

No. G065209

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION THREE

THE PEOPLE OF THE STATE OF CALIFORNIA, EX REL. ROB
BONTA, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA;
DR. SHIRLEY N. WEBER, IN HER OFFICIAL CAPACITY AS CALIFORNIA
SECRETARY OF STATE,

Petitioners,

v.

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE
COUNTY OF ORANGE,

Respondents.

CITY OF HUNTINGTON BEACH; LISA LANE BARNES, IN HER
OFFICIAL CAPACITY AS THE CITY OF HUNTINGTON BEACH CITY CLERK.

Real Parties in Interest.

Orange County Superior Court, Case No. 30-2024-01393606
The Honorable Nico Dourbetas, Judge

**PETITION FOR WRIT OF MANDATE OR OTHER
APPROPRIATE RELIEF; MEMORANDUM OF POINTS AND
AUTHORITIES**

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February 13, 2025

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION THREE**

Case Name: *THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. ROB BONTA, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA; DR. SHIRLEY N. WEBER, in her official capacity as California Secretary of State v. THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ORANGE*

Court of Appeal No.: G065209

CERTIFICATE OF INTERESTED PARTIES OR ENTITIES OR PERSONS
(Cal. Rules of Court, Rule 8.208)

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SUPPLEMENTAL CERTIFICATE

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There are no interested entities or persons to list in this Certificate per California Rules of Court, rule 8.208(d).

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Full Name of Interested Entity or Party	Party	Non-Party	Nature of Interest (Explain)
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_____	[]	[]	_____
_____	[]	[]	_____
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The undersigned certifies that the above listed persons or entities (corporations, partnerships, firms or any other association, but not including government entities or their agencies), have either (i) an ownership interest of 10 percent or more in the party if an entity; or (ii) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

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/s/ Michael S. Cohen

Michael S. Cohen

February 13, 2025

Date

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INTRODUCTION

California's constitutional right to vote protects voters statewide, no matter where they live. That right is effectuated through a uniform and robust statutory scheme that requires voters to verify their identity before casting a ballot, both at the time of registration and at the polls, and strictly limits challenges to voter identity. It also expressly forbids charter cities from imposing voter identification rules of their own. Nevertheless, the City of Huntington Beach recently adopted a City Charter amendment authorizing those rules. Despite this straightforward conflict between State and local law, the lower court concluded that this matter—a facial constitutional challenge to the validity of the city's charter amendment—is not ripe for adjudication. The court's decision came with no analysis and cited to a case that does not even mention ripeness. That ruling was wrong, and it untenably delayed the resolution of this action.

This Court should take the extraordinary step of issuing a writ for four reasons. First, Petitioners the People of California and the California Secretary of State ("State") lack an adequate, speedy remedy at law. Respondents the City of Huntington Beach and City Clerk Lisa Lane Barnes ("City") apparently intend to adopt and enforce voter identification rules after elections officials begin planning for the 2026 elections and mere months before they are held, meaning any relief that an appeal may afford will come too late for elections officials and the City's voters. Second, the issue presented here is one of great statewide, public importance, with significant implications for the

successful administration of upcoming elections, the protection of the right to vote, and the constitutional separation of powers between charter cities and the State. Third, this case presents a matter of first impression under the California Constitution and a new state law prohibiting local voter identification rules. Fourth and finally, resolving this case now serves judicial economy by avoiding a multiplicity of appeals raising the same issue.

As one appellate court recently put it, “writ review is appropriate” where a petition “presents a novel issue of law that is of widespread interest and requires prompt resolution.” *California Privacy Protection Agency v. Super. Ct.* (2024) 99 Cal.App.5th 705, 720.) This petition presents such circumstances. Accordingly, the State seeks a writ of mandate or other appropriate order vacating the superior court’s order and requiring the entry of a new order granting the State’s petition.

PETITION FOR WRIT OF MANDATE

I. JURISDICTION

1. This Court has jurisdiction. (Cal. Const., art. VI, § 10; Code Civ. Proc., § 1085; Cal. Rules of Court, rule 8.485 et seq.)

II. TIMELINESS OF THE PETITION

2. The superior court held hearings on the City’s demurrer to the State’s complaint on November 12 and 14, 2024, and issued a minute order sustaining the demurrer with leave to amend on November 15, 2024. The State filed a Request for Entry of Judgment on December 5, 2024. The court held another hearing on December 16, 2024. That

same day, the court issued a minute order dismissing this case in its entirety in accordance with its November 15, 2024 order. This petition is filed within 60 days after entry of the December 16, 2024 order. (See, e.g., *Volkswagen of America, Inc. v. Super. Ct.* (2001) 94 Cal.App.4th 695, 701.)

