



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** TONI J. TABER, CMC  
CITY CLERK

**SUBJECT:** SEE BELOW

**DATE:** February 22, 2019

**COUNCIL DISTRICT:** CITYWIDE

## **SUBJECT**

Ordinance Modifying the Deadlines for Calculating and Approving the Cost of Living Adjustment to the Campaign Contribution Limit to Accommodate the March 3, 2020 statewide primary election.

## **RECOMMENDATION**

Approve an ordinance to amend San José Municipal Code section 12.06.210 to make technical changes to the deadlines for calculating and approving a cost of living adjustment to the City's campaign contribution limit in response to California moving its statewide primary election to March of even-numbered years.

## **OUTCOME**

Adoption of an ordinance amending San José Municipal Code section 12.06.210 will change the deadlines for calculating and approving a cost of living adjustment to the City's campaign contribution limit to accommodate for the statewide primary election in March of even-numbered years.

## **BACKGROUND**

### 1. California's Presidential Primary Election Dates

Beginning in 2020, California's statewide primary election will be in March of every even-numbered year instead of in June.<sup>1</sup> Enacted through SB 568, this change was approved in 2018 with that hope that California voters would have more influence in the outcome of the presidential primary.

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<sup>1</sup> Elec. Code §316.

California has experimented with an earlier presidential primary before. In 1996, 2000, and 2004, California's presidential primary was in March, but California struggled to gain influence as other states responded by holding their primaries even earlier.<sup>2</sup>

Discouraged with these results and the increased cost of campaigning over a longer period, the Legislature, in 2005, moved all statewide primary elections to June of even-numbered years.

However, in 2008, California partially reversed course. Instead of consolidating the presidential primary election with the statewide primary election, California held a presidential primary in February, another primary for legislative offices in June, and a general election in November.

After experimenting with three statewide elections in 2008, California, in 2012, returned to holding its presidential primary in June with the statewide primary election for legislative offices. California also held June statewide primary elections for gubernatorial and legislative officers in 2010, 2014, and 2018.

## 2. Campaign Contribution Limit Adjustment

Beginning January 1, 2011, the Council established a campaign contribution limit of \$500 for Council candidates and \$1,000 for Mayoral candidates. Along with this limit, the Council established a process for increasing the limit to accommodate changes in cost of living.<sup>3</sup> On September 1 of every odd-numbered year, the City Clerk is required to calculate whether the cost of living, based on the Consumer Price Index for the Bay Area (CPI), justifies an increase to the contribution limit. To do this calculation, the City Clerk compares the CPI published in June of every odd-numbered year with the CPI published in December 2010—the “base period.” If there is an increase in the cost of living, the Clerk must round the number to the nearest \$100 and recommend that the Council adopt a resolution increasing the contribution limit. If the Council approves the increase, the Clerk is directed to publish the new contribution limit by December 1 of each odd-numbered year, which is just before the start of the 180-day campaign contribution period for a June election.

The Clerk did this calculation for the last election on September 1, 2017. The Clerk compared the June 2017 CPI with the December 2010 CPI and determined that the contribution limit should be increased to \$600 for Council candidates and \$1,200 for Mayoral candidates. The Clerk then recommended that Council approve an increase, which the Council did on October 3, 2017.<sup>4</sup>

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<sup>2</sup> These facts are from the legislative analyses of SB 568.

<sup>3</sup> Section 12.06.210.

<sup>4</sup> Reso. No. 78371.

## **ANALYSIS**

California's shifting statewide election dates has an influence on many aspects of the City's elections because the primary election for City offices occurs when the State holds its direct primary election.<sup>5</sup> So when California moves its primary, the City's primary election automatically moves too.

For most election-related deadlines, a change in the election date would not require a Municipal Code amendment because the deadline is not triggered by a specific date, but rather is set to occur within a certain number of days before or after the election. For example, under the Municipal Code, the campaign contribution period starts 180 days before the election, not on a certain date before the election. But this is not the case with the process for adjusting the campaign contribution limit. Under the section governing this process, the Clerk must use the CPI published in June of every odd-numbered year, must do the calculation on September 1 of every odd-numbered year, and bring it to Council for approval before December 1.

With California moving its primary election to March, these mandatory requirements create a logistical problem. For example, the campaign contribution period for the March 3, 2020 election starts September 5, 2019. This means there is only four days before the campaign contribution begins for the City Clerk to do the calculation, bring a resolution to Council if there is an increase, and publish the increase should Council approve one. Considering these issues, it is recommended that the Council amend Section 12.06.210 and give the City Clerk additional time to do this calculation before the campaign contribution period starts.

The proposed amendment removes the date-specific deadlines, and instead requires that this process be performed within a certain number of days before the election. Instead of having to perform the calculation on September 1 of every odd-numbered year, the Clerk will do the calculation 280 days before the primary election using the most recently published CPI index. If the Council approves the increase, the Clerk will then have to publish the change at least 190 days before the election, instead of by December 1. This way, if California later moves its primary election, the deadlines for calculating any adjustment will automatically move as well.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the March 5, 2019 Council Meeting.

## **COORDINATION**

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<sup>5</sup> SJMC §12.05.020.

HONORABLE MAYOR AND CITY COUNCIL

March 5, 2018

Subject: Actions related to the BFCPP recommended revision to San José Municipal Code Title 12.

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This memorandum was coordinated with the City Attorney's Office.

**COMMISSION RECOMMENDATION**

The Board of Fair Campaign and Political Practices reviewed the proposed changes to the San José Municipal Code Section 12.06.210 on August 8, 2018.

**CEQA**

CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment.



TONI J. TABER, CMC  
CITY CLERK

For questions please contact Toni J. Taber, CMC, City Clerk, at (408) 535-1260.

cc: David Sykes, City Manager  
Richard Doyle, City Attorney