

STAFF REPORT

DATE: August 13, 2019

TO: City Council

FROM: Mike Webb, City Manager
Kelly Stachowicz, Assistant City Manager
Zoe Mirabile, City Clerk

SUBJECT: Consideration of Intent to Transition to District Elections

Recommendation

1. Approve Resolution of Intent to Transition from At-Large to District-Based City Council Elections (Attachment 1), which also includes a tentative schedule for the process.
2. Authorize the City Manager to enter into a contract with a demographer to assist with legal requirements to develop proposed boundaries for district elections.
3. Provide direction to staff on additional outreach efforts to the community.

Fiscal Impact

Declaring an intent to transition to District elections for City Council meetings will result in immediate costs to the City but will also save the City in potential legal costs. The immediate costs include the costs to hire a demographer (approximately \$35,000 to \$40,000), public outreach, the City's additional legal expenses to guide the City through the process, and up to \$30,000 that State law requires the City to pay to the plaintiffs' attorney. As the City received a demand letter on July 1, the first day of the City's fiscal year, these costs were not previously anticipated for the 2019-2020 budget. Finally, a move to district-based elections may also come with costs associated with the transition of elections. Because the City would not be able to move to a district-based election in March of 2020, the Council would need to choose whether to start district elections in March of 2022 or move the general municipal elections to November (2020). A move to November 2020 will require the City Council to consider whether to call for a special election to keep a March 2020 election for the sales tax renewal. The City normally budgets for one election every other year, so holding two elections in one year will have budget implications.

Should the City Council decide not to pursue a move to District elections, the City would be exposed to litigation and required to pay legal fees not only for the City's defense, but potentially for the plaintiffs' costs as well. To date, no city has prevailed on the merits in a lawsuit challenging the California Voters Rights Act, so Davis' costs would likely exceed \$1 million. Other cities have spent even more on legal charges fighting allegations. The city of Palmdale, for example, paid \$4.5 million to plaintiffs for their attorneys' fees and other cities' costs have exceeded \$1 million.

Council Goal(s)

This action does not address a specific task, but it does meet the criteria to Ensure Fiscal Resilience and to Ensure a Safe, Healthy, Equitable Community.

Background and Analysis

The City of Davis currently elects all five City Council members through an at-large election system, where a Council candidate can reside anywhere in the City limits. Councilmembers are elected by the voters of the entire city and provide citywide representation. A district-based election system, on the other hand, is one in which the city is physically divided into separate districts, each with one Councilmember who resides in the district and is chosen by the voters living in that particular district.

On July 1, 2019, the City received a demand letter from Rexroad Law alleging that the City's current at-large election system has resulted in voters not having "...had proper representation on the city council because of the at-large election system" and that Davis' current system violates the California Voting Rights Act (CVRA). The letter threatens legal action if the City does not take action to transition to district-based elections within the timeline provided in Section 10010 of the California Elections Code. (See Attachment 2 for full letter.)

What is the CVRA? The CVRA (California Elections Code 14025-14032) prohibits an at-large election system if it impairs the ability of a protected class to elect candidates of its choice or influence the outcome of elections because of the dilution or abridgement of the rights of the voters who are members of the protected class. The term "protected class" is broadly defined as a "class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. § 10301 et seq.)." More information about the CVRA and the City's options is included in the attached memo (Attachment 3).

Why is staff recommending a transition? While the City's current and past councils have included members of minority groups, the threshold required for showing a violation of the CVRA is low. Should the City Council decide not to pursue a transition to district-based elections, the costs to defend the City in court are high, likely reaching into the millions of dollars in legal fees, and the likelihood of the City prevailing is low. To date, no City has prevailed in the courts. The main remedy under the CVRA is to move to district-based elections.

What is the process? The State Elections Code spells out the process and timeline by which a City must transition to a district-based system in order not to incur additional legal costs. Upon receiving a demand letter, the City has 45 days to pass a Resolution of Intent to Transition to District Elections. Once the Resolution of Intent is passed, the City has 90 days to hold a series of five public hearings, as described below:

- *Public Hearings 1 and 2:* Held over a period of no more than 30 days, the City Council invites the public to provide input about how the district lines should be drawn, and what factors should be taken into account in doing so.
- *Draft map(s)* of proposed districts drawn and made available to the public. The City shall also make public the proposed sequence of elections (i.e. which districts will be elected in which general municipal election) if the councilmembers will be elected at different times to provide for staggered terms of office.
- *Public Hearings 3 and 4:* Once the draft maps have been made available to the public for at least 7 days, the Council may hold the third and fourth public hearings over a period

of no more than 45 days to invite public input on the draft maps and proposed sequence of elections. At the fourth hearing, the Council may introduce the ordinance to transition to district-based elections.

