

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JOHN HOOKER, Chairman of the
PEOPLE'S MAP, et al.,

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
et al.,

Defendants.

Case No. 16 CH 6539
Judge Diane J. Larsen
Calendar 7

DOROTHY ROBERTS, CLERK

CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CHANCERY DIV.

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PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS

Plaintiffs, by their attorneys, Michael J. Kasper, Richard J. Prendergast, Michael T. Layden, Robert T. Shannon, and Adam R. Vaught, respectfully move this Court for judgment on the pleadings in accordance with Section 2-615(e) of the Illinois Code of Civil Procedure. 735 ILCS 5/2-615(e). In support, Plaintiffs state as follows.

Introduction

On May 6, 2016, Intervenors, Support Independent Maps ("Independent Maps"), submitted signatures with the Illinois State Board of Elections to place a constitutional amendment on the November General Election Ballot ("the Redistricting Initiative"). The Redistricting Initiative seeks to substantially amend the legislative redistricting process set forth in Article IV, Section 3 of the Illinois Constitution (Ill. Const. 1970, art. IV § 3). (The Redistricting Initiative is attached as Ex. A.) This is the second time in two years a proposed ballot initiative to change the Constitution's redistricting process has been submitted. The prior initiative was found invalid by Judge Mary L. Mikva of the Circuit Court of Cook County.

Intervenors have submitted a new attempt to amend Article IV, Section 3, using different language from the prior attempt. Plaintiffs' Complaint seeks to enjoin Defendants from spending funds certifying the Redistricting Initiative because it violates the "structural and procedural"

clause of Article XIV, Section 3, and the “free and equal” clause of Article III, Section 3. (Complaint attached as Ex. B.)

Article XIV, Section 3 allows for Amendments by ballot initiative petition, but requires that such Amendments “shall be limited to structural and procedural subjects contained in Article IV.” Ill. Const. 1970, art. XIV § 3. Amendments by ballot initiative must include both structural *and* procedural subjects contained in Article IV, and must be *limited* to those subjects. The Redistricting Initiative fails to comply with this straightforward constitutional requirement.

The Redistricting Initiative violates Article XIV, Section 3 because it is not limited to the “structural and procedural subjects contained in Article IV.” To the contrary, it includes numerous substantive changes that are not found in the legislative article of the Illinois Constitution. See Ill. Const. 1970, art. IV. For example, the Redistricting Initiative imposes new duties on the Auditor General, imposes new duties on two members of the Supreme Court and requires political party affiliation by members of the Supreme Court. The Redistricting Initiative also repeals the Supreme Court’s original and exclusive jurisdiction over redistricting actions, and grants the Circuit Court new jurisdiction over redistricting actions. Finally, the Redistricting Initiative eliminates the Attorney General’s duty to bring redistricting actions. None of these changes involve structural and procedural subjects of Article IV, let alone are *limited* to the “structural and procedural” subjects of Article IV, as the Illinois Constitution plainly mandates.

The Redistricting Initiative also violates the free and equal clause because it presents separate and unrelated questions in a single ballot proposition. The Redistricting Initiative stated purpose is to remove the legislature from the redistricting process. But it also would remove the Article IV’s compactness requirement for districts and add a new requirement that boundaries of units of local government be respected by district maps, thus changing not just who draws the

district maps, but how the maps are drawn. Additionally, the Initiative changes how redistricting plans are challenged in court. Thus, the Initiative presents three separate and unrelated questions: (1) whether the requirements for drawing legislative district maps should be changed; (2) whether the power to draw the legislative district maps should be removed from the legislature; and (3) whether the method for challenging redistricting plans should be changed.

For the reasons that follow, Plaintiffs respectfully request this Court issue an order finding the Redistricting Initiative is an unconstitutional attempt to amend the Illinois Constitution and enjoin Defendants from spending any public funds in relation to the Redistricting Initiative.

Background

The Redistricting Initiative seeks to amend Article IV, Section 3 of the Illinois Constitution. Article IV, Section 3 contains the redistricting procedure. In order understand how the Redistricting Initiative violates both the “structural and procedural” clause and the “free and equal” clause, it is necessary to compare Article IV, Section 3 to the Redistricting Initiative.

A. Article IV, Section 3.

The Illinois Constitution establishes the requirements for how legislative and representative district maps shall be drawn, provides for who draws the maps, and sets forth how the maps may be challenged. Ill. Const. 1970, art. IV § 3.

Article IV, Section 3(a) requires that Legislative Districts and Representative Districts “shall be compact, contiguous, and substantially equal in population.” *Id.* § 3(a). Under current law, legislative redistricting maps must meet four requirements: “First, the districts formed must be substantially equal in population. Second, the districts must be configured in such a way as to provide adequate representation to minorities and other special interests protected by state and federal law. Third, the districts must be compact and contiguous. Fourth, the maps must meet all

legal requirements regarding political fairness.” *Cole-Randazzo v. Ryan*, 198 Ill. 2d 233, 236 (2001).

Perfect or maximum compactness is not required; districts need only be “reasonably compact.” *Beaubien v. Ryan*, 198 Ill. 2d 294, 301 (2001). “A district does not fail the ‘reasonably compact’ standard simply because its boundaries cut through or across local units of government, such as municipalities, villages, townships, cities and counties.” *Id.* The Supreme Court has long recognized “the boundaries of such units do not necessarily reveal communities of interest and that such units may have to be split for redistricting purposes in order for the resulting districts to meet the other requirements of law, particularly the requirement of equality of population.” *Id.*

After establishing the requirements for how a redistricting plan is to be drawn, Article IV, Section 3 sets forth who shall prepare a new redistricting plan. The Constitution gives the legislature the first opportunity. Ill. Const. 1970, art. IV § 3. If the legislature does not pass a redistricting plan by June 30, Article IV, Section 3 gives the map-making power to a Legislative Redistricting Commission. *Id.* The Commission consists of eight members. Each of the four legislative members appoints two people to the Commission: one member of the General Assembly, and one non-member. *Id.*

If the Commission does not approve a plan, then the Supreme Court provides the Secretary of State with the names of two people not of the same political party. *Id.* The Secretary of State then draws one of the two names at random, and that person becomes the ninth Commission member. *Id.* The Commission must then submit a redistricting plan approved by five members. *Id.*

Article IV, Section 3 also provides for how a redistricting plan may be challenged. It provides “[t]he Supreme Court shall have original and exclusive jurisdiction over actions concerning

redistricting the House and Senate, which shall be initiated in the name of the People of the State by the Attorney General.” *Id.* When challenged, “[a]n approved redistricting plan filed with the Secretary of State shall be presumed valid, shall have the force and effect of law.” *Id.*

B. The Redistricting Initiative.

The Redistricting Initiative was circulated as a petition stating: “The purpose of the 2016 Illinois Independent Redistricting Amendment is to change the current system of redistricting, where legislators draw the maps of General Assembly districts after each decennial census, and provide for a restructured, independent redistricting commission to draw the maps.” (Ex. A.)

The Initiative, however, would do much more than take away the power of the legislature to draw district maps. The Redistricting Initiative would also change the requirements for drawing legislative districts and how an approved redistricting plan may be challenged. Specifically, the Redistricting Initiative would impose the following requirements on a new legislative map:

Legislative Districts shall be contiguous and substantially equal in population. Representative Districts shall be contiguous and substantially equal in population. The redistricting plan shall comply with Federal law. Subject to the foregoing, the Commission shall apply the following criteria: (1) the redistricting plan shall not dilute or diminish the ability of a racial or language minority community to elect the candidates of its choice, including when voting in concert with other persons; (2) the redistricting plan shall respect the geographic integrity of units of local government; and (3) the redistricting plan shall respect the geographic integrity of communities sharing common social and economic interests, which do not include relationships with political parties or candidates for office. The redistricting plan shall not either intentionally or unduly discriminate against or intentionally or unduly favor any political party, political group or particular person. In designing the redistricting plan, the Commission shall consider party registration and voting history data only to assess compliance with the requirements in this subsection (a).

(Ex. A.)

The Redistricting Initiative would therefore remove the current compactness requirement. See Ill. Const. 1970, art. IV § 3. Compactness does not require consideration of the integrity of the boundaries of units of local government. *Beaubien*, 198 Ill. 2d at 301. The Redistricting Initiative, however, requires the opposite by making respecting the boundaries of units of local government a new requirement. (Ex. A.) By replacing the current compactness requirement with a local government boundaries requirement, the Redistricting Initiative changes not only who draws the districts, but how they are drawn.

The Redistricting Initiative would remove the General Assembly's power to submit a redistricting plan currently provided in Article IV, Section 3. Instead, the Redistricting Initiative would create a new "Independent Redistricting Commission" with authority to draw redistricting plans. ("IRC"). (Ex. A.)

The IRC would consist of 11 commissioners. (*Id.*) The Commissioners would be appointed by an Applicant Review Panel consisting of three Reviewers selected through a process requiring the Auditor General to assume and perform new duties. (*Id.*) Between January 1 and March 1 of each federal census year, the Auditor General will request and accept applications to be a Reviewer. (*Id.*) The Auditor General must review the applications and select a pool of 30 applications. (*Id.*) In selecting the pool of 30, the Auditor General "should" consider the following:

The Auditor General should select applicants for the pool of potential Reviewers who would operate in an ethical and non-partisan manner by considering whether each applicant is a resident and registered voter of the State and has been for the four years preceding his or her application, has demonstrated understanding of and adherence to standards of ethical conduct and has been unaffiliated with any political party for the three years preceding appointment.

(*Id.*)

By March 31 of the census year, the Auditor General must randomly select three Reviewers from the pool of 30 to create the Applicant Review Panel. (*Id.*) These three Reviewers form the Panel.

At the same time the Auditor General is accepting applications for Reviewer, the Auditor General must also request and accept applications to serve as a Commissioner on the IRC. (*Id.*) By May 31 of the same year, the Panel shall select a pool of 100 potential Commissioners. (*Id.*)

In selecting this pool, the Panel should consider the following:

The Panel should select applicants for the pool of potential Commissioners who would be diverse and unaffected by conflicts of interest by considering whether each applicant is a resident and registered voter of the State and has been for the four years preceding his or her application, as well as each applicant's prior political experience, relevant analytical skills, ability to contribute to a fair redistricting process and ability to represent the demographic and geographic diversity of the State.

