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July 19, 2022

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CHARTER AMENDMENT COMMITTEE
City of Long Beach
California

RECOMMENDATION:

Recommendation to receive and file comments from the community, receive and file supporting documentation into the record on the proposed amendment to the Long Beach City Charter to realign the City's primary election date with the State's primary and general election dates held in even-numbered years, and refer to the City Council to consider adoption of all required resolutions to place said Charter Amendment on the November 8, 2022 General Election Ballot (Citywide); and

Recommendation to receive and file comments from the community, receive and file supporting documentation into the record on the proposed amendment to the Long Beach City Charter to realign LBUSD's primary election date with the State's primary and general election dates held in even-numbered years, and refer to the City Council to consider adoption of all required resolutions to place said Charter Amendment on the November 8, 2022 General Election Ballot. (Citywide).

DISCUSSION

On June 14, 2022, the Charter Amendment Committee and City Council approved a recommendation to receive and file comments from the community, receive and file supporting documentation into the record, and move to a second public hearing on the proposed amendments to the Long Beach City Charter to realign the City's and Long Beach Unified School District's primary election dates with the State's primary and general election dates held in even-numbered years.

On April 20, 2021, the Long Beach City Council voted to convene the Charter Amendment Committee of the City Council to consider placing a City Charter ("Charter") amendment before voters to align the City's municipal election dates with the State's primary and general election dates held in even-numbered years. The following are attached to this letter:

- Attachment 1 - A copy of the Council letter associated with the initial vote and the rationale behind the need to align the City's election dates with the State.
- Attachment 2 - The resolution adopted by the City Council to move the 2022 City election dates on a temporary, emergency basis to align with the State of California's election dates, the request to prepare a Charter Amendment for consideration by the Charter Amendment Committee at a later date.

- Attachment 3 - Proposed changes to the City Charter regarding the City's election dates.
- Attachment 4 - Proposed changes to the City Charter recommended by the Board of Education for the Long Beach Unified School District (LBUSD). As LBUSD election dates align with the City's election dates in the Charter, the LBUSD has also put forth a Charter Amendment to move its election dates with the City. Since the boundaries of the City and LBUSD are not identical, a separate ballot measure is needed to amend election dates for LBUSD set forth in the Charter.

Under State law, a majority of Long Beach voters must approve any City Charter Amendment. The next available date to place these Charter amendments on the ballot will be November 8, 2022.

To consider this amendment for the November 8, 2022 election, State law requires there be three public hearings/meetings. At these hearings/meetings there will be opportunities for discussion, receiving community input, and making changes to the Charter amendment language.

The hearing/meeting dates are as follows:

- June 14, 2022 – First public hearing: Received staff presentation, heard public comment, directed staff to gather any further information or implement changes.
- July 19, 2022 – Second public hearing: Receive any updated information, hear public comment, direct staff to gather any information or make amendment changes.
- August 9, 2022 – Final meeting: Receive any updated information, hear public comment, make any final amendment changes, and if the City Council so chooses, adopt the required resolutions to place the Charter amendment on the November 8, 2022 General Election ballot.

SUGGESTED ACTION:

Approve recommendations.

Very truly yours,

CHARLES PARKIN, City Attorney

By 

Taylor M. Anderson
Deputy City Attorney

ATTACHMENT 1



Date: April 20, 2021
To: Honorable Mayor Garcia and Members of the City Council
From: Daryl Supernaw, Councilmember, Fourth District
Subject: **Municipal Election Dates for 2022 and Beyond**

RECOMMENDATION:

Request to receive and file a presentation from the City Clerk and City Attorney's offices on Municipal Election dates for 2022 and beyond.

DISCUSSION:

Several Issues have made it necessary for the City to consider changing its election dates for the primary and general municipal elections in 2022 to June and November. In addition, include the placement of a ballot initiative on the November 2022 ballot to change the City Charter election dates as set forth in in the attached City Attorney's memo from February 25, 2021.

No Financial Management review occurred for this item.

FISCAL IMPACT:

Implementing this recommendation is expected to have a minimal impact on staff hours beyond normal budgeted scope of duties and is expected to have a minimal impact on existing City Council Priorities.



City of Long Beach

Working Together to Serve

Memorandum

Office of the City Attorney

DATE: February 25, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Charles Parkin, City Attorney
Amy R. Webber, Deputy City Attorney *ARW*

SUBJECT: Municipal Election Dates for 2022 and Beyond

Recommendation:

Request the City Council refer the issue of Municipal Election dates to the Government, Personnel and Elections Oversight Committee for discussion and recommendation to the full City Council. Several issues have made it necessary for the City to consider changing its election dates for the primary and general municipal elections in 2022 to June and November and the placement of a ballot initiative on the November 2022 ballot to change the City Charter election dates as set forth in more detail below and in the attached memo from the City's outside counsel.

Background:

The Legislature passed the California Voter Participation Rights Act (the "Act" or "SB 415"), which required cities to move their municipal election dates to statewide election dates if average voter turnout at the last municipal elections was at least 25 percent less than the average voter turnout within the city for the previous four statewide general elections. In 2017, the California Attorney General issued an opinion concluding that the Act applied to charter cities. Long Beach was therefore subject to the Act because voter turnout for its primary elections had been at least 25 percent less than the voter turnout for the previous four statewide elections. Accordingly, on October 11, 2017, the City Council adopted Resolution No. RES-17-0117, which moved the primary and general municipal elections dates "to those of the statewide primary and general election, in March and November of even-numbered years, beginning in 2020." The purpose of the Resolution was "to increase voter turnout and to ensure compliance with SB 415." As a result, the City's 2020 primary and general elections were held on March 3 and November 3, respectively. Terms and election cycles were modified accordingly.

