

In the
Supreme Court of the United States

DAVID TANGIPA, *et al.*,

Applicants,

v.

GAVIN NEWSOM, GOVERNOR OF CALIFORNIA, *et al.*,

Respondents,

ON APPLICATION FOR WRIT OF INJUNCTION FROM THE U.S. DISTRICT
COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

**To the Honorable Elena Kagan
Associate Justice of the Supreme Court of the United States
and Circuit Justice for the Ninth Circuit**

**BRIEF AMICUS CURIAE OF CONGRESSMAN MIKE GARCIA &
THE CALIFORNIA STATE CHAPTER OF THE AMERICA FIRST POLICY
INSTITUTE IN SUPPORT OF APPLICATION**

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INTEREST BY *AMICUS CURIAE*¹

Former Congressman Mike Garcia and the California State Chapter of the America First Policy Institute (“AFPI”) respectfully submit this brief as *amici curiae* in support of Applicants challenge to Proposition 50, the so-called “Election Rigging Response Act” (“ERRA”).

Congressman Garcia, who represented California’s 27th Congressional District, serves as the Chairman of the California State Chapter of the America First Policy Institute (“AFPI”), a nonprofit, nonpartisan research institute dedicated to advancing policies that put the American people first. AFPI’s guiding principles include liberty, free enterprise, the rule of law, an America-first foreign policy, and the belief that American workers, families, and communities are the key to the nation’s success.

Congressman Garcia has firsthand experience with the consequences of partisan redistricting and has long advocated for integrity and transparency in California’s election processes. Under the ERRA, his District will be significantly altered and the voter registration advantage enjoyed by Democrats in the California 27th would increase by 5.5%. Congressman Garcia previously lost his reelection bid in 2024 by less than 8,000 votes, or about 2.6%.

The Congressman and AFPI strongly support maintaining the independence of the California Citizens Redistricting Commission (CCRC): a body created by the

¹ No counsel for a party authored this brief, in whole or in part, and no person or entity other than *amicus curiae* made a monetary contribution to the preparation or submission of the brief. Sup. Ct. R. 37.6.

people through Propositions 11 and 20, to remove politics from redistricting and restore fairness to California’s representative democracy. His interest in this matter arises from a commitment to protecting the constitutional structure Californians themselves designed to ensure nonpartisan accountability and equal representation. AFPI believes it is the mandate of policymakers to advance and serve these interests above all others.

As part of its mission, AFPI houses the Center for Election Integrity, which participates in a nationwide effort to conduct research, educate stakeholders, and develop policies that make it easy to vote but hard to cheat. Through this initiative, AFPI works with state partners across the country to identify best practices that ensure free and fair elections and to strengthen public confidence in representative democracy.

AFPI’s California Chapter joins this brief to defend those same principles within the state. AFPI has a strong interest in preserving the legitimacy of California’s voter-created constitutional redistricting framework and ensuring that legislative actors cannot undo the will of the people through procedural shortcuts or partisan manipulation. Proposition 50, enacted through legislative fiat rather than citizen initiative, undermines that framework by re-politicizing congressional redistricting: a power Californians explicitly and deliberately removed from the Legislature through Propositions 11 and 20.

SUMMARY OF ARGUMENT

California's democratic integrity is best reflected in its people-driven constitutional reforms. California Propositions 11 and 20, passed only a few short years ago, established the California Citizens Redistricting Commission through a grassroots initiative, enshrining California voters' desire for transparency, independence, and fairness in the drawing of legislative and congressional district lines in their constitution. By contrast, Proposition 50—the so-called “Election Rigging Response Act” (ERRA)—was placed on the ballot by legislative fiat, bypassing the same democratic mechanisms that gave rise to the CCRC. The text of the ERRA itself, written by partisan legislators, proclaims its intent to rig congressional districts to obtain a desired partisan electoral result:

It is the intent of the people that California's temporary maps be designed to neutralize the partisan gerrymandering being threatened by Republican-led states without eroding fair representation for all communities.

Cal. Assemb. Const. Amend. No. 8, 2025-2026 Reg. Sess., Res. Ch. 156 (Cal. 2025) (“ACA8”). Amici urge the Court to recognize that Proposition 50 undermines the will of California voters and violates the principles of fair redistricting embedded in California’s Constitution.

ARGUMENT

I. California Voters Created the CCRC Through a Rigorous Popular Process Which Clearly Demonstrates the Will of the People.

