



REPORT TO CITY COUNCIL

DATE: JULY 13, 2016

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: KIMBERLY M. RODRIGUES, CITY CLERK 

SUBJECT: CONSIDERATION OF SENATE BILL 415 AND CONSOLIDATION WITH A STATEWIDE GENERAL ELECTION DATE

On September 1, 2015, Governor Jerry Brown signed Senate Bill No. 415 ("SB 415"), Voter Participation, into law, adding Sections 14050-14057 to the California Elections Code ("Elections Code").

The public policy behind SB 415 was 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 city elections with even-year state elections and cites a Public Policy Institute of California survey of 350 California cities that found simply moving an election to be synchronized with the even state year elections can result in a 21-36 percent boost in voter turnout for municipal and other local elections. Please note that SB 415 does not apply to special elections.

In California, general law cities, like the City of Agoura Hills (the "City"), are obligated to conduct general and special municipal elections in accordance with the Elections Code (Sections 10101-10312). The City currently conducts its elections on the first Tuesday after the first Monday in November of each odd-numbered year, pursuant to Agoura Hills Ordinance No. 70 and Elections Code Section 1301. The City conducts general municipal elections for five (5) Members of Council (staggered terms), with each member serving a term of four (4) years. The most recent General Municipal Election was held on Tuesday, November 3, 2015.

SB 415 prohibits a local government, like the City of Agoura Hills, from holding an election other than on a statewide election date if holding an election on a nonconcurrent date (i.e., election date other than November of even-numbered years), has previously 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 twenty-five percent (25%) less than the average voter turnout within that city for the previous four (4) statewide general elections. In short, if a city holds its elections in an odd-numbered year and voter turnout is significantly less in comparison to statewide elections (even years), then the election date must be changed to coincide with statewide elections.

Accordingly, to determine if the City is required to consolidate with a statewide general election date, it is necessary to review the recent election voter turnout data (as outlined in the following table).

STATEWIDE GENERAL ELECTION DATA - AGOURA HILLS					
Election Date	Registered Voters	Ballots Cast	Percentage (Voter Turnout)	Average City Turnout (%) over Last Four State Elections	State Four-Year Average Less 25% (25% less than average from previous column)
November 4, 2008	12,663	11,376	89.84%		
November 2, 2010	13,218	8,830	66.80%		
November 6, 2012	13,455	11,049	82.11%		
November 4, 2014	13,951	6,000	43.00%		
<i>Subtotal = 281.75%</i> <i>(Ballots/Registered=Voter Turnout)</i>				70.44% <i>(281.75/4)</i>	52.83% <i>(25% below 70.44%)</i>
LAST GENERAL MUNICIPAL ELECTION - AGOURA HILLS					
November 3, 2015	13,824	3,249	23.50% <i>(29.33% below necessary threshold)</i>	<i>(70.44x.25=17.61-70.44=52.83%</i> <i>(52.83-23.50=29.33%)</i>	

As the data above illustrates, the voter turnout for the City’s most recent municipal election was 29.33% less than the average voter turnout (less 25%) within the City for the previous 2008, 2010, 2012, and 2014 statewide general elections. Since the City has experienced a “significant decrease in voter turnout”, SB 415 will require the City to begin conducting its general municipal elections on statewide general election dates as soon as 2018. Should the City seek additional time before it transitions to statewide election dates, it may continue to hold its general municipal elections in November of odd years as long as, by January 1, 2018, the City has adopted a plan to consolidate a future general municipal election with a statewide election not later than the November 8, 2022, statewide general election [Elections Code Section 14052(b)].

Pursuant to Elections Code Section 1001, statewide election dates are recognized to occur in June and November of each even-numbered year. In discussions with the County of Los Angeles Elections Division, it was shared there is, traditionally, a significant increase in voter turnout at November statewide elections and, therefore, not recommended for the City to consolidate with a June statewide election date. Staff is presenting the proposed election date changes based on consolidating with November statewide elections in even-numbered years. SB 415 becomes effective January 1, 2018 and will require the City to adopt a plan to begin conducting its general municipal elections on statewide general election dates. The upcoming statewide general election dates available for consolidation are: November 6, 2018; November 3, 2020; and, November 8, 2022.

