

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 628 (Lara) – As Amended March 27, 2017

**SENATE VOTE:** 32-5

**SUBJECT:** Local educational agencies: governing board elections: Los Angeles Community College District.

**SUMMARY:** Authorizes the governing board of the Los Angeles Community College District (LACCD) to adopt a resolution that allows for the members of the governing board to be elected by trustee area. Specifically, **this bill:**

- 1) Deletes the requirement that members of the LACCD governing board be elected at large, or at large and by individual seat number.
- 2) Permits the LACCD governing board to adopt a resolution by a majority vote to require members of the governing board to be elected by trustee area, beginning with the 2019 election for the LACCD governing board and each election thereafter.
- 3) Requires, if the LACCD governing board chooses to provide for members to be elected by trustee area, that each candidate reside and be registered to vote in the trustee area he or she seeks to represent, and requires the trustee to be elected by only the registered electors of the same trustee area.
- 4) Repeals the requirement that the governing board of any school district or community college district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 census, be composed of seven members and be elected at large at the same time and in the same manner as the members of the city council.
- 5) Makes conforming and technical changes.
- 6) States that a special statute is necessary and that a general statute cannot be made applicable because of the unique needs of the LACCD.

**EXISTING LAW:**

- 1) Requires members of the governing board of the LACCD to be elected at large. Authorizes, the governing board of the LACCD to adopt a resolution by a majority vote to enact an alternative method by which members of the governing board may be elected at large and by individual seat number where the candidate with the highest number of votes for an individual seat number shall be deemed the candidate elected for that individual seat number.
- 2) Requires the governing board of any school district or community college district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 census, to be composed of seven members and to be elected at large at the same time and in the same manner as the members of the city council.

- 3) Prohibits, pursuant to the California Voting Rights Act (CVRA), an at-large method of election from being imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class.

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

**COMMENTS:**

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

SB 628 will remove barriers that prohibit the [LACCD] from electing their Board of Trustees in a by-district method of election. Under current law, LACCD is required to elect its Board of Trustees in an at-large system, which prevents them from switching to a district based method of election. The current election system in LACCD has created the inability of minority voters to elect candidates of their choosing, thus the board is not reflective of the community it represents. This measure allows LACCD to continue to build lasting partnerships with local businesses, institutions, community organizations and voters to provide the collaborative energy needed to truly meet the needs of the local population.

- 2) **Los Angeles Community College District:** The LACCD is the largest community college district in the United States and one of the most diverse community college districts in the state, if not the nation. According to information provided by the Mexican American Legal Defense and Educational Fund (MALDEF), out of the LACCD's enrolled student population, over 58.1% of the students are Latino, 10.4% are African American, followed by Asian enrollment at 7.1%, and Filipino at 2.4%. About 20% of the enrolled student population lives below the poverty line and about 20% of the student population are immigrants. According to information from the District, the LACCD consists of nine colleges—Los Angeles City College, East Los Angeles College, Los Angeles Harbor College, Los Angeles Mission College, West Los Angeles College, Pierce College, Los Angeles Southwest College, Los Angeles Trade-Technical College, and Los Angeles Valley College. The LACCD is located entirely within Los Angeles County.

The LACCD governing board consists of seven members elected at-large by the voters of the LACCD and one student member who is elected by students. Board members are elected at large by seat number for terms of four years. To the knowledge of committee staff, LACCD is the only community college district that is statutorily required to have at-large elections. Elections are held every two years, with three members being chosen at one election and four members at the other.

- 3) **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. (When school and community college board members are elected by or from districts, those districts are commonly referred to as "trustee areas.") 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 the candidate 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.

- 4) **Legal Action:** MALDEF submitted a letter to the LACCD on October 21, 2016, that demands compliance with the CVRA based on complaints from Latino voters in the LACCD that at-large elections dilute and prevent Latino voters from electing candidates of their choice. This letter states that MALDEF reviewed demographic and electoral information and concludes that the LACCD is in violation of the CVRA.

The intent of SB 628 is to remove statutory barriers that prevent the LACCD from moving to elections by trustee areas, thereby giving the LACCD the tools to address potential liability under the CVRA.

- 5) **At-Large to Trustee Areas:** Since 2007, 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, at least 160 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.

This bill is permissive – it will allow the LACCD to change from at-large to trustee area elections, without mandating them to do so.

