

AMENDED IN SENATE APRIL 12, 2012

AMENDED IN SENATE MARCH 20, 2012

SENATE BILL

No. 1096

**Introduced by Committee on Elections and Constitutional
Amendments (Senators Correa (Chair), De León, Gaines,
La Malfa, and Lieu)**

February 16, 2012

An act to amend Sections 8251, 8252, 8252.5, 8253, and 8253.6 of the Government Code, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1096, as amended, Committee on Elections and Constitutional Amendments. Citizens Redistricting Commission.

Under existing law, the Voters FIRST Act and the Voters FIRST Act for Congress, the Citizens Redistricting Commission is charged with various duties and responsibilities in connection with redistricting Assembly, Senate, Board of Equalization, and congressional districts. Existing law requires the Citizens Redistricting Commission to hire commission staff, legal counsel, and consultants, as needed, and requires the Secretary of State to provide support functions to the Citizens Redistricting Commission until its staff and office are fully functional.

This bill would, instead, require the State Auditor to provide support functions to the Citizens Redistricting Commission until its staff and office are fully functional.

Existing law requires the Governor to include in the Governor's Budget submitted to the Legislature amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of State that are sufficient to meet the estimated expenses of each of those

officers or entities in implementing the redistricting process, and requires the Legislature to make the necessary appropriation in the Budget Act.

This bill would delete the requirement that the Governor's Budget include amounts of funding for the Secretary of State in connection with the redistricting process.

Existing law requires the State Auditor to initiate a process by which members of the commission are selected, including requirements that applicants be screened by an Applicant Review Panel comprised of 3 qualified independent auditors, as defined, and that the State Auditor and Applicant Review Panel meet prescribed deadlines in selecting members of the commission.

This bill would revise the prescribed deadlines to provide additional time to select commission members. The bill would redefine the term "qualified independent auditor" to mean only auditors who are employed by the Bureau of State Audits and who have been practicing independent auditors for at least 10 years, thereby limiting membership on the Applicant Review Panel to auditors who are employed by the Bureau of State Audits.

Existing law requires that a vacancy on the commission be filled within 30 days from a specified pool of applicants.

This bill would require that the commission fill a vacancy within 30 days from the specified pool of applicants if the vacancy occurs prior to December 31 of a year ending in 2, but within 90 days if the vacancy occurs on or after December 31 of a year ending in 2.

Existing law requires the commission to take public comment for at least 14 days from the date that any map is publicly displayed.

This bill would require the commission to publicly display the first preliminary statewide maps for specified offices no later than July 1 of a year ending in 1, and would prohibit the public display of any other map during the 14 days of public comment for those maps. This bill would require subsequent preliminary statewide maps to be subject to public comment for at least 7 days, and the final statewide maps to be subject to public comment for 3 days.

The Voters FIRST Act, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements, *including that the bill containing amendments to the act's provisions be in print for 10 days and that the Legislature not enact amendments to the act's provisions in a year ending in 0 or 1.*

This bill would require that a bill be in print for at least 12 days and additionally prohibit the Legislature from amending the act in a year ending in 9.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 8251 of the Government Code is amended
2 to read:

3 8251. Citizens Redistricting Commission General Provisions.

4 (a) This chapter implements Article XXI of the California
5 Constitution by establishing the process for the selection and
6 governance of the Citizens Redistricting Commission.

7 (b) For purposes of this chapter, the following terms are defined:

8 (1) "Commission" means the Citizens Redistricting Commission.

9 (2) "Day" means a calendar day, except that if the final day of
10 a period within which an act is to be performed is a Saturday,
11 Sunday, or holiday, the period is extended to the next day that is
12 not a Saturday, Sunday, or holiday.

13 (3) "Panel" means the Applicant Review Panel.

14 (4) "Qualified independent auditor" means an auditor who is
15 currently ~~licensed by the California Board of Accountancy~~
16 employed by the Bureau of State Audits and has been a practicing
17 independent auditor for at least 10 years prior to appointment to
18 the Applicant Review Panel.

19 (c) The Legislature may not amend this chapter unless all of the
20 following are met:

21 (1) By the same vote required for the adoption of the final set
22 of maps, the commission recommends amendments to this chapter
23 to carry out its purpose and intent.

