
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No:	AB 34	Hearing Date:	6/20/23
Author:	Valencia		
Version:	6/12/23		
Urgency:	No	Fiscal:	Yes
Consultant:	Scott Matsumoto		

Subject: Elections: County of Orange Citizens Redistricting Commission

DIGEST

This bill establishes a Citizens Redistricting Commission in Orange County (CRCOC) to be tasked with adjusting the boundary lines of the supervisorial districts of Orange County, as specified.

ANALYSIS

Existing law:

- 1) Requires the board of supervisors of each county, following each federal decennial census, to adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts are substantially equal in population as required by the US Constitution, as specified.
- 2) Authorizes a local jurisdiction, including a county, to establish an independent, hybrid, or advisory redistricting commission by resolution, ordinance, or charter amendment, subject to certain conditions.
- 3) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question to adopt a charter. Generally provides greater autonomy over county affairs to counties that have adopted charters.
- 4) Provides that charter counties are subject to statutes that relate to apportioning population of governing body districts.
- 5) Establishes Citizens Redistricting Commissions in Fresno, Kern, Los Angeles, Riverside, and San Diego counties, and charges the commissions with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified.

This bill:

- 1) Provides for the creation of the CRCOC, and tasks it with adjusting the boundary lines of the county's supervisorial districts in the year following the year in which the decennial federal census is taken. Requires the Orange County Board of

Supervisors (board) to provide funding and staffing for the CRCOC, to ensure that a computerized redistricting database is available, and to ensure that the public has access to redistricting data and computer software equivalent to what is available to the commissioners.

- 2) Requires the CRCOC to consist of 14 voting members and two non-voting alternates, and to be created no later than December 31 in each year ending in the number zero.
- 3) Requires the political party preferences of commissioners to be as proportional as possible to the political party registrations of voters in the county, as specified. Requires at least one commissioner to reside in each of the existing supervisorial districts.
- 4) Requires each commissioner to meet all of the following qualifications:
 - a) Be a county resident who was continuously registered to vote in the county with the same party preference for at least five years immediately preceding the person's appointment.
 - b) Has voted in at least one of the last three statewide elections immediately preceding the person's application.
 - c) Possess experience that demonstrates analytical skills relevant to redistricting and voting rights, and possess an ability to comprehend and apply applicable legal requirements.
 - d) Possess experience that demonstrates an ability to be impartial.
 - e) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the county.
- 5) Prohibits a person from being a commissioner if the person or any family member of the person has been elected or appointed to, or been a candidate for, an elective office of the local jurisdiction in the eight years preceding the person's application or if any of the following apply:
 - a) The person or the person's spouse has done any of the following in the eight years preceding the person's application:
 - i) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.
 - ii) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.
 - iii) Served as a staff member or a consultant to, or who has contracted with, a currently serving elected officer of the local jurisdiction.
 - iv) Been registered to lobby the local jurisdiction.

- v) Contributed \$500 or more in a year to any candidate for an elective office of the local jurisdiction, as specified. The local jurisdiction may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.
- b) A family member of the person, other than the person's spouse, has done any of the following in the four years preceding the person's application:
 - i) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.
 - ii) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.
 - iii) Served as a staff member of or consultant to, or has contracted with, a currently serving elected officer of the local jurisdiction.
 - iv) Been registered to lobby the local jurisdiction.
 - v) Contributed \$500 or more in a year to any candidate for an elective office of the local jurisdiction. The local jurisdiction may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.
- 6) Requires the county elections official to review commissioner applications and eliminate applicants who do not meet the qualifications. Requires the elections official to select 60 of the most qualified applicants and to publicize their names for at least 30 days. Permits the elections official, during this period, to eliminate any applicant if the official becomes aware that the applicant does not meet the qualifications. Requires the elections official to create a subpool for each existing supervisorial district. Prohibits the elections official from communicating with a member of the board or their agent about the nomination process or applicants before the publication of the 60 most qualified applicants.
- 7) Requires the Orange County Auditor-Controller to conduct a random drawing to select one commissioner from each of the subpools, and then conduct a random drawing from the remaining applicants to select three additional commissioners.
- 8) Requires the eight selected commissioners to appoint six additional members and two non-voting alternates from the remaining applicants. Requires these appointees to be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the CRCOC reflects the county's diversity, as specified. Requires the eight commissioners to select applicants so that the political party preferences of the members of the CRCOC are as proportional as possible to the registered voters in the county, as detailed above.
- 9) Requires commissioners to apply the requirements of this bill in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.

