

STATEMENT ON THE CALIFORNIA INITIATIVE

TO ESTABLISH A

REAPPORTIONMENT COMMISSION

CALIFORNIA ADVISORY COMMITTEE

TO THE

U.S. COMMISSION ON CIVIL RIGHTS

SEPTEMBER 1982

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LETTER OF TRANSMITTAL

California Advisory Committee to the
U.S. Commission on Civil Rights
September 1982

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The California Advisory Committee submits this statement as part of its responsibility to advise the Commission about civil rights issues within the State.

Since the 1970's, the Committee has studied legislative reapportionment and its affect on political participation and representation of California's racial/ethnic minorities. In this statement, the Committee concludes that the establishment of a State redistricting commission will hinder minority group access to the reapportionment process.

This statement is released in an effort to inform the California electorate about issues concerning the initiative.

Sincerely,

MAURICE B. MITCHELL
Chair
California State Advisory Committee

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STATEMENT ON THE CALIFORNIA INITIATIVE
TO ESTABLISH A REAPPORTIONMENT COMMISSION

INTRODUCTION

In November 1982, California voters will decide whether the State Constitution should be amended to remove the California Legislature's power to reapportion Congressional, State Senate, Assembly, and Board of Equalization districts following each Federal census. This proposed amendment, sponsored by Common Cause and the Republican Party, would give the authority to apportion voting districts to a bipartisan, independent commission.¹ The campaign to qualify this initiative for the ballot began shortly after the 1981 release of Congressional, Senate, and Assembly redistricting plans by the State Legislature.

The California Advisory Committee to the United States Commission on Civil Rights has studied reapportionment of voting districts in California and its relationship to political participation of racial/ethnic minorities. Following the 1970 census, the Advisory Committee began a two-year study on political access for Mexican Americans in State and local governments. The Committee examined reapportionment, voter

rights, appointments to government positions, and influence in political parties.

In spite of growing numbers of Hispanics in the State, the Committee noted that Hispanics were almost completely absent from State and Federal elective offices. In 1970, Hispanics held less than two percent of the elected positions in the State Legislature and the California Congressional delegation.² Further:

In California's three largest cities combined--Los Angeles, San Francisco, San Diego--there was only one Mexican American among the top 90 officials--mayors, councilmen, etc. Los Angeles, with more than one-half million Mexican Americans in its population of 2.8 million, had no Mexican American officials in high office.³

In two reports issued in 1971 and 1972, the Advisory Committee found that gerrymandering of voting districts was a principal cause for the lack of Hispanic representation in decision-making bodies of government. Legislative members had protected their offices by drawing district lines to insure their re-elections. One way they accomplished this was to splinter Hispanic neighborhoods into several districts. As a result, Hispanics were deprived of the ability to form a voting bloc which could elect representatives from their communities.⁴

The Committee concluded that many of the social and economic problems facing Hispanics resulted from their lack of political power. It charged that the California Legislature and the City Council in Los Angeles were "self-perpetuating" institutions which would continue to exclude minorities. Viewing legislative reapportionment as an inherent conflict of interest, the Committee recommended in 1971 and 1972 that the power to reapportion be given to special commissions.⁵

REAPPORTIONMENT IN THE 1980'S

Representation of minorities in political offices has changed little since the 1970's. In 1980, approximately eight million, or 33 percent, of the State's population was Asian, Black, Hispanic, and Native American.⁶ Yet in 1982, there are only 23 minorities, 14.1 percent, in the 163 State Legislature and Congressional offices.

In August 1981, the California Advisory Committee held a fact-finding meeting in Sacramento to review reapportionment by the State Legislature. In its subsequent report, Access to Political Representation: Legislative Reapportionment in California (May 1982),⁷ the Committee noted the view of community participants that gerrymandering in the 1970's had deprived minor-

ities of opportunities to exert voter influence commensurate with their population numbers.

