

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO Civil Unlimited Department, Central Division		Entered by:
TITLE OF CASE: The People of the State of California; California Secretary of State vs. County of Fresno/ WM		
MINUTE ORDER		Case Number: 24CECG03179

Date: June 2, 2025

Re: From Chambers

Department: **501**

Judge/Temporary Judge: **D. Tyler Tharpe**

Court Clerk: **S. Nunez**

Reporter/Tape: **Not Reported**

☐ Contested

Appearing Parties:

Plaintiff: No Appearance

☐ appearing on behalf of Plaintiff

Defendant: No Appearance

☐ appearing on behalf of Defendant

☐ Off Calendar

☐ Continued to at Dept for

The matter having been under advisement the court now issues an Order After Hearing on Plaintiff's Petition for Writ of Mandate:

Please see Order After Hearing Attached:

FILED

JUN 02 2025

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

BY _____ DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF FRESNO

THE PEOPLE OF THE STATE OF) Case No. 24CECG03179
CALIFORNIA, ex rel. ROB BONTA,)
Attorney General of the State) ORDER AFTER HEARING ON
of California, and DR. SHIRLEY) PLAINTIFFS' PETITION FOR WRIT
N. WEBER, in her official) OF MANDATE AND COMPLAINT FOR
capacity as California) INJUNCTIVE AND DECLARATORY
Secretary of State,) RELIEF
Petitioners,)
v.) Date: April 8, 2025
COUNTY OF FRESNO, JAMES A. KUS,) Dept.: 501
in his official capacity as the)
Fresno County Clerk, and DOES 1) Judge: Hon. D. Tyler Tharpe
through 50, inclusive,)
Respondents.)

I.

INTRODUCTION

Petitioners bring the instant Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief to challenge respondent County of Fresno's (the County's) enactment of Measure A, which provides that elections for the County's district attorney

1 and sheriff shall occur in the gubernatorial election cycle.
2 Petitioners argue that the County's enactment of Measure A is not
3 authorized by the California Constitution and conflicts with
4 Assembly Bill 759 (AB759), enacted in September 2022, which provides
5 that "[a]n election to select a district attorney and sheriff shall
6 be held with the presidential primary." (Elec. Code, § 1300, subd.
7 (a)(1).) AB759 also provides that it "applies to both general law
8 and charter counties, except those charter counties that, on or
9 before January 1, 2021, expressly specified in their charter when
10 an election for district attorney or sheriff would occur." The
11 County is a charter county, but its charter did not expressly state
12 when the elections for district attorney or sheriff would be held
13 until the enactment of Measure A on March 5, 2024. Thus, petitioners
14 contend that the County's enactment of Measure A conflicts with
15 state law and is preempted. For the reasons stated herein, the court
16 agrees.

17 II.

18 FACTUAL AND PROCEDURAL BACKGROUND

19 The Legislature enacted and the Governor signed AB759 in
20 September 2022. AB759 repealed former Elections Code section 1300
21 and replaced it with a provision stating that "[a]n election to
22 select a district attorney and sheriff shall be held with the
23 presidential primary." (Elec. Code, § 1300, subd. (a)(1).) AB759
24 further states that it applies to "both general and charter law
25 counties, except those charter counties that, on or before January
26 1, 2021, expressly specified in their charter when an election for
27 district attorney or sheriff would occur." (Elec. Code, § 1300,
28 subd. (c).)

1 On August 22, 2023, the Fresno County Board of Supervisors
2 approved Resolution 23-287 concerning the timing of county elections
3 for district attorney and sheriff. The resolution called for a
4 special election to place Measure A on the ballot for the March 5,
5 2024, primary election. Measure A would amend the Fresno County
6 charter to "establish the election dates for Sheriff and District
7 Attorney to be held in gubernatorial, non-presidential election
8 years as done previously in the County of Fresno." (Res. 23-287,
9 at p. 2.) The voters the County approved Measure A on March 5,
10 2024, thereby adding the provisions of Measure A to the Fresno
11 County charter.

12 Petitioners filed their Petition for Writ of Mandate and
13 request for other related relief on July 26, 2024, challenging the
14 adoption of Measure A by the County. Respondents filed their Answer
15 on September 30, 2024.

