Coping with the New Reality of By-District Elections

Mayors and Council Members Executive Forum
July 2, 2020

Speakers

Presenters

Anne Ambrose
Director of Administrative Services, City of Palmdale

Doug Johnson
President, National Demographics Corporation

Randi Johl
Legislative Director & City Clerk, City of Temecula

Moderator

Ryder Todd Smith
President, Tripepi Smith
Audience Poll

- Is your district by-district or at-large?

California Voting Rights Act (CVRA)

- Under the Federal Voting Rights Act (passed in 1965), a jurisdiction must fail four factual tests before it is in violation of the law.
- The California VRA makes it significantly easier for plaintiffs by downplaying two of the four Federal VRA tests.
  - CVRA liability is heavily dependent on racially-polarized voting.
- No size limitation.
  - No City is too small for by-district elections.
What is Racially Polarized Voting?

Example of a highly reliable, clear statistical dataset:

If racial bloc voting blocks the ability of a protected class to elect preferred candidates, it becomes racially-polarized voting.

Common Problem: No Clear Answer

What we often have in the real world:
CVRA Litigation and Costs

Cases So Far:
- Palmdale, Santa Clara and Santa Monica went to trial on the merits.
- All three lost at trial. Santa Clara and Santa Monica are appealing.
- Modesto and Palmdale each spent about $1.8 million on their defense (in addition to the attorney fee awards in those cases).
- Santa Monica has spent an estimated $8 million so far, and plaintiffs requested $22 million for their trial win.

Key settlements:
- Palmdale: $4.7 million
- Modesto: $3 million
- Highland: $1.3 million
- Anaheim: $1.1 million
- Whittier: $1 million
- Santa Barbara: $600,000
- Tulare Hospital: $500,000
- Camarillo: $233,000
- Compton Unified: $200,000
- Madera Unified: about $170,000
- Hanford Joint Union Schools: $118,000
- Merced City: $42,000

CVRA Impact

Switched (or switching) as a result of CVRA:
- 142 cities
  - Prior to CVRA, only 29 of the 482 California cities used by-district elections
- 240 school districts
- 34 Community College Districts
- 1 County Board of Supervisors
  - The other 57 were already by-district
- 35 special districts
  - Health care, airport, water, parks and recreation, etc.
CVRA Timeline

2002
- California Voting Rights Act enacted

2006
- California Appeals Court affirms law’s constitutionality

2017
- AB350 creates “safe harbor” and $30,000 payment system
- AB278 empowers cities to switch without going to the voters

2020
- AB849 creates strict criteria system for cities & counties
- AB1276 (pending) addresses Charter criteria conflicts

Pre-2020 Districting Rules

Federal Laws
• Equal Population
• Federal Voting Rights Act
• No Racial Gerrymandering

Traditional Redistricting Principles
• Communities of interest
• Compact
• Contiguous
• Visible (Natural & man-made) boundaries
• Respect voters’ choices / avoid pairing incumbents
• Account for future population growth
## New Rules

**1. Federal Laws**
- Equal Population
- Federal Voting Rights Act
- No Racial Gerrymandering

**2. California Criteria for Cities**
1. Geographically contiguous
2. Undivided neighborhoods and "communities of interest" (Socio-economic geographic areas that should be kept together)
3. Easily identifiable boundaries
4. Compact (Do not bypass one group of people to get to a more distant group of people)

**3. Other Traditional Principles Redistricting**
- Respect voters' choices / avoid pairing incumbents
- Account for future population growth
- Minimize election year shifts

*The FAIR MAPS Act also imposed new rules for public outreach, record-keeping, and project deadlines.*

## Communities of Interest

Under the California Elections Code, “community of interest” has a very specific definition in the context of city and county districting and redistricting:

A “community of interest” is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.

(emphasis added)
Sample Compact Maps

Examples of highly compact maps, with nooks and jogs driven only by equal population requirements.

Sample Multiple-Representative Maps

Examples of maps where a desire to provide multiple representatives to specific areas of interest led to policy-driven, even if non-compact, maps.
In 2021, expect unprecedented demand for public empowerment in the redistricting process.

Commission Options

Elections Code Section 2300: New Options in 2021

- Authorizes Advisory, Hybrid and Independent Commissions

Advisory:
- Appointed by Council
- No elected officials, family members or paid campaign staff
- No extra mapping criteria

Hybrid and Independent:
- Council sets appointment process, but may not directly appoint
- Extensive restrictions on commission members
- “shall not draw districts for the purpose of favoring or discriminating against a political party or an incumbent or political candidate.”
Summary

1. Resisting a CVRA demand is a financially risky endeavor
2. Redistricting is a complex and often-contentious process
3. Redistricting involves a significant risk of litigation
4. Voters (and elected officials) understandably want their previous votes to be respected
5. The state has imposed new and much stricter rules
   • In some jurisdictions, there may be no legal way for all Councilmembers to run for re-election, at least without running against each other
6. Be ready for significant public interest & participation

Case Study #1:
City of Temecula

Randi Johl
City Clerk & Legislative Director
City of Temecula
Case Study #1: City of Temecula

• Once Upon a Time...
• City Incorporation and Growth
• City Demographics
• City Council History

Districting – A Reaction

• Sign of What Was Coming...
• Demand for Change
• Internal Communications in City Hall
• External Communications in the Community
• Positive vs. Negative Messaging
Districting – The Process

• Timing
• Consultants
• Community Engagement
• Drawing of the Maps
• Public Meetings / Hearings
• The Vote

Districting – The Results So Far

• First District Election
• Community Notification and Engagement
• Candidate Pool for Each District
• Campaign Mechanics
• November 2020 Election (So Far)
Case Study #2:
Palmdale's Journey to District-Based Elections

Anne Ambrose
Director of Administrative Services
City of Palmdale

Served With a Lawsuit

• Served May 8, 2012
• Preliminary injunction secured by plaintiff’s prevented the certification of 2013 election (first African-American candidate was elected)
• Case settled June 19, 2015
• $4.7m settlement, over $2m to litigate
• Certified the 2013 election in July, 2015
• First district-based election November 8, 2016
Advocacy

- Cost of litigation to cities - estimated $20m by 2016
- Advocated for tolling legislation to limit legal fees for cities and agencies trying to comply with district voting requirements
- AB 350
What Has Changed/What Hasn’t

• Voting Pool – Approximately 75,000 registered voters citywide; now between 17,000-22,000 per district

• Each Councilmember recommends a member of their district for appointment to the Planning Commission (5th seat at large)

What Has Changed

• Concerns of Citywide Benefit – Citywide focus

• Neighborhood/direct constituent issues – District focus

• Projects and funding are not highlighted by district

• Sales tax survey

• One Councilmember producing a district newsletter
Thank you for joining!

Questions?

League of California Cities  |  CACities.org
Doug Johnson
President, National Demographics Corporation
DJohnson@NDCResearch.com

Randi Johl
Legislative Director/City Clerk, City of Temecula
Randi.Johl@TemeculaCA.gov

Anne Ambrose
Director of Administrative Services, City of Palmdale
AAmbrose@CityOfPalmdale.org

Ryder Todd Smith
President, Tripepi Smith
Ryder@TripepiSmith.com