

Date of Hearing: June 19, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1331 (Kehoe) – As Introduced: February 23, 2012

SENATE VOTE: 32-3

SUBJECT: County of San Diego Independent Redistricting Commission.

SUMMARY: Establishes a redistricting commission in San Diego County and charges it with adjusting the boundaries of supervisorial districts after each decennial federal census.

Specifically, this bill:

- 1) Provides for the creation of a redistricting commission in San Diego County. Requires the commission to be comprised of five members and two alternates who meet the following qualifications:
  - a) Be a resident of San Diego County;
  - b) Be a registered voter in San Diego County;
  - c) Be a former or retired state or federal judge; and,
  - d) Not be a current member of the county board of supervisors.
- 2) Permits any person who meets the qualifications to serve on the commission to submit his or her name to the clerk of the board of supervisors of San Diego County to be included in a random drawing to select the members and alternates to the commission. Requires the clerk to conduct a random drawing at a regularly scheduled meeting of the board of supervisors to select the members and alternates of the commission.
- 3) Permits the presiding judge of the San Diego County Superior Court to assist the clerk of the board of supervisors in San Diego County in identifying former or retired judges that may be qualified to be included in the drawing.
- 4) Requires the redistricting commission to adjust the supervisorial district boundaries after each decennial federal census. Requires that the boundaries be adjusted so that the districts are equal or nearly equal in population. Requires the resulting supervisorial districts to comply with any applicable provisions of Section 2 of the federal Voting Rights Act (VRA), as amended.
- 5) Permits the redistricting commission to consider all of the following factors when establishing the boundaries of supervisorial districts:
  - a) Topography;

- b) Geography;
  - c) Cohesiveness, contiguity, integrity, and compactness of territory; and,
  - d) Communities of interests in each district.
- 6) Requires the redistricting commission to use federal census tracts and blocks in establishing the boundaries of supervisorial districts.
  - 7) Requires the board of supervisors of San Diego County to provide for reasonable staffing and logistical support for the commission.
  - 8) Makes the redistricting commission subject to the Ralph M. Brown Act (the state's open meetings law) and requires the commission to conduct at least seven public hearings with at least one public hearing held in each supervisorial district.
  - 9) Requires the redistricting commission to adopt a redistricting plan adjusting the boundaries of supervisorial districts and to file the plan with the clerk of the board of supervisors prior to the first day of October of the year following the year in which each decennial federal census is taken. Provides that the plan is effective 30 days after it is filed with the clerk. Provides that the plan is subject to referendum in the same manner as ordinances.

EXISTING LAW:

- 1) Requires the board of supervisors of each county, following each decennial federal census, and using that census as a basis, to adjust the boundaries of any or all of the supervisorial districts of the county so that the districts are as nearly equal in populations as may be and comply with the applicable provisions of Section 2 of the VRA, as amended.
- 2) Permits a board of supervisors, when adjusting the boundaries of supervisorial districts, to give consideration to the following factors:
  - a) Topography;
  - b) Geography;
  - c) Cohesiveness, contiguity, integrity, and compactness of territory; and,
  - d) Communities of interests in the districts.
- 3) Requires a board of supervisors to hold at least one public hearing on any proposal to adjust the boundaries of a supervisorial district prior to the public hearing at which the board votes to approve or defeat the proposal.
- 4) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question. Generally provides greater autonomy over county affairs to counties that have adopted charters.

- 5) Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs. State-mandated local program; contains a local request disclaimer.

COMMENTS:

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

SB 1331 promotes a specific redistricting reform solution supported by elected officials, Latino voter advocacy groups, and others from San Diego County. The San Diego County Board of Supervisors (the County Board) voted on January 24, 2012 to seek changes in state law necessary to create an independent redistricting commission comprised of retired judges. SB 1331 creates the independent commission and shifts the authority for redistricting San Diego County's supervisorial districts from the County Board to the independent commission. Changes to the San Diego County charter would conform the Charter to state law, facilitating implementation and operation of the independent commission.

