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CLERK OF THE BOARD
COUNTY OF ORANGE

Memorandum

Date: 04/25/2022
To: Clerk of the Board
From: Supervisor Katrina Foley *NA for KF*
Re: Discussion Item for the May 10 Meeting of the Board of Supervisors

Please add a discussion item to the May 10, 2022 Meeting of the Board of Supervisors on the topic of the implementation of new Supervisorial boundaries prior to the next regularly scheduled election.

RECOMMENDED ACTION

Direct County Counsel to seek an opinion from the California Attorney General on the question of the implementation of County Supervisorial Districts in Orange County prior to the next regularly scheduled election.

BACKGROUND

On March 9, 2021, I was elected by the voters of Orange County's Second District, which includes the cities of Costa Mesa, Cypress, Huntington Beach, La Palma, Los Alamitos, Newport Beach, Seal Beach, Stanton, the unincorporated area of Rossmoor, and portions of Buena Park and Fountain Valley to serve the remainder of the term of office ending on January 3, 2023.

On December 7, 2021, the County Board of Supervisors voted to adopt the Redistricting Map Ordinance that approved new district boundaries.

On December 16, 2021, Attorney General Rob Bonta published an opinion related to a vacancy on the San Luis Obispo Board of Supervisors, where he concluded that "the plain text of Elections Code 21506 excludes special elections from the general rule and that the new district boundaries shall apply in elections after redistricting" and that "the 'term of office' would continue for its full duration, further indicating that the redrawn boundaries should not be used for a given office until the first regular election for that office." (Attachment A).

On January 6, 2022, the new district boundaries became effective for the Orange County Board of Supervisors, meaning that the districts of the Supervisors were adjusted within the terms of said Supervisors who were elected prior to the effective date of newly drawn district lines.

On April 5, 2022, the City Attorney of Sacramento, a charter city, published a public opinion finding that Councilmembers represent the districts they were elected to until the end of their term of office, reversing the implantation of new district boundaries.

According to the publicly available memo, “this statute makes plain that the new districts do not govern until the next “regular” election for a given council seat. The Attorney General has recently so concluded. Additionally, the California Elections Code section quoted at length above is substantially identical to the code section applicable to county supervisors.” (Attachment B).

The County of Orange is also a charter County. The charter does not address redistricting; therefore the County Board of Supervisors should not have the power to implement new boundaries before the next regularly scheduled election. (Attachment C).

The 2021 Fair Maps Act provides:

(a) The term of office of any council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which the council member was elected.

(b) At the first election for council members in each city following adoption of the boundaries of council districts, excluding a special election to fill a vacancy or a recall election, a council member shall be elected for each district under the new district plan that has the same district number as a district whose incumbent’s term is due to expire. This subdivision does not apply when a city transitions from at-large to district-based elections.

(c) Except as provided in subdivision (a), a person is not eligible to hold office as a member of a city council unless that person meets the requirements of Section 201 of the Elections Code and Section 34882 of the Government Code.

Based on the plain language of section 21506, a Supervisor should be deemed to represent the district from which the Supervisor was elected. If the boundaries of a district are changed during an existing term, the newly drawn district should not go into effect until the new voters are able to select their elected representative.

ATTACHMENTS

- A: California Attorney General Opinion – December 16, 2021
- B. City of Sacramento Redistricting Opinion
- C. Charter of the County of Orange
- D. California Attorney General Opinion Guidelines