IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

CITY OF REDONDO BEACH, Plaintiff/Respondent, vs. STATE OF CALIFORNIA; ALEX PADILLA, Secretary of State of the State of California, in his official capacity, Defendants/Appellants.	Case No. B294016 Los Angeles County Superior Court No. BS172218 Hon. Amy D. Hogue

BRIEF OF AMICUS CURIAE LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF RESPONDENT CITY OF REDONDO BEACH

DENNIS J. HERRERA, State Bar #139669
City Attorney
YVONNE R. MERÉ, State Bar #173594
Chief of Complex and Affirmative Litigation
AILEEN M. McGRATH, State Bar #280846
Co-Chief of Appellate Litigation
RONALD H. LEE, State Bar #238720
Deputy City Attorney
Fox Plaza
1390 Market Street, 6th Floor
San Francisco, California 94102-5408
Telephone:(415) 554-3935
Facsimile: (415) 437-4644
E-Mail: Ronald.Lee@sfcityatty.org

Attorneys for *Amicus Curiae*
LEAGUE OF CALIFORNIA CITIES

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INTRODUCTION

The California Constitution expressly grants to charter cities "plenary authority" to control the conduct and timing of municipal elections. Charter cities across California have exercised this authority to determine, based on their needs and priorities, when to hold local elections. Despite the clear constitutional underpinning of this authority, the Secretary continues to assert that the California Voter Participation Rights Act ("VPRA" or "the Act") (Cal. Elec. Code, §§ 14050-14057) can nonetheless countermand a charter city's decision on municipal election dates by requiring local jurisdictions with standalone elections that have low rates of participation to hold those elections concurrently with statewide elections. But the specific directives of the Constitution and the proper interpretation of the text and legislative history of the VPRA dictate that the Act's requirement cannot be lawfully imposed on charter cities.

The Constitution has long protected municipalities from State interference in the regulation of municipal affairs, and this Court should reject the Secretary's attempt to abridge charter cities' enumerated municipal powers, including the plenary power to provide for the timing of local elections. Consistent with this plenary authority, the VPRA contains no language indicating its applicability to charter cities, and extrinsic evidence confirms that the Legislature did not intend for the Act to supplant charter cities' election schedules. Finally, there are no credible issues of statewide concern sufficient to justify the Secretary's attempt to regulate the timing of municipal elections. The Secretary's assertion that the timing of local elections implicates election integrity is flawed as a matter of law and logic. Rather, the decision on when to hold local elections affects only the governance of local jurisdictions, and is informed entirely by intramural concerns that have no extramunicipal impact.

ARGUMENT

I. Charter Cities Have Plenary Authority to Conduct Local Elections.

A. The California Constitution Affirmatively Grants Municipalities Inherent Power to Govern Their Internal Affairs.

Municipalities have long possessed significant authority under the Constitution to govern their internal affairs. City governments in California existed before California became a state in 1850, and the formation of the State government soon led to the adoption of "home rule" provisions limiting the State's legislative authority during the Constitutional Convention of 1879. The "home rule" provisions explicitly recognized the inherent power of every city—general and charter cities alike—to "make or enforce within its limits all local, police, sanitary, and other ordinances or regulations not in conflict with the general laws." (Cal. Const. of 1879, art. XI, § 11, now art. XI, § 7.) In doing so, the Constitution had, "by direct grant, vested in [cities] plenary power to provide and enforce such … regulations as they may determine shall be necessary for the health, peace, comfort and happiness of their inhabitants. . . ." (*Ex parte Ackerman* (1907) 6 Cal.App. 5, 9-10.)

