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NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: February 9, 2021

TO: Board of Supervisors

FROM: County Counsel

SUBJECT: Request to: 1) receive presentation on redrawing supervisorial districts for the 2021 redistricting process; and 2) provide direction regarding the Board's preferred methodology for the 2021 redistricting process

RECOMMENDATION: It is recommended that the Board: 1) receive this presentation on redrawing supervisorial districts for the 2021 redistricting process, previously presented during the Board workshop on January 29, 2021; and 2) provide direction regarding the Board's preferred methodology for the 2021 redistricting process.

FUNDING: There are no financial impacts from this action. Upon receipt of direction from the Board as to which methodology will be used for redistricting, staff will return to the Board with any potential requests for funding.

BACKGROUND: The U.S. Census Bureau ("Bureau") is required by Article I, Section 2 of the U.S. Constitution to conduct an accurate count of the population every ten years. In 2020, the Bureau conducted the decennial census, extending the deadline for responses through October 15, 2020, in response to the COVID-19 pandemic. The Bureau had planned to report the final data to the U.S. President on or before December 31, 2020, however, that has not occurred and the new deadline is currently unknown. The County expects to receive final data on April 1, 2021, but it is unknown if this is still accurate.

Pursuant to Elections Code section 21500 et seq., "Following each federal decennial census, and using that census as a basis, the board shall adjust the boundaries of any or all of the supervisorial districts of the county so that the supervisorial districts shall be substantially equal in population as required by the United States Constitution." In order for the Board to adopt an ordinance amending supervisorial districts in the prescribed timeline, the Board must have the first reading on October 26, 2021.

Redistricting Requirements

In adopting updated supervisorial districts, the Board must comply with the requirements of the U.S. and California Constitutions, the Voting Rights Act and Elections Code Sections 21500 et seq. These authorities require that districts be based on total population¹ and must have substantially equal population per district.²

Further, under the California Elections Code, the updated districts must be redrawn using the following criteria, in order of priority:

1. To the extent practicable, districts must be geographically contiguous;
2. To the extent practicable, districts must maintain the geographic integrity of neighborhoods and communities of interest;
3. To the extent practicable, districts must minimize division of cities or census-designated places;
4. Boundaries must be easily identifiable and, if possible, bound by natural/artificial barriers; and
5. To the extent practicable, districts must not favor or discriminate against any political party.

State law also requires extensive outreach and opportunity be given for public input, especially for minority and language minority communities. The County is required to hold at least three public hearings or workshops, with the following requirements:

1. One public hearing/workshop must be held before draft maps are drawn;
2. Two public hearings/workshops must be held after draft maps are drawn;
3. One public hearing/workshop must be held on a weekend or after 6 pm on a weekday;
4. All public hearings/workshops must be noticed to the public, accessible to the disabled, and must provide live translation if requested 72 hours prior to the hearing/workshop; and
5. The County must publish the date, time, and place of each hearing/workshop online at least 5 days prior.

In addition, the County must make a good faith, demonstrable efforts to engage the public, including underrepresented and non-English speaking communities. This may be demonstrated by providing information via local media organizations, including those serving non-English speaking communities and to local community organizations and agencies, including those active in language minority communities. The County is also required to publish all draft maps, along with specified information regarding the maps at least 7 days prior to their adoption. Throughout the redrawing process, the County must allow the public to submit testimony or draft maps in writing and electronically. Finally, the County must record all public comment and Board deliberation regarding proposed maps.

¹ This is based on total population, less any incarcerated residents who would not otherwise be residents of the County, per Elections Code section 21500(a)(2).

² Under California case law, the presumption of constitutionality for districts may be overridden if there is more than 3% population deviation between districts.

Methodologies for Redistricting

The development of new district boundaries may be accomplished by three different methodologies or a combination thereof. Pursuant to section 23002 of the Elections Code, the Board may:

1. Use a County staff advisory commission for redistricting
2. Appoint a citizen advisory commission for redistricting
3. Appoint a hybrid redistricting commission

For each option, it is anticipated that County staff will return to the Board to seek funding for expenses, if needed, including County staff expense, software costs, or costs for contracted services, including hiring a consultant to develop new boundaries in cooperation with any commission.

It is recommended that the Board utilize a County Staff Advisory Committee. This approach will have the fastest timeframe and be the least costly as County staff is prepared to begin work immediately. Additionally, it is anticipated that some of the County staff resources can be absorbed within the departments' existing budgets. The following represents the recommended makeup and responsibilities for the committee:

1. IGS – Project management, website development, GIS and map development, and public engagement
2. Administrative Office – Board liaison
3. County Counsel – legal advice

Should the Board elect to use this approach, staff will return to the Board with recommendations for any funding necessary for County staff backfill, services and supplies related to public hearings and workshops, software costs, as well as potential contract services for public outreach.

The County may also enter into a contract with a consultant to help structure the public process and develop a workplan so we meet all legal requirements; to train the advisory commission; to work on the database (specifically to help with voting age data for Voting Rights requirements); and to complete a small census block analysis. We will not need them to be drafting the maps as staff can do that. This will assist us in avoiding future challenges to the updated boundaries.

Item Initiated by: Katharine L. Elliott

Approved by: Katharine L. Elliott

Submittal Date: January 25, 2021

Revision Date: