

Date of Hearing: July 3, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1096 (Elections & Constitutional Amendments Committee) – As Amended: May 1, 2012

SENATE VOTE: 37-0

SUBJECT: Citizens Redistricting Commission.

SUMMARY: Makes various substantive and technical changes to provisions of state law that govern the operations of the Citizens Redistricting Commission (CRC). Specifically, this bill:

- 1) Moves up the deadline by four and one-half months for each of the steps involved in accepting and reviewing applications from individuals who are interested in serving on the CRC, and in establishing the CRC from the pool of qualified applicants.
- 2) Requires the State Auditor, instead of the Secretary of State (SOS), to provide support functions to the CRC while it is being formed until the CRC's staff and office are fully functional.
- 3) Provides that the three-person panel that reviews applications for the CRC shall be made up only of auditors who are employed by the Bureau of State Audits (BSA), instead of being made up of auditors who are licensed by the California Board of Accountancy (CBA) and employed by the state.
- 4) Clarifies that the CRC has the authority to fill all vacancies on the CRC. Extends the amount of time, from 30 to 90 days, that the CRC has to fill a vacancy that occurs on or after December 31 of a year ending in the number two.
- 5) Makes a requirement that the CRC take public comment on any map for at least 14 days applicable only to the first preliminary statewide maps created by the CRC. Requires those first preliminary maps of congressional, State Senatorial, Assembly, and State Board of Equalization (BOE) districts to be publicly displayed no later than July 1 in each year ending in the number one, and prohibits the CRC from displaying any other maps for public comment during the 14 day public comment period. Requires a public comment period of at least seven days for all other preliminary statewide maps, and requires a public comment period of at least three days for any final statewide maps. Requires all maps created by the CRC to comply with specified constitutional criteria for the creation of districts, to the extent practicable.
- 6) Provides that a requirement that the CRC provide at least 14 days of public notice for most meetings applies only to meetings held for the purpose of receiving public input testimony. Allows the CRC to hold meetings with only three days' notice in the month of August in the year ending in the number one, instead of in September of that year.
- 7) Provides that a statewide outreach program to solicit broad public participation in the redistricting process, for which the Governor is required to include funding in his or her

budget in each year ending in the number nine, shall include the solicitation of applicants to the CRC.

- 8) Requires the Governor to make meeting space available to the CRC, in addition to making office space available.
- 9) Extends, from 10 to 12 days, the amount of time that a bill must be in print prior to final passage by the Legislature if that bill proposes to amend specified provisions of state law that govern the formation and operations of the CRC. Prohibits the Legislature from amending those specified provisions in a year ending in the number nine.
- 10) Makes corresponding and technical changes.

EXISTING LAW:

- 1) Establishes the CRC, and gives it the responsibility for establishing the district lines for State Senate, Assembly, Congress, and the BOE.
- 2) Establishes a process for the application for serving on, and the selection of members of, the CRC. Provides that the application process shall begin by January 1 in each year ending in the number zero. Provides for applications to be reviewed by a panel comprised of three auditors employed by the state and licensed by the CBA.
- 3) Allows the CRC to hire commission staff, legal counsel, and consultants as needed. Requires the SOS to provide support functions to the CRC until its staff and office are fully functional. Requires the Governor to make adequate office space available for the operation of the CRC.
- 4) Requires the CRC to fill any vacancy on the CRC within 30 days after the vacancy occurs.
- 5) Requires the CRC to establish and implement an open hearing process for public input and deliberation. Requires the hearing process to include hearings to receive public input before the CRC draws any maps and following the drawing and display of any CRC maps. Requires public comment to be taken for at least 14 days from the date of public display of any map.
- 6) Requires the CRC to comply with the Bagley-Keene Open Meeting Act, and requires the CRC to provide not less than 14 days' public notice for each meeting, except meetings held in September in the year ending in the number one, which may be held with three days' notice.
- 7) Requires the Governor, in each year ending in the number nine, to include amounts of funding in his or her proposed budget that are sufficient to meet the estimated expenses of the State Auditor, the CRC, and the SOS in implementing the redistricting process for a three-year period. Provides that the funding shall include, but not be limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process.

