

Date of Hearing: August 24, 2021

ASSEMBLY COMMITTEE ON ELECTIONS  
Marc Berman, Chair  
SB 594 (Glazer) – As Amended August 16, 2021

**SENATE VOTE:** (vote not relevant)

**SUBJECT:** Elections: redistricting. Urgency.

**SUMMARY:** Makes various changes to state law governing candidate filing for the 2022 statewide primary election, redistricting in special districts following the 2020 census, and districting and redistricting for local governments. Specifically, **this bill:**

- 1) Defines the term “state redistricting deadline,” for the purposes of this bill, to mean the deadline established by the California Constitution, as modified by the California Supreme Court in *Legislature of State of California v. Padilla* (2020), 9 Cal.5th 867, and in any subsequent proceedings in or relating to that case, for the Citizens Redistricting Commission (CRC) to approve four final maps that separately set forth the district boundary lines for the congressional, State Senatorial, Assembly, and State Board of Equalization (BOE) districts.
- 2) Makes the following changes for the purpose of the June 7, 2022, statewide direct primary election only (these changes are automatically repealed on January 1, 2023):
  - a) Changes to Candidate Nomination and Filing Processes:
    - i) Changes to Petitions for Collecting Signatures-in-Lieu of Paying a Filing Fee (SIL petitions):
      - (1) Requires SIL petitions to be made available commencing seven days after the state redistricting deadline, except as specified.
      - (2) Requires SIL petitions to be filed not later than February 9, 2022, or 41 days after the state redistricting deadline, whichever is later.
      - (3) Requires elections officials to reduce the number of signatures required on an SIL petition by the same proportion as the reduction in the number of days for a candidate to collect signatures on such a petition compared to the number of days to collect signatures for a regular election for the same office under existing law.
    - ii) Requires declarations of candidacy and nomination papers to first be available on February 14, 2022, or 46 days after the state redistricting deadline, whichever is later.
    - iii) Requires a candidate for Legislature or BOE to establish residency in the district in which the person is a candidate by the time the person *files* nomination papers, instead of requiring a candidate to establish residency in the district at the time nomination papers *are issued* to the candidate as is required under existing law.

- b) Changes to Preelection Reports and Notices:
- i) Requires the Secretary of State (SOS) to determine and publicly announce by December 31, 2021, whether it is feasible to include the number of voters, by party preferences, in each supervisorial district, legislative district, BOE district, and congressional district in the state in the first preelection report of registration that reflects all voters who are registered voters on the 154th day before the election. Provides both of the following if the SOS determines that it is not feasible to include that information in the report of registration:
    - (1) Requires the first preelection report of registration to be prepared in accordance with existing law, but provides that the report is not required to include the number of voters by political party preferences in supervisorial, congressional, and legislative districts in the state.
    - (2) Requires the SOS to prepare a supplemental report of registration containing the same information that is required to appear in reports of registration pursuant to existing law with respect to all voters who are registered voters on a date specified by the SOS. Requires the date specified by the SOS to be as soon as is feasible after the state redistricting deadline, as determined by the SOS, but not later than the 88th day before the June 7, 2022 primary election.
  - ii) Changes the deadline for the SOS to prepare and transmit a notice to each county elections official designating all the offices, except those of county officers and judges, for which candidates are to be nominated, from the 158th day before the primary election to the sixth day after the state redistricting deadline.
- 3) Changes the deadline for various special districts to adjust the boundaries of electoral divisions following the 2020 federal decennial census from either November 1, 2021, or prior to 180 days preceding the election of any director, to the following dates (these changes are automatically repealed on January 1, 2023):
- a) April 17, 2022, in the case of a district that has a regular election to elect members of its governing board on the same date as the 2022 statewide general election.
  - b) Prior to 180 days before the district's first regular election to elect members of the governing board that occurs after January 1, 2022, in the case of a district that has its election on any date other than the 2022 statewide general election.
- 4) Makes the following permanent changes to state law governing the adoption or adjustment of district boundaries for local governments:
- a) Provides that a county board of supervisors may adopt district boundaries either by ordinance or by resolution.
  - b) Clarifies, for the purposes of county, city, and special district districting or redistricting, that the "adoption" of district boundaries means the passage of an ordinance or resolution

specifying those boundaries, as specified.

