Prop 77

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This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT
ORDERED CHANGES

#1072

SA2004RF0037, Amdt #1-NS

REDISTRICTING REFORM: THE VOTER EMPOWERMENT ACT

~~INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS~~

¶ SECTION 1. Findings and Declarations of Purpose

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

(a) Our Legislature should be responsive to the demands of the citizens of the State of California, and not the self-interest of individual legislators or the partisan interests of political parties. ~~voters, but existing law places the power to draw the very districts, in which legislators are elected, in the hands of incumbent state legislators, who then choose their voters, which is a conflict of interest.~~

(b) ~~The Legislature's~~ Self-interest ~~in drawing its members' districts has resulted in~~ have resulted in partisan gerrymandering, or uncompetitive districts, ideological polarization, and a ~~growing division~~ disconnect between the interests of the People of California and their elected representatives. in our institutions of representative democracy

(c) The redistricting plans adopted by the California Legislature in 2001 ~~produced an unprecedented number of uncompetitive districts,~~ serve incumbents, ~~and~~ not the People, ~~and~~ are repugnant to the People, and are in direct opposition to the People's interest in fair and competitive elections. They should not be used again. ~~The gerrymandered districts of 2001 resulted in not a single change in the partisan composition of the California Legislature or the California congressional delegation in the 2004 elections. These districts should be replaced as soon as possible and never used again.~~

~~(d) The experience of the 1970's and 1990's demonstrates that impartial special masters, who are retired judges independent of partisan politics and the Legislature, can draw fair and competitive districts by virtue of their judicial training and judicial temperament.~~

~~(e)~~ (d) We demand that our representative system of government be fair to all, ~~assure that the voters choose their representatives, rather than their representatives choose their voters, that it be~~ open to public scrutiny, ~~and~~ free of conflicts of interest, and ~~that the system embody~~ dedicated to the principle that government derives its power from the consent of the governed. Therefore, the People of the State of California hereby adopt the "Redistricting Reform: The Voter Empowerment Act."

¶ SECTION 2. Fair Redistricting

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 of~~

SUBJECT TO COURT ORDERED CHANGES

Section 1.

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, Congressional, and Board of Equalization districts in accordance with the standards and provisions of this ~~article~~. rticle

(b) Within 20 days following the effective date of this section, the Legislature shall appoint, pursuant to the provisions of subdivision (c)~~(2)~~ paragraph (2) of a panel of Special Masters to adopt a plan of redistricting adjusting the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts for use in the next set of statewide primary and general elections and until the next adjustment of boundary lines is required pursuant to ~~this article~~ subdivisions (a) or (i). The panel shall establish a schedule and deadlines to ensure timely adoption of the plan. Except for subdivision (c)~~(1)~~ paragraph (1) of, 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)~~ paragraph (2) of a panel of Special Masters composed of retired judges to adopt a plan of redistricting adjusting the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts pursuant to this ~~A~~rticle.

(2)(A) In sufficient time to allow the appointment of the Special Masters, the Judicial Council shall ~~select~~ nominate by lot ~~twenty-four~~ 24 retired judges willing to serve as Special Masters. Only retired California state or federal judges, who have never held elected partisan public office or political party office, have not changed their party affiliation, as declared on their voter registration affidavit, since their initial appointment or election to judicial office, and 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 Master~~s~~. Not more than ~~twelve~~ 12 of the ~~twenty-four~~ 24 retired judges may be of a single party affiliation, and the two largest political parties in California shall be equally represented among the ~~selected~~ nominated retired judges.