In order to accommodate the statewide election dates, cities are required to increase or decrease terms of office depending on their existing election schedule. Elections Code Section 10403.5(b) limits increases or decreases to terms of office to no more than twelve (12) months. "Twelve (12) months" is further defined as: "the period between the day upon which the term of office would otherwise have commenced and the first Tuesday after the second Monday in the 12th month before or after that day, inclusive". When the increase or decrease of terms occurs depends upon which of the three (3) general statewide election dates the City chooses to join. For the City Council's consideration, following are six (6) potential options to modify the City's General Municipal Elections to comply with the provisions of SB 415:

- Option 1. Move the November 2017 election (Three Seats) to occur in November 2018 and the November 2019 election (Two Seats) to occur in November 2020, thereby increasing current incumbent terms by one year (+12 months). Consolidation would begin with the November 6, 2018 statewide general election; or
- Option 2. Move the November 2019 election (Two Seats) to occur in November 2018 and the November 2021 election (Three Seats) to occur in November 2020, thereby decreasing future incumbent terms by one year (-12 months). Consolidation would begin with the November 6, 2018 statewide general election; or
- Option 3. Move the November 2019 election (Two Seats) to occur in November 2020, and the November 2021 election (Three Seats) to occur in November 2022; thereby increasing future incumbent terms by one year (+12 months). Consolidation would begin with the November 3, 2020 statewide general election; or
- Option 4. Move the November 2021 election (Three Seats) to occur in November 2020 and the November 2023 election (Two Seats) to occur in November 2022, thereby decreasing future incumbent terms by one year (-12 months). Consolidation would begin with the November 3, 2020 statewide general election; or
- Option 5. Move the November 2021 election (Three Seats) to occur in November 2022, and the November 2023 election (Two Seats) to occur in November 2024; thereby increasing future incumbent terms by one year (+12 months). Consolidation would begin with the November 8, 2022 statewide general election; or
- Option 6. Move the November 2023 election (Two Seats) to occur in November 2022 and the November 2021 election (Three Seats) to occur in November 2020, thereby decreasing future incumbent terms by one year (-12 months). Consolidation would begin with the November 8, 2022 statewide general election; or

To consolidate with an upcoming statewide general election, the City would be required to adopt an ordinance changing its current election date. Elections Code Section 1301(b)(1) provides for the City Council to enact an ordinance requiring its general municipal election to be held on the same day as the statewide general election. The ordinance would become operative upon approval by the County Board of Supervisors.

Per the Elections Code, in the event of consolidation, the general municipal election shall be conducted in accordance with all applicable procedural requirements pertaining to that statewide general election and shall thereafter occur in consolidation with that election. If the City adopts an ordinance, the municipal general election following the adoption of the ordinance and each municipal general election thereafter shall be conducted on the date specified by the City Council, unless the ordinance in question is later repealed by the City Council. If the date of a general municipal election is changed, at least one election shall be held before the ordinance may be subsequently repealed or amended.

Per the County Elections Division (the "Division"), no city, on a nonconcurrent calendar, currently meets the 25% requirement and all will be required to shift to statewide consolidation. The County of Los Angeles (the "County") is set to unveil a new voting system in 2020 and has expressed concern that cities transitioning to statewide elections prior to 2020 would exceed the capacity of its current optical scan voting system. As such, larger cities (e.g., City of Los Angeles has over 1.8 Million registered voters) are being asked to reserve their consolidation requests until 2020, when the new voting system will be in place. Upon discussions between City staff and the County, the Division performed a preliminary analysis of the City of Agoura Hills to determine if consolidation was possible prior to 2020 (i.e., 2018). Upon review, the City received the support of the Division to move forward with a consolidation request for 2018. Any request for consolidation would require approval by the County Board of Supervisors ("Board") to become operative and, if the City decides to submit its formal request for consolidation for the 2018 statewide general election, the Division has indicated they would also forward their recommendation of support to the Board.

