

Date of Hearing: March 15, 2023

ASSEMBLY COMMITTEE ON ELECTIONS  
Isaac G. Bryan, Chair  
AB 453 (Cervantes) – As Introduced February 6, 2023

**SUBJECT:** District-based elections.

**SUMMARY:** Requires a political subdivision that is changing from at-large to district-based elections to set a fixed time for all required public hearings related to that change, as specified. Specifically, **this bill**:

- 1) Requires any public hearing that a governing body of a political subdivision is required to hold as part of the process of changing from an at-large method of election to a district-based election (or establishing district-based elections), and that is consolidated with a regular or special meeting of the governing body that includes other substantive agenda items, to begin at a fixed time regardless of its order on the agenda.
- 2) Permits the governing body to first conclude any item being discussed or acted upon, including any associated public comment, when that time occurs.
- 3) Requires the governing body to provide notice of the public hearing to the public.

**EXISTING LAW:**

- 1) Requires a political subdivision that is changing from at-large to district-based elections to do all of the following before holding a public hearing at which the governing body of the political subdivision votes to approve or defeat an ordinance establishing district-based elections:
  - a) Hold at least two public hearings over a period of no more than 30 days prior to drawing a draft map or maps of the proposed boundaries of districts, in order to receive public input regarding the composition of the districts, as specified;
  - b) After draft maps are drawn, publish and make available for release at least one draft map and the potential sequence of elections in situations where elections to the governing body will be staggered; and,
  - c) After publishing a draft map or maps, hold at least two additional hearings over a period of no more than 45 days to receive public input regarding the content of the draft map or maps, as specified. (Elections Code §10010)
- 2) Requires any public hearing that is required to be held by a county board of supervisors or city council for the purpose of inviting the public to provide input related to the adjustment of district boundaries, and that is consolidated with a regular or special meeting of the board or council that includes other substantive items, to begin at a fixed time regardless of its order on the agenda, except as specified. (Elections Code §§21507.1, 21607.1, and 21627.1)

- 3) Prohibits, pursuant to the California Voting Rights Act (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 candidates 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, as specified. (Elections Code §14027) Requires a court, upon finding a violation of the CVRA, to implement appropriate remedies, including the imposition of district-based elections, which are tailored to remedy the violation. (Elections Code §14029)

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

**COMMENTS:**

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

Ensuring public participation when local governments are transitioning from at-large to by-district elections pursuant to the California Voting Rights Act (CVRA) is a vital part of ensuring that the transition process is deliberate, fair, and transparent. Part of maximizing public participation in public hearings is providing certainty to the community about when these hearings will be held, or when relevant agenda items will be heard. Unfortunately, some local governments have historically tried to discourage public participation in public hearings on controversial matters by intentionally delaying discussion of these items as long as possible to ensure members of the public would have to go home in order to attend to everyday life. In the redistricting context, existing state law solves this problem by requiring local governments to hold redistricting hearings at a time certain.

Assembly Bill 453 would import this narrowly tailored solution from the redistricting context to the CVRA by requiring that hearings regarding the transition to by-district elections must begin at a time certain. If such a hearing is consolidated with a regular or special meeting of the local government's governing body, consideration of any agenda items pertaining to the transition to by-district elections must begin at a time certain. This level of certainty about when these matters of profound public importance will be heard will improve transparency and allow community groups to properly and effectively mobilize members of the public to participate in the hearing.

- 2) **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 typically votes to support candidates that differ from the candidates who are preferred by minority communities. 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 candidates of its choice or 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 first case brought under the CVRA was filed in 2004, and the jurisdiction that was the target of that case—the City of Modesto—challenged the constitutionality of the law. Ultimately, the City of Modesto appealed that case all the way to the United States Supreme Court, which rejected the city's appeal in October 2007. The legal uncertainty surrounding the CVRA may have limited the impacts of that law in the first five years after its passage.

