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

Bill No:	AB 764	Hearing Date:	7/5/23
Author:	Bryan and Cervantes		
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Urgency:	No	Fiscal:	Yes
Consultant:	Scott Matsumoto		

Subject: Local redistricting.

DIGEST

This bill makes special districts, school districts, community college districts, and county boards of education subject to similar criteria and process requirements that apply to counties and cities that are adjusting the boundaries of the districts used to elect members of their governing bodies. Increases the public hearing and outreach requirements that apply to all local jurisdictions as part of the process for adopting or adjusting boundaries. Establishes a procedure for legal challenges when a local jurisdiction does not comply with the requirements of state law related to redistricting.

ANALYSIS

Existing law:

- 1) Requires the boundaries of the trustee areas of a county board of education, or of a school district or community college district, to be adjusted following each decennial federal census using population figures validated by the Demographic Research Unit of the Department of Finance.
- 2) Requires a county or a city, when adopting or adjusting the boundaries of the electoral districts that are used to elect members of the jurisdiction's governing body, to adopt districts that are substantially equal in population based on data from the most recent federal decennial census, as specified. Prohibits an incarcerated person from being counted in the jurisdiction's population except for those inmates whose last known place of residence can be assigned to a census block in the jurisdiction, as specified. Requires the districts to comply with the United States and California Constitutions, and the Voting Rights Act (VRA). Prohibits district boundaries from being adopted for the purpose of favoring or discriminating against a political party. Requires district boundaries to be adopted using the following criteria, in order of priority:
 - a) Requires districts to be geographically contiguous to the extent practicable, as specified.
 - b) Requires districts to respect the geographic integrity of local neighborhoods and communities of interest to the extent practicable, as specified. Provides that

“communities of interest” does not include relationships with political parties, incumbents, or candidates.

- c) Requires districts to respect the geographic integrity of a city or census designated place in a manner that minimizes its division, to the extent practicable. This criteria does not apply to a city that is adopting district boundaries.
 - d) Provides that district boundaries should be easily identifiable and understandable by residents, and requires such boundaries to follow natural and artificial barriers, streets, and the boundaries of the local jurisdiction to the extent practicable, as specified.
 - e) Requires district boundaries to be drawn to encourage geographical compactness to the extent practicable, as specified.
- 3) Requires a county or city, as part of its redistricting process, to comply with various public hearing, outreach, transparency, and process requirements.
- 4) Requires a county or city that fails to adopt district boundaries by the deadline to petition the superior court in the county for an order adopting district boundaries. Permits a resident to petition the court if the jurisdiction fails to do so within five days after the deadline.
- a) Requires the court to adopt boundaries using the required criteria. Requires the new boundaries to be used in the agency’s next regular election. Permits the court to order the adjustment of deadlines as necessary to implement the new boundaries.
 - b) Requires the court to hold at least one public hearing before adopting district boundaries.
 - c) Permits the court to appoint a special master to assist the court in adopting boundaries. Requires the agency to pay for the cost of the special master.
- 5) Requires a special district, before adjusting the boundaries of divisions from which governing body members are elected, to hold at least one public hearing on the proposal to adjust the boundaries prior to the public hearing at which the governing body votes to approve or defeat the proposal.
- 6) Requires the SOS, before January 1 of each year ending in the number one, to publish templates that provide a general explanation of county and city redistricting processes, and procedures for a member of the public to testify or submit testimony as part of those processes, as specified. Requires the SOS, before January 1 of each year ending in the number one, to make a determination for each city about any language that is spoken by a group of city residents with limited English proficiency who constitute 3% or more of the city’s total population over four years of age for whom language can be determined, as specified.

