

CITY OF SANTA CRUZ

CITY ATTORNEY'S IMPARTIAL ANALYSIS

MEASURE X - REPEAL OF ARTICLE XVI "SCHOOL DEPARTMENT" OF THE SANTA CRUZ CITY CHARTER

Measure X, if adopted by the voters, would repeal Article XVI "School Department" of the Santa Cruz City Charter.

Although the Santa Cruz City Council generally has no role in their government, Article XVI of the Santa Cruz City Charter sets forth the territories and public schools for the Santa Cruz High School District and Santa Cruz School District (collectively "District"). It also specifies the election procedure for and election of members to the Board of Education, and currently provides for "at-large" elections.

In late 2018, the District received a letter demanding that it transition to a district-based election system and threatening a lawsuit against the District under the California Voting Rights Act ("CVRA"). The letter asserted that the District's at-large system violates the CVRA because it has resulted in inadequate representation of minority residents in District elections. The CVRA was enacted to implement the California constitutional guarantees of equal protection and the right to vote. It provides a private right of action to members of a protected class where, because of "dilution or the abridgment of the rights of voters," an at-large election system "impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of" elections. To establish a violation of the CVRA, a plaintiff must show that "racially polarized voting" occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters. Although the claim that District elections are tainted by racially polarized voting is dubious, since the CVRA was enacted in 2001 no jurisdiction has succeeded in defending against a CVRA lawsuit, and at least 88 cities, 165 school districts, and 12 other special districts have made the change to by-district elections.

In response to the demand letter, the District entered into a settlement agreement pursuant to which, in January of 2019, it adopted a resolution declaring its intent to transition from an at-large to trustee-area board elections. The Board has since adopted trustee-area elections and trustee-area boundaries. Voters in each district or trustee area will now choose their representative, who must also live in that district or trustee area.

Rescinding Article XVI of the Santa Cruz City Charter would be consistent with the Board's recent actions to conduct elections by trustee area, rather than specifying the makeup of the District's Board of Trustees in the City Charter. Doing so thus facilitates the transition from at-large to trustee-area board elections.

The above statement is an impartial analysis of Measure X, a proposed Charter Amendment to rescind Article XVI "School Department" of the City Charter.

Date: December 13, 2019

/s/
Tony Condotti, City Attorney