

AMENDED IN ASSEMBLY APRIL 19, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**Assembly Constitutional Amendment**

**No. 1**

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**Introduced by Assembly Member ~~Dymally~~ Members Price and Nunez**

December 4, 2006

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Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Article XXI thereof, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as amended, ~~Dymally~~ Price. Elections: redistricting.

*The California Constitution requires the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the Senate, Assembly, congressional, and State Board of Equalization districts in accordance with specified standards.*

*This measure would assign the responsibility for adjusting boundary lines of Senate, Assembly, congressional, and State Board of Equalization districts to a commission that consists of the 9 public members of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, subject to specified conditions. It would require the Legislature to establish, by statute, procedures to ensure compliance with specified requirements for membership on the commission.*

*This measure would require the commission to hold public hearings to provide for public input and comment.*

*This measure would grant the Supreme Court original and exclusive jurisdiction over all challenges to a final redistricting plan adopted by the commission and would authorize an affected elector to file a petition for a writ of mandate or prohibition within 45 days after the commission certifies the final redistricting plan for Senate, Assembly, congressional, and State Board of Equalization districts to the Secretary of State. If the final redistricting plan is held by the court to violate the California Constitution, the United States Constitution, or federal law, this measure would require the court to provide relief as it deems appropriate.*

*This measure would require the Governor in 2010, and annually thereafter, to include in the Governor's Budget submitted to the Legislature an amount of funding sufficient to meet the estimated operating expenses of the redistricting process, and would require that the necessary appropriation be made in the annual Budget Act. It would provide that commissioners are eligible for reimbursement of expenses pursuant to law.*

*This measure would provide a procedure to correct errors if any census tract or census block is omitted, listed more than once, not provided for, or only partially provided for in the final redistricting plan.*

*This measure would also specify that, in the event that this measure and another measure or measures relating to the redistricting of Senate, Assembly, congressional, or State Board of Equalization districts are approved by a majority of the voters at the same election and this measure receives a greater number of affirmative votes than the other measure or measures, this measure would control in its entirety and the other measure or measures would be rendered void and without any legal effect. It would specify that if this measure is approved by a majority of the voters, but does not receive a greater number of affirmative votes than the other measure or measures, this measure shall take effect to the extent permitted by law.*

~~The California Constitution requires that each Member of the Senate, Assembly, Congress, and State Board of Equalization be elected from a single-member district. Existing provisions of the California Constitution require the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the state Senate, Assembly, congressional, and State Board of Equalization districts in accordance with specified standards.~~

~~This measure would delete these existing requirements, and would instead require the appointment of the Independent Redistricting Commission, composed of 5 members, that would be charged with establishing, by February 28 of each year ending in the number one, congressional, Assembly, Senate, and State Board of Equalization districts of equal population in compliance with the United States Constitution, pursuant to a mapping process for each district in accordance with specified goals. The measure would require the commission to approve a redistricting plan that includes the final maps for all districts. The measure would require the Legislature to adjust the boundaries of the districts of any of these offices for which the commission fails to approve a final map within one year after the deadline for the commission's appointment.~~

~~This measure would provide that certain records of the commission are public records and would require the commission to hold public hearings.~~

~~This measure would grant the California Supreme Court original and exclusive jurisdiction over all challenges to a redistricting plan adopted by the commission, and would authorize an affected elector to file a petition for a writ of mandate or prohibition within 45 days either after a redistricting plan has been certified by the commission to the Secretary of State or has been enacted by the Legislature. If a redistricting plan is held by the court to be unconstitutional, this measure would require the court to provide relief as it deems appropriate to remedy any violation and to otherwise accomplish the purposes of this measure.~~

~~This measure would require the Governor in 2010 and annually thereafter, to include in the Governor's Budget submitted to the Legislature an amount of funding sufficient to meet estimated annual expenses of the redistricting process, and would require the Legislature to make the necessary appropriation in the annual Budget Bill. It would authorize the commission to contract and to hire staff and consultants, including legal representation. It would provide that commissioners are eligible for reimbursement of expenses pursuant to law.~~

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

1 *RESOLVED BY THE ASSEMBLY, THE SENATE*  
2 *CONCURRING, That the Legislature of the State of California at*  
3 *its 2007-08 Regular Session commencing on the fourth day of*  
4 *December 2006, two-thirds of the membership of each house*

1 concurring, hereby proposes to the people of the State of  
2 California, that the Constitution of the State be amended as  
3 follows:

4 *First—That Article XXI thereof is repealed.*

5 *Second—That Article XXI is added thereto, to read:*

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7

ARTICLE XXI

8

*Reapportionment of Senate, Assembly, Congressional, and State  
9 Board of Equalization Districts*

