

**AGENDA  
IRVINE RANCH WATER DISTRICT  
BOARD OF DIRECTORS  
REGULAR MEETING**

April 2, 2018

**CALL TO ORDER**

5:00 p.m., Board Room, District Office  
15600 Sand Canyon Avenue, Irvine, California

**ROLL CALL**

Directors LaMar, Matheis, Swan, Withers, and President Reinhart

**NOTICE**

If you wish to address the Board on any item, including Consent Calendar items, please file your name with the Secretary. Forms are provided on the lobby table. Remarks are limited to three minutes per speaker on each subject. Consent Calendar items will be acted upon by one motion, without discussion, unless a request is made for specific items to be removed from the Calendar for separate action.

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**COMMUNICATIONS TO THE BOARD**

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1. A. Written:
- B. Oral:

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**OTHER BUSINESS**

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2. A. Closed Session

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION-  
Significant exposure to litigation pursuant to Government Code Section  
54956.9(d)(2). (One potential case.).

- B. Open Session

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**ACTION CALENDAR**

**Next Resolution 2018-9**

3. CONSIDERATION OF RESOLUTION OF INTENT TO INITIATE THE  
PROCESS OF ESTABLISHING DIVISIONS AND ELECTIONS BY  
DIVISIONS

Recommendation: If the Board elects to transition to by-division elections, that the Board adopt a resolution declaring the District's intent to initiate the process for establishing divisions and elections by divisions.

Reso. 2018-9

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**OTHER BUSINESS (Continued)**

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4. C. Adjourn.

Availability of agenda materials: Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the Irvine Ranch Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection in the District's office, 15600 Sand Canyon Avenue, Irvine, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Secretary of the District Office at the same time as they are distributed to Board Members, except that if such writings are distributed one hour prior to, or during, the meeting, they will be available at the entrance to the Board of Directors Room of the District Office. The Irvine Ranch Water District Board Room is wheelchair accessible. If you require any special disability-related accommodations (e.g., access to an amplified sound system, etc.), please contact the District Secretary at (949) 453-5300 during business hours at least seventy-two (72) hours prior to the scheduled meeting. This agenda can be obtained in alternative format upon written request to the District Secretary at least seventy-two (72) hours prior to the scheduled meeting.

April 2, 2018  
Prepared and  
submitted by: C. Compton   
Approved by: Paul A. Cook 

## ACTION CALENDAR

### CONSIDERATION OF RESOLUTION OF INTENT TO INITIATE THE PROCESS OF ESTABLISHING DIVISIONS AND ELECTIONS BY DIVISIONS

#### SUMMARY:

Pursuant to Water Code section 35180, IRWD uses an at-large method to elect the members of its Board of Directors. The at-large method allows for voters from the entire service area to elect each of the five members of the Board of Directors. The California Voting Rights Act favors a by-division method of election instead of an at-large method of election for electing members of local government governing bodies. A by-division method divides a service area into separate divisions and allows the voters from each division, as opposed to voters from the entire service area, to elect a member of the board of directors. In a by-division method of election, the elected individual serves as the division's representative on the board and must reside in that division.

Since 2017, Elections Code section 10650 has authorized special districts such as IRWD to move from an at-large method of election to a by-division method of election in furtherance of the purposes of the California Voting Rights Act. Elections Code section 10010 governs the process for evaluating and transitioning to a by-division method of election. The first step in initiating the process is the adoption of a resolution of "Intent to Initiate the Process of Establishing Divisions and Elections by Divisions."

If the IRWD Board of Directors elects to initiate the process for evaluating division areas and a transition to by-division elections within IRWD, staff recommends that the Board adopt a resolution declaring the District's "Intent to Initiate the Process of Establishing Divisions and Elections by Divisions."

#### BACKGROUND:

In 2002, Governor Gray Davis signed the California Voting Rights Act (CVRA) into law. The CVRA states that an at-large method of election may not be used to elect local governing boards if it "impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election." (Elections Code §14027)

A violation of the CVRA may be established if it is shown that racially polarized voting combined with an at-large voting system impairs the ability of a protected class of voters to elect candidates of its choice or to influence the outcome of an election. (Elections Code §14028(a)) Under the CVRA, "racially polarized voting" means voting in which there is a difference between the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. (Elections Code §14026(e))

As of the writing of this report, IRWD has not been presented with any evidence of racially polarized voting in its elections, but many local governments have had their at-large method of election challenged under the CVRA. Additionally, many local governments have voluntarily moved to a by-division method of election because it is the only election method not vulnerable to a challenge under the CVRA.