In late November, 2020, the California Supreme Court held in *City of Redondo Beach v. Padilla* that SB 415 did not apply to charter cities as a matter of home rule, the principle that charter cities have broad powers over "municipal affairs," including elections.

Therefore, pursuant to this case, the Long Beach City Charter's established election dates would control over the Resolution adopted by the City Council in 2017. This presents the City with a decision about when to hold its upcoming elections. There are several factors which should also be included in the analysis.

A. Census Information/Redistricting Commission: The US Census provides population and demographic information to states and cities to permit the re-drawing of Council district boundaries. State law requires charter cities to redistrict every ten years and have district boundaries in place for the elections occurring after the Census under Cal. Elections Code section 21621. The City's Independent Redistricting Commission must receive the data promptly so that they have sufficient time to conduct community outreach and establish district boundaries. Per City Charter section 2502(a), the district boundaries must be in place six months prior to Council elections. The Census has announced that there will be a significant delay in the release of information. Normally, this information is released in March; the current projected release date is September, 2021, but this date may be further extended.

B. Coordination with Los Angeles County for Local Elections: The Los Angeles Registrar-Recorder/ County Clerk (the "LARRCC") has conducted primary and general elections for the City of Long Beach on a contract basis. When the City changed its election dates, the City Clerk reported that the company which had for years supplied elections processing equipment, as well as staff training and certifications, went out of business. Like many other California cities, Long Beach had to decide whether to devote resources to the purchase of elections equipment and training with another company or to contract with Los Angeles County. Since SB 415 required cities to hold elections on the same dates, it was cost-efficient to have the County perform elections services for the City.

LA County has informed the City Clerk's office that they require final district boundaries to be submitted 180 days prior to a local election. For an election in April, 2022, the new district lines would have to be completed and received by October, 2021. For an election in June, 2022, new boundaries would have to be completed and received by December, 2021.

Additionally, LA County has informed the City Clerk that due to the recent changes in the County voting system, including County-wide vote centers and increased availability of vote-by-mail ballots, the County's election workload has increased and it is not able to conduct Long Beach elections on a contract basis in April and June, as the turnaround time is too short. June and November elections would be possible, subject to voter approval of these dates.

C. Options: In light of these facts, the following options exist for City election dates going forward:

1. April primary election, June general election. These are the election dates specified in City Charter section 1901.

Pro: The dates are familiar to many Long Beach residents.

Con: For the 2022 elections, it would be physically impossible to have district lines drawn in time to comply with state law and County deadlines. Los Angeles County has indicated that it would be unable to conduct an election in April and certify results in time to consolidate for a June election; therefore, the City would need to purchase new elections equipment (estimated cost: \$2-3 million) and re-train staff to operate it. In addition, off-cycle elections have been shown to result in lower voter turnout.

2. Use Current District Boundaries for 2022 election.

The Independent Redistricting Commission's new district boundaries, once drawn, will go into effect immediately upon adoption, unless on the date of adoption there are less than six (6) months until the next primary City election, in which case the final map shall go into effect after that election and any applicable run-off election, per City Charter section 2502(b). However, the City would still need to ensure the old districts comply with the federal equal population requirement and the Voting Rights Act. The equal population standard requires that the total population deviation among districts is no greater than 10%, which may not be the case given ten years of uneven growth. An April election with the old lines is therefore likely to raise legal concerns.

3. March primary election, November general election. These are the dates used most recently for statewide elections.

Pro: These dates may also be familiar to voters as they were required by SB 415 and were statewide election dates. According to the City Clerk and the LARRCC, voter turnout increased on these election dates.

Con: SB 970 again changed statewide election dates in order to give California a prominent position in the primaries. Beginning in 2022, the statewide primary will occur in March in presidential primary years and in June in gubernatorial primary years. While this may have the effect of increasing voter turnout or improving California's influence in presidential primary years, it may be confusing and difficult for Long Beach voters.

4. Mixed Approach: June, 2022 Primary Election, November, 2022 General Election; Charter Amendment for Permanent Change

Pro: This approach would allow the City to obtain new district boundaries through its Independent Redistricting Commission and would allow the City to contract with the County for election services. It would also allow the City Council, on its own motion, to place a ballot measure before Long Beach voters to consider when Long Beach municipal elections should occur. In the event that the release of census data is delayed past the current projected date of September, 2020, we would recommend using the primary date selected by the State due to the unusual circumstances.

Honorable Mayor and Members of the City Council

February 25, 2021

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Con: Holding the election in June/November could result in an uneven campaigning cycle between 2020 and 2022 candidates.

As indicated above, we recommend this issue be referred to the Government, Personnel and Elections Oversight Committee of the City Council for discussion and then referred to the entire Council for direction. Please let us know if you have questions regarding this memo.

ARW:bg

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Attachment

cc: Tom Modica, City Manager
Monique DeLaGarza, City Clerk
Michael J. Mais, Assistant City Attorney

MEMORANDUM

ATTORNEY-CLIENT PRIVILEGED

TO: Amy Webber and Taylor Anderson, Deputy City Attorneys

FROM: Robin Johansen and Tom Willis

DATE: February 9, 2021

RE: City Election Dates

INTRODUCTION

The City Charter provides that the City's primary and general municipal elections shall be held in even-numbered years, in April and June, respectively. In 2015, however, the Legislature passed the California Voter Participation Rights Act (the Act or SB 415) that required cities to move their municipal election dates to statewide elections if voter turnout at their municipal elections was significantly less than turnout at statewide elections. That was the case for Long Beach, and so in 2017, the City Council passed a resolution moving the municipal election dates to coincide with the statewide primary and general election dates.

