

# Center for Governmental Studies Solutions for Democracy

# A COMPARATIVE OVERVIEW OF CALIFORNIA REDISTRICTING REFORM PROPOSALS IN 2007

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May 2007

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#### Introduction

The Center for Governmental Studies (CGS), a non-profit, non-partisan organization dedicated to the development of sound public policy in the areas of political reform and civic engagement, has compiled the following comparative overview of California's 2007 redistricting reform proposals in chart form to assist legislators, the media and interested citizens in understanding the major provisions of current legislative and ballot initiative proposals. The overview outlines the major provisions of the following:

- Assembly Constitutional Amendment 1 (ACA 1), sponsored by Speaker of the California State Assembly Fabian Nuñez and Assembly Elections Committee Chair Curren Price
- Senate Constitutional Amendment 9 (SCA 9), sponsored by Senator Roy Ashburn (R–Bakersfield)
- Senate Constitutional Amendment 10 (SCA 10), sponsored by Senator Alan Lowenthal (D-Long Beach)
- Citizens Fair Districts Act, a ballot initiative currently in circulation, submitted by attorney Barry Fadem on behalf of a coalition of public interest groups
- The ideal redistricting plan developed by CGS and other civic organizations

CGS has over 20 years of experience in policy research and analysis in the area of California governance. During the last two years, CGS has partnered with Demos in the production of two redistricting reform publications, *Drawing Lines: A Public Interest Guide to Real Redistricting Reform* and *Re-Drawing Lines: A Public Interest Analysis of California's 2006 Redistricting Reform Proposals*. In 2005, CGS also developed a model redistricting law (the model law and both publications are available on the CGS website, www.cgs.org).

Drawing Lines and Re-Drawing Lines both cover several aspects of redistricting reform. Drawing Lines establishes overarching goals for redistricting, recommends specific commission characteristics, compares and analyzes 2005 reform measures and critically assesses the ability of those measures to fulfill public interest redistricting goals. Based on the earlier work of Drawing Lines, Re-Drawing Lines provides an overview of redistricting reform principles, enumerates the concerns surrounding legislative control of the redistricting process, reviews the history of California's 2005 reform efforts and provides an overall evaluation of 2006 reform measures.

This analysis was funded by generous grants from the James Irvine Foundation and Carnegie Corporation of New York. However, the analysis, findings and recommendations presented do not necessarily reflect the opinions of either foundation.

The following analysis builds upon the work of CGS in the area of redistricting reform. For more information or to order publications, please contact our California Governance Project Manager, Shakari Byerly, at (310) 470-6590, extension 120 or sbyerly@cgs.org.

# A. Overview of Redistricting Commission Proposals

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Are major parties guaranteed equal representation on the commission?	Yes	No	Yes	Yes	Yes
Are citizens with conflicts of interest prohibited from serving on the commission?	Yes	No	Yes	Yes	Yes
Are commission members selected by the legislature?	No	Yes Governor also makes appointments	Partially (8 of 11)	No	No
Is the commission likely to reflect California's diversity?	Yes	Yes	Yes	Yes	Yes
Are the boundaries of neighborhoods, communities, cities and counties likely to be respected?	Yes	Yes	Yes	Yes	Yes
Will the commission draw boundary lines for congressional districts?	Yes	Yes	Yes	No, legislature does the reapportionment	Yes
Are all commission meetings required to be open to the public?	Yes	Yes	Yes	Yes	Yes
Are most of the commission's data and documents to be made public?	Yes	Yes	Yes	Yes	Yes
Is the commission likely to receive adequate funding to meet its objectives?	Yes	Uncertain	Uncertain	Uncertain	Yes
Will the commission's proposals be implemented without requiring an additional legislative or popular vote?	Yes	Yes	Yes	Yes	Yes

