

Meeting Date: 4/19/2016

Report Type: Staff/Discussion

Report ID: 2016-00437

Title: Independent Redistricting Commission Act

Location: Citywide

Recommendation: Review and provide direction.

Contact: Shirley Concolino, City Clerk, (916) 808-5442, Office of the City Clerk; Matthew Ruyak, Assistant City Attorney, (916) 808-5346, Office of the City Attorney

Presenter: Shirley Concolino, City Clerk, (916) 808-5442, Office of the City Clerk; Matthew Ruyak, Assistant City Attorney, (916) 808-5346, Office of the City Attorney

Department: City Clerk / City Attorney

Division: City Clerk

Dept ID: 04001011

Attachments:

1-Description/Analysis

2-Draft Proposed Ballot Measure

City Attorney Review

Approved as to Form

Matthew Ruyak

4/7/2016 4:23:32 PM

Approvals/Acknowledgements

Department Director or Designee: Shirley Concolino - 4/7/2016 4:06:42 PM

Description/Analysis

Issue Detail: At the November 6, 2014 City Council meeting Mayor Johnson appointed the Good Governance Ad Hoc Committee to evaluate good governance reforms that he felt reflected the input and interest of the community. The Committee included Councilmembers Ashby, Schenirer, Warren and Mayor Johnson. The Mayor asked the Committee to evaluate good governance best practices and make recommendations to the City Council.

On January 6, 2015 the Good Governance Ad Hoc Committee presented to the City Council recommendations on an approach, mapping process and timeline. During June/July 2015, the Ad Hoc Committee held three community meetings to solicit input on ethics and neighborhood engagement.

Following the community meetings, the Good Governance Ad Hoc Committee asked staff to meet with representatives from the League of Women Voters, Common Cause and former FPPC Chief of Enforcement Gary Winuk to get input on the development of final recommendations including a code of ethics. Concurrently, Mayor Johnson asked then Mayor Pro Tem Ashby to bring back a final report of recommendations from the Good Governance Ad Hoc Committee to Council no later than the end of September 2015.

On September 15, 2015 the Ad Hoc Committee presented its findings and recommendations to Council resulting in adoption of the Framework of Recommendations and direction to the City Clerk to work with the City Attorney on the identified items including the establishment of an Independent Redistricting Commission. The direction was to return with language and the appropriate action for Council consideration of a ballot measure for this purpose.

Independent Redistricting Commission -- Framework of Recommendations

Included in this report is the draft ballot measure. The measure incorporates the Council-adopted Framework of Recommendations as noted below. The one change to the adopted framework is a recommendation to place the measure on the November 2016 ballot instead of the November 2018 ballot.

- Support the establishment of an Independent Redistricting Commission
- Commission would have independent authority to redraw council district boundaries
- Model after process used by State of California

- Open application process
- Must meet certain criteria to be eligible(e.g. lived in Sacramento for 10 years, voted in 2/3 of most recent primary elections, cannot run for Council office for 10 years after serving)
- 13 members including one from each Council District plus 2 alternates
- No direct political appointments
- Representative of diversity
- Redistricting criteria and requirements established to guide Commission's effort
- Place a measure on the November 2018 ballot for voters to approve or disapprove the establishment of an Independent Redistricting Commission

Policy Considerations: The recommendations in this report are consistent with the City Council direction to identify opportunities for good governance, improved transparency, compliance and public engagement.

Financial Impacts: To be determined.

Economic Impacts: Not applicable.

Sustainability: Not applicable.

Commission/Committee Action:

Rationale for Recommendation: Receive input and direction to finalize the Act so that it may be forwarded to Council for approval.

Local Business Enterprise (LBE): Not applicable.

Proposed Ballot Measure Establishing the Sacramento Independent Redistricting Commission

Section 1. Title and Purpose.

These charter amendments are titled and may be cited as the "Sacramento Independent Redistricting Commission Act" (hereinafter, the "Act").

Under current law, city councilmembers adopt an ordinance to establish council districts. The purpose of this Act is to establish under the Sacramento City Charter a redistricting commission that is independent of the city council and that has sole authority for establishing council districts. This Act establishes a process for selection of commission member and a process for the commission's adoption of council district maps.