Last year, however, a California court of appeal held that the Act did not apply to charter cities such as Long Beach, thereby calling into question the validity of the City's resolution moving the election dates. In light of that decision, you have asked for a legal analysis as to which election dates should apply in 2022 and beyond and for options for resolving any uncertainty. As discussed below, we believe a court would hold that the election dates in the Charter control. Therefore, if the City Council wants to keep the municipal elections aligned with statewide elections, we suggest that the Council submit a Charter amendment to the voters.

There is, however, some uncertainty as to whether the City could hold the primary election in April 2022 if it reverted to the Charter election dates. That is because the City must redraw the City Council district boundaries before the next election, and a delay in the release of the census data may make it difficult or impossible for the Redistricting

Commission to conduct the open and transparent process contemplated in the Charter in time for an April 2022 election. The viability of an April election will ultimately depend on when the census data is released to California, and that is currently unknown, although a Census Bureau representative said recently that the release may not occur until after July 31, four months later than usual. If that turns out to be the case, the City likely will not be able to hold an April election with new district boundaries. We hope the Bureau will issue more formal guidance soon. Once that occurs, the City could decide which of three options it would like to pursue.

First, the City could seek a court order moving the election to June, given that an April election conflicts with the redistricting process. This is likely the safest course of action since the propriety of the June election could not be questioned. Second, the City could simply rely on the existing resolution moving the primary and general elections to coincide with the statewide elections, and take the position it is still in effect and requires the election to be in June.¹ There is, however, a possibility, although perhaps remote, that someone could challenge that approach arguing that the justification for the resolution, SB 415, no longer exists.

Third, you have asked whether the City could hold the election in April and use the current district boundaries for the 2022 elections, if it becomes clear the Commission will not be able to adopt a new plan in time and the County agrees to administer the election. Although perhaps possible, we do not believe that is a viable option. State law requires charter cities to redistrict every ten years and have those plans in place for the elections occurring after the census. Cal. Elec. Code §§ 21621-21622. Even though Long Beach is a charter city and thus has control over the method and timing of its City Council elections, the City would still need to ensure the old districts comply with the federal equal population requirement and the Voting Rights Act. The equal population standard requires that the total population deviation among districts is no greater than 10%, which we doubt will be the case given ten years of uneven growth. For these reasons, we believe running an April election with the old lines would raise several legal concerns.

¹ As discussed below, the resolution both states that the primary election is moved to the statewide primary date and references the fact that would be in March, based on the fact the statewide primary at the time was in March.

ANALYSIS

I. The Elections Dates in the Charter Likely Govern When Future Municipal Elections Should Occur

As discussed above, the City Charter states that the “primary and general municipal elections for elective officers of the City shall be held in even numbered years, on the second Tuesday in April and the first Tuesday after the first Monday in June, respectively . . .” Charter § 1901.

In 2015, however, the Legislature passed the California Voter Participation Act (the “Act”), which required cities to move their municipal election dates to statewide election dates if average voter turnout at the last municipal elections was at least 25 percent less than the average voter turnout within the city for the previous four statewide general elections. Cal. Elec. Code §§ 14051-14052. In 2017, the California Attorney General issued an opinion concluding that the Act applied to charter cities. 100 Ops. Cal. Atty. Gen. 4 (2017). Long Beach was therefore subject to the Act because voter turnout for its primary elections had been at least 25 percent less than the voter turnout for the previous four statewide elections. Accordingly, on October 11, 2017, the City Council adopted Resolution No. 17-0117, which moved the primary and general municipal elections dates “to those of the statewide primary and general election, in March and November of even-numbered years, beginning in 2020.” The purpose of the Resolution was “to increase voter turnout and to ensure compliance with SB 415.” As a result, the City’s 2020 primary and general elections were held on March 3 and November 3, respectively.

On March 23, 2020, the Second District Court of Appeal ruled that the Act does not apply to charter cities. The court held that charter cities have plenary authority over the timing of their elections, that authority cannot be contravened unless there is a clear directive by the Legislature to do so, and there was no evidence the Legislature intended to contravene such authority when it passed the Act. *City of Redondo Beach v. Padilla*, 46 Cal.App.5th 902 (2020). The California Supreme Court denied review, and so the decision is final and applies to Long Beach.

The question then is whether future municipal election dates should be held under the Resolution or City Charter. Although the Resolution remains in effect, the underlying rationale for it – that SB 415 required charter cities to move their elections to

statewide election dates – is no longer valid. A city’s charter provisions take precedence over ordinances and cannot be altered or amended by ordinance. *Citizens for Responsible Behavior v. Superior Court*, 1 Cal.App.4th 1013, 1034 (1991) (“While a city charter may be amended by a majority vote of the electorate, an ordinance cannot alter or limit the provisions of a city charter.”); *see also* Charter § 109 (“[T]he City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California.”). Therefore, in the absence of a statewide concern that would preempt the Charter provisions, the Charter must prevail. *See, e.g., San Diego City Firefighters, Local 145 v. Bd. of Admin. of San Diego City Emples. Ret. Sys.*, 206 Cal.App.4th 594, 609 (2012) (ordinance in conflict with charter is void).