(*Id.*)

After the pool of 100 is selected, the four legislative leaders may each remove up to five of the potential Commissioners from the pool. (*Id.*) By June 30, the Panel would select the IRC. The rules for selecting Commissioners are complicated, so it is best to quote directly from the Redistricting Initiative.

The Panel shall publicly select seven Commissioners by random draw from the remaining pool of potential Commissioners; of those seven Commissioners, including any replacements, (1) the seven Commissioners shall reside among the Judicial Districts in the same proportion as the number of Judges elected therefrom under Section 3 of Article VI of this Constitution, (2) two Commissioners shall be affiliated with the political party whose candidate for Governor received the most votes cast in the last general election for Governor, two Commissioners shall be affiliated with the political party whose candidate for Governor received the second-most votes cast in such election and the remaining three Commissioners shall not be affiliated with either such political party and (3) no more than two Commissioners may be affiliated with the same political party. The Speaker and Minority Leader of the

House of Representatives and the President and Minority Leader of the Senate each shall appoint one Commissioner from among the remaining applicants in the pool of potential Commissioners on the basis of the appointee's contribution to the demographic and geographic diversity of the Commission. A vacancy on the Panel or Commission shall be filled within five days by a potential Reviewer or potential Commissioner from among the applicants remaining in the pool of potential Reviewers or potential Commissioners, respectively, in the manner in which the office was previously filled.

(*Id.*)

Section (e) of the Redistricting Initiative also sets forth how the IRC is to carry out its business. (*Id.*) If the IRC fails to submit a Redistricting Plan to the Secretary of State by June 30 of the year following the census, it becomes the duty of the Chief Justice and “the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice” to jointly select and appoint a Special Commissioner for Redistricting. (*Id.*) The Special Commissioner is given complete authority for submitting a Redistricting Plan under the following requirements:

The Special Commissioner shall adopt and file with the Secretary of State by August 31 a redistricting plan satisfying the requirements set forth in subsection (a) of this Section and a report explaining its compliance with this Constitution. The Special Commissioner shall hold at least one public hearing in the State before releasing his or her initial proposed redistricting plan and at least one public hearing in a different location in the State after releasing his or her initial proposed redistricting plan and before filing the final redistricting plan with the Secretary of State.

(*Id.*)

After the plan is filed with the Secretary of State, it “shall be presumed to be valid” though it does not have the “full force and effect of law” currently provided by Article IV, Section 3. See Ill. Const. 1970, art. IV § 3. Additionally, the Redistricting Initiative states “[t]he Supreme Court shall have *original* jurisdiction in cases relating to matters under this Section” (*id.*) (emphasis added), though not “*original and exclusive* jurisdiction over actions concerning redis-

tricting the House and Senate” as it does today. See *Id.* (emphasis added). The Attorney General has no role under the Initiative. (Ex. A.)

Argument

This lawsuit presents no questions of material fact. The two legal questions presented are whether the Redistricting Initiative complies with (1) the structural and procedural clause and (2) the fair and equal clause. Judgment on the pleadings is proper where the pleadings disclose no genuine issue of material fact and the movant is entitled to judgment as a matter of law, *i.e.*, similar to a motion for summary judgment but limited to the pleadings. *Gillen v. State Farm Mutual Automobile Insurance Co.*, 215 Ill. 2d 381, 385 (2005). For the reasons that follow, Plaintiffs are entitled to judgment in their favor.

I. The Redistricting Initiative violates the structural and procedural clause because is not limited to structural and procedural subjects contained in the legislative article.

The Redistricting Initiative violates the structural and procedural clause because it is not limited to structural and procedural subjects of Article IV. Specifically, it violates Article XIV, Section 3 because it:

- A. Imposes new duties on the Auditor General;
- B. Imposes new duties on two members of the Supreme Court; and requires political party affiliation by members of the Supreme Court;
- C. Repeals the Supreme Court’s original and exclusive jurisdiction redistricting actions, and grants the Circuit Court jurisdiction over redistricting actions;
- D. Fails to alter the structure and procedures of the General Assembly; and
- E. Removes the Attorney General’s power and duty to bring redistricting actions in the name of the People of the State of Illinois.

Article XIV, Section 3 of the Illinois Constitution states as follows:

Amendments to Article IV of this Constitution may be proposed by a petition signed by a number of electors equal in number to at least eight percent of the total votes cast for candidates for Governor in the preceding gubernatorial election. Amendments shall be

limited to structural and procedural subjects contained in Article IV.

Ill. Const. 1970, art. XIV § 3.

This provision to amend the legislative article of our Constitution by direct initiative was added to our Constitution in 1970. *Chicago Bar Ass'n v. State Board of Elections*, 137 Ill.2d 394, 398 (1990) (*CBA I*). At the 1970 convention, the majority of the Committee on Suffrage and Constitutional Amendments declined to propose a general initiative to allow amendments to any part of the Constitution by initiative. *Coalition for Political Honesty v. State Bd. of Elections*, 65 Ill. 2d 453, 466 (1976) (*Coalition I*), citing 7 Record of Proceedings, Sixth Illinois Constitutional Convention ("Proceedings") 2298. The committee's report indicated it considered a general initiative unnecessary since the procedures for amending the Constitution were already liberalized, including the automatic, periodic submission to the electorate of the question of calling a constitutional convention. *Id.* citing Ill.Const. 1970, art, XIV, § 1. The report expressed concern "that a general initiative provision would be subject to abuse by special interest groups and might result in hasty and ill-conceived attempts to write what should have been the subject of ordinary legislation into the Constitution." *Id.*

There have been six prior attempts to amend the Constitution's Legislative Article by ballot initiative. All but one were held unconstitutional for violating the express limitation that "Amendments shall be limited to structural and procedural subjects contained in Article IV." *Id.* The decisions invalidating these attempts have clarified the limitations imposed by Article XIV, Section 3.

In 1976, the Supreme Court held the first attempted ballot initiative unconstitutional because it failed to contain both structural and procedural subjects of Article IV. *Coalition I*, 65 Ill. 2d 453, 466 (1976). The *Coalition I* court found the word "and" in "structural and procedural"

subjects required proposed amendments to address both structural *and* procedural subjects. *Id.* Permissible subjects include converting from a bicameral to a unicameral legislature, or to convert from multiple to single-member districts. *Id.* The court found the word “and” is conjunctive, rejecting an argument that amendments could contain structural *or* procedural subjects. *Id.*

In 1982, the First District found a proposal to add a legislative initiative to Article IV violated the structural and procedural clause. *Lousin v. State Bd. of Elections*, 108 Ill. App. 3d 496 (1st Dist. 1982). The proposal would have provided a mechanism for voters to submit a measure to the legislature for its consideration. If the legislature failed to pass the measure, it would be submitted back to the voters. If a majority voted for the measure, it would become law. *Id.* at 498-501.

The court found the proposal did not affect the structure and procedure of the legislature, but rather attempted to share legislative power between the legislature and voters. The court stated as follows.

An amendment is structural and procedural if it relates to the structure, and, of necessity, incidentally affects the procedure of the General Assembly. The General Assembly is an institution in which structure and procedure can be changed as provided by section 3 of article XIV. The amendment which the Coalition proposes affects legislative power. Under section [1] of article IV, power is vested in the General Assembly. As proposed, the amendment would vest power not only in the General Assembly but also in the electors. Legislative power is a concept rather than an institution which has a structure such as the General Assembly.

Id. at 503.

In reaching this finding, the court relied on Justice Schaeffer’s dissent in *Coalition I*. *Id.* Though dissenting for different reasons, Justice Schaeffer had said “[t]he basic grant of legislative power in section 1, and the grant of legislative immunity in section 12 of article IV, are neither ‘procedural’ nor ‘structural,’ and there are other provisions in article IV which would not fit

comfortably in either of those categories.” *Id.* at 504, quoting *Coalition I*, 65 Ill. 2d at 474-75 (Schaeffer, J. dissenting). The *Lousin* Court thus concluded the initiative violated Article XIV, Section 3. *Id.* at 504.

The Supreme Court next addressed the structural and procedural clause in *Chicago Bar Association v. State Bd. of Elections*, 137 Ill. 2d 394 (1990) (*CBA I*).¹ In *CBA I*, the court considered whether an initiative that (1) required each house of the General Assembly to have a revenue committee to consider certain revenue bills; and (2) required that any bill that increased revenue required a three-fifths vote, complied with the structural and procedural clause. *Id.* at 400. The court found it apparent that the proposed amendment was “crafted to accommodate the holding of *Coalition I* that the proposed Amendment must deal with both procedural and structural subjects of article IV of the constitution.” *Id.* Despite that, the court stated the structural and procedural clause “provides only for an amendment to the legislative article of the constitution, and under that section, not every aspect of the legislative article is subject to amendment through the initiative process.” *Id.* at 398-99.

The Court reviewed the Constitutional Convention Proceedings and found “the debates reflected the intent that the limited initiative *not be used to accomplish substantive changes* in the constitution, but that the proposals pertain only to the basic qualities of the legislative branch—namely, structure, size, organization, procedures, etc.” *Id.* at 403 (emphasis in original). The court found the most significant language of Article XIV, Section 3 was “[a]mendments *shall be*

¹ In 1980, the Supreme Court upheld an initiative that changed the size of the House of Representatives, removed cumulative voting, and turned Representative Districts into single member districts. *Coalition for Political Honesty v. State Bd. of Elections*, 83 Ill. 2d 236, 253 (1980) (*Coalition II*). However, the *Coalition II* court did not discuss the requirements of the structural and procedural clause. *CBA I*, 137 Ill. 2d at 399-400.

limited to structural and procedural *subjects contained in Article IV.*” *Id.* citing Ill. Const.1970, art. XIV, § 3 (emphasis in original). “Thus, the Amendment must be limited to structural and procedural matters and may not include substantive matters. Also, the subject of the Amendment must be found in article IV.” *Id.* 403-04.

After finding the subject of the Amendment must be found in Article IV, the Supreme Court held the initiative violated the structural and procedural clause. It found “the proposed Amendment is not *limited to* the structural and procedural subjects of article IV. Wrapped up in this structural and procedural package is a substantive issue not found in article IV—the subject of increasing State revenue or increasing taxes.” *Id.* at 404 (emphasis in original). As a result, the court held, “the proposed Amendment is not *limited to* structural and procedural *subjects contained in article IV*; that it contains substantive matters found outside of article IV. Thus, the proposed Amendment does not satisfy the requirements of section 3 of article XIV of the Illinois Constitution of 1970.” *Id.* at 406 (emphasis in original).

