
New Law Allows School and Community College Districts to Adopt Trustee Areas Without Holding an Election for Voter Approval

August 10, 2021
Number 19

Written by:

Ryan P. Tung
Partner
Walnut Creek

Jonathan E. Berry-Smith
Associate
Walnut Creek

Effective on January 1, 2022, a county committee on school district organization will be able to approve a school district or community college district's adoption of a by-trustee area election method, without calling an election to seek voter approval.

Background

Many school districts and community college districts' governing board members are elected at-large, meaning that each board member is elected by voters of the entire district. Districts that hold elections at-large face the risk of a costly legal challenge under the California Voting Rights Act (CVRA). As a result, many districts are transitioning to by-trustee area elections, where each board member must reside within a specific trustee area, and each board member is elected only by the voters residing within that particular trustee area.

School districts and community college districts are generally required to obtain county committee approval on their proposals to establish trustee areas. Historically, once the county committee approved the proposal, the matter was placed on the ballot for approval by the voters. Importantly, a voter rejection of trustee areas, resulting in the district retaining the at-large method of elections, leaves the district exposed to risk of a future lawsuit alleging the at-large election method suppresses the votes of a protected class in violation of the CVRA.

Due to the cost and time required to seek voter approval, and the risks associated with voter disapproval, an overwhelming majority of school districts routinely bypassed this requirement by seeking a waiver from the State Board of Education (SBE). Similarly, community college districts bypassed this requirement by seeking approval from the California Community College Board of Governors.

Significance of SB 442

Beginning January 1, 2022, Senate Bill (SB) 442 amends Education Code section 5020 to allow school districts and community college districts to transition to by-trustee area elections upon approval by the county committee, without the need to seek voter approval. School districts and community college districts will still be required to undergo the extensive public hearing process provided in Elections Code section

10010, but will now have one less step in the process to adopting by-trustee area elections because they no longer will need to seek voter approval.

Takeaways

From a practical standpoint, SB 442 streamlines the process to adopt by-trustee area elections for school districts and community college districts and removes additional costs and potential delays in implementing trustee areas. However, SB 442 will only eliminate the election requirements for proposals approved by the county committee on January 1, 2022, or later. Therefore, school districts that have already sent waivers to the SBE, or whose respective county committees have already approved a trustee area proposal, will not be affected by SB 442. School districts and community college districts in the middle of the process to transition to by-trustee area elections may want to consider weighing the advantages and disadvantages of delaying county committee action until after the new year.

If you have any questions regarding SB 442 or the CVRA, please contact one of the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.