California is one of the growing number of states that have created a process for reforming their state constitution through a ballot initiative process.² This process allows the electors of the state to propose amendments to the Constitution of the State of California. Cal Const. art. XVIII, § 3; Cal. Elec. Code § 9035 (West 2024). According to the Office of the Secretary of State of California “[t]he initiative is *the power of the people* of California to propose statutes and to propose amendments to the California Constitution.” Cal. Sec'y of State, Statewide Initiative Guide 2025 at i (2024) (*emphasis added*).

The process by which the citizens of California, by their own volition, make changes to their constitution is not a simple one. Amending the California Constitution through the initiative process is a deliberately arduous procedure, designed to ensure that any constitutional change reflects broad public support. Under Cal. Const. art. II, § 8 and Cal. Elec. Code §§ 9000–9035, citizens may propose an amendment by submitting its full text to the Attorney General of California. See Cal. Elec. Code § 9001. Proponents must then gather signatures from registered voters equal to eight percent of all votes cast for Governor in the most recent election.

² See generally, Alaska Const. art. XI; Ariz. Const. arts. IV & XXI; Ark. Const. art. V; Cal. Const. art. II; Colo. Const. art. V; Fla. Const. art. XI; Ill. Const. art. XIV; Mass. Const. arts. XLVIII & LXXIV; Mich. Const. arts. II & XII; Miss. Const. art. XV; Mo. Const. art. III; Mont. Const. arts. III & XIV; Neb. Const. art. III; Nev. Const. art. XIX; N.D. Const. art. III; Ohio Const. art. II; Okla. Const. art. V; Or. Const. art. IV; S.D. Const. arts. III & XXIII.

Cal. Elec. Code § 9035. According to the Office of the Secretary of State of California, under the current law, 874,641 signatures of registered voters are presently required to initiate a constitutional amendment by ballot initiative. California Secretary of State, *How to Qualify an Initiative*, <https://www.sos.ca.gov/elections/ballot-measures/how-qualify-initiative> (last visited Oct. 9, 2025). Once signatures are collected, county officials must then verify each and every signature, including the signatory's status as a registered voter, Cal. Elec. Code § 9031(c); Cal. Code Regs. tit. 2, § 20960, before the Secretary of State certifies the measure for the ballot, Cal. Elec. Code § 9033(a).

Proposition 11, known as the Voters FIRST Act, was adopted in 2008 in response to decades of partisan gerrymandering and legislative self-dealing. *See* Prop. 11, Voters FIRST Act (Cal. Nov. 4, 2008). The Act amended Article XXI of the state constitution and enacted Title 2, Division 1, Chapter 3.2 of the Government Code, transferring authority for establishing Assembly, Senate, and Board of Equalization district boundaries from elected representatives to a fourteen-member commission. *See id.* The measure's official statement of purpose declared that "politicians draw districts that serve their interests, not those of our communities," and promised to "make the redistricting process open so it cannot be controlled by the party in power." *Id.* The Voters FIRST Act explicitly sought to ensure that redistricting would be based on "strict, nonpartisan rules designed to ensure fair representation." *Id.*

In 2010, voters doubled down on that principle by passing Proposition 20, the VOTERS FIRST Act for Congress. Prop. 20, VOTERS FIRST Act for Congress (Cal. Nov. 2, 2010) (amending Cal. Const. art. XXI; adding Cal. Gov't Code §§ 8251–8253.6). The people of California, clearly pleased with the work of their independent redistricting committee, used Proposition 20 to extend the authority of the CCRC to federal congressional districts. *See id.* Proposition 20 was approved by nearly two-thirds of California voters,³ a resounding reaffirmation that redistricting should remain a citizen-led process, free from legislative and political interference. The VOTERS FIRST Act for Congress also promised an end to “backroom deals” and declared that “Proposition 20 puts an end to politicians picking their voters and returns power to the people.” *Id.*

The public debate and campaign materials surrounding both initiatives clearly demonstrate the people of California’s intentions to enshrine independence, transparency, nonpartisanship, and electoral fairness into their constitution. Moreover, these reforms were explicitly designed to protect against precisely the kind of legislative and political interference that Proposition 50 seeks.

II. Propositions 11 and 20 Demonstrate the Commitment of California’s Citizens to Fair and Transparent Electoral Processes, Which Is Why They Enshrined It in Their Constitution.

California’s constitutional amendments through Propositions 11 and 20 represent a sustained commitment by California’s citizens to fairness, transparency,

³ Cal. Sec’y of State, State Ballot Measures – Statewide Results, <https://web.archive.org/web/20101105205625/http:/vote.sos.ca.gov/returns/ballot-measures/> (last visited Oct. 9, 2025).

and independence in electoral redistricting. Both measures were passed through the initiative process, reflecting the people's direct will to amend the state's constitution to protect electoral integrity. The ballot statements, endorsements, and arguments reveal a profound belief among the people that fair representation and open governance are essential to California's democratic character.

