

# RESOLUTION OF INTENT TO TRANSITION TO DISTRICT-BASED ELECTION SYSTEM

Public Hearing  
July 9, 2018



# A BRIEF HISTORY CALIFORNIA VOTING RIGHTS ACT (CVRA)

- Signed into law by Governor Gray Davis in 2002 and effective January 1, 2003
- 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
- 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
  - Does not require that minority group be sufficiently large and geographically compact enough to constitute a majority in a single member district
- 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
  - Limited case law – no blue print for successful defense
  - City of Santa Monica is currently defending suit on argument that could apply to City of Fort Bragg
  - Huntington Beach has publicly declared that it will defend against suit
- Court ordered remedy has been imposition of district-based elections
- Prevailing plaintiff(s) are entitled to attorney's fees and litigation expenses

# PLAINTIFFS' ATTORNEYS FEES AND COSTS

- Palmdale - \$4.5 million
- Modesto - \$3 million
- Anaheim - \$1.1 million
- Whittier - \$1 million
- Santa Barbara - \$800,000
- Santa Monica paid its outside law firm – Gibson, Dunn and Crutcher nearly \$5 million in 2017, prior to an expensive summary judgment motion and trial which is scheduled for July 30, 2018
- Huntington Beach has set aside \$4 million in CVRA Litigation reserve for anticipated lawsuit.

# 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

# DISTRICT-BASED ELECTION SYSTEM IN FORT BRAGG

- Five districts approximately equal population (not registered voters) = 1,455 residents per district
- Latinos are approximately 34% of the population but only 8% of the Citizen Voting Age Population
- A district where 25% of Citizen Voting Age Population is Latino is possible but may not comply with the Federal Voting Rights Act
- Argument that District-Based Election system is not always an effective remedy
  - Fort Bragg's protected class lacks geographic compactness
  - No district in Fort Bragg will have a majority of Latino voters

# 2016 GENERAL ELECTION

(Statewidedatabase.org)

Precinct Number	Voting Precinct	Total Registered Voters	Total Latino	% Latino
444122	Riverview	9	0	0%
444131	Boatyard	19	0	0%
444133	Noyo Point	5	0	0%
444121	Deer Meadows	16	1	6%
444010	Seaview	81	2	2%
444132	College	15	3	20%
444083	Dennison	37	6	16%
444085	Taublold	45	8	18%
444020	Bush	230	10	4%
444130	North Harbor	103	12	12%
444030	Fir	158	14	9%
444070	Fern	237	14	6%
444140	Cypress	255	16	6%
444050	Franklin	125	17	14%
444082	Wall	155	20	13%
444100	Hazel	180	20	11%
444040	Laurel	160	21	13%
444080	Oak	166	25	15%
444081	Sanderson	186	30	16%
444060	Alder	212	31	15%
444120	Woodland	301	41	14%
444011	Spruce	241	46	19%
444090	Madrone	321	56	17%
444110	Chestnut	400	61	15%
Total		3657	454	12%



# FORT BRAGG - CVRA ELEMENTS

- **At-large election system** – Fort Bragg elects its five City Councilmembers under a at-large system, in which candidates with the most votes are elected.
- **Presence of protected class** – Latino/Hispanic voters qualify as a protected class.
- **Racially polarized voting** – Voters in the protected class prefer candidates that are different from those preferred by the rest of the electorate. Preliminary/draft information indicates this is not the case in Fort Bragg.
- **Impairment of voting influence** – The votes of the majority non-protected class have the effect of defeating the preferences of the protected. Preliminary/draft information indicates this is not the case in Fort Bragg.

# MEASURING VOTER PREFERENCE

- Homogenous Precinct Analysis
  - Overwhelmingly-protected class and near-zero protected class precincts
- Ecological Regression
  - Statistical regression analysis comparing precinct by precinct election results relative to the percentage of each precinct comprised of each protected class
- Surveys and Exit Polls
  - Useful but typically expensive

*City's preliminary statistical regression analysis indicates that most candidates preferred by the Latino voters win but the results are not statistically reliable because of the small data size*

# COUNCIL DIRECTION

1. Adopt the Intent Resolution – *Staff's Recommendation*
  - Leaves the “Safe Harbor” option available and provides the City time
  - Council action is required to adopt Ordinance for district-based election system
  - District Elections would not begin until November, 2020
  - Districts would likely be revised after the 2020 Census
2. Do nothing until or unless a lawsuit is filed
3. Respond to the claim and prepare defense for potential lawsuit

# QUESTIONS OR COMMENTS