

Date of Hearing: June 20, 2017

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 628 (Lara) – As Amended March 27, 2017

**SENATE VOTE:** 32-5

**SUBJECT:** Local educational agencies: governing board elections: Los Angeles Community College District

**SUMMARY:** Deletes the requirement that the Los Angeles Community College District (LACCD) members be elected at large, and instead authorizes the members to be elected by trustee area. Specifically, **this bill:**

- 1) Deletes the requirement that members of the LACCD be elected at large, or at large and by individual seat number.
- 2) Authorizes, beginning with the 2019 election for the LACCD governing board and each election thereafter, the members of the governing board of the LACCD to be elected by trustee area.
- 3) Requires the trustee to be required to reside and be registered to vote in the trustee area he or she seeks to represent, and requires the trustee to be elected by only the registered electors of the same trustee area.
- 4) Repeals the requirement that the governing board of any school district or community college district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 census, to be composed of seven members and to be elected at large at the same time and in the same manner as the members of the city council.
- 5) States that a special statute is necessary and that a general statute cannot be made applicable because of the unique needs of the LACCD.

**EXISTING LAW:**

- 1) Requires members of the governing board of the Los Angeles Community College District (LACCD) to be elected at large. Existing law authorizes, beginning with the 2013 election for the governing board of the LACCD, and each election thereafter, the governing board to adopt a resolution by majority vote to enact an alternative method by which members of the governing board may be elected at large and by individual seat number where the candidate with the highest number of votes for an individual seat number shall be deemed the candidate elected for that individual seat number. (Education Code (EC) Section 72031)
- 2) Requires the governing board of any school district or community college district situated wholly or partly within a city containing a population of over 1,900,000 according to the

1950 census, to be composed of seven members and to be elected at large at the same time and in the same manner as the members of the city council. (EC Section 5224)

- 3) Prohibits, in the California Voting Rights Act, an at-large method of election from being imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class. (EC Section 14027)
- 4) Authorizes the governing board of a community college district (other than the LACCD) to change election systems, in accordance with the California Voting Rights Act, upon the adoption by the board of trustees of a resolution in support of electing the trustees and upon the approval of the Board of Governors of the California Community Colleges, as follows:
  - a) The governing board of a community college district may establish elections by trustee areas. In establishing trustee areas, the territory of a district shall be divided into trustee areas, and one member of the governing board shall be elected from each trustee area. A candidate for election as a member of the governing board shall reside in, and be registered to vote in, the trustee area he or she seeks to represent. The governing board shall set the initial boundaries of each trustee area to reflect substantially equal population in each district as enumerated in the most recent decennial federal census. Thereafter, the boundaries of trustee areas shall be adjusted, and may be abolished or adjusted as otherwise provided in the Education Code; and,
  - b) The governing board of a community college district may establish a top-two primary election system. Candidates for election as a member of a governing board of a district shall be nominated by trustee area at a district primary election held on the date of the statewide direct primary election. At the district primary election, the two candidates receiving the highest number of votes within the trustee area shall be nominees for the district general election for that trustee area, and the nominee who receives a majority of the votes cast by the voters of the trustee area in the district general election shall be elected to represent that trustee area; and,
  - c) The governing board of a community college district may determine the number of trustees pursuant to this subdivision but must be composed of not less than five members and not more than nine. (EC Section 72036)
- 5) Requires a political subdivision that changes to, or establishes, district-based elections to hold at least two public hearings both before and after drawing a preliminary map or maps of the proposed district boundaries, as specified. Existing law requires the political subdivision, after all draft maps are drawn, to publish and make available for release at least one draft map, and also hold at least two additional hearings over a period of no more than 45 days. Existing law requires the first version of a draft map to be published at least seven days before consideration at a hearing, and if a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven days before being adopted. (EC Section 10010)

