FAIR, INDEPENDENT & EFFECTIVE REDISTRICTING FOR COMMUNITY ENGAGEMENT (FIERCE) COMMITTEE RECOMMENDATIONS

SF Elections Commission November 15, 2023

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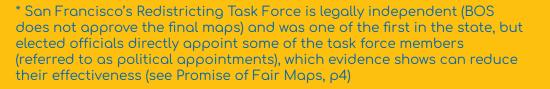
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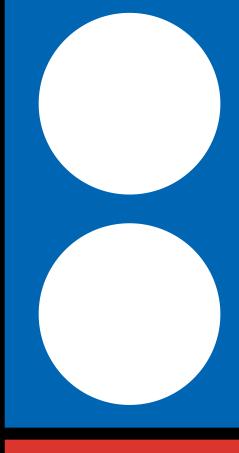
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# INTRODUCTION

### WHY WE EXPLORED THIS TOPIC

- San Francisco was a pioneer in "independent"\* citizen redistricting and has now fallen behind in best practices
- Everyone involved in recent redistricting agrees some improvements should be made
- SF Elections Commission is responsible for ensuring free, fair and functional elections, which requires fair districts







Every ten years the Director of Elections is required by charter to evaluate the federal, state, and local legal compliance of San Francisco's supervisorial boundaries and advise the Board of Supervisors on relevant population changes no later than 60 days after the decennial federal census results have been published. Should the Director of Elections find that the boundaries do not align with population requirements, a nine-person, independent Redistricting Task Force (henceforth RDTF) is formed.

The purpose of San Francisco's redistricting process is to ensure fair supervisorial representation for all San Francisco voters. The RDTF must adhere to various requirements in local, state and federal law.

2021-2022's redistricting effort drew significant public attention across many facets of its operations and decision-making processes. Based on the RDTF's report and feedback from the public and independent advocacy groups, and in line with its mandate to ensure free, fair, and functional election administration, the San Francisco Elections Commission introduced a redistricting initiative to offer a public forum for education, dialogue, and soliciting strategic recommendations to strengthen San Francisco's redistricting process. This began in June 2022 with a series of topic explorations, special presentations from field experts, and testimony from past RDTF members and other independent redistricting commissioners outside of San Francisco.

In May 2023, the SF Elections Commission formed the temporary Fair, Independent, and Effective Redistricting for Community Engagement (FIERCE) Committee to develop a set of redistricting reform recommendations to present to the full commission for consideration. The commission would then determine whether to forward part or all them to the Board of Supervisors.

### SAN FRANCISCO LAW

Steven Hill provided a history of redistricting in San Francisco during <u>his</u> <u>presentation</u> to the Elections Commission in June 2022. He shared that in **1994, Prop L created an Elections Task Force**, with a broader mandate than the current Elections Commission (which was created by Prop E in 2001), when San Francisco was moving back to district elections. The Task Force experienced many similar challenges that our most recent RDTF did as they did their work. Professor DeLeon from SFSU drafted initial maps, the Task Force selected one, and it was put on the ballot. Prop G won in 1996 and went into effect in 2000. Following that, San Francisco was first redistricted in 2002. That legislation, now in the <u>SF City Charter Sect 13.110 Elections Code</u>, also established the RDTF and focuses on composition, selection process, line-drawing criteria, and timing.

Professor DeLeon advised "Don't be stuck to the flypaper of old ideas. There are better ways to give representation today than before." — sound advice to a city that has a history as a leader and innovator.

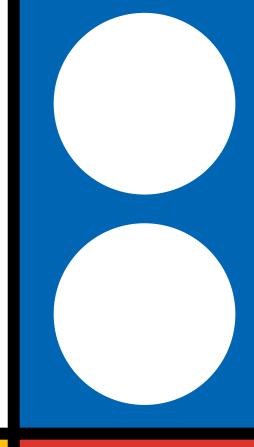
### **RELEVANT STATE LEGISLATION**

The FAIR MAPS Act became law in 2019. It is the most significant and comprehensive overhaul of the local redistricting process in state history and was inspired by the California Citizen Redistricting Commission. However, it doesn't apply to charter cities so San Francisco was not obligated to comply, and didn't. This law led to many Independent Redistricting Commissions (IRCs) being formed throughout the state. The law, along with a <u>recent report</u> about its effects thus far, provides many best practices local jurisdictions can reference.

In 2023, **AB 1248 and AB 764** were proposed by Assemblymember Bryan. AB 1248 passed the legislature but was vetoed by the governor for budgetary reasons. It would have required all California counties and cities (including charter cities) over 300k people to establish IRCs. **AB 764 was signed into law** by the governor and provides enhancements to the FAIR MAPS Act. It will have some implications on San Francisco. Many good government groups will continue to advocate for reforms at the state level.

### WHY NOW?

- The public's recent range of experiences with redistricting allows for more meaningful community engagement and input for potential reforms.
- Because it takes time to run a fair and democratic process, the Elections Commission wants to allow the City adequate time to prepare a new independent redistricting body as well as support City agencies to plan and implement a fair process.



### **COMMON ACRONYMS USED**

RDTF = REDISTRICTING TASK FORCE IRC = INDEPENDENT REDISTRICTING COMMISSION BOS = BOARD OF SUPERVISORS CCRC = CA CITIZENS REDISTRICTING COMMISSION FMA = FAIR MAPS ACT OF 2019

# **RECOMMENDATIONS**



### **<u>Composition</u>**: How many people and who should serve on the task force?

The task force should be a size and composition that allows for productive work, and also allows for experiences and expertise representative of SF's communities to draw maps that advance "one person, one vote."

#### **RECOMMENDATION:**

# of members: 14 members + 2 alternates. 8
randomly selected from a pool of the 40 most
qualified candidates elevated by the vetting body.
Each of the first 8 should be from different
geographic regions (see below). 6 remaining + 2
alternates chosen by the first 8 to balance
diversity. Alternates serve as non-voting members
until/unless seated.

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- <u>Diversity factors to include:</u> 1) gender, 2) race/ethnicity, 3) location (consider geographic diversity of SF neighborhoods and "regions" of candidates' homes independent of existing districts, 4) socioeconomic status
- Consider equitable stipends to compensate for differential effort and assist those of lesser means.

### CURRENT SF REQUIREMENTS:

9 members – 3 selected by each appointing authority (BOS, Mayor, Elections Commission). No diversity or representation requirements. No alternates.

