

## **Proposed Election Rules for Marin LAFCo Special District Representatives**

### **Background:**

California Government Code §56332 (attached) establishes a process to facilitate the participation of all the independent special districts with regards to the selection of two regular and one alternate special district representatives to Marin LAFCo. This process calls for the County LAFCo to preside over elections where a quorum of the Marin County Independent Special District Selection Committee (CISDSC) cannot be reached. In Marin County the CISDSC has historically had issues getting quorum so has had to rely on Marin LAFCo to run the process. With the formation of Marin County Special Districts Association (MCSDA) an opportunity has presented itself for the CISDSC to work with the MCSDA to help achieve a quorum of the CISDSC and create rules for the election of LAFCo seats that best fit the needs of the current members of the CISDSC. Should at least 16 of the 30 CISDSC Boards/Commissions approve the below changes to the process then this process will become the process the CISDSC follows.

### **Proposed Election Rules:**

Marin's CISDSC shall consist of the presiding officer of the legislative body for each agency who is a paying member of Marin LAFCo or an alternate board member as appointed by each body. Upon notification by the Marin LAFCo Executive Officer of a term expiration or vacancy, the CISDSC will convene per the timetable minimally required by §56332 to fill the vacancy/vacancies as described below:

1. When notified, the MCSDA shall initiate the ballot process for special district members prior to the pending expiration of the term of a special district member or immediately upon notification that the eligibility of a special district member will be ending prior to the expiration of his or her term.
2. The MCSDA shall initiate the ballot process by emailing each member agency of the CISDSC a Call for Nominations including a schedule of the selection process and a copy of this policy. Nominations must be submitted in writing via email by special district governing boards within 60 days of the date of the Call for Nominations. The submittal of a nomination must include a statement of the candidate's qualifications.
3. Should the number of candidates nominated be equal to the number of seats available the nominated candidate(s) shall be deemed the winner(s); no ballots created and the membership of CISDSC informed of the winning candidate appointment to LAFCo.
4. Within five working days after the close of the nomination period, the MCSDA shall email a ballot to each independent special district. The distribution of ballots shall include a statement of qualifications for each candidate as provided by the candidate(s).
5. The MCSDA Local Government Committee shall appoint a person to be the election officer for any election where more candidates are running than there are seats available. The person appointed must either be a board member/staff of a CISDSC jurisdiction or staff for Marin LAFCo. The person appointed cannot be a candidate for a seat which is up for election or come from a jurisdiction that has a candidate on the ballot. The election officer sole responsibility is to conduct the counting of ballots and determining the winner of the election.
6. The MCSDA shall call for a meeting of the CISDSC to be held not less than 60 days after the distribution of ballots. Selection Committee meetings can be held concurrent with MCSDA meetings (i.e. at the same location and either immediately before or after the MCSDA meeting.) Per §56332(a), members representing a majority of the eligible districts shall constitute a quorum. For districts not able

to send a representative to the meeting the paper ballot shall count as that jurisdiction's attendance and count towards quorum.

7. At the CISDSC meeting, in-person ballots will be collected and tallied with all ballots sent in prior to the counting of ballots. A majority of independent special districts must cast ballots to select a special district member.

8. Ballots cast by each special district must bear the signature of the district's presiding officer or by another board/commission member as approved by that groups governing body. Ballots submitted by a vote of the district's board/commission shall have precedent over a ballot submitted by a presiding officer.

9. All ballots and other records of each selection process shall be retained in the Marin LAFCo office for at least four years and shall be immediately available for public inspection.

10. When more than two candidates are nominated, the ballot form shall provide for selection by majority of votes cast through an "instant runoff" as follows:

a) Each district casting a vote shall rank the candidates in order of their preference. Completed ballots should indicate a "1" next to their first choice, a "2" next to their second choice, a "3" next to their third choice, etc.

b) In counting the votes by the Selection Committee, all first choice votes are counted. If any candidate receives over 50 percent of the first choice votes, that candidate is selected as special district member.

c) If no candidate receives a majority, then the candidate with the fewest "1" votes is eliminated. The ballots of the supporters of the eliminated candidate are then transferred to whichever of the remaining candidates they marked for their second choice. This process shall be continued until one candidate receives a majority of eligible ballots and is selected as special district member.

d) In case of a tie between two people a coin toss shall be performed to break the tie. Should the tie be between 3 or more people the election office shall pick a method that gives all an equal chance.

