

28. Discuss and Consider Directing the City Manager and the City Attorney to Prepare for the City Council's Consideration Resolution Options to Place the Issue of Noncitizen Voting in City Council and Mayoral Elections on the November 2024 Ballot and Further Discuss and Consider Directing the City Manager to Prepare a Cost and Implementation Analysis of Establishing Noncitizen Voting – Councilmembers Hernandez and Vazquez



CITY OF SANTA ANA

City Council Meeting Date

September 19, 2023

Subject

Noncitizen Voting in City Council and Mayoral Elections

Councilmember-Requested Item Title

Discuss and consider directing the City Manager and the City Attorney to prepare for the City Council's consideration resolution options to place the issue of noncitizen voting in city council and mayoral elections on the November 2024 ballot. Further discuss and consider directing the City Manager to prepare a cost and implementation analysis of establishing noncitizen voting.

Discussion

Noncitizens in the United States have historically been allowed to vote in federal, state, and local elections. Between 1776 and 1926, forty states at some point allowed noncitizen residents to legally vote.¹ Currently, seventeen jurisdictions allow noncitizen residents to legally vote in local elections, including San Francisco and Oakland.²

Noncitizen residents make up about 24 percent of Santa Ana's population.³ About 30 percent of voting-age residents in Santa Ana are noncitizens.⁴ The American Immigration Council estimates that immigrant residents, including noncitizen residents, in Orange County contributed \$10.5 billion in taxes in 2018.⁵ Santa Ana is home to the largest share of noncitizen residents of all Orange County cities, and nearly 20 percent of the county's noncitizen resident population resides in Santa Ana.⁶ While all residents regardless of citizenship status contribute to the local economy and are subject to local laws, many are unable to participate in the elections of local lawmakers who shape the local policies they must abide by, including local tax policies.

In August 2023, the California First District Court of Appeal rejected a legal challenge to San Francisco's charter amendment that allows for noncitizen voting in school board elections. The Court reasoned that "neither the plain language of the Constitution nor its history prohibits legislation expanding the

¹ Ron Hayduk, "Early American History," accessed September 9, 2023, <https://www.immigrantvotingrights.com/americanhistory>.

² Ron Hayduk, "Cities with Rights," accessed September 9, 2023, <https://www.immigrantvotingrights.com/cities-with-rights>

³ United States Census Bureau American Community Survey 5-Year Estimate, 2021.

⁴ United States Census Bureau American Community Survey 5-Year Estimate, 2021.

⁵ American Immigration Council, "Map the Impact," accessed September 3, 2023, <https://data.americanimmigrationcouncil.org/map-the-impact/>

⁶ United States Census Bureau American Community Survey 5-Year Estimate, 2021.

electorate to noncitizens.”⁷ The Court also stressed the strength of San Francisco’s amendment given its passage as a ballot measure by the electorate. The plaintiff filed a motion for a rehearing from the court, but this request was denied, upholding the constitutionality of expanding local voting rights in California, especially when approved by voters.

Santa Ana has previously considered measures that would permit all its residents to participate in the political process, and the City Council has already set the stage to ensure that noncitizen residents can feel safe participating. For example, Santa Ana has been a sanctuary city since 2016,⁸ and the City Council has consistently approved funding for its Deportation Defense Fund since 2017.⁹ In March 2021, the City Council then amended the Municipal Code to allow qualified residents, including noncitizens, to serve on Santa Ana’s boards, commissions, and committees.¹⁰ And last July, the City Council considered a charter amendment to expand voting to noncitizen residents in school district and city council elections.¹¹ Given the timing and the trial court ruling setting aside San Francisco’s immigrant voting charter amendment, however, the city council temporarily shelved the issue. The First District Court of Appeal has now firmly rejected that trial court ruling, making clear that charter cities like Santa Ana have home rule authority to expand voting in local elections to its noncitizen residents.

We are proposing that the City Council discuss and consider directing the City Manager and the City Attorney to prepare for the City Council’s consideration resolution options to place the issue of noncitizen voting in city council and mayoral elections on the November 2024 ballot. One resolution would involve a ballot measure to amend the Charter to expand voting, while the other resolution would involve a ballot measure to allow the City Council and Mayor to amend the Charter to expand voting.

We are further proposing that the City Council discuss and consider directing the City Manager to prepare a cost and implementation analysis of establishing noncitizen voting.

Submitted By

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⁷ *James V. Lacy v. City and County of San Francisco*, 165899, Cal. App. 2023.

⁸ *See, e.g.*, Resolution No. 2016-086 (resolution declaring that Santa Ana is a sanctuary city); Ordinance No. 2908 (sanctuary ordinance).

⁹ *Immigration legal defense and universal representation*, City of Santa Ana, <https://www.santa-ana.org/immigration-legal-defense/>.

¹⁰ *See* Ordinance No. NS-3003.

¹¹ *See* Santa Ana July 19, 2022, City Council Meeting Minutes at 18.