This bill:

- 1) Standardizes the criteria to be used for drawing districts in local jurisdictions by requiring a special district, school district, community college district, or county board of education to use the same criteria, generally, that a county is required to use under existing law when adopting or adjusting the boundaries of districts. Requires an advisory or hybrid redistricting commission to comply with these criteria for any districts it proposes. Updates those criteria as they apply to all local jurisdictions, including counties and cities, when adopting district boundaries, as follows:
 - a) Requires jurisdictions to comply with each of the criteria to the maximum extent practicable. Clarifies that a district cannot prioritize a lower-ranked criterion where it conflicts with a higher-ranked criterion. Prohibits a jurisdiction from prioritizing any criterion not listed in state law over a listed criterion, or from using an unlisted criterion if it conflicts with one that is listed.
 - b) Prohibits districts from being drawn for the purpose of favoring or discriminating against an incumbent or political candidate.
 - c) Provides that an existing provision of law that specifies that the criteria in state law do not apply to a charter city that has adopted comprehensive or exclusive redistricting criteria in its city charter applies only if the criteria in the city charter is mandatory, and only if that criteria includes a requirement to keep whole either communities of interests or neighborhoods. Requires a charter city to explain the basis on which the districting body made its decisions in achieving compliance with the requirements prescribed by this bill and the criteria described in the city charter, as specified.
- 2) Requires a local jurisdiction to determine whether it is possible to create a district or districts in which a minority group is sufficiently large and geographically compact to constitute a majority in a single-member district, as set forth in case law related to the enforcement of the federal Voting Rights Act (VRA) with respect to redistricting, and requires the jurisdiction to publish the results of that analysis, as specified. Requires a jurisdiction that conducts an analysis to determine whether “racially polarized voting” exists in the local jurisdiction, as defined in case law regarding enforcement of the VRA, to publish a summary of that analysis, as specified.
- 3) Requires the body that adopts district lines for a local jurisdiction (hereinafter referred to as the “districting body”), except in a special district or small education district, to issue a report explaining the basis on which the body made its decisions in complying with the requirements and criteria in state law, as specified.
- 4) Increases the number of hearings and workshops that are required to be held as part of a local jurisdiction’s redistricting process, and expands the substantive requirements that apply to those hearings.
 - a) Requires all local jurisdictions to hold at least one workshop before the districting body draws a draft map(s) of any proposed boundaries. Provides that a workshop is a standalone meeting at which the local jurisdiction provides the public with information on the redistricting process, including information on how to provide public comment and instructions on how to use an online mapping tool

to create maps to submit to the jurisdiction, if applicable. Requires submitted draft maps and an oral summary that characterizes the number and nature of the public comments received at any workshop to be presented to the districting body at the next public hearing, as specified.

- b) Requires the following number of hearings to be held, in addition to the workshop described above:
 - i) In the case of special districts and small education districts, at least two additional public hearings must be held.
 - ii) In the case of all education districts that are not small education districts, and in the case of counties and cities with a population of fewer than 250,000 residents, at least five additional hearings must be held. At least one must be before a draft map of district boundaries is released, and at least four must be after a draft map is released.
 - iii) In the case of counties and cities with a population of 250,000 – 499,999 residents, at least seven additional hearings must be held. At least two must be before a draft map of district boundaries is released, and at least five must be after a draft map is released.
 - iv) In the case of counties and cities with a population of 500,000 residents or more, at least nine additional hearings must be held. At least two must be before a draft map of district boundaries is released, and at least seven must be after a draft map is released.
- c) Requires a hearing to begin at a fixed time if it is consolidated with a meeting of the jurisdiction that includes other substantive agenda items (a similar requirement applies to counties and cities under existing law).
- d) Requires all of the following for jurisdictions other than special districts and small education districts:
 - i) At least two workshops or hearings must be held on a weekend or in the evening (existing law makes this requirement applicable to at least one workshop or hearing in county and city redistricting processes).
 - ii) The building in which the workshop or hearing is held must be accessible to persons with disabilities (a similar requirement applies to counties and cities under existing law).
 - iii) In-person and remote testimony options must be available for all hearings, as specified.
 - iv) Live translation of a workshop or hearing into an applicable language must be made available if a request for translation is made in advance, as specified (a similar requirement applies to counties and cities under existing law).

