



CITY OF CARSON

Legislation Text

File #: 2020-510, Version: 1

Report to Mayor and City Council

Tuesday, August 04, 2020

Special Orders of the Day

SUBJECT:

PUBLIC HEARING AND SECOND READING TO ADOPT ORDINANCE NO. 20-2008: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON CHANGING THE MUNICIPAL ELECTIONS WITH RESPECT TO COUNCILMEMBERS ONLY FROM AN AT-LARGE ELECTIONS TO BY-DISTRICT ELECTIONS BY ADDING SECTION 2155 (BY-DISTRICT ELECTIONS) TO CHAPTER 1.5 (GENERAL MUNICIPAL ELECTIONS) OF ARTICLE II (ADMINISTRATION) OF THE CARSON MUNICIPAL CODE ESTABLISHING DISTRICT ELECTIONS, DEFINING DISTRICT BOUNDARIES, AND SCHEDULING DISTRICT ELECTIONS (CITY COUNCIL)

I. SUMMARY

The introduction of this Ordinance was on the July 21, 2020 agenda pursuant to Mayor Robles' request. It was approved by a 3-2 vote, with Councilmembers Davis-Holmes and Hicks voting no. For the consideration of District Voting, the City was required to hold two public hearings prior to drawing any district maps, over a period of no longer than 30 days, in order to receive public input and discuss the composition of the voting districts. (Elections Code section 10010(a)(1).) The adoption of an Ordinance requires the City to conduct a public hearing, which is typically (albeit not required to be) held at the Introduction stage (First Reading). Because of the timing of issues related to this ordinance, this Public Hearing is being conducted at the Adoption (Second Reading) stage. The Public Hearing Notice was published in The Daily Breeze. The proposed ordinance would change Carson's elections for City Councilmembers from At-Large Elections to By-District Elections.

The new Ordinance adopts a district map for the City and establishes by-district elections for the four Councilmembers starting in November, 2020. All Councilmembers in office at the time the ordinance takes effect shall continue in office until the expiration of the at-large term to which they were elected.

II. RECOMMENDATION

1. OPEN the public hearing, *and*
2. TAKE public testimony *and*

3. WAIVE further reading and ADOPT Ordinance No. 20-2008, an Ordinance of the City Council of the City of Carson to change the Municipal Elections with respect to Councilmembers only from an At-Large Elections to By-District Elections by adding Section 2155 (By-District Elections) to Chapter 1.5 (General Municipal Elections) of Article II (Administration) of the Carson Municipal Code Establishing District Elections, Defining District Boundaries, and Scheduling District Elections.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

A. CVRA Lawsuit and Court Hearing Set for July 29, 2020

On May 22, 2018, the City received a letter from Shenkman and Hughes, PC, (“Shenkman”) demanding that the City Council elections transition from the current “at-large” method to “by-district” to conform to the California Voting Rights Act (CVRA) of 2001.

The CVRA, at California Elections Code section 14027, states: “An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class ... “ A by-district election process means voters within a designated Council electoral district elect one City Council member who must also reside in and be a registered voter of that district. The City of Carson currently elects City Council members through an at-large election process, meaning each voter elects all members of the City Council.

Shenkman asserts that the City of Carson is in violation of the CVRA because “racially polarized voting” occurs in the city.

The lawsuit filed by Shenkman, on behalf of the Southwest Voters Rights Project, has a motion for preliminary injunction set for hearing on July 29, 2020. That motion seeks to prohibit any further at-large elections for Carson’s City Councilmembers.

B. CVRA Procedures

1. Ordinance Adoption and Charter Provision

Government Code section 34886 allows the City, by ordinance, to change from at-large elections for the City Council to district-based elections. Under State law, the City by ordinance may establish four districts for election of members of the City Council, with the Mayor continuing to be elected at-large by all the voters in the City.

Pursuant to City Charter Section 301, the City of Carson currently elects and is governed by four (4) City Councilmembers and a directly elected Mayor, using an at-large election system.

However, a charter city remains subject to the California Constitution and is prohibited from adopting or maintaining a discriminatory electoral system or electoral practices that violate the equal protection clause or the right to vote. (*Canaan v. Abdelnour* (1985) 40 Cal.3d 703, overruled on other grounds by *Edelstein v. City & County of San Francisco* (2002) 29 Cal.4th 164, 183 (2002); *Rees v. Layton* (1970) 6 Cal.App.3d 815.).

