

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ELECTIONS

Isaac G. Bryan, Chair

SB 314 (Ashby) – As Amended April 13, 2023

**SENATE VOTE:** 32-7

**SUBJECT:** County of Sacramento Redistricting Commission.

**SUMMARY:** Creates a Citizens Redistricting Commission (Commission) in Sacramento County, as specified. Specifically, **this bill**:

- 1) Provides for the creation of the Commission, and tasks it with adjusting the boundary lines of the county's supervisorial districts in the year following the year in which the decennial federal census is taken. Requires the Sacramento County Board of Supervisors (board) to provide reasonable funding and staffing for the Commission, to ensure that a computerized redistricting database is available, and to ensure that the public has access to redistricting data and computer software equivalent to what is available to the commissioners.
- 2) Requires the Commission to consist of 14 members, and to be created no later than December 31 in each year ending in the number zero.
- 3) Requires the political party preferences of commissioners to be as proportional as possible to the political party registrations of voters in the county, as specified. Requires at least one commissioner to reside in each of the existing supervisorial districts.
- 4) Requires each commissioner to meet all of the following qualifications:
  - a) Be a county resident who was continuously registered to vote in the county with the same party preference for at least five years immediately preceding the person's appointment;
  - b) Has voted in at least one of the last three statewide elections immediately preceding the person's application;
  - c) Possess experience that demonstrates analytical skills relevant to redistricting and voting rights, and possess an ability to comprehend and apply applicable legal requirements;
  - d) Possess experience that demonstrates an ability to be impartial; and,
  - e) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the county.
- 5) Prohibits a person from being a commissioner if the person, or an immediate family member, did any of the following in the 10 years immediately preceding the person's application:
  - a) Was appointed or elected to, or was a candidate for, office at the local, state, or federal level representing the county, including as a member of the board;

- b) Served as an employee or paid consultant of an elected representative at the local, state, or federal level representing the county, or of a candidate for such an office;
  - c) Served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee; or,
  - d) Was a registered federal, state, or local lobbyist.
- 6) Requires the county elections official to review commissioner applications and eliminate applicants who do not meet the qualifications. Requires the elections official to select 60 of the most qualified applicants and to publicize their names for at least 30 days. Permits the elections official, during this period, to eliminate any applicant if the official becomes aware that the applicant does not meet the qualifications. Requires the elections official to create a subpool for each of the five existing supervisorial districts. Prohibits the elections official from communicating with a member of the board or their agent about the nomination process or applicants before the publication of the 60 most qualified applicants.
  - 7) Requires the county elections official to conduct a random drawing to select one commissioner from each of the five subpools, and then conduct a random drawing from the remaining applicants to select three additional commissioners.
  - 8) Requires the eight selected commissioners to appoint six additional members from the remaining applicants. Requires these appointees to be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the Commission reflects the county's diversity, as specified. Requires the eight commissioners to select applicants so that the political party preferences of the members of the Commission are as proportional as possible to the registered voters in the county, as detailed above.
  - 9) Requires commissioners to apply the requirements of this bill in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.
  - 10) Provides that the term of office of each member of the Commission expires upon the appointment of the first member of the succeeding Commission.
  - 11) Provides that nine members of the Commission constitute a quorum and requires nine or more affirmative votes for any official action.
  - 12) Prohibits the Commission from retaining a consultant, as specified, who would not be qualified as a Commission applicant due to any of the reasons described above in 5).
  - 13) Requires each commissioner to be a designated employee for the purposes of the conflict of interest code adopted by the county, as specified, thereby requiring members to file statements of economic interests and to comply with specified state laws regarding conflicts of interests and limits on gifts and honoraria.
  - 14) Requires the Commission to establish single-member supervisorial districts pursuant to a mapping process using the following criteria as set forth in the following order of priority:

