

EAST PALO ALTO SANITARY DISTRICT

RESOLUTION NO. 1280

RESOLUTION OF THE EAST PALO ALTO SANITARY DISTRICT CHANGING THE GENERAL DISTRICT ELECTION DATE FROM THE STATEWIDE PRIMARY ELECTION DATE TO THE STATEWIDE GENERAL ELECTION DATE IN NOVEMBER OF EVEN-NUMBERED YEARS, COMMENCING WITH THE NOVEMBER 8, 2022, ELECTION, IN COMPLIANCE WITH SENATE BILL 415

WHEREAS, until 2020, pursuant to Elections Code Section 1303, the East Palo Alto Sanitary District ("District") held its general election on the first Tuesday after the first Monday in November of each odd-numbered year; and

WHEREAS, SB 415, effective January 1, 2018, provides that a public agency, including the District, cannot hold its local general election on any date other than a statewide election date if holding an election on a non-statewide election date results in a "significant decrease in voter turnout," which is defined by SB 415 as at least 25 percent less than the average voter turnout within the public agency for the previous 4 statewide general elections; and

WHEREAS, the District's general election date in November of odd-numbered years was not a statewide election date and during the 2017 General District Election, approximately 9.1 percent of eligible District voters voted in it, which is at least 25 percent less than the average voter turnout within the District for the previous 4 statewide general elections; and

WHEREAS, therefore, SB 415 required the District to change its local general election date to the same day as the statewide general election or the statewide primary election; and

WHEREAS, in order to comply with SB 415, on May 3, 2018 the District adopted Resolution 1224 changing its regular/general election date to June of even-numbered years, because at the time the statewide primary election was to be held in June of even-numbered years; and

WHEREAS, the District timely submitted Resolution 1224 to the San Mateo County Board of Supervisors for its approval, to become effective with the statewide primary election in June, 2020; and

WHEREAS, however, SB 568 had recently passed into law and provided that, commencing on January 1, 2019, the statewide primary election date would be switched from June to March of even-numbered years, the legal effect being that the District's general election would also move to March of even-numbered years; and

WHEREAS, after the District adopted Resolution 1224, the County asked the District to confirm whether it would like to have its regular/general election in March of even-numbered years; and

WHEREAS, on June 13, 2019, the Board of Directors adopted Resolution 1246, reaffirming its intent and desire for the District to hold its general election on the statewide primary election, held in March of even-numbered years, to ensure compliance with SB 415; and

WHEREAS, the District timely submitted Resolution 1246 to the San Mateo County Board of Supervisors for its approval, to become effective with the statewide primary election in March, 2020; and

WHEREAS, the District held a duly called and established general election on March 3, 2020 for the election of three members to the District Board of Directors; and

WHEREAS, pursuant to Resolution 1246, the terms of office for current Board members elected in November, 2017 were extended to March, 2022, and Board members elected in March, 2020 serve four year terms scheduled to expire in March, 2024; and

WHEREAS, on September 18, 2020, SB 970 was passed which now provides that the statewide primary election will be switched from a single date: March of even-numbered years, to two different dates depending upon the election cycle: March of even-numbered years in Presidential election years (March 2024, 2028, 2032), but June of even-numbered years in Gubernatorial election years (June, 2022, 2026, 2030); and

WHEREAS, the Board of Directors finds that the confusion resulting from having a “floating” local general election date, with Directors being elected in different months of the year depending upon the election cycle, will not serve District voters; and

WHEREAS, since it has been the statewide general election date for decades and is unlikely to change in the near future, the Board of Directors finds that changing its general election date to November of even-numbered years will help maintain clear and consistent local elections by having the same predictable date every two years when Board Members are to be elected; and

WHEREAS, a change in the general election date to November of even-numbered years will ensure that the District maintains compliance with SB 415; and

WHEREAS, California Elections Code Sections 1303(b) and 10404(b) provide that, notwithstanding any other provisions of law, the governing body of a special district may, by resolution, change its elections to the same day as the statewide general election (November of even-numbered years); and

WHEREAS, pursuant to California Elections Code Sections 1303(b) and 10404(b), a resolution adopted by the Board of Directors to change the District’s general election date must then be submitted to the Board of Supervisors of the County of San Mateo at least 240 days before the next District general election, and the resolution must be approved by the Board of Supervisors in order to change the District’s regular/general election date.

