

## **Model State Redistricting Law**

The California Fair Redistricting Act is a model law available for legislators and interested citizens addressing redistricting concerns at the state level. The Model Law has been drafted as suitable for inclusion in legislation or ballot measures. Although this model law was drafted for California, it may be used as a resource for reformers in all 50 states.

The Model Redistricting Law was a collaborative effort among a number of California public interest organizations, including Asian Pacific American Legal Center, California Common Cause, California League of Women Voters, Center for Governmental Studies and Dēmos.

### **IMPLEMENTING PROVISIONS FOR CALIFORNIA**

- (1) Article XXI of the California Constitution is repealed.
- (2) Article XXI is added thereto, to read as follows:

### **THE CALIFORNIA FAIR REDISTRICTING ACT**

#### **FINDINGS AND DECLARATIONS**

The people of the state of California hereby find and declare that fair political representation requires an end to the practice of partisan gerrymandering, whereby congressional and legislative districts are purposefully drawn to favor one political party over another, and the practice of bi-partisan incumbent protection, where incumbents protect their seats by drawing “safe” districts; that voters are more likely to participate when they feel that their vote will count and that they have a reasonable chance of electing candidates who represent their interests; that more qualified candidates will participate in electoral politics if they have a reasonable chance of being elected to public office; and that the interests of the public are best served by the creation of an independent nonpartisan commission to oversee the mapping of fair and competitive congressional and legislative districts.

#### **A. APPOINTMENT AND COMPOSITION**

SECTION 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 United States Congress for California is vested in an Independent Redistricting Commission (“Commission”) established by this article.

SECTION 2. By January 8 of each year ending in the number one, the California Judicial Council shall establish a pool of retired federal and state judges, and of other citizens who have filed a public application indicating their willingness to serve, are qualified for appointment to the Commission and have an application on file with the Commission for public inspection. The pool of candidates shall consist of 36 nominees, evenly divided between judges and other citizens, with 12 nominees from

each of the two largest political parties in California based on party registration, and 12 who are not registered with either of the two largest political parties in California.

In addition, the Judicial Council shall assure that the men and women chosen for the pool of candidates shall be generally representative of the geographic, gender, racial and ethnic diversity of California and where feasible, shall be selected on the basis of civic involvement and/or knowledge of redistricting policy, or civil rights, or political science, or demographics or statistics, or elections expertise, or voting rights or law.

### SECTION 3.

(a) To be eligible to serve, appointees must be registered to vote in California at the time of appointment and have not changed their party affiliation in the preceding ten years.

(b) Individuals who have served in the preceding ten years as members of the State Legislature, Board of Equalization, United States Congress, or any other partisan office shall not be eligible to serve on the Commission.

(c) Individuals who have held any elected or appointed positions in any political party during the preceding ten years shall not be eligible to serve on the Commission.

(d) Individuals who are employed to lobby the state legislature or the United States Congress or have been registered with the state as a lobbyist in the previous five years shall not be eligible to serve on the Commission.

(e) A Commissioner, during his or her term of office, and for ten years thereafter, shall be ineligible for partisan public office in this state, or to serve in an elected or appointed position in any political party.

(f) A Commissioner, during his or her term of office, and for five years thereafter, shall be ineligible to register as a federal or state lobbyist.

SECTION 4. By February 1 of each year ending in the number one, the Commission shall be established to provide separate districting plans for the Senate, Assembly, Board of Equalization, and United States Congress.

SECTION 5. The Commissioners shall be chosen as follows:

(a) No later than four days before the deadline for appointment of the Commission, the Speaker of the Assembly, the Minority Leader of the Assembly, the President pro Tempore of the Senate, and the Minority Leader of the Senate are each entitled to exercise two preemptory challenges striking the name of any member of the pool.

