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

Bill No: AB 1248 **Hearing Date:** 7/5/23
Author: Bryan
Version: 6/13/23
Urgency: No **Fiscal:** Yes
Consultant: Scott Matsumoto

Subject: Local redistricting: independent redistricting commissions.

DIGEST

This bill requires 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 (IRC) to adopt district boundaries after each federal decennial census.

ANALYSIS

Existing law:

- 1) Authorizes a county, general law city, school district, community college district, or special district to establish an IRC, or an advisory or hybrid redistricting commission, subject to certain conditions.
- 2) Defines the following terms related to local redistricting commissions:
 - a) "Advisory redistricting commission" to mean a body that recommends to a legislative body placement of the district boundaries for that legislative body.
 - b) "Hybrid redistricting commission" to mean a body that recommends to a legislative body two or more maps for the placement of the district boundaries for that legislative body, where the legislative body must adopt one of those maps without modification, except as may be required to comply with state or federal law.
 - c) "Independent redistricting commission" to mean a body, other than a legislative body, that is empowered to adopt the district boundaries for a legislative body.
- 3) Places the following requirements and restrictions on local IRCs and hybrid redistricting commissions:
 - a) Allows a local jurisdiction to prescribe the manner in which members are appointed to the commission, provided that the application process is open to all eligible residents and provided that commissioners are not directly appointed by the legislative body or an elected official of the jurisdiction.

- b) Establishes various restrictions for an individual, or a family member of the individual, preceding service, during service, and following service on an IRC or hybrid redistricting commission, as specified.
 - c) Prohibits an IRC or hybrid redistricting commission from being comprised entirely of members who are registered to vote with the same political party preference.
- 4) Permits specified local jurisdictions that are partially or wholly located within a county that has established an IRC to contract with that county to have that IRC adopt the district boundaries for the local jurisdiction if certain conditions are met.
 - 5) Establishes the California Citizens Redistricting Commission (CCRC), and requires it to adjust the boundary lines of the congressional, State Senatorial, Assembly, and Board of Equalization (BOE) districts in the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, as specified.
 - 6) 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) Requires a county, city, or city and county with more than 300,000 residents, or a school district or community college district with more than 500,000 residents, on July 1 of a year ending in the number nine, to establish an IRC composed of residents of the local jurisdiction to adopt the district boundaries for the jurisdiction's governing body after each federal decennial census. Allows a city, school district, or community college district to contract with the IRC for a county in which the local jurisdiction is partially or wholly located to adopt the district boundaries for the local jurisdiction's governing body. Provides that these requirements do not apply to counties that have an IRC pursuant to other provisions of existing state law, or to a local jurisdiction that established an IRC by ordinance, resolution, or charter amendment before January 1, 2023.
- 2) Requires a county, city, city and county, school district, or community college district that is required to establish an IRC or contract with a county IRC, and that does not do so by January 1 of a year ending in the number zero, to establish an IRC as follows:
 - a) Requires the local jurisdiction to recruit eligible residents to apply to serve on the IRC with the assistance of civic and community groups, as specified.
 - b) Requires the IRC to consist of 14 members and 2 alternates, as specified.
 - c) Requires each commissioner to meet all of the following qualifications, in addition to the qualifications that otherwise apply to members of IRCs under existing law:
 - i) Be a resident of the local jurisdiction.