California courts have recognized that state statutes can override city charters if they are narrowly tailored to address an issue of statewide concern, even in the core areas of charter city control such as election administration. (*Edelstein v. City & County of San Francisco* (2002) 29 Cal.4th 164, 172-174; *Johnson v. Bradley* (1992) 4 Cal.4th 389, 398-400.)

The CVRA expressly provides that it is intended to implement the guarantees of Section 7 of Article I (Equal Protection) and Section 2 of Article II (Right to Vote) of the California Constitution, which are themselves regarded as matters of statewide concern. (*Cawdrey v. City of Redondo Beach* (1993) 15 Cal.App.4th 1212, 1226.).

Thus, local voters' preference for at-large elections, whether expressed through referendum, initiative or charter amendment election, thereby does not alter the requirements of the CVRA, nor does it insulate the City from liability under the CVRA, in that the State Legislature has declared the CVRA to be a matter of statewide concern. (*Johnson v. Bradley* (1992) 4 Cal. 4th 389, 394.))

2. Election Code Requirements

The Elections Code lays out several requirements that the City must satisfy prior to adopting an ordinance formally transitioning to district-based elections.

The City is required to hold two public hearings prior to drawing any district maps, over a period of no longer than 30 days, to receive public input and discuss the composition of the voting districts. (Elections Code section 10010(a)(1).)

The City held three noticed public hearings during the initial districting process, prior to the drafting of preliminary Council district maps by a City retained demographer, at which the public was invited to provide input regarding the composition of Council districts, those noticed public hearings being held on May 21, 2019, June 13, 2019 and

June 18, 2019.

After district maps are drawn, the City must hold at least two more public hearings, over a period of no more than 45 days, to receive public input on the draft map(s). (Elections Code subdivision 10010(a)(2).)

Subsequent to the drafting of preliminary Council district maps by a City retained demographer, the City held multiple noticed public hearings on such Council district maps, with the maps being made available to the public no less than seven days before maps were considered at public hearings, noticed public hearings being held on August 17, 2019 and September 17, 2019.

Multiple draft Council district maps considered at public hearings by the Council and the public have been published online on the City of Carson's website for public review.

(<https://ci.carson.ca.us/CityManager/DistrictBasedElections.aspx>.)

The September 19, 2019 public hearing discussed election sequencing, and on October 1, 2019 and October 15, 2019 election sequencing was also discussed at public meetings.

On November 19, 2019, at a duly noticed public hearing, the City Council considered a draft version (previously referred to as "Draft 2") of the Final District Map now being considered for introduction with the ordinance. That draft version ("Draft 2") of the District Map was made available to the public through publication no less than seven days before that November 19, 2019 public hearing.

After the November 19, 2019 public hearing, that draft version of the District Map ("Draft 2") was revised to create a final District Map (also referred to as "Draft 2 v[ersion] 2"; Exhibit A to Ordinance 20-2008; Attachment No. 2) (also referred to herein as "Final District Map").

The Final District Map was published on the City's website and made available to the public on January 10, 2020 and has been available to the public for no less than 7 days before July 21, 2020.

C. Proposed Ordinance

The proposed ordinance provides that all Councilmembers, other than the directly-elected Mayor, shall be elected on a by-district basis from the Council districts shown and numbered on the Final District Map attached as Exhibit A.

All Councilmembers in office at the time the ordinance takes effect shall continue in office until the expiration of the at-large term to which they were elected.

All City Council elections starting in November, 2020 shall take place "by district" as that term is defined in California Government Code section 34871, meaning each of the five (5) Councilmembers, other than the directly elected Mayor, shall be elected from each district, by the voters of that district alone.

Any Councilmember elected or appointed to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued.

Termination of residency in a district by a Councilmember shall create a vacancy for that City Council district unless a substitute residence within the district is immediately declared and established within thirty (30) days after the termination of residency.

V. FISCAL IMPACT

None anticipated.

VI. EXHIBITS

1. Ordinance No. 20-2008, an Ordinance of the City Council of the City of Carson to change the Municipal Elections with respect to Councilmembers only from an At-Large Elections to By-District Elections by adding Section 2155 (By-District Elections) to Chapter 1.5 (General Municipal Elections) of Article II (Administration) of the Carson Municipal Code Establishing District Elections, Defining District Boundaries, and Scheduling District Elections (pgs. 6-10)
2. EXHIBIT A, DISTRICT MAP "DRAFT 2 v2" (EXHIBIT A TO ORDINANCE NO. 20-2008) (pgs. 11-12)

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