

CLAREMONT MCKENNA COLLEGE



The Rose Institute of State and Local Government

Restoring the Competitive Edge

*California's Need for Redistricting Reform
and the Likely Impact of Proposition 77*

Executive Summary

The Rose Institute of State and Local Government
Claremont McKenna College

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Executive Summary

On November 8th, California voters will decide whether to retain the state's current process of election districts drawn and controlled by the incumbents who run in them, or whether to give the redistricting power to a panel of retired judges.

Redistricting has undeniable political results; inevitably incumbents and party leaders will do everything within their power to influence the process. When they succeed, the result is first, districts drawn to meet the needs of the politicians, and a distant second, to meet the needs of the voters (if their needs are considered at all). Most redistricting reform measures, Proposition 77 included, address this challenge by controlling who has the redistricting power and by writing strict rules governing how that power is used.

Proposition 77 draws upon California's recent redistricting history by appointing retired judges to draw the district lines; moreover, Proposition 77 provides clear, specific, and measurable rules for how those retired judges are to draw redistricting plans. The challenge before the voters is to decide two questions: first, are retired judges the right people and are these the right rules for California? Second, if the answer is not a clear yes, are those retired judges and rules better for the state than the risk of allowing the partisan incumbents to control the process again in 2011?

Gerrymandering in 2001

The name "gerrymander" was first applied to redistricting abuse in 1812. But gerrymandering on a modern scale began with the "one person, one vote" Supreme Court rulings of the 1960s. Previous community and compactness concerns were abandoned in the quest for perfect population balance, and opportunistic politicians of both parties turned that quest to their advantage.

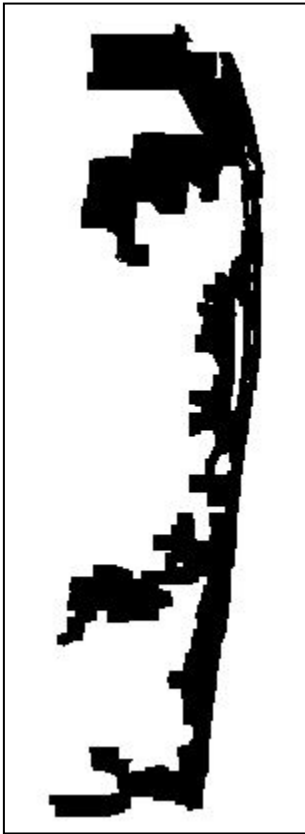
Advances in computing power started a new, more destructive era in gerrymandering in 2001. In Florida, Georgia, Pennsylvania, California, and, later, in Texas, voters experienced this enhanced gerrymandering power as competitive districts disappeared. Elected officials now picked their voters, instead of the other way around.



With Census Block geography, decades of election trend data, detailed knowledge of the locations of every incumbent and potential challenger, and Supreme Court rulings stating there is virtually no constitutional limitation on gerrymandering for a partisan or

incumbent-protection purpose, the 2001 gerrymandering technicians created works of line-drawing art:

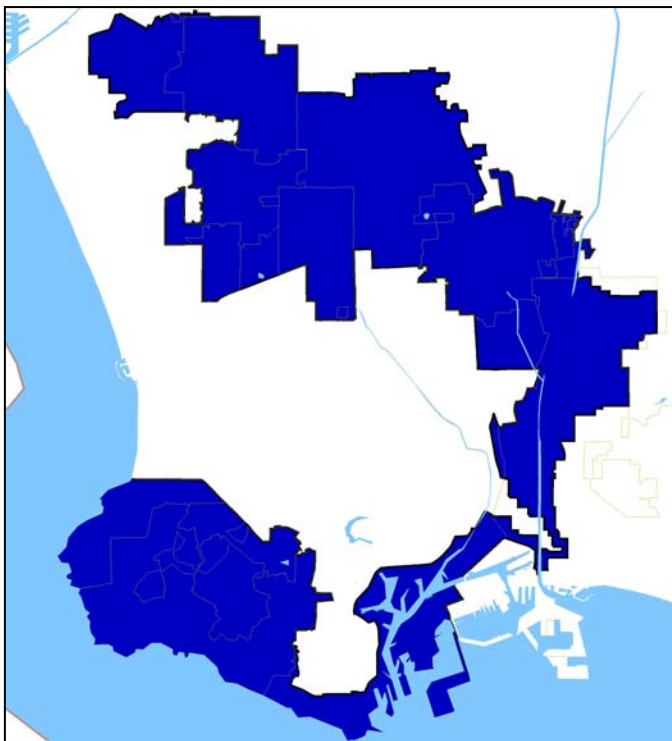
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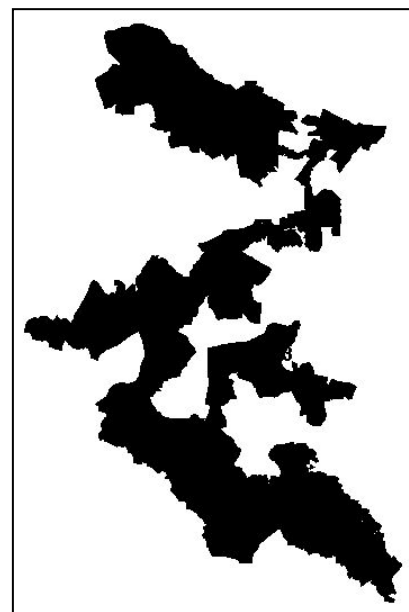
GA CD 13



