



San Bernardino County

Legislation Text

File #: 5389, Agenda Item #: 48

**REPORT/RECOMMENDATION TO THE BOARD OF DIRECTORS
OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
AND RECORD OF ACTION**

January 11, 2022

FROM

**DAN MUNSEY, Fire Chief/Fire Warden, San Bernardino County Fire Protection District
BOB PAGE, Registrar of Voters**

SUBJECT

Initiative Petition Regarding Repeal of Special Tax for San Bernardino County Fire Protection Service Zone Five (FP-5)

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Fire Protection District:

1. Find that the proposed actions are exempt from review pursuant to the California Environmental Quality Act and in accordance with California Environmental Quality Act Guidelines Section 15061(b)(3) (General Rule).
2. Accept the Certificate of Initiative Petition dated December 14, 2021 with respect to the initiative petition entitled "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)" that was filed with the Registrar of Voters on October 26, 2021.
3. Pursuant to California Elections Code section 9310(a), the Board of Directors shall do only one of the following:
 - a. Consider a proposed ordinance that would adopt the "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)" without alteration and, either as part of this item or within 10 days from today's date, approve introduction of proposed ordinance, read title only of proposed ordinance and adopt proposed ordinance; or
 - b. Submit the "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)", without alteration, to the voters pursuant to Elections Code section 1405.
4. If the Board of Directors approves Recommendation 3b., above, pursuant to Elections Code section 1405, the Board of Directors shall do only one of the following:
 - a. Adopt resolution calling an election for the "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)" to be consolidated with the June 7, 2022 Statewide Direct Primary Election (San Bernardino County Fire Protection District's next regular election); or
 - b. Adopt resolution calling a special election for the "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)" on April 12, 2022 (not less than 88 days nor more than 103 days from today's date); or
 - c. Adopt resolution calling a special election for the "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)" on April 19, 2022 (not less than 88 days nor more than 103 days from today's date); or
 - d. Adopt resolution calling a special all-mail ballot election for the "Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)" on April 19, 2022 (pursuant to Elections

Code section 4108).

(Presenter: Dan Munsey, Fire Chief/Fire Warden, 387-5779)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost).

Pursuant to County Code section 16.0224(d) of the County Fee Ordinance, the Registrar of Voters (ROV) will bill San Bernardino County Fire Protection District (SBCFPD) for all costs plus overhead related to the examination of signatures and certification of this initiative petition, which is estimated to cost approximately \$47,000.

Should the Board of Directors (Board) choose to adopt by ordinance the “Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)” (Initiative Petition/Measure) repealing the special tax associated with Fire Protection Service Zone Five (FP-5) (Recommendation No. 3a.), or should an election occur (Recommendation No. 3b.) and the Initiative Petition/Measure is adopted/passes, this would result in properties within FP-5 no longer being subject to the annual FP-5 special tax (currently \$161.98 per parcel). SBCFPD would experience a reduction in revenue of approximately \$42.7 million annually, representing approximately 18% of the SBCFPD 2021-22 operating budget, resulting in less fire protection and emergency medical services to the public.

If the Board decides to submit the Initiative Petition/Measure, without alteration, to the voters pursuant to Elections Code section 1405 (Recommendation No. 3b.), the cost of the election (estimated at \$2.9 million for a special polling place election; \$1.6 million for a special all-mail ballot election; and \$375,000 if consolidated with the June 7, 2022 Statewide Direct Primary Election) would be funded by SBCFPD through the use of available reserves.

BACKGROUND INFORMATION

ROV has determined that the proponents of Initiative Petition/Measure entitled “Initiative to Repeal the Special Tax Associated with Fire Protection Service Zone Five (FP-5)” collected more than a sufficient number of valid registered voter signatures within the prescribed time period to qualify the Initiative Petition/Measure for adoption or for placement on an election ballot for consideration of the voters of SBCFPD.

The proponents of the Initiative Petition/Measure are Robert A. Cable, Albert H. Vogler, Charles Pruitt, Ruth Musser-Lopez, and David Jarvi. ROV is the elections official for SBCFPD.

On May 13, 2021, pursuant to the District Elections law codified in Elections Code section 9300 et seq., proponents submitted to ROV a proof of publication of a Notice of Intention to circulate the Initiative Petition/Measure that would repeal the special tax associated with FP-5.