III. AUTHENTICITY OF EXHIBITS

3. The exhibits are incorporated herein by reference as though fully set forth in this petition. The exhibits, constituting the record that was before the superior court, are paginated consecutively and concurrently filed under separate cover in the two-volume Petitioners' Appendix. The exhibits are referenced by volume, tab, and, where applicable, by exhibit and page number (e.g., "Vol.[], Tab [], Ex. [] at p. []").

4. All exhibits in Volume One of Petitioners' Appendix are true and correct copies of original documents on file with the superior court in *The People of the State of California, et al. v. City of Huntington Beach, et al.*, Orange County Superior Court Case No. 30-2024-01393606 and related case *Bixby v. Estanislau, et al.*, Orange County Superior Court Case No. 30-2023-01366664. All exhibits in Volume Two of Petitioners' Appendix are true and correct copies of the court reporter's transcript from the November 12 and 14 and December 16, 2024 hearings on the City's demurrer to the State's complaint.

IV. IDENTIFICATION OF PARTIES

5. Petitioners are the People of the State of California, by and through Rob Bonta, Attorney General of the State of California, and Dr. Shirley N. Weber, in her official capacity as Secretary of State of the State of California. Petitioners are petitioners in the underlying matter, *The People of the State of California, et al. v. City of Huntington Beach, et al.*, Orange County Superior Court Case No. 30-2024-01393606. The Attorney General is the chief law officer of the State and has the duty to see that the State's laws are uniformly and adequately enforced for the protection of public rights and interests. (Cal. Const. art. V, § 13.) The Secretary of State is the chief elections officer of the State and has the duty to see that the State's elections are conducted in accordance with the State's laws. (Elec. Code, § 10; Gov. Code, § 12172.5.)

6. Respondent is the Superior Court of Orange County, the Honorable Nico Dourbetas, Department C25.

7. Real Parties in Interest are the City of Huntington Beach and Lisa Lane Barnes (formerly Robin Estanislau), in her official capacity as the Huntington Beach City Clerk, and Does 1 through 50, respondents in the underlying action. Huntington Beach is a charter city incorporated and existing under the laws of the State of California. The City Clerk is Huntington Beach's chief elections official and has the duty of conducting all municipal elections.

V. BACKGROUND

A. California's Uniform and Robust Election Laws

8. California maintains a uniform and robust legal scheme for safeguarding the integrity of the electoral process and protecting the rights of eligible voters statewide. The California Constitution establishes that the Legislature is the guardian of election integrity, including voter eligibility and registration. It requires that the Legislature “shall . . . provide for . . . free elections.” (Cal. Const. art. II, § 3.) Elsewhere, it states that the Legislature “shall prohibit improper practices that affect elections” by, for example, disqualifying certain electors. (Cal. Const. art. II, § 4.)

9. The California Constitution also grants the Legislature a central role in establishing voter eligibility requirements. It provides that voters must be (1) “A United States citizen 18 years of age” and (2) “a resident in this State.” (Cal. Const. art. II, § 2.) The second requirement is for the Legislature to define. (Cal. Const. art. II, § 3 [“The Legislature shall define residence”].) With limited exceptions, those who meet both requirements “may vote.” (Cal. Const. art. II, § 2.)¹ The Legislature “shall . . . provide for registration” of individuals who meet these requirements. (Cal. Const. art. II, § 3.)

¹ The Constitution requires that “[t]he Legislature . . . shall provide for the disqualification of electors while mentally incompetent or serving a state or federal prison term for the conviction of a felony.” (Cal. Const. art. II, §§ 2, 4.)

10. The Legislature has satisfied these constitutional mandates by developing a comprehensive statutory scheme that carefully balances the right to vote with protections against illegal voting. It has provided that “[e]very person who qualifies under Section 2 of Article II of the California Constitution and who complies with this code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held.” (Elec. Code, § 2000, subd. (a); see also *id.*, § 10000 [locally registered voters “entitled to vote” in local elections].) Voter registration is within the sole purview of the Legislature, except as mandated by court judgment or otherwise provided by statute. (*Id.*, § 2100.)²

11. The voter registration process is designed to guard against illegal voting. Voter identity and qualifications are confirmed with documentation and under penalty of perjury during the registration process. (Elec. Code, §§ 2150, 2112, 2188, 2196; Cal. Code Regs. tit. 2, §§ 19073, 20107; see also Elec. Code, §§ 18100, 18500 [criminal liability for fraud in voter registration].)³ Having already established their

² The Legislature has delegated certain aspects of the voter registration process to the Secretary of State, including developing registration forms and maintaining the exclusive online forum for voter registration. (*Id.*, §§ 2157, 2196.)