- 10) Permits each alternate commissioner to attend CRCOC meetings, other than closed session meetings, and to give public comment to the CRCOC.
- 11) Provides that the term of office of each member of the CRCOC expires upon the appointment of the first member of the succeeding CRCOC.
- 12) Provides that nine members of the CRCOC constitute a quorum and requires nine or more affirmative votes for any official action.
- 13) Requires each commissioner to be present for all the CRCOC's public hearings and internal meetings. Provides that a commissioner is subject to removal if the commissioner misses a significant number of meetings or hearings such that it interferes with the CRCOC's work and with the member's ability to meaningfully participate in the CRCOC's activities.
- 14) Requires the CRCOC to require a consultant to, before delivering advice to the CRCOC or a commissioner, as specified, to disclose to the CRCOC potential or actual conflicts of interest. Requires the CRCOC to weigh the consultant's potential or actual conflicts of interest against the consultant's qualifications in determining whether to retain the consultant.
- 15) Requires each commissioner to be a designated employee for the purposes of the conflict of interest code adopted by the county, as specified, thereby requiring members to file statements of economic interests and to comply with specified state laws regarding conflicts of interests and limits on gifts and honoraria.
- 16) Requires the CRCOC to establish single-member supervisorial districts pursuant to a mapping process using the following criteria as set forth in the following order of priority:
 - a) Requires districts to comply with the United States (US) Constitution and requires each district to have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act (VRA) or allowable by law. Provides that population equality shall be based on the total population of residents in the county as determined by the most recent federal decennial census for which redistricting data are available, as specified. Provides that an incarcerated person shall not be counted towards the county's population except for an incarcerated person whose last known place of residence can be assigned to a census block in the county, if information about the last known place of residence for incarcerated persons is included in a specified computerized database for redistricting;
 - b) Requires districts to comply with the VRA;
 - c) Requires districts to be geographically contiguous;
 - d) Requires the geographic integrity of any city, local neighborhood, or local community of interest, as defined, to be respected in a manner that minimizes its division to the extent possible without violating the above requirements; and,

- e) Requires, to the extent practicable, and where this does not conflict with the higher-priority criteria detailed above, districts to be drawn to encourage geographical compactness, as specified.
- 17) Prohibits the place of residence of any incumbent or political candidate from being considered in the creation of a map, and prohibits districts from being drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.
 - 18) Requires the CRCOC to comply with the Ralph M. Brown Act (the state's open meetings law).
 - 19) Requires the CRCOC, prior to drawing a draft map, to conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing in each supervisorial district, as specified.
 - 20) Requires the CRCOC, after drawing a draft map, to do both of the following:
 - a) Post the map for public comment on county's website.
 - b) Conduct at least two public hearings to take place over a period of no fewer than 30 days.
 - 21) Requires the CRCOC to make available to the public a calendar of all public hearings and to post the agenda for the public hearings at least seven days before the hearings. Requires the agenda for a meeting conducted after the CRCOC has drawn a draft map to include a copy of that map. Requires hearings to be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible.
 - 22) Defines an "applicable language," as a language for which the number of residents of the county who are members of a language minority is greater than or equal to three percent of the total voting age residents of the county. Requires the CRCOC to do both of the following for each applicable language:
 - a) Arrange for the live translation of a hearing into that language if a request is made at least 24 hours before the hearing.
 - b) Translate all written materials prepared by the CRCOC into that language.
 - 23) Requires the CRCOC to take steps to encourage county residents to participate in the redistricting process. Provides that these steps may include the following:
 - a) Providing information through media, social media, and public service announcements;
 - b) Coordinating with community organizations; and,