At the fact-finding meeting, one researcher described in detail the practice of gerrymandering and the severe consequences this practice has on political participation.⁸ While State legislative officials agreed that gerrymandering occurred in the past, they told the Advisory Committee that the California Legislature was presently committed to equitable reapportionment for all racial/ethnic groups.⁹

The Advisory Committee found several new developments in 1981 redistricting. The elections and reapportionment committees of the Senate and Assembly held statewide hearings for the purpose of receiving public input. At these proceedings, minority group advocates were active community participants.¹⁰

The Advisory Committee concluded that extensive public input was an essential part of reapportionment, helping to insure that redistricting was guided by public interest factors. 11

In 1981, Dr. Alan Heslop, director of the Rose Institute of State and Local Government, Claremont, California, stated:

The indictment was made [in the 1970's] that redistricting had become a process whereby politicians had too much power, power to stack themselves up, pack themselves in, and remove themselves from public opinion.¹²

He recommended that public scrutiny would cure the problems of political power:

This is a process where all of us have an interest in the outcome and therefore all groups have a right to be heard. All sorts of groups are beginning to be active in the reapportionment process. The process is properly a public one. It's one that can be opened up and, as a result of some sunlight shed on it, improved.¹³

While the Advisory Committee stated that legislative hearings in 1981 were the beginning of a more open process, it criticized legislative procedures. The majority of these hearings occurred before, instead of after, the State's proposed redistricting plans were publicly released. Public testimony was limited to presenting expectations about redistricting and model plans without the benefit of legislative proposals. Minority advocates said that community input was further devalued by legislators who charged minorities with presenting plans that were politically biased.¹⁴

The Advisory Committee recommended that the Legislature provide for effective public input by adopting rules and procedures allowing the public to review legislative plans after they are proposed, but before they are adopted. The Committee also urged the Legislature to establish a citizens advisory committee to assist it in receiving and analyzing information from State constituencies.¹⁵

Following the release of the Legislature's reapportionment plans in 1981, Blacks, Asians and Hispanics supported the Assembly and Congressional plans. However, Hispanic groups assailed the Senate for dividing Hispanic communities in its plan in an effort to increase support for incumbents.¹⁶

The Advisory Committee's 1982 report did not recommend that the power to reapportion be removed from the Legislature and turned over to an independent commission. At its Sacramento meeting, few participants advocated the establishment of a State reapportionment commission, pointing out that appointees were less accountable to the public than elected officials.

In May 1982, the California Advisory Committee held a second fact-finding meeting in Los Angeles on reapportionment of Los Angeles City Council and School

Board districts.¹⁷ Minority group representatives again expressed concern that forming commissions to conduct reapportionment would limit opportunities for the public to affect redistricting decisions. One participant commented on Hispanic political participation:

As a result of political organization, the Latino community was able to extract concessions from the Legislature in the [1981] Assembly and Congressional plans. [Since] this reapportionment, which [Hispanics] perceive as being more fair and equitable than 10 years ago, 40 Latinos have filed for State and Congressional offices. Around seven of these candidates are Latino women.¹⁸

Following these meetings, the Advisory Committee concluded that the greatest potential for equitable redistricting existed with legislative bodies.

THE REDISTRICTING COMMISSION CONTROVERSY

The Politics of Reapportionment

For many years, the U.S. Supreme Court refused to rule in cases challenging redistricting by legislatures, stating that the issue was a "political question." This position was abandoned in a series of Supreme Court decisions beginning in the 1960's which established the doctrine of "one-man, one-vote."¹⁹ Under this doctrine, States are required to provide

fair representation to citizens by recreating election districts of relatively equal population based on U.S. Census decennial reports.

However, districts based on equality of population do not assure fair representation for all groups. As the California Advisory Committee learned in 1981, computer technology has allowed for sophisticated gerrymandering using precise equal population districts. Computers provide instant data on political party affiliation, voting patterns and racial/ethnic background of citizens within every census tract.²⁰

Since the 1800's, both major political parties have attempted to gerrymander voting districts to secure partisan advantage. Gerrymandering can prevent two-party competition because both parties lose the incentive to put up the best candidates. There are deleterious effects on the whole population. As one political observer commented to the Advisory Committee:

What is the incentive on the voter to participate in a district that is stacked or packed for the candidate of only one party? The outcome of the election in such a district is pre-determined. Nothing that voter does can change it. So, it is an unhappy consequence for voter participation. In

particular, this is true in the case of minorities. It can lead to a sense of alienation from the political process.²¹

Reapportionment Commissions

In all but 10 States, State legislatures conduct redistricting.²²

Since the 1970's, a national movement, spearheaded by the citizens' advocate group Common Cause, has sought to take redistricting away from legislatures and give this power to commissions.