- a) Requires districts to comply with the United States (US) Constitution and requires each district to have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act (VRA) or allowable by law. Provides that population equality shall be based on the total population of residents in the county as determined by the most recent federal decennial census for which redistricting data are available, as specified. Provides that an incarcerated person shall not be counted towards the county's population except for an incarcerated person whose last known place of residence can be assigned to a census block in the county, if information about the last known place of residence for incarcerated persons is included in a specified computerized database for redistricting;
  - b) Requires districts to comply with the VRA;
  - c) Requires districts to be geographically contiguous;
  - d) Requires the geographic integrity of any city, local neighborhood, or local community of interest, as defined, to be respected in a manner that minimizes its division to the extent possible without violating the above requirements; and,
  - e) Requires, to the extent practicable, and where this does not conflict with the higher-priority criteria detailed above, districts to be drawn to encourage geographical compactness, as specified.
- 15) Prohibits the place of residence of any incumbent or political candidate from being considered in the creation of a map, and prohibits districts from being drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.
- 16) Requires the Commission to comply with the Ralph M. Brown Act (the state's open meetings law).
- 17) Requires the Commission, prior to drawing a draft map, to conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing in each supervisorial district, as specified.
- 18) Requires the Commission, after drawing a draft map, to do both of the following:
- a) Post the map for public comment on county's website; and,
  - b) Conduct at least two public hearings to take place over a period of no fewer than 30 days.
- 19) Requires the Commission to make available to the public a calendar of all public hearings and to post the agenda for the public hearings at least seven days before the hearings. Requires the agenda for a meeting conducted after the Commission has drawn a draft map to include a copy of that map. Requires hearings to be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible.
- 20) Defines an "applicable language," as a language for which the number of residents of the county who are members of a language minority is greater than or equal to three percent of

the total voting age residents of the county. Requires the Commission to arrange for the live translation of a hearing into that language if a request is made at least 24 hours before the hearing.

- 21) Requires the Commission to take steps to encourage county residents to participate in the redistricting process. Provides that these steps may include the following:
  - a) Providing information through media, social media, and public service announcements;
  - b) Coordinating with community organizations; and,
  - c) Posting information on the county's website that explains the redistricting process and includes a notice of each hearing and procedures for testifying or submitting testimony.
- 22) Provides that all records of the Commission relating to redistricting, and all data considered by the Commission in drawing a draft map or the final map, are public records.
- 23) Makes the Commission subject to restrictions on the release of draft maps and deadlines for the adoption of final maps that are generally applicable to county redistricting. Provides that the adopted map is subject to referendum.
- 24) Requires the Commission to issue, with the final map, a report that explains how the Commission made its decisions in achieving compliance with the criteria described above.
- 25) Prohibits a commissioner from holding elective office at the federal, state, county, or city level in the state for five years beginning from the date of the person's appointment.
- 26) Prohibits a commissioner from doing any of the following for a period of three years beginning from the date of appointment to the Commission:
  - a) Holding an appointive federal, state, or local public office;
  - b) Serving as paid staff for or a paid consultant to, the Board of Equalization (BOE), Congress, the Legislature, or any individual legislator; or,
  - c) Registering as a federal, state, or local lobbyist in the state.
- 27) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Sacramento County.

#### **EXISTING LAW:**

- 1) Requires the board of supervisors of each county, following each federal decennial census, to adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts are substantially equal in population as required by the US Constitution, as specified. (Elections Code §§21500 et seq.)

- 2) Authorizes a local jurisdiction, including a county, to establish an independent, hybrid, or advisory redistricting commission by resolution, ordinance, or charter amendment, subject to certain conditions. (Elections Code §§23000 et seq.)
- 3) 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. (California Constitution Article XI, §§3, 4)
- 4) Provides that charter counties are subject to statutes that relate to apportioning population of governing body districts. (California Constitution Article XI, §4(a))
- 5) Establishes Citizens Redistricting Commissions in Fresno, Kern, Los Angeles, Riverside, and San Diego counties, and charges the commissions with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified. (Elections Code §§21530-21535, 21540-21546, 21550-21553, 21560-21565, 21570-21575)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, by requiring Sacramento County to create and operate a redistricting commission as specified, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on Sacramento County, the County could claim reimbursement of those costs (General Fund). The magnitude of these costs is unknown, but minimally in the hundreds of thousands of dollars on a decennial basis.