On October 26, 2021, the proponents submitted the Initiative Petition/Measure to ROV containing 12,070 signatures, which was within the 180 days provided to collect signatures from registered voters residing within SBCFPD. For ROV to declare the Initiative Petition/Measure sufficient, 8,146 valid signatures were required pursuant to Proposition 218, Article XIII C, section 3, of the California Constitution. In the November 6, 2018 Statewide General Election, 162,907 SBCFPD voters voted for one of the two candidates for Governor. Pursuant to the requirement of Prop 218, signatures from 5% of voters are required in order to meet the signature requirement.

Pursuant to the authority provided in Elections Code section 9309, ROV examined a random sample of 500

signatures on the Initiative Petition/Measure. Further, pursuant to section 9309(a), ROV was required to complete its random sample examination of Initiative Petition/Measure signatures within 30 business days from the date of filing, which set the deadline at December 10, 2021. ROV followed the administrative requirements of the California Code of Regulations sections 20510 through 20540 Election Petition Signature Verification Random Sampling Verification Methodology to project that the Initiative Petition/Measure contained 8,811 verified valid signatures, which would equal 108 percent of the required number.

Since the projected number of valid signatures fell within the range of 95 percent to 110 percent of the required number, ROV was then required to examine all of the remaining signatures on the Initiative Petition/Measure within 60 business days from the date of its filing to determine if it was sufficient, pursuant to Elections Code section 9309. ROV verified the Initiative Petition/Measure contained 8,868 valid voter signatures.

Registrar of Voters Bob Page executed the Certificate of Initiative Petition on December 14, 2021, and notified the proponents of the sufficiency of the Initiative Petition/Measure. This was within the 60 business-day full examination deadline of January 26, 2022. Pursuant to Elections Code section 9309(f), Mr. Page is required to present the Certificate of Initiative Petition to the Board at its next regular meeting.

As a result of receiving the certification from the ROV, pursuant to Elections Code section 9310, the Board shall either adopt the ordinance, without alteration (either as part of this item or within 10 days of this item); or submit the Initiative Petition/Measure, without alteration, to the voters pursuant to Elections Code section 1405.

If the Board decides to submit the Initiative Petition/Measure to the voters (Recommendation No. 3b.), Elections Code section 1405(a) states, in part, that "the election for a municipal or district initiative that qualifies pursuant to Section 9215 or 9310 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election". The next regular election will occur on June 7, 2022.

Elections Code section 1405(b) also allows the Board to call a special election for the purpose of submitting the Initiative Petition/Measure to the voters before the date on which the Initiative Petition/Measure would appear on the ballot pursuant to Elections Code section 1405(a). Such special election is required to be held not less than 88 days nor more than 103 days after the order of the election. This time period would range from April 9, 2022 to April 24, 2022, however, an election can only be held on a Tuesday, narrowing the possible dates to April 12, 2022 or April 19, 2022. Pursuant to Elections Code section 4108, the Board may direct, by resolution, that a special all-mail ballot election be held on a date other than an established election date. The only date that falls into this category would be April 19, 2022.

County Counsel drafted the recommended ballot question language for the Initiative Petition/Measure contained in the four potential resolutions presented for Board consideration (Recommendation Nos. 4a., 4b., 4c. and 4d.). If the Board adopts one of the resolutions, Counsel will also draft an impartial analysis of the Initiative Petition/Measure. County Counsel has also drafted an ordinance for Board consideration if the Board chooses Recommendation No. 3a.

Should an election occur, passage of the Initiative Petition/Measure would require approval from a simple majority (50% plus one) of the voters residing within SBCFPD that cast a vote on the Initiative Petition/Measure.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jolena Grider, Deputy County Counsel, 387-5455) on December 14, 2021; Registrar of Voters (Bob Page, Registrar of Voters, 387-2100) on December 14, 2021;

File #: 5389, Agenda Item #: 48

San Bernardino County Fire Protection District (Dan Munsey, Fire Chief/Fire Warden, 387-5779) on December 17, 2021; Finance (Sofia Almeida, Administrative Analyst, 387-4378) on December 17, 2021; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on December 17, 2021.