Common Cause maintains that legislative gerrymandering shuts people out of the political process by decreasing competition. It believes that legislators, who have a vested interest in redistricting, cannot draw district lines in the public's interest.²³

Common Cause's approach requires that commissions draw districts following strict public interest standards. Its proposals forbid commissions to favor any political party, incumbent, or group, or to dilute the voting strength of any racial/ethnic or language minority group.²⁴

One argument against commissions is that any effective redistricting plan will provide for a degree of incumbent protection since continuity of represen-

tation is in the public's interest. The creation of voting districts is an inherently political process and proposals for nonpartisan redistricting merely cover up line-drawing politics.²⁵

Another argument is that legislatures are better able to produce districting plans that promise "community of interest." No one is more expert than individual legislators to judge the characteristics and needs of their districts. Non-legislative redistricting could render effective representation impossible by putting groups with conflicting interests together.²⁶

The Situation in California

Sophisticated gerrymandering in California began after the 1950 census, when the Republican majority in the Legislature became concerned about the massive migration of Democrats into the State. By 1960, Democrats controlled the Legislature and conducted their own gerrymandering. Oddly-shaped districts to protect both Democratic and Republican incumbents became more prevalent during the 1971 reapportionment. For example, one proposed district featured two sections which were connected by a corridor the width of a street, and another divided more than a dozen cities.²⁷

By 1972, the Democratic-controlled Legislature and the Governor, a Republican, were unable to agree on a redistricting plan, so State officials asked the California Supreme Court to take charge of the process. The court appointed three "special masters", all retired judges, to draw up a plan for California's Assembly, Senate and Congressional districts. In 1973, the State Supreme Court announced the special masters' plan.²⁸ Despite its being the first nonpartisan plan in California's history, the court's plan did not result in a significant increase of minority representation in the Legislature.

In September 1981, the Democratic-controlled State Senate and Assembly Elections and Reapportionment Committees unveiled their 1980 decade reapportionment plans for California's Senate and Assembly districts, and the State's 45-member Congressional delegation. These bills were adopted by the Legislature and signed into law by the Governor in 1981.²⁹

State Republicans immediately challenged the new redistricting plans, contending these plans unfairly favored Democratic political power for the next ten years and beyond. By December 1981, Republicans had obtained enough signatures to qualify referendums for

the June 1981 ballot in order to let State voters decide whether or not the 1981 Senate, Assembly and Congressional plans should remain in effect.³⁰ Despite support of these plans by minority group organizations, California voters overturned all three of the Legislature's plans in June 1982.

Following the June elections, the California Republican Party and Common Cause were able to qualify an initiative for the November 1982 ballot to turn State reapportionment over to a 10-member reapportionment commission. (See Appendix.)

Initiative proponents claim that Californians demonstrated their opposition to the present system of reapportionment by rejecting the Legislature's plans. They also contend the commission system will end legislative gerrymandering which favors one party over another.³¹

The commission in California, theoretically, would have no partisan bias. It would be composed of four members appointed by the major party caucuses of the Senate and Assembly (two representatives from each party in the Senate and Assembly); two members each appointed by the Democratic and Republican Party chairpersons; and four "politically independent" members selected by a panel of senior appellate court justices.

Under terms of the proposed amendment, any reapportionment plan would require seven votes, including those of at least three of the four court appointees and at least one member of each political party. In effect, this would give either major party veto power over a plan. Should the Commission deadlock, the State Supreme Court could have authority over drawing a plan.

Walter Zelman, executive director of California Common Cause, emphasized that the initiative is an attempt to make reapportionment a "fair fight." While acknowledging that commissions in other States have flaws, he blamed their limitations largely on their compositions which have created political pressures or bias. For example, some commissions are composed of a handful of State executives. Other commissions have unequal numbers of major party members, while still others have equal numbers of Democrats and Republicans with one "tie-breaker." The proposed California commission avoids these problems by its sizeable number of politically-independent members and its equal numbers of Democrats and Republicans.³²

Mr. Zelman believes that minorities will benefit from a commission system. He agreed that the State Legislature was more sympathetic to minority communi-

ties in 1981 redistricting than it had ever been, but he credited this to several individuals in the Assembly who are members of minority groups.³³

He pointed out that the ballot initiative calls for court appointees to be chosen on the basis of racial/ethnic, geographic and political diversity, with race/ethnicity at the top of this list. Another advantage for minority groups is the requirement in the proposed amendment that the commission's districting plan shall "provide for fair and effective representation for all citizens of the State, including racial, ethnic and language minorities."³⁴ Mr. Zelman added that minorities do not have the latter guarantee under State constitutional redistricting standards. Also, unlike legislative procedures in 1981, the commission would be mandated to hold public hearings after it has presented a proposed plan.³⁵

Dr. Tirso del Junco, chair of the California Republican Party, argued that a commission would not provide the solution to all problems concerning redistricting, but that "whatever will come out [of a commission system] will be better." He said that legislators are not more accountable than commissioners because they can immunize themselves from public opinion by gerrymandering to secure their incumbency.³⁶

