



CITY OF GLENDALE, CALIFORNIA

REPORT TO THE:

Joint ☐ City Council ☒ Housing Authority ☐ Successor Agency ☐ Oversight Board ☐

November 7, 2017

**AGENDA ITEM**

Report: California Voter Participation Rights Act (CVPR) and Proposed Changes to Glendale Municipal Election Administration

- 1) Resolution Directing the City Clerk and City Attorney to Prepare a Proposed Charter Amendment to Change the Date of the City's General Municipal Election to the Date of a Statewide Primary or Statewide General Election.
- 2) Motion Providing Alternate or Additional Direction to Staff

**COUNCIL ACTION**

Public Hearing ☐ Ordinance ☐ Consent Calendar ☐ Action Item ☒ Report Only ☐

Approved for 11/07/17 calendar

**ADMINISTRATIVE ACTION**

Submitted by:  
Ardashes Kassakhian, City Clerk

Prepared by:  
Ardashes Kassakhian, City Clerk

Lyova Zalyan, Administrative Assistant

Approved by:  
Scott Ochoa, City Manager

Reviewed by:  
Yasmin K. Beers, Assistant City Manager

Michael J. Garcia, City Attorney

Signature

## **RECOMMENDATION**

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Staff respectfully recommends that Council reviews the report and provides direction as necessary to address the potential changes to the City Charter in order to comply with the California Voter Participation Rights Act (CVPR) and California Attorney General Opinion No. 16-603. Provide guidance to the City Clerk regarding the City of Glendale's administration of Elections to comply with the CVPR as follows:

- a. Consideration of timing, methods, and procedures to achieve compliance;
- b. Replacement of City Elections Vendors; or
- c. Provide alternative direction to staff on how to proceed

## **BACKGROUND/ANALYSIS**

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In recent years the California State Legislature has dedicated considerable attention to issues related to electoral reforms on the state and local level enacting legislation that has impacted all aspects of the elections processes from voter registration to administration and even timing of elections. Each bill has had a unique impact and as the City has had to adjust to new laws and mandates, it has always conducted its own stand-alone biennial election every April of odd numbered years in accordance with the City's Charter (Article V, Sec. 1). In 2015, the State Legislature adopted and Governor Brown signed Senate Bill (SB) 415 (Hueso), which requires cities with voter turnout rates lower than that of statewide elections to consolidate with the State. This new law necessitates Glendale to reexamine how we conduct our elections and the City's ability to maintain and conduct its elections in its current form.

### **SB 415 (CVPR) Impact on Charter Cities**

SB 415, also known as the California Voter Participation Rights Act (CVPR), added sections 14050 – 14057 (Exhibit A) to the CA Elections Code severely limiting the ability of many local jurisdictions in their ability to run their local elections in the manner of their choosing. The purpose of the bill is to increase voter participation in local elections by holding them at the same time as statewide elections such as a statewide primary, to be held in March as of recently adopted Senate Bill (SB) 568 (Lara). The bill does not change the scheduled 2018 statewide primary, which will be held in June or a general election in even numbered years. Currently statewide primaries are held in June but as of the passage of SB 568 commencing in 2019, the statewide primary date will change to March.

A summary of the CVPR is as follows:

"Commencing January 1, 2018, a political subdivision is prohibited from holding an election other than on a statewide election date if holding an election on a noncurrent date has previously resulted in voter turnout for a regularly-scheduled election in that political subdivision being at least 25 percent less than the average voter turnout within the political subdivision for the previous 4 statewide general elections, except as specified. Requires a court to implement appropriate remedies upon a violation of this prohibition. Permits 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 allows a prevailing plaintiff other than the state or political subdivision to collect a reasonable attorney's fee and litigation expenses, as provided."

It is not settled that the CVPR applies to charter cities such as Glendale, although the Attorney General has recently opined on the matter (discussion below). The California Constitution states that charter cities have authority over municipal affairs, while state legislation on matters

of statewide concern takes precedence over local laws. In this regard, the California Constitution specifically states that charter cities have “plenary” authority to provide for “the manner in which, the method by which, the times at which, and the terms for which the several municipal officers . . . shall be elected and appointed.” Cal. Const. art. XI, §5.

The City Attorney and City Clerk began communicating with counterparts in both Burbank and Pasadena (both charter cities) as to their interpretations of the CVPRA and how they were going to proceed given the ambiguity in the way the legislation had been written.

Based on this information that was available, on June 6, 2016, the City of Pasadena submitted a formal request for legal opinion through the office of Assembly Member Chris Holden to then State Attorney General Kamala Harris, requesting response to the following questions:

- (1) Does the CVPRA directly apply to charter cities and local school districts, if both entities’ district elections are governed by the charter of the city?
- (2) Could a municipal election held by a charter city on an otherwise valid but non statewide election date, that produced low voter turnout, be consider a matter of “statewide concern’ sufficient to negate local control and impose the Voter Participation Rights Act on a charter city?

On July 13, 2017, the City of Pasadena received a response – Attorney General Opinion No. 16-603 (Exhibit B), which stated that the CVPRA does apply to charter cities and to local school districts whose elections are governed by city charters. The AG’s Office cited the *Jauregui* decision (*Jauregui v. City of Palmdale* (2014)), a case involving the California Voting Rights Act, as justification first determination that the CVPRA applies to charter cities. Unlike a published appellate court opinion, the Attorney General’s opinion is not binding on the City or a trial court in the event of litigation. Attorney General opinions are often given deference by the courts, especially where the law is not settled.

#### **How Does the CVPRA Impact Glendale?**

Sec. 14052(a) prohibits subdivisions from holding an election other than on a statewide election date “if holding an election on a non-concurrent date has been previously resulted in a significant decrease in voter turnout.” What is considered “significant” decrease in voter turnout and does it apply to Glendale? The CVPRA defines this as voter turnout for a regularly scheduled election in a political subdivision that “is at least 25% less than the average voter turnout within that political subdivision for the previous four statewide general elections.” (CA Elec. Code 14051(b).) The tables below show what Glendale’s voter turnout has been in the last four April Municipal Elections as well as the percentage of turnout during the last four November General Elections (Gubernatorial and Presidential Elections).

#### **Glendale April Municipal Election Turnout 2011 – 2017**

<b>Year</b>	<b>Percentage%</b>
2011	25.83
2013	23.35
2015	20.30
2017	22.31
<b>Average</b>	<b>22.95</b>

### Glendale November General Election Turnout 2010 – 2016

Year	Percentage%
2010	49.73
2012	66.66
2014	29.07
2016	66.99
<b>Average</b>	<b>53.11</b>

The difference between the average of the last four general elections (53.11%) and the City Elections (22.95%) is 30.17%. Based on this calculation, Glendale's Municipal Elections fall 30% less than the rate for a Statewide General Election. Assuming the Attorney General's Opinion correctly applies the CVPRA to charter cities and school districts whose elections are governed by city charter, the turnout rates for Glendale's elections fall short of any threshold that would allow exemption from the law. This means that maintaining current election dates could face potential legal challenges especially if the turnout rates remain the same for both local and general elections.

