



October 12, 2021

Board of Supervisors
Administration Building
44 N. San Joaquin St., Suite 627
Stockton, CA 95202

Dear Board Members:

Accept Report on 2021 Supervisorial Redistricting Update

RECOMMENDATION:

It is recommended that the Board of Supervisors accept the report on the Supervisorial Redistricting update including a breakdown of the current supervisorial lines under the 2020 U.S. Census Data and corresponding demographic analysis.

Supervisorial Redistricting Update

On September 20, 2021, the State Data Center made available California's official datasets for state and local redistricting. Specifically, the datasets include the United States Census Bureau's P.L. 94-171 Redistricting Data file adjusted per California law to reallocate data about certain incarcerated populations to their last known residential address (Elections Code § 21003).

On September 29, 2021, the Redistricting Advisory Committee (RAC) commenced in analyzing the current data as compared to the 2010 U.S. Census Data. The intent of this Supervisorial Redistricting Update is to share with you the Current Lines Under the 2020 Census, Voting Rights Act Section 2 requirements, and Supervisorial Redistricting Meetings/Hearings that will occur over the next 55 days.

Current Lines Under The 2020 Census

Based on the final 2020 U.S. Census data after the Statewide Database provided the reallocation of the state prison population, the County has grown by 92,006 residents, or 13.4 percent, since the last decennial census. This is significantly higher than the state population change of 6.1 percent. District 5 saw the largest increase of residents with 40,107, and the district with the slowest growth was District 4, which gained 7,226 residents.

All five County districts experienced a growth in population. With the 2020 population of 777,312, the ideal population for each district is 155,462. The seat with the largest population is District 5 at 177,343 with a deviation from the ideal district population of +14.1 percent. The smallest is District 4 at 143,589 with a deviation from the ideal district population of -7.6

percent, placing the County at a total of 21.7 percent deviation, exceeding the maximum 10 percent allowed deviation range.

Attachment B is the complete analyses with a map of each district and their population details based on the total population count of the 2020 Census.

Voting Rights Act, Section 2

Section 2 of the Voting Rights Act of 1965 prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one of the language minority groups identified in the Act. The section's prohibition against discrimination in voting applies to any voting standard, practice, or procedure that results in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group. In terms of redistricting, Section 2 prohibits the dilution of minority voting power in the drawing of district lines.

To ensure that the County complies with Section 2 in drawing the new district boundary lines based on the 2020 census data, the County had a study of racially polarized voting history in San Joaquin County elections performed and a thorough demographic analysis of the 2020 census data. As of the date of this Board letter, the analysis is complete but the conclusions are only preliminary; they will be complete by the time of the oral presentation to this Board on October 12, 2021.

At this time, the 2020 census data shows that like in 2010, Districts 2, 3, 4, and 5 do not have a minority group that is sufficiently large and geographically compact to constitute a majority of the eligible voters and, therefore, there is not a risk that drawing new boundaries will create a Section 2 violation. However, the 2020 Census data shows that District 1 has a current Latino Citizen Voting Age Population of 47.7 percent. Accordingly, District 1 is the only district in which a single minority group is nearly, or actually the majority of eligible voters. Additionally, District 1 is short of the ideal population of 155,462 discussed above by at least 5.86 percent and perhaps as much as 7 percent or more. There are many redistricting scenarios in which population would need to be added to, and subtracted from District 1 to balance the population among all Supervisorial Districts. Based on the preliminary conclusions discussed below, that balance will need to be done in compliance with Section 2.

To ensure compliance with Section 2, a jurisdiction may be required to create a particular district configuration where the district's population meets the following preconditions:

1. The racial or language minority group is "sufficiently large and geographically compact to constitute a majority in a single-member district";
2. The minority group is "politically cohesive" (meaning its members tend to vote similarly);

3. The "majority votes sufficiently as a bloc to enable it ... usually to defeat the minority's preferred candidate;" and
4. Assuming the first three criteria are met, the "totality of circumstances" suggests that failing to create the district would give minority voters less opportunity than other voters to elect candidates of their choice. *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986) ("*Gingles*"); *Bartlett v. Strickland*, 556 U.S. 1, 11-12 (2009).

These preconditions are known as the Gingles test. Under this test, compliance with Section 2 is almost certainly a concern regarding redistricting effects on Latino voters in Supervisorial District 1, but not in any of the other Supervisorial Districts.