- c) Posting information on the county's website that explains the redistricting process and includes a notice of each hearing and procedures for testifying or submitting testimony.
- 24) Provides that all records of the CRCOC relating to redistricting, and all data considered by the CRCOC in drawing a draft map or the final map, are public records.
- 25) Makes the CRCOC subject to restrictions on the release of draft maps and deadlines for the adoption of final maps that are generally applicable to county redistricting. Provides that the adopted map is subject to referendum.
- 26) Requires the CRCOC to issue, with the final map, a report that explains how the CRCOC made its decisions in achieving compliance with the criteria described above.
- 27) Prohibits a commissioner from doing any of the following:
- a) While serving on the CRCOC, endorse, work for, volunteer for, or make a campaign contribution to, a candidate for an elective office of the County of Orange.
 - b) Be a candidate for an elective office of the County of Orange if any of the following is true:
 - i) Less than five years has elapsed since the date of the member's appointment to the CRCOC.
 - ii) The election for that office will be conducted using district boundaries that were adopted by the CRCOC on which the member served, and those district boundaries have not been subsequently readopted by a commission after the end of the member's term on the CRCOC.
 - iii) The election for that office will be conducted using district boundaries that were adopted by a legislative body pursuant to a recommendation by the CRCOC on which the member served, and those district boundaries have not been subsequently readopted by a legislative body pursuant to a recommendation by a commission after the end of the member's term on the CRCOC.
 - c) For four years commencing with the date of the person's appointment to the CRCOC:
 - i) Accept employment as a staff member of, or consultant to, an elected official or candidate for elective office of the County of Orange.
 - ii) Register as a lobbyist for the County of Orange.
 - d) For two years commencing with the date of the person's appointment to the CRCOC, accept an appointment to an office of the County of Orange.

- 28) Permits the CRCOC, with nine affirmative votes, to remove a commissioner only for substantial neglect of duty, gross misconduct in office, causing the CRCOC to be unable to discharge its duties, the discovery that a commissioner did not meet the required qualifications at the time of appointment, or if the commissioner no longer meets the required qualifications while serving on the CRCOC, as specified. Requires at least three votes to be from members of one political party, and at least three votes to be from members of one other political party. Provides the following parameters relating to a commissioner's removal:
- a) A commissioner or alternate is prohibited from voting on their own removal.
 - b) A commissioner who is proposed for removal is entitled to receive written notice of the reasons for the proposed removal and of the meeting where the Commission will vote on the proposal removal, as specified. Permits the member proposed for removal to respond to or rebut the reasons for their removal, as specified.
 - c) The decision of the CRCOC to remove a member is final, non-appealable, and is not subject to judicial review.
- 29) Requires the CRCOC chair to select an alternate member to fill any vacancy on the CRCOC. Requires the alternate who is appointed to have the same political party preference as the commissioner who vacated their position.
- 30) Requires the Auditor-Controller of Orange County, as specified, to recruit a pool of qualified applicants to fill vacancies on the CRCOC if it has fewer than nine voting members. Requires the remaining commissioners to appoint replacement commissioners to fill the vacancies by a two-thirds vote. Requires each person who is selected to fill a vacancy pursuant to this provision to have the same political party preference as the commissioner who vacated their position.
- 31) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Orange County.

BACKGROUND

California Citizens Redistricting Commission. In 2008, voters approved Proposition 11, creating the California Citizens Redistricting Commission (CCRC), and gave it the responsibility for establishing district lines for the Assembly, Senate, and Board of Equalization. In 2010, the voters approved Proposition 20 and gave the CCRC the responsibility for establishing lines for California's districts for the United States House of Representatives, and made other changes to the procedures and criteria to be used by the CCRC. The CCRC consists of 14 registered voters, including five Democrats, five Republicans, and four others, all of whom are chosen according to procedures specified in Proposition 11.

