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AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

AMENDED IN ASSEMBLY MARCH 18, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 278**

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**Introduced by Assembly Member Roger Hernández**  
**(Principal coauthor: Assembly Member Alejo)**  
(Coauthor: Senator Hueso)

February 11, 2015

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An act to amend ~~Section 10010 of the Elections Code, and to add Section 34885 to Sections 34872, 34884, and 34886 of, to repeal Sections 34876 and 34877 of, and to repeal and add Sections 34874 and 34875 of,~~ the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 278, as amended, Roger Hernández. ~~District-based municipal~~ *Municipal elections.*

*Existing law authorizes the legislative body of a city to submit to voters at any municipal or special election an ordinance providing for the election of members of the legislative body by districts, from districts, by districts with an elective mayor, or from districts with an elective mayor. Existing law also authorizes such an ordinance to be submitted to the voters by means of an initiative measure. Existing law requires the ordinance to state the number of legislative districts, describe the*

*boundaries of each, number the districts, and state the method for electing the members of the legislative body, as described above.*

*This bill would delete the requirement that the ordinance describe the boundaries, and number, of each legislative district and would instead require the legislative body, or the proponents of the initiative measure, to prepare a proposed map describing the boundaries and numbers of the legislative districts after the ordinance is passed or enacted, as specified. The bill would require a legislative body changing from a from district method of election to a by district method of election, or adjusting the district boundaries, to hold public hearings on the change, as specified. The bill would also make numerous technical, nonsubstantive changes to these provisions.*

*Existing law applies certain procedures if a majority of votes on the subject of incorporating a new city are in favor of incorporation and in favor of a by district method of election, including, among other things, requiring the boundaries of the districts of the legislative body to be as nearly equal in population as possible.*

*This bill would also require the districts to comply with the applicable provisions of the federal Voting Rights Act of 1965.*

*Existing law authorizes the legislative body of a city with a population of fewer than 100,000 people to adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor without submitting the ordinance for voter approval.*

*This bill would extend this authority to the legislative body of any city, regardless of its population.*

~~Existing law provides for political subdivisions that encompass areas of representation within the state. With respect to these areas, public officials are generally elected by all of the voters of the political subdivision (at-large) or from districts formed within the political subdivision (district-based). Existing law, the California Voting Rights Act of 2001, prohibits 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, as defined.~~

~~Existing law authorizes the legislative body of a city to submit to voters at any municipal or special election an ordinance providing for the election of members of the legislative body by districts, from districts, by districts with an elective mayor, or from districts with an~~

~~elective mayor. Under existing law, “by district” means election of members of the legislative body by voters of the district alone and “from district” means election of members of the legislative body who are residents of the district from which they are elected by the voters of the entire city. Existing law prescribes the procedures for the electors to change from the election of these members by district to election from districts or vice versa.~~

~~This bill would require the legislative body of a general law city with a population of 100,000 or more to adopt an ordinance, without submitting the ordinance to the voters of the city for approval, for the election of members of the legislative body by district. The bill would require that the boundary lines of each district be adjusted in accordance with specified provisions of existing law. The bill would require that the proposed boundaries satisfy specified criteria.~~

~~By requiring certain cities to conduct elections for members of their legislative bodies in a specified manner, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: yes-no.~~

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 34872 of the Government Code is~~
- 2     ~~amended to read:~~
- 3     ~~34872. The~~An ordinance shall state the number of legislative
- 4     ~~districts, describe the boundaries of each, number them, and state~~
- 5     ~~districts and~~ whether members of the legislative body shall be
- 6     ~~elected by districts or districts, from districts, or by or from districts~~
- 7     ~~except for by districts with an elective mayor, or from districts~~
- 8     ~~with an elective mayor.~~
- 9     ~~SEC. 2. Section 34874 of the Government Code is repealed.~~
- 10    ~~34874. No amendatory ordinance altering the boundaries of~~
- 11    ~~the legislative districts established pursuant to this article shall be~~

1 submitted to the registered voters until the ordinance has been  
2 submitted to the planning commission of the city or, in absence  
3 of a planning commission, to the legislative body of said city for  
4 an examination as to the definiteness and certainty of the  
5 boundaries of the legislative districts proposed.

