

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 453 (Cervantes) – As Introduced February 6, 2023

SUBJECT: District-based elections.

SUMMARY: Requires a political subdivision that changes from at-large to district-based elections to set a fixed time for public hearings that are required before the governing body of the political subdivision votes to establish district-based elections. Specifically, **this bill:**

- 1) Requires a fixed time to begin a public hearing that a governing body of a political subdivision is required to hold as part of the process of changing from an at-large method of election to a district-based election (or establishing district-based elections) if that hearing is consolidated with a regular or special meeting of the governing body that includes other substantive agenda items, regardless of its order on the agenda.
- 2) Allows the governing body to first conclude any item being discussed or acted upon, including any associated public comment, when the fixed time occurs.
- 3) Requires the governing body to provide notice of the public hearing to the public.
- 4) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

- 1) Prohibits, pursuant to the California Voting Rights Act (CVRA), 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 candidates of its choice or its ability 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 a protected class, as specified. (Elections Code §14027)
- 2) Requires a court, upon finding a violation of the CVRA, to implement appropriate remedies, including the imposition of district-based elections, which are tailored to remedy the violation. (Elections Code §14029)
- 3) Requires a political subdivision that changes from at-large to district-based elections, or establishes district-based elections, to do all of the following before holding a public hearing at which the governing body of the political subdivision votes to approve or defeat an ordinance establishing district-based elections:
 - a) Hold at least two public hearings over a period of no more than 30 days before drawing a draft map or maps of the proposed boundaries of districts, in order to receive public input regarding the composition of the districts, as specified.
 - b) After draft maps are drawn, publish and make available for release at least one draft map and the potential sequence of elections in situations where elections to the governing

body will be staggered.

- c) After publishing a draft map or maps, hold at least two additional hearings over a period of no more than 45 days to receive public input regarding the content of the draft map or maps, as specified. (Elections Code §10010)
- 4) Requires any public hearing that is required to be held by a county board of supervisors or city council for the purpose of inviting the public to provide input related to redistricting, and that is consolidated with a regular or special meeting of the board or council that includes other substantive items, to begin at a fixed time regardless of its order on the agenda, except as specified. (Elections Code §§21507.1, 21607.1, and 21627.1)

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Author’s Statement and Bill Summary.** According to the author, “Ensuring public participation when local governments are transitioning from at-large to by-district elections pursuant to the California Voting Rights Act (CVRA) is a vital part of ensuring that the transition process is deliberate, fair, and transparent. Part of maximizing public participation in public hearings is providing certainty to the community about when these hearings will be held, or when relevant agenda items will be heard. Unfortunately, some local governments have historically tried to discourage public participation in public hearings on controversial matters by intentionally delaying discussion of these items as long as possible to ensure members of the public would have to go home in order to attend to everyday life. In the redistricting context, existing state law solves this problem by requiring local governments to hold redistricting hearings at a time certain.

“Assembly Bill 453 would import this narrowly tailored solution from the redistricting context to the CVRA by requiring that hearings regarding the transition to by-district elections must begin at a time certain. If such a hearing is consolidated with a regular or special meeting of the local government’s governing body, consideration of any agenda items pertaining to the transition to by-district elections must begin at a time certain. This level of certainty about when these matters of profound public importance will be heard will improve transparency and allow community groups to properly and effectively mobilize members of the public to participate in the hearing.”

This bill requires any hearing that a political subdivision must hold before voting to change from at-large to district-based elections or to establish district-based elections to begin at a fixed time if that hearing is consolidated with a regular or special meeting of the governing body that includes other substantive agenda items, regardless of its order on the agenda.

This bill is sponsored by the American Civil Liberties Union (ACLU) California Action and Asian Americans Advancing Justice – Asian Law Caucus.

- 2) **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. 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 candidates 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.

The first case brought under the CVRA was filed in 2004, and the jurisdiction that was the target of that case—the City of Modesto—challenged the constitutionality of the law. Ultimately, the City of Modesto appealed to the United States Supreme Court, which rejected the city's appeal in October 2007.

Many local jurisdictions have converted or are in the process of converting from at-large to district-based elections due to the CVRA. More than 250 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.