#### **Impact of CVPRA on Election Administration and State's Sole Vendor**

Aside from any legal compliance requirements, there are very significant administrative and financial considerations and impacts of the CVPRA which necessitate a discussion of a potential move to a statewide election date. Martin & Chapman is the sole election services vendor/consultant in the State of California who has the means and the equipment to run elections for municipalities and special districts. Their client base has shrunk significantly as more jurisdictions have decided to comply with the CVPRA since 2015. As a result, Martin & Chapman indicated that they will no longer be in operation as of 2020. They have committed to running one last round of elections in 2019 but beyond that date there is no viable option available to run our own "stand alone" election in April. Martin & Chapman has been in business for over 63 years and has been the consultant for Glendale, Pasadena, Burbank, Santa Clarita, Beverly Hills, Santa Monica, West Hollywood and virtually every city in California that has needed a vendor for election services.

Martin & Chapman's services include:

- Type-setting and printing of official ballots and sample ballot pamphlets
- Inserting and mailing of Vote by Mail ballots to voters
- Supplying ballot tracking software and processes for accurate accounting of ballots received for verification and counting
- Preparing precinct kits for polling places (e.g. printing and supplying voter rosters, ballot materials, required language translations, signage, etc.)
- Ensuring legal compliance with California election laws
- Furnishing and operating ballot tabulation equipment on Election night
- Facilitating the tabulation and final canvass of all votes cast in an Election

Martin & Chapman is a unique company that provided a comprehensive list of services to cities and has no comparable replacement in the market. The City Clerk's office has researched other state's vendors and companies to seek options in the event that the city is required to conduct its own election under sever or unforeseen circumstances. As of the date of this report, staff has been unable to find any election vendor that can provide the scope of services and that has the certification needed to operate in the State of California.

### **Deadline and Options for Compliance**

The CVPRA will not be fully operative until January 1, 2018, and there is a "safe harbor" provision in the Code which permits a political subdivision to hold an election on any date other than a statewide election date "if, by January 1, 2018, the political subdivision has adopted a plan to consolidate a future election with statewide election not later than the November 8, 2022, statewide general election." If the political subdivision (GUSD, GCCD, City of Glendale) fails to comply by Jan. 1, 2018 then local citizens can file a lawsuit to force consolidation of the regular election date with a statewide election date. If a violation of the CVPRA is proven, then the courts have broad powers to impose specified remedies including ordering the date when the election is to be held and upgrades to elections equipment and systems. The latter would not be apply to Glendale but the first one would take the ability out of the hands of the Council as to when they wish to have the City's elections – March (Primary) or November (General). Additionally, if successfully challenged, the City would have to pay attorneys' fees and costs. There is no recuperation of City costs in the event it is successful unless a court finds the case was frivolous, unreasonable or without foundation, a very difficult standard to satisfy.

Over the course of the last year, Glendale has participated in both formal and informal discussions with cities in Los Angeles County to discuss options regarding elections operations in light of the situation with Martin & Chapman and the Attorney General's Opinion. The Cities of Burbank and Pasadena, which have similar needs and operations to Glendale, have voted to move to consolidating with a statewide election. Burbank's City Council voted unanimously to consolidate with the Statewide General Election of November 2020 and thus end both their mail-in ballot voting system and their Primary Election. As a result, the primary election process. Burbank's consolidation wouldwill also extend City Council terms by 19 months. Pasadena's City Council voted 5-3 to consolidate their elections with the manner of which still to be determined. Both Cities will be using the services of the Los Angeles County Registrar of Voters to conduct elections on behalf of their city and school districts. This appears to be the only option for cities in Los Angeles County and is the standard across California in other Counties as well.

The City Clerk's staff has been in regular contact with the County of Los Angeles Registrar to discuss the cost and feasibility of running Glendale's elections and has solicited costs for running both consolidated statewide and stand-alone April Elections depending on Council direction. County staff has indicated that they have the resources and means to be able to run both the City, School District and College Board Elections and have provided the City Clerk with a cost breakdown of possible options for City Council to consider (Exhibit C).

The cost difference between a consolidated County run Primary in March 2020 and a General Election in 2020 is between \$20,000 versus an April stand-alone election that drives up costs upwards of over 1.3 million dollars during a 2 seat cycle and almost 2 million dollars when there are 3 seats up for election. Although these estimates are preliminary and somewhat informal, they do track with previous election expenses and are a reliable basis for Council to make a decision on this item at this time.

City Council can, at its own discretion, consider the issues at the Council level and decide on a course of action regarding whether or not to comply with the CVPRA, and if so, submit the necessary amendments to the City charter that facilitate compliance. The voters will ultimately decide whether or not to approve the suggested Charter changes. If the discussion remains at the City Council level, the City Attorney and City Clerk will continue to provide information and assist as necessary in moving this process forward. Council can also appoint a Charter Review

Committee to specifically study this and other issues related to the compliance of CVPR and other Electoral Reforms. City of Los Angeles appointed a similar commission in 2014 prior to placing a measure on the ballot that changed its municipal election dates to a consolidated date with the County.

Timing of an election to amend the Charter will depend on Council action and can be held in either 2018 with a County run election or in April 2019 during the city's regularly scheduled Municipal Election.

### **Options to Consider for Amending City Charter**

#### **Option A (Primary Election):**

Officers elected in 2015 (2 City Council seats) election terms will conclude in April 2019. Option A extends the terms for those elected in April 2015 by 11 months to coincide with the proposed state-wide Primary election date in March 2020. Also, it extends the terms for those elected in 2017 (3 City Council Seats, City Clerk, City Treasurer) by 11 months to coincide with the proposed state-wide Primary election date in March 2022.

<b>Elected Offices – Election Year</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>2015</b>			
<b>2 City Council Seats</b>	April 2019	March 2020	11 months
<b>Elected Offices – Election Year</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>2017</b>			
<b>3 City Council Seats City Clerk City Treasurer</b>	April 2021	March 2022	11 months

#### **Option B (General Election):**

Officers elected in 2015 (2 City Council seats) election terms will conclude in April 2019. Option B, extends the terms for those elected in April 2015 by 19 months to coincide with the proposed state-wide General election date in November 2020. Also, it extends the terms for those elected in 2017 (3 City Council Seats, City Clerk, City Treasurer) by 19 months to coincide with the proposed state-wide General election date in November 2022.

<b>Elected Offices – Election Year</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>2015</b>			
<b>2 City Council Seats</b>	April 2019	November 2020	19 months
<b>Elected Offices – Election Year</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>2017</b>			
<b>3 City Council Seats City Clerk City Treasurer</b>	April 2021	November 2022	19 months

#### **Option C (Primary Election):**

**This option requires the City to run a Stand-Alone election with Martin & Chapman in 2019.** Those elected in April 2019 election (2 City Council seats) terms will conclude in April 2023. Option C, reduces the terms by 13 months to coincide with the proposed state-wide Primary election date in March 2022. Also, it reduces the terms for those elected in 2017 (3 City

Council Seats, City Clerk, City Treasurer) by 13 months to coincide with the proposed state-wide Primary election date in March 2020.