- ii) Possess a history of civic engagement and participation.
 - iii) Possess experience that demonstrates analytical skills relevant to redistricting and voting rights, and possess an ability to comprehend and apply applicable legal requirements.
 - iv) Possess experience that demonstrates an ability to be impartial.
 - v) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the local jurisdiction.
- d) Permits an interested person meeting the qualifications to apply to the selection entity to be considered for membership on the IRC. Requires the selection entity to review the applications and eliminate applicants who do not meet the specified qualifications. Requires the selection entity to make public the number of qualified applicants and provide the demographic data of the qualified applicants by aggregated percentages. Requires the selection entity to reopen the applicant period for at least 30 days and conduct additional outreach if the pool of applicants does not have a sufficient number of qualified applicants or does not sufficiently represent the local jurisdiction's local diversity as determined by the selection entity.
- e) Requires the selection entity to select 40 of the most qualified applicants, as specified, and to make their names public for at least 30 days. Requires the commissioners to be chosen from this screened pool of 40 applicants.
- f) Requires a random drawing to select one commissioner from each of the subpools, as specified.
- g) Provides, in jurisdictions that have a legislative body with eight members or fewer, the selection entity shall create a subpool for each of the existing districts of the local jurisdiction from the pool of qualified applicants.
- h) Provides if a jurisdiction has a legislative body with more than eight existing districts, the selection entity shall conduct a random drawing from the pool of qualified applicants to select eight commissioners. Provides, of the eight commissioners selected, not more than one commissioner shall reside in each of the existing districts of the local jurisdiction. Provides that if an applicant whose name is drawn resides in the same existing district as a person whose name has already been drawn as part of the random drawing, that applicant shall be not be seated as a commissioner, and another name shall be drawn from the pool, as specified.
- i) Requires the randomly selected commissioners to review the remaining names in the subpools of applicants and to appoint additional applicants and alternates to the IRC until all remaining positions on the IRC are filled, as specified. Requires the appointees to be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the IRC reflects the jurisdiction's diversity, as specified.

- j) Requires the legislative body of the jurisdiction to prescribe the selection entity used to appoint members to the IRC, as specified.
 - k) Requires a member of the IRC to apply the law in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.
 - l) Provides that nine members of the IRC constitute a quorum, and nine or more affirmative votes are required for any official action.
 - m) Permits an IRC to remove one of its members in the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office. Provides that removal shall require nine or more affirmative votes from the other members after the member was served written notice and provided an opportunity to respond. Requires, in the case of a vacancy in the commission that occurs prior to the applicable redistricting deadline, an IRC select one alternate commissioner to fill the vacancy as a voting member. Requires that if no alternate exists, the vacancy be filled by an IRC from the pool of qualified applicants within 30 days after the vacancy occurs.
- 3) Imposes all of the following requirements and conditions on IRCs created pursuant to this bill:
- a) Prohibits a member of the IRC from communicating with any individual or organization regarding redistricting matters outside of a public meeting, except for communications with staff of the local jurisdiction regarding administrative matters of the IRC, and communications with another commissioner, staff, legal counsel, or consultants retained by the IRC.
 - b) Requires that members of the IRC receive a stipend, in an amount determined by the local jurisdiction, for each day in which they attend a meeting of the IRC or a committee or subcommittee of the IRC, as specified.
 - c) Requires the local jurisdiction to provide reasonable funding and staffing of the IRC.
- 4) Requires IRCs and hybrid redistricting commissions to be subject to the same redistricting procedures and criteria, and the same requirements for the minimum number of public redistricting hearings, which would otherwise apply to a legislative body.
- 5) Requires, if a local jurisdiction contracts with the IRC for a county, that the county's IRC must conduct the number of public redistricting hearings in the local jurisdiction that would otherwise apply to the legislative body for that jurisdiction if it were adopting the district boundaries.
- 6) Requires the State Auditor to provide the contact information of any applicant to serve as a commissioner on the CCRC to any city or county that has established an independent or hybrid redistricting commission, and to make a good faith effort to identify all independent and hybrid redistricting commissions in the state. Requires

the Auditor to notify CCRC applicants of opportunities to serve on such redistricting commissions in counties or cities where the applicant is a resident, as specified, and encourages the Auditor to notify CCRC applicants about opportunities to serve on local independent or hybrid redistricting commissions for jurisdictions other than cities or counties, as specified.

- 7) Requires the Department of Finance (DOF) to prepare a population estimate for each school district and community college district by May 1 in each year ending in the number nine. Requires population estimates prepared by the DOF to be used to determine whether a local jurisdiction must establish an IRC under this bill.
- 8) Makes existing law governing the formation and operation of local IRCs, hybrid redistricting commissions, and advisory redistricting commissions applicable to commissions formed by charter cities. Specifies that the provisions of this bill related to local redistricting address a matter of statewide concern rather than a municipal affair, and therefore specifies that those provisions are applicable to charter cities.
- 9) Makes various findings and declarations.
- 10) Makes clarifying, technical, and conforming changes.

