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REDISTRICTING IN CALIFORNIA: COMPETITIVE ELECTIONS AND THE EFFECTS OF PROPOSITION 11

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POLICY
BRIEF

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Part 1

Introduction

California voters will evaluate Proposition 11 this fall, which seeks to replace the existing process of redrawing political boundaries for congressional, senatorial, assembly and State Board of Equalization offices. At the heart of this initiative is a growing perception that the current process for drawing these maps is rife with conflict of interest—particularly when legislators draw the very districts they will represent, allowing them to select their constituency.

This paper will introduce an abbreviated history of redistricting in California and various attempts at reform over the past several decades. The paper will also summarize the current initiative's major elements and address some key issues that voters should consider in this debate.

The goal of this effort is to ensure that voters can make a well-informed decision.

Part 2

Historical Background of Reapportionment in California, 1849-1926

California's Constitution requires that legislative districts be reapportioned every 10 years following the latest census.¹ Various methods of reapportionment have been proposed over the years, but the struggle to make every vote count will continue to be an ongoing battle.

The original text of the Constitution of the State of California provided that both houses of the legislature be apportioned on the basis of population.² At its inception, 94 percent of the state's population was concentrated in the northern portion of the state, mostly in the rural gold country.³ But as disenchanted gold miners migrated from the foothills and made their way into the cities, a shift in the population took place. The state's urban population, which represented only 7.4 percent in 1850, grew to 42.9 percent by 1880, and then to over 52 percent by 1900.⁴ From 1885 to 1920, the population not only shifted from rural to urban, but from northern to southern California.

By the 1920s, rural legislators in fear of losing representative power to the so-called "city bosses," joined other rural groups to support an initiative (Proposition 28) known as the "Federal Plan"—so named after the apportionment of the United States Congress, where the lower house is apportioned on a population basis and the upper house is apportioned on a territorial basis. Enacted in 1926, the Federal Plan did away with the constitutional requirement of senatorial apportionment on the basis of population. Under this plan no county had more than one senatorial district, and the less populated counties were grouped so that one senatorial district could include up to three counties.⁵

Several proposals were made over the ensuing years to alter or abolish the Federal Plan, but none succeeded. These proposals included reestablishing population as a basis for Senate apportionment, increasing the number of senators so as to effect proportional gains for southern California counties, and providing a 20-20 split arrangement in the Senate between north and south.

Court Involvement in the 1960s

Prior to the 1960s, the courts refused to hear cases on apportionment, deeming them political questions. However, in 1962 the Supreme Court of the United States held in *Baker v. Carr* that claims of malapportionment brought under the Equal Protection clause of the 14th Amendment are justiciable.⁶ This led to a string of cases where courts began exercising judicial authority over legislative reapportionment. The most notable cases include: *Gray v. Sanders*, which gave us the “one person, one vote” rule;⁷ *Wesberry v. Sanders*, holding that “as nearly as is practicable, one person's vote in a Congressional election is to be worth as much as another's;”⁸ and *Reynolds v. Sims*, which held that “the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis.”⁹ The California legislature was reluctant to accept the high court’s opinion, and considered several ways to circumvent the decision, but to no avail.

Interestingly, prior to *Baker*, the fight over agenda control in the legislature was primarily between geographically separated legislators—rural vs. urban and northern vs. southern. After *Baker* and the string of court decisions following it, many previously safe seats were lost due to the redistricting required by the courts. For example, on December 3, 1964, a three-judge panel at the federal district court of appeals ordered the legislature to reapportion the Senate on a population basis. The legislature acquiesced, and in the 1966 election every Senate seat was up for grabs. Geographic differences became less important as incumbents struggled to maintain their political power. Only 18 incumbents held on to their seats and 22 new members joined the Senate. Although, initially, court-ordered redistricting on the basis of population resulted in a shift in political power from rural to urban, today geographic differences play almost no role as the fight for agenda control has become solely a Democratic-Republican struggle.¹⁰

A New Era in Redistricting

On the heels of the Court’s rulings in the 1960s on reapportionment and the need for a new plan following each decade’s census, the process of drawing political boundaries entered the modern era with ongoing controversy.

Reapportionment Controversies

The first time the courts had to take over the redistricting process was in 1970 and 1971, when the legislature failed to adopt a reapportionment plan acceptable to then Gov. Ronald Reagan. After gubernatorial vetoes and subsequent failure to override the veto, a Reapportionment Commission was established but later ruled as not having jurisdiction over the process.¹¹ To deal with the impasse, the California Supreme Court appointed three Special Masters to draft a reapportionment plan and submit it for their approval, even as the legislature was given the ability to draft a valid

plan prior to the Court concluding their work. No legislative plan was adopted and, as such, the Court adopted its own plan in 1973.

During the 1981 reapportionment, another plan was drafted that erupted in controversy. In this case, Democratic majorities enacted a set of district maps over protests from Republican legislators. The California Republican Party responded by sponsoring a series of referendums that sought to reject the legislative and congressional districts. All three measures were successful with more than 60 percent voting “no” (Note: a referendum vote, which seeks to undo a legislative act, is successful if a majority votes “no”).¹² Although the measures rejected the previously approved maps, the existing maps were utilized in the November 1982 election under a court decision.

