

Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Shirley Weber, Chair

SB 1108 (Allen) – As Amended June 8, 2016

SENATE VOTE: 34-0

SUBJECT: Elections: state and local reapportionment.

SUMMARY: Permits a county or a general law city to establish a commission charged with adjusting the boundaries of supervisorial districts or city council districts after each decennial federal census, subject to certain conditions. Specifically, **this bill:**

- 1) Permits a county or a general law city (hereinafter referred to as the "local jurisdiction"), by resolution or ordinance, to establish an independent redistricting commission (independent commission) that has the power to adopt the district boundaries of the legislative body of the jurisdiction.
 - a) **Selection of Independent Commission Members.** Provides that the following conditions shall apply to the selection of members of an independent commission that is created in accordance with this bill:
 - i) Permits the local jurisdiction to prescribe the manner in which members are appointed to the independent commission, provided that the application process must be open to all eligible residents.
 - ii) Prohibits an independent commission from being comprised entirely of members who are registered to vote with the same political party preference.
 - iii) Prohibits a person from being appointed to the independent commission if that person or a family member of that person has done any of the following in the preceding eight years:
 - (1) Been elected or appointed to, or been a candidate for, an elective office of the local jurisdiction;
 - (2) Served as an officer, employee, or paid consultant of a campaign committee or a candidate for elective office of the local jurisdiction;
 - (3) Served as an officer, employee, or paid consultant of a political party or as an elected or appointed member of a political party central committee;
 - (4) Served as a staff member of, consultant to, or contracted with, a currently-serving elected officer of the local jurisdiction;
 - (5) Been registered to lobby the local jurisdiction; or,

- (6) Contributed \$500 or more in a year to any candidate for an elective office of the local jurisdiction, provided that the local jurisdiction may adjust this amount to reflect changes in the California Consumer Price Index, as specified.
 - iv) Permits the local jurisdiction to impose additional qualifications and restrictions for members of the independent commission in excess of those otherwise required by this bill.
- b) **Independent Commission Member Requirements.** Imposes the following requirements on members of an independent commission that is created in accordance with this bill:
- i) Requires each independent commission member to be a designated employee for the purposes of the conflict of interest code of the independent commission, as specified, thereby requiring members to file statements of economic interests and to comply with specified state laws regarding conflicts of interests and limits on gifts and honoraria.
 - ii) Prohibits a member, while serving on the independent commission, from endorsing, working for, volunteering for, or making a campaign contribution to, a candidate for elective office of the local jurisdiction.
 - iii) Prohibits a member, for 10 years following his or her appointment to the independent commission, from being a candidate for an elective office of the local jurisdiction.
 - iv) Prohibits a member, for four years following his or her appointment to the independent commission, from doing any of the following:
 - (1) Accepting an appointment to an office of the local jurisdiction;
 - (2) Accepting employment as a staff member of, or consultant to, an elected official or candidate for elective office of the local jurisdiction;
 - (3) Receiving a non-competitively bid contract with the local jurisdiction; or,
 - (4) Registering as a lobbyist for the local jurisdiction.
- c) **Independent Commission Conduct.** Imposes the following requirements on the conduct of an independent commission that is created in accordance with this bill:
- i) Requires the independent commission to comply with applicable provisions of the Brown Act and the Public Records Act.
 - ii) Requires the independent commission to adopt new boundaries within six months after the final population figures determined in each federal decennial census have been released, but in any event not later than November 1 of the year following the year in which the census is taken.

- iii) Requires a map of proposed boundaries to be published and made available to the public for at least seven days prior to being adopted.
 - iv) Requires the independent commission to hold at least three public hearings prior to the hearing at which the new boundaries are adopted.
 - v) Prohibits the independent commission from drawing districts for the purpose of favoring or discriminating against any incumbent or political candidate.
- 2) Prohibits any of the following individuals from serving on an advisory redistricting commission (advisory commission) that is otherwise established in accordance with existing law:
- a) An elected official of the jurisdiction; or,
 - b) A family member, staff member, or paid campaign staff of an elected official of the jurisdiction.
- 3) Defines "family member," for the purposes of this bill, as a spouse, registered domestic partner, parent, sibling, child, or in-law.
- 4) Makes corresponding and technical changes.

EXISTING LAW:

- 1) Requires the governing body of each county and each city, following the decennial federal census, and using that census as a basis, to adjust the boundaries of any or all of the supervisorial or council districts so that the districts are as nearly equal in populations as may be and comply with the applicable provisions of Section 2 of the federal Voting Rights Act (VRA), as amended.
- 2) Permits the board of supervisors of a county or the city council of a city to appoint a committee composed of residents of the county or city, respectively, to study the matter of changing the boundaries of supervisorial or council districts, as appropriate. Provides that recommendations of the committee are advisory only.
- 3) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question. Generally provides greater autonomy over county affairs to counties that have adopted charters.
- 4) Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.

