

CALIFORNIA VOTING RIGHTS ACT OF 2001

Special Meeting
May 2, 2018



A BRIEF HISTORY CALIFORNIA VOTING RIGHTS ACT (CVRA)

- Enacted to implement the CA constitutional guarantee of equal protection and the right to vote
- The protected class of voters is defined as members of a **race, color, or language** minority
- Signed into law by Governor Gray Davis in 2002 and effective January 1, 2003
- California Elections Code §§ 14025-14032
- Applies to cities, counties, school districts, community college districts and other districts organized pursuant to law

A BRIEF HISTORY CALIFORNIA VOTING RIGHTS ACT (*CONTINUED*)

- Expands on the Federal Voting Rights Act of 1965
 - Lowers the threshold to establish a violation
 - Eliminates proving intent by elected officials to discriminate
 - Geographical compactness of the protected class not required
 - Makes it easier to successfully sue and eliminate at-large election systems
- Adopted to prevent an at-large electoral system from diluting minority voting power

CALIFORNIA VOTING RIGHTS ACT ACTIONS

- To date, no jurisdiction has successfully defended a CVRA action
- Court ordered remedy has been imposition of by-district elections
- Prevailing plaintiff(s) are entitled to reasonable attorney's fees and litigation expenses
- Recent changes in law provide for a safe harbor provision to protect cities from CVRA litigation costs

CVRA AND OTHER CITIES

- At least 88 cities have changed to by-district elections
- At least 18 other cities are like Fort Bragg in some form of legal dispute but have not made the decision whether to transition to by-district elections
- Point of comparison, 28 cities had by-district elections systems prior to the CVRA 2001

Source: The California Voting Rights Act: Recent Legislation & Litigation Outcomes, League of California Cities, 2018

BY-DISTRICT VOTING SYSTEMS

Proponents

- Gives minority groups a better chance of being represented on the Council
- District Councilmembers more sensitive to district issues
- May improve citizen participation as councilmembers may be more responsive to their constituency

Opponents

- Focuses on district level matters instead of city-wide issues
- Voters have less choice
- Does not select the most qualified candidates for Council
- Not effective in practice at increasing minority group representation

SAFE HARBOR PROVISION

- Originally only available to Cities with populations of under 100,000, expanded to all cities January 1, 2017
 1. Prospective plaintiff(s) must provide written notice asserting violation of CVRA
 2. If city adopts a resolution within 45 days of “notice” outlining intent to transition to by-district election system, provides 90 days to implement
 3. Prospective plaintiff(s) are limited to \$30,000 in attorney’s fees and costs

Source: California Elections Code Section 10010

CITY OF FORT BRAGG STATISTICS

- **Estimated City Population 2016 = 7,260**
 - **5 Equal Districts = 1,452 residents each**
- **Estimated City Population of Voting Age Citizens = 4,335**
 - **Percent of Population Voting Age Citizens = 60%**
- **Estimated Hispanic or Latino Population 2016 = 2,485**
 - **34% of the City's Total population**
 - **Estimated Number of Voting Age Citizens = 356**
 - **Percent of total City Voting Age Citizens = 8%**

- **Square Miles = 2.77**

INITIAL DECISION POINTS

Decision	Date
1. Assess the allegations made in the 45-day notice letter by hiring a demographer to conduct a racially polarized voting analysis	May 2, 2018
2. Review and evaluate the demographer's analysis and legal options and considerations	Prior to May 29, 2018 City Council Meeting
3. Pass a Resolution outlining intent to transition to district based election System	May 29, 2018 City Council Meeting or Special Meeting on or before June 1, 2018