

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2494 (Salas) – As Amended March 24, 2022

SUBJECT: County of Kern Citizens Redistricting Commission

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

- 1) Provides for the creation of the commission in Kern County, and tasks the commission 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.
- 2) Requires the commission to be created no later than December 31, 2030, and in each year ending in the number zero thereafter.
- 3) States that the selection process is designed to produce a commission that is independent from the influence of the Kern County Board of Supervisors (board) and reasonably representative of the county's diversity.
- 4) Requires the commission to consist of 14 members. Requires the political party preferences of the commission members, as shown on the members' most recent affidavits of registration, to be as proportional as possible to the total number of voters who are registered with each political party in Kern County, or who decline to state or do not indicate a party preference, as determined by registration at the most recent statewide election. 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 and no party preferences among the registered voters of the county. Requires at least one commission member to reside in each of the five existing supervisorial districts of the board.
- 5) Requires each commission member to meet all of the following qualifications:
 - a) Be a resident of Kern County;
 - b) Be a voter who has been continuously registered in Kern County with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of their appointment to the commission;
 - c) Has voted in at least one of the last three statewide elections immediately preceding their application to be a member of the commission;
 - d) Possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights, and possess an ability to comprehend and apply the applicable state and federal legal requirements;

- e) Possess experience that demonstrates an ability to be impartial; and,
 - f) Possess experience that demonstrates an appreciation for the diverse demographics and geography of Kern County.
- 6) Provides that within the 10 years immediately preceding the date of application to the commission, neither the applicant, nor an immediate family member of the applicant, may have done any of the following:
- a) Been appointed to, elected to, or have been a candidate for office at the local, state, or federal level representing Kern County, including as a member of the board;
 - b) Served as an employee of, or paid consultant for, an elected representative at the local, state, or federal level representing Kern County;
 - c) Served as an employee of, or paid consultant for, a candidate for office at the local, state, or federal level representing Kern County;
 - d) Served as an officer, employee, or paid consultant of a political party or as an appointed member of a political party central committee; or,
 - e) Been a registered state or local lobbyist.
- 7) Permits an interested person meeting the qualifications specified above to submit an application to the county elections official to be considered for membership on the commission. Requires the county elections official to review the applications and eliminate applicants who do not meet the specified qualifications.
- 8) Requires the county elections official to select 60 of the most qualified applicants, taking into account the relevant requirements, and to make their names public for at least 30 days. Prohibits the county elections official from communicating with a member of the board, or an agent for a member of the board, about any matter related to the nomination process or applicants before the publication of the list of the 60 most qualified applicants. Permits the county elections official, during this period, to eliminate any of the previously selected applicants if the official becomes aware that the applicant does not meet the qualifications. Requires the county elections official to create a subpool for each of the five existing supervisorial districts in Kern County.
- 9) Requires, at a regularly scheduled meeting of the board, the Auditor-Controller of Kern County to conduct a random drawing to select one commissioner from each of the five subpools established by the county elections official, and to then conduct a random drawing from all of the remaining applicants to select three additional commissioners.
- 10) Requires the eight selected commissioners to review the remaining names in the subpools of applicants and to appoint six additional applicants to the commission. Requires the six 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, including racial, ethnic, geographic, and gender diversity, provided that formulas or specific ratios are not applied for this purpose. Requires the eight commissioners to consider political party

preference, selecting 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.

- 11) Requires the commission members 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.
- 12) Provides the term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.
- 13) Provides that nine members of the commission constitute a quorum and that nine or more affirmative votes are required for any official action.
- 14) Prohibits the commission from retaining a consultant who would not be qualified as a commission applicant due to any of the disqualifying criteria described above in 6). Provides, for this purpose, that the term “consultant” means a person, whether or not compensated, retained to advise the commission or a commission member regarding any aspect of the redistricting process.
- 15) Requires each commission member to be a designated employee for purposes of the conflict of interest code adopted by Kern County, as specified.
- 16) Requires the commission to establish single-member supervisorial districts for the board 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 of 1965 (VRA) or allowable by law;
 - b) Requires population equality to be based on the total population of residents of the county as determined by the most recent federal decennial census for which specified redistricting data are available;
 - c) Prohibits an incarcerated person from being counted towards the county’s population, except for an incarcerated person whose last known place of residence may be assigned to a census block in the county, if information about the last known place of residence for incarcerated persons is included in the computerized database for redistricting that is developed in accordance existing law, and that database is made publicly available.
 - d) Requires districts to comply with the federal VRA;
 - e) Requires districts to be geographically contiguous;
 - f) 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 requirements above; and,