The notion of "home rule" was reinforced in 1896, when Article XI was amended to explicitly preserve local government autonomy to govern "municipal affairs." (Cal. Const. Revision Com., Background Study Relating to Article XI: Local Government (1966) p. 187 (Art. XI Background Study) ["[T]he 1896 amendment to Section 6 [on Municipal Corporations] is seen as a basic political decision to vest broad home rule powers in charter cities . . . with reference to 'municipal affairs'"].) Specifically, the section was revised to read as follows: "[C]ities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, *except in municipal affairs*, shall be

subject to and controlled by general laws."[1] (Cal. Const. of 1896, art. XI, § 6, italics added.) In 1914, this section was amended again to further give charter cities the power to "*make and enforce all laws and regulations in respect to municipal affairs*, subject only to restrictions and limitations provided in their several charters, and in respect to other matters they shall be subject to and controlled by general laws." (Cal. Const. of 1914, art. XI, § 6, italics added.) The purpose of this amendment was to transform the "municipal affairs" clause into a positive grant of power and to empower charter cities to maintain control over local affairs without the need for repeated amendments to their charters. (Art. XI Background Study, *supra*, pp. 189-90.)

This affirmative grant of legislative and regulatory power to charter cities is found in substantively identical form today:

> It shall be competent in any city charter to provide that the city governed thereunder *may make and enforce all ordinances and regulations in respect to municipal affairs*, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs *shall supersede all laws inconsistent therewith*.

(Cal. Const., art. XI, § 5, subd. (a), italics added.) As evinced by these successive amendments, the scope of charter cities' authority over

[1] This explicit recognition that city charters were not subordinate to general laws "was to prevent existing provisions of charters from being frittered away by general laws [and] enable municipalities to conduct their own business and control their own affairs to the fullest possible extent in their own way. It was enacted upon the principle that the municipality itself knew better what it wanted and needed than the state at large, and to give that municipality the exclusive privilege and right to enact direct legislation which would carry out and satisfy its wants and needs. ... This amendment, then, was intended to give municipalities the sole right to regulate, control, and govern their internal conduct independent of general laws . . . ." (*Johnson v. Bradley* (1992) 4 Cal.4th 389, 395–96, citing *Fragley v. Phelan* (1899) 126 Cal. 383, 387.)

municipal affairs has been revised repeatedly for the express purpose of countering and limiting the State's authority to regulate such matters.

B. Home Rule Prerogatives Explicitly Recognized in Constitutional Text Must Be Protected.

A charter city's power to control the conduct and timing of its elections, a quintessential expression of a municipality's authority, is entitled to the highest protection from State interference. Local elections were first specified as a municipal affair in 1896. (Art. XI Background Study, *supra*, at p. 278 [noting that the addition of Section 8½ [on City Charters] to the state constitution "appears to have been designed to lend some degree of specificity to the terms, 'municipal affairs'" and to categorize, as a municipal affair, "the terms, method of selection, and compensation of county officers" in consolidated charter counties and cities].) Through amendments in 1911 and 1914, the *timing* of municipal elections was clarified to be a municipal affair for *all* chartered cities. (Art. XI Background Study, *supra*, at pp. 280-81.) There is little question, then, that power of charter cities to control its own elections is deeply rooted in our Constitution. (*Mackey v. Thiel* (1968) 262 Cal.App.2d 362, 365 ["conduct of municipal elections is a municipal affair and subject to municipal control"]; *Socialist Party v. Uhl* (1909) 155 Cal. 776, 788 ["That the election of municipal officers is strictly a municipal affair goes without question"].)

These amendments are reflected today in the Constitution's explicit recognition that the control and regulation of municipal elections is a municipal affair:

> It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: . . . (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at

> which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed. . . .

(Cal. Const. art., XI, § 5, subd. (b).)

The Supreme Court has recognized that enumerated municipal powers are especially deserving of protection from State interference. (*State Building & Construction Trades Council of Cal. v. City of Vista* (2012) 54 Cal.4th 547, 580 (dis. opn. of Liu, J.) [explaining that the Supreme Court has been "most protective of home rule prerogatives explicitly recognized in the text of our Constitution"].) For example, in *Sonoma County Organization of Pub. Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 316-17, the Court recognized that compensation of charter city employees cannot be subject to the dictates of general laws because such regulations are within a charter city's enumerated plenary authority. Similarly, the appellate court in *Traders Sports, Inc. v. City of San Leandro* (2001) 93 Cal.App.4th 37, 46, held that general laws cannot regulate the procedure for putting a local measure on the ballot in a charter city because the "'conduct of city elections' is one of the few specifically enumerated core areas of autonomy for home rule cities."

