

2-25-2005

## Changing District Boundaries. Initiative Constitutional Amendment.

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January 4, 2005

Honorable Bill Lockyer  
Attorney General of California  
1300 I Street, #125  
P.O. Box 944255  
Sacramento, CA 94244-2550

**Attention: Trish Knight, Initiative Coordinator**

**HAND DELIVERED**

Dear Attorney General Lockyer:

This is to formally request your office to prepare the Title and Summary for the attached initiative entitled "The California Fair Voting and Equal Representation Act" (option II). The initiative text is six (6) pages in length.

Also attached is a check in the amount of \$200.

I am a citizen of the United States and registered to vote in California.

Thank you kindly for your prompt attention to this request.

Sincerely,

Robert W. Harris  
Proponent

Attachments:

Cover page – 1 page  
Initiative text – 6 pages  
Confidential voter information

**RECEIVED**  
JAN - 5 2005

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

SA2005RF0004

**The California Fair Voting and Equal Representation Act**

**(Option II)**

**6 pages not including this cover**

**RECEIVED**  
JAN - 5 2005

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. Findings and Declarations of Purpose

The People of the State of California find and declare that:

(a) The federal Voting Rights Act of 1965, as amended, protects the voting rights of all people eligible to vote in the State of California, as guaranteed by the Fourteenth and Fifteenth Amendments to the United States Constitution.

(b) The federal Voting Rights Act of 1965, as amended, prohibits any State or local government from imposing any voting qualification or practice that results in a denial or abridgment of the rights of any citizen to vote on account of race, color or language spoken.

(c) Section 2 of the Voting Rights Act of 1965, as amended, ensures that members of a class of citizens protected by the Act do not have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

(d) The dilution of minority voting strength is contrary to public policy. The right of meaningful political participation of minority citizens is recognized. No vote cast in this State should be worth relatively more or less than another on account of the voter's race, color, ethnicity or language spoken, nor on account of the drawing of district lines.

(e) In order to assure that our representative system of government is open to public scrutiny and free of conflicts of interest, that it fairly reflects the demographic composition of California's diverse population, and that it embodies the principle of "one person, one vote," the People of the State of California hereby adopt "The California Fair Voting and Equal Representation Act."

SECTION 2. Amendment of Article XXI of the California Constitution

Article XXI of the California Constitution is amended to read (added language shown in underline text, deleted language shown in strike-out text):

§1. Redistricting of State Offices

Article XXI of the California Constitution is amended to read (added language shown in underline text, deleted language shown in strike-out text):

Section 1. (a) Except as provided in subdivision (b), in the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, a panel of Special Masters composed of retired judges shall adjust the boundary lines of the Senatorial, Assembly, and Board of Equalization districts in accordance with the standards and provisions set forth in Section 3 of this article.

(b) Within 20 days following the effective date of this section, the Legislature shall appoint pursuant to the provisions of subdivision (c)(2) a panel of Special Masters to adopt a

plan of redistricting adjusting the boundary lines of the Senatorial, Assembly, and Board of Equalization districts for use in the next general election and until the next adjustment of boundary lines is required pursuant to this article. The panel shall establish a schedule and deadlines to ensure timely adoption of the plan. The panel shall have 6 months to complete the plan. The 6 month period shall begin when the panel is fully appointed and shall end when the panel approves or fails to approve the plan pursuant to subdivision (g) or (j), but this 6 months shall not include the time period that the Legislature reviews and comments upon the plan pursuant to subdivision (f)(3). Except for subdivision (c)(1), all provisions of this article shall apply to the adoption of the plan required by this subdivision.

(c)(1) Except as provided in subdivision (b), on or before January 15 of the year following the year in which the national census is taken, the Legislature shall appoint pursuant to the provisions of subdivision (c)(2) a panel of Special Masters composed of retired judges to adopt a plan of redistricting adjusting the boundary lines of the Senatorial, Assembly, and Board of Equalization districts pursuant to this article. The panel shall establish a schedule and deadlines to ensure timely adoption of the plan. The panel shall have 6 months to complete the plan. The 6 month period shall begin when the panel is fully appointed and the new census data is available and shall end when the panel approves or fails to approve the plan pursuant to subdivision (g) or (j), but this 6 months shall not include the time period that the Legislature reviews and comments upon the plan pursuant to subdivision (f)(3).

