

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 314 (Ashby) – As Amended June 27, 2023

SENATE VOTE: 32-7

SUBJECT: County of Sacramento Redistricting Commission.

SUMMARY: Creates a Citizens Redistricting Commission (Commission) in Sacramento County. 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 two alternates, and to be created no later than December 31 in each year ending in the number zero. Alternates may fully participate in Commission deliberation but shall not vote and shall not be counted towards the establishment of a quorum. Alternates are subject to the same terms of office, qualifications, restrictions, and standards of conduct as other commissioners.
- 3) 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 resident of the County of Sacramento.
 - b) Be a voter who has been continuously registered in Sacramento County for five or more years immediately preceding the date of their appointment to the Commission.
 - c) Have voted in at least one of the last three statewide elections immediately preceding the person's application.
 - d) Possess experience that demonstrates analytical skills relevant to redistricting and voting rights, and possess an ability to comprehend and apply applicable legal requirements.
 - e) 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.
 - f) Possess experience that demonstrates an ability to be impartial.

- g) 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, has done any of the following in the 10 years immediately preceding the person's application:
 - a) Been appointed or elected to, or have been 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 of, or paid consultant for, 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.
 - d) Been a registered federal, state, or local lobbyist.
 - 6) Requires the county executive to review commissioner applications and eliminate applicants who do not meet the qualifications. Requires the county executive to select 60 of the most qualified applicants and to publicize their names for at least 30 days. Permits the county executive, during this period, to eliminate any applicant if the executive becomes aware that the applicant does not meet the qualifications. Requires the county executive to create a subpool for each of the five existing supervisorial districts. Prohibits the county executive 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 executive 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.
 - 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) Provides that a member of an independent redistricting commission established pursuant to this bill shall not communicate with any individual or organization regarding redistricting matters outside of a public meeting. This provision does not do either of the following:
 - a) Restrict the Commission from communicating with the staff of the legislative body of the local jurisdiction regarding administrative matters of the Commission.
 - b) Restrict a commissioner from directly communicating with another commissioner, Commission staff, legal counsel, or consultants retained by the Commission.
- 15) 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.
 - 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.
- 16) 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.
- 17) Requires the Commission to comply with the Ralph M. Brown Act (the state's open meetings law).

- 18) 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.
- 19) 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.
 - b) Conduct at least two public hearings to take place over a period of no fewer than 30 days.
- 20) 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.
- 21) 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.
- 22) 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.
 - 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.
- 23) 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.
- 24) 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 redistricting plan is subject to referendum.
- 25) 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.
- 26) 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.

- 27) 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), the Congress, the Legislature, or any individual legislator.
 - c) Registering as a federal, state, or local lobbyist in the state.
- 28) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Sacramento County.
- 29) 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) 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) **Bill Summary and Author's Statement.** This bill creates a Commission in Sacramento County and requires the Commission to adjust the boundaries of the county's supervisorial districts after every decennial census. The bill establishes the composition of the Commission, requires at least one member to reside in each of the supervisorial districts, and further specifies the qualifications of Commission members.

This 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.

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."

This bill is sponsored by the author.

- 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) **Related Legislation.** AB 34 (Valencia) creates a Citizens Redistricting Commission in Orange County. AB 34 is pending in the Senate Governance & Finance Committee.

AB 1248 (Bryan) 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 IRC to adopt district boundaries after each federal decennial census. AB 1248 is pending in the Senate Governance & Finance Committee.

AB 764 (Bryan) 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 is pending in the Senate Governance & Finance Committee.

SB 52 (Durazo) requires charter cities with a population of at least 2.5 million people to create an independent redistricting commission. SB 52 is pending in this committee.

- 7) **Arguments in Support.** California Common Cause writes, “In the 2020 local redistricting cycle, Sacramento County’s redistricting was conducted by the Sacramento County Board of Supervisors (BOS), in contrast to the IRC used by the City of Sacramento. By the end of the redistricting process, local communities expressed frustration at the BOS for not responding to community testimony and feedback. For instance, local communities submitted significant public testimony asking for the Asian American Pacific Islander communities in the Elk Grove, Florin, and Vineyard areas to be kept together in one district to not divide their voting power. These communities were ultimately split by the BOS into multiple districts in the final map.

“We commend Senator Ashby for expanding the use of independent redistricting commissions in California. They are proven to be the best practice for high-integrity, highly participatory redistricting. We also want to express our appreciation to the author for their collaborative dialogue with us in response to our suggestions to improve this legislation. Remaining suggestions, which have not yet been incorporated into SB 314, include better alignment with the FAIR MAPS Act, better alignment with existing commissioner qualifications and post-service restrictions in Election Code 23003, and eliminating the unnecessarily restrictive qualification for redistricting consultants in order to let jurisdictions which have not been proven to serve to public interest. However, even without these changes, SB 314 will greatly improve the redistricting process for Sacramento County residents.

“SB 314 will help ensure a redistricting process in Sacramento County that maximizes transparency, fairness, and participation, and respects communities over incumbent politicians. For these reasons, California Common Cause supports SB 314.”

- 8) **Arguments in Opposition.** Richard Markuson of the Pacific Advocacy Group writes, “As a registered lobbyist and constituent, I write in opposition to your Senate Bill 314 that creates the Citizens’ Redistricting Commission of Sacramento County, and tasks it with adjusting the boundary lines of Sacramento County’s supervisorial districts.

“Your bill 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) **Double Referral.** This bill was double-referred to the Assembly Elections Committee, where it passed on a 6-2 vote on June 21, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

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

Opposition

Richard Markuson, Pacific Advocacy Group

Concerns

County of Sacramento

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958