Four years later, the Chicago Bar Association challenged another initiative in the Supreme Court. *Chicago Bar Association v. Illinois State Bd. of Elections*, 161 Ill. 2d 502 (1994) (*CBA II*). This time the initiative proposed to place term limits on members of the General Assembly. Relying on *Coalition I* and *CBA I*, the court found as follows:

[I]t is clear that the proposed amendment does not meet the “structural and procedural” requirement of article XIV, section 3. The eligibility or qualifications of an individual legislator does not involve the structure of the legislature *as an institution*. The General Assembly would remain a bicameral legislature consisting of a House and Senate with a total of 177 members, and would maintain the same organization.

Likewise, the eligibility or qualifications of an individual legislator does not involve any of the General Assembly's procedures. The *process* by which the General Assembly adopts a law would remain unchanged.

Id. at 502 (emphasis in original).

The court reaffirmed its *CBA I* finding that “not every aspect of the legislative article is subject to amendment through the initiative process.” *Id.* In holding the initiative violated the structural and procedural clause, the Court rejected the dissent’s attempt to reconsider the *Coalition I* holding that “structural and procedural” is a conjunctive phrase. *Id.* at 510. The majority said the dissent had not provided any justification for departing from the holding of *Coalition I*. *Id.* at 511.

In 2014, the First District found an initiative that included term limits violated Article XIV, Section 3. *Clark v. Illinois State Bd. of Elections*, 2014 IL App (1st) 141937, ¶ 25. The court held that “[i]n spite of the Committee's attempt to make term limits part of structural and procedural changes, we find that the Committee has failed to adequately distinguish its proposed amendment from the amendment at issue in *CBA II* or provide a sufficient reason to depart from *CBA II*'s holding.” *Id.* at ¶ 24.

A. The Redistricting Initiative violates the structural and procedural clause because it imposes new duties on the Auditor General.

The Office of Auditor General is created by Article VIII, Section 3. Ill. Const. 1970, art. VIII, § 3. The Auditor General is thus a subject outside of Article IV. In fact, nowhere in Article IV is the Auditor General even referenced, much less in Article IV, Section 3. See Ill. Const. 1970, art. IV.

The Redistricting Initiative, however, would now have the Auditor General play a new, active role in the new redistricting process. The Auditor General would be charged with requesting and accepting applications for Reviewers and Commissioners. (Ex. A.) Additionally, the Auditor General would evaluate and select the pool of 30 candidates for Reviewer and pick three at random from the pool to form the Panel. (*Id.*) As the Auditor General is found in a dif-

ferent Article of the Constitution, the Redistricting Initiative is not limited to the structural and procedural subjects of Article IV.

In *CBA I*, the Supreme Court found an initiative to change the way revenue bills were passed in the legislature violated the structural and procedural clause because the subject of the Amendment must be also found in Article IV. *CBA I*, 137 Ill. 2d at 404. While the *CBA I* initiative may have addressed structural and procedural changes to Article IV, it was not *limited* to structural and procedural changes subjects in Article IV because the Constitution's provisions on revenue are found in Article IX. *Id.*

The *CBA I* court relied on the Constitutional Convention Proceedings for support. When addressing the very question of whether Article XIV, Section 3 can be used to amend a provision outside Article IV, the court quoted the delegates, stating as follows:

Delegate Connor's question posed to Delegate Perona concerned this very problem: "[H]ow do you limit what can be amended by this route? Somebody describes by petition that this is an amendment of the legislative article; who says it isn't? * * * Well, lots of things have sailed under the colors of being legislative article additions." Delegate Perona answered, "Well, the report indicates that we intend to limit this to the sections * * * the type of sections presently in the legislative article." (4 Proceedings 2711.) Voicing the same concern, Delegate Whalen asked Delegate Perona, "[H]ow do you determine that an amendment that has been filed by petition will be germane to the legislative article? Wouldn't it be possible to get nongermane amendments, and just under the heading, 'Legislative Article,' be able to amend the constitution by initiative in any manner?" Delegate Perona responded, "We state that it shall be limited to structural and procedural subjects contained in this article on the legislature."

Id. at 404, citing 4 Proceedings 2911-12.

The court further stated that "a brief filed by an *amicus* pointed out that if this court finds that the proposed Amendment falls within the limitations of section 3 of Article XIV then almost any substantive issue can be cast in the form of an amendment to the structure and procedure of

the legislative article by using the same scenario. We agree.” *Id.* at 405. The same issue is presented here.

If the Auditor General can be vested with new duties on redistricting simply because the subject of redistricting is located in Article IV, what cannot be amended by an Article XIV, Section 3 initiative? For instance, Article IV, Section 14 provides for impeachment, wherein the House impeaches officers and the Senate holds trial to remove or acquit. Ill. Const. 1970, art. IV, § 14. Under the legal theory on which the Redistricting Initiative rests, the Auditor General could be given those powers through an Article XIV, Section 3 initiative. After all, impeachment is a subject of Article IV. But that would give the Auditor General, an Article VIII officer, the power to remove the Article V executive officers. This, of course, would be nonsensical. Even though impeachment is a subject in Article IV, such a proposal would involve subjects outside of Article IV.

Article VIII, Section 3 establishes the Auditor General, stating “The Auditor General shall conduct the audit of public funds of the State. He shall make additional reports and investigations as directed by the General Assembly. He shall report his findings and recommendations to the General Assembly and to the Governor.” Ill. Const. 1970, art. VIII, § 3. Adding redistricting duties to the office would drastically change its function.²

The *CBA I* court found, “the proposal and the debates reflected the intent that the limited initiative *not be used to accomplish substantive changes* in the constitution, but that the proposals pertain only to the basic qualities of the legislative branch—namely, structure, size, organi-

² For instance, if 1,000 people total apply for either the Reviewer and/or Commissioner positions, the Auditor General would have to review four people per day, every day, for an entire year just to keep up. (1,000 applicants / 50 work weeks per year = 20 applicants per week; divided by 5 workdays per week = 4 applicants per day). The Auditor General’s job would thus be drastically different.

zation, procedures, etc.” *CBA I*, 137 Ill. 2d at 403 (emphasis in original). The Redistricting Initiative would accomplish an enormous substantive change in Article VIII because it would greatly alter the role of the Auditor General. For that reason, it is not limited to structural and procedural subjects of Article IV, violating Article XIV, Section 3.

B. The Redistricting Initiative violates the structural and procedural clause because it imposes new duties on two justices of the Supreme Court and requires political party affiliation by those justices.

The Illinois Supreme Court is created by Article VI, Section 3. Ill. Const. 1970, art. VI, § 3. Currently, the entire Supreme Court (as one body) provides two names if the eight member redistricting commission deadlocks. *Id.* art. IV, § 3. The Redistricting Initiative would remove the Supreme Court’s current role in selecting two names and instead require only the Chief Justice and “most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice” to pick one person to be the Special Commissioner for Redistricting. (Ex. A.) This violates the structural and procedural clause for two reasons.

First, while Article IV, Section 3 provides for the Supreme Court pick to names in the case of a deadlock, this does not mean an Article XIV, Section 3 initiative can impose new duties on justices of the Supreme Court. The framers of the Constitution were able to impose a duty on the Supreme Court because the framers were not constrained by the structural and procedural clause.

The Redistricting Initiative, however, *is* constrained by the structural and procedural clause. The Initiative is only valid if it is limited to the structural and procedural subjects of Article IV. For the same reasons the Redistricting Initiative cannot impose new duties on the Auditor General, it cannot impose this new duty on two justices of the Supreme Court. *CBA I*, 137 Ill. 2d at 403. The Supreme Court and its members are not a subject of Article IV at all, much less a structural or procedural one.

Additionally, the Redistricting Initiative requires both the Chief Justice and the “most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice” to affiliate with a political party. (Ex. A.) Imposing a requirement that the Chief Justice and another Supreme Court judge must affiliate with a political party so that the Special Commissioner can be selected cannot seriously be considered a structural or procedural subject of Article IV.

Article VI allows for the election of Supreme Court judges, who select a Chief Justice from their number. Ill. Const. 1970, art. VI, § 3. But there is no Constitutional requirement a Supreme Court judge be elected through a political party, or that the Chief Justice must affiliate with a political party.³ In fact, the Constitution allows Supreme Court Judges to run for retention on a non-partisan ballot, thus providing for lack of a political party affiliation after assuming office. See *Id.* art. VI, § 12(d). Additionally, the Supreme Court has issued rules, as part of the Court’s power to regulate judicial conduct under Article VI, Section 13, that significantly reduces sitting judges’ political activity. Ill. S. Ct. R. 67 (eff. Mar. 24, 1994). Because regulation of political conduct and affiliation by judges is exercised by the Supreme Court under Article VI, Section 13, it is not a structural or procedural subject of Article IV.

C. The Redistricting Initiative violates the structural and procedural clause because it repeals the Supreme Court’s “original and exclusive jurisdiction” over redistricting actions, and grants the Circuit Court jurisdiction over redistricting actions.

Article IV, Section 3 grants the Supreme Court with “original and exclusive jurisdiction” over redistricting cases. Ill. Const. 1970, art. IV, § 3. Article VI, Section 9 states that “Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court

³ The Initiative does not define “affiliate,” which would result in confusion.

has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office.” Ill. Const.1970, art. VI, § 9. The Supreme Court has stated that “[s]o long as a matter brought before the circuit court is justiciable and does not fall within the original and exclusive jurisdiction of our court, the circuit court has subject matter jurisdiction to consider it.” *McCormick v. Robertson*, 2015 IL 118230, ¶ 20.

The Redistricting Initiative states that “[t]he Supreme Court shall have original jurisdiction in cases relating to matters under this Section.” (Ex. A.) By omitting “and exclusive” the Redistricting Initiative would give the circuit court jurisdiction to hear redistricting cases. The jurisdiction of Illinois’ courts is a subject clearly outside the structure and procedure of Article IV.