(2)(A) In sufficient time to allow the appointment of the Special Masters, the Judicial Council shall select by lot twenty-four retired judges willing to serve as Special Masters. Only retired California state or federal judges who (i) have never held elected partisan public office or political party office, (ii) have not changed their party affiliation or assumed a new party affiliation, as declared on their voter registration affidavit, within the last 10 years, and (iii) have not received income during the past 12 months from the Legislature, a committee thereof, the United States Congress, a committee thereof, a political party, or a partisan candidate or committee controlled by such candidate, are qualified to serve as Special Masters. Not more than twelve of the twenty-four retired judges may be of a single party affiliation, and the two largest political parties in California shall be equally represented among the selected retired judges.

(B) A retired judge appointed to serve as a Special Master shall also pledge, in writing, that he or she will not run for election in the Senatorial, Assembly, or Board of Equalization districts adjusted by him or her pursuant to this article nor accept, for at least 5 years from the date of appointment as a Special Master, California state public employment or public office, other than judicial employment or judicial office or a teaching position.

(C) From the pool of retired judges selected by the Judicial Council, the Speaker of the Assembly, the Minority Leader of the Assembly, the President pro Tempore of the Senate, and the Minority Leader of the Senate shall each nominate, no later than six days before the deadline for appointment of the panel of Special Masters, three retired judges, who are not registered members of the same political party as that of the legislator making the nomination. No retired judge may be nominated by more than one legislator.

(D) If, for any reason, any of the aforementioned legislative leadership fails to nominate the requisite number of retired judges within the time period specified herein, the Chief

Clerk of the Assembly shall immediately draw, by lot, that legislator's remaining nominees in accordance with the requirements of subdivision (c)(2)(C).

(E) No later than four days before the deadline for appointment of the panel of Special Masters, each legislator authorized to nominate a retired judge shall also be entitled to exercise a single preemptory challenge striking the name of any nominee of any other legislator.

(F) From the list of remaining nominees selected by said legislative leadership, the Chief Clerk of the Assembly shall then draw, by lot, three persons to serve as Special Masters. If the drawing fails to produce at least one Special Master from each of the two largest political parties, the drawing shall be conducted again until this requirement is met. If said list of remaining nominees does not include a retired judge from each of the two largest political parties, the drawing for the Special Master from the absent political party or parties shall be made from the original pool of twenty-four retired judges selected by the Judicial Council, except that no retired judge whose name was struck pursuant to subdivision (c)(2)(E) may be appointed. In the event of a vacancy in the panel of Special Masters, the Chief Clerk shall immediately thereafter draw, by lot, from the list of remaining nominees selected by said legislative leadership, or the original pool of twenty-four retired judges, if necessary, except for those whose names were struck, a replacement who satisfies the composition requirements for the panel under this subdivision.

(d) Each Special Master shall be compensated at the same rate for each day engaged in official duties, and reimbursed for actual and necessary expenses, including travel expenses, in the same manner as a member of the California Citizens Compensation Commission pursuant to Section 8, subdivision (j) of Article III. Each Special Master's term of office shall expire upon approval or failure to approve of a plan pursuant to subdivisions (g) or (i).

(e) Each Special Master shall be subject to the same restrictions on gifts as imposed on a retired judge of the superior court serving in the assigned judges program, and shall file a statement of economic interest, or any successor document, to the same extent and in the same manner as such a retired judge.

(f)(1) Public notice shall be given of all meetings of the Special Masters, and the Special Masters shall be deemed a state body subject to the provisions of the Bagley-Keene Open Meeting Act (Government Code §§ 11120-11132), or any successor act, as amended from time to time. All meetings and sessions of the Special Masters shall be recorded. The Special Masters shall establish procedures that restrict ex parte communications from members of the public and the Legislature concerning the merits of any redistricting plan.

(2) The panel of Special Masters shall establish and publish a schedule to receive and consider proposed redistricting plans and public comment from any member of the Legislature or public. The panel of Special Masters shall hold at least three public hearings throughout the state to consider redistricting plans. At least one such hearing shall be held after the Special Masters have submitted their proposed redistricting plan pursuant to subdivision (f)(3) but before adoption of the final plan.

(3) Before the adoption of a final redistricting plan, the Special Masters shall submit their plan to the Legislature for an opportunity to comment within the time set by the Special Masters. The Special Masters shall address in writing each change to their plan that is recommended by the Legislature and incorporated into the plan.

