

January 23, 2004

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative constitutional amendment entitled "Fair Representation Initiative" (File No. SA2003RF0060, Amendment No. 3-NS).

Background

State and Federal Office Districts. The California Constitution requires the Legislature to adjust the boundary lines of the state Legislature (Assembly and Senate), the Board of Equalization (BOE), and U.S. House of Representative districts every ten years, following the federal census. This process is known as redistricting. The primary purpose of redistricting is to establish districts which are "reasonably equal" in population. Typically, redistricting plans are included in legislation and become law after passage of the bill by the Legislature and signature by the Governor. The number of Assembly, Senate, and BOE districts and elected officials is set by the State Constitution (40, 80, and 4 respectively). The number of U.S. House of Representative districts is determined by California's population relative to the rest of the nation (currently 53).

Election Procedures. Under current procedures for electing officials, a candidate who receives the largest number of votes cast in a general election is declared the winner. As a result, in some cases (such as when there are three candidates), a candidate may assume office without having received a majority of votes cast. Voters may only choose one candidate for each office when casting their ballots.

Metropolitan Transportation Commission. The Metropolitan Transportation Commission (MTC) is a 19-member regional transportation governing body for the San Francisco Bay Area. Its members are appointed from other local government entities. Members are not paid a salary but are reimbursed \$100 per public meeting, up to five meetings a month. They are also paid for travel expenses.

Major Provisions

This measure amends the California Constitution to change the way boundaries of districts for the state Legislature, BOE, the U.S. House of Representatives from California, and the MTC are determined. The measure also makes changes to voting procedures and the operation of the MTC.

Change in Number of Legislative Districts. This measure requires that the same districts be used for the U.S. House of Representatives and the state Legislature. From these districts, one Representative, one Senator, and two Assembly Members would be elected. Under current circumstances, this would result in 53 Senators and 106 Assembly Members.

Drawing of District Boundaries. The measure adds new procedures regarding the drawing of district boundaries for the Legislature and U.S. Representatives. The measure establishes a State Demographer, which would be filled by the nonpartisan state official receiving the most votes at the last election. This position would work with and oversee regional governments in crafting new districts. The first redistricting under these procedures would occur upon the measure's passage. Future redistricting would occur after each federal census.

Changes to MTC. The measure replaces the MTC's current governing structure and requires its board to be elected from five districts. Each district would elect two members, for a total of ten board members. The districts would be based on Association of Bay Area Governments' planning districts (updated after each census). The MTC would be required to place transportation funding options on ballots for voter approval. The Legislature would be responsible for setting the members' salaries.

Order of Preference Voting. The measure establishes "order of preference" voting for the election of (1) MTC officials in all cases and (2) members of the Legislature and BOE when filling a vacancy through a special election. In these cases, voters' ranked preferences would be used to ensure that a candidate was elected by a majority of voters.

Fiscal Effect

Redistricting Costs. Under existing law, the state's next redistricting plan would not be developed until after the 2010 federal census. The measure, however, requires that a redistricting plan be developed for use upon its passage (with subsequent plans on the same schedule as existing law). This additional redistricting plan would result in one-time costs, which could potentially total several million dollars. For future redistricting costs (after 2010), the measure's requirements would probably not significantly change the amount of funds spent on redistricting.

Under current law, redistricting costs are incurred by the state. Under the new redistricting procedures, many of the costs would be incurred by regional governments rather than the state. Thus, for each redistricting, regional governments could experience increased costs of several million dollars, with state savings of a similar magnitude.

Increased Legislative Costs. The measure would increase the number of state legislators by 39. Accounting for salaries and expenses of these new legislators and their staffs, annual legislative costs would likely increase by more than \$10 million. Since the Legislature's budget is limited under the Constitution, increased spending on the new legislators typically would result in a commensurate reduction in spending on other legislative activities.

MTC Costs. The revisions to the MTC's governing structure would likely result in some increased costs, primarily for elections. The MTC could also experience increased salary costs for its members, depending on the Legislature's future decisions.

Order of Preferences on Ballot. The measure requires the use of ranked preferences among election candidates in some circumstances, including for filling legislative vacancies. While it is difficult to estimate the additional costs for counties to adapt their systems to this new requirement, these one-time costs could total in the low tens of millions of dollars statewide. By eliminating the need to hold both a primary and general election to fill vacancies, this requirement would result in reduced election costs. Although likely infrequent, the savings could exceed \$1 million for each avoided election. Under current law, special election costs for legislative vacancies are paid by the state.

Summary. This measure would have the following major fiscal effects:

- One-time state and local government costs for election and redistricting in the low tens of millions of dollars.
- Shift of redistricting costs from state to local governments of several million dollars every ten years.
- Future state savings from fewer special elections. Instances of savings would likely be infrequent, but could exceed \$1 million for each election.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Donna Arduin
Director of Finance