

Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 450 (Jones-Sawyer & Bocanegra) – As Introduced: February 19, 2013

SUBJECT: Postsecondary education: community college trustee areas.

SUMMARY: Requires the Los Angeles Community College District (LACCD) to elect governing board members by trustee areas, instead of at-large, beginning in 2017. Requires the governing board of a community college district in which trustee areas have been established to make any proposal to adjust the trustee area boundaries available to the public, and to consider public comment regarding any such proposal. Specifically, this bill:

- 1) Requires the governing board of a community college district, prior to adjusting the boundaries of trustee areas following the decennial federal census, to make a proposal for boundary adjustment available to the public. Requires the governing board to elicit and consider public comments on that boundary adjustment proposal.
- 2) Requires the Board of Trustees of the LACCD to provide for the establishment of seven trustee areas by July 1, 2014, and gives the Board the sole authority to establish those boundaries. Requires the Board to hold a public hearing prior to its adoption of the boundaries of trustee areas.
- 3) Requires the trustee areas established by the Board of the LACCD to be numbered such that the trustee area with the northernmost boundary is numbered "1," the trustee area with the next northernmost boundary is numbered "2," and so on.
- 4) Requires each trustee area for the LACCD to be balanced in resident population.
- 5) Requires a person who seeks election to represent a trustee area in the LACCD to reside in and be registered to vote in that trustee area.
- 6) Provides that the four trustee positions that will expire on June 30, 2015, shall be filled by election at-large, with the trustees elected at that election serving four-year terms. Requires the three trustee positions that will expire on June 30, 2017, to be filled by trustees elected by trustee area, with the three trustee areas up for election in 2017 being determined by lot. Requires the remaining four trustee positions to be elected by trustee area in 2019.
- 7) Provides that LACCD trustees elected by trustee area shall serve four-year terms.
- 8) Makes legislative findings and declarations as to the necessity of a special law for the LACCD.

EXISTING LAW:

- 1) Requires, in every community college district in which trustee areas have not been established, that the governing board of the district be comprised of either five or seven

members elected at-large from the district. Provides that each member shall serve a term of four years.

- 2) Permits the county committee on school district organization, upon petition of the governing board of any community college district, to provide for the establishment, rearrangement, or abolishment of trustee areas in the community college district. Requires the petition to establish whether the election of a trustee from a trustee area shall be by only the registered electors of that trustee area, or by the registered electors of the entire community college district. Requires the resolution of the county committee approving a proposal to establish or abolish trustee areas to be submitted to the voters.
- 3) Establishes a procedure for the governing board of a community college district to change election systems, including moving from at-large elections to elections by trustee area, without voter approval, subject to specified conditions.
- 4) Requires members of the governing board of the LACCD to be elected at-large by individual seat number, notwithstanding other laws that generally allow community college districts to elect trustees either at-large or by trustee area. Provides that if no candidate for a specific seat receives 50 percent or more of the total votes cast in the primary election, the two candidates receiving the most votes advance to a run-off election. Establishes a procedure where the LACCD governing board may eliminate the requirement that a run-off election be conducted for a seat if no candidate for that seat receives more than 50 percent of the total votes cast in the primary election, thereby providing that the candidate garnering the plurality of votes in a single election will be deemed elected.
- 5) Prohibits, pursuant to the California Voting Rights Act of 2001 (CVRA), an at-large method of election from being imposed or applied in a political subdivision in a manner that impairs the ability of a protected class of voters to elect candidate of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

- 1) Purpose of the Bill: According to the author:

In 2001 the California Voting Rights Act was approved. The Act was aimed at ensuring equal representation for all persons on all of the various elected bodies that serve their communities. At-large elections disenfranchise voters by not allowing minorities or communities of concern the opportunity to elect representatives that reflect them. District specific elections can ensure that the governing boards are representative of the ethnic and geographic diversities of populations they serve.

Within Los Angeles County, the community college districts of Compton, Cerritos and Mt. San Antonio, have all changed to elections by district area in order to settle lawsuits brought under the California Voting Rights Act. The

community college districts of Pasadena, Rio Hondo, Citrus, and Long Beach already elect their board trustees by specific districts.