24 (2) The exact language of the amendments provided by the
25 commission is enacted as a statute approved by a two-thirds vote
26 of each house of the Legislature and signed by the Governor.

27 (3) The bill containing the amendments provided by the
28 commission is in print for ~~10~~ at least 12 days before final passage
29 by the Legislature.

30 (4) The amendments further the purposes of this act.

(5) The amendments may not be passed by the Legislature in a year ending in 9, 0, or 1.

SEC. 2. Section 8252 of the Government Code is amended to read:

8252. Citizens Redistricting Commission Selection Process.

(a) (1) ~~By January 1 in 2010, and in each year ending in the number zero thereafter~~ *August 15 in each year ending in the number nine*, the State Auditor shall initiate an application process, open to all registered California voters in a manner that promotes a diverse and qualified applicant pool.

(2) The State Auditor shall remove from the applicant pool individuals with conflicts of interest including:

(A) Within the 10 years immediately preceding the date of application, neither the applicant, nor a member of his or her immediate family, may have done any of the following:

(i) Been appointed to, elected to, or have been a candidate for federal or state office.

(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.

(iii) Served as an elected or appointed member of a political party central committee.

(iv) Been a registered federal, state, or local lobbyist.

(v) Served as paid congressional, legislative, or *State Board of Equalization* staff.

(vi) Contributed two thousand dollars (\$2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.

(B) Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with the Governor, a Member of the Legislature, a member of Congress, or a member of the State Board of Equalization, are not eligible to serve as commission members. As used in this subdivision, a member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in-laws.

(b) The State Auditor shall establish an Applicant Review Panel, consisting of three qualified independent auditors, ~~to screen that~~

1 *is responsible for the screening of the* applicants. The State Auditor
2 shall randomly draw ~~the names of three qualified independent~~
3 ~~auditors~~ from a pool consisting of all *qualified independent* auditors
4 ~~employed by the state and licensed by the California Board of~~
5 ~~Accountancy at the time of the drawing.~~ The State Auditor shall
6 draw until the names of three *qualified independent* auditors have
7 been drawn, including one who is registered with the largest
8 political party in California based on party registration, one who
9 is registered with the second largest political party in California
10 based on party registration, and one who is not registered with
11 either of the two largest political parties in California. After the
12 drawing, the State Auditor shall notify the three qualified
13 independent auditors whose names have been drawn that they have
14 been selected to serve on the panel. If any of the three qualified
15 independent auditors decline to serve on the panel, the State
16 Auditor shall resume the random drawing until three qualified
17 independent auditors who meet the requirements of this subdivision
18 have agreed to serve on the panel. A member of the panel shall be
19 subject to the conflict of interest provisions set forth in paragraph
20 (2) of subdivision (a).

21 (c) Having removed individuals with conflicts of interest from
22 the applicant pool, the State Auditor shall, no later than ~~August 1~~
23 ~~in 2010, and March 15~~ in each year ending in the number zero
24 ~~thereafter~~, publicize the names in the applicant pool and provide
25 copies of their applications to the Applicant Review Panel.

26 (d) From the applicant pool, the Applicant Review Panel shall
27 select 60 of the most qualified applicants, including 20 who are
28 registered with the largest political party in California based on
29 registration, 20 who are registered with the second largest political
30 party in California based on registration, and 20 who are not
31 registered with either of the two largest political parties in
32 California based on registration. These subpools shall be created
33 on the basis of relevant analytical skills, ability to be impartial,
34 and appreciation for California's diverse demographics and
35 geography. The members of the panel shall not communicate with
36 any State Board of Equalization member, Senator, Assembly
37 Member, congressional member, or their representatives, about
38 any matter related to the nomination process or applicants prior to
39 the presentation by the panel of the pool of recommended

1 applicants to the Secretary of the Senate and the Chief Clerk of
2 the Assembly.