10

11 *SECTION 1. (a) In the year following the year in which the*  
12 *national census is taken under the direction of the Congress at the*  
13 *beginning of each decade, the boundary lines of the Senate,*  
14 *Assembly, congressional, and State Board of Equalization districts*  
15 *shall be adjusted by a commission, as established pursuant to*  
16 *Section 2, and in conformance with this article.*

17 *(b) A redistricting plan that has been certified to the Secretary*  
18 *of State pursuant to subdivision (c) of Section 3 shall not be*  
19 *superseded by another plan until after the next national census at*  
20 *the beginning of the next decade, unless a court requires the State*  
21 *to conduct a subsequent redistricting in order to comply with the*  
22 *United States Constitution or this Constitution, or to enforce the*  
23 *Voting Rights Act of 1965 (42 U.S.C. Sec. 1973 and following).*

24 *SEC. 2. (a) Subject to subdivisions (b) to (f), inclusive, the*  
25 *nine persons who, as of January 1 of the year following the year*  
26 *in which the national census is taken under the direction of*  
27 *Congress at the beginning of each decade, are the public members*  
28 *of the Milton Marks “Little Hoover” Commission on California*  
29 *State Government Organization and Economy, as appointed*  
30 *pursuant to Section 8501 of the Government Code as that statute*  
31 *read on January 1, 2007, shall constitute the commission specified*  
32 *in Section 1 (hereafter “the commission”).*

33 *(b) All of the following shall apply to the commission:*

34 *(1) The commission shall be representative of this State’s*  
35 *diversity, including, but not limited to, racial, ethnic, geographic,*  
36 *and gender diversity. No more than two commission members may*  
37 *reside in the same county.*

38 *(2) Each commission member shall be registered to vote in this*  
39 *State, and shall have been continuously registered with the same*  
40 *political party, or been registered as unaffiliated with a political*

1 party, for three or more years immediately preceding his or her  
2 appointment.

3 (3) Each commission member shall commit to applying this  
4 article in an honest, independent, and impartial fashion and to  
5 upholding public confidence in the integrity of the redistricting  
6 process.

7 (c) Not more than four of the commission members shall be  
8 registered as members of the same political party. At least one of  
9 the Governor's appointments shall be a person who is not  
10 registered with either of the two largest political parties in the  
11 State.

12 (d) The Legislature shall establish, by statute, the procedures  
13 necessary to provide that nine public members are appointed to  
14 the Milton Marks "Little Hoover" Commission on California State  
15 Government Organization and Economy in a manner that ensures  
16 compliance with subdivisions (b) and (c).

17 (e) A member of the commission shall be ineligible during his  
18 or her term of office, or for three years following the adoption by  
19 the commission of a final redistricting plan, whichever is of longer  
20 duration, to do any of the following:

21 (1) Hold elective public office in this State.

22 (2) Hold appointive public office for which an elected state  
23 official or any officer or entity within the Legislature has  
24 appointing authority, and for which economic consideration is  
25 provided, other than reimbursement for reasonable expenses.

26 (3) Register as a lobbyist in this State.

27 (f) In addition to removal as provided for in subdivision (a) of  
28 Section 8501 of the Government Code, as that statute read on  
29 January 1, 2007, the Governor may request in writing, or either  
30 house of the Legislature may request by resolution, that a member  
31 of the commission be removed for substantial neglect of duty, gross  
32 misconduct in office, or inability to discharge the duties of his or  
33 her office. After having been served written notice of the request  
34 for removal and having been provided with an opportunity for a  
35 response, a member of the commission may be removed by rollcall  
36 vote entered in the journal, two-thirds of the membership of each  
37 house of the Legislature concurring. In the event of a removal from  
38 the commission or other vacancy, the respective appointing  
39 authority shall appoint another person to fill the vacancy subject

1 to the same qualifications and conditions that applied to the  
2 appointment of the member who is being replaced.

3 SEC. 3. (a) In carrying out its duties under this article, the  
4 commission is subject to all of the following:

5 (1) The members of the commission shall, by seven or more  
6 affirmative votes, select one member to serve as the chair and  
7 another member to serve as the vice chair. The vice chair shall  
8 not be of the same political party as the chair.

9 (2) Seven members of the commission, one of whom may be the  
10 chair or vice chair, shall constitute a quorum.

11 (3) Seven or more affirmative votes shall be required for any  
12 official action. The seven or more affirmative votes approving a  
13 final map shall include at least three votes of members registered  
14 from each of the two largest political parties in the State.

15 (4) The commission shall comply with the Bagley-Keene Open  
16 Meeting Act (Article 9 (commencing with Section 11120) of  
17 Division 3 of Title 2 of the Government Code), or its successor  
18 statute. The commission shall provide not less than 14 days' public  
19 notice for each meeting.