The Constitution does not currently provide anywhere that “[t]he Supreme Court shall have original jurisdiction.” Regarding original jurisdiction, the Constitution only states the Supreme Court “may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition or habeas corpus and as may be necessary to the complete determination of any case on review” (Ill. Const. 1970, art. VI, § 4(a)); or “shall have original and exclusive jurisdiction” over redistricting and removal of the governor. See *Id.* § 9. Thus, the Constitution gives the Supreme Court discretionary and concurrent original jurisdiction with the circuit court on some matters (revenue, mandamus, etc.), and mandatory and exclusive jurisdiction to the exclusion of the circuit court on redistricting and removal of the governor.

By introducing new language that states the “Supreme Court shall have original jurisdiction,” the Redistricting Initiative would create a third type of original jurisdiction for the Supreme Court and the circuit courts: mandatory and concurrent original jurisdiction where both

would exercise original jurisdiction simultaneously. The structural and procedural clause does allow an initiative to change the jurisdiction of the courts. See *CBA I*, 137 Ill. 2d at 404.

D. The Redistricting Initiative violates the structural and procedural clause because it does not alter the structure and procedures of the General Assembly.

In *CBA II*, the court found a term limits initiative violated the structural and procedural clause because it would not have changed the structure of the legislature (there would be the same number of members) nor its procedures (laws would be passed the same way). *CBA II*, 161 Ill. 2d at 502. Redistricting is no different. If the Redistricting Initiative was adopted, there would still be the same number of Senators and Representatives. Laws would be passed in the same manner. Structurally and procedurally, the legislature would remain unchanged.

What the Redistricting Initiative will do is to remove power from the legislature to draw the maps and give it to the IRC. But as the *Lousin* Court held, legislative power is a concept, not an institution with a structure. *Lousin*, 108 Ill. App. 3d 502. Thus, moving the power to draw a legislative map to the IRC is not a structural and procedural subject of Article IV.

E. The Redistricting Initiative violates the structural and procedural clause because it removes the Attorney General's duty to bring redistricting actions in the name of the People of the State of Illinois.

The Redistricting Initiative would remove Article IV's requirement that the Attorney General shall initiate all redistricting actions in the name of the People of the State of Illinois. Ill. Const. 1970, art. VI, § 3. Article V, Section 15 states the Attorney General is the chief legal officer and shall have all duties and powers that may be prescribed by law. *Id.* art. V, § 15. One of those duties is to initiate redistricting actions. Removing that duty alters Article V, Section 15, violating the structural and procedural clause. Additionally, who may challenge a redistricting plan is neither a structural or procedural subject for the reasons explained above. Removing the Attorney General from redistricting actions violates the structural and procedural clause.

II. The Redistricting Initiative violates the free and equal clause because it improperly combines unrelated questions.

Article III, Section 3 requires that “[a]ll elections shall be free and equal.” Ill. Const. 1970, art. III, § 3. “The free and equal clause guarantees the right to vote in Illinois and reflects a broad public policy to expand the opportunity to vote.” *Clark*, 2014 IL App (1st) 141937, ¶ 27. “The free and equal clause is violated when separate and unrelated questions are combined in a single proposition on a ballot.” *Id.* ¶ 28. In the context of a ballot initiative, separate questions may be combined in a single proposition so long as they are “reasonably related to a common objective in a workable manner.” *Coalition II*, 83 Ill.2d at 256. An additional consideration is whether the questions are compatibly interrelated to provide a consistent and workable whole in the sense that reasonable voters can support the entire proposition. *Id.* at 260.

In *Coalition II*, the Supreme Court found an initiative did not violate the “free and equal” clause despite presenting three separate questions. The questions presented were (1) whether the size of the House of Representatives should be reduced, (2) whether cumulative voting should be abolished, and (3) whether representatives should be elected from single-member districts. *Id.* at 253. The Court found that the free and equal clause prevented “only separate and unrelated questions from being combined in a single proposition.” *Id.* at 254. The court stated:

If the three questions were presented at a single election as separate propositions incongruous results might follow, e. g., the voters might vote to retain cumulative voting and adopt single-member districts. The alternative, presenting the questions at separate elections, would require at least four years of uncertainty and confusion caused by a legislature in an intermediate stage of development, and might, depending on the order in which the questions were presented, produce incongruous results.

Id. at 255. Thus, the court found the questions were “compatibly interrelated to provide a consistent and workable whole in the sense that reasonable voters can support the entire proposition.” *Id.* at 260.⁴

The Redistricting Initiative violates the free and equal clause because it presents separate and unrelated questions that could be answered separately. It presents the following questions: (1) should the substantive requirements for legislative maps be changed; (2) should an Independent Redistricting Commission be created to take the power to draw legislative maps from the legislature; and (3) should the manner in which a redistricting plan is challenged be changed. These questions are separate and unrelated.

For instance, to question (1), the Redistricting Initiative removes the compactness requirement in Article IV, Section 3, which has been interpreted to allow mapmakers to ignore boundaries of local government. *Beaubien*, 198 Ill. 2d at 301. The Redistricting Initiative would now require the mapmaker to take boundaries of local governments into consideration when preparing a redistricting plan. (Ex. A.) This substantive change, however, has nothing to do with the proclaimed purpose of the Redistricting Initiative.

The petition states the purpose of the Redistricting Initiative is to “change the current system of redistricting, where legislators draw the maps of General Assembly districts after each decennial census, and provide for a restructured, independent redistricting commission to draw

⁴ Justice Ryan dissented from *Coalition II*, finding the questions violated the free and equal clause, in part because he believed the court had misinterpreted a decision from the Arizona Supreme Court interpreting constitutional language different from Illinois’. *Coalition II*, 83 Ill. 2d at 269 (Ryan, J. dissenting). The Arizona Supreme Court later found Justice Ryan had correctly interpreted the case in question. *Slayton v. Shumway*, 166 Ariz. 87, 91, 800 P.2d 590, 594 (1990). The First District has thus questioned the validity of *Coalition II*’s free and equal analysis. *Clark*, 2014 IL App (1st) 141937 n. 2.

the maps.” (*Id.*) Whether the legislature draws the map is not a related question to whether the current compactness requirement should be removed or whether the mapmakers must take boundaries of units of local government into consideration.

The purpose statement does not inform the voter there is a change to the requirements for drawing the legislative maps. Thus, a voter signing the petition may have been unaware that the Initiative was also seeking to change the requirements for drawing a legislative district. Furthermore, a voter could agree with the proposal to remove the power to draw the maps from the legislature, yet disagree with proposal to change what requirements go into drawing a legislative map.

A voter is thus forced by the Redistricting Initiative to vote on the part of the Initiative the voter is most concerned with, rather than being able to answer each question separately. In his dissent in *Coalition II*, Justice Ryan stated “[t]his evil is generally referred to as ‘logrolling,’ which practice, by including in one referendum several unrelated propositions, induces the voters who favor one proposition to vote for all.” *Coalition II*, 83 Ill. 2d at 266 (Ryan, J. dissenting).

Additionally, while a voter may agree with removing the legislature from redistricting, the Redistricting Initiative provides two separate and unrelated questions on how the Initiative purposes to accomplish this: (1) should the Auditor General play a role in redistricting; and (2) should two justices of the Illinois Supreme Court pick a Special Commissioner in the case of a deadlocked IRC. These questions go beyond simply removing the legislature and ask instead whether officers, who are by function non-partisan, should be injected into a process that is inherently political.

Finally, the Redistricting Initiative changes the judicial process for challenging a redistricting plan. By removing the Supreme Court’s original and exclusive jurisdiction, the Initiative

allows circuit courts to exercise jurisdiction. Actions could be filed in all 102 counties after a redistricting proposal has been submitted. This will enable forum shopping on redistricting cases. Additionally, the Attorney General is removed from the process. And a plan submitted has the presumption of validity, but is no longer deemed to have “the full force and effect of law.”⁵

Thus, the question presented by the Redistricting Initiative is not only should the legislature be removed from the redistricting process, and should the requirements for drawing districts be changed, but should the method of challenging a redistricting plan be changed as well. Voters could certainly disagree on those questions. And no incongruous result would arise if voters were asked these questions separately.

The Redistricting Initiative thus presents numerous separate and unrelated questions. As a result, it violates the free and equal clause.

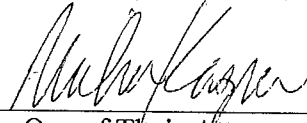
Conclusion

WHEREFORE, Plaintiffs respectfully request this Court grant Plaintiff’s Motion for Judgment on the Pleadings and enter an Order granting a Declaratory Judgment that the Redistricting Initiative violates Article XIV, Section 3 and Article III, Section 3 of the Illinois Constitution and enjoining Defendants from spending public funds related to Redistricting Initiative.

⁵ It is unclear why the “full force and effect of law” language was removed, but it must be presumed to have meaning. Generally, the rules of statutory construction apply to the construction of constitutional provisions. *Coalition I*, 65 Ill. 2d at 464. One tenet of statutory construction is that “[o]ne may presume that the legislature, when drafting the language of the section, was aware of the construction and use of [a] term in another section.” *Divane v. Smith*, 332 Ill. App. 3d 548, 553 (1st Dist. 2002). “Accordingly, where the legislature uses certain words in one instance and different words in another, it intends different results.” *Id.*

Respectfully submitted,

By:



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Petition For Constitutional Amendment

We, the undersigned registered and duly qualified electors of the State of Illinois, petition to amend Article IV of the Illinois Constitution with the language set forth on the back of this petition by placing this proposed amendment before the electors of Illinois at large by referendum at the General Election to be held on the 8th day of November, 2016.

The purpose of the 2016 Illinois Independent Redistricting Amendment is to change the current system of redistricting, where legislators draw the maps of General Assembly districts after each decennial census, and provide for a restructured, independent redistricting commission to draw the maps.

