

# AGENDA STAFF REPORT

MEETING NAME: REGULAR BOARD MEETING  
MEETING: OCTOBER 18, 2021  
DATE(S):  
FROM: LEGAL COUNSEL



FOR: (mark X after choice)                      ACTION                       DIRECTION                       INFORMATION

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## INFORMATIONAL PRESENTATION ON PROCESS FOR ADJUSTMENT OF DIVISION BOUNDARIES FOLLOWING RELEASE OF 2020 CENSUS INFORMATION

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### RECOMMENDATION

Every ten years, agencies with by-district election systems must use new census data to review and, if needed, redraw electoral division lines to reflect how local populations have changed. This process, called redistricting, ensures all divisions comply with both the California and federal Voting Rights Acts. The purpose of this report is to provide background on the redistricting process and summarize the requirements under Federal and State laws. Also, additional budget resources will be needed to engage a demographer.

### BACKGROUND

Until the November 3, 2020 election, MSWD's Board were elected at-large. MSWD migrated to division elections to preempt any possible threat of litigation. In 2019, MSWD began the transition from at-large to by-district elections. The Board enlisted the services of a demographer, Compass Demographics, Inc., to assist in drawing up such a map.

On June 24, 2020, MSWD adopted Ordinance No. 2020-2, establishing the election of members of the Board of Directors by five divisions, establishing the boundaries and identification number of each division, and establishing the election order of each division. The Adoption of the Ordinance was the final step in the transition to by-division elections as per the California Voting Rights Act ("CVRA") process. The Board voted unanimously to adopt a final map splitting the MSWD service boundary into five (5) divisions.

Once MSWD transitioned to district elections, state law requires the Board to examine and, if necessary, adjust the Board district boundaries every 10 years following the U.S. Census to ensure compliance with the CVRA. Additionally, a new map will need to be adopted following the release of 2020 census data.

### The California Voting Rights Act

The CVRA was enacted to implement the California constitutional guarantees of equal protection and the right to vote. The purpose of the CVRA is to prevent an at-large election system from diluting minority voting power and impairing underrepresented groups from influencing the outcome of a race. While modeled after the federal Voting Rights Act of 1965 ("FVRA"),<sup>1</sup> the CVRA lowers the threshold required to establish a voting rights violation. The CVRA made fundamental changes to voting rights in California,

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<sup>1</sup> 52 USC § 10301, *et seq.*

making it easier for plaintiffs in California to challenge at-large voting systems which can dilute the voting power of underrepresented groups.

### California Fair Maps Act

California's Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act, enacted in 2020, increases transparency and public accountability in redistricting. While it only specifically applies to cities and counties in California, the FAIR MAPS Act codifies traditional redistricting best practices that should be utilized by all local governmental agencies in California, whenever possible.

### District boundary criteria

Certain Federal required criteria must be observed when re-drawing districts:

- Each special district shall contain a nearly equal population;
- A districting plan shall be drawn in a manner that complies with the Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution; and
- Board districts shall not be drawn with race as the predominate factor.<sup>2</sup>

Additionally, when adjusting the boundaries of the divisions, the Board may give consideration to the following factors:

- Topography;
- Geography;
- Cohesiveness, contiguity, integrity, and compactness of the territory; and
- Community of Interests of the division.<sup>3</sup>

### Public hearing

Prior to considering specific maps adjusting division boundaries, MSWD must conduct at least one public hearing to receive testimony and comments from its Board members and the public. Following this hearing, MSWD's redistricting consultant will prepare draft maps reflecting the 2020 census data and considering any comments received. A second public hearing will need to be scheduled to consider the proposed division boundary adjustments and adoption of revised boundary maps.

There are no formal public outreach requirements for special district redistricting (other than the public hearing requirement). However, they are encouraged to conduct a transparent redistricting process that invites public input and testimony.

### Deadline

MSWD must complete the current redistricting process by April 17, 2022. SB 594, enacted last month, established this date which consolidated the redistricting deadline for all municipalities and most special districts onto a single date. Previous to SB 594, the deadline for special districts was May 12, 2022 (180 days before the November 8, 2022 general election). However, certain types of districts had deadlines as early as November 1, 2021, and with the delay of census data from the U.S. Census

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<sup>2</sup> *Shaw v. Reno*, 509 U.S. 630 (1993).

<sup>3</sup> Ca Election Code § 22000.

Bureau as a result of the COVID-19 pandemic, that deadline was impossible to meet. To accommodate those districts, and at the request of county Registrar of Voters statewide, the deadline for special districts was moved up 25 days to April 17th, while the November 1st deadline was extended to April 17th.

**Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is an organizational structure change that will not result in any direct or indirect physical change in the environment.

**Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

**FISCAL IMPACT AND STRATEGIC PLAN IMPLEMENTATION**

There is no fiscal impact associated with this report. However, redistricting will require MSWD to retain the services of a demographer. The Board approved such service with Compass Demographics, Inc. for its 2020 formation. The cost of services should be no more than \$20,000. Additionally, the Board will incur costs associated with communications efforts for the process such as printing, advertisements, etc.

**ATTACHMENT**

None