#### RATIONALE FOR REC:

- Consistent with best practice of CCRC and other successful local IRCs, which have 13-14 members for better representation. The committee considered odd vs even #, but won't matter if 9 votes are already required for votes (see interdependency in Commission Processes section).
- Member balance is achieved by splitting membership between a random selection of qualified candidates to minimize political influence and a targeted selection of remaining seats to achieve diversity of skills and representation
- Alternates recommended by SF RDTF; ensures "hot standby" replacements in case of resignation or removal
- Geographic diversity should not be based on existing districts. Also, 11 geographic seats would mean not much room with only remaining 3 seats to balance diversity, and a larger IRC might be unwieldy.

### **COMPOSITION:** ADD'L NOTES + NEWLY PASSED LAW

### OTHER NOTES:

- Deviates slightly from AB 1248, which specifies that the first 8 must be from different existing districts
- Suggestions on how to approach stipends are included in the Funding section, and should be determined by the Board of Supervisors (outside of charter). Note the interdependence of the recommendations.

### NEWLY REQUIRED IN SF BY AB 764:

• None

# **THE SELECTION & REMOVAL PROCESS:** WHAT WILL BUILD PUBLIC TRUST?



### **THE SELECTION & REMOVAL PROCESS:** OUTREACH & RECRUITMENT

"A commission that lacks diversity may miss important community perspectives and even struggle with public legitimacy if significant constituencies feel they were not adequately represented in the process."

- California Local Redistricting Commissions Report (Heidorn-2017)

#### **RECOMMENDATION:**

- Require a comprehensive outreach and public education plan to build a large candidate pool representative of SF demographics
- Hold an open, competitive application process that is accessible, available in-language (same as Dept of Elections) and not overly burdensome to potential candidates
- Require regular public reporting on size and demographics of the pool
- Consider a separate City agency with experience in outreach to run this phase of the selection process
- Ensure funding is available to do this effectively

#### CURRENT SF REQUIREMENTS: None

### **OUTREACH & RECRUITMENT:** RATIONALE

#### RATIONALE FOR REC:

- In order to create a well-qualified, representative body free of conflicts of interest, it is necessary to source broadly from the entire talent of the City—not just the politically connected
- San Francisco had 35 applicants to the most recent RDTF. Broad, thoughtful outreach can result in a larger applicant pool, e.g. Long Beach, at half of San Francisco's population, had 400+ after a broad outreach plan.
- Public reporting provides accountability and may spur mobilization to ensure a diverse pool
- It makes sense to leverage the City's existing agencies with extensive community connections and outreach experience.

### **OUTREACH & RECRUITMENT:** ADD'L NOTES + NEWLY PASSED Law

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### ADDITIONAL NOTES:

- Consistent with AB 1248 and CCRC practices
- Possible agencies that might run a good outreach process could include the Dept. of Elections, Office of Civic Engagement and Immigrant Affairs, others?
- Encourage the city to consider duplicating <u>other cities' successful outreach</u> <u>efforts</u>, e.g. Long Beach's use of inserts in utility bills, PSAs, ads in local news, or other creative partnership options, e.g. the DMV, libraries, etc.
- When considering outreach partners, use caution when considering 501c3 orgs that also have political arms

#### NEWLY REQUIRED IN SF BY AB 764:

• None. (AB 764 requires public outreach, only after the IRC is seated, for community map input.)

### **THE SELECTION & REMOVAL PROCESS:** QUALIFICATIONS & RESTRICTIONS

"While critical to creating an impartial commission, reformers and policymakers should resist the temptation to adopt overly-strict eligibility qualifications. The tighter the objective criteria, especially for smaller jurisdictions, the harder it will be recruit enough quality applicants to fill a commission."

- California Local Redistricting Commissions Report (Heidorn-2017)

#### **RECOMMENDATION:**

- <u>**Residency:**</u> Open to SF residents of 1+ years (not required to be a registered voter)
- <u>Subjective qualifications</u>: Is civically engaged and has ability to be impartial, relevant skills (communications, good listener, collaboration, critical thinker, analytical/understands data), and understanding of SF's diversity and demographics
- Disqualifying conflicts of interest for an applicant, if s/he, spouse or family members have been candidates, elected officials, staffers, major donors, or lobbyists for the previous 5-8 years. Financial disclosures required, but Form 700 need not be filed until finalist stage. Cannot run for office in districts they drew or citywide office for 10 years or local office for 5 years. Can't be a political staffer, be awarded non-competitive City bids, or be a lobbyist for 4 years. Can't be appointed to positions for 2 years. During service: prohibition on endorsements, working or volunteering to campaign, campaign donations—consistent with requirements of Elections Commissioners.

### **QUALIFICATIONS & RESTRICTIONS:** CURRENT SF REQUIREMENTS + RATIONALE

### CURRENT SF REQUIREMENTS:

- No guidelines on who may be a member of the task force
- No standard qualification criteria or ban on conflicts of interest

### RATIONALE FOR REC:

• Residency is more inclusive than voter registration, which would eliminate 21% of voting-age residents. Also ensures consistency with City law, which after the passage of Prop C only requires residency vs citizenship for all City commissions. One member of the most recent RDTF was a non-citizen.

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- Proven combination of objective and subjective criteria to reduce political conflicts of interest and ensure candidates are qualified for the tasks, without attracting those with aspirations for elected office within the same Census cycle
- Recruiting civically engaged candidates is important, which means they may have volunteered with nonprofits, community groups or political campaigns, donated some money to campaigns, etc. but having limits within the objective criteria means political insiders are less likely to be selected, e.g. \$500—the max donation allowed—disqualifies someone, but a smaller \$50 donation doesn't
- Consistent with RDTF's recommendation to consider CCRC's criteria
- Form 700 is required for all City Commissions, but applicants can initially self-certify and complete the form at finalist stage

### **QUALIFICATIONS & RESTRICTIONS:** ADD'L NOTES + NEWLY Passed Law

### ADDITIONAL NOTES:

- Consistent with AB 1248 and 764, except we recommend a range of 5-8 years for pre-service requirements vs a solid 8 years
- Encourage BOS to validate with community input
- Consider more inclusive alternatives to written essays for evaluating subjective criteria
- How to enforce post-service requirements should be built into implementation plans
- Consistent with AB 1248 and 764, but revisions to Elections Code 23003 required both to pass for them to take effect

NEWLY REQUIRED IN SF BY AB 764: None

### **THE SELECTION & REMOVAL PROCESS:** Vetting & Selection

"IRCs, whose members are not selected by incumbents and meet certain qualifications to ensure impartiality, were more transparent, more encouraging and receptive to public participation, and more likely to draw maps that kept communities whole than legislative bodies."

- Promise of Fair Maps

#### **RECOMMENDATION:**

- Non-political vetting and selection of 40 most qualified applicants, then facilitation of random selection of the first 8 IRC members by trusted, adequately resourced bod(ies) that leverage existing City capabilities, systems and processes. (See Composition section for number of members.)
- This could entail different agencies for the outreach & recruitment phase (see above) and the phase where actual vetting and selection from the finalist pool takes place
- No recs for the specific body/agency

#### CURRENT SF REQUIREMENTS:

3 political appointments each by Mayor and BOS.
 Open selection of 3 by independent body (SFEC)

### **VETTING & SELECTION:** RATIONALE + ADD'L NOTES + NEWLY Passed Law

#### RATIONALE FOR REC:

- Consistent with RDTF's recommendation to consider CCRC selection process, without involvement of elected officials
- Restoring public trust in the process is key to faith in fair elections
- Political appointments are the reason the RDTF is considered a political commission—and why SF would have been forced to change if AB 1248 had been signed into law (and consistent with generally recommended best practices)

### ADDITIONAL NOTES:

• The BOS should hold community input hearings on which bodies are trusted by the public, are staffed and capable of running an effective vetting and selection process, including investigative capabilities. Possibilities might include: Controller's Office, Dept of Elections, City Clerk, Panel w/representatives from other various bodies (see amended AB 1248 options for consideration)

### NEWLY REQUIRED IN SF BY AB 764: None

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### THE SELECTION & REMOVAL PROCESS: REMOVAL

"In addition to ethical rules of conduct, states should have clearly defined removal procedures for commissioner misconduct. These procedures should spell out the process through which commissioners found to have violated ethics rules can be removed and replaced."

- Designing a Transparent and Ethical Redistricting Process (League of Women Voters 2020)

#### **RECOMMENDATION:**

- Allow for resignations of IRC members
- Removal of members by IRC only if IRC determines a member is guilty of neglect of duty, gross misconduct or misrepresented themselves to qualify
- IRC to determine which pre-selected alternate will replace the outgoing member (See Composition section for reference on alternates)

#### CURRENT SF REQUIREMENTS:

• RDTF members serve at the pleasure of their appointing authority

### **REMOVAL:** RATIONALE + ADD'L NOTES + NEWLY PASSED LAW

### RATIONALE FOR REC:

- "At the pleasure" (SF current law) is aligned with political appointments that best practices guide us to move away from
- IRC member should be able to step down if they cannot fulfill duty over the recommended longer service term (see Timing section), and the IRC's work should be able to continue
- A truly independent body should be empowered to determine if a commissioner must be replaced and choose a replacement from already vetted alternates
- RDTF supported appointment of alternates in its report

#### ADDITIONAL NOTES:

• Consistent with AB 1248

NEWLY REQUIRED IN SF BY AB 764: None

### **REDISTRICTING LINE-DRAWING CRITERIA**: WHAT CRITERIA WILL REDUCE POLITICAL INFLUENCE, KEEP COMMUNITIES OF INTEREST WHOLE, AND INCREASE TRANSPARENCY?

The California State Constitution defines a "Community of Interest" as a contiguous population which shares common social and economic interests that should be included within a single District for purposes of its effective and fair representation.

#### **RECOMMENDATION:**

- Remove existing charter criteria and replace with explicit ranked criteria including compliance with Federal law, case law, existing state criteria and constitutional definition of communities of interest (FAIR MAPS Act)
- Require final report to include rationale for map lines against criteria
- Prohibit incumbency protection and discrimination

### **REDISTRICTING LINE-DRAWING CRITERIA:** CURRENT SF REQUIREMENTS + RATIONALE

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### CURRENT SF REQUIREMENTS:

- Line drawing criteria not ranked
- Substantially comply with one person, one vote
- Districts should be contiguous, compact, and recognize neighborhoods
- Population variations limited to 1% unless variations necessary
- Must consider communities of interest (undefined)
- No prohibition on incumbency protection

### RATIONALE FOR REC:

- No strong rationale to deviate from accepted best practices
- Ranked criteria forces tradeoffs favoring higher-ranked criteria rather than enabling cherry picking to justify districts
- Case law for population deviation may evolve and SF would automatically evolve with it

### **REDISTRICTING LINE-DRAWING CRITERIA:** ADD'L NOTES + Newly passed law

#### ADDITIONAL NOTES:

- Consistent with FMA and AB 764, but Elections Code 21130(g) exempts charter cities
- FMA ranked criteria are for supervisorial districts, to the extent practicable (precise detail in Elections Code 21130(c) and (d) <u>here</u>):
  - Be geographically contiguous
  - Geographic integrity of any local neighborhood or COI be respected in a manner that minimizes its division
  - Boundaries be easily identifiable and understandable by residents, and be bounded by natural and artificial barriers
  - When not conflicting with preceding criteria, encourage geographical compactness
- Cultural districts could be cited as evidence to support communities of interest testimony

### NEWLY REQUIRED IN SF BY AB 764: None

# **FUNDING:** WHAT IS NEEDED TO ADEQUATELY RESOURCE THE WORK, AS WELL AS DECREASE BARRIERS TO PUBLIC PARTICIPATION?

"In the future, it is recommended that a department or division is established to provide a structure that increases the ability of a team of individuals to plan and problem solve at a high level."