NOW, THEREFORE, BE IT RESOLVED by the District Board of the East Palo Alto Sanitary District as follows:

Section 1 Incorporation of Recitals All of the foregoing Recitals are true and correct and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

Section 2 Change to November of Even-Numbered Year General District Elections Pursuant to California Elections Code Sections 1303(b), 10404(b) and 14050-14057, and commencing with the November 8, 2022 election, the date of the general District election shall be deemed to be the same date as the statewide general election of each even-numbered year.

Section 3 Extended Terms of Office In accordance with the change of election date, the terms of office of those members of the Board shall be extended for a period of approximately 7 months. Pursuant to Elections Code Section 10404, Board members elected in November, 2017, will have their terms extended from March, 2022 to November 2022. Board members elected in March, 2020 will have their terms extended from March, 2024 to November, 2024. Board members elected to new terms in November, 2022, November, 2024 and in all future elections shall serve four-year terms.

Section 4 Effective Date Pursuant to Elections Code Section 1303(b), this Resolution shall not become effective until it is approved by the San Mateo County Board of Supervisors. The Secretary of the Board of Directors shall transmit copies of this Resolution to the Clerk of the Board of Supervisors and to the Office of the Registrar of Voters for San Mateo County.

Section 5 Severability If any section, subsection, clause or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

[signatures on following page]

Passed and adopted by the District Board of the East Palo Alto Sanitary District at a Special Board Meeting thereof held on the 24th day of August 2021 by the following vote:

Ayes: Members:

Noes: Members:

Abstain: Members:

Absent: Members:

President of the District Board of the
East Palo Alto Sanitary District of
San Mateo County, State of California

Attest:

Secretary of the District Board of the
East Palo Alto Sanitary District of
San Mateo County, State of California

(SEAL)

I. NATURE OF ITEM

Consideration/Discussion/Approval of Resolution No.1280- Changing the General District Election Date from the Statewide Primary Election Date to the Statewide General Election Date in November of Even-Numbered Years, Commencing with the November 8, 2022 Election, in Compliance with Senate Bill 415.

II. BACKGROUND

Until 2020, the East Palo Alto Sanitary District (“District”) held its local general elections for Board Members on the first Tuesday after the first Monday in November of each odd-numbered year. Pursuant to California Elections Code 1303, that is the baseline date set for all special districts such as this District.

However, Senate Bill (SB) 415, which became effective January 1, 2018, provides that a public agency, including the District, cannot hold its local general election on any date other than a statewide election date if holding an election on a non-statewide election date results in a “significant decrease in voter turnout.” This term is defined by SB 415 as at least 25 percent less than the average voter turnout within the public agency for the previous 4 statewide general elections.

The District’s last general election in an odd-numbered year (November, 2017) was not a statewide election date and approximately 9.1 percent of eligible District voters voted in it, which is at least 25 percent less than the average voter turnout within the District for the previous 4 statewide general elections.

Due to the low voter turnout figure in an odd-numbered year election, SB 415 required the District to change its local general election date to either the same day as the statewide general election or the statewide primary election (both of which occur in even-numbered years). In order to comply with SB 415, on May 3, 2018 the District adopted Resolution 1224 changing its local general election date to June of even-numbered years, commencing with the June, 2020 election. At that time, the State Elections Code scheduled the statewide primary election in June of even-numbered years.