The City Council could propose a Charter amendment to move the election dates to statewide election dates, as the Resolution did. Under Elections Code sections 9255 and 1415, a city council may submit a proposed charter amendment on its own motion. Generally, such charter amendments must be voted on at a statewide general election but a city council can also place a charter amendment on any municipal or statewide election date if the proposal does not alter any “procedural or substantive protection, right, benefit or employment status of any local government employee or retiree of the local government.” Cal. Elec. Code § 1415(a)(2)(A). This rule may limit the City’s ability to place a charter amendment on the next municipal election ballot because a proposal moving the election dates arguably would affect the employment status of City Council members by moving the ending date of their terms from July to December. Thus, we believe any charter amendment should be placed on the November 2022 election ballot.

II. The 2022 Election Dates

A. Current Timing Considerations

If the City reverts to the election dates established by the Charter, and holds the primary in April, that probably will not provide the Redistricting Commission sufficient time to undertake the transparent and open process for redistricting contemplated by the Charter.

The Redistricting Commission is required to adopt a final map establishing new council districts within six months “after census-block-level population data from a regular

United States decennial census is made available to the public.” Charter § 2502(a). The Commission’s plan goes into effect “immediately upon adoption, unless on the date of adoption there are less than six (6) months until the next primary City election, in which case the final map shall go into effect after that election and any applicable run-off election.” *Id.* § 2502(b). As a result, the Commission must adopt a plan at least six months before the primary election if it is to be used in that election.

If the City reverts to the election dates required by the Charter, the 2022 primary election would be held on Tuesday, April 12. Thus, the Commission would have to adopt a final plan no later than October 12, 2021 under the Charter to be effective in time for an April primary.

However, we believe the Commission should actually complete the plan by early September for it to be considered effective in time for an April election. Although the Charter states that the Commission’s plan shall take effect immediately (*see* Charter § 2502(b)), that would not allow for a 30-day period to permit the possibility of a referendum, which is a constitutionally protected right of the people. *See, e.g.,* Cal. Const. art. II, §§ 9 (only urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations not subject to referendum) and 11 (applying right of referendum to cities and counties with exceptions); Charter § 2000 (reserving to the voters the power of referendum and incorporating by reference relevant portions of the Elections Code); *Ortiz v. Board of Supervisors*, 107 Cal.App.3d 866 (1980) (redistricting ordinance taking effect immediately was void). We therefore believe the Commission should finalize the plan no later than early September in order to provide the 30-day period before it takes effect.

Can the Commission complete a plan by early September? That appears almost impossible if the Census Bureau does not release the census data until after July 31. By statute, the Census Bureau is required to release census data to the states no later than April 1, 2021. The Bureau has not made a formal announcement yet on the release date although a Bureau representative stated recently that the release likely would not occur before July 31. Once the State receives that data, it must add state data (statement of vote and voter registration data) before the Statewide Database will be available for local redistricting. That will take another 4-6 weeks to complete. As a result, if the census data is released in early August, the statewide database would not be ready until early September.

That would give the Commission no real time to draft plans, revise those plans and adopt a final plan and report. The Commission is required to hold at least nine (9) public meetings, including one meeting in each Council district, and a final map may not be adopted less than seven days after the introduction of a substantially similar map at a prior public hearing. Charter § 2507(b). And although the Commission could presumably hold hearings to receive public input before it has redistricting data (the Charter does not say otherwise), that, in our view, would be only marginally helpful since neither the Commission nor the public would know what the district populations should be or where or whether certain districts must be drawn to comply with the federal Voting Rights Act.

For these reasons, we believe an April primary election will conflict with the Charter requirement that the Redistricting Commission hold a transparent and open redistricting process and complete the plan at least six months before the election. But that will not be known with certainty until the Census Bureau provides formal guidance. Therefore, we suggest that the City postpone any decision about its 2022 election dates until the Bureau provides that guidance. At that time, the City Council could consider relying on the current resolution (which references a “March” election but otherwise supports holding the primary election on the same day as the statewide primary, which would be June in 2022), adopting a new resolution making clear the 2022 election dates are June and November, or seeking a court order permitting such a move.

B. Possibility of Using Current Districts for 2022 Elections

You have also asked whether the City could hold the primary in April using the current district boundaries for the 2022 elections if the Census Bureau’s delay in releasing census data makes it difficult or impossible for the Redistricting Commission to adopt a plan six months before the April primary. As discussed above, the Charter states that a plan adopted less than six months before a primary election must go into effect *after* that election and any run-off election, thereby implying that in such a case the City could continue to use the current districts for the elections occurring before the new plan goes into effect. See Charter § 2502(b).

Elections Code section 21621, which applies to charter cities, states that “following each federal decennial census for a city whose council is already elected using district-based elections, the council shall, by ordinance or resolution, adopt boundaries for all of

the council districts of the city so that the council districts shall be substantially equal in population as required by the United States Constitution.”² Subsection (b) of that section further requires a charter city to adopt districts that comply with the United States Constitution, the California Constitution and the federal Voting Rights Act. Further, section 21622 states that the new boundaries shall be adopted no later than 174 days before any election occurring before July 1, with the exception that charter cities may provide for a different redistricting deadline by ordinance or charter. Although Section 21622 permits charter cities to set a different deadline, we read sections 21621 and 21622 together to mean that a charter city must adopt a new redistricting plan every ten years and have that plan in place for the next elections after the census.

However, even if a court were to hold that state law could not require a charter city to redistrict every ten years, which seems unlikely, the districts would still have to be reviewed using the new census data to make sure they are (1) substantially equal in population, (2) do not violate the federal Equal Protection Clause by using race as a predominant factor (see *Shaw v. Hunt*, 517 U.S. 899 (1996)), and (3) comply with section 2 of the federal Voting Rights Act.

