

Date of Hearing: June 13, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 1018 (Allen) – As Amended June 6, 2018

**AS PROPOSED TO BE AMENDED**

**SENATE VOTE:** 36-0

**SUBJECT:** Elections: state and local reapportionment.

**SUMMARY:** Allows local jurisdictions to establish hybrid redistricting commissions (hybrid commissions), as specified. Allows school districts, community college districts, and special districts to establish redistricting commissions. Modifies the conditions for individuals who are permitted to serve on independent redistricting commissions (independent commissions).

Specifically, **this bill:**

- 1) Clarifies that a local redistricting commission formed pursuant to existing law may be used when establishing district boundaries for the first time when a jurisdiction transitions from at-large to district-based elections, in addition to being used when redrawing district lines in a jurisdiction that already conducts district-based elections.
- 2) Clarifies that a local jurisdiction may impose additional requirements or restrictions on a redistricting commission, members of the commission, or applicants to the commission in excess of the requirements and restrictions specified in state law.
- 3) Expands the types of local jurisdictions that are allowed to establish redistricting commissions to include school districts, community college districts, and special districts, in addition to counties and cities.
- 4) Reduces the period of time, from eight years to four years preceding an appointment to an independent commission, that an applicant's family members other than the applicant's spouse must not have engaged in any of the following conduct in order for that applicant to be eligible to serve on the commission:
  - a) Served as an officer, employee, or paid consultant of a political party or of a campaign committee or a candidate for elective office of the local jurisdiction;
  - b) Served as an elected or appointed member of a political party central committee;
  - c) Served as a staff member of or consultant to, or contracted with, a currently-serving elected officer of the local jurisdiction;
  - d) Been registered to lobby the local jurisdiction; or,
  - e) Contributed \$500 or more in a year to any candidate for an elective office of the local jurisdiction, provided that the jurisdiction may adjust this amount to reflect inflation.
- 5) Reduces the period of time after a person serves on an independent commission that the person is prohibited from being a candidate for elective office in that jurisdiction from 10

years to five years after the person's appointment to the commission, and prohibits a person who served on an independent commission from being a candidate for elective office in the jurisdiction if the election will be conducted using the district boundaries that were adopted by the commission, as specified.

- 6) Reduces the period of time, from four years to two years following the date of a person's appointment to a local jurisdiction's independent commission, that the person is prohibited from accepting an appointment to an office of that jurisdiction.
- 7) Defines a hybrid commission as 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.
- 8) Allows a county, city, school district, community college district, or special district, to establish a hybrid commission, as defined, to recommend maps for the placement of district boundaries for the local jurisdiction.
- 9) Provides that hybrid commissions and commissioners are generally subject to the same procedures, requirements, and restrictions as apply to independent commissions and commissioners, as proposed to be modified by this bill.
- 10) Prohibits members of an independent or hybrid commission for a local jurisdiction from being directly appointed by the legislative body or an elected official of that jurisdiction.
- 11) Allows a local redistricting commission to be established by charter amendment, in addition to permitting such commissions to be established by ordinance or resolution.
- 12) Prohibits hybrid and independent commissions from drawing districts for the purpose of favoring or discriminating against a political party.
- 13) Prohibits district boundaries that are adopted by an independent commission, or adopted by a legislative body from recommendations provided by a hybrid commission, from being altered by the legislative body or the commission until after the next federal decennial census occurs.
- 14) Repeals existing deadlines for local redistricting commissions to complete their work. Makes independent and hybrid commissions subject to the same redistricting deadlines, requirements, and restrictions that would otherwise apply to a legislative body.
- 15) Permits a local jurisdiction, except for a county, to contract with a county in which the local jurisdiction is partially or wholly located and that has established an independent commission, to have that commission adopt the local jurisdiction's election district boundaries. Requires the county's independent commission, in such a situation, to hold at least three public hearings in the local jurisdiction before adopting the boundaries.
- 16) Makes technical and corresponding changes.