Elected Offices – Election Year 2019	Current Election	Proposed Date	Election	Reduce Term
2 City Council Seats	April 2023	March 2022		13 months
Elected Offices – Election Year 2017	Current Election	Proposed Date	Election	Reduce Term
3 City Council Seats City Clerk City Treasurer	April 2021	March 2020		13 months

**Option D (General Election):**

**This option requires the CITY to run a Stand-Alone election with Martin & Chapman in 2019.** Those elected in April 2019 election (2 City Council seats) terms will conclude in April 2023. Option D, reduces the terms by 5 months to coincide with the proposed state-wide General election date in November 2022. Also, it reduces the terms for those elected in 2017 (3 City Council Seats, City Clerk, City Treasurer) by 5 months to coincide with the proposed state-wide General election date in November 2020.

Elected Offices – Election Year 2019	Current Election	Proposed Date	Election	Reduce Term
2 City Council Seats	April 2023	November 2022		5 months
Elected Offices – Election Year 2017	Current Election	Proposed Date	Election	Reduce Term
3 City Council Seats City Clerk City Treasurer	April 2021	November 2020		5 months

**GUSD and GCCD: How Will Their Elections Change?**

It is important to note that there is no obligation for the School Board or Glendale College District to comply with City Council decision or run their elections with the City on any of the recommended timelines/options. Education Code sections 5000 and 5017 provide that school and community college election are held in November of odd numbered years. However, GUSD runs its elections concurrently with the City per our Charter and Glendale College was determined to be one of the few colleges that conduct its own election outside of November because of a state law (SB 1277) and a subsequent local proposition (Measure X) which was voted on and passed on November 4, 1980.

It would be efficient and recommended by staff for the City and the voters of Glendale for all three agencies to have a singular voting date but there is nothing that officially binds the three bodies to one another. Every election cycle, the GCC Board of Trustees and School Board request to have a consolidated election run by the City which we conduct for both agencies. It would be Staff's recommendation to communicate to both agencies the City Council's decision as soon as possible to allow both the Trustees and School Board to make their decisions accordingly.

### ***Findings and Recommendations***

Staff recommends that Council adopt a resolution directing staff to prepare charter amendment language that implement one of the four options (A, B, C, or D) in order to have a plan to comply with the CVPRA. If so directed, staff will return to Council with the proposed charter amendment in early 2018 for Council consideration to place on the ballot for the June 2018 Statewide Primary Election.

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### **FISCAL IMPACT**

There is no cost or fiscal impact associated with this report. However, recommendations by Council may have fiscal impact which can be calculated and presented as part of any future reports stemming from direction given to staff. The cost will be directly related to the figures stated in this report and can have a range anywhere between \$150,000 per election to over \$1.3 million per election cycle. This report is an outline of the impact and options before the city as a result of an unfunded State mandate (CVPRA). A future report will give a more concrete cost analysis and comparison to past election costs. Exhibits C and D have been provided to give Council with an idea of what costs have been and can be in the future.

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### **ALTERNATIVES**

Alternative 1: Resolution Directing Preparation of Charter Amendment Changing General Municipal Election Date.

Alternative 2: The City Council may consider any other alternative not proposed by staff.

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### **CAMPAIGN DISCLOSURE**

N/A

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### **EXHIBITS**

Exhibit A: CALIFORNIA ELECTIONS CODE §14050 – 14057

Exhibit B: ATTORNEY GENERAL OPINION No. 16-603

Exhibit C: ESTIMATED COSTS FOR 2019 STAND-ALONE ELECTION AND  
CONSOLIDATED ELECTION FROM LA COUNTY REGISTRAR-RECORDER

Exhibit D: ELECTION COSTS – ADMINISTRATION COST COMPARISONS



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
GLENDALE, CALIFORNIA, DIRECTING THE CITY CLERK  
AND CITY ATTORNEY TO PROPOSE A PROPOSED  
CHARTER AMENDMENT TO CHANGE THE ELECTION  
DATE OF THE CITY'S GENERAL MUNICIPAL ELECTION  
TO THE DATE OF THE STATEWIDE PRIMARY ELECTION  
OR STATEWIDE GENERAL ELECTION**

**WHEREAS**, Article V of the Glendale City Charter establishes the City's general municipal elections of Councilmembers, City Clerk, and City Treasurer on the first Tuesday in April in each odd-numbered year; and

**WHEREAS**, Article XI, Section 5 of the California Constitution states that charter cities like Glendale have "plenary" authority to provide for "the manner in which, the method by which, the times at which, and the terms for which the several municipal officers . . . shall be elected and appointed[;]" and

**WHEREAS**, in 2015, the California Legislature adopted and the Governor signed Senate Bill 415, the California Voter Participation Rights Act ("CVPRA").

**WHEREAS**, the CVPRA prohibits a political subdivision 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 percent less than the average voter turnout within the political subdivision for the previous 4 statewide general elections; and

**WHEREAS**, the average voter turnout of the last four statewide elections has been 53.11 percent and the voter turnout in the 2011, 2013, 2015, and 2017 general municipal elections has been 25.83%, 23.35%, 20.30% and 22.31% respectively, meaning the voter turnout in the City's general municipal elections has been at least

25% less than the average of the voter turnout in Glendale in the last four statewide elections ; and

**WHEREAS**, if applicable to charter cities, SB 415 requires cities who have had a voter turnout at least 25% less than the average turnout within the jurisdiction over the last four statewide elections to change their election date by January 1, 2018 or adopt a plan to consolidate a future election with a statewide election not later than the November 8, 2022 statewide general election; and

**WHEREAS**, the Council desires to comply with state law, to the extent required, and the City's Charter by proposing a ballot measure that would amend the City's Charter to be consistent with SB 415.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
GLENDALE:**

1. The Council directs the City Clerk and City Attorney to prepare a proposed ballot measure that would amend the City Charter to change the municipal election date for election of City officers (City Councilmembers, City Clerk and City Treasurer) as follows:

**Option A (Statewide Primary Election):**

Officers elected in 2015 (2 City Council seats) election terms will conclude in April 2019. Option A extends the terms for those elected in April 2015 by 11 months to coincide with the proposed state-wide Primary election date in March 2020. Also, it extends the terms for those elected in 2017 (3 City Council Seats, City Clerk, City Treasurer) by 11 months to coincide with the proposed state-wide Primary election date in March 2022.

<b>Elected Offices – Election Year 2015</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>2 City Council Seats</b>	April 2019	March 2020	11 months
<b>Elected Offices – Election Year 2017</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>3 City Council Seats City Clerk City Treasurer</b>	April 2021	March 2022	11 months

**Option B (Statewide General Election):**

Officers elected in 2015 (2 City Council seats) election terms will conclude in April 2019. Option B, extends the terms for those elected in April 2015 by 19 months to coincide with the proposed state-wide General election date in November 2020. Also, it extends the terms for those elected in 2017 (3 City Council Seats, City Clerk, City Treasurer) by 19 months to coincide with the proposed state-wide General election date in November 2022.

