



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-22

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

PRINCIPAL DEPUTIES

Gary J. Anderson
Charles M. Gale
Anne C. Lattime

DEPUTIES

David R. Albers
C. Geoffrey Allred
Taylor M. Anderson
Richard F. Anthony
William R. Baerg
Sarah E. Green
Monica J. Kilaita
Nicholas J. Masero
Dawn A. McIntosh
Lauren E. Misajon
Matthew M. Peters
Katrina R. Pickett
Howard D. Russell
Arturo D. Sanchez
Todd Vigus
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

December 18, 2018

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 1.15 and repealing sections 2.01.210(B) and 2.01.1010, and notating Long Beach Charter sections 200, 202, 506, 1901, 2205 and 2206, all pertaining to Municipal Election Dates, as required by SB 415, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

On October 10, 2017, the City Council adopted a Resolution setting forth a plan to comply with SB 415, the California Voter Participation Rights Act (California Elections Code section 14050 et seq.), which prohibits political subdivisions from holding an election on other than a statewide election date if turnout for regularly scheduled elections is 25% less than the average turnout in the previous four statewide general elections.

Resolution No. RES-17-0117 approved a plan to change the primary and general municipal election dates to the statewide general election dates, now in March and November of even-numbered years, beginning in 2020, to increase voter turnout and to ensure compliance with SB 415, and to achieve consolidation with statewide election dates no later than November 8, 2022. The Resolution called for the preparation of an ordinance amending the Long Beach Charter and Long Beach Municipal Code to comply with SB 415, consistent with City Council direction. The attached ordinance governs elections dates for all City elected officials, as well as Long Beach Unified School District elected officials. Long Beach City College has already made changes to their election dates to comply with SB 415.

State elections law allows a City to extend or decrease the terms of City elected officials by up to 12 months, in order to match their terms with a changed municipal election date. (Elections Code §10403.5(b)) For school boards moving their election date, the term of office of incumbent Board members "shall be extended accordingly." (Elections Code §10404.5(g).) The proposed ordinance would extend

the terms of elected officials by five months (July to December) to match them with the new election cycle.

Normally, amendments to the City Charter must be approved by the voters. However, in this case, the Attorney General's Office has opined that SB 415 prevails over a contrary city charter provision. Because the City and School District are now prohibited by State law from enforcing this provision of the Charter, it is, in effect, void. Therefore, the City Council may move the primary election without a Charter amendment in order to comply with SB 415 and, in effect, disregard the contrary provision in the City's Charter. A notation will be added to City Charter sections 200, 202, 506, 1901, 2205, and 2206 reflecting the change in State law and referencing the adoption of the proposed ordinance.

It should be noted that a recent case has challenged the validity of SB 415 as applied to charter cities. The case is currently on appeal, and we will monitor its progress and any possible effect it may have on Long Beach elections.

This Office has prepared and now submits for your consideration the above-described ordinance. If the ordinance is approved, prior to the commencement of the 2020 election season, the City Clerk will mail the electorate a notice regarding the change of election dates and the one-time extension of terms by five months.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By



AMY R. WEBBER
Deputy City Attorney

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 1.15, AND BY REPEALING SECTIONS 2.01.210(B) AND 2.01.1010; ALL RELATING TO CHANGING THE REGULAR ELECTION DATES OF THE PRIMARY NOMINATING AND GENERAL MUNICIPAL ELECTIONS TO MARCH AND NOVEMBER, RESPECTIVELY, TO COINCIDE WITH STATEWIDE ELECTIONS AS REQUIRED BY SB 415

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, prohibits 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 25 percent (25%) less than the average voter turnout within the public agency for the previous four (4) statewide general elections; and

WHEREAS, pursuant to City Charter sections 1901 and 2206, the City and the Long Beach Unified School District currently hold their primary election on the second Tuesday in April in even-numbered years, and their general municipal election on the first Tuesday after the first Monday in June in even-numbered years; and

WHEREAS, the California Attorney General has opined that SB 415 prevails over conflicting Charter provisions, rendering the City's current Charter

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

1 provisions related to election dates void, allowing the City Council to change the
2 Charter's election dates without a Charter amendment in order to comply with SB 415;
3 and

4 WHEREAS, the City's primary election date is not a statewide election date
5 and voter turnout in local Long Beach Municipal elections has been at least 25 percent
6 (25%) less than the voter turnout for the previous four (4) statewide general elections;
7 and

8 WHEREAS, the general municipal election cannot be held on the same
9 date as the primary election and thus will also be required to change; and

10 WHEREAS, SB 568 requires the statewide primary election to be held on
11 the first Tuesday after the first Monday in March, beginning in 2019; and

12 WHEREAS, State law allows a city to increase or decrease the terms of
13 current municipal officers on a one-time basis by up to twelve (12) months until their
14 successors are elected and qualified, in order to match their terms with a changed
15 regular election date; and

16 WHEREAS, on October 10, 2017, the City Council of the City of Long
17 Beach adopted Resolution No. RES-17-0117 and approved changing its primary and
18 general municipal election dates to the statewide general election dates, now in March
19 and November of even-numbered years, beginning in 2020, to increase voter turnout and
20 to ensure compliance with SB 415, and to achieve consolidation with the statewide
21 election dates no later than November 8, 2022; and