³ Applicants who fail to include identifying documentation in their registration application must still provide the documentation before voting in any election with a federal office on the ballot, including all regularly scheduled statewide elections. (Cal. Code Regs. tit. 2, § 19075.)

eligibility to vote, registered voters voting in person must provide their name and address to confirm their identity and registered status. (Elec. Code, § 14216; see also Cal. Code Regs. tit. 2, § 19075.) The Legislature’s “Voter Bill of Rights” guarantees that registered voters—having established eligibility for the constitutional right to vote—“have the right to cast a ballot,” and voters “have the right to cast a secret ballot free from intimidation.” (Elec. Code, § 2300, subs. (a)(1), (4).)

12. Recognizing that contests could arise as to a voter’s eligibility, the Legislature has also set forth a detailed scheme for challenging voter qualifications that avoids unduly burdening the right to vote. (Elec. Code, §§ 14240 *et seq.*) Challenges are limited in numerous ways. Only members of a precinct board may “challenge or question any voter concerning the voter’s qualifications to vote,” and then only on limited grounds related to identity, residency, citizenship, or whether the voter previously voted in that election. (*Id.*, §§ 14240, subs. (a), (b).) That challenge must be based on evidence constituting probable cause. (*Id.*, §§ 14240, 18543.) Any person who “knowingly challenges a person’s right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting” is criminally liable. (*Id.*, § 18543.) Certain types of evidence and certain types of challenges are expressly prohibited. (See, e.g., *id.*, § 14242 [no challenges

of voters registered in the state but new to the voting precinct].)

13. Challenge procedures are designed to favor casting a ballot. A challenged voter need only take a sworn oath of affirmation to remedy the challenge. (Elec. Code, §§ 14243–14246.) Doubts as to a voter’s eligibility at the polls are resolved in favor of the challenged voter. (*Id.*, §§ 14246, 14251.) And if “persistent challenging of voters is resulting in a delay of voting sufficient to cause voters to forego voting,” the challenges “shall discontinue.” (*Id.*, § 14253.)

14. Because California already maintains thorough voter identification laws consistent with federal mandates, and because additional voter identification rules would harm voters and disrupt this well-balanced scheme, the Legislature has expressly forbidden localities, including charter cities, from “enact[ing] or enforc[ing] any charter provision, ordinance, or regulation requiring a person to present identification for the purpose of voting or submitting a ballot . . . unless required by state or federal law.” (Elec. Code, § 10005; see also Sen. Bill No. 1174 (2023–2024 Reg. Sess.) § 1 [legislative declarations].)

15. By their own terms, these obligations, guarantees, and prohibitions apply statewide without exception. (See, e.g., Elec. Code, §§ 2000, subd. (a) [“Every person”], 2300 [“valid registered voter”], 14216 [“any person”], 14240, subd. (a) [“A person offering to vote”], 18543, subd. (a) [“Every person”].) The Legislature has also expressly extended them to local elections. (*Id.*, §§ 10000 [locally registered

voters are “entitled to vote at a local, special, or consolidated election . . . in accordance with this code.”], 10005 [prohibition on local voter identification rules applies to “any charter or general law city, charter or general law county, or any city and county”].)

16. By constitutional and statutory mandate, California’s elections are administered jointly by the Secretary of State and localities. The Secretary of State is charged with seeing “that elections are efficiently conducted and that state election laws are enforced.” (Gov. Code, § 12172.5, subd. (a).) For example, as provided by the Legislature, the Secretary of State oversees certain aspects of the voter registration process. (See, e.g., Elec. Code, §§ 2157, 2196.) Local election officials—the county or city official responsible for overseeing elections—are responsible for, among other duties, providing supplies for polling places and conducting the canvass of votes in accordance with state law. (See, e.g., *id.*, §§ 14105, 14110, 15150.) While city election officials oversee municipal elections, State law establishes a process by which cities can request that the local county election official consolidate municipal elections with a statewide election. (See *id.*, §§ 10400 et seq.) Under those circumstances, the municipal election is regulated just like the statewide election, and the items to be voted upon in both elections appear on the same ballot. (*Id.*, § 10418.)

