

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NUMBER _____

5 AN ORDINANCE CALLING A SPECIAL ELECTION TO BE HELD ON MARCH 5, 2024
6 IN THE COUNTY OF FRESNO FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS A
7 MEASURE TO AMEND SECTION 15 OF THE CHARTER OF THE COUNTY OF FRESNO
8 AND ORDERING CONSOLIDATION OF THE SPECIAL ELECTION WITH THE STATEWIDE
9 PRIMARY ELECTION TO BE HELD ON THE SAME DAY.

10 The Board of Supervisors of the County of Fresno ordains as follows:

11 **Section 1.** A special election is hereby called, ordered, and proclaimed to be held in the County
12 of Fresno ("County") on Tuesday, March 5, 2024, for the purpose of submitting to the voters of
13 the County a measure to amend Section 15 of the County Charter.

14 **Section 2.** The exact form of the measure as it will appear on the ballot is as follows:

15 Shall the measure amending section 15 of the Fresno County Charter to keep the election
16 dates for the office of Sheriff and District Attorney set in gubernatorial, non-presidential
election years with other County elective offices be adopted?

17 **YES** ____ **NO** ____

18
19 The complete text of the measure is set forth in Resolution No. 23-287, adopted by the
20 Board of Supervisors on August 22, 2023, a copy of which is attached hereto in Attachment A.

21 **Section 3.** In the event that the amendment to the County Charter contained in this measure is
22 rendered inoperative because of actions of any court, legislative or other body, or for any other
23 reason, the provisions of the County Charter in effect on Tuesday, March 5, 2024 will remain in
24 full force and effect.
25

1 **Section 4.** If any sentence, clause, phrase, or word of the County Charter amendment
2 measure is for any reason held to be invalid or unenforceable, such invalidity or unenforceability
3 will not affect the validity or enforceability of the remaining sentences, clauses, phrases, or
4 words of Section 15 of the County Charter. The voters of the County declare that they would
5 have independently adopted each sentence, clause, phrase, or word of this measure
6 irrespective of the fact that any one or more other sentences, clauses, phrases, or words of
7 Section 15 of the County Charter is declared invalid or unenforceable.

8 **Section 5.** Pursuant to Part 3 (commencing at Section 10400) of Division 10 of the California
9 Elections Code, the Board of Supervisors resolves and orders the special election for the
10 County Charter amendment measure to be consolidated with the Statewide Primary Election to
11 be held on Tuesday, March 5, 2024. The measure will be placed on the same ballot as provided
12 for in the Statewide Primary Election. The precincts, polling places or vote centers, and precinct
13 board members will be the same as provided for in the Statewide Primary Election. The special
14 election will be held in the manner specified in California Elections Code Section 10418 as an
15 election consolidated with a statewide election.

16 **Section 6.** Pursuant to California Elections Code Section 12001, the Board of Supervisors
17 hereby proclaims that a special countywide election will be held on Tuesday, March 5, 2024, to
18 vote on the proposed County Charter amendment measure.

19 **Section 7.** Pursuant to California Elections Code Section 9141 and California Government
20 Code Section 25123, this ordinance shall take effect immediately.

21 **Section 8.** The ordinance is adopted pursuant to California Government Code Sections 23720,
22 23730, and 23731 and California Elections Code Sections 9141, 10402, 10403, and 12001.

23 **Section 9.** The ordinance must be published once, with the names of the members voting for
24 and against the ordinance, before the expiration of fifteen (15) days after its passage in a daily
25

1 newspaper of general circulation, printed, published, and circulated in the County pursuant to
2 California Government Code Section 25124.

3 The Clerk of the Board of Supervisors is ordered to file a copy of this ordinance with the
4 County Clerk/Registrar of Voters at least 88 days prior to the day of the election.

5 THE FOREGOING, was passed and adopted by the following vote of the Board of
6 Supervisors of the County of Fresno this ___ day of _____, 2023, to wit:

7 AYES:

8 NOES:

9 ABSENT:

10 ABSTAINED:

11
12 SAL QUINTERO, CHAIRMAN of the
13 Board of Supervisors of the County of Fresno

14 **ATTEST:**
15 Bernice E. Seidel
16 Clerk of the Board of Supervisors
17 County of Fresno, State of California

18 By: _____
19 Deputy

20 FILE # _____

21 AGENDA # _____

22 ORDINANCE # _____
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ATTACHMENT A

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BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA

IN THE MATTER OF CALLING A
SPECIAL ELECTION TO BE
CONSOLIDATED WITH THE
STATEWIDE PRIMARY ELECTION TO
BE HELD ON MARCH 5, 2024 FOR THE
PURPOSE OF SUBMITTING TO THE
ELECTORS OF FRESNO COUNTY A
MEASURE TO AMEND
FRESNO COUNTY CHARTER
SECTION 15

RESOLUTION

WHEREAS, California Government Code Sections 23720(a) and 23722 permit a county board of supervisors to propose amendment to the county charter and to submit the amendment to the eligible registered voters of the county at a special election held on the next established election date not less than eight-eight (88) days after submission of the proposal; and

WHEREAS, the California Constitution, Article XI, Section 4, grants to charter counties such as the County of Fresno the authority to provide in their charters for “[a]n elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.” (Cal. Const. Art. XI, § 4(c)); and

