

IMPARTIAL ANALYSIS BY COUNTY COUNSEL  
MEASURE \_\_\_

By: \_\_\_\_\_ ERK  
DEPUTY

This measure would amend Section 15 of the Charter of the County of Fresno ("County") to provide that the election dates for the County's offices of sheriff and district attorney are set in gubernatorial, non-presidential election years.

The County's Charter currently states that all elective officers shall be nominated and elected at the time and in the manner for the terms provided by general law.

The State amended the general law by enacting Elections Code, § 1300 (Assembly Bill No. 759), effective January 1, 2023 ("§ 1300"), which includes: (1) the district attorney and the sheriff shall be elected in presidential election years, and that applies to both general law and charter counties, except those charter counties that, on or before January 1, 2021, expressly specified in their charter when an election for district attorney or sheriff would occur; and (2) a district attorney or a sheriff elected in 2022 shall serve a six-year term and the next election for that office shall occur at the 2028 presidential primary.

The County's district attorney and sheriff were elected in 2022.

If approved, this measure would amend the County's Charter to set the election dates for the County's offices of sheriff and district attorney to be held in gubernatorial, non-presidential election years, as done in the County prior to § 1300, keeping all elected County officials' four-year elections together in such years, except those supervisorial districts of the Board that are on alternating election cycles.

The California Constitution grants counties having a charter ("charter counties"), such as the County, various powers and duties for structural aspects of county government such as having elected sheriffs, district attorneys, assessors and other officers, their election or appointment, compensation, terms and removal. Charter counties can also process changes in these structural aspects through amendments to their charters.

If the State changes a general law that affects charter county governance, the matter can be put to a vote of the charter county's voters. A charter county's amendment of its charter's powers or duties under the California Constitution override state general law where the State has not occupied the entire field of law in a matter of statewide concern.

There is uncertainty whether the State, under § 1300, has occupied the entire field of law in a matter of statewide concern. For example, § 1300 does not apply statewide because it exempts certain charter counties. And § 1300 does not declare that it will remedy any legal problem in which the State has a more substantial interest than impacted charter counties' interest in conducting their local elections.

Subject to the foregoing analysis, the California Constitution permits the voters of the County to amend the County's Charter if a majority of the voters voting on the measure approve the amendment. This measure was placed on the ballot by order of the Fresno

County Board of Supervisors. Future changes to the County's Charter, including the measure, if adopted, must be submitted to the voters of the County for approval.

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