- *Public Hearing 5:* At the final public hearing, the City Council votes to approve the ordinance to transition to district-based elections with a second reading of the ordinance that was introduced at the fourth hearing.

Staff is also proposing to include a community meeting(s) in a drop-in format, possibly during the day on a Saturday, once the draft maps are public. This would allow a greater number of community members to weigh in on the map options without exceeding the 90-day time limit. Staff would also prepare a public information web site where information on districts, the process, timeline, opportunities for input, and various agendas and staff reports and draft maps can be posted.

If the Council votes to approve the Resolution of Intent on August 13, the City Council would be required to vote to adopt an ordinance no later than November 11, 2019. A proposed timeline is included below for reference. (The timeline is also an exhibit to the Resolution of Intent.)

PROPOSED TIMELINE (TENTATIVE)

Task	Tentative Date
Special Council Meeting - Adopt Resolution of Intention	Tuesday, August 13, 2019
Public Hearing #1 (Regular Council Meeting)	Tuesday, August 27, 2019
Public Hearing #2 (Regular Council Meeting)	Tuesday, September 3, 2019
Draft Map(s) Drawn	September 4, 2019-September 16, 2019
Draft Map(s) and Sequencing Published	September 17, 2019
Public Hearing #3 (Regular Council Meeting)	Tuesday, September 24, 2019
Community Event (Optional)	Saturday, September 28, 2019
Public Hearing #4 (Regular Council Meeting)	Tuesday, October 22, 2019
Introduce Ordinance Transitioning to District-based Elections	
Public Hearing #5 (Regular Council Meeting)- Vote to Adopt Ordinance	Tuesday, November 5, 2019
90 days after August 13 (Date of Adoption of Resolution of Intention)	Monday, November 11, 2019

Hiring a Demographer. In order to comply with the requirements outlined in state law and to appropriately draw district boundaries, staff recommends hiring a demographer who is experienced with these types of issues. A demographer can assist with questions, both from Council and the public, provide statistics to assist in deciding how to draw proposed maps, and create sample maps. Staff, in conjunction with the City Attorney, have researched and reached out to several potential demographers and recommend contracting with National Demographic Corporation (NDC) for demographic services. NDC has extensive experience with cities transitioning to district-based elections under the CVRA, and staff has confirmed their availability to attend the formal public hearings. They can provide the services that Davis needs within the City Manager's authority to execute a contract. More information about NDC can be found on their website at www.ndcresearch.com.

Considerations During the Process. Although not required for action by the Council at this time, there are several matters that the Council will need to decide throughout this process.

- *Criteria for Districts:* Both federal and state laws set forth criteria for drawing districts. The districts must be nearly equal in population according to the latest federal decennial census. In addition, the City Council should consider topography; geography; cohesiveness, contiguity, integrity and compactness of territory; and community of interest in the districts. Finally, the districts should comply with the Federal Voting Rights Act.
- *Selection of Mayor.* If the City transitions to a district-based election system, the method of selecting the mayor will need to be revisited. Currently, the tradition is that the City Council votes to affirm the individual with the highest number of votes in the last election as the mayor pro tem, and then votes again two years later for that person to become mayor. With district-based elections, the mayor can be chosen at the will of the Council or by rotating districts. The position can be for a one-year or two-year term. Some cities have opted to divide into four districts and elect a mayor at-large. In the past, other plaintiffs' attorneys have made the argument that an at-large mayor still constitutes an at-large system, however.
- *Sequencing of Elections.* Currently, three councilmembers are elected at one election and two councilmembers are elected at the next election, allowing for staggering of seats. The Council will need to determine which districts would be voting in which election, including the transition phase. The Council may decide, for example, that three seats are up for election in 2020 and the two additional are up in 2022. This proposed decision will need to be shared before the third public hearing is held.
- *Timing of election.* The City has long held its general municipal election during the state primary, which is currently in March. However, the timelines required by law to complete the transition to a district-based election system do not allow for such a system to be put in place in time for a March 2020 election. The City Council will thus have two choices. Either the first district-based election would be in March 2022 or the City Council may consider a change in the general municipal election date to November of 2020.