WHEREAS, the California Legislature passed AB 759, effective January 1, 2023, adding Section 1300 to the California Elections Code purporting to set the election date for Sheriffs and District Attorneys in presidential election years in non-charter counties and in charter counties that did not specifically establish election dates in their charters on or before January 1, 2021; and

WHEREAS, new Elections Code Section 1300 is unconstitutional under California Constitution Article XI, Section 4, (c) and (g); and

1 **WHEREAS**, new Elections Code Section 1300 would have the effect of
2 extending the current terms of the Sheriff and District Attorney in the County of Fresno
3 to six years rather than the four year terms to which the incumbents to those offices
4 were elected, without legal basis or the consent of the voters of the County of Fresno;
5 and

6 **WHEREAS**, the Fresno County Board of Supervisors proposes to amend
7 Charter Section 15 to establish the election dates for Sheriff and District Attorney to be
8 held in gubernatorial, non-presidential election years as previously done in the County
9 of Fresno, keeping all elected County officials elections together in gubernatorial
10 election years except for those Supervisorial districts on alternating election cycles;
11 and

12 **WHEREAS**, a Statewide Primary Election will be held on March 5, 2024; and

13 **WHEREAS**, pursuant to California Elections Code Sections 10400 *et seq.*,
14 the Fresno County Board of Supervisors seeks consolidation of the countywide
15 special election on the charter amendment measure with the March 5, 2024
16 Statewide Primary Election; and

17 **WHEREAS**, under California Elections Code Sections 10400 *et seq.*, the
18 Fresno County Board of Supervisors has the power and authority to order the
19 consolidation of local elections with the Statewide Primary Election.

20 NOW THEREFORE, BE IT RESOLVED AND ORDERED:

- 21 1. The Board of Supervisors hereby calls, orders, and proclaims a special
22 election to be held in the County of Fresno on March 5, 2024 for the purpose
23 of submitting to the voters of the County the charter amendment measure
24 pursuant to California Elections Code Sections 10403 and 12001.
- 25 2. Pursuant to California Elections Code Section 10400 *et seq.*, the Board of
26 Supervisors hereby directs and approves the special election for the charter
27 amendment measure to be placed on the ballot for the March 5, 2024
28 Statewide Primary Election and be consolidated with that election.

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3. The Board of Supervisors acknowledges that the consolidated election will be held and conducted in the manner prescribed in California Elections Code Section 10418.
4. The Fresno County Clerk/Registrar of Voters is designated as the elections official for the election, and the Fresno County Clerk/Registrar of Voters is hereby authorized and directed to provide all notices and take any and all other actions necessary to holding the election, including but not limited to providing notices of times within which arguments for and against are submitted.
5. The ballot question hereby approved for said election shall be as follows:

Shall the measure amending section 15 of the Fresno County Charter to keep the election dates for the office of Sheriff and District Attorney set in gubernatorial, non-presidential election years with other County elective offices be adopted?

YES ____ NO ____
6. The Fresno County Clerk/Registrar of Voters is hereby authorized and directed to cause the complete text of the proposed charter amendment to be printed as indicated in the attached Exhibit A in the County of Fresno Voter Information Guide, and a copy of the proposed amendment shall be made available to a voter upon request.
7. The charter amendment measure shall be designated on the ballot by a letter, as provided in California Elections Code Section 13116.
8. Arguments in favor of and in opposition to the charter amendment measure and rebuttal arguments shall be permitted and shall be filed with the Fresno County Clerk/Registrar of Voters in accordance with applicable provisions of the California Elections Code, including Sections 9161 through 9167 thereof. As provided in California Elections Code Section 9162, the Board of Supervisors or any member or members of the Board of Supervisors are

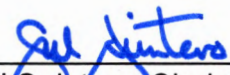
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hereby authorized to act as an author of any ballot argument prepared in connection with the charter amendment measure election.

9. The Fresno County Clerk/Registrar of Voters shall fix the dates for submittal of arguments and rebuttals as provided for in the California Elections Code. The Board of Supervisors requests that the Fresno County Clerk/Registrar of Voters fix the dates for submittal of arguments and rebuttals after October 10, 2023.

THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 22nd day of August, 2023, to wit:

- AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero
- NOES: None
- ABSENT: None
- ABSTAINED: None



 Sal Quintero, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:
 BERNICE E. SEIDEL
 Clerk of the Board of Supervisors
 County of Fresno, State of
 California

By: 

 Deputy

EXHIBIT A

Shall Section 15 of the County of Fresno Charter be amended to read:

SECTION 15

~~All elective officers shall be nominated and elected at the time and in the manner and for the terms now or hereafter provided by general law~~

Members of the Board of Supervisors shall be nominated and elected at the time and in the manner for the terms now or hereinafter provided by general law. All elective officers other than members of the Board of Supervisors shall be nominated and elected for four-year terms in the year in which the Governor of the State of California is elected, in the manner provided for by general law concerning primaries and general elections. Nothing in this section shall extend or shorten the four-year term being served by any elected officer of the county at the time of the adoption of this section. Nothing in this section shall change or amend any provision in this Charter governing the filling of vacancies in elective county offices.