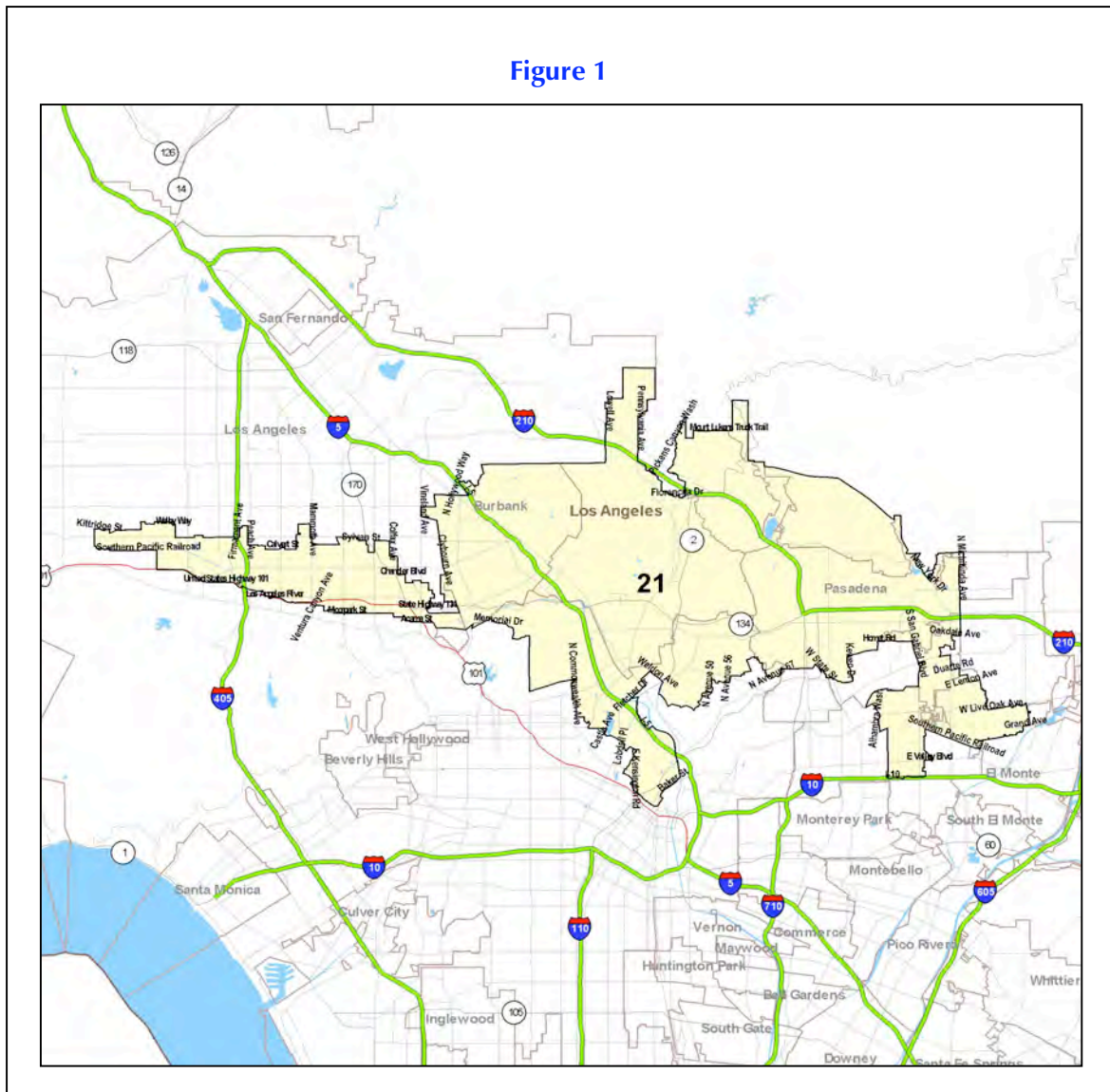
Reapportionment efforts again ground to a halt in 1991 when Gov. Pete Wilson vetoed the legislature’s plan. An attempted veto override failed and the legislature adjourned for the year.¹³ Much as they had in 1973, the California Supreme Court stepped in, appointed a panel of three Special Masters to undertake the map-drawing exercise. The legislature responded by submitting three proposed plans to the Special Masters for consideration, arguing that the plans reflected various efforts at compromise. The Special Masters rejected these plans citing a violation of the constitutional requirement for “geographic integrity” of cities, counties and geographic regions.¹⁴ The Court adopted the Specials Masters’ plans in January of 1992.