BACKGROUND

California Citizens Redistricting Commission. Proposition 11, which was approved by the voters at the 2008 statewide general election, created the CCRC, and gave it the responsibility for establishing district lines for Assembly, Senate, and BOE. Proposition 11 also modified the criteria to be used when drawing district lines. Two years later, California voters approved Proposition 20, which gave the CCRC the responsibility for establishing lines for California's congressional districts, 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. The CCRC adopted district lines for the Legislature, Congress, and the BOE in the 2011 following the release of 2010 census data, and again in 2021 following the release of 2020 census data.

Local Redistricting Commissions and Previous Legislation. Prior to 2017, state law generally permitted a county or a city to create an advisory redistricting commission (described in state law at the time as a "committee" of residents of the jurisdiction), but did not expressly permit local jurisdictions to create commissions that had the authority to establish district boundaries. Instead, the authority to establish district boundaries for a local jurisdiction generally was held by the governing body. While charter cities could establish redistricting commissions that had the authority to establish district boundaries, charter counties did not have that authority in the absence of express statutory authorization.

In 2016, however, the Legislature passed and the Governor signed SB 1108 (Allen), Chapter 784, Statutes of 2016, which permits a county or a general law city to establish a redistricting commission, subject to certain conditions. SB 1018 (Allen), Chapter 462, Statutes of 2018, built upon SB 1108 by allowing all local governmental entities to

establish redistricting commissions, and by modifying some of the rules governing local redistricting commissions.

Separately, the Legislature has enacted a number of bills to require specified counties to establish redistricting commissions. SB 958 (Lara), Chapter 781, Statutes of 2016, required the establishment of a Citizens Redistricting Commission in Los Angeles County. Similarly, AB 801 (Weber), Chapter 711, Statutes of 2017, required the establishment of a Citizens Redistricting Commission in San Diego County. These commissions were in place for redistricting following the 2020 federal decennial census, and drew the district lines for those counties' supervisorial districts.

Last year, the Legislature approved AB 1307 (Cervantes), Chapter 403, Statutes of 2022, which creates a Citizens Redistricting Commission in Riverside County, AB 2030 (Arambula), Chapter 407, Statutes of 2022, which creates a Citizens Redistricting Commission in Fresno County, and AB 2494 (Salas), Chapter 411, Statutes of 2022, which creates a Citizens Redistricting Commission in Kern County, as specified. All of those commissions will be created for the next redistricting process following the 2030 census.

SB 139 (Allen) of 2019 would have required a county with a population of 400,000 or more to establish an IRC to adopt the county supervisorial districts after each federal decennial census, as specified. Governor Newsom vetoed SB 139 stating, "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."

Affected Jurisdictions. According to the January 1, 2022, population estimates from the DOF, the following counties and cities have populations of 300,000 or more, and would be required to establish IRCs for 2030 under this bill:

Counties: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Monterey, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, Stanislaus, Tulare, and Ventura. This bill exempts those counties from the requirement to create IRCs provided that the provisions of existing law requiring IRCs in those counties remains in effect. San Francisco is a charter city and county, and would be subject to this bill's requirements that apply to cities, rather than those that apply to counties. Based on current population growth rates, Merced County may also have a population of 300,000 or more by July 1, 2029, and thus would be required to establish an IRC under this bill.

Cities: Anaheim, Bakersfield, Fresno, Irvine, Long Beach, Los Angeles, Oakland, Riverside, Sacramento, San Diego, San Francisco, San Jose, Santa Ana, and Stockton.

Based on data from the United States Census Bureau, the following school districts appear to have populations of 500,000 or more, and would be required to establish IRCs for 2030 under this bill: Long Beach USD, Los Angeles USD, and San Diego USD. San Francisco USD would be affected if it shifted to district elections.