For the proposed Amendment to Article IV of the Constitution

YES

☐

NO

☐

NAME (VOTER'S SIGNATURE)	NAME (PLEASE PRINT)	STREET ADDRESS OR RR NUMBER	CITY, TOWN OR VILLAGE	COUNTY
1.				IL
2.				IL
3.				IL
4.				IL
5.				IL
6.				IL
7.				IL
8.				IL
9.				IL
10.				IL

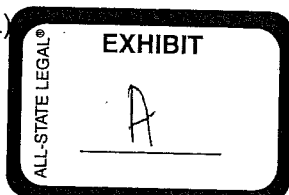
State of _____)
) SS.
County of _____)

I, _____ do hereby certify that I reside at _____ in the City/Village/Unincorporated Area (circle one) of _____ (if unincorporated, list municipality that provides postal service) Zip Code _____, County of _____, State of _____ that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than twenty-four months preceding the General Election on November 8, 2016, that the text of the amendment is set forth on the back of this petition sheet, was available for review, and that to the best of my knowledge and belief such signatures are genuine and that the persons so signing were at the time of signing the petition duly qualified and registered voters and electors of the State of Illinois, and that their respective residences are correctly stated, as above set forth.

(Circulator's Signature)

Signed and sworn to (or affirmed) by _____ before me, on _____
(Name of Circulator) (insert month, day, year)

(SEAL)



SHEET NO. _____

(Notary Public's Signature)

Illinois Independent Redistricting Amendment

Section 3. Legislative Redistricting

(a) The Independent Redistricting Commission comprising 11 Commissioners shall adopt and file with the Secretary of State a redistricting plan for Legislative Districts and Representative Districts by June 30 of the year following each Federal decennial census. Legislative Districts shall be contiguous and substantially equal in population. Representative Districts shall be contiguous and substantially equal in population. The redistricting plan shall comply with Federal law. Subject to the foregoing, the Commission shall apply the following criteria: (1) the redistricting plan shall not dilute or diminish the ability of a racial or language minority community to elect the candidates of its choice, including when voting in concert with other persons; (2) the redistricting plan shall respect the geographic integrity of units of local government; and (3) the redistricting plan shall respect the geographic integrity of communities sharing common social and economic interests, which do not include relationships with political parties or candidates for office. The redistricting plan shall not either intentionally or unduly discriminate against or intentionally or unduly favor any political party, political group or particular person. In designing the redistricting plan, the Commission shall consider party registration and voting history data only to assess compliance with the requirements in this subsection (a).

(b) For the purpose of conducting the Commissioner selection process, an Applicant Review Panel comprising three Reviewers shall be chosen in the following manner. Beginning not later than January 1 and ending not later than March 1 of the year in which the Federal decennial census occurs, the Auditor General shall request and accept applications to serve as a Reviewer. The Auditor General shall review all applications and select a pool of 30 potential Reviewers. The Auditor General should select applicants for the pool of potential Reviewers who would operate in an ethical and non-partisan manner by considering whether each applicant is a resident and registered voter of the State and has been for the four years preceding his or her application, has demonstrated understanding of and adherence to standards of ethical conduct and has been unaffiliated with any political party for the three years preceding appointment. By March 31 of the year in which the Federal decennial census occurs, the Auditor General shall publicly select by random draw the Panel of three Reviewers from the pool of potential Reviewers.

(c) Beginning not later than January 1 and ending not later than March 1 of the year in which the Federal decennial census occurs, the Auditor General shall request and accept applications to serve as a Commissioner on the Independent Redistricting Commission. By May 31, the Panel shall select a pool of 100 potential Commissioners. The Panel should select applicants for the pool of potential Commissioners who would be diverse and unaffected by conflicts of interest by considering whether each applicant is a resident and registered voter of the State and has been for the four years preceding his or her application, as well as each applicant's prior political experience, relevant analytical skills, ability to contribute to a fair redistricting process and ability to represent the demographic and geographic diversity of the State. The Panel shall act by affirmative vote of two Reviewers. All records of the Panel, including applications to serve on the Panel, shall be open for public inspection, except private information about applicants for which there is no compelling public interest in disclosure.

(d) Within 45 days after the Panel has selected the pool of 100 potential Commissioners, but not later than June 23 of the year in which the Federal decennial census occurs, the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate each may remove up to five of those potential Commissioners. Thereafter, but not later than June 30, the Panel shall publicly select seven Commissioners by random draw from the remaining pool of potential Commissioners; of those seven Commissioners, including any replacements, (1) the seven Commissioners shall reside among the Judicial Districts in the same proportion as the number of Judges elected therefrom under Section 3 of Article VI of this Constitution, (2) two Commissioners shall be affiliated with the political party whose candidate for Governor received the most votes cast in the last general election for Governor, two Commissioners shall be affiliated with the political party whose candidate for Governor received the second-most votes cast in such election and the remaining three Commissioners shall not be affiliated with either such political party and (3) no more than two Commissioners may be affiliated with the same political party. The Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate each shall appoint one Commissioner from among the remaining applicants in the pool of potential Commissioners on the basis of the appointee's contribution to the demographic and geographic diversity of the Commission. A vacancy on the Panel or Commission shall be filled within five days by a potential Reviewer or potential Commissioner from among the applicants remaining in the pool of potential Reviewers or potential Commissioners, respectively, in the manner in which the office was previously filled.

(e) The Commission shall act in public meetings by affirmative vote of six Commissioners, except that approval of any redistricting plan shall require the affirmative vote of at least (1) seven Commissioners total, (2) two Commissioners from each political party whose candidate for Governor received the most and second most votes cast in the last general election for Governor and (3) two Commissioners not affiliated with either such political party. The Commission shall elect its chairperson and vice chairperson, who shall not be affiliated with the same political party. Six Commissioners shall constitute a quorum. All meetings of the Commission attended by a quorum, except for meetings qualified under attorney-client privilege, shall be open to the public and publicly noticed at least two days prior to the meeting. All records of the Commission, including communications between Commissioners regarding the Commission's work, shall be open for public inspection, except for records qualified under attorney-client privilege. The Commission shall adopt rules governing its procedure, public hearings and the implementation of matters under this Section. The Commission shall hold public hearings throughout the state both before and after releasing the initial proposed redistricting plan. The Commission may not adopt a final redistricting plan unless the plan to be adopted without further amendment, and a report explaining its compliance with this Constitution, have been publicly noticed at least seven days before the final vote on such plan.

(f) If the Commission fails to adopt and file with the Secretary of State a redistricting plan by June 30 of the year following a Federal decennial census, the Chief Justice of the Supreme Court and the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice shall appoint jointly by July 31 a Special Commissioner for Redistricting. The Special Commissioner shall adopt and file with the Secretary of State by August 31 a redistricting plan satisfying the requirements set forth in subsection (a) of this Section and a report explaining its compliance with this Constitution. The Special Commissioner shall hold at least one public hearing in the State before releasing his or her initial proposed redistricting plan and at least one public hearing in a different location in the State after releasing his or her initial proposed redistricting plan and before filing the final redistricting plan with the Secretary of State. All records of the Special Commissioner shall be open for public inspection, except for records qualified under attorney-client privilege.

(g) An adopted redistricting plan filed with the Secretary of State shall be presumed valid and shall be published promptly by the Secretary of State.

(h) The Supreme Court shall have original jurisdiction in cases relating to matters under this Section.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JOHN HOOKER, Chairman of the
PEOPLE'S MAP; FRANK CLARK, LEON
FINNEY, ELZIE HIGGINBOTTOM;
RAYMOND CHIN; FERNANDO GRILLO;
JORGE PEREZ; and CRAIG CHICO,

Plaintiffs,

v.

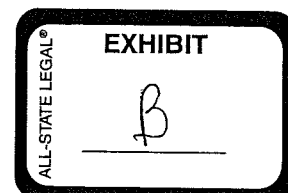
ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, Chairman,
WILLIAM CADIGAN, ANDY
CARRUTHERS, BETTY COFFRIN, ERNEST
GOWEN, JOHN KEITH, WILLIAM
McGUFFAGE, and CASSANDRA
WATSON, members, in their official
capacity; LESLIE MUNGER, State
Comptroller, in her official capacity;
MICHAEL FRERICH, State Treasurer, in
his official capacity; JEESE WHITE, State
Secretary of State, in his official capacity;
DAVID D. ORR, County Clerk of Cook
County in his official capacity; BOARD OF
ELECTION COMMISSIONERS FOR THE
CITY OF CHICAGO, MARISEL
HERNANDEZ, Chairwoman, WILLIAM
KRESSE, and JONATHAN SWAIN,
Commissioners, in their official capacity,

Defendants.

Case No.

**COMPLAINT FOR PERMANENT INJUNCTION TO ENJOIN THE
DISBURSEMENT OF PUBLIC FUNDS AND DECLARATORY JUDGMENT**

The above captioned Plaintiffs, by their attorneys, Michael J. Kasper,
Richard J. Prendergast, Michael T. Layden, Robert T. Shannon, and Adam R. Vaught,
bring this Complaint for Declaratory Judgment and to Enjoin Disbursement of Public
Funds. For their Complaint, Plaintiffs state as follows:



Introduction

1. On May 6, 2016, a petition was filed with Defendant Illinois State Board of Elections to propose an Amendment to Article IV, Section 3 of the Illinois Constitution ("the Redistricting Initiative"). The Redistricting Initiative seeks to substantially amend the legislative redistricting process set forth in Article IV, Section 3 (Copy of the Redistricting Initiative attached as Ex. A).

2. Article XIV, Section 3 of the Illinois Constitution provides for Amendments by initiative to be proposed by petition, but such Amendments "shall be limited to structural and procedural subjects contained in Article IV." Ill. Const. 1970, art. XIV § 3.

3. The "structural and procedural" clause limits Amendments by initiative to changes to the structure and procedure of the legislative article of the Constitution (Article IV), such as converting the General Assembly from a bicameral to unicameral body, or to convert legislative districts from single to multiple member districts. An initiative does not meet the structural and procedural requirement if it includes a substantive issue not found in Article IV.

4. The Redistricting Initiative proposes to amend the Illinois Constitution as it relates to the reallocation of population among Legislative and Representative Districts following each decennial census. The Initiative would remove the authority of the democratically elected General Assembly and the Governor to enact redistricting

legislation by law and replace it with a system involving the Auditor General, two members of the Supreme Court, and two new unelected government bodies: an Applicant Review Panel and an Independent Redistricting Commission.

5. The Redistricting Initiative violates Article XIV, Section 3 because it:
 - a. Imposes new duties on the Auditor General;
 - b. Repeals the Supreme Court's original and exclusive jurisdiction over actions concerning redistricting the House and Senate, and grants the Circuit Court jurisdiction over actions concerning redistricting the House and Senate;
 - c. Imposes new duties on two members of the Supreme Court;
 - d. Requires political party affiliations by members of the Supreme Court;
 - e. Does not alter the structure and procedures of the General Assembly; and
 - f. Removes the power and duty of the Attorney General to bring actions in the name of the People of the State of Illinois concerning redistricting the House and Senate.

