

## REPORT TO THE CITY COUNCIL – STUDY SESSION

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**DATE:** January 17, 2017

**TITLE:** California Senate Bill 415 "Voter Participation Rights Act" and Direction Regarding the Timing of Transitioning to a Statewide Election Date

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### RECOMMENDATION

Provide direction as to the timing of transitioning the City's general municipal elections to a statewide election date (November of each even-numbered year) to occur not later than November 8, 2022 pursuant to California Senate Bill No. 415 known as the California Voter Participation Rights Act.

### BACKGROUND:

#### ***Senate Bill No. 415 – California Voter Participation Rights Act***

On September 1, 2015, Governor Brown signed Senate Bill No. 415 ("SB 415") which has been codified into law as the "California Voter Participation Rights Act" and which takes effect January 1, 2018 (Exhibit 1). SB 415 prohibits cities (and other local governments) from holding their general municipal elections on dates other than the date of a statewide election, if the city's voter turnout at a general municipal election that was held on a date other than the date of a statewide election was 25% or more below the City's average voter turnout in the last four statewide general elections.<sup>1 2</sup>

If a city falls in this category, the city must either:

- A. Change the date of its general municipal election date to coincide with a statewide election prior to January 1, 2018, **OR**
- B. Adopt a plan prior to January 1, 2018, to consolidate its future general municipal elections with the statewide general elections no later than the November 8, 2022, statewide general election.

Failure to comply with the foregoing exposes a city to the payment of attorney fees, expert witness fees, and litigation expenses if the city is sued for not complying with SB 415 and loses. On the other hand, if a city prevails in such a lawsuit, it will not be entitled to recover any costs, unless the court finds the lawsuit to be frivolous, unreasonable, or without foundation.<sup>3</sup>

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<sup>1</sup> It is important to note that SB 415 does not apply to special elections. Elections Code §14056.

<sup>2</sup> Although the codified language does not specifically provide that SB 415 applies to charter cities, it is presumed that it does via SB 415's legislative history.

<sup>3</sup> A court may not consider it to be unreasonable or frivolous to sue a city that claims is exempt from SB 415 because of its charter city status, even if the city prevails in the lawsuit.

## Election Dates

There is only one statewide general election which is held on the first Tuesday after the first Monday in November of each even-numbered year. (Elections Code §1200) The City's general municipal election, on the other hand, is held on first Tuesday after the first Monday in November in odd-numbered years. (D.H.S. Municipal Code §.2.04.060)

## Voter Turnout Analysis

The City's average voter turnout in the last four statewide general elections was 52%, and the average voter turnout in the City's last general municipal election was 30%. Seventy Five Percent of 52% is 39%. Therefore, the City meets the threshold of 25% or more below the City's average voter turnout in the last four statewide general election. This means that the City must consolidate the City's general municipal election with the statewide general election.

The above was reached is as follows, using the numbers in the table below:

- 1** Determine the average voter turnout of the last four locally held statewide general elections. These are the elections held the first Tuesday after the first Monday of November in each even-numbered year.  
**This is 52% for the City.**
- 2** Determine how much is a 25% drop from the above number.  
**For the City, it would be a drop of 13% because  $25\% \times 52\% = 13\%$ .**
- 3** Determine what % of turnout would be a 25% drop.  
**For the City, it would be 39% because  $52\% - 13\% = 39\%$ .**
- 4** Determine what the last local election turnout was.  
**For the City, it was 30%.**
- 5** Was the last local election a turnout that was equal to or less than a 25% drop?  
**For the City, the answer is yes because the turnout of 30% is less than 39%, therefore the threshold is met and the rule applies.**

STATEWIDE ELECTION DATA – DESERT HOT SPRINGS						
Election Date	Registered Voters	Ballots Cast	Voter Turnout (%)	Average City Turnout (%) (Over Last Four State Elections)	25% of Average City Turnout	State Four-Year Average Less 25%
November 2016	10,917	7,074	65%	<b>1</b> <b>52%</b>  ( $207\% \div 4 = 52\%$ )	<b>2</b> <b>13%</b>  ( $25\% \times 52\% = 13\%$ )	<b>3</b> <b>39%</b>  ( $52\% - 13\% = 39\%$ )
November 2014	9,817	3,389	35%			
November 2012	9,262	5,638	61%			
November 2010	8,735	4,013	46%			
(Ballots ÷ Registered = Turnout)		<b>Subtotal</b>	<b>207%</b>			
LAST GENERAL MUNICIPAL ELECTION – DESERT HOT SPRINGS						
Election Date	Registered Voters	Ballots Cast	Voter Turnout (%)	<b>5</b>  Minimum Voter Turnout to Avoid Statewide Cycle: <b>39%</b>  Most Recent General Municipal Election Turnout: <b>30% (9% below threshold)</b>		
November 2015	9,248	2,810	<b>4</b> 30%			