3 (e) By ~~October 1 in 2010, and~~ *May 15* in each year ending in
4 the number zero ~~thereafter~~, the Applicant Review Panel shall
5 present its ~~pool~~ *subpools* of recommended applicants to the
6 Secretary of the Senate and the Chief Clerk of the Assembly. No
7 later than ~~November 15 in 2010, and~~ *June 30* in each year ending
8 in the number zero ~~thereafter~~, the President pro Tempore of the
9 Senate, the Minority Floor Leader of the Senate, the Speaker of
10 the Assembly, and the Minority Floor Leader of the Assembly
11 may each strike up to two applicants from each subpool of 20 for
12 a total of eight possible strikes per subpool. After all legislative
13 leaders have exercised their strikes, the Secretary of the Senate
14 and the Chief Clerk of the Assembly shall jointly present the pool
15 of remaining names to the State Auditor.

16 (f) No later than ~~November 20 in 2010, and~~ *July 5* in each year
17 ending in the number zero ~~thereafter~~, the State Auditor shall
18 randomly draw eight names from the remaining pool of applicants
19 as follows: three from the remaining subpool of applicants
20 registered with the largest political party in California based on
21 registration, three from the remaining subpool of applicants
22 registered with the second largest political party in California based
23 on registration, and two from the remaining subpool of applicants
24 who are not registered with either of the two largest political parties
25 in California based on registration. These eight individuals shall
26 serve on the Citizens Redistricting Commission.

27 (g) No later than ~~December 31 in 2010, and~~ *August 15* in each
28 year ending in the number zero ~~thereafter~~, the eight commissioners
29 shall review the remaining names in the ~~pool~~ *subpools* of applicants
30 and appoint six applicants to the commission as follows: two from
31 the remaining subpool of applicants registered with the largest
32 political party in California based on registration, two from the
33 remaining subpool of applicants registered with the second largest
34 political party in California based on registration, and two from
35 the remaining subpool of applicants who are not registered with
36 either of the two largest political parties in California based on
37 registration. The six appointees must be approved by at least five
38 affirmative votes which must include at least two votes of
39 commissioners registered from each of the two largest parties and
40 one vote from a commissioner who is not affiliated with either of

the two largest political parties in California. The six appointees shall be chosen to ensure the commission reflects this state's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.

SEC. 3. Section 8252.5 of the Government Code is amended to read:

8252.5. Citizens Redistricting Commission Vacancy, Removal, Resignation, Absence.

(a) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission may be removed by the Governor with the concurrence of two-thirds of the Members of the Senate after having been served written notice and provided with an opportunity for a response. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the Attorney General for criminal prosecution or the appropriate administrative agency for investigation.

(b) (1) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions *that occurs prior to December 31 of a year ending in the number two* shall be filled by the commission within the 30 days after the vacancy occurs, from the ~~pool~~ subpool of applicants of the same voter registration category as the vacating nominee that was remaining as of ~~November 20~~ July 5 in the year in which that ~~pool~~ subpool was established. ~~If~~

(2) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions *that occurs on or after December 31 of a year ending in the number two* shall be filled by the commission within the 90 days after the vacancy occurs, from the subpool of applicants of the same voter registration category as the vacating nominee that was remaining as of July 5 in the year in which that subpool was established.

(3) If none of those remaining applicants are available for service, the State Auditor shall ~~fill the vacancy from a new pool created~~ establish a new subpool for the same voter registration category in accordance with Section 8252.

1 **SECTION 1.**

2 **SEC. 4.** Section 8253 of the Government Code is amended to
3 read:

4 8253. Citizens Redistricting Commission Miscellaneous
5 Provisions.

6 (a) The activities of the Citizens Redistricting Commission are
7 subject to all of the following:

8 (1) The commission shall comply with the Bagley-Keene Open
9 Meeting Act (Article 9 (commencing with Section 11120) of
10 Chapter 1 of Part 1 of Division 3), or its successor. The commission
11 shall provide not less than 14 days' public notice for each meeting
12 *held for the purpose of receiving public input testimony*, except
13 that meetings held in ~~September~~ *August* in the year ending in the
14 number one may be held with three days' notice.

15 (2) The records of the commission pertaining to redistricting
16 and all data considered by the commission are public records that
17 will be posted in a manner that ensures immediate and widespread
18 public access.