(B) A retired judge ~~appointed~~ selected to serve as a Special Master shall also pledge, in writing, that he or she will not run for election in the Senatorial, Assembly, Congressional, or Board of Equalization districts adjusted by him or her pursuant to this ~~A~~rticle nor accept, for at least ~~5~~ five 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~~ nominated 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~~ five days before the deadline

SUBJECT TO COURT ORDERED CHANGES

not represented from the list of remaining nominees

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)~~. subparagraph (C) of paragraph (2) of

(E) No later than three ~~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 peremptory 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~~ the drawing is unable to produce at least one Special Master 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~~ 24 retired judges ~~selected~~ nominated by the Judicial Council, except that no retired judge whose name was struck pursuant to subdivision (c)~~(2)(E)~~ subparagraph (E) of paragraph (2) of 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 of Section 8, subdivision (j) of Article III. The Special Masters' term of office shall expire upon approval or rejection of a plan pursuant to subdivision (h).

(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; provided that all meetings and sessions of the Special Masters shall be recorded. The (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code)

~~5 of 9~~

SUBJECT TO COURT ORDERED CHANGES

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.

paragraph (3) of

(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 become effective upon its filing with the Secretary of State for use at the next statewide primary and general ~~election~~, and if adopted by initiative pursuant to subdivision (h), ~~shall remain effective~~ for succeeding elections until the next adjustment of boundaries is required pursuant to this article.

elections

(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 at the ~~same next general election as specified~~ under subdivision (g) for approval or rejection by the voters for use in succeeding elections until the next adjustment of boundaries is required. The ballot title shall read: "Shall the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts adopted by Special Masters as required by Article XXI of the California Constitution, and used for this election, be used until the next constitutionally required adjustment of the boundaries?"

provided for

(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~~, a new panel of Special Masters shall be appointed within 90 days in the manner provided in subdivision (c)~~(2)~~ for the purpose of proposing a new plan for the next statewide primary and general ~~elections~~ pursuant to this article. Any officials elected under a final redistricting plan shall serve out their term of office notwithstanding the voters' disapproval of the plan for use in succeeding primary and general elections.

paragraph (2) of

elections

(j) 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

Section

SUBJECT TO COURT ORDERED CHANGES

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.

(k) Except for judicial decrees, the provisions of this article are the exclusive means of adjusting the boundary lines of the districts specified herein. ~~and the powers under Sections 8 and 9 of Article II shall be used only in the manner specified in subdivisions (a) and (b) herein.~~

Section 2. (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 or any stricter standard required by federal law.

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

(d) Each Board of Equalization district shall be comprised of ~~ten~~ 10 adjacent Senate districts and each Senate district shall be comprised of two adjacent Assembly districts.

(e) Every district shall be contiguous.

(f) District boundaries shall conform to the geographic boundaries of a county, city, or city and county to the greatest extent practicable. In this regard, a redistricting plan shall comply with these criteria in the following order of importance: (1) create the most whole counties possible, (2) create the fewest county fragments possible, (3) create the most whole cities

SUBJECT TO COURT ORDERED CHANGES

possible, and (4) create the fewest city fragments possible, except as necessary to comply with the requirements of the preceding subdivisions of this section.

(g) Every district shall be as compact as practicable except to the extent necessary to comply with the requirements of the preceding subdivisions of this section. With regard to compactness, to the extent practicable, a contiguous area of population shall not be bypassed to incorporate an area of population more distant.

(h) No census block shall be fragmented unless required to satisfy the requirements of the United States Constitution.

(i) No consideration shall be given as to the potential effects on incumbents or political parties. No data regarding the residence of an incumbent or of any other candidate or the party affiliation or voting history of electors may be used in the preparation of plans, except as required by federal law.

Section 3. Any action or proceeding alleging that a plan adopted by the Special Masters does not conform with the requirements of this article must be filed within 45 days of the filing of the plan with the Secretary of State or such action or proceeding is forever barred. Judicial review of the conformity of any plan with the requirements of this article may be pursuant to a petition for extraordinary relief. If any court finds a plan to be in violation of this article, it may order that a new plan be adopted by a panel of Special Masters pursuant to this article. A court may order any remedy necessary to effectuate this article.

~~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.~~

SUBJECT TO COURT ORDERED CHANGES

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 of 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.

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SUBJECT TO COURT ORDERED CHANGES