Although they did not specifically draft districts with “political fairness” or competitiveness in mind, various reviews of the resulting elections have identified that this was one result.¹⁵ In 2000, another redistricting measure qualified for the ballot, Proposition 24. This measure would have granted reapportionment authority to the California Supreme Court. After legal challenges were filed against the measure, it was removed from the ballot for violating the State’s single subject rule, which stipulates that a ballot measure can only contemplate a single subject, Proposition 24 included other concepts related to legislative pay.¹⁶

In 2001, the legislature adopted a new reapportionment plan, which was signed into law by Gov. Gray Davis. The plan was roundly criticized for obvious efforts to protect incumbent legislators—a fact that was bore out by the 2004 election where no seat changed party hands in California’s Congressional, Senate, or Assembly rolls. The maps themselves also brought the practice of “gerrymandering” to a new level. The previous practice of “nesting” two Assembly seats within one Senate seat (so that people with the same assemblymember would also have the same senator) was abandoned. The maps of individual districts also show the great pains taken to tailor specific districts.

Figure 1 shows how the 21st Senate District stretches across the San Fernando Valley, down into Los Angeles and across into portions of the San Gabriel Valley. Of particular interest are the numerous “fingers” and “gaps” which omit certain neighborhoods in favor of others.¹⁷

Figure 1



Newspapers, such as *The Los Angeles Times* criticized the plan, “Most legislative districts are so safe that the real battles are in the primary elections. Very liberal Democrats and very conservative Republicans usually win those primaries and go on to easy victories in the fall. This has led to deep, partisan divisions in the operation of the Legislature and a breakdown in debate and compromise.”¹⁸ Observations on the nature of district “competitiveness” are presented in greater detail later in the report.

Attempts to Reform Reapportionment

Interwoven with these decades of controversy was a long string of attempts to reform the apportionment process.

In November of 1982, voters rejected Proposition 14, a constitutional initiative that would have established a 10-member commission to draw state and federal districts. This commission’s

members would have been appointed as follows: four members by the Assembly and Senate party caucuses, four by a panel of state appellate judges, and two by the majority party's chairmen. The commission could approve a redistricting plan by a vote of seven of its members. If seven votes could not be obtained, the decision would go before a committee of Special Masters, appointed by the California Supreme Court. The initiative failed by a vote of 44.5% in favor and 55.5% against.

In response to the failure of Proposition 14 and the successful referendums that overturned the 1982 maps, the legislature adopted a new set of plans late that year, which would remain in effect through the remainder of the 1980s.¹⁹

In 1984, voters rejected Proposition 39, a constitutional initiative that would have established an eight-member commission made up of eight retired state appellate judges. The president of the University of California system would have selected the names by lot. Four of the judges would have been Republican appointees, and four would have been Democratic. The commission's plan would then go to the voters by referendum for final approval. In the case of a deadlock, one member of the commission would be removed at random. This initiative failed with 45% voting in favor and 55% voting against.

In 1990, voters rejected Proposition 119, a constitutional initiative that would have established a 12-member commission made up of five Democrats, five Republicans, and two independents. Members of the Independent Citizens Redistricting Commission would have been selected by a panel of retired state appellate court judges. This initiative failed with 36% voting in favor and 64% voting against.

In 2004, Gov. Arnold Schwarzenegger called for a redistricting measure that would have shifted the power to draw district lines away from the legislature. Proposition 77 was placed on the November 2005 special election ballot. It provided that a panel of three retired judges or "Special Masters" would be appointed by the legislature to adjust the boundary lines of the senatorial, assembly, congressional, and Board of Equalization districts. This new redistricting plan would then be submitted to the voters for final approval. If rejected by the voters, a new panel of Special Masters would be appointed to come up with an alternate redistricting plan.

Arguments used to support this initiative included: (1) lack of competitiveness in state and federal elections; (2) increased use of gerrymandering to ensure dominance of the current party in power; and (3) expectation after the United States Supreme Court holding in *Vieth v. Juelirer* that redress of partisan gerrymandering was a political issue left to the voters rather than the courts.²⁰ Proposition 77 failed with 40.3% voting in favor and 59.7% voting against. Among other things, opponents cited a "lack of accountability" among the appointed judges and suggested that the measure was a political power grab by Gov. Arnold Schwarzenegger to elect a Republican legislature.²¹

Part 3

Provisions of Proposition 11

Historically, backers of redistricting reform have proposed two primary mechanisms to redraw political boundaries. The first such approach draws from the judicial branch (as occurred in 1973 and 1991). Proposition 77 was the latest effort to do that. The other approach, which has been proposed several times, delegates redistricting authority to an independent commission. Proposition 11, which will appear on the ballot this fall, would do that through a complex and detailed process of winnowing.

Proposition 11 would amend the California Constitution to substantially change the manner in which districts are drawn for state legislative, congressional, and Board of Equalization proposals. The proposal would set up a unique process for the revision of congressional districts and another for the development of assembly, senatorial, and Board of Equalization districts.

The state legislature would remain primarily responsible for the process of redrawing congressional districts but would require that they do so under a variety of provisions, including the desire to maintain “communities of interest”, promote geographic compactness and contiguity, and minimize the splitting of counties and cities. Additionally, the measure requires that these congressional districts comply with the federal Voting Rights Act.²²

Power to draft assembly, senatorial, and Board of Equalization districts would be removed entirely from the legislature and placed under the authority of a newly created Citizens Redistricting Commission. Proposition 11 delineates these reforms in both the California Constitution and the California Government Code.