19 (3) Commission members and staff may not communicate with
20 or receive communications about redistricting matters from anyone
21 outside of a public hearing. This paragraph does not prohibit
22 communication between commission members, staff, legal counsel,
23 and consultants retained by the commission that is otherwise
24 permitted by the Bagley-Keene Open Meeting Act or its successor
25 outside of a public hearing.

26 (4) The commission shall select by the voting process prescribed
27 in paragraph (5) of subdivision (c) of Section 2 of Article XXI of
28 the California Constitution one of their members to serve as the
29 chair and one to serve as vice chair. The chair and vice chair shall
30 not be of the same party.

31 (5) The commission shall hire commission staff, legal counsel,
32 and consultants as needed. The commission shall establish clear
33 criteria for the hiring and removal of these individuals,
34 communication protocols, and a code of conduct. The commission
35 shall apply the conflicts of interest listed in paragraph (2) of
36 subdivision (a) of Section 8252 to the hiring of staff to the extent
37 applicable. The State Auditor shall provide support functions to
38 the commission until its staff and office are fully functional. Any
39 individual employed by the commission shall be exempt from the
40 civil service requirements of Article VII of the California

1 Constitution. The commission shall require that at least one of the
2 legal counsel hired by the commission have demonstrated extensive
3 experience and expertise in implementation and enforcement of
4 the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et
5 seq.). The commission shall make hiring, removal, or contracting
6 decisions on staff, legal counsel, and consultants by nine or more
7 affirmative votes including at least three votes of members
8 registered from each of the two largest parties and three votes from
9 members who are not registered with either of the two largest
10 political parties in California.

11 (6) Notwithstanding any other provision of law, no employer
12 shall discharge, threaten to discharge, intimidate, coerce, or retaliate
13 against any employee by reason of that employee's attendance or
14 scheduled attendance at any meeting of the commission.

15 (7) The commission shall establish and implement an open
16 hearing process for public input and deliberation that shall be
17 subject to public notice and promoted through a thorough outreach
18 program to solicit broad public participation in the redistricting
19 public review process. The hearing process shall include hearings
20 to receive public input before the commission draws any maps and
21 hearings following the drawing and display of any commission
22 maps. In addition, hearings shall be supplemented with other
23 activities as appropriate to further increase opportunities for the
24 public to observe and participate in the review process. The
25 commission shall display the maps for public comment in a manner
26 designed to achieve the widest public access reasonably possible.
27 Public comment shall be taken for at least 14 days from the date
28 of public display of ~~any map~~ *the first preliminary statewide maps*
29 *of the congressional, State Senatorial, Assembly, and State Board*
30 *of Equalization districts, which shall be publicly displayed no later*
31 *than July 1 in each year ending in the number one. The commission*
32 *shall not display any other map for public comment during the*
33 *14-day period. The first preliminary statewide maps and all*
34 *subsequent statewide maps shall comply, to the extent practicable,*
35 *with the criteria set forth in subdivision (d) of Section 2 of Article*
36 *XXI of the California Constitution. Public comment shall be taken*
37 *for at least seven days from the date of public display of any*
38 *subsequent preliminary statewide maps and for at least three days*
39 *from the date of public display of any final statewide maps.*

(b) The Legislature 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 the public ready access to redistricting data and computer software for drawing maps. Upon the commission's formation and until its dissolution, the Legislature shall coordinate these efforts with the commission.

~~SEC. 2.~~

SEC. 5. Section 8253.6 of the Government Code is amended to read:

8253.6. Citizens Redistricting Commission Budget, Fiscal Oversight.

(a) In each year ending in nine, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor and the Citizens Redistricting Commission that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three-year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process, *including the solicitation of applicants*. The Governor shall also make adequate office *and meeting* space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three-year period. The appropriation made shall be equal to the greater of three million dollars (\$3,000,000), or the amount expended pursuant to this subdivision in the immediately preceding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision. The Legislature may make additional appropriations in any year in which it determines that the commission requires additional funding in order to fulfill its duties.

(b) The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article VII of the California Constitution, for the purposes of this act, including legal representation.

1 ~~SEC. 3.~~

2 *SEC. 6.* The Legislature finds and declares that this bill furthers
3 the purposes of the Voters FIRST Act within the meaning of
4 paragraph (4) of subdivision (c) of Section 8251 of the Government
5 Code.

O