22 WHEREAS, the City Council also desires to make consistent corrections to
23 election dates, terms of office and other technical matters in the Long Beach Municipal
24 Code and to that end, has requested the City Attorney to draft and such present
25 ordinances to the City Council; and

26 WHEREAS, the Long Beach Unified School District has been consulted and
27 has approved of the plan to implement SB 415;

28 NOW, THEREFORE, the City Council of the City of Long Beach hereby

1 ordains as follows:

2 Section 1. The above recitals are true and correct and are a substantial
3 part of this ordinance.

4
5 Section 2. Pursuant to Elections Code sections 1301, 10403.5, and
6 14052, the City hereby changes its Primary Nominating and General Municipal Election
7 dates to coincide with the statewide direct primary and statewide general elections
8 beginning in 2020. Long Beach City Charter Section 1901 shall be annotated to this
9 effect.

10
11 Section 3. Chapter 1.15 is added to the Long Beach Municipal Code to
12 read as follows:

13 Chapter 1.15
14 MUNICIPAL ELECTIONS

15
16 1.15.010. General.

17 Beginning in 2020, the primary nominating election for elective
18 officers of the City shall be held in even-numbered years, on the first
19 Tuesday after the first Monday in March. The general municipal election
20 shall be held in even-numbered years, on the first Tuesday after the first
21 Monday in November. Candidates elected to office shall assume such
22 office on the third Tuesday in December and shall serve until the election
23 and qualification of their successors. Only those elected offices shall be
24 filled which become vacant on the third Tuesday of December of that year

25 1.15.020 Terms of office.

26 In order to transition from the current June general election date to
27 the new November statewide general election date, there shall be a one-
28 time adjustment to the terms of City elected officers, as follows:

1 A. Beginning in 2020, candidates shall be nominated in March,
2 elected in November and assume office on the third Tuesday in December.

3 B. The terms of office for City Council members elected in the
4 November, 2020 elections shall be extended by five (5) months (July to
5 December) to match them with the new election cycle, as permitted by
6 California Elections Code section 10403.5(b).

7 The terms of office for Citywide officials (City Auditor, City Attorney,
8 City Prosecutor, Mayor) elected in the April or June, 2018 elections shall be
9 extended by five (5) months (July to December) to match them with the new
10 election cycle, as permitted by California Elections Code section 10404.5(g).

11 C. The terms of office for Long Beach Unified School District
12 members elected in the November, 2020 elections shall be extended by five
13 (5) months (July to December) to match them with the new election cycle,
14 as permitted by California Elections Code section 10404.5(g).

15 D. Municipal officers elected to new terms in November, 2022
16 and in all future elections shall serve standard four-year terms.

17 1.15.030 Election cycle.

18 ‘Election Cycle’ means that period commencing with January 1 of an
19 odd-numbered year and ending December 31 of the following year. For a
20 special election, the Election Cycle commences with the declaration of a
21 vacancy in an elective office and ends six (6) months after the special
22 election date

23 1.15.040 Campaign funds.

24 Any funds remaining to a candidate, or any controlled committee of
25 such candidate, ninety (90) days following the end of the Election Cycle,
26 during which such funds have been raised, shall be defined as “surplus
27 funds” and shall be disposed of only as provided in this Chapter. Funds
28 retained by a candidate and specifically earmarked for payment of

1 campaign expenses lawfully incurred during the Election Cycle need not be
2 included in surplus funds provided that such expense payment is made no
3 later than ninety (90) days after the end of the Election Cycle.

4 1.15.050 Notice.

5 Pursuant to Elections Code 10403.5(e), within thirty (30) days after
6 the ordinance becomes operative, the City elections official shall cause a
7 notice to be mailed to registered voters within the City limits.

8 1.15.060 Severability.

9 If any section, subdivision, paragraph, sentence, clause, or phrase in
10 this ordinance or any part thereof is for any reason held to be
11 unconstitutional or invalid or ineffective by any court of competent
12 jurisdiction, such decision shall not affect the validity or effectiveness of the
13 remaining portions of this ordinance or any part thereof. The City Council
14 hereby declares that it would have passed each section, subdivision,
15 paragraph, sentence, clause, or phrase thereof irrespective of the fact that
16 any one or more sections, subdivisions, paragraphs, sentences, clauses, or
17 phrases be declared unconstitutional, or invalid, or ineffective

18 1.15.070 CEQA.

19 This ordinance is exempt from the requirements of the California
20 Environmental Quality Act (CEQA) because it is not a project within the
21 meaning of 14 CCR § 15378 or alternatively, because it is covered by the
22 general rule that CEQA applies only to projects which the potential for
23 causing a significant effect on the environment (14 CCR § 15061(b)(3)).

24 This ordinance implements changes to the timing of municipal elections that
25 have no potential for direct or indirect changes to the environment.

26
27 Section 4. Sections 2.01.210(B) and 2.01.1010 of the Long Beach
28 Municipal Code are hereby repealed.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 5. The City Clerk shall transmit copies of this ordinance to the Clerk of the Los Angeles County Board of Supervisors and the office of the Los Angeles County Registrar Recorder.

Section 6. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2018, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor