

# EXHIBIT A

## BACKGROUND

### BOARD REFERRAL 2018.25: LOCAL BALLOT MEASURE

In 1971, 18-year-olds across the United States won the right to vote through the 26th Amendment to the U.S. Constitution. Further, the California Constitution, Article II Voting, Initiative and Referendum, and Recall, Section 1-Section 20, states: A United States citizen 18 years of age and resident in this State may vote. (Sec. 2 renumbered from Sec. 1 on June 8, 1976, by Prop. 14. Res.Ch. 5, 1976.)

The 1970 Supreme Court decision in *Oregon v. Mitchell* held the U.S. Congress had the power to fix the voting age in national elections, but not in state and local elections. But in a 1971 case, *Jolicoeur v. Mihaly*, the court held that every effort should be made to keep the voting process uniform for all voters equally, otherwise, there is potential disenfranchisement when voters are confused by varying laws that make voting in different states or even in different counties look and feel very different. Although efforts to lower the voting age throughout the country exist, currently both the federal and state constitutions in all states, have the voting age as 18. A handful of charter cities have been successful in reducing the voting age for local elections only and in areas where those local elections are not consolidated with state elections. In Monterey County, all regularly scheduled elections are consolidated with state elections.

Monterey County is a General Law county, which means the County follow state law, such as the Government Code and Elections Code. If the state changes the law, then Monterey County follows those changes. In counties that are created through a charter, there is more flexibility in creating laws, as long as those laws do not conflict with state laws. Throughout the country, cities that have been successful in reducing the voting age, have all taken place in charter cities, and for narrow local elections, and in elections that are not consolidated with state elections.

However, California has made efforts to involve younger voters in the elections process. In 2016, pre-registration of 16- and 17-year-olds was implemented in the State of California. This allows 16- and 17-year-olds to fill-out all necessary voter registration information before turning 18, so that when they turn 18, they are ready to vote. As of February 10, 2019, 142,717 16- and 17-year-olds have pre-registered statewide.

Currently, 16- and 17-year-olds can participate in the democratic process by preregistering and serving as poll workers. There are 2,219 pre-registered 16 and 17-year-olds in Monterey County. The American Community Survey from 2013-2017, 5-year estimates, report there are 12,057, 16- and 17-year-olds living in Monterey County. Data limitations include: quantifying 17-year-olds, identifying citizenship status, and situating the population within voting precincts.

The Registrar of Voters offers a number of outreach and civic engagement opportunities for those who are not of voting age, including various registration and civic engagement events at

local high schools, recruiting at high schools for poll workers and hosting tours at the Election Department. Support for these outreach programs is requested from the Board of Supervisors.

Research shows both legal and administrative challenges exist if the Board pursues underage voting separate and apart from supporting a state legislative change to the California Constitution.

### **Legal Challenges**

Monterey County is not a charter county and can therefore not use the same grounds as other charter jurisdictions to push forward such a change. The legal question remains if, by virtue of having a charter, a jurisdiction can in fact enact laws to support a voting age other than provided in the California Constitution. Specifically, Article XI Section 7, which states the entity may make and enforce ordinances and regulations not in conflict with general laws. Monterey County is a general law county which adheres to state law, so if the Legislature has provided a method by which a county may act, that method must be followed. In this case, only the Legislature can change the state constitution to lower the voting age. To do otherwise in a general law county would invite lawsuits arguing such action is unconstitutional.

### **Administrative Challenges if it was Possible to Lower the Voting Age Locally**

Implementation of underage voting for local measures or school board members, in a consolidated election situation, would pose significant administrative challenges that would require the Registrar of Voters to replicate election set-up and services, separate from those that already exist. This would include a standalone election database to process these younger voter records, set-up and maintenance of a virtual look-up tool so these voters can verify their status as an underage registrant and the status of their ballot, manual processes to cross-check and verify voter status across poll place ballots, provisional ballots, vote by mail ballots and conditional voter registration ballots to ensure the integrity of the vote, production of double the amount of ballot types and voter guides in the exact same period of time, and additional outreach and education to ensure volunteers and voters. All leading to a significant increase in costs to administer this program.

### **Additional Considerations Support for Current Outreach Programs to Engage Young Future Voters**

The Registrar of Voters offers a number of outreach and civic engagement opportunities for those who are not of voting age. These include organizing competitions and events as avenues for all local high schools to participate in the statewide high school voter education weeks, pre-registering 16- and 17-years-olds, recruiting high school student poll workers, hosting tours and providing presentations. In addition, the Department is developing a youth empowerment summit and education curriculum to help our youth develop a sense of civic engagement and understand voting rights and responsibilities. Support for these outreach programs is requested from the Board of Supervisors.

## SUPPORT OF ACA4 AND ACA8

There are efforts to lower the voting the age throughout the country. A U.S. Congresswoman from New York has introduced a proposed constitutional amendment to lower the voting age in America to 16. This legislation has been referred to the House Judiciary Committee where it is awaiting further action. In Oregon, a bill has passed through the legislature to allow 16-year-olds to vote, which will be on the 2020 ballot for voters to decide. Thirteen other states have introduced bills to lower the voting age to 16 since 2003, none of which have yet passed into law.

In California, there was a prior effort to lower the statewide voting age through a proposed Amendment to the California Constitution (proposed Amendment 10). The proposed amendment failed to achieve the requisite vote in both houses of the Legislature to go to ballot. Berkeley, California, (a charter city), has passed, but not yet implemented an ordinance allowing underage voting solely on limited local contests. The City and County of San Francisco (both are governed by charter) proposed an ordinance to allow underage voting that was ultimately defeated by voters. Three charter cities in Maryland currently allow underage voting exclusively in stand-alone (not consolidated) city elections.

As noted, research shows both legal and administrative challenges exist if the Board pursues underage voting separate and apart from supporting a state legislative change to the California Constitution.

Currently, two bills have been introduced in the California State Assembly to lower the voting age, ACA 4 and ACA 8. ACA 4 would authorize a U.S. citizen who is 17 years of age, is a resident of the state, and will be at least 18 years of age at the time of the next general election to vote in any intervening primary or special elections that occurs before the next general election. ACA 8 would reduce the minimum voting age to 17. Both bills are presently awaiting Committee assignment. Each bill would require a two-thirds vote in both chambers of the State Legislature and, if passed, would then go before the voters in 2020.

The Board's Legislative Committee reviewed ACA 4 and ACA 8 at their meeting on March 11, 2019 and recommends that the Board take support positions on both bills. Draft support letters for ACA 4 and ACA 8 are included as **EXHIBIT C & D**.

Additionally, as part of a response to a Board Referral issued by Supervisor Alejo and then Supervisor Salinas on October 28, 2018, Supervisor Alejo proposes that the Board of Supervisors adopt a Resolution supporting the concept of lowering the legal voting age in California to 16. The proposed resolution is included as **EXHIBIT E**.