- City Clerk's Office

#### **RECOMMENDATION:**

- Budget should account for outreach and recruitment, vetting and selection prior to establishing the IRC
- IRC should have a reasonable, transparent budget that covers (some) dedicated staff as recommended by the City Clerk, community outreach, equitable stipends and reimbursement for expenses incurred by commissioners in the course of duties

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- IRC should have influence in selecting key consultants and their scopes of work
- Support departments to receive budget augmentation in multiple budget years as appropriate

### **FUNDING:** CURRENT SF REQUIREMENTS + RATIONALE

### CURRENT SF REQUIREMENTS:

- No stipends
- Budget for outreach and line-drawing consultants
- Supported by Clerk of the Board and Department of Elections, and City Attorney staff without other budget augmentation

#### RATIONALE FOR REC:

- The RDTF faced limits on its independence due to dependency on the limited resources of other agencies and decisions made before seating. Even scheduling meetings was a challenge due to competing duties of clerks.
- Lack of stipends and expense reimbursement limit the pool of applicants
- This is a significant endeavor once every 10 years and cannot be expected to be absorbed by departments with business-as-usual budgets
- Long Beach IRC had a successful process and was accounted for in 3 consecutive budget years
- "With funding secure, the commission may draw the district lines without feeling beholden to the legislature's power of the purse." the Brennan Center

### FUNDING: ADD'L NOTES + NEWLY PASSED LAW

#### ADDITIONAL NOTES:

- Consistent with AB 1248 requirement to provide "reasonable funding and staffing."
- Strongly consider the proposed budget recommended by the City Clerk (endorsed by RDTF, <u>Appendix C</u>), plus adequate resourcing for outreach and selection. Long Beach and other IRCs can provide sample budgets.
- Expense reimbursement should reduce barriers and enable full participation for IRC members and might include items such as local transportation (or a Clipper card), parking, meals for extended meetings, and caregiving expenses as needed
- Stipends to be determined by BOS (outside of charter) and be commensurate with effort required vs. other typical commissions, e.g. CCRC=\$378 per diem, Long Beach IRC=\$200 per diem; Common Cause recommends \$450 per diem for LA IRC. Consider SF's "Be the Jury" program (to encourage jury participation for low-income residents) as a potential equitable stipend model.
- Ask for community input on what the right amount should be for equitable stipends. The IRC is not a job, but a stipend should be modest and allow someone to participate who wants to, and be meaningful enough to balance the the sacrifices they make to do the work.

#### NEWLY REQUIRED IN SF BY AB 764: None

### **<u>COMMISSION PROCESSES</u>:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & INCLUSIVE OF DIVERSE PUBLIC INPUT?

"Transparency and public participation in redistricting are essential to drawing better district boundaries, maintaining public confidence in the fairness of the process, and building community support for the final maps."

- California Local Redistricting Commissions Report (Heidorn-2017)

#### TRAINING & PREPARATION

#### **INCLUDING THE PUBLIC**

TRANSPARENCY

**VOTING & DECISION-MAKING** 

#### MISSED DEADLINE

### **COMMISSION PROCESSES:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & Inclusive of diverse public input?

### **TRAINING & PREPARATION**

#### **RECOMMENDATION:**

• Minimally, require the same legal training as permanent commissions receive, (e.g. Sunshine Ordinance and Brown Acts), and practical training shortly after seating (VRA, Robert's Rules, Census data and mapping)

### CURRENT SF REQUIREMENTS:

• None, but the City Attorney wrote several legal memos to the RDTF, and both the City Attorney & mapping consultant offered to train the RDTF

#### RATIONALE FOR REC:

- RDTF members noted that mapping training was too late
- IRCs need both generalized and specialized training to be set up for success

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### **TRAINING & PREPARATION:** ADD'L NOTES + NEWLY PASSED Law

#### ADDITIONAL NOTES:

- Consider leveraging experience of former CCRC, IRC and RDTF members to train
- Most of these commission process areas do not need to be included in the City charter, and should be established in other ways

### NEWLY REQUIRED IN SF BY AB 764:

• None

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### **COMMISSION PROCESSES:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & Inclusive of diverse public input?

### INCLUDING THE PUBLIC

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#### **RECOMMENDATION:**

- Outreach must be adequately resourced and should leverage existing City infrastructure, including agency expertise, language access resources, and community organization relationships
- Public input hearings should be accessible and convenient to the public
- See Transparency and Timing sections for related recommendations
- IRC should have a voice in the scope of any consultants' work used for public outreach

### CURRENT SF REQUIREMENTS:

- Funding provided for outreach consultant
- The past RDTF did create an outreach plan, but implementation was limited due to budget and scope of outreach consultant (which they had no role in choosing)

# **Including the public:** Rationale + add'l notes + newly passed law

#### RATIONALE FOR REC:

- San Francisco has a very diverse population, including underrepresented communities that are difficult to reach
- The IRC should piggyback off existing resources for cost-effectiveness
- An IRC should engage with the public to determine the best meeting times and places to maximize participation

#### ADDITIONAL NOTES:

• None

#### NEWLY REQUIRED IN SF BY AB 764:

• SF must comply with AB 764 (Elections Code 21160b), which requires a detailed public outreach plan

### **COMMISSION PROCESSES:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & Inclusive of diverse public input?

### TRANSPARENCY

#### **RECOMMENDATION:**

- Ban on ex-parte communication. Require disclosure of approaches by electeds or members of the public, educational sessions presented, etc..
- Require 7-day advance posting of maps under consideration
- Public comments should be posted on the IRC website
- Require written rationale for final districts against ranked criteria, neighborhoods, communities included or split in each district (see also Line-drawing Criteria section)

### CURRENT SF REQUIREMENTS:

• Public meetings governed by Sunshine Ordinance & Brown Act, but no ban on discussing redistricting matters outside a public meeting

#### **TRANSPARENCY:** RATIONALE + ADD'L NOTES + NEWLY Passed Law

#### RATIONALE FOR REC:

- RDTF members asked to be shielded from inappropriate political influence
- Public should know about all discussions that might influence lines drawn
- IRC must be able to explain compliance with ranked criteria for every district in an accessible format

#### ADDITIONAL NOTES:

- Consistent with state legislation
- Previous RDTFs have voluntarily published reports but have not provided detailed rationales for districts, nor explained why neighborhoods or communities of interest were split
- The recent RDTF did live-mapping and similar innovative and transparent processes should be encouraged

#### NEWLY REQUIRED IN SF BY AB 764:

- AB 764 (Elections Code 21130f) mandates a final report explaining any splits
- AB 764 (Elections Code 21160g and h) require posting comments on the website

#### **COMMISSION PROCESSES:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & Inclusive of diverse public input?

#### **VOTING & DECISION MAKING**

#### **RECOMMENDATION:**

• Supermajority of 9 (out of 14 voting members). See Composition section for reference on number of members recommended.

