

## A Model Constitutional Amendment to Remove Partisan and Incumbent Politics from the Reapportionment Process

### REAPPORTIONMENT OF THE BOARD OF EQUALIZATION, ASSEMBLY, SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES

#### 1. THE NEED FOR REFORM:

- a) Fair redistricting is essential to representative democracy.
- b) Unfair redistricting degrades the right to vote.
- c) Unfair redistricting produces political gridlock and extremist politics, reduces competition for elective offices, limits accountability and destroys public confidence in the legitimacy of elections, resulting in low voter registration and poor turnout at elections.
- d) The existing law permits the political parties and their incumbents to redistrict the state legislature and Congressional districts. However, history has taught us clearly that the parties and their incumbents use the process to gerrymander safe election districts for themselves and thereby maintain their status in the legislature.
- e) The existing law puts the power to redistrict in the hands of incumbent state legislators who draw districts that fail to respect counties, cities and communities. Yet the integrity of local units of representation is crucial to effective democracy.
- f) Court appointed redistricting masters, without present ties to partisan politics and the legislature and by virtue of their training and judicial temperament, have greater reason to be objective and less inclination to be partisan. They are ideal to serve as a more impartial body to create fair election districts.
- g) The experience of redistricting in the decade of the 1990s, with its unification of communities of interest and creation of large numbers of competitive political districts, proved the value of redistricting by impartial Independent Redistricting Masters; whereas the experience of the redistricting of 2001, conducted by incumbent state legislators, produced an unprecedented number of uncompetitive districts leading to gridlock and political crises.

#### 2. REDISTRICTING TO BE DONE BY AN INDEPENDENT COMMISSION, NOT THE LEGISLATURE:

The authority to adopt redistricting plans specifying the boundaries of the districts for the State Senate, Assembly, Board of Equalization and the United States House of Representatives should be vested in the Independent Redistricting Masters established by this measure.

#### 3. COMMUNITIES OF INTEREST AND UNITS OF REPRESENTATION:

- a) "Units of Representation" shall define the communities of interest to be considered by the Independent Redistricting Masters in the redistricting of the state.

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- b) In each year in which the national census is taken, each County may establish a “County Community Commission,” which shall include representation from each city in the County, to take public testimony in order to establish Units of Representation for the County, such Units to be composed of individual communities of interest that should be kept whole in redistricting.
- c) Each Unit of Representation shall be contiguous.
- d) No area may be in more than one Unit of Representation.
- e) Units of Representation shall follow Census geography.
- f) No Unit of Representation shall be larger than five percent of the ideal size of an Assembly District, defined as the total population of the state divided by the number of Assembly Districts. The units of redistricting shall be reviewed by each County Community Commission following the release of the Census data for the state and adjustments made as necessary to comply with this population requirement.
- g) The Commission may also designate preferred Units of Representation for inclusion in a district together. Such designation shall be only a recommendation to the Masters.
- h) Within one month after the release of the Census data for the state, each County Community Commission shall report its final Units of Representation to the Independent Redistricting Masters created by this Article for use in the redistricting.

#### 4. INDEPENDENT REDISTRICTING MASTER QUALIFICATIONS AND SELECTION PROCESS:

- a) Independent Redistricting Masters shall be chosen in the year following the taking of the national census in the following manner:

On the second Monday in January of the year following the taking of the national census, the State Judicial Council shall provide the administrative office of the courts the names of all former justices of the Court of Appeal and the Supreme Court who consent to serve if selected and who:

  - i) Are no older than 75 on their most recent birthday.
  - ii) Have been registered to vote as a member of the same political party for not less than the five prior years.
  - iii) Voluntarily resigned or retired from their judicial posts for reasons other than chronic physical or mental disability.
  - iv) Have served as a judge in California courts for five years or longer.
  - v) Have not held a partisan public office or a political party office.
  - vi) Have not received compensation to influence those holding office in the legislative bodies to be reapportioned.
- b) In the event there are fewer than eighteen Court of Appeal and Supreme Court judges who meet these criteria, the shortage shall be filled from randomly selected retired Superior

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Court judges who also meet the qualifying criteria listed above. They shall be selected by the same process as the Court of Appeal judges described below.

- i) From the pool of qualified judges the State Judicial Council shall select three Independent Redistricting Masters by lottery. Three alternate Independent Redistricting Masters shall also be selected by lottery.
  - (i) One Independent Redistricting Master and one alternate shall be registered with the party receiving the most total votes in the previous statewide general election for State Assembly. One Independent Redistricting Master and one alternate shall be registered with the party receiving the second-most total votes in the previous statewide general election for State Assembly. And one Independent Redistricting Master and one alternate shall not be registered with either of the two parties receiving the most and second-most total votes in the previous statewide general election for the State Assembly. The qualified judges shall be divided into separate pools by party registration and a separate lottery conducted for each party registration group.
  - (ii) When a Court Master is unable to serve for any reason, he or she shall be replaced by the alternate Court Master registered to the same political party, and a new alternate selected in the manner described above.
  - (iii) Independent Redistricting Masters shall be compensated in the same manner as retired judges sitting as temporary judges.

### 5. CRITERIA FOR DISTRICTS:

- a) Redistricting plans shall be consistent with the requirements of the United States Constitution.
- b) Each Senate district shall be composed of two adjacent Assembly districts and each Board of Equalization district shall be composed of ten adjacent Senate districts.
- c) If the number of Congressional districts either matches or evenly divides into the number of Assembly, State Senate, or Board of Equalization districts, then the Congressional districts shall also be nested with the corresponding districts.
- d) Districts shall be single-member.
- e) State legislative districts shall have populations which are as nearly equal as practicable consistent with the other requirements of this section. In no case shall districts vary in population by more than one percent.
- f) Congressional districts shall have populations which are as nearly equal as practical and consistent with federal constitutional and statutory standards.
- g) The redistricting plans shall comply with the Federal Voting Rights Act.
- h) The districts shall be drawn with no consideration of incumbent resident addresses.
- i) Districts shall be comprised of whole units of census geography.
- j) The 20 Senate districts with the highest percentage of population from currently even-numbered districts shall be assigned even numbers. The remaining districts shall be assigned odd numbers.