11. Should a vacancy occur during a special district member's term of office, a new election shall be held for the unexpired term of the special district member or alternate member according to the process above.

**State of California**

**GOVERNMENT CODE**

**Section 56332**

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56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to participate in a meeting or election of the independent special district selection committee, the legislative body of the district may appoint one of its members as an alternate to participate in the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer or his or her alternate as designated by the governing body. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under one of the following circumstances:

(1) Whenever the executive officer anticipates that a vacancy will occur within the next 90 days among the members or alternate member representing independent special districts on the commission.

(2) Whenever a vacancy exists among the members or alternate member representing independent special districts upon the commission.

(3) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(4) Upon the adoption of a resolution of intention pursuant to Section 56332.5.

(5) Upon receipt of a written request by one or more members of the selection committee notifying the executive officer of the need to appoint a member representing independent special districts on an oversight board pursuant to paragraph (3) of subdivision (j) of Section 34179 of the Health and Safety Code.

(c) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed members of the legislative body of an independent special district residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may

serve and vote in place of the regular district member for that meeting. Service on the commission by a regular district member shall not disqualify, or be cause for disqualification of, the member from acting on proposals affecting the special district on whose legislative body the member serves. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district on whose legislative body the member serves.

(1) The executive officer may prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.

(2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. This paragraph shall be operative only if the written notice of the meeting provided pursuant to subdivision (b) discloses that, if nominations are received for only one candidate by the end of the nominating period, the candidate shall be deemed appointed and the meeting may be cancelled.

(d) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

(e) A majority of the independent special district selection committee may determine to conduct the committee's business by mail, including holding all elections by mailed ballot, pursuant to subdivision (f).

(f) If the independent special district selection committee has determined to conduct the committee's business by mail or if the executive officer determines that a meeting of the special district selection committee is not feasible, the executive officer shall conduct the business of the committee by mail. Elections by mail shall be conducted as provided in this subdivision.

(1) The executive officer shall prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.

(2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. If two or more candidates are nominated, the executive officer shall prepare and deliver one ballot and voting instructions to each eligible district. The ballot shall include the names of all nominees and the office for which each was nominated. Each presiding officer, or his or her alternate as designated by the governing body, shall return the ballot to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballot to the eligible district.

(3) The call for nominations, ballots, and voting instructions shall be delivered by certified mail to each eligible district. As an alternative to the delivery by certified

mail, the executive officer may transmit materials by electronic mail. All notices and election materials shall be addressed to the presiding officer, care of the clerk of the district.

(4) Nominations and ballots may be returned to the executive officer by electronic mail.

(5) Each returned nomination and ballot shall be signed by the presiding officer or his or her alternate as designated by the governing body of the eligible district.

(6) For an election to be valid, at least a quorum of the special districts must submit valid ballots. The candidate receiving the most votes shall be elected, unless another procedure has been adopted by the selection committee. Any nomination and ballot received by the executive officer after the date specified is invalid, provided, however, that if a quorum of ballots is not received by that date, the executive officer shall extend the date to submit ballots by 60 days and notify all districts of the extension. If ballots from a quorum of the districts have not been received at the end of the 60-day extension period, the executive officer shall extend the period to return ballots for a length of time at his or her discretion until a quorum is achieved, unless another procedure has been adopted by the selection committee. The executive officer shall announce the results of the election within seven days of the date specified.

(7) For a vote on special district representation to be valid, at least a quorum of the special districts must submit valid ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballot to the eligible district. If ballots from a quorum of the districts have not been received at the end of the 60-day extension period, the executive officer shall extend the period to return ballots for a length of time at his or her discretion until a quorum is achieved, unless another procedure has been adopted by the selection committee. By majority vote of those district representatives voting on the issue, the selection committee shall either accept or deny representation. The executive officer shall announce the results of the election within seven days of the date specified.

(8) All election materials shall be retained by the executive officer for a period of at least six months after the announcement of the election results.

(g) For purposes of this section, "executive officer" means the executive officer or designee as authorized by the commission.

(Amended by Stats. 2018, Ch. 86, Sec. 6. (AB 3254) Effective January 1, 2019.)