This commission would consist of 14 members, divided as follows:

- 5 voters registered with the largest political party in California (currently the Democratic Party)
- 5 voters registered with the second largest party in California (currently the Republican Party)
- 4 voters who are not registered with either party mentioned above (as such, they can be registered with a third party or be registered as a “Decline to State”)

In each case above, the members must maintain the same party affiliation (or lack thereof) for a period of no less than five years.²³ During the prior 10 years, potential members could not have been a candidate for state or federal office, a paid member of the staff to a congressional, legislative, or Board of Equalization office, a lobbyist, or have contributed more than \$2000 to a political candidate. They also must have voted in two of the last three statewide general elections.²⁴

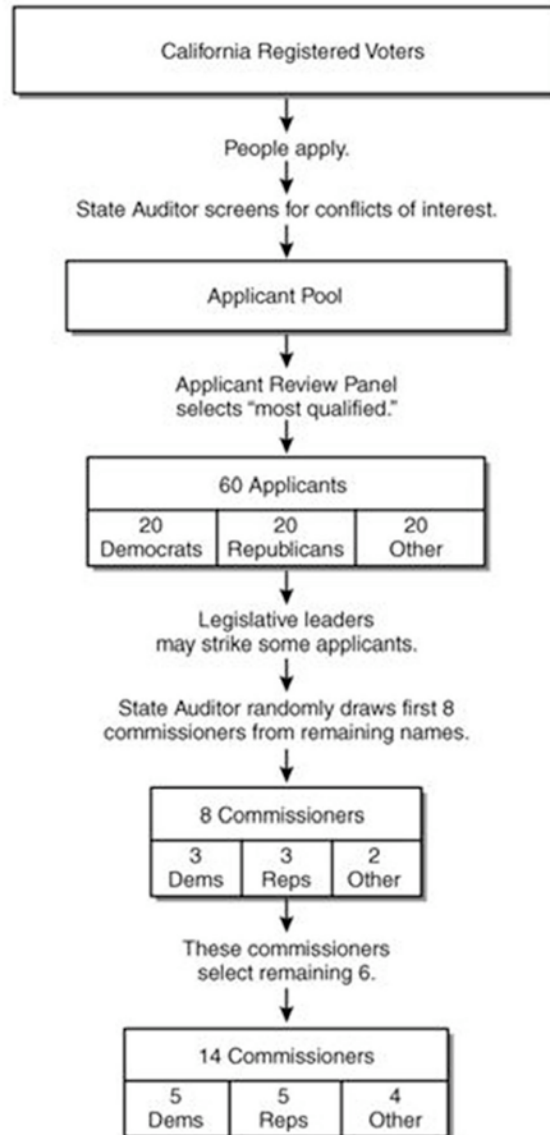
Power to enforce these and other conflict of interest criteria and applicant requirements is vested with the California State Auditor (head of the California Bureau of State Audits). The Bureau of State Audits was created in 1993 to “examine and report annually upon the financial statements prepared by the executive branch of the state and to perform other related assignments, including performance audits, that are mandated by statute.”²⁵

The process of selecting the final 14 members is quite complex with numerous levels of winnowing to ensure a fair and unbiased commission. The process is best reflected by this chart, produced by the California Legislative Analyst’s Office.

The selected commissioners are then tasked with independently developing the redistricting plan that will guide state elections for the decade. Similar to the requirements placed on the legislature in the development of congressional maps, the Citizens Redistricting Commission must also abide by guidelines to maintain communities of interest, promote geographic compactness and contiguity, and minimize the splitting of counties and cities. The Commission’s plan is also mandated to be consistent with the Voting Rights Act.

Proposition 11, does, however, set additional criteria for developing state office boundaries. These include promoting, where possible, the previously utilized practice of “nesting” two Assembly districts within each Senate District and 10 Senate Districts within each Board of Equalization district, which simplifies administration of elections. Additionally, the commission cannot consider the residency of any incumbent lawmaker in designing the districts nor can it discriminate for or against an incumbent, political candidate or political party.²⁶

Commissioners would receive \$300 each day that they are engaged in Commission business and they would also be provided funding for consultants, legal representation, and other expenses deemed necessary to perform the provisions of this act.²⁷ Among these expenses would be funding for a statewide public outreach effort to encourage public participation in this process via public hearings and providing access to software and data used in the process.²⁸

Figure 2: Selection of Citizens Redistricting Commission

Source: Legislative Analyst's Office, http://www.lao.ca.gov/ballot/2008/11_11_2008.aspx

The Legislative Analyst's Office (LAO) projects that the cost of redistricting for the Commission would be approximately \$4 million and noted that overall costs to the state may increase with the legislature conducting the redistricting for congressional seats and the Citizens Redistricting Commission redrawing boundaries for assembly, senatorial and Board of Equalization seats. The LAO does acknowledge, however, that the total fiscal effects of shifting to a split system would likely not be significant.²⁹

The Citizens' Commission is further obligated to secure the votes of nine members for the approval of its final maps. These votes must come as follows:

- at least three votes of members registered from the largest political party in California
- at least three votes of members registered with the second largest political party in California
- three votes from members who are not registered with either of these two political parties³⁰

The Commission is required to complete its work by September 11, 2011 and on that calendar date each decade thereafter. They must also produce a report for each set of maps explaining their rationale for the new boundaries. Additionally, final plans are subject to a public referendum similar to other statutes. If they fail to produce a plan which secures the above-mentioned vote requirements or which is overturned by referendum, the California Supreme Court will be petitioned for the appointment of Special Masters to execute this redistricting system.³¹

The approved maps will be utilized for the remainder of the decade.