State Democrats urge that the Republicans' success in persuading California voters to reject the Legislature's 1981 plans does not signify that legislative redistricting is unworkable. The United States' system of government is based on a separation of powers, and reapportionment has historically been a legislative function. Further, reapportionment commissions in other States have not been effective because they have not been able to act independently.³⁷ State Assemblyman Richard Alatorre told the California Advisory Committee at its Sacramento meeting:

There is no such thing as an independent commission. The fact is that somebody makes the appointment of people, and appointees are ultimately going to reflect the particular political or philosophical persuasion of the individual who makes the appointment. There is no such thing as an objective body. If you talk about the courts, the courts are not objective. If you talk about elected representatives, they are not objective. If you talk about business or the private sector, they are not objective.³⁸

Ed Salzman, editor of the California Journal, criticized the State initiative:

Who might be named to the four independent posts? How many Californians qualify as "practical, politically independent and knowledgeable?" Besides, how many Californians who are expert on the

subject are also politically independent? Someone who is politically naive will not be able to cope with the kind of partisan pressures that are built into the reapportionment issue. It will take a miracle of statesmanship to win agreement on such an issue from representatives of both parties. The only way such a deal can be cut is with a plan that guarantees reelection for the incumbents of both parties. And that is precisely what Common Cause did not have in mind.³⁹

According to Nancy Pelosi, chair of the State Democratic Party, the proposed structure of the commission may preclude the appointment of minorities and women. She stated that the likelihood that senior justices of the State appellate court will pick minorities and women to fill positions on the commission is small because all of these justices are White males.⁴⁰

Another criticism of the proposed commission in California is that this system is bound to produce a deadlock over agreement about a reapportionment plan (either party has veto power). The public process of redistricting will ultimately become "court redistricting" which will not be subject to voter referendum.⁴¹

Many participants at the Advisory Committee's meetings did not view the establishment of a commission as the solution to fair reapportionment because it is

difficult for a commission to be accountable to the public. Alan Heslop of the Rose Institute of State and Local Government commented:

I would not hold up too much hope for independent reapportionment commissions. Those that exist have acted generally in very political ways [and] their independence has been in serious question.⁴²

While the Advisory Committee received complaints about legislative closed-door negotiating and incumbent self-interest in Los Angeles and Sacramento, minority group representatives did not perceive a commission as opening up access to redistricting. Alan Kumamoto, who has worked with a cross-section of Asian groups in Los Angeles on reapportionment, expressed the views of most presentors that minorities "have as much access to [redistricting] that includes elected officials as to some independent commission that might be politically empowered."⁴³

Contrary to claims that a commission would increase public participation, some persons viewed it as closing off access. Dr. Richard Santillan expressed frustration over attempts to alter the process:

It's interesting that at a time [when] the Latino community has been developing a growing political base, political maturity [and] a much better understanding of how the system works, they're beginning

to change the rules of the game on us. When Latinos learned about applying pressure to legislative bodies, they want to put it into the hands of a very select group of people. And, naturally, that select group will not represent the interests of the minority community.⁴⁴

Dr. Santillan commented that proponents of the initiative "have not presented a good argument that there would be any Latino, Asian or minority representative on that commission, or in that process."⁴⁵

While condemning aspects of legislative redistricting, Dr. Santillan did not view a reapportionment commission as a viable alternative:

Special commissions in States where there are high minority populations have not led to an increase in minority elected officials. Their lack of accountability to the people puts them in a position where they do not have to listen to the public. Hopefully, if there is strong pressure from a number of groups, the Legislature will respond to those needs.⁴⁶

CONCLUSION

Abuses in legislative reapportionment result from placing incumbent and party goals ahead of public interest considerations. While the Advisory Committee urges reform of redistricting, it does not view a commission system as the solution to abuse. Removing reapportionment from legislative control will hinder public access to the process.

The California initiative to establish an "independent" commission is the result of dissatisfaction over the political outcome of the Legislature's 1981 redistricting plans. A commission would not erase political ambitions because reapportionment is a political process.

A commission structure would undermine community input and scrutiny, elements critical to public interest redistricting. Appointees are removed from direct public pressure because they are not elected. Thus, the need to respond to public constituencies is absent.

In the 1970's, the Advisory Committee perceived that a commission would provide equitable treatment of minority constituents. In that decade, minorities were unable to impact on redistricting decisions.