- e) Permits the jurisdiction to place reasonable limits on an individual's speaking time at a public hearing. Prohibits the total amount of time available for all public comment at a public hearing from being limited to less than two hours.
- 5) Requires a public hearing that is held by an advisory or hybrid redistricting commission to comply with the same requirements that apply to hearings held by a districting body.
 - 6) Requires a special district, school district, community college district, or county board of education to make a good faith effort to encourage residents to participate in the redistricting process and to make a good faith effort to provide redistricting information to the media, civic and community groups, and interested persons, as specified (similar requirements apply to counties and cities under existing law).
 - 7) Requires, except in the case of special districts and small educational districts, that a local jurisdiction or the districting body for that jurisdiction adopt a redistricting public education and outreach plan, as specified.
 - a) Requires the jurisdiction to consult with specified entities when developing the plan, and to post a draft plan online for a 14-day review and comment period prior to adopting the plan.
 - b) Requires the plan to include specified information about how the jurisdiction will inform residents, the media, and civic and community groups about its redistricting process, as specified, whether and how it will coordinate outreach and messaging with other local jurisdictions in the county, and the number of workshops and public hearings the local jurisdiction intends to hold and their anticipated dates, among other information.
 - 8) Requires a school district, community college district, or county board of education, except a small education district, to publish the date, time, and location for any workshop or hearing on the internet at least five days in advance, or at least 72 hours in advance if there are fewer than 28 days until the deadline to adopt boundaries (similar requirements apply to counties and cities under existing law).
 - 9) Requires a local jurisdiction, except a special district or small education district, to publish a draft map of district boundaries on the internet for at least seven days before adoption as a final map, or for at least 72 hours if there are fewer than 28 days until the deadline to adopt boundaries (similar requirements apply to counties and cities under existing law).
 - a) Requires each draft map prepared by a member of an advisory or hybrid redistricting commission, the districting body, or employees or contractors of the local jurisdiction, or any draft map submitted by the public that a member of an advisory or hybrid commission or the districting body asks be discussed or considered, to be accompanied by specified information about the population of each proposed district, as specified (similar requirements apply to counties and cities under existing law, except that this requirement does not currently apply to maps submitted by the public that a member of the districting body asks be discussed or considered).

- b) Prohibits an advisory or hybrid redistricting commission, the districting body, and employees or contractors of the local jurisdiction from releasing draft maps earlier than three weeks after a specified redistricting database is first made publicly available. Provides for this period to be reduced if the redistricting database is made available fewer than 90 days before the deadline for adopting districts (similar requirements apply to counties and cities under existing law), as specified.
- 10) Requires a local jurisdiction, except a special district or small education district, to video or audio record or prepare a written summary of each oral public comment and deliberation made at every workshop and hearing, as specified (similar requirements apply to counties and cities under existing law).
 - 11) Requires a local jurisdiction to permit public comment to be submitted in a paper format or electronically (similar requirements apply to counties and cities under existing law).
 - 12) Requires the local jurisdiction to make written public comments and draft maps available to the public on its redistricting web page, as specified. Provides that this requirement does not apply to special districts or small education districts.
 - 13) Requires a local jurisdiction to establish a redistricting web page prior to holding its first workshop or public hearing, and requires that page to be maintained for at least 10 years after the adoption of new election district boundaries. Requires the page to contain specified information. Provides that this requirement does not apply to special districts or small education districts that do not have and are not legally required to have a website. (Similar requirements apply to counties and cities under existing law, except that existing law does not expressly require the web page to be established before the first workshop or hearing, and existing law requires a smaller amount of information to be included on the web page.)
 - 14) Requires the Secretary of State (SOS) to do all of the following:
 - a) Publish the following documents not later than December 15 of each year ending in the number zero:
 - i) Templates that provide a general explanation of local redistricting processes, and procedures for a member of the public to testify or submit testimony as part of those processes. Existing law requires the SOS to publish similar templates related to city and county redistricting.
 - ii) A template of a notice explaining the languages in which a local jurisdiction is required to provide live translation and how a person can make a request for such translation.
 - iii) A template of instructions for a member of the public to sign up for regular notices regarding redistricting.