- g) Requires, to the extent practicable, and where this does not conflict with higher priority criteria detailed above, districts to be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas of population.
- 17) 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 purposes of favoring or discriminating against an incumbent, political candidate, or political party.
- 18) Requires the commission to comply with the Ralph M. Brown Act (the state's open meetings law).
- 19) 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 held in each supervisorial district. Permits the commission, in the event any state or local health order prohibits large gatherings, to modify the location of the hearings, including through the use of virtual hearings that use technology to permit remote viewing and participation, to the extent required to comply with public health requirements. Requires the commission, if the commission modifies the location of a hearing, to provide opportunities to view and listen to proceedings by video, to listen to proceedings by phone, and to provide public comment by phone and in writing with no limitation on the number of commenters. Requires the commission, to the greatest extent practicable, to provide an opportunity for in-person participation for at least one hearing in each supervisorial district. Permits methods for providing in-person participation to include, but not be limited to, setting up multiple rooms with audiovisual connections to the hearing, allowing community members to make appointments to make public comment, providing personal protective equipment, or holding hearings in outdoor spaces.
- 20) Requires the commission, after drawing the draft maps, to do both of the following:
- a) Post the map for public comment on the Kern County website; and,
 - b) Conduct at least two public hearings to take place over a period of no fewer than 30 days.
- 21) Requires the commission to establish and make available to the public a calendar of all public hearings and requires the 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.
- 22) Requires the commission 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.
- 23) Requires the commission to arrange for the live translation of a hearing held pursuant to this bill in an applicable language if a request for translation is made at least 24 hours before the hearing. Provides that an "applicable language" means a language for which the number of residents of Kern County who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county.

- 24) Requires the commission to take steps to encourage county residents to participate in the redistricting public review process. Provides that these steps may include:
 - a) Providing information through media, social media, and public service announcements.
 - b) Coordinating with community organizations.
 - c) Posting information on the Kern County website that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.
- 25) Requires the board to take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software equivalent to what is available to the commission members.
- 26) Requires the board to provide for reasonable funding and staffing for the commission.
- 27) Requires all records of the commission relating to redistricting, and all data considered by the commission in drawing a draft map or the final map, to be public records.
- 28) Requires the commission to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and to file the plan with the county elections official by the map adoption deadline set forth in existing law for county supervisorial maps, as specified. Prohibits the commission from releasing a draft map before the date set forth in existing law for county supervisorial draft maps, as specified.
- 29) Requires the commission to issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria described above.
- 30) Prohibits a commission member, for a period of five years beginning from the date of appointment to the commission, from holding elective public office at the federal, state, county, or city level in this state.
- 31) Prohibits a commission member, for a period of three years beginning from the date of appointment to the commission, from holding appointive federal, state, or local public office, serving as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or registering as a federal, state or local lobbyist in this state.
- 32) Defines "immediate family member," for the purposes of this bill, to mean a spouse, child, in-law, parent, or sibling.
- 33) Defines "community of interest," for the purposes of this bill, as a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Provides that communities of interest do not include relationships with political parties, incumbents, or political candidates.

34) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Kern 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.
- 2) Requires population equality to be based on the total population of residents of the county as determined by the most recent federal decennial census for which specified redistricting data are available, as specified.
- 3) Requires the board to adopt supervisorial district boundaries that comply with the US Constitution, the California Constitution, and the federal VRA.
- 4) Requires the board to adopt supervisorial district boundaries using the following criteria as set forth in the following order of priority:
 - a) To the extent practicable, requires supervisorial districts to be geographically contiguous, as specified.
 - b) To the extent practicable, requires the geographic integrity of any local neighborhood or local community of interest, as defined, to be respected in a manner that minimizes its division.
 - c) To the extent practicable, requires the geographic integrity of a city or census designated place to be respected in a manner that minimizes its division.
 - d) Supervisorial district boundaries should be easily identifiable and understandable by residents. To the extent practicable, requires supervisorial districts to be bounded by natural and artificial barriers, by streets, or by the boundaries of the county.
 - e) To the extent practicable, and where it does not conflict with the criteria listed above, requires supervisorial districts to be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.
 - f) Prohibits the county from adopting supervisorial district boundaries for the purpose of favoring or discriminating against a political party.
- 5) Requires the board, before adopting a final map, to hold at least four public hearings at which the public is invited to provide input regarding the composition of one or more supervisorial districts, as specified.
- 6) Authorizes a county, general law city, school district, community college district, or a special district to establish an independent redistricting commission, an advisory redistricting commission, or a hybrid redistricting commission by resolution, ordinance, or charter amendment, subject to certain conditions.

- 7) Defines an “advisory redistricting commission” to mean a body that recommends to a legislative body placement of the district boundaries for that legislative body.
- 8) Defines a “hybrid redistricting commission” to mean a body that recommends to a legislative body two or more maps for the placement of the district boundaries for that legislative body, where the legislative body must adopt one of those maps without modification, except as may be required to comply with state or federal law.
- 9) Defines an “independent redistricting commission” to mean a body, other than a legislative body, that is empowered to adopt the district boundaries of a legislative body.
- 10) 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.
- 11) Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.
- 12) Establishes a Citizens Redistricting Commission in Los Angeles County and an Independent Redistricting Commission in San Diego County, and charges the commissions with adjusting districts of supervisorial districts after each decennial federal census, as specified

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Bill Summary.** This bill creates a Citizens Redistricting Commission for Kern County to be created by 2030 and for each redistricting thereafter, and requires the commission to adjust the boundaries of the county’s supervisorial districts after each decennial census. The bill establishes the composition of the commission at 14 members, requires at least one member to reside in each of the five existing districts, and further specifies the qualifications of commission members. The bill outlines the selection process for commission members and specifies their terms and their conduct, including numerous prohibited activities to avoid conflicts of interest. It also imposes requirements for the districts that the commission would establish and the process the commission must follow in drafting and adopting the districts, including public hearings. The bill is sponsored by the Dolores Huerta Foundation.
- 2) **Author’s Statement.** According to the author, “AB 2494 is a continuation of the state’s work to improve the health and integrity of our democracy and protect everyone’s constitutional right to an equal vote. This bill will protect taxpayer money and prevent future lawsuits against Kern County like there have been in the past. Establishing an independent redistricting commission in Kern County will help ensure that all voices throughout our community will be heard and that the constitutional rights of voters are protected.”
- 3) **California Citizens Redistricting Commission.** Voters created the Citizens Redistricting Commission (CRC) with the passage of Proposition 11 in 2008 and granted the CRC the authority to establish district lines for the State Assembly, Senate, and Board of Equalization. Proposition 11 also modified the criteria to be used when drawing district lines. In the 2010 statewide general election, voters subsequently approved Proposition 20, which gave the

CRC the responsibility for establishing lines for California's congressional districts as well, 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.

- 4) **Local Redistricting and Previous Legislation.** Prior to 2017, counties and general law cities were able to create advisory redistricting commissions, but were not able to create independent commissions with the authority to establish district boundaries. Instead, the authority to establish district boundaries for a local jurisdiction was generally held by the governing body of that jurisdiction. Charter cities are able to establish independent redistricting commissions that have the authority to establish district boundaries 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. As a result, a number of California charter cities established redistricting commissions to adjust city council districts following each decennial census. However, counties and general law cities did not have that authority in the absence of express statutory authorization.

In 2016, the Legislature passed and the Governor signed SB 1108 (Allen), Chapter 784, Statutes of 2016, which permitted (but did not require) a county or a general law city to establish a redistricting commission, subject to certain conditions. Specifically, SB 1108 authorized two different types of commissions: independent commissions and advisory commissions. SB 1108 generally provided cities and counties with the discretion to determine the structure and membership of an advisory or independent redistricting commission; however, it did establish minimum qualifications for commission membership. While SB 1108 imposed few restrictions and requirements on advisory commissions, it did subject members of independent commissions to extensive eligibility requirements and post-service restrictions.

