



Monterey County

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Board Report

Legistar File Number: 16-876

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Matter Type: General Agenda Item

Consider:

- a. Under the provisions of County Code section 2.04.360, ordering suspension of County Code section 2.04.191 to permit reconsideration of the Board's decision of June 1, 2016, to not direct the Auditor-Controller to prepare a Fiscal Impact Report pursuant to Elections Code section 9160(c); and
- b. Directing the Auditor-Controller to prepare a Fiscal Impact Statement for placement in the voter guide

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Under the provisions of County Code section 2.04.360, select #1 (partial) or #2 (total) suspension of County Code section 2.04.191 to permit reconsideration of the Board's decision of June 1, 2016, to not direct the Auditor-Controller to prepare a Fiscal Impact Report pursuant to Elections Code section 9160(c);
 1. Suspend only the time requirements for reconsideration or
 2. Suspend entire section 2.04.191; and
- b. Direct the Auditor-Controller to prepare a fiscal impact statement consistent with Elections Code section 9160(c) for placement in the voter guide.

SUMMARY/DISCUSSION:

This report is response part 2 to Board Referral No. 2016.05 received by your Board on June 28, 2016 regarding a citizen's initiative impacting oil and gas drilling operations.

The initiative was submitted to the Elections Department to limit oil drilling and associated wastewater operations in Monterey County. This initiative would amend the County's General Plan, Local Plans and zoning ordinances. The initiative petition was drafted by the group Protect Monterey County. On June 1, 2016 your Board received the County Registrar's Certification of the Results of the Examination of Signatures for the petition, qualifying the measure for the ballot. (See endnote 1).

Informational material associated with the election includes mandatory and discretionary material. For example, a County Counsel impartial analysis of the measure shall appear in the voter guide. In addition, discretionary informational items may also appear in the voter guide and include arguments for and against as well as a fiscal impact statement. Pre-election information materials that are not placed in the voter guide usually include economic and land use impact reports. These reports often take the place of environmental review, because CEQA is not required for citizen generated initiatives. On May 17, 2016 your Board authorized preparation of initiative impact reports under Elections Code section 9111. However, on June

1, 2016, your Board reversed its previous position and voted against preparation of initiative impact reports. (See endnote 1) Rather, your Board voted to place the Initiative on the ballot without preparation of impact reports and declined to direct the Auditor to prepare a fiscal impact statement under Elections Code section 9160.

On June 28, 2016, the Board received a referral to request that staff draft for Board consideration a resolution calling for and consolidating the election, approving the ballot question and directing the Auditor-Controller to prepare a fiscal impact statement. Part 1 of the Referral response addresses calling the election and the ballot question. This report addresses reconsideration of the Auditor's Fiscal Impact statement and the Board's reconsideration of its prior motion.

Auditor's Fiscal Impact Statement.

Neutral educational information on an initiative can be provided through a fiscal impact statement. Elections Code section 9160(c) allows the Board to direct the County Auditor-Controller to "review the measure and determine whether the substance thereof, if adopted, would affect the revenues or expenditures of the county." The Auditor-Controller's statement estimating the increase or decrease in revenues or costs shall be printed on the voter guide. The Auditor-Controller may contract for assistance preparing the statement and we understand he intends to do so, if directed by your Board to prepare a fiscal impact statement. The Auditor-Controller's Fiscal Impact Statement is due to the Registrar on or before August 18, 2016,

Recently, the group Monterey County for Energy Independence submitted an economic and budget impact report on the initiative. We anticipate Initiative proponents will issue their own report. An independent fiscal impact statement by the Auditor, if directed, would be included in the voter guide materials and may provide a neutral perspective for voters.

As noted above, your Board previously voted against an auditor prepared fiscal impact statement. Your Board has procedural rules on both reconsideration and on suspension of the rules. (County Code section 2.04.191 and 2.04.365). If your Board wants to direct preparation of the fiscal impact statement, we recommend you first suspend, in whole or in part, your rule on reconsideration found in County Code section 2.04.191. This rule has both a timing restriction (i.e. at what meeting the motion can be made) and a restriction on which members (i.e. members in the original majority) may move for reconsideration. This rule reads:

2.04.191 - Reconsideration.

At the same meeting or the meeting succeeding that on which a final vote on any question has been taken, said vote may be reconsidered on the motion of any member of the Board at the meeting at which such final vote was taken by a member voting with the majority.

For reconsideration at the subsequent meeting, notice of intention to move such reconsideration must be given at the meeting at which such final vote was taken by a member voting with the majority. Said motion of reconsideration shall have precedence over every other motion except a motion to adjourn.

OTHER AGENCY INVOLVEMENT:

This report was coordinated with the Auditor-Controller.

FINANCING:

The costs associated with preparation of any impact reports will be financed by FY 16/17 budget appropriations.

Prepared by:

Approved by:

Charles J. McKee
County Counsel

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1 Under Elections Code 9118, at the meeting in which the Registrar certifies the signature gathering, the Board was required to take one of 3 possible actions: 1) Adopt the Initiative; 2) Place Initiative on the ballot OR; 3) Request EC 9111 impact reports. The Board selected option 2.