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REAPPORTIONMENT.

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 Official Title and Summary Prepared by the Attorney General

REAPPORTIONMENT. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Repeals, amends, and restates various provisions of the Constitution relating to reapportionment of Senate, Assembly, congressional, and Board of Equalization districts. Eliminates provisions previously judicially invalidated. Eliminates requirement that only persons eligible to become citizens be counted in equalizing populations in legislative districts. Sets forth in a new article the standards to which the Legislature is required to conform in adjusting the boundaries of these districts each decade. These standards include requirements for single-member districts, reasonably equal population districts, contiguousness of a district, a consecutive numbering system, and respecting the geographical integrity of cities and counties. Fiscal impact on state or local governments: No direct fiscal effect.

FINAL VOTE CAST BY LEGISLATURE ON ACA 53 (PROPOSITION 6)

 Assembly—Ayes, 60
 Noes, 9

 Senate—Ayes, 27
 Noes, 6

Analysis by Legislative Analyst
Background:

State Senate, Assembly, congressional and Board of Equalization districts are reapportioned every ten years, after each census. The California Constitution contains provisions regulating the process by which this reapportionment is made. Some of these provisions have been declared invalid by the California Supreme Court as violating the one-person, one-vote rule. Specifically, the court ruled against provisions which:

1. Prohibit the division or unification of counties when forming Assembly and Senate districts if such legislative action violates the one-person, one-vote rule.
2. Prohibit a county from containing more than one Senate district and prohibit Senate districts from containing more than three counties.
3. Require near equal population in Assembly districts but not in Senate districts.
4. Direct a special commission to reapportion legislative districts in the event the Legislature fails to do so in a timely manner.

Proposal:

This measure repeals the provisions in the Constitution governing congressional and legislative reapportionment, including those provisions found invalid by the State Supreme Court. It also eliminates an existing constitutional provision which prohibits, for legislative reapportionment purposes, the counting of persons who are not eligible for United States citizenship. The proposition establishes the following standards for redistricting State Senate, Assembly, congressional and Board of Equalization districts:

1. Each district shall have only one representative.
2. The population of all districts of a particular type shall be reasonably equal.
3. All districts shall be adjoining.
4. Districts shall be numbered consecutively beginning in the northern part of the state.
5. Where possible, the geographical region of a city or county shall not be divided among different districts.

Fiscal Effect:

This measure has no direct state or local fiscal effect.

Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 53 (Statutes of 1978, Resolution Chapter 78) expressly amends the Constitution by repealing and adding sections thereto and amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLES IV AND XIII AND PROPOSED ADDITION OF ARTICLE XXI

First—That Section 6 of Article IV is repealed.

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly districts. Such districts shall be composed of contiguous territory, and Assembly districts shall be as nearly equal in population as may be. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of Assembly. The Senatorial districts shall be numbered from one to 40, inclusive, in numerical order, and the Assembly districts shall be numbered from one to 80 in the same order, commencing at the northern boundary of the State and ending at the southern boundary thereof. In the formation of Assembly districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, and in the formation of Senatorial districts no county, or city and county, shall be divided, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any Assembly or Senatorial district. The census taken under the direction of the Congress of the United States in the year 1920, and every 10 years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first regular session following the adoption of this section and thereafter at the first regular session following each decennial Federal census, adjust such districts, and reapportion the representation so as to preserve the Assembly districts as nearly equal in population as may be; but in the formation of Senatorial districts no county or city and county shall contain more than one Senatorial district, and the counties of small population shall be grouped in districts of not to exceed three counties in any one Senatorial district; provided, however, that should the Legislature at the first regular session following the adoption of this section or at the first regular session following any decennial Federal census fail to reapportion the Assembly and Senatorial districts, a Reapportionment Commission, which is hereby created, consisting of the Lieutenant Governor, who shall be chairman, and the Attorney General, State Controller, Secretary of State and State Superintendent of Public Instruction, shall forthwith apportion such districts in accordance with the provisions of this section and such apportionment of said districts shall be immediately effective the same as if the act of said Reapportionment Commission were an act of the Legislature, subject, however, to the same provisions of referendum as apply to the acts of the Legislature.

Each subsequent reapportionment shall carry out these provisions and shall be based upon the last preceding Federal census. But in making such adjustments no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be

elected by the districts according to the apportionment now provided for by law.