16 The parties argued the merits of the Petition on April 8, 2025.
17 Deputy Attorney General S. Clinton Woods appeared on behalf of
18 petitioners. Chief Deputy County Counsel Peter Wall appeared on
19 behalf of respondents. After hearing oral argument, the court
20 ordered the court reporter to prepare a transcript, with the matter
21 to be taken under advisement upon receipt of the transcript. The
22 transcript was received on May 13, 2025, at which time the court
23 took the matter under advisement. The court now takes the matter
24 out from under advisement and issues this Order.

25 **III.**

26 **STANDARD OF REVIEW**

27 "A writ of mandate may be issued by any court to any inferior
28 tribunal, corporation, board, or person, to compel the performance

1 of an act which the law specially enjoins, as a duty resulting from
2 an office, trust, or station..." (Code Civ. Proc., § 1085, subd.
3 (a).) "The writ must be issued in all cases where there is not a
4 plain, speedy, and adequate remedy, in the ordinary course of law.
5 It must be issued upon the verified petition of the party
6 beneficially interested." (Code Civ. Proc., § 1086.)

7 "To obtain writ relief under Code of Civil Procedure section
8 1085, the petitioner must show there is no other plain, speedy, and
9 adequate remedy; the respondent has a clear, present, and
10 ministerial duty to act in a particular way; and the petitioner has
11 a clear, present and beneficial right to performance of that duty.
12 A ministerial duty is one that is required to be performed in a
13 prescribed manner under the mandate of legal authority without the
14 exercise of discretion or judgment. [¶] Issuance of a writ of
15 mandate "is not necessarily a matter of right, but lies rather in
16 the discretion of the court, but where one has a substantial right
17 to protect or enforce, and this may be accomplished by such a writ,
18 and there is no other plain, speedy and adequate remedy in the
19 ordinary course of law, [the petitioner] is entitled as a matter of
20 right to the writ, or perhaps more correctly, in other words, it
21 would be an abuse of discretion to refuse it." " (County of San
22 Diego v. State of California (2008) 164 Cal.App.4th 580, 593,
23 citations omitted.)

24 "The writ will issue against a county, city or other public
25 body or against a public officer. However, the writ will not lie
26 to control discretion conferred upon a public officer or agency.
27 Two basic requirements are essential to the issuance of the writ:
28 (1) A clear, present and usually ministerial duty upon the part of

1 the respondent; and (2) a clear, present and beneficial right in
2 the petitioner to the performance of that duty." (*Venice Town*
3 *Council, Inc. v. City of Los Angeles* (1996) 47 Cal.App.4th 1547,
4 1558, citations omitted.)

5 Also, under Code of Civil Procedure section 1060, "[a]ny person
6 ... who desires a declaration of his or her rights or duties with
7 respect to another, ... may, in cases of actual controversy relating
8 to the legal rights and duties of the respective parties, bring an
9 original action or cross-complaint in the superior court for a
10 declaration of his or her rights and duties in the premises,
11 including a determination of any question of construction or
12 validity arising under the instrument or contract. He or she may
13 ask for a declaration of rights or duties, either alone or with
14 other relief; and the court may make a binding declaration of these
15 rights or duties, whether or not further relief is or could be
16 claimed at the time." (Code Civ. Proc., § 1060.)

17 IV.

18 CONTENTIONS OF THE PARTIES

19 Petitioners seek a writ of mandate and related relief to set
20 aside the County's approval of Measure A, which sets a four-year
21 term for all of the County's officials except for the members of
22 the Board of Supervisors, and further states that the elections
23 shall take place in the same year in which the Governor is elected.
24 Petitioners argue that the County's enactment of Measure A conflicts
25 with AB759, which provides that "[a]n election to select a district
26 attorney and sheriff shall be held with the presidential primary."
27 AB759 further provides that it "applies to both general law and
28 charter counties, except those charter counties that, on or before

1 January 1, 2021, expressly specified in their charter when an
2 election for district attorney or sheriff would occur."

3 The County is a charter county, but it did not specify in its
4 charter when the elections for district attorney or sheriff would
5 occur on or before January 1, 2021. It did not adopt Measure A
6 until March 5, 2024. Thus, petitioners conclude that Measure A is
7 preempted and void, as general state laws preempt local ordinances
8 adopted by counties. While petitioners acknowledge that the County
9 is a charter county, and thus has the power to enact and enforce
10 local ordinances, petitioners contend that the County does not have
11 the power to ignore state law, including laws regarding the timing
12 of elections. (Cal. Const., art. XI, § 4, subd. (g).) Petitioners
13 argue that there is nothing in the Constitution that authorizes the
14 County to set the timing of elections for District Attorney and
15 Sheriff, or to ignore a state law that sets the timing of such
16 elections. In fact, petitioners note that the County has never
17 before attempted to set the timing of District Attorney or Sheriff
18 elections. The County's charter does allow the County to set the
19 "terms" of the District Attorney and the Sheriff, but petitioners
20 argue that the Constitution defines "terms" narrowly as "the
21 prescribed period for which an officer has been elected and may
22 serve..." (Cal. Const., art. XI, § 4, subd. (c).)

23 Here, Measure A not only sets four-year terms for district
24 attorneys and sheriffs, but it also states that elections for
25 district attorney and sheriff will take place on gubernatorial
26 election years. Therefore, petitioners conclude that Measure A is
27 void, as it conflicts with AB759. In addition, petitioners argue
28 that the timing of elections is a matter of statewide concern, and

1 therefore Measure A is preempted by state law regarding the timing
2 of elections for district attorney and sheriff.

3 In its opposition, the County argues that it is authorized
4 under its charter to establish the terms of County officers. Here,
5 the voters of Fresno County voted to approve Measure A. Measure A
6 sets the terms for the district attorney and sheriff, as the term
7 of the elected official begins on the first Monday in January after
8 the election. Thus, the County is authorized to specify in which
9 election cycle the election will be held in order to set the term
10 of the official. That is what Measure A does. Indeed, petitioners
11 admit that the effect of AB759 is to set the terms of the district
12 attorney and sheriff, since it states that, for district attorneys
13 and sheriffs in counties to which the section applies, the shift in
14 their election cycle means that if they were elected in 2022, they
15 "shall serve a six-year term and the next election shall occur at
16 the 2028 presidential primary." (Elec. Code, § 1300, subd. (d),
17 italics added.) There is nothing in the Constitution that expressly
18 prohibits the County from specifying when the elections of its
19 officers shall take place.

20 The County contends that, since it is a charter county, Measure
21 A has the same force and effect as a state statute and supersedes
22 any conflicting state statute. The County argues that petitioners
23 do not have the authority to curtail a power that is provided to
24 the County by the Constitution. Therefore, the County concludes
25 that Measure A is not preempted by AB759, and the Petition for Writ
26 of Mandate should be denied.

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1 V.

2 ANALYSIS

3 The Court agrees with petitioners that Measure A conflicts
4 with AB759 to the extent that Measure A specifies that the elections
5 of the County's district attorney and sheriff will be held in
6 gubernatorial election years, whereas AB759 states that the
7 elections of district attorneys and sheriffs shall be held with the
8 presidential primary. While the County does have the authority to
9 set the terms of its elected officials, it is not authorized under
10 the California Constitution to set the dates on which the elections
11 of local officials will be held. Therefore, Measure A is preempted
12 by AB759. As a result, the Court will grant the Petition and issue
13 the writ of mandate invalidating Measure A and its amendment to
14 Section 15 of the Fresno County charter, as well as petitioners'
15 related request for injunctive and declaratory relief.

16 AB759 states that "[a]n election to select a district attorney
17 and sheriff shall be held with the presidential primary." (Elec.
18 Code § 1300, subd. (a)(1).) AB759 specifies that it applies to
19 "both general law and charter counties, except those charter
20 counties that, on or before January 1, 2021, expressly specified in
21 their charter when an election for district attorney or sheriff
22 would occur." (Elec. Code, § 1300, subd. (c).)

23 The County is a charter county, but its charter did not specify
24 on or before January 1, 2021, when an election for district attorney
25 or sheriff would occur.

26 Nevertheless, the County's voters approved Measure A on March
27 5, 2024, which amended the County's charter to state that "[a]ll
28 elective officers [of the County] other than members of the Board

1 of Supervisors shall be nominated and elected for four-year terms
2 in the year in which the Governor of the State of California is
3 elected, in the manner provided for by general law concerning
4 primaries and general elections."

