



Berkeley City Council

CONSENT CALENDAR  
September 11, 2007

To: Honorable Mayor and  
Members of the City Council

From: Councilmember Laurie Capitelli  
Councilmember Max Anderson  
Councilmember Linda Maio  
Councilmember Darryl Moore

Subject: Opposition to California State Initiative Proposal # 07-0032 -  
Presidential Election Reform Act

RECOMMENDATION

Adopt a resolution opposing California State Initiative Proposal # 07-0032, "The Presidential Election Reform Act," and send correspondence to our neighboring cities -- Albany, El Cerrito, Emeryville, Oakland, and Richmond -- informing them of the proposed initiative and potential impacts if enacted.

BACKGROUND

In presidential elections, California currently assigns all of its electoral votes to the winner of the state election. The "winner-take-all" format is the standard in all but two states. This proposal would change California's electoral assignment proportionally: electors would be based upon the winner of each congressional district, except for the two remaining who would be assigned to the state's overall winner.

The proposed ballot initiative was filed on July 17, 2007, with the Office of the Attorney General by Thomas W. Hiltachk, whose law firm represents the California Republican Party. If successful in the initiative process, it will be included on the ballot for the June 2008, Primary Election.

DISCUSSION

There are two reasons why California citizens should oppose this proposal:

1. This would only be fair and reasonable if all other states went to a similar proportional allocation. Otherwise California is relinquishing a sizable chunk of electoral votes to the "losing party" in the state, with no comparable allocation from the states where the "losing party" dominates.

2. The winner-take-all format would actually be retained, but at the congressional district level. These districts are, in many cases, already gerrymandered to produce a particular partisan result. With results in most districts a foregone conclusion there will be little incentive for candidates to campaign statewide who will then likely target their campaign efforts on only the few "battleground" districts.

This initiative is slated for consideration in the state's June primary. Because the presidential primary, arguably the more visible and engaging of the state's spring electoral contests, has been moved up to February, most expect the June election to be overshadowed, anticipating a lower voter turnout.

Berkeley and its neighbors have an opportunity to go on record opposing this initiative **before it qualifies for the ballot**. Because it would most likely not get the scrutiny it deserves in a June primary, our efforts could prevent unanticipated consequences in November.

#### FINANCIAL IMPLICATIONS

None

#### CONTACT PERSON

Laurie Capitelli, City Council District 5	981-7150
Max Anderson, City Council District 3	981-7130
Linda Maio, City Council District 1	981-7110
Daryl Moore, City Council District 2	981-7120

#### ATTACHMENTS

1. Resolution No. –N.S. : Opposing the California State Initiative proposal #07-0032, "The Presidential Election Reform Act."
2. "Request for Title and Summary for Proposed Initiative", from the Californians for Equal Representation

**RESOLUTION NO. -N.S.**

**OPPOSING THE CALIFORNIA STATE INITIATIVE PROPOSAL # 07-0032,  
“THE PRESIDENTIAL ELECTION REFORM ACT.”**

**WHEREAS,** the State of California currently assigns all of its presidential electoral votes to the presidential candidate who wins the majority of votes in California; and

**WHEREAS,** all but two states in the nation also assign presidential electors under a “winner-take-all” system; and

**WHEREAS,** proportional allocation of electors would only be fair if instated nationwide; and

**WHEREAS,** assigning electors proportionally, based upon winners in each congressional district, would lessen the clout of California as a whole by narrowing candidates’ efforts to a few competitive districts; and

**WHEREAS,** “The Presidential Election Reform Act,” would amend California’s system of assigning presidential electors from “winner-take-all” to “partisan winners of each congressional district,” plus two more for the state’s overall winner; and

**WHEREAS,** if successful, the California State initiative proposal #07-0032, “The Presidential Election Reform Act,” will be on the ballot for California’s June 2008 primary, expected to be a low-turnout election months after the state’s presidential primary in February.

**NOW THEREFORE BE IT RESOLVED** that the Berkeley City Council does hereby oppose the California State Initiative proposal #07-0032, “The Presidential Election Reform Act” and encourages the citizens of Berkeley and the State of California to refrain from petition to have it included on the ballot for the June 2008 Primary Election.

CALIFORNIANS FOR  
EQUAL REPRESENTATION  
455 CAPITOL MALL, SUITE 801  
SACRAMENTO, CA 95814

## Attachment 2

July 17, 2007

Ms. Patricia Galvan  
Initiative Coordinator  
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

RECEIVED

JUL 17 2007

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Galvan:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission is the required proponent affidavit signed by me pursuant to section 9608 of the California Elections Code. I have also included a check to cover the \$200 filing fee. My address as registered to vote is provided on Attachment 'A' to this letter.

Thank you for your time and attention to this important matter. If you require additional information or have any questions, please contact me at (916) 442-7757.

Very truly yours,

Thomas W. Hiltachk

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Section 1. Findings and Declaration of Purposes

(a) California has more electoral votes for President of the United States than any state in the United States.

