

AMENDED IN SENATE JUNE 1, 2016  
AMENDED IN SENATE FEBRUARY 18, 2016  
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 Sections 34872, 34877, 34884, and 34886 of, ~~to repeal Sections 34876 and 34877 of,~~ and to ~~repeal and~~ add Sections 34874 and 34875 of, 34876.5 and 34877.5 to, the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 278, as amended, Roger Hernández. 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 *that* 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,~~ *body* 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.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: 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. An ordinance shall state the number of legislative
- 4 districts and whether members of the legislative body shall be
- 5 elected by districts, from districts, by districts with an elective
- 6 mayor, or from districts with an elective mayor.
- 7 ~~SEC. 2. Section 34874 of the Government Code is repealed.~~

1 ~~SEC. 3.~~

2 *SEC. 2.* Section ~~34874~~34876.5 is added to the Government  
3 Code, to read:

4 ~~34874.~~

5 34876.5. (a) If an ordinance is submitted to the voters pursuant  
6 to Section 34871, there shall be printed on the ballots substantially  
7 as follows:

8 “Shall members of the legislative body of the City of \_\_\_\_ be  
9 elected by (or from) districts?”

10 ~~or,~~

11 *or*, if applicable:

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

15 ~~followed~~

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

18 (b) If a majority of the voters voting on the proposed ordinance  
19 vote in its favor, members of the legislative body shall be elected  
20 in the manner approved by the voters beginning at the first election  
21 following ~~the~~ approval of the district boundaries pursuant to  
22 Section ~~34875.~~ 34877.5.

23 ~~SEC. 4. Section 34875 of the Government Code is repealed.~~

24 *SEC. 3.* Section 34877 of the Government Code is amended to  
25 read:

26 34877. The proposition of ~~establishing or~~ altering legislative  
27 districts shall be printed on the ballots substantially as follows:

28 “Shall members of the legislative body of the City of \_\_\_\_ be  
29 elected by (or from) districts described in Ordinance No. \_\_\_\_?”

30 *or*, if applicable:

31 “Shall members of the legislative body of the City of \_\_\_\_ be  
32 elected by (or from) districts described in Ordinance No. \_\_\_\_,  
33 and the Mayor of the City of \_\_\_\_ be elected on a citywide basis  
34 by the voters of the entire city?”

35 followed by the words “Yes” and “No,” so printed that the voters  
36 may express their choice.

37 ~~SEC. 5.~~

38 *SEC. 4.* Section ~~34875~~34877.5 is added to the Government  
39 Code, to read:

1 ~~34875.~~

2 34877.5. (a) After an ordinance is passed by the voters  
3 pursuant to Section ~~34874~~, 34876.5, or after an ordinance is enacted  
4 by the legislative body pursuant to Section 34886, the legislative  
5 body ~~or the proponents of the initiative measure, as applicable,~~  
6 shall prepare a proposed map that describes the boundaries and  
7 numbers of the districts for the legislative body. *In preparing the*  
8 *proposed map, the legislative body may seek public input, including*  
9 *accepting proposed maps submitted by the public.*

10 (b) If the legislative body is changing from an at-large method  
11 of election to a district-based election, as those terms are defined  
12 in Section 14026 of the Elections Code, the legislative body shall,  
13 pursuant to Section 10010 of the Elections Code, hold at least two  
14 public hearings on the proposed district boundaries. If the  
15 legislative body is otherwise adjusting the district boundaries, the  
16 legislative body shall hold at least one public hearing on the  
17 proposed district boundaries pursuant to Section 21607 of the  
18 Elections Code.