6. The Redistricting Initiative also violates Article III, Section 3's requirement that all elections be free and equal because it presents separate and unrelated questions in a single ballot proposition. Ill. Const. 1970, art. III § 3.

7. As a result of these violations, Plaintiffs pray for this Court to issue a permanent injunction to enjoin public funds from being spent to certify and submit this unconstitutional Redistricting Initiative to the voters of Illinois.

Parties

8. Plaintiff, the PEOPLE'S MAP, a political committee organized pursuant to the Illinois Election Code to support and/or oppose referenda related to legislative redistricting, is vitally interested in the laws of the State of Illinois and has an interest in ensuring that amendments to the Illinois Constitution are made in a constitutional manner as provided under the Constitution. JOHN HOOKER, Chairman of the PEOPLE'S MAP, is now and has been at all times pertinent to the allegations contained in this Complaint, a citizen, resident, and taxpayer of the State of Illinois.

9. Plaintiff FRANK CLARK is the President and Chairman of the Board of the Business Leadership Council, a not-for-profit organization composed of African-American business people with the goal of improving the quality of life in the African-American community, is vitally interested in the laws of the State of Illinois and has an interest in ensuring that amendments to the Illinois Constitution are made in a constitutional manner as provided under the Constitution. Plaintiffs DR. LEON FINNEY, ELZIE HIGGINBOTTOM, and JOHN HOOKER, members of the Business Leadership Council, are now and have been at all times pertinent to the allegations contained in this Complaint, citizens, residents, and taxpayers of the State of Illinois.

10. Plaintiff RAYMOND CHIN is the President of the Chinatown Chamber of Commerce, a not-for-profit organization with the goal of improving and expanding business opportunities to educate the public on the history, culture, and customs of the Chinese American community, is vitally interested in the laws of the State of Illinois and has an interest in ensuring that amendments to the Illinois Constitution are made in a constitutional manner as provided under the Constitution. Plaintiff RAYMOND CHIN is now and has been at all times pertinent to the allegations contained in this Complaint, a citizen, resident, and taxpayer of the State of Illinois.

11. Plaintiff FERNANDO GRILLO is the Chairman of ASPIRA Illinois, a Puerto Rican not-for-profit organization committed to the self-determination of Latinos and other underserved youth through education, leadership development, and cultural awareness. Plaintiff FERNANDO GRILLO is now and has been at all times pertinent to the allegations contained in this Complaint, a citizen, resident, and taxpayer of the State of Illinois.

12. Plaintiff JORGE PEREZ is the Executive Director of the Hispanic American Construction Industry Association ("HACIA"), a not-for-profit organization that works to ensure the equitable participation of its constituents in the construction industry. Plaintiff JORGE PEREZ is now and has been at all times pertinent to the allegations contained in this Complaint, a citizen, resident, and taxpayer of the State of Illinois.

13. Plaintiff CRAIG CHICO is the Executive Director of the Back of the Yards Neighborhood Association, a community organization whose mission is to enhance the general welfare of all residents, organizations, and businesses in its area. Plaintiff CRAIG CHICO is now and has been at all times pertinent to the allegations contained in this Complaint, a citizen, resident, and taxpayer of the State of Illinois.

14. Defendant, ILLINOIS STATE BOARD OF ELECTIONS, is responsible, pursuant to Section 10 ILCS 5/1A-8 (10), for determining the sufficiency of the petitions and signatures attached to the Redistricting Initiative petitions. Plaintiffs are informed and believe that in order to determine the validity and sufficiency of the Redistricting Initiative petitions, the ILLINOIS STATE BOARD OF ELECTIONS has already expended tens of thousands of taxpayer dollars and will continue to expend tens of thousands of additional taxpayer dollars over the next several months to evaluate: (a) the authenticity of signatures on the petition; (b) whether there is any duplication of signatures; (c) whether the signatories to the petition are validly registered voters; and (d) whether the signatures were secured in the manner required by law.

15. The ILLINOIS STATE BOARD OF ELECTIONS also has the duty of preparing and certifying the form of ballot for any proposed amendment to the Constitution of the State of Illinois, and such certification must occur no later than 74 days prior to the November 8, 2016 election. 10 ILCS 5/1a-8 (5); 10 ILCS 5/28-5.

16. LESLIE MUNGER, the State Comptroller, pursuant to 15 ILCS 405/10.01, upon ascertaining the amount due any person from the Treasury of the State, has the duty to draw her warrant on the Treasury and to direct MICHAEL FRERICHS, the State Treasurer, to pay the sum due.

17. JESSE WHITE, Secretary of State, pursuant to 5 ILCS 20/2, is responsible for publishing a notice of the proposed amendments in various newspapers throughout the State, and for preparing and sending to all mailing addresses in the State a pamphlet containing both the current and proposed constitutional provisions, an explanation of the proposal, and arguments for and against each initiative.

18. Further, upon certification by the ILLINOIS STATE BOARD OF ELECTIONS, DAVID D. ORR, the County Clerk of Cook County, and the BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF CHICAGO, will be under a duty to print ballots containing the proposed amendments and furnish them to election judges, to cause ballot boxes to be located in each precinct within their respective jurisdictions, to hire personnel to aid in the performance of their statutory duty of conducting an election concerning the referendum, and to canvass the results of such referenda. In accordance with 10 ILCS 5/16-6 and as requested on the signed petitions, each proposal to amend the Constitution must be printed or submitted on a separate ballot of a "distinctly blue color."

19. Plaintiffs are informed and believe that the cost of performing these duties will be at least tens of thousands of dollars within the election jurisdiction of the STATE BOARD OF ELECTIONS, BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF CHICAGO, and within the part of Cook County outside the City of Chicago that is within the election jurisdiction of DAVID D. ORR, the County Clerk of Cook County.

Jurisdiction and Venue

20. The Court has jurisdiction pursuant to 735 ILCS 5/2-701. An actual, immediate and justiciable controversy exists between the parties named herein with respect to whether the Redistricting Initiative violates the Illinois Constitution.

21. The Court has jurisdiction pursuant to 735 ILCS 5/11-301 and 735 ILCS 5/11-303 to enjoin the disbursement of public funds from being spent to certify and submit an unconstitutional Redistricting Initiative to the voters of Illinois.

22. Venue is proper pursuant to 735 ILCS 5/2-101 because some or all of the transactions giving rise to this Complaint took place in Cook County and each Defendant maintains an office in Cook County.

Count I

(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates Article XIV, Section 3 Because It Imposes Duties on the Auditor General)

23. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

24. Article VIII, Section 3 creates the Office of the Auditor General and provides for the Auditor General's duties. Ill. Const. 1970, art. VIII § 3.

25. Article IV contains no reference to the Auditor General. Ill. Const. 1970, art. IV.

26. The Redistricting Initiative would impose the following duties on the Auditor General:

- a. Request and accept applications from people to serve as Reviewers;
 - b. Review the applications and select a pool of 30 potential Reviewers;
- and
- c. Publicly select by random draw the Panel of three Reviewers from the pool of potential Reviewers. (Ex. A, ¶(b).)

27. Imposing duties on the Auditor General is not a structural and procedural subject of Article IV.

28. Because Article XIV, Section 3 limits Amendment by initiative to structural and procedural subjects contained in Article IV, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count II

(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates Article XIV, Section 3 Because It Changes the Jurisdiction of the Supreme and Circuit Courts)

29. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

30. Article IV, Section 3 states the Supreme Court shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate. Ill. Const. 1970, art. III § 3.

31. Article VI, Section 9 (Circuit Courts Jurisdiction) states "Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office." Ill. Const. 1970, art. VI § 9.

32. If a matter is justiciable and does not fall within the original and exclusive jurisdiction of the Supreme Court, the Circuit Court has subject matter jurisdiction to consider the matter. *McCormick v. Robertson*, 2015 IL 118230, ¶ 20.

33. The Redistricting Initiative states that "[t]he Supreme Court shall have original jurisdiction in cases relating to matters under this Section." (Ex. A, ¶(h).)

34. By omitting "and exclusive" from the grant of jurisdiction, the Redistricting Initiative would alter the jurisdiction of the Illinois Courts by:

a. Depriving the Supreme Court of the original and exclusive jurisdiction to hear redistricting cases; and

b. Granting the Circuit Court subject matter jurisdiction to hear redistricting cases.

35. The jurisdiction of the Illinois Courts to determine whether a redistricting plan is legally sufficient is not a structural and procedural subject of Article IV.

36. Because Article XIV, Section 3 limits Amendments by initiative to structural and procedural subjects contained in Article IV, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count III

(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates Article XIV, Section 3 Because It Imposes New Duties on Two Members of the Supreme Court)

37. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

38. Article IV, Section 3 states that “[i]f the Commission fails to file an approved redistricting plan, the Supreme Court shall submit the names of two persons, not of the same political party, to the Secretary of State not later than September 1.” Ill. Const. 1970, art. IV § 3.

39. The Redistricting Initiative, however, states that “[i]f the Commission fails to adopt and file with the Secretary of State a redistricting plan by June 30 of the year following a Federal decennial census, the Chief Justice of the Supreme Court and the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice shall appoint jointly by July 31 a Special Commissioner for Redistricting.” (Ex. A, ¶(f).)

40. The Constitution provides for the Supreme Court to establish the duties of the Chief Justice outside of Article IV.

41. Article VI, Section 16 provides that “[g]eneral administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief Justice in his duties.” Ill. Const. 1970, art. VI § 16.

42. Pursuant to Article VI, Section 16, the Supreme Court has established the Duties of the Chief Justice by rule. Ill. S. Ct. R. 30 (eff. Jan. 1, 1989).

43. The Redistricting Initiative would impose a new duty on the Chief Justice and the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice.

44. Imposing new duties on the Chief Justice and most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice is not a structural and procedural subject of Article IV.