(b) From the remaining nominees, the Chief Clerk of the Assembly shall then draw by lot three members of each of the state's largest political party, three members of the state's second largest political party, and three members who are not registered with either of the state's two largest political parties. The Commission shall be composed of four retired judges and five other citizens. If more than four of the nine Commissioners are retired judges or if more than five of the nine commissioners are citizens, who are not retired judges, the Chief Clerk of the Assembly shall randomly select and excuse prospective commissioners until (1)

there are four retired judges and five other citizens on the Commission and until (2) the overall partisan balance of the Commission equals three members of the largest political party, three members of the state's second largest political party and three members not representing either of the state's two largest political parties.

(c) If a vacancy occurs, the Chief Clerk shall immediately thereafter draw by lot from the original pool (excluding those whose names were struck) a replacement who satisfies the composition requirements for the panel under this subdivision.

SECTION 6. Each Commissioner shall be compensated at the rate of \$250 for each day they are involved in the conduct of the Commission's business, adjusted in accordance with the Consumer Price Index for the State of California as reported by the Division of Labor Standards or its successor agency. Each Commissioner shall be reimbursed for reasonable expenses incurred in the conduct of the Commission's business, including lodging and travel. The term of the Commissioner's service shall expire upon the filing of a plan with the Secretary of State and the exhaustion of any judicial appeals and the finalization of the plan.

## **B. TRANSPARENCY AND PUBLIC ACCOUNTABILITY**

SECTION 1. Meetings of the Commission shall be open and public in accordance with the Bagley-Keene Open Meeting Act, commencing with Section 11120 of Chapter 1 of Part 1 of Division 3 of the Government Code, or any successor act.

SECTION 2. All writings and documents prepared by or for the use of the Commission and Commission staff shall be deemed "public records" within the meaning of Government Code Section 6252 or any successor acts. All such public records shall be available for public inspection in accordance with the Public Records Act, commencing with Section 6250 of Chapter 3.5 of Division 7 of Title of the Government Code, or any successor act. The Commission shall make all submitted plans, including its initial plan and revised plans, hearing transcripts, meeting minutes, maps, narrative descriptions of proposed districts, and other data publicly available at a website it shall establish or in any other way that provides this information to the public. The Commission shall establish rules requiring that all submitted plans be made publicly available in a reasonable amount of time for the purpose of public comment.

SECTION 3. The vote to adopt the final plan shall require at least six recorded affirmative votes, including the vote of at least one Commission member not registered with either of the state's two largest political parties. All other actions taken by the Commission shall require a majority vote.

SECTION 4. The Commission shall establish a public schedule and deadline to receive and consider proposed plans from any Member of the Legislature or any elector. Any elector or group may submit a complete or partial plan.

SECTION 5. The Commission shall hold public hearings in no fewer than six different geographical regions of the State to consider redistricting plans. The public hearings shall be held before an initial set of maps is developed or selected, and again, after an initial plan for districts is selected by the Commission. The Commission shall seek input from independent experts to evaluate compliance with the criteria provision of this article. Additional public hearings shall be held if any significant revisions are made to the initial plan. Each public hearing shall be publicized at least 14 days prior to the date of the hearing. The Commission shall make redistricting data and mapmaking software available to the public at accessible locations.

SECTION 6. Members of the Commission shall be prohibited from all ex parte communications with members of the legislature, other elected officials, former elected officials, staff members and consultants to elected officials, candidates for office, representatives of political parties and registered lobbyists regarding the subject of redistricting. The Commission may adopt regulations adding other groups of individuals who shall be barred from engaging in ex parte communications.

### **C. CRITERIA**

SECTION 1. In the year following the year in which the decennial census is taken under the direction of Congress, the Districting Commission shall adopt separate districting plans for the Senate, Assembly, Board of Equalization, and United States House of Representatives.

#### SECTION 2.

(a) Each districting plan shall provide fair and effective representation for all citizens of the state, including racial, ethnic, and language minorities.

(b) Districts shall be drawn in accordance with all standards mandated by U.S. law, including but not limited to the Federal Voting Rights Act (42 U.S.C. §§1971 *et. seq.*) or any successor act.