Local Redistricting. Prior to 2017, counties and general law cities were able to create advisory redistricting commissions, but were not able to create independent commissions with the authority to establish district boundaries. Instead, the authority to

establish district boundaries for a local jurisdiction was generally held by the governing body of that jurisdiction. Charter cities are able to establish independent redistricting commissions that have the authority to establish district boundaries because the California Constitution gives charter cities broad authority over the conduct of city elections and over the manner for which municipal officers are elected. As a result, a number of California charter cities established redistricting commissions to adjust city council districts following each decennial census. Counties and general law cities did not have that authority in the absence of express statutory authorization.

Legislative Authority for County Redistricting Commissions. The Legislature has created independent redistricting commissions for five counties: Fresno, Kern, Los Angeles, Riverside, and San Diego.

The Legislature also authorized (but did not require) counties and general law cities to establish redistricting commissions. SB 1108 (Allen), Chapter 784, Statutes of 2016, authorized two different types of commissions: independent commissions and advisory commissions. SB 1108 generally provided cities and counties with the discretion to determine the structure and membership of an advisory or independent redistricting commission. However, it did establish minimum qualifications for commission membership. While SB 1108 imposed few restrictions and requirements on advisory commissions, it did subject members of independent commissions to extensive eligibility requirements and post-service restrictions.

Legislative Authority for Other Local Entities. SB 1018 (Allen), Chapter 462, Statutes of 2018, extended the authority to adopt redistricting commissions to school districts, community college districts, and special districts. The bill also relaxed some of the eligibility requirements for members of independent commissions and eased one of the post-service restrictions on those members in an effort to expand the pool of individuals who are available to serve on such commissions. SB 1018 also allowed for the creation of hybrid commissions, subject to the same restrictions and requirements as independent commissions.

2021 Orange County Redistricting. The authority to establish district boundaries for a local jurisdiction generally is held by the governing body of that jurisdiction. Because Orange County did not create a redistricting commission for the 2021 redistricting process, the Board of Supervisors redrew the boundary lines for supervisorial districts following the 2020 census. According to information from Orange County's website for the 2021 redistricting process, the Board of Supervisors held eight public hearings on redistricting (three prior to the release of any draft maps, and five following the release of draft maps), most of which were consolidated with regularly scheduled meetings of the Board of Supervisors. The county also held six public workshops on the redistricting process before draft maps were released. At its meeting on December 7, 2021, the Board of Supervisors unanimously adopted new boundaries for the county supervisorial districts.

Political Party Preferences. If chaptered, the CRCOC makeup will be required, as shown on the members' most recent affidavits of registration, to be as proportional as possible to the total number of voters who are registered with each political party preference in Orange County, as determined by registration at the most recent

statewide election. According to the February 10, 2023 Report of Registration, the Secretary of State reported the following for Orange County:

Party Preference	Registered Voters (Total: 1,810,887)
Democratic	680,380 (37.57%)
Republican	599,883 (33.13%)
American Independent	64,539 (3.56%)
Green	6,142 (0.34%)
Libertarian	21,821 (1.20%)
Peace and Freedom	7,964 (0.44%)
Unknown	1 (0.00%)
Other	3,399 (0.19%)
No Party Preference	426,758 (23.57%)

If no party preference is shown on a voter registration affidavit, then the county election official designates the voter’s party preference as “Unknown” and is treated as a “No Party Preference” voter. If you take these numbers into consideration and use them to calculate the potential commission party preference composition, Democrats would have 5 or 6 members, Republicans would have 4 or 5 members, No Party Preference voters would have 3 to 4 members when only using No Party Preference voters and when combining Unknown and No Party preferences, and the remaining party preferences between 0 and 1 member.