In 1981, the Advisory Committee found that minority group representatives were active participants during reapportionment. Political activity and population increases within minority communities signal a growing influence for minorities in politics and State Government in the 1980's. A commission system would jeopardize this development by giving control of the redistricting process to a handful of individuals.

The California Legislature demonstrated in 1981 that it could begin to be sensitive to redistricting concerns of minority groups when pressured to do so. The Advisory Committee supports reform within the Legislature.

¹A copy of this initiative, obtained from the California Common Cause office in Los Angeles, is contained in the Appendix. If the amendment is adopted by State voters, the commission could re-draw lines for State elections for the rest of the decade, starting in 1984.

²California State Advisory Committee to the U.S. Commission on Civil Rights, Political Participation of Mexican Americans in California (August 1971) (hereafter cited as 1971 Political Participation Report), pp. 3-4.

³California Advisory Committee to the U.S. Commission on Civil Rights, Report on the Reapportionment of Los Angeles' 15 City Councilmanic Districts (Sept. 7, 1972) (hereafter cited as 1972 Los Angeles Reapportionment Report), pp. 1-2.

⁴1971 Political Participation Report, pp. 9-11; 1972 Los Angeles Reapportionment Report, p. 11.

⁵Ibid.

⁶1980 U.S. Census, Regional Census Data Center, Southern California Association of Governments, Los Angeles.

⁷This report is hereafater cited as 1982 Political Representation Report. It contains summaries of statements received at the Committee's Sacramento meeting.

⁸1982 Political Representation Report, pp. 6-23.

⁹Ibid., pp. 64, 66.

¹⁰Ibid., pp. 151-152.

¹¹Ibid., p. 152.

¹²Ibid., pp. 14-15.

¹³Ibid., pp. 15-16.

¹⁴Ibid., pp. 29, 32, 34, 70, 76, 85, 88-87.

¹⁵Ibid., 152-153.

¹⁶Ibid., pp. 146-148.

¹⁷California Advisory Committee to the U.S. Commission on Civil Rights, fact-finding meeting on Los Angeles reapportionment, Los Angeles, California, May 26, 1982, transcript (hereafter cited as Los Angeles Transcript).

Out of the 15 Los Angeles City Council members in 1982, three are Black and 12 are White. The seven-member Los Angeles School Board is comprised of five Whites, one Black and one Asian. There are no Hispanics on either the City Council or School Board, no Asians on the City Council, and no minorities in Los Angeles County Board of Supervisor positions. The 1980 population data for Los Angeles City shows: 815,974 Hispanics (27.5 percent); 504,691 Blacks (17.0 percent); 196,002 Asian Pacific Islanders (6.6 percent); 16,594 Native Americans (0.6 percent); 1,432,735 Whites (48.3 percent); and 362 other (.01 percent) (telephone interview with John Fong, Los Angeles City, Department of City Planning, Jan. 27, 1982).

¹⁸Los Angeles Transcript, p. 8.

¹⁹The major decisions applying to legislative redistricting are:

Baker v. Carr, 369 U.S. 186 (1962) - Federal courts have jurisdiction to determine the fairness of State legislative reapportionment plans in order to assure to each voter the equal protection guaranteed by the 14th Amendment to the U.S. Constitution.

Reynolds v. Sims, 377 U.S. 533 (1964) - The "equal protection" guarantee of the 14th Amendment requires both houses of State legislatures to be selected so that all citizens receive fair and effective representation (held invalid State voting districts which had grossly disproportionate numbers of voters and said representation on a county-unit basis was unconstitutional).

Gaffney v. Cummings, 412 U.S. 735 (1973) - A State must make a good faith effort to construct voting districts which are equal in population, but some divergence from strict mathematical equality is permitted to protect incumbents and provide some sort of proportional representation between political parties.

In addition to the equal protection district rule, reapportionment plans must not discriminate against racial minorities. In White v. Regester, 412 U.S. 755 (1973), the U.S. Supreme Court ruled that no reapportionment plan can be approved which denies effective voting representation to any particular group. In this case, the court said multi-member districts created in several Texas counties were illegal because they diluted the voting power of Mexican Americans and Blacks.

20 1982 Political Representation Report, pp. 10-12.

21 Ibid., p. 20.

22 Rose Institute of State and Local Government, Claremont, California, California Redistricting (c. 1980), p. 249. The States which conduct reapportionment by commissions are Arkansas, Hawaii, Michigan, Missouri, Montana, New Jersey, Ohio and Pennsylvania. In Maryland, the governor controls redistricting, while commission/gubernatorial apportionment is found in Alaska.