**EXISTING LAW:**

- 1) Permits a county or a general law city, by resolution or ordinance, to establish either of the following:

- a) An independent commission that has the power to adopt the district boundaries of the legislative body; or,
  - b) An advisory redistricting commission (advisory commission) that recommends to a legislative body the placement of district boundaries for that legislative body.
- 2) Defines "family member," for the purposes of provisions of law governing who may serve on a local redistricting commission, as a spouse, registered domestic partner, parent, sibling, child, or in-law.
  - 3) Prohibits any of the following individuals from serving on an advisory commission:
    - a) An elected official of the county or general law city; or,
    - b) Family, staff, or paid campaign staff of an elected official of the jurisdiction.
  - 4) Requires an advisory commission to submit a report to the legislative body documenting the need for changes to district boundaries, and its recommended changes, within six months after the final population figures from the census have been released, but not later than August 1 of the year following the year in which the census is taken.
  - 5) Permits a county or a general law city to decide how members are appointed to an independent commission, but requires the application process to be open to all eligible residents.
  - 6) Prohibits an independent commission from being comprised entirely of members who are registered to vote with the same political party preference.
  - 7) Prohibits a person from being appointed to an independent commission if that person or a family member has done any of the following in the preceding eight years:
    - a) Been elected or appointed to, or a candidate for, elective office of the local jurisdiction;
    - b) Served as an officer, employee, or paid consultant of a political party or of a campaign committee or a candidate for elective office of the local jurisdiction;
    - c) Served as an elected or appointed member of a political party central committee;
    - d) Served as a staff member of or consultant to, or contracted with, a currently-serving elected officer of the local jurisdiction;
    - e) Been registered to lobby the local jurisdiction; or,
    - f) Contributed \$500 or more in a year to any candidate for an elective office of the local jurisdiction, provided that the jurisdiction may adjust this amount to reflect inflation.
  - 8) Permits a county or a general law city to impose additional qualifications and restrictions for members of an independent commission.
  - 9) Prohibits a member, for 10 years following his or her appointment to an independent commission, from being a candidate for an elective office of the jurisdiction.

- 10) Prohibits a member, for four years following his or her appointment to an independent commission, from doing any of the following:
  - a) Accepting an appointment to an office of the jurisdiction;
  - b) Accepting employment as a staff member of, or consultant to, an elected official or candidate for elective office of the jurisdiction;
  - c) Receiving a non-competitively bid contract with the jurisdiction; or,
  - d) Registering as a lobbyist for the jurisdiction.
- 11) Requires an independent commission to adopt new boundaries within six months after the final population figures from the census have been released, but not later than November 1 of the year following the year in which the census is taken.
- 12) Requires an independent commission to hold at least three public hearings prior to the hearing at which the new boundaries are adopted.

**FISCAL EFFECT:** None. This bill is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:**

- 1) **Author's Amendments:** After the committee's deadline for pre-committee author's amendments, the author proposed amendments to modify the restriction on the amount of time after serving on an independent or hybrid commission that a commissioner is prohibited from being a candidate for office in that jurisdiction. Those amendments would prohibit a member of an independent or hybrid commission from being a candidate for office in the jurisdiction for five years after being appointed to the commission and at any election held using the district lines that were approved or recommended by the commission. This analysis reflects those proposed author's amendments.
- 2) **Purpose of the Bill:** According to the author:

SB 1018 allows school boards, community college boards and special district boards to establish independent, hybrid or advisory redistricting commissions and makes various changes to streamline and clarify the law allowing local jurisdictions to create redistricting commissions. Senator Allen authored SB 1108 in 2016, which authorized all counties and cities to establish an independent or advisory redistricting commission. Several jurisdictions have or are in the process of creating commissions pursuant to the new authority granted under SB 1108, but this has revealed that some clarifications in the law are needed. This bill makes improvements and clarifications to existing law including clarifying that jurisdictions may create hybrid commissions, prohibiting independent commissions from drawing lines for the purpose of benefiting or discriminating against a political party and relaxing some of the commissioner eligibility requirements to allow more citizens to participate in the process. SB 1018 responds to continued local demand for nonpartisan redistricting by expanding the definition of local jurisdictions from just cities and counties to include school, community college and special districts. These changes will streamline the

redistricting process for local districts and bring more transparency and nonpartisan redistricting to counties, cities, school districts and special districts throughout California.

- 3) **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.
- 4) **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 of that jurisdiction. 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. Additionally, SB 958 (Lara), Chapter 781, Statutes of 2016, required the establishment of a Citizens Redistricting Commission in Los Angeles County and charged it with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified. Similarly, AB 801 (Weber), Chapter 711, Statutes of 2017, required the establishment of a Citizens Redistricting Commission in San Diego County and charged it with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified.

According to research from the California Local Redistricting Project, 40 local jurisdictions in California have established or used redistricting commissions since the beginning of 2010. Twenty-two of those 40 commissions were one-time commissions, however, mostly established for the purpose of proposing new district lines after the 2010 census. Eighteen local jurisdictions have permanent commissions, including two counties, 14 cities, and two school districts.