Second—That Section 6 is added to Article IV, to read:

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly Districts. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of the Assembly.

Third—That Section 27 of Article IV is repealed.

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more representatives in Congress; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

Fourth—That Section 17 of Article XIII is amended to read:

SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The Legislature shall redistrict the State after each decennial census into 4 districts as nearly equal in population as practical and provide for the election of a member from each district. The state shall be divided into four Board of Equalization districts with the voters of each district electing one member.

Fifth—That Article XXI is added, to read:

ARTICLE XXI

REAPPORTIONMENT OF SENATE, ASSEMBLY, CONGRESSIONAL, AND BOARD OF EQUALIZATION DISTRICTS

SECTION 1. 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 Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:

(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.

(b) The population of all districts of a particular type shall be reasonably equal.

(c) Every district shall be contiguous.

(d) Districts of each type shall be numbered consecutively commencing at the northern boundary of the state and ending at the southern boundary.

(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section.

Arguments in Favor of Proposition 6

The reapportionment language in California's Constitution has never been changed to conform to the 1965 ruling of the U.S. Supreme Court ordering equal representation for equal numbers of people. The California Supreme Court has also declared many of our Constitution's provisions on reapportionment invalid. When California went through reapportionment following the 1970 census the process was clouded by these outdated provisions.

Now, to prepare for an orderly redistricting after the 1980 census, it is essential to update our Constitution.

Proposition 6 is a fair, carefully considered proposal.

- It removes all invalidated reapportionment provisions from the Constitution.

- It inserts simple, clear instructions to the Legislature on how to redraw Assembly, Senate, congressional, and Board of Equalization districts.

- It requires all districts to be reasonably equal in population.

- It requires preservation of the integrity of cities, counties, and geographic regions.

- It removes the reference to "persons who are not eligible for citizenship"—a reference which is an unfortunate holdover from a time in history when California blatantly discriminated against the Chinese in this state.

This measure passed both houses of the Legislature in 1978 with strong support from both parties.

Vote YES to give California a Constitution with a workable reapportionment article.

SUSAN F. RICE

President, League of Women Voters of California

THOMAS B. HOFELLER

Associate Director

*Rose Institute of State and Local Government
Claremont Men's College*

ROBERT W. NAYLOR

Member of the Assembly, 20th District

Proposition 6 would establish reasonable rules for redrawing boundaries for legislative and congressional districts after each census.

From past experience, we know what could happen with next year's reapportionment. Without the restrictions in Proposition 6, California could end up with districts that are confusing, unfair and unrepresentative. Proposition 6 will block forces in the Legislature from gaining unfair dominance by one political party or insuring reelection for particular incumbents.

Proposition 6 would reduce abuses by requiring the Legislature to follow these rules:

- *Respect city and county boundaries.* This rule would prevent the irrational division of cities for purely partisan purposes. It would help protect minority communities from being carved up just to dilute their votes. And it would help maintain local control by giving cities and counties effective representation in the Legislature.

- *Single-member districts.* Many states elect several legislators at once from large consolidated districts. Because multimember districts are so large, they reduce the influence of individual voters and increase the costs of elections. Proposition 6 would prohibit multimember districts in California.

- *Equal population.* California's Constitution should clearly state that wide variations in population can never again distort our representative process.

- *Contiguous districts.* Proposition 6 would require that districts be composed of adjacent territory and not widely separated areas. It would also help deter odd-shaped districts which join distant communities only by corridors along beaches, highways and waterways.

Do not be misled by smokescreen arguments on the issue of counting aliens for reapportionment. Proposition 6 will have absolutely no effect on whether aliens, illegal or otherwise, are counted for this purpose.

Proposition 6 offers Californians an unprecedented opportunity to eradicate the kinds of political reapportionment "deals" that divide communities and discourage healthy competition in our elections.

Please vote YES on Proposition 6.

ROBERT W. NAYLOR

Member of the Assembly, 20th District

THOMAS B. HOFELLER

Associate Director

*Rose Institute of State and Local Government
Claremont Men's College*

Rebuttal to Arguments in Favor of Proposition 6

Proposition 6 represents good intentions gone wrong.

Combining requirements for "reasonably equal" population with requirements for the preservation of the integrity of cities, counties, and "geographic regions" establishes a quagmire of legal problems.