23 California Common Cause, "Summary of Fair Reapportionment Initiative, Questions and Answers", June 1982.

24 Ibid.

25 Alan Heslop, Rose Institute of State and Local Government, Claremont, California, Redistricting: Shaping Government for a Decade (c. 1980), p. 24.

26 Ibid.

27 Rose Institute, California Redistricting, pp. 113-122; 1982 Political Representation Report, pp. 9-12.

28 Legislature of State of California v. Reinecke, 10 Cal.3d 396 (1973).

29 1981 Cal. Stats., chs. 535, 536, 537.

30 On January 28, 1982, the California Supreme Court approved the 1981 reapportionment plan on a temporary basis, holding that equal protection guarantees compelled use of the new districts for the State's 1982 primary and general elections. But, the court decided that the Republican-sponsored referendums should be allowed on the June 1982 ballot. Assembly v. Deukmejian, 30 Cal.3d 638 (1982).

31 California Journal, "Ballot Proposition Analysis," November 1982; interview with Tirso del Junco, chair,

California Republican Party, Aug. 4, 1982 (hereafter cited as Del Junco Interview).

³²Interview, Aug. 5, 1982 (hereafter cited as Zelman Interview).

³³Ibid. Mr. Zelman was referring to Richard Alatorre, chair of the Assmby Elections and Reapportionment Committee, and Willie Brown, Speaker of the Assembly.

³⁴See the proposed amendment in the Appendix, art. IVA, Sec. 3(a).

³⁵Zelman Interview.

In its 1982 political representation report, the California Advisory Committee recommended that the California Legislature adopt an amendment to the State Constitution mandating the Legislature to observe racial/ethnic communities of interest during reapportionment. Present constitutional standards only require the Legislature to follow geographic and political subdivision boundaries. CAL. CONST. CODE, art. 21, Sec. 1 (West Supp. 1981). Community organization representatives at the Committee's 1981 Sacramento meeting defined minority "communities of interest" as cultural, social and economic characteristics which differentiate minority populations from non-minority residents.

³⁶Del Junco Interview.

³⁷Interview with Nancy Pelosi, chair, California Democratic Party, Aug. 24, 1982 (hereafter cited as Pelosi Interview); California Journal, "Ballot Analysis."

³⁸1982 Political Representation Report, pp. 68-69.

³⁹Los Angeles Daily Journal, "Will the GOP Leave Reapportionment to the Courts?", Aug. 5, 1982.

⁴⁰Pelosi Interview.

⁴¹Ibid.

⁴²1982 Political Representation Report, p. 15.

⁴³Los Angeles Transcript, p. 99.

⁴⁴Ibid., pp. 25-26.

⁴⁵Ibid., p. 25.

⁴⁶1982 Political Representation Report, pp. 81-82.

APPENDIX

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

REAPPORTIONMENT BY DISTRICTING COMMISSION OR SUPREME COURT. INITIATIVE CONSTITUTIONAL AMENDMENT. Repeals Legislature's power over reapportionment. Establishes Districting Commission. Commission given exclusive authority to specify State Senate, Assembly, Equalization Board, and Congressional district boundaries. Specifies criteria for establishing districts. Provides method of choosing Commissioners having designated qualifications selected by appellate court justice panel and political party representatives. Requires districting plans be adopted for 1984 elections and following each decennial census thereafter. Specifies Commission's duties and responsibilities. Provides for open meetings, procedures, public hearings, and judicial review. Retains referendum power. Requires Supreme Court action if districting plans not adopted within specified times. Fiscal impact on state and local governments: The Legislative Analyst and the Director of Finance advise that: the adoption of this initiative would result in one-time increased state costs of approximately \$3 million for the commission to develop a reapportionment plan for the 1984 through 1990 elections. Counties would incur one-time increased costs of approximately \$1 million to update precinct maps and related election materials following the adoption of the commission's 1984 reapportionment plan. There would be no ongoing net cost increases to either the state or local governments because costs incurred by the commission would be offset by those normally incurred by the Legislature. There would be no impact on state or local revenues.

APPENDIX cont'd

First — That Article IV A is added to read:

ARTICLE IV A

DISTRICTING OF STATE SENATE, ASSEMBLY AND BOARD OF EQUALIZATION AND UNITED STATES HOUSE OF REPRESENTATIVES

SEC. 1. Except as provided in this article, the sole and exclusive authority to specify the boundaries of districts for the State Senate, Assembly, Board of Equalization and the United States House of Representatives for California is vested in the Districting Commission established by this article.