B. The City’s Efforts to Undermine Local Election Integrity

17. For several months in 2023, the City’s Charter Review Ballot Measure Ad Hoc Committee (“Committee”) developed recommendations for proposed City Charter amendments that could be placed before the City’s voters in the March 2024 Presidential Primary Election. (Vol. 1, Tab 1, ¶¶ 8–9 [Complaint].) Then-Mayor Tony Strickland led the Committee, which met behind closed doors. (Vol. 1, Tab 8, Ex. A at pp. 2–3 [Petitioner’s RJN]; see also *id.*, Ex. B.)⁴ Strickland had long sought to establish voter identification requirements in California while serving in the California Legislature. (See, e.g., Assem. Bill No. 247 (2003–2004 Reg. Sess.); Vol. 1, Tab 8, Ex. S.) Consistent with Strickland’s previous legislative efforts, the Committee ultimately proposed a City Charter amendment concerning “voter ID provisions for resident verification.” (Vol. 1, Tab 8, Ex. D.)⁵

18. Numerous parties advised against the proposal. State Senator Dave Min wrote to the City Council on August 1, 2023, to express his concerns. (Vol. 1, Tab 1, ¶ 9.) On

⁴ The Committee was an ad hoc committee exempt from the public meeting requirements of the Ralph M. Brown Act (Gov. Code, §§ 54950 et seq.).

⁵ Councilmember Strickland highlighted this history himself while the City Council deliberated Measure A. (See, e.g., City of Huntington Beach website, August 1, 2023, Huntington Beach City Council meeting webcast at 6:07:20, available at: https://huntingtonbeach.granicus.com/player/clip/1972?view_id=10&redirect=true (as of August 9, 2024) [“I authored a bill every year when I was in Sacramento on voter ID. I wanted to see if it was feasible to do voter ID in our municipal elections.”].)

September 28, 2023, the California Attorney General and Secretary of State sent a letter to the City explaining that the proposal “conflicts with state law and would only serve to suppress voter participation without providing any discernible local benefit.” (Vol. 1, Tab 8, Ex. J at p. 2.) The letter “respectfully urge[d] [the City] to reject this proposed charter amendment” and warned that “[i]f the City moves forward and places it on the ballot, we stand ready to take appropriate action to ensure that voters’ rights are protected, and state election laws are enforced.” (*Ibid.*) The American Civil Liberties Union of Southern California and Disability Rights California sent a similar letter on October 5, 2023. (*Id.*, Ex. K.)

19. Despite those written warnings, the Huntington Beach City Council voted in favor of holding an election on the proposed City Charter amendment that would be consolidated with the March 5, 2024 Presidential Primary Election conducted by Orange County. (Vol. 1, Tab 8, Exs. L, N.) Measure A was ultimately approved by 53.4% of the City’s voters in that election, incorporating Measure A into the City’s Charter. (*Id.*, Ex. P.) As amended by Measure A, section 705, subdivision (a) of the Huntington Beach City Charter (“voter identification provision”) reads as follows:

(a) Beginning in 2026, for all municipal elections:

(1) “Elector” means a person who is a United States citizen 18 years of age or older, and a resident of the City on or before the day of an election.

(2) The City may verify the eligibility of Electors by voter identification.

(*Id.*, Ex. M at p. 2.)

C. The Underlying Litigation

20. The State filed its Petition and Complaint (“Complaint”) on April 15, 2024, alleging that the City’s voter identification provision is preempted by state election law. (Vol. 1, Tab 1.) The Complaint outlines the legislative history of Measure A and explains why State law preempts this purported grant of authority according to analysis set forth in controlling California Supreme Court precedent.

21. The City filed a Demurrer, Motion to Strike, and Request for Judicial Notice (“RJN”) on May 9, 2024. (Vol. 1, Tabs 2, 3, 4.) The motions were set for a hearing on October 4, 2024. In their Demurrer, the City argued that this matter is unripe for adjudication because the voter identification provision only authorizes—rather than establishes—voter identification rules. (Vol. 1, Tab 2, pp. 4–5.)

22. On September 23, 2024, the State filed oppositions to the Demurrer and Motion to Strike, an RJN, and a Statement of Non-Opposition to the City’s RJN. (Vol. 1, Tabs 5, 6, 7, 8.) In their Demurrer Opposition, the State explained that this facial question of law, which is fundamental to the orderly administration of upcoming elections, is ripe for adjudication. (Vol. 1, Tab 5, pp. 12–13.)