6 *SEC. 3. Section 34874 is added to the Government Code, to*  
7 *read:*

8 *34874. (a) If an ordinance is submitted to the voters pursuant*  
9 *to Section 34871, there shall be printed on the ballots substantially*  
10 *as follows:*

11 *“Shall members of the legislative body of the City of \_\_\_\_ be*  
12 *electd by (or from) districts?”*

13 *or, if applicable:*

14 *“Shall members of the legislative body of the City of \_\_\_\_ be*  
15 *electd by (or from) districts, and the Mayor of the City of \_\_\_\_*  
16 *be electd on a citywide basis by the voters of the entire city?”*

17 *followed by the words “Yes” and “No,” so printed that the voters*  
18 *may express their choice.*

19 *(b) If a majority of the voters voting on the proposed ordinance*  
20 *vote in its favor, members of the legislative body shall be electd*  
21 *in the manner approved by the voters beginning at the first election*  
22 *following the approval of the district boundaries pursuant to*  
23 *Section 34875.*

24 *SEC. 4. Section 34875 of the Government Code is repealed.*

25 ~~34875. The amendatory ordinance shall not be submitted to~~  
26 ~~the voters if (a) one or more of the legislative districts do not close,~~  
27 ~~(b) one or more entire legislative districts are eliminated prior to~~  
28 ~~the termination of the term of office of the council member of or~~  
29 ~~from the district, (c) the effect is that a greater number of council~~  
30 ~~members will be qualified to hold office concurrently than are~~  
31 ~~authorized by this article or the amendatory ordinance.~~

32 *SEC. 5. Section 34875 is added to the Government Code, to*  
33 *read:*

34 *34875. (a) After an ordinance is passed by the voters pursuant*  
35 *to Section 34874, or after an ordinance is enacted by the legislative*  
36 *body pursuant to Section 34886, the legislative body or the*  
37 *proponents of the initiative measure, as applicable, shall prepare*  
38 *a proposed map that describes the boundaries and numbers of the*  
39 *districts for the legislative body.*

1     ***(b) If the legislative body is changing from an at-large method***  
2 ***of election to a district-based election, as those terms are defined***  
3 ***in Section 14026 of the Elections Code, the legislative body shall,***  
4 ***pursuant to Section 10010 of the Elections Code, hold at least two***  
5 ***public hearings on the proposed district boundaries. If the***  
6 ***legislative body is otherwise adjusting the district boundaries, the***  
7 ***legislative body shall hold at least one public hearing on the***  
8 ***proposed district boundaries pursuant to Section 21607 of the***  
9 ***Elections Code.***

10     ***(c) After completing the hearing process, the legislative body***  
11 ***shall submit the proposed district boundaries to the planning***  
12 ***commission of the city for an examination as to the definiteness***  
13 ***and certainty of the boundaries of the legislative districts proposed.***  
14 ***If the city does not have a planning commission, the legislative***  
15 ***body shall conduct the examination of the proposed boundaries.***

16     ***(d) (1) The planning commission, or the legislative body, shall***  
17 ***reject the proposed boundaries if it finds any of the following:***

18         ***(A) One or more of the legislative districts do not close.***

19         ***(B) One or more entire legislative districts are eliminated before***  
20 ***the termination of the term of office of the council members of or***  
21 ***from the district.***

22         ***(C) The effect is that a greater number of members of the***  
23 ***legislative body will be qualified to hold office concurrently than***  
24 ***are authorized by this article or the amendatory ordinance.***

25     ***(2) If a substantial change to the proposed boundaries is***  
26 ***necessary to address the reason the proposed boundaries were***  
27 ***rejected pursuant to paragraph (1), the legislative body or the***  
28 ***proponents of the initiative measure, as applicable, shall begin***  
29 ***anew the process for approval of the proposed boundaries, starting***  
30 ***with subdivision (a). If a substantial change to the proposed***  
31 ***boundaries is not necessary to address the reason the proposed***  
32 ***boundaries were rejected pursuant to paragraph (2), the planning***  
33 ***commission, or the legislative body, may revise the proposed***  
34 ***boundaries to address the reason for rejection.***

35     ***(e) The planning commission of the city or, in the absence of***  
36 ***the planning commission, the legislative body of the city, shall***  
37 ***make findings as to the matters set forth in subdivision (d) by***  
38 ***resolution within 90 days after submission of the amendatory***  
39 ***ordinance to the city clerk. Failure to make findings shall constitute***  
40 ***a finding of compliance with subdivision (d).***

