

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 52 (Durazo) – As Amended July 6, 2023

**SENATE VOTE:** 32-7

**SUBJECT:** Redistricting: large charter cities.

**SUMMARY:** Requires a charter city with a population of at least 2.5 million people to establish an independent redistricting commission (IRC) to adopt district boundaries after each federal decennial census. Specifically, **this bill:**

- 1) Requires a charter city with a population of at least 2.5 million people on July 1 of a year ending in the number nine, and which does not provide for an IRC in its city charter, to establish an IRC no later than December 31 in the year ending in the number zero, in accordance with the following requirements:
  - a) Requires the city to recruit eligible residents to apply to serve on the IRC, with the assistance of civic and community groups, as specified.
  - b) Requires the IRC to consist of 21 members and two alternates. Requires at least one commissioner to reside in each of the existing city council districts. Permits alternates to fully participate in IRC deliberations.
  - c) Requires each commissioner to meet all of the following qualifications:
    - i) Be a resident of the city.
    - ii) Possess a history of civic engagement and participation.
    - iii) Possess experience that demonstrates analytical skills relevant to redistricting and voting rights, and possess an ability to comprehend and apply applicable legal requirements.
    - iv) Possess experience that demonstrates an ability to be impartial.
    - v) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the local jurisdiction.
  - d) Prohibits a person from being appointed to serve on the IRC if the person or any immediate family member of the person has been elected or appointed to, or been a candidate for, an elective city office in the eight years preceding the person's application.
  - e) Prohibits a person from being appointed to the IRC if either of the following applies:
    - i) The person or the person's spouse has done any of the following in the eight years preceding the person's application:

- (1) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective city office.
  - (2) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.
  - (3) Served as a staff member or a consultant to, or who has contracted with, a currently serving elected city officer.
  - (4) Been registered to lobby the city.
  - (5) Contributed \$500 or more in a year to any candidate for an elective city office. Permits the city council to adjust this amount for inflation, as specified.
- ii) An immediate family member of the person, other than the person's spouse, has done any of the following in the four years preceding the person's application:
- (1) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective city office.
  - (2) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.
  - (3) Served as a staff member of or consultant to, or has contracted with, a currently serving elected city officer.
  - (4) Been registered to lobby the city.
  - (5) Contributed \$500 or more in a year to any candidate for an elective city office. Permits the city council to adjust this amount for inflation, as specified.
- f) Permits an interested person meeting the qualifications to apply to the selection entity to be considered for membership on the IRC. Requires the selection entity to review the applications and eliminate applicants who are not eligible to be appointed to the commission for the reasons outlined above.
- g) Requires the selection entity to make public the qualified number of applicants and provide aggregate demographic data about those applicants. Requires the selection entity to reopen the application period and conduct additional outreach if the pool does not have a sufficient number of applicants or does not represent the city's diversity.
- h) Requires the selection entity to select 60 of the most qualified applicants, as specified, and to make their names public for at least 30 days. Requires the commissioners to be chosen from this screened pool of 60 applicants.
- i) Requires the city controller to conduct a random drawing from the pool of qualified applicants to select 15 commissioners, and provides that not more than one commissioner

shall be chosen from each of the existing city council districts as part of this random drawing.

- j) Requires the randomly selected commissioners to review the remaining applicants and to appoint additional applicants to the IRC until all remaining positions on the IRC are filled, including the two alternate commissioners. Requires the appointees to be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the IRC reflects the jurisdiction's diversity, as specified.
- k) Requires the city council to prescribe the selection entity according to the following order of priority:
  - i) The city's ethics commission, if one exists.
  - ii) The city clerk, if the office is not an elective office.
  - iii) A panel of three retired judges appointed by the chief judge of the superior court of the county in which the city is located.
  - iv) The Auditor-Controller of the county in which the city is located.
- l) Requires a member of the IRC to apply the law in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.
- m) Provides that 14 members of the IRC constitute a quorum, and 14 or more affirmative votes are required for any official action.
- n) Permits the IRC to remove one of its members in the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office. Requires 14 votes to remove a member, and requires that a member be served a written notice and provided an opportunity to respond before being removed.
- o) Requires the IRC to select one alternate commissioner to fill any vacancy on the IRC. If no alternate exists, requires the IRC to fill the vacancy from the pool of qualified applicants within 30 days after the vacancy occurs.
- p) Requires a person who would not be qualified as an applicant to the IRC, as described above, to disclose that fact to the IRC prior to being retained as a consultant to the IRC. Gives the IRC the discretion to retain such a person as a consultant if the IRC determines that the benefits outweigh any concerns about potential conflicts of interest.
- q) Requires each commissioner to be a designated employee for purposes of the conflict of interest code adopted by the city. Provides that the IRC is subject to the Ralph M. Brown Act (the state's open meetings law) and the California Public Records Act.
- r) Requires the IRC to issue, with its final map, a report that explains the basis on which it made its decisions in achieving compliance with the redistricting criteria.