The equal population requirement should be met if the total deviation in population between the largest and smallest district is 10% or less. Although deviations of less than 10% still must be justified and the City would need to establish that the deviation is not predominantly caused by illegitimate redistricting criteria (such as partisan gerrymandering), we believe the stated purpose of accommodating the Charter election dates could suffice to justify deviations that are up to 10%. See *Harris v. Ariz. Indep. Redistricting Comm’n*, 136 S.Ct. 1301, 1310 (2016); *Cox v. Larios*, 542 U.S. 947 (2004). But if the districts have a deviation of greater than 10%, they are presumed to be unconstitutional and likely cannot be used even under the unique circumstances presented by the census delay and approaching election dates. See, e.g., *Vandermost v. Bowen*, 53 Cal. 4th 421, 473-478 (2012) (new statewide plan would be for 2012 elections even though that plan was the subject of a referendum and therefore was

² Although charter cities that have established their own redistricting criteria do not have to follow the criteria set forth in Elections Code section 21622(c), the requirement to make districts substantially equal in population applies to all charter cities. See Cal. Elec. Code § 21621(e).

not in effect; Court held that using the old plan was not acceptable in part because it did not meet equal population requirement).

Moreover, even apart from concerns relating to population deviation or the Voting Rights Act, we believe the use of the current lines could still be subject to challenge. Here, the *Vandermost* case is informative. In that case, the 2011 statewide Senate plan had been the subject of a successful referendum effort and therefore could not go into effect for the 2012 elections. The California Supreme Court therefore had to decide what plan should be used for the 2012 elections, the new plan that had been referred, the old plan, or some other plan. The Court ultimately decided to use the new plan despite the fact it had been referred. It did so not only because the old plan violated the equal population standard but also because the old plan was the product of a redistricting system that had been replaced by the voters. The old plan had been adopted by the Legislature using criteria that had subsequently been amended. At the time, there was nothing prohibiting the Legislature from considering the residence address of incumbents, protecting incumbents, or considering political party data. In contrast, the new plan was adopted by a Citizen's Redistricting Commission using new criteria, including prohibitions against drawing lines for incumbency or partisan advantage. The Court concluded it would "contravene the intent of the new redistricting regime . . . if this court were to order the use of old state Senate districts that were perceived as designed for purposes no longer permissible." *Vandermost v. Bowen*, 53 Cal. 4th at 478. The same objection arguably could apply here if the City decided to use the current lines, a product of a redistricting system and criteria that have been amended by the voters.

For these reasons, we believe relying on the current districts for the 2022 elections could raise significant concerns.

ATTACHMENT 2

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

RESOLUTION NO. RES-21-0045

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH MOVING 2022 MUNICIPAL
ELECTION DATES ON A TEMPORARY, EMERGENCY
BASIS TO ALIGN WITH THE STATE OF CALIFORNIA'S
ELECTION DATES

WHEREAS, the City of Long Beach, California ("City") is a municipal
corporation and charter city, duly organized under the Constitution and laws of the State
of California; and

WHEREAS, the California Voter Participation Rights Act (SB 415, codified
as Elections Code §§ 14050-14057), effective January 1, 2018, was enacted to prohibit a
public agency, including a charter city, from holding its regular election on any date other
than a statewide election date if holding the election on a non-statewide election date
results in a "significant decrease in voter turnout," which is defined as at least twenty-five
percent (25%) less than the average voter turnout within the public agency for the
previous four (4) statewide general elections; and

WHEREAS, the California Attorney General opined that SB 415 prevails
over conflicting Charter provisions, and therefore that SB 415 applied to charter cities
such as Long Beach; and

WHEREAS, the City formerly held its primary election on the second
Tuesday in April in even-numbered years, and its general municipal election on the first
Tuesday after the first Monday in June in even-numbered years; and

WHEREAS, the City's primary election date was not a statewide election
date and voter turnout in local Long Beach Municipal elections had been at least twenty-
five percent (25%) less than the voter turnout for the previous four (4) statewide general
elections; and

1 WHEREAS, in order to comply with SB 415, the City adopted a plan in 2017
2 to align its municipal election dates with the State of California's statewide primary and
3 general election dates and thereafter conducted its elections in coordination with the
4 State and Los Angeles County, experiencing a significant increase in voter turnout,
5 especially among low-propensity voters: a seventy percent (70%) increase in the
6 November 2020 election over the November 2016 election; and

7 WHEREAS, in March 2020, the City of Long Beach, County of Los Angeles
8 and State of California all declared a state of emergency due to the widespread and
9 devastating COVID-19 pandemic, which affected all aspects of daily life; and

10 WHEREAS, the pandemic caused significant disruption to the federal
11 Census, resulting in significant delays in the distribution of Census data; which is used
12 decennially by federal, state and local governments in the redistricting process to re-draw
13 equitable electoral districts, including Long Beach City Council districts; and

14 WHEREAS, in November 2020, the California Supreme Court denied
15 review in the case of City of Redondo Beach v. Padilla, 46 Cal. App. 5th 902 (2020),
16 letting stand a decision that charter cities were not subject to SB 415's requirements; and

17 WHEREAS, although the Redondo Beach case may have ordinarily called
18 into question the continuing viability of aligning the municipal election dates with the
19 statewide election dates, additional intervening events related to the Census Bureau's
20 delay in releasing census data make it impossible for the City to revert to holding
21 elections in April and June for the 2022 election cycle; and

22 WHEREAS, currently the Census Bureau has announced it will release
23 census data to states on or about August 16, 2021, and California's Statewide Database
24 has announced that the statewide dataset used for municipal redistricting will not be
25 released until on or about September 23, 2021; and