(b) Yet, California is largely taken for granted by Presidential Candidates because of its "winner-take-all" system of awarding its electoral votes. In recent elections, Presidential candidates have spent more time trying to win votes in smaller states with just a few electoral votes while largely ignoring voters in California with over 10 times the number of electoral votes.

(c) Our "winner take-all" system of awarding electoral votes does not reflect the vast diversity of our state and the regional differences of our citizenry.

(d) Further, a "winner take-all" system impedes credible third party or independent candidacies for President.

(e) Two states do not have a "winner-take-all" system of awarding electoral votes. Those states award their electoral votes to the candidate winning the popular vote in each of the state's congressional districts with two additional electoral votes being awarded to the candidate who wins the popular vote in the state.

(f) If California eliminated its "winner-take-all" system of awarding its electoral votes, Presidential candidates would have an incentive to campaign in California and to address the unique problems faced by Californians. Many geographic areas of the State would be as important to a candidate's chance for victory as many of the smaller states.

(g) Therefore, the people, exercising their reserved legislative power guaranteed by Article II of the California Constitution, hereby enact the Presidential Election Reform Act.

Section 2. The Presidential Election Reform Act.

(Text added is denoted in underline type. Text deleted is denoted in ~~strikeout type~~.)

Chapter 1 of Part 2 of Division 6 of the Elections Code (commencing with Section 6900) is amended to read:

§ 6900(a) The term "elector" or "presidential elector" as used in this chapter means an elector of President and Vice President of the United States, and not an elector as defined in Section 321.

(b) A political party nominating a candidate for President of the United States and a candidate for Vice President of the United States shall submit to the Secretary of State a certified list of presidential elector nominees who have pledged to vote for the candidates of that political party as follows:

(i) the number of presidential elector nominees shall be equal to the total number of presidential electors of the State pursuant to Section 1 of Article II of the United States Constitution;

(ii) one presidential elector nominee shall reside in each congressional district in the state and the two remaining presidential elector nominees shall reside in the state;

(iii) the manner of choosing presidential elector nominees shall be established by each political party, but in the event a party has no rules for choosing nominees, the candidate for President shall choose the nominees pursuant to subdivision (b)(i) and (ii).

(c) A group of candidates for nomination as a presidential elector for an independent candidate for President of the United States and for Vice President of the United States pursuant to section 8303 shall also meet the requirements of subdivision (b)(i) and (ii).

§ 6901. Whenever a political party in accordance with ~~Section 7100, 7300, 7578, or 7843~~, submits to the Secretary of State its certified list of nominees for electors of President and Vice President of the United States, the Secretary of State shall notify each candidate for elector of his or her nomination by the party. The Secretary of State shall cause the names of the candidates for President and Vice President of the several political parties to be placed upon the ballot for the ensuing general election and any independent candidate pursuant to section 8304.

§ 6902(a) At the general election in each leap year, or at any other time as may be prescribed by the laws of the United States, there shall be chosen by the voters of the state as many electors of President and Vice President of the United States as the state is then entitled to.

(b) An elector shall be elected in each congressional district if the candidate to whom that elector has pledged to vote received a plurality of the popular vote cast in that congressional district. The two at-large electors shall be elected if the candidates to whom those electors have pledged to vote received a plurality of the popular vote cast in the state.

§ 6903. On or before the day of meeting of the electors, the Governor shall deliver to the electors a list of the names of each electors elected pursuant to section 6902, and he or she shall perform any other duties relating to presidential electors which are required of him or her by the laws of the United States.

§ 6904. The electors elected pursuant to section 6902 chosen shall assemble at the State Capitol at 2 o'clock in the afternoon on the first Monday after the second Wednesday in

December next following their election.

§ 6905. In case of the death or absence of any elector chosen, or if the number of electors is deficient for any other reason, the electors then present shall elect, pursuant to subdivision (b) of section 6902 from the citizens of the state, as many persons as will supply the deficiency.

§ 6906. The electors, when convened, if both candidates are alive, shall vote by ballot for that person for President and that person for Vice President of the United States, who are, respectively, the candidates of the political party or independent candidate which they represent and have pledged to vote, one of whom, at least, is not an inhabitant of this state.

§ 6907. The electors shall name in their ballots the person voted for as President, and in separate ballots the person voted for as Vice President.

§ 6908. The electors shall make separate lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each cast pursuant to Section 6906, which lists they shall sign, certify, seal, and transmit by mail to the seat of the Government of the United States, directed to the President of the Senate.

§ 6909. Each presidential elector shall receive ten dollars (\$10) for his or her services, and mileage at the rate of five cents (\$0.05) per mile for each mile of travel from his or her domicile to the State Capitol and return.

Their accounts therefor shall be certified by the Secretary of State, and audited by the Controller, who shall draw his or her warrants for the same on the Treasurer, payable out of the General Fund.

### Section 3. Severability

The provisions of this section are severable. In any provision in this section or its application is held invalid, that finding shall not affect other provisions or applications that can be given effect without the invalid provision or application.

