

Capitola City Council

Agenda Report



Meeting: April 23, 2026

From: City Attorney's Office

Subject: California Voting Rights Act Challenge and Demand for City to Transition to District-Based Elections

Recommended Action: Consider a letter received on March 19, 2026, challenging the City's at-large election system and demanding the City transition to district-based elections; and provide direction to staff regarding next steps.

Background: The City currently utilizes an at-large voting system for the election of its City Council Members, under which voters citywide may vote for all open Council seats. Councilmembers are elected to represent the City as a whole, rather than specific geographic districts.

The City received a demand letter from Shenkman & Hughes PC, on behalf of the Southwest Voter Registration Education Project, alleging the City's at-large voting system is in violation of the California Voting Rights Act ("CVRA")¹ and threatening litigation if the City declines to voluntarily change to a district-based election system for electing Councilmembers (Attachment 1).

Legal Background: Jurisdictions throughout California have transitioned from at-large electoral systems to district-based systems in response to the CVRA. The CVRA prohibits at-large election systems that impair the ability of a protected class of voters to elect candidates of their choice or influence the outcome of elections.

The CVRA expands on the Federal Voting Rights Act of 1965 ("FVRA")² and was enacted, in part, to provide minority groups in California with tools to prevent dilution of votes in "at-large" election systems.³ An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates 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 A violation of the CVRA is established if it is shown that racially polarized voting occurs in elections for members of the governing body or in elections incorporating other electoral choices by the voters of the political subdivision.⁵ 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 may file an action in the superior court in which the political subdivision is located.⁶

The CVRA defines "protected class" as a class of voters who are members of a race, color, or language minority group, as referenced and defined in the FVRA⁷ and "racially polarized voting" as voting in which there is a difference, as defined in case law under the FVRA, in the choice of candidates or other electoral choices preferred by voters in a protected class, as compared to the rest of the electorate (*i.e.*, the protected class members vote as a politically cohesive unit, while the majority votes sufficiently as a bloc usually to defeat the protected class's preferred candidate).⁸

The CVRA does not require a plaintiff to prove intent on the part of the voters or elected officials to discriminate against a protected class, nor does the fact that members of a protected class are not

¹ Cal. Elec. Code §§ 14025-14032.

² 52 U.S.C. § 10301.

³ Cal. Elec. Code § 14025 et seq.

⁴ Cal. Elec. Code § 14027.

⁵ Cal. Elec. Code § 14028(a).

⁶ Cal. Elec. Code § 14032.

⁷ Cal. Elec. Code § 14027(d) citing 52 U.S.C. Sec. 10301 et seq.

⁸ Cal. Elec. Code § 14027(e) citing 52 U.S.C. Sec. 10301 et seq; *Thornburg v. Gingles* (1986) 478 U.S. 30, 56.

geographically compact or concentrated preclude a finding of racially polarized voting.⁹ Instead, a violation of the CVRA may be established by showing that both racially polarized voting and dilution occur in elections for members of the governing body.¹⁰

Discussion: If the City transitions to district-based elections, California Elections Code section 10010 establishes a “safe harbor” process that cities can follow after use after receiving a CVRA demand letter. If the City follows this process, it can reduce the risk of litigation and limit potential attorneys’ fees to a maximum of \$30,000, subject to adjustments based upon CPI.¹¹

Under this process, a potential plaintiff must first send a written notice to the City claiming that its at-large election system may violate the CVRA.¹² A 45-day stay is then imposed on a prospective plaintiff’s ability to bring an action. That 45-day stay allows a city to adopt a resolution outlining its intention to transition from at-large to district-based elections.¹³ If the City adopts such a resolution, the law provides an additional 90-day period during which a lawsuit cannot be filed, allowing time for the City to complete the transition.¹⁴

Public input is also required throughout the process. If the Council decides to proceed with transitioning to district elections, the City must hold at least two noticed public hearings over a period of no more than 30 days, at which the public is invited to provide input regarding the composition of the districts.¹⁵ No official maps can be drawn before completion of both hearings. Once the initial two meetings are complete, the demographer and public can begin to officially draw maps that will be considered in the districting process. The City would then hold at least two additional noticed hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft maps and the proposed sequence of elections.¹⁶