#### CURRENT SF REQUIREMENTS:

• Simple majority: 5 (of 9) votes

#### RATIONALE FOR REC:

- 9 is not an onerous supermajority
- Larger body and supermajority lessens the possibility of a majority faction dominating
- Allows for dissent but promotes collaboration

#### **Voting & Decision Making:** Add'l notes + Newly Passed Law

#### ADDITIONAL NOTES:

• Consistent with AB 1248

#### NEWLY REQUIRED IN SF BY AB 764:

• None

#### **COMMISSION PROCESSES:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & Inclusive of diverse public input?

#### MISSED DEADLINE

#### **RECOMMENDATION:**

• Refer to Superior Court and authorize it to hire a Special Master to draw the districts if the final map is not produced on time (see also Timing section)

#### CURRENT SF REQUIREMENTS:

- Unclear
- Last RDTF negotiated directly with the Department of Elections to get an extension past the stated deadline

#### RATIONALE FOR REC:

- Need an acceptable failsafe that creates an incentive for the IRC to complete its work in time for election processes to not be disrupted
- This stated recommendation is now required by state law

## **MISSED DEADLINE:** ADD'L NOTES + NEWLY PASSED LAW

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#### ADDITIONAL NOTES:

• None

#### NEWLY REQUIRED IN SF BY AB 764:

• Remedy in AB 764 (Elections Code 21180), which will apply to San Francisco since the charter is silent on this issue. Does not require adopting the state deadline.

#### **<u>TIMING</u>:** WHEN SHOULD THE REDISTRICTING PROCESS BEGIN PRIOR TO THE DEADLINE AND WHEN MUST DRAFT MAPS BE PRODUCED?

"It would be advisable for the Board of Supervisors to introduce and pass an Ordinance establishing the Task Force at least six months to a year before the Census results are released in April."

> - The City Clerk's Office

#### **RECOMMENDATION:**

- The ordinance establishing the IRC should be passed 18-24 months prior to the map deadline
- Seat IRC at least 12 months before the final map deadline, rather than tying establishment to the Census as currently in charter
- Require a draft map at least 2 months before final map
- Require a 7-day public comment period before map adoption
- Consider adopting earlier state deadline for final map

#### CURRENT SF REQUIREMENTS:

- RDTF seating tied to Census
- Draft maps not required
- Only (non-standard) final deadline stipulated

#### **TIMING:** RATIONALE

#### RATIONALE FOR REC:

- BOS would need to pass an ordinance significantly in advance of seating the IRC due to the addition of an extensive outreach & recruitment process needed to build a large, diverse pool of candidates, as well as the time required for vetting and selection
- SF's size and complexity warrant a year to allow adequate time for the IRC to get trained, organize itself, solicit community input, create draft maps to catalyze collaborative problem-solving, and refinement of a final map
- Tying seating to a potentially delayed census was problematic
- Lack of official draft maps with adequate time for the public to understand, reflect, and react made it difficult to engage in the map-drawing process
- San Francisco's final map deadline is later than standard state law
- Some recs are aligned with <u>City Clerk's report</u> (Appendix C)
- RDTF recommended the body begin working before the census data is received

### **TIMING:** ADD'L NOTES + NEWLY PASSED LAW

#### ADDITIONAL NOTES:

- Longer timeline consistent with state legislation
- Past RDTFs have always exceeded minimum public hearings before mapping but NOT after mapping, as will now be required in San Francisco per passage of AB 764

#### NEWLY REQUIRED IN SF BY AB 764:

- AB 764 (Elections Code 21150d(1)) requires at least 2 public hearings before mapping and 21150d(2) requires at least 3 after a draft map before a final map can be adopted
- Elections Code 21160f(1) requires 7-day posting or 72 hours if within 28 days of the final map deadline

## **ADDITIONAL CONSIDERATIONS**

"IRCs, whose members are not selected by incumbents and meet certain qualifications to ensure impartiality, were more transparent, more encouraging and receptive to public participation, and more likely to draw maps that kept communities whole than legislative bodies. IRCs also strengthened the public's trust in the fairness of the local redistricting process." (The Promise of Fair Maps, Heidorn, p4)

The San Francisco Elections Commission recommends improving the City's redistricting process so it can be truly independent and fair, for which there is broad consensus and support—from comments throughout the most recent process to the RDTF's recommendations in its <u>final report</u> to a recent <u>governance report</u> recommending non-political appointments. We hope the accompanying materials and resources from 18 months of learning and our resulting recommendations for consideration by the Board of Supervisors will be useful to city leaders and ultimately benefit San Franciscans. Some of these recommendations will require a charter amendment—if not in 2024, 2026 is likely the latest a measure could realistically go before voters in order to allow adequate time for the City to implement changes for the 2030 redistricting cycle. We encourage thoughtful consideration of what belongs in the city charter vs what should be changed through ordinance, including avoiding adding items to the charter that may conflict with state law and require future charter amendments. Additionally, some existing key redistricting provisions in SF's charter are what exempted us from falling under the FMA. Minimally, removing those would allow SF to align with best practices that have made and will eventually make their way into state law.

The Elections Commission's discussions on redistricting were limited to improving the process of drawing lines. The Commission did not consider broader changes like the number of districts, the number of supervisors per district, or the voting method. This isn't because changes like these aren't worth considering. To consider broader election reforms like these, the Board of Supervisors could convene an independent Elections Task Force like the one San Francisco voters created in 1994. For example, the City Council of Portland, OR convenes an independent Charter Commission every ten years, with their most recent one proposing several election-related reforms for voters to consider.

## **APPENDIX**

#### APPENDIX A: Additional Resources

APPENDIX B: Proposed Reforms Discussion Guide



## **APPENDIX A:** ADDITIONAL RESOURCES

<u>Research and resources, including best practices</u> (Common Cause) <u>Most recent San Francisco Redistricting Task Force Report</u> (2022)

<u>Redistricting Initiative Plan</u> (for historical reference)

## APPENDIX B: Proposed reforms for Fair & effective Independent redistricting

Elections Commission FIERCE Committee August 24, 2023

\*Updated 9/17/2023 with state bill amendments

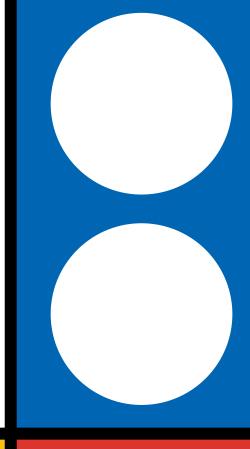
## AGENDA

- 1. Context
- 2. Which Components and Why
- 3. Considerations for Each Component
- 4. Additional Resources