CA SD 25

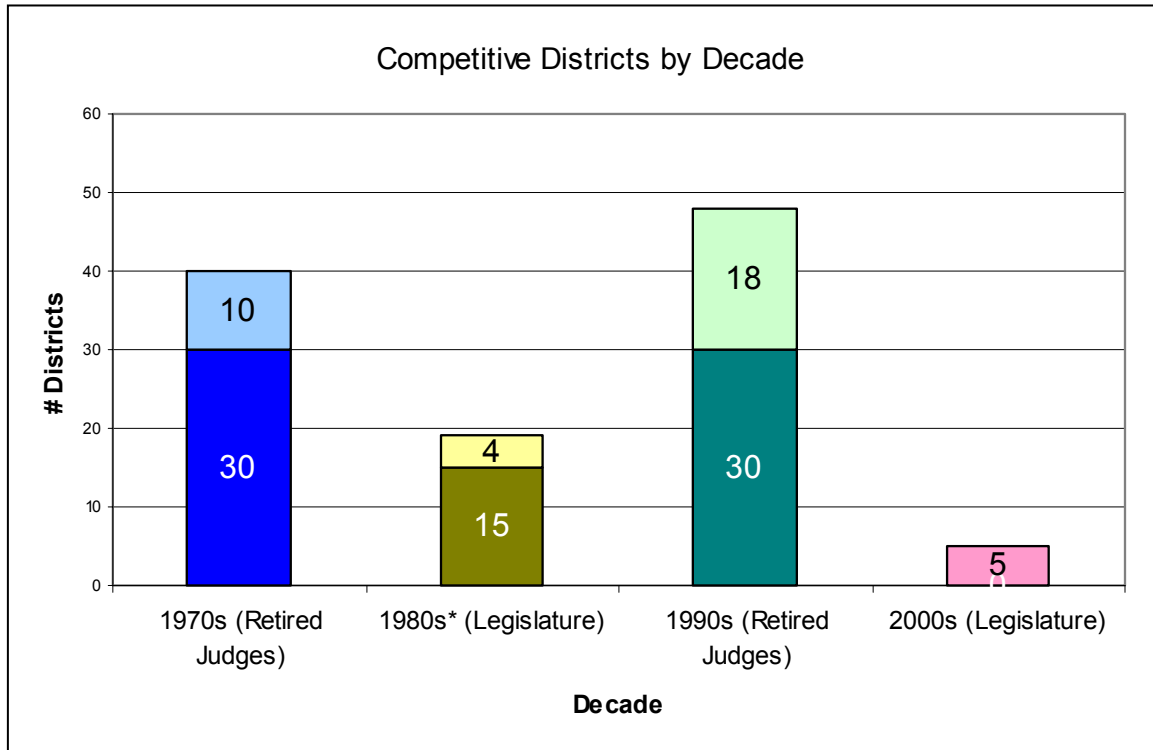


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Competitiveness

California provides a clear example of gerrymandering's impact. In 1973 and 1991, because the legislature and the governor deadlocked over redistricting plans, the Supreme Court drew the lines. In each case, the Court appointed panels of three retired judges, called Special Masters, who took the federal Voting Rights Act, population balancing, and community integrity into consideration. Neither group of Special Masters considered competitiveness as a criterion, yet both drew significantly more competitive plans than the legislature had when it drew the lines in the 1980s and in 2001:



The dark bars with white numbers represent the "Highly Competitive" districts that elected a Democrat one year and a Republican in another year during the same decade (zero in 2000s). The light bars with black numbers represent additional districts that were competitive in each plan, meaning either the average margin between the first and second place candidates in each election was under ten percent, or more than half of the elections in that district were decided by less than ten percent.