COMMENTS

- 1) According to the author: This bill proposes the establishment of an independent citizens redistricting commission that will be responsible for drawing the County of Orange’s supervisorial districts for the 2030 round of redistricting and subsequent cycles. This commission will be composed of individuals who are not politicians or government officials and will reflect the partisan makeup of Orange County voters. AB 34 takes into account the conflicts of interest that arise when elected officials are involved in decisions regarding the redrawing of political district lines. By establishing an independent citizens redistricting commission, the redistricting process can be conducted in a transparent and nonpartisan manner. This ensures that the interests of all voters are taken into account and that the drawing of district lines is fair and unbiased. AB 34, will ensure that the interests of Orange County voters are put first, and the redistricting process is conducted in a transparent and nonpartisan manner.

- 2) Differences from Prior Commission Bills. Although there are minor differences, the bills that provide for the creation of redistricting commissions in Fresno, Kern, Los Angeles, Riverside, and San Diego counties all have been substantially similar. By contrast, while the language of this bill is based off the language of the bills that created redistricting commissions in those counties, this bill also contains a number of provisions that were not included in prior bills to require redistricting commissions in specified counties.

Notably, this bill provides for the appointment of two non-voting, alternate commissioners who would be available to fill any vacancy that occurs on the

CRCOC. This bill also provides a formal process for the removal of commissioners for misconduct or neglect of duty, and a process for recruiting new applicants if the CRCOC has enough vacancies such that it is unable to take formal actions. Finally, this bill imposes additional restrictions on people who are serving on the CRCOC that are not applicable to members of other counties' commissions, and expressly requires the translation of redistricting materials into specified languages.

This bill also contains similar prohibitions for commissioners to what exists for independent and hybrid redistricting commissions which are slightly different than the existing redistricting commissions for Fresno, Kern, Los Angeles, Riverside, and San Diego counties.

- 3) Commission Vacancies and Removal of Commissioners. The provisions of this bill that create a formal process for removal of commissioners and the filling of vacancies may help ensure the continued operation and success of the CRCOC in adopting district lines. Nonetheless, some of the provisions of this bill appear to be at tension with one another, or may otherwise be unworkable in certain circumstances.

For example, this bill requires each commissioner to be present for all public hearings and internal meetings of the CRCOC, but provides for the removal of a commissioner only if the member misses "an excessive number of public hearings and meetings." It is unclear what recourse, if any, would be available if a member missed a single hearing or meeting, in violation of the person's legal obligation created by this bill. This requirement could create disincentives for the CRCOC to schedule a larger number of public hearings in order to receive broader input if not every commissioner would be able to attend those hearings. The availability of video or audio recordings of CRCOC hearings and meetings should allow a commissioner to be aware of input provided at any such proceeding that the person was unable to attend.

In the case of a vacancy on the CRCOC, this bill requires the CRCOC chair to appoint an alternate member who has the same political party preference as the commissioner who vacated their position. However, since this bill provides for only two alternates to be appointed, there is no guarantee that either of the alternates will have the same political party preference as the vacating member. Additionally, this bill does not provide a procedure for filling any vacancies that occur if the two alternates have been seated on the CRCOC, unless there are fewer than nine members remaining on the CRCOC. Relatedly, to remove a commissioner, this bill requires at least three affirmative votes for removal to be from members of one political party, and at least three votes to be from members of one other political party. However, there is no guarantee that the CRCOC makeup would allow for a vote that meets those requirements, particularly if there already are vacancies on the CRCOC.

- 4) Technical Amendment. In the section that adds Election Code §21585, there is a duplicative sentence within subdivision (c). Committee staff recommends that the bill be amended to delete the repeated sentence on Page 11, Lines 9-11.

- 5) Argument in Support. In a letter supporting AB 34, OC Action stated, in part, the following:

Orange County is past due for an independent redistricting commission that politically empowers people from historically disenfranchised communities and ensures more representative districts. During the 2021 redistricting cycle, while the California Independent Redistricting Commission drew fair maps that respected Orange County's communities of interest, the map drawn by the Board of Supervisors did not accurately represent the county's communities and was intended to benefit a single political party. Based on these events and our subject matter expertise, OC Action strongly supports AB 34 to establish an independent redistricting commission that prioritizes fair representation and community voices in district line drawing.