# **B. Redistricting Commission Membership Provisions**

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Type of members	Citizens	Political appointees	Citizens	Citizens	Citizens
Number of members	11	9	11	11	11 (or more)
Voting requirement	Balanced majority of 6 (2 Dems/2 Reps/ 2 Independents)	Balanced supermajority of 7 (At least 3 Dems/3 Reps)	Balanced majority of 6 (At least 1 Dem/1 Rep/ 1 Independent)	Balanced majority of 6 (At least 1 Dem/1 Rep/ 1 Independent)	Balanced majority of 6 (At least 1 Dem/1 Rep/ 1 Independent)
Requires equal commission representation of two largest political parties	Yes	No However, no more than 4 members shall be registered as members of the same party	Yes	Yes	Yes
Disqualifying past experience	Provisions apply to com- missioners and their family members	No provisions for disqualify- ing past experience	Provisions apply to com- missioners and their family members	Provisions apply to com- missioners and their family members	Provisions apply to com- missioners and their family members
	Provisions apply to experience in the past 10 years		Provisions apply to experience in the past 3 years	Provisions apply to experience in the past 3 years	Provisions apply to experience in the past 10 years
	Disqualifying Experience:		Disqualifying Experience:	Disqualifying Experience:	Disqualifying Experience:
	- Election, candidacy or ap- pointment to public office		- Election, candidacy or appointment to public office	- Election, candidacy or appointment to public office	- Election, candidacy or appointment to public office
	- Officeholder in political		'	- Officeholder in political	- Officeholder in political party
	party - Officer, employee or paid		party - No provision regarding	party	- Election or appointment to party central committee
	consultant of candidate or party campaign committee		party central committee involvement	<ul> <li>No provision regarding party central committee involvement</li> </ul>	- Contributor of \$10,000 or more in total contributions
	- Election or appointment to party central committee				to candidates for governor, US Congress, State Legisla- ture or BOE
	No provision regarding campaign contributions      Financial interest or family relationship governor, congressional member, state legislator or BOE member				- Financial interest or family relationship with the gover- nor, congressional member, state legislator or BOE member

# **B. Redistricting Commission Membership Provisions** (continued)

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Disqualifying past experience	- Legislative, congressional or BOE staff member or consultant under contract with either  In past 10 years, having registered as federal, state or local lobbyist or employee or consultant of registered lobbyist  No provision related to changes in partisan affiliation	No provisions for disqualifying past experience	Not under 3 year exclusion:  - Contributor of \$10,000 or more to, or has a financial relationship with, or is immediate family member of the governor, congressional member, state legislator or BOE member  - Legislative or congressional staff member or consultant under contract with legislature  In past 3 years, having registered as a lobbyist or employee or consultant of registered lobbyist  In past 3 years, having changed partisan affiliation	Not under 3 year exclusion:  - Contributor of \$10,000 or more to, or has a financial relationship with, or is immediate family member of the governor, state legislator or BOE member  - Legislative staff members consultants and those under contract with legislature  In past 3 years, having registered as a lobbyist or employee or consultant of registered lobbyist  In past 3 years, having changed partisan affiliation	- Legislative, congressional or BOE staff member or consultant under contract with either  In the past 5 years, having registered as a lobbyist or employee or consultant of registered lobbyist  In past 3 years, having changed partisan affiliation
Limitations on future public service	Ineligible during term of service and for 3 years after to:  Hold elective office  Be appointed by an elected official to a paid public position  Register as a lobbyist  Work as staff, counsel, consultant or contractor to the governor, legislature, member of Congress or state BOE member  Commissioners serve until the next commission is appointed, effectively 10 years	Ineligible during term of service and for three years following the adoption of redistricting plan, whichever is longer, to:  - Hold elective public office  - Be appointed to public office for which an elected official or entity within legislature has appointing authority, and for which economic consideration is provided  - Register as a lobbyist  Members of Little Hoover Commission serve 4-year terms	Ineligible during term of service and for 3 years after to:  Hold elective public office  No provision regarding appointed positions  Register as a lobbyist  Commissioners serve until the next commission is appointed, effectively 10 years	Ineligible during term of service and for 3 years after to:  Hold elective public office  No provision regarding appointed positions  Register as a lobbyist  Although term of service not explicitly stated, appointment of commission occurs only once per decade	Ineligible to run in districts created by the commission or to work for those holding such offices while the adopted plan is in effect and for 3 years after Ineligible for appointment by governor, member of legislature, congress or BOE to paid public position Ineligible to register as a lobbyist for 3 years after serving Commissioners serve until the next commission is appointed, effectively 10 years

