be elected by the affirmative vote of at least five of the first eight members, including no less than two affirmative votes from the members who are registered with the political party having the greatest number of registered voters, two affirmative votes from the members who are registered with the political party having the second greatest number of registered voters, and no less than one affirmative vote from a member who is not registered with either of those two parties. The first eight members of the commission may replace the temporary chair or the temporary vice chair through the same voting process. In the absence of both the temporary chair and the temporary vice chair, an acting chair may be elected to preside over a meeting on the affirmative vote of a majority of the members present and voting.

(f) Except in instances where it conflicts with state law, the first eight members of the commission shall conduct their meetings in accordance with the most recent edition of Robert's Rules of Order.

(g) The bureau shall record, through the use of audio and visual equipment, the meetings of the first eight members of the commission in which they deliberate about or select the final six



members of the commission. Such meetings will be made available for viewing on the bureau's website either live or as soon as practicable after completion.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Sections 8252 and 8253, Government Code.*]

### **Section 60859. Communications Between First Eight Members of Commission and Members of State Board of Equalization, Legislature, and Congress**

Beginning from the date of their selection to serve on the commission, and continuing throughout Phase VI of the application process, the first eight members of the commission shall not communicate outside of a public meeting with any member of the State Board of Equalization, member of the Legislature, or member of Congress elected from California, or their representatives regarding the selection of the final six members of the commission or their role as members of the commission. If a member of the State Board of Equalization, member of the Legislature, or member of Congress elected from California wishes to present testimony or public comment regarding an applicant during the time that the first eight members are selecting the final six members, such testimony or public comment shall only be accepted if it is presented orally at a public meeting or presented in writing and disclosed to the public either before or during a public meeting.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code.*]

### **Section 60860. Phase VI: Selection of Final Six Members of Commission**

(a) Prior to the first meeting at which the first eight members of the commission begin deliberating about the selection of the final six members of the commission, the members shall review the application materials provided by the bureau for each of the applicants remaining in the applicant pool. Any of the first eight members of the commission, at any time during the selection process, also may ask the bureau to seek additional information from or about the applicants remaining in the applicant pool. This may include asking an applicant to submit written responses to questions or to participate in an interview conducted by the first eight members of the commission at a public meeting. However, the bureau shall retain discretion to decline any request that the State Auditor finds to be unduly burdensome for the bureau, unduly burdensome for the applicant(s) subject to the request, or otherwise would be detrimental to the timely completion of the application process. The bureau shall pay the reasonable and actual expenses for an applicant to attend any interview, as provided in California Code of Regulations, title 2, section 60849, subdivision (c).

(b) As the final six members of the commission shall be chosen to ensure the commission reflects California's diversity, as well as on the basis of relevant analytical skills and ability to be impartial, the first eight members of the commission shall vote to select the final six members of the commission as a slate of six applicants.

(c) Any of the first eight members of the commission may propose a slate of six applicants for selection to the commission. While a member may propose more than one slate of six

applicants during the course of the selection process, no member may have more than one slate of six applicants up for consideration by the other members at a particular time.

(d) Each slate of six applicants shall consist of two applicants registered with the political party having the greatest number of registered voters, two applicants registered with the political party having the second greatest number of registered voters, and two applicants not registered with either of those two parties. Each slate shall also be designed to ensure that the commission reflects California's diversity while being composed of persons having the relevant analytical skills and ability to be impartial needed by the commission. However, in designing a slate, neither formulas nor specific ratios may be applied to ensure the diversity of the commission.

(e) A slate may be modified by the member proposing it at any time prior to the slate being voted upon by the eight members. However, whenever a slate is modified, neither formulas nor specific ratios may be applied to ensure the diversity of the commission.

(f) The first eight members of the commission shall vote to approve a slate based on whether they believe it will ensure that the commission reflects California's diversity while being composed of persons having the relevant analytical skills and ability to be impartial needed by the commission.

(g) The applicants listed on the first slate of six applicants that is approved by at least five affirmative votes as provided in subdivision (g) of section 8252 of the Government Code, shall become the final six members of the commission.