If directed, staff can return as soon as the next meeting with an analysis of each option, as well as the schedule that would be required should Council wish to move to a November general municipal election.

Attachments

1. Resolution, with schedule
2. Rexroad Law Letter
3. Background Memo on CVRA

RESOLUTION NO. 19-XXX, SERIES 2019

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVIS DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS FOR MEMBERS OF CITY COUNCIL, OUTLINING SPECIFIC STEPS TO BE UNDERTAKEN TO FACILITATE THE TRANSITION, AND ESTIMATING A TIME FRAME FOR ACTION PURSUANT TO ELECTIONS CODE SECTION 10010

WHEREAS, members of the City Council of the City of Davis (“City”) are currently elected in “at-large” elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, on July 1, 2019, the City received a letter from Rexroad Law alleging that the City’s at-large election system violates the California Voting Rights Act; and

WHEREAS, Government Code Section 34886 in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” system in which each councilmember is elected only by the voters in the district in which the councilmember resides; and

WHEREAS, Elections Code Section 10010 establishes a process by which a jurisdiction can change to a district-based election system through the legislative approval process and avoid the high cost of litigation under the California Voting Rights Act; and

WHEREAS, prior to the City Council’s consideration of an ordinance to establish district boundaries for a district-based election system, Elections Code Section 10010 requires all of the following:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
2. After all draft maps are drawn, the City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. The City Council shall also hold at least two (2) additional public hearings over a period of no more than 45 days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven (7) days before consideration at a public hearing. If a draft map is revised at or following a public hearing, it shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the City will be utilizing the services of a professional demographer to assist the City to develop a proposal for a district-based election system.

NOW, THEREFORE, BE IT RESOLVED, that the adoption of an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Council Members will be considered; and

BE IT FURTHER RESOLVED that the City Attorney and the City Clerk are directed to work with a professional demographer, and other appropriate consultants as need, to provide a detailed analysis of the City's demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the federal Voting Rights Act; and

BE IT FURTHER RESOLVED that the tentative timeline set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input and testimony on proposed district-based election maps is approved; and

BE IT FURTHER RESOLVED that the timeline contained in Exhibit A may be adjusted by the City Attorney and City Clerk as deemed necessary, provided that such adjustments shall not prevent the City from complying with the time frames specified in Elections Code Section 10010; and

BE IT FURTHER RESOLVED that the City Clerk is directed to post information regarding the proposed transition to a district-based election system, including maps, notices, agendas, and other information and to establish a means of communication to answer questions and receive comments from the public.

PASSED AND ADOPTED by the City Council of the City of Davis this 13th of August, 2019 by the following vote:

AYES:

NOES:

Brett Lee
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk

EXHIBIT A

TIMELINE

Task	Tentative Date
Special Council Meeting - Adopt Resolution of Intention	Tuesday, August 13, 2019
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Public Hearing #3 (Regular Council Meeting)	Tuesday, September 24, 2019
Community Event (Optional)	Saturday, September 28, 2019
Public Hearing #4 (Regular Council Meeting) Introduce Ordinance Transitioning to District-based Elections	Tuesday, October 22, 2019
Public Hearing #5 (Regular Council Meeting)- Vote to Adopt Ordinance	Tuesday, November 5, 2019

JUL 01 2019

City of Davis

VIA CERTIFIED MAIL

**Re: Notice of Violation of California Voting Rights Act per
Cal. Elections Code Section 10010(e)**

TO:

City Council c/o City Clerk
City of Davis
23 Russell Blvd., Suite 1
Davis, CA 95616

DATE:

July 1, 2019

Dear City Council:

This letter, sent by certified mail, constitutes the written notice of violation specified in the California Elections Code Section 10010(e)(1).

I represent a prospective plaintiff in a potential lawsuit under the California Voting Rights Act ("CVRA"). As you know, the City of Davis ("Davis") utilizes an at-large election system for electing candidates to its city council. Davis' demographics are racially diverse, with about 22.0% percent of its residents being Asian-American and about 14.2% percent of its residents being Latino. Voting within Davis is racially-polarized, which has resulted in minority vote dilution. Davis' minority voters have not had proper representation on the city council because of the at-large election system. Thus, Davis' at-large elections violate the California Voting Rights Act ("CVRA").