5 Thus, Measure A is in direct conflict with AB759, as Measure
6 A provides that the elections for district attorney and sheriff
7 shall be held in gubernatorial election years, while AB759 provides
8 that such elections shall be held with the presidential primary.
9 "Our state Constitution allows cities and counties to enact and
10 enforce local ordinances so long as they are 'not in conflict' with
11 the state's 'general laws.' (Cal. Const., art. XI, § 7.) Any
12 conflicting ordinance is preempted by state law and thus void."
13 (*O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1065.) Here,
14 Measure A directly conflicts with AB759, a general law of the state,
15 and therefore it is preempted by state law and is void.

16 The County argues that Measure A is not preempted because it
17 is a charter county that is authorized by the provisions of the
18 California Constitution to adopt a charter that provides for the
19 "terms" of County officers, including the district attorney and
20 sheriff. (Cal. Const., art XI, § 4, subd. (c).) The County contends
21 that Measure A sets the terms of the district attorney and sheriff
22 at four years, with elections to take place on gubernatorial
23 election years, which is within its power as a charter county.
24 Therefore, it concludes that Measure A is a valid exercise of its
25 constitutional powers, and it cannot be preempted or superseded by
26 a statute enacted by the Legislature.

27 Under Article XI, section 3 of the California Constitution,
28 "[f]or its own government, a county or city may adopt a charter by

1 majority vote of its electors voting on the question... County
2 charters adopted pursuant to this section shall supersede any
3 existing charter and all laws inconsistent therewith. The
4 provisions of a charter are the law of the State and have the force
5 and effect of legislative enactments." (Cal. Const., art. XI, § 3,
6 subd. (a).)

7 "County charters shall provide for: ... An elected sheriff, an
8 elected district attorney, an elected assessor, other officers,
9 their election or appointment, compensation, terms and removal."
10 (Cal. Const., art. XI, § 4, subd. (c), emphasis added.)

11 "Whenever any county has framed and adopted a charter, and the
12 same shall have been approved by the Legislature as herein provided,
13 the general laws adopted by the Legislature in pursuance of Section
14 1(b) of this article, shall, as to such county, be superseded by
15 said charter as to matters for which, under this section it is
16 competent to make provision in such charter, and for which provision
17 is made therein, except as herein otherwise expressly provided."
18 (Cal. Const., art. XI, § 4, subd. (g).)

19 Thus, "counties may, through their charters, provide for duties
20 of county officers 'different from and inconsistent with those
21 provided by the general laws' so long as such duties are properly
22 grounded in the county's constitutional authority and do not
23 incapacitate the county from performing its public functions."
24 (*Coalition of County Unions v. Los Angeles County Bd. of Supervisors*
25 (2023) 93 Cal.App.5th 1367, 1392, citation omitted.)

26 "'It is elementary law that a charter provision relating to
27 county officials is valid only if authorized by the state
28 Constitution.' Since counties constitute merely political

1 subdivisions of the state, they have independently only such
2 legislative authority that has been expressly conferred by the
3 Constitution and laws of the state. If the latter sources are
4 silent in regard to the delegation of such authority, the authority
5 must still rest with the Legislature. However, if a charter
6 provision is properly authorized, then it supersedes general state
7 laws in conflict, but only to the extent it is not limited by the
8 Constitution. For, it is without dispute that local rules or
9 regulations relating to matters which a county is constitutionally
10 empowered to regulate by charter supersede general state laws on
11 the subject, except as to matters covered by general law where '(a)
12 the local legislation attempts to impose additional requirements
13 [citations], or (b) the subject matter is one of state concern, and
14 the general law occupies the entire field [citation], or (c) the
15 subject matter is of such statewide concern that it can no longer
16 be deemed a municipal affair.'" (*Younger v. Bd. of Supervisors*
17 (1979) 93 Cal.App.3d 864, 870, citations omitted.)

18 "Therefore, a charter county has only those powers and can
19 enact within its charter only those provisions authorized by the
20 Constitution. These include those enumerated in article XI, section
21 4, *supra*. Further, in light of the language of subdivision (h) of
22 section 4, a charter county has all powers provided for counties
23 under the general laws as well, including those powers 'necessarily
24 implied from those expressed.'" (*Younger, supra*, 93 Cal.App.3d at
25 p. 870, citations omitted.)