- 5) Makes corresponding and conforming changes.
- 6) Contains an urgency clause, allowing this bill to take effect immediately upon enactment.

**EXISTING STATE LAW:**

- 1) Creates the CRC and makes it responsible for adjusting the boundary lines of congressional, State Senate, Assembly, and BOE districts in the year following the year in which the federal census is taken at the beginning of each decade, as specified. Requires the CRC to do both of the following:
  - a) Publicly display the first preliminary statewide maps of congressional, State Senatorial, Assembly, and BOE districts by July 1 in each year ending in the number one.
  - b) Approve four final maps that separately set forth the district boundary lines for the congressional, State Senatorial, Assembly, and BOE districts by August 15 in each year ending in the number one.
- 2) Requires candidates for certain offices to pay a filing fee, as specified, at the time the candidate obtains nomination forms from the elections official. Permits a candidate who is running for an office for which there is a filing fee to submit a petition containing signatures of registered voters to reduce or waive the filing fee, as specified. These petitions commonly are referred to as SIL petitions.
- 3) Requires SIL petitions to be made available beginning 60 days before the first day for circulating nomination papers, except as specified. Requires SIL petitions to be filed at least 30 days before the close of the nomination period.
- 4) Prohibits SIL petitions for a county office, or for a city office in a charter city that charges candidates a filing fee, from being made available to candidates until at least 28 days after the adoption of a final map as part of redistricting occurring before 2031, as specified.
- 5) Requires a candidate, as a precondition for having the candidate's name printed on the ballot at an election, to file specified nomination documents with the elections official. These nomination documents include a declaration of candidacy, and depending on the office, may include nomination papers that are signed by a specified number of registered voters. Requires, generally, that the forms for nomination documents first be available on the 113th day prior to the election, and requires that completed nomination documents be filed with the elections official not later than the 88th day prior to the election. Provides, generally, that if an incumbent who is eligible to run for reelection does not file nomination documents by the 88th day before the election, as specified, that any person other than the incumbent shall have until the 83rd day before the election to file nomination documents for that office.

- 6) Provides that all valid signatures obtained on an SIL petition for a candidate shall be counted toward the number of voters required to sign the candidate's nomination papers, as specified.
- 7) Establishes nomination periods and periods for circulating SIL petitions for special elections held to fill vacancies, as specified. These periods generally are shorter than the corresponding periods for regular elections for the same office. Requires the number of signatures needed on an SIL petition to be reduced by the same proportion as the reduction in time for a candidate to collect signatures if the number of days for a candidate to collect signatures on an SIL petition for a special vacancy election is less than the number of days that a candidate would have to collect signatures on a petition for a regular election, as specified.
- 8) Provides, pursuant to the California Constitution, that a person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States (US) and a resident of California for three years, immediately preceding the election. As detailed below (see comment #6 on page 11 of this analysis), it has long been the position of the office of the SOS that the one year legislative district residency requirement and the three year California residency requirement violate the US Constitution and are unenforceable.
- 9) Provides, unless otherwise specifically provided, that a person is not eligible to be elected to an elective office unless that person is a registered voter and otherwise qualified to vote for that office at the time that nomination papers are issued.
- 10) Requires the SOS to prepare periodic statewide reports of registration that show the number of registered voters, by party preferences, in the state and in each county, city, supervisorial district, Assembly district, State Senate district, and congressional district in the state, including a report that reflects the number of registered voters on the 154th day before each statewide primary election.
- 11) Provides that a political party is qualified to participate in a primary election if the SOS determines that the number of voters registered as preferring that political party equals at least 0.33 percent of the total number of registered voters, excluding those whose party preference is designated as "Unknown," as specified, who are registered on the 154th day before the primary election.
- 12) Requires the SOS, at least 158 days before each statewide direct primary election, to prepare and transmit to each county elections official a notice designating all the offices, except those of county officers and judges, for which candidates are to be nominated.
- 13) Requires each county and city whose governing body is elected using district-based elections to adopt boundaries for governing body districts following each federal decennial census so that the districts are substantially equal in population as required by the US Constitution. Requires the governing body to adopt district boundaries using specified criteria.
- 14) Provides varying redistricting deadlines for counties and cities based on the timing of their regular elections. Specifically, provides that:

- a) For redistricting occurring before 2031 and where a county or a city has a regular election occurring after January 1, 2022, and before July 1, 2022, the boundaries of the districts shall be adopted by the governing body not later than 174 days before that election.
  - b) For redistricting occurring before 2031 and where a county or a city does not have a regular election occurring after January 1, 2022, and before July 1, 2022, the boundaries of the districts shall be adopted by the local jurisdiction not later than 205 days before the governing body's next regular election occurring on or after July 1, 2022.
  - c) For redistricting occurring in 2031 and thereafter, the boundaries of the districts shall be adopted by the county or the city not later than 205 days before the governing body's next regular election occurring after January 1 in each year ending in the number two.
  - d) These deadlines do not apply to a charter city that has adopted a different redistricting deadline by ordinance or in its city charter.
- 15) Requires, generally, a special district whose governing board is elected by division to adjust those division boundaries after each federal decennial census so that the divisions are, as far as practicable, equal in population, and authorizes the governing board to consider other factors in adjusting division boundaries, as specified.
- 16) Provides, generally, that no change in special district division boundaries may be made within 180 days preceding the election of any director.
- 17) Requires the governing board of each of the following special districts (or types of special districts) to adjust the boundaries of its election divisions before November 1 of the year following the year in which each federal decennial census is taken:
- a) Community services districts, in the case of a board of directors elected by or from divisions.
  - b) Fire protection districts, in the case of a district board elected by election divisions.
  - c) Recreation and park districts, in the case of a board of directors elected by or from divisions.
  - d) The Central Contra Costa Sanitary District, in the case of a district board elected by election divisions.
  - e) The San Francisco Bay Area Rapid Transit District.
- 18) Provides that a city council may adopt district boundaries by ordinance or resolution. Provides, generally, that a special district shall adjust its governing board's division boundaries by resolution.
- 19) Provides, as to county and city ordinances, all of the following:

- a) That an ordinance shall not be passed within five days of its introduction, nor at other than a regular meeting or at an adjourned regular meeting, except as specified.
- b) That, when an ordinance is altered after introduction, it shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration, except as specified.
- c) That an ordinance is effective 30 days from the date of final passage, except as specified.

**EXISTING FEDERAL LAW:**

- 1) Requires an enumeration of everyone living in the US to be made within three years after the first meeting of the Congress of the US, and within every subsequent term of ten years, in such manner as they shall by law direct.
- 2) Requires the decennial census to be taken the first day of April 1980 and every ten years thereafter, as specified.
- 3) Requires redistricting data be completed, reported, and transmitted to each respective State within one year after the decennial census date.

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

**COMMENTS:**

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

Last year, in anticipation of COVID-19-related delays to the release of census data, the Legislature petitioned the Supreme Court for an extension to the [CRC's] August 2021 redistricting deadline. The Court granted the petition, changing the deadline to December 15, 2021, and also allowing an automatic deadline extension if the data arrived later than July 2021. On August 12, 2021, the Census Bureau released census data to the states, which extended the CRC's deadline to at least late December of this year. The CRC has also voted to petition the Court for an additional extension to January 14, 2022.

The CRC's late December redistricting deadline, and any potential extension beyond that, create significant problems for elections officials and candidates during other stages of the elections calendar for the June 7, 2022 primary. For example, under current law the [BOE] and legislative [SIL petition] process, which allows candidates for those offices to reduce or waive filing fees by collecting a certain number of signatures from district voters, begins on December 16, but this will not be possible if the CRC has not yet adopted new district boundaries. The calendar also needs to be changed to allow more time for elections officials to re-precinct.