Part 4

Key Considerations for Voters

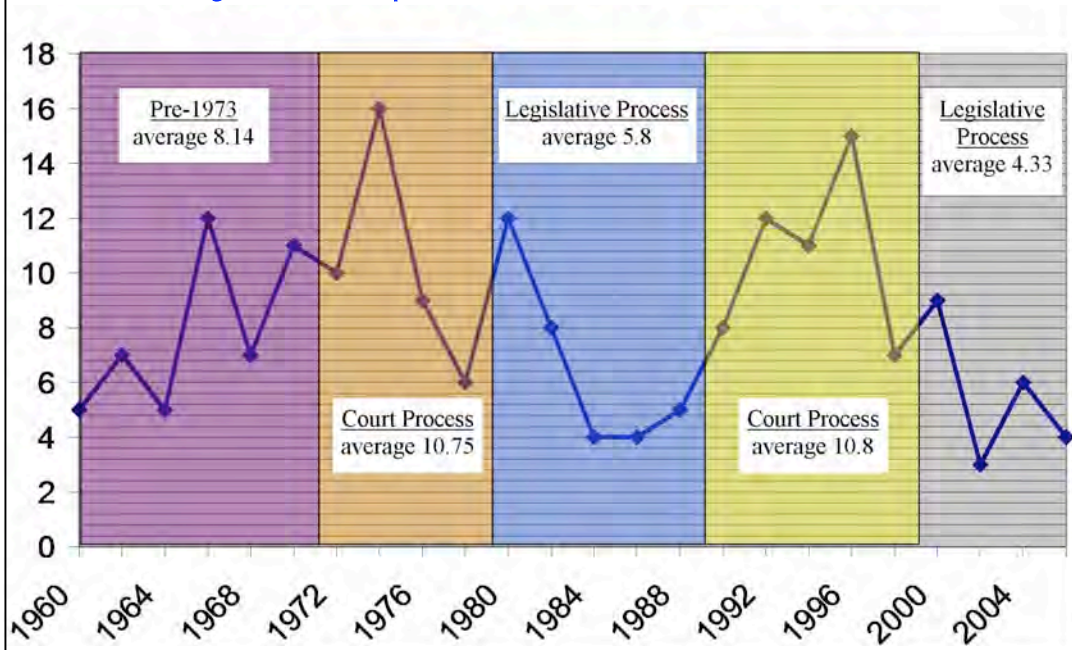
The process of drawing political boundaries is fundamental to maintaining honest elections and open government. The key issue at stake for voters is whether this process should be conducted by the beneficiaries of the decisions reached. Although complex in its process of selecting applicants to fill the positions on the Citizens Redistricting Commission, the effort boils down to an attempt to guide the process of redistricting and minimize political pressures brought to bear on the final maps. By delegating this authority to a citizen's body for assembly, senatorial and Board of Equalization seats, the measure appears to accomplish that. Despite the legislature's role in drawing congressional district boundaries there is some separation (although not as much as other district types) between the elected officials that hold these positions and the individuals that decide the make-up of those constituencies.

As mentioned previously, California's redistricting efforts have had a long and controversial history of skepticism about the integrity of the process. Public perceptions of implementing maps that benefit incumbents rose to a new level in the wake of the 2001 redistricting process.

While much has been made of the fact that no assembly, senatorial or congressional seat changed hands in 2004, a review of the recent election history of California State Assembly seats reveals other interesting trends. The California Assembly was selected for further review because each seat is up every two years (whereas Senate seats have four-year terms) and would be evaluated by the new Citizens Commission (whereas congressional seats would be drawn by the legislature).

In Figure 3, the number of competitive races in California is plotted going back to 1960.³² The criteria selected for determining if a race was competitive was one where the ultimate winner secured less than 53% of the general election vote.³³ The colored areas represent the respective redistricting processes used at that time. While obviously a number of factors might have influenced the competitiveness of the races, it is notable how similar the patterns are when apportionment is done by courts rather than legislators. When the court-imposed redistricting plan was used from 1973 to 1980, the average number of "competitive races" per election was 10.75. During the 1980s when another legislative-controlled redistricting process was implemented, the average number of competitive races dropped to 5.8 per general election. During the 1990s when another court-ordered redistricting effort guided elections, the average number of competitive races jumped to 10.8. Since 2002, the average number of competitive assembly races plummeted to 4.3.