Due to the constraints of the County's current voting system, if the City Council wishes to consolidate early (i.e., 2018), time is of the essence in submitting a request for consolidation to the County. In addition, with early consolidation, the City would not only meet optimal compliance with SB 415, but also, by synchronizing with a November statewide general election, it is anticipated that there will be less "voter fatigue" experienced with multiple year-round elections, an increase in Agoura Hills voter turnout, and, as the City would be consolidating with an election cycle the County already conducts, an overall reduction in shared election costs. Upon the City Council's formal decision to consolidate, and final approval by the County Board of Supervisors, staff will increase efforts to notify the residents of the upcoming change in the new general municipal election date via public outreach (i.e., public announcements at meetings, and via the City website, leaflet, cable television, and newspaper).

RECOMMENDATION

Staff respectfully recommends the City Council provide direction to staff concerning the option desired for a statewide election consolidation date (i.e., Options 1-6 above). Based on the direction provided, staff will bring back a draft ordinance for City Council consideration at the August 10, 2016 regular meeting.

Attachment: SB 415 (Voter Participation – Hueso)

Senate Bill No. 415

CHAPTER 235

An act to add Chapter 1.7 (commencing with Section 14050) to Division 14 of the Elections Code, relating to elections.

[Approved by Governor September 1, 2015. Filed with Secretary of State September 1, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 415, Hueso. Voter participation.

Existing law generally requires all state, county, municipal, district, and school district elections be held on an established election date. Existing law also establishes certain dates for statewide elections. Existing law requires any state, county, municipal, district, and school district election held on a statewide election date to be consolidated with a statewide election, except as provided.

This bill, commencing January 1, 2018, would prohibit a political subdivision, as defined, from holding an election other than on a statewide election date if holding an election on a nonconcurrent 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, except as specified.

This bill would require a court to implement appropriate remedies upon a violation of this prohibition. The bill would authorize a voter who resides in a political subdivision where a violation is alleged to file an action in superior court to enforce this prohibition, and it would allow a prevailing plaintiff other than the state or political subdivision to collect a reasonable attorney's fee and litigation expenses, as provided.

The people of the State of California do enact as follows:

SECTION 1. Chapter 1.7 (commencing with Section 14050) is added to Division 14 of the Elections Code, to read:

CHAPTER 1.7. VOTER PARTICIPATION

14050. This chapter shall be known and may be cited as the California Voter Participation Rights Act.

14051. As used in this chapter:

(a) "Political subdivision" means a geographic area of representation created for the provision of government services, including, but not limited

to, a city, a school district, a community college district, or other district organized pursuant to state law.

(b) "Significant decrease in voter turnout" means the voter turnout for a regularly scheduled election in a political subdivision is at least 25 percent less than the average voter turnout within that political subdivision for the previous four statewide general elections.

(c) "Voter turnout" means the percentage of voters who are eligible to cast ballots within a given political subdivision who voted.

14052. (a) Except as provided in subdivision (b), a political subdivision shall not hold an election other than on a statewide election date if holding an election on a nonconcurrent date has previously resulted in a significant decrease in voter turnout.

(b) A political subdivision may hold an election other than on a statewide election date if, by January 1, 2018, the political subdivision has adopted a plan to consolidate a future election with a statewide election not later than the November 8, 2022, statewide general election.

14053. Upon a finding of a violation of subdivision (a) of Section 14052, the court shall implement appropriate remedies, including the imposition of concurrent election dates for future elections and the upgrade of voting equipment or systems to do so. In imposing remedies pursuant to this section, a court may also require a county board of supervisors to approve consolidation pursuant to Section 10402.5.

14054. In an action to enforce subdivision (a) of Section 14052, the court shall allow the prevailing plaintiff other than the state or political subdivision of the state, a reasonable attorney's fee consistent with the standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49, and litigation expenses including, but not limited to, expert witness fees and expenses as part of the costs. A prevailing defendant shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.

14055. A voter who resides in a political subdivision where a violation of subdivision (a) of Section 14052 is alleged may file an action pursuant to that section in the superior court of the county in which the political subdivision is located.

14056. This chapter does not apply to special elections.

14057. This chapter shall become operative on January 1, 2018.