20 (5) The records of the commission pertaining to redistricting,  
21 and all data considered by the commission for the purpose of  
22 redistricting, are subject to the California Public Records Act  
23 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
24 Title 1 of the Government Code), or its successor statute, and are  
25 open to inspection by members of the public upon request as  
26 provided by the act.

27 (6) Any written or verbal communication with a commission  
28 member outside of a public hearing, other than by staff or by legal  
29 counsel, is prohibited as to any matter on which the commission  
30 is required to meet pursuant to paragraph (4), except for a written  
31 communication for which public disclosure is promptly made  
32 pursuant to standards adopted by the commission. This subdivision  
33 does not prohibit any communication between commission  
34 members that is permitted by the Bagley-Keene Open Meeting Act,  
35 or its successor statute, to occur outside of a public hearing.

36 (b) The duties of the commission include all of the following:

37 (1) Hiring or contracting with commission staff, legal counsel,  
38 and consultants, as appropriate, to assist the commission in  
39 performing its duties pursuant to this article. Staff, legal counsel,  
40 and consultants hired or contracted with to provide that assistance

1 shall be exempt from the civil service requirements of Article VII.  
2 The commission shall establish clear criteria for the hiring,  
3 contracting with, and removal of these individuals, communication  
4 protocols, and a code of conduct. The commission shall make  
5 hiring or contracting decisions on staff, legal counsel, and  
6 consultants by a vote of the commission as prescribed by paragraph  
7 (3) of subdivision (a) for the approval of a final map.

8 (2) Establishing Senate, Assembly, congressional, and State  
9 Board of Equalization districts pursuant to a mapping process for  
10 each district based on the following criteria, prioritized according  
11 to the following order:

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

15 (B) District boundary lines shall comply with all requirements  
16 of the United States Constitution. Senate, Assembly, congressional,  
17 and State Board of Equalization districts shall each have equal  
18 population with other districts for the same office, except as  
19 otherwise required or permitted by judicial decision.

20 (C) District boundary lines shall comply with the federal Voting  
21 Rights Act of 1965 (42 U.S.C. Sec. 1971 and following), as applied  
22 by the Supreme Court in *Wilson v. Eu* (1992) 1 Cal.4th 707. For  
23 purposes of compliance with that act, voter history and registration  
24 and other relevant data may be considered.

25 (D) District boundary lines shall be geographically contiguous.

26 (E) District boundary lines shall respect communities of interest  
27 to the extent practicable. "Communities of interest" means groups  
28 of residents who share similar interests, including, but not limited  
29 to, social, cultural, ethnic, geographic, or economic interests, or  
30 formal governmental or quasi-governmental relationships, but not  
31 including relationships with political parties, incumbents, or  
32 candidates.

33 (F) District boundary lines shall respect city boundaries, county  
34 boundaries, and visible geographic boundaries to the extent  
35 practicable.

36 (G) Districts of each type shall be numbered consecutively  
37 commencing at the northern boundary of the State and ending at  
38 the southern boundary of the State.

39 (H) Districts shall be reasonably geographically compact.

1 (I) *The place of residence of incumbents or candidates may not*  
2 *be considered in the creation of a map, except to comply with*  
3 *another provision of this paragraph (2).*

4 (3) *Establishing and implementing an open and noticed hearing*  
5 *process for public input. The public hearing process shall include*  
6 *at least the following three stages: (A) hearings to receive public*  
7 *input before the commission draws any maps, (B) hearings*  
8 *following the drawing and display of commission maps, and (C)*  
9 *hearings following the drawing and display of the proposed final*  
10 *maps. At stages (B) and (C), the commission shall display the map*  
11 *or maps created for public comment, in a manner designed to*  
12 *achieve the widest public dissemination reasonably possible. Public*  
13 *comment shall be taken for at least 30 days from the date of public*  
14 *display unless the commission determines that a comment period*  
15 *of this duration is not practicable. The Senate, Assembly, Congress,*  
16 *the State Board of Equalization, other officeholders, counties, and*  
17 *cities may make recommendations on the record to the commission,*  
18 *which shall be considered by the commission.*

19 (c) *The commission shall establish the boundaries of final maps*  
20 *for Senate, Assembly, congressional, and State Board of*  
21 *Equalization districts. Upon approval, the commission shall certify*  
22 *those districts to the Secretary of State. The final redistricting plan*  
23 *shall be subject to referendum in the same manner as a statute is*  
24 *subject to referendum under Section 9 of Article II. The date of*  
25 *certification to the Secretary of State shall be deemed the enactment*  
26 *date for purposes of Section 9 of Article II.*