The enumerated nature of a charter city's power to control the timing of its elections means that this is "not the usual case in which the courts are without constitutional guidance in resolving the question whether a subject of local regulation is a 'municipal affair' and hence within the general home rule power vested in charter cities by subdivision (a) of section 5, article XI of the Constitution." (*Ector v. City of Torrance* (1973) 10 Cal.3d 129, 132.) Rather, "we have the benefit of a specific directive in subdivision (b) of that section . . . ." (*Ibid.*) Accordingly, the Court should give great weight to the affirmative grant of plenary authority to charter cities to determine the timing of their municipal elections.

To be sure, some issues of statewide concern may justify State legislation in areas of municipal governance. (See *County of Riverside v. Superior Court* (2003) 30 Cal.4th 278, 287 ["[G]eneral laws seeking to accomplish an objective of statewide concern . . . may prevail over conflicting local regulations even if they impinge to a *limited extent* upon some phase of local control," citing *Prof. Fire Fighters, Inc. v. City of Los Angeles* (1963) 60 Cal.2d 276, 295, italics added.) Early cases interpreting the home rule authority of charter cities have deferred to general laws where the impingement on a municipal authority is incidental. (See, e.g., *Dept. of Water and Power of City of Los Angeles v. Inyo Chemical Co.* (1940) 16 Cal.2d 744, 754 ["If the state statute affects a municipal affair only incidentally in the accomplishment of a proper objective of statewide concern, then the state law applies even as to 'autonomous' charter cities"]; see also *Polk v. City of Los Angeles* (1945) 26 Cal.2d 519, 541; *Wilson v. Walters* (1941) 19 Cal.2d 111, 119.) But here, the Act's impact on municipal control is far from incidental; rather, the Secretary seeks to arrogate the enumerated municipal power of charter cities by denying the autonomy of charter cities to maintain its preferred election schedule.

II. The VPRA Is Not Applicable to Charter Cities.

A. The VPRA on its Face Does Not Apply to Charter Cities.

Based on established canons of statutory interpretation, the VPRA on its face reaches only general law cities. As a threshold matter, the Legislature's omission of any reference in the VPRA to charter cities is significant. Because of the unique constitutional limitations of the State's legislative authority vis-à-vis charter cities, as discussed above, the Legislature routinely states whether its legislation applies to charter cities.[2]

[2] The laws of California are replete with examples, in addition to those listed by Respondent City of Redondo Beach (Respondent's Brief [Resp. Br.] at 32-33), of specific references to charter cities in the context of "political subdivision" or "city." See e.g., Health & Safety Code,

And specifically in the context of municipal elections, the Legislature is fully aware of the importance of clearly expressing whether State laws apply to charter cities, yet did not do so with respect to the VPRA. As set forth by the City of Redondo Beach, it is instructive that at the same time the Legislature was considering the VPRA, it introduced a bill to amend the California Voting Rights Act ("CVRA") to clarify the definition of the term "political subdivision" in the CVRA to expressly include a charter city, but chose not to similarly define the term in the VPRA. (Resp. Br. at 28-29). The Secretary's assertion that charter cities are encompassed by the mere reference to "political subdivision" or "city" flies in the face of this history of lawmaking by the Legislature. (Appellant's Opening Brief [App. Br.] at 25.)

