

STAFF REPORT

To: Board of Directors
From: Paul Helliker, General Manager
Date: April 14, 2020
Subject: Division-based Elections

RECOMMENDED ACTION

Approve Resolution 20-03.

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.

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.

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, 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).

Division-based elections would be implemented during the November 3, 2020 election if the division maps are adopted by the Board and submitted to the elections offices in Sacramento and Placer Counties by July 1, 2020. Otherwise, they would be implemented during the November, 2022 elections. Four different potential schedule examples are provided in the additional versions of Attachment A that are also attached to this report, reflecting schedules that would meet a July 1, 2020 completion date; completion within the 90-day statutory deadline (July 14, 2020); completion within an additional 90-day window (October 19, 2020), which would require the agreement of the plaintiff; and a schedule in 2021 after the 2020 census data is available, which would also require agreement by the plaintiff.