Section 2. Section 22 of the Sacramento City Charter is amended to read as follows:

Districts.

The City is hereby divided into eight council districts, ~~designed First through Eighth Districts~~ *designated Districts 1 through 8*, respectively. Council districts in existence ~~upon~~ *on* the effective date of this Charter amendment shall continue to exist until altered as provided in ~~Section 24 Article XII~~. The ~~Title~~ *title* of the office of each member of the council other than the mayor shall bear the number accorded the council district of such member.

Section 3. Section 23 of the Sacramento City Charter is repealed.

Section 4. Section 24 of the Sacramento City Charter is repealed.

Section 5. Section 25 of the Sacramento City Charter is repealed.

Section 6. Section 27 of the Sacramento City Charter is amended to read as follows:

Qualifications of members.

Each member of the council or candidate ~~therefor therefore~~, other than for the office of mayor, at the date of candidacy and election or appointment, shall be an elector and a resident in such member's council district for not less than 30 days preceding the date of candidacy and election or appointment, as the case may be, and must continue to reside in such council district during the term of office, except that no boundary change under ~~Section 24 or 25 Article XII~~ shall disqualify a member from serving the remainder of the term. The term "elector" means a person who qualifies to vote at either a state election or federal election held in the State of California. "Date of candidacy" ~~shall mean~~ *means* the date of filing nominating papers or equivalent declaration ~~or of candidacy~~.

Section 7. Article XII (“Board of Education”) of the Sacramento City Charter is repealed.

Section 8. Article XII is added to the Sacramento City Charter to read as follows:

Article XII. Redistricting.

§ 170. Sacramento Independent Redistricting Commission.

- (a) The exclusive authority to redraw council district boundaries is vested in the Sacramento Independent Redistricting Commission.
- (b) The commission shall:
 - (1) Be independent of city council control;
 - (2) Conduct an open and transparent process enabling full public consideration of and comment on the drawing of council district boundaries;
 - (3) Comply with the provisions in this article; and
 - (4) Conduct itself with integrity and fairness.

§ 171. Power and Duty of Commission to Adopt Council District Boundary Map.

- (a) Within six months after census-block-level population data from a regular United States decennial census is made available to the public, the commission shall adopt a final map establishing new council district boundaries and a final report explaining its decision. The final map shall include a precise map and written description of the boundaries of each council district. In the final report, the commission shall explain the rationale for the council district boundaries, including, at a minimum, an explanation of how the final map complies with the redistricting requirements and criteria in Section 175 and a reasonable justification for any council district boundary that does not comply with any redistricting criterion.
- (b) A commission-adopted final map has the force and effect of law and is effective immediately upon adoption, unless on the date of adoption there are less than six months until the next primary city election, in which case the final map shall go into effect after that election and any applicable run-off election.
- (c) If the commission does not adopt a final map by the deadline in subsection (a), the city attorney shall immediately petition the superior court for an

order prescribing new council district boundaries in accordance with the redistricting criteria and requirements set forth in Section 175. The boundaries prescribed by the superior court shall be used for all city council elections that take place more than six months from the date of the superior court's order and shall last until a final map is adopted by the commission to replace it.

- (d) The commission shall redraw council district boundaries only once per decade as provided in subsection (a), unless the commission is ordered to do so by a court or if requested by the city clerk to approve an update pursuant to subsection (e).
- (e) Any territory that is annexed, consolidated, or otherwise attached to the city shall be allocated to a council district pursuant to this subsection, effective upon the completion of such annexation, consolidation, or other proceedings. The city clerk shall update the final map accordingly.
 - (1) If the territory's boundary is contiguous to the boundary of not more than one council district, the territory shall be allocated to that council district.
 - (2) If the territory's boundary is contiguous to the boundaries of two or more council districts, the territory shall be allocated to the council district with which it shares the longest boundary.
 - (3) If the territory's boundary is not contiguous with the boundary of any council district, the territory shall be allocated to the closest council district.

§ 172. Commission Organization.

