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SB-442 School districts and community college districts: governing board elections: charter cities.
(2021-2022)

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Senate Bill No. 442

CHAPTER 139

An act to amend Sections 5019, 5020, 5021, 5025, and 72036 of the Education Code, relating to school districts and community college districts.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 442, Newman. School districts and community college districts: governing board elections: charter cities.

Existing law establishes in each county, except a county that is also a city and county, a county committee on school district organization, and authorizes the committee to take certain actions regarding the organization of school districts and community college districts in the territory under the committee's jurisdiction. Existing law authorizes, in any school district or community college district, a county committee on school district organization to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to 7 or decrease to 5 the number of members of a governing board, or to adopt an alternative method of electing governing board members, as specified, except in a school district governed by a board of education provided for in the charter of a city or city and county.

This bill would delete the exception for a school district governed by a board of education provided for in the charter of a city or city and county, for purposes of that provision. The bill would prohibit a county committee on school district organization from rearranging trustee area boundaries in a school district or community college district that has established a hybrid or independent redistricting commission, as specified.

The California Voting Rights Act of 2001 prohibits an at-large method of election from being imposed or applied in a political subdivision, as defined, in a manner that impairs the ability of a protected class, as defined, to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class. Existing law establishes procedures for transitioning from at-large elections to district-based or trustee elections. Existing law requires a resolution of the county committee approving a proposal to establish trustee areas to constitute an order of election, and requires the proposal to be presented to the electors of the district not later than the next succeeding election for members of the governing board.

This bill would authorize the county committee, by resolution, to approve a proposal to establish trustee areas and elect governing board members using district-based elections without submitting the resolution to the electors of the district for approval. The bill would require such a resolution to include a declaration that the change in the method of electing members of the governing board is being made in furtherance of the purposes of the California Voting Rights Act of 2001, and would require the resolution to govern all elections for governing board members occurring at least 125 days after the adoption of the resolution. The bill would also make conforming changes.

Existing law authorizes the governing board of a community college district to change election systems upon the adoption by the board of trustees of a resolution in support of that change and upon the approval of the Board of Governors of the California Community Colleges, as specified. As part of the change in election systems, existing law authorizes the governing board of a community college district to determine the number of trustees. If the number of members of a governing board of a community college district is increased, existing law requires additional members of the governing board to be elected at the next regular district election of board members occurring at least 123 days after the governing board approved the increased number of board members.

This bill would instead require the additional members of the governing board of a community college district to be elected at the next regular district election of board members occurring at least 125 days after the governing board approved the increased number of board members.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Since the enactment of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code), hundreds of school districts and community college districts have adopted by-trustee area elections, and still many others had already employed by-trustee area elections.

(2) The Legislature has recently enacted legislation making it possible and easier for some political subdivisions to adopt district elections without an election or costly court action brought pursuant to the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or the California Voting Rights Act of 2001.

(3) Under current law, school districts governed by a board of education provided for in the charter of a city or city and county, in contrast to most California school districts, have no means of adopting by-trustee area elections, except through costly judicial action or by seeking an amendment to the city charter.

(4) At-large elections may operate to dilute minority votes, and campaigning in at-large elections is significantly more expensive than in by-trustee area elections.

(5) By-trustee area elections may be established by a county committee on school district organization to protect the right to vote, the equal protection of the laws, and the integrity of the electoral process.

(6) The dilution of votes of a protected class in elections for the governing boards of school districts is a matter of statewide concern.

(b) It is the intent of the Legislature to allow county committees on school district organization to establish trustee areas, and thus save a school district's financial resources, even where the charter of a city or city and county specifies a different method of electing the governing board of the school district.

SEC. 2. Section 5019 of the Education Code is amended to read:

5019. (a) (1) In any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven from five, or decrease from seven to five, the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(2) For any school district whose average daily attendance during the preceding year was less than 300, the county committee on school district organization may decrease from five to three the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(3) Notwithstanding paragraph (1), the county committee on school district organization shall not rearrange trustee area boundaries in a school district or community college district that has established a hybrid or independent redistricting commission for this purpose pursuant to Section 23003 of the Elections Code, the charter of a city or city and county, or a legal settlement.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization, and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 125 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 125 days after its approval by the voters.

SEC. 3. Section 5020 of the Education Code is amended to read:

5020. (a) (1) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.

