

Senate Bill No. 52

Passed the Senate September 14, 2023

Secretary of the Senate

Passed the Assembly September 13, 2023

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2023, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 3 (commencing with Section 21700) to Chapter 7 of Division 21 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 52, Durazo. Redistricting: large charter cities.

Existing law requires the city council for a charter city that elects its city council using district-based elections to adopt new city council district boundaries following each federal decennial census. Existing law requires the city council to adopt the new boundaries using specified criteria, and by a specified deadline, unless the charter city has adopted different redistricting criteria or a different deadline by ordinance or in its city charter.

This bill would require a charter city with a population of at least 2,500,000 people to establish an independent redistricting commission to adjust the district boundaries for the city council if the city's charter does not establish an independent redistricting commission that meets specified criteria. The bill would require the commission to adjust the boundaries of the city council districts in accordance with specified criteria and deadlines. By increasing the duties on local officials, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for charter cities with a population of at least 2,500,000 people.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Article 3 (commencing with Section 21700) is added to Chapter 7 of Division 21 of the Elections Code, to read:

Article 3. Independent Redistricting Commissions in Large
Charter Cities

21700. The Legislature finds and declares all of the following:

(a) It is in the best interest of the State of California that redistricting for elected officials' districts is done in a transparent and unbiased manner that best accounts for the diversity and best interests of the state's population.

(b) With the passing of Proposition 11 in 2008, California has experienced the continued adoption of independent redistricting commissions to establish elected officials' districts for federal and state elected offices.

(c) The adoption of independent redistricting commissions in California has been in response to an increased need by the public to ensure that ongoing redistricting processes for elected officials' districts is done without the influence of bias or individual interests and upholds the best interests of the community and the critical standards of the federal Voting Rights Act of 1965.

(d) Due to recent developments, the state has taken an increased interest in seeing the adoption of more independent redistricting commissions for local redistricting, including for cities with a large population.

(e) The state's interest in ensuring that cities with a large population adopt an independent redistricting process is principally based on how these local entities serve as immediate stewards for the well-being and prosperity of the communities they represent.

(f) Moreover, cities serve as an agent of the state, overseeing the distribution of public resources to finance critical public services such as housing, homelessness prevention, and utility relief.

(g) In addition, among the most crucial aspects for why the adoption of an independent redistricting commission is necessary is that it contributes significantly to how a city can sustain a longstanding level of trust among the elected officials and the communities that they represent, which not only applies to the

redistricting process, but carries over into the entirety of the roles and responsibilities that the city government carries out for its constituency.

(h) For cities of a certain population, the magnitude of responsibility to uphold the community well-being, effectively oversee the distribution of resources, and sustain general public trust is elevated to a high degree.

(i) Recent developments and revelations regarding the redistricting process for the Los Angeles City Council serve as example of the aforementioned issues. The people of the City of Los Angeles have lost confidence in the existing redistricting process overseen by the Los Angeles City Council, which has had continuous, serious, reverberating impacts on the ability of the city council to serve the community at large.

(j) The situation with the Los Angeles City Council presents a clear need for an independent redistricting process to be adopted for cities with a large population for the reasons described in this section.

21701. As used in this article, the following terms have the following meanings:

(a) “City council” means the city council of a city required to establish an independent redistricting commission pursuant to Section 21702.

(b) “Commission” means an independent redistricting commission established pursuant to Section 21702.

(c) “Immediate family member” means a spouse, child, in-law, parent, or sibling.

21702. (a) A charter city with a population of at least 2,500,000 people on July 1, 2029, and on July 1 of every subsequent year ending in the number nine, which has a city charter that does not establish an independent redistricting commission that meets the criteria in subdivision (c) and that is responsible for adopting boundaries for all of the council districts of the city, shall establish an independent redistricting commission pursuant to this article.

(b) A commission established pursuant to subdivision (a) shall adopt boundaries for the city council districts pursuant to this article until the charter city amends its city charter to establish an independent redistricting commission that meets the criteria in subdivision (c).

(c) An independent redistricting commission established by a city charter shall satisfy the requirements of this section if it has all of the following characteristics:

(1) Members of the commission are not directly appointed by the city council or an elected official of the city.

