

**Independent Redistricting Commission
Ad Hoc Committee to Develop Recommendations for Legislative and Other Options
Summary Report
September 30, 2021, Item 10**

Introduction

The Ad Hoc Committee to Develop Legislative and Other Options (Legislative AHC) was formed and members appointed by the Independent Redistricting Commission (IRC) on April 8, 2021 (see attachment 'Motion to form Legislative AHC.doc'). Commissioners appointed to this committee were Sonia Diaz, Rosette Garcia, Ken Inman, and Jack Russ. The IRC took this action in response to additional delays at the U.S. Census Bureau and ongoing uncertainty about timing of data release and impacts to the IRC's timeline, most significantly the period for public input into the redistricting process. The first announced delay in the release of Census data to July 31, 2021, resulted in the Legislature extending the map adoption deadline commensurately to December 15, 2021 (see AB 1276). The subsequent announcement of further delays, potentially to September 30, 2021, triggered the need for an ad hoc committee to thoroughly investigate and be fully informed of Census delays and their impacts as well as to devise potential strategies or actions to pursue in response to these delays.

The scope of work of the Legislative AHC was to develop legislative or other recommendations regarding the timeline for redistricting, with a four-fold purpose to: (1) monitor developments regarding the delay in delivery of the Census data, (2) assess potential impacts on the duties and timelines of the Commission, (3) gather information from other affected agencies and organizations regarding those matters, and (4) report back to the full Commission with recommended options for action, including but not limited to action(s) regarding a bill pending in the Legislature called SB 594 (Senate Bill 594). Prior to its formation, IRC counsel and staff had been briefing the Commission on delays at the U.S. Census Bureau, potential impacts to the IRC's timeline as a result of those delays, and ongoing activities and developments in the legislature intended to deal with those delays and impacts.

The Legislative AHC determined that the primary aim of any recommended actions would be to preserve, to the extent possible, the maximum amount of time available to the public for input during the pre- and post-map drawing process, in conformance with the intent of the original legislation (Elections Code § 21500 et seq.), and to ensure that the IRC would have ample time to review and incorporate public input into the map drawing. Notably, the Legislative AHC was able to delve deeply into these issues on behalf of the entire IRC, so that the ongoing work of the IRC could proceed without impeding the IRC's ability to focus on its ongoing core mission.

The following report details Legislative AHC's activities undertaken in fulfilling its remit. For a complete listing of all activities see attached spreadsheet 'Legislative AHC Timeline of Activities.xlsx'.

Phase 1: Gathering Information and Identifying Key Players

Initial meetings with counsel and between Legislative AHC members consisted of information gathering and consolidating understanding of the issues, including thorough examination of the original statutory requirements especially around timing requirements for public input and how Census delays were affecting (reducing) these time periods; associated electoral processes and timing requirements such as those specified by statute and those required by the Registrar of Voters; and the concerns and activities and potential synergies and impacts of other redistricting commissions, particularly the state-mandated Los Angeles County Citizens Redistricting Commission (LACCRC) and the California Citizens Redistricting Commission (CCRC).

First Recommendation/Action: The Legislative AHC recommended formally endorsing SB 594 because it was clear this bill was **the only** legislative vehicle that would provide the IRC redistricting deadline adjustments to offset census data release delays. The committee presented a Resolution in support of SB 594 (see attachment 'IRC Chair Letter in Support of SB 594_042921.pdf' and 'Resolution SB 594_FINAL.pdf'), for IRC consideration and approval at the IRC meeting on April 23, 2021. A motion to approve the Resolution passed unanimously.

Phase 2: Identifying Advocacy Strategies and Legislative Actions

The Legislative AHC determined that contact with key parties should be initiated, including with the LACCRC; staff of Senator Brian Glazer, the author of SB 594; Karin MacDonald, Director of the California Statewide Database (SWDB); and other key stakeholders, such as the CoSD Registrar of Voters (ROV), the League of Women Voters (LWVCA), and Common Cause. Information gleaned from those conversations would guide any decisions about IRC actions and further advocacy for our actions and positions.