## I. CONTEXT

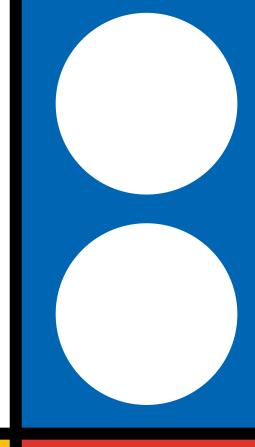
## **WHY WE'RE CONSIDERING THIS TOPIC**

- San Francisco was a pioneer in "independent" citizen redistricting and has now fallen behind in best practices
- Everyone involved in recent redistricting agrees some improvements should be made
- SF Elections Commission is responsible for ensuring free, fair and functional elections, which requires fair districts



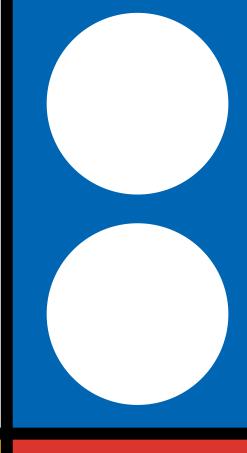
## **EXISTING STATE AND LOCAL LEGISLATION**

- FAIR MAPS Act (2019): The most significant and comprehensive overhaul of the local redistricting process in state history. Inspired by the California Citizen Redistricting Commission. Doesn't apply to charter cities.
- SF City Charter Sect 13.110 Elections Code: Current language passed in 1996 as Prop G went into effect in 2000, first redistricted in 2002. Focuses on composition, selection process, line-drawing criteria, and timing.



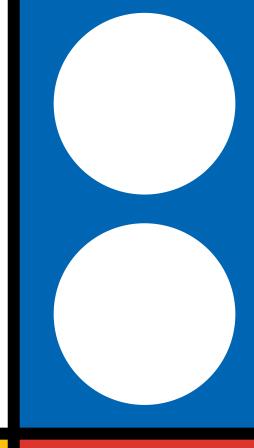
## **STATE LEGISLATION UNDER CONSIDERATION**

- AB 1248: Requires all counties, cities (including charter cities), school districts and community college districts with populations over 300,000 to enact legislation establishing independent redistricting commissions before January 1, 2030, or fall under the default structure and process as described in the bill
- AB 764: Provides enhancements to the Fair Maps Act to correct issues seen in the 21-22 cycle



## WHY NOW?

- The public's recent range of experiences with redistricting allows for more meaningful community engagement and input for potential reforms.
- Because it takes time to run a fair and democratic process, the Elections Commission wants to allow the City adequate time to prepare a new independent redistricting body as well as support City agencies to plan and implement a fair process.



## 2. WHICH COMPONENTS

I. COMPOSITION 2. SELECTION & REMOVAL PROCESS 3. COMMISSIONER QUALIFICATIONS & RESTRICTIONS

**4. REDISTRICTING LINE-DRAWING CRITERIA 5. FUNDING 6. COMMISSION PROCESSES** 7. TIMING

## 3. **CONSIDERATIONS** FOR EACH COMPONENT



#### **COMMON ACRONYMS USED**

RDTF = REDISTRICTING TASK FORCE IRC = INDEPENDENT REDISTRICTING COMMISSION BOS = BOARD OF SUPERVISORS CCRC = CA CITIZENS REDISTRICTING COMMISSION FMA = FAIR MAPS ACT

#### I. COMPOSITION: HOW MANY PEOPLE AND WHO SHOULD SERVE On the task force?

The task force should be a size and composition that allows for productive work, and also allows for experiences and expertise representative of SF's communities to draw maps that advance "one person, one vote." <u>What type of composition:</u> Should there be representation from each voting district? Would that encourage or discourage members to consider the whole of the city in map drawing? Should members be a combination of geographic and at-large? If members are at-large, how many should there be?

<u>**Representation:**</u> If there is a random element to the selection process, how can adequate representation / diversity be achieved? What diversity factors should/could be considered? Could a stipend enable those of lesser means to participate, and what amount would be meaningful enough?

<u>Voting threshold:</u> How will the number of members affect ability to reach voting threshold?

<u>Alternates:</u> Should alternates be selected? How? How many? Do they serve as non-voting members?

## **COMPOSITION**

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
9 members: 3 selected by each appointing authority. No diversity or representation requirements. No alternates.	AB 1248: If jurisdiction doesn't have an IRC, requires same basic composition as CCRC (8+6=14; not the partisan affiliations), but includes 2 non-voting alternates. First 8 must live in diff. Geographic districts.	None.	None.	Alternates should meet same requirements as members & be selected before first meeting	14 members: 8 selected by lottery after qualification; 6 selected by the first 8. 5 Dems, 5 Reps, 4 NPP. Consider geography, socio-econ status, race/ethnicity/ gender. No alternates.

#### **2. THE SELECTION & REMOVAL PROCESS:** WHAT WILL BUILD PUBLIC TRUST?

OUTREACH & Recruitment

#### QUALIFICATIONS & RESTRICTIONS

**VETTING & SELECTION** 

REMOVAL

### **OUTREACH & RECRUITMENT**

"A commission that lacks diversity may miss important community perspectives and even struggle with public legitimacy if significant constituencies feel they were not adequately represented in the process."

- California Local Redistricting Commissions Report (Heidorn-2017)

- → What kind of both general and targeted outreach and recruitment can be done to ensure a large, representative applicant pool?
- → What City agencies would be effective partners in reaching a pool of candidates representative of the City's diversity?
- → How many languages should outreach be conducted in? (and ensure translation & interpretation services be provided should someone on the task force need them)
- → What procedural steps might be unnecessary and act as barriers to people completing applications (e.g. submitting paper applications or completing a Form 700)?
- → Can requirements be put in place for the vetting and selection body to report to the public on its recruiting efforts?

### **OUTREACH & RECRUITMENT**

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
None.	AB 1248: Request assistance of community groups to get large applicant pool reflective of area's diversity. AB 764: Requires plan for community outreach.	None.	Invest resources and make careful plans to recruit a large and diverse applicant pool.	None.	State auditor required to do extensive outreach to build a large, diverse pool of candidates, representative of the state.

## **QUALIFICATIONS & RESTRICTIONS**

"While critical to creating an impartial commission, reformers and policymakers should resist the temptation to adopt overly-strict eligibility qualifications. The tighter the objective criteria, especially for smaller jurisdictions, the harder it will be recruit enough quality applicants to fill a commission."