- s) Prohibits district boundaries adopted by the IRC from being altered by the city council or the IRC until after the next federal decennial census occurs, unless those boundaries have been invalidated by a final judgment or order of a court of competent jurisdiction, or as may be necessary to account for changes to the city's territory, including changes through annexation or consolidation.
- t) Prohibits a member of the IRC from communicating with any individual or organization regarding redistricting matters outside of a public meeting, except for communications with city staff regarding administrative matters of the IRC, and communications with another commissioner, staff, legal counsel, or consultants retained by the IRC.
- u) Requires that members of the IRC receive a stipend, in an amount determined by the city, for each day in which they attend a meeting of the IRC or a committee or subcommittee of the IRC, as specified.
- v) Requires the city to ensure that a redistricting database is available and that procedures are in place to provide the public with access to redistricting data and computer software. Requires the city to provide reasonable funding and staffing of the IRC.
- w) Requires the IRC to be subject to the same redistricting procedures and criteria, and the same requirements for the minimum number of public redistricting hearings, which would otherwise apply to the city.
- x) Prohibits a member of the IRC from doing any of the following:
  - i) While serving on the IRC, endorsing, working for, volunteering for, or making a campaign contribution to, a candidate for an elective office of the city.
  - ii) Being a candidate for an elective office of the city if either of the following is true:
    - (1) Less than five years has elapsed since the date of the member's appointment to the IRC.
    - (2) The election for that office will be conducted using district boundaries that were adopted by the IRC commission on which the member served, as specified.
  - iii) For four years commencing with the date of the person's appointment to the IRC:
    - (1) Accepting employment as a staff member of, or consultant to, an elected official or candidate for elective office of the city.
    - (2) Receiving a noncompetitively bid contract with the city.
    - (3) Registering as a lobbyist for the city.
  - iv) For two years commencing with the date of the person's appointment to the IRC, accepting an appointment to a city office.

- 2) Provides that this bill shall become operative only if AB 1248 (Bryan) of the current legislative session is enacted and becomes effective on or before January 1, 2024.
- 3) Makes various findings and declarations regarding its purpose.
- 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) Requires the city council of each city that elects its council using district-based elections, following each federal decennial census, to adopt boundaries for all of the council districts of the city so that the districts are substantially equal in population as required by the United States Constitution, as specified. (Elections Code §§21600-21609, 21620-21630)
- 2) Authorizes a local jurisdiction, including a city, 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) Permits a county or city to provide for its own governance through the adoption of a charter by a majority vote of its electors voting on the question. (California Constitution, Article XI, §3)
- 4) Permits a city charter to provide for the conduct of city elections. Grants plenary authority, subject to limited restrictions, for a city's charter to provide for the manner in which, the times at which, and the method by which municipal officers are elected. Provides that a legally adopted city charter supersedes all laws inconsistent with that charter with respect to municipal affairs. (California Constitution, Article XI, §5)
- 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 impacted cities 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, such a city 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) **Author's Statement.** According to the author, "SB 52 will require cities with a population of 2.5 million or more to establish an independent redistricting commission to draw the district lines for its city council to ensure a transparent and fair redistricting process. This bill is following in the trend of independent citizens redistricting commissions already determining district lines for federal, state, and local elected officials including Los Angeles County.

“The state has taken an increased interest in the adoption of independent redistricting commissions for cities with larger populations, based on how these local entities serve as local stewards, with these local governing bodies overseeing the distribution of significant amounts of public resources to finance critical services such as housing/homelessness, and utility relief. The most glaring example of this statewide concern is found with the Los Angeles City Council following the release of 2021 troubling recorded discussions regarding the local redistricting process. This example showed the council was not prioritizing their residents’ wellbeing, eroding public confidence in the existing LA City redistricting process and jeopardizing how public resources are distributed.