1. Los Angeles County Citizens Redistricting Commission (LACCRC) Legislative Committee.
Meetings with LACCRC Committee members to exchange information and consider options for potential collaboration/cooperation on efforts to obtain an extension of the map adoption deadline beyond December 15, 2021: We learned that the LACCRC had passed a resolution supporting an extension of their map adoption deadline to February 15, 2022. LACCRC committee members expressed reservations about SB 594 and our support for it, since, in LACCRC's view, the legislation did not include any specific relief to either the LACCRC, or the IRC. In contrast, we believed the bill did offer some relief in that it clarified that the map adoption deadline of December 15, 2021, did not include the required 30-day public referendum period post map adoption, in effect providing 30 additional days to the process that had presumed the redistricting plan adoption would need to take place 30 days prior to December 15, 2021.
2. Senator Brian Glazer, SB 594 author.
Meetings with Nicolas Heidorn, staff director of the Senate Elections and Constitutional Amendments Committee, to discuss potential paths to achieve extension of map adoption deadline and the feasibility of various options: Conversations between the Legislative AHC and Nicolas Heidorn provided insight regarding possible paths forward, i.e. request for a "unique fix" for the IRC alone, the need for the IRC to identify a specific date for an extension, and a request to submit any proposed amendments to the bill as soon as possible. Questions about ROV support or opposition to any extensions to map adoption deadlines were raised and suggestions made to include ROV in discussions and obtain their input and cooperation; without ROV tacit or explicit support, getting a deadline extension would be unlikely. According to Mr. Heidorn, changing the date of the primary election was not being considered in this urgency legislation.
3. Karin MacDonald, Director of California Statewide Database (SWDB).
Telephone calls between Commissioner Inman and Karin MacDonald: Commissioner Inman obtained updates on the latest information regarding Census data release dates, how and when legacy-formatted data would be processed, and when the official SWDB database would be made available to the IRC and the public. The Legislative AHC was able to obtain clarity on issues related to the Census data and delays, including a clear understanding of the data that would be released on August 16, 2021 (legacy-formatted data, data not considered "user-friendly"), the data that would be released one week later, on August 22, 2021, processed and tabulated into the "user-friendly" format that had previously been expected on July 31, 2021, and was now expected to be delayed until September 30, 2021, and the SWDB timeline for providing the "official redistricting database." Ms. MacDonald informed us that this database would be released by September 20, 2021.
4. League of Women Voters of California (LWVCA) and Common Cause.
Outreach to these key organizations to understand their positions on extending deadlines and other timeline issues and obtain their input for the Legislative AHC's consideration: The LWVCA and Common Cause expressed concern that Census delays had pushed critical aspects of the redistricting process, especially the draft maps process, into the annual holiday period, beginning with Thanksgiving and through the end of the year. They doubted the ability for any redistricting commission to gather meaningful public input in late November through mid-December from a populace which would predictably be distracted in the first post-COVID holiday period. They expressed a preference to move deadlines to the end of January or mid-February to account for

both the additional Census delay and the many days lost to the holiday period. While supportive of our efforts, LWVCA and Common Cause held short of formally endorsing any proposal.

5. CoSD Registrar of Voters (ROV).

Meetings with ROV staff to review each of our timing requirements, apprise them of IRC's situation with lost days due to additional Census delays, notify them of our intention to pursue additional time for redistricting, to obtain their input on timing to ensure that the IRC would act in cooperation with the local ROV, and also ensure the Legislative AHC not recommend action that they would oppose. ROV indicated that they preferred the map adoption deadline remain December 15, 2021. We discussed the possibility of providing late stage draft maps in advance of any final map adoption deadline to ROV for their input on minor corrections that could streamline and simplify ROV process. They noted their own deadline of February 2, 2022, the date by which their precinct maps were required to be completed (election day minus 125 days), and while stating that they required at least 30 days from our final map adoption date to accomplish their own maps and other election related tasks, they indicated that it was theoretically possible to compress their timeline. Specifically, the ROV explained that the latest date they could receive a final adopted map from the IRC and meet their deadline was January 15, 2022. They stated their opposition to any change to the primary election date. In a later conversation with ROV staff, it was confirmed that if the IRC map adoption deadline were extended to January 15, 2022, it would be possible for the ROV to meet their deadlines, although concern about the Petition In Lieu of Filing Fee period, which would be curtailed, was of some concern. The ROV indicated that they would not support our request for a deadline extension, but neither would they oppose it. The Legislative AHC advised ROV that Legislative AHC would be recommending, for IRC approval, an amendment to SB 594 to extend the deadline and that we would be taking the ROV's concerns into consideration in any proposal that we submitted.

6. California Citizens Redistricting Commission.

Meetings with staff and CCRC members to exchange information and understand how CCRC options and paths might impact the IRC's ability to obtain a deadline extension: CCRC believed they would have to go back to the California Supreme Court for clarification of their deadline but would not be able to do so until they had brought on Counsel, expected sometime in late May or early June.