## C. Measures of Independence and Compensation

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Nomination and appointment by a body independent of the legislature and governor	Yes	No	Partially, Independents chosen by random selection	Yes	Yes
Funding	Minimum of \$3 million or the amount spent in the last redistricting process, whichever is greater, adjusted by Consumer Price Index  Legislature shall augment minimum funding by an amount, determined by the Legislative Analyst and Department of Finance, necessary for the commission to carry out its duties	Proposed by governor and decided upon by the legislature as an annual appropriation within budget act beginning in 2010	Proposed by governor and decided upon by the legislature as an annual ap- propriation within budget act beginning in 2009	Proposed by governor and decided upon by the legislature as an annual appropriation within budget act beginning in 2010	\$5 million, adjusted by the Consumer Price Index, which may be supplemented, but not reduced by the legislature
Compensation	\$300 for each day of involvement in conduct of commission's business, adjusted by the Consumer Price Index Reimbursement for personal expenses incurred in conduct of commission's business	Commissioners serve without compensation Reimbursement provided for all necessary expenses actually incurred in performance of duties	Commissioners serve without compensation Reimbursement for personal expenses incurred in the conduct of commission's business	Applies to both commissioners and nominating panel \$150 for each day of attendance at a meeting of panel or commission  Reimbursement for actual and necessary traveling expenses incurred in conduct of panel or commission's business	Applies to both commissioners and nominating panel \$300 for each day of involvement in conduct of panel's or commission's business, adjusted by the Consumer Price Index Reimbursement for reasonable expenses incurred in conduct of panel or commission's business

# **D. Appointment Process**

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Candidate pool selection process	Random selection of registered voters who are then invited by the Secretary of State to apply to serve Secretary of State establishes final pool after a series of screenings	Not applicable The 9 public members of the Little Hoover Commission constitute the commission	Panel of 10 retired judges establishes a pool of 55 candidates	Panel of 10 retired judges establishes a pool of 55 candidates	Panel of retired judges or retired county and city clerks establishes a pool of 75 qualified candidates
Candidate pool composition	Initial pool consists of 10 nominees from each Assembly District Final pool consists of 40 nominees from each of the two largest parties and 40 nominees not affiliated with either of the two largest parties	Not applicable Public members of the commission are direct political appointees	20 candidates registered with each of the two largest parties and 15 not registered with either of the two largest parties	20 candidates registered with each of the two largest parties and 15 not registered with either of the two largest parties	25 candidates registered with each of the two largest parties and 25 not registered with either of the two largest parties
Candidate pool diversity requirements	Secretary of State shall ensure that each stage of selection process promotes the purpose of achieving a commission reasonably representative of state's diversity, including racial, ethnic, geographic and gender diversity	Not applicable  Legislature shall establish, by statute, procedures to ensure public members of Little Hoover Commission are representative of state's diversity, including racial, eth- nic, geographic and gender diversity	All involved with selection process shall work to ensure panelists, pool of candidates and commissioners, as applicable, are representative of state's racial, ethnic, cultural, geographic and gender diversity	All involved with selection process shall work to ensure panelists, pool of candidates and commissioners, as applicable, are representative of state's racial, ethnic, cultural, geographic and gender diversity	Selection process shall be designed to ensure that panelists, pool of candidates and commissioners are reasonably representative of state's racial, ethnic, geographic and gender diversity

### **D. Appointment Process** (continued)

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Legislative leaders' procedure for nomination or peremptory challenge of nominees	Legislative leaders given two opportunities to screen pool of nominees:  - Each leader may strike up to 20% of initial pool  - Each leader may strike up to 12 nominees from final pool Leaders are also given opportunity to object to composition of commission after final selection for lack of diversity	Not applicable Governor and legislature directly appoint public members to Little Hoover Commission	Each of the 4 legislative leaders may strike up to 2 candidates	Each of the 4 legislative leaders may strike up to 4 candidates	Each of the 4 legislative leaders may strike up to 2 candidates from each major party and up to 2 candidates registered with neither major party for a total of 6 strikes per legislative leader
Final selection	After screening by legislative leaders, Secretary of State randomly selects:  - 4 commissioners affiliated with each of the two largest parties and 3 commissioners not affiliated with either of the two largest parties from the remaining pool  If any three of the legislative leaders object to the composition of the commission for lack of diversity, all names are returned to final pool for another round of random selection	Public members of Little Hoover Commission are appointed as follows*:  Governor appoints 5 members, (as specified by ACA 1, one of the 5 must be unaffliated with either of the 2 largest political parties)  Speaker of the Assembly appoints 2 members  Senate Rules Committee appoints 2 members  Legislature shall establish, by statute, procedures necessary to provide that:  Public members represent state's diversity  Each public member has been continuously registered under same political affilia- tion over preceding 3 years  No more than 4 members are registered with the same party	Each of the 4 legislative leaders may select two candidates affiliated with their party from the list of nominees  The Fair Political Practices Commission appoints by random selection the three remaining commissioners, neither of whom may be registered with either of the two largest parties	Fair Political Practices Commission appoint by random selection 4 commissioners affiliated with each of the two largest parties and 3 commissioners not affiliated with either of the two largest parties	4 commissioners affiliated with each of the two largest parties and 3 commissioners not affiliated with either of the two largest parties are randomly selected from the remaining candidate pool

<sup>\*</sup>Note: In the event that the governor and the Senate and Assembly majority all share the same partisan affiliation, all the appointments will be made by members of the same party.