According to data provided by the sponsors of the bill, for community college districts, the following districts appear to have populations of 500,000 or more, and would be required to establish IRCs for 2030 under this bill: Los Angeles, Los Rios, Contra Costa, State Center, San Diego, South Orange County, Riverside, Kern, Mt. San Jacinto, North Orange County, San Jose-Evergreen, Chaffey, Ventura County, San Joaquin Delta, Mt. San Antonio, San Mateo, Coast, Chabot-Las Positas, Peralta, Yosemite, San Bernardino, Rancho Santiago, Sierra Joint, El Camino, Long Beach, and Southwestern. It should be noted that these districts vary in how they elected their trustees and could be elected by-district, elected by-district in the primary and by the entire district in the general election, or from a district and elected by voters of the entire district.

COMMENTS

- 1) According to the author: AB 1248 ensures community control over the redistricting process. The bill would require a county, general law city, and charter city that contains over 300,000 residents to establish an independent redistricting commission to adopt district boundaries. School district and community college district that contain over 500,000 residents will also establish an independent redistricting commission to adopt district boundaries. These localities will have until March 1, 2030 to establish an independent redistricting commission that meets local needs and adheres to best practices of independence and transparency.

Voters and communities should have the right to choose their elected representatives, rather than the elected officials choosing their voters. Independent redistricting commissions (IRCs) are a proven and effective tool to ensure that the redistricting process respects and fairly represents communities, neighborhoods, and shared interests. This bill would ensure independence, transparency and best practices in the vital task of drawing district lines.

- 2) Local Control Over IRC Design. Although this bill requires specified local government bodies with more than 300,000 residents to establish IRCs to adopt district boundaries following each federal decennial census, this bill does not mandate that those bodies use a specific model of IRC as long as the commission that a local government body creates meets all the requirements of an IRC as provided under existing law. Local jurisdictions would still have the ability to decide the size of the IRC, the manner in which members are appointed to the IRC (provided that commissioners are not directly appointed by local elected officials), and the timeline for the formation of the IRC. Local jurisdictions would also be able to establish additional qualifications for members of the IRC, beyond the qualifications that apply under state law to IRCs more generally. If a jurisdiction is required to have an IRC under this bill, and it fails to create its own IRC by January 1 of a year ending in zero, then that jurisdiction would be required to establish an IRC pursuant to a default structure specified in this bill.
- 3) Default Commission Structure. The default IRC structure and selection process provided in this bill for situations where a jurisdiction does not create its own IRC is loosely modeled after the structure of the CCRC and of IRCs that are required to be formed in Fresno, Kern, Los Angeles, Riverside, and San Diego counties under existing law. There are slight differences between the default IRC for counties and

the default IRC for cities, school districts, and community college districts under this bill.

Like the CCRC and IRCs in Fresno, Kern, Los Angeles, Riverside, and San Diego counties, the default IRCs under this bill would consist of 14 members with some commissioners chosen randomly from the pool of applicants and other commissioners appointed by those chosen at random in an effort to ensure that the commission reflects the diversity of the jurisdiction. The qualification requirements for members are also similar (though not identical) to the requirements for members of the IRCs in Fresno, Kern, Los Angeles, Riverside, and San Diego counties.

However, in at least some cases, the default IRC structure provided in this bill may not be compatible with the makeup of certain jurisdictions. For instance, the process for creating the IRC under the default structure provides for commissioners to be selected at random from each existing district of the legislative body of the jurisdiction to the extent feasible given the number of existing districts. The language does not specify a process for how the IRC is to be selected in jurisdictions where it is not feasible to select commissioners at random from each of the existing districts. For example, the number of districts in the jurisdiction exceeds the number of commissioners to be chosen.