Why is not "reasonably equal" in population defined?

Why is not "geographic regions" defined?

What standard is the court to presume in determining that districts are reasonably equal in population? What is a geographic region? How are its boundaries determined?

Without clear delineation of the meaning of these terms, all reapportionment efforts can't help but engender endless lawsuits and years of litigation.

Demand clear unambiguous reapportionment language. *Defeat Proposition 6.*

Those in favor of Proposition 6 would have you believe it would not permit the counting of persons ineligible for citizenship for purposes of reapportioning legislative districts. This is *incorrect*. If Proposition 6 passes, the Legislature will be required to count persons who are

ineligible for citizenship when redrawing district lines for State Senate and Assembly districts!

Proposition 6 *removes* the 100-year-old language in our Constitution which prohibits the counting of "persons who are not eligible for citizenship" for reapportionment. The Legislature passed Proposition 6 by *mistake*, because this deletion was never discussed. The Legislature was *unaware* that this important part of the Constitution was being deleted when it voted on Proposition 6. The mistake was not discovered until Proposition 6 reached the Secretary of State's office and could not be retracted.

Protect your interests as a citizen. Vote "*NO*" on Proposition 6!

BOB WILSON

State Senator, 39th District

Chairman, Senate Committee on Judiciary

LEROY F. GREENE

Member of the Assembly, 6th District

Arguments Against Proposition 6

There is a BIG MISTAKE in Proposition 6.

Our Constitution says that when we count people who live in a legislative district for reapportionment we will not count people who cannot become citizens of the United States. This language would be repealed by Proposition 6. It would permit the counting of illegal aliens. It would do this because the people who wrote Proposition 6 made a mistake.

Constitutional amendments should be free from mistakes. A "Yes" vote will write this mistake into the Constitution. A "No" vote will send Proposition 6 back to the Legislature, where it can be corrected.

Let's do the job right!

Vote "NO" on Proposition 6.

BOB WILSON

State Senator, 39th District

Chairman, Senate Committee on Judiciary

Proposition 6 should be defeated. Subparagraph (e) is a contradiction. It waters down subparagraph (b), which requires that "the population of all districts of a particular type shall be reasonably equal."

Is "reasonably equal" to be interpreted the same as if (e) does not exist? Or will protecting the integrity of cities or counties elasticize the meaning of "reasonably equal"?

What is to be done if the population of a city or county would entitle it to three Assemblymen and 1½ Senators? Is the integrity of the city or county respected in the Assembly but not in the Senate? When the court reapportioned the Legislature it divided the state into 80 Assembly districts. The court then paired Assembly districts to make up the 40 Senate districts. How can this be accomplished in a city with three Assemblymen and 1½ Senators if the integrity of cities and counties is to be protected?

VOTE NO ON PROPOSITION 6.

LEROY F. GREENE

Member of the Assembly, 6th District

Rebuttal to Arguments Against Proposition 6

Both arguments against Proposition 6 ignore its guarantees for fair redistricting and raise erroneous technical objections.

1. The language which Proposition 6 removes from the Constitution about the counting of "persons not eligible to become citizens" has no practical effect on who gets counted for reapportionment:

- It does not apply to "illegal aliens" because they are still eligible to become citizens under current federal naturalization laws. In other words, illegal aliens will be counted whether Proposition 6 passes or not.

- California cannot stop the counting of "illegal aliens," because this is being done by the U.S. Census Bureau.

The only reason Proposition 6 removes this language is that it is a relic from the last century when California tried to disenfranchise Chinese persons living in the state.

2. Proposition 6 clearly states that the requirement for equal population (subsection (b)) cannot be watered down by the requirement

that city and county boundaries be respected (subsection (e)). City and county boundaries can be ignored *only if necessary* to comply with the equal population requirement. That is how Proposition 6 will prevent cities and minority communities from being arbitrarily divided to gain partisan advantage or to draw "safe" districts for incumbents.

Don't be fooled by these smokescreen arguments against Proposition 6. Vote for a fair and reasonable reapportionment in 1980. Vote yes on Proposition 6.

ROBERT W. NAYLOR

Member of the Assembly, 20th District

THOMAS B. HOFELLER

Associate Director

*Rose Institute of State and Local Government
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