

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING  
Paul Fong, Chair  
AB 408 (Bonta) – As Amended: April 15, 2013

SUBJECT: Municipal utility districts: elections.

SUMMARY: Establishes appointment procedures for a municipal utility district (MUD) that has a seven-member board of directors, if no one or only one candidate files a declaration of candidacy, to fill the office of district director in a particular ward. Specifically, this bill:

- 1) Provides that if no one or only one candidate files a declaration of candidacy, for a ward on a MUD with a seven-member board, by the 83<sup>rd</sup> day prior to the election, the county elections official is required to submit a certificate of facts to the district board informing them that they may, at a regular or special meeting of the board, held on or before the 76<sup>th</sup> day prior to the election, adopt one of the following courses of action:
  - a) If one candidate has filed, appoint the sole candidate to the office;
  - b) If no one has filed as a candidate, appoint a person who would be qualified on the date the election would have been held; or,
  - c) If no one or only one candidate has filed, hold an election.
- 2) Provides that if the board makes an appointment to the office, the elections official shall not accept for filing any statement of write-in candidacy that is submitted after the appointment is made. Provides that the person appointed, if any, shall qualify and take office and serve exactly as elected for the office.
- 3) Provides that if by the 76<sup>th</sup> day prior to the day of the election, the district board has not appointed the sole candidate to the office, and has not adopted a process to appoint, or appointed, a qualified individual to the office, then an election will be held.
- 4) Permits a district board to adopt a process to appoint a qualified person to the office when it is discovered that no one has filed a declaration of candidacy for the office. Provides that upon adoption of this process, the district board is required to appoint a qualified person to the office no later than the day fixed for the election.
- 5) Makes the provisions of this bill effective for all district elections held on or after January 1, 2014.
- 6) Provides that no reimbursement is required because the local agency is requesting the authority established by the bill.

EXISTING LAW:

- 1) Establishes the Municipal Utility District Act.

- 2) Establishes a board of five directors for each district created pursuant to the Municipal Utility District Act, one from each ward, elected at large for a term of four years and who is a resident of the ward that he or she represents.
- 3) Requires elections for directors of a MUD, after the formation election, to be consolidated with the general election.
- 4) Requires each candidate for a seat on a MUD board to file a declaration of candidacy at least 88 days prior to an election.
- 5) Requires the county clerk to certify the names of all candidates for seats on a MUD board at least 76 days prior to the date of the election to determine which names to place on the ballot.
- 6) Increases the size of the MUD board from five to seven members for any district formed prior to January 1, 1974, with a population of 1,000,000 or more on that date. The East Bay Municipal Utility District (EBMUD) is the only district that meets these criteria.
- 7) Requires candidates for district director to be elected by ward for EBMUD and for any district that has owned and operated an electric distribution system for at least eight years and which has a population of 250,000 or more.

FISCAL EFFECT: Unknown. State-mandated local program; contains a local request disclaimer.

COMMENTS:

- 1) Purpose of the Bill: According to the author:

AB 408 protects the ratepayers of the East Bay Municipal Utility District (EBMUD) by providing EBMUD with the same ability that other local governments already have to use an appointment process for uncontested candidates rather than bearing the cost burden of an election. Most local governmental entities, including cities, regional park districts, school districts, and enterprise and non-enterprise special districts, have the ability to use an appointment process in lieu of an election when candidates are unopposed. However, EBMUD does not have the same ability, as current law does not include provisions authorizing appointment of uncontested candidates to the board of a municipal utility district.

The bill is particularly critical at this time as election costs have risen appreciably over the years, becoming overly burdensome. EBMUD's ratepayers paid \$475,000 in election costs for three uncontested board seats in 2012. Since 2002, EBMUD's ratepayers have paid over \$1.7 million in election costs for uncontested board seats.

A change in statute (Section 11852.5 of the Public Utilities Code) is needed to allow EBMUD to appoint when seats are uncontested. This will save EBMUD's ratepayers the cost of proceeding with an election when the seats are uncontested.

AB 408 would provide EBMUD with the same authority other local government entities already have to use an appointment process for uncontested seats. Specifically, the bill will amend the EBMUD's enabling act, the MUD Act, to allow EBMUD to appoint uncontested candidates to office. AB 408 also applies to the Sacramento Municipal Utility District. (The text of the bill is fashioned after Section 10229 of the Elections Code, which applies to cities).

- 2) Double-Referral: On April 17, 2013, this bill was approved by the Assembly Local Government Committee on a 9-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

East Bay Municipal Utility District (Sponsor)  
California Association of Sanitation Agencies  
Sacramento Municipal Utility District

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094