- (a) The commission shall consist of 13 commissioners and 2 alternates. Alternates may fully participate in commission deliberations but may not vote and may 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 under this article.
- (b) The term of office of each commissioner begins on December 1 of a year ending in zero, and expires on January 1 of the next year ending in zero. Sixty days after a final map has been adopted the commission shall cease to meet, unless reconvened by order of a court of competent jurisdiction, or by the city clerk or the city attorney pursuant to the following:
 - (1) The city clerk may reconvene the commission to approve a city clerk update pursuant to Section 171(e).

(2) The city attorney may reconvene the commission to consider settlement options if the final map is legally challenged.

(c) Nine commissioners constitute a quorum. The removal of a commissioner or alternate; the approval of additional redistricting criteria; and the approval of a proposed final map, final map, and final report require the affirmative votes of nine commissioners. All other commission actions require the affirmative vote of a majority of commissioners present.

(d) At its first meeting, the commission shall select one commissioner to serve as chair and one to serve as vice chair of the commission. The commission may designate other officers from its membership, and may establish subcommittees and ad hoc committees.

§ 173. Commissioner Qualifications, Requirements, and Post-Service Restrictions.

(a) Each commissioner must be a registered voter of the city and must either:

- (1) Have voted in two of the last three primary city elections immediately preceding his or her application to be on the commission; or
- (2) Have been a resident of the city for at least ten years immediately preceding his or her application to be on the commission.

(b) The following persons are not eligible to be a commissioner:

- (1) A person who – or whose spouse, registered domestic partner, or child – has contributed, in a single city election cycle in either of the last two city election cycles preceding their date of application to be on the commission, more than 50 percent of the allowable amount for a council candidate.
- (2) A person who – or whose spouse, registered domestic partner, or child – is or has been, within the four years immediately preceding their date of application to be on the commission, any of the following:

(A) A paid employee of the city;

(B) An appointee to a city commission;

(C) A registered city lobbyist, or someone who was required to be a registered city lobbyist; or

(D) A paid employee of any redistricting contractor or consultant.

(3) A person who— or whose spouse, registered domestic partner, parent, sibling, or child – has been, within ten years immediately preceding their date of application to be on the commission, any of the following:

(A) Elected to, or a candidate for, city elective office;

(B) An employee of, or paid consultant or contractor to, a campaign for city elective office;

(C) A paid employee of, a consultant to, or someone under contract with any city elected official; or

(D) A principal officer of an active campaign committee domiciled in the County of Sacramento that has made expenditures on candidate elections for a city elective office.

(c) A commissioner shall be ineligible, for a period of ten years beginning from the date of their appointment, to hold city elective office. A commissioner shall be ineligible, for a period of four years beginning from the date of their appointment, to be appointed to another city commission, to serve as paid staff for or as a paid consultant to any city elected official, to receive a non-competitively bid contract with the city, or to register as a city lobbyist.

§ 174. Commissioner Selection and Removal.

(a) The commissioner selection process is designed to produce a commission that is independent and that reasonably reflects the diversity of the City.

(b) The city clerk shall, no later than February 1, 2020, and by February 1 in each year ending in the number zero thereafter, initiate and widely publicize an application process, open to all city registered voters who meet the requirements of Section 173, in a manner that promotes a qualified commissioner applicant pool that is large and reflective of the diversity of the city. This process shall remain open until May 1, 2020 and in each year ending in the number zero thereafter.

(c) The city clerk shall create an application for prospective commissioners, and seek assistance from a broad range of community-based organizations in its outreach efforts. Applicants shall attest on the application, under penalty of perjury, that the information provided is true.

(d) By June 30, 2020, and in June 30 of each year ending in the number zero thereafter, the city clerk shall report to the city council on applications received

up to that point and any additional outreach that is being undertaken or planned to ensure that the applicant pool has a sufficient number of qualified applicants.

(e) By August 1, 2020, and by August 1 in each year ending in the number zero thereafter, the city clerk shall review and remove individuals who are disqualified under Section 173 from among the commission applicants. If the resulting applicant pool does not have at least 40 qualified applicants, including 3 qualified applicants from each existing city council district, the city clerk shall reopen the application period for one month and conduct additional outreach to ensure that the pool meets these requirements.