- 3) **Local Redistricting Hearing Requirements.** AB 849 (Bonta), Chapter 557, Statutes of 2019, also known as the Fair And Inclusive Redistricting for Municipalities And Political Subdivisions (FAIR MAPS) Act, revised and standardized the criteria and process to be used by counties and cities when they adjust the boundaries of the electoral districts that are used to elect members of the jurisdictions' governing bodies. AB 849 also required counties and cities to comply with substantial public hearing and outreach requirements as part of the process for adjusting the boundaries of electoral districts.

Among other provisions, AB 849 required counties and cities to hold public hearings related to redistricting at a fixed time, even when those hearings are consolidated with a regular or special meeting that includes other substantive items. This bill seeks to make an identical requirement applicable to public hearings that are held when a local jurisdiction changes from at-large to district-based elections.

- 4) **Related Legislation.** AB 34 (Valencia) creates a Citizens Redistricting Commission in the County of Orange. AB 34 is pending in the Elections Committee.

AB 764 (Bryan) makes numerous changes to the FAIR MAPS Act. AB 764 is pending in the Elections Committee.

AB 1248 (Bryan) requires a county, general law city, charter city, school district, or community college district that contains over 300,000 residents to establish an independent redistricting commission to adopt district boundaries after each federal decennial census. AB 1248 is pending in the Elections Committee.

SB 52 (Durazo) requires an independent redistricting commission for charter cities with a population of at least 2.5 million people to adjust the district boundaries for the city council,

as specified. SB 52 is pending in Senate Elections and Constitutional Amendments Committee.

SB 314 (Ashby) creates a Citizens Redistricting Commission in the County of Sacramento. SB 314 is pending in the Senate Governance and Finance Committee.

- 5) **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. 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.

AB 350 (Alejo), Chapter 737, Statutes of 2016, required, among other things, a political subdivision that changes to, or establishes, district-based elections to hold public hearings before and after drawing a preliminary map or maps of the proposed district boundaries.

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.

AB 1441 (Campos), Chapter 873, Statutes of 2014, required political subdivisions that change from an at-large method of election to a district-based election to hold public hearings, and required special districts to hold a public hearing before adjusting the boundaries of a division.

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.

- 6) **Arguments in Support.** ACLU California Action and Asian Americans Advancing Justice – Asian Law Caucus, sponsors of this bill, write, “Many political subdivisions choose to transition to district-based elections in order to ensure every voter has an equal opportunity to participate in the political process and to avoid liability under the CVRA. The Legislature has time and again recognized that to draw a fair and equitable district map that best reflects the community and also remedies any vote dilution, a political subdivision needs to collect detailed testimony from as many residents as possible on communities of interest and neighborhoods in the jurisdiction. For this reason, a number of bills have modernized and improved upon the CVRA and the state's local redistricting laws.

“AB 350 (Alejo 2016), for example, requires that a political subdivision that transitions from an at-large election system to district-based elections follow public posting requirements and hold a series of hearings to elicit public input on the composition of districts. AB 849 (Bonta 2019), known as the FAIR MAPS Act, includes certain common-sense outreach and education requirements that do not yet apply to CVRA transition processes. Particularly relevant here, to encourage community members to attend public hearings and to ensure they are able to provide public comment, the FAIR MAPS Act requires that redistricting hearings that are combined with regular meetings of the political subdivisions begin at a time certain.

“This past redistricting cycle, the FAIR MAPS Act's time-certain requirement had a positive impact on mobilizing communities to participate in their local redistricting processes. The recently released The Promise of Fair Maps report references ‘several organizational stakeholders [who] credited this requirement as boosting participation,’ including one stakeholder who shared: ‘Time-certain hearings helped with engagement and prevented

redistricting from getting buried in some agenda when you don't know when it will be taken up.'

“Requiring CVRA hearings to begin at a time certain furthers democratic best practices and is in alignment with other voting rights measures. AB 453 will help improve public engagement in districting processes by requiring that CVRA transition hearings follow the democratic best practice of beginning at a time certain.” (Citations omitted)

7) **Arguments in Opposition.** None on file.

8) **Double-Referral.** This bill is double-referred to the Assembly Elections Committee, where it passed on a 8-0 vote on March 15, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action [CO-SPONSOR]

Asian Americans Advancing Justice - Asian Law Caucus [CO-SPONSOR]

Election Integrity Project California

League of Women Voters of California

Opposition

None on file

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