



**Position Paper on Proposition 77
November 8, 2005 Ballot
California Statewide Special Election**

Dated September 7, 2005

Proposition 77 would amend the state constitution to change the process for drawing boundaries of legislative districts, including U.S. Congressional, State Assembly, State Senate, and Board of Equalization Districts. Currently the state legislature is charged with adopting district boundaries once a decade. Proposition 77 would shift this power to a panel of special masters created for this purpose. The panel of special masters would be required to take into account a set of specified criteria in drawing the boundaries. Proposition 77 would also require a one-time mid-decade redistricting in time for the June 2006 primary election. It would require that every new set of boundaries be the subject of a statewide ballot measure that, if rejected, would lead to a new process of redistricting.

Many commentators have criticized the 2001 state assembly and senate district boundaries as a product of gerrymandering to protect incumbents. These commentators have called for the creation of an independent redistricting commission to draw legislative boundaries as a means of increasing the responsiveness of state politicians and reducing dealmaking to protect incumbents.

The proponents of Proposition 77 argue that the redistricting process is flawed because of the inherent conflict of interest that politicians face in drawing the boundary lines of their own districts. A number of government accountability groups and civil rights organizations, including the Asian Pacific American Legal Center (APALC), the League of Women Voters of California (LWVC), and the Mexican American Legal Defense and Educational Fund (MALDEF), agree that there is a need to reform the redistricting process and have expressed support in principle for the concept of independent redistricting commissions. For eight months this year, we urged the legislature and Governor to negotiate a compromise bill to enact redistricting reform that implements an open, transparent redistricting process with an independent commission that uses fair standards for drawing boundaries. A number of groups, including MALDEF and APALC, released model redistricting legislation for legislators to use as a guide in drafting a reform bill. Despite the failure of these negotiations, Proposition 77 is not an acceptable fall-back and in fact is a harmful, misguided attempt to achieve reform.

This position paper represents the collective analysis of APALC, the LWVC and MALDEF. We believe that voters should vote no on Proposition 77 and instead call upon their legislators to enact true redistricting reform next year. We highlight the following items of concern:

- **Proposition 77 places redistricting in the hands of three individuals who do not reflect California's diversity.** Proposition 77 would establish a panel of three special masters from

a pool of retired judges. The majority of retired judges in California are elderly Caucasian males. Because of the non-diversity of this pool and the small size of the panel, the panel would likely fail to reflect the diversity of California and may not take into account the interest of minority communities, let alone be able to comprehend the needs of 36 million Californians. The ideal independent redistricting commission should be large enough to reflect California's diverse population and should include ordinary citizens, not just judges.

- **The mid-decade redistricting would ignore three million new Californians that have been added to California's population since 2000.** Proposition 77 would require that new legislative boundaries be drawn mid-decade. However, data from the 2000 census is now outdated, and Proposition 77 fails to specify any means of ensuring that current data is used. If census 2000 data is used, three million new Californians will be ignored in the mid-decade redistricting. In addition, because the growth of Asian and Pacific Islander (API) and Latino communities has outpaced the growth of the general population, API and Latino voters would disproportionately be impacted by the use of this outdated data.
- **The timing of the mid-decade redistricting would create chaos and be harmful to community interests.** In March 2005, the California Association of Clerks and Election Officials (CACEO) published a white paper entitled "Obstacles to Completing Mid-Decade Redistricting in Time for June 2006 Primary Election."¹ In its white paper, CACEO outlined legal deadlines and timing issues and concluded that a redistricting commission would have to adopt new legislative boundaries by December 30, 2005 (the beginning of the candidate filing period) in order for such legislative boundaries to be used in the June 2006 election. This leaves very little time to complete the process of appointing a commission, holding hearings, and adopting a map. Assuming that legal challenges would not delay the mid-decade redistricting, this compressed timeframe would leave no time for community groups to mobilize, build coalitions and reach common ground on maps to submit to the panel of special masters. This lack of community input would likely result in the hasty adoption of legislative boundaries that do not take into account the interests of minority groups.
- **Proposition 77 would require that after plans are adopted by the panel of judges, they must be approved by Californians in a statewide vote of the people—even as they are being used in elections. If the ballot proposition for approval of the plans is rejected, the entire redistricting process must be repeated.** This is a cumbersome requirement that will interfere with fair, effective and efficient government. This provision gives the redistricting panel, or endorsers of the lines it has drawn, the extremely difficult task of educating the electorate. Any interest group could campaign against the proposed plan, and the voters would not have a real basis for judging the group's claims. Voters dislike the overuse of the ballot measure process and will likely object to having to vote on district plans, especially if votes on successive ballots are required. If voters reject plan after plan, the district lines will constantly be in limbo.
- **The panel established by Proposition 77 would not be required to take into account vital information about communities.** Proposition 77 requires the panel of special masters to consider a number of criteria such as respecting county and city boundaries and making

¹ Available at <http://www.calelections.org/CACEOwhitepaperredistricting305.pdf> (last visited August 25, 2005).

districts geographically compact instead of dispersed. However, it does *not* require the panel to consider “communities of interest” when drawing legislative district boundaries.

Communities of interest are geographically concentrated communities that share common characteristics and beliefs such as socioeconomic status, levels of educational attainment, and quality of life issues such as housing, crime and the environment.

- o In past redistricting processes, civil rights advocates have successfully used communities of interest arguments to keep minority communities together in one district instead of being split among two or more districts. For example, in the 1990 redistricting process, civil rights advocates were able to keep the city of Torrance, including Torrance’s large Japanese-American population, within a single state assembly district instead of seeing it split between two districts. In the 1992 Los Angeles City redistricting process, advocates used communities of interest arguments to successfully keep historic Pilipinotown together within one city council district.
- o Drawing legislative boundaries involves a careful balancing of redistricting criteria. In light of this and because Proposition 77 does not affirmatively require the panel of special masters to consider communities of interest, the panel would likely abandon consideration of communities of interest arguments in order to comply with the redistricting criteria that are in fact specified in Proposition 77. As a result, geographically concentrated minority communities would more likely be split between two or more districts, diluting their voting power. This would have a significant impact on the ability of minority communities to elect candidates of their choice.
- **Proposition 77 would require the panel to use an overly restrictive measure of population equality that hinders its ability to draw boundaries respectful of community interests.** The U.S. Constitution’s requirement of population equality is known as the “one-person, one-vote” principle. It is obvious that if one district contains 100,000 persons and a second district contains far fewer, then the vote of a person residing in the second district is worth more than the vote of a person residing in the first district. However, Proposition 77 would require that population differences among state assembly and senate districts exceed no more than one percent. In our redistricting experience, an overly restrictive measure of population equality such as the one in Proposition 77 makes it difficult to draw legislative boundaries that reflect communities of interest. Coupled with the failure of Proposition 77 to require the panel to consider community interests, this would dilute the voting power of community groups and adversely impact their ability to elect candidates of their choice.

For these reasons, our organizations oppose Proposition 77 and urge Californians to vote no on Proposition 77. For further information, please contact:

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