

Assembly Constitutional Amendment

No. 3

Introduced by Assembly Members McCarthy and Runner
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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 introduced, 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 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 all future elections as specified. If

the panel fails to approve a plan, the Judicial Council would discharge the panel and appoint a new panel.

This measure would require that, within 20 days following its approval by the voters, the Judicial Council 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. 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:
 7 First—That Section 1 of Article XXI thereof is amended to
 8 read:
 9 SECTION 1. ~~It~~(a) *Except as provided in subdivision (g), in*
 10 the year following the year in which the national census is taken

1 under the direction of Congress at the beginning of each decade,
2 the Legislature shall adjust the boundary lines of the Senatorial
3 Senate, Assembly, Congressional congressional, and Board of
4 Equalization districts *shall be adjusted* in conformance with the
5 following standards:

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

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

11 (c) ~~Every district shall be contiguous.~~

12 (d) ~~Districts of each type shall be numbered consecutively~~
13 ~~commencing at the northern boundary of the State and ending at~~
14 ~~the southern boundary.~~

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

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

35 (c) *The Judicial Council shall identify qualified judges willing*
36 *to serve as special masters. From the list of qualified nominees*
37 *the Judicial Council shall then select, at random, three persons*
38 *to serve as special masters and three alternates. If the council*
39 *selects three special masters who are registered to vote as*
40 *members of a single political party, or a panel in which none of*

1 *the special masters belongs to the State's two largest political*
2 *parties, then the council shall excuse one member of the panel by*
3 *lot and randomly select and excuse new special masters until a*
4 *panel is selected consisting of members registered with two or*
5 *more political parties and with at least one member belonging to*
6 *each of the State's two largest political parties.*

7 *(d) The special masters selected shall not receive*
8 *compensation for their services, but are entitled to*
9 *reimbursement for their actual and necessary travel and other*
10 *expenses incurred in the discharge of their duties. The term of*
11 *the special masters' service shall expire upon the filing of a plan*
12 *with the Secretary of State or upon discharge of the special*
13 *masters by the Judicial Council pursuant to subdivision (e). The*
14 *Legislature shall make appropriations from the Legislature's*
15 *operating budget, as limited by Section 7.5 of Article IV, to fund*
16 *expenses incurred by the panel to employ counsel, independent*
17 *experts in the field of redistricting and computer technology, and*
18 *other necessary personnel to assist it in its work.*

19 *(e) The panel of special masters shall establish a public*
20 *schedule and deadline to receive and consider proposed plans*
21 *from any Member of the Legislature or any elector. A Member of*
22 *the Legislature may submit more than one plan and may submit a*
23 *plan drafted by any elector or public interest group. The panel*
24 *shall hold public hearings in no fewer than six different*
25 *geographical regions of the State to consider redistricting plans.*
26 *The public hearings shall be held before an initial set of maps is*
27 *developed or selected, and again, after an initial plan for*
28 *districts is selected by the panel, at least two weeks after the plan*
29 *is released for review by the public. Additional public hearings*
30 *shall be held if any significant revisions are made to the plan.*
31 *The panel of special masters shall then approve a plan and file*
32 *the plan with the Secretary of State. Once the plan is filed with*
33 *the Secretary of State, it shall apply to all future elections set to*
34 *take place 131 or more days after the plan is approved until an*
35 *adjustment of new boundaries is required. If the panel of special*
36 *masters fails to approve a plan, the Judicial Council shall*
37 *discharge the panel of special masters and appoint a new panel,*
38 *following the procedure set forth in subdivision (c).*

39 *(f) Notwithstanding subdivision (a), within 20 days following*
40 *the election at which the amendments adding this subdivision are*

1 *approved, the Judicial Council shall select a panel of special*
2 *masters to approve a plan to adjust the boundary lines of the*
3 *Senate, Assembly, congressional, and Board of Equalization*
4 *districts in the manner otherwise provided by this article.*

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

7 SEC. 2. (a) Each Member of the Senate, Assembly,
8 Congress, and the Board of Equalization shall be elected from a
9 single-member district. Districts of each type shall be numbered
10 consecutively commencing at the northern boundary of the state
11 and ending at the southern boundary.

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

18 (c) Every district shall be contiguous and as compact as
19 practicable. With respect to compactness, to the extent
20 practicable a contiguous area of population shall not be bypassed
21 to incorporate an area of population more distant.

22 (d) Each Board of Equalization district shall be comprised of
23 10 contiguous Senate districts. Each Senate district shall be
24 comprised of two contiguous Assembly districts.

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

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

37 (g) To the extent possible, district boundaries shall be drawn
38 to ensure a level of competitiveness that would result in a
39 difference of no more than seven percentage points between the

1 number of voters in each district who are registered with the two
2 largest political parties in the State.

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

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

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

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