- 6) Requires, following each decennial federal census, and using population figures as validated by the Population Research Unit of the Department of Finance as a basis, the governing board of each school district or community college district in which trustee areas have been established, to adjust the boundaries of any or all of the trustee areas of the district so that one or both of the following conditions is satisfied:
  - a) The population of each area is, as nearly as may be, the same proportion of the total population of the district as the ratio that the number of governing board members elected from the area bears to the total number of members of the governing board; and,
  - b) The population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas. (EC Section 5019.5)

**FISCAL EFFECT:** This bill is keyed non-fiscal.

**COMMENTS:** *Purpose.* According to the author, “The California Voting Rights Act (CVRA) was enacted in 2001 to address racially polarized voting in at-large elections for local offices in California. In several jurisdictions throughout California, racially polarized voting dilutes the voting rights of minority communities because these communities are not able to elect candidates of choice and ensure fair representation. However, allowing a jurisdiction to have the option to switch to an election system that is divided into district areas [allows] people vote in their district of residence. A district based election system gives minority communities the opportunity to elect candidates of their choice and have the power to influence local elections. District specific elections can ensure that the governing boards are representative of the ethnic and geographic diversities of populations they serve.”

*Background.* SB 976 (Polanco), Chapter 129, Statutes of 2002, enacted the CVRA to address racial block voting in at-large elections for local office. In areas where racial block voting occurs, an at-large method of election can dilute the voting rights of minority communities if the majority typically votes to support candidates that differ from the candidates who are preferred by minority communities. In such situations, breaking a jurisdiction up into districts can result in districts in which a minority community can elect the candidate of its choice or otherwise have the ability to influence the outcome of an election. Accordingly, the CVRA prohibits an at-large method of election from being imposed or applied in a political subdivision in a manner that impairs the ability of a protected class of voters to elect the candidate of its choice or to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of the protected class.

Since the enactment of the CVRA, a number of local jurisdictions have converted or are in the process of converting from an at-large method of election to district-based elections. While some jurisdictions have done so in response to litigation, other jurisdictions have begun the process of changing election methods because they believe they would be susceptible to a legal challenge under the CVRA, and they wish to avoid the potential expense of litigation. Additionally, the Legislature approved and the Governor signed AB 684 (Block), Chapter 614, Statutes of 2011, which established a procedure for the governing board of a community college district to change election systems, including moving from at-large elections to elections by trustee area, without voter approval, subject to specified conditions. AB 684 was intended to provide a procedure for community college districts to move from at-large elections to district-based elections where

such a move was justified under the CVRA. AB 684 is not available, however, to the LACCD, due to separate provisions of state law that explicitly require the LACCD to conduct at-large elections.

The Mexican American Legal Defense and Education Fund (MALDEF) submitted a letter to the LACCD on October 21, 2016 that demands compliance with the California Voting Rights Act based on complaints from Latino voters in the LACCD that at-large elections dilute and prevent Latino voters from electing candidates of their choice. This letter states that MALDEF reviewed demographic and electoral information and concludes that the LACCD is in violation of the California Voting Rights Act. This bill removes statutory barriers that prevent the LACCD from moving to elections by trustee areas.

*Trustee vs at-large.* Existing law generally authorizes community college district boards (other than LACCD) to be organized so members are either elected at-large or by trustee areas. In districts having trustee areas, the district can be organized such that the registered voters in the entire community college district vote for trustees from each of the trustee areas, or the district can be organized so that only the registered voters in a trustee area vote for the trustees from that area. In either case, candidates for a trustee area must reside in and be registered to vote in that trustee area.

Existing law requires the LACCD to elect members at large, but can elect members at large by seat number, whereby candidates identify which seat they are running for yet are elected by voters across the entire district. This bill deletes the requirement that members of the LACCD be elected at large, or at large by seat number, and instead authorizes members to be elected by trustee area. The LACCD board members, not voters, would decide whether to change from at large to trustee areas.