26 Unlike charter cities, which have plenary authority over
27 matters deemed "municipal affairs", charter counties have only
28 narrow authority over their affairs. "Whereas *charter county* 'home

1 rule' authority is limited to matters concerning the structure and
2 operation of local government, the version of 'home rule' afforded
3 to a *charter city* is substantially more expansive. ... There is no
4 corresponding grant of authority and autonomy over the 'county
5 affairs' of charter counties. Indeed, as noted above, the
6 Constitution requires charter counties to provide for '[t]he
7 performance of functions required by statute.'" (*Dibb v. County of*
8 *San Diego* (1994) 8 Cal.4th 1200, 1207, citations omitted, italics
9 in original.)

10 "Dibb specifically rejected the contention that 'charter
11 counties have only such authority as is 'expressly' conferred by
12 the Constitution or by statute.' Instead, Dibb explained that the
13 appropriate inquiry is 'not whether the Constitution expressly
14 conferred the specific challenged power,' but whether 'given the
15 Constitution's text, the challenged power was "authorized."'"
16 (*Coalition of County Unions v. Los Angeles County Bd. of*
17 *Supervisors*, *supra*, 93 Cal.App.5th at p. 1389, citations omitted,
18 italics in original.)

19 The County argues that, since it has the power to adopt the
20 "terms" of its elected officials, it also has the power to set the
21 years on which the elections of those officials will take place,
22 even if the State's legislature has enacted a general law that
23 provides for different election years for those officials. The
24 County points out that Elections Code section 1300, subdivision
25 (d), expressly admits that it will have the effect of setting the
26 "terms" of district attorneys and sheriffs at six years if they
27 were elected in 2022, as the next presidential primary will not be
28 held until 2028. (Elec. Code, § 1300, subd. (d).) If changing the

1 date on which an election is held will also change the "term" to
2 which an officer is elected, the County reasons it has the authority
3 to set election dates for its officers as well as the length of
4 their terms. Thus, the County concludes that Measure A is not an
5 unauthorized exercise of power, as setting the dates on which
6 elections will take place is an inherent part of setting the terms
7 of its officers.

8 However, the County's reading of the word "terms" is overbroad.
9 The courts have interpreted the word "terms" narrowly. "In the
10 context of the plural use of the word 'terms,' it reflects the
11 singular meaning of the prescribed period for which an officer has
12 been elected and may serve, not his incumbency. 'It is, therefore,
13 not to be confused with the tenure of office ...'" (*Younger v.*
14 *Board of Supervisors, supra*, 93 Cal.App.3d at p. 872, citations
15 omitted.)

16 Here, the County has the power to set the terms of its officers,
17 including the district attorney and sheriff, which it has properly
18 done by specifying that they will serve for four years. However,
19 the County does not have the authority under Article XI, section 4,
20 to also set the timing of the elections of those officials. Setting
21 the term for which an official will serve is not the same as setting
22 the timing of their election or the dates on which elections will
23 take place. Since the County is not authorized by Article XI,
24 section 4, to set the dates or timing of elections, its attempt to
25 set the elections during gubernatorial election years rather than
26 presidential primary years is unauthorized and is preempted by state
27 law.

28 ///

1 Notably, in the past, the County never attempted to specify
2 the years in which the elections of its officials would be held
3 prior to the adoption of Measure A, and instead followed state law,
4 which at the time stated that the elections of county officials
5 would be held in gubernatorial primary election years. (See former
6 Elec. Code, § 1300.) If the County actually had the authority to
7 set the timing for the elections of its officials, one would expect
8 that its charter would have specified the years in which the
9 elections would be held rather than deferring to state law on the
10 issue. The fact that the County has allowed the State to dictate
11 the timing of county officials' elections for many years indicates
12 that it is the State, not the County, that is authorized to specify
13 the years during which the elections will take place.

14 Thus, to the extent Measure A seeks to set the timing of the
15 elections of the district attorney and sheriff by stating that they
16 shall take place on gubernatorial election years rather than
17 presidential primary years, as provided under AB759, Measure A is
18 unauthorized and preempted by state law.