SEC. 2. The Districting Commission shall adopt two districting plans, one for the State Senate, Assembly and Board of Equalization, and one for the United States House of Representatives.

SEC. 3.

(a) Each districting plan shall provide fair and effective representation for all citizens of the State, including racial, ethnic and language minorities, and for political parties. The Commission shall endeavor to maintain identifiable communities of interest, promote competition for elective office, and facilitate individual and group political activity.

(b) Each State Senate district shall be composed of two Assembly districts and each Board of Equalization district shall be composed of ten Senate districts.

(c) Districts shall be single member.

(d) Districts shall be composed of convenient contiguous territory with reasonable access between population centers in the district.

(e) State legislative districts shall not vary in population more than one percent from the average district population based on the decennial census, except that they may vary up to two percent if necessary to accomplish the objectives and standards of this section.

(f) Congressional districts shall have populations which are as nearly equal as practicable.

(g) State Senate districts with the greatest percentage of population from currently even-numbered districts shall be given even numbers and those districts with the greatest percentage from currently odd-numbered districts shall be given odd numbers, except to ensure an equal number of even- and odd-numbered districts. There shall not be a lapse of representation for a district because of district numbering.

(h) To the extent consistent with the objectives and standards set forth in paragraphs (a) through (g) of this section, and insofar as practical, in the Commission's judgment, districts shall:

- (1) Be geographically compact; populous contiguous territory shall not be bypassed to reach distant populous areas;
- (2) Minimize the division of counties and cities;
- (3) Not cross any common county boundary more than once;
- (4) Not be created so that a county contains a majority of the population of more districts plus one than the number of whole districts to which it would be entitled;
- (5) Minimize the division of geographic regions in California; and
- (6) Be comprised of whole census tracts.

SEC. 4. Members of the Districting Commission shall be chosen for the term of the Commission in the year of the decennial census.

(a) A chairperson and three other members shall be appointed by December 31 by a panel of seven justices of the California Court of Appeal, by a two-thirds vote.

(1) The panel shall be selected in order of seniority, beginning with presiding justices by date of appointment to that office, and then associate justices by date of appointment. No more than four shall have been registered as affiliated with the same political party at the time of appointment to the Court of Appeal.

(2) The panel shall appoint, to the extent practical, knowledgeable, politically independent women and men who will give the Commission geographic, social and ethnic diversity. If the justices appoint a person registered to vote within the last three years as affiliated with a political party referred to in paragraphs (b) or (c) of this section, they shall appoint an equal number of persons registered as affiliated with the other of those parties. Appointees shall not hold or have held partisan public or party office within the previous five years.

(b) Three members shall be appointed between December 10 and December 20 by representatives of the political party with which the largest number of persons registered to vote were affiliated at the time of the last statewide election, as follows:

- (1) One member by the members of the State Assembly, and one member by the members of the State Senate, registered to vote as affiliated with the party at the date of their nomination.
- (2) One member, not a state legislator, appointed by the state chairman of the party, with the approval of the party's executive committee.

(c) Three members shall be appointed between December 10 and December 20 by representatives of the political party with which the second largest number of persons registered to vote were affiliated at the time of the last statewide election, as follows:

- (1) One member by the members of the State Assembly, and one member by the members of the State Senate, registered to vote as affiliated with the party at the date of their nomination.
- (2) One member, not a state legislator, appointed by the state chairman of the party, with the approval of the party's executive committee.

(d) If persons belonging to any other political party have 10% of the membership of the State Legislature, one additional member may be appointed by the state legislators belonging to that party between December 10 and December 20.

(e) Each member of the Commission shall be registered to vote in California.

(f) Vacancies shall be filled by the body that made the previous appointment in the manner required by this section.

(g) Failure to have one or more members appointed under sections (b) and/or (c) shall not affect the power of the Commission to adopt plans.

SEC. 5.

(a) The Commission shall adopt rules and regulations to fulfill its responsibilities under this article. Commission meetings shall be open to the public. Commission records, data and plans shall be available to the public.

(c) All action by the Commission shall require approval by a recorded roll call vote of two-thirds of the appointed members, except as otherwise provided in this article.

(d) The Commission shall employ needed staff, consultants and services. The Executive Director must be selected by the vote required to adopt a plan. Members appointed pursuant to sections 4(a), (b) and (c) shall each be allocated sufficient equal budgets to select staffs responsible to them. These staffs shall have equal access to the policy discussions and decisions of the Commission and to all data compiled and systems used by the Commission.