45. Because Article XIV, Section 3 limits Amendment by initiative to structural and procedural subjects contained in Article IV, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count IV
(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates
Article XIV, Section 3 Because It Requires Political Party Affiliation by Supreme
Court Judges)

46. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

47. Article VI, Section 12, paragraph (a) provides that "Supreme, Appellate and Circuit Judges shall be nominated at primary elections or by petition." Ill. Const. 1970, art. VI § 12(a). "[B]y petition" provides for a judge to be elected without political party affiliation.

48. Article VI, Section 12, paragraph (d) provides that judges elected to the Supreme Court may succeed themselves through non-partisan retention elections. Ill. Const. 1970, art. VI § 12(d).

49. Additionally, Article VI, Section 13, paragraph (a) states that "[t]he Supreme Court shall adopt rules of conduct for Judges and Associate Judges." Ill. Const. 1970, art. VI § 13.

50. Pursuant to Article VI, Section 13, the Supreme Court regulates the political party activity of sitting judges. Ill. S. Ct. R. 67 (eff. Mar. 24, 1994).

51. Accordingly, the Constitution does not require a Judge of the Supreme Court to have a political affiliation and the Supreme Court by rule has exercised its power to regulate the political party affiliation of judges.

52. The Redistricting Initiative, however, imposes a new duty upon "the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice."

53. This would require both the Chief Justice and at least one Judge of the Supreme Court to affiliate with a political party at the time an appointment of Special Commissioner is necessary under the Redistricting Initiative.

54. The political party affiliation of Judges of the Supreme Court is not a structural and procedural subject of Article IV.

55. Because Article XIV, Section 3 limits Amendment by initiative to structural and procedural subjects contained in Article IV, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count V

(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates Article XIV, Section 3 Because It Does Not Change the Structure and Procedure of the General Assembly)

56. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

57. Article IV, Section 3 provides that the General Assembly shall redistrict the Legislative and Representative Districts in the year following the Federal decennial census. Ill. Const. 1970, art. IV § 3.

58. If a redistricting plan does not become law by June 30, Article IV, Section 3 provides for a Legislative Redistricting Commission process to prepare a redistricting plan. Ill. Const. 1970, art. IV § 3.

59. The Redistricting Initiative proposes to divest the General Assembly of its legislative authority to enact laws redrawing the State's Legislative and Representative Districts and to eliminate the alternative Legislative Redistricting Commission. (Ex. A.)

60. The Redistricting Initiative creates an Independent Redistricting Commission which is charged with making a redistricting plan. (Ex. A, ¶(a).)

61. Article IV, Section 1 ("Legislature—Power and Structure") states "[t]he legislative power is vested in a General Assembly consisting of a Senate and a House of Representatives, elected by the electors from 59 Legislative Districts and 188 Representative Districts." Ill. Const. 1970, art. IV § 1.

62. Article IV, Section 1 thus establishes the structure of the General Assembly, and is therefore the structural subject of Article IV.

63. The Redistricting Initiative does not change Article IV, Section 1. If the Redistricting Initiative was enacted, the General Assembly would still consist of a Senate and a House of Representatives, elected by the electors from 59 Legislative Districts and 188 Representative Districts. The structure of the General Assembly as an institution would remain unchanged.

64. The Redistricting Initiative only attempts to change the procedure for how Legislative and Representative District maps are drawn.

65. The procedure for how Legislative District and Representative District maps are drawn, however, does not involve any of the General Assembly's procedures.

If the Redistricting Initiative was adopted, the process by which the General Assembly adopts a law would remain unchanged.

66. Thus, the Redistricting Initiative is not limited to a structural and procedural subject contained in Article IV.

67. Because Article XIV, Section 3 limits Amendment by initiative to structural and procedural subjects contained in Article IV, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count VI

(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates Article XIV, Section 3 Because It Removes the Attorney General’s Power to Initiate Actions Concerning Redistricting in the Name of the People of the State)

68. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

69. Article IV, Section 3 states that “[t]he Supreme Court shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate, which shall be initiated in the name of the People of the State by the Attorney General.”

Ill. Const. 1970, art. IV § 3.

70. Article V, Section 15, provides that “[t]he Attorney General shall be the legal officer of the State, and shall have the duties and powers that may be prescribed by law.” Ill. Const. 1970, art. V § 15.

71. The Redistricting Initiative does not provide for the Attorney General to initiate action concerning redistricting the House and Senate, which shall be initiated in the name of the People of the State.

72. The Redistricting Initiative thus removes a duty and power of the Attorney General prescribed by law.

73. The duties and powers of the Attorney General are not a structural and procedural subject of Article IV.

74. How a redistricting plan's legality may be challenged is neither a structural nor procedural subject of Article IV.

75. Because Article XIV, Section 3 limits Amendment by initiative to structural and procedural subjects contained in Article IV, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count VII

(Declaratory Judgment against all Defendants—the Redistricting Initiative Violates the Free and Equal Clause of the Illinois Constitution)

76. Plaintiffs incorporate by reference paragraphs 1 through 22 above, as though fully restated herein.

77. Article III, Section 3 states that "[a]ll elections shall be free and equal."

78. The free and equal clause is violated when separate and unrelated questions are combined in a single proposition on a ballot.

79. The Redistricting Initiative raises separate and unrelated questions pertaining to the General Assembly's power to draft a redistricting map; the jurisdiction of the Illinois Courts; the duties and political affiliations of Judges of the Supreme Court; the duties of the Auditor General; the powers and duties of the Attorney General; and the duties of the Secretary of State.

80. The Redistricting Initiative would deprive voters of the opportunity to answer each of these questions separately and independently.

81. Because Article III, Section 3 prohibits separate and unrelated questions from being combined into a single ballot proposition, the Redistricting Initiative is unconstitutional. A judicial declaration is necessary and appropriate at this time.

Count VIII

(Permanent Injunction to Enjoin Defendant Illinois State Board of Elections and any of its officers or members from expending public funds related to the Redistricting Initiative)

82. Plaintiffs incorporate by reference paragraphs 1 through 81 above, as though fully restated herein.

83. 735 ILCS 5/11-301 provides for citizens and taxpayers of Illinois to bring an action to enjoin the disbursement of public funds by any officer or officers of the State government.

84. Plaintiffs are taxpayers of the State of Illinois.

85. Plaintiffs will be irreparably harmed if public funds are unnecessarily expended by Defendant Illinois State Board of Elections and any of its officers or

members to determine the validity and sufficiency of the petition containing the unconstitutional Redistricting Initiative because taxpayers will be required to pay for the expenditure through their taxes paid to the State.

86. There is no appropriation authority for the Defendant Illinois State Board of Elections and any of its officers or members to expend public funds to determine the sufficiency of the petition containing the unconstitutional Redistricting Initiative.

87. Plaintiffs pray that this Court enter a permanent injunction enjoining Defendant Illinois State Board of Elections and any of its officers or members from certifying ballots containing the Redistricting Initiative, from hiring personnel to aid in conducting a referendum on the Redistricting Initiative or in any other way acting to place a ballot containing the Redistricting Initiative before the voters at the General Election to be held on November 8, 2016, or at any other time, and from otherwise wrongfully expending any public funds in connection therewith.

88. Plaintiffs have no adequate remedy at law.

Count IX

(Permanent Injunction to Enjoin Defendant Board of Election Commissioners for the City of Chicago and any of its officers or members and Cook County Clerk David D. Orr from expending public funds related to the Redistricting Initiative)

89. Plaintiffs incorporate by reference paragraphs 1 through 84 above, as though fully restated herein.

90. Plaintiffs will be irreparably harmed if public funds are unnecessarily expended by Defendant Board of Election Commissioners for the City of Chicago and

any of its officers or members and Defendant Cook County Clerk David D. Orr for any action related to the unconstitutional Redistricting Initiative because Plaintiffs will be required to pay for the expenditure through their taxes.

91. Plaintiffs pray that this Court enter a permanent injunction enjoining Defendant Board of Election Commissioners for the City of Chicago and any of its officers or members from printing ballots containing the Redistricting Initiative, from furnishing such ballots to judges of election, from causing ballot boxes needed solely for the receipt of such ballots to be located within each precinct within their election jurisdictions, from hiring personnel to aid in conducting a referendum on the Redistricting Initiative or in any other way acting to place a ballot containing the Redistricting Initiative before the voters at the General Election to be held on November 8, 2016, or at any other time, and from otherwise wrongfully expending any public funds in connection therewith.

92. Plaintiffs have no adequate remedy at law.

Count X

(Permanent Injunction to Enjoin Defendant Leslie Munger, Comptroller, in her official capacity, and Michael Frerichs, Treasurer, in his official capacity, from expending public funds related to the Redistricting Initiative)

93. Plaintiffs incorporate by reference paragraphs 1 through 84 above, as though fully restated herein.

94. Plaintiffs will be irreparably harmed if Defendant Comptroller Leslie Munger draws her warrant on the Treasury to expend public funds on the unconstitutional Redistricting Initiative.

95. Plaintiffs have no adequate remedy at law.

96. There is no appropriation authority for the Defendant Comptroller Leslie Munger to expend public funds to determine the sufficiency of the petition containing the unconstitutional Redistricting Initiative, or for Defendant Treasurer Michael Frerichs to process vouchers and pay any public funds for such purposes.

97. Plaintiffs pray that this Court enter a permanent injunction enjoining LESLIE MUNGER, the State Comptroller, from approving any vouchers submitted for such purposes described above and MICHAEL FRERICHS, the State Treasurer, from processing vouchers and from paying any public funds for such purposes.

Count XI

(Permanent Injunction to Enjoin Defendant Jesse White, Secretary of State, in his official capacity from expending public funds related to the Redistricting Initiative)

98. Plaintiffs incorporate by reference paragraphs 1 through 84 above, as though fully restated herein.

99. Defendant Jesse White, Secretary of State, through 5 ILCS 20/2, is responsible for publishing a notice of the proposed amendments in various newspapers throughout the State, and for preparing and sending to all mailing addresses in the

State a pamphlet containing both the current and proposed constitutional provisions, an explanation of the proposal, and arguments for and against each initiative.

100. Plaintiffs are informed and believe that Defendant Jesse White, Secretary of State, will expend millions of taxpayer dollars in furtherance of these duties and obligations.

101. Plaintiffs will be irreparably harmed if Defendant Secretary of State Jesse White expends public funds complying with 5 ILCS 20/2 on the unconstitutional Redistricting Initiative.

