

Transition to Trustee Area District Elections

August 10, 2021

Earlier Board Action

- During June 2018, the Board passed Resolution 2017/18-57 stating its intention of changing to Trustee Area elections from the current at-large method.
- The Board determined to make the change in time for the 2022 elections after the 2020 census data became available.
- Under the new system, the district will be divided into separate trustee areas, with a resident of each area being elected by voters within area.
- If no candidate files for the election, the Board appoints someone who must be a resident of the area.

Why change?

- Separate trustee areas are seen as enhancing opportunities for minorities to secure positions or to influence elections.
- Threat of litigation under the California Voting Rights Act (CVRA)
 - Effective January 1, 2003
 - Made it much easier to challenge “at-large” voting systems: “[a]n at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class....” Elec. Code § 14027.

CVRA Litigation

- CVRA is violated if racially polarized voting occurs.
- Racially Polarized Voting: Choice of protected class of voters is different from overall electorate. Elec. Code § 14026.
- No proof of intent to discriminate required.
- Demographers compare how local minority v. non-minority residents voted in local and statewide elections. Any disparity is likely sufficient.
- Law favors plaintiffs.
- One-way attorney's fees for prevailing plaintiffs
 - Includes expert fees for demographers.
 - Fee awards have been in the millions, not including defense costs.

CVRA Demand

- Flood of CVRA claims and attorney fee demands led to creation of “safe harbor” provision in CVRA. Elec. Code § 10010.
- Prospective plaintiff can send written demand for a district to change its election system based on allegations that current system violates CVRA.
- When demand is received, District can forestall litigation if a resolution of intent to change is passed by its board within 45 days.
- Resolution prevents lawsuit for 90 days.
- This also caps reimbursement to the individual making the demand (no more than \$30,000).

Risk of Rejecting Demand

- If a demand is received and the safe harbor steps are not followed, a district can be liable for large, uncapped sums for attorney's fees and costs.
- Santa Monica has spent over \$7 million in legal fees defending a CVRA case, which is not yet over.
- City of Santa Barbara spent \$600,00 before making the change.
- Many others also spent large sums and all but Santa Monica either lost or agreed to convert.

Steps to Establish By-Trustee Area Elections

1. Immediately pass a resolution declaring intent to establish by-trustee area elections.
2. Demographer develops voting-area plans based on statutory criteria, including consideration being given to members of “protected classes” (i.e. minority groups).
3. Plans are adjusted after data from 2020 census is received (not until August 2021),
4. Conduct public hearings (at least 2) to receive community input.

Drawing of Trustee-Area Plans

- Demographer uses 2020 decennial census data
- “One person, one vote” standard established by SCOTUS
- Population must be as equal as “practicable” – people, not citizens.
- Ed. Code § 1002: “...trustee areas shall be as nearly equal in population...”
- A certain amount of deviation permitted, up to 10%.

Share Draft Voting Area Plans with District Constituents

- Draft plans must be presented to public before final board consideration.
 - Place draft plans on District website.
 - Requires 2 public hearings before 3rd public hearing to adopt final plan.
 - Seek approval by County Committee on School District Organization at hearing within District.
 - After approval by County Committee, place by-trustee area election proposal and final map on ballot for approval OR obtain waiver from State Board of Education (routinely granted)

Impact of Transition

- Incumbent board members permitted to serve out remaining terms.