Assembly Constitutional Amendment No. 3

Introduced by Assembly Members McCarthy and Runner
(Principal coauthors: Assembly Members Bogh and La Malfa)
(Coauthors: Assembly Members Aghazarian, Benoit, Blakeslee, Cogdill, Daucher, DeVore, Harman, Haynes, Houston, Huff, Leslie, Maze, Plescia, Spitzer, Villines, and Wyland)
(Coauthors: Senators Marlett, Poochigian, and Runner)

January 13, 2005

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of, and adding Sections 2, 3, and 4 to, Article XXI thereof, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

ACA 3, as amended, McCarthy. Elections: reapportionment.

The California Constitution requires the Legislature to adjust the boundary lines of the Senate, Assembly, congressional, and Board of Equalization districts in the year following the year in which the national census is taken at the beginning of each decade in compliance with specified standards.

This measure would provide that the district boundary lines would be adjusted by a panel of 5 special masters, rather than the Legislature. The panel would be selected at random by the Judicial Council from a pool of retired state or federal judges with prescribed qualifications. The panel would hold public hearings regarding redistricting plans proposed by any Member of the Legislature or any elector before approving a plan and filing it with the Secretary of State. An approved plan would become operative for

[1] Corrected 3-3-05—See last page.
all future elections as specified. If the panel fails to approve a plan, the Judicial Council would discharge the panel and select a new pool of judges from which the Legislature would appoint a new panel.

This measure would require that, within 20 days following its approval by the voters, the Judicial Council Legislature select a panel of special masters to approve a plan to adjust the district boundaries for use in the elections to be held in the next statewide general and primary elections and, thereafter, until the next adjustment of boundary lines is approved by the voters following the national census.

The California Constitution requires that districts be drawn so that the population of all districts of a particular type are reasonably equal.

This measure would instead require that district populations be as nearly equal as practicable. For congressional districts, federal constitutional standards would dictate the maximum population deviation; for state legislative and Board of Equalization districts, the maximum deviation would be 1%.

This measure would also require that districts be as compact as practicable, conform to geographic boundaries of a county, city, or city and county, and preserve identifiable communities of interest. This measure would prohibit consideration from being given to the potential effects on incumbents or political parties. Data regarding party affiliation or voting history of electors could not be used may not be considered except to test compliance with specified criterion of competitiveness. To the extent possible, district boundaries would be required to be drawn to ensure a prescribed level of competitiveness between the two largest political parties.

This measure would further require that each Board of Equalization district be comprised of 10 contiguous Senate districts and that each Senate district be comprised of 2 contiguous Assembly districts.


1 Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2005–06 First Extraordinary Session commencing on the sixth day of January 2005, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:
First—That Section 1 of Article XXI thereof is amended to read:

SECTION 1. (a) Except as provided in subdivision (g), in the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the boundary lines of the Senate, Assembly, congressional, and Board of Equalization districts shall be adjusted in conformance with this article.

(b) On or before February 1 of the year following the year in which the national census is taken, the Judicial Council shall appoint, following the procedure set forth in subdivision (c), a five-member panel of special masters to prepare a plan to adjust the boundary lines of the Senate, Assembly, congressional, and Board of Equalization districts. Only retired state judges or federal judges who have served in federal courts in California and have retired or taken senior status, have never held a partisan or public office or political party office, or served as a registered lobbyist, and have not changed their party affiliation, as declared on their voter registration affidavit, in the preceding five years, are qualified to serve as special masters. A judge, before commencing to serve as a special master, must pledge in writing that he or she will not accept an appointment to any elective government position, or seek election to a partisan or public office or political party office, or served as a registered lobbyist, for at least five years from the date his or her service as a special master is concluded.

(c) The Judicial Council shall identify 25 qualified judges willing to serve as special masters. Not more than 11 judges shall be from any one political party. To the extent practicable, the list of qualified judges shall reflect the ethnic, racial, gender, and geographical diversity of California. From the list of qualified nominees the Judicial Council Speaker of the Assembly, the Minority Leader of the Assembly, the President pro Tempore of the Senate, and the Minority Leader of the Senate each may strike the name of one nominee from the list. From the list of remaining nominees, the Chief Clerk of the Assembly shall then select, at random, three persons to serve as special masters and three alternates. If the council selects three Chief Clerk selects five special masters who are registered to vote as
members of a single political party, or a panel in which none of
the special masters belongs to the State’s two largest political
parties, then the council Chief Clerk shall excuse one member of
the panel by lot and randomly select and excuse new special
masters until a panel is selected consisting of members registered
with two or more political parties and with at least one member
two members belonging to each of the State’s two largest
political parties. Each of the State’s two largest political parties
shall be equally represented on the panel. No more than two
members of either of the State’s two largest political parties shall
serve on the panel. In the event of a vacancy in the panel of
special masters, the Chief Clerk shall draw immediately, by lot, a
replacement from the pool of alternates, consistent with the
requirements of this subdivision.
(d) The special masters selected shall not receive
compensation for their services, but are entitled to reimbursement
for their actual and necessary travel and other
expenses, including travel expenses incurred in the discharge of
their duties. The term of the special masters’ service
shall expire upon the filing of a plan with the Secretary of State
or upon discharge of the special masters by the Judicial Council
pursuant to subdivision (e)(f). The Legislature shall make
appropriations from the Legislature’s operating budget, as
limited by Section 7.5 of Article IV, to fund expenses incurred by
the panel to employ counsel, independent experts in the field of
redistricting and computer technology, and other necessary
personnel to assist it in its work.
(e) The panel of special masters shall establish a public
schedule and deadline to receive and consider proposed plans
from any Member of the Legislature or any elector. A Member of
the Legislature may submit more than one plan and may submit a
plan drafted by any. Any elector or public interest group may
submit a plan. The panel shall hold public hearings in no fewer
than six different geographical regions of the State to consider
redistricting plans. The public hearings shall be held before an
initial set of maps is developed or selected, and again, after an
initial plan for districts is selected by the panel, at least two
weeks after the plan is released for review by the public. 
Following selection of an initial plan, the panel shall seek input
from independent experts to evaluate the plan’s compliance with
the criteria set forth in Section 2. Additional public hearings shall
be held if any significant revisions are made to the plan. The panel of special masters shall make public all
submitted plans, including the initial and any revised plans,
hearing transcripts, meeting minutes, maps, narrative
descriptions of proposed districts, and other data, and these
plans and other materials shall be open to inspection and
copying by the public to the same extent as legislative records
relating to bills. Public notice shall be given of all meetings of
the special masters. The special masters shall be deemed a state
body subject to the Bagley-Keene Open Meeting Act (Article 9
(commencing with Section 11120) of Part 1 of Division 3 of Title
2 of the Government Code) or any successor act. The special
masters shall establish procedures that prohibit ex parte
communications from members of the public and the Legislature
concerning the merits of any redistricting plan.