In authorizing counties and general law cities to create redistricting commissions, SB 1108 authorized two different types of commissions: independent commissions and advisory commissions. SB 1108 imposed few restrictions and requirements on advisory commissions, but subjected members of independent commissions to extensive eligibility requirements and post-service restrictions. At the time SB 1108 was being considered by the Legislature, questions were raised about whether the substantial conditions imposed on independent commissions could serve as a disincentive for local governments to make the decision to establish such commissions.

This bill—which is authored by the same member and sponsored by the same organization as SB 1108—relaxes some of the eligibility requirements for members of independent commissions and eases one of the post-service restrictions on those members in an effort to expand the pool of individuals who are available to serve on such commissions. Other notable provisions of this bill would allow for the creation of hybrid commissions, subject to the same restrictions and requirements as independent commissions, and allow local governmental entities (school districts, community college districts, and special districts) that were not included in SB 1108 to establish redistricting commissions.

- 5) **Plans Invalidated by Courts and Suggested Amendment:** One provision of this bill prohibits district boundaries that are adopted by an independent commission, or that are adopted by a legislative body from recommendations provided by a hybrid commission, from being altered until after the next federal decennial census occurs. While this provision is intended to prevent local jurisdictions that have independent or hybrid commissions from engaging in voluntary mid-decade adjustments to district lines, it could also restrict the ability of a local jurisdiction or a commission to adopt new district lines if the originally-adopted boundaries are invalidated by the courts. Committee staff recommends an amendment to ensure that local jurisdictions and commissions have the authority to adopt new district lines if a court strikes down the previously-adopted lines.
- 6) **Contracting with an Independent Commission and Suggested Amendment:** One provision of this bill allows a local jurisdiction to contract with an independent commission set up by a county in which the jurisdiction is located to adopt the local jurisdiction's election district boundaries. This provision is intended to make it easier for a local jurisdiction to use an independent commission to draw its district boundaries in situations where it may otherwise be inefficient or unrealistic for the local jurisdiction to establish its own commission.

In a situation where a local jurisdiction entered into such a contract, it is unclear whether the members of the county's independent commission would have to comply with the same eligibility requirements as if the local jurisdiction had set up its own independent commission. For instance, if a school district contracted to have a county's independent commission draw its district boundaries, would an individual be prohibited from serving on the county's independent commission if that person made a \$500 contribution to a candidate for the school board in that school district in the prior eight years? Given the extensive eligibility requirements for serving on an independent commission, such a policy could be unwieldy, and could create challenges for finding qualified commissioners. To address this concern, committee staff recommends an amendment to make it clear that the eligibility requirements for members of county independent commissions shall be applied to the members of the commission in a manner as if the commission had been created solely for the purpose of adopting the district boundaries of the county, even if another jurisdiction contracts to have that commission create its district boundaries as well.

- 7) **Arguments in Support:** The sponsor of this bill, California Common Cause, writes in support:

Before 2016, counties and general law cities had limited options for how to draw city council and county board district lines. SB 1108 (2016, B. Allen) gave

counties and general law cities newfound permission to establish independent redistricting commissions, which have final authority over district lines and are recognized as a best practice by Common Cause and other good government organizations.

SB 1018 expands the scope of this reform and gives school districts, community college districts, and special districts the same options that counties and cities already have to adopt an independent commission. State law should not stand as a barrier to those districts that want to take the admirable step of creating a redistricting commission to carefully study, propose, and adopt new election district boundaries.

SB 1018 also clarifies the original intent of SB 1108 by making it clearer that commissions may be used for an initial districting, and not simply a redistricting, and by clarifying that hybrid commissions, where both the local government and commission share authority in adopting final maps, must meet the same standards of independence and transparency required of independent commissions.

Finally, SB 1018 also makes independent commissions easier for local governments to set up, by relaxing some of the commissioner eligibility requirements, standardizing commission deadlines to align with local legislative deadlines, and authorizing cities to contract with their county to have the county's independent redistricting commission draw the city's election districts, where such a commission exists. Lastly, to promote public confidence in the process, SB 1018 prohibits independent commissions from drawing lines in order to benefit or discriminate against a political party, which is a redistricting best practice.

- 8) **Double-Referral:** This bill has been double-referred to the Assembly Committee on Local Government.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Common Cause (prior version) (sponsor)  
American Civil Liberties Union of California (prior version)  
League of Women Voters of California (prior version)  
Three individuals (prior version)

### **Opposition**

None on file.

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