23. The City filed replies in support of their Demurrer and Motion to Strike on September 30, 2024. (Vol. 1, Tabs

9, 10.) As to the ripeness issue, the City failed to rebut much of the State’s argument and omitted any analysis of the hardship to the State of delaying adjudication. Instead, Respondents asserted that *City of Huntington Beach v. Becerra* (2020) 44 Cal.App.5th 243 stands for the proposition that permissive grants of authority cannot conflict with state law. (Vol. 1, Tab 9, pp. 2–3.)

24. On October 3, 2024, the lower court issued a minute order acknowledging a Notice of Supplemental Authority addressing a new law, Senate Bill 1174, filed in related case *Bixby v. Estanislau* (Orange County Super. Ct., Case No. 30-2023-01366664). (Vol. 1, Tab 11, p. 2; see also Vol. 1, Tab 12.)⁶ The court invited the parties to “file a supplemental brief not to exceed 7 pages.” (Vol. 1, Tab 11, p. 2.) The parties filed their supplemental briefs on October 29, 2024. (Vol. 1, Tabs 13, 14.)

25. The parties argued the motions over two days on November 12 and November 14, 2024, in hearings consolidated with hearings in *Bixby*. As to the ripeness issue, counsel for the City argued that the City does not “have a program yet to effectuate” voter identification. (Vol. 2, Tab 1, p. 8.) Counsel for the State responded that “[t]here

⁶ *Bixby v. Estanislau* is a challenge to the voter identification provision brought by a private citizen against the City and City Clerk. Petitioner in *Bixby* brings a claim based on California’s constitutional right to vote, a State law preemption claim, and a procedural claim alleging the improper adoption of the provision. Petitioner’s motion for a preliminary injunction and Respondents’ demurrer are currently pending in that case.

is a [live] question of law about whether the City can claim th[e] authority [to enact voter identification rules] for itself,” and “it’s ripe just like any other facial challenge[,] especially because it presents a question that is fundamental to the orderly administration of upcoming elections.” (Vol. 2, Tab 2, p. 7.) The State’s counsel further explained that *City of Huntington Beach* never addressed ripeness and referred the court to the authority in its papers—namely, the “numerous cases adjudicating preemption disputes involving only grants of authority” and California Supreme Court authority emphasizing “that pressing election matters generally warrant the court’s exercise of jurisdiction.” (*Id.* at pp. 7–8.)

26. On November 15, 2024, the court issued a minute order concluding that:

Respondents City of Huntington Beach and Robin Estanislau’s demurrer to the Petition for Writ of Mandate and Complaint is SUSTAINED, with leave to amend, on grounds of failure to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).) The Court finds that this matter is not ripe for adjudication, as § 705, subd. (a)(2) of the City’s Charter is permissive and discretionary in character, and thus currently presents no conflict with state elections law. (*City of Huntington Beach v. Becerra* (2020) 44 Cal.App.5th 243, 270.)

(Vol. 2, Tab 15, p. 2.)

27. On December 5, 2024, the State filed a Request for Entry of Judgment informing the lower court that “Petitioners have elected not to file an amended Complaint by the time allotted” and “seek an appealable judgment as soon as possible, to give the parties the necessary time to resolve the issues presented by this matter before the planning for the 2026 elections begins.” (Vol. 1, Tab 16, pp. 2–3.)

28. The lower court held a status conference on December 16, 2024. During that hearing, counsel for both parties explained to the court that the State sought an appealable order in lieu of filing an amended complaint. The City’s counsel, however, expressed the view that a final judgment was procedurally improper because “judgments are reserved for when there’s an adjudication of the merits and the case is finally disposed of.” (Vol. 2, Tab 3, p. 12.) The State’s counsel explained that there was “nothing improper about entering judgment in this context.” (*Id.* at p. 14.) That day, the court issued an order recognizing that the State “inform[ed] the Court of the intent to appeal the Court’s prior ruling regarding the Demurrer to the Petition of Writ.” (Vol. 1, Tab 18, p. 2.) Still, the Court was “not inclined to enter judgment in this matter” and instead “order[ed] the entire action dismissed without prejudice” because the State had not filed an amended Complaint. (*Ibid.*)

VI. ISSUE PRESENTED

29. Whether the State's uniform and comprehensive laws prohibiting local voter identification rules, specifying what registered voters must show at the time of registration and at the polls to verify their identity, and strictly limiting challenges to voter identity preempt a charter city from authorizing local voter identification rules.

