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## Important Changes to California Voting Rights Act Are Now In Effect

As a result of Assembly Bill 350 (“AB 350”), which became effective on January 1, 2017, several changes to the California Voting Rights Act (“CVRA”) are now in place. The changes impact the timing, public outreach and costs when government bodies, including school districts, transition to by-trustee area elections, the only current safe harbor from CVRA litigation.

Since the enactment of the CVRA, hundreds of local government bodies (cities, school districts, community college districts and water districts) have approved moving from an at-large election system (voters of entire jurisdiction elect all governing board members) to a by-trustee area election system (district is divided into trustee areas and a governing board member is elected from each trustee area by only the registered voters in the particular trustee area where the governing board member resides) in order to ensure compliance with the CVRA. Due to the broad language of the CVRA and the fact the CVRA provides that a successful plaintiff is entitled to expert and attorneys’ fees, many jurisdictions have transitioned to a by-trustee area election system rather than risk exposure to significant legal costs.

Assembly Bill 350 (“AB 350”) amends the CVRA in the following manner:

**Public Hearings.** While prior law only required public hearings prior to a governing body’s adoption of a by-trustee area boundary map, AB 350 directs that government bodies that establish or change to by-trustee area elections must hold public hearings both before and after drawing preliminary maps of the proposed district boundaries.

Specifically, prior to preparing draft maps of the proposed boundaries, government bodies must hold at least two public hearings within a 30 day span, at which the community can provide input regarding the composition of the by-trustee areas. After draft maps are created, the maps must be published and the government body must hold at least two additional public hearings 45 days prior to the adoption of a map option.

**Plaintiff’s Action/Reimbursement.** While the CVRA entitles plaintiffs to recover attorneys’ fees and other costs, AB 350 establishes further procedures for providing reimbursement to a prospective plaintiff who sends a notice letter alleging a potential CVRA violation that prompts a political subdivision to change from an at-large to a district-based election system.

Specifically, prior to filing a lawsuit alleging CVRA violations, the prospective plaintiff must first send written notice (“Demand Letter”) asserting that a government body’s method of conducting elections may violate the CVRA. Once this Demand Letter is received, the prospective plaintiff is barred from commencing a CVRA lawsuit against the government body for 45 days.

Prior to— or within 45 days of—receipt of a Demand Letter, a government body may pass a resolution outlining its intent to transition to by-trustee area elections. The resolution must outline specific steps to facilitate the transition and an estimated time frame for doing so. If a government body passes a resolution of intent, a prospective plaintiff is barred from commencing a CVRA lawsuit against the entity within 90 days of the resolution’s passage. A prospective plaintiff who sent a Demand Letter prior to a government body’s adoption of a resolution to transition to by-trustee area election may demand reimbursement for the cost of the work product generated to support the Demand Letter. Reimbursement in such scenario is capped at \$30,000. Notably, AB 350 does not provide a cap for litigation expenses incurred pursuant to a subsequent lawsuit.

AB 350 also provides that government bodies must “take into account the preferences expressed by members of the districts” when determining the sequence and scheduling of staggered terms of office.

Based on AB 350, it is recommended that school districts evaluate their method of elections and assess the current demographics of the community the district serves to ensure compliance with CVRA, including, but not limited to, exploring the need to transition to by-trustee area elections.

If you have any questions regarding this matter or seek additional information on how your school district can ensure compliance with the CVRA and AB 350, please call one of our six offices.

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