19 "Despite the seeming breadth of article XI, section 3(a), a
20 county charter supersedes state law only when the county is
21 legislating in its proper sphere. Hence, 'charter provisions cannot
22 control in matters of statewide concern where the state has occupied
23 the field.'" (*San Bernardino County Bd. of Supervisors v. Monell*
24 (2023) 91 Cal.App.5th 1248, 1275, citations omitted.)

25 "[C]harter provisions cannot control in matters of statewide
26 concern where the state has occupied the field. "Although the
27 adoption of local rules supplementary to state law is proper under
28 some circumstances, it is well settled that local regulation is

1 invalid if it attempts to impose additional requirements in a field
2 which is fully occupied by statute." (*Wilson v. Beville* (1957) 47
3 Cal.2d 852, 859, citation omitted.)

4 "It has long been settled that, insofar as a charter city
5 legislates with regard to municipal affairs, its charter prevails
6 over general state law. However, as to matters of statewide
7 concern, charter cities remain subject to state law. Similar rules
8 apply to charter counties." (*Sonoma County Organization of Public*
9 *Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 315-316,
10 citations omitted.)

11 Courts apply a multi-part test to determine whether a city or
12 county ordinance is preempted by state law. "First, a court must
13 determine whether the city ordinance at issue regulates an activity
14 that can be characterized as a 'municipal affair.'¹ Second, the
15 court 'must satisfy itself that the case presents an actual conflict
16 between [local and state law].' Third, the court must decide whether
17 the state law addresses a matter of 'statewide concern.' Finally,
18 the court must determine whether the law is 'reasonably related to
19 ... resolution' of that concern and 'narrowly tailored' to avoid
20 unnecessary interference in local governance. 'If ... the court is
21 persuaded that the subject of the state statute is one of statewide
22 concern and that the statute is reasonably related to its resolution
23 [and not unduly broad in its sweep], then the conflicting charter
24 city measure ceases to be a "municipal affair" pro tanto and the
25 Legislature is not prohibited by article XI, section 5(a), from
26 addressing the statewide dimension by its own tailored enactments.'"

27
28 ¹ This part of the test does not apply where there is a challenge
to a county ordinance rather than a city ordinance.

1 (*State Building & Construction Trades Council of California v. City*
2 *of Vista* (2012) 54 Cal.4th 547, 556, citations omitted.).

3 "[A] state law of broad general application is more likely to
4 address a statewide concern than one that is narrow and
5 particularized in its application." (*State Building & Construction*
6 *Trades Council of California v. City of Vista, supra*, at p. 564,
7 citations omitted.) The integrity of the manner in which local
8 elections are conducted is a matter of statewide concern. (*Jauregui*
9 *v. City of Palmdale* (2014) 226 Cal.App.4th 781, 795-801.)

10 "The home rule provisions of the California Constitution
11 provide for a measure of independent authority for charter counties
12 and cities. With respect to those matters for which counties and
13 cities are competent to provide in their charters, the general laws
14 of the state are superseded. But the power of charter counties and
15 cities to make regulations which supersede general law is not
16 without limitation. 'It has long been settled that, insofar as a
17 charter city legislates with regard to municipal affairs, its
18 charter prevails over general state law. However, as to matters of
19 statewide concern, charter cities remain subject to state law.
20 Similar rules apply to charter counties.' Thus, the general law
21 prevails over local enactments of a charter county even with regard
22 to matters which would otherwise be deemed strictly local affairs
23 where the subject matter of the general law is one of statewide
24 concern. This is true regardless of the provisions of the county's
25 charter, 'if it is the intent and purpose of such general laws to
26 occupy the field to the exclusion of municipal regulation'"
27 (*County of Sacramento v. Fair Political Practices Com.* (1990) 222
28 Cal.App.3d 687, 690-691, citations omitted.)

