



September 2021

ONE LESS HOOP TO JUMP THROUGH! SB 442 ELIMINATES A TIME CONSUMING AND EXPENSIVE STEP FOR K-12 DISTRICTS SEEKING TO CHANGE ELECTION SYSTEMS

While most California school districts continue to operate under an “at large” election system, in which all registered voters in a district elect all members of the governing board, approximately 200 districts have switched to district-based elections.ⁱ Also referred to as “by trustee area” elections, these systems divide a district into election districts or areas roughly equal in population in which only voters residing in that area vote for candidates who are also residents of the district.ⁱⁱ The change has often been prompted by demands filed under the California Voting Rights Act. Challenges under the Act can be very expensive to litigate since districts can be liable for the challenger’s attorneys’ fees and expert demographer costs.

Changing election systems requires a series of public hearings and development and approval of trustee area maps based on federal and state criteria. Once approved, the map is presented for approval to the County Committee on School District Organization and, prior to the passage of SB 442, required placement of the change on the ballot for approval by the voters. The problem is that if the voters turn down the change, the district remains subject to challenge under the Act. To avoid this risk, school districts routinely sought and were granted waivers from the State Board of Education of the requirement to place the election system change on the ballot.ⁱⁱⁱ The waiver process can be expensive and time consuming, requiring consultation with school site councils and unions, public hearings, and significant documentation.

Now, effective January 1, 2022, with the advent of SB 442, districts are no longer required to place the change on the ballot or seek a waiver. To qualify, the resolution calling for the change in election systems must include a declaration that the change is being made to further the Act’s purpose.

In summary, a complex process just got significantly simpler and cheaper.

Please contact our office if you have questions about SB 442 or the California Voting Rights Act.

- Grant Herndon

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ⁱ SB 442 analysis, Senate Third Reading, as amended April 13, 2021.

ⁱⁱ The California Voting Rights Act of 2001 (Elections Code section 14025 and following) promotes district-based elections as a means of addressing situations where the at-large election system is claimed to inhibit the ability of voters in certain protected classes (race, color, language) to elect their candidates of choice as a result of “racially polarized voting.” Racially polarized voting or racial block voting means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. This is typically established by running regression analyses on selected election results.

ⁱⁱⁱ Community college districts accomplished the same result through approval by the California Community College Board of Governors.