

AMENDED IN ASSEMBLY MARCH 2, 2005

CALIFORNIA LEGISLATURE—2005—06 FIRST EXTRAORDINARY SESSION

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 Margett, 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 ~~3~~ 5 special masters, rather than the Legislature. The panel would be selected at random by the ~~Judicial Council~~ Legislature 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

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~~ *the 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.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2005–06 First
- 3 Extraordinary Session commencing on the sixth day of January
- 4 2005, two-thirds of the membership of each house concurring,
- 5 hereby proposes to the people of the State of California that the
- 6 Constitution of the State be amended as follows:

1 First—That Section 1 of Article XXI thereof is amended to
2 read:

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

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

28 (c) The Judicial Council shall identify 25 qualified judges
29 willing to serve as special masters. *Not more than 11 judges shall*
30 *be from any one political party. To the extent practicable, the list*
31 *of qualified judges shall reflect the ethnic, racial, gender, and*
32 *geographical diversity of California.* From the list of qualified
33 nominees the ~~Judicial Council~~ *Speaker of the Assembly, the*
34 *Minority Leader of the Assembly, the President pro Tempore of*
35 *the Senate, and the Minority Leader of the Senate each may*
36 *strike the name of one nominee from the list. From the list of*
37 *remaining nominees, the Chief Clerk of the Assembly shall then*
38 *select, at random, three* ~~five~~ *persons to serve as special masters*
39 *and three* ~~five~~ *alternates. If the council selects three* ~~Chief Clerk~~
40 *selects five* special masters who are registered to vote as

1 members of a single political party, or a panel in which none of
2 the special masters belongs to the State's two largest political
3 parties, then the ~~council~~ *Chief Clerk* shall excuse one member of
4 the panel by lot and randomly select and excuse new special
5 masters until a panel is selected consisting of members registered
6 with two or more political parties and with at least ~~one member~~
7 *two members* belonging to each of the State's two largest
8 political parties. *Each of the State's two largest political parties*
9 *shall be equally represented on the panel. No more than two*
10 *members of either of the State's two largest political parties shall*
11 *serve on the panel. In the event of a vacancy in the panel of*
12 *special masters, the Chief Clerk shall draw immediately, by lot, a*
13 *replacement from the pool of alternates, consistent with the*
14 *requirements of this subdivision.*

15 ~~(d) The special masters selected shall not receive~~
16 ~~compensation for their services, but are entitled to reimbursement~~
17 ~~for their actual and necessary travel and other~~

18 *(d) Each special master shall be compensated at the same rate*
19 *and in the same manner as a member of the California Citizens*
20 *Compensation Commission, pursuant to subdivision (j) of Section*
21 *8 of Article III, and shall receive his or her actual and necessary*
22 *expenses, including travel expenses incurred in the discharge of*
23 ~~their~~ *his or her duties. The term of the special masters' service*
24 *shall expire upon the filing of a plan with the Secretary of State*
25 *or upon discharge of the special masters by the Judicial Council*
26 *pursuant to subdivision (e)(f). The Legislature shall make*
27 *appropriations from the Legislature's operating budget, as*
28 *limited by Section 7.5 of Article IV, to fund expenses incurred by*
29 *the panel to employ counsel, independent experts in the field of*
30 *redistricting and computer technology, and other necessary*
31 *personnel to assist it in its work.*

32 *(e) The panel of special masters shall establish a public*
33 *schedule and deadline to receive and consider proposed plans*
34 *from any Member of the Legislature or any elector. A Member of*
35 *the Legislature may submit more than one plan and may submit a*
36 ~~plan drafted by any.~~ *Any elector or public interest group may*
37 *submit a plan. The panel shall hold public hearings in no fewer*
38 *than six different geographical regions of the State to consider*
39 *redistricting plans. The public hearings shall be held before an*
40 *initial set of maps is developed or selected, and again, after an*

1 initial plan for districts is selected by the panel, at least two
2 weeks after the plan is released for review by the public.
3 *Following selection of an initial plan, the panel shall seek input*
4 *from independent experts to evaluate the plan's compliance with*
5 *the criteria set forth in Section 2. Additional public hearings shall*
6 *be held if any significant revisions are made to the ~~plan~~ initial*
7 *plan. The panel of special masters shall make public all*
8 *submitted plans, including the initial and any revised plans,*
9 *hearing transcripts, meeting minutes, maps, narrative*
10 *descriptions of proposed districts, and other data, and these*
11 *plans and other materials shall be open to inspection and*
12 *copying by the public to the same extent as legislative records*
13 *relating to bills. Public notice shall be given of all meetings of*
14 *the special masters. The special masters shall be deemed a state*
15 *body subject to the Bagley-Keene Open Meeting Act (Article 9*
16 *(commencing with Section 11120) of Part 1 of Division 3 of Title*
17 *2 of the Government Code) or any successor act. The special*
18 *masters shall establish procedures that prohibit ex parte*
19 *communications from members of the public and the Legislature*
20 *concerning the merits of any redistricting plan.*

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

33 ~~(f)~~

34 (g) Notwithstanding subdivision (a), within 20 days following
35 the election at which the amendments adding this subdivision are
36 approved, the Judicial Council shall ~~select a panel of special~~
37 ~~masters~~ *identify a list of 25 qualified judges willing to serve as*
38 *special masters, and a panel shall be selected from this list,*
39 *following the procedure set forth in subdivision (c), to approve a*
40 *plan to adjust the boundary lines of the Senate, Assembly,*

1 congressional, and Board of Equalization districts in the manner
2 otherwise provided by this article.

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

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

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

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

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

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

34 (e) *Each* district shall be contiguous ~~and~~.

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

39 ~~(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

1 the Supreme Court finds a redistricting plan to be in violation of
2 this article, it shall order that a new plan be adopted pursuant to
3 this article.

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

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

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

20
21
22 CORRECTIONS:

23 *Text - Pages 6 and 8.*
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