“Although some cities are governed by a local charter which grants certain governing independent from state intrusion, legal precedent also grants the state the ability for the state to legislate on local matters when extraordinary circumstances deem it a matter of statewide concern. According to a leading constitutional scholar, UC Berkeley Law School Dean Erwin Chemerinsky, case law references the Legislature can legislate such local matters if deemed a statewide concern, the statute pursued is not overbroad, and the state pursuit to remedy the concern is tailored to enactment. California Fed. Savings, supra, 54 Cal.3d at 17.

“SB 52 provides a carefully tailored remedy to require an independent redistricting commission. The bill also allows cities to establish an independent redistricting commission within their charter. SB 52 will remedy the statewide concern that a transparent, fair and unbiased redistricting process be carried out for the public good that best captures equitable representation of the city and for those public resources to be fairly distributed. Establishing an independent commission will also help mend the relationship between the community and its government.”

- 2) **Bill Summary.** This bill requires a charter city with a population of at least 2.5 million people that has a charter that does not establish an IRC to establish an IRC pursuant to the bill’s requirements. The IRC shall adopt boundaries for the city council districts until the city amends its charter to establish an IRC whose members are not directly appointed by the city council or an elected official of the city.

This bill specifies that the selection process for the members of the IRC is designed to produce a commission that is independent from the influence of the city council and reasonably representative of the city’s diversity. The city must recruit eligible residents to apply to serve on the commission, and must request the assistance of neighborhood associations, community groups, civic organizations, and civil rights organizations to encourage eligible residents to apply to serve on the commission in a manner that promotes a qualified commissioner applicant pool that is large and reflective of the diversity of the city.

This bill requires the legislative body of the city to prescribe the selection entity used to appoint members to the commission according to the following order of priority:

- a) The city’s ethics commission, if one exists.
- b) The city clerk, if the office is not an elective office.
- c) A panel of three retired judges appointed by the chief judge of the superior court of the county in which the city is located.

d) The Auditor-Controller of the county in which the city is located.

This bill prohibits district boundaries adopted by the commission from being altered by the city council or the commission until after the next federal decennial census occurs, with specified exceptions. The bill establishes the composition of the commission and qualifications for commissioners. It also outlines the selection process for commission members and specifies their terms and their conduct, including numerous prohibited activities to avoid conflicts of interest.

This bill is sponsored by the author.

- 3) **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.
- 4) **Affected Cities.** With 3.8 million residents, the City of Los Angeles is the only city currently subject to SB 52’s requirements for cities with at least 2.5 million residents. The next largest charter city is San Diego, with 1.3 million residents. In light of this information, the City of Los Angeles is the only jurisdiction likely to be affected by this bill for the foreseeable future.
- 5) **Los Angeles City Charter.** The City of Los Angeles is a charter city. Section 204 of the city charter outlines redistricting procedures, and provides for the creation of a redistricting commission to advise the City Council on the drawing of Council district lines. The ultimate authority to adopt lines, however, rests with the Council.

The advisory redistricting commission comprises 21 members – three appointed by the Mayor, two by the City Council President, one by the City Attorney, one by the Controller, and one by each of the 14 Council Members other than the Council President. While the commission is tasked with receiving public input and presenting a proposal for redistricting to the Council, the Council is not required to adopt or even consider the proposal adopted by the commission. Pursuant to Section 2.22 of the city’s Administrative Code, redistricting commissioners are required to publicly disclose any ex parte communications that they have with an elected City officer, or member of any elected City officer's staff, regarding a matter pending before the Commission. However, such ex parte communications are not prohibited.

- 6) **Charter City Autonomy.** The California Constitution gives cities and counties the ability to adopt charters, which give those jurisdictions greater autonomy over local affairs. In particular, the Constitution gives a great deal of autonomy to charter cities over the rules governing the election of municipal officers, granting "plenary authority," subject to limited restrictions, for a city charter to provide "the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees...shall be elected or appointed." The Constitution further provides that properly adopted city charters "shall supersede all laws inconsistent" with the charter.

Notwithstanding the authority granted to charter cities with respect to municipal affairs, California courts have found that a charter city's authority over municipal affairs is not absolute. In determining whether a state law that affects municipal affairs may be made applicable to charter cities, the Supreme Court generally has held that a state law can be made applicable in charter cities only if the state law addresses a matter of statewide concern, is reasonably related to resolving the statewide concern, and is narrowly tailored to avoid unnecessary interference with municipal affairs. *State Building and Construction Trades Council of California v. City of Vista* (2012) 54 Cal.4th 547.

