

# CLIENT NEWS BRIEF

## Change in Law May Require Shift to Even-Year Elections

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In September 2015, Governor Jerry Brown signed into law Senate Bill (SB) 415. SB 415, which becomes operative on January 1, 2018, prohibits political subdivisions from holding odd-year regular elections if a prior odd-year election resulted in a "significant decrease in voter turnout," as defined by statute. The new law reflects a policy of encouraging election consolidations to defray election costs and encourage voter participation. It applies only to regular elections and not to special elections.

Specifically, the new law, which is codified at Elections Code sections 14050 et seq., provides that a political subdivision (such as a city, school district, community college district or other district organized pursuant to state law) shall not hold an election other than on a statewide election date if holding an election on a "nonconcurrent date" has previously resulted in a "significant decrease in voter turnout." "Nonconcurrent dates" are non-statewide election dates such as odd-year board member elections (or "off-cycle" election dates). A "significant decrease in voter turnout" is a voter turnout in a regular election in a political subdivision that is at least 25 percent less than the average voter turnout within that political subdivision for the previous four statewide general elections.

If a political subdivision has experienced such a "significant decrease in voter turnout" and is prohibited from holding future off-cycle elections, it may still hold off-cycle elections through 2021 if, by January 1, 2018, it has adopted a plan to consolidate a future election with a statewide election not later than the November 8, 2022 statewide general election.

In determining when to make the transition, political subdivisions should build in an administrative time buffer. In order to consolidate a currently-scheduled election into a general election, cities will need to enact an ordinance and seek approval from their county board of supervisors, among other requirements. Likewise, certain other categories of political subdivisions that wish to consolidate a currently-scheduled legislative body member election will need to adopt a resolution, seek approval from their county board of supervisors and comply with other statutory preconditions. Elections Code sections 10404 and 10404.5 provide that such a resolution must be adopted and submitted for approval no later than 240 days prior to the date of the currently-scheduled election. For an election scheduled in November 2017, the deadline for such actions would be March 13, 2017.

Political subdivisions should also consider the short-term effects of the transition. School districts, for example, which may now be able to hold Proposition 39 bond measure elections on an annual basis, will be limited to holding such elections once every two years once they transition to even-year election cycles. Political subdivisions should also be aware that consolidating elections to move them from odd to even years may affect the duration of their officers' or board members' terms. Consolidating school board elections, for example, will result in extending terms for current board members by one year.



William P. Curley III  
Partner and Co-Chair  
Local Government Practice Group  
Los Angeles Office  
[wcurley@lozanosmith.com](mailto:wcurley@lozanosmith.com)



Steven A. Nunes  
Associate  
Monterey Office  
[snunes@lozanosmith.com](mailto:snunes@lozanosmith.com)

**LS** Lozano Smith  
ATTORNEYS AT LAW

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A political subdivision that holds an odd-year election after January 1, 2018 without first adopting a transition plan can be sued by a voter within the political subdivision and compelled to comply with SB 415. If the voter prevails, the political subdivision will be liable for attorney's fees and litigation expenses.

Lozano Smith has assisted political subdivisions with applying the 25 percent rule of SB 415 and with the mechanics of transitioning to even-year election cycles. If you have questions about compliance with SB 415 or any other issues impacting school districts and other local government entities, please contact an attorney at one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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