Proposition 11 created the CCRC, transferring redistricting authority from elected representatives to an independent citizen body. *See Prop. 11, Voters FIRST Act (Cal. Nov. 4, 2008).* The Voters FIRST Act clearly outlined the public's concerns with politicians redrawing their districts to serve their own interests. Specifically, it argued that politicians had engaged in practices that benefited themselves and not the people and that power needed to be returned to the people:

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

...

The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation. The reform takes redistricting out of the partisan battles of the Legislature and guarantees redistricting will be debated in the open

...

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

Id. Official statements of support that appeared in the Secretary of State's official 2008 Voters Guide, prepared with consultation by the Attorney General, emphasized

the public's frustration with partisan gerrymandering and the desire to restore public confidence in the redistricting process:

There is a serious conflict of interest when legislators are allowed to draw their own district boundaries. They divide up neighborhoods and communities to create districts where they are virtually guaranteed reelection. Once elected, these politicians aren't accountable to voters because they don't have to earn our votes. Instead, they pay more attention to the special interests.

Cal. Sec'y of State, *Voter Information Guide for 2008, General Election* (2008) at 73. Proposition 11 was championed by a coalition of diverse civic organizations including the League of Women Voters of California, the California Taxpayers Association, and AARP California. *Id.* Their joint statement in support of Proposition 11, which was published by the California Secretary of State, highlighted the reform's central goal: to ensure fairness and create a true system of political accountability. *See id.* They wrote:

Proposition 11 will help end the gridlock and force the politicians to start solving problems. If they don't, we can vote them out of office because they'll have to run in fair districts.

Id. Two years later, Proposition 20 expanded the authority of the CCRC to include congressional redistricting. *See Prop. 20, VOTERS FIRST Act for Congress* (Cal. Nov. 2, 2010). Proposition 20 reinforced the state's popular commitment to fair representation by extending nonpartisan oversight to federal districts. Proposition 20 also increased the CCRC's mandate to help end partisan gridlock in the state legislature:

This reform will make the redistricting process for Congress open so it cannot be controlled by whichever party is in power. It will give the redistricting for Congress to the independent Citizens Redistricting

Commission, which already has the authority to draw the districts for the Legislature and the Board of Equalization. The membership of the commission will have three groups of members: five Democrats; five Republicans; and four members registered with neither of those parties, who will carry the voices of independent and minor-party voters who are completely shut out of the current process. The new districts will be fair because support from all three groups is required for approval of any new redistricting plan.

Id. The Secretary of State's voter guide added:

Proposition 20 will put an end to legislators drawing election districts for their friends in Congress—districts that virtually guarantee Members of Congress get reelected even when they don't listen to voters . . . Proposition 20 puts an end to backroom deals by ensuring redistricting is completely open to the public and transparent.

Cal. Sec'y of State, *Voter Information Guide for 2010, General Election* (2010) at 22.

In published arguments in favor of Proposition 20, organizational proponents—including AARP California, California Common Cause, and the League of Women Voters—stressed the shared principle that representation should serve communities, not politicians:

Proposition 20 will create fair congressional districts that make our congressional representatives more accountable to voters and make it easier to vote them out of office when they don't do their jobs.

Id. Proposition 20 thus demonstrates the continued commitment—started by the Voters FIRST Act—to fairness, transparency, and accountability in democratic governance by the people of California. California voters intentionally created a redistricting system free from partisan control, ensuring that all voters, regardless of affiliation, are fairly represented. Without these reforms politicians are not accountable to the people they serve.

III. Proposition 50 Is Not an Initiative Constitutional Amendment.

In stark contrast to Propositions 11 and 20, Proposition 50 did not arise from a grassroots petition or public campaign. It was placed on the ballot through ACA8. Cal. Assemb. Const. Amend. No. 8, 2025-2026 Reg. Sess., Res. Ch. 156 (Cal. 2025); *see also* Cal. Const. art. XXI, § 1. ACA8 is the result of a rushed and scattershot political maneuver by a mere 87 members of the California Legislature. *See Assembly Journal*, 2025–2026 Reg. Sess. No. 2679, at 2684-88 (Cal. 2025) (Corrected 09-29-2025); *Senate Journal*, 2025–26 Reg. Sess. No. 115, at 169 (Cal. 2025).