1     *SEC. 6. Section 34876 of the Government Code is repealed.*  
 2     ~~34876. The planning commission of the city or, in absence of~~  
 3 ~~such body, the legislative body of the city shall make findings as~~  
 4 ~~to the matters set forth in Section 34875 by resolution within 90~~  
 5 ~~days after submission of the amendatory ordinance to the city~~  
 6 ~~clerk. Failure to make findings shall be constituted as a finding of~~  
 7 ~~compliance with Section 34875.~~

8     *SEC. 7. Section 34877 of the Government Code is repealed.*  
 9     ~~34877. The proposition of establishing or altering legislative~~  
 10 ~~districts shall be printed on the ballots substantially as follows:~~

11     ~~“Shall members of the legislative body of the City of \_\_\_\_\_ be~~  
 12 ~~elected by (or from) districts described in Ordinance No. \_\_\_\_\_?”~~  
 13 ~~or, if applicable:~~

14     ~~“Shall members of the legislative body of the City of \_\_\_\_\_ be~~  
 15 ~~elected by (or from) districts described in Ordinance No. \_\_\_\_\_,~~  
 16 ~~and the Mayor of the City of \_\_\_\_\_ be elected on a citywide basis~~  
 17 ~~by the voters of the entire city?”~~

18 ~~followed by the words “Yes” and “No,” so printed that the voters~~  
 19 ~~may express their choice.~~

20     *SEC. 8. Section 34884 of the Government Code is amended to*  
 21 *read:*

22     34884. (a) If, at the time a vote is held on the subject of  
 23 incorporation of a new city, a majority of the votes cast is for  
 24 incorporation and, if, in accordance with Section ~~35258, 57116~~, a  
 25 majority of the votes cast on the question of whether members of  
 26 the city council in future elections are to be elected by district or  
 27 at large is in favor of election by district, *all of the following*  
 28 ~~procedure shall procedures~~ apply:

- 29     ~~(a) Prior to~~  
 30     (1) *Before* the first day on which voters may nominate candidates  
 31 for election at the next regular municipal election, the legislative  
 32 body shall, by ordinance or resolution, establish the boundaries of  
 33 ~~the councilmanic districts. districts of the legislative body.~~ The  
 34 districts shall be as nearly equal in population as may be. *The*  
 35 *districts shall comply with the applicable provisions of the federal*  
 36 *Voting Rights Act of 1965 (52 U.S.C. Sec. 10301, et seq.), as*  
 37 *amended.* In establishing the boundaries of the districts, the  
 38 legislative body may give consideration to the following factors:  
 39 (1) ~~topography, (2) geography, (3) cohesiveness, contiguity,~~

1 integrity, and compactness of territory, and ~~(4) community of~~  
2 ~~interests of the districts;~~

3 (A) *Topography.*

4 (B) *Geography.*

5 (C) *Cohesiveness, contiguity, integrity, and compactness of*  
6 *territory.*

7 (D) *Community of interests of the districts.*

8 ~~(b)~~

9 (2) The terms of office of the two members elected with the  
10 lowest vote shall expire on the Tuesday succeeding the next regular  
11 municipal election. At that election, members shall be elected by  
12 district in the even-numbered districts and shall hold office for  
13 ~~four years; and~~ years.

14 ~~(e)~~

15 (3) The terms of office of the three members elected with the  
16 highest vote shall expire on the Tuesday succeeding the second  
17 regular municipal election following the incorporation. At that  
18 election, members shall be elected by district in the odd-numbered  
19 districts and shall hold office for four years.

20 ~~The~~

21 (b) *The* result of the vote cast on the question of whether  
22 members of the city council in future elections are to be elected  
23 by district or at large shall not preclude the submission to the voters  
24 at any future election of a measure in accordance with ~~the~~  
25 ~~provisions of Section 34871.~~

26 *SEC. 9. Section 34886 of the Government Code is amended to*  
27 *read:*

28 34886. (a) Notwithstanding Section 34871 or any other law,  
29 the legislative body of a city ~~with a population of fewer than~~  
30 ~~100,000 people~~ may adopt an ordinance that requires the members  
31 of the legislative body to be elected by district or by district with  
32 an elective mayor, as described in subdivisions (a) and (c) of  
33 Section 34871, without being required to submit the ordinance to  
34 the voters for approval. An ordinance adopted pursuant to this  
35 subdivision shall include a declaration that the change in the  
36 method of electing members of the legislative body is being made  
37 in furtherance of the purposes of the California Voting Rights Act  
38 of 2001 (Chapter 1.5 (commencing with Section 14025) of Division  
39 14 of the Elections Code).

