

Agenda Date: 8/21/2018

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Quinn M. Barrow, City Attorney

Liza Tamura, City Clerk

George Gabriel, Management Analyst

SUBJECT:

Discuss the Impacts of Senate Bill 415 and the Possibility of Changing the March 5, 2019 General Municipal Election to Another Date (City Clerk Tamura).

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction on possibly changing the March 5, 2019, General Municipal Election to another date due to impacts of Senate Bill (SB) 415.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with the recommended action. However, should the City Council direct staff to draft the necessary ordinance and/or resolutions to change the election date for City Council consideration at a future meeting, an assessment of election costs will be performed for a standalone general municipal election versus a consolidated general municipal election with Los Angeles County.

It should be noted that the City has utilized the services of Martin and Chapman Inc. to provide standalone election services for the many past elections. Due to cities opting to consolidate elections with the County, in conformance with SB 415, Martin and Chapman has announced that they will be concluding operations of their business. Therefore, the City will likely utilize the services of the Los Angeles County Registrar-Recorder/County Clerk (RR/CC) going forward.

The RR/CC has recently advised the City that the RR/CC will be switching from a cost-sharing model (between all cities conducting elections) to a fee-imposed model. This new fee-imposed

model drastically increases election costs. For the March 5, 2019 General Municipal Election, the County estimates the cost for Manhattan Beach to be \$292,000.

BACKGROUND:

California Voter Participation Rights Act

The California Voter Participation Rights Act, known as Senate Bill 415 (SB 415), was passed on September 1, 2015. This legislation prohibits a local government from holding an election on any date other than a statewide election date, if doing so in the past resulted in a 25% lower voter turnout than the statewide election.

The voter participation rates for the City of Manhattan Beach for the past five statewide elections are below:

- November 2008 - 90.72%
- November 2010 - 68.44%
- November 2012 - 84.39%
- November 2014 - 47.88%
- November 2016 - 81.00%

Average for 2008 - 2014 Statewide Elections- 72.52%

The voter participation rates for the City of Manhattan Beach for the past five municipal elections are below:

- March 2009 - 24.03%
- March 2011 - 21.41%
- March 2013 - 21.84%
- March 2015 - 19.4%
- March 2017 - 28.6% (Consolidated Election with LA County)

Average for 2009 -2015 Municipal Elections - 21.67%

SB 415 states a City is prohibited from holding an election other than a statewide election, “if an election on a non-concurrent date has previously resulted in voter turnout for a regularly scheduled election in that political subdivision being at least 25% less than the average voter turnout within the political subdivision for the previous 4 statewide general elections.” Due to the regularly scheduled municipal elections having a lower voter turnout by more than 25% than the statewide elections, the City was required to conform to SB 415. The law went into effect on January 1, 2018.

SB 415 also requires cities with insufficient voter turnout to either change their election dates to June or November of even years, or prior to January 1, 2018, adopt a plan to consolidate its election with the statewide election no later than the November 8, 2022 statewide general election. The public policy behind SB 415 is to address 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 - the timing of elections - could be addressed by synchronizing municipal elections with statewide elections. The Public

Policy Institute of California surveyed 350 California cities and found that moving municipal elections to coincide with statewide elections could result in a 20-36% boost in voter turnout.

City Council Action on SB 415

In response to the requirements set forth in SB 415, the City Council held multiple public discussions on how the City should proceed with future elections. At the June 7, 2016, meeting, City Council directed staff to place an advertisement in the local newspaper informing the public that members can provide input regarding SB 415, and for the City Attorney and City Clerk to return on July 19, 2016, with the necessary ordinance and resolutions to increase the terms in the following two-step process:

Step 1: (1) Change the election dates for the next two elections to extend the then-current terms eight months as follows: (a) the election, originally scheduled for March 2017, would be changed to November 2017, and (b) the election, originally scheduled for March 2019, would be changed to November 2019.

Step 2: Then, the election dates for the next two elections would be extended by one year as follows: (a) Officials elected in November 2017 (Step 1(a)) would have five-year terms ending in November 2022; and (b) Officials elected in Step 1(b) in November 2019 would have five-year terms ending in November 2024.

After further public input at the July 19, 2016, City Council meeting, City Council modified its direction to reduce terms by four months so that: 1) the three City Councilmembers elected at the March 7, 2017, General Municipal Election would serve a term of three years and eight months till November 2020, and 2) the two City Councilmembers elected at the March 5, 2019, General Municipal Election would serve a term for three years and eight months till November 2022.

At the October 18, 2016, meeting, City Council adopted Ordinance No. 16-0026 establishing new general municipal election dates to be held in November of even years beginning in November 2020 to meet State mandates imposed by California Senate Bill 415. Ordinance No. 16-0026 read, "An Ordinance of the City of Manhattan Beach moving the date of the City's general municipal election from the first Tuesday after the first Monday in March of odd numbered years to the first Tuesday after the first Monday in November of even-numbered years beginning in November 2020." Adopting the Ordinance set forth the following election dates for the City of Manhattan Beach:

- March 5, 2019 (2 Seats)
- November 3, 2020 (3 Seats)
- November 8, 2022 (2 Seats)
- November 5, 2024 (3 Seats)
- November 3, 2026 (2 Seats)
- November 7, 2028 (3 Seats)

Developments since SB 415 was Adopted

The California Constitution offers charter cities a 'home-rule provision' which allows voters to exercise a greater degree of local control than that provided to general law cities. Following SB

415's approval, cities and legal analysts questioned whether charter cities and school districts, whose elections are governed by those charters, do not need to comply with SB 415. In response to this confusion, California Attorney General Xavier Becerra issued an opinion on the matter on July 11, 2017 and stated,

"While a charter city's constitutional sovereignty over its municipal affairs should not be minimized, it must at times yield to statewide concerns. When off-cycle elections result in significantly decreased voter participation, they compromise 'the essence of a democratic form of government,' raising an important matter of statewide concern. For these reasons, we conclude that the California Voter Participation Rights Act applies to charter cities, and to local school districts whose elections are governed by city charters."

Following the Attorney General's opinion, the City of Redondo Beach filed a lawsuit in the Los Angeles Superior Court against the State of California in February 2018. The City of Redondo Beach believes SB 415 exceeds the state's authority over municipal affairs by subjecting charter cities to comply with SB 415. It is expected that the City of Redondo Beach's case against the State of California will be heard on September 26, 2018.

While the City of Manhattan Beach is a General Law City, bound by the state's general laws over municipal affairs (including SB 415), the City Attorney's office has been monitoring the developments of the legal act in question.

On September 27, 2017, the California State Legislature passed Senate Bill No. 568, known as, "The Prime Time Primary Act." In summary, the bill moves the statewide primary election from the first Tuesday after the first Monday in June in each even-numbered year to the first Tuesday after the first Monday in March for presidential and non-presidential election years.

The new legislation passed by the legislature offers the City the opportunity to hold elections in March of even years in conformance with SB 415, since March of even years will now feature a statewide election.

Legal Analysis

The City Clerk's Office and the City Attorney's office have researched a variety of laws that the City must be mindful of in rescheduling the March 5, 2019, General Municipal Election. As a General Law city, the City adheres to the California Elections Code which contains the list of state laws that govern the City's election. Below is a list of laws relevant to the discussion surrounding rescheduling the City's election. These include:

- 1. State Law Extending Councilmember Term Limits - Elections Code Section 10403.5(b)** requires that "no term of office shall be increased or decreased by more than 12 months." Therefore, Councilmember terms cannot be extended beyond one additional year.
- 2. Limits on Allowable Terms to Amend -** As stated in the background section of the staff report, the City adopted Ordinance No. 16-0026 which amended the terms of those

elected at the March 7, 2017, General Municipal Election to three years and eight months. Elections Code 1301, subsection d, "If the date of a general municipal election is changed pursuant to subdivision (b), at least one election shall be held before the ordinance, as approved by the county board of supervisors, may be subsequently repealed or amended."

3. Senate Bill 415 - Legal Challenge Against SB 415 by the City of Redondo Beach.

- The City Attorney's Office has reviewed this and concluded the City of Manhattan Beach cannot challenge SB 415 on the basis of the City being a General Law city that is bound to the State's election requirements.

DISCUSSION:

At the March 6, 2018, meeting, Councilmember Montgomery requested to agendaize discussion of SB 415 and the possibility of changing the March 5, 2019, General Municipal Election to another date.

At the June 19, 2018, meeting, staff provided City Council two options on how to proceed if City Council chose to reschedule the March 5, 2019 General Municipal Election.

The options were as follows:

Option #1- Move the General Municipal Election from March 2019 to November 2019 and Shorten Terms.

1. Move the general municipal election date from March 2019 to November 2019, thereby extending Councilmember Howorth's and Councilmember Lesser's term to November 2019, creating an eight month extension of their terms.
2. Shorten the term for 2019 elected officials from three years and eight months to three years, to coincide with the November 2022 statewide general election.

Option #2 - Move the General Municipal Election from March 2019 to March 2020 and Shorten Terms.

1. Move the general municipal election date from March 2019 to March 2020, thereby, extending Councilmember Howorth's and Councilmember Lesser's term to March 2020, creating a one year extension of their terms.
2. Shorten the term for 2019 elected officials from three years and eight months, to two years and eight months to coincide with the November 2022 election.