By invoking Article XVIII, § 1, the Legislature bypassed the participatory safeguards of the initiative process and denied Californians the opportunity to deliberate meaningfully over a constitutional change affecting their redistricting system, and ultimately the fairness of their elections and the accountability of their officials. The legislative history of ACA8 reveals minimal public engagement and a truncated debate process. *Id.* The Legislature advanced the measure in the summer of 2025 as a self-declared “emergency” response to alleged partisan gerrymandering in other states. However, the purported urgency of “defending democracy” was a thin veil for reclaiming political control over congressional district lines: control that voters had deliberately stripped from the Legislature through Propositions 11 and 20.

Under California law, constitutional amendments initiated by the people require broad public endorsement, including signatures equal to at least 8% of the votes cast in the last gubernatorial election. Cal. Elec. Code § 9035. Proposition 50,

in contrast, was advanced without any such requirement, without any citizen petition, and without the open hearings and civic participation that accompanied the creation of the CCRC. This legislative shortcut undermines both the procedural integrity and the substantive legitimacy of Proposition 50 as a constitutional amendment.

The contrast could not be more striking: where the people sought fairness and transparency, the Legislature acted with speed and opacity; where the people intended to remove partisan control, the Legislature reinstated it. In effect, Proposition 50 represents a re-politicization of the redistricting process: precisely the harm the people sought to prevent. Even in the highly charged political environment, Californians recognize that Proposition 50 is not a solution. Jeanne Raya, former Chairperson of the CCRC, said of Proposition 50:

Newsom said the move by Texas Republicans justifies a retaliatory strike. But we witness daily the chaos and mistrust created by revenge politics in Washington. That is not the model of responsible government Californians deserve. Nor do Californians want to spend millions of taxpayer dollars to gamble that different congressional districts will produce the sought-after change, while real problems remain unaddressed . . . Newsom says Democrats can take back Congress if the American people are given a fair chance, a voice and a choice. In California, the people already have that chance, and it's the independent redistricting commission.

Jeanne Raya, *Why California voters should reject Prop. 50 and stay out of the redistricting*, CalMatters (Sept. 19, 2025), <https://calmatters.org/commentary/2025/09/california-voters-reject-prop-50-redistricting/>. Proposition 50's legislative origins and lack of public participation

undermine both its democratic legitimacy and its consistency with California’s constitutional commitment to fair, independent, and transparent elections. Californians already possess a fair and accountable system through their independent redistricting commission: the one created by the people to safeguard, not politicize, democracy.

IV. Proposition 50, Which Was Not of the People, Directly Contradicts the Policy Preferences of the Voters Who Through a Grassroots Effort, Created the CCRC.

The contrast between the language of Proposition 50 and that of Propositions 11 and 20 reveals a profound departure from California’s constitutional commitment to nonpartisan redistricting. The preambles of the earlier initiatives speak the language of civic fairness, transparency, and representation for all communities. They emphasize keeping communities intact, ensuring equal participation for Democrats, Republicans, and independents, and maintaining a fully open process with all deliberations and minutes made public.

This is juxtaposed with ACA8 and Proposition 50, which are a top-down political tactic put on ballots this November by 87 members of the California Legislature. *See Assembly Journal*, 2025–2026 Reg. Sess. No. 2679, at 2684-88 (Cal. 2025) (Corrected 09-29-2025); *Senate Journal*, 2025–26 Reg. Sess. No. 115, at 169 (Cal. 2025). These elected officials, instead of relying upon the CCRC, tasked a single individual—an individual with a documented history of partisan work—with redrawing California’s maps in a manner that would favor a predetermined political

outcome.⁴ The legislature, uninterested in hearing from the people during its legislative process, also intentionally disregarded the significantly more democratic process for constitutional amendment under Article XVIII, § 3. Instead, they now purport to speak on behalf of the people as follows:

It is the intent of the people that California’s temporary maps be designed to neutralize the partisan gerrymandering being threatened by Republican-led states

Cal. Assemb. Const. Amend. No. 8, 2025-2026 Reg. Sess., Res. Ch. 156 (Cal. 2025)

(emphasis added). Proposition 50 also opens with a partisan declaration:

President Donald Trump has called on Republican-led states to undertake an unprecedented mid-decade redistricting of Congressional seats to rig the 2026 midterm elections . . . California has a duty to defend democracy.