Even if it is feasible to select a commissioner from each of the existing legislative districts, it is unclear whether it would be desirable to do so in all circumstances. As described above, the CCRC and the IRCs in Fresno, Kern, Los Angeles, Riverside, and San Diego counties all have a selection process under which some commissioners are chosen at random and other commissioners are appointed by the randomly-selected commissioners. Since there is no guarantee that a random selection process will produce an IRC that is diverse and representative of the jurisdiction, an IRC formation process that requires a portion of commissioners to be appointed allows for the appointing authority to consider the diversity of and representation on the IRC when making the appointments. If few or none of the commissioners are directly appointed, there would be little recourse if the random selection of commissioners resulted in an unrepresentative body.

- 4) Argument in Support. In a letter supporting AB 1248, Courage California stated, in part, the following:

Voters and communities should have the right to choose their elected representatives, rather than the elected officials choosing their voters. Independent redistricting commissions (IRCs) are one tool to ensure that the redistricting process respects and fairly represents communities, neighborhoods, and shared interests.

California has been recognized nationally for bringing independent, nonpartisan redistricting throughout the state. However, while local jurisdictions have the statutorily granted ability to create their own IRCs, most jurisdictions have not. Self-interested political incumbents simply do not have an incentive to cede their own authority to gerrymander to protect themselves and their political party. Unfortunately, this means many communities continue to be subjected to

gerrymandering, poor public engagement, and a lack of transparency as incumbents with an inherent conflict of interest determine district boundaries.

- 5) Argument in Opposition. In a letter opposing AB 1248, the California State Association of Counties, Rural County Representatives of California, and Urban Counties of California stated, in part, the following:

While we acknowledge the Legislature’s interest in requiring broad adoption of independent redistricting commissions at the local level, AB 1248 does not provide the necessary resources for counties to execute a successful independent redistricting commission process. To that end, we continue to urge amendments to the bill that ensure counties are fully reimbursed for costs and incorporate more robust statutory and technical assistance supports to ensure that local agencies are able to effectively deliver on the promise of independent redistricting. Additionally, we suggest amendments that would limit the scope of the bill in 2031 to those cities and counties with populations of 500,000 and to incorporate an independent assessment of the 2031 redistricting process in these jurisdictions to better understand the outcomes and impacts faced by local agencies, their independent commissions, and stakeholders before expanding a mandate to convene an independent redistricting commission to additional jurisdictions.

[...]

The promise of local independent redistricting commissions, as outlined in AB 1248, is to “ensure better outcomes for communities, in terms of fairness, transparency, public engagement, and representation.” To successfully achieve this promise, counties need more than a directive to establish a commission. They – and their corresponding commissions – need real, concrete supports from the state, including statutory changes informed by the experiences of counties that have already been through the process, financial resources, and real-time technical assistance. Without this kind of support, we are concerned that counties will be set up for failure and such a failure would only serve to validate public distrust in the redistricting process and in our democratic systems that are already under intense public scrutiny.

- 6) Double Referral. If approved by this committee, AB 1248 will be referred to the Committee on Governance and Finance.

RELATED/PRIOR LEGISLATION

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.

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 CRC. 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.

PRIOR ACTION

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|------------------------------------|---------|
| Assembly Floor: | 61 - 17 |
| Assembly Appropriations Committee: | 11 - 4 |
| Assembly Elections Committee: | 5 - 1 |

POSITIONS

Sponsor: Asian Americans Advancing Justice – SoCal
California Common Cause
League of Women Voters of California

Support: AAPIs for Civic Empowerment – Education Fund
ACLU California Action
Alameda County Coalition for Fair Redistricting
American Federation of State, County, and Municipal Employees, AFL-CIO
Asian Americans Advancing Justice – Asian Law Caucus
California Environmental Voters
Central Coast Alliance United for a Sustainable Economy
Communities United for Restorative Youth Justice
Courage California
Dolores Huerta Foundation
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Faculty Association of California Community Colleges
Indivisible CA: StateStrong
Inland Equity Partnership
Los Angeles County Democratic Party
Rising Communities
Santa Monica Democratic Club
Silicon Valley Community Foundation
South Bay People Power
One individual

Oppose: California State Association of Counties
Fresno County Board of Supervisors
Rural County Representatives of California
Urban Counties of California

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