- iv) A template form for a member of the public to describe and identify the boundaries of a neighborhood or community of interest.
 - v) A brief summary and checklist of the redistricting requirements imposed on a local jurisdiction under state law.
- b) Requires the SOS to post these documents online for a 30-day public comment period, and to solicit input from specified types of entities before posting any draft. Requires the SOS to translate these documents into every language that is an applicable language for a city or county in the state.
- c) Requires, no later than January 1, 2031, and no later than January 1 in every year ending in the number one thereafter, the SOS to publish the applicable languages for each city and county in a conspicuous location on their internet website, as specified.
- d) Provide a training to local jurisdictions and associations representing such local jurisdictions that summarizes the requirements imposed on a local jurisdiction by state law. Requires the training to be video recorded and posted on the internet.
- e) Make available to the public a free electronic mapping tool, loaded with relevant population and demographic data for each county and city whose legislative body is elected by district, which can be used by the public to create neighborhood, community of interest, or draft district maps that can be submitted to the local jurisdiction. Provides that implementation of this provision is contingent on a future appropriation.
- 15) Makes special districts, school districts, community college districts, and county boards of education that fail to adopt district boundaries by the deadline subject to an existing procedure that requires a county or city to petition the superior court for an order adopting district boundaries. Allows any interested person to petition the court to adopt new district lines if the jurisdiction fails to petition the court within five days of the deadline (existing law as it relates to counties and cities allows only a resident of the jurisdiction to petition the court in these circumstances).
- 16) Permits any interested person to bring a legal action to enforce the provisions of state law related to local redistricting, as specified. Permits an action alleging that an adopted district map does not comply with the criteria and requirements of law to be brought at any time prior to an election that will be conducted using those district boundaries. Provides the following notice-and-cure process before a legal action can be brought alleging a past violation of the law related to the redistricting process (the notice-and-cure requirement does not apply to challenges to the substance of adopted maps):
- a) Requires a person to make a written demand for the local jurisdiction to cure or correct the alleged violation within 30 days. Gives the local jurisdiction 15 days from receipt of the demand to either correct the alleged violation or inform the person that it will not correct the alleged violation.

- b) Permits a person to bring an action within 15 days if the local jurisdiction takes no action or does not cure or correct the violation. Permits a court to award court costs and reasonable attorneys' fees to the plaintiff where it is found that an advisory or hybrid commission or a districting body violated this chapter and failed to correct or unreasonably delayed correcting the violation after receiving the written demand.
- 17) Permits a court to order appropriate remedies in response to any violation. Permits a court that is required to change or adopt new election district boundaries to appoint a special master to assist the court, as specified. Requires the local jurisdiction to pay the cost for the special master and associated costs.
 - 18) Requires all local jurisdictions to adopt district boundaries as part of the redistricting process not later than 204 days before the local jurisdiction's next regular election occurring after January 1 in each year ending in the number two, except as specified.
 - 19) Clarifies that any change in district boundaries of a local jurisdiction due to redistricting does not affect the term of office of any governing board member, and clarifies that each governing board member continues to represent the residents of the district from which the person was elected for the duration of that term of office. Specifies that a governing board may assign a board member to provide constituent services to residents of an area that is temporarily not represented by a governing board member due to redistricting.
 - 20) Provides that legal proceedings brought to enforce the requirements of this bill and existing law related to local redistricting are entitled to precedence in court, as specified.
 - 21) Defines an "applicable language," for the purposes of this bill, as the following:
 - a) For a county or county office of education that is not a small education district, any language in which ballots are required to be provided in the county pursuant to a specified provision of the VRA.
 - b) For a city, any language that is spoken by a group of city residents with limited English proficiency who constitute 3% or more of the city's total population over four years of age for whom language can be determined, as specified.
 - c) For a school district that is not a small education district, any language in which a school within the district is required to provide translated materials pursuant to a specified provision of the Education Code.
 - d) For a community college district that is not a small education district, any language that qualifies as an applicable language for a county in which the district is located.
 - 22) Defines a "small education district," for the purpose of this bill, as a county office of education in a county with fewer than 250,000 residents, or a school or community college district serving an area with fewer than 250,000 residents.