SB 594 aligns the elections calendar for the 2022 primary with a later state redistricting deadline, for which the exact date may not be settled until after the Legislature adjourns. The bill requires the [SIL petition] process to begin seven days after the CRC's redistricting deadline and, in recognition of the compressed calendar, reduces the total time for this process from 56 days to around 35 days. The number of signatures required to waive the filing fee would be reduced in proportion to the reduction in time. The nomination period would be adjusted to begin five days after the close of the SIL process. The standard filing deadline of March 11, 2022 would remain unchanged. The changes to the SIL and nomination process would apply consistently to federal, state (including statewide), and local candidates on the statewide primary ballot. To account for the later release of state district lines, SB 594 allows candidates for the Legislature or [BOE] to establish their residency in a district at the time they file nomination papers, instead of when they pull them.

The late release of census data also impacts local redistricting by reducing the amount of time available for deliberation before maps are adopted and by placing added burdens on elections officials who must redraw precinct boundaries for the 2022 primary and general elections. SB 594 makes a number of clarifications to the local redistricting process to give local governments more flexibility and time for deliberation. In addition, for just the 2021-2022 redistricting cycle, the bill changes special district redistricting deadlines by moving back an early 2021 deadline facing certain special districts and by aligning the general deadline for special districts holding November 2022 elections with the deadline for cities holding elections on the same date.

- 2) **COVID-19 Pandemic and 2020 Census Delays:** Article I, Section 2 of the US Constitution requires an enumeration, or head count, be conducted of everyone living in the country every ten years. Under federal law, the decennial census counts the US population as of April 1 in every year ending in the number zero, although the US Census Bureau's (Bureau's) data collection efforts extend beyond that date.

After the census is complete, federal law requires that two types of datasets be prepared that are used in the apportionment of congressional seats between the states and the establishment of election district boundaries, respectively. By December 31 in the year the census is taken, apportionment counts must be delivered to the President, which include the total population of each state. These counts are used to determine the number of congressional seats to which each state is entitled. Additionally, federal law requires that block-level population and demographic data be delivered to states for use in congressional and legislative redistricting no later than one year after the census date. This data commonly is referred to as the "PL 94-171" data, in reference to the federal public law requiring the transmission of this data.

Due to the COVID-19 pandemic, the Bureau adjusted its 2020 census operations, including extending the field data collection period for the 2020 census. When the Bureau first announced COVID-related adjustments to the 2020 census operations on April 13, 2020, its revised operations plan provided for apportionment counts to be delivered to the President by

April 30, 2021 (delayed from December 31, 2020), and provided for the delivery of redistricting data to the states by July 31, 2021 (delayed from March 31, 2021).

On February 12, 2021, the Bureau announced that the delivery of PL 94-171 redistricting data would be further delayed until September 30, 2021, two months later than the original delay announced in April 2020, and six months beyond the statutory deadline for the release of these data under federal law. On March 15, 2021, the Bureau announced that it would release a redistricting data file to all states by mid-to-late August, but in a “legacy format.” The Bureau indicated that the data in this legacy format would be identical to the data scheduled for release on September 30, 2021, but that “any state using legacy format summary redistricting data files would have to accept responsibility for how they process these files.” On August 12, 2021, the Bureau released this legacy format redistricting data to all states; according to information from the Bureau, the data released on August 12 was in the same format that the Bureau used to provide 2000 and 2010 redistricting data.

- 3) **California’s Official Redistricting Database:** Since 1993, the University of California system has housed the Statewide Database, which is responsible for creating the official redistricting database for California. To create the official redistricting database, the Statewide Database merges population and ethnicity data from the decennial census with voter registration and election result data from county elections officials. Beginning this year, the Statewide Database must also incorporate specified information into the redistricting database about the residential addresses at which specified inmates in California were domiciled before their most current terms of incarceration.

Upon receipt of the redistricting data from the 2020 census on August 12, 2021, the Statewide Database began the process of reformatting that data into a usable format for building the official redistricting database. On August 18, 2021, the Statewide Database notified the Legislature and the CRC that it had completed reformatting the data and posted the reformatted data on its website. The Director of the Statewide Database has stated that it is her best estimate that the official redistricting database will be completed and released on or before September 20, 2021.