However, focusing redistricting efforts on the racial percentages in Supervisorial District 1 could constitute a violation of the Equal Protection Clause of the 14th Amendment. The Equal Protection Clause prohibits a redistricting authority, without sufficient justification, from "separat[ing] its citizens into different voting districts on the basis of race." *Miller v. Johnson*, 515 U. S. 900, 911 (1995); *Alabama Legislative Black Caucus v. Alabama*, 575 U. S. 254, 263 (2015). Where a challenger succeeds in establishing that racial considerations predominated in the creation of electoral districts, strict scrutiny applies and the burden shifts to the redistricting authority to "demonstrate that its districting legislation is narrowly tailored to achieve a compelling interest." *Miller, supra*, at 920; *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788 (2017). Compliance with the federal Voting Rights Act has been assumed by the Supreme Court to constitute a "compelling interest." *Id.*, at 801. Essentially, a district in which racial concerns predominated in its design will survive a challenge so long as the jurisdiction can show a "strong basis in evidence" that the race-based choices were made to achieve compliance with Section 2. *Alabama, supra*, 575 U.S., at 279; see also, *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct., at 788

In balancing these complex legal requirements, a summary of the preliminary conclusions from the polarized voting analysis and 2020 Census data that will inform the RAC and ultimately this Board in redrawing the Supervisorial District boundaries are as follows:

1. The Latino eligible voter percentage in District 1 should not be reduced because the district is an effective "opportunity" district, which means a district where some majority voters cross over to vote with racial minorities to elect the minority-preferred candidate.
2. While the Latino eligible voter percentage in District 1 does not need to be significantly increased because most of the time there is not polarization in the voting patterns that defeat Latino preferences, the percentage of the Latino eligible voter should be increased to a clear majority status or a little more to protect the effectiveness of District 1 given the following:
 - a. The lower voter turnout among Latinos,
 - b. The mostly tepid support of non-Latino voters for the Latino preferred candidate, and

- c. The evidence that when there was a difference in electoral preference between the Latino and non-Latino groups, the bloc voting of the majority of voters—the non-Latino group—defeated the preferred candidate or position of the Latino voters.
3. Increasing the Latino eligible voter percentage in District 1 must be done with a goal of uniting neighborhoods and communities of interest.

Counsel will provide the final conclusions and recommendations to the RAC and this Board to ensure that the goals of Section 2 of the Voters Rights Act are met and that redistricting does not result in any inappropriate dilution of minority voting power.

Upcoming Supervisorial Redistricting Meetings/Hearings

Month/Date	Activity
October 12, 2021	<u>BOS Hearing #1</u> : Redistricting Partners report to the BOS with a breakdown of the current lines under the 2020 Census with demographic analysis.
October 13, 2021	<u>RAC Meeting #1</u> : Public input on draft maps/plans, and comments from the RAC members and the public on the mapping options.
October 26, 2021	<u>BOS Hearing #2</u> : Staff report to the BOS regarding the 10/13/21 RAC meeting.
October 27, 2021	<u>RAC Meeting #2</u> : Public input on draft maps/plans with opportunity for RAC members and public to comment.
November 2, 2021	<u>BOS Hearing #3</u> : Staff report to the BOS regarding the RAC meeting on 10/27/21.
November 10, 2021	<u>RAC Meeting #3</u> Public input on draft maps/plans and the RAC select draft maps/plans to submit to the BOS.
November 16, 2021	<u>BOS Hearing #4</u> The BOS to accept comments on draft maps/plans.
December 7, 2021	<u>BOS Hearing #5</u> The BOS to vote on Final Map(s).

Month/Date	Activity
December 15, 2021	Last day for the BOS to approve maps for the June 7, 2022, Primary Election.

Note: There is pending legislation to extend this date to the beginning of January; however, we do not anticipate this potentially changed deadline will impact the timeline.

FISCAL IMPACT:

There is no fiscal impact associated with this update. In the event that County Counsel cannot absorb the cost for outside counsel within the existing 2021-2022 County Counsel budget, the Department will return to the Board to request an augmentation.

ACTION TO BE TAKEN FOLLOWING APPROVAL:

The CDD will continue to coordinate supervisorial redistricting efforts with assistance from the supporting departments.

Sincerely,



DAVID W. KWONG
DIRECTOR


DWK:GF:ss

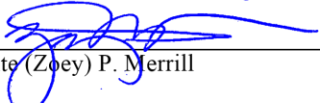
Attachments:

- A. Board Order
- B. Current Lines 2020 Census 9.22.21
- c: Clerk of the Board for the October 12, 2021 Agenda

Reviewed by County Administrator's Office:

Reviewed by County Counsel's Office:


Adam Brucker 9/28/2021


Zayante (Zoey) P. Merrill 9/24/2021