Because the Elections Code controls and limits the redistricting process, the County Board cannot reformulate its redistricting process unless the Legislature changes the Elections Code to provide for an independent redistricting commission in San Diego County. Moreover, because San Diego County voters must approve of any charter changes, the state should initiate action on this matter so that voters will know all the relevant statutory changes that will influence conforming amendments to the county charter.

- 2) California Counties Must Follow State Law Governing Redistricting: A number of California cities (including the City of San Diego, as discussed below) have established redistricting commissions to adjust city council districts following each decennial census. In some cities, these commissions are advisory, and only make recommendations to the city council, but in other cities, the redistricting commission has the authority to adopt a redistricting plan independent of the city council. Charter cities are able to establish such commissions because the state Constitution gives charter cities broad authority over the conduct of city elections and over the manner in which, method by which, times at which, and terms for which municipal officers are elected.

Charter counties, on the other hand, are not granted the same level of authority over the conduct of county elections, and in fact, the state Constitution explicitly provides that "[c]harter counties are subject to statutes that relate to apportioning population of governing body districts." In light of this provision of the state Constitution, charter counties are unable to provide for the creation of a redistricting commission through an amendment to the county charter unless statutory authority is provided to allow a county to have such a commission.

- 3) Should State Law Dictate the Structure of a San Diego County Redistricting Commission? As noted above, existing law does not permit San Diego County to establish a redistricting commission without statutory authorization, and in light of that fact, the San Diego County

Board of Supervisors has sponsored this bill requesting authorization for the county to create such a commission. This bill goes beyond simply providing such authorization to San Diego County, however, as it imposes a number of conditions on the formation and composition of any commission that the county establishes. Among other conditions, this bill provides that only former or retired state or federal judges are eligible to serve on any commission that the county establishes, and it provides that the members of the commission must be selected at random from all applicants who meet the qualifications to serve on the commission.

Because the San Diego County Charter currently provides for redistricting to be conducted by the Board of Supervisors, the voters of San Diego County would need to approve a charter amendment before the redistricting commission envisioned by this bill could be created. However, this bill would present the voters of San Diego County with an all-or-nothing decision—either voters would have to approve a redistricting commission that complies with the requirements governing the formation and composition of that commission that are outlined in this bill, or the voters could vote down the proposal to create the commission, and have redistricting remain within the purview of the board of supervisors.

Additionally, because of the conditions that this bill creates for any San Diego County redistricting commission, subsequent legislation would be required for any change that the voters of San Diego County wished to make to the structure of the redistricting commission.

In light of these facts, the committee may wish to consider giving San Diego County the authority to establish a redistricting commission through the approval of a charter amendment, but to leave the details of how that commission would be formed to the charter amendment itself.

- 4) 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.
- 5) San Diego City Redistricting Commission: The council districts for the City of San Diego are already adjusted by a commission rather than the city council. Pursuant to the San Diego City Charter, the San Diego Redistricting Commission is composed of seven members appointed by the Presiding Judge of the Municipal Court, San Diego Judicial District. The Presiding Judge must appoint women and men who will give the Redistricting Commission geographic, social and ethnic diversity, and who have a high degree of competency to carry out the responsibilities of the Commission. The appointees must include individuals with a demonstrated capacity to serve with impartiality in a nonpartisan role and must be registered to vote in the City of San Diego. Persons who accept appointment to the Commission, at the time of their appointment, must file a written declaration with the City Clerk stating that within five years of the Commission's adoption of a final redistricting plan, they will not

seek election to a San Diego City public office. The districts must be contiguous and as equal in population and as geographically compact as possible. The districts must also, as far as possible, be bounded by natural boundaries, by street lines and/or by city boundary lines.

- 6) Communities of Interest: Although not defined by this bill, the California Constitution, for the purposes of the CRC, defines “community of interest” as a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

REGISTERED SUPPORT / OPPOSITION:

Support

San Diego County (sponsor)  
California State Association of Counties  
Latino American Political Association of San Diego  
Urban Counties Caucus

Opposition

None on file.

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