

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF MAY 25, 2016

REGULAR MEETING

TO: Ken Humphreys, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

**AGENDA ITEM #9: CONSIDER ADOPTING LOCAL POLICY ON SPECIAL
DISTRICT ELECTIONS**

RECOMMENDATION

Staff recommends that the Commission consider adopting a local policy on the manner in which it establishes a quorum for special district elections, subject to ratification from the independent special districts.

REASON FOR RECOMMENDED ACTION

The proposal in this item is to add one more tool to ensure a timelier and cost effective completion of an independent special district representative (ISD) election. LAFCO incurs additional staffing and mailing costs whenever an ISD election takes longer to complete because a minimum number of ballots have not been received to establish by quorum.

BACKGROUND

Per the Cortese-Knox-Hertzberg Act (CKH), the method for selecting the two regular and alternate special district representatives to LAFCO is via an election. Only independent special districts may vote to select these representatives. CKH provides that the election can be conducted in person or via certified mailed ballots. Both of these methods are called the “independent special district selection committee.” Since having an in-person independent special district selection committee meeting would be difficult to coordinate, schedule and plan, the ISD elections in this county are held via certified ballots.

While this LAFCO has been entrepreneurial in making the process more manageable and cost effective (instant runoff election process, ballots and election materials are sent via e-mail to those districts who want them and determining that the election ends on a specified date or when a quorum of ballots are received, whichever occurs later), some challenges remain, namely reaching a quorum.

Attachment A contains the participation rates among all ISDs in the six ISD elections held in the past ten years. As it can be seen, these rates vary significantly.

- Five ISDs have never voted.
- Four more ISDs have only voted once.
- Seven additional ISDs have voted in only two elections.
- Eight ISDs have built a solid reputation of participating in every election, while another five ISDs have been reliably consistent.

The remaining ISDs have an overall participation rate of about .500:

- Twelve districts voted in four of the last six elections, but in no discernible pattern. Of these, only one district voted in the last three elections. Four others voted in two of the last three elections.
- Same with the eight ISDs that voted in half of the elections.

But what these overall numbers mask are three other important statistics:

- Three districts have not voted in the last four elections
- One district has not voted in the last three elections
- Six districts have not voted in the last two elections

Currently, with 47 ISDs in El Dorado County, a quorum of 24 ISDs is needed to close an election. These participation rates make every ISD election a game of odds as to whether a quorum will be achieved. In any given election, approximately 12-15 ballots can be expected to be returned consistently and timely. These districts tend to be larger in size with regular monthly meetings. They also tend to be the districts that have opted for electronic voting. That leaves a deficit of approximately 9-12 ballots to establish a quorum.

In the past, getting those last 9-12 ballots been difficult. With the exception of the 2007 election, all elections have continued past the specified closing date because a quorum had not been reached. This was an occurring problem prior to 2005, which is one of the reasons why voting remains open until the quorum is established. Otherwise, a new election would have to be called. In these elections that extended beyond the closing date, LAFCO has had to send out two or more certified mailings (two elections required three mailings) to prompt the ISDs that had not voted to submit their ballots. All of this tracking and mailing costs LAFCO, and ultimately the funding agencies. For this reason alone, the total participation in any given election, which ranges from a high of 30 ISDs voting to a low of 24 ISDs, is a misnomer. The total number of districts voting is only achieved after much prodding.

This past month, your Executive Officer learned of San Luis Obispo LAFCO's local policy whereby the number needed to establish a quorum is adjusted based on the participation rate (please refer to Attachment B). In essence, the quorum is established based on the number of ISDs that participated in prior elections. SLO LAFCO sets their quorum as 50% + 1 of the number of districts that voted in the last nine elections.

By way of illustrating how this works, if this LAFCO had a similar rule in a hypothetical 2017 ISD election, the quorum would be adjusted based on the following table. It should be noted that the assumption is that the current number of ISDs in this county remains at 47 in 2017.

Scenario	Number of districts counted	Quorum needed
Currently	47 ISDs	24
Voted in at least one of the last six elections	42 ISDs	21
Voted in at least one of the last four elections	39 ISDs	20
Voted in at least one of the last three elections	38 ISDs	20
Voted in at least one of the last two elections	32 ISDs	17

As you go farther down that chart, the quorum needed starts to become more achievable based on the number of districts that regularly cast timely ballots. The logic of the policy is similar to how a regular popular election is decided. The winner is the candidate that garners (at the very least) a majority of those who cast a ballot, not a majority of the absolute number of registered voters.

Two things should be noted before continuing any further. This policy does not strip any district's vote away. All ISDs continue to receive certified mailed ballots in every election and are encouraged to participate. Second, should the heretofore-non-voting ISD choose to vote, the vote is counted even if the district was not counted for purposes of determining the quorum level.

If the Commission is amenable to this policy, it could direct staff to draft a formal policy. The step after that would be to place this question on the ballot for the next ISD election to ask that they vote to adopt this revised quorum methodology. If approved by the ISDs, the policy will be returned to the Commission for final adoption and included in the Policies and Guidelines.

Attachments

Attachment A: Matrix of Past Election Participation

Attachment B: SLO LAFCO's Independent Special District Selection Committee Election Procedure