1 (b) For purposes of this section, the population of a city shall  
2 be determined by the most recent federal decennial census.

3 ~~SECTION 1. Section 10010 of the Elections Code is amended~~  
4 ~~to read:~~

5 ~~10010. (a) A political subdivision not subject to the provisions~~  
6 ~~of Section 34885 of the Government Code, other than a charter~~  
7 ~~city, charter county, or charter city and county, that changes from~~  
8 ~~an at-large method of election to a district-based election shall~~  
9 ~~hold at least two public hearings on a proposal to establish the~~  
10 ~~district boundaries of the political subdivision before a public~~  
11 ~~hearing at which the governing body of the political subdivision~~  
12 ~~votes to approve or defeat the proposal.~~

13 ~~(b) This section applies to, but is not limited to, a proposal that~~  
14 ~~is required due to a court-imposed change from an at-large method~~  
15 ~~of election to a district-based election.~~

16 ~~(c) For purposes of this section, the following terms have the~~  
17 ~~following meanings:~~

18 ~~(1) "At-large method of election" has the same meaning as set~~  
19 ~~forth in subdivision (a) of Section 14026.~~

20 ~~(2) "District-based election" has the same meaning as set forth~~  
21 ~~in subdivision (b) of Section 14026.~~

22 ~~(3) "Political subdivision" has the same meaning as set forth in~~  
23 ~~subdivision (c) of Section 14026.~~

24 ~~SEC. 2. Section 34885 is added to the Government Code, to~~  
25 ~~read:~~

26 ~~34885. (a) (1) Notwithstanding any other law, the legislative~~  
27 ~~body of a general law city with a population of 100,000 or more~~  
28 ~~shall adopt an ordinance, without submitting the ordinance to the~~  
29 ~~electors of the city for approval, for the election of members of~~  
30 ~~the legislative body by district as provided in subdivision (a) or~~  
31 ~~(c) of Section 34871.~~

32 ~~(2) For purposes of this subdivision, the population of a city~~  
33 ~~shall be determined by the most recent federal decennial census.~~

34 ~~(b) The boundaries of the districts for the legislative body shall~~  
35 ~~be established and adjusted in accordance with Chapter 7~~  
36 ~~(commencing with Section 21600) of Division 21 of the Elections~~  
37 ~~Code.~~

38 ~~(c) The legislative body shall ensure all of the following criteria~~  
39 ~~are satisfied in preparing the boundaries of the districts for the~~  
40 ~~legislative body:~~

- 1 ~~(1) The boundaries are drawn to ensure fair and effective~~
- 2 ~~representation of all city residents including racial, ethnic, and~~
- 3 ~~language minorities.~~
- 4 ~~(2) The boundaries conform to the requirements of the United~~
- 5 ~~States Constitution and all applicable federal and state laws.~~
- 6 ~~(3) The boundaries respect communities of interest.~~
- 7 ~~(4) The boundaries have substantially equal populations as~~
- 8 ~~determined by the most recent federal decennial census.~~
- 9 ~~(5) The boundaries are geographically compact and contiguous.~~
- 10 ~~(6) The boundaries are drawn without regard to the advantage~~
- 11 ~~or disadvantage of incumbents, challengers, or any political party.~~
- 12 ~~(d) (1) Communications between any party and the legislative~~
- 13 ~~body regarding the drawing of the boundaries of the districts for~~
- 14 ~~the legislative body shall be disclosed to the public and maintained~~
- 15 ~~by the city in a publicly available log.~~
- 16 ~~(2) Communications related to the dissemination of the~~
- 17 ~~procedural information about the drawing of the boundaries of the~~
- 18 ~~districts for the legislative body, including, but not limited to,~~
- 19 ~~communications regarding the time and place of meetings or how~~
- 20 ~~to submit public testimony, are exempt from paragraph (1).~~
- 21 ~~(e) This section does not apply to a charter city or charter city~~
- 22 ~~and county.~~
- 23 ~~SEC. 3. If the Commission on State Mandates determines that~~
- 24 ~~this act contains costs mandated by the state, reimbursement to~~
- 25 ~~local agencies and school districts for those costs shall be made~~
- 26 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
- 27 ~~4 of Title 2 of the Government Code.~~