#### **COMMENTS:**

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

Electoral districts must be created fairly with equal representation as their guide. The establishment of independent redistricting commissions is a cornerstone to government ethics and transparency. By establishing an Independent Citizens Redistricting Commission in Sacramento County, we can better ensure that Sacramento County's district lines accurately reflect the various communities represented and provide much needed transparency to the redistricting process.

- 2) **Redistricting Overview:** "Redistricting" is the process by which the boundaries of districts of a governmental body are adjusted. Redistricting generally occurs at the beginning of each decade following the decennial federal census, when new district lines are adopted based on the census data so that the populations of each district of a governmental body are roughly equal. Over the course of the decade, districts can become significantly unequal in population due to differential growth rates in various locations of a jurisdiction. Redistricting is the way this inequality is corrected.
- 3) **California Citizens Redistricting Commission:** Proposition 11, which was approved by the voters at the 2008 statewide general election, created the California Citizens Redistricting Commission (CCRC), and gave it the responsibility for establishing district lines for Assembly, Senate, and BOE. Proposition 11 also modified the criteria to be used when drawing district lines. Two years later, California voters approved Proposition 20, which gave the CCRC the responsibility for establishing lines for California's congressional

districts, and made other changes to the procedures and criteria to be used by the CCRC. The CCRC 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. The CCRC adopted district lines for the Legislature, Congress, and the BOE in 2011 following the release of 2010 census data, and again in 2021 following the release of 2020 census data.

- 4) **Local Redistricting Commissions and Previous Legislation:** Prior to 2017, state law generally permitted a county or a city to create an *advisory* redistricting commission (described in state law at the time as a "committee" of residents of the jurisdiction), but did not expressly permit local jurisdictions to create commissions that had the authority to establish district boundaries. Instead, the authority to establish district boundaries for a local jurisdiction generally was held by the governing body. While charter cities could establish redistricting commissions that had the authority to establish district boundaries, charter counties did not have that authority in the absence of express statutory authorization.

In 2016, however, the Legislature passed and the Governor signed SB 1108 (Allen), Chapter 784, Statutes of 2016, which permits a county or a general law city to establish a redistricting commission, subject to certain conditions. SB 1018 (Allen), Chapter 462, Statutes of 2018, built upon SB 1108 by allowing all local governmental entities to establish redistricting commissions, and by modifying some of the rules governing local redistricting commissions.

Separately, the Legislature has enacted a number of bills to require specified counties to establish redistricting commissions. SB 958 (Lara), Chapter 781, Statutes of 2016, required the establishment of a Citizens Redistricting Commission in Los Angeles County. Similarly, AB 801 (Weber), Chapter 711, Statutes of 2017, required the establishment of a Citizens Redistricting Commission in San Diego County. These commissions were in place for redistricting following the 2020 federal decennial census, and drew the district lines for those counties' supervisorial districts.

Last year, the Legislature approved AB 1307 (Cervantes), Chapter 403, Statutes of 2022, which creates a Citizens Redistricting Commission in Riverside County, AB 2030 (Arambula), Chapter 407, Statutes of 2022, which creates a Citizens Redistricting Commission in Fresno County, and AB 2494 (Salas), Chapter 411, Statutes of 2022, which creates a Citizens Redistricting Commission in Kern County, as specified. All of those commissions will be created for the next redistricting process following the 2030 census.

- 5) **2021 Sacramento County Redistricting:** The authority to establish district boundaries for a local jurisdiction generally is held by the governing body of that jurisdiction. Because Sacramento County did not create a redistricting commission for the 2021 redistricting process, the Board of Supervisors redrew the boundary lines for supervisorial districts following the 2020 census.

According to information from Sacramento County's website for the 2021 redistricting process, the Board of Supervisors held eight public hearings on redistricting (four prior to the release of any draft maps, and four following the release of draft maps). The county also held eight public workshops on the redistricting process before draft maps were released, and one workshop after draft maps were released. At its meeting on December 7, 2021, the Board of Supervisors adopted new boundaries for the county supervisorial districts by a 4-1 vote.

- 6) **Partisan Make Up:** This bill requires the political party preferences of the commissioners to be as proportional as possible to the total number of voters who are registered with each political party in Sacramento County or who decline to state or do not indicate a party preference, as determined by registration at the most recent statewide election. According to the most recent voter registration figures from the Secretary of State, 45.92% of registered voters in Sacramento County are registered as Democrats, 24.69% are registered as Republicans, 21.54% are registered as having No Party Preference, and the remaining 7.85% of voters are registered with another party or are registered with a political body that is attempting to qualify as a political party. While this bill provides that "the political party or no party preferences of the commission members are not required to be exactly the same as the proportion of political party or no party preferences among the registered voters of the county," in order to reflect these registration figures, a 14-member commission might be expected to have between 6-7 Democrats, between 3-4 Republicans, three members registered as having No Party Preference, and one member registered with other political parties or bodies. The ability for the Commission to reflect those registration figures could be limited based on the results of the random drawing to select the first eight commissioners.
- 7) **Arguments in Support:** In support of this bill, AAPIs for Civic Empowerment Education Fund writes:

If a county does not use an independent redistricting commission, the incumbent county supervisors draw their own district boundaries after each Census. In 2021, the Sacramento County Board of Supervisors drew their own district lines. They held hearings and took public comment, but ultimately made the final decision themselves as to what their own areas of representation would be.

A recent report from Common Cause CA analyzed the 2020 local redistricting cycle and found that independent redistricting commissions, "significantly outperformed legislative bodies in terms of conducting a transparent process, promoting public participation, and drawing community-reflective maps." The establishment of independent redistricting commissions is a cornerstone to government ethics and transparency.

- 8) **Arguments in Opposition:** In opposition to this bill, a lobbyist at the Pacific Advocacy Group (a lobbying firm) writes, "[SB 314] sets several qualifications to serve on the commission, but you not only disqualify me but my entire immediate family from serving on the commission because of my chosen profession. I find the idea repugnant, that a universe of applicants, including a representative of a collective bargaining entity of County employees is qualified to serve, but I, and my family is not."
- 9) **Related Legislation:** AB 34 (Valencia), which is pending in the Senate Elections & Constitutional Amendments Committee, creates a Citizens Redistricting Commission in Orange County. AB 34 was approved by this committee on a 6-0 vote, and was approved on the Assembly Floor by a 61-15 vote.

AB 1248 (Bryan), which is pending in the Senate Elections & Constitutional Amendments Committee, requires a county or city with more than 300,000 residents, or a school district or community college district with more than 500,000 residents, to establish an independent redistricting commission to adopt district boundaries after each federal decennial census. AB

1248 was approved by this committee on a 5-1 vote, and was approved on the Assembly Floor by a 61-17 vote.

AB 764 (Bryan), which is pending in the Senate Elections & Constitutional Amendments Committee, makes various changes to provisions of state law governing redistricting by counties, cities, special districts, school districts, community college districts, and county boards of education. AB 764 was approved by this committee on a 5-1 vote, and was approved on the Assembly Floor by a 62-17 vote.

SB 52 (Durazo), which is pending in this committee, requires charter cities with a population of 2.5 million people or more to create an independent redistricting commission. The City of Los Angeles is the only city that would be affected based on current population figures.

10) **Double Referral:** This bill has been double referred to the Assembly Local Government Committee.

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

#### **Support**

AAPIs for Civic Empowerment Education Fund  
California Common Cause (if amended)  
California Environmental Voters  
Democratic Party of Sacramento County  
League of Women Voters of California (if amended)  
Organize Sacramento (prior version)  
Queer Democrats of Sacramento

#### **Opposition**

Pacific Advocacy Group

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