

Date of Hearing: May 4, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2389 (Ridley-Thomas) – As Amended April 5, 2016

SUBJECT: Special districts: district-based elections: reapportionment.

SUMMARY: Authorizes special districts to change the method of electing governing board members from at-large to a by-district method of election without receiving voter approval. Specifically, **this bill:**

- 1) Authorizes a governing body of a special district, notwithstanding any other law, to adopt a resolution that requires members of its governing body to be elected using district-based elections without being required to submit the resolution to the voters for approval.
- 2) Requires the resolution to include a declaration that the change in the method of electing members of the governing body is in furtherance of the purposes of the California Voting Rights Act of 2001.
- 3) Defines "special district" to mean "any agency of the state formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries, except a city, county, city and county, school or community college district, or special assessment district."

EXISTING LAW:

- 1) Establishes the Uniform District Elections Law which provides that the principal act shall govern whether directors are elected by divisions or by the district at-large.
- 2) Provides definitions for the following term which govern the election process for most local governments' legislative bodies:
 - a) An "at-large" election allows a voter residing anywhere within the local government's boundaries to vote for any candidate for the governing board;
 - b) A "by districts" election allows a voter to vote only for a candidate who runs and resides in the same geographical district in which the voter resides; and,
 - c) A "from district" election allows a voter residing anywhere within a local government's boundaries to vote for any candidate for a local government's governing board, but each candidate must run in the geographical district where he or she resides.
- 3) Prohibits, pursuant to the California Voting Rights Act of 2001 (CVRA), an at-large method of election from being imposed or applied in a political subdivision (including a special district) in a manner that impairs the ability of a protected class of voters to elect the candidate of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.

- 4) Provides that a violation of the CVRA may be established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.
- 5) Requires a court, upon finding a violation of the CVRA, to implement appropriate remedies, including the imposition of district-based elections, which are tailored to remedy the violation.
- 6) Permits any voter who is a member of a protected class and who resides in a political subdivision where a violation of the CVRA is alleged to file an action in the superior court of the county in which the political subdivision is located.

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill authorizes a governing body of a special district to adopt a resolution that requires members of its governing body to be elected using district-based elections without being required to submit the resolution to the voters for approval. The resolution to convert the district's method of electing members of the governing board must include a declaration that the change is being made in furtherance of the purposes of the California Voting Rights Act of 2001. This bill, notwithstanding any other law, applies to all special districts formed pursuant to general law or special act, except a city, county, city and county, school or community college district, or special assessment district. This bill is sponsored by the Mexican American Legal Defense and Educational Fund (MALDEF).
- 2) **Author's Statement.** According to the author, "Current law provides for different forms of government for special districts in California. Depending on the type of district, a special district can be organized so that members of the governing board are elected at-large or are elected using districts. The CVRA is designed to protect against at-large election systems that dilute minority voting rights. As a result of the CVRA, local governments throughout the state have been transitioning from at-large to district-based elections.

"If a special district wishes to move from at-large elections to a district-based method of election to address concerns under the CVRA, existing law provides no uniform process for accomplishing that conversion. This voter approval requirement, however, can make it difficult and costly for jurisdictions to proactively transition to district-based elections in order to address potential liability under the CVRA. AB 2389 allows a special district that is concerned about liability under the CVRA to voluntarily convert from at-large to district-based elections without the expense of a ballot initiative. This bill mirrors a similar process that is already in place for general law cities with populations of fewer than 100,000 people."
- 3) **Background.** Under existing law, a special district can be organized so that its governing board members are elected at-large or elected using districts. Jurisdictions that are organized using district-based methods are usually organized as "by-district" or "from-district." A "by-district" jurisdiction allows only the registered voters in a district to vote in the election to choose the governing board member from that area. A "from-district" jurisdiction permits registered voters in the entire jurisdiction to vote for governing board members from each of

the districts. In either case, a candidate for the governing board must reside in the district in which he or she is running.

There is no uniform process for a special district to convert from at-large elections to a district-based method of election. Current law provides that the principal act of a special district shall govern whether the governing board members are elected by districts or by the district at-large. Moreover, depending on the kind of district and its size, existing law may specify which method of election it is required to use to elect its governing board members, as well as the process for conversion.

- 4) **Related Legislation.** SB 927 (Anderson), pending in the Assembly, authorizes directors of any public utility district that is wholly or partially within San Diego County to be elected at large, by subdistrict, or from subdistricts, as defined.
- 5) **Policy Considerations.** The Committee may wish to consider the following logistics :
 - a) **Landowner Voter Districts.** This bill requires a special district to include a declaration in the resolution to change the method of electing members of the governing body to be done in furtherance of the purposes of the California Voting Right Act of 2001. The principal acts for some types of special districts, California Water Districts, Levee Districts, and specified irrigation districts, limit voting to landowners in the District. The Committee may wish to note adopting that declaration may pose a challenge for landowner voter districts.
 - b) **Resolution, then what?** Under existing law, some principal acts contain a conversion process from at-large elections to district elections, and establish requirements on how a governing board draws the divisions and prohibits the change from happening within so many days before an election. The Committee may wish to consider that this bill provides the process for the board to adopt a resolution to change the method of voting, but does not contain any further parameters for special districts in the conversion process.
- 6) **Committee Amendments.** The Committee may wish to ask the author to accept the following amendments:
 - a) **Special Act Special Districts.** The bill authorizes any special district, whether created by general or special law, to change the method of electing directors. The Legislature has created a number of special act special districts in circumstances where a principal act could not be used. Many special acts establish a specific governance structure which may require an appointed board, a hybrid appointed-elected board, or that certain board members must be from designated cities or counties. The Committee may wish to amend this bill to only apply to special districts whose governing boards are elected and not appointed.
 - b) **Uniform District Elections Law.** The principal acts for many types of special districts include cross references to the Uniform District Elections Law to govern election procedures. Additionally, the Uniform District Elections Law provides that principal acts shall govern whether a director is elected by division or at large. The Committee may wish to ask the author to include a cross reference to the authority granted by this bill in

the Uniform District Elections Law which many special districts look to govern election procedures.

- 7) **Arguments in Support.** MALDEF argues, "AB 2389 would give the boards of all special districts in California the authority to convert from at-large to by-district elections by board ordinance, in the same way that last session's SB 493 (Cannella) conferred that authority on general law cities under 100,000 in population and provide uniformity. AB 2389 would thus provide to special districts the flexibility to end minority vote dilution caused by at-large electoral systems without enduring costly litigation. For example, in 2015, MALDEF filed a voting rights lawsuit against Fallbrook's Public Utility District under CVRA. Fallbrook recently entered into a court-approved settlement agreement, and has now converted to district elections. This legislation would have given the Fallbrook Board of Directors the option of avoid litigation entirely, with the same result."
- 8) **Arguments in Opposition.** None on file.
- 9) **Double-Referral.** This bill was heard by the Elections and Redistricting Committee on March 30, 2016, where it passed with a 5-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Mexican American Legal Defense and Educational Fund [SPONSOR]
Association of California Water Agencies
Association of Healthcare Districts
California Association of Recreation and Park Districts
California Special Districts Association
Lawyers' Committee for Civil Rights
League of Women Voters of California

Opposition

None on file

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