(e) The Secretary of State shall collect and maintain data necessary to carry out the purposes of this article and provide it to the Commission and, for a reasonable fee, to other interested persons.

SEC. 6.

(a) A Commission shall initially be appointed by December 31, 1982. Appointments made under sections 4(b), (c) and (d) shall be made by December 20, 1982 and under section 4(a) by December 31, 1982. The Commission shall adopt districting plans for the 1984 through 1990 elections based on the 1980 decennial census and shall remain in existence until there are final plans for those elections.

(b) Thereafter a Commission shall be appointed in the year of each decennial census. It shall adopt districting plans based on that census and shall remain in existence until there are final plans for that decade.

(c) The Commission shall:

- (1) Adopt regulations that further define the objectives and standards for plans.
- (2) Establish geographic regions for districting purposes based on major geographical, urban and rural divisions in California.
- (3) Hold public hearings throughout the state on proposed plans, including at least two hearings prior to the adoption of plans when those plans are in substantially final form.
- (4) Adopt final plans by October 1 of the year following appointment of the Commission, or 180 days after receipt of necessary census data, whichever is later.
- (5) Provide written findings and reasons for adoption of plans.

(d) Plans must be adopted by a recorded roll call vote of two-thirds of the appointed members of the Commission, including at least three votes from members appointed pursuant to section 4(a), one vote from any member appointed pursuant to section 4(b), and one vote from any member appointed pursuant to section 4(c).

SEC. 7.

(a) An adopted districting plan shall take effect for the first direct primary following expiration of the period for judicial review and referendum. If that expiration date is later than February 1 of the year of a direct primary, the plan shall take effect for the next following direct primary. Plans shall be effective for the rest of the decade.

(b) An adopted districting plan shall have the full effect of a statute. The plan's adoption date shall be deemed to be the enactment date of a statute. The plan shall be published in the Statutes of California.

(c) Any statute adopted by the Legislature fixing boundaries for districts covered by a plan shall be void.

SEC. 8.

(a) A plan shall not be subject to repeal or amendment by the Legislature.

(b) A plan adopted by the Commission is subject to referendum under the same requirements and procedures applicable to statutes.

(c) When a referendum petition is certified as adequate by the Secretary of State, the California Supreme Court shall order the next primary and general election to be held in the existing districts, or adopt an interim plan subject to the requirements of Section 9(b) and (c).

SEC. 9.

(a) The California Supreme Court shall have original and exclusive jurisdiction to review a plan adopted by the Commission. A petition for mandamus or other review may be filed by a resident of the state within 45 days after the adoption of the plan.

(b) The Supreme Court shall adopt a districting plan within 60 days, in accordance with the objectives and standards set forth in section 3, if:

- (1) The Commission has been unable to adopt a plan by October 1 of the year before a direct primary, or 180 days after receipt of necessary census data, whichever is later;
- (2) A plan adopted by the Commission has been rejected by the voters; or
- (3) A plan adopted by the Commission is finally adjudicated as unconstitutional or in violation of federal statute.

(c) The Supreme Court shall use the Commission with its staff, if at all possible, as its special masters.

SEC. 10. Commission members and staff shall not hold, or be eligible for election to, any state elective office whose district boundaries have been adopted by the Commission for four years from the date the Commission convenes, except those members who are members of the State Legislature at the time of their appointment.

SEC. 11.

(a) The Legislature shall appropriate funds to the Districting Commission and to the Secretary of State adequate to carry out their duties under this article.

(b) Each Commission member who is not an elected state official shall receive monthly compensation equal to the salary of a member of the State Legislature, except during months in which the Commission is not active.

SEC. 12. If any part of this article or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.

Second — That Article XXI is repealed.

Third — That Section 1 of Article IV is amended to read:

SEC. 1. Except as provided in Article IV A, the legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum.

Fourth — That Section 6 of Article IV is amended to read:

SEC. 6. For the purpose of electing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts as specified in the districting plan adopted under Article IV A. One member shall be elected from each district. The Senatorial districts shall be numbered from one to 40, and the Assembly districts shall be numbered from one to 80, in each case commencing at the northern boundary of the State.

Fifth — That Section 17 of Article VI is amended to read:

SEC. 17. A judge of a court of record may not practice law and during the term for which the judge was selected is ineligible for public employment or public office other than judicial employment, judicial office, or service on a selection panel as provided for in Section 4 of Article IV A. A judge of the superior or municipal court may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive fines or fees for personal use.