

STAFF REPORT

To: Board of Directors
From: Paul Helliker, General Manager
Date: May 13, 2020
Subject: Division-based Elections

RECOMMENDED ACTION

Adopt Resolution 20-03 declaring San Juan Water District's intent to transition from at-large elections to division-based elections and establishing a process for the transition.

BACKGROUND

On March 30, San Juan Water District received a letter from Shenkman and Hughes, concerning alleged violations of the California Voting Rights Act by the District, as a result of the at-large election process that the District employs. That letter is attached (and was provided to the Board at the April 7, 2020 meeting).

We do not agree that the at-large voting process is necessarily discriminatory. However, the prospect of that position prevailing in court is not good. Shenkman and Hughes has successfully challenged at-large voting procedures in a number of jurisdictions in California, and many of these decisions resulted in six- and seven-figure costs to these jurisdictions for attorney's fees paid to Shenkman and Hughes. We do not recommend pursuing such litigation. At its meeting on April 7, the Board directed Legal Counsel and me to develop the information and draft documents to implement division-based elections. At its meeting on April 22, the Board decided to pursue the additional 90-day window authorized by statute, pursuant to approval of the plaintiff, and directed Legal Counsel to secure such approval. The draft agreement with Shenkman and Hughes authorizing the additional 90 days is also attached.

Elections Code Section 10010 provides a "safe harbor" process to minimize the legal cost of a transition to district (division) -based elections. That section limits the payment to all plaintiffs such as Shenkman and Hughes to a maximum of \$30,000 (subject to documentation by the plaintiff and mutual agreement on the amount by the District and the plaintiff), if the District meets the following requirements:

1. Within 45 days of receipt of the letter from the first plaintiff, adopt a resolution laying out the steps the District will take to implement division-based elections and the schedule for doing so
2. Within 90 days of adoption of the resolution (within 180 days, with approval of the plaintiff), conduct at least four hearings
3. The first two of these hearings will be conducted over no more than 30 days, to receive input from the public prior to the release of electoral division maps

4. The third and fourth hearings would be held over a period of no more than 45 days, the first of which would be no earlier than 7 days after the release of at least one draft electoral map

Attachment A of Resolution 20-03 lays out this series of hearings, and requirements associated with them. The Board would need to adopt an ordinance defining the electoral map at a regular meeting. If the Board wants to select a date for that regular meeting which is different from the current set of regular meetings each year defined in Board Policy 2.1 (the 4th Wednesday of the month, except in November and December), it will need to specify by resolution the time and date of the additional regular meeting(s). Resolution 20-03 includes a resolved clause to designate a Board meeting on November 9, 2020 at 6 p.m. as a regular meeting.

Given the decision the Board made at its April 14, 2020, meeting concerning the timing of the effectiveness of the division-based map it will adopt, the new map will be implemented during the November 1, 2022, election. The map will need to be submitted to the elections offices in Sacramento and Placer Counties no later than June 29, 2022, to be effective in that election.