VII. WRIT REVIEW IS APPROPRIATE IN THIS CASE

30. Writ review is appropriate in this case for four reasons, boiling down to this: this petition raises an urgent and novel issue of great public importance that this Court will eventually need to decide and should resolve now to avoid chaos in the administration of the 2026 elections. (See generally *Omaha Indemnity Co. v. Super. Court* (1989) 209 Cal.App.3d 1266, 1273–74 [providing non-exhaustive list of criteria supporting writ review].)

31. First, the State lacks an adequate, speedy remedy at law. The City apparently intends to adopt and enforce voter identification rules after elections officials begin planning for the 2026 elections and mere months before those elections are held. (See *infra* at p. 39.) Any relief that may be afforded by an appeal on the issue of ripeness and subsequent adjudication in the lower court will come far too late for elections officials and the City's voters; elections officials would have to navigate the decisions in the midst of preparing for an election, and the City's voters would have to scramble to comply with any new voter identification requirements or forego voting altogether. Even an

emergency motion to enjoin those rules would hardly provide the necessary relief at that late stage. (See, e.g., *Los Angeles City Ethics Com. v. Super. Ct.* (1992) 8 Cal.App.4th 1287, 1299 [“writ may be issued” where “prompt resolution is necessary to protect the public interest”]; *People ex rel. Becerra v. Super. Ct.* (2018) 29 Cal.App.5th 486, 494 [writ relief appropriate where “time is of the essence”]; see also *Jolicoeur v. Mihaly* (1971) 5 Cal.3d 565, 570, fn. 1 [“the necessity of adjudicating the controversy before the election renders it moot usually warrants our bypassing normal procedures of trial and appeal.”].)

32. Second, the issue presented here is one of great statewide, public importance. As described in further detail below, whether the City can authorize (and later enact) local voter identification rules has significant implications for the successful administration of upcoming elections, the protection of the right to vote, and the constitutional separation of powers between charter cities and the State. The superior court’s order casts doubt on the rules applicable to the upcoming elections, threatening to substantially disrupt fast-approaching election administration deadlines. This uncertainty also jeopardizes voting rights in the City. Just the threat of new voter identification rules alone can confuse and disenfranchise voters. Later, they may be denied the ability to cast a ballot despite their compliance with state law. All the while, the voter identification provision usurps the Legislature’s constitutional authority to protect election integrity. (See,

e.g., *Jolicoeur, supra*, 5 Cal.3d 565 at p. 570, fn. 1 [“Cases affecting the right to vote and the method of conducting elections are obviously of great public importance”]; *Henry M. Lee Law Corp. v. Super. Ct.* (2012) 204 Cal.App.4th 1375, 1383 [“Writ review is appropriate” where “the issues presented are of great public importance and require prompt resolution”]; *County of San Diego v. State of California* (2008) 164 Cal.App.4th 580, 593 [granting writ review where lower court’s order “violate[d] the separation of powers doctrine”]; see also *Powers v. City of Richmond* (1995) 10 Cal.4th 85, 114 (Cal.1995) [same where “one has a substantial right to protect or enforce”].)

33. Third, this case presents a matter of first impression under the California Constitution and a recently enacted statute, Senate Bill (“SB”) 1174, which prohibits local voter identification rules statewide, including in charter cities. The Court has never addressed the scope of State and local authority under the Constitution as it pertains to voter identification. Nor has it considered the preemptive force of either SB 1174 or the comprehensive legislative scheme that pre-dated SB 1174. (See, e.g., *California Privacy Protection Agency, supra*, 99 Cal.App.5th at p. 720 [writ review appropriate to resolve an issue of first impression]; *Edamerica, Inc. v. Super. Ct.* (2003) 114 Cal.App.4th 819, 823 [issuing writ to rule on “newly enacted statute that has not yet been interpreted or applied by any appellate court”].)

34. Fourth, resolving this case now serves judicial economy. The merits of this case are virtually guaranteed

to eventually reach this Court. *Bixby v. Estanislau*, which raises similar issues, is pending in the lower court and is also likely to go up on appeal. Moreover, other local jurisdictions may soon follow the City in authorizing or adopting local voter identification rules, necessitating additional litigation. The Court could avoid this resource expenditure by resolving this matter on the merits now. (See, e.g., *Anderson v. Super. Ct.* (1989) 213 Cal.App.3d 1321, 1328 [“The issuance of a writ of mandate is appropriate to prevent a multiplicity of appeals raising [an] identical issue.”]; *People v. Super. Court* (1970) 13 Cal.App.3d 672, 676 [same].)