(g) The final redistricting plan shall be approved by a single resolution adopted unanimously by the Special Masters and shall be filed with the Secretary of State for presentation to the voters on the ballot at the next statewide primary or general election. If adopted by initiative pursuant to subdivision (h), the redistricting plan shall become effective for succeeding elections until the next adjustment of boundaries is required pursuant to this article.

(h) The Secretary of State shall submit the final redistricting plan as if it were proposed as an initiative statute under Section 8 of Article II. The ballot title shall read: "Shall the boundary lines of the Senatorial, Assembly, and Board of Equalization districts adopted by Special Masters as required by Article XXI of the California Constitution be used until the next constitutionally required adjustment of the boundaries?"

(i) If the redistricting plan is approved by the voters pursuant to subdivision (h) hereof, it shall be used in succeeding elections until the next adjustment of boundaries is required. If the plan is rejected by the voters pursuant to subdivision (h) hereof, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, and Board of Equalization districts.

(j) If the Special Masters fail to approve by unanimous vote a final redistricting plan, the Legislature shall adjust the boundary lines of the Senatorial, Assembly and Board of Equalization districts in accordance with the standards and provisions set forth in Section 3 of this article.

(k) The Legislature shall make such appropriations from the Legislature's operating budget, as limited by Section 7.5 of Article IV, as necessary to provide the panel of Special Masters with equipment, office space, and necessary personnel, including counsel and independent experts in the field of redistricting and computer technology, to assist them in their work. The Legislative Analyst shall determine the maximum amount of the appropriation, based on one-half the amount expended by the Legislature in creating plans in 2001, adjusted by the California Consumer Price Index. For purposes of the plan of redistricting under subdivision (b) only, there is hereby appropriated to the panel of Special Masters from the General Fund of the State during the fiscal year in which the panel performs its responsibilities a sum equal to one-half the amount expended by the Legislature in creating plans in 2001. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. For purposes of all plans of redistricting under subdivision (a), until appropriations are made, the Legislative Analyst's Office, or any successor thereto, shall furnish, from existing resources, staff and services to the panel as needed for the performance of its duties.

(l) The powers under Sections 8 and 9 of Article II shall not be invoked to alter or replace any plan approved by the voters pursuant to subdivision (i) of this section.

## §2. Redistricting of Congressional Offices

Section 2. 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 Congressional districts in accordance with the standards and provisions in Section 3 of this article.

## §3. Standards

Section 3. (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 maximum population deviation between districts shall not exceed federal constitutional standards. For state legislative and Board of Equalization districts, the maximum population deviation between districts of the same type shall not exceed one percent except in unusual circumstances, and in no event should the deviation exceed two percent.

(c) Districts shall comply with the requirements of the United States Constitution and any applicable federal or state statute, including the federal Voting Rights Act of 1965, as amended.

(d) Every district shall be contiguous and reasonably compact.

(e) A redistricting plan shall not have either the purpose or effect of diluting the voting strength of racial or language minorities and shall otherwise comply with Sections 2 and 5 of the Voting Rights Act, as amended, and the 14th and 15th Amendments of the United States Constitution. A redistricting plan is not acceptable if it affords members of a racial or language minority group less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. Districts shall not be drawn to pack or concentrate minority group members into as few districts as possible. The redistricting plan must not decrease the probability that members of minority groups will participate in the electoral process, particularly in areas with high concentrations of racial or language minority populations.

(f) 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.

(g) Communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district to the extent practicable, subject to the preceding subdivisions of this section.

(h) No census block shall be fragmented unless required to satisfy the requirements of federal law and the preceding subdivisions of this section.



(i) It is permissible and relevant for the redistricting plan to consider voting history of the electorate, but only as necessary to enforce the preceding subdivisions of this section.

~~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.~~

### SECTION 3. Severability

If any provision of this measure or the application thereof to any person or circumstance is held invalid, including, but not limited to, Section 1, subdivision (b) of Article XXI, that invalidity shall not affect other provisions or applications which can reasonably be given effect in the absence of the invalid provision or application.

### SECTION 4. Conflicting Ballot Measures

(a) In the event that this measure and another measure or measures relating to the redistricting of Senatorial, Assembly, Congressional, or Board of Equalization districts is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and said other measure or measures shall be rendered void and without any legal effect. If this measure is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.