-California Local Redistricting Commissions Report (Heidorn-2017)

- → What is standard criteria? What is overly or unnecessarily restrictive?
- → Which qualifications and disqualifications can be objective, where eligibility can be verified without exercising any personal judgement (e.g. voting in the last 2 elections or contributing >\$500 to a candidate)?
- → Which subjective qualifications are necessary to determine suitability for the task force (e.g. ability to be impartial) and require selection body to exercise independent judgement?
- → Should there be required number of years of residency? If so, how many to not be overly restrictive? (e.g. Long Beach requires 1 year)
- → How can diversity of representation, equity and inclusion be considered?

## **QUALIFICATIONS & RESTRICTIONS**

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
No guidelines on who may be a member of the task force. No standardized qualification criteria or bans on conflicts of interest.	AB 1248: If no existing IRC, must be resident of the juris., have history of civic engagement, demonstrated analytical skills, ability to comprehend/apply applicable legal requirements; ability to be impartial, appreciation for diverse demo./ geography of local jurisdiction. Pre/during/ post service restrictions. Alternates must meet same qualifications.	None.	None.	Consider minimum qualifications & restrictions, like the CCRC's. Consider restrictions on persons connected to for-profit and nonprofit entities receiving City funds.	Distinction: required to be continuously registered voter w/ same party 5 yrs, vote in 2 of last 3 gube. elections. Also: ability to be impartial, possess relevant analytical skills, understand CA's diversity and demography. Standard selection criteria on conflicts of interest, financial disclosures, during/post-service restrictions.

## **VETTING & SELECTION**

"IRCs, whose members are not selected by incumbents and meet certain qualifications to ensure impartiality, were more transparent, more encouraging and receptive to public participation, and more likely to draw maps that kept communities whole than legislative bodies."

-Promise of Fair Maps

#### Selection type:

- 1. Political (appointed by elected officials)
- 2. Non-political (selected through a random process and by qualifications, via a non-political body/agency)
- What process will build public trust?
- What selection authority(ies) would SF voters trust and has/have resources to run a vetting and selection process?
- What selection requirements would reduce conflicts of interest (pre-, during and post-service)? E.g.
  - Pre: disqualifies former elected, candidates, lobbyists, major donors, and direct family members with those ties
  - During: can't donate or engage in campaigns, run for office
  - Post:can't run in the districts you drew or for other local office for a period of time

## **VETTING & SELECTION**

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
Distributed between Mayor, BOS, and Elections Commission	AB 1248: Requires non-political selection process determined by jurisdiction (list of choices provided), open to eligible residents, as well as diversity of registered party affiliation. 40 most qualified selected by vetting agency before random selection.	None.	Require IRCs. Prohibit political appointments. Require State Auditor to inform applicants not selected for CCRC of opps for local IRCs.	Consider using something similar to the CCRC selection process, w/out involvement of elected officials and reinforces the independence of the task force. Don't leave RDTF vulnerable to potential conflicts of interest.	Selection process run by State Auditor. Legislators can veto up to 24 apps out of the 60 most qualified applicants.

## REMOVAL

"In addition to ethical rules of conduct, states should have clearly defined removal procedures for commissioner misconduct. These procedures should spell out the process through which commissioners found to have violated ethics rules can be removed and replaced."

- Designing a Transparent and Ethical Redistricting Process (League of Women Voters 2020)

- → What action should constitute possible removal: neglect of duty, gross misconduct, or inability to discharge duties?
- → Should removal of members occur at the pleasure of the appointing/ selecting authority or by the task force itself?

Pre-vetted and qualified alternates should be in place to be ready to replace a removed member.

## REMOVAL

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
At the pleasure of the appointing authority <u>per</u> <u>city ordinance</u>	AB 1248: Same as CCRC or inability to discharge duties. Replaced by one of the alternates chosen by the body.	None.	None.	None.	Only due to neglect of duty or gross misconduct or disqualifying info. Must be replaced with an alternate from the finalist pool.

#### **4. REDISTRICTING LINE-DRAWING CRITERIA:** WHAT CRITERIA WILL REDUCE POLITICAL INFLUENCE, KEEP COMMUNITIES OF INTEREST WHOLE, AND INCREASE TRANSPARENCY?

The California State Constitution defines a "Community of Interest" as a contiguous population which shares common social and economic interests that should be included within a single District for purposes of its effective and fair representation.

- → Should SF deviate from the FAIR MAPS Act criteria to accommodate unique characteristics (e.g. cultural districts, Communities of Interest definition, 5% population equality)? If so, how?
- → Should SF rank criteria, in alignment with FMA and CCRC requirements, to prevent cherry-picking to justify preferences?
- → Which criteria can be required to reduce political influence (e.g. no incumbency protection, consideration of electeds' political affiliation,etc.)
- → What should be included in final reports to increase transparency and accountability regarding adopted lines?

## **REDISTRICTING LINE-DRAWING CRITERIA**

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
Line drawing criteria not ranked. Substantially comply with one person, one vote. Districts should be contiguous, compact, and recog. neighborhoods. Population variations limited to 1% unless variations necessary. Must consider Comm. of Interest. No prohibition on incumbency protection.	AB 1248: Relies on FMA; does not define new criteria. AB 764: Prohibits incumbency protection. Adds clarity re: Communities of Interest. Includes other listed recs from PFMR.	Where practicable: geographically contiguous, keep communities of interest whole, minimizes division, easily identifiable & understandable by residents, bounded by natural/artificial barriers, encourage geographical compactness. Districts must be substantially equal.	Prohibit incumbency protection & discrimination. Ranked criteria must be followed to max extent possible. Unranked cannot be prioritized over ranked. Must do Gingles prong 1 analysis, and publish summary of racially-polarized voting analysis.	None.	Priority order: population nearly equal for congress & reasonably equal for state; comply w/ VRA, contiguity, respect integrity of neighborhoods, compactness, nest 2 AD in 1 SD when possible, no protection or discrimination against incumbent, candidate, party.

# **5. FUNDING:** WHAT IS NEEDED TO ADEQUATELY RESOURCE THE WORK, AS WELL AS DECREASE BARRIERS TO PUBLIC PARTICIPATION?

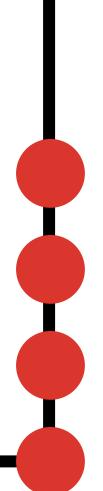
"In the future, it is recommended that a department or division is established to provide a structure that increases the ability of a team of individuals to plan and problem solve at a high level."

-City Clerk's Office

<u>Stipends for members:</u> What size stipend is meaningful enough to enable those of lesser means to participate and recognize all commissioners for their time? How can compensation be adjusted over time without putting another measure on the ballot?