(h) As soon as practicable following the selection of the final six members of the commission, the bureau shall notify the applicants of their selection and post on its website the names, party affiliations, and relevant qualifications of those commissioners.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution; Section 8252, Government Code*.]

### **Section 60861. Assisting Commission To Become Functional**

After the 14 members of the commission have been selected, the bureau will cooperate with the commission and with the Secretary of State in order to facilitate the commission becoming fully functional.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 8252, Government Code; Section 8253.6, Government Code*.]

### **Section 60862. Restrictions on Applicants Selected To Serve on Commission**

For the purposes of subdivision (c)(6) of section 2 of Article XXI of the California Constitution, the 10 and 5-year restriction on members of the commission holding elective and appointive public office shall not extend beyond the appointment of the first member of the succeeding commission as referenced in subdivision (c)(4) of section 2 of Article XXI of the California Constitution.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Section 2, Article XXI, California Constitution*.]

### **Section 60863. Commission Vacancies**

(a) If a vacancy occurs on the commission before it completes its redistricting function, and the commission is unable to fill the vacancy with an applicant from the same subpool of applicants that the vacating commissioner was drawn or selected from, as it existed on November 20 of the application year, the commission shall provide written notification to the State Auditor. Upon receiving the written notice, the State Auditor shall, as soon as practicable, reconvene a panel to create a new subpool consisting of twenty of the most qualified applicants having the same party affiliation or nonaffiliation as the vacating commissioner. In creating the new subpool, the panel shall attempt to fill the subpool with applicants who participated in the most recent application process, according to the following order:

(1) Applicants who participated in interviews during Phase III of the application process.

(2) Applicants who submitted supplemental applications with supporting materials during Phase II of the application process.

(b) If a vacancy occurs on the commission after it completes its redistricting function, and the commission determines that it needs to fill the vacancy but is unable to fill it with an applicant from the same subpool of applicants that the vacating commissioner was drawn or selected from, as it existed on November 20 of the application year, the commission shall provide written notification to the State Auditor. Upon receiving the written notice, the State Auditor shall, as soon as practicable, reconvene a panel to create a new subpool consisting of twenty of the most qualified applicants having the same party affiliation or nonaffiliation as the vacating commissioner. In creating the new subpool, the panel shall attempt to fill the subpool with applicants who participated in the most recent application process in the manner specified by paragraphs (1) and (2) of subdivision (a).

(c) “Completes its redistricting function,” for the purposes of this section, means approving three final maps that separately set forth the district boundary lines for the Senate, Assembly, and State Board of Equalization districts and certifying the three final maps to the Secretary of State.

(d) In creating a new subpool of applicants, the panel shall comply with the requirements of subdivisions (d) and (e) of section 8252 of the Government Code, with the bureau establishing a date for receiving from the Secretary of the Senate and the Chief Clerk of the Assembly a joint list of the applicants remaining after the Legislative Leaders have exercised their right to exercise strikes. Upon creating a new subpool, the panel shall submit the names of the applicants in the subpool to the commission and the Secretary of State with the application materials and recorded interviews of each of the applicants.

[Note: Authority cited: *Section 8546, Government Code*. Reference: *Sections 8252, 8252.5 Government Code*.]

# APPENDIX A - GENERAL PROVISIONS

# **Appendix A**

## **General Provisions**

The Voters FIRST Act (Prop. 11, Nov. 4, 2008, eff. Nov. 5, 2008) amended various provisions of the California Constitution (Art. XXI, Secs. 1 to 3, incl.) and added various statutory provisions to the Government Code (Gov. C. §§ 8251 to 8253.6, incl.). The Voters FIRST Act also contained various general, uncodified provisions; namely provisions setting forth the title, findings and purpose, as well as provisions that govern in the event of a conflicting ballot measure or when it may be necessary to sever a provision from the measure.

