



Agenda Date: 6/7/2016

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Quinn Barrow, City Attorney

Liza Tamura, City Clerk

Matthew Cuevas, Management Analyst

SUBJECT:

Report on the California Voter Participation Rights Act (California State Senate Bill 415) and Potential Impacts to Future Municipal Elections for the City of Manhattan Beach (City Clerk Tamara).

DISCUSS AND PROVIDED DIRECTION

RECOMMENDATION:

Staff recommends that the City Council discuss the implications of the California Voter Participation Rights Act (SB 415) and provide direction to staff.

FISCAL IMPLICATIONS:

The fiscal implications associated with the passage of this new state legislation will impact the City's finances when it conducts its municipal election. On average, for the past five municipal elections, the City Clerk's office has budgeted approximately \$73,735 to conduct the municipal election every other odd-numbered year in March. City staff will utilize this amount as a baseline for future budgeting of municipal elections with relevant cost increases factored into future years to account for supplies, postage, consulting services and election materials.

BACKGROUND:

The California Voter Participation Rights Act (SB 415) was passed on September 1, 2015. This new legislation prohibits a local government from holding an election on any date other than a statewide election date if doing so in the past has resulted in a significant decrease in voter turnout. This new law will go into effect on January 1, 2018. SB 415 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.

At the April 5, 2016 Regular City Council meeting, a Councilmember requested data regarding voter participation rates for Manhattan Beach for the past five statewide primary and general elections, as well as the implications this new state legislation will have on future City municipal elections.

DISCUSSION:

Existing law generally requires that state and local elections be held on an established election date. The established election dates are as follows:

- The second Tuesday of April in each even-numbered year;
- The first Tuesday after the first Monday in March of each odd-numbered year;
- The first Tuesday after the first Monday in June in each year; and
- The first Tuesday after the first Monday in November of each year

The established statewide election dates are in June and November of each even numbered year.

The passage of SB 415 adds a new chapter to the California Elections Code (Section 14050 14057) that attempts to remedy low voter turnout which may occur when a local election is not held on a statewide election date. Under SB 415, a local government is prohibited from holding an election on any date other than a statewide election date if doing so in the past has resulted in a significant decrease in voter turnout. A “significant decrease in voter turnout” is defined as voter turnout for a regularly scheduled election that is at least 25 percent less than the average voter turnout within that political subdivision for the previous four statewide general elections. A local government can continue to hold elections during the interim period if, by January 1, 2018, it has adopted a plan to consolidate its election with the statewide election no later than the November 8, 2022 statewide general election.

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

<u>Election Year</u>	<u>Voter Turnout</u>
November 2008 General	90.72%
November 2010 General	68.44%
November 2012 General	84.39%
November 2014 General	47.88%

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

<u>Election Year</u>	<u>Voter Turnout</u>
March 2009	24.03%
March 2011	21.41%

March 2013	21.84%
March 2015	19.4%

Based on the voter participation data for Manhattan Beach from the previous four statewide elections and four municipal elections, the turnout for the regular election is at least 25 percent less than the average voter turnout within the City for the previous four statewide general elections. The City would, therefore, need to consolidate its future municipal elections with the statewide election in either June or November of even years. Senate Bill 415 requires the City to either consolidate its election with a statewide election (June or November of an even year) or, by January 1, 2018, adopt a plan to consolidate its election with the statewide election no later than the November 8, 2022 statewide general election.

Elections Code Section 10403.5(b) requires that “no term of office shall be increased or decreased by more than 12 months ...” which limits the City’s ability to comply with SB 415. Typically, when faced with changes in state law addressing election dates, cities will increase terms, rather than decrease terms. However, here, the City’s regular election is in March of odd years, which means that any term increase to June or November of the following even year exceeds the 12 month cap imposed by Elections Code Section 10403.5(b). Thus, the City Clerk and the City Attorney have consulted with the City’s election consultant and with other cities with elections in March of odd years to find out how those cities are complying with SB 415.

Other Cities with general elections in March of odd years

- 1. Decrease the term starting in March 2017 by 3 months, so that term ends in November 2020.* It appears that some California cities with general elections in March of odd years are considering shortening the upcoming Councilmember terms.
- 2. Increase the terms in a two-step process: (1) Change the election dates for the next two elections to increase both current terms eight months from March 2017 to November 2017 and March 2019 to November 2019, respectively, and then (2) increase the term ending in November 2019 to November 2020.* Some cities may be considering extending terms in a two-step process.
- 3. Deferring action until 2017.* Finally, some cities and Los Angeles County oppose SB 415, and are seeking an amendment to SB 415. Los Angeles County has stated that it does not have the capacity to handle all elections in June and November of even years. Thus, some cities with elections in March of odd years are waiting to see if there will be a legislative solution, prior to changing the dates of their elections, mindful of the January 1, 2018 deadline to take some action. At least two of those cities-La Mirada and South Gate-considered SB 415 in the last two months and deferred taking action until a later date. A number of cities are considering circulating a petition seeking an alternate solution to increase voter participation and to allow the continuance of stand-alone elections.

The implications for the City not taking measures to address this new legislation by January 1, 2018 are significant. The City can expose itself to potential litigation if it does not satisfy the requirements mandated by SB 415. If a court determines a violation has occurred, it may force the City to reimburse any legal expenses incurred by a potential plaintiff and require immediate

and appropriate remedies, including the imposition of concurrent election dates for future elections.

OPTIONS:

The City of Manhattan Beach conducts its municipal elections the first Tuesday after the first Monday in March of each odd numbered year. The next municipal election is scheduled to be held in March 2017. In addition, the terms for current City Council seats are staggered with three seats set to expire in 2017 and the remaining two seats set to expire in 2019. Below are alternatives the City Council may consider in order to satisfy the requirements of SB 415. Cities such as Manhattan Beach that have their general elections in March of odd years have three options:

- 1) Decrease the term starting in March 2017 by three months (March of an odd year, to the prior November of an even year).
- 2) Increase the terms twice so that neither increase exceeds 12 months.
- 3) Wait until the end of 2017 to see if the State Legislature will change SB 415. As part of this option, the Council may want to pursue joining in the petition effort.

PUBLIC OUTREACH/INTEREST:

Public outreach will be dependent upon the direction provided by City Council. Once direction has been given, city staff will develop and proceed with an extensive public outreach plan.

ENVIRONMENTAL REVIEW

There are no environmental impacts associated with this action.

LEGAL REVIEW

The City Attorney is currently working in conjunction with the City Clerk to assess all available legal avenues and to ensure the City will be in full compliance with this new legislation by January 1, 2018.