<u>Budget to support process:</u> How much independent budget is needed to fund needed aspects of the work (e.g. mapping consultant, outreach, interpreters, etc.)? Refer to the City Clerk's recs.

<u>General:</u> What parts of the funding need to be included in the City charter vs put in place by the BOS through an ordinance? Should there be an automatic augmentation in subsequent redistricting processes?



### FUNDING

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
No stipend for members. Operations supported by Clerk of the Board and Dept of Elections with limited augmentation in budget.	AB 1248: Requires stipend; amount determined by local jurisdiction. Requires provision by the local jurisdiction of "reasonable funding and staffing" of the IRC.	None.	Require stipends. Invest resources in recruiting efforts for large, diverse pool. Fund CBOs to engage underrepresente d communities in local redistricting.	Echoed Clerk's recs: City should establish a temporary dept to support RDTF and its needs, e.g. chief of staff, admin support, media coordinator, Sunshine Ordinance expert to manage requests. But at least 2 clerks if funds are limited. BOS should allocate funds at the outset.	Stipend for members (\$378 per diem). Must appropriate adequate funds. May hire staff and consultants.

#### **6. COMMISSION PROCESSES:** HOW CAN THE COMMISSION BE PROPERLY SUPPORTED AND TRAINED, TRANSPARENT, & INCLUSIVE OF DIVERSE PUBLIC INPUT?

"Transparency and public participation in redistricting are essential to drawing better district boundaries, maintaining public confidence in the fairness of the process, and building community support for the final maps."

-California Local Redistricting Commissions Report (Heidorn-2017) <u>Training and support:</u> What training and preparation should the task force have and when? E.g. legal, sunshine, technical, redistricting criteria, best practices, etc. What staffing support and additional resources do they need to be effective?

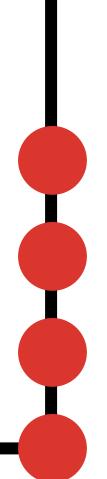
<u>Including the public:</u> How can the task force meaningfully include the diverse community in the process? What additional resources are needed to do that? How do meetings times and lengths affect this?

<u>**Drafting the map:</u>** What should procedures for the mapping process be? What works/worked well and where can improvements be made?</u>

<u>Decision-making & Voting:</u> Voting threshold: simple or super majority?

<u>Transparency:</u> What should be required in the decision-making process to ensure transparency (e.g. written rationale for maps)? What types of communication should be restricted (e.g. ex parte, intra-commission, etc.)?

<u>Missed deadlines:</u> What should happen if final maps are not approved as required by the deadline?



### **COMMISSION PROCESSES**

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
Simple majority to approve maps. Shall make adjustments as appropriate based on public input at public hearings.	AB 1248: Prohibits ex parte comm. Existing deadlines, requirements, etc for legislative bodies apply. Publish draft map 7 days before vote. Min 3 public hearings before final map adoption. No incumbency or political preference in districts. Quorum=9. 9 affirmative votes required for any action. AB 764: Requires min 1 public wkshp, 5 public hearings. Adopt edu and outreach plan by 4 wks before 1st hearing. Allows remote & in-person comment.	Must hold min. 4 accessible public hearings. Make good faith efforts to include under- represented and non-English speaking communities. Publish draft map 7 days before vote. Make all public comment available. If final map deadline missed, goes to superior court.	Increase min number of hearings and wkshps from 4 to min of 6-10. Provide in-person and remote options for public comment. Require posting of all written public comments. Require redistricting website be up <2 weeks before 1st hearing. Shorten timeline for publishing video/ minutes to 1 week. Adopt outreach and edu plan. Fund CBOs to engage community.	Draft bylaws, tent. schedules, proposed timelines should be presented at first RDTF meeting. Mapping training should be provided early, before mapping begins. Meetings should begin earlier in the day and run more efficiently. More robust outreach into communities is needed. Clear SOW with consultants needed. Develop methods to protect members from attacks/threats; shield from inappr. influence	Special supermajority for maps 9/14 (≥3 Dems, ≥3 Reps, & ≥3 Others). Comply w/ Bagley-Keene Act. 14 days notice for public meetings. 14 days comment on 1st draft maps and 7 on others. 3 days on final maps. Conduct public outreach. Provide public w/ mapping software. Prohibits ex parte comms. Commission records are public. Publish report justifying final map.

#### **7. TIMING:** WHEN SHOULD THE REDISTRICTING PROCESS BEGIN PRIOR TO THE DEADLINE AND WHEN MUST DRAFT MAPS BE Produced?

"It would be advisable for the Board of Supervisors to introduce and pass an Ordinance establishing the Task Force at least six months to a year before the Census results are released in April."

-The City Clerk's Office

<u>Seating the RDTF:</u> When must the RDTF be seated to enable adequate time to thoughtfully and inclusively do their work? The City decided to form the RDTF earlier than standard practice; the City Clerk recommends to begin even earlier next time.

<u>Map Deadlines:</u> What should the draft map deadline(s) be to enable adequate time for meaningful public input and collaboration? Should the final map deadline stay the same?



## TIMING

Current SF Law	Pending CA Legislation	FAIR MAPS Act	Promise of FAIR MAPS report recs	Recent SF RDTF Recs	CA Citizens Redistricting Commission
RDTF appointed within 60 days of Dir Elections report if districts not in compliance. No deadlines for draft maps; only final deadline stipulated of April 15 in year in which related election will be conducted.	AB 1248: IRC established not later than 250 days before the final map deadline. AB 764: Map adopted min. 204 days before next reg election after Jan 1 in xxx2 (Monday vs Sunday).	Boundaries adopted no earlier than Aug 1 in years xxx1 & no later than March 1 in years xxx2.	Revisit 2030 redistricting cycle timeline in 2028 or 2029. Change map deadline to land on Monday not Sunday.	RDTF should start as early as calendar and charter allow, and before receiving census data.	2020 CCRC terms began 1 yr before final map deadline. Draft map is due June 15.

## **4. ADDT'L RESOURCES**

## **ADDITIONAL RESOURCES**

- AB 1248 bill text and information
- AB 764 bill text and information
- FAIR MAPS Act (AB 849 or Chapter 557)
- <u>Current San Francisco Charter requirements re:</u> <u>redistricting</u> Sec. 13.110
- Promise of Fair Maps report
- <u>California Local Redistricting Commissions report</u>
- <u>San Francisco Redistricting Initiative Plan</u> v7
- <u>FAQs for California Citizens Redistricting Commission</u>

