

DRAFT RESPONSE

February 14, 2023

The Honorable Beth McGowen
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Subject: Santa Clara County Civil Grand Jury Final Report: *If You Only Read the Ballot, You're Being Duped*, October 7, 2022
Santa Clara Valley Water District Response

Dear Judge McGowen:

Under Penal Code sections 933 and 933.05, the Santa Clara Valley Water District (Valley Water or District) hereby responds to Finding 1 and recommendations 1b, 1c, and 1e of the above-referenced Civil Grand Jury Report (Report).

FINDING 1

The Civil Grand Jury finds that in the current environment, which is unregulated at the local level, it is easy for the author of a ballot measure question to write the question in a way that is confusing or misleading to voters.

District Response: *Partially Agree*

Valley Water partially agrees. A ballot measure question can be written in a way that is confusing or misleading to voters. However, Valley Water disagrees that ballot measure questions are unregulated at the local level. Ballot measure questions are regulated under the California Elections Code.

The Elections Code requires either that the entire text of the measure be included in the ballot or the voter information guide to ensure that voters understand the purpose of the proposed measure.

RECOMMENDATION 1b

Governing entities within Santa Clara County should voluntarily submit their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendation 1d is implemented.

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District Response: *The recommendation will not be implemented because it is not warranted.*

The California Elections Code already requires local ballot measure questions to be subject to an impartial analysis by the agency's counsel and then submitted to County Counsel for review prior to submission to the Registrar of Voters. Valley Water has and will continue to comply with these Elections Code requirements for any future ballot measures initiated by the agency.

RECOMMENDATION 1c

Governing entities within Santa Clara County should, by March 31, 2023, adopt their own resolution or ordinance to require submission of their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendations 1d and 1e are implemented.

District Response: *The recommendation will not be implemented because it is not warranted.*

The California Elections Code already requires local ballot measure questions to be subject to an impartial analysis by the agency's counsel and then submitted to County Counsel for review prior to submission to the Registrar of Voters. Therefore, Valley Water does not need to adopt its own resolution or ordinance to establish a process that is already in place. Valley Water has and will continue to comply with these Elections Code requirements for any future ballot measures initiated by the agency.

RECOMMENDATION 1e

Governing entities within Santa Clara County should submit their ballot questions for review by the Good Governance in Ballots Commission pursuant to Recommendation 1d.

District Response: *The recommendation will not be implemented because it is not warranted.*

Recommendation 1d of the Grand Jury Report states: The County should create an independent, citizen-led oversight commission like the recommended Good Governance in Ballots Commission as described in the "Solutions" section of this report. The Commission should be implemented by August 1, 2024.

Recommendation 1e, which depends on the implementation of 1d, will not be implemented because it requires the establishment of an independent oversight commission (Good Governance in Ballots Commission) to review ballot questions. The County of Santa Clara filed its own response to the Grand Jury Report on December 22, 2022. In the published response, the County disagrees with recommendation 1d stating that "it is not warranted or reasonable to implement" because requiring ballot questions to be reviewed by a new advisory body would create a "burdensome delay to the Registrar of Voter's ballot preparation process." Valley Water cannot submit questions for review by an independent oversight commission that the County itself has determined to be unwarranted.

The Honorable Beth McGowen
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The District thanks the Civil Grand Jury for taking on such an important issue. If you have any questions or comments regarding the District's response, please contact me at (408) 265-2600.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Varela". The signature is fluid and cursive, with the first name "John" being the most prominent.

John L. Varela
Chair, Board of Directors

cc: Board of Directors (7)

jm:ks

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Delivered—Placed in Court Services Drop Box