Target: 2006

This would not be California's first, or even most recent, mid-decade redistricting. Court decisions in the 1960s and 1970s resulted in mid-decade redistrictings, and a 1982 voter referendum forced redrawing of that decade's lines for the 1984 elections. In fact, the 1990s was the only decade of the previous four that California did not experience a mid-decade redistricting.

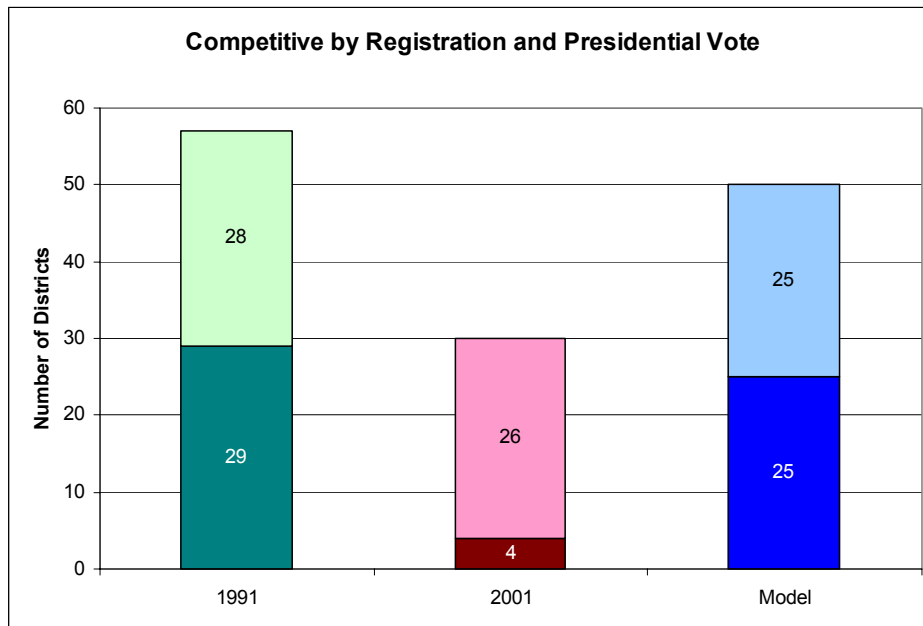
Proposition 77 calls for an immediate redistricting, before the 2006 election. Numerous commentators have expressed concerns that this timeline cannot be met. Using the dates set by Proposition 77, along with an election timeline distributed by the California

Association of Clerks and Election Officials, this report concludes that while the schedule would be extremely tight, it is possible that the new districts could be ready for the 2006 primary and general elections. The hardships imposed by this timeline are significant, but it is our opinion that they could be overcome to implement the voters' will if Proposition 77 is adopted. Should any notable delay arise, whether from counting the votes in November, from court injunctions, or anything else, new districts would not be available for use until the 2008 election.

Competitiveness of Proposition 77 Districts

Closely following the rules prescribed by Proposition 77, and repeating the methodology used by the retired judges in the past, the Institute examined the likely changes to California's Congressional, Assembly, and State Senate districts. This research predicts a major increase in competitiveness. Using the 2000 Presidential vote as a measure, this research predicts nine new competitive Congressional districts; the number of safe Democratic seats will likely decline by six and the number of safe Republican seats will likely decline by three. In the Assembly, four new competitive seats are likely to appear, drawn from what were three safe Democratic seats and one safe Republican seat. In the State Senate, five new competitive seats would likely result, drawn from what were three safe Democratic seats and two safe Republican seats.

It is worth noting that different measures of competitiveness can yield notably different results, and the "competitive" conclusions reached here assume each district is an open seat. Districts currently occupied by long-term incumbents are likely to remain considerably safer until those incumbents depart, although term limits ensures most state legislative seats will be open seats at least once before the districts are redrawn again in 2011.