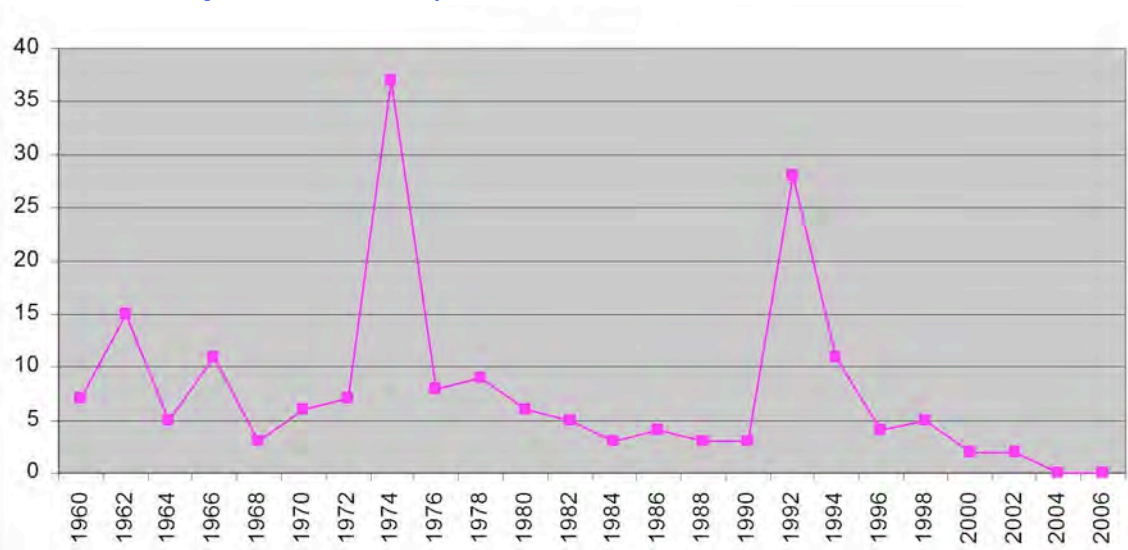
Figure 3: Competitive Races (winner earns 53% or less)



Source: Election data derived from <http://www.joincalifornia.com> "Election by Decade."

This conclusion can also be supported by Figure 4.

Figure 4: Assembly Seat Turnover (Session to Session)



Source: Election data derived from <http://www.joincalifornia.com> "Election by Decade."

This chart measures the raw number of Assembly seats that changed hands from one general election to the next.³⁴ You will notice two pronounced spikes in 1974 and 1992. These spikes occurred in the year following court-led redistricting efforts. There is also the noticeable absence of spikes in 1982 and 2002—years after the legislature drew the maps. Since the latest maps were drawn in 2001, there has been virtually no turnover—with no Assembly seats gained or lost by either party in 2004 or 2006. However, the spikes don't last, meaning the redistricting leads to a big one-time change, but then districts go back to relatively low turnover. Without the two big bouts of turnover that came after the court-led redistricting, there would have been very little turnover in the past several decades.

While competitive seats are likely to increase accountability on the part of legislators, the goal of creating competitive districts is a debatable public policy outcome. What is beyond question is that when a body has the authority to define its own political maps, there are powerful incentives and numerous opportunities to exploit the process for political gain—either to protect incumbents, punish individual legislators or otherwise promote a majority party's power. Removing this process from legislative control would certainly lessen those odds.

How is Proposition 11 likely to change all of this?

The current legislative maps, where the overwhelming majority of elections are decided in a closed primary has resulted in polarized legislators and squeezed out so-called moderates.

Would Proposition 11 have any effect on this? The system of closed primaries results in fierce primary battles where candidates must appeal to the base of their party. Regardless of the maps that are drawn, this is always the case with closed primaries. As such, it is not likely to offer a significant change because these candidates must still appeal to their party's base without the benefit of voters belonging to one party and voting in another party primary (as an open primary would allow).

The budget is routinely late in California. Will redistricting reform have any impact on this chronic problem? While increasing accountability may have an indirect impact on the timeliness of the state budget being passed, it is worth considering that since 1971, the legislature has only passed a budget prior to the June 15 deadline on five occasions. This has not occurred since 1986. That said, the length of delays has grown considerably longer from decade to decade.³⁵

Longest Delay by Decade (from June 15 Constitutional Deadline):

- 1970s-28 days
- 1980s-36 days
- 1990s-67 days
- 2000s-92days

The budget approval process is, ultimately, a function of the fiscal condition of the state, and this condition has continued to worsen over the past few decades. Under revised districts, protracted delays may be less likely to occur because the threat of political challenges may be more pronounced—either from within their own party or from a candidate of another party.

Will citizens have a voice in redistricting? Yes. The measure calls for extensive public outreach and involvement, including public hearings, access to software and data used in conjunction with the process, as well as public access to the referendum process.

Will passage of Proposition 11 result in an unaccountable body that is nonresponsive to the public? It is indeed true that the members of the commission will not be elected officials and therefore not “accountable” to the public in the traditional sense of the term. That said, there is a question of whether a system is more responsive to the public when members of the public are implementing the process than when the lawmakers themselves are drawing legislative maps. The measure also includes important safeguards, including observance of public notice requirements and limitations on communications that Commission members and staff receive outside of public channels. Commission members are also subject to removal by the governor with a two-thirds consenting vote of the Senate in cases of substantial neglect of duty, gross misconduct in office or inability to discharge the duties of office.³⁶

Part 5

Conclusion

Political competition expands accountability of lawmakers as they must be ever aware that poor governance may result in a formidable political challenge. The current redistricting process lacks this competitive force.