26 WHEREAS, such a delay makes it impossible for the City's Independent
27 Citizens Redistricting Commission to complete the task of redistricting in time for an April
28 primary election; and

1 WHEREAS, under section 2502(b) of the City Charter, the Independent
2 Citizens Redistricting Commission must adopt a redistricting plan at least six (6) months
3 before any election that will be conducted under the plan, which would mean that for an
4 April 2022 primary election, the Commission would have to adopt a final plan no later
5 than early October 2021; and

6 WHEREAS, that deadline will be impossible to meet given that the earliest
7 date the Commission will receive a usable dataset to start the redistricting process will be
8 late September; and

9 WHEREAS, the federal and state laws that require the City to redistrict
10 every ten (10) years upon release of the federal census preempt any interest the City
11 may have in reverting to municipal elections in April and June for the 2022 election cycle;
12 and

13 WHEREAS, the delay in distribution of Census data, the need for the City to
14 redistrict before the next elections, the COVID-19 pandemic, and the Redondo Beach
15 decision resulted in a situation in which municipal election dates were thrown into
16 uncertainty and made an April municipal primary election impossible to administer; and

17 WHEREAS, the City Council of the City of Long Beach now desires to
18 change its primary and general municipal election dates to align with the statewide
19 general election dates for 2022, currently set for June 7, 2022 and November 8, 2022,
20 respectively, but which could change due to the continuing uncertainty surrounding the
21 census delay; and

22 WHEREAS, the City Council also desires to make corrections to election
23 dates, terms of office and other technical matters related to the 2022 municipal elections,
24 and to that end, requests the City Attorney to draft and present such resolutions or
25 ordinances to the City Council; and

26 WHEREAS, the City Council further desires that the Long Beach Unified
27 School District and the Long Beach Community College District be informed of this plan;

28 NOW, THEREFORE, the City Council of the City of Long Beach resolves as

1 follows:

2 Section 1. The above recitals are true and correct.

3 Section 2. The City Council of the City of Long Beach does hereby
4 resolve to move Long Beach municipal election dates to align with those of the State of
5 California for 2022, and requests the City Attorney to draft such resolutions and other
6 documents for consistency with the new election dates, including but not limited to the
7 election cycle and campaign finance issues.

8 Section 3. The City Council further requests the City Attorney to prepare
9 a ballot measure to be placed on the appropriate ballot in 2022 permanently moving Long
10 Beach municipal election dates so that the City’s primary election aligns with the
11 statewide direct primary election and the City’s general municipal election aligns with the
12 statewide general election, which will be referred to the Charter Amendment Committee
13 at a future date.

14 Section 4. Staff is further requested to inform representatives of the Long
15 Beach Unified School District regarding this plan.

16 Section 5. This resolution shall take effect immediately upon its adoption
17 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of May 18, 2021, by the following vote:

Ayes:	Councilmembers:	<u>Zendejas, Allen, Price, Supernaw,</u> <u>Mungo, Uranga, Austin, Richardson.</u>
Noes:	Councilmembers:	<u>None.</u>
Absent:	Councilmembers:	<u>Saro.</u>
Recusal(s):	Councilmembers:	<u>None.</u>



City Clerk

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

ATTACHMENT 3

MEASURE “ ___ ”

SECTION 1. THE PEOPLE OF THE CITY OF LONG BEACH DO HEREBY AMEND THE LONG BEACH CITY CHARTER BY AMENDING SECTION 1901 OF ARTICLE XIX OF THE CITY CHARTER:

ARTICLE XIX – NOMINATIONS AND ELECTIONS

Sec. 1901. - PRIMARY AND GENERAL MUNICIPAL ELECTIONS.

The primary and general municipal elections for elective officers of the City shall be held on the same dates established for the statewide primary and general elections, respectively, by California Election Code section 1000 et seq. in for even numbered years, ~~on the second Tuesday in April and the first Tuesday after the first Monday in June, respectively,~~ and candidates elected to office shall assume such office on the third Tuesday in ~~July~~ December, or such later date if additional time is required to canvass and certify election results and shall serve until election and qualification of their successors.

~~Only those elected offices shall be filled which become vacant on the third Tuesday in July of that year.~~

ATTACHMENT 4



AUTHORIZED
MAY - 4 2022 ^{UR}
BY BOARD ACTION

Agenda Item Details

Meeting	May 04, 2022 - REGULAR MEETING OF THE BOARD OF EDUCATION
Category	20. New Business
Subject	20.5 Resolution 050422-D, Requesting that the City of Long Beach Propose and Submit to the Voters Within the Long Beach Unified School District Boundaries at the November 2022 Statewide General Election A Proposal to Amend Article XXII of the Long Beach City Charter
Access	Public
Type	Action
Recommended Action	Recommend action to approve

Public Content

BACKGROUND:

On April 13, 2022, the Board approved Resolution 041322-C requesting that the City of Long Beach place Long Beach City Charter amendments to a vote within the boundaries of the Long Beach Unified School District. The enclosed draft incorporates changes in section 2205 and 2206 suggested by the City of Long Beach. The changes do not alter the substance of what the Board approved on April 13, but the changes correspond to language anticipated in the charter provisions affecting Long Beach City elections.

Article XXII of the Long Beach City Charter provides for the primary and general elections dates for members of the Board of Education to be held on the second Tuesday in April and first Tuesday after the first Monday in June and that such elections shall run concurrent with the election for the Officers and Council for the City of Long Beach. In order to facilitate full participation of the electorate in municipal elections, primary and general municipal elections for the City of Long Beach and the Board of Education are now scheduled to occur on June 7, 2022 and November 8, 2022.

