

REPORT TO COUNCIL

SUBJECT

Presentation and Discussion of Election Sequencing Principles for City Council By-District Elections

DISCUSSION

During the City Council's discussion of draft district maps on September 10, 2019, the Council requested further discussion regarding election sequencing (i.e., setting the election year for each new district in either the Presidential or the Gubernatorial election year) as part of the transition to district-based elections. Staff and outside counsel will make a presentation on election sequencing issues, including sample hypothetical transition scenarios to demonstrate how sequencing could work. This is an informational item only, to facilitate Council discussion and questions. As noted in other reports, the City Council will make a final determination on election sequencing and the transition to districts when it selects a districting map on December 3, 2019.

Elections Code section 10010(b) is the only provision in state law that addresses principles applicable to sequencing:

(b) In determining the final sequence of the district elections conducted in a political subdivision in which members of the governing body will be elected at different times to provide for staggered terms of office, the governing body shall give **special consideration to the purposes of the California Voting Rights Act** of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of this code), **and it shall take into account the preferences expressed by members of the districts**. (Emphasis added.)

Other than section 10010(b), there is no generally applicable law specifying how a transition to district elections must occur, so long as the transition scheme complies with equal protection requirements. Pursuant to the requirement to "give special consideration to the purposes of the California Voting Rights Act", scheduling elections for a district intended to address CVRA concerns alleged by members of a protected class ("CVRA remedial district") in a presidential election year is one common approach because presidential elections generally have much higher turnout. However, sequencing CVRA remedial district elections outside of a presidential election year could also be appropriate where public comment indicates that members of a protected class may prefer to vote a new CVRA remedial district at the earliest possible time, or delay beyond a presidential election year in order to develop candidates, because such an approach would consider "the preferences expressed by members of the district."

Article XI, section 5(b), of the California Constitution gives a charter cities plenary authority over its electoral system and "the manner in which, the method by which, the **times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city**

shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have..." (Emphasis added). Cities changing to district-based elections prior to enactment of section 10010(b) have taken very different approaches to election sequencing, ranging from truncating the terms of all incumbents and having all districts up for election the first time the districts are used, to selection by lot, to complete silence on the issue, or deferring the question to be addressed later by ordinance.

Since the enactment of section 10010(b), in determining the election year for the districts, it appears most cities researched have considered to a greater or lesser extent: (1) expiration of the terms of office of incumbents and impacts of term limits (see, e.g. Campbell, Morgan Hill, Fremont, Menlo Park, Santa Rosa, San Rafael, and Novato, and the trial court decision in the CVRA case against the City of Santa Clara), and (2) setting the election year for CVRA remedial districts in the presidential election year (see, e.g. Santa Rosa, San Rafael, Novato, and the trial court decision in the CVRA case against the City of Santa Clara). Of course, the full array of considerations taken into account by each city would be unique to the circumstances of that city.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

This presentation is for discussion only and no action is required or recommended. The Council is scheduled to consider and decide the sequencing of district elections at the time it selects the district maps.

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