Accusations of bias and allegations that the redistricting process is abused to protect incumbent office holders from political challengers follow each redrawing of congressional, assembly, senatorial and Board of Equalization Districts. That these lawmakers essentially pick their constituents reinforces that suspicion. And we see it each election since the 2002 reapportionment as there is virtually no turnover between the two parties.

As long as political boundaries are subjectively drawn in the redistricting process, there will always be the potential for abuse—whether the boundaries are drawn by the legislature or a seemingly independent entity. Still, the concept of an independent commission to draw boundaries for state lawmakers is likely to reduce the odds of abuse and holds the promise of increasing competitive pressures for elected office. This could result in a more dynamic and responsive government. Furthermore, by protecting "communities of interest" and promoting nested districts, Proposition 11 would also end the practice of gerrymandering obscure district boundaries that confuse voters and undermine the relationship between the public and their elected representatives. At a bare minimum, it would introduce an element of logic to political boundaries that is painfully absent today.

Endnotes

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- ¹ California Constitution, Article 21, Section 1 (2008).
http://www.leginfo.ca.gov/.const/.article_21
 - ² California Constitution, Article IV, Section 28 (1849).
http://www.sos.ca.gov/archives/level3_const1849txt.html
 - ³ Don A. Allen, Sr., *Legislative Sourcebook: The California Legislature and Reapportionment 1849-1965*, (Sacramento: Assembly of the State of California, 1965), p. 6.
 - ⁴ *Ibid.*, p. 7
 - ⁵ *Ibid.*, p. 11
 - ⁶ *Baker v. Carr*, 369 U.S. 186, 209-210 (1962). “[T]he mere fact that the suit seeks protection of a political right does not mean it presents a political question. Such an objection ‘is little more than a play upon words,’ according to *Nixon v. Herndon*, 273 U.S. 536, 540. Rather, it is argued that apportionment cases, whatever the actual wording of the complaint, can involve no federal constitutional right except one resting on the guaranty of a republican form of government, that complaints based on that clause have been held to present political questions which are nonjusticiable. “We hold that the claim pleaded here neither rests upon nor implicates the Guaranty Clause, and that its justiciability is therefore not foreclosed by our decisions of cases involving that clause. The District Court misinterpreted *Colegrove v. Green* and other decisions of this Court on which it relied. Appellants’ claim that they are being denied equal protection is justiciable, and if ‘discrimination is sufficiently shown, the right to relief under the equal protection clause is not diminished by the fact that the discrimination relates to political rights.’ *Snowdell v. Hughes*, 321 U.S. 1, 11.”
<http://supreme.justia.com/us/369/186/case.html>
 - ⁷ *Gray v. Sanders*, 372 U.S. 368 (1963). “If a State, in a statewide election, weighted the male vote more heavily than the female vote or the white vote more heavily than the Negro vote, none could successfully contend that that discrimination was allowable. See *Terry v. Adams*, 345 U.S. 461. How then can one person be given twice or 10 times the voting power of another person in a statewide election merely because he lives in a rural area, or because he lives in the smallest rural county? Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home may be in that geographical unit. This is required by the Equal Protection Clause of the Fourteenth Amendment. The concept of “we the people” under the Constitution visualizes no preferred class of voters, but equality among those who meet the basic qualifications. The idea that every voter is equal to every other voter in his State when he casts his ballot in favor of one of several competing candidates underlies many of our decisions. ...

“As we stated in *Gomillion v. Lightfoot*, supra, p.364 U.S. 347: ‘When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right.’ The conception of political equality from the Declaration of Independence, to Lincoln’s Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote.”
<http://supreme.justia.com/us/372/368/case.html>