Statutorily Mandated Process for Evaluating a By-Division Method of Election:

While the current at-large method of election used by IRWD pursuant to Water Code section 35180 has served the District's customers and constituents well, Election Code section 10650 allows the board of a special district, like IRWD, to move from an at-large method of election to a by-division method of election in furtherance of the purposes of the CVRA.

Elections Code section 10010 provides the process for evaluating divisions and a transition to by-division elections. That process requires, at a minimum, that a special district:

- Adopt a resolution of intent to change the election system;
- Hold at least four public hearings to discuss division maps and the sequence of the division elections;
  - The first and second hearing must be held within 30 days of each other and the public is invited to provide input regarding the composition of the divisions and sequence of elections;
  - After draft division maps are drawn, one or more proposed maps are published at least seven days before the third hearing. Any further revisions to the proposed map(s) would be published at least seven days before being adopted; and
  - The third and fourth public hearings are held within 45 days of each other;
- Hold at least one more public hearing at which it considers final action to transition to by-division elections and considers adoption of a final map of division boundaries.

Timing for the Election Code Section 10010 Process and 2018 Election Deadlines:

Establishing division areas and changing the election method is a time consuming process that requires multiple public hearings over a period of months. Elections Code section 22000(d) prohibits a special district board from changing division area boundaries within 180 days prior to an election for any director of its governing board. The next election of directors for the IRWD Board is scheduled for November 6, 2018, and 180 days prior to that election is May 10, 2018. Additionally, the Orange County Registrar of Voters must receive any change in electoral boundaries 125 days before an election in order to implement that change in the next election; 125 days before the next election is July 3, 2018.

A successful Election Code section 10010 process engages the public and provides the public with the ability to fully participate in the evaluation of divisions and the transition to a by-division method of election. The May 10 and July 3 deadlines do not allow adequate time for the District to provide the public with the ability to fully participate in the process, acquire meaningful public input and conduct all of the required steps to adopt division boundaries for implementation before the 2018 election.

Consideration of Resolution of “Intent to Initiate the Process of Establishing Divisions and Elections by Divisions”:

If the Board determines that the public interest is best served by initiating the process to evaluate divisions and a transition to by-division elections, staff recommends that the Board take the first step in the Election Code section 10010 process and adopt a resolution declaring the District’s intent to initiate the process for establishing divisions and elections by divisions. A draft resolution is presented as Exhibit “A” for the Board’s consideration.

If the Board adopts the draft resolution of intent, the General Manager, or his designee, will initiate a process that complies with Elections Code section 10010, and encourages and allows for full public participation, careful consideration and input into an evaluation of divisions and a transition to by-division elections within IRWD for implementation with the 2020 election of Board members. The process would be undertaken in an expeditious manner consistent with the gravity of the issue.

FISCAL IMPACTS:

If the Board adopts a resolution of “Intent to Initiate the Process of Establishing Divisions and Elections by Divisions,” the District will incur costs of a demographer, elections consultant, and special legal counsel in addition to potentially other costs.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

Due to timing, this item was not reviewed by a committee.

RECOMMENDATION:

**IF THE BOARD ELECTS TO TRANSITION TO BY-DIVISION ELECTIONS, THAT THE BOARD ADOPT A RESOLUTION DECLARING THE DISTRICT’S INTENT TO INITIATE THE PROCESS FOR ESTABLISHING DIVISIONS AND ELECTIONS BY DIVISIONS:**

Action Calendar: Consideration of Resolution of Intent to Initiate the Process of  
Establishing Divisions and Elections by Divisions  
April 2, 2018  
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RESOLUTION NO. 2018 -

RESOLUTION OF THE BOARD OF DIRECTORS OF  
IRVINE RANCH WATER DISTRICT'S INTENT TO INITIATE THE PROCESS OF  
ESTABLISHING DIVISIONS AND ELECTIONS BY DIVISIONS

LIST OF EXHIBITS:

Exhibit "A" – Draft Resolution of the Board of Directors of Irvine Ranch Water District's Intent  
to Initiate the Process of Establishing Divisions and Elections by Divisions

## EXHIBIT "A"

### RESOLUTION NO. 2018 -

#### RESOLUTION OF THE BOARD OF DIRECTORS OF IRVINE RANCH WATER DISTRICT'S INTENT TO INITIATE THE PROCESS OF ESTABLISHING DIVISIONS AND ELECTIONS BY DIVISIONS