(f) No later than September 15, 2020, and by September 15 in each year ending in the number zero thereafter, the city clerk shall publish and transmit to a screening panel a list with the names of all qualified applicants. For purposes of this section, "screening panel" means:

(1) The city's ethics commission, if that commission is established under this charter; or.

(2) If an ethics commission matching the description in subsection (1) does not exist, a panel consisting of: one retired judge; one law, government, or public policy professor teaching at an accredited institution located in the city and who has taught, researched, or published on redistricting; and one member of a non-profit organization qualified under Internal Revenue Code section 501(c)(3) that has at least a ten-year history of advocating for good government reform in the city. The panelists shall be randomly selected by the city attorney from a pool of qualified applicants. Panelists shall meet the same qualifications required of commissioners in Section 173. The city attorney shall recruit, over a two month period, a pool of applicants to serve on the screening panel; or.

(3) If an ethics commission matching the description in subsection (1) does not exist, and there are insufficient qualified applicants to form a panel pursuant to paragraph (2), a panel consisting of the city attorney, the city clerk, and the city auditor.

(g) From the eligible applicant pool, the screening panel shall, no later than November 1, 2020, and by November 1 in each year ending in the number zero thereafter, create a subpool of the 25 to 30 applicants most qualified to perform the duties of the commission, including at least two applicants from each existing council district. The screening panel, exercising its independent judgment, shall make these assignments at a publicly noticed meeting after the public has had the opportunity to provide written and oral comment. The screening panel may ask additional questions of applicants at that meeting. The

screening panel shall make each assignment to the subpool on the basis of the applicant's relevant analytical skills, familiarity with the city's neighborhoods and communities, ability to be impartial, and apparent ability to work cooperatively with other potential commissioners. The subpool should reasonably reflect the City's diversity; provided that, other than the requirement of geographic diversity in this subsection, no quotas, formulas, or ratios may be applied for this purpose.

(h) Immediately after the subpool has been created, and at that same public meeting, the chair of the screening panel shall randomly select eight names – one from each existing council district – from the subpool. These eight individuals shall serve as commissioners on the commission.

(i) The commissioners selected pursuant to subsection (h) shall select five commissioners and two alternates from the remaining applicants in the subpool. Each selection requires six affirmative votes from among the eight commissioners, and the selection must be made at a publicly noticed meeting after the public has had the opportunity to provide written and oral comment. The commissioners shall make each selection on the basis of the applicant's relevant analytical skills, familiarity with the city's neighborhoods and communities, ability to be impartial, and apparent ability to work cooperatively with other commissioners.

(j) The commission shall be fully established no later than December 1, 2020, and thereafter no later than December 1 in each year ending in the number zero.

(k) The commission may remove a commissioner for substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a Commissioner, but only after providing the subject commissioner written notice and an opportunity for a response at a public meeting. A commissioner may appeal removal by filing a petition for writ of mandate with the Superior Court within ten days of the commission's action.

(l) If a commissioner resigns or is removed from the commission, the chair of the commission shall randomly select one of the alternates to fill the vacancy as a voting commissioner. If the commission is unable to act because there are fewer than nine active commissioners, the city clerk shall, within one month of making this determination, recruit a pool of qualified applicants to fill the vacancies. The remaining commissioners shall, within two weeks of the pool being constituted, appoint replacement commissioners from this pool by a two-thirds vote.

§ 175. Redistricting Requirements and Criteria.

(a) The commission shall draw its final map so that:

(1) Council districts are substantially equal in population;

(2) The final map complies with the U.S. Constitution; the federal Voting Rights Act, commencing at 42 U.S.C. section 1972; the California Constitution; and any other requirement of federal or state law applicable to charter cities; and

(3) Each council district is geographically contiguous.

(b) In addition to following the requirements of subsection (a), the commission shall consider the following criteria when drawing the final map, in descending order of priority:

(1) Integrity and compactness of territory;

(2) Existing neighborhoods and community boundaries;

(3) Communities of interest;

(4) Geography and topography;

(5) Natural and artificial barriers and boundaries;

(6) Preservation of population cores that have consistently been associated with each council district; and

(7) Other commission-adopted criteria that do not conflict with the other requirements and criteria listed in this section or with state or federal law.