In addition to the public hearing requirements set forth in California Elections Code section 10010, any district map must comply with the substantive requirements of the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act (“Fair Maps Act”),¹⁷ which provides criteria that the districting body must utilize when establishing election district boundaries or undertaking the redistricting process. This criteria includes, among other things, requirements related to population equality, contiguity, communities of interest, and geographic compactness, and prohibits drawing districts for the purpose of favoring or discriminating against a political party or incumbent.¹⁸

Many cities, counties and special districts have received CVRA challenge letters. For example, in Santa Cruz County, both Santa Cruz and Watsonville have implemented district-based election systems. While some cities have tried to defend against CVRA challenges and have spent millions of dollars in legal fees, the City Attorney’s office is not aware of any city that has been successful in the courts. The City of Santa Monica, for example, has spent many millions of dollars defending against a CVRA challenge since 2016 and the parties are still litigating the case after it was heard by the California Supreme Court. The City of Palmdale was required to pay \$4.7 million in attorneys’ fees as a result of a CVRA lawsuit. The City of Modesto also challenged a CVRA claim but was unsuccessful and ultimately settled the case for about \$3 million and switched over to by-district elections.

⁹ Cal. Elec. Code § 14028(c) and (d).

¹⁰ Cal. Elec. Code §§ 14026(e), 14028(a); *Pico. supra*, 15 Cal.5th at p. 314.

¹¹ Cal. Elec. Code § 10010(f)(3) [The amount of reimbursement required by this section is capped at thirty thousand dollars (\$30,000), as adjusted annually to the Consumer Price Index for All Urban Consumers, United States city average, as published by the United States Department of Labor.].

¹² Cal. Elec. Code § 10010(e)(1).

¹³ Cal. Elec. Code § 10010(e)(2)-(3).

¹⁴ Cal. Elec. Code § 10010(e)(2)-(3).

¹⁵ Cal. Elec. Code § 10010(a)(1).

¹⁶ Cal. Elec. Code § 10010(a)(2).

¹⁷ Cal. Elec. Code § 21100 et seq.

¹⁸ Cal. Elec. Code § 211130.

Due to the uncertainty of litigation and the potentially extraordinary cost of such a lawsuit, many cities, counties and special districts decide to take advantage of the “safe harbor” provisions and transition to district-based elections to limit the attorneys’ fees.

Next Steps: Given that the City has received this CVRA challenge letter, staff is seeking direction from the Council on whether to proceed to agendaize for the Council’s consideration a resolution of intent to transition to district-based elections.

Staff recommends scheduling that item for consideration at a special Council meeting on April 30, 2026, because the 45-day stay will lapse prior to the next regular Council meeting (scheduled for May 14, 2026). At the special meeting, the Council would consider whether to adopt the resolution of intent to take advantage of the “safe harbor” provisions. At that meeting, staff would provide a tentative timeline for the transition, which would need to be completed within 90 days of adoption of the resolution.¹⁹

Furthermore, proceeding with a resolution of intent to transition to districts will also require the hiring of a demographer to assist with the mapping process. Staff has issued an RFP for a demographer to maintain maximal flexibility and, if the desire is to proceed with the resolution of intent, Council will also be asked to approve a contract with a demographer for such services.

Fiscal Impact: If the City Council decides to transition to district-based elections, there will be a fiscal impact due to the costs associated with that transition, including demographer costs, public noticing costs, and payment of the plaintiffs’ attorney costs. Alternatively, if the City Council decides not to transition to district-based elections, the City could incur significant costs relating to litigation.

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government

Report Prepared By: Marc Tran, City Attorney

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

Attachments:

1. Letter from Shenkman & Hughes LLC.

¹⁹ 90 days from April 30, 2026 (if Council adopts the resolution of intent on that day) would be July 22, 2026.