- 6) Double Referral. If approved by this committee, AB 34 will be referred to the Committee on Governance and Finance.

RELATED/PRIOR LEGISLATION

SB 52 (Durazo) of 2023 would require an independent redistricting commission for charter cities with a population of at least 2,500,000 people to adjust the district boundaries for the city council, as specified. SB 52 is pending consideration in the Assembly Committee on Elections.

SB 314 (Ashby) of 2023 would create a Citizens Redistricting Commission in Sacramento County, as specified. SB 314 is pending consideration in the Assembly Committee on Elections.

AB 1248 (Bryan) of 2023 would require a county or city with more than 300,000 residents, or a school district or community college district with more than 500,000 residents, to establish an independent redistricting commission to adopt district boundaries after each federal decennial census, as specified. AB 1248 is pending consideration in this committee.

AB 1307 (Cervantes), Chapter 403, Statutes of 2022, created a Citizens Redistricting Commission in Riverside County, as specified.

AB 2030 (Arambula), Chapter 407, Statutes of 2022, created a Citizens Redistricting Commission in Fresno County, as specified.

AB 2494 (Salas), Chapter 411, Statutes of 2022, created a Citizens Redistricting Commission in Kern County, as specified.

AB 849 (Bonta), Chapter 557, Statutes of 2019, revised and standardized redistricting criteria, procedures, and requirements that counties and cities must follow when they adopt or adjust the boundaries of electoral districts used to elect members of the jurisdictions' governing bodies. AB 1276 (Bonta), Chapter 90, Statutes of 2020, made a number of technical and clarifying changes to law governing local government redistricting that were inadvertently left out of AB 849 (Bonta).

AB 1724 (Salas) of 2019 would have required general law cities and counties to establish independent redistricting commissions that are modeled after the CCRC. AB 1724 was held in the Assembly Committee on Elections and Redistricting.

SB 139 (Allen) of 2019 would have required a county with a population of 400,000 or more to establish an independent redistricting commission to adopt the county supervisorial districts after each federal decennial census. SB 139 was vetoed by the Governor with the following message:

This bill requires a county with more than 400,000 residents to establish an independent redistricting commission tasked with adopting the county's supervisorial districts following each federal decennial census.

While I agree these commissions can be an important tool in preventing gerrymandering, local jurisdictions are already authorized to establish independent, advisory or hybrid redistricting commissions. Moreover, this measure constitutes a clear mandate for which the state may be required to reimburse counties pursuant to the California Constitution and should therefore be considered in the annual budget process.

SB 1018 (Allen), Chapter 462, Statutes of 2018, extended the authority to adopt redistricting commissions to school districts, community college districts, and special districts, relaxed some requirements for members of independent commissions, and allowed for hybrid commissions.

AB 801 (Weber), Chapter 711, Statutes of 2017, revised the membership of the County of San Diego's Citizens Redistricting Commission to a 14-member commission charged with adjusting the boundary lines of the districts of the Board of Supervisors.

SB 958 (Lara), Chapter 781, Statutes of 2016, established an independent Citizens Redistricting Commission in the County of Los Angeles to adjust the boundary lines of the districts of the county's Board of Supervisors.

SB 1108 (Allen), Chapter 784, Statutes of 2016, authorized a county or a general law city to establish a redistricting commission.

SB 1331 (Kehoe), Chapter 508, Statutes of 2012, established an Independent Redistricting Commission in the County of San Diego and stipulated, among other things, that only retired state or federal judges were eligible to serve on the commission.

PRIOR ACTION

Assembly Floor:	61 - 15
Assembly Appropriations Committee:	11 - 4
Assembly Elections Committee:	6 - 0

POSITIONS

Sponsor: Author

Support: American Federation of State, County, and Municipal Employees
Dolores Huerta Foundation
OC Action
Orange County Communities Organized for Responsible Development

Oppose: None received

-- END --