(2) Membership on the commission is open to residents of the city through a publicly available application process.

(3) Members of the commission are prohibited from any of the acts listed in Section 21707.

(4) Individuals who apply to serve on the commission are screened through a process that excludes persons with conflicts of interest from the pool of potential commissioners.

(5) Members of the commission are required to meet certain criteria in the map drawing process, including minimizing the division of communities of interest and a ban on drawing maps to favor a political party.

(6) The commission holds public hearings and accepts comments from the public before approving a final map.

(7) The approval of the final redistricting plan requires a majority vote of the members of the commission.

21703. (a) The commission shall be created no later than December 31 in each year ending in the number zero.

(b) (1) The selection process is designed to produce a commission that is independent from the influence of the city council and reasonably representative of the city's diversity.

(2) The city shall recruit eligible residents to apply to serve on the commission. The city shall 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.

(c) (1) The commission shall consist of 21 members and 2 alternates.

(2) Alternates may fully participate in commission deliberations, 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.

(d) Each commission member shall meet all of the following qualifications:

- (1) Be a resident of the city.
- (2) Possess a history of civic engagement and participation.
- (3) 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.
- (4) Possess experience that demonstrates an ability to be impartial.
- (5) Possess experience that demonstrates an appreciation for the diverse demographics and geography of the city.

(e) A person shall not be appointed to serve on the commission 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.

(f) A person shall not be appointed to serve on the commission if either of the following applies:

(1) The person or the person's spouse has done any of the following in the eight years preceding the person's application:

(A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective city office.

(B) 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.

(C) Served as a staff member or a consultant to, or who has contracted with, a currently serving elected city officer.

(D) Been registered to lobby the city.

(E) Contributed five hundred dollars (\$500) or more in a year to any candidate for an elective city office. The city council may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.

(2) 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:

(A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective city office.

(B) 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.

(C) Served as a staff member of or consultant to, or has contracted with, a currently serving elected city officer.

(D) Been registered to lobby the city.

(E) Contributed five hundred dollars (\$500) or more in a year to any candidate for an elective city office. The city council may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.

(g) An interested person meeting the qualifications specified in subdivision (d) may submit an application to the selection entity to be considered for membership on the commission. The selection entity shall review the applications and eliminate applicants who are not eligible to be appointed to the commission pursuant to subdivision (e) or (f).

(h) (1) The selection entity shall make public the number of qualified applicants and provide the demographic data of the qualified applicants by aggregated percentages.

(2) If the pool of applicants does not have a sufficient number of qualified applicants, or sufficiently represent the city's local diversity, as determined by the selection entity, the selection entity shall reopen the application period for at least 30 days and conduct additional outreach.

(3) From the pool of qualified applicants, the selection entity shall select 60 of the most qualified applicants, taking into account the requirements described in subdivision (d). The selection entity shall make public the names of the 60 most qualified applicants for at least 30 days. The selection entity shall not communicate with a member of the city council, or an agent for a member of the city council, about any matter related to the nomination process or applicants before the publication of the list of the 60 most qualified applicants.

(4) During the period described in paragraph (2) or (3), the selection entity may eliminate any of the previously selected applicants if the selection entity becomes aware that the applicant does not meet the qualifications specified in subdivision (d).

(i) (1) At a regularly scheduled meeting of the city council, the city controller shall conduct a random drawing from the pool of

qualified applicants to select 15 commissioners. Of the 15 commissioners selected as part of this process, not more than one commissioner shall reside in each of the existing city council districts. If an applicant whose name is drawn resides in the same existing city council district as a person whose name has already been drawn as part of the random drawing, that applicant shall not be seated as a commissioner pursuant to this paragraph, and another name shall be drawn from the pool. An applicant whose name is drawn but who is not seated as a commissioner pursuant to this paragraph is eligible to be appointed to the commission pursuant to paragraph (2).

(2) (A) The commissioners selected pursuant to paragraph (1) shall review the applicants and shall appoint additional commissioners and alternates to create a commission with 21 members and 2 alternates. The six appointees and two alternates shall be approved by at least eight affirmative votes of the 15 selected commissioners.

(B) Commissioners and alternates appointed pursuant to this paragraph shall be chosen based on relevant experience, analytical skills, and ability to be impartial, and to ensure that the commission reflects the city's diversity, including racial, ethnic, geographic, and gender diversity. However, formulas or specific ratios shall not be applied for this purpose.

21704. The legislative body of the city shall prescribe the selection entity used to appoint members to the commission according to the following order of priority:

- (1) The city's ethics commission, if one exists.
- (2) The city clerk, if the office is not an elective office.
- (3) A panel of three retired judges appointed by the chief judge of the superior court of the county in which the city is located.
- (4) The Auditor-Controller of the county in which the city is located.

21705. (a) A commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.

(b) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(c) Fourteen members of the commission shall constitute a quorum. Any official action shall require affirmative votes by 14 members of the commission.

(d) (1) The commission may 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. Removal shall require 14 or more affirmative votes from the other members, after the member was served written notice and provided an opportunity to respond.

(2) In the case of a vacancy in the commission that occurs prior to the applicable redistricting deadline, the commission shall select one alternate commissioner to fill the vacancy as a voting member. If no alternate exists, the vacancy shall be filled by the commission from the pool of qualified applicants within 30 days after the vacancy occurs.

(e) (1) A person who would not be qualified as an applicant pursuant to subdivision (e) or (f) of Section 21703 shall disclose that fact to the commission prior to being retained as a consultant to the commission. The commission shall have the discretion to retain such a person as a consultant if the commission determines that the benefits outweigh any concerns about potential conflicts of interest.

(2) A consultant retained by the commission shall have experience in California election law.

(3) For purposes of this subdivision, “consultant” means a person, whether or not compensated, retained to advise the commission or a commission member regarding any aspect of the redistricting process.

(f) Each commission member shall be a designated employee for purposes of the conflict of interest code adopted by the city pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code.

(g) (1) The commission is subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) The commission shall provide opportunity for public comment at hearings to be made in person and remotely.

(3) (A) The commission shall provide live translation of its hearings in Spanish.

(B) The commission shall arrange for the live translation of a hearings in an applicable language if a request for translation is made at least 24 hours before the meeting.

(C) For purposes of this paragraph, an “applicable language” means a language for which the number of residents of the city who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the city.

(h) The commission is subject to the same redistricting deadlines, requirements, procedures, criteria, and restrictions that would otherwise apply to a city council.

(i) The commission shall issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the redistricting criteria.

(j) District boundaries adopted by the commission shall not be altered by the city council or the commission 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.

21706. (a) (1) A member of the commission shall not communicate with any individual or organization regarding redistricting matters outside of a public meeting. This subdivision does not restrict the commission from communicating with the staff of the city regarding administrative matters of the commission.

(2) This subdivision does not restrict a commissioner from directly communicating with another commissioner, commission staff, legal counsel, or consultants retained by the commission.

(b) A member of the commission shall receive a stipend, in an amount to be determined by the city, for each day in which they attend any meeting of the commission or any meeting of a committee or subcommittee of the commission, of which committee or subcommittee they are a member and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission.

(c) The city council shall 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 to the

public ready access to redistricting data and computer software equivalent to what is available to the commission members.

(d) The city council shall provide for reasonable funding and staffing for the commission.

21707. A member of the commission shall not do any of the following:

(a) While serving on the commission, endorse, work for, volunteer for, or make a campaign contribution to, a candidate for an elective office of the city.

(b) Be 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 commission.

(2) The election for that office will be conducted using district boundaries that were adopted by the commission on which the member served, and those district boundaries have not been subsequently readopted by a commission after the end of the member's term on the commission.

(c) For four years commencing with the date of the person's appointment to the commission:

(1) Accept employment as a staff member of, or consultant to, an elected official or candidate for elective office of the city.

(2) Receive a noncompetitively bid contract with the city.

(3) Register as a lobbyist for the city.

(d) For two years commencing with the date of the person's appointment to the commission, accept an appointment to a city office.

SEC. 2. This act shall become operative only if Assembly Bill 1248 of the 2023–24 Regular Session is enacted and becomes effective on or before January 1, 2024.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances involved in redistricting for a charter city with a population of at least 2,500,000 people.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2023

Governor