



April 12, 2023

The Honorable Isaac Bryan, Chair
Assembly Elections Committee
1021 O Street, Suite 6530
Sacramento, CA 95814

Re: **AB 764 (Bryan): Local redistricting**
As amended 4/11/23 – OPPOSE UNLESS AMENDED
Set for hearing 4/19/23 – Assembly Elections Committee

Dear Assemblymember Bryan:

On behalf of the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), and the California State Association of Counties (CSAC), we write to share our opposition to Assembly Bill 764 unless it is amended to address our concerns associated with the proposed changes to California's FAIR MAPS Act. While we can appreciate an interest in ensuring the public's trust in local redistricting processes, counties diligently worked during the 2021 redistricting cycle to comply with the FAIR MAPS Act under extraordinary circumstances, including delayed data from the United States Census Bureau, adjusted deadlines to accommodate such delays, and COVID-related workplace challenges, including widespread health and safety protocols, remote work, and staffing shortages. To our knowledge, counties' efforts during the 2021 redistricting cycle were met with notable success, as noted in the findings and declarations of AB 764, especially considering that this was the first time that local agencies were tasked with new requirements for the redistricting process amidst a global pandemic. Of course, there is always room for improvement; however, some components of AB 764 impose unreasonable and impractical burdens on California counties.

Burdensome Reporting Requirements Make Compliance a Challenge. AB 764 contains a number of new reporting requirements for counties that will require significant professional assistance to ensure compliance. New requirements to publish federal Voting Rights Act analyses, a report outlining compliance with new district boundary criteria, new redistricting public education and outreach plans with specific components and a public review period, oral summaries of each public comment received at every public workshop,

and detailed analyses of each draft map “that a member of the districting body asks be discussed or considered,” as proposed in AB 764, will be costly, time-consuming, and in all likelihood simply not feasible with existing county staff. In addition, each includes strict and short publishing deadlines and, in some instances, aggressively prescriptive requirements for what must be included in the report. While we support a transparent and accountable redistricting process, stringent new reporting obligations proposed in the bill pose a significant challenge to eventual compliance.

Additional Requirements for Public Hearings Are Costly and Impractical. AB 764 increases the number of public workshops and hearings for all counties and, in some instances, increases them dramatically. The FAIR MAPS Act required counties to conduct at least four public hearings; some counties held additional workshops and hearings to better outreach to their communities. In the category of “no good deed goes unpunished,” AB 764 ramps up the number of public hearings to five for the smallest counties (plus a separate standalone workshop), seven for medium-sized counties (plus workshops), and nine for the largest counties (plus workshops). Further, AB 764 adds additional requirements for public meetings to be held on a weekend or evening. Public hearings and workshops require considerable time and effort to plan and execute; such a marked increase in public meetings again makes compliance a challenge. Since AB 764, like the current FAIR MAPS Act, requires live translation of public hearings upon request, this adds one more challenging task to accomplish for each and every one of these additional hearings.

Private Right of Action Adds Significant Uncertainty and Cost. Counties have strong concerns about the special private right of action contained in AB 764 for any *ongoing* violation or *prevention of a future* violation or a *threat* of violation of the provisions of the Act. Existing law provides for robust judicial review of counties’ redistricting processes and decisions through a petition for writ of mandate brought under Code of Civil Procedure section 1085. These procedures provide a well-established, stable, and well-understood body of law governing judicial review of these matters, and California courts have not hesitated to intervene when county redistricting does not comply with applicable law. The proposed new private right of action interjects significant uncertainty into both the procedural requirements and substantive standards for judicial intervention, and creates significant uncertainty and invites litigation, even with a 15-day ability to cure. We are unaware of any deficiency in the current provisions for judicial review, and are likewise unaware of any flagrant violations of the FAIR MAPS Act from the 2021 redistricting, which relied upon those provisions. We consequently question the need for such a provision.

AB 764 proposes significant new requirements for county redistricting processes that, given counties’ previous performance during the 2021 redistricting process, appear to be unwarranted. While it is reasonable to consider implementation of best practices for the next round of redistricting, AB 764 outlines new obligations that, when taken in total, will simply not support counties’ redistricting success. It is no secret that county elections and redistricting work are under-resourced, from a fiscal and human perspective and that there is a dearth of redistricting professionals available to provide competent assistance at a reasonable cost. (The shortage of redistricting professionals will only be exacerbated by extending the bill’s requirements to special districts and school entities. While these are

not our organization's members and we don't claim to represent their respective positions on the bill, there just aren't enough redistricting attorneys, map drawers, and consultants to go around, particularly under the tight time constraints proposed by the bill.) This lack of resources, combined with expectations like those outlined in AB 764, frankly sets counties up for failure. From our perspective, such a failure would only serve to validate public distrust in the redistricting process and in our democratic systems that are already under intense public scrutiny.

We have outlined our concerns here for the purpose of future discussions about amendments that will address proponents' concerns without unreasonably burdening counties. At this time, however, we remain respectfully opposed to AB 764. Please don't hesitate to reach out if we can be of additional assistance.

Sincerely,



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cc: Members and Consultants, Assembly Elections Committee