FISCAL EFFECT: This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:1) **Purpose of the Bill:** According to the author:

Existing law permits cities and counties to create redistricting commissions but limits these commissions to making recommendations on an advisory basis only. They cannot actually establish the new districts. The lone exception to this are charter cities. SB 1108 would permit all cities and counties to establish redistricting commissions that actually have the authority to establish new council and supervisorial districts.

In 2012, San Diego County wanted to create one of these empowered redistricting commissions but had to seek special legislation to do so. This should not be the case. Cities and counties that wish to take the admirable step of creating independent redistricting commissions made up of local residents should be free to do so without having to seek our permission.

This bill does not force any city or county to create a commission, it just gives them the authority if they so choose. The bill also provides, much like our state redistricting commission, that local commission members may have no familial, political, or professional relationships with any officeholders or candidates in the city or county. Following service on the commission, members may not seek elective office themselves or employment from an officeholder within the jurisdiction for specified time periods.

Commission members would have to file statements of economic interest pursuant to the Political Reform Act and the commissions would have to comply with all relevant provisions of the Brown Act and the Public Records Act. Lastly, a commission could not be comprised entirely of members who are registered to vote with the same political party.

- 2) **California Citizens Redistricting Commission:** Proposition 11, which was approved by the voters at the 2008 statewide general election, created the Citizens Redistricting Commission (CRC), and gave it the responsibility for establishing district lines for Assembly, Senate, and Board of Equalization. Proposition 11 also modified the criteria to be used when drawing district lines. Proposition 20, which was approved by the voters at the 2010 statewide general election, gave the CRC the responsibility for establishing lines for California's congressional districts, and made other changes to the procedures and criteria to be used by the CRC. The CRC 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.
- 3) **Local Redistricting Commissions and Existing Law:** As noted above, existing law permits a county or a city to create an advisory redistricting commission (described in state law as a "committee" of residents of the jurisdiction), but does not expressly permit local jurisdictions to create commissions that have the authority to establish district boundaries. Instead, the authority to establish district boundaries for a local jurisdiction generally is held by the

governing body of that jurisdiction. Charter cities are able to establish redistricting commissions that have the authority to establish district boundaries because the state Constitution gives charter cities broad authority over the conduct of city elections and over the manner in which, method by which, times at which, and terms for which municipal officers are elected. As a result, a number of California cities have established redistricting commissions to adjust city council districts following each decennial census.

Charter counties, on the other hand, are not granted the same level of authority over the conduct of county elections, and in fact, the state Constitution explicitly provides that "[c]harter counties are subject to statutes that relate to apportioning population of governing body districts." In light of this provision of the state Constitution, charter counties are unable to provide for the creation of a redistricting commission that has the authority to establish district boundaries unless statutory authority is provided to allow a county to have such a commission.

- 4) **Could This Bill's Conditions Discourage the Creation of Redistricting Commissions?** While this bill would allow local jurisdictions to create redistricting commissions that have the authority to establish district boundaries, it imposes a number of significant conditions on any such commission that is created, including substantial restrictions on who may be appointed to serve on such a commission. For example, if a county created an independent redistricting commission in accordance with this bill, a person would not be eligible to serve on that commission if the person's sister-in-law made a \$500 campaign contribution to a candidate for district attorney eight years prior to the creation of the commission. Because this bill does not force local jurisdictions to create redistricting commissions, the substantial conditions imposed on independent commissions could serve as a disincentive for local governments to make the decision to establish such commissions.

On the other hand, most local governments lack the ability to establish independent redistricting commissions at all under existing law. Furthermore, while this bill does impose certain new restrictions on *advisory* commissions, those restrictions are considerably more modest than the ones imposed on *independent* commissions, as specified.

- 5) **Related Legislation:** SB 958 (Lara), which is also being heard in this committee today, establishes a redistricting commission in Los Angeles County and charges it with adjusting the boundaries of supervisorial districts after each decennial federal census.
- 6) **Previous Legislation:** SB 1331 (Kehoe), Chapter 508, Statutes of 2012, gave San Diego County the authority to establish a redistricting commission, charged with adjusting the boundaries of supervisorial districts after each decennial federal census.
- 7) **Double-Referral:** This bill has been double-referred to the Assembly Local Government Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Common Cause (sponsor)
California Forward Action Fund (prior version)
League of California Cities (prior version)
League of Women Voters of California

Opposition

None on file.

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