(f) The panel of special masters shall then approve a plan and
by an affirmative vote of at least four members. The panel shall
then file the approved plan with the Secretary of State. Once the
plan is filed with the Secretary of State, it shall apply to all future
elections set to take place 131 or more days after the plan is
approved until an adjustment of new boundaries is required. If
the panel of special masters fails to approve a plan, the Judicial
Council shall discharge the panel of special masters and appoint
a new panel to identify a new list of 25 qualified judges willing to
serve as special masters, excluding those on the discharged
panel, and a new panel shall be selected from this list, following
the procedure set forth in subdivision (c).

(g) Notwithstanding subdivision (a), within 20 days following
the election at which the amendments adding this subdivision are
approved, the Judicial Council shall select a panel of special
masters to identify a list of 25 qualified judges willing to serve as
special masters, and a panel shall be selected from this list,
following the procedure set forth in subdivision (c), to approve a
plan to adjust the boundary lines of the Senate, Assembly,
congressional, and Board of Equalization districts in the manner otherwise provided by this article.

Second—That Section 2 is added to Article XXI thereof, to read:

SEC. 2. (a) Each In establishing district boundaries, the special masters shall accommodate each of the following criteria to the greatest extent possible, assigning priority in the order listed:

(a) Each Member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district. Districts of each type shall be numbered consecutively commencing at the northern boundary of the state and ending at the southern boundary.

(b) The population of all districts of a particular type shall be as nearly equal as practicable. For congressional districts, the population deviation between districts shall not exceed federal constitutional standards. For Senate, Assembly, and Board of Equalization districts, the population deviation between districts of the same type shall not exceed 1 percent.

(c) Every Districts shall be drawn in accordance with the United States Constitution and applicable federal law, including the Federal Voting Rights Act (42 U.S.C. Sec. 1973 and following).

(d) District boundaries shall conform to the existing geographic boundaries of a county, city, or city and county, and shall preserve identifiable communities of interest to the greatest extent possible. A redistricting plan shall provide for the most whole counties and the fewest county fragments possible, and the most whole cities and fewest city fragments possible. For the purposes of this section, communities of interest are defined by similarities in social, cultural, ethnic, and economic interest, school districts, and other formal relationships between municipalities.

(e) Each district shall be contiguous and.

(f) Each district shall be as compact as practicable. With respect to compactness, to the extent practicable a contiguous area of population shall not be bypassed to incorporate an area of population more distant.

(d)—
(g) Each Board of Equalization district shall be comprised of 10 contiguous Senate districts. Each Senate district shall be comprised of two contiguous Assembly districts.

(e) District boundaries shall conform to existing geographic boundaries of a county, city, or city and county, and shall preserve identifiable communities of interest to the greatest extent possible. A redistricting plan shall not cross any common county boundary more than once and shall create the most whole counties and the fewest county fragments possible, except as necessary to comply with the requirements of any other subdivision of this section:

(f) Consideration shall not be given as to the potential effects on incumbents or political parties. Data regarding party affiliation or the voting history of electors shall not be used in the preparation of plans.

(g) To the extent possible, district boundaries shall be drawn to ensure a level of competitiveness that would result in a difference of no more than seven percentage points between the number of voters in each district who are registered with the two largest political parties in the State.

(h) The panel shall create districts that are competitive as between the State’s two largest political parties, to the extent practicable and where to do so would create no significant detriment to the other goals of this section. Party registration and voting history data shall not be considered in the development or selection of a redistricting plan except as used by the independent experts provided for in Section 1 to test maps for compliance with the criterion set forth in this subdivision. The place of residence of incumbents or candidates may not be identified or considered for purposes of this section.

Third—That Section 3 is added to Article XXI thereof, to read:

SEC. 3. Any elector may bring an action directly to the California Supreme Court alleging that a law establishing or changing boundaries of any Senate, Assembly, congressional, or Board of Equalization district does not comply with the requirements of this article. An action filed with the Supreme Court pursuant to this section must be filed within 30 days of the enactment of the challenged law. The Supreme Court shall render a decision within 60 days after the filing of a petition and the Court’s failure to do so shall constitute a denial of the petition. If
the Supreme Court finds a redistricting plan to be in violation of this article, it shall order that a new plan be adopted pursuant to this article.

Fourth—That Section 4 is added to Article XXI thereof, to read:

SEC. 4. If any section, part, clause, or phrase of this article is for any reason held to be invalid or unconstitutional, the remainder shall not be affected, but shall remain in full force and effect.

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

CORRECTIONS:

Text - Pages 6 and 8.