- ⁸ *Wesberry v. Sanders*, 376 U.S. 1, 2 (1964) <http://supreme.justia.com/us/376/1/case.html>
- ⁹ *Reynolds v. Sims*, 377 U.S. 533, 568 (1964). In drafting this opinion, Chief Justice Earl Warren affirmed “Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. . . . Diluting the weight of votes because of place of residence impairs basic constitutional rights under the Fourteenth Amendment just as much as invidious discriminations based upon factors such as race, or economic status.” (citations omitted). He further distinguished representation in the Congress from that in state legislatures, noting that the method for apportionment was “conceived out of a compromise” under “unique historical circumstances” where “a group of formerly independent States bound themselves together under one national government.” Even though each state is of different size and population, each has an equal voice in the Senate. Counties and cities, on the other hand, are mere political subdivisions of their respective states and never have been considered as sovereign entities. Therefore, these political subdivisions cannot draw on the federal analogy to support their having equal representation in the state legislature when to do so would impinge upon “the right of all of the State’s citizens to cast an effective and adequately weighted vote.” <http://supreme.justia.com/us/377/533/case.html>
- ¹⁰ See Jeffrey R. Lax, Mathew D. McCubbins, “Courts, Congress and Public Policy Part II; The Impact of the Reapportionment Revolution on Congress and State Legislatures,” *The Journal of Contemporary Legal Issues*, Vol. 15, No. 1, pp. 199-218 (San Diego: University of San Diego School of Law, 2006). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=970522
- ¹¹ Dorothy Simpson and Robert H. McDonald, *Inventory of the Collection of the California Special Master on Reapportionment*, Institute of Governmental Studies (University of California at Berkeley, 1973). <http://igs.berkeley.edu/library/reapp/reapp70-intro.html#ChronJud>
- ¹² UC Hastings Law Library California Ballot Proposition Database, <http://holmes.uchastings.edu/cgi-bin/starfinder/0?path=calprop.txt&id=webber&pass=webber&OK=OK>
- ¹³ Douglas Johnson, *Competitive Districts in California: A Case Study of California’s Redistricting in the 1990s*. The Rose Institute of State and Local Government at Claremont McKenna College, 2005, pg 4-5.
http://www.claremontmckenna.edu/rose/publications/pdf/rose_ca_case_study.pdf
- ¹⁴ Report and Recommendations of the Special Masters on Reapportionment, 1991, pg 43.
<http://igs.berkeley.edu/library/reapp/reapp90-report/final-III.html>
- ¹⁵ For additional information on the competitiveness of legislative and congressional seats following the 1992 redistricting see Johnson, *Competitive Districts in California*, pg 11-15.

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- ¹⁶ Institute of Governmental Studies, *California Redistricting Chronology*, <http://igs.berkeley.edu/library/htRedistricting.html#Topic2>
- ¹⁷ Other district maps which can be viewed are available at <http://www.sen.ca.gov/ftp/sen/senplan/Senate.htm>, http://www.sen.ca.gov/ftp/sen/senplan/SENMAPS/MAP21_300.JPG) and <http://www.Assembly.ca.gov/committee/c7/asmfinal/newtextdocument.html>
- ¹⁸ “Serving the Pols, Not the People (Editorial),” *Los Angeles Times*, November 10, 2004. Pg B-10.
- ¹⁹ Institute of Governmental Studies, *California Redistricting 1980*, <http://igs.berkeley.edu/library/reapp/reapp80.html>, 2004.
- ²⁰ Elizabeth Garrett, *Redistricting: Another California Revolution?*, IRI Report, (Initiative and Referendum Institute, University of Southern California Law School), 2005. <http://www.iandrinstitute.org/REPORT%202005-1%20Redistricting.pdf>
- ²¹ John Wildermuth, “Redistricting initiative would set state apart: But opponents blast Proposition 77 as a 'reckless experiment,” *San Francisco Chronicle*, October 7, 2005 and "Stop the Schwarzenegger power grab. Yes on 79, no on 78. Sandoval for assessor. Complete recommendations for the Nov. 8 election," *San Francisco Bay Guardian*, Oct. 13, 2005.
- ²² Text of Proposition 11, Article 21, Section 2 Subdivision d.
- ²³ *Ibid.*, Article 21, Section 2, Subdivision b, para 2.
- ²⁴ *Ibid.*, Government Code Section 8252.
- ²⁵ California Government Code, Section 8543.1
- ²⁶ Text of Proposition 11, Article 21, Section 2 Subdivision d.
- ²⁷ *Ibid.*, Government Code Section 8253.5
- ²⁸ *Ibid.*, Government Code Section 8253
- ²⁹ *Analysis of Proposition 11. Redistricting. Constitutional Amendment and Statute*. Legislative Analyst’s Office, July 17, 2008, http://www.lao.ca.gov/ballot/2008/11_11_2008.aspx
- ³⁰ Text of Proposition 11, Section 2 Subdivision d, para 5
- ³¹ *Ibid.*, Section 2 Subdivision h through j
- ³² The analysis performed on competitiveness and turnover has limitations that hamper its ability to be used to demonstrate causation. For instance, state and national political issues and their effect cannot be understated in the election results. Additionally, this analysis does not consider the strength of the candidates involved, the power of incumbency, or variables like the impact of term limits. Nonetheless, the observations based on this data suggest that legislative control correlates with reduced district competition. For clarification, special elections are not evaluated as any candidate that wins must run for re-election in the next general election.

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- ³³ While the selection of 53% was an arbitrary threshold that was simply designed to measure “close” races and another threshold could be identified, the concluding analysis would likely be the same—when the legislature draws political boundaries there are fewer seats won by slim margins.
- ³⁴ “Turnover” statistics are presented as gross, not net, figures. In other words, if eight total seats changed hands with Democrats winning six and Republicans winning two, the turnover would be measured as eight total seats which changed hands, not four seats. This approach more clearly highlights volatility in Assembly elections.
- ³⁵ Senate Committee on Budget and Fiscal Review, *California State Budget History*, <http://www.sen.ca.gov/budget/budgethistory.pdf>
- ³⁶ Text of Proposition 11, Government Code Section 8252.5, 8253



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