Scheduling School Board and Long Beach City elections to occur during the state's primary and general elections facilitates higher voter participation and saves taxpayer dollars expended on elections. A City Charter amendment is desirable to coordinate those elections and to make changes necessary to update the City Charter to coordinate those changes.

Section 2209 of the City Charter required Board Members to enter the discharge of their duties on the third Monday of July after their election and to meet on that day each year to reorganize by choosing a president and vice-president. The July dates are now out of synch with the school board election dates.

Section 2204 of the City Charter provides that an eligible candidate must be a legally registered voter and resident of the School Board district from which nominated for at least thirty (30) days immediately preceding the **first** day upon which candidates are permitted to file nominating petitions, but following litigation involving interpretation of a similar provision for Long Beach City, Section 201 of the City Charter was amended to read that other Long Beach City municipal candidates' deadline is measured at least thirty (30) days immediately preceding the **last** day upon which candidates are permitted to file nominating petition.

The City of Long Beach is considering amending the City Charter dates for Long Beach City municipal elections to occur during the state's primary and general election dates. Under Section 9255 of the Elections Code, the City is empowered to place a ballot initiative before the voters requesting changes to the Long Beach City Charter. The proposed resolution would change the date of eligibility for candidates to be measured from the last day upon which candidates are permitted to file nominating petitions (thereby enabling greater participation), consolidate the School Board and Long Beach City election dates, coordinate the District's reorganization and swearing in dates to follow the November election and make changes to continue future elections with that cycle. Because Board Members in odd-numbered districts were elected in June 2018, the proposed City Charter amendment would clarify that their terms would extend to the second Friday in December 2022 in order to coordinate with the new election date cycle.

RECOMMENDATION:

The Board should adopt Resolution 050422-D requesting the proposed Long Beach City Charter amendments be put by the City of Long Beach to a vote within the boundaries of the Long Beach Unified School District.

Approved:

Dr. Jill A. Baker
Superintendent of Schools

Approved as to form:

Brent North
Legal Counsel to the Board of Education

RESOLUTION NO. 050422-D

**A RESOLUTION OF THE LONG BEACH UNIFIED SCHOOL DISTRICT
OF LOS ANGELES COUNTY REQUESTING THAT THE CITY OF LONG BEACH PROPOSE AND SUBMIT
TO THE VOTERS WITHIN THE LONG BEACH UNIFIED SCHOOL DISTRICT BOUNDARIES
AT THE NOVEMBER 2022 STATEWIDE GENERAL ELECTION A PROPOSAL TO AMEND
ARTICLE XXII OF THE LONG BEACH CITY CHARTER**

WHEREAS, the election of Governing Board Members of the Long Beach Unified School District is governed by the provisions of the Long Beach City Charter; and

WHEREAS, Article XXII of the Long Beach City Charter provides for the primary and general election for members of the Board of Education to be held on the second Tuesday in April and the first Tuesday after the first Monday in June concurrent with the elections for the Officers and County for the City of Long Beach; and

WHEREAS, in order to facilitate full participation of the electorate in municipal elections, primary and general municipal elections for the City of Long Beach and the Governing Board Members of the Long Beach Unified School District are scheduled to occur on June 7, 2022 and November 8, 2022; and

WHEREAS, continuing to consolidate election dates to concur with the municipal elections of the City of Long Beach results in tax savings and maximizes voter participation; and

WHEREAS, Article XXII of the Long Beach City Charter provides that the date when Board Members enter upon the discharge of their duties is on the third Monday in July and to annually reorganize that same day by choosing a president and vice-president; and

WHEREAS, Article XXII of the Long Beach City Charter provides that an eligible candidate must be a legally registered voter and resident of the School Board district from which nominated for at least thirty (30) days immediately preceding the first day upon which candidates are permitted to file nominating petitions, but Section 201 of the City Charter was amended to read that other municipal candidates' deadline is measured at least thirty (30) days immediately preceding the last day upon which candidates are permitted to file nominating petitions; and

WHEREAS, California Elections Code section 9255 permits a charter amendment proposed by a city to be submitted to the voters at an established statewide general election.

NOW, THEREFORE BE IT RESOLVED, that the Governing Board of the Long Beach Unified School district does hereby determine, order and resolve as follows:

1. That the above recitals are true and correct.
2. That the Governing Board of the Long Beach Unified School District hereby requests the governing body of the City of Long Beach to prepare a ballot measure to be placed on the November 8, 2022 statewide general election ballot moving the future Board of Education election dates to run concurrent with the municipal elections for the City of Long Beach and to make the remaining changes in sections 2204, 2205, 2206 and 2209 of Article XXII described more particularly in Exhibit A hereof to achieve that intent.
3. That the Long Beach Unified School District agrees to pay the entity conducting each election for the charter amendment the Long Beach Unified school District's proportional costs incurred by such entity as a result of this ballot initiative.
4. That a certified copy of this Resolution be filed by the Secretary of the Board of Education with the governing body of the above-named city, as well as the Los Angeles County Superintendent of Schools, and the Los Angeles County Registrar-Recorder.
5. That this Resolution with its Exhibit A supersede Resolution No. 041322-C and its attached Exhibit passed by the Governing Board of the Long Beach Unified School District on April 13, 2022.

BE IT FURTHER RESOLVED THAT, the Board of Education adopt Resolution No. 050422-D, effecting this request.

