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

Bill No: SB 52 **Hearing Date:** 4/18/23
Author: Durazo
Version: 2/13/23
Urgency: No **Fiscal:** Yes
Consultant: Karen French

Subject: Redistricting: large charter cities

DIGEST

This bill requires a charter city with a population of at least 2,500,000 people to establish a citizens redistricting commission to adjust the district boundaries for the city council.

ANALYSIS

Existing State law:

- 1) Requires the city council for a charter city that elects its city council using district-based elections to adopt new city council district boundaries following each federal decennial census.
- 2) Requires the city council to adopt the new boundaries using specified criteria, and by a specified deadline, unless the charter city has adopted different redistricting criteria or a different deadline by ordinance or in its city charter.
- 3) Establishes rules 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, as specified.
- 4) Prohibits a county or city, after districting or redistricting, from adopting new district boundaries until after the next federal census, except as specified.

This bill:

- 1) Requires a charter city with a population of at least 2,500,000 people, which has a city charter that does not establish an independent redistricting commission responsible for adopting boundaries for all of the council districts of the city, to establish a citizens redistricting commission which shall adopt boundaries for the city council districts until the charter city amends its city charter to establish an independent redistricting commission.
- 2) Requires the commission to be created no later than December 31 in each year ending in the number zero.

- 3) Provides a the selection process is designed to produce a commission that is independent from the influence of the city council and reasonably representative of the city’s diversity.
- 4) Provides that the commission shall consist of 24 members and requires the total number of members on the commission shall be nine more than the total number of city council districts.
- 5) Requires the political party preferences of the commission members, as shown on the members’ most recent affidavits of registration, be as proportional as possible to the total number of voters who are registered with each political party or who decline to state or do not indicate a party preference. Requires at least one commission member shall reside in each of the 15 existing city council districts.

BACKGROUND

Cities by Population. The Department of Finance population figures and projections based on historical growth or decline for all cities in California as of January 2022 indicate that of the ten largest cities in California only the City of Los Angeles would be affected by this bill at this time and in the near future. Annexation of a fast growing area could increase the rate of growth above current percentages. Below are the Department of Finance’s population estimates.

Department of Finance
Demographic Research Unit
Population Estimates for California Cities 10 Largest Cities

City	Population
1. Los Angeles	3,819,538
2. San Diego	1,374,790
3. San Jose	976,482
4. San Francisco	842,754
5. Fresno	543,660
6. Sacramento	518,037
7. Long Beach	460,682
8. Oakland	424,464
9. Bakersfield	408,865
10. Anaheim	341,245

Existing City Los Angeles Charter. The City of Los Angeles is a charter city. According to the Los Angeles City Charter, Section 204 provides for redistricting procedures. This includes, in part, the following provisions relating to the appointment of an advisory Redistricting Commission and to City Council authority to redraw district lines: for all elections of Council members:

- 1) Requires, every ten years, the Council, by ordinance, to redraw district lines to be used for all elections of Council members, including their recall, and for filling any vacancy in the office of member of the Council after the effective date of the redistricting ordinance. Districts so formed shall each contain, as nearly as

practicable, equal portions of the total population of the City as shown by the Federal Census immediately preceding the formation of districts.

- 2) Requires the Redistricting Commission to advise the Council on the drawing of Council district lines. The Commission members shall be appointed in the following manner: one by each Council member except that the Council President shall appoint two members, three by the Mayor, one by the City Attorney, and one by the Controller. No City officer or employee shall be eligible to serve on the Commission. The Redistricting Commission shall appoint a director and other personnel, consistent with budgetary approval, which positions shall be exempt from the civil service provisions of the Charter.
- 3) Provides a timeline for appointing the Redistricting Commission including requiring a new Commission to be appointed to advise the Council prior to each subsequent redistricting. Requires the Commission shall seek public input throughout the redistricting process. The Commission shall present its proposal for redistricting to the Council no later than a date prescribed by ordinance.
- 4) Allows the Council to redistrict with greater frequency provided that districts so formed each contain, as nearly as practicable, equal portions of the total population of the City as shown by the Federal Census immediately preceding the formation of districts or based upon other population reports or estimates determined by the Council to be substantially reliable.

What is the Problem? While the City Charter requires the Council to appoint a Redistricting Commission which, in turn, is required to seek public input and to present a redistricting proposal to Council, the Council is not required to adopt the proposal. On November 5 2021, The Los Angeles Daily News reported that the City Council had “swapped out” the Commission proposal for its own plan.

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 Counsel Opinion. The Committee requested an opinion of Legislative Counsel as to whether a state statute may impose limitations and requirements on a charter city with respect to redistricting; and whether SB 52 as amended February 13, 2023, if enacted, would constitutionally preempt provisions of the charter of the City of Los Angeles. The Counsel states, in part, the following:

It is our opinion that a state statute may impose limitations and restrictions on a charter city with respect to redistricting if it is narrowly tailored to address a matter

of statewide concern. We think a court would, on balance, uphold the constitutionality of SB 52 under the four-prong CalFed/Vista test...Therefore, it is our opinion that SB 52, if enacted, would constitutionally preempt provisions of the charter of the City of Los Angeles.”

COMMENTS

- 1) According to the author: SB 52 will require cities with a population of 2.5 million or more to establish an independent redistricting commission to draw the district lines for its city council to ensure a transparent and fair redistricting process. This bill is following in the trend of independent citizens redistricting commissions already determining district lines for federal, state, and local elected officials including Los Angeles County.

The state has taken an increased interest in the adoption of independent redistricting commissions for cities with larger populations, based on how these local entities serve as local stewards, with these local governing bodies overseeing the distribution of significant amounts of public resources to finance critical services such as housing/homelessness, and utility relief.

The most glaring example of this statewide concern is found with the Los Angeles City Council following the release of 2021 troubling recorded discussions regarding the local redistricting process. This example showed the council was not prioritizing their residents' wellbeing, eroding public confidence in the existing LA City redistricting process and jeopardizing how public resources are distributed.

SB 52 provides a carefully tailored remedy to require an independent redistricting commission. The bill also allows cities to establish an independent redistricting commission within their charter.

- 2) Argument in Support. In a letter supporting SB 52, the Restaurant Opportunities Center Los Angeles (ROC-LA) states, in part, the following:

SB 52 continues California's adoption of independent redistricting as a mechanism to limit individual bias and personal influence from factoring into drawing district lines for elected office. The state has a stake in seeing major local entities adopt independent redistricting commission models. This is due to how these local entities serve as stewards for the distribution of major public resources to fund critical services including housing/homelessness and utility relief.

ROC-LA believes SB 52 provides a remedy that will require large cities to adopt a transparent, fair, and unbiased redistricting process for the public good that best captures an equitable representation of the city, for public resources to be fairly distributed, while also strengthening the relationship between community and government.

- 3) Argument in Opposition. In a letter opposing SB 52, the City of Los Angeles states, in part, the following:

The City recognizes that our current redistricting process is fundamentally flawed. To restore Angelenos' faith in the City's redistricting process, the time has come for the City to offer voters the chance to consider an alternative redistricting process that establishes an Independent Redistricting Commission in the City Charter. To that end, the Los Angeles City Council has established the Ad Hoc Committee on City Governance Reform, which is tasked with, among other duties, evaluating options for establishing a truly independent redistricting commission, and that analysis is currently underway with full participation of the public.

Los Angeles voters, who intimately understand the diverse and unique nature of the City, deserve to decide the terms of their own redistricting process, and should not have that right overruled by the State Legislature.

- 4) Legal Review. In a letter reviewing SB 52, Erwin Chemerinsky, Dean and Professor of Law, University of California, Berkeley School of Law, states in part, the following:

I have reviewed SB 52, which would require large cities in California to have independent commissions for the drawing of city council districts. This would bring districting practices in these cities in accord with state policy, as reflected in California's use of independent districting commissions for both the California legislature and the seats in the United State House of Representatives.

SB 52 is intended to ensure that large cities use a procedure for drawing election districts that is similar to that used for elections for the California legislature and for the United States House of Representatives. These uses of independent districting commissions reflects an important statewide policy against partisan gerrymandering and for impartially drawn election districts.

Thus, under clearly established law, I believe that SB 52 in involves a matter of statewide concern, is constitutional, and should be upheld by the courts.

RELATED/PRIOR LEGISLATION

SB 958 (Lara), Chapter 781, Statutes of 2016, created the County of Los Angeles Citizens Redistricting Commission (CLACRC) and required the commission to adjust the boundary lines of the supervisorial districts for the County of Los Angeles Board of Supervisors in the year following the year in which the decennial federal census is taken.

AB 801 (Weber), Chapter 711, Statues of 2017, - repeals existing provisions of law requiring a redistricting commission made up of former or retired judges to adjust the boundary lines of supervisorial districts in San Diego County after each decennial federal census, and instead establishes a Citizens Redistricting Commission in the county and charges it with adjusting the boundaries of supervisorial districts. Changes the criteria to be used when the boundaries of supervisorial districts in San Diego County are adjusted.

SB 139 (Allen) of 2019 would have required 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, as specified. In his veto message, Governor Newsom stated, in part, "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."

AB 849 (Bonta), Chapter 557, Statutes of 2019, 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. 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.

SB 158 (Allen), Chapter 107, Statutes of 2020, clarified that voters who are not affiliated with a political party or do not indicate a party preference are able to serve on the CLACRC.

AB 1307 (Cervantes). Chapter 403, Statutes of 2022, established a Citizens Redistricting Commission in Riverside County and required the commission to adjust the boundaries of the county's supervisorial districts after every decennial census.

AB 2030 (Arambula), Chapter 407, Statutes of 2022, established the County of Fresno Citizens Redistricting Commission and required the commission to establish the supervisorial district lines for Fresno County following the decennial census.

AB 2494 (Salas), 2022, Chapter 411, Statutes of 2022, established the County of Kern Citizens Redistricting Commission and required the commission to establish the supervisorial district lines for Kern County following the decennial census, as specified.

SB 1269 (Allen), 2022, would have made various changes to the composition and operations for the CLACRC. SB 1269 was not heard by this committee.

SB 314 (Ashby), 2023, establishes a Citizens Redistricting Commission for Sacramento County (CRCSC) to be tasked with adjusting the boundary lines of the supervisorial districts of Sacramento County in the year following the decennial census. SB 314 passed this committee and is being considered by the Committee on Governance and Finance.

POSITIONS

Sponsor: Author

Support: American Federation of State, County and Municipal Employees AFL-CIO
Barrio Action Youth & Family Center
California Environmental Voters
Central City Neighborhood Partners

Homeboy Industries
Koreatown Youth & Community Center
Parents, Educators/Teachers & Students in Action
The Restaurant Opportunities Center Los Angeles, ROC LA

Oppose: City of Los Angeles

-- END --