19 ~~(c) After completing the hearing process, the legislative body~~  
20 ~~shall submit the proposed district boundaries to the planning~~  
21 ~~commission of the city for an examination as to the definiteness~~  
22 ~~and certainty of the boundaries of the legislative districts proposed.~~  
23 ~~If the city does not have a planning commission, the legislative~~  
24 ~~body shall conduct the examination of the proposed boundaries.~~

25 ~~(d) (1) The planning commission, or the legislative body, shall~~  
26 ~~reject the proposed boundaries if it finds any of the following:~~

27 ~~(A) One or more of the legislative districts do not close.~~

28 ~~(B) One or more entire legislative districts are eliminated before~~  
29 ~~the termination of the term of office of the council members of or~~  
30 ~~from the district.~~

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

34 ~~(2) If a substantial change to the proposed boundaries is~~  
35 ~~necessary to address the reason the proposed boundaries were~~  
36 ~~rejected pursuant to paragraph (1), the legislative body or the~~  
37 ~~proponents of the initiative measure, as applicable, shall begin~~  
38 ~~anew the process for approval of the proposed boundaries, starting~~  
39 ~~with subdivision (a). If a substantial change to the proposed~~  
40 ~~boundaries is not necessary to address the reason the proposed~~

1 boundaries were rejected pursuant to paragraph (2), the planning  
2 commission, or the legislative body, may revise the proposed  
3 boundaries to address the reason for rejection.

4 (e) ~~The planning commission of the city or, in the absence of~~  
5 ~~the planning commission, the legislative body of the city, shall~~  
6 ~~make findings as to the matters set forth in subdivision (d) by~~  
7 ~~resolution within 90 days after submission of the amendatory~~  
8 ~~ordinance to the city clerk. Failure to make findings shall constitute~~  
9 ~~a finding of compliance with subdivision (d).~~

10 ~~SEC. 6. Section 34876 of the Government Code is repealed.~~

11 ~~SEC. 7. Section 34877 of the Government Code is repealed.~~

12 ~~SEC. 8.~~

13 *SEC. 5.* Section 34884 of the Government Code is amended  
14 to read:

15 34884. (a) If, at the time a vote is held on the subject of  
16 incorporation of a new city, a majority of the votes cast is for  
17 incorporation and, if, in accordance with Section 57116, a majority  
18 of the votes cast on the question of whether members of the city  
19 council in future elections are to be elected by district or at large  
20 is in favor of election by district, all of the following procedures  
21 apply:

22 (1) Before the first day on which voters may nominate  
23 candidates for election at the next regular municipal election, the  
24 legislative body shall, by ordinance or resolution, establish the  
25 boundaries of the districts of the legislative body. The districts  
26 shall be as nearly equal in population as may be. The districts shall  
27 comply with ~~the~~ applicable provisions of the federal Voting Rights  
28 Act of 1965 (52 U.S.C. Sec. 10301, et seq.), as amended. In  
29 establishing the boundaries of the districts, the legislative body  
30 ~~may give consideration to~~ *consider* the following factors:

31 (A) Topography.

32 (B) Geography.

33 (C) Cohesiveness, contiguity, integrity, and compactness of  
34 territory.

35 (D) Community of interests of the districts.

36 (2) The terms of office of the two members elected with the  
37 lowest vote shall expire on the Tuesday succeeding the next regular  
38 municipal election. At that election, members shall be elected by  
39 district in the even-numbered districts and shall hold office for  
40 four years.

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

6 (b) The result of the vote cast on the question of whether  
 7 members of the city council in future elections are to be elected  
 8 by district or at large shall not preclude the submission to the voters  
 9 at any future election of a measure in accordance with Section  
 10 34871.

11 ~~SEC. 9.~~

12 *SEC. 6.* Section 34886 of the Government Code is amended  
 13 to read:

14 34886. ~~(a)~~Notwithstanding Section 34871 or any other law,  
 15 the legislative body of a city may adopt an ordinance that requires  
 16 the members of the legislative body to be elected by district or by  
 17 district with an elective mayor, as described in subdivisions (a)  
 18 and (c) of Section 34871, without being required to submit the  
 19 ordinance to the voters for approval. An ordinance adopted  
 20 pursuant to this subdivision shall include a declaration that the  
 21 change in the method of electing members of the legislative body  
 22 is being made in furtherance of the purposes of the California  
 23 Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section  
 24 14025) of Division 14 of the Elections Code).

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