

Proposed Response to Grand Jury Report:

“Improving the San Diego Citizens’ Initiative Process”

IBA Report 18-33

City Council

October 29, 2018

Item 200



Independent Budget Analyst



This report focuses on the concept of providing San Diego City voters with adequate information regarding citizens' initiatives.

- The Grand Jury filed this report on May 23, 2018.
- The report includes 4 findings & 1 recommendation directed to the Mayor, City Council & City Attorney.
- An extension of the original due date (Aug 22, 2018) was requested/granted.
 - The response is now due to the Superior Court Presiding Judge by Nov 16, 2018.



Development of Proposed Joint Council/Mayor/City Attorney Response

- The City Attorney's Office, as the subject matter expert, assisted in development, working with the IBA's Office.
- The IBA's Office/City Attorney's Office/Mayor's Office then collaborated to finalize the proposed response.

Prescribed Grand Jury Responses

- For each Finding:
 - Agree
 - Disagree wholly or partially
- For each Recommendation:
 - Has been implemented
 - Has not yet been implemented, but will be
 - Requires further analysis
 - Will not be implemented because it is not warranted or is not reasonable

Finding 01

The democratic process will work well when the voters receive reliable, verifiable, and objective information.

Proposed Response: Agree

The response notes that the Report does not consider the applicable information that the City of San Diego already provides to all voters.

Finding 02

The California Election Code §9212 and the Ballot Initiative Transparency Act of 2014 provide an example for municipalities in evaluating the potential impacts of ballot initiatives.

Proposed Response: Partially disagree

- The cited statutes do not apply to San Diego, as a Charter city that has not adopted the CA Elections Code for its elections law.
 - Thus, the City is not in a position to assess them as examples.

Finding 02 (con't)

- The City would need to amend its elections laws/ processes to incorporate certain requirements.
 - Including early public comment period and additional analyses beyond those the City already provides.
- The County Registrar of Voters may be required to provide additional/earlier signature verification.
- The City's election timelines would not always be conducive to implementing portions of these laws, including additional § 9212 analysis.
 - Such analysis may be superfluous to what is already provided to voters.

Finding 03

The new California Election Code provides a model of how an extended period of review and analysis can provide unbiased and educational information to the voting public.

Proposed Response: Partially disagree

- The cited statutes do not apply to San Diego, a Charter city not using the CA Elections Code as its election law.
- As alluded to in the response to Finding 02, the timing of a § 9212 analysis may not synchronize with the City's elections laws/processes.
- Whether the new “model” would result in an “extended period” of review could depend on when an initiative is submitted/qualified, as compared to the next election date.

Finding 04

The City of San Diego may use public funds to educate the voters in an unbiased and informative way on issues raised by initiatives.

Proposed Response: Partially disagree

- Agree that voter education is critical & CA Gov. Code allows use of public funds for unbiased education.
- Report does not consider the full extent of how the City already educates voters about initiatives.
 - Public hearings and recitals in an underlying ordinance placing a measure on the ballot

Finding 04 (con't)

- Report does not consider the full extent of how the City already educates voters about initiatives. (con't)
 - Ballot Title and Summary, Fiscal Impact Analysis, and Impartial Analysis – for all measures, sent to all voters
 - Potential for other public reports on related issues (from City Attorney, IBA, or other City departments)

Recommendation 18-20

Consider a standard practice of commissioning a report through city agencies to detail the possible impact of an initiative on the city.

Proposed Response: The recommendation will not be implemented because it is not warranted.

Response includes:

- Legal background – The City of San Diego is a Charter city with its own election code.
- § 9212 analysis does not apply to the City and may not synchronize with the City's elections laws/processes.

Recommendation 18-20 (con't)

Response includes (con't):

- Reference to how the City already educates voters about initiatives, including reference to specific analyses.
- Nothing in the Report suggests why materials under the current process are insufficient.
- To the extent that voters do not review the materials provided, an additional analysis, as suggested by the Grand Jury, may not address that issue.

Recommendation 18-20 (con't)

Response includes (con't):

- The Grand Jury Report does not consider:
 - Legal standards under CA case law which governs the content of ballot materials
 - City Municipal Code provision to ensure impartial ballot materials (ability for voters to seek judicial remedies for false or misleading materials)
- Recommendation does not consider staff time, resources, or timing of ballot measure qualification.
 - Measures may be qualified without sufficient time for separate studies, which may be superfluous to what is provided to all voters in the ballot pamphlet.

Previous & Next Steps

- The Rules Committee reviewed the proposed response at its Oct 10, 2018 meeting.
 - It moved the proposed response to the full City Council.
- Requested Council Actions
 - Approve and adopt the proposed response.
 - Authorize the Council President to execute and deliver the response to the Superior Court by Nov 16, 2018.