Second Recommendation/Action: The Legislative AHC ascertained that the number of days lost for the redistricting process due to Census delays was now an additional 23 days (July 31 to August 23, when the tabulated user-friendly database would become available). We understood from the ROV that January 15, 2022 was the latest date they could wait for our final map, and we knew from conversations with LWVCA and Common Cause that advocacy groups believed that more time was needed for robust, meaningful public input. Therefore, the Legislative AHC proposed an amendment to SB 594, seeking an extension of our map adoption deadline to no earlier than January 15, 2022 and no later than January 31, 2022 for approval by the IRC (see attachment '21-06-11 IRC SB 594 letter final.pdf'). The Legislative AHC believed that this accommodated all concerned parties, preserved the amount of time that was initially envisioned for the redistricting process, and provided some latitude to the bill's author to find a date that would generate enough broad support, and no opposition, for passage. The motion to approve and submit the proposed amendment passed unanimously in the May 13, 2021 IRC regular meeting.

Phase 3: Outreach to Local Delegation Regarding Urgency Bill SB 594 As Amended

While the letter and proposed amendment were being drafted, the Legislative AHC began reaching out to the San Diego County legislative delegation to inform them of our issue and our efforts via proposed amendments to SB 594, to obtain a deadline extension. The Legislative AHC was successful in arranging meetings with all San Diego County legislators in the Senate and Assembly or their appropriate staff.

However, on June 7, 2021, during this outreach effort and before our proposed amendment had been finalized and forwarded to Senator Glazer, the Legislative AHC was informed that SB 594 was no longer moving forward in the Senate, due to a 12-bill limit that had been imposed on Senators by leadership. As a result, Senator Glazer had elected not to proceed with the bill, thus eliminating this option for the IRC to restore time to the IRC redistricting process.

The Legislative AHC began another round of outreach primarily to legislative leadership, CoSD ROV, LWVCA, LACCRC, Common Cause, and others to assess the situation and determine the feasibility of any proposed amendment. The LACCRC indicated they were considering requesting a reduction in the time required between draft maps for public review, currently 30 days to 7 days. This approach was not consistent with the Legislative AHC's objective of allowing for more time for robust public input.

During this same time frame, the Legislative AHC was alerted to the fact that CCRC would be discussing their deadline and a request for clarification from the California Supreme Court, including a possible deadline extension. Chair Bame attended this meeting on July 13, providing statements and responding to questions under "public comment." At this meeting, the CCRC approved a motion to file an emergency motion with the California Supreme Court to clarify map adoption date, requesting the deadline be extended to January 14, 2022, using similar rationale to the IRC's in calculating the number of lost days due to the additional delay, and asking for additional days to offset days lost due to the holidays.

The Legislative AHC decided to continue advocating for an extension to the deadline via an amendment to SB 594 as had already been approved by the IRC, but to simplify the request.

Third Recommendation/Action: The IRC submitted a letter and proposed amendment (see attachment '21-06-29 IRC letter to CCRC and attachments.pdf') to Senator Glazer, author of SB 594, and distributed to all interested parties, including CCRC, local legislative delegation, and other stakeholders. The final proposed amendment simplified our request to extend our map adoption deadline to January 15, 2022 (eliminating the range of dates originally considered, i.e., "no later than January 31 and no earlier than January 15"). The legislature went into recess with no action on redistricting mapping deadlines.

Phase 4: Continued Outreach, Monitoring and Advocacy

The Legislative AHC continued conversations with legislative contacts who indicated that there was still interest in taking action, but unclear what form that action would take. The Legislative AHC continued to keep lines of communication open with all stakeholders, including LACCRC, CCRC, LWVCA, and CoSD ROV.

On August 17, 2021, the legislature reconvened from summer recess. The Legislative AHC was notified by IRC staff that SB 594 had been resurrected in the Assembly. However, while the amended bill usefully included a number of adjustments to facilitate the work of elections officials, it did not include the IRC's proposed amendment to extend the map adoption deadline. Legislative AHC members and Chair engaged in conversations with key parties regarding possibility of including our proposed amendment.

On August 20, 2021, CCRC counsel filed an emergency motion with the California Supreme Court requesting clarification of their map adoption deadline and an additional extension to January 14, 2022, to allow the public to fully focus on redistricting after the December holiday period.