Id. The measure purports to “neutralize” partisan actions in other states by authorizing California to conduct its own mid-decade redistricting. This rhetoric transforms redistricting from a neutral process designed to empower voters into a political weapon wielded by the state government. California’s state legislators have a duty to all of California’s citizens regardless of party. Yet, the measure’s stated intent to fight Donald Trump is inherently partisan and serves only to alienate a large portion of the California population. This alienation stands in irreconcilable

⁴ See Ashley Zavala, *California Politics 360: The Man Who Drew California’s Proposed Maps Says He Will Not Campaign for Prop 50*, KCRA (Sep. 21, 2025); Vicki Gonzalez, *Meet the Sacramento Architect Behind California’s New Proposed Congressional Maps*, Capradio (Aug. 29, 2025); Will McCarthy, *Can this man draw the Democrats a House majority?*, Politico (Aug. 15, 2025).

tension with the constitutional values codified in Article XXI of the California Constitution through Propositions 11 and 20.

Moreover, Proposition 50's operational language would temporarily suspend the authority of the Citizens Redistricting Commission and reinstate legislative control over district boundaries for the 2026, 2028, and 2030 elections. *See id.* ("This measure . . . require[s] the state to temporarily use the congressional districts reflected in AB 604 of the 2025–26 Regular Session for every congressional election until the new congressional boundary lines are drawn by the commission in 2031."). This unilateral 'temporary' suspension contradicts the CCRC's constitutional guarantee of independence and undermines the expectation of continuity and stability in California's electoral system.

Even the ballot summary and official voter guide language betray the measure's politicized tone. Voters this November will be told that a 'Yes' vote "reaffirms California's commitment to independent, nonpartisan redistricting[.]" Cal. Sec'y of State, *Voter Information Guide for 2025, Special Election* (2025) at 5. Yet Proposition 50 intentionally and overwhelmingly skews districts to ensure a desired partisan outcome, regardless of the will of the people.⁵ Despite, the betrayal of

⁵ Proposition 50's proposed redistricting would substantially shift California's congressional balance toward Democrats. Several Republican-held districts would lose conservative territory and gain Democratic areas: Doug LaMalfa (CA-01) would lose the GOP-leaning Oregon border region and gain Santa Rosa; Kevin Kiley (CA-03) would lose the Eastern Sierra and gain Sacramento suburbs; David Valadao (CA-22) would gain Democratic areas in Fresno County; Ken Calvert (CA-41) would be moved from the competitive Inland Empire into Democratic Los Angeles County; and Darrell Issa (CA-48) would lose Republican parts of eastern San Diego and gain the more liberal Coachella Valley. Democratic swing districts would see significant gains

democratic values represented by Proposition 50, the Legislature still has the gall to include within the enactment a finding that “[t]he people of California, not politicians, should have the power to approve temporary congressional district maps . . .” This language is a slap in the face of California voters who chose not once, but twice, to ensure independent, nonpartisan redistricting and accountability for their politicians under the Constitution of the Golden State.

in partisan advantage: CA-09 (Harder) +13.1%, CA-13 (Gray) +5.5% shift eliminating GOP edge, CA-21 (Costa) +2.2%, CA-27 (Whitesides) +5.5%, CA-45 (Tran) +2.5%, CA-47 (Min) +6%, and CA-49 (Levin) +4%. Even several Democratic safe districts would be modestly weakened but remain solidly blue: CA-02 (Huffman) -20.9%, CA-04 (Thompson) -17%, CA-07 (Matsui) -17.1%, CA-08 (Garamendi) -10.1%, CA-42 (Garcia) -19.5%, and CA-50 (Peters) -11.6%. Ashley Zavala, *California’s Redistricting Plan Will Officially Target Five Republican Seats*, Democratic Leader Confirms, KCRA (Aug. 9, 2025), <https://www.kcra.com/article/california-redistricting-target-5-republican-seats/65645075>; Hailey Wang, Vanessa Martínez & Sandhya Kambhampati, *Will Your Congressional District Shift Left or Right in Newsom’s Proposed Map?*, Los Angeles Times (Aug. 27, 2025), <https://www.latimes.com/california/story/2025-08-27/proposed-california-congressional-district-map-democrats-republicans> ; Jeremia Kimelman & Alexei Koseff, *Find Out if Your Vote Could Be Affected by Newsom’s Redistricting Plans*, CalMatters (Aug. 15, 2025), <https://calmatters.org/politics/2025/08/find-out-if-your-vote-could-be-affected-by-newsoms-redistricting-plans/>

CONCLUSION

Proposition 50 is a creation of the legislature and not the people. By its very terms it usurps the will of Californians and disregards the carefully crafted controls on runaway partisan redistricting that the people fought so hard to enshrine in their constitution just a few short years ago. Accordingly, *amici* ask this Court to grant the application for writ of injunction and to issue all just and equitable relief as the court may deem necessary to preserve the will of the people of California and the principles of electoral fairness.

Respectfully submitted this 29th day January, 2026.

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