WHEREAS, pursuant to Water Code section 35180, the Irvine Ranch Water District ("IRWD") currently uses an at-large method to elect members of its Board of Directors ("Board"); and

WHEREAS, the California Voting Rights Act (CVRA) favors division-based elections instead of the at-large method of election of members of local government governing bodies; and

WHEREAS, a violation of the CVRA may be established if it is shown that racially polarized voting combined with an at-large method of election impairs the ability of a protected class of voters to elect candidates of its choice or to influence the outcome of an election; and

WHEREAS, under the CVRA, "racially polarized voting" means voting in which there is a difference between the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate; and

WHEREAS, the only voting system not vulnerable to challenge under the CVRA is a by-division method of election; in a by-division method of election, candidates for the Board must reside within a division, and candidates are elected only by the voters of that division; and

WHEREAS, the Board believes that the current at-large method of election does not violate the CVRA and has served the needs of IRWD's customers and constituents; IRWD has been presented with no evidence of racially polarized voting in its elections; and

WHEREAS, the Board is aware that under state law an at-large method of election may be subject to challenge under the CVRA, California Elections Code sections 14025, et seq.; and

WHEREAS, as a result, the IRWD has determined that the public interest is best served by initiating the process to evaluate divisions and a transition to a division-based election system; and

WHEREAS, in 2016, Elections Code section 10650 was enacted and it authorizes the board of a special district to enact by-division elections in furtherance of the purposes of the CVRA and Elections Code section 10010 provides the process for evaluating divisions and a transition to by-division elections; and

WHEREAS, establishing division areas and changing the election method is a time consuming process that requires multiple public hearings over a period of months; and

WHEREAS, Elections Code section 22000(d) prohibits a special district board from changing division area boundaries within 180 days prior to election of any director; and

WHEREAS, the next election of directors is scheduled for November 6, 2018, and 180 days prior to that election is May 10, 2018; and

WHEREAS, the process for changing the election method cannot be completed by May 10, 2018, and still provide the public with the ability to fully participate in the process; and

WHEREAS, furthermore, the Orange County Registrar of Voters must receive any change in electoral boundaries 125 days before an election in order to implement that change in the next election; 125 days before the next election is July 3, 2018. The July 3 deadline does not allow adequate time to acquire public input and conduct all the required steps to adopt division boundaries for implementation this year and that timing is not fair to prospective candidates for the Board of Directors; and

WHEREAS, the Board is committed to pursuing the process outlined in Elections Code section 10010, which requires two public hearings to accept public input and comments on how to draw division boundaries prior to drawing draft division boundary maps, time to develop draft maps, publication of draft maps before they are discussed by a local agency, at least two additional public hearings to receive public input and comments on any developed draft maps and any amendments to those maps, and at least one more public hearing held by the governing body of the local agency at which it considers final action to transition to by-division elections and considers adoption of a final map of division boundaries; and

WHEREAS, the IRWD Board of Directors is committed to undertaking a process that complies with Elections Code section 10010 and encourages and allows for full public participation and input into an evaluation of divisions and by-division elections for the IRWD; in the opinion of the Board, full public participation and a careful consideration of a transition to by-division elections and the associated division boundaries cannot be satisfactorily completed prior to either the May 10<sup>th</sup> or July 3<sup>rd</sup> deadlines required for implementation of divisions for the 2018 election; and

WHEREAS, with an understanding of the challenges inherent in completing the transition to a by-division system of elections and the time required to provide the public with the ability to fully participate in the process, the Board intends to begin and complete the process for evaluating divisions and a transition to by-division elections in an expeditious manner consistent with the gravity of this issue;

NOW, THEREFORE, the Board of Directors of IRVINE RANCH WATER DISTRICT DOES HEREBY RESOLVE, DETERMINE and ORDER that the General Manager, or his designee, shall initiate the process for evaluating division areas and a transition to by-division elections within the IRWD for implementation with the 2020 election of Board members.

ADOPTED, SIGNED AND APPROVED this 2nd day of April 2018.

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President, IRVINE RANCH WATER DISTRICT  
and the Board of Directors there of

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Secretary, IRVINE RANCH WATER DISTRICT  
and the Board of Directors there of

APPROVED AS TO FORM:  
LEWIS BRISBOIS  
Claire Hervey Collins, Legal Counsel

By: \_\_\_\_\_