AYES: _____

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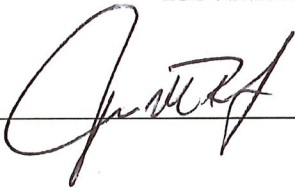
NOES: 0

ABSTAIN: 0

ABSENT: 1

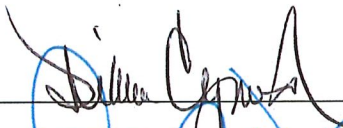
APPROVED, ADOPTED AND SIGNED on this 4th day of May, 2022.

THE GOVERNING BOARD OF EDUCATION
OF THE LONG BEACH UNIFIED SCHOOL DISTRICT OF
LOS ANGELES COUNTY, CALIFORNIA



President


Vice-President



Member



Member



Member

Res 050422-D Exhibit A to Charter Amendment Resolution.pdf (61 KB)

Administrative Content

Executive Content

EXHIBIT A

- **ARTICLE XXII. - EDUCATION**

- **Sec. 2204. - ELIGIBILITY.**

No person shall be eligible to hold office as a member of the Board of Education unless such person is a legally registered voter and resident of the School Board district from which nominated for at least thirty (30) days immediately preceding the ~~last~~^{first} day upon which candidates are permitted to file nominating petitions for such office with the Los Angeles Registrar-Recorder or, in the case of being appointed to fill a vacancy, for at least thirty (30) days immediately preceding the date of the appointment.

(Amended by Prop. T, 11-4-1986, eff. 2-5-1987)

- **Sec. 2205. - TERM OF OFFICE.**

Except when filling a vacancy the members of the Board of Education shall be elected at a ~~general~~ School Board election as provided in this Chapter. The term of office shall be for four (4) years, except as hereafter provided. The terms of office for those members of the Board of Education elected from odd-numbered districts in the 2018 School Board municipal election shall be extended to the second Friday in December 2022, with all elected members of the Board of Education thereafter serving four-year terms. In order to maintain staggered terms for members of the Board of Education, the election for members in even-numbered School Board districts shall occur on the primary and general election dates for the City in 2024 and each fourth year thereafter and the election for members in odd-numbered School Board districts shall occur on the next primary and general election dates for the City in 2026 and each fourth year thereafter. Future school board elections shall continue in that staggered cycle.

~~In order to establish staggered terms for members of the Board of Education, the term of office for members of the Board of Education elected in odd-numbered School Board districts at the first general School Board election of 1988 shall be two years, while the term of office of members of the Board of Education in even-numbered School Board districts shall be four years. Thereafter, the term of office for all members of the Board of Education shall be four years.~~

~~Alternatively, and successively, following the general election of 1988, even-numbered School Board districts shall be filled at the general School Board election and odd-numbered districts at the next such election. The term of a School Board member shall commence on the third Monday of July following his or her election, and he or she shall serve until his or her successor qualifies.~~

~~Each member of the Board of Education in office at the time this amendment to the City Charter takes effect shall continue in office up to and including the third Monday of July 1988 subject to the right of the people to recall a member of the Board of Education as provided in the laws of the State of California governing elections.~~

(Amended by Prop. T, 11-4-1986, eff. 2-5-1987)

- **Sec. 2206. - ELECTIONS.**

All elections for members of the Board of Education, or issuing bonds of the school districts, or on propositions to be submitted to the people of the school districts, shall be called, held, conducted and the vote canvassed and declared in accordance with the provisions of the Elections Code of the State of California governing municipal elections except as otherwise provided by this Charter. The costs and expenses incurred in connection with or incident to any elections held under this Article shall not be a charge upon the funds of the City.

The primary and general election for members of the Board of Education shall be held ~~on the second Tuesday in April and the first Tuesday after the first Monday in June, respectively, which is~~ concurrent with the primary and general election dates for the Officers and Council for the City of Long Beach.

Nominating petitions of candidates for election to the Board of Education shall be signed only by legally registered voters and residents of the School Board district from which the person named in the petition seeks to be elected, or in the case of a recall petition, of the School Board district from which such member of the Board of Education was elected, or the School Board district as it exists by reason of redistricting as otherwise provided in this Article.

In the event that no candidate for nomination as a member of the Board of Education receives a majority of the votes cast for all candidates for nomination to such office at any primary nominating election, the two candidates receiving the highest number of votes for any given office at the primary nominating election shall be the candidates and the only candidates for such office whose names shall be printed upon the ballots to be used at the general School Board election.

In the event that any candidate for nomination as a member of the Board of Education shall receive a majority of the votes cast for all candidates for nomination to such office at any primary nominating election, the candidates so receiving such majority of votes shall be deemed to be declared by the Board of Education to be elected to such office.

The candidate who shall receive the highest number of votes in the general School Board election for his respective office shall be deemed to be and declared by the Board of Education to be elected to such office.

Any ties in voting shall be settled by the casting of lots under the supervision of, and in such manner and place as the Los Angeles Registrar-Recorder decides.

(Amended by Prop. T, 11-4-1986, eff. 2-5-1987)

- **Sec. 2209. - ORGANIZATION AND MEETINGS OF THE BOARD OF EDUCATION.**

The members of the Board of Education shall enter upon the discharge of their duties on the second Friday in December next succeeding the member's election. Any member of the Board of Education whose term has expired shall continue to discharge the duties of the office until the member's successor has qualified. The term of the successor shall begin upon the expiration of the term of her or his predecessor. on the third Monday in July after their election The Board of Education ~~and~~ shall meet upon the second Friday in December ~~said day and~~ annually thereafter and organize by electing one of their number president, and one as vice-president, whose term of office shall be one year.

(Amended by Prop. T, 11-4-1986, eff. 2-5-1987)