Following discussion on the impacts of Senate Bill 415 and the options presented, City Council directed staff to provide further information on Senate Bill 415 and explore additional options in moving forward with rescheduling the City's March 5, 2019, General Municipal Election to a March 2020 Statewide Election.

In exploring additional options, the City Attorney's Office has reviewed a previous ballot measure passed by Manhattan Beach voters. On March 26, 1996, Manhattan Beach voters passed Measure J. Measure J states, "A person is ineligible to hold office as member of City Council if that person has service in the office for two (2) consecutive full terms (each term is (4)

years).” The City Attorney’s Office has reviewed the ballot measure and determined that no City Councilmember can extend their term beyond eight years, as specified in Ballot Measure J adopted by the voters.

In accordance with City Council direction to consider moving to March elections of even years at the June 19, 2018, City Council meeting, Staff has provided revised options for consideration. These options and steps to accomplish each option are as follows:

Option #1- Elections in March Starting in 2022

1. Move the general municipal election date from November 2022 to March 2022 and proceed with the elections in March of even years going forward. Thereby, reducing terms for officials elected at March 5, 2019, General Municipal Election by 8 months.
2. Shorten term for 2019 elected officials from three years and eight months to three years to coincide with March 2022 Statewide General Election.
3. Shorten term for 2020 elected officials from four years to three years and eight months to coincide with March 2024 Statewide General Election.

Option #2- Elections in March Starting in 2024

1. Move the general municipal election date from November 2024 to March 2024 and proceed with elections in March of even years going forward. Thereby, reducing terms for officials elected at November 3, 2020, General Municipal Election by 8 months.
2. Shorten term for 2020 elected officials from four years to three years and eight months to coincide with March 2024 Statewide General Election.
3. Shorten term for 2022 elected officials from four years to three years and eight months to coincide with March 2026 Statewide General Election.

Option #3 - Elections in March Starting in 2026

1. Move the general municipal election date from November 2026 to March 2026 and proceed with elections in March of even years going forward. Thereby, reducing terms for officials elected at November 8, 2022, General Municipal Election by 8 months.
2. Shorten term for 2022 elected officials from four years to three years and eight months to coincide with March 2026 Statewide General Election.
3. Shorten term for 2024 elected officials from four years to three years and eight months to coincide with March 2028 Statewide General Election.

Should the City Council direct staff to not pursue any of the above options, the City will proceed with the last option, status quo.

Option #4 - Status Quo and Maintain Current Election Path.

1. City’s general municipal elections occurring on November of even years with the following dates (after 2019 election):
 - a. March 5, 2019 (2 Seats)
 - b. November 3, 2020 (3 Seats)
 - c. November 8, 2022 (2 Seats)
 - d. November 5, 2024 (3 Seats)
 - e. November 3, 2026 (2 Seats)

f. November 7, 2028 (3 Seats)

Timeline Moving Forward

Following direction from the City Council, the City Clerk's office will need to prepare an ordinance for City Council consideration. Pursuant to Elections Code Section 1301, the City Council must enact an ordinance to effectuate the change to the City's general municipal election date. Pursuant to Government Code Section 36937, the ordinance becomes effective immediately. However, per Elections Code Sections 1301 and 10403.5, the adopted ordinance becomes operative only upon approval by the Los Angeles County Board of Supervisors (Board).

Once the ordinance is adopted by City Council, staff will submit the ordinance to the Board for consideration and approval. The Board will have 60 days to consider the elections date change. If the Board approves the ordinance, the ordinance will become operative. Within 30 days of becoming operative, the City Clerk's office will mail notices to all registered voters informing the voters of the change in the election date and the changes of terms of office of City officeholders.

Pending City Council direction, the City Clerk's Office and City Attorney's Office will prepare the necessary Ordinance to effectuate the direction expressed by the City Council at a future meeting.

PUBLIC OUTREACH/INTEREST:

In accordance with City Council direction from the June 7, 2016, City Council meeting, staff placed a half page advertisement in the June 23, 2016; and June 30, 2016 editions of the Beach Reporter and a quarter page ad in the July 14, 2016 edition of the Beach Reporter. City staff also distributed notices through the City's social media platforms including Twitter and Facebook, as well as two e-notifications to 805 subscribers at the time. In addition, an online topic was also created on the City's Open City Hall forum to gather additional input from the community. The Open City Hall topic garnered 59 visitors and 12 responses.

LEGAL REVIEW

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

Attachments:

1. Senate Bill 415
2. Election Date Change Options (Graphical Format)