The Secretary maintains that the term "political subdivision" in the CVRA had already been "held implicitly" in *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, to encompass charter cities (App. Br. at 24), and insists in its Reply that this holding was a "prerequisite" in the court's analysis (Appellant's Reply Brief [Reply Br.] at 8-9). The Secretary misconceives the analytical framework in *Jauregui*. There, the question of "actual conflict" presented to the court was *not* whether CVRA was

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§ 12081 (" . . . no city, county, city and county, or other political subdivision of this state, including, but not limited to, a chartered city, county, or city and county, shall adopt or enforce any ordinance or regulation that is inconsistent with this section."); Pub. Cont. Code, § 7203, subd. (c) (applies to "a city, charter city, county, charter county, . . . and any other political subdivision or public corporation of the state."); Pub. Util. Code, § 21690.6 ("The provisions of this article shall apply to any airport owned or operated by a political subdivision, including a charter city."); Rev. & Tax. Code, § 30462 ("It is the intent of the Legislature that Section 30111 continues to prohibit the imposition of local taxes by any city, charter city, town, county, charter county, city and county, charter cities and counties, or other political subdivision or agency of this state . . . ."); Veh. Code, § 34002 (" . . . no state agency, city, city and county, county, or other political subdivision of this state, including, but not limited to, a chartered city, city and county, or county, shall adopt or enforce any ordinance or regulation which is inconsistent with this division").

intended to apply to charter cities, it was whether the potential requirement under the CVRA for Palmdale to move away from its existing at-large electoral system conflicted with Palmdale's charter or other ordinances. Critically, it was Palmdale that argued an actual conflict *existed* on this basis. (Appellant's Reply Brief, *Jauregui v. City of Palmdale* (Cal.App. 2nd Dist. Jan. 2, 2014, No. B251793) 2014 WL 200408, at p. 31.) It was therefore appropriate for the court to assume that the CVRA applied to charter cities, *consistent* with Palmdale's position, in affirming the trial court's grant of preliminary injunction in favor of plaintiff residents on the basis that Palmdale's municipal power was superseded by an issue of statewide concern.[3] (Resp. Br. at 33-34.)

The Secretary's argument that "city" encompasses all cities, inclusive of charter cities, finds no support in the Government Code. (App. Br. at 27; Reply Br. at 9.) The Government Code classifies cities as *either* "general law cities" or "chartered cities." (Gov. Code, §§ 34100, 34101, 34102); see e.g., *First Street Plaza Partners v. City of Los Angeles* (1998) 65 Cal.App.4th 650, 660 ["The Government Code . . . . classifies cities as either 'chartered cities' or 'general law cities' . . . "]; *South Bay Senior Housing Corp. v. City of Hawthorne* (1997) 56 Cal.App.4th 1231, 1235–1236 [same].) The Secretary's reliance on *Cawdrey v. City of Redondo* to the contrary is unavailing. (App. Br. at 25, fn.3.) In *Cawdrey*, the court noted "*for the purposes of this opinion*" that it will "assume those sections of the Government Code applicable to cities generally were intended by the Legislature to apply to both charter and general law cities." (*Cawdrey v. City of Redondo* (1993) 15 Cal.App.4th 1212, 1225, italics added.) This assumption was made in plaintiff's favor for analytical ease, as the court

[3] The meaning of "political subdivision" in the CVRA was not addressed in any of the briefing for this appeal.

ultimately sided with the defendant city and held that its charter measure on election term limits was not a matter of statewide concern subject to the general laws of the State. (*Ibid.*) The assumption made in the limited context of that opinion is of no legal relevance here.

B. Any Ambiguity in the VPRA's Legislative Intent Must Be Resolved Against the State.

In view of the VPRA's silence with respect to charter cities, the Secretary searches the Act's legislative history unsuccessfully for extrinsic evidence in support of its position. The Secretary relies on the arguments offered by the Act's author during the legislative process, in which the author referenced election cost data from two charter cities. (App. Br. at 26; 2 C.T. 376; 2 C.T. 385.) Assuming *arguendo* that the reference to this data reflected the author's understanding that the VPRA reached charter cities, it is axiomatic that such statements are not indicative of legislative intent.[4] (*People v. Farrell* (2002) 28 Cal.4th 381, 394 ["the expressions of individual legislators generally are an improper basis upon which to discern the intent of the entire Legislature"]; *Myers v. Philip Morris Companies, Inc.* (2002) 28 Cal.4th 828, 845 ["we have repeatedly declined to discern legislative intent from comments by a bill's author because they reflect only the views of a single legislator instead of those of the Legislature as a whole"].)