1 In this case, there is an actual conflict between state law
2 and Measure A, since Measure A attempts to set the elections of the
3 sheriff and the district attorney on a different election cycle
4 than specified by AB759. AB759 also attempts to address a matter
5 of statewide concern, since it seeks to increase voter participation
6 by placing the elections for district attorney and sheriff on
7 presidential election years, which are traditionally years with
8 higher voter turnout. Courts have held that the manner in which
9 local elections are conducted is a matter of statewide concern.
10 (*Jauregui v. City of Palmdale*, *supra*, 226 Cal.App.4th at pp. 795-
11 801.) AB759 is also reasonably related to the purpose of increasing
12 voter participation, since requiring the elections of district
13 attorneys and sheriffs to be held on presidential primary years is
14 a reasonable way to encourage voter turnout, which tends to be
15 higher on presidential election years than gubernatorial election
16 years. AB759 is also narrowly tailored to achieve this goal, as it
17 only affects the elections for two types of county officials,
18 district attorneys and sheriffs. Therefore, AB759 meets the test
19 for preemption of conflicting local ordinances like Measure A.

20 The County argues that AB759 will have the effect of extending
21 the tenure of its current district attorney and sheriff beyond the
22 four-year term to which they were elected, and thus AB759
23 constitutes an invalid intrusion into the County's constitutional
24 authority to set the terms of its officials. However, while it is
25 true that AB759 will have the effect of extending the tenures of
26 the County's district attorney and sheriff who were elected in 2022,
27 this effect is a fairly minor intrusion on the County's power to
28 set the terms of its officials, since it will only affect the tenures

1 of the district attorney and sheriff from 2022 to 2028. Any district
2 attorney and sheriff elected from 2028 onward will serve four-year
3 terms as specified by the County's charter.

4 "[G]eneral laws seeking to accomplish an objective of statewide
5 concern may prevail over conflicting local regulations even if they
6 impinge to a limited extent upon some phase of local control."
7 (*Baggett v. Gates* (1982) 32 Cal.3d 128, 139, citation omitted.)
8 Here, AB759 attempts to address a matter of statewide concern,
9 namely increasing voter turnout for local elections for sheriffs
10 and district attorneys. Thus, although AB759 may result in a limited
11 intrusion on the power of the County to set a four-year term for
12 its officers for sheriffs and district attorneys elected in 2022,
13 this intrusion does not render AB759 unconstitutional or invalid,
14 as the intrusion will not affect the terms of any future county
15 officials.

16 Therefore, the Court finds that Measure A is unauthorized to
17 the extent that it attempts to set the timing of the elections for
18 district attorney and sheriff on gubernatorial election years, and
19 that it is preempted by state law. As a result, the Court grants
20 the Petition invalidating Measure A and its amendment to Section 15
21 of the County's charter.

22 VI.

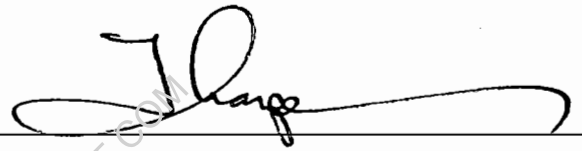
23 DISPOSITION

24 The Petition for a Writ of Mandate invalidating Measure A and
25 its amendment to Section 15 of the County's charter is granted. Let
26 a writ issue as requested, for a permanent injunction barring
27 respondents from implementing or enforcing Measure A and its
28 amendment to Section 15 of the County's charter is granted. The

1 request for a declaratory judgment declaring that Measure A and its
2 amendment to Section 15 of the County's charter is preempted and
3 violates California law is granted. Petitioners' request for
4 attorney fees and costs will be determined, if at all, in response
5 to a future noticed motion.

6 IT IS SO ORDERED.

7 Dated this 2nd day of June, 2025

8
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11 Hon. D. Tyler Tharpe
12 Judge of the Fresno Superior Court
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<p align="center">SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department, Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-2000</p>	<p align="center"><i>FOR COURT USE ONLY</i></p>
<p>TITLE OF CASE: The People of the State of California; California Secretary of State vs. County of Fresno/WM</p>	
<p align="center">CLERK'S CERTIFICATE OF MAILING</p>	<p>CASE NUMBER: 24CECG03179</p>

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Minute order and order after hearing

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S. Nunez

S. Clinton Woods
 Attorney General's Office
 455 Golden Gate Ave, Suite 11000
 San Francisco, CA 94102-7004

Peter J Wall
 Office of the Fresno County Counsel
 2220 Tulare St., Suite 500
 Fresno, CA 93721

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