# E. Redistricting Criteria

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Explicitly prioritizes criteria	Yes	Yes	Yes	Yes	Yes
Guidance provided on defining redistricting criteria	Yes	Yes	No	No	Yes
Voting Rights Act compliance explicitly referenced	Yes	Yes	Yes	Yes	Yes
Population equality standard	Equal population required, except where deviation is necessary for compliance with Voting Rights Act and allowable by law	Equal population required, except as otherwise required or permitted by judicial decision	Congressional Districts:  Equal population with other districts for same office in compliance with US Constitution  Legislative and BOE Districts:  Equal population with other districts for same office required to extent practicable, in compliance with US Constitution	Congressional Districts:  Population of all districts shall be reasonably equal  Legislative and BOE Districts:  Equal population with other districts of the same type required to the extent practicable, in compliance with the US Constitution	Congressional Districts:  Equal population required in compliance with the US Constitution  Legislative and BOE Districts:  Equal population with other districts of the same type required to the extent practicable, in compliance with the US Constitution
Nesting required	No	No	No	No	To be favored where doing so would create no significant detriment to other listed criteria
Contiguity required	Yes	Yes	Yes	Congressional: Yes Legislative and BOE: Yes, to extent practicable	Yes, to extent practicable
Geographically compact districts required	Yes, to extent it does not conflict with other criteria Lowest Priority Guideline: Nearby areas of population shall not be bypassed for more distant populations	Yes, districts shall be reasonably geographically compact Lowest Priority No guidelines provided	Yes, to extent practicable Lowest Priority No guidelines provided	Congressional: No Legislative and BOE: Yes, to extent practicable Lowest Priority No guidelines provided	Yes, where doing so would create no significant detriment to other listed criteria  Lowest Priority  Guideline: Nearby areas of population shall not be bypassed for more distant populations

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# E. Redistricting Criteria (continued)

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Requires conforming to geographic and political lines	Districts must first be created to respect county boundaries  Counties may only be divided or fragmented in consideration of communities of interest and city boundaries	Yes City and county boundaries and visible geographic boundaries respected to extent practicable Prioritized below communities of interest	Yes  District lines shall use visible geographic features and city and county boundaries to extent practicable  Prioritized below communities of interest	Congressional: Yes Geographical integrity of city, county and geographical region respected to extent possible Legislative and BOE: Yes, visible and geographic features and city and county boundaries respected to extent practicable Prioritized below communities of interest	Yes City and county boundaries features respected in balance with communities of interest Visible geographic features should be respected if associate with relevant community of interest Prioritized below or on par with communities of interest
Respect for communities of interest included among criteria	Yes  Defined as a group of residents who share similar interests, including but not limited to, neighborhood, social, cultural, ethnic, geographic or economic interests	Yes  Defined as residents who share similar interests, including, but not limited to social, cultural, ethnic, geographic or economic interests, formal governmental or quasi-governmental relationships, but not including political parties, incumbents or candidates	Yes, undefined	Yes, undefined	Yes  Defined as a group of residents who share similar interests including, but not limited to, neighborhood, social, cultural, ethnic, geographic or economic interests, but not including political parties, incumbents or candidates
Requires undivided census blocks	Yes	Not included among criteria	Not included among criteria	Not included among criteria	Yes, but not necessary to include among criteria
Competition	Not included in provisions of the measure	Not included in provisions of the measure	Not included in provisions of the measure	Not included in provisions of the measure	To be favored where doing so would create no significant det- riment to the other listed goals

# E. Redistricting Criteria (continued)

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Availability of partisan registration or voting history data and restrictions on incumbent and candidate residence information	No ban on partisan registration or voting history data Residence of incumbents may not be considered in creation of map Districts shall not be drawn to favor incumbents or partisan interests	No ban on partisan registration or voting history Residence of incumbents or candidates may not be considered in creation of maps, except to comply with criteria	No ban on partisan registra- tion or voting history No provision regarding residence of incumbents	Party registration and voting history data shall be excluded from the mapping process Residence of incumbents or candidates may not be identified or considered in the creation of maps	Voter information may be used to ensure compliance with criteria only Residence of incumbents or candidates may not be considered in creation of map Districts shall not be drawn to favor incumbents or partisan interests

