

## **A Report on the Initiative to Create a County of Santa Barbara Independent Redistricting Commission Pursuant to Section 9111 of the Election Code**

Supervisor Joan Hartmann's questions from the dais for the Elections Code Section 9111 report:

**1. Does the Reason In Government initiative have any positive qualifications for service on the Commission – analytical skills, knowledge of voting rights, requirements to be impartial, or relevant experience?**

In reviewing the Reason In Government initiative language, there was not qualification language as suggested in the question for analytical skills, knowledge of voting rights, requirements to be impartial, or relevant experience. There are other qualifications listed in Section 2-10.91.(b).

**2. Do any other counties or other jurisdictions have such Commissions and how do they compare in terms of specifying qualifications of commissioners?**

According to the California Local Redistricting Project, a joint effort of California Common Cause and University of Pacific, McGeorge Law School, fourteen California counties have adopted redistricting commissions since January 2010. Twelve counties established advisory redistricting commissions and two established independent redistricting commissions.

- San Diego – Established an Independent Redistricting Commission in 2012. It consists of 14 members selected proportionally based on the party preference of registered voters in the County.
- Los Angeles – Established an independent redistricting commission in 2015. It consists of 14 members selected proportionally based on the party preference of registered voters in the County.

The Elections Code sections for the San Diego County and Los Angeles County independent redistricting commissions require, among other qualifications, commissioners to 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, and possess experience that demonstrates an ability to be impartial. (Elections Code Sections 21532(d)(5) and (6), and 21550(c)(5) and (6).)

Of our comparable counties, Monterey, Santa Cruz and Tulare all established one-time advisory redistricting commissions following the 2010 census.

**3. Are there any disqualifying factors such as conflicts of interests or moral turpitude?**

In reviewing the Reason In Government initiative language, there is not disqualifying language regarding significant financial interests or moral turpitude.

The initiative does state (Sec. 2-10.91.(b)(4)(A)) that while serving, a member of the commission shall not endorse, work for, volunteer for, or make a campaign contribution to, a candidate for elected office of the jurisdiction, and it contains other disqualifying factors. The initiative does contain eligibility pre-requisites language (Sec. 2-10.91.(b)(3) and requires adherence to the conflict of interest code. (Sec. 2-10.91.(e))

**4. And are there any ways of challenging members of the commission or alternates once they are appointed?**

In reviewing the Reason In Government initiative language, there is not language that establishes a process to challenge members of the commission or alternates following their appointment. There are general laws that apply to holding of government offices; for example Gov. Code Sections 1020, 1021, and 1099, and there is a procedure in Gov. Code Section 803 for the attorney-general to bring an action against people who unlawfully hold public office, generally referred to as a “quo warranto” proceeding.

**5. Is there any rational basis for eliminating people from the pool of applicants for the redistricting commission because they have contributed to state or federal candidates just because their districts overlap?**

In reviewing the Reason In Government initiative language, the initiative does not state its rationale for disqualifying an applicant for the commission based on a contribution of \$500 or more in a year to a candidate for State or federal office whose district overlaps with the County. However, Elections Code Section 23003(c)(6) states that a person, or the family member of a person, shall not be appointed to serve on a commission who in the preceding 8 years has contributed \$500 or more in a year to any candidate for an elective office of the local jurisdiction. This is different from the initiative which adds “or to any candidate for an elective State or Federal office whose district overlaps or includes the local jurisdiction.”

**6. Would this apply to those contributing to candidates for other local offices in Santa Barbara County?**

In reviewing the Reason In Government initiative language, there is not language that disqualifies an applicant for the commission based on contributions to a candidate for other local offices such as a city council or school district board. (Sec. 2-10.91.(b)(3)(C)(vi))

It appears that the initiative language in this cited section, “...any candidate for an elective office of the local jurisdiction...” applies to candidates for other County elected officials such as the Sheriff, District Attorney, Treasurer-Tax Collector, Auditor-Controller and Clerk, Recorder Assessor.

**7. Does the focus on political party as a selection criterion—no more than 2 members registered to vote with the same political party and an alternative to be registered with the same political party as the member—violate or compromise the nonpartisan nature of local government offices and elections? Local elections in California at the county level—as well as for city councils, school boards, and judgeships—are officially non-partisan and political party affiliations are not included on local election ballots so does introducing partisanship into the redistricting process violate this principle?**

In reviewing the Reason In Government initiative language, it is unclear whether the use of party affiliation as a selection criteria for commissioners violates or compromises the nonpartisan nature of local government. It is worth noting that the proposed independent redistricting commission referendum introduced at the July, 3, 2018 Board Meeting, as well as the two county independent redistricting commissions noted in response to Question 2, do each include a party affiliation proportionality component to the selection criteria.

- 8. What if, with luck of the draw, one or more of the 5 members is registered with a minor party? Would that party have disproportionate influence? What if the party distribution of voters changed over time? With just 5 members, wouldn't the partisan requirement mean that the composition of the redistricting commission risks not representing the composition of the county at large?**

In reviewing the Reason In Government initiative language, there does not appear to be language that directly addresses the impact of minor party participation. The initiative states that a commission shall not include more than 2 members who are registered to vote with the same political party, so there is a possibility of minor party participation. There is not language about proportional representation of party affiliation among commissioners in the initiative. Additionally, Sec. 2-10.91.(b)(5)(B) appears to require that the member of the commission and the alternate need to be from the same party. If a member is selected from a minor party, then the alternate would be required to have that same affiliation.

- 9. Does the initiative provide for any public hearings *after* several proposed maps have been drawn to get public input on alternative maps or does it only provide for public hearings before the new boundaries are adopted?**

In reviewing the Reason In Government initiative language, there is not language that provides for public hearings after maps are developed by the commission to get public input on alternative maps. The initiative provides for at least 5 public hearings, with at least 1 in each of the existing supervisorial districts, preceding the hearing at which the new boundaries are adopted. The commission is required to provide a report at the time the maps are "issued" that explains the basis for its boundary map decision. (Sec. 2-10-91.(g)(4))

- 10. If I look at their language, it looks like "compact" is something, contiguity and compactness are "shall" or "required", and then below that are other features that can be considered, so it seems like a hierarchy there. So I'd like an interpretation of if that is correct?**

The Reason In Government initiative language states that the resulting districts "*shall be geographically contiguous and compact*" and in addition to the requirements in subsections (c)(1) through (c)(4), the commission shall "consider" several other criteria including, again, contiguity and compactness. (Sec. 2-10.91.(c)(4)-(5))

California Elections Code states:

21500. Following each decennial federal census, and using that census as a basis, the board shall adjust the boundaries of any or all of the supervisorial districts of the county so that the districts shall be as nearly equal in population as may be and shall comply with the applicable provisions of Section 10301 of Title 52 of the United States Code, as amended. In establishing the boundaries of the supervisorial districts the board may give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the supervisorial districts. (Emphasis added.)