

STAFF REPORT

DATE: March 21, 2018

TO: Board of Directors

FROM: Maureen Zamarripa,
General Manager

BY: Sigrid Asmundson, General Counsel

SUBJECT: Consideration of At-Large versus By-District or From-District Elections



RECOMMENDATION

The Board of Directors receives and considers the different options for electing Directors and provides further direction to staff.

EXECUTIVE SUMMARY

There are 3 methods for converting from at-large to by-district or from-district elections (collectively referred to here as "division elections"):

1. At least 25% of the registered voters of the District file an initiative petition measure with the Board which would be placed on the next election ballot and, if approved by the electorate, converts the Board from at-large to division elections
2. The Board approves a resolution placing an initiative measure on the ballot which, if approved by the electorate, converts the Board from at-large to division elections
3. The Board adopts a resolution converting from at-large to by-district elections¹

BACKGROUND / ANALYSIS

At its January 17, 2017 Board meeting, the Board directed staff to prepare a report on the procedure, and the pros and cons, for converting Board elections from its current method of at large to division elections. This direction was subsequent to a public comment made by Mr. Jim Kelly at the Board's November 15, 2017 meeting requesting that the Board consider switching to division elections.

As you know, the District Board is currently elected "at-large," meaning Board members may live anywhere within the District's jurisdictional boundary and are elected by the entire population of the District. There are 2 types of division elections. "By-district" elections means that the District is split into 5 districts and each Board member must reside in a district, also known as a division of the District's jurisdictional boundaries, and be elected by the registered voters within that district. "From-district" elections means that the District is split into 5 districts and each Board member must reside in a district, but the Board members are elected by the entire District's population of registered voters.

2008 Measure S

On October 4, 2006, as a condition of its approval of the dissolution of the Galt Fire Protection District and its annexation into the then Elk Grove Community Services District, the Sacramento Local Agency Formation Commission ("LAFCO") mandated that the newly former Cosumnes Community Services District would place a ballot measure on the next general election asking the electorate whether the

¹ This option is only available if the District switches to by-district elections. The District cannot switch to from-district elections by resolution only

Board of Directors would be elected by-district or at-large. The District placed the following question, known as Measure S, on the November 4, 2008 ballot:

Shall the Cosumnes Community Services District change the system in which Board members are elected from the current at-large electoral system, meaning Board members may reside anywhere in the jurisdiction and are elected by all voters within the District, to a system in which the Cosumnes Community Services District jurisdiction is divided into five equally-populated geographical divisions, with one Board member elected from each division by all voters within the District?

Measure S received 53.55% No votes (30,584) and 46.45% Yes votes (26,530). In 2008, the District's population was approximately 169,500.² The District's 2018 estimated population is 190,680.

Division Elections

The Board may convert from at-large to division elections in one of three ways:

By Board-Sponsored Initiative Measure

The Board may adopt a resolution submitting to the voters the question of whether the District should transition from at-large to division elections. (Gov. Code §61025.) The resolution must be adopted at least 88 days prior to the election. Because we are less than 88 days from the June 5, 2018 election, the District could not put this on the ballot until the November 6, 2018 election, at the earliest. The deadline for placing this question on the November 6, 2018 election is August 10, 2018.

By Voter-Sponsored Initiative Measure

Alternatively, at least 25% of the registered voters of the District may submit a petition to the District requesting that the Board adopt a resolution placing the question on the ballot.³ (Gov. Code §61025.) This process takes significantly longer, as the initiative proponent must submit a notice of intention to the District prior to circulating the petition, receive a ballot title and summary, and have 180 days to circulate the petition and submit it to the District for signature verification. (Elec. Code §9310.)

By Board Resolution

As of January 1, 2017, the Board now has the option to adopt a resolution converting from at-large to by-district elections without voter approval. (Elec. Code §10650.) The resolution must include a declaration that the change in the method of electing Board members is being made in furtherance of the purposes of the California Voting Rights Act. The Board is required to hold at least two public hearings on the proposal to establish the district boundaries prior to holding a public hearing to approve the resolution approving by-district elections. (Elec Code §10010.)

Creating District Divisions

After the initiative measure is approved by the voters or the resolution is adopted by the Board of Directors converting to by-district, as applicable, the Board must promptly adopt a resolution dividing the district into 5 divisions. (Gov. Code §61025(d).) The resolution must assign a number to each division. The divisions shall be based on the last decennial census (conducted in 2010), with each division being as nearly equal in population as possible. In establishing the boundaries of the divisions, the Board may give consideration to the following factors:

² This is gross population, not registered voters.

³ The 25% threshold is specific to this type of initiative petition and is significantly higher than a regular initiative measure. Regular initiative measures only require 10% of the registered voters to place an initiative measure on the ballot. (Elec. Code §9310.)

- Topography
- Geography
- Cohesiveness, contiguity, integrity, and compactness of territory
- Community of interests of the divisions

Generally, the divisions are drawn by a consultant that specializes in creating divisions. The cost is dependent on the consultant and the services that the District chooses from the consultant. However, for a local agency of the District's population and geographic size, based on recent division election conversions we estimate the cost to be around \$50,000. It takes approximately 4-6 months to create divisions.

