

## Proposition Number 4

### Ballot Title

Shall a law be enacted to:

- create a seven-member commission to recommend redistricting plans to the Legislature that divide the state into Congressional, legislative, and state school board districts;
- provide for appointments to that commission: one by the Governor, three by legislative majority party leaders, and three by legislative minority party leaders;
- provide qualifications for commission members, including limitations on their political activity;
- require the Legislature to enact or reject a commission-recommended plan; and
- establish requirements for redistricting plans and authorize lawsuits to block implementation of a redistricting plan enacted by the Legislature that fails to conform to those requirements?

### Impartial Analysis

#### Background

The state is divided into different types of districts for electing different officers. There are districts for electing representatives to the U.S. House of Representatives, districts for electing members to the Utah Legislature, and districts for electing representatives to the State Board of Education. Under federal constitutional law requiring one person's voting power to be roughly the same as another person's, each type of district is required to have at least a roughly equal population as each other district of that type.

Every 10 years, the federal government conducts a census to count the population of each state. During the 10-year period from one census to the next, the population of the state shifts, resulting in unequal populations within the various districts. Following each census, the Legislature redefines the boundaries of those districts to ensure roughly equal populations within the districts. This redefining of district boundaries is commonly referred to as "redistricting."

#### Proposition 4

Proposition 4 affects redistricting in Utah in three main ways: (1) it creates a seven-member appointed commission to participate in the process of formulating redistricting plans; (2) it imposes requirements on the Legislature's redistricting process; and (3) it establishes standards with which redistricting plans must comply.

##### 1. Redistricting Commission

###### Current Law

The Utah Constitution states that "the Legislature shall divide the state" into districts. Current Utah law does not provide for the involvement of a commission or any other group in the redistricting process.

### Effect of Proposition 4

Proposition 4 creates the “Utah Independent Redistricting Commission,” with responsibility to recommend redistricting plans to the Legislature. The redistricting commission consists of seven members. One member is appointed by each of the following:

- the governor;
- the president of the Utah Senate;
- the speaker of the Utah House of Representatives;
- the leader of the largest minority political party in the Utah Senate;
- the leader of the largest minority political party in the Utah House of Representatives;
- Utah Senate and House leadership of the political party that is the majority party in the Utah Senate; and
- Utah Senate and House leadership of the political party that is the largest minority party in the Utah Senate.

Under Proposition 4, a person may not be appointed to the commission if the person has engaged in certain political activity during the four or, in some cases, five years before appointment. The Proposition also places limitations on certain political activity of commission members during their service on the commission and for four years afterwards.

Proposition 4 establishes a process for the commission to follow in recommending redistricting plans. Among other things, the Proposition requires the commission to:

- make redistricting plans available to the public and hold public hearings; and
- assess whether redistricting plans comply with standards established by Proposition 4.

If the commission fails to submit redistricting plans to the Legislature by a specified deadline, the Utah Supreme Court chief justice is required to select plans for the commission to submit.

## **2. Legislature’s Redistricting Process**

### Current Law

Under current law, the Legislature performs redistricting according to a process it defines internally, with no limitations or requirements imposed by state law. The Legislature’s past redistricting process has included opportunities for the public to submit redistricting plans, a legislative redistricting committee to adopt redistricting standards and recommend plans, the posting of plans on the Legislature’s website, and public hearings around the state.

### Effect of Proposition 4

Proposition 4 places requirements on the process that the Legislature uses to enact redistricting plans, including limits on when and the circumstances under which the Legislature may enact a redistricting plan.

Proposition 4 requires the Legislature to enact or reject a plan that the commission submits but does not limit the Legislature from enacting its own separate plan. The commission may require a plan being considered by the Legislature to undergo a commission assessment to determine whether it complies with standards established by the Proposition. If the Legislature enacts a plan other than one submitted by the commission, the Proposition requires the Legislature to publicly issue a detailed written report explaining why.

### **3. Standards Applicable to Redistricting Plans**

#### Current Law

Redistricting plans enacted by the Legislature are required to comply with certain provisions of federal law, including a requirement that districts have roughly equal populations. Utah law does not specify additional standards with which redistricting plans must comply.

#### Effect of Proposition 4

Proposition 4 requires commission-recommended or Legislature-enacted redistricting plans, as much as possible, to:

- minimize the division of counties, cities, and towns;
- create districts that are geographically compact and in one unbroken piece;
- preserve traditional neighborhoods and local communities;
- follow natural and geographic features; and
- maximize boundary agreement among different types of districts.

The Proposition also prohibits the commission or Legislature from favoring or disfavoring incumbent elected officials or from considering partisan political information.

The Proposition authorizes any Utah resident to file a lawsuit requesting a court to block implementation of a redistricting plan enacted by the Legislature that fails to conform to the standards and requirements established by Proposition 4.

#### **Potential Constitutional Conflicts**

Proposition 4 raises the following potential conflicts with the United States Constitution or Utah Constitution:

- restricting former commission members from engaging in certain political activity after serving on the commission may conflict with freedom of speech and association guarantees of the First Amendment to the United States Constitution and similar guarantees under Article I, Sections 1 and 15 of the Utah Constitution;
- directing the Utah Supreme Court chief justice to select redistricting plans to recommend to the Legislature may violate separation of powers principles under Article V, Section 1 of the Utah Constitution; and

- requiring redistricting plans enacted by the Legislature to comply with certain standards and imposing other restrictions on the Legislature's redistricting process may violate Article IX, Section 1 of the Utah Constitution.

### **Fiscal Impact**

The legislative fiscal analyst estimates that implementing Proposition 4 may cost the state \$1,015,500 every 10 years for commission and other redistricting-related expenses. The state may incur additional costs to defend lawsuits authorized by the Proposition.