<b>Elected Offices – Election Year 2015</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>2 City Council Seats</b>	April 2019	November 2020	19 months
<b>Elected Offices – Election Year 2017</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Extend Term</b>
<b>3 City Council Seats City Clerk City Treasurer</b>	April 2021	November 2022	19 months

**Option C (Standalone April 2019 Election, Statewide Primary Election):**

**This option requires the City to run a Stand-Alone election with Martin & Chapman in 2019.** Those elected in April 2019 election (2 City Council seats) terms will conclude in April 2023. Option C, reduces the terms by 13 months to coincide with the proposed state-wide Primary election date in March 2022. Also, it reduces the terms for those elected in 2017 (3 City Council Seats, City Clerk, City Treasurer) by 13 months to coincide with the proposed state-wide Primary election date in March 2020.

<b>Elected Offices – Election Year 2019</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Reduce Term</b>
<b>2 City Council Seats</b>	April 2023	March 2022	13 months
<b>Elected Offices – Election Year 2017</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Reduce Term</b>
<b>3 City Council Seats City Clerk City Treasurer</b>	April 2021	March 2020	13 months

**Option D (Standalone April 2019 Election, Statewide General Election):**

**This option requires the CITY to run a Stand-Alone election with Martin & Chapman in 2019.** Those elected in April 2019 election (2 City Council seats) terms will conclude in April 2023. Option D, reduces the terms by 5 months to coincide with the proposed state-wide General election date in November 2022. Also, it reduces the terms for those elected in 2019 (3 City Council Seats, City Clerk, City Treasurer) by 5 months to coincide with the proposed state-wide General election date in November 2020.

<b>Elected Offices – Election Year 2019</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Reduce Term</b>
<b>2 City Council Seats</b>	April 2023	November 2022	5 months
<b>Elected Offices – Election Year 2017</b>	<b>Current Election</b>	<b>Proposed Election Date</b>	<b>Reduce Term</b>
<b>3 City Council Seats City Clerk City Treasurer</b>	April 2021	November 2020	5 months

2. The Council further directs staff to prepare the necessary ballot and charter amendment language necessary to accomplish the purposes of this Resolution for the Council's review and consideration to place said ballot measures on the ballot for the statewide primary election in June 2018.

3. The Council further directs the City Attorney to prepare any ancillary charter amendment language for Council review that may be necessary to make the Charter internally consistent.

4. This Resolution constitutes the City's plan to consolidate a future election with a statewide election as set forth in subdivision (b) of California Elections Code Section 14052.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF CALIFORNIA     )  
  ) SS  
COUNTY OF LOS ANGELES )

I, Ardashes Kassakhian, City Clerk of the City of Glendale, certify that the foregoing Resolution No. \_\_\_\_\_ was adopted by the Council of the City of Glendale, California, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and that same was adopted by the following vote:

Ayes:


Noes:

Absent:

Abstain:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
CITY ATTORNEY

DATE 11/3/17

**MOTION**

Moved by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, that, with respect to the Report to Council dated November 7, 2017 regarding the California Voter Participation Rights Act (CVPRA) and Proposed Changes to Glendale Municipal Election Administration, Council hereby provides additional or alternative direction as follows:

\_\_\_\_\_

\_\_\_\_\_

Vote as follows:

Ayes:

Noes:

Absent:

Abstain:

APPROVED AS TO FORM

  
CITY ATTORNEY

DATE 11/3/17

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#### ELECTIONS CODE - ELEC

**DIVISION 14. ELECTION DAY PROCEDURES [14000 - 14443]** ( *Division 14 enacted by Stats. 1994, Ch. 920, Sec. 2.* )

#### **CHAPTER 1.7. Voter Participation [14050 - 14057]** ( *Chapter 1.7 added by Stats. 2015, Ch. 235, Sec. 1.* )

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

(*Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.*)

**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.

(*Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.*)

**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.

(*Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.*)

**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.

(*Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.*)

**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.

(*Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.*)

**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.

*(Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.)*

**14056.** This chapter does not apply to special elections.

*(Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Section operative January 1, 2018, pursuant to Section 14057.)*

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

*(Added by Stats. 2015, Ch. 235, Sec. 1. Effective January 1, 2016. Note: This section postpones, until January 1, 2018, the operation of Chapter 1.7, commencing with Section 14050.)*



TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL  
State of California

XAVIER BECERRA  
Attorney General

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OPINION	:	No. 16-603
	:	
of	:	July 11, 2017
	:	
XAVIER BECERRA	:	
Attorney General	:	
	:	
LAWRENCE M. DANIELS	:	
Deputy Attorney General	:	
	:	

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THE HONORABLE CHRIS R. HOLDEN, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following question:

Does the California Voter Participation Rights Act apply to charter cities, and to local school districts whose elections are governed by city charters?

CONCLUSION

The California Voter Participation Rights Act applies to charter cities, and to local school districts whose elections are governed by city charters.

## ANALYSIS

California holds statewide elections in June and November of every even-numbered year.<sup>1</sup> Local elections held on the statewide election dates are referred to as “consolidated,” “concurrent,” or “on-cycle,” whereas those held on other dates are described as “nonconcurrent” or “off-cycle.”<sup>2</sup> In 2015, faced with the problem of substantially lower voter turnout in off-cycle elections, the Legislature enacted the California Voter Participation Rights Act (“Act”).<sup>3</sup>

The Act, which becomes operative on January 1, 2018,<sup>4</sup> requires any “political subdivision” whose elections have a “significant decrease in voter turnout” to hold its elections on a statewide election date.<sup>5</sup> The Act defines “political subdivision” as “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.”<sup>6</sup> A “[s]ignificant decrease in voter turnout” occurs where “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.”<sup>7</sup> And “voter turnout” is “the percentage of voters who are eligible to cast ballots within a given political subdivision who voted.”<sup>8</sup> The question presented is whether charter cities (and school

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<sup>1</sup> Elec. Code, § 1001; see Elec. Code, §§ 1200 (“The statewide general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year”), 1201 (“The statewide direct primary shall be held on the first Tuesday after the first Monday in June of each even-numbered year”).

<sup>2</sup> Elec. Code, §§ 10403, 14052, 14053; Cal. Common Cause, *Getting to 100%: How Changing the Election Date Can Improve Voter Turnout* (Feb. 2015) p. 3.

<sup>3</sup> Stats. 2015, ch. 235, § 1, eff. Jan. 1, 2016, operative Jan. 1, 2018 (adding Elec. Code, div. 14, ch. 1.7, §§ 14050-14057); see Berry & Gersen, *The Timing of Elections* (Winter 2010) 77 U of Chi.L.Rev 37, 55 & fn. 66 (in California, “[o]ff-cycle elections generate systematically lower turnout”).

<sup>4</sup> Elec. Code, § 14057.

<sup>5</sup> Elec. Code, § 14052, subd. (a); see also Elec. Code, § 14052, subd. (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”).

<sup>6</sup> Elec. Code, § 14051, subd. (a).

