



Legislation Details (With Board Report)

File #:	RES 21-092	Name:	Approve HOLDing Election for INdependent Elected BOD for EGCS D
Type:	BoS Resolution	Status:	Passed
File created:	5/14/2021	In control:	Board of Supervisors
On agenda:	5/25/2021	Final action:	5/25/2021

Title: CONTINUED FROM MARCH 16, 2021 - It is recommended that the Board of Supervisors:

- 1) Consider whether to hold an election for a directly elected Board of Directors either in November 2021 or November 2022;
- 2) If held in November 2021, adopt a resolution directing the Registrar to conduct the election as more fully described in the staff report.
- 3) If held in November of 2022, adopt a resolution declining a November 2021 election and directing staff to return with a procedure and/or options for a November 2022 election.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A-March 16, 2021 Board Report, 3. Attachment B-Detailed Background and Discussion, 4. Attachment C-Detailed Timeline, 5. Attachment D-Senate Bill 1092-Section 61029.5 - Updated, 6. Attachment E-County Counsel May 11, 2021 Memorandum, 7. Attachment F-EGCS D AC Nov 2022 Election Preference Ltr, 8. Attachment G-Elections Code 10404, 9. Attachment H-Draft BOD Resolution Nov 2, 2021 Election, 10. Attachment I-Draft BOD Resolution Decline Nov 2, 2021 Election, 11. Attachment J-Draft BOS Resolution November 2, 2021 Election, 12. Attachment K-Draft BOS Resolution Decline Nov 2, 2021 Election, 13. Completed Board Order and Resolution Item No. 12

Date	Ver.	Action By	Action	Result
5/25/2021	1	Board of Supervisors	adopted	Pass

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RECOMMENDATION:

It is recommended that the Board of Supervisors:

- 1) Consider whether to hold an election for a directly elected Board of Directors either in November 2021 or November 2022;
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SUMMARY/DISCUSSION:

This item came before the Board on March 16, 2021 and it was continued to a date uncertain to allow staff an opportunity to respond to questions from several supervisors and EGCS D Advisory Committee members. (See

March 16, 2021 Board Report as Attachment A and Detailed Background and Discussion as Attachment B) A question arose as to whether the election should be set in November 2022, rather than November 2021, to reduce cost and increase voter participation by consolidating with the State general elections. Staff was specifically requested to determine whether the California Voters Participation Rights Act of 2015 (CVPRA) required consolidation with State general elections, in consultation with the ED.

The CVPRA specifically states that it does not apply to special elections; the EGCSB independence elections are special elections, and therefore the CVPRA does not apply to the independent election itself. The ED was consulted regarding this matter and while it concurs that the CVPRA does not require holding the election in November 2022, it recommended that the election be held in November 2022, to avoid potential confusion with the gubernatorial recall election that is anticipated to be scheduled in November or early December of 2021. Further, the ED recommends that should EGCSB move to an elected board, regularly scheduled government board member elections be consolidated with statewide general elections to be in line with the CVPRA and reduce the overall cost of elections to EGCSB.

When the State Legislature authorized the creation of the EGCSB, it allowed the BOS to serve as its initial BOD. The State Legislature required that the BOS call for an election to determine if the voters within EGCSB wished to establish an independent board when certain triggers were met, including the passage of ten (10) years after its formation, and when the ED certified that 500 voters were registered within EGCSB. Attachment C provides a detailed timeline of this matter.

Government Code Section 61029.5 states “The Board of Supervisors of the County of Monterey shall adopt a resolution, placing the question of having an elected board of directors on the ballot when any of the following occurs...”. Elections Code Sections 1000 and 1500 provides a list of established election dates, to include March and November in odd-numbered years, with additional dates in May and August for solely mail-in ballot elections. (Attachment D)

California Special Districts Law (CSDL) requires elections be held in odd-numbered years. The Board can set the election date in 2022; however, either the by-laws of EGCSB BOD must be amended to provide the initial terms be one (1) and three (3) years rather than two (2) and four (4), in order to align general EGCSB BOD elections with odd-numbered years as required by CSDL or the BOS must determine that general EGCSB BOD elections be held on and consolidated with the statewide general election held in even-numbered years. Attachment E provides a detailed County Counsel May 11, 2021 Memorandum.

The EGCSB Advisory Committee provided a letter with their preference for an election in November of 2022 and take the necessary procedural steps to establish permanent even-year elections for an independently elected board when the community votes for independence. (Attachment F)

If the independence election is held and approved by voters in November 2021, the independently elected EGCSB BOD could later petition to request the County to postpone Board elections to the following even numbered year, which extends the term of the directors, who would be up for reelection, for no more than one (1) year. (Attachment G-Elections Code Section 10404)

The BOS is asked to adopt a resolution directing the ROV to take all steps necessary to conduct a special election for EGCSB on November 2, 2021; or decline a November 2, 2021 special election and direct staff to come back with the procedure and/or options for a November of 2022 election, in accordance with law and as delineated in the EGCSB BOD adopted resolution. (Attachment H-EGCSB BOD Resolution November 2, 2021 Election or Attachment I-EGCSB BOD Resolution Decline November 2, 2021 Election)

OTHER AGENCY INVOLVEMENT:

CC will prepare an impartial summary of the ballot measure upon Board direction. The County Administrative Office supports the proposed resolution, and the ED has reviewed this staff report and affirmed the accuracy of representations regarding their position.

FINANCING:

EGCSD will reimburse the ED for all costs associated with conducting the proposed special or general election. The ROV estimates the cost of a Vote-By-Mail (VBM) Ballot Measure for approximately 1,267 registered voters at \$45,000. To date, ED has incurred \$5,019.46 in expenses preparing for a May 2021 election, of which \$3,329.57 is for services that cannot be used, and \$1,689.89 is for services that can be used for a 2021 postponed election which would be deducted from the total estimated cost. The Fiscal Year 2021-2022 or 2022-2023 Budget to be developed will include the cost of holding this election as there are sufficient funds available in the uncommitted fund balance for EGCSD, Fund 181, Appropriation Unit RMA106, to reimburse staff costs and ED costs associated with conducting a VBM Ballot special election and the ROV certifying its results. This funding is derived from a special tax imposed upon residential properties within East Garrison.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Holding an election to determine if EGCSD shall have an independently elected BOD supports the BOS' Strategic Initiatives for Administration due to an election being required by law and therefore supports the administration of government functions.

- Economic Development
- X Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Shawne E. Ellerbee, Assistant Director of Public Works, Facilities, & Parks
Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

The following attachments are on file with the Clerk of the Board:

- Attachment A-March 16, 2021 Board Report
- Attachment B-Detailed Background and Discussion
- Attachment C-Detailed Timeline
 - Exhibit 1-Statement of Registration Certification
 - Exhibit 2-BOS Adopted Resolution No. 20-305
 - Exhibit 3-BOS and EGCSD BOD Adopted Resolution No. 21-027 and 21-095
 - Exhibit 4-Community Services District Law Section 61042
- Attachment D-Senate Bill 1092- Section 61029.5
- Attachment E-County Counsel May 11, 2021 Memorandum
- Attachment F- EGCSD AC November 2022 Election Preference Letter
- Attachment G-Elections Code 10404
- Attachment H-EGCSD BOD Resolution November 2, 2021 Election
- Attachment I-EGCSD BOD Resolution Decline November 2, 2021 Election
- Attachment J-Draft BOS Resolution November 2, 2021 Election
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