(c) The commission shall not consider place of residence of any individual, including any incumbent or political candidate, in the creation of a map.

(d) The commission shall number each council district such that, for as many residents as possible, the number of the council district they reside in remains the same.

§ 176. Public Meetings and Public Comment.

(a) The commission shall establish and implement an open meeting process for public input and deliberation that is promoted through an outreach program to solicit broad public participation in the redistricting process. The commission shall comply with all applicable state and city requirements for open meetings.

(b) Prior to adopting a final map, the commission shall hold at least eight public

meetings, including one public meeting in each existing council district.

(c) The commission shall establish and implement a process for accepting written public comment, including the submission of draft maps and draft partial maps for the commission's consideration.

§177. Records and Data.

(a) The commission shall comply with the California Public Records Act, commencing with Section 6250 of the California Government Code, or its successor, and any city laws regarding public records, to the degree they require greater disclosure and retention of commission records than is provided in this article.

(b) The commission and its subcommittees shall keep minutes of all discussion and actions taken at public meetings. The minutes should be adopted at the next public meeting of that body. To the greatest extent practicable, all public meetings of the commission and its subcommittees shall be video recorded.

(c) To the greatest extent practicable, the commission shall make available to the public a free electronic mapping tool, loaded with relevant population and demographic data, which tool can be used to create draft maps and draft partial maps.

§ 178. Administration.

(a) The city council shall appropriate sufficient funds to recruit commissioners, meet the operational needs of the commission, and conduct any outreach program to solicit broad public participation in the redistricting process. The council shall appropriate at least the amount spent in 2011 on redistricting, adjusted for inflation using the Consumer Price Index.

(b) The city manager, city clerk, and city attorney shall assign sufficient staff to support the commission. The commission shall be staffed by no less than three city employees: the city manager, the city clerk, and the city attorney, or their respective representatives. The city attorney's only client on matters relating to redistricting is the commission.

(c) Subject to the funds appropriated to the commission by the city council, the commission may hire an executive director and redistricting, technology, outreach, or other consultants, following a competitive selection process.

(d) The city clerk and the city attorney, or their respective designees, shall, no later than March 1, 2021, and thereafter by March 1 in every year ending in one, train the commissioners on the requirements of this article, federal and state law

regarding redistricting, open meeting requirements, and general rules of parliamentary procedure.

(e) The city clerk shall, by January 1, 2020, and thereafter by January 1 in every year ending in zero, provide a report to the City Council that explains, at minimum, plans for: recruiting a qualified applicant pool that reflects the City's diversity; assigning sufficient staff to support the commission's activities; training commissioners; providing work space and relevant technology to support the commission's activities, including city email addresses for commissioners; facilitating an open selection process to hire redistricting consultants; identifying and reserving meeting spaces suitable for holding public meetings in each council district; creating a website for the commission; and encouraging public participation in the redistricting process.

(f) Within 60 days after the adoption of a final map, the commission shall transmit a report to the city council recommending any changes, including amendments to this article, that could improve the redistricting process in future years.

(g) No person may threaten, intimidate, coerce, or take adverse action against a commissioner, alternate, or a commission staffer because of their affiliation with the commission, or because of any council district boundaries that are considered, proposed, or adopted by the commission.

§ 179: Legal Challenge.

(a) The city attorney shall defend the final map adopted by the commission from any legal challenge. The city attorney may not settle any legal challenge without the commission's approval.

(b) Any registered voter in the city may file a petition for a writ of mandate or writ of prohibition, within 30 days after the commission has adopted a final map, to bar the implementation of all or a portion of the new council district boundaries on the grounds that the final map violates this article. No legal challenge may be brought against the final map under this article after the 30 day period has expired.

(c) If a legal challenge is successfully brought against the final map, the court may correct the violation by court order adjusting council district boundaries consistent with the redistricting requirements and criteria of Section 175; alternatively, if the court finds the final map requires significant revisions or must be entirely redrawn, the court may order the commission to reconvene to adjust or adopt new council district boundaries.

Section 9: Severability.

The provisions of this Act, including any portion, section, subsection, paragraph, subparagraph, sentence, clause, or word, are severable. If any provision of this Act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

DRAFT