However, the Legislature had recently passed SB 568 which switched the date of the statewide primary election from June to March of even-numbered years. The legal effect would be that the District’s local general election would also move to March of even-numbered years. In response to a query from the County Elections Office, on June 13, 2019, the Board of Directors adopted Resolution 1246, reaffirming its intent and desire for the District to hold its local general election on the same date as the statewide primary election, commencing with the March 3, 2020 election.

By operation of these resolutions, the general District election for November, 2019 was cancelled, terms of current Board members were extended to match the new election date and the District held a duly called and established general election on March 3, 2020 for the election of three members to the District Board of Directors. The terms of these three officers are currently

scheduled to expire in March, 2024. In order to match terms with the revised election dates, the terms of office for current Board members elected in November, 2017 were extended to March, 2022 when those seats are currently scheduled to be up for election.

However, recent legislation has made the situation even more complex. On September 18, 2020, the Legislature passed SB 970 which further changed the timing of statewide primary elections. The statewide primary election has now been switched from a single date - March of even-numbered years, to *two different dates* depending upon the election cycle - March of even-numbered years in Presidential election years (March 2024, 2028, 2032), but June of even-numbered years in Gubernatorial election years (June, 2022, 2026, 2030). In other words, the statewide primary election will now “float” between March and June every two years.

Because general District elections are currently scheduled to occur on the same date as statewide primary elections, absent further action by the Board, the District’s elections would likewise “float”. Board seats up in 2022, 2026, 2030, etc. would be elected in June and Board seats up in 2024, 2028, 2032, etc. would be elected in March. Staff believes that having a “floating” date for general District elections will cause voter confusion, reduce voter turnout, reduce predictability of elections, and generally not serve District voters.

Staff therefore recommends that the Board take action to change the date of the general District election to coincide with the statewide *general* election occurring in November of even-numbered years. Staff believes this is preferable to the current situation, since the November date has remained unchanged for decades and is unlikely to change in the near future. This will help maintain clear and consistent local elections by having a predictable date in the same month every two years when Board Members are to be elected. Adoption of the attached resolution will accomplish this task.

Because the statewide general election is, of course, a “statewide election date”, the District can make this change and will remain in compliance with SB 415. This change is explicitly authorized by California Elections Code 1303(b) and 10404(b), which provide that notwithstanding any other provisions of law, the governing body of a special district may, by resolution, change its elections to the same day as the statewide general election.

Pursuant to those same Elections Code provisions, a resolution adopted by the Board of Directors to change the District’s general election date must be submitted to the Board of Supervisors of the County of San Mateo at least 240 days before the next currently scheduled general District election, and the resolution must be approved by the Board of Supervisors in order to change the District’s general election date. Pursuant to SB 970, the next currently scheduled general District election date is the statewide primary election to be held on June 7, 2022. Therefore, the legal deadline for the Board to adopt this resolution and forward it to the County is **October 10, 2021**.

In accordance with the change of election date, the attached resolution extends the terms of office of current Board members for a period of approximately 7 months. Pursuant to Elections Code Section 10404, Board members elected in November, 2017, will have their terms extended from March, 2022 to November 2022. Board members elected in March, 2020 will have their

terms extended from March, 2024 to November, 2024. Board members elected to new terms in November, 2022, November, 2024 and in all future elections shall serve four-year terms.

III. **STAFF COMMENTS/RECOMMENDATIONS**

Staff recommends that the Board of Directors adopt the attached resolution making findings and taking action to change the District's general election date to the statewide general election date occurring on the first Tuesday after the first Monday in November of even-numbered years.

IV. **ACTION OPTIONS**

The Board may determine not to adopt the attached resolution. In that case, the District's general election date will coincide with the "floating" statewide primary election date, resulting in "floating" general District election dates that will alternate between March and June every two years.

V. **NEXT STEPS**

If adopted, the resolution must be forwarded to the County for its approval. Direction to Staff in that regard is included in the attached resolution. Once the County Board of Supervisors approves the resolution, the change of election date will be complete.