- 2) Los Angeles Community College District: According to information from the District, the LACCD consists of nine colleges—Los Angeles City College, East Los Angeles College, Los Angeles Harbor College, Los Angeles Mission College, West Los Angeles College, Pierce College, Los Angeles Southwest College, Los Angeles Trade-Technical College, and Los Angeles Valley College. The LACCD is located entirely within Los Angeles County.

The LACCD governing board consists of seven members elected at-large by the voters of the LACCD and one student member who is elected by students.

According to information from the Election Division of the Office of the Los Angeles City Clerk, there were 2,452,885 registered voters in the LACCD as of November 9, 2012—more registered voters than any city in the state and more than in any county in the state other than Los Angeles County. Because governing board members are elected at-large in the LACCD, the number of potential voters for a seat on the LACCD is larger than the number of potential voters for any other elective office in California except for statewide office and member of the State Board of Equalization.

- 3) At-Large vs. Trustee Areas: Under existing law, a community college district board generally can be organized so that members are elected at-large or so that members are elected by trustee areas. In districts that have trustee areas, the district can be organized such that the registered voters in the entire community college district vote for trustees from each of the trustee areas, or the district can be organized so that only the registered voters in a trustee area vote for the trustees from that area. In either case, candidates for a trustee area must reside in and be registered to vote in that trustee area.
- 4) California Voting Rights Act of 2001: SB 976 (Polanco), Chapter 129, Statutes of 2002, enacted the CVRA to address racial block voting in at-large elections for local office in California. In areas where racial block voting occurs, an at-large method of election can dilute the voting rights of minority communities if the majority usually votes for majority candidates rather than for minority candidates. In such situations, breaking a jurisdiction up into districts can result in districts in which a minority community can elect the candidate of its choice or otherwise have the ability to influence the outcome of an election. Accordingly, the CVRA prohibits an at-large method of election from being imposed or applied in a political subdivision in a manner that impairs the ability of a protected class of voters to elect candidate of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of the protected class.

The CVRA specifically provided for a prevailing plaintiff party to have the ability to recover attorney's fees and litigation expenses to increase the likelihood that attorneys would be willing to bring challenges under the law.

Since the enactment of the CVRA, a number of local jurisdictions have converted or are in the process of converting from an at-large method of election to district-based elections. While some jurisdictions have done so in response to litigation, other jurisdictions have begun the process of changing election methods because they believe they would be

susceptible to a legal challenge under the CVRA, and they wish to avoid the potential expense of litigation. Additionally, last session, the Legislature approved and the Governor signed AB 684 (Block), Chapter 614, Statutes of 2011, which established a procedure for the governing board of a community college district to change election systems, including moving from at-large elections to elections by trustee area, without voter approval, subject to specified conditions. AB 684 was intended to provide a procedure for community college districts to move from at-large elections to district-based elections where such a move was justified under the CVRA. AB 684 is not available, however, to the LACCD, due to separate provisions of state law that explicitly require the LACCD to conduct at-large elections.

To the extent that the LACCD at-large method of election impairs the ability of a protected class of voters to elect candidate of its choice or its ability to influence the outcome of an election, however, the LACCD could be subject to a legal challenge under the CVRA. It should be noted that the CVRA was enacted, in part, to establish objective criteria that would be used to make judicial determinations about whether it was appropriate for a district to transition away from at-large elections due to the impact that method of election had on voting rights of protected classes of voters.

- 5) Why the Delay? As currently drafted, this bill would become law on January 1, 2014, and the LACCD governing board would have until July 1, 2014, to establish trustee areas. However, those trustee areas would not be used for LACCD governing board elections in 2015—instead, this bill explicitly provides that the LACCD trustees shall be elected at-large at the 2015 elections. The reason for this delay is unclear. If the existing system of electing trustees at-large is unfair, the delay in moving to electing governing board members by trustee area would result in that system being used longer than necessary.

Additionally, given that the trustee areas established by the LACCD governing board pursuant to this bill would not be used for elections until 2017, it is unclear why those trustee areas would need to be established by July 1, 2014, which is more than two and a half years prior to the first election at which they would be used. Given the large size of the LACCD, and the fact that trustee areas have never been established for that district, the process of establishing trustee areas for the first time may be a complex and controversial one, and therefore may benefit from giving the LACCD governing board additional time to establish those boundaries. To the extent that this bill continues to provide for trustee area elections beginning in 2017, the committee may wish to consider whether it would be beneficial to give the LACCD a longer period of time to establish the trustee areas.

- 6) Technical Issues: As currently drafted, this bill appears to require the use of trustee areas for elections for the LACCD governing board in 2017 and 2019, but does not explicitly require the LACCD to use trustee areas for subsequent elections. In fact, due to a separate, conflicting provision of law that is not affected by this bill, it appears that the LACCD would be required to return to an at-large method of election for choosing trustees beginning with the 2021 elections. This does not appear to be consistent with the author's intent. Accordingly, committee staff recommends that this bill be amended to clarify that the LACCD would be required to adjust trustee area boundaries following each decennial federal census, beginning in 2021, and to require those adjusted boundaries to be used for LACCD governing board elections for the following decade.

- 7) State Mandates: The 2011-12 and 2012-13 state budgets included the suspension of various state mandates as a mechanism for cost savings. Included on the list of suspensions were all six existing elections-related mandates. All the existing elections-related mandates have been proposed for suspension again by the Governor in his budget for the 2013-14 fiscal year.

Because this bill is not coming at the request of the affected community college district, this bill could be deemed to impose a reimbursable state mandate, and the state could be required to reimburse the LACCD for any costs associated with the change from at-large to trustee area elections.

The Committee may wish to consider whether it is desirable to establish this new mandate when the Legislature has voted to suspend the existing election mandates.

- 8) Arguments in Opposition: In opposition to this bill, the Los Angeles Community College District and the Los Angeles College Faculty Guild, AFT Local 1521, write:

Currently, the Los Angeles Community College District trustees are elected at large and the seven trustees share the responsibility of governing and oversight of all of the district's nine colleges. Each trustee weighs his or her decisions based on what is best for the district as a whole. This bill would balkanize the governance of the district, setting up a system of competing agendas where each trustee cared more about the interests of the individual college or colleges within their trustee area than about the district as a whole. Instead of what has been a relatively unified board, this bill would create divisions among members and make the largest community college district in California even more difficult to manage. The bill would pit colleges and trustees against each other as each would vie for resources and programs for "their" respective college or colleges.

In addition to creating a poor management structure, a major issue is diversity and the lack of an African American on the board. The assumption that electing trustee members based on district elections rather than at large, would create a safe district for an African American is dubious. Due to changing demographics, it would be nearly impossible to draw a voting bloc with 50% African American voters to ensure an African American trustee would be elected.

- 9) Previous Legislation: AB 2572 (Furutani), Chapter 754, Statutes of 2012, permits the LACCD governing board to choose to eliminate the requirement that a run-off election be conducted for a seat if no candidate for that seat receives more than 50 percent of the total votes cast in the primary election, thereby providing that the candidate garnering the plurality of votes in a single election will be deemed elected. Although the LACCD was the sponsor of AB 2572, it did not exercise the option provided by that bill for district elections that are occurring this year.

AB 1252 (Davis) of 2011, would have required the LACCD to elect governing board members by trustee areas, instead of at-large. AB 1252 was never heard in a policy committee, at the request of the author of that bill.

AB 1328 (Cardenas) of 1999, and AB 8 (Cardenas) of 2000, would have required the governing board of the LACCD to be elected from single-member trustee areas, instead of by at-large elections. Both bills were supported by the LACCD, and both were vetoed by Governor Davis. In his veto messages for the bills, Governor Davis wrote, "The decision to create single-member trustee areas is best made at the local level, not by the state. Furthermore, current law allows registered voters residing in the Los Angeles Community College District to petition for the creation of trustee areas."

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

California Federation of Teachers
Los Angeles College Faculty Guild, AFT Local 1521
Los Angeles Community College District

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