Courts have regularly found that at-large election systems violate voting rights laws. The U.S. Supreme Court observed that "at-large voting schemes may operate to minimize or cancel out the voting strength" of minorities. *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986). "[T]he majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters." *Id.* In recognition of this fact, the federal Voting Rights Act ("FVRA"), 42 U.S.C. Section 1973, specifically targets at-large election schemes. *Gingles*, 478 U.S. at 37.

California has enacted even stronger protections for minority voting rights than exist in federal law. Unlike the FVRA, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish a violation. Cal. Elections Code Section 14028 ("A violation of Section 14027 is established if it is shown that racially polarized voting occurs..."). A city's at-large method of election is in conflict with the CVRA when it impairs the ability of a protected class to influence the outcome of an election because of vote dilution of members of a protected class. *Jauregui v. City of Palmdale*, 225 Cal App. 4th 781, 793 (2014) (citing Cal. Elections C. Section 14027). There is no requirement to prove intent on the part of the voters of elected officials to discriminate against a protected class. Cal. Elections Code Section 14028(d).

Moreover, other factors besides racially polarized voting can be probative of a CVRA violation, including but not limited to "the history of discrimination," "the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections," and "the use of overt or subtle racial appeals in political campaigns." Elec. C. Section 14028(e).

Davis' at-large election system dilutes the ability of racial minorities a "protected class" under the CVRA, to elect candidates of their choice in city council elections and to influence the outcome of the election.

Davis' current city council composition is telling. Of the five sitting members of the City Council, four are predominately white and one is Latino.

925 University Avenue
Sacramento, CA 95825

(916) 648-1222

Furthermore, the election history in Davis demonstrates the insidious effects of racially polarized voting and vote dilution. Gloria Partida, elected in 2018, has been the only Latino elected to the council in at least the last twenty years. In addition, there has not been an Asian city council member since 2010 when Ruth Asmundson left office other than current Mayor Bret Lee.

Davis' demographics and current city council composition further support the CVRA claim. According to recent data, Latinos comprise 14.2% percent of the city population. Yet there has only been one election in which a Latino candidate emerged victorious in at least 20 years.

Based on the foregoing demographic analysis and factual records, our demographer expert would have no problem demonstrating at trial that Davis is in violation of the CVRA.

Please note the recent efforts by the Davis Unified School District to take important steps to correcting their CVRA issues by voluntarily going to district elections.

At least one city has fought a CVRA claim all the way through trial and appeal – at great expense to the taxpayer – only to wind up having a court impose district-based elections. See *Jauregui v. City of Palmdale*, 225 Cal.App. 4th 781 (2014). After an expensive trial, the trial court ruled for the plaintiffs and imposed a district-based election system upon the Palmdale City Council. This was affirmed on appeal. *Id.* Plaintiffs were awarded millions of dollars of attorney's fees and costs.

The Elections Code was amended in 2016 to set forth procedures by which your council may voluntarily move to a district-based election system and thus bring Davis into compliance with the law. See generally Cal. Elections Code Section 10010. Pursuant to that Section 10010, you have 45 days from today's date, or August 15, 2019, to take certain actions that demonstrate Davis' intention and specific plan to transition to district-based elections. If we do not receive a response by that date, we will be forced to seek judicial relief on behalf of the residents of Davis.

Please call Shauna Cunningham at (805) 369-2399 on or before August 1, 2019, we welcome a discussion about a voluntary change to the current unlawful election system utilized by Davis.

Thank you in advance for your prompt attention to this matter.

Sincerely,



Matt Rexroad
Attorney at Law

The California Voting Rights Act and the City's Consideration of District-based Elections

On July 1, 2019, the City received a letter from Rexroad Law alleging that the City's at-large election system for electing councilmembers violates the California Voting Rights Act ("CVRA"). The letter threatens legal action if the City does not take action to transition to district-based elections within the timeline provided in Section 10010 of the Elections Code.

I. Legal Background

A number of cities in California have been sued since the CVRA was adopted in 2001, and all of them have either voluntarily moved to district-based elections or been ordered to do so. The CVRA is found in Sections 14025 through 14032 of the California Elections Code. It prohibits an at-large election system from being applied in a way that impairs the ability of a protected class to elect candidates of its choice or influence the outcome of elections because of the dilution or abridgment of the rights of the voters who are members of the protected class.¹ Traditional at-large voting allows voters of an entire jurisdiction to cast votes for each open seat but could assign only one vote to any particular candidate.

The term "protected class" is broadly defined as "a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act."² A violation of the CVRA exists if racially polarized voting exists in the jurisdiction's elections.³ The term "racially polarized voting" is defined as voting in which there is a difference "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."⁴

The threshold required for showing a violation of the CVRA is low. For example, a minority group does not have to be geographically compact or concentrated to allege a violation of the CVRA. Finally, proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required. The main remedy under the CVRA is to move to district-based elections, which is a method of election in which "the candidate must reside within an election district . . . and is elected only by voters residing within that election district."⁵

II. Litigation Risk

The CVRA includes an attorney's fees provision that entitles a prevailing plaintiff to recover its attorney's fees and litigation expenses, including expert witness fees and expenses.⁶

¹ Cal. Elec. Code § 14027.

² Cal. Elec. Code § 14027.

³ Cal. Elec. Code § 14028(a).

⁴ Cal. Elec. Code § 14028(a).

⁵ Cal. Elec. Code § 14026(c).

⁶ Cal. Elec. Code § 14030.

On the other hand, a prevailing defendant jurisdiction is not entitled to recover any costs, unless the court finds the action to be frivolous.⁷

Attorneys' fees and costs in CVRA cases tend to be high because they involve the retention of multiple expert witnesses who analyze the demographics, voting trends, and election results of the city. They also analyze whether racially polarized voting exists based on an examination of a city's election history. Plaintiffs in these cases tend to have at least two or three expert witnesses. In addition, the defendant city would also employ experts to engage in similar analyses.

There are two phases in a CVRA case that is fully litigated. First, the court must determine whether there is racially polarized voting. If the court finds that a CVRA violation exists, the court then determines the appropriate remedy. Trials in CVRA actions often last multiple days and involve testimony of experts and possibly city officials. This results in very high attorneys' fees.

III. CVRA Case Studies

Faced with a CVRA challenge, many cities have decided to settle with the plaintiffs. A growing number of jurisdictions are voluntarily choosing to change from an at-large election system to a district-based election system prior to receiving a challenge in order to avoid costly litigation. Because of the costs associated with these lawsuits, few cities have fully litigated CVRA cases. As of the date of this release, no jurisdiction has prevailed on the merits of a CVRA action. In some cases that have been litigated, courts have imposed drastic remedies.

In 2012, in *Jauregui, et al. v. City of Palmdale*, a group of plaintiffs filed an action against the City of Palmdale alleging that its election system violated the CVRA. At trial, the court found for plaintiffs, holding that the city's at-large election system violated the CVRA. The trial court prohibited Palmdale from conducting any further at-large elections for the city council. The court also set forth the district boundaries to be used. After multiple appeals, the parties settled the action. Palmdale agreed to pay the plaintiffs \$4.5 million in settlement of their attorneys' fees and costs, move elections to coincide with the statewide general election, and divide the city into four districts with a city-wide mayor.

The City of Highland was challenged under the CVRA in 2014. Highland stipulated to liability and took the position that the court should adopt cumulative voting as an appropriate remedy. Under a cumulative voting system, each voter would be allotted the same number of votes as there are seats up for election and may distribute them however he or she chooses. Therefore, voters may distribute their votes among candidates or "plump" all their votes on one candidate. The parties submitted briefing on the issue, and the court held a three-day trial in which expert witnesses for both the plaintiff and Highland testified. The court held that a district-based election system was the appropriate remedy and enjoined the city from holding any future at-large elections. It also mandated that all five council seats be up for election in

⁷ Cal. Elec. Code § 14030.

November of 2016. Subsequently, the parties settled the issue of attorneys' fees, and Highland paid the plaintiff \$1,325,000 in attorneys' fees and costs. Highland's own attorneys' fees and costs totaled approximately \$204,000.00.