102. There is no appropriation authority for the Defendant Jesse White to expend public funds to fulfill his obligations in 5 ILCS 20/2 concerning the unconstitutional Redistricting Initiative.

103. Plaintiffs pray that this Court enter a permanent injunction enjoining Defendant Secretary of State Jesse White from expending any public fund complying with 5 ILCS 20/2 related to the unconstitutional Redistricting Initiative.

Prayer for Relief

WHEREFORE, Plaintiffs respectfully request judgment on their Complaint as follows:

a. On Count I, that this Court determine and declare the Redistricting Initiative violates Article XIV, Section 3 because it imposes duties on the Auditor General;

b. On Count II, that this Court determine and declare the Redistricting Initiative violates Article XIV, Section 3 because it changes the jurisdiction of the Supreme and Circuit Courts;

c. On Count III, that this Court determine and declare the Redistricting Initiative Violates Article XIV, Section 3 because it imposes new duties on two members of the Supreme Court;

d. On Count IV, that this Court determine and declare the Redistricting Initiative violates Article XIV, Section 3 because it requires political party affiliation by Supreme Court Judges;

e. On Count V, that this Court determine and declare the Redistricting Initiative violates Article XIV, Section 3 because it does not change the structure and procedure of the General Assembly;

f. On Count VI, that this Court determine and declare the Redistricting Initiative violates Article XIV, Section 3 because it removes the Attorney General's power to initiate actions concerning redistricting in the name of the People of the State;

g. On Count VII, that this Court determine and declare the Redistricting Initiative violates the Free and Equal Clause of the Illinois Constitution;

h. On Count VIII, that this Court issue a Permanent Injunction to Enjoin Defendant Illinois State Board of Elections and any of its officers or members from expending public funds related to the Redistricting Initiative;

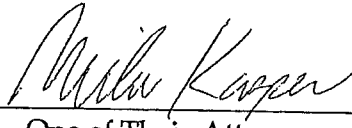
i. On Count IX, that this Court issue a Permanent Injunction to Enjoin Defendant Board of Election Commissioners for the City of Chicago and any of its officers or members and Defendant Cook County Clerk David D. Orr from expending public funds related to the Redistricting Initiative;

j. On Count X, that this Court issue a Permanent Injunction to Enjoin Defendant Comptroller Leslie Munger from approving any vouchers submitted for the purpose of expending public funds related to the Redistricting Initiative and Defendant Treasurer Michael Frerichs from processing vouchers and paying any public funds for such purposes;

k. On Count XI, that this Court issue a Permanent Injunction to Enjoin Defendant Secretary of State Jesse White from expending public funds related to the Redistricting Initiative; and

l. That this Court award Plaintiffs any further relief this Court deems just and proper.

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Petition For Constitutional Amendment

We, the undersigned registered and duly qualified electors of the State of Illinois, petition to amend Article IV of the Illinois Constitution with the language set forth on the back of this petition by placing this proposed amendment before the electors of Illinois at large by referendum at the General Election to be held on the 8th day of November, 2016.

The purpose of the 2016 Illinois Independent Redistricting Amendment is to change the current system of redistricting, where legislators draw the maps of General Assembly districts after each decennial census, and provide for a restructured, independent redistricting commission to draw the maps.

For the proposed Amendment to Article IV of the Constitution

YES

☐

NO

☐

NAME (VOTER'S SIGNATURE)	NAME (PLEASE PRINT)	STREET ADDRESS OR RR NUMBER	CITY, TOWN OR VILLAGE	COUNTY
1.				IL
2.				IL
3.				IL
4.				IL
5.				IL
6.				IL
7.				IL
8.				IL
9.				IL
10.				IL

State of _____)
 _____) SS.
 County of _____)

I, _____ do hereby certify that I reside at _____ in the City/Village/Unincorporated Area (circle one) of _____ (if unincorporated, list municipality that provides postal service) Zip Code _____, County of _____, State of _____ that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this sheet were signed in my presence, not more than twenty-four months preceding the General Election on November 8, 2016, that the text of the amendment is set forth on the back of this petition sheet, was available for review, and that to the best of my knowledge and belief such signatures are genuine and that the persons so signing were at the time of signing the petition duly qualified and registered voters and electors of the State of Illinois, and that their respective residences are correctly stated, as above set forth.

 (Circulator's Signature)

Signed and sworn to (or affirmed) by _____ before me, on _____
 (Name of Circulator) (insert month, day, year)

(SEAL)

 (Notary Public's Signature)

SHEET NO. _____

Exhibit A

Illinois Independent Redistricting Amendment

Section 3. Legislative Redistricting

(a) The Independent Redistricting Commission comprising 11 Commissioners shall adopt and file with the Secretary of State a redistricting plan for Legislative Districts and Representative Districts by June 30 of the year following each Federal decennial census. Legislative Districts shall be contiguous and substantially equal in population. Representative Districts shall be contiguous and substantially equal in population. The redistricting plan shall comply with Federal law. Subject to the foregoing, the Commission shall apply the following criteria: (1) the redistricting plan shall not dilute or diminish the ability of a racial or language minority community to elect the candidates of its choice, including when voting in concert with other persons; (2) the redistricting plan shall respect the geographic integrity of units of local government; and (3) the redistricting plan shall respect the geographic integrity of communities sharing common social and economic interests, which do not include relationships with political parties or candidates for office. The redistricting plan shall not either intentionally or unduly discriminate against or intentionally or unduly favor any political party, political group or particular person. In designing the redistricting plan, the Commission shall consider party registration and voting history data only to assess compliance with the requirements in this subsection (a).

(b) For the purpose of conducting the Commissioner selection process, an Applicant Review Panel comprising three Reviewers shall be chosen in the following manner. Beginning not later than January 1 and ending not later than March 1 of the year in which the Federal decennial census occurs, the Auditor General shall request and accept applications to serve as a Reviewer. The Auditor General shall review all applications and select a pool of 30 potential Reviewers. The Auditor General should select applicants for the pool of potential Reviewers who would operate in an ethical and non-partisan manner by considering whether each applicant is a resident and registered voter of the State and has been for the four years preceding his or her application, has demonstrated understanding of and adherence to standards of ethical conduct and has been unaffiliated with any political party for the three years preceding appointment. By March 31 of the year in which the Federal decennial census occurs, the Auditor General shall publicly select by random draw the Panel of three Reviewers from the pool of potential Reviewers.

(c) Beginning not later than January 1 and ending not later than March 1 of the year in which the Federal decennial census occurs, the Auditor General shall request and accept applications to serve as a Commissioner on the Independent Redistricting Commission. By May 31, the Panel shall select a pool of 100 potential Commissioners. The Panel should select applicants for the pool of potential Commissioners who would be diverse and unaffected by conflicts of interest by considering whether each applicant is a resident and registered voter of the State and has been for the four years preceding his or her application, as well as each applicant's prior political experience, relevant analytical skills, ability to contribute to a fair redistricting process and ability to represent the demographic and geographic diversity of the State. The Panel shall act by affirmative vote of two Reviewers. All records of the Panel, including applications to serve on the Panel, shall be open for public inspection, except private information about applicants for which there is no compelling public interest in disclosure.

(d) Within 45 days after the Panel has selected the pool of 100 potential Commissioners, but not later than June 23 of the year in which the Federal decennial census occurs, the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate each may remove up to five of those potential Commissioners. Thereafter, but not later than June 30, the Panel shall publicly select seven Commissioners by random draw from the remaining pool of potential Commissioners; of those seven Commissioners, including any replacements, (1) the seven Commissioners shall reside among the Judicial Districts in the same proportion as the number of Judges elected therefrom under Section 3 of Article VI of this Constitution, (2) two Commissioners shall be affiliated with the political party whose candidate for Governor received the most votes cast in the last general election for Governor, two Commissioners shall be affiliated with the political party whose candidate for Governor received the second-most votes cast in such election and the remaining three Commissioners shall not be affiliated with either such political party and (3) no more than two Commissioners may be affiliated with the same political party. The Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate each shall appoint one Commissioner from among the remaining applicants in the pool of potential Commissioners on the basis of the appointee's contribution to the demographic and geographic diversity of the Commission. A vacancy on the Panel or Commission shall be filled within five days by a potential Reviewer or potential Commissioner from among the applicants remaining in the pool of potential Reviewers or potential Commissioners, respectively, in the manner in which the office was previously filled.

(e) The Commission shall act in public meetings by affirmative vote of six Commissioners, except that approval of any redistricting plan shall require the affirmative vote of at least (1) seven Commissioners total, (2) two Commissioners from each political party whose candidate for Governor received the most and second most votes cast in the last general election for Governor and (3) two Commissioners not affiliated with either such political party. The Commission shall elect its chairperson and vice chairperson, who shall not be affiliated with the same political party. Six Commissioners shall constitute a quorum. All meetings of the Commission attended by a quorum, except for meetings qualified under attorney-client privilege, shall be open to the public and publicly noticed at least two days prior to the meeting. All records of the Commission, including communications between Commissioners regarding the Commission's work, shall be open for public inspection, except for records qualified under attorney-client privilege. The Commission shall adopt rules governing its procedure, public hearings and the implementation of matters under this Section. The Commission shall hold public hearings throughout the state both before and after releasing the initial proposed redistricting plan. The Commission may not adopt a final redistricting plan unless the plan to be adopted without further amendment, and a report explaining its compliance with this Constitution, have been publicly noticed at least seven days before the final vote on such plan.

(f) If the Commission fails to adopt and file with the Secretary of State a redistricting plan by June 30 of the year following a Federal decennial census, the Chief Justice of the Supreme Court and the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice shall appoint jointly by July 31 a Special Commissioner for Redistricting. The Special Commissioner shall adopt and file with the Secretary of State by August 31 a redistricting plan satisfying the requirements set forth in subsection (a) of this Section and a report explaining its compliance with this Constitution. The Special Commissioner shall hold at least one public hearing in the State before releasing his or her initial proposed redistricting plan and at least one public hearing in a different location in the State after releasing his or her initial proposed redistricting plan and before filing the final redistricting plan with the Secretary of State. All records of the Special Commissioner shall be open for public inspection, except for records qualified under attorney-client privilege.

(g) An adopted redistricting plan filed with the Secretary of State shall be presumed valid and shall be published promptly by the Secretary of State.

(h) The Supreme Court shall have original jurisdiction in cases relating to matters under this Section.