The Secretary further argues that "it is difficult to imagine that the Legislature would pass a statute addressing cities without intending to reach [58 percent of people in California residing in] charter cities." (App. Br. at 26-27, underline in original.) The Court should reject this exercise in speculation. (See *Mackey*, *supra*, 262 Cal.App.2d at p. 365 [court found

[4] There is no merit to the State's suggestion that an author's statement becomes "significant" simply because it is reproduced across committee reports. (Reply Br. at 10.) The author's intent does not—and cannot—represent the intent of the Legislature.

unavailing the argument that state voter information statute was intended to apply to charter cities on the basis that elected officials in charter cities have responsibility for spending "three-fifths" of the state budget, because "conduct of municipal elections is a municipal affair and subject to municipal control"].) Indeed, it is perhaps harder to imagine that the Legislature intended to impinge on the municipal power of so many jurisdictions, including the possible amendment of voter-approved charters of California's largest jurisdictions, *without* a clear statement as to that intent. Accordingly, no extrinsic evidence supports an inference that the VPRA was intended to apply to charter cities.

At best, the legislative intent as to the reach of the Act is ambiguous, and the principles of constitutional avoidance counsel in favor of resolving this ambiguity against the State. The final committee report regarding the VPRA acknowledges that the bill "does not explicitly address the question of whether it is intended to be applicable to charter cities[,]" and thus it is "unclear whether those cities would be subject to a lawsuit under this bill." (Sen. Com. Rep., Sen. Bill 415, Third Reading, July 2, 2015 (2015-2016 Reg. Sess.), at p. 2.) In the absence of a clear expression of legislative intent to supersede the plenary authority of charter cities to control municipal elections, "difficult choices between competing claims of municipal and state governments [ought to] be forestalled in this sensitive area of constitutional law . . . ." (*California Federal Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1, 16-17 (*California Federal*).) In *Ector v. City of Torrance* (1973) 10 Cal.3d 129, 133, the Court narrowly construed a statute prohibiting local agencies from requiring their employees to be local residents to avoid a home rule conflict where the statute did not expressly state it applied to charter cities and where such an application would "contravene [an] explicit constitutional authorization" of charter cities to set their employees' qualifications, including their

residency.[5] Accordingly, in light of the plenary power of charter cities to control the timing of local elections, this Court should avoid construing the VPRA to reach charter cites.[6]

III. Timing of Municipal Elections is Not a Matter of Statewide Concern.

A. The State Has No Valid Interest in Controlling Voter Turnout in Municipal Elections.

The Secretary offers a flawed analysis of the VPRA's connection to "the integrity of the electoral process . . . [which] is undoubtedly a statewide concern." (*Johnson v. Bradley*, *supra*, 4 Cal.4th at p. 409.) The fallacy of the Secretary's argument is evident in its attempt to equate the electoral integrity concerns raised in *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781—which the Secretary characterizes as its "most on-point case decision" (App. Br. at 31)—with those it claims are addressed by the VPRA. Indeed, *Jauregui* demonstrates the *absence* of a statewide concern in this case.

In *Jauregui*, the court addressed the California Voting Rights Act (Cal. Elec. Code, § 14027), which made fundamental changes to voting rights law in California by creating a new legal paradigm for minority voters participating in at-large or from-district electoral systems to show an unlawful dilution of their power to elect the candidate of their choice or to influence the outcome of an election. (*Jauregui*, *supra*, 226 Cal.App.4th at p. 788-89.) The court made clear that the integrity of municipal elections is

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[5] The plenary authority to establish the qualifications of municipal employees was later circumscribed by amendment to the Constitution in 1974. (See Cal. Const., art. XI, § 10, subd. (b).)