27 (d) *The commission shall issue with its final maps a report*  
28 *regarding compliance with the criteria listed in paragraph (2) of*  
29 *subdivision (b) that explains the basis on which the commission*  
30 *made its decisions, particularly in cases where compliance with*  
31 *one criterion resulted in less than full compliance with another*  
32 *criterion. The commission shall include in its report definitions of*  
33 *the terms and standards used in drawing the maps.*

34 SEC. 4. (a) *In 2010 and annually thereafter, the Governor*  
35 *shall include, in the Governor's Budget submitted to the Legislature*  
36 *pursuant to Section 12 of Article IV, an amount of funding sufficient*  
37 *to meet the estimated expenses of the subsequent redistricting*  
38 *process occurring pursuant to this article. The necessary*  
39 *appropriation for this purpose shall be made in the annual budget*  
40 *act.*

1 (b) *The commission has standing in legal actions regarding the*  
2 *final redistricting plan or regarding whether funds or other*  
3 *resources provided for the operation of the commission are*  
4 *adequate. The commission has sole authority to determine whether*  
5 *the Attorney General or legal counsel hired or selected by the*  
6 *commission shall represent the people of the State in the*  
7 *commission’s legal defense of the final redistricting plan.*

8 (c) (1) *The Supreme Court has original and exclusive*  
9 *jurisdiction in all proceedings in which the final redistricting plan*  
10 *adopted by the commission is challenged.*

11 (2) *Any affected elector may file a petition for a writ of mandate*  
12 *or writ of prohibition to challenge the final redistricting plan within*  
13 *45 days after the commission has certified that plan to the*  
14 *Secretary of State pursuant to subdivision (c) of Section 3, to bar*  
15 *the Secretary of State from implementing the final redistricting*  
16 *plan on the grounds that the filed plan violates this Constitution,*  
17 *the United States Constitution, or any federal statute.*

18 (3) *The court shall act expeditiously on a petition filed under*  
19 *paragraph (2). If the court determines that the final redistricting*  
20 *plan adopted pursuant to this article violates this Constitution,*  
21 *the United States Constitution, or any federal statute, the court*  
22 *shall fashion the relief that it deems appropriate.*

23 SEC. 5. (a) *Members of the commission are eligible for*  
24 *reimbursement of reasonable expenses incurred in connection with*  
25 *the duties performed for the commission pursuant to law. For*  
26 *purposes of the reimbursement of expenses, a commission*  
27 *member’s residence is deemed to be the member’s post of duty.*

28 (b) *The commission shall not meet or incur expenses after a*  
29 *final redistricting plan is approved and certified pursuant to*  
30 *subdivision (c) of Section 3, except with respect to any pending*  
31 *litigation or government approval concerning the final redistricting*  
32 *plan, or to revise districts if required by court order or if the*  
33 *number of Senate, Assembly, congressional, or State Board of*  
34 *Equalization districts is changed, or if the final redistricting plan*  
35 *is rejected by the electors pursuant to referendum.*

36 (c) *For purposes of this article, “day” means a calendar day,*  
37 *except that if the final day of a period within which an act is to be*  
38 *performed is a Saturday, Sunday, or holiday, the period is extended*  
39 *to the next day that is not a Saturday, Sunday, or holiday.*

1     *SEC. 6. (a) If, in the final redistricting plan adopted pursuant*  
2 *to this article, any census tract or census block is omitted, listed*  
3 *more than once, not provided for, or only partially provided for,*  
4 *the Secretary of State and the elections official of the affected*  
5 *county, in order to define the location of the district boundaries,*  
6 *shall use the maps prepared by the commission pursuant to*  
7 *paragraph (2) of subdivision (b) of Section 3.*

8     *(b) District boundaries shall be defined so as to not omit any*  
9 *area of the State from a district and to comply with the requirement*  
10 *that districts be contiguous and reasonably equal in population*  
11 *under the “one person, one vote” principle of the United States*  
12 *Constitution.*

13     *Third—That in the event that this measure and another measure*  
14 *or measures relating to the redistricting of Senate, Assembly,*  
15 *congressional, or State Board of Equalization districts are*  
16 *approved by a majority of the voters voting on those measures at*  
17 *the same election, and this measure receives a greater number of*  
18 *affirmative votes than the other measure or measures, this measure*  
19 *shall control in its entirety and the other measure or measures*  
20 *shall be rendered void and without any legal effect. If this measure*  
21 *is approved by a majority of the voters but does not receive a*  
22 *greater number of affirmative votes than the other measure or*  
23 *measures, this measure shall take effect to the extent permitted by*  
24 *law.*

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Assembly, December 4, 2006 (JR11)**