The purpose of SB 415 is to address the waning civic engagement in politics, as illustrated by declining voter turnout in federal, state, and municipal elections. The legislative analysis asserts that one major contributing factor to low voter turnout is the timing of elections, which could be mitigated by consolidating general municipal elections with statewide elections; in other words, holding the City's general municipal election on the same date of the statewide election. The Public Policy Institute of California surveyed 350 California cities and found that consolidating general municipal elections with statewide elections could result in a 20-36% boost in voter turnout.

### ***City Council Options:***

In light of the foregoing analysis, the City Council has the following options:

#### Option 1:

Prior to January 1, 2018: (a) move the City's next general municipal election scheduled for November 2017 to the same day as the November 2018 statewide general election, (b) schedule all subsequent general municipal elections for the same date as the statewide general municipal elections, (c) extend the terms of the current Mayor and the two council seats that expire in 2017, to such time the November 2018 election results are certified by the City, and (d) extend the terms of the two council seats that expire in 2019 to such time the November 2020 election results are certified by the City.<sup>4</sup>

		Term	Elected	End of Term	New End of Term
I	Mayor	2-years	November 2015	November 2017	November 2018
I	Two Council Members	4-years	November 2015	November 2019	November 2020
I	Two Council Members	4-years	November 2013	November 2017	November 2017

"I" indicates that there is currently an officeholder in these elected positions, in other words, an Incumbent.

#### Option 2:

Prior to January 1, 2018: (a) move the City's November 2019 general municipal to the same day as the November 2018 statewide general election, (b) schedule all subsequent general municipal elections for the same date as the statewide general municipal elections, (c) shorten the terms of the Mayor and the two council seats that expire in 2019, to such time the November 2018 election results are certified by the City, and (d) shorten the terms of the two council seats that expire in 2021 to such time the November 2020 election results are certified by the City.<sup>5</sup>

		Term	Elected	End of Term	New End of Term
	Mayor	2-years	November 2017	November 2019	November 2018
	Two Council Members	4-years	November 2017	November 2021	November 2020
I	Two Council Members	4-years	November 2015	November 2019	November 2018

"I" indicates that there is currently an officeholder in these elected positions, in other words, an Incumbent.

<sup>4</sup> Pursuant to Elections Code §10403.5(b) the City Council may increase or decrease any terms of office by no more than 12 months to conform to SB 415's requirements.

<sup>5</sup> Pursuant to EC §10403.5(b) the City Council may increase or decrease any terms of office by no more than 12 months to conform to SB 415's requirements.

### Option 3:

By January 1, 2018, adopt a plan that provides that the City's future general municipal elections will be consolidated with the statewide elections no later than the November 8, 2022, statewide general election, with the Mayor and council seats that would otherwise expire in the odd-number years preceding the first two consolidated general municipal elections being extended until the results of the respective consolidated elections are certified by the City.

### Option 4:

By January 1, 2018, adopt a plan that provides that the City's future general municipal elections will be consolidated with the statewide elections no later than the November 8, 2022, statewide general election, with the Mayor and council seats that would otherwise expire in the odd-number years following the first two consolidated general municipal elections expiring earlier upon the date the results of the respective consolidated elections are certified by the City.

### **FISCAL IMPACT:**

The fiscal impacts associated with this item are unknown at this time. Election costs vary depending on the number of jurisdictions which consolidate their general elections with the statewide election, the number of candidates appearing on the ballot, the number of ballot measures and state propositions, the number of polling sites, etc. It is possible that election costs could decrease as more jurisdictions are consolidated with statewide elections.

### **EXHIBITS:**

- 1) Bill Text - SB 415 "Voter Participation" and Legislative Analysis
- 2) Sample Resolution of Intent to Comply with SB 415
- 3) Sample Ordinance Changing the City's General Municipal Election Date
- 4) Sample of other cities affected by SB 415