(c) Districts shall be single member.

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

(e) Congressional, Senate, Assembly and Board of Equalization districts shall have populations which are as nearly equal as required by applicable federal constitutional standards as interpreted by the courts.

(f) For the purpose of electing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts. The Senatorial Districts shall be numbered from 1 to 40 and the Assembly districts shall be numbered from 1 to 80, in each case commencing at the northern boundary of the State.

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

(h) To the extent consistent with the objectives and standards set forth in paragraphs (a) through (g) of this section, the Commission shall adopt a plan which most nearly complies with the following additional standards, giving them priority in the order listed:

(1) The plan shall neither disperse nor concentrate minority populations in a manner that has an adverse effect on their political influence.

(2) The plan shall respect identifiable communities of interest.

- (3) The plan shall have the greatest number of competitive districts possible, consistent with the objectives and standards set forth previously in this section.
- (4) The plan shall respect the boundaries of a county, city, or city and county and shall not divide census tracts.

SECTION 3. Party registration and voting history data shall be excluded from the initial phase of the mapping process but may be used to test maps for compliance with the goals set forth in Section 2. The places of residence of incumbents or candidates may not be identified or considered by the Commission.

SECTION 4. In a final report, due when the final plan is adopted, the Commission shall publish a statement explaining how it has met each of the foregoing criteria.

#### **D. DEFINITIONS**

As used in this Article, the following terms shall have the following meanings:

- (a) "Commission" shall mean the Independent Redistricting Commission established pursuant to this Article.
- (b) "Communities of Interest" means groups of residents identified by use of visible geographic and demographic features, including similarities in social, cultural, ethnic, and economic interest, prevalent occupations, school districts, and other formal municipal relationships, but shall not include relationships with incumbents or other candidates.
- (c) A "contiguous district" is one in which all parts of a district are connected by land.

#### **E. FUNDING AND LEGAL ACTIONS**

SECTION 1. An independent redistricting fund is hereby created within the State Treasury and shall be continuously appropriated for carrying out the purposes of this Act. In fiscal years 2010-2011, subject to the limitations of Section 7.5 of Article IV, the Legislature shall transfer \$15 million from its operating fund into the Independent Redistricting Fund. The Legislature can add, but cannot subtract funds. Each decennial fiscal year thereafter, the Legislature shall transfer a like amount to the Fund, adjusted in accordance with the Consumer Price Index for the State of California as reported by the Division of Labor Standards or its successor agency. The Controller shall draw warrants on the Fund no less frequently than monthly for the purposes of paying the expenses of the Commission. Unexpended funds after completion of the redistricting process and any subsequent legal appeals shall be returned to the State's General Fund.

SECTION 2.

- (a) The California Supreme Court shall have original and exclusive jurisdiction to review a plan adopted by the Commission. Any petition for mandamus or other review shall 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 standards and criteria set forth in Section C of this Article if:

- (1) A plan adopted by the Commission is adjudicated as unconstitutional or in violation of federal law; or
- (2) The Commission has been unable to adopt a plan by October 1 following the formation of the Commission or 180 days after receipt of the necessary census data, whichever is later.

(c) The Supreme Court shall use the Commission and its staff, if at all possible, as Special Masters.

SECTION 3. The Commission has standing in legal actions regarding a redistricting plan and to establish whether funds or other resources provided for the operation of the Commission are adequate. The Commission has sole authority to determine whether the Attorney General or counsel hired or selected by the Commission shall represent the people of California in the legal defense of a redistricting plan.

#### **F. CONFLICTING MEASURES**

In the event that this measure and another measure or measures relating to the redistricting of Senatorial, Assembly, Congressional, or Board of Equalization districts is approved by a majority of the voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and the other measure or measures shall be rendered void and without any legal effect. If this measure is approved 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.

#### **G. SEVERABILITY**

If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.