

# THE LEAGUE OF WOMEN VOTERS OF SANTA MONICA



P.O. Box 1265 Santa Monica, CA 90406-1265  
Phone: 310.564.6946 www.lwvsantamonica.org

## #MakingDemocracyWork

February 8, 2022

### OFFICERS

*President*  
Natalya Zernitskaya

*Vice President, Program*  
Barbara Inatsugu

*Secretary*  
Sharon Hart

*Treasurer*  
Karen Carrey

*DIRECTORS*  
Cathie Gentile

Jason Islas  
Angela D. Scott  
Ann Williams

Re: City Council Agenda Item 13C

Dear Mayor Himmelrich, Mayor Pro Tem McCowan, and City Councilmembers,

The League of Women Voters of Santa Monica has not yet taken a position on the subject of districts for the Santa Monica-Malibu USD Board of Education. We anticipate doing so within the next month.

As we have previously stated, we strongly believe in the purpose and intent of the California Voting Rights Act. However, as you will see below, there is a need to clarify a key provision of the Act and that question is currently before the California Supreme Court. A review of SB 442 shows that the Court's decision will potentially impact the implementation of the new law, including as it relates to SMMUSD.

We believe that one size does not necessarily fit all. Quoting from the July 12, 2021 [Amicus Curiae Brief](#) of California Attorney General Rob Bonta in support of neither party as filed in the CVRA case against the City of Santa Monica and currently before the California Supreme Court: "The Court should specify a standard for vote dilution that requires a plaintiff show an at-large voting system has removed the protected class's ability to exercise meaningful electoral influence and that looks to a variety of factors in making this determination."

The demographic distribution of the Santa Monica-Malibu USD is not the same as other school districts, nor are voting patterns of our electorate. To illustrate, I have attached a listing of the composition of our school boards, beginning in 1990, a decade before the Governor signed the CVRA into law.

The following are some comments, observations, and questions for you to consider in your discussions on Agenda Item 13C tonight:

1. A petition from the City of Malibu to the County Committee on School District Organization calls for separating Malibu from the current SMMUSD and forming an MUSD, with its own governing body. **This question is currently before the County Committee and has yet to be resolved.**
2. SB 442 states that a resolution adopting district-based elections shall (*is required to*) include a declaration that the change in the method of electing members of the governing body "is being made in furtherance of the purposes of the California Voting Rights Act". In fact, there has been no finding that the district is in violation of the CVRA. Furthermore, election outcomes since the adoption of the CVRA in 2001 show the opposite. Every school board between 2001-2020 has included at least 2, 3 or 4 members of protected classes out of 7. Going back 10 more years to 1990 shows the same (see attachment). Interestingly, the petition that was submitted to the county by attorney Kevin Shenkman on behalf of three proponents (Oscar De la Torre, Jennifer DeNicola and Tricia Crane) does not claim a CVRA violation in

# THE LEAGUE OF WOMEN VOTERS OF SANTA MONICA



P.O. Box 1265 Santa Monica, CA 90406-1265  
Phone: 310.564.6946 www.lwvsantamonica.org

## #MakingDemocracyWork

### OFFICERS

*President*  
Natalya Zernitskaya

*Vice President, Program*  
Barbara Inatsugu

*Secretary*  
Sharon Hart

*Treasurer*  
Karen Carrey

### DIRECTORS

Cathie Gentile

Jason Islas  
Angela D. Scott

Ann Williams

District elections.

**Question:** Given voting patterns and demographic distribution in SMMUSD since the signing of the CVRA into Law (and for the decade before), would breaking the district into seven parts result in more or less representation on the Board of Education by protected classes (Latinos and African Americans)? In other words, would dividing the school district into seven districts, each represented by one person elected every four years (voters, therefore, having one vote rather than 7) have the opposite effect in overall numbers?

3. As you all know, Mr. Shenkman is currently counsel for the plaintiffs in the CVRA lawsuit that is currently before the California Supreme Court. The single question before that Court is: "What must a Plaintiff prove in order to establish vote dilution under the California Voting Rights Act?"

As noted by Attorney General Rob Bonta in his Amicus Brief in support of neither party, "Since its passage, the statute (CVRA) has played a key role in helping to diversify local governing boards and councils. Yet courts have had few occasions to interpret the CVRA's language. This case presents the first opportunity for the Court to interpret this important statute and its "vote dilution" standard."

**Question:** Given voting patterns within the SMMUSD electorate and the requirement of SB 442 regarding a "declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act", would it make more sense for the County Committee to be asked to wait for the ruling of the California Supreme Court as it applies to the issue of vote dilution?

**Observation:** Depending on the Supreme Court ruling on the question of dilution, we could expect relevant legislation to be amended to clarify/define dilution-related provisions.

**Question:** If the County Committee accepts the petitioners' rationale and votes to impose districts, how would the lines be drawn? By whom? Would there be community input on the lines? The district map included with the initially submitted petition was drawn by one group within SMMUSD. More voices are needed to draw fair maps.

**Question:** This is a did you know question. Did you know that our current at-large system and district-based voting are not the only two options? There is a third provided for in existing law. The three are as stated in the staff analysis of SB 442 for the Assembly Elections Committee hearing dated June 16, 2021:

- a. Each member of the governing board is elected by the registered voters of the entire district.

## THE LEAGUE OF WOMEN VOTERS OF SANTA MONICA



P.O. Box 1265 Santa Monica, CA 90406-1265  
Phone: 310.564.6946 [www.lwvsantamonica.org](http://www.lwvsantamonica.org)

### #MakingDemocracyWork

#### OFFICERS

*President*

Natalya Zernitskaya

*Vice President, Program*

Barbara Inatsugu

*Secretary*

Sharon Hart

*Treasurer*

Karen Carrey

#### DIRECTORS

Cathie Gentile

Jason Islas

Angela D. Scott

Ann Williams

- b. One or more members residing in each trustee area are elected by the registered voters of that particular trustee area.
- c. Each member of the governing board is elected by the registered voters of the entire district, but resides in the trustee area which they represent.

We thank you for taking this issue under consideration.

Sincerely,

Natalya Zernitskaya

President

League of Women Voters of Santa Monica

Enclosure: *SMMUSD BOARD ELECTIONS 1990 - 2020 LWVSM Public Comment 2.8.2022 13C Attachment*