- 4) **Legislature v. Padilla, CRC Action, and the State Redistricting Deadline:** In light of the delays in the release of redistricting data from the 2020 census, as detailed above, the California State Legislature filed an emergency petition with the California Supreme Court (Court) on June 4, 2020, seeking to extend two deadlines applicable to the CRC for the 2021 redistricting process (*Legislature of the State of California v. Padilla* (2020), 9 Cal.5th 867). At the time the petition was filed, it was anticipated that redistricting data from the 2020 census would not be released to the state until July 31, 2021, a date that falls after a July 1, 2021, statutory deadline for the CRC to release first preliminary statewide maps of congressional, State Senatorial, Assembly, and BOE districts to the public. Furthermore, in light of the time needed to prepare the state’s official redistricting database after census data is released, a July 31, 2021, delivery of redistricting data from the 2020 census would not have allowed the CRC to prepare and approve final maps detailing the district boundary lines for congressional, legislative, and BOE districts by the August 15, 2021, deadline set by the California Constitution. Accordingly, the Legislature requested an order extending these deadlines by four months—an extension equal to the anticipated delay in the Bureau’s

release of redistricting data from the 2020 census.

On July 17, 2020, the Court granted the Legislature’s petition and issued a peremptory writ of mandate adjusting the relevant deadlines in accordance with the forecasted delay in the Bureau’s release of the federal census data necessary to draw the new district maps. Specifically, the Court directed the CRC “to release the first preliminary statewide maps for the congressional, State Senatorial, Assembly, and [BOE] districts for public display and comment no later than November 1, 2021,” and “to approve and certify the final statewide maps to the [SOS] by no later than December 15, 2021.”

The Court’s decision recognized, however, that “the dynamic nature of the global pandemic may lead the federal government to further postpone its delivery of the census data.” For that reason, the Court also provided for these deadlines to be extended automatically to account for any additional federal delay “[i]f the federal government transmits the census data to the state later than July 31, 2021.”

Since the Court issued its ruling in *Padilla*, the Bureau made additional adjustments to its 2020 census operations. As detailed above, redistricting data from the 2020 census were released in a legacy format on August 12, 2021, and on August 18, 2021, the Statewide Database released a version of that data that was reformatted into a user-friendly format. Because the federal government transmitted census data to the state 12 days later than July 31, 2021, the Court’s decision in *Padilla* appears to extend the CRC’s deadline to release preliminary statewide maps and adopt final statewide maps by 12 days. A 12-day extension would give the CRC until December 27, 2021, to adopt final statewide maps.

At the time of the Court’s decision in *Padilla*, the Bureau had not yet announced its plan to release redistricting data from the 2020 census in two different formats. At a July 13, 2021, CRC meeting, legal counsel to the CRC publicly opined that it was very likely that the Court would take into account the time needed for the Statewide Database to reformat census data from the legacy format when setting the deadline by which the CRC would need to adopt final statewide maps. At that meeting, CRC’s legal counsel also recommended that the CRC seek a decision from the Court clarifying the deadlines to release preliminary statewide maps and to adopt final statewide maps.

At the end of that discussion, the CRC unanimously approved a motion to seek an order from the Court that specifies that the calculation of the “additional federal delay” as used in the *Padilla* decision is to be based upon the date that the Statewide Database is able to reformat the legacy dataset into a usable format for building the statewide redistricting database. Because the Statewide Database completed that reformatting on August 18, 2021, it appears the CRC would receive an 18-day extension to its deadlines if the Court were to accept this legal argument. An 18-day extension would give the CRC until January 2, 2022, to adopt final statewide maps. The CRC’s motion additionally requested the Court to extend the deadline for approval and certification of the final maps to January 14, 2022, “to allow for meaningful public input to account for the annual holiday period.” On August 20, 2021, the CRC filed a motion with the Court seeking that relief. At the time of the preparation of this committee analysis, the Court had not ruled on that motion.