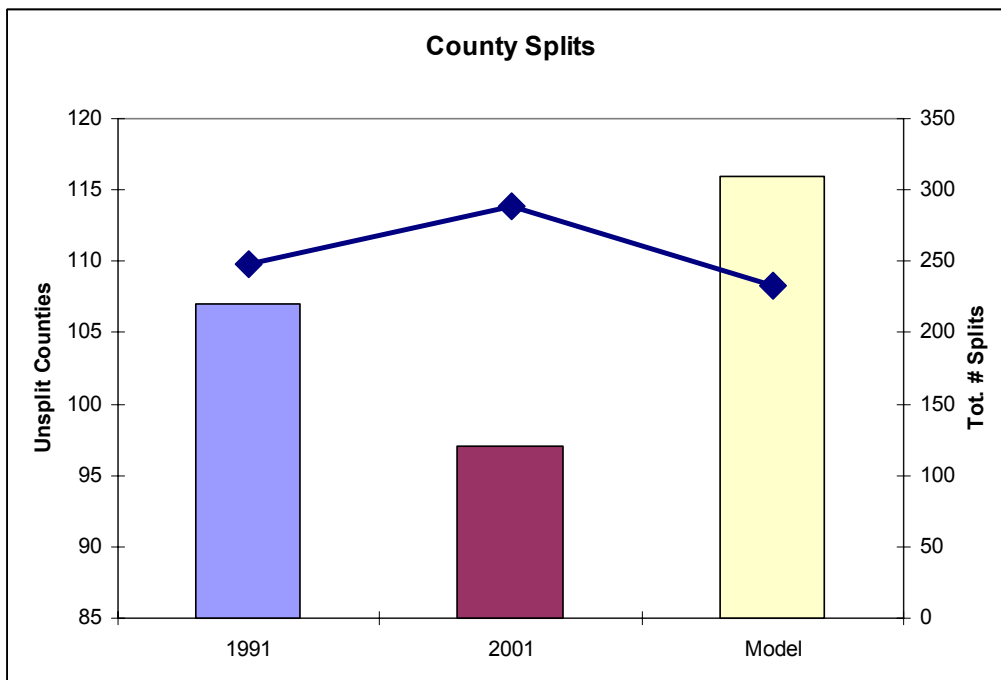
In the chart above the light columns (with black numbers) show the combined total of Assembly, State Senate, and Congressional districts that met either the Presidential vote or voter registration competitiveness test used in this report, but not both tests. The dark columns (with white numbers) show the combined number of districts that qualified as "highly competitive" because they met both competitiveness measures.

We found that the number of highly competitive Congressional districts is expected to increase to ten, from zero in the 2001 plan. The number of competitive Assembly districts is likely to increase by four, for a total of seven, and the number of competitive State Senate seats is expected to increase by seven, for a total of eight.

These likely new districts reduce the number of safe Democratic and safe Republican districts in equal numbers. In the Congressional plan we expect the ten highly competitive districts will reduce the number of safe Democratic districts by five and safe Republican districts by five; in the Assembly, the four new competitive districts reduce the number of safe Democratic districts by two and safe Republican districts by two; and in the State Senate the seven competitive districts reduce the number of safe Democratic districts by four and safe Republican districts by three.

Community Unification under Proposition 77

This report also predicts significant increases in the number of unified communities as represented by undivided counties. The numbers given are the total number of unsplit counties combined for the Assembly, State Senate, and Congressional plans. For example, in the 2001 plans 31 counties are unsplit in the Assembly districts, 33 in the State Senate and 33 in the Congressional districts, for a total of 97.



The Voting Rights Act and Election of Ethnic Minorities

The Voting Rights Act guarantees the election opportunities for "protected classes," which in California redistricting usually means Latinos, Asian Americans, and African

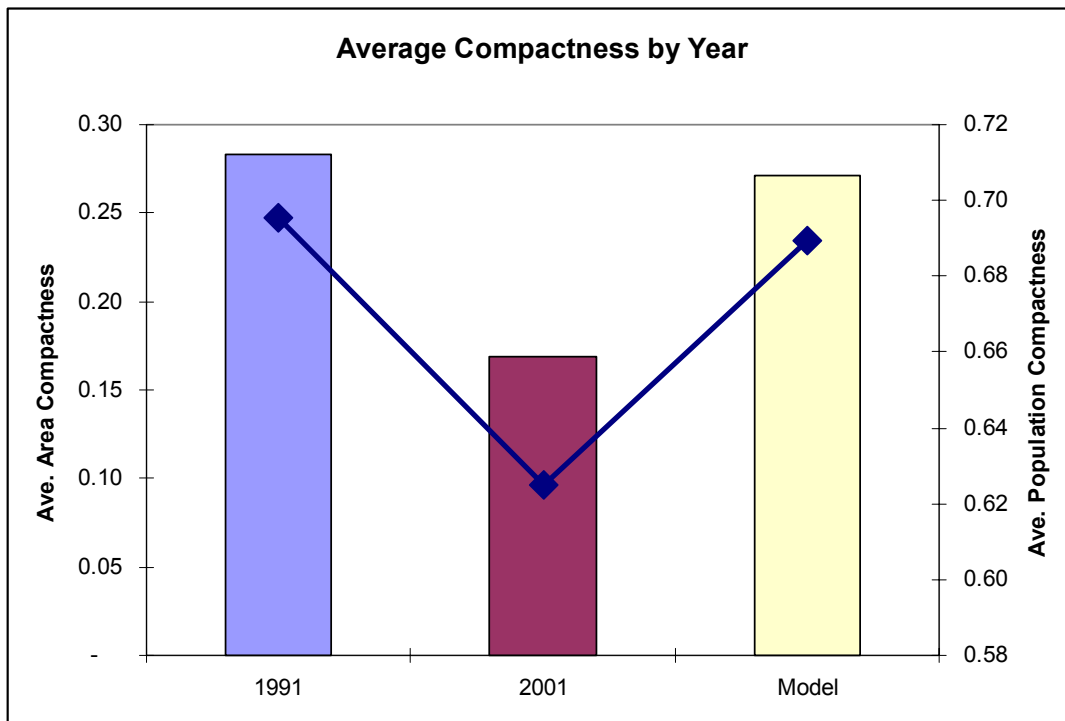
Americans. The 2001 gerrymander controversially divided Latino communities, in particular in the San Fernando Valley area of Los Angeles and in San Diego. This questionable division of Latino communities is unlikely to be repeated by the retired judges proposed in Proposition 77. This assertion is based on two compelling arguments: first, in the past the retired judges put primary emphasis on compliance with the Voting Rights Act; and second, retired judges lack the personal ambition and self-interest that drove the incumbents in 2001 to intentionally divide up Latino communities.