The divisions must comply with certain requirements. First, each division must be as nearly equal in population as possible. The California Supreme Court has ruled that making the population in each division as equal as possible is the first priority in creating the divisions, and that divisions will be presumed valid if they each have between 17-23% of the District's population. Having badly unbalanced voter numbers in each division can violate the equal protection clause of the Fourteenth Amendment to the US Constitution.

Even if the districts are nearly equal in population, diluting the voting strength of minorities may also violate the federal Voting Rights Act. This can occur if minority voters are spread between divisions with larger white voting populations that vote as a bloc for white candidates, so that the minority voters are unable to elect their preferred candidates. On the other hand, the US Supreme Court has held that race can be considered when creating divisions, provided that race is not the "predominant" factor. Thus, racial gerrymandering may also violate the equal protection clause. This can occur when divisions are designed with improbable shapes that lump together areas of a jurisdiction with little in common, for reasons that appear to be based solely on ethnic considerations.

Timing For First By-District Elected Officials

At the first regular election after the voters approve the initiative measure or the Board adopts a resolution converting to by-districts, the members of the Board up for re-election shall be elected through divisions. For example, if the initiative measure is approved at the November 2018 election, the first division elections would occur at the November 2020 election. If the Board adopts a resolution converting to by-districts, and a consultant is available immediately to draw the divisions, it may be possible to create divisions for the November 2018 election.

2020 Census

Of note is that the next federal decennial census will be performed in 2020. If the District converts to division elections it will be required to go through a district boundary readjustment in 2021. (Elec. Code §22000.) This will result in new divisions for the November, 2022 elections. Thus, if the Board were to convert to division elections and create district boundaries for the November, 2020 election, only the seats up for election in November 2020 will be subject to division elections before the District is required to re-draw its divisions.

Additional Considerations

While not required, the County Registrar of Voters has asked to review the division boundaries before they are adopted. As you know, the City of Elk Grove is currently elected "from-district" in 4 divisions, with the mayor elected at-large. The County prefers for the District's division boundaries to be as closely aligned as possible to other public agencies' division boundaries within its jurisdiction to prevent voter confusion.

Pros and Cons⁴

Below are potential pros and cons of being elected at-large or through division elections:

At-Large

Pros:

- Board members in an at-large system are more impartial, rise above the limited perspective of a single district and concern themselves with the problems of the whole community
- Vote trading between Board members is minimized
- Number of candidates available for an election tends to be larger

Cons:

- At-large elections can weaken the representation of particular groups, such as people of color, especially if the group does not have a District-wide base of operations or is an ethnic/racial group concentrated in a specific area of the District
- Increased election and campaign costs
- Potential decrease in voter turnout

Division Elections

Pros:

- Division elections give groups (such as geographic or ethnic groups) a better chance of being represented on the Board. The California Voting Rights Act and several court cases have mandated by-district elections in local agencies where ethnic minority groups have traditionally lacked representation.
- Officials elected through divisions are more attuned to the unique problems of their district's constituents
- Division elections may improve citizen participation because councilmembers who represent a specific district may be more responsive to their constituency
- Decreased election and campaign costs

Cons:

- Officials elected through divisions may experience more in-fighting and be less likely to prioritize the good of the District over the good of their specific district
- More contentious campaigning for District seats because it is a "winner take all" system

IMPACT ON DISTRICT RESOURCES

There are several cost factors involved in converting from at-large to division elections.

First, the District will need to hire a consultant to assist it in drawing division boundaries. The District must re-draw the division boundaries after each decennial census and after any major population change, such as an annexation.

Second, there is the additional cost of placing the initiative measure on the ballot, should the District decide to submit the question to the electorate rather than converting from at-large to by-district by resolution only.

Third, if the District converts to by-district, its regular election costs will decrease. Sacramento County Registrar of Voters prepared a rough estimate of the costs for the November 6, 2018 election (not including any candidate statement costs) based on the District's current registration of 103,249 voters.

⁴ The National League of Cities prepared a brief pros and cons comparison which were added to this list:
<http://www.nlc.org/resource/cities-101-at-large-and-district-elections>

Staff Report: Consideration of At-Large versus Division Elections
March 21, 2018

The number of registered voters will change prior to the November 6, 2018 election as residents may register to voter up to 15 days prior to the election date. The election cost estimates are as follows:

Voted "At Large"

Base Set-up fee =	\$2,008.00
First Contest fee per registered voters	$.9051 \times 103,249 = \$93,450.67$
"At Large" Total = \$95,458.67	

Voted "By District"

Director 1	
Base Set-up fee =	\$2,008.00
First Contest fee per registered voters	$.09051 \times 20,649 = \$18,689.41$
Director 2	
Base Set-up fee =	\$2,008.00
First Contest fee per registered voters	$.09051 \times 20,649 = \$18,689.41$
"By District" Total = \$41,394.82	

*Please note that the County's estimate is based on 2 seats being up for election on the November 6, 2018. If 3 seats were up, the by-district estimated cost would increase by 50% to **\$62,092.23**.

An estimate was not provided for "from-district" elections but based on the calculations above, from-district elections would be the most expensive, as follows:

Base set-up fee: $\$2,008.00 \times 5 \text{ divisions} = \$10,040$
First Contest fee per registered voters: $.9051 \times 103,249 = \$93,450.67$
"From-District" Total = \$103,490.67

Respectfully Submitted,



Maureen Zamarripa
General Manager