5) **Redistricting Delays and the 2022 Election Calendar:** The delay in the adoption of new district lines based on 2020 census data has created conflicts with the elections calendar for the June 7, 2022, statewide primary election. For example, existing law requires SIL petitions to be made available beginning 173 days before the election, or December 16, 2021. That requirement will be impossible to meet if district boundaries have not been finalized by that date. The elections calendar also needs to be adjusted to ensure that elections officials have sufficient time to complete various administrative tasks in advance of the primary election. One important task—county elections officials’ redrawing of precinct boundary lines to reflect the new district boundaries—should be complete before the start of the candidate nomination period to facilitate the candidate filing process. The candidate nomination period is scheduled to begin 113 days before the primary election, or February 14, 2022.

This bill proposes a number of adjustments to the candidate nomination and filing process for the 2022 primary election to accommodate a later state redistricting deadline. Because the CRC is seeking further relief from the Court, as detailed above, the exact state redistricting deadline is not currently known. Furthermore, it is unclear whether that deadline will be known before the Legislature adjourns for the year. Therefore, this bill proposes candidate nomination and filing deadlines that vary depending on the state redistricting deadline as modified by the Court. The following chart illustrates the effect of this bill on various candidate nomination and filing deadlines and requirements depending on the state redistricting deadline set by the Court.

	Existing Law	12/27/21 Deadline	1/2/22 Deadline	1/14/22 Deadline
SIL Petition Period Begins	12/16/21	1/3/22	1/9/22	1/21/22
SIL Petition Period Ends	2/9/22	2/9/22	2/12/22	2/24/22
Days to Collect Signatures on SIL Petitions	56	38	35	35
SILs Needed for Assembly Candidates	1,000	679	625	625
SILs Needed for State Senate Candidates	2,000	1,358	1,250	1,250
SILs Needed for Statewide Candidates	7,000	4,750	4,375	4,375
Nomination Period (Declaration of Candidacy & Nomination Papers) Begins	2/14/22	2/14/22	2/17/22	3/1/22
Nomination Period Ends*	3/11/22	3/11/22	3/11/22	3/11/22
Length of Nomination Period	26 days	26 days	23 days	11 days

\* Does not account for situations where an eligible incumbent does not file for reelection. In that case, the nomination period is extended, as described in greater detail in item #5 under “Existing State Law” on page 3 of this analysis.

Although the delay in the adoption of district lines does not directly affect offices that are not elected from newly-adopted districts (e.g., statewide office, countywide office, or citywide office), this bill changes the SIL petition period and nomination period for *all* offices that will appear on the ballot at the June 7, 2022, statewide election, including federal, state, and local offices. (The SIL period may start slightly later for a limited number of county offices and city offices in charter cities due to a provision of existing law that is described in greater detail in item #4 under “Existing State Law” on page 3 of this analysis.) Maintaining uniform SIL and nomination periods for all offices should help to avoid confusion and ensure consistency for all candidates who seek to qualify for the 2022 statewide primary election ballot.

- 6) **Candidate Eligibility Requirements:** Article IV, Section 2 of the California Constitution provides that “[a] person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year...and a resident of California for 3 years, immediately preceding the election” among other provisions. In official elections publications dating back to at least the 2000 primary election, however, the office of the SOS has indicated that it is the legal position of the office that these requirements “violate the [US] Constitution and are unenforceable.” There are no constitutional residency requirements for candidates for BOE.

As a result, the primary residency requirement that applies to candidates for the Legislature and BOE is found in a provision of the Elections Code that prohibits a person from being eligible to be elected to an elective office unless that person “is a registered voter and otherwise qualified to vote for that office at the time that nomination papers are issued to the person” unless otherwise specifically provided. This provision effectively requires a candidate for the Legislature or the BOE to be a resident of the district in which the candidate is running at the time the candidate is *issued* nomination papers.

Under normal circumstances, there would be approximately 3-6 months between the state redistricting deadline and the start of the candidate nomination period for the first primary election that would be conducted using the new district lines. Depending on the state redistricting deadline set by the Court, however, there could be as little as a month and a half between the state redistricting deadline and the start of the nomination period in 2022.

