

Publications: Alerts

December 16, 2016

SB 415 Prohibits Off-Cycle Local Elections in Jurisdictions that Experience a Significant Decrease in Voter Turnout

RELATED ATTORNEY(S): Tiffany M. Tran, Warren S. Kinsler, Todd M. Robbins, Chesley D. Quaide, David A. Soldani

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Senate Bill 415, also known as the California Voter Participation Rights Act (CVPRA), added sections 14050 – 14057 to the Elections Code as of January 1, 2016.

Elections Code section 14052(a) 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 a significant decrease in voter turnout."

The purpose of the CVPRA is to increase voter participation in local elections by holding them at the same time as a statewide election date, i.e., either the statewide direct primary in June of even-numbered years, or the statewide general election in November of even-numbered years. Education Code sections 5000 and 5017 provide that school and community college district elections are held in November of odd-numbered years.

"Off-cycle" or "non-concurrent" elections are held on a date that does not coincide with the statewide direct primary election in June or the statewide general election in November of even-numbered years, e.g., school and community college district elections held in November of odd-numbered years.

The CVPRA defines a "significant decrease in voter turnout" as voter turnout for a regularly scheduled election in a political subdivision that "is at least 25 percent less than the average voter turnout within that political subdivision for the previous four statewide general elections." (Elec. Code § 14051(b).)

While the law does not specify how to calculate the 25 percent threshold, it is common for political subdivisions to experience a "significant decrease in voter turnout" no matter how the value is calculated because historically voter turnout for a statewide general election is significantly higher than turnout in any off-cycle election.

Changing a Board Election Date

A political subdivision must consolidate its elections with a statewide election date (June or November of even-numbered years) if its voter turnout numbers do not satisfy the CVPRA threshold.

A request to consolidate governing board elections of a school district or community college district with a statewide election must be established by adopting a resolution that is submitted to the county board of supervisors pursuant to Elections Code section 1302(b).

Elections Code sections 10404.5 and 10405.7 require a resolution requesting consolidation of elections to be submitted to

the board of supervisors no later than 240 days prior to the date of the election to be consolidated (e.g., if the election to be consolidated will be held in November of 2017, submissions are due in March of 2017). The board of supervisors must approve the resolution requesting consolidation within 60 days, **unless** it finds the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled.

Deadline for Compliance

The CVPRA became law on January 1, 2016, but is not fully operative until January 1, 2018. (Elec. Code § 14057.) The delayed implementation is also reflected in the "safe harbor" provision at Elections Code section 14052(b), which permits a political subdivision to 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."

Remedies

If a political subdivision fails to comply with the CVPRA by January 1, 2018, local citizens have the right to file a lawsuit to force consolidation of the regular election date with a statewide election date. If a violation of the CVPRA is proven, Elections Code section 14053 gives courts broad powers to impose specified remedies:

Order a political subdivision to hold its elections on a date that is concurrent with a statewide election date;

Order upgrades to election equipment or the systems supporting election equipment; or

Order a county board of supervisors to approve a political subdivision's request to consolidate its elections with a statewide election date.

The CVPRA permits prevailing plaintiffs to collect attorney's fees and costs, including expert witness fees. If a school district or community college district prevails, it is not entitled to costs unless the court finds the case was frivolous, unreasonable, or without foundation. (Elec. Code § 14054.)

Impact of SB 415

The June 29, 2015 Assembly Committee on Elections and Redistricting Analysis of SB 415 indicates the Legislature anticipated the law's far-reaching impact:

"...in practice, this bill may force almost all local jurisdictions to hold their regularly scheduled elections at the same time as statewide elections."

We are available to assist school districts and community college districts with assessing their options and developing a course of action for compliance with the CVPRA.

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