[6] The State's reliance on *Baggett v. Gates* (1982) 32 Cal.3d 128 to suggest that such doubts "must be resolved in favor of the legislative authority of the State" is distinguishable. (App. Br. at 16; Reply Br. at 13 n.4.) The court in *Baggett* found that the State legislation at issue there did not meaningfully touch on the powers enumerated in Article XI, section 5(b) of the Constitution. (*Id.* at pp. 137-38.)

implicated "where a protected class is denied equal participation in the electoral process because of vote dilution." (*Id.* at p. 801.) Therefore, the court held that "*constitutionally based* protection against race-based dilution of voter rights is a matter of statewide concern." (*Id.* at pp. 799-800, italics added; see also *People ex rel. Devine v. Elkus* (1922) 59 Cal.App. 396, 405 [holding the issue of proportional representation in voting to be a matter of statewide concern because it served to "abridge the *constitutional* right of qualified electors to vote"], italics added.) The need to protect a constitutionally guaranteed right animated the court's finding of a statewide concern.

Put another way, *Jauregui* stands for the limited proposition that the integrity of the municipal electoral process implicates an issue of statewide concern only when that issue is rooted convincingly in a constitutional concern broadly affecting the fundamental fairness and legitimacy of elections in California. Indeed, cases like *Jauregui* and *Elkus* instruct that absent a violation of the constitutional right to vote, the plenary authority of charter cities to regulate municipal elections free from State interference must prevail.

The case law has recognized as much. Courts have repeatedly held that election-related provisions that do not violate state constitutional provisions or fundamental rights may not be abridged by the State. (See e.g., *Cawdrey*, *supra*, 15 Cal.App.4th at 1226 [upholding Redondo Beach's term limits provision and distinguishing them from election-issues related to "the fundamental right to vote, equal protection, and disclosure of campaign contributions and expenditures"]; *Mackey*, *supra*, 262 Cal.App.2d at p. 365 [upholding Los Angeles' regulations regarding candidate information in the sample ballot and distinguishing them from rules that implicate "the right to vote"]; *Lawing v. Faull* (1964) 227 Cal.App.2d 23, 28 [upholding Pomona's referendum procedures and

distinguishing them from rules that would set such high signature requirements "as to make the use of the referendum or initiative so onerous and burdensome as to constitute a denial of the use thereof to the electors of such city and thereby violate the constitutional reservation of such powers".]; *Harder v. Denton* (1935) 9 Cal.App.2d 607, 610 [upholding chartered city's control over the alphabetical listing on the ballot of candidates' surnames as distinct from the provision affecting constitutional right of qualified electors to vote.]) Maintaining this distinction "allocate[s] the governmental powers under consideration in the most sensible and appropriate fashion as between local and state legislative bodies."(*California Federal*, *supra*, 54 Cal.3d at p. 17.)

Holding local elections separately from statewide elections does not impair the constitutional right of any citizen to cast an effective and meaningful ballot, and the Secretary has not argued to the contrary. Rather, the Secretary points again to the statement of the Act's author for the contention that consolidated elections may yield a more representative electorate. (Reply Br. at 14-15.) But not only is an author's statements not probative of legislative intent, but it is also telling that the VPRA is silent as to any purported electoral issue of statewide concern, in contrast to bills, such as the one enacting the CVRA, that explicitly identify the Legislature's intent to address issues of statewide concern. (See CVRA, Assem. Bill No. 182 (2015-2016 Reg. Sess.) § 1 ["The Legislature finds and declares that the purpose of this act is to address ongoing vote dilution and discrimination in voting as matters of statewide concern, in order to enforce the fundamental rights guaranteed to California voters under . . . the California Constitution"].)