<sup>7</sup> Elec. Code, § 14051, subd. (b).

<sup>8</sup> Elec. Code, § 14051, subd. (c).

districts whose elections are governed by those charters<sup>9</sup>), by virtue of the California Constitution's "home-rule" provision, need not comply with the Act, or whether charter city law must yield to the Act where the two conflict. For the reasons that follow, we conclude that under such circumstances the Act controls.

We begin our analysis with the law on charter city autonomy. The California Constitution, article XI, section 5 gives charter cities the power to legislate "in respect to municipal affairs" over inconsistent state law.<sup>10</sup> These municipal affairs include the "conduct of city elections" and "the times at which . . . the several municipal officers . . . whose compensation is paid by the city shall be elected . . ."<sup>11</sup> But a charter city's "home-rule" authority over municipal affairs is not absolute; state law may trump charter law on matters of "statewide concern."<sup>12</sup>

The California Supreme Court has set forth a four-part test to determine when a state statute preempts a charter city law.<sup>13</sup> Under this test, a court must determine: (1) whether the charter city law regulates a municipal affair; (2) whether there is an actual conflict between the charter city law and the state statute; (3) whether the state statute addresses a matter of statewide concern; and (4) whether the state statute "is reasonably related to resolution of that concern and narrowly tailored to avoid unnecessary interference in local governance."<sup>14</sup> "If the court is persuaded that the subject of the state statute is one of statewide concern and that the statute is reasonably related to its resolution [and not unduly broad in its sweep], then the conflicting charter city measure ceases to be a 'municipal affair' pro tanto and the Legislature is not prohibited by article XI, section 5(a), from addressing the statewide dimension by its own tailored enactments."<sup>15</sup>

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<sup>9</sup> Like charter cities, school districts within charter cities whose charters govern their elections are normally exempt from the requirement that local elections be held on one of four "established election dates," which include the statewide election dates. (Elec. Code, §§ 1000, 1002, 1003, subds. (b), (d).)

<sup>10</sup> Cal. Const., art. XI, § 5, subd. (a).

<sup>11</sup> Cal. Const., art. XI, § 5, subd. (b)(3), (b)(4); see also Cal. Const., art. IX, § 16, subd. (a) (city charter may regulate school board elections).

<sup>12</sup> *State Bldg. and Const. Trades Council of Cal., AFL-CIO v. City of Vista* (2012) 54 Cal.4th 547, 552, 555-556 (*Vista*).

<sup>13</sup> *Vista, supra*, 54 Cal.4th at p. 556; *Cal. Fed. Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1, 16-17 (*Cal. Fed.*).

<sup>14</sup> *Vista, supra*, 54 Cal.4th at p. 556, internal quotation marks, internal citations, and ellipses omitted.

<sup>15</sup> *Vista, supra*, 54 Cal.4th at p. 556, internal quotation marks and ellipses omitted.

In *Jauregui v. City of Palmdale*, the Court of Appeal utilized this preemption test in a case concerning the California Voting Rights Act of 2001 (CVRA).<sup>16</sup> The CVRA sought to remedy minority vote dilution—a different voting-rights problem than the one that the Act addresses, i.e., low voter turnout in off-cycle elections. As explained in *Jauregui*, the CVRA was “adopted to prevent an at-large electoral system from diluting minority voting power and thereby impairing a protected class from influencing the outcome of an election.”<sup>17</sup> At issue in *Jauregui* was whether the CVRA applied to charter cities.<sup>18</sup>

Using the California Supreme Court’s preemption test from *Vista*, the Court of Appeal in *Jauregui* first determined that a charter city’s selection of at-large elections over district-based elections was a “municipal affair” because “article XI, section 5, subdivision (b) expressly identifies the conduct of city elections as a municipal affair.”<sup>19</sup> Second, the court found that there was an “actual conflict” between the CVRA and the city charter provision upon finding vote dilution of a protected class.<sup>20</sup> Third, the court explained that the CVRA involved a statewide concern as it implicated the constitutional rights to vote and equal protection as well as electoral integrity.<sup>21</sup> Finally, the court reasoned that the CVRA was narrowly drawn and reasonably related to the resolution of these statewide concerns since the CVRA only applied to at-large council elections when there has been vote dilution of a protected class.<sup>22</sup> Based on its analysis, the Court of Appeal concluded that the “home-rule” provisions of article XI, section 5 did not prevent the CVRA from being enforced in charter cities.<sup>23</sup> The Court of Appeal’s analysis now informs our own as we apply this same preemption test to the Act.

First, we also find the Act regulates a municipal affair—the decision when to hold a local election. The state Constitution enumerates the “conduct of city elections” and “the times at which . . . the several municipal officers . . . shall be elected” as two

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<sup>16</sup> *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, 795-802 (*Jauregui*); see Stats. 2002, ch. 129, § 1; Elec. Code, §§ 14025-14032.

<sup>17</sup> *Jauregui, supra*, 226 Cal.App.4th at p. 789.

<sup>18</sup> *Jauregui, supra*, 226 Cal.App.4th at p. 788.

<sup>19</sup> *Jauregui, supra*, 226 Cal.App.4th at p. 796, citing *Johnson v. Bradley* (1992) 4 Cal.4th 389, 398 (*Johnson*).

<sup>20</sup> *Jauregui, supra*, 226 Cal.App.4th at pp. 796-798.

<sup>21</sup> *Jauregui, supra*, 226 Cal.App.4th at pp. 798-801.

<sup>22</sup> *Jauregui, supra*, 226 Cal.App.4th at p. 802.

<sup>23</sup> *Jauregui, supra*, 226 Cal.App.4th at p. 802.

categories of municipal affairs.<sup>24</sup> A charter city's decision to hold a local election on a date other than a statewide election date involves the conduct of city elections and may also involve the times at which municipal officers are elected.

Second, an actual conflict exists between state and charter city law. As a threshold matter, we find that the Legislature intended the Act to apply to charter cities and school districts. The Act specifically includes "a city" and "a school district" under the definition of "political subdivision."<sup>25</sup> A charter city is a city.<sup>26</sup> Moreover, a charter city and a school district fall within the definition of "political subdivision" under the Act, as each is "a geographic area of representation created for the provision of government services . . . ."<sup>27</sup> The Court of Appeal in *Jauregui* applied the CVRA's identical definition of "political subdivision" to charter cities,<sup>28</sup> and we presume that the Legislature enacted the same language in the Act in light of this judicial ruling.<sup>29</sup> The presumption is bolstered here by the author's statements during legislative hearings that the bill covered charter cities.<sup>30</sup> Under this interpretation, the Act actually conflicts with

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<sup>24</sup> Cal. Const., art. XI, § 5, subds. (b)(3), (b)(4); see *Johnson, supra*, 4 Cal.4th at p. 398; *Jauregui, supra*, 226 Cal.App.4th at p. 796.

<sup>25</sup> Elec. Code, § 14051, subd. (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"); see Elec. Code, § 14052, subd. (a) ("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").