- 23) Specifies that “advisory redistricting commission,” “hybrid redistricting commission,” and “independent redistricting commission” have the same meanings as those terms are defined in existing law, and include any commission created by a charter city that meets those definitions.
- 24) Makes various findings and declarations, including that the provisions of this bill address a matter of statewide concern rather than a municipal affair, and that therefore this bill applies to all cities, including charter cities, except as specified.
- 25) Makes conforming and technical changes.

BACKGROUND

Fair Maps Act. AB 849 (Bonta), Chapter 557, Statutes of 2019, also known as the FAIR MAPS Act (FMA), revised and standardized the criteria and process to be used by counties and cities when they adjust the boundaries of the electoral districts that are used to elect members of the jurisdictions' governing bodies, and required counties and cities to comply with substantial public hearing and outreach requirements as part of the process for adjusting the boundaries of electoral districts. Prior to the enactment of AB 849, the rules that govern the local redistricting process generally had not been changed in decades.

Early versions of AB 849 would have applied to special districts, school districts, community college districts, and county boards of education in addition to applying to counties and cities. However, when AB 849 was approved in the Assembly Committee on Appropriations, it was amended so that it applied only to redistricting in counties and cities.

The FMA was in effect for the first time for the redistricting process that followed the 2020 census. Following that redistricting process, the organizations that are co-sponsoring this bill and related organizations commissioned a report to evaluate the impact of the FMA and other changes to redistricting policies on the local redistricting process. The report's analysis was based on interviews with and notes from the organizations that sponsored the report, interviews with the staff of voting rights and civic organizations involved in local redistricting, interviews with demographers and local government officials, and reviews of news media articles and government reports on the local redistricting process.

The report, *The Promise of Fair Maps, California's 2020 Local Redistricting Cycle: Lessons Learned and Future Reforms*, concluded that “the FMA was broadly successful in promoting a more transparent and more participatory local redistricting process,” and that “[t]o a lesser extent, it was successful in producing maps that better reflect the diverse communities residing in cities and counties across the state.” The report noted that notwithstanding the impacts of the COVID-19 pandemic on the redistricting process—including a significant delay in the release of census data that is used for redistricting—most jurisdictions still successfully met the redistricting deadlines and no jurisdiction had to have a court adopt district maps. It also concluded that new opportunities for remote participation that were instituted by many local governments to facilitate participation during the pandemic “made it far more convenient for people to

testify, especially those who might not be able to attend in-person meetings because of work or family obligations or limited mobility or access to transportation.”

On the other hand, the report also concluded that “the 2020 local redistricting cycle... revealed that improvements to the FMA are necessary to address ambiguities, loopholes, and deficiencies in the legislation that undermined the law’s important goals, and were often exploited to protect incumbents.” In particular, the report concluded that notwithstanding the ranked, mandatory redistricting criteria that was included in the FMA, “in many jurisdictions incumbency protection proved to be the overriding criterion for how maps were drawn.”

Public Hearing and Workshop Requirements. As enacted, the FMA requires cities and counties to conduct at least four hearings as part of the redistricting process, of which at least one must be before any draft district maps are drawn, and at least two must be after draft maps are drawn. One of the four required hearings can be replaced by a workshop (a public input and education meeting generally conducted by staff or a consultant, rather than a public hearing of a quorum of the governing body), and at least one hearing must be in the evening or on the weekend. Redistricting hearing requirements for local government entities that were not subject to the FMA are much more limited. Special districts, for instance, are required to hold at least two public hearings; school districts are not required to hold any redistricting hearings other than the one at which the district adopts new boundaries for trustee areas.

This bill increases the number of redistricting hearings and workshops that are required of all local jurisdictions when adjusting district boundaries. All jurisdictions would be required to hold at least one workshop before drawing a draft map of new district boundaries. The number of hearings—and the requirements for those hearings—would vary depending on the type of local government entity and the population of the jurisdiction.