This bill allows a candidate for the Legislature or the BOE, for the purposes of the 2022 primary election only, to establish residency in a district by the time the candidate *files* nomination papers, rather than requiring a candidate to establish residency at the time the candidate is *issued* nomination papers. The effect of this change is likely to be modest, since a candidate generally can be issued nomination papers up until the 88th day before the election, which is the same day as the deadline for those papers to be filed. Nonetheless, this change may help mitigate the effects of the delay in the adoption of district lines, and the potential of an abbreviated nomination period for the 2022 primary election.

- 7) **City and County Redistricting: Ordinance and Resolution Effective Dates:** Under state law, a county or city ordinance is generally effective 30 days after being passed by a county board of supervisors or city council; however, ordinances passed on an urgency basis, which require a supermajority vote, and ordinances “relating to an election” are immediately

effective. In *Ortiz v. Board of Supervisors of Madera County* (1980) 107 Cal. App. 3d 866, the Fifth District Court of Appeals held that redistricting ordinances go into effect 30 days later and do not meet the “relating to an election” exception. Unlike ordinances, state law does not specify an effective date for resolutions. However, courts have implied a 30-day effective date to resolutions that are subject to referendum, which would likely include redistricting resolutions. (See, for example, *Midway Orchards v. County of Butte* (1990) 220 Cal. App. 3d 765.)

Because redistricting ordinances and resolutions likely go into effect 30 days after passage, some local governments believe there is ambiguity as to whether the local deadline to “adopt” county supervisorial districts and city council districts refers to the date an ordinance or resolution is *passed* by the board or council, or the date that ordinance or resolution *becomes effective*. If the adoption deadline refers to an ordinance or resolution’s effective date, it would reduce by 30 days the amount of time available for a local government to solicit public input and draw maps. For counties and cities with a June primary, this would mean passing new maps by November 15, 2021, so they would be effective by the December 15, 2021, redistricting deadline.

In a formal opinion addressed to Senator Steve Glazer and dated April 1, 2021, Legislative Counsel concluded that a court would likely hold that the adoption deadline in current law refers to a redistricting ordinance or resolution’s passage date, not its effective date. Counsel concluded that while the term “adoption” may be ambiguous, related sections of the Elections Code, the legislative histories of relevant legislation, and case law distinguishing between a redistricting ordinance’s adoption and effective date all supported a passage date interpretation. Consistent with Counsel’s opinion, this bill clarifies that, for the purpose of local redistricting, adoption means the date a redistricting ordinance or resolution is passed.

- 8) **County Redistricting by Resolution:** For cities, state law specifies that redistricting may be done “by ordinance or resolution.” However, state law is silent as to the type of local legislation that counties may use to redistrict. Faced with this ambiguity, many counties likely will choose to redistrict by ordinance, which may impose additional timing and procedural constraints on the redistricting process.

Under state law, counties must follow certain procedures to enact ordinances that are not required for passing a resolution. For example, unlike resolutions, an ordinance must have two readings and can only be adopted at a regular meeting or adjourned regular meeting at least five days after the introduction or last amendment of the proposed ordinance, except as specified.

As it relates to redistricting, one consequence of the ordinance second reading requirement is that the last time a board of supervisors may make substantive changes to a draft map would be at its regular meeting just before its last regular meeting preceding the redistricting deadline. At minimum, these two regular meetings must be at least five days apart. However, it could be longer depending on a county’s regular meeting schedule; for example, the Sacramento County Board of Supervisors holds regular meetings every other week.

SB 594 expressly authorizes counties to redistrict by ordinance or resolution. While resolutions are not subject to the notice and publication requirements associated with ordinances, counties would still have to comply with similar redistricting-specific procedural requirements relating to transparency and opportunities for public engagement. For example, a county must hold at least two public hearings on draft maps before adopting a final map, publish draft maps online for at least seven days before they may be adopted (or three days in the last 28 days before the deadline), and maintain a webpage on redistricting with the adopted final maps for at least ten years.

