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MEMORANDUM

TO: Members, San Francisco Elections Commission
FROM: Ana Flores
Bradley Russi
Deputy City Attorneys
DATE: April 24, 2023
RE: Assembly Bill 1248, Independent Redistricting Commissions

You requested that we provide a written public analysis of Assembly Bill 1248 (“AB-1248”), legislation currently pending in the state Legislature that would regulate the redistricting processes of local entities with governing bodies elected to represent districts. A copy of the current version of the bill is attached. In sum, as we explain further below, the bill would require these entities to establish independent redistricting commissions with no members directly appointed by elected officials. And the bill would impose other requirements on the qualifications of members to serve on those bodies and restrictions on the members’ activities during and after their service. The bill includes findings that the changes it proposes address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

If AB-1248 passes in its current form and applies to San Francisco, the bill would be inconsistent with the City Charter’s requirements for redistricting, because the Mayor and Board of Supervisors appoint members of the City’s Redistricting Task Force. As a result, to avoid that inconsistency and to allow for San Francisco to establish the total number of members on the commission and how members are selected and appointed to the commission, the City would need to obtain voter approval amending the Charter to establish a new redistricting commission, before March 1, 2030. In this memorandum, we provide a summary of the current version of the bill and a brief discussion of San Francisco’s redistricting process.

I. Summary of AB-1248

AB-1248 would require cities, counties, school districts, community college districts, and other special districts with more than 300,000 residents that hold district elections for members of their governing bodies to create independent redistricting commissions before March 1, 2030 – and every ten years after – to redraw district lines following the federal decennial census. As mentioned above, AB-1248 purports to apply this requirement to a charter city and county like San Francisco. Under the bill, local elected officials like the Mayor and members of the Board of Supervisors could not directly appoint members of the required commission. Several counties in which state law already established independent redistricting commissions, including Los Angeles County and San Diego County, are exempt from AB-1248.

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The bill imposes specific requirements on the qualifications and post-service activities of members of all independent redistricting commissions, as well as rules limiting their activities while they serve. The bill authorizes the jurisdiction to establish its redistricting commission and specify the selection process and other aspects of the membership of the body by legislative act or charter amendment. For covered jurisdictions that do not comply with the bill's mandate to create a commission, the bill contains self-executing provisions that themselves create the body and provide the method for selecting members.

A. Requirements Applicable to All Independent Restricting Commissions.

AB-1248 would authorize a local jurisdiction like San Francisco to create the independent commission and set the number of members and the manner in which members are selected and appointed to the commission. To do so, the local jurisdiction must make the selection process open to all eligible residents and ensure that elected officials of the jurisdiction do not directly appoint the members.

The bill provides that people with specified connections to local politics would be ineligible for appointment to the commission. For example, a person would be ineligible if the person or their spouse has in the previous eight years (1) served as an officer, employee, or paid consultant to a campaign for a candidate for local elected office or a political party, (2) served as a staff member or consultant to any currently serving elected official of the jurisdiction, (3) been registered as a lobbyist, or (4) contributed \$500 or more in a year to any candidate for a local elective office. A person whose parent, sibling, child, or in-law engaged in any of these activities in the previous four years is also ineligible.

AB-1248 provides that while serving on a redistricting commission, members could not communicate with any individual or organization regarding redistricting matters, outside of a public meeting of the commission. Certain restrictions would also apply to members of a commission after their service has concluded, including prohibitions on running for local elective office for a specified period. And former members could not work for a local elected official or on a campaign for a local office for four years following their service.

B. Composition and Selection Process for Jurisdictions that Choose Not to Legislatively Create an Independent Redistricting Commission.

Under AB-1248, if a jurisdiction does not act to establish an independent redistricting commission, the jurisdiction must follow a separate set of rules. A commission created under this self-executing section of the bill would consist of 14 members and two alternates, with at least one commission member residing in each of the existing districts of the legislative body. Each commission member would need to meet the following qualifications: be a resident of the jurisdiction; possess a history of civic engagement; possess experience that demonstrates analytical skills relevant to the redistricting process and voting rights; possess an ability to comprehend and apply the applicable state and federal legal requirements; possess experience that demonstrates an ability to be impartial; and possess experience that demonstrates an appreciation for the diverse demographics and geography of the local jurisdiction.

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The jurisdiction's legislative body would choose the "selection entity used to appoint members to the commission" according to a required order of priority stated in the bill. If the bill applies to San Francisco, AB-1248 would require the Board of Supervisors to designate the Ethics Commission as the "selection entity." Finally, the bill sets out a general process the selection entity must follow for submission and review of applications for membership on the commission.

II. Application to San Francisco's Current Redistricting Process

Under Section 13.110 of the San Francisco Charter, the City must establish a Redistricting Task Force ("Task Force") to revise the supervisorial district boundaries following each decennial census. The Mayor, Board of Supervisors, and the Elections Commission appoint members of the Task Force. Task Force members must be broadly representative of the communities of interest, neighborhoods, and the diversity of the City in ethnicity, race, age, sex, gender identity, sexual orientation, and types of disabilities. Charter § 4.101. Further, all members must be residents of the City and at least 18 years old. *Id.* The Charter does not contain further qualifications or requirements for membership on the Task Force.

Assuming AB-1248 applies to San Francisco and the State enacts the bill in its current form, the appointment process for members of the Task Force contained in the Charter would not be consistent with the requirements of AB-1248 because elected officials – the Mayor and the Board of Supervisors – directly appoint members of the Task Force.