In a legal opinion issued to the author of this bill on April 24, 2023, the Office of Legislative Counsel concluded that “it is our opinion that a state statute may impose limitations and restrictions on a charter city with respect to redistricting if it is narrowly tailored to address a matter of statewide concern.” The opinion went on to say “it is our view that a court would likely, on balance, uphold the constitutionality of SB 52 as applied to the City of Los Angeles.”

While this bill would require the City of Los Angeles to establish an IRC, it does not eliminate the city’s autonomy to determine the makeup and structure of that IRC. Specifically, the specific IRC model outlined in this bill will apply to Los Angeles only if the city does not amend its charter to provide for the creation of an IRC. If the city does amend its charter to provide for an IRC, the city still has the ability to decide the size of the IRC, the manner in which members are appointed to the IRC (provided that commissioners are not directly appointed by local elected officials), and the timeline for the formation of the IRC. The city would also be able to establish additional qualifications for members of the IRC, beyond the qualifications that apply under state law to IRCs more generally.

- 7) **2021 Los Angeles City Redistricting.** According to a report prepared by the Los Angeles City Redistricting Commission at the conclusion of its 2021 redistricting process, the Commission held 21 public hearings prior to adopting the final redistricting plan that it recommended to the City Council. The commission reported that more than 6,300 people participated in its public hearings and special meetings, and more than 1,450 speakers provided testimony. At its meeting on October 21, 2021, the Commission voted 15-6 to approve its final map recommendation to the City Council.

After the Commission approved its final map, the City Council referred it to an Ad Hoc Redistricting Committee of the Council, which approved an amended map that it sent to the full Council. The Council held two public hearings as required by state law, made additional adjustments to the plan, and voted to adopt the ordinance with the final district boundaries on December 7, 2021 by a 13-0 vote.

- 8) **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 Board of Equalization (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.

- 9) **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.

- 10) **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 314 (Ashby) creates a Citizens Redistricting Commission in Sacramento County. SB 314 is pending in this Committee.

11) **Arguments in Support.** The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, writes, “District boundaries for elected officials are drawn based on a population census conducted every ten years. Moreover, state law allows for the creation of independent citizens redistricting commissions to determine and establish district lines for federal, state, and local elected offices. However, a 2021 recorded discussion amongst members of the Los Angeles City Council revealed that the council was not prioritizing the wellbeing of their constituents, resulting in waning public confidence in the current Los Angeles redistricting process.

“Senate Bill 52 would require the City of Los Angeles (and other charter cities with populations over 2.5 million) to establish an independent redistricting commission by 2030. The commission would have as many members as the city council plus nine, and their political affiliations would be proportional to those of the city population. The bill establishes commissioner eligibility restrictions based on recent party switches, recent political activity, and conflicts of interest. This bill includes a basic process for selecting commissioners, guidelines for drawing district lines, a 5-year moratorium from serving in public office, and a 3-year moratorium from an appointed position.

“AFSCME believes that all Californians possess the right to vote in free and fair elections and bills like SB 52 are essential tools in maintaining transparency and trust between the electorate and the legislative body.”

12) **Arguments in Opposition.** The City of Los Angeles writes, “The California State Constitution gives charter cities like Los Angeles authority over their own municipal affairs and elections, which includes establishing how they will conduct redistricting in their jurisdiction. Los Angeles voters approved an amendment to the City Charter in 1999 that established an advisory redistricting commission to develop city district boundaries following each decennial Census. In recent years, the State of California, several counties, and a number of cities have adopted important reforms, turning over responsibility for political map drawing to independent redistricting commissions.

“The City recognizes that our current redistricting process is fundamentally flawed. To restore Angelenos' faith in the City's redistricting process, the time has come for the City to offer voters the chance to consider an alternative redistricting process that establishes an Independent Redistricting Commission in the City Charter. To that end, the Los Angeles City Council has established the Ad Hoc Committee on City Governance Reform, which is tasked with, among other duties, evaluating options for establishing a truly independent redistricting commission, and that analysis is currently underway with full participation of the public.

“Los Angeles voters, who intimately understand the diverse and unique nature of the City, deserve to decide the terms of their own redistricting process, and should not have that right overruled by the State Legislature.”

13) **Double Referral.** This bill was double-referred to the Assembly Elections Committee, where it passed on a 6-1 vote on July 5, 2023.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO  
California Environmental Voters (formerly Clcv)  
Homeboy Industries  
The Restaurant Opportunities Center of Los Angeles

**Support If Amended**

Common CAUSE - California  
League of Women Voters of California

**Opposition**

City of Los Angeles

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