# F. Transparency and Public Accountability Provisions

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Will commission be governed by Bagley Keene Open Meeting Act?	Yes	Yes	Yes	Yes	Yes
Are ex parte communications prohibited?	Yes, except between commission members, staff and legal counsel	Yes, except for written com- munications with prompt disclosure, and between commission members, staff, and legal counsel	Yes, except between commission members, staff and legal counsel	Yes, except between commission members, staff and legal counsel	Yes, except between commission members, staff and legal counsel
Are transcripts, data and documents required to be publicly available?	Yes, yes without restriction	Yes, without restriction	Yes, with restrictions  Commission may withhold preliminary drafts, notes and communications between commission members, staff and consultants	Yes, but with restrictions  Commission may withhold preliminary drafts, notes and communications between commission members, staff and consultants	Yes, with minimal restriction Communications between commissioners and staff should be made public after final plan is proposed
Public hearings requirements	Commission shall establish:  - Schedule of open noticed hearings  - Procedures for submission of plans and written comments to the commission  Hearings must take place in various regions throughout state at the following stages:  - Before the drawing of initial maps  - After the drawing and display of maps	Commission shall establish:  - Schedule of open noticed hearings  Hearings must take place in several different geographic areas of state and at each stage of the process including:  - Before a draft plan is created  - After drawing of maps  - After a final plan is developed	Commission shall establish:  - Schedule of open noticed hearings  - A plan to make census data and mapping software available to the public  Hearing process includes at least 3 stages:  - Before the drawing of initial maps  - Following drawing of each proposed map  - Following the display of final maps	Commission shall establish:  - Schedule of open noticed hearings  - A plan to make census data and mapping software available to the public  Hearing process includes at least 3 stages:  - Before the drawing of initial maps  - Following drawing of each proposed map  - Following the display of final maps	Commission shall establish:  - Schedule of open noticed hearings  - Procedures for submission of plans and written comments to the commission  - A plan to make census data and mapping software available to the public  Hearings must take place in several different geographic areas of state and at each stage of the process including:  - Before a draft plan is created  - Following drawing of each proposed map  - After a final plan is developed  - Upon any significant changes to the final plan

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# F. Transparency and Public Accountability Provisions (continued)

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Minimum public comment and display periods	Any map(s) subject to a vote shall be on display a minimum of 14 days	Public comment must be taken for at least 30 days after display of initial and final plan, unless deemed not practicable by commission	At first two stages, public comment must be taken for at least 30 days from date of public display	At first two stages, public comment must be taken for at least 30 days from date of public display	Public comment must be taken for at least 30 days after display of initial plan or after significant changes to proposed plan  Final plan must be on display at least 14 days before approval
Involvement of public in presenting plans	Any member of the public may submit a complete or partial plan	Although public may comment on commission maps, submission of complete or partial plans by members of public is not explicitly stated  Senate, Assembly, Congress, BOE, other officeholders, counties, cities may make recommendations, which commission must consider	Public provided access to data and mapping software for purpose of public input Either the Senate or Assembly, or both may make recommendations by majority or minority report, which commission must consider	Public provided access to data and mapping software for purpose of public input Senate or Assembly, or both may make recommendations by majority or minority report, which commission must consider	Any member of the public may submit a complete or partial plan

# G. Procedures for Implementation and Review

	FADEM INITIATIVE	ACA 1 (Nunez/Price)	SCA 10 (Lowenthal)	SCA 9 (Ashburn)	CGS IDEAL PLAN
Gubernatorial veto	No	No	No	No	No
Legislature votes	No	No	No	No	No
Citizens vote on final plan	No	No	No	No	No
Enactment timetable	After decennial census	After decennial census	After decennial census	After decennial census	After decennial census
Explicitly prohibits mid-decade redistricting	No, however, commission convened only once per decade and may not meet or incur expenses after the redistricting plan becomes final	Yes	No, however, commission convened only once per decade and may not meet or incur expenses after the redistricting plan becomes final	Yes	Yes
Appeal directly to the Supreme Court	Yes	Yes	Yes	Yes	Yes