

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1752 (Fong) – As Introduced: February 14, 2014

SUBJECT: Redistricting: incumbent designation.

SUMMARY: Makes the portion of a new district that is represented by an elected official a more important factor than district number when determining which candidate is considered the "incumbent" after redistricting in an election for Congress, Legislature, or Board of Equalization (BOE). Specifically, this bill:

- 1) Provides in the first election for Representative in Congress, State Senator, Assemblymember, or Member of the BOE following the adjustment of boundaries of districts, if more than one sitting member of a governmental body is running for election in a new district, the candidate who is considered the "incumbent" in the new district is the candidate whose district has the largest portion of territory in the new district, instead of the candidate who is running in a district bearing the same number as the district represented by the candidate, if any.
- 2) Makes conforming changes to reflect that the Citizens Redistricting Commission (CRC), rather than the Legislature, is responsible for adjusting the boundaries of Congressional, Legislative, and BOE districts following the federal decennial census.
- 3) Makes corresponding and technical changes.

EXISTING LAW:

- 1) Provides in the first election for Representative in Congress, State Senator, Assemblymember, and Member of the BOE following the adjustment of boundaries of districts, the candidate who is considered the incumbent in the race shall be based on the following:
 - a) If a candidate is running for the same office which he or she holds, and is running for reelection in a district that has the identical boundaries and number as the district from which he or she was last elected, that person is deemed to be the incumbent;
 - b) If there is no candidate for which (a) applies, but there is a candidate running for the same office which he or she holds, and is running for reelection in a district that has the identical boundaries as the district from which he or she was last elected, but which has a different number, that person is deemed to be the incumbent;
 - c) If there is no candidate for which (a) or (b) applies, but there is a candidate running for the same office which he or she holds, and who is running for reelection in a district that has the identical number as the district from which he or she was last elected, that person is deemed to be the incumbent; provided, however, that a candidate for Assembly is considered the incumbent in this case only if the district bearing the same number is

located in the same county as the district which previously bore that number;

- d) If there is no candidate for which (a), (b), or (c) applies, but there is a candidate running for the same office that he or she then holds, and who is running for reelection in a district that contains some portion of the territory previously contained within the district from which he or she was last elected, that person is deemed to be the incumbent; provided, however, that in a new district that contains portions of the territory of more than one former district, the incumbent is the candidate whose former district includes the largest portion of the territory of the new district; and,
- e) If there is no candidate for which (a), (b), (c), or (d) applies, any candidate for the same office that he or she then holds and who fulfills the residential requirements of law for candidacy within the district is considered the incumbent.

- 2) Establishes the CRC, and gives it the responsibility for establishing the district lines for State Senate, Assembly, Congress, and the BOE.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

Every ten years, following the completion of the Census, the boundary lines of Legislative, Congressional, and Board of Equalization districts are required to be adjusted so that all the districts for the same office have approximately equal populations.

When district boundaries are adjusted, it is possible that more than one sitting member of a house of the Legislature, of Congress, or of the Board of Equalization, may end up in the same district. In recognition of the potential for such a situation, state law contains a method for determining which candidate is considered the incumbent when two or more sitting members are running against each other following the adjustment of boundary lines. Under that method, if both sitting members represent a portion of the new district in which they are running, the member who is running for the district with the same district number is considered the incumbent, and is able to use the ballot designation of "Incumbent."

The purpose of allowing a candidate to use the ballot designation "Incumbent" is to provide information to voters about the individual who has been representing them. In light of that fact, state law should give priority to the person who represents the largest portion of the new district, rather than the person who is running in the same district number.

AB 1752 ensures that a candidate who represents the largest portion of a new district following redistricting will be considered the incumbent in that district. Additionally, AB 1752 updates California law to reflect the fact that redistricting

of Legislative, Congressional, and Board of Equalization districts is now carried out by the Citizens Redistricting Commission.

- 2) Incumbency After Redistricting: In 1961, the Legislature passed and the Governor signed AB 2444 (Crown), Chapter 1238, Statutes of 1961, which established a procedure for determining which candidate for reelection would be considered the incumbent in a congressional, Assembly, Senate, or BOE district at the first election after redistricting. Under that procedure, an elected official who was running in a district that had the same number as the district that he or she held had priority over another official running in the same seat.

When the Legislature was responsible for drawing new district lines, it typically numbered districts in a manner that was designed to promote continuity in district numbers, so the practical effect was that the person who represented a larger portion of the new district typically was considered the incumbent. But when the CRC numbered districts, it did so in a manner that followed the geographic placement of the districts much more strictly. For example, in the 2001 Assembly redistricting plan that was prepared and adopted by the Legislature, 76 of the 80 new Assembly Districts were assigned numbers that corresponded to the number of the previous Assembly District that made up the largest portion of the new district. By contrast, in the 2011 Assembly redistricting plan that was prepared and adopted by the CRC, just 11 of the 80 new Assembly Districts were assigned numbers that corresponded to the number of the previous Assembly District that made up the largest portion of the new district. In fact, in the CRC's redistricting plan for the state Assembly, 54 of the 80 new Assembly Districts contained no territory in common with the district of the same number from the 2001 district lines.

- 3) Effect on 2011 Elections: This bill would not have affected the determination of incumbency in any races following the 2011 redistricting process, as there was only one district in which two sitting members of the same body ran against each other, and neither of those members was running in a district that had the same number as the district that the member represented at the time. Congressman Brad Sherman (who represented the 27th Congressional District) and Congressman Howard Berman (who represented the 28th Congressional District) both ran for reelection in 2012 in the 30th Congressional District following the 2011 redistricting. Since neither Congressman represented a district with the same number as the district in which they were running, Congressman Sherman was considered the incumbent in the 30th Congressional District because he represented a larger portion of the district than Congressman Berman. In elections held after future redistricting processes, however, this bill may have a significant impact.
- 4) Suggested Amendment: Under existing law and the provisions of this bill, if an incumbency determination is based on an assessment of which candidate represents a larger portion of a district, that determination is made based on the amount of territory that each candidate represents in the new district. To better realize the author's goals, the author and the committee may wish to consider amending this bill to provide that such determinations will be made based on the *population* that each candidate represents in the new district, instead of the *territory* that each candidate represents.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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