In 2016, attorney Kevin Shenkman with the law firm of Shenkman & Hughes brought an action against the City of Santa Monica alleging that the city's at-large election violated the CVRA and the Equal Protection Clause of the California Constitution. In *Pico Neighborhood Association, et al. v. City of Santa Monica*, Plaintiffs alleged that the at-large system of electing the city's councilmembers impairs the ability of Latinos to elect candidates of their choice. Latinos constitute 13 percent of Santa Monica's eligible voters and under 10 percent of its actual voters. Santa Monica presented evidence that Latinos were able to elect candidates of their choice under the at-large system. The City also demonstrated that it was impossible to draw a district where Latinos constitute a majority of the eligible voters. Nonetheless, after a five-week trial in 2018, the court found that the city's at-large election system was in violation of the CVRA and the Equal Protection Clause. The Santa Monica example demonstrates that even if a protected class is able to elect candidates of its choice in an at-large system and is too small to constitute a majority of a district, that is not sufficient to defeat a CVRA claim. While Santa Monica has appealed the trial court's decision, the Court of Appeal will likely not issue a decision in the case for a few months.

According to their pending motion for attorneys' fees, the plaintiffs are seeking \$22.3 million in attorneys' fees and expenses from the City of Santa Monica after prevailing at the trial court. The trial court has yet to rule on plaintiff's motion. If plaintiffs prevail on appeal, Santa Monica would not only be liable for plaintiffs' attorneys fees and costs as awarded by the trial court, but also for plaintiffs' fees and costs incurred in connection with the appeal. The city's own attorneys' fees and costs will likely be high as well due to the length of the trial, the costs of retaining experts, and the complexity of the issues.

The constitutionality of the CVRA is currently being challenged in federal court. In *Higginson v. Xavier Becerra, et al.*, the former mayor of the City of Poway filed a federal action against the City of Poway and Attorney General Becerra challenging the constitutionality of the CVRA in U.S. District Court for the Southern District of California. Poway had adopted a by-district elections process in response to a CVRA demand letter. The Mayor alleged that the City's adopted map violated the equal protection clause. The trial court dismissed the action, and the matter is currently pending on appeal with the Ninth Circuit.

IV. City's Next Steps

The City has been working diligently to evaluate the claims in the letter and determine an appropriate response. Elections Code Section 10010 provides a safe harbor for cities that choose to voluntarily transition from at-large elections to district-based elections. After a city receives a demand letter, the city has 45 days to assess the claim and adopt a resolution outlining its intent to transition from at-large to district-based elections. During that time, a potential plaintiff cannot bring a CVRA action against the city. Because the City received the

letter from Rexroad Law on July 1, 2019, City has until August 15, 2019 to adopt the resolution of intent in order to take advantage of the safe harbor provision. If the City adopts the resolution by August 15, 2019, the City has 90 days from that date to adopt an ordinance establishing district-based elections. During that time, a prospective plaintiff is precluded from initiating a CVRA action.

After adopting the resolution of intention, the City is required to hold two public hearings over a period of no more than 30 days before drawing draft maps. During those hearings, the public is invited to provide input regarding the composition of the districts. After the City's demographer draws the draft maps, the City must publish at least one draft map and, if members of the governing body of the City will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections. The City then holds at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft maps and the proposed sequence of elections. The City has to publish the draft maps and sequencing at least seven days before those hearings.

Elections Code 10010 also offers some protection to jurisdictions in terms of exposure to a prospective plaintiff's attorneys' fees. If the jurisdiction meets the deadlines outlined above, the prospective plaintiff who sent the demand letter may only recover up to \$30,000 in attorneys' fees and costs from the city.

V. Timing with Regard to Upcoming Municipal Elections

The City contacted the Yolo County Elections Office to determine the applicable deadlines for sending the district boundaries in time for implementation at the March 3, 2020 election. The County stated that it would have to receive the district boundaries before September 12, 2019. The reason is that the Signatures-In-Lieu of Filing Fee Period commences on that date, and the County would need to confirm that the candidates live in the districts they claim to live in.

This does not provide the City with adequate time to adopt the resolution of intention, conduct the required hearings, and adopt a districting ordinance (which requires two readings and becomes effective 30 days after adoption). Under Elections Code Section 10010, the City is entitled to 90 days to conduct hearings and vote on the ordinances if it adopts the resolution of intent by August 15, 2019. Therefore, any decision to transition to districts would not impact the March 3, 2020 election. The first potential district-based election would be in March 2022.

Because districts have to be roughly equal in population, Elections Code Section 21601 requires the adjustment of boundaries of any or all of the council districts following each decennial federal census in order to maintain the population balance. If the City complied with the demand letter and no extension of time were provided, it is possible that district maps would have to be drawn in 2019 or 2020 and then adjusted again based on data from the 2020 Census prior to the March 2022 vote.