



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 2
File #: 24-880

Board Meeting Date: 11/19/2024

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Supervisor Ray Mueller, District 3
Supervisor Noelia Corzo, District 2

Subject: Special Election on Charter Amendment Granting Board of Supervisors Authority to Remove an Elected Sheriff for Cause

RECOMMENDATION:

Introduction of an ordinance calling for a special election to be held on March 4, 2025 throughout the County of San Mateo for the purpose of voting upon an amendment to the San Mateo County Charter granting the Board of Supervisors the authority to remove an elected Sheriff for cause, by a four-fifths vote of the Board of Supervisors, after written notice and an opportunity to be heard, proclaiming said special local Countywide election pursuant to Elections Code Section 12001, and requesting that the election be consolidated with any and all other elections to be held on March 4, 2025, and waive the reading of the ordinance in its entirety.

BACKGROUND:

The County is one of 14 charter counties in California and has adopted the San Mateo County Charter ("Charter"), which was originally ratified by San Mateo County voters in 1932. Under the Charter, the Board of Supervisors ("Board") is the governing body of the County and, in that capacity, has all the powers and duties vested in it by the California Constitution, California general law, and the Charter, including, without limitation, the responsibility to supervise the official conduct of all County officers and employees to ensure they faithfully discharge their duties.

The Board, however, does not currently have the authority to remove an elected Sheriff, even in cases where the Sheriff engages in such wrongdoing as the violation of laws relating to their duties, flagrant or repeated neglect of their duties, misappropriation of County funds or property, willful falsification of official statements or documents, and/or obstruction of an official investigation into the conduct of the Sheriff and/or the San Mateo County Sheriff's Office.

An amendment to the Charter may be proposed by the Board for approval by the voters of San Mateo County at a special election to occur on the next established election date. (Cal. Const. Art.

11, § 3; Gov. Code, §§ 23720, 23722; Elec. Code, § 1000).

We deem it necessary and essential to submit to the qualified voters of San Mateo County the question of a proposed amendment to the Charter which, if approved, would grant the Board authority to remove an elected Sheriff from office, for cause, with a four-fifths vote, after written notice and an opportunity to be heard (“Measure”), at a special election to be held on March 4, 2024, the next established election date under the law.

DISCUSSION:

The form of the ballot question for the Measure is as follows:

<p>COUNTY CHARTER AMENDMENT</p> <p>Shall the measure amending the San Mateo County Charter to grant the Board of Supervisors authority until December 31, 2028 to remove an elected Sheriff from office for cause, including for violation of law related to a Sheriff’s duties, flagrant or repeated neglect of duties, misappropriation of public funds, willful falsification of documents, or obstructing an investigation, by a four-fifths vote of the Board of Supervisors, after written notice and an opportunity to be heard, be adopted?</p> <p>YES _____ NO _____</p>
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The Measure, if approved by voters, would add Section 412.5 to Article IV of the Charter, to read as follows:

412.5. Removal of Elected Sheriff for Cause

- a. The Board of Supervisors may remove a Sheriff from office for cause, by a four-fifths vote, after a Sheriff has been:
 - (1) Served with a written statement of alleged grounds for removal; and
 - (2) Provided a reasonable opportunity to be heard regarding any explanation or defense.

- b. For the purposes of this Section 412.5, “cause” shall mean any of the following:
 - (1) Violation of any law related to the performance of a Sheriff’s duties; or
 - (2) Flagrant or repeated neglect of a Sheriff’s duties as defined by law; or
 - (3) Misappropriation of public funds or property as defined in California law; or
 - (4) Willful falsification of a relevant official statement or document; or

- (5) Obstruction, as defined in federal, State, or local law applicable to a Sheriff, of any investigation into the conduct of a Sheriff and/or the San Mateo County Sheriff's Department by any government agency (including the County of San Mateo), office, or commission with jurisdiction to conduct such investigation.
- c. The Board of Supervisors may provide for procedures by which a removal proceeding pursuant to this Section 412.5 shall be conducted.
- d. This Section 412.5 shall not be applied to interfere with the independent and constitutionally and statutorily designated investigative function of a Sheriff.
- e. This Section 412.5 shall sunset and be of no further force and effect as of December 31, 2028 unless extended by voters of San Mateo County.

To pass, the Measure must be approved by a majority (i.e., 50% + 1) of qualified San Mateo County voters voting in the special election on the Measure.

Elections Code Section 12001 provides that “[f]or a special local election, the governing body of the local agency shall issue a proclamation or a resolution calling the election.” Thus, the Ordinance includes a proclamation calling the special election on the Measure.

The Ordinance also requests that the special election on the Measure be consolidated with any and all other elections to be held on March 4, 2025, and includes all election-related procedures required by law.

Unlike most other ordinances, which take effect after 30 days, the Ordinance, if adopted by the Board, would take effect immediately upon adoption. (Gov. Code, § 25123; Elec. Code, § 9141.)

The County Attorney's Office has reviewed and approved as to form the Ordinance.

FISCAL IMPACT:

The fiscal impact associated with the Ordinance is currently unknown, but the County would be responsible for the costs of all services performed by the County's Chief Elections Officer related to the special election on the Measure, which costs could exceed \$1,000,000.