- 9) **Special Districts with Early Redistricting Deadlines:** As discussed above, under existing law, special districts generally are required to redistrict following each federal decennial census but cannot make a change in division boundaries within 180 days preceding the election of any director. This deadline applies to a special district “required by its authorizing act to adjust division boundaries pursuant to” a specified section of the Elections Code.

Some types of special districts and some individual special districts, however, have unique redistricting deadlines in statute and do not follow this default deadline. In many cases, these district-specific deadlines are much earlier than the default deadline and may be difficult or impossible to comply with based on the release date of redistricting data from the 2020 census. For example, many special districts have a deadline of November 1 in the year following the year in which the census taken, as described in greater detail in item #17 under “Existing State Law” on page 5 of this analysis.

This bill provides, for the purposes of redistricting following the 2020 federal decennial census, that any special district that has a regular election to elect members of its governing board on the same date as the 2022 statewide general election shall adopt adjusted division boundaries no later than April 17, 2022. That date is the same deadline that applies to cities that have elections on the date of the general election. Special districts that do not have their next regular election on the date of the general election would be required to redistrict at least 180 days before the district’s next regular election after January 1, 2022.

- 10) **Reports of Registration & Political Party Qualification:** As detailed above, existing law requires the SOS to prepare periodic reports of registration that show the number of registered voters, by party preferences, in the state and in various political districts throughout the state. Three such reports are required to be prepared in advance of each regularly scheduled statewide election; in the case of statewide primary elections, the first such report must reflect voter registration as of the 154th day before the primary election (January 4, 2022 in the case of the June 7, 2022 statewide primary election).

In addition to providing a snapshot of voter registration trends in the state, these reports of registration are used for various election administration purposes. The first preelection report published in advance of a statewide primary election, for example, is used by the SOS to determine which political parties are qualified to participate in that election.

Due to the existing uncertainty about the state redistricting deadline, it is unknown whether the new legislative, congressional, and BOE district lines will have been adopted by January 4, 2022. Even if district lines have been adopted by that date, it is unclear whether elections

officials will have sufficient time to perform the administrative tasks necessary for the SOS to produce the information that is required to appear in the first preelection report published in advance of the June 7, 2022 statewide primary election.

This bill requires the SOS to determine whether it is feasible in light of the state redistricting deadline to publish the complete report of registration that reflects voter registration as of January 4, 2022. If it is not feasible to publish the complete report, this bill permits the SOS to publish an abbreviated report that will have the information necessary for the SOS to determine which political parties are qualified to participate in the June 7, 2022, statewide primary election. The SOS would be required to publish a supplemental report of registration that reflects registration figures in the new political districts at a later date, as specified.

- 11) **Prior Version of This Bill:** The May 3, 2021, version of this bill, which was approved by the Senate but was not heard in an Assembly policy committee, clarified the process and deadlines for county and city redistricting, and adjusted certain deadlines for special districts to redistrict after the federal decennial census. The most recent amendments to this bill deleted all the provisions of that version of the bill. Nonetheless, some of the provisions in the current version of this bill are similar or identical to provisions that were included in the May 3, 2021, version.

The current version of this bill addresses only the most pressing issues related to the 2021-22 redistricting process and the 2022 primary election. For that reason, some provisions that were included in prior versions of this bill have been omitted. For example, prior versions of this bill included a provision specifying that a superior court's order adopting district boundaries is immediately effective. While that provision is not included in the current version of the bill, committee staff believes that the change was merely clarifying in nature, and that existing law permits district boundaries that are adopted by a superior court to become effective immediately.

- 12) **Previous Legislation:** SB 970 (Umberg), Chapter 111, Statutes of 2020, moved California's statewide primary election in gubernatorial years from March to June, as specified. Among the rationales for SB 970 was that the delay in the release of 2020 census data due to the COVID-19 pandemic would make it impossible to draw new district lines in time for a March 2022 statewide primary election.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

None on file.

##### **Opposition**

None on file.

**Analysis Prepared by:** Ethan Jones / ELECTIONS / (916) 319-2094