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## LDF Statement Regarding California's "Voters First Act"

The NAACP Legal Defense and Educational Fund, Inc. (LDF), opposes California's "Voters First Act" (the "VFA"), which seeks to create a redistricting commission in California that will draw the lines for state Senate, Assembly, and Board of Equalization districts.

As a leading advocate in the long-standing effort to secure and protect minority voting rights, LDF recognizes that redistricting plays an important role in our democracy. Of course the existing redistricting process in California, as elsewhere, is imperfect; it often reflects partisan and incumbent influence and may be subject to manipulation. In our view, however, a move from a system where redistricting authority is in the hands of elected officials who are difficult to unseat, in part but not exclusively as a result of the redistricting process that they control, is not substantially improved by a move to a system that transfers those responsibilities to a small group of individuals with virtually no accountability to the electorate. At the same time, it is unclear why a proposal designed to put control over the political process into the hands of voters is designed primarily to maintain political party balance instead of assuring that redistricting authority is the responsibility of a body broadly representative of the voters who live in the affected area.

Our core concern with the VFA is that while it seeks to cure the perceived problems with the existing method of redistricting, it proposes to do so through a process and structure that is not assured to include representation of minority communities nor to protect the interests of those communities.

From LDF's perspective, the VFA suffers from two primary deficiencies: (1) its fourteen-member size — and the selection criteria for membership — will limit the extent to which a full range of perspectives will be considered in the redistricting decision-making process, including those from minority communities, which in light of long experience, enhances the fairness of redistricting choices; and (2) although the VFA expressly refers to the need for compliance with the Voting Rights Act of 1965, it is not structured so as to assure that compliance.

The VFA proposes to create a body of fourteen individuals who will be responsible for the redistricting process for California, one of the largest and most diverse states in the country. The proposal to delegate redistricting to this very small body presupposes that fourteen individuals will be well informed about communities of

interest in every corner of California. However, gaining sufficient knowledge of communities in California, and their differing interests, requires more than a few public hearings. In the redistricting process, a decision to draw a district including or excluding a particular neighborhood or area can determine whether voters with common interests can elect candidates of their choosing. Indeed, it seems impractical to assume that any fourteen Californians, no matter how well-intentioned, could adequately carry this burden in a process where detailed familiarity is necessary to insure meaningful representation.

The impact of a small commission for a huge and diverse state would be further compounded by a selection process muddled with screening mechanisms that are not clearly defined. The vague selection criteria of the VFA leave room for broad discretion in determining whether an individual satisfies the conditions of appointment. Establishing a commission that adequately embraces and reflects a wide range of interests, experiences, and perspectives bears on substantive redistricting outcomes that affect voters. Unfortunately, the VFA does not do enough to insure that the process adequately reflects the breadth of perspectives and interests that characterize California.

Very often, redistricting choices will determine whether voters from minority communities will have the opportunity to elect a candidate of their choosing, but these interests often are given short shrift in the redistricting process. In LDF's experience, having a seat at the redistricting table matters to minority voters (just as it matters to major political parties); indeed, it can be crucial to the protection of minority voting rights recognized by both federal and California law.

Although some urge that requiring commission-drawn redistricting plans that purport to meet optimal or objectively desirable (but as yet unproven) criteria are sufficient, all redistricting plans incorporate certain tradeoffs that, in a large, diverse, and populous state like California, are complex and often difficult to calibrate.

Although the VFA expressly recognizes the need for Voting Rights Act compliance, aspects of the VFA actually create a tension with the Voting Rights Act by urging the creation of a redistricting plan that reflects a partisan ideal without adequate safeguards necessary to prevent continued manipulation of minority voting strength. Thus, the manner in which the VFA shifts the focus from districts designed to aid the election of a particular party or candidate to districts that do not favor a particular party or candidate is not an improvement for all Californians.

Redistricting plan drafters must balance the application of redistricting criteria against the way in which they interact with real-world circumstances. In other words, what may work under one set of facts may create a vastly different result under another set of facts, where geographic realities, population shifts, growth in a particular area, or community interests must be accounted for. The balance is not properly struck by replacing the current redistricting process with a new one that leaves insufficient

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room for commission members to weigh the interests of minority voters and comply with the provisions of the Voting Rights Act.

The opportunity for minority communities to elect candidates of their choosing can be, and often is, dramatically affected by the drawing of district lines. As drafted, the VFA threatens minority voting rights because certain features that are in tension with minority interests are very precise, while other provisions that appear to be designed to foster the inclusion of minorities and compliance with minority vote- protection principles are vague. The structure of the proposal does not ameliorate this concern.

Thus, under the VFA new redistricting problems very likely would replace old ones. The VFA cannot, even in the name of reform, undermine long-standing minority voter protection principles that are the result, in part, of decades of litigation and advocacy. For these reasons, LDF opposes the California Voters First Initiative as it threatens to unravel the gains that have been made with respect to the protection of minority voters during the redistricting process.

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**ABOUT LDF**

*The NAACP Legal Defense and Educational Fund (LDF) is America's legal counsel on issues of race. Through advocacy and litigation, LDF focuses on issues of education, voter protection, economic justice and criminal justice. We encourage students to embark on careers in the public interest through scholarships and internship programs. LDF pursues racial justice to move our nation toward a society that fulfills the promise of equality for all*