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FOR IMMEDIATE RELEASE

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Supreme Court Issues Ruling on State Senate District Map for 2012 Elections

If proposed referendum qualifies for ballot, Court orders interim use of map certified by the Citizens Redistricting Commission

San Francisco — Acting expeditiously to eliminate uncertainty and avoid a potential disruption of the 2012 election process, the California Supreme Court today decided which state Senate district map should be used for statewide elections in 2012 in the event a proposed ballot referendum challenging the currently applicable district map is found to have sufficient valid signatures to qualify for submission to the voters. The court's decision, authored by Chief Justice Tani Cantil-Sakauye, directs election officials to use the state Senate map certified by the Citizens Redistricting Commission (Commission) even if the referendum qualifies for the ballot.

The Commission is a new constitutional entity established by the voters in 2008 (Proposition 11) and 2010 (Proposition 20) to draw political district boundaries instead of the Legislature. Creation of new districts — “redistricting” — must be done every 10 years in light of population changes identified in the national census undertaken at the beginning of each decade.

In August 2011, the Commission, after holding numerous public hearings throughout the state, certified new voting district maps for the state Senate, state Assembly, the United States Congress, and the State Board of Equalization. The Secretary of State and county election officials have been using all four Commission-certified maps since mid-August 2011 in preparation for the upcoming June and November 2012 elections.

Shortly after the Commission certified its state Senate map, an entity began the process of attempting to qualify a referendum measure challenging the Commission-certified state Senate map. Proponents of the referendum obtained more than 710,000 signatures in support of the petition and submitted the petition to election officials on November 13, 2011. County election officials and the Secretary of State currently are determining whether the petition contains a sufficient number of valid signatures to qualify for placement on the November 2012 ballot. 504,760 valid signatures are needed.

If it is determined that the petitions contain a sufficient number of valid signatures to qualify for the ballot, the currently applicable Commission-certified state Senate map will be automatically

stayed. Anticipating that possibility, on December 2, 2011, the official proponent of the referendum filed the current lawsuit — *Vandermost v. Bowen* (S198387) — asking the California Supreme Court to decide what state Senate map should be used for the 2012 elections if the referendum qualifies for the ballot.

When the *Vandermost* petition was filed in the Supreme Court in early December 2011, the signature verification process was still in the early stages and it appeared to be a close question whether the proposed referendum would qualify. In light of the time needed by election officials to review the signatures and the very tight schedule imposed by the impending 2012 June primary election, the Supreme Court, on December 9, 2011, conditionally assumed jurisdiction in the case and established an extremely expedited briefing and oral argument schedule. The court held a special televised and webcast oral argument session on January 10, 2012. (See <http://www.calchannel.com/channel/viewvideo/3223>.)

In today's decision, the court first addressed a threshold procedural issue and explained why the court properly assumed jurisdiction and why the case is appropriately "ripe" for decision even though election officials have not yet determined whether the proposed referendum contains sufficient valid signatures to qualify for the ballot. On this procedural point, the majority opinion relied upon the court's traditional authority under article VI, section 10 of the state Constitution, which gives the Supreme Court jurisdiction to consider and issue "extraordinary writs" such as the present one.

A separate concurring opinion by Justice Liu, although agreeing that the court has jurisdiction in this case, interpreted article XXI, section (3), subdivision (b)(2) of the California Constitution to limit the court's discretion to rule on the merits in such proceedings. According to the concurring opinion, the court generally should not rule on the merits unless the proposed referendum is "likely to qualify" for the ballot.

Turning to the substantive question of what state Senate district map should be used in the event the proposed referendum qualifies, the court initially rejected petitioner's contention that the court would be precluded from determining that the Commission-certified map should be used for the interim elections if the referendum qualifies and automatically stays the Commission-certified state Senate map.

Rather, the court explained, the court must properly consider all of the possible alternative maps that have been submitted to the court, including the Commission-certified map, to determine which map best complies with the constitutionally-mandated criteria established by the federal and state Constitutions. The court then analyzed the three alternative proposed maps submitted by petitioner as well as the Commission-certified map, and unanimously concluded that, in light of the constitutional criteria, the Commission-certified map was clearly the best alternative.

Accordingly, the Supreme Court decision denies the relief sought by petitioner and orders that if the proposed referendum qualifies for the ballot, the Secretary of State and local election officials are directed to use the state Senate district map certified by the Citizens Redistricting Commission for the June 5, 2012, Primary Election and the November 6, 2012, General Election. The court's judgment is final immediately.

The court's opinion in *Vandermost v. Bowen* (S198387) is available on the California Courts Web site at <http://www.courts.ca.gov/opinions-slip.htm>. Legal briefs in the case are available at <http://www.courts.ca.gov/16252.htm> .