Electing representatives by trustee area can result in greater diversity and representation of all communities across the community college district, but can also lead to situations where a board member focuses primarily on the campuses within that member's area to the possible detriment of what's best for the entire district. This bill allows the LACCD to continue to elect members at large, or switch to elections by trustee area, and even switch back to at large elections.

*LACCD.* The LACCD is located in Los Angeles, California and some of its neighboring cities, and is the largest community college district in the United States. Board members are elected at large by seat number for terms of four years. Elections are held every two years, with three members being chosen at one election and four members at the other. This bill requires the members of the LACCD to be elected by trustee area beginning with the 2019 election. Three of the seven seats on the LACCD board will be up for election in 2019. Should this bill become law, for two years the LACCD board members will include a mix of members elected at-large and by trustee area.

*Who draws the trustee areas?* Existing law requires the governing board of a community college district to set the initial boundaries of each trustee area to reflect substantially equal population in each district as enumerated in the most recent decennial federal census. Thereafter, the boundaries of trustee areas must be adjusted, and may be abolished. Existing law requires school districts and community college districts with trustee areas to adjust the boundaries of any or all of the trustee areas of the district so that one or both of the following conditions is satisfied:

- 1) The population of each area is, as nearly as may be, the same proportion of the total population of the district as the ratio that the number of governing board members elected from the area bears to the total number of members of the governing board.
- 2) The population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas.

*Staff comments.* This legislation is silent with regard to the specifics of how trustee areas boundaries would be crafted, and therefore, the LACCD would create the trustee areas pursuant to existing law. While existing law requires trustee areas to be adjusted to reflect the population size, *the committee may wish to consider* if the LACCD should be authorized to initially draw their own trustee areas, or if an independent body should be tasked with creating the trustee areas?

*Related court cases.* Several local government entities have been subjected to lawsuit on the basis of violation of the California Voting Rights Act (CVRA). These include some of the following:

- 1) *Sanchez v. The City of Modesto.* In 2004 the Lawyers Committee for Civil Rights filed a suit under the CVRA against the City of Modesto on behalf of three Latino residents. The committee claimed that racially polarized voting was keeping Latinos out of office; the city had elected only one Latino council member since 1911 even though the Latino population exceeded 25 percent. The Superior Court sided with the city and declared the CVRA unconstitutional. The case was appealed to the 5th District Court of Appeals who struck down the initial ruling. The city appealed the case to the State Supreme Court which refused to hear the case. The City of Modesto paid \$4.7 million in court costs and in 2009 adopted district voting.
- 2) *Gomez v. Hanford Joint Union School District.* In July, 2003 the school district of Hanford was sued by Latino voters (backed by civil rights organizations) under the CVRA; the suit claimed that racially polarized voting had negatively affected the ability of Latinos to assume office. The city chose to settle and agreed to use "by district" voting for the board of trustees.
- 3) *Lawyers Committee for Civil Rights v. Madera Unified School District.* In August 2008 the Lawyers Committee for Civil Rights filed suit against the Madera Unified School District on behalf of three Latino residents. The plaintiffs pointed out that while 82 percent of students in Madera were Latino, only one out of seven board members was Latino. The city, instead of going to trial, agreed to draw district lines.

*Prior legislation.* AB 450 (Jones-Sawyer, 2013) required the Los Angeles Community College District (LACCD), beginning in 2015, to have district governing board members elected by trustee area instead of at-large. The LACCD board is to provide for the establishment of seven trustee areas by July 1, 2014 and hold a public hearing prior to adopting the boundaries of each trustee area. AB 450 was held in the Assembly Appropriations Committee.

AB 1252 (Davis, 2011) required the LACCD members to be elected by trustee areas. AB 1252 was never heard.

AB 8 (Cardenas, 2000) and AB 1328 (Cardenas, 1999) required the LACCD members to be elected by trustee areas. Both bills were vetoed by the Governor.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

MALDEF

**Opposition**

None on file

**Analysis Prepared by:** Kevin J. Powers / HIGHER ED. / (916) 319-3960