The Secretary has failed to demonstrate any connection between consolidated elections and any unconstitutional limitation on the right to cast an effective and meaningful ballot. And the Secretary's attempt to blur

this analysis by characterizing the issue of voter turnout as one of election integrity must be rejected.[7] Accepting the Secretary's argument would open the door to State legislation requiring charter cities to take a variety of steps that will increase turnout—to operate polling places for longer hours, operate more polling places, or enlarge timeframes for absentee voting—reducing to a nullity the "plenary power" of charter cities to regulate local elections. Simply put, there are no extramunicipal concerns regarding the rate of participation in municipal elections, which impacts only the governance of charter cities.

B. Charter Cities Determine the Timing of Local Elections Based on Multiple Intramural Considerations.

The Secretary's contention that consolidating state and local elections is highly effective to boosting turnout misses the mark. No doubt many California municipalities are aware of the potential benefits of consolidating statewide and local elections, and some charter cities hold local elections simultaneously with statewide elections. (City of Alhambra Charter, art. XVII, § 104; City of Culver City Charter, art. XV, § 1500; City of Los Angeles Charter, § 401; City of Glendale Charter, art. V, § 1; City of Oakland Charter, art. XI, § 1101; City of Piedmont Charter, art. VIII, § 8.01; City of Pomona Charter, art. IX, § 901; City of Porterville Charter, § 5; City of Santa Monica Charter, art. XIV, § 1400; City of Ventura Charter, art. V, § 500.)

[7] The misapplication of the concept of election integrity is most evident in the Attorney General's 2017 opinion regarding the VPRA, on which the State relies (App. Br. at 27-29, 38-39). There, the State opines that the voter turnout is an issue of statewide concern by analogizing electoral "integrity" with bodily integrity under California's mayhem statute, the physical integrity of DNA under Nebraska law, and the integrity of computer data under the federal Computer Fraud and Abuse Act. (1 C.T. 199, fn. 51.) These analogies are wholly inapposite. Its attempt now to characterize the Act as a "civil rights" law is unavailing. (Reply Br. at 5.)

But many others do not, for a variety of reasons informed by a host of "intramural" concerns. (See City of Arcadia Muni. Code, art. I, Ch. 7, § 1700(A) [general municipal elections in April of even-numbered years until 2022]; City of Cerritos Muni. Code, Ch. 2.40, § 2.40.010 [general municipal elections in March of even-numbered years]; City of Long Beach Charter, art. XIX, § 1901 [general municipal elections in June of even-numbered years]; City of Pasadena Charter, art. XII, § 1205 [general municipal elections in April of odd-numbered years]; City & County of S.F. Charter, art. XVII [defining "general municipal election" as occurring in November of even-numbered years and every fourth year following 2015].) These different conclusions regarding whether local elections should be standalone affairs or consolidated with statewide elections reflect the many different factors that must be balanced in such a determination.

In addition to considering turnout, local concerns range from the budgetary impact and personnel demands of conducting elections to the many aspects of voter behavior and the needs of candidates and their campaigns. As the record below reflects, separate local elections enable voters to focus more closely on local candidates and concerns without dividing their attention between local and statewide contests. (Declaration of Douglas Johnson, 2 C.T. 313, ¶¶ 26-27.) Absent the need to compete in the media for the public's attention, jurisdictions can more readily promote informed voting on local matters, and jurisdictions with a particularly robust tradition of local initiatives may place particular weight on this consideration. (*Id.* at ¶ 27.) By contrast, with concurrent elections, jurisdictions may be concerned that the electorate votes on local issues as an afterthought in relation to more high-profile federal and statewide elections, or simply stops marking choices on the ballot due to its length, a phenomenon known as voter roll-off. (2 C.T. 312, ¶ 25; 2 C.T. 313, ¶ 27.) Other jurisdictions may make a policy choice to reduce the role of money

