Los Angeles County Registrar-Recorder/County Clerk

Dean C. Logan
Registrar-Recorder/County Clerk

April 21, 2015

TO: Supervisor Michael D. Antonovich, Mayor
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe

FROM: Dean C. Logan, Registrar-Recorder/County Clerk

BOARD AGENDA MEMO RELATING TO REQUEST FROM THE SANTA CLARITA COMMUNITY COLLEGE DISTRICT FOR LOS ANGELES COUNTY TO CONDUCT ELECTIONS ON BEHALF OF THE DISTRICT IN NOVEMBER OF EVEN NUMBERED YEARS USING CUMULATIVE VOTING

The Santa Clarita Community College District (District) is requesting that your Board approve its resolution to have the Registrar-Recorder/County Clerk conduct the District's future elections for the Board of Trustees using cumulative voting in November of even-numbered years.

RECOMMENDATION

The Department recommends that your Board make a finding that the County's ballot style, voting equipment and the regulatory framework for consolidated elections cannot handle and are incompatible with the District's request, and thus deny the District's resolution requesting approval to conduct elections for the District's Board of Trustees in November of even-numbered years using cumulative voting.

BACKGROUND

Currently, the majority of Los Angeles County's 100 school and community college districts are held in November of odd-numbered years and a very small portion of districts that are shared with neighboring counties are held in November of even-numbered years along with federal, state, and county elections. With one exception, November of odd-numbered years has been the election schedule followed for school, community college and special districts administered by Los Angeles County.

Your Board's policy since 1981, generally reaffirmed by subsequent Board action through 2013, has been to deny requests for consolidation with statewide Primary or General Election cycles. This policy has been based on the finite ballot capacity of the County's voting system. Primary and General Election ballots contain statewide (and certain local) offices and ballot measures which contribute to their length and complexity. Because of this, there has been a very real probability that there would be insufficient space to accommodate additional contests and/or measures from numerous jurisdictions requesting consolidation with these election cycles.

Furthermore, the policy has helped eliminate the risk of presenting a congested ballot layout that could lead to error when voters interpret and mark their ballots. Although the Registrar-Recorder/County Clerk is in the process of revising the methodology for evaluating consolidation requests and this current Board policy, based on that methodology the recommendation would be to deny the District's resolution for the reasons stated below.

Although California Elections Code section 10405.7, as well as other consolidation sections, provide that consolidation requests must be approved by the Board of Supervisors, such approval is expressly conditioned upon the County's ballot style, voting equipment or computer capability being able to handle additional elections or materials. Additionally, this is the same statutory standard to approve or deny any request for consolidation with a statewide election. The Department's Voting Systems Assessment Project (VSAP) is in the process of addressing the aforementioned issues with the expectation that current ballot capacity limitations will be resolved through implementation of the new voting system estimated to begin in 2018.

DISTRICT LITIGATION

In June 2013, a lawsuit was filed against the Santa Clarita Community College District in Los Angeles Superior Court alleging that the District is in violation of the California Voting Rights Act (CVRA). As noted in its correspondence to your Board, the District contested the suit which claims impairment of voting rights and challenges the District's use of at-large voting.

In an effort to avoid protracted litigation, the District and plaintiffs have negotiated a settlement agreement which requires, in part, that the District stipulate to having its elections conducted in November of even-numbered years to coincide with statewide general elections and to do so **using cumulative voting**. Resolution number 2014/15-14 for such action was adopted by the District on February 25, 2015 and submitted as part of the correspondence received by the Board of Supervisors Executive Office on March 2, 2015.

This settlement agreement and the related request differs from the agreement entered into and the request made by the City of Santa Clarita ("City"). The District's agreement mandates that it will use cumulative voting in its elections. Whereas, the City's reference to cumulative voting, in its agreement, is conditioned upon the occurrence of certain factors, including but not limited to, obtaining the necessary federal and State certifications.

LANGUAGE OF THE STATED REQUEST

Without addressing the validity of the District's resolution, Section 5 of Resolution No. 2014/15-14 only requests "formal approval from the Board of Supervisors…for the Los Angeles County Registrar to continue conducting elections for the District's Board of Trustees, in November of even years **using cumulative voting**." Pursuant to California Education Code section 5303, the Registrar-Recorder/County Clerk performs the duties incident to the preparation for and holding of all elections for the District. However, the District is in the process of seeking the approval of the State Board of Education to waive this requirement under section 5303, so that the District can conduct its own election, using cumulative voting, pursuant to the terms of its settlement agreement.

Additionally, Section 5 of the Resolution requests that a cumulative voting scheme or system be used. As there is no State, local or other legal provision currently in place that defines, governs, or regulates cumulative voting, the Registrar-Recorder/County Clerk does not have the authority to conduct an election for one jurisdiction under one scheme or system and all other elections for all other jurisdictions under a different scheme or system in a consolidated election. In fact, the Elections Code mandates that all consolidated elections, including statewide elections, be conducted in a uniform manner and in accordance with provisions outlined in the Code; which are silent with regard to cumulative voting. Moreover, as explained, cumulative voting cannot be supported by the County's current voting system.

Furthermore, with cumulative voting there are procedural, technological, and operational concerns such as voter confusion and/or disenfranchisement due to differing vote marking rules for different contests on the ballot. Additionally, if such a voting method is State certified, there would need to be appropriate time for County implementation.

CONCLUSION

Based on the aforementioned analysis, facts, and risk considerations, it is recommended that your Board make a finding that the County's ballot style, voting equipment and the regulatory framework for consolidated elections cannot handle and are incompatible with the District's request, and thus deny the District's resolution requesting approval to conduct elections for the District's Board of Trustees in November of even-numbered years using cumulative voting.

This recommendation is being submitted with the understanding that the Registrar-Recorder/County Clerk is in compliance with California Elections Code section 1302. If the recommended action is taken, it would adhere to the Board's current policy.

I can be reached at (562) 462-2716 if clarification or additional information is required, or your staff may contact Aaron Nevarez at (562) 462-2800.

c: Sachi A. Hamai, Interim Chief Executive Officer
Mark J. Saladino, County Counsel

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