COMMENTS

- 1) According to the author: Four years ago, in advance of the 2020 census, the Legislature enacted the FMA, the most comprehensive reform of local redistricting laws in decades. The result was a more transparent and participatory local redistricting process in 2021 and 2022. Public and community group participation in the local redistricting process exceeded that from prior cycles. Despite significant challenges due to the pandemic, most local jurisdictions complied with—and even surpassed—the requirements of the FMA.

Notwithstanding the FMA’s improvements to the local redistricting process, the last redistricting cycle showed that there is still work to be done. Too many local jurisdictions continue to prioritize incumbency protection when drawing district lines, splintering neighborhoods and communities of interest as a result. Furthermore, the FMA’s reforms did not apply to educational or special districts, resulting in a less transparent and participatory redistricting process in many of those local jurisdictions.

- 2) Argument in Support. In a coalition letter sponsoring AB 764, the American Civil Liberties Union California Action, Asian Americans Advancing Justice - Asian Law

Caucus, California Common Cause, and League of Women Voters of California stated, in part, the following:

Fair representation is important at all levels of government, especially local. Local governments' decisions on issues such as land use and affordable housing, policing, supportive services, and education policy have an outsized impact on the lives and quality of life of their residents. The FAIR MAPS Act was a major first step towards a fairer and more inclusive local redistricting process in California. We must learn, however, from the lessons of the 2020 redistricting cycle and continue to work toward a fairer and more inclusive democracy.

- 3) Argument in Opposition. In a letter opposing AB 764, the City of Thousand Oaks stated, in part, the following:

AB 764 proposes new provisions under the Fair Maps Act for the creation of new boundaries after the next decennial census. Although the city appreciates uniformity, the number of requirements outlined in the bill are significant. Generally, City Clerk Departments and Offices are small. They do not have the staffing or resources, and already struggle to meet current State unfunded mandates.

[...]

Cities do not have the staff and resources to fund these additional requirements and responsibilities.

- 4) Double Referral. If approved by this committee, AB 764 will be referred to the Committee on Governance and Finance for further consideration.

RELATED/PRIOR LEGISLATION

AB 1248 (Bryan) of 2023 requires a county or city with at least 300,000 residents or a , school district or community college district at least 500,000 residents to establish an independent redistricting commission to adopt district boundaries after each federal decennial census.

AB 34 (Valencia) of 2023 creates a Citizens Redistricting Commission in Orange County, as specified.

SB 52 (Durazo) of 2023 requires charter cities with a population of 2.5 million people or more to create an independent redistricting commission. The City of Los Angeles is the only city that would be affected by that bill based on current population figures.

SB 314 (Ashby) of 2023 creates a Citizens Redistricting Commission in Sacramento County.

PRIOR ACTION

Assembly Appropriations Committee: 11 - 4
Assembly Elections Committee: 5 - 1

POSITIONS

Sponsor: California Common Cause
ACLU California Action
Asian Americans Advancing Justice – Asian Law Caucus
League of Women Voters of California

Support: AAPIs for Civic Empowerment-Education Fund
American Federation of State, County and Municipal Employees, AFL-CIO
Alameda County Coalition for Fair Redistricting
Alameda County Democratic Party Central Committee
Alliance San Diego
Asian Law Alliance
California Environmental Voters
Catalyst California
Central Coast Alliance United for a Sustainable Economy
Communities for a New California
Communities United for Restorative Youth Justice
Courage California
Dolores Huerta Foundation
Ella Baker Center for Human Rights
Indivisible CA: StateStrong
Indivisible Marin
Initiate Justice
Initiate Justice Action
Inland Empire United
Inland Equity Community Land Trust
Inland Equity Partnership
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Northridge Indivisible
Oakland Rising Action
OC Action
Peninsula Family Service
Rising Communities
San Francisco Rising
Santa Monica Democratic Club
Secure Justice
Silicon Valley Community Foundation
Thrive Alliance
Time for Change Foundation
Voices for Progress
Water Replenishment District of Southern California
Young Women's Freedom Center
One individual

Oppose: California Special Districts Association
California State Association of Counties
City Clerks Association of California
City of Thousand Oaks
Fresno County Board of Supervisors
Orange County Board of Education
Rural County Representatives of California
Urban Counties of California

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