and fundraising in local politics by holding local elections separately. In a consolidated election, statewide and national races can compete for advertising space and the services of political consultants, and the cost of political advertising goes up. (2 C.T. 313, ¶ 27.) An increase in the cost of running campaigns will naturally advantage those candidates who are best at fundraising. In a purely local election, by contrast, newcomer or nontraditional candidates can be more competitive with less fundraising. Indeed, concurrent elections favor the re-election of incumbents, and jurisdictions may desire to hold standalone elections to better hold incumbent officeholders accountable to voters by incentivizing higher numbers of candidates to compete for local office. (Hajnal et al., *Municipal Elections in California: Turnout, Timing, and Competition* (2002) Public Policy Institute of California, at pp. 10-11, 49-50 <https://www.ppic.org/content/pubs/report/R_302ZHR.pdf>.) At bottom, the decision on the timing of municipal elections is animated by a variety of local concerns, and local jurisdictions have a substantial interest in balancing and weighing these factors as they see fit.

The Court should not permit the VPRA—in essence an expression of the State's policy preference to prioritize turnout over all other local considerations—to displace the core prerogative of charter cities to determine the timing of local elections most appropriate to their needs and priorities. The fact that charter cities throughout the State continue to revisit the when municipal elections are held demonstrates that this question is one that is well suited to local self-determination.[8] Accordingly, because the VPRA serves little purpose other than to "merely control[]

[8] For example, the City and County of San Francisco most recently voted in 2012 to change the dates of municipal elections of the Treasurer and the City Attorney. (Voter Information Pamp. (2012) p. 90, <https://sfpl.org/pdf/main/gic/elections/November6_2012.pdf>.)

local matters . . . , and seek[s] to micromanage municipal affairs without any clear extramunicipal objective," it does not address any issues of statewide concern. (*State Building & Construction Trades Council of Cal. v. City Vista*, *supra*, 54 Cal.4th 547 at p. 580, citations omitted.)

CONCLUSION

The League of Cities respectfully submits that the VPRA does not apply to charter cities like the City of Redondo Beach.

Dated: September 9, 2019

DENNIS J. HERRERA
City Attorney
YVONNE R. MERÉ
Chief of Complex and
Affirmative Litigation
AILEEN MCGRATH
Co-Chief of Appellate Litigation
RONALD H. LEE
Deputy City Attorney

By: */s/ RONALD H. LEE*
RONALD H. LEE
Attorneys for Amicus Curiae
LEAGUE OF CALIFORNIA
CITIES

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief has been prepared using proportionately double-spaced 13 point Times New Roman typeface. According to the "Word Count" feature in my Microsoft Word for Windows software, this brief contains 5,345 words.

I declare under penalty of perjury that this Certificate of Compliance is true and correct and that this declaration was executed on September 9, 2019.

DENNIS J. HERRERA
City Attorney
YVONNE R. MERÉ
Chief of Complex and
Affirmative Litigation
AILEEN MCGRATH
Co-Chief of Appellate Litigation
RONALD H. LEE
Deputy City Attorney

By: */s/ RONALD H. LEE*
RONALD H. LEE
Attorneys for Amicus Curiae
LEAGUE OF CALIFORNIA
CITIES

CERTIFICATE OF ELECTRONIC SERVICE

I, ALISON LAMBERT, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On September 9, 2019, I electronically served

BRIEF OF AMICUS CURIAE LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF RESPONDENT CITY OF REDONDO BEACH

via TrueFiling on the following recipients:

Lisa Bond
Richards Watson Gershon
355 So. Grand Avenue
40th Floor
Los Angeles, CA 90071

Attorneys for Plaintiff and Respondent City of Redondo Beach

Jonathan Michael Eisenberg
Office of the Attorney General
300 South Spring Street,
Suite 1702
Los Angeles, CA 90013

Attorneys for Defendants and Appellants State of California and Alex Padilla, Secretary of State

On September 9, 2019, I served the above-mentioned document via United States mail on the following recipients:

Office of the Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102

The Honorable Amy D. Hogue
Los Angeles County Superior Court
Spring Street Courthouse
312 North Spring Street, Dept. 007
Los Angeles, CA 90012

Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed September 9, 2019, at San Francisco, California.

Alison Lambert

ALISON LAMBERT