(2) Notwithstanding paragraph (1), a county committee may, by resolution, approve a proposal to establish trustee areas and to elect governing board members using district-based elections, as defined in subdivision (b) of Section 14026 of the Elections Code, without being required to submit the resolution to the electors of the district for approval. A resolution adopted pursuant to this paragraph shall include a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code). The resolution shall take effect upon adoption and shall govern all elections for governing board members occurring at least 125 days after the adoption of the resolution.

(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote if there is sufficient time to place the issue on the ballot.

(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote if there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.

(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote if there is sufficient time to place the issue on the ballot.

(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:

"For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District—Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District—No."

"For increasing the number of members of the governing board of ____ (insert name) School District from five to seven—Yes" and "For increasing the number of members of the governing board of ____ (insert name) School District from five to seven—No."

"For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five—Yes" and "For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five—No."

"For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District—Yes" and "For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District—No."

"For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area—Yes" and "For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area—No."

"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District—Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District—No."

"For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District—Yes" and "For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District—No."

(f) If more than one proposal appears on the ballot, all must carry in order for any to become effective, except as follows:

(1) A proposal to adopt one of the methods of election of board members specified in Section 5030 that is approved by the voters shall become effective unless a proposal that is inconsistent with that proposal has been approved by a greater number of voters.

(2) An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.

SEC. 4. Section 5021 of the Education Code is amended to read:

5021. (a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved by a majority of the voters voting at the election, or by the county committee on school district organization when no election is required, any affected incumbent board member shall serve out the board member's term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. If two or more trustee areas are established at an election that are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the voters voting on the measure, or by the county committee when no election is required, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out the board member's term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the voters voting at the election, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

SEC. 5. Section 5025 of the Education Code is amended to read:

5025. If an election is called or a resolution of the county committee approving a proposal to establish trustee areas is adopted, as applicable, pursuant to Section 5020, the county superintendent of schools having jurisdiction shall, as to each trustee area having more than its allotted number of representatives in the membership of the governing board for the next succeeding school year, determine by lot which of said representatives shall relinquish their offices either immediately upon the election and

qualification of the governing board members who are elected as provided in Section 5024 or on the first day of April next succeeding the election or the adoption of the resolution, as applicable, establishing trustee areas in the district, whichever is the later.

SEC. 6. Section 72036 of the Education Code is amended to read:

72036. Notwithstanding any other law, the governing board of a community college district may change election systems, in accordance with the provisions of this section and the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code), upon the adoption by the board of trustees of a resolution in support of electing the trustees in accordance with this section and upon the approval of the Board of Governors of the California Community Colleges, as follows:

(a) The governing board of a community college district may establish elections by trustee areas. In establishing trustee areas, the territory of a district shall be divided into trustee areas, and one member of the governing board shall be elected from each trustee area. A candidate for election as a member of the governing board shall reside in, and be registered to vote in, the trustee area the candidate seeks to represent. The governing board shall set the initial boundaries of each trustee area to reflect substantially equal population in each district as enumerated in the most recent decennial federal census. Thereafter, the boundaries of trustee areas shall be adjusted pursuant to Section 5019.5, and may be abolished or adjusted as otherwise provided in this code.

(b) The governing board of a community college district may establish a top-two primary election system. Candidates for election as a member of a governing board of a district shall be nominated by trustee area at a district primary election held on the date of the statewide direct primary election. At the district primary election, the two candidates receiving the highest number of votes within the trustee area shall be nominees for the district general election for that trustee area, and the nominee who receives a majority of the votes cast by the voters of the trustee area in the district general election shall be elected to represent that trustee area. The district general election shall be held on the same date as the statewide general election.

(c) The governing board of a community college district may determine the number of trustees pursuant to this subdivision. The governing board of a community college district shall be composed of not less than five members and not more than nine, as determined by the governing board. Sections 5019 to 5030, inclusive, do not apply to the governing board's determination of the number of members pursuant to this subdivision. If the number of members of a governing board is increased or decreased, a governing board shall establish new trustee areas, abolish trustee areas, or adjust the boundaries of trustee areas so that the number of trustee areas is equal to the number of governing board members. If the number of members of a governing board is increased, the additional members of the governing board shall be elected at the next regular district general election of board members occurring at least 125 days after the governing board approved the increased number of board members. Before the next district general election, the governing board shall divide by lot the additional trustee area positions that are created so that the term of one-half of the board members elected to those positions shall expire on the first Friday in December following the next district general election. The term of the other board members elected to fill the remainder of the additional positions shall expire on the first Friday in December following the second district general election succeeding their election.

(d) This section shall not apply to any community college district that has been authorized by statute to provide for its own trustee elections.