- 8) Provides that specified provisions of the Government Code that govern the formation and operations of the CRC may be amended only if all of the following conditions are met:
 - a) By the same vote required for the adoption of the final set of redistricting maps, the CRC recommends amendments to carry out the purpose and intent of those provisions of code;
 - b) The exact language of the amendments provided by the CRC is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor;
 - c) The bill containing the amendments provided by the CRC is in print for 10 days before final passage by the Legislature;
 - d) The amendments further the purposes of the ballot measure that created the CRC; and,
 - e) The amendments are not passed by the Legislature in a year ending in the numbers zero or one.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

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

This bill represents several common sense improvements to the statutes governing the California Citizens Redistricting Commission and the redistricting process negotiated with numerous interested parties. Specifically, starting the application and selection process for commissioners four and one-half months earlier would give future commissions more time to hire staff and consultants in an open, public process. The Commission would also have more time to conduct additional public education and outreach. SB 1096 also addresses many procedural issues such as noticing requirements for meetings that will assist future commissioners' ability to complete their mission.

- 2) **Background on the CRC:** Proposition 11, which was approved by the voters at the 2008 statewide general election, created the CRC, and gave it the responsibility for establishing district lines for the Assembly, Senate, and BOE. 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.

Proposition 11 placed the general structure of the CRC and the criteria to be used by the CRC when drawing district boundaries in the California Constitution, but put most of the specifics about the formation and operation of the CRC into statute. As a general rule, statutory

provisions of initiative measures can be amended only by another statute that becomes effective only when approved by the electors, unless the initiative statute permits amendment without voter approval. Proposition 11 allows the statutory provisions of that measure to be amended without voter approval only if all of the following conditions are met:

- a) The CRC recommends amendments to the statutory provisions by the same vote required for the adoption of the final set of maps;
- b) The exact language of the amendments provided by the CRC is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor;
- c) The bill containing the amendments provided by the CRC is in print for 10 days before final passage by the Legislature;
- d) The amendments further the purposes of Proposition 11; and,
- e) The amendments are not passed by the Legislature in a year ending in the numbers zero or one.

On June 7, 2012, the CRC met and unanimously approved the language contained in the current version of this bill.

- 3) Applicant Review Panel: Proposition 11 provided for the creation of a three-person panel to review applications for the CRC and to create a pool of 60 of the most qualified applicants to the CRC. The members of the CRC ultimately are chosen from the applicants remaining in that pool after four specified Legislative leaders exercise their authority to strike applicants from the pool. Under the provisions of Proposition 11, the three-person review panel is to be made up of auditors who are licensed by the CBA and employed by the state. This bill instead provides that the review panel will be made up only of auditors who are employed by the BSA. Although the number of auditors who are employed by the BSA is smaller than the number of auditors who are licensed by the CBA and employed by the state, this policy change is consistent with regulations adopted by the BSA to implement Proposition 11. In adopting those regulations, the BSA decided to exclude auditors from other agencies from serving on the review panel due to concern that auditors from other agencies would "remain under the control of those agencies and, therefore, the independence contemplated by [Proposition 11] would be lost."
- 4) Arguments in Support: The CRC, in support of this bill, writes:

In 2011, for the first time in California history, the independent CRC drew State Assembly, Senate, Congressional and Board of Equalization districts. After participating in that historic process, and in the litigation immediately following, we evaluated our experience and concluded that there are several common sense improvements that can be made to the statutes governing the Commission and the redistricting process....

The foremost critical issue is that of time. Commissioners, interested

organizations and the general public all concurred that the original seven-month time frame from the date the full Commission was seated until the adoption of the final maps created unnecessary hurdles.... Starting the application and selection process for Commissioners four-and-a-half months earlier would give future Commissions more time to hire staff and consultants in an open, public process. The Commission would also be able to conduct public education and outreach....

SB 1096 requires one set of preliminary district maps for public review and comment on or before July 1st in years ending in one. The current Commission had no such requirement, but did produce a preliminary map on June 10, 2011. The requirement to provide at least one preliminary district map will guarantee that the public will have the ability and time to review the maps and respond to the Commission.

REGISTERED SUPPORT / OPPOSITION:

Support

California Common Cause
California Forward
Citizens Redistricting Commission
League of Women Voters of California

Opposition

None on file.

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