



STAFF REPORT

TO: Board of Commissioners

FROM: Andrea K. Lueker, Harbor Manager

DATE: January 26, 2021

SUBJECT: Adopt Resolution No. 21-02 Declaring the District's Intention to Transition from At-Large to District-Based Elections by November 2022

Recommendation / Proposed Motion

Recommendation: (1) Adopt Resolution No. 21-02 declaring the District's intention to transition from At-Large to District-Based elections by November 2022; and (2) approve and authorize the Harbor Manager to execute a Settlement Agreement with the proposed plaintiff subject to statutory maximums

Motion: Move District Staff's recommendation.

Policy Implications

Not applicable.

District Major Goal/Objective

None.

Fiscal Implications / Budget Status

Specific impact unknown at this time.

Alternatives Considered

The following actions were considered but are not recommended at this time:

- Based on the correspondence received by the District on December 17, 2020, no alternatives are suggested.

Background

The District currently elects its Board of Commissioners through an at-large electoral system. The California Voting Rights Act (CVRA) allows for legal challenges alleging that an at-large system has resulted in racially polarized voting within a jurisdiction and seeking a court order that a jurisdiction convert to a district-based election system.

On December 17, 2020, the District received a correspondence (Attachment 1) from Robert Goodman, Attorney at Law noticing a violation of the CVRA. The correspondence included a timeline of 45 days from receipt to adopt a resolution outlining the District's intention to transition from at-large to district elections.

Discussion

The District currently elects its Board through an at-large electoral system in which each Board member may reside anywhere within the District boundaries, is elected by the entire electorate, and the candidates with the most votes fill the open seats. This electoral system is known as the “multi-seat plurality electoral system.”

The CVRA allows for legal challenges alleging that an at-large system has resulted in racially polarized voting within a jurisdiction and seeking a court order that a jurisdiction convert to a district-based election system. A district-based electoral system is one in which a jurisdiction is divided into separate geographic districts, each with one representative who resides in the district and is elected only by the voters residing within the district. In a district-based system, voters within each district may vote for only one candidate. “Racially polarized voting” under the CVRA means:

“Voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.”

The Act amended Elections Code Section 10010 in an attempt to provide a “safe harbor” from Act litigation for agencies that choose to voluntarily transition to a district-based election system after receiving a threat of litigation. If an entity receives a demand letter, the entity is given 45 days of protection from litigation to assess the situation. If within 45 days, the agency adopts a resolution declaring its intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing an action for an additional 90-day period. Under the Act, the public entity’s liability is capped at \$30,000¹ in reimbursement costs to the prospective plaintiff if it follows the process outlined in the Act.

Prior to considering an ordinance and/or resolution to institute a district-based election system, the District will take the following actions pursuant to Elections Code section 10010:

1. Hire a qualified consultant to provide demographic services and assist in the preparation of proposed district maps, an estimated cost of approximately \$15,000-\$25,000;
2. Conduct public outreach, including to non-English speaking communities, to explain the districting process and to encourage public participation;
3. Before drawing a draft map or maps of the proposed division boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries;
4. After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the district elections and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections;
5. Hold a public hearing at which the District will consider the adoption of an ordinance establishing district-based elections, including a district boundary map and the sequence of the district elections.

Attachment(s): 1. December 17, 2020 Correspondence
2. Resolution No. 21-02

¹ 1 Adjusted annually for inflation.