

RESOLUTION 07-03-2017 (REVISED)

DIGEST

Federal Legislation: Congressional Apportionment

Authorizes the California Legislature to urge amendments to the Apportionment Act of 1911 and Act of Reapportionment of 1929 that capped the number of members of the House of Representatives at 435.

RESOLUTIONS COMMITTEE ANALYSIS

History:

No similar resolutions found.

Reasons:

This resolution authorizes the California Legislature to urge amendments to the Apportionment Act of 1911 and Act of Reapportionment of 1929 that capped the number of members of the House of Representatives at 435.

The Resolutions Committee initially recommended disapproval of this resolution. The full Conference voted to approve.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to exhort, by every means available to the State of California, the Government of the United States to amend the provisions of the Act of Reapportionment Act of 1929 (ch. 28, 46 Stat. 21, 2 U.S.C. § 2a, enacted June 18, 1929) and Apportionment Act of 1911 (Pub.L. 62-5, 37 Stat. 13) that cap the number of members of the United States House of Representatives at 435, to read as follows:

- 1 2 U.S.C. § 2a. Reapportionment of Representatives; time and manner; existing decennial census
2 figures as basis; statement by President; duty of clerk
3 (a) On the first day, or within one week thereafter, of the first regular session of the
4 Eighty-second Congress and of each fifth Congress thereafter, the President shall transmit to the
5 Congress a statement showing the whole number of persons in each State, excluding Indians not
6 taxed, as ascertained under the seventeenth and each subsequent decennial census of the
7 population, and the number of Representatives to which each State would be entitled under an
8 apportionment of the ~~then-existing~~ number of Representatives by the method known as the
9 method of equal proportions, no State to receive less than one Member, the total number of
10 Representatives to be calculated by using the population of least populous state as the
11 denominator and the total population of the United States as the numerator.

(Proposed new language underlined; language to be deleted stricken)

PROPOSERS: Bar Association of San Francisco

STATEMENT OF REASONS

The Problem: The Constitution of the United States, Article I, Section 2, Clause 3, provides that the number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative. The 1791 Congress had 69 Representatives. This number increased with population to 435 in 1913. In 1911, Congress passed the Apportionment Act of 1911, which capped the total number of Representatives at 435 and provided that the seats be allocated among the States by population with each State receiving at least one Representative, as required by the Constitution. The Reapportionment Act of 1929 continued the cap of 435, allocating "the number of Representatives to which each State would be entitled under an apportionment of the **then existing number** of Representatives" (emphasis added). The Reapportionment Act of 1929 remains in effect.

Capping the maximum number of Representatives while guaranteeing a minimum number underrepresents urban and populous states, like California, while overrepresenting rural and sparsely populated states. The effect is to undermine compromise struck in the Constitutional Convention between the Senate and House. The Senate provides equal representation among the states regardless of population. The House of Representatives, as its name suggests, provides representation based on the populations of the States. The 1911 and 1929 Acts undermine this compromise and disenfranchise the people of more populous states.

This disenfranchisement has effect every four years in Presidential elections through the Electoral College and every day in the House of Representatives in every single vote.

This is a BAD deal. Let's fix it.

The Solution: This resolution seeks to exhort California, through all of its elected official and every means available to exert its influence to fully enfranchise under the Constitution of the United States the voters of California on par with those of other less populous states.

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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