Subsequent to the voter approval of the Voters FIRST Act, the voters approved the Voters FIRST Act for Congress (Prop. 20, Nov. 2, 2010, eff. Nov. 3, 2010). The Voters FIRST Act for Congress expands the duties of the Citizens Redistricting Commission to additionally include the redrawing of the district boundaries for congressional districts. The general provisions contained in the Voters FIRST Act for Congress set forth the title, findings and purpose, as well as provisions that govern in the event of a conflicting ballot measure, or where it is necessary to sever a provision from the measure. The general provisions from both the Voters FIRST Act and the Voters FIRST Act for Congress are set forth below.

### **The Voters FIRST Act**

#### **Title.**

This act shall be known and may be cited as the "Voters FIRST Act."

#### **Findings and Purpose.**

The People of the State of California hereby make the following findings and declare their purpose in enacting this act is as follows:

(a) Under current law, California legislators draw their own political districts. Allowing politicians to draw their own districts is a serious conflict of interest that harms voters. That is why 99 percent of incumbent politicians were reelected in the districts they had drawn for themselves in the recent elections.

(b) Politicians draw districts that serve their interests, not those of our communities. For example, cities such as Long Beach, San Jose and Fresno are divided into multiple oddly shaped districts to protect incumbent legislators. Voters in many communities have no political voice because they have been split into as many as four different districts to protect incumbent legislators. We need reform to keep our communities together so everyone has representation.

(c) This reform will make the redistricting process open so it cannot be controlled by the party in power. It will give us an equal number of Democrats and Republicans on the commission, and will ensure full participation of independent voters--whose voices are completely shut out of the current process. In addition, this reform requires support from Democrats, Republicans, and independents for approval of new redistricting plans.

(d) The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation. The reform takes redistricting out of the partisan battles of the Legislature and guarantees redistricting will be debated in the open with public meetings, and all minutes will be posted publicly on the Internet. Every aspect of this process will be open to scrutiny by the public and the press.

(e) In the current process, politicians are choosing their voters instead of voters having a real choice. This reform will put the voters back in charge.

(Proposition 11, November 4, 2010, effective November 5, 2010)

### **Provisions Related to Conflicting Ballot Propositions.**

(a) In the event that this measure and another measure(s) relating to the redistricting of Senate, Assembly, congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and given full force of law.

### **Provisions Related to Severability.**

The provisions of this act are severable. If any provisions of this act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## **The Voters FIRST Act for Congress**

### **Title.**

This act shall be known and may be cited as the “Voters FIRST Act for Congress.”

## **Findings and Purpose.**

The People of the State of California hereby make the following findings and declare their purpose in enacting this act is as follows:

(a) Under current law, California legislators draw the districts for Congress. Allowing politicians to draw these districts, to make them safe for incumbents, or to tailor the districts for the election of themselves or their friends, or to bar the districts to the election of their adversaries, is a serious abuse that harms voters.

(b) Politicians draw districts that serve their interests, not those of our communities. Cities, counties, and communities are currently split between bizarrely jagged congressional districts designed to make those districts safe for particular parties and particular incumbents. We need reform to keep our communities together so everyone has representation.

(c) This reform will make the redistricting process for Congress open so it cannot be controlled by whichever party is in power. It will give the redistricting for Congress to the independent Citizens Redistricting Commission, which already has the authority to draw the districts for the Legislature and the Board of Equalization. The membership of the commission will have three groups of members: five Democrats; five Republicans; and four members registered with neither of those parties, who will carry the voices of independent and minor-party voters who are completely shut out of the current process. The new districts will be fair because support from all three groups is required for approval of any new redistricting plan.

(d) The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation. This reform takes redistricting of Congress out of the partisan battles of the Legislature and guarantees redistricting for Congress will be debated in the open in public meetings. All minutes will be posted publicly on the Internet. Every aspect of this process will be open to scrutiny by the public and the press.

(e) In the current process, politicians are choosing the voters instead of voters having a real choice. This reform will put the voters back in charge.

(Proposition 20, November 2, 2010, effective November 3, 2010)

## **Provisions Related to Conflicting Ballot Propositions.**

(a) In the event that this measure and another measure(s) relating to the redistricting of Senate, Assembly, congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes

at the same election, and the conflicting measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and given full force of law.

**Provisions Related to Severability.**

The provisions of this act are severable. If any provisions of this act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.