Since the case in Modesto was resolved, however, many local jurisdictions have converted or are in the process of converting from an at-large method of election to district-based elections due to the CVRA. In all, more than 250 local government bodies have transitioned from at-large to district-based elections since the enactment of the CVRA. While some jurisdictions did so in response to litigation or threats of litigation, other jurisdictions proactively changed election methods because they believed they could be susceptible to a legal challenge under the CVRA, and they wished to avoid the potential expense of litigation.

- 3) **Local Redistricting Hearing Requirements:** AB 849 (Bonta), Chapter 557, Statutes of 2019, also known as the FAIR MAPS Act, revised and standardized the criteria and process to be used by counties and cities when they adjust the boundaries of the electoral districts that are used to elect members of the jurisdictions' governing bodies, and required counties and cities to comply with substantial public hearing and outreach requirements as part of the process for adjusting the boundaries of electoral districts.

As detailed above, over the last 16 years, more than 250 local government bodies have transitioned from at-large to district-based elections, largely as a result of the CVRA. Initial versions of AB 849 would have applied both to the adjustment of district boundaries in counties and cities following the decennial federal census (referred to as “redistricting”) as well as to the initial establishment of district boundaries when a jurisdiction transitioned from at-large to district-based elections. Due in part to concerns about the short period of time that a jurisdiction may have to adopt district boundaries in response to a threatened lawsuit under the CVRA, AB 849 was amended in the Assembly Elections & Redistricting Committee (the predecessor to this committee) to exclude jurisdictions that were establishing districts for the first time from most of the bill’s public outreach and hearing requirements.

One provision of AB 849 requires counties and cities to hold public hearings related to redistricting at a fixed time, even where those hearings are consolidated with a regular or special meeting that includes other substantive items. This bill seeks to make an identical requirement applicable to public hearings that are held when a local jurisdiction changes from at-large to district-based elections, including in situations where the jurisdiction is doing so in response to a threatened lawsuit under the CVRA. This bill does not seek to apply the other requirements of AB 849 to hearings held when a jurisdiction moves to district-based elections.

- 4) **Arguments in Support:** In a joint letter of support, the two co-sponsors of this bill, ACLU California Action and Asian Americans Advancing Justice – Asian Law Caucus, write:

AB 849 (Bonta 2019), known as the FAIR MAPS Act, includes certain common-sense outreach and education requirements that do not yet apply to CVRA transition processes. Particularly relevant here, to encourage community members to attend public hearings and to ensure they are able to provide public comment, the FAIR MAPS Act requires that redistricting hearings that are combined with regular meetings of the political subdivisions begin at a time certain.

This past redistricting cycle, the FAIR MAPS Act’s time-certain requirement had a positive impact on mobilizing communities to participate in their local redistricting processes. The recently released The Promise of Fair Maps report references “several organizational stakeholders [who] credited this requirement as boosting participation,” including one stakeholder who shared: “Time-certain hearings helped with engagement and prevented redistricting from getting buried in some agenda when you don’t know when it will be taken up.”

Requiring CVRA hearings to begin at a time certain furthers democratic best practices and is in alignment with other voting rights measures.

AB 453 will help improve public engagement in districting processes by requiring that CVRA transition hearings follow the democratic best practice of beginning at a time certain.

- 5) **Related Legislation:** AB 764 (Bryan), which is pending referral to a policy committee by the Assembly Rules Committee, states the intent of the Legislature to enact legislation amending the FAIR MAPS Act for the purposes of ensuring the integrity, fairness, transparency, and accessibility of the local redistricting process, and to promote fair and effective representation for all people, neighborhoods, and communities.
- 6) **Double-Referral:** This bill has been double-referred to the Assembly Committee on Local Government.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

ACLU California Action (Co-Sponsor)  
Asian Americans Advancing Justice - Asian Law Caucus (Co-Sponsor)  
Election Integrity Project California

### **Opposition**

None on file.

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