



Legislation Text

File #: 18-305, **Version:** 1

Resolution of the City Council of the City of South San Francisco declaring its intent to transition from at-large elections to district-based councilmember elections pursuant to Elections Code Section 10010.

WHEREAS, members of the City Council of the City of South San Francisco (“City”) are currently elected in “at-large” elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, California Government Code Section 34886, in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a by-district election system in which each councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City received a certified letter on March 6, 2018, from Kevin Shenkman of the law firm of Shenkman & Hughes alleging that the City's at-large councilmember electoral system violates the California Voting Rights Act (CVRA) and threatening litigation if the City declines to voluntarily change to a district-based election system for electing councilmembers; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting occurs in elections (Elections Code Section 14028(a)). “Racially polarized 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 (Elections Code Section 14026(e)); and

WHEREAS, although the letter was not accompanied by any evidence to support the claim of a CVRA violation, in order to avoid costs associated with defending a lawsuit based on the CVRA, even if that lawsuit settles, the City Council has directed staff to initiate the process to transition to district-based elections; and

WHEREAS, the California Legislature, in amendments to Elections Code Section 10010, has provided a method whereby a jurisdiction can expeditiously change to a district-based election system and avoid the high cost of litigation under the CVRA; and

WHEREAS, the City is committed to diversity and inclusion as reflected in Resolution No. 17-232 (2017) and denies its election system violates the CVRA or any other provision of law and asserts the City’s election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in

which it has conducted its City Council elections; and

WHEREAS, despite the foregoing, the public interest would be served by Council consideration of a proposal to transition to a district-based electoral system because of the uncertainty of litigation to defend against a CVRA lawsuit and the potentially extraordinary cost of defending such a lawsuit, even if the City were to prevail; and

WHEREAS, pursuant to Elections Code Section 10010 as amended by AB 350 (2016), if the City adopts a resolution outlining its intention to transition from at-large to district-based elections, specific steps it will undertake to facilitate this transition, and an estimated time frame for doing so, then a prospective plaintiff may not bring a CVRA lawsuit within 90 days after that resolution's passage and attorneys' fees would be capped at a maximum of \$30,000; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish district boundaries for a district-based electoral system, California Elections Code Section 10010 requires all of the following:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
2. After all draft maps are drawn, City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven (7) days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the City intends to retain an experienced demographer to assist the City to develop a proposal for a district-based electoral system; and

WHEREAS, the adoption of a district-based elections system will not affect the terms of any sitting Councilmember, each of whom will serve out his or her current term; and

WHEREAS, the County of San Mateo runs the City's General Municipal Elections for City Councilmembers, which has been consolidated with the statewide elections in November of even-numbered years.

THEREFORE, BE IT RESOLVED that the City Council of the City of South San Francisco hereby takes the following actions:

SECTION 1. The City Council hereby resolves to consider adoption of an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Councilmembers, pursuant to Elections Code Section 21606(c) and Section 10522.

SECTION 2. The City Council directs staff to work with a demographer, and other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act.

SECTION 3. The City Council hereby approves the tentative timeline as set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input and testimony on proposed district-based electoral maps before adopting any such map.

SECTION 4. The timeline contained in Exhibit A may be adjusted by the City Manager as deemed necessary, provided that such adjustments shall not prevent the City from complying with the time frames specified by Elections Code Section 10010.

SECTION 5. The City Council directs staff to post information regarding the proposed transition to a district based election system, including maps, notices, agendas and other information and to establish a means of communication to answer questions from the public.

SECTION 6. This resolution shall become effective immediately upon its passage and adoption.

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