On August 23, 2021, LACCRC forwarded to the Legislative AHC their letter submitted to Senator Glazer, stating their opposition to SB 594 unless amended to provide an extension of their deadline to January 14, 2022. Legislative AHC was also informed that LACCRC Co-Chair Daniel Mayeda would be testifying at an August 24 Assembly Committee meeting about SB 594 and their request. Notably, at this meeting, a representative of the state's elections officials organization (CACEO) also testified, describing as "ill-considered" the CCRC's request for an extension of deadline to January 14, 2022. Chair Bame attended this meeting remotely and attempted to provide public input but, due to technical difficulties at the Assembly, he was unable to do so. He subsequently followed up with Assembly Committee staff.

Fourth Recommendation/Action: The Legislative AHC in consultation with the Chair and Counsel decided to submit another letter on August 23 (see attachment 'County of San Diego IRC_SB 594 Amendment_08-23-21.pdf') to bill author and other key parties reiterating our continued request for extension of our deadline to January 14, 2022 (previously January 15, 2022 but changed to align with CCRC request).

Fifth Phase—Final Outcome

SB 594 was passed out of committee on August 24 without the IRC's proposed amendment. After the committee hearing, the Legislative AHC met with County staff to confirm their position (neither support nor oppose our proposed amendment), and with staffs of legislative leadership and bill's author to make a final plea for our amendment and to seek clarification of possibility of any further action. Although both Senate and Assembly leadership expressed their support of the overall intent to lengthen the time for more public input in the local redistricting process there was not support for pursuing a unique legislative fix for the Independent Redistricting Commission. Senate and Assembly leadership made clear that any proposed amendments introduced on the Assembly Floor in this regard would not likely move forward.

Fifth Recommendation/Action: The Legislative AHC considered whether to attempt to bring the IRC's proposed amendment to SB 594 to the floor, but, again, this did not seem like a viable course of action due to public opposition from CACEO and the lack of support from legislative leadership to amend the bill in this regard. The Legislative AHC determined that this would be a futile effort, with little to no chance of success and therefore opted not to pursue further action.

The Legislative AHC had one final meeting to discuss the costs and benefits to the IRC of filing an amicus letter to support CCRC's emergency motion, filed on August 20, 2021, with the California Supreme Court, noting that even if the motion were granted, that would not change the IRC's statutory deadline. The IRC's only path for a change to the map adoption deadline was through the legislature, and it was no longer a possibility. Furthermore, submitting an amicus letter might undermine the good working relationship with the CoSD ROV and state-level legislators that the AHC has sought to establish. Additionally, pursuing further action via an amicus letter would require yet more time and energy at a time when staff, counsel and Commissioners faced other high priority issues, most immediately on considering timeline issues that could involve working with the CoSD ROV and procuring special Voting Rights Act counsel.

Final Recommendation/Action: Legislative AHC decided, for the reasons mentioned above, not to proceed with an amicus letter or to recommend any further action.

Conclusion

On September 22, 2021, the California Supreme Court issued a ruling clarifying that the deadline for the CCRC to adopt maps was December 27, 2021 (granting an additional 12 days). On September 27, 2021, Governor Newsom signed SB 594 into law. The IRC's deadline remains December 15, 2021.

The Ad Hoc Committee to Develop Legislative and Other Options (Legislative AHC) was formed to develop potential strategies or actions to pursue in response to ongoing uncertainties regarding release of Census data so as to preserve, to the extent possible, the maximum amount of time available to the public for input during the pre and post map drawing process, in conformance with the intent of the original legislation, and to ensure that the IRC would have ample time to review and incorporate public input into the map drawing process. The Legislative AHC worked diligently to thoroughly investigate and be fully informed of Census delays and other Census or timeline related developments; engage in conversations with all key stakeholders, from other redistricting commissions with whom we could collaborate or learn from, to good government groups whose input and advocacy could be instructive and helpful; provide carefully developed, justifiable and rational strategies and actions to pursue in response to Census delays. Notably, the Legislative AHC was able to delve deeply into these issues on behalf of the entire IRC, so that the ongoing work of the IRC could proceed without interference or delay to the IRC's ongoing core mission.

Despite all these efforts, we were ultimately unsuccessful in obtaining the extension to our map adoption deadline. Throughout this process, the IRC has continued to formulate plans based on the existing December 15, 2021 deadline, and execute a timeline that has met the statutory requirements for public outreach and pre-mapping public hearings. The IRC, at every decision point, has made the effort to prioritize the public's access to meetings, as required under the Brown Act and the California Elections Code, and access to all redistricting documents, trainings, presentations, and mapping tools. In short, the IRC has been driven by its commitment to an open, transparent process that will inspire confidence in the redistricting process and in the final map that is adopted. Regardless of the outcome in this effort, the Legislative AHC is confident that the IRC will be successful in meeting the stated goals and statutory requirements by the deadline.