<sup>26</sup> Gov. Code, §§ 34100, 34101; *Jauregui, supra*, 226 Cal.App.4th at p. 794 ("The Legislature recognizes two types of cities. The first kind, a municipality organized under a charter, is a charter city").

<sup>27</sup> Elec. Code, § 14051, subd. (a); see Cal. Const., art. IX, § 14, art. XI, §§ 5, 7, 9; Ed. Code, §§ 1040, 1042, 1240, 35160, 35160.1, 35160.2.

<sup>28</sup> *Jauregui, supra*, 226 Cal.App.4th at pp. 796-798; see former Elec. Code, § 14026, subd. (c), as enacted by Stats. 2002, ch. 129, § 1. In 2015, the Legislature codified *Jauregui*'s holding by expressly including "charter city" in the definition of "political subdivision" in the CVRA. (Stats. 2015, ch. 724, § 2; Assem. Com. on Elections and Redistricting, Analysis of Assem. Bill No. 277 (2015-2016 Reg. Sess.) as introduced Feb. 11, 2015, p. 8.)

<sup>29</sup> *People v. Harrison* (1989) 48 Cal.3d 321, 329 ("Where a statute is framed in language of an earlier enactment on the same or an analogous subject, and that enactment has been judicially construed, the Legislature is presumed to have adopted that construction").

<sup>30</sup> Assem. Standing Com. on Elections and Redistricting, Hearing (Jul. 1, 2015),

charter city law where the charter city's off-cycle elections result in a significant decrease in voter turnout. Specifically, charter city law allows off-cycle elections, yet the Act prohibits them.<sup>31</sup> When this happens, the conflict "is in fact a genuine one, unresolvable short of choosing between one enactment and the other."<sup>32</sup>

Third, the Act addresses a matter of statewide concern: low voter turnout in off-cycle elections. To determine whether a statewide concern is present, we consider whether there is a "a convincing basis for legislative action originating in extramunicipal concerns, one justifying legislative supersession based on sensible, pragmatic considerations."<sup>33</sup> In doing so, we must "avoid the error of 'compartmentalization,' that is, of cordoning off an entire area of governmental activity as either a 'municipal affair' or one of statewide concern."<sup>34</sup> A finding of statewide concern does not mean that the charter city law is not of municipal concern, but "rather, that under the historical circumstances presented, the state has a more substantial interest in the subject than the charter city."<sup>35</sup>

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testimony of Sen. Ben Hueso, available at <https://ca.digitaldemocracy.org/hearing/383?startTime=114&vid=G-cKeAHj51U>, at 2:00, 3:29 (where the bill's author states that the Act applies to charter cities, which, according to his research, does not violate the state Constitution); see *Walters v. Weed* (1988) 45 Cal.3d 1, 10-11 (the "almost irresistible" presumption that the Legislature used language in the same sense as it was judicially construed in another statute "is strengthened further by the author's statements at the committee hearing" supporting this construction).

<sup>31</sup> Elec. Code, §§ 14051, subd. (b), 14052, subd. (a).

<sup>32</sup> *Cal. Fed.*, *supra*, 54 Cal.3d at pp. 16-17. While the Act and charter city law are not "entirely at odds" because a charter city may still hold off-cycle elections if there is no significant decrease in voter turnout (*Jauregui*, *supra*, 226 Cal.App.4th at p. 797), for an actual conflict to be present, "a local enactment may only contravene some aspects of a state law or do so only to an extent" (*id.* at p. 798, citing *Domar Electric, Inc. v. City of Los Angeles* (1995) 41 Cal.App.4th 810, 822). In *Jauregui*, there was an actual conflict even though the CVRA "does not prohibit city-wide council elections" but only does so if the charter city's "at-large electoral system" results in "a dilution of a protected class's voting rights . . . ." (*Jauregui*, *supra*, 226 Cal.App.4th at p. 798.) Likewise, there is an actual conflict whenever the charter city's off-cycle elections meet the statutory standard of a significant decrease in voter turnout.

<sup>33</sup> *Cal. Fed.*, *supra*, 54 Cal.3d at p. 18.

<sup>34</sup> *Cal. Fed.*, *supra*, 54 Cal.3d at p. 17.

<sup>35</sup> *Cal. Fed.*, *supra*, 54 Cal.3d at p. 18.

California's off-cycle elections generally have a substantially lower voter turnout than its on-cycle elections.<sup>36</sup> According to one report—cited in the legislative history about California mayoral and councilmanic elections—“simply moving an election to be synchronized with the even year state elections can result in a 21-36 percent boost in voter turnout for municipal and other local elections.”<sup>37</sup> Some commentators maintain that off-cycle elections often have low voter turnout “because they are formally nonpartisan and deliberately timed not to coincide with other elections, when the public’s attention is at its peak.”<sup>38</sup> The Act’s purpose, according to the bill’s author, was to combat the “abysmal” voter turnout in certain off-cycle elections by holding them “concurrently with statewide and federal elections, where voter turnout is often twice as high.”<sup>39</sup> Given these historical circumstances, we believe that the state has a more substantial interest in tackling the problem of low voter turnout in off-cycle elections than a charter city has in setting off-cycle dates for its local elections.<sup>40</sup> Here, as in *Jauregui*, there are grounds for finding a matter of statewide concern—the constitutional right to vote and the integrity of the electoral process.<sup>41</sup>

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<sup>36</sup> Berry & Gerson, *supra*, 77 U of Chi.L.Rev at p. 55 & fn. 66.

<sup>37</sup> Sen. Rules Com., Off. of Sen. Floor Analyses, Unfinished Business Analysis of Sen. Bill 415 (2015-2016 Reg. Sess.) as amended Jun. 23, 2015, p. 11; see Hajnal, Lewis, & Louch, Public Policy Institute of Cal., *Municipal Elections in Cal.: Turnout, Timing and Competition* (2002) pp. 35-37.

<sup>38</sup> Raam, *Charter School Jurisprudence and the Democratic Ideal* (Fall 2016) 50 Colum. J.L. & Soc. Probs. 1, 23, internal quotation marks omitted; see Cal. Const., art. II, § 6, subd. (a) (all school and city offices must be nonpartisan).

<sup>39</sup> Sen. 3d reading analysis of Sen. Bill 415 (2015-2016 Reg. Sess.) as amended Jun. 23, 2015, p. 3.

<sup>40</sup> It is claimed that charter cities have a “categorical” supremacy over city-officer elections based on their constitutionally granted “plenary authority” in these matters. (See Cal. Const., art. XI, § 5, subd. (b)(4).) We are particularly directed to *Mackey v. Thiel* (1968) 262 Cal.App.2d 362, where the Court of Appeal ruled that a state statute mandating that the city clerk mail qualification pamphlets upon a candidate’s request must give way to the charter city’s refusal to do so. (*Id.* at pp. 363-366.) In reaching its decision, the appellate court determined that the statute at issue was not of statewide concern as it did not “involve[] the right to vote.” (*Id.* at pp. 365-366.) The court’s own rationale therefore refutes the idea that a charter city’s sovereignty over city elections is absolute. (See also *Jauregui*, *supra*, 226 Cal.App.4th at pp. 803-804 [“The plenary authority identified in article XI, section 5, subdivision (b) can be preempted by a statewide law after engaging in the four-step evaluation process specified by our Supreme Court”].)

