

## RESPONSE TO COUNCIL QUESTIONS RE: 10/08/19 CITY COUNCIL AGENDA

### Agenda Item #: 4

**Title:** Discussion and Possible Direction on Proposed Amendments to Charter Article VI (The Council) to be Submitted to Voters in the March 2020 Election to Implement City Council By-District Elections

Council Question: If AB 849 is signed, would cities subject to the bill be allowed to establish an independent redistricting commission? Election Code section 21627.1(f) added by the bill mentions only an advisory commission to hold certain public hearings.

Staff Response: California Constitution Article XI, section 5 (b) grants plenary authority to charter cities regarding the conduct of their elections. Consequently, if the voters adopt a charter provision establishing an independent restricting commission, then that charter provision would preempt AB849's authorization for an advisory commission. (Compare, for example, Elections Code section 10101, which governs municipal elections and recognizes the authority of Charter cities over their election processes. Section 10101 states: "[t]his part shall apply to all municipal elections, **except where otherwise provided for** in the Constitution of the state, or **in a charter duly adopted** or amended pursuant to the Constitution of this state. (Emphasis added.) .)

Furthermore, Elections Code section 23001, which became effective January 1, 2019 explicitly recognizes a charter city's ability to establish an independent redistricting commission:

A local jurisdiction may establish by resolution, ordinance, or **charter amendment an independent redistricting commission**, a hybrid redistricting commission, or an advisory redistricting commission composed of residents of the local jurisdiction to change the legislative body's district boundaries or to recommend to the legislative body changes to those district boundaries. (Emphasis added.)