- 5) **County Redistricting Commissions.** As mentioned above, before SB 1108 (Allen) was signed into law, counties did not have the authority in the absence of express statutory authorization to establish redistricting commissions. As a result, the Legislature authorized redistricting commissions in two counties: San Diego [SB 1331 (Kehoe), Chapter 508, Statutes of 2012] and Los Angeles [SB 958 (Lara), Chapter 781, Statutes of 2016].

In 2017, the Legislature approved and Governor Brown signed AB 801 (Weber), Chapter 711, Statutes of 2017, which repealed San Diego County's redistricting commission and instead established an Independent Redistricting Commission and charged it with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified.

SB 1018 (Allen), Chapter 462, Statutes of 2018, extended the authority to adopt redistricting commissions to school districts, community college districts, and special districts. The bill also relaxed some of the eligibility requirements for members of independent commissions and eased one of the post-service restrictions on those members in an effort to expand the pool of individuals who are available to serve on such commissions. SB 1018 also allowed for the creation of hybrid commissions, subject to the same restrictions and requirements independent commissions.

In 2018, voters in the County of Santa Barbara approved Measure G2018, a local ordinance placed on the ballot by the Santa Barbara County board of supervisors, which established the

County of Santa Barbara Citizens' Independent Redistricting Commission. The commission is comprised of eleven commissioners and charged with redrawing county supervisorial district lines after the 2020 census using specified criteria.

According to data from California Common Cause, four counties have now established county independent redistricting commissions: Los Angeles, Santa Barbara, San Diego, and San Francisco.

- 6) **Kern County Redistricting.** Kern County has a population of around 900,000 people. Its redistricting process, like most California counties, remains in the hands of the county's board of supervisors. Consequently, Kern County's Board of Supervisors is charged with redrawing the boundary lines for supervisorial districts after each decennial federal census using specified criteria outlined in existing law.

This bill was introduced following a successful lawsuit filed in April 2016 on behalf of four Latino residents in Kern County by the Dolores Huerta Foundation. According to the Mexican American Legal Defense and Educational Fund (MALDEF), a redistricting plan adopted in 2011 by the Kern County Board of Supervisors unlawfully denies Latinos the right to elect candidates of their choice in violation of Section 2 of the federal Voting Rights Act. The federal court agreed that the boundary between Districts 1 and 4 unlawfully fractured a cohesive Latino community and diluting Latino voters' ability to equitably participate in elections. As a result, MALDEF attorneys and plaintiff met with Kern County attorneys and reached a tentative agreement on new maps, which was then approved by the Board of Supervisors for the 2018 election in Kern County.

- 7) **Related Legislation.** AB 1307 (Cervantes) creates a Citizens Redistricting Commission in Riverside County, as specified. AB 1307 is pending in the Senate.

AB 2030 (Arambula) creates a Citizens Redistricting Commission in Fresno County, as specified. AB 2030 is pending in this committee.

SB 1269 (Allen) makes various changes to the composition and operations of the Los Angeles County Citizens Redistricting Commission. SB 1269 is pending in the Senate.

- 8) **Previous Legislation.** SB 594 (Glazer), Chapter 320, Statutes of 2021, made 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.

SB 158 (Allen), Chapter 107, Statutes of 2020, clarified that voters who are registered with no party preference are eligible to serve on the Los Angeles County Citizens Redistricting Commission.

AB 1276 (Bonta), Chapter 90, Statutes of 2020, made a number of technical and clarifying changes to law governing local government redistricting that were inadvertently left out of AB 849 (Bonta).

AB 849 (Bonta), Chapter 557, Statutes of 2019, revised and standardized redistricting criteria, procedures, and requirements that counties and cities must follow when they adopt

or adjust the boundaries of electoral districts used to elect members of the jurisdictions' governing bodies.

AB 1724 (Salas) of 2019 would have required general law cities and counties to establish independent redistricting commissions that are modeled after the CRC. AB 1724 was held in the Elections and Redistricting Committee.