- 6) **Changing Election Systems:** AB 684 (Block), Chapter 614, Statutes of 2011, established a procedure for the governing board of a community college district to change election systems, including moving from at-large elections to elections by trustee area, without voter approval, subject to specified conditions. AB 684 was intended to provide a procedure for community college districts to move from at-large elections to trustee area elections where such a move was justified under the CVRA. AB 684 is not available, however, to the LACCD, due to separate provisions of state law that explicitly require the LACCD to conduct at-large elections.

Under AB 684, the board of trustees of a community college district that wants to transition from at-large to trustee area elections must adopt a resolution in support of the change and obtain the approval of the Board of Governors of the California Community Colleges. Since the enactment of AB 684, the Board of Governors has approved requests from at least 20 community college districts to change from at-large to trustee area elections.

Under the provisions of this bill, the LACCD board members would have the authority to decide whether to change from electing board members at large to electing them by trustee areas, without requiring the approval of the Board of Governors.

- 7) **Drawing Trustee Areas:** This legislation is silent with regard to the specifics of how trustee areas boundaries would be crafted, and therefore, the LACCD would create the trustee areas pursuant to existing law.

AB 350 (Alejo), Chapter 737, Statutes of 2016, requires a political subdivision that changes to, or establishes, district-based elections to hold at least two public hearings both before and after drawing a preliminary map or maps of the proposed district boundaries. Any revised draft map has to be made available to the public for at least seven days before the map can be adopted. Additionally, it gives special consideration to the purposes of the CVRA, as specified, when determining the sequence of district elections if the terms of office are to be staggered.

Existing law also requires the governing board of each school district or community college district in which trustee areas have been established to adjust the boundaries of any or all of the trustee areas of the district following each decennial federal census using population figures as validated by the Population Research Unit of the Department of Finance.

- 8) **Other Community College Districts:** Under existing law, a community college district board generally can be organized so that members are elected at-large or so that members are elected by or from trustee areas. In districts that have trustee areas, the district can be organized such that the registered voters in the entire community college district vote for trustees from each of the trustee areas, or the district can be organized so that only the registered voters in a trustee area vote for the trustees from that area. In either case, candidates for a trustee area must reside in and be registered to vote in that trustee area. The governing board shall set the initial boundaries of each trustee area to reflect substantially equal population in each area as enumerated in the most recent decennial federal census.

Existing law also permits the governing board of a community college district to establish a top-two primary election system. In such a system, candidates for election as a member of a governing board of a district are nominated by trustee area at a primary election held on the date of the statewide direct primary election. The two candidates receiving the highest number of votes within the trustee area at the primary election are nominees for the general election for that trustee area, and the nominee who receives a majority of the votes cast by the voters of the trustee area in the general election are elected to represent that trustee area. Additionally, the governing board of a community college district is permitted to determine the number of trustees, but governing boards must be composed of not less than five members and not more than nine.

- 9) **Arguments in Support:** The Mexican American Legal Defense and Educational Fund writes:

In the past twelve years, prior to the March 2017 election, sixteen Latino candidates ran in eleven racially contested elections yet only three Latinos were elected to the Board of the Trustees in racially contested elections despite the fact that Latinos comprise 36 % of the citizen voting age population in the district...

The switch to election by trustee area would also ensure that LACCD is being responsive to the communities it serves. The Board plays a critical role in ensuring community engagement at the local level, while at the same time

providing for the Board to being more accountable to the trustee areas and the entire district as a whole. Furthermore, we cannot understate the critical role community colleges play in California for many underrepresented communities as a gateway point to access higher education and access the middle class through its degrees, certifications and transfer opportunities.

10) **Previous Legislation:** AB 450 (Jones-Sawyer) of 2013 would have required the LACCD, beginning in 2015, to have governing board members elected by trustee area instead of at-large. The LACCD board was to provide for the establishment of seven trustee areas by July 1, 2014, and hold a public hearing prior to adopting the boundaries of each trustee area. AB 450 was held in the Assembly Appropriations Committee.

AB 1252 (Davis) of 2011 would have required LACCD governing board members to be elected by trustee areas. AB 1252 was never heard in committee.

AB 8 (Cardenas) of 2000 and AB 1328 (Cardenas) of 1999 would have required LACCD governing board members to be elected by trustee areas. Both bills were vetoed by the Governor.

11) **Double-referral:** This bill passed out of the Assembly Higher Education Committee on June 20, 2017, by a 13-0 vote.

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

##### **Support**

Mexican American Legal Defense and Educational Fund

##### **Opposition**

None on file.

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