Our findings suggest that three Congressional Districts are likely to see notable increases in their ethnic populations over the current figures. In the San Francisco Bay Area, Congressional District 13 (CD 13) is likely to increase from its current 30 percent Asian American voting age (18-plus) population to 35 percent. In Southern California, Proposition 77 is likely to create two new majority-Latino voting age population (VAP) districts. The first is in the San Fernando Valley, in current CD 28, which is likely to increase from 49 percent Latino VAP to 66 percent. The second is in San Diego, where the retired judges are likely to unite the heavily Latino "Barrio Logan" neighborhood of San Diego with currently neighboring CD 50, increasing its Latino VAP from 49 percent to 56 percent.

The number of Assembly and State Senate districts likely to be controlled by Latino, African American and/or Asian American voters is unlikely to change from their current numbers. The number of Congressional Districts likely to elect African Americans is also unlikely to change.

District Compactness

Under both geography-based and population-dispersion measurements, overall compactness is expected to increase significantly under Proposition 77:



Districts drawn by independent bodies, whether retired judges under Proposition 77 or bipartisan commissioners under other states' reforms, are extremely unlikely to include the necks, arms, and notches used by incumbents to remove past and potential challengers from their districts and to meet the other personal issues and ambitions of incumbents and party leaders.

Non-compact, uncompetitive districts are the symptoms of gerrymandering abuses. The real cancer caused by this abuse of the redistricting power has deeper impacts:

- Voter apathy resulting from predetermined general election results.
- A decline in candidate quality as candidate recruitment loses importance in guaranteed-win districts.
- The carving up of grassroots political organizations among districts, resulting in increased voter apathy, as it reduces to near-impossibility the opportunity to organize local voters to influence elections.
- An increased reliance on campaign mail (and the money to create and send it) and television advertising as communities are divided and local organizations sliced and diced among districts.
- Reduced attention to the concerns of communities as their voters are divided among districts and their power to influence any elected official's election is diminished.
- Contact and communication between elected officials and their constituents lessen as the incentive for elected officials to keep in personal contact with voters is reduced.
- Reduced opportunities for California's rapidly growing Asian American and Latino populations to elect additional members of their communities to state legislative and Congressional office.
- Reduced opportunities to increase the number of women in California's Congressional delegation (currently 19 out of 53 California Representatives are women), although term limits mitigate this impact in the Assembly and State Senate.
- A fundamental erosion in our traditional representative system where candidates first organize locally (for school board or similar office), then organize at the city level, then county, then state legislative and congressional campaigns; in a gerrymandered situation, those local bases can be sliced and diced, which greatly reduces the role and influence in local elections of past local involvement

Conclusion

Here in California, the need for reform is clear and almost universally acknowledged. The 2001 gerrymander is likely to live on as a lesson in the abuses that can occur when incumbents are in control, exemplified here by California's "Ribbon of Shame," CD 23.

If enacted by voters this November, Proposition 77 is likely to create significantly more competitive districts. Proposition 77 is also likely to create more districts with Latino majority voting age populations, fewer divisions of counties and cities by district lines, and more compact districts.

A number of other states are also pursuing redistricting reform proposals. A vote to approve or reject Proposition 77 (and the similar reform expected to be on the Ohio ballot the same day) will have a direct impact on future reform efforts nation-wide.

CA CD 23 – the "Ribbon of Shame"