<sup>41</sup> See *Jauregui*, *supra*, 226 Cal.App.4th at pp. 799-801, citing U.S. Const., 14th

As the *Jauregui* court observed, “[t]he right to vote is fundamental” and the federal and state Constitutions protect it.<sup>42</sup> The California Constitution devotes several sections to this right, providing that “[a]ll political power is inherent in the people,”<sup>43</sup> that any United States citizen and resident at least 18 years old may vote,<sup>44</sup> that every vote must count and be secret,<sup>45</sup> and that the Legislature is responsible for providing “free elections.”<sup>46</sup>

As at-large elections may impinge on voting by causing voter dilution, off-cycle elections may impinge on voting by causing low voter turnout. The state’s interest in facilitating the exercise of the people’s right of suffrage “is one that goes to the legitimacy of the electoral process” and arises not “*merely* from a municipal concern.”<sup>47</sup>

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Amend. & Cal. Const., art. I, § 7, subd. (a), art. II, § 2. An isolated comment in the legislative record also raises possible *equal protection* concerns from low voter turnout in off-cycle elections. The bill’s author stated, “As a result of low voter turnout, the voting population often does not look like the general public as a whole and neither does the city council.” (Sen. Com. on Elec. & Const. Amends., analysis of Sen. Bill 415 (2015-2016 Reg. Sess.) as amended Apr. 15, 2015, p. 4.) It may be, as some advocates argue, that off-cycle elections disproportionately affect the voting of certain racial groups. (See, e.g., Burns, *New Law Might Mess With Odd-Year District Elections*, Santa Barbara Independent (Sep. 17, 2015), available at <http://www.independent.com/news/2015/sep/17/new-law-might-mess-odd-year-district-elections/>; Cal. Common Cause, *supra*, at p. 2 & fn. 6; see also *U.S. v. Village of Port Chester* (S.D.N.Y. 2010) 704 F.Supp.2d 411, 444 [in a federal Voting Rights Act action, finding that “off-cycle and staggered Trustee elections contribute to the Hispanic community’s difficulty in electing its candidates of choice and ‘enhance the opportunity for discrimination against Hispanics’”].) At any rate, we need not reach this issue given our other bases for finding low voter turnout to be a matter of statewide concern.

<sup>42</sup> *Jauregui*, *supra*, 226 Cal.App.4th at pp. 799-800; see *Yick Wo v. Hopkins* (1886) 118 U.S. 356, 370 (the right to vote is “a fundamental political right, because preservative of all rights”); *Cawdrey v. City of Redondo Beach* (1993) 15 Cal.App.4th 1212, 1226 (recognizing “the fundamental right to vote” as “obviously” a matter of statewide concern).

<sup>43</sup> Cal. Const., art. II, § 1.

<sup>44</sup> Cal. Const., art. II, § 2.

<sup>45</sup> Cal. Const., art. II, § 2.5, 7.

<sup>46</sup> Cal. Const., art. II, § 3.

<sup>47</sup> *Jauregui*, *supra*, 226 Cal.App.4th at p. 800; see *O’Callaghan v. State* (Alaska 1996) 914 P.2d 1250, 1263 (“The State’s interests in encouraging voter turnout . . . are important and are legitimate objectives for a state to seek to achieve when structuring



Moreover, significantly lower voter turnout in off-cycle elections affects electoral integrity. The California Supreme Court has instructed that “the integrity of the electoral process, at both the state and local level, is undoubtedly a statewide concern.”<sup>48</sup> In *Jauregui*, in concluding that the California Voting Rights Act governed a matter of statewide concern, the Court of Appeal reasoned, “Electoral results lack integrity where a protected class is denied equal participation in the electoral process because of vote dilution.”<sup>49</sup> One meaning of “integrity” is the “[s]tate or quality of being complete, undivided, or unbroken; entirety; as the *integrity* of an empire.”<sup>50</sup> Elections are less “complete” when there is significantly lower voter turnout because fewer eligible voters are participating in the electoral process.<sup>51</sup> This turnout therefore undermines electoral integrity and thus involves a matter of statewide concern.<sup>52</sup> This concern potentially

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election procedures”); see also Assem. Standing Com. on Elections and Redistricting, Hearing (Jul. 1, 2015), testimony of Sen. Ben Hueso, available at <https://ca.digitaldemocracy.org/hearing/383?startTime=114&vid=G-cKeAHj51U>, at 11:27 (the bill is “trying to create a situation in which you’re making it easier for people to weigh in to decisions that affect their lives in a big way”).

<sup>48</sup> *Johnson, supra*, 4 Cal.4th at p. 409, citing 35 Ops.Cal.Atty.Gen. 230, 231-232 (1960) (concluding that a state statute requiring that candidates comply with campaign financial disclosure laws governed a matter of statewide concern because it was “aimed at obtaining the election of persons free from domination by self-seeking individuals or pressure groups”).

<sup>49</sup> *Jauregui, supra*, 226 Cal.App.4th at p. 801.

<sup>50</sup> Webster’s New Internat. Dict. (2d ed. 1961) p. 1290, col. 3; see also Random House Webster’s Unabridged Dict. (2d ed. 1997) p. 990, col. 2 (defining integrity as “the state of being whole, entire, or undiminished”); Merriam-Webster online, at <https://www.merriam-webster.com/dictionary/integrity> (defining integrity as “the quality or state of being complete or undivided”).

<sup>51</sup> In other contexts, too, integrity has been construed to include completeness. (E.g., *People v. Santana* (2013) 56 Cal.4th 999, 1004 [interpreting our mayhem statute]; *State v. Pratt* (Neb. 2014) 842 N.W.2d 800, 810-811 [interpreting Nebraska’s DNA testing statute]; *Garelli Wong & Associates, Inc. v. Nichols* (N.D. Ill. 2008) 551 F.Supp.2d 704, 709 [interpreting the federal Computer Fraud and Abuse Act].)

<sup>52</sup> Analogously, in 2013, the Legislature amended other statutes to require that certain elections on city charters occur only on established statewide general election dates. (Stats. 2013, ch. 184, § 2; Elec. Code, §§ 1415, 9255, 9260; Gov. Code, §§ 34457, 34458.) The bill’s purpose was to increase voter participation for these elections. (Assem. Com. on Elections and Redistricting, Analysis of Sen. Bill No. 311 (2013-2014 Reg. Sess.) as amended Jun. 18, 2013, pp. 3-7.) Similarly, two years earlier, the Legislature had circumscribed the dates of these elections to a lesser degree to secure

arises in all off-cycle local elections, including those held in charter cities. In light of the statewide concerns about voter participation in off-cycle elections, we readily conclude that the Act does not solely address municipal matters.<sup>53</sup>

Finally, we find the Act to be reasonably related to the resolution of the statewide concerns discussed above. As mentioned, election studies support the Legislature's determination that consolidating low-turnout off-cycle elections with statewide elections would increase voter participation in local elections.<sup>54</sup> The Act is also narrowly tailored to avoid unnecessary interference in local governance. It applies only when the locality has a quantifiably (at least a 25%) lower voter turnout in its regularly scheduled elections than in its statewide general elections.<sup>55</sup> So it does not affect charter cities whose off-cycle elections do not manifest this difference in voter turnout.<sup>56</sup>

While a charter city's constitutional sovereignty over its municipal affairs should not be minimized, it must at times yield to statewide concerns. When off-cycle elections result in significantly decreased voter participation, they compromise "the essence of a democratic form of government,"<sup>57</sup> raising an important matter of statewide concern. For

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"broader voter participation." (*Id.* at p. 6.) In so doing, the Legislature acted "to ensure the statewide integrity of local government," thereby addressing "an issue of statewide concern." (Stats. 2011, ch. 692, § 10.)