SB 139 (Allen) of 2019 would have required a county with a population of 400,000 or more to establish an independent redistricting commission to adopt the county supervisorial districts after each federal decennial census. SB 139 was vetoed by the Governor with the following message:

“This bill requires a county with more than 400,000 residents to establish an independent redistricting commission tasked with adopting the county's supervisorial districts following each federal decennial census.

“While I agree these commissions can be an important tool in preventing gerrymandering, local jurisdictions are already authorized to establish independent, advisory or hybrid redistricting commissions. Moreover, this measure constitutes a clear mandate for which the state may be required to reimburse counties pursuant to the California Constitution and should therefore be considered in the annual budget process.”

SB 1018 (Allen), Chapter 462, Statutes of 2018, extended the authority to adopt redistricting commissions to school districts, community college districts, and special districts, relaxed some requirements for members of independent commissions, and allowed for hybrid commissions.

AB 801 (Weber), Chapter 711, Statutes of 2017, revised the membership of the County of San Diego's Citizens Redistricting Commission to a 14-member commission charged with adjusting the boundary lines of the districts of the Board of Supervisors.

SB 958 (Lara), Chapter 781, Statutes of 2016, established an independent Citizens Redistricting Commission in the County of Los Angeles to adjust the boundary lines of the districts of the county's board of supervisors.

SB 1108 (Allen), Chapter 784, Statutes of 2016, authorized a county or a general law city to establish a redistricting commission.

SB 1331 (Kehoe), Chapter 508, Statutes of 2012, established an Independent Redistricting Commission in the County of San Diego and stipulated, among other things, that only retired state or federal judges were eligible to serve on the commission.

- 9) **Arguments in Support.** The Dolores Huerta Foundation, sponsor of this bill, writes: “AB 2494 will put Kern voters first by removing any conflict of interest when drawing district lines for the Board of Supervisors. Creating fair district lines is a critical tool our communities have to reclaim their voting power. For many communities of color throughout the nation, historical gerrymandering allows elected representatives to choose the voters in their district, rather than allowing the voters to elect their representatives in fair and lawful

elections. This practice of gerrymandering has disenfranchised underrepresented communities and diluted their voting power.

“California voters overwhelmingly supported the creation of Citizens Redistricting Commissions with the approval of Proposition 11 in 2008. Local citizens redistricting commissions proved successful in San Diego and Los Angeles Counties in the 2021 redistricting cycle. Now is the time to establish a citizen’s commission for the residents of Kern County.

“By passing Assembly Bill 2494 to establish a Citizens Redistricting Commission local Kern Residents will be able to redraw district lines and center public input and accountability to the community, not the political interests of those in power.”

- 10) **Arguments in Opposition.** Kern County, in opposition writes: “With the introduction of AB 2494, a new and fundamentally partisan redistricting process is being unfairly and unnecessarily forced on the residents of Kern County, over the objections of their duly elected local representatives. This bill would create a 14-member commission whose makeup is decidedly based on political party registration... [T]he bill language indicates commission members must ‘possess experience that demonstrates analytical skills’, ‘possess an ability to comprehend and apply applicable state and federal requirements, possess experience that demonstrates an ability to be impartial’, and ‘possess experience that demonstrates an appreciation for the diverse demographics and geography of the County of Kern’; however, these characteristics are entirely subjective and difficult to accurately measure. Without clear and quantifiable criteria this bill is counterproductive as it leaves the selections process and the selected commission members open to scrutiny.

“The total fiscal impact and workload for county staff that would be required under the parameters of AB 2494 and not yet fully known... If the preferred outcome of AB 2494 is to completely remove the Board of Supervisors from the redistricting process, it makes no sense at all that the Board would still be responsible for footing the bill. Although the language in AB 2494 does constitute a reimbursable State mandate, it fails to explicitly identify any ongoing source of funding from the State General Fund to meet the requirements of the proposed local citizens redistricting commission... Simply put, AB 2494 is a solution in search of a problem that does not exist.”

REGISTERED SUPPORT / OPPOSITION:

Support

Dolores Huerta Foundation
League of Women Voters of California
Ufcw Local 770

Support If Amended

California Common CAUSE

Oppose

County of Kern

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