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- k) Assembly, Congressional, and Board of Equalization districts shall be numbered starting in the northwest corner of the state and proceeding from west to east and from north to south.
- l) Redistricting plans shall favor competitive districts whenever possible while complying with the other requirements of this measure and the Federal Voting Rights Act.
- m) To the extent practicable districts shall:
  - i) Be geographically compact.
  - ii) Not cross any common county boundary more than once.
  - iii) Not cross any common city boundary more than once.
  - iv) Not cross any common Unit of Representation boundary more than once.
  - v) Be composed of contiguous territory with reasonable access between population centers of the district. Populous, contiguous territory shall not be bypassed to reach populous areas further away unless required to comply with the other provisions of this section.
  - vi) Minimize the number of divided counties, cities and Units of Representation.

### 6. TIMING

<u>Month</u>	<u>Year</u>	<u>Event</u>
April	20x0	Census is taken
May – Dec	20x0	County Community Commissions form, hold hearings and adopt draft Units of Representation
Jan – March	20x1	Independent Redistricting Masters selected and hold organizing meeting(s)
April	20x1	Census data released by Census Bureau
May	20x1	County Community Commissions review and adopt final Units of Representation
June	20x1	Initial hearings held by the Independent Redistricting Masters
July	20x1	Initial redistricting plans drafted and released to public
July – Aug	20x1	2 <sup>nd</sup> round of hearings held to consider draft plans
September	20x1	Independent Redistricting Masters revised plans based on 2 <sup>nd</sup> round feedback
Oct	20x1	(If significant changes were made to draft plans) 3 <sup>rd</sup> round of hearings
Nov	20x1	Adoption of final plans

### 7. PUBLIC COMMENT REQUIRED:

Independent Redistricting Masters shall solicit public comment as follows:

- a) Prior to the consideration of any state legislative, Congressional, or Board of Equalization plans, the Masters shall hold public hearings in the cities of San Francisco, Sacramento, Fresno, Los Angeles and San Diego and in such other cities as the Independent Redistricting Masters determine. Not less than fifteen days notice shall be given for each hearing, and the purpose of these meetings shall be to receive testimony and public comment on how districts should be configured.

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- b) After draft plans have been released, public hearings shall be conducted by the Independent Redistricting Masters in the cities of San Francisco, Sacramento, Fresno, Los Angeles and San Diego and in such other cities as the Independent Redistricting Masters determine. Not less than fifteen days notice shall be given for each hearing.
- c) Following the adoption by the Independent Redistricting Masters of any significant change(s) to a plan that was circulated for public hearings, and prior to the final adoption of any plan that includes that change(s), the Independent Redistricting Masters shall again hold public hearings in at least two of the Cities listed above. Not less than fifteen days notice shall be given for each hearing. For the purposes of this paragraph, a “significant change” is any change in the district assignment of either of the following: (1) one percent or more of the state’s total population, or (2) five percent or more of an individual district’s population,
- d) The draft redistricting plans shall be made available on a publicly accessible computer and printer located in each County Court House, along with software to allow the public to review the plans and develop alternatives. Counties shall be reimbursed by the state for the costs of the County Community Commission and the public access computer.

### 8. ADMINISTRATIVE DETAILS:

- a) The Judicial Council of California, acting on behalf of and at the request of the Independent Redistricting Masters, shall hire the appropriate staff to permit the Independent Redistricting Masters to fulfill their responsibilities.
- b) The Secretary of State shall acquire and provide such data as is available and as is required by the Independent Redistricting Masters.
- c) The Independent Redistricting Masters shall adopt a measure or measures of competitiveness prior to any vote or discussion regarding any legislative or congressional district plans or proposals. This measure or measures shall be the conclusive test(s) for compliance with the competitive districts requirement of this measure.
- d) Independent Redistricting Masters’ records, data and plans shall be available in hard copy and on the internet in a timely manner.

### 9. FINAL ACTION:

- a) The final reapportionment plans shall be filed with the Secretary of State together with a written statement of findings and reasons for adoption not fewer than 120 days before the next occurring primary election. The plans shall take effect on the date they are filed with the Secretary of State.
- b) The plans, or any part thereof, shall not be subject to repeal or amendment by the Legislature.
- c) The plans shall be subject to a referendum by the people; however, in the event the signatures for a referendum are filed the plans remain in effect until the vote on the referendum is certified. If a referendum is successful in overturning a plan, the Independent Redistricting Masters shall develop a new redistricting plan, complying with the public

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participation requirements of this measure to the extent possible in the time prior to the filing deadline for the next election for the districts in question.

### 10. COURT JURISDICTION:

The Supreme Court of California has exclusive court jurisdiction to review the apportionment plans adopted by the Independent Redistricting Masters. Any challenge to the plans of the Independent Redistricting Masters must be filed within 30 days. The Court shall render its decision within 60 days of the filing or the petition shall be considered denied. If the Court finds a plan to be in violation, the Independent Redistricting Masters shall prepare and adopt a new plan complying with the public participation requirements of this measure to the extent possible in the time prior to the filing deadline for the next election for the districts in question.

### 11. DURATION OF THE COMMISSION:

The Independent Redistricting Masters shall remain in existence until final apportionment plans become effective and all legal and referendum challenges have been resolved. At that time the responsibilities of the Independent Redistricting Masters shall end.