<sup>53</sup> See also *Cal. Fed.*, *supra*, 54 Cal.3d at p. 24 (any doubt as to whether a matter is solely a municipal concern "must be resolved in favor of the legislative authority of the state," internal quotation marks omitted).

<sup>54</sup> It is argued that consolidating off-cycle elections with statewide elections is counterproductive because voters often pay less or no attention to local elections near the end of lengthy ballots as a result of "choice fatigue." During the legislative process, opposing positions on this issue were presented to the Legislature. (Compare Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill 415 (2015-2016 Reg. Sess.) as amended Apr. 28, 2015, pp. 5-6 ["Voter fatigue would likely counteract any benefit of forcing such a change as Agency elections would fall toward the end of a crowded ballot"] with *id.* at p. 5 ["Elections held on the same date can help reduce voter fatigue and make voting more habit forming"].) We need not enter into this policy debate, which the Legislature apparently resolved, to decide that the Act reasonably addressed the structural problem of low voter turnout in off-cycle elections.

<sup>55</sup> Elec. Code, §§ 14051, subd. (b), 14052, subd. (a).

<sup>56</sup> Cf. *Jauregui*, *supra*, 226 Cal.App.4th at p. 802 (finding the CVRA was narrowly tailored because it permits "citizens to challenge city-wide elections and, *only if there is vote dilution*, permit[s] a court to impose reasonable remedies to alleviate the problem").

<sup>57</sup> *Jauregui*, *supra*, 226 Cal.App.4th at p. 800.

these reasons, we conclude that the California Voter Participation Rights Act applies to charter cities, and to local school districts whose elections are governed by city charters.

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Los Angeles County Registrar-Recorder/County Clerk

DEAN C. LOGAN  
Registrar-Recorder/County Clerk

August 24, 2017

Ardy Kassakhian, City Clerk  
City of Glendale  
613 East Broadway Avenue, Suite 110  
Glendale, CA 91206

### ESTIMATED COSTS FOR THE 2019 STAND-ALONE ELECTION AND CONSOLIDATED ELECTIONS

Dear Mr. Kassakhian:

As requested, below are two election cost estimate scenarios for the City of Glendale:

Election	Scenario 1 (2 offices for Glendale City, USD sub-districts 1&5 and CCD Trustee Areas A&E)	Scenario 2 (5 offices for Glendale City, 3 offices for USD sub-districts 2,3&4 and CCD Trustee Areas B,C&D)
	Estimated Cost	Estimated Cost
April 2019 City of Glendale Stand-alone Election	\$1,333,000	\$1,376,000
April 2019 Glendale City, USD & CCD Consolidated Elections		
City of Glendale	\$979,000	\$988,000
Glendale Unified School District	\$459,000	\$656,000
Glendale Community College District	\$454,000	\$661,000
Total	\$1,892,000	\$2,305,000

Please note that this communication is strictly an estimate and is not a consent or agreement to hold, consolidate, or provide support services for an election. Election requests submitted to the Registrar-Recorder/County Clerk and/or the County of Los Angeles, especially those indicating interest in even year consolidation, will be considered by the Board of Supervisors (Board) at the appropriate time. The Board Policy is enclosed for your reference.

If you have any questions regarding this estimate, please contact Bernice Liang of my staff at (562) 462-2690.

Sincerely,

DEAN C. LOGAN  
Registrar-Recorder/County Clerk

ANN SMITH, Manager  
Fiscal Operations

**ELECTION ADMINISTRATION COST COMPARISONS****ELECTION COST ESTIMATE – STANDALONE ADMINISTERED BY COUNTY (April 2019)**

<b>ELECTION</b>	<b>COST ESTIMATE</b>
2 Offices for City of Glendale 2 Offices for GCCD (TAs 1 & 5) 2 Offices for GUSD (TAs A & E)	<b>\$1,892,000.00</b>
5 Offices for City of Glendale (Council, City Clerk, & City Treasurer) 3 Offices for GCCD (TAs 2, 3, 4) 3 Offices for GUSD (TAs B, C, & D)	<b>\$2,305,000.00</b>
2 Offices for City of Glendale	<b>\$1,333,000.00</b>
5 Offices for City of Glendale (Council, City Clerk, & City Treasurer)	<b>\$1,376,000.00</b>

**ELECTION COST ESTIMATE – CONSOLIDATE WITH LA COUNTY (Even Years: March or November 2018)**

<b>ELECTION</b>	<b>Primary (March) COST ESTIMATE</b>	<b>General (November) COST ESTIMATE</b>
2 Offices for City of Glendale 2 Offices for GCCD (TAs 1 & 5) 2 Offices for GUSD (TAs A & E)	<b>\$252,000.00</b>	<b>\$234,000.00</b>
5 Offices for City of Glendale (Council, City Clerk, & City Treasurer) 3 Offices for GCCD (TAs 2, 3, 4) 3 Offices for GUSD (TAs B, C, & D)	<b>\$254,000.00</b>	<b>\$237,000.00</b>
2 Offices for City of Glendale	<b>\$250,000.00</b>	<b>\$232,000.00</b>
5 Offices for City of Glendale (Council, City Clerk, & City Treasurer)	<b>\$251,000.00</b>	<b>\$235,000.00</b>

## ELECTION ADMINISTRATION COST COMPARISONS

### ELECTION COST – ADMINISTERED BY MARTIN & CHAPMAN (ELECTION CONSULTANT)

ELECTION YEAR	CITY	GUSD	GCCD	TOTAL
<b>2013</b>	\$190,741.24	\$173,398.69	(No Election)	<b>\$364,139.93</b>
<b>2015</b>	\$164,457.35	\$103,425.50	\$102,838.52	<b>\$370,721.37</b>
<b>2017</b>	\$334,642.17	\$100,129.09	\$159,606.39	<b>\$594,377.65</b>

### ELECTION COST – CONSOLIDATE WITH LA COUNTY (2014 & 2016)

ELECTION YEAR	ELECTION	COST
<b>June 3, 2014 (Primary Election)</b>	1 Office for Council Member 1 City Measure	<b>\$134,237.16</b>
<b>June 7, 2016 (Primary Election)</b>	1 City Measure	<b>\$221,133.75</b>