35. As one appellate court recently put it, “writ review is appropriate” where a petition “presents a novel issue of law that is of widespread interest and requires prompt resolution.” (*California Privacy Protection Agency, supra*, 99 Cal.App.5th at p. 720.) Absent immediate intervention by this Court, the City’s actions will throw upcoming elections into chaos and undermine the right to vote, contrary to State law. Writ review is not only *appropriate* under these circumstances; “it would be an abuse of discretion to refuse it.” (*People for Ethical Operation of Prosecutors and Law Enforcement v. Spitzer* (2020) 53 Cal.App.5th 391, 409, fn. 4, quoting *Powers, supra*, 10 Cal.4th at p. 114.)

PRAYER FOR RELIEF

WHEREFORE, the State respectfully prays that this Court:

1. Issue a peremptory writ in the first instance directing Respondent Court to vacate its November 15 and December 16, 2024 orders, and enter a new and different order granting the State's petition for writ of mandate in its entirety.
2. Alternatively, issue an alternative writ of mandate directing Respondent Court to vacate its November 15 and December 16, 2024 orders, and enter a new and different order granting the State's petition for writ of mandate in its entirety, or to show cause why the State is not entitled to relief.
3. Award such other relief as may be just and proper.

Respectfully submitted,

ROB BONTA

Attorney General of California

THOMAS S. PATTERSON

Senior Assistant Attorney General

R. MATTHEW WISE

Supervising Deputy Attorney General



MICHAEL S. COHEN

Deputy Attorney General

Attorneys for Petitioners the People of California and California Secretary of State

VERIFICATION

I, Michael S. Cohen, declare:

I am a Deputy Attorney General in the California Attorney General's Office and the counsel of record for Petitioners in this matter. I have personal knowledge of the facts alleged in the foregoing Petition based on personal participation or on examination of copies of original documents I believe to be true and correct, and the facts alleged in the Petition are true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this verification was executed in California on February 13, 2025.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael S. Cohen". The signature is written in a cursive style with a large initial "M".

MICHAEL S. COHEN

MEMORANDUM OF POINTS AND AUTHORITIES

This case presents a straightforward conflict between State and local law. The City’s voter identification provision authorizes local voter identification rules. State law expressly forbids them. Instead, it requires voter identification at the time of registration, mandates that voters provide other information at the polls to verify their identity, and sets forth a narrowly circumscribed process for contesting voter identity. This preemption question is ripe for immediate adjudication, especially when considering the stakes of this case: the smooth administration of upcoming elections, protection of the right to vote, and policing the separation of powers between the State and charter cities. And the City’s law is clearly preempted under the applicable analytical framework. The statutes at issue here comprise a uniform, statewide scheme that promotes the State’s important and well-established interests in safeguarding the integrity of the electoral process and the right to vote—matters of state, not local, concern. The Court should grant this petition and direct the superior court to vacate its earlier orders and enter a new order granting the State’s petition for writ of mandate.

I. APPLICABLE LEGAL STANDARDS

Whether state law preempts a city charter provision “is a question of law that is subject to de novo review.” (*Chevron U.S.A. Inc. v. County of Monterey* (2023) 15 Cal.5th 135, 143, citations and quotations omitted.) To establish the facial invalidity of a law, challengers must demonstrate that it conflicts with constitutional principles “in at least the generality or vast majority of cases.” (*Today’s Fresh Start, Inc. v. Los Angeles*

County Office of Education (2013) 57 Cal.4th 197, 218, citations and quotations omitted.)

II. THE SUPERIOR COURT ERRED IN DEEMING THIS MATTER UNRIPE

The lower court erroneously concluded, with no analysis, that “this matter is not ripe for adjudication, as § 705, subd. (a)(2) of the City’s Charter is permissive and discretionary in character, and thus currently presents no conflict with state elections law.” (Vol. 1, Tab 15, p. 2.) The lower court’s rationale is inconsistent with fundamental principles of justiciability, and the Court of Appeal has squarely rejected it.

“[A] controversy is ripe when it has reached . . . the point that the facts have sufficiently congealed to permit an intelligent and useful decision to be made.” (*Vandermost v. Bowen* (2012) 53 Cal.4th 421, 452, quotations omitted.) This imperative “should not,” however, “prevent courts from resolving concrete disputes if the consequence of a deferred decision will be lingering uncertainty in the law, especially when there is widespread public interest in the answer to a particular legal question.” (*Ibid.*, emphasis omitted.) Accordingly, the Supreme Court “has repeatedly held” that “court[s] may appropriately exercise [their] jurisdiction . . . when the issues presented are of great public importance and must be resolved promptly”—including “*cases involving significant legal issues affecting the electoral process, when a speedy resolution of the underlying controversy is necessary to avoid a disruption of an upcoming election.*” (*Id.* at p. 453, emphasis added and quotations omitted.)

California courts have adopted a two-prong test to balance these considerations and determine whether a claim presents a ripe controversy: (1) “the fitness of the issues for judicial decision” and (2) “the hardship to the parties of withholding court consideration.” (*Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158, 171, emphasis omitted.) Both prongs weigh in favor of adjudicating this case without further delay.

A. This Purely Legal Facial Challenge Is Appropriate for Immediate Judicial Resolution

The Court can resolve this purely legal facial challenge “definitive[ly] and conclusive[ly]” without additional factual development. (*Pacific Legal Foundation, supra*, 33 Cal.3d at p. 171, quoting *Selby Realty Company v. City of Buenaventura* (1973) 10 Cal.3d 110, 117.) Indeed, since facial challenges hinge on questions of law, they are “generally ripe the moment the challenged [law] is passed.” (*AIDS Healthcare Foundation v. Bonta* (2024) 101 Cal.App.5th 73, 80, citations and quotations omitted; see also *Castellanos v. State of California* (2023) 89 Cal.App.5th 131, 167–168 [facial challenge to voter initiative ripe once initiative approved].)

This case falls within that rule. The State is challenging the City’s authority to adopt the voter identification provision because it authorizes what State law forbids. Specifically, State law prohibits voter identification rules beyond state and federal law; specifies what a registered voter needs to show to verify their identity and cast their ballot; and strictly limits challenges to voter identity at the polls. (See *supra* at pp. 15–20.) The voter identification provision, however, expressly grants the City

expansive authority to enact voter identification rules, unmoored from state or federal requirements. (Vol. 1, Tab X, Ex. M at p. 2.) A conflict therefore exists on the face of these laws “as to which entity has the authority to decide” how to verify voter identity at the polls. (*Chevron U.S.A. Inc.*, *supra*, 15 Cal.5th at p. 145 [identifying conflict between local law prohibiting certain oil production methods and statute directing State supervisor to make decisions about the use of all such methods].)

Whether the City can claim that authority—contrary to State law—is a legal question “not dependent in any way on the facts of any particular” voter identification rule. (*Communities for a Better Environment v. State Energy Resources Conservation & Development Com.* (2017) 19 Cal.App.5th 725, 738; see also *Cultiva La Salud v. State of California* (2023) 89 Cal.App.5th 868, 878 [rejecting argument that challenge to penalties in State law prohibition on certain new taxes was unripe absent any municipal attempt to enact such a tax].) For the reasons set forth below, State law would preempt *any* such rule. The Supreme Court has recognized that this sort of conflict “may exist between state and local authority even though [a] city has not specifically legislated” in a policy area. (*Johnson v. Bradley* (1992) 4 Cal.4th 389, 399, fn. 9, quotations omitted.) And this conflict would “necessarily be implicated in *every* future judicial proceeding seeking review” of the City’s voter identification rules, underscoring the propriety of resolving it now. (*Communities for a Better Environment*, *supra*, 19 Cal.App.5th at p. 735.)

The Court of Appeal has accordingly rejected the lower court’s theory of non-justiciability. The state housing law at

issue in *AIDS Healthcare Foundation, supra*, 101 Cal.App.5th 73 repeatedly uses the word “may,” granting local legislative bodies *discretion* to supersede local caps on housing density, but not *requiring* that they do so. (*Id.* at p. 79; Gov. Code, § 65913.5.) Respondents in that case argued that “the use of the law is entirely voluntary,” and “if Redondo Beach never intends to utilize [the law], its purported concerns about it are not (and likely never will be) ripe for review.” (Respondents’ Brief (Aug. 2023), 2023 WL 5950487 at *22.) They posited that petitioners could bring their challenge only if use of the law “*actually occurs.*” (*Id.* at *24.) The Second District Court of Appeal rejected the argument because petitioners had brought a facial challenge “focuse[d] on the statute’s text rather than its application.” (*AIDS Healthcare Foundation, supra*, 101 Cal.App.5th at p. 80, citations and quotations omitted.) The facial challenge at issue here is similarly ripe for immediate judicial review.

B. Refusal to Hear this Case Would Undermine California’s Elections, the Right to Vote, and the Separation of Powers

Further delay in this case would cause “imminent and significant hardship” by casting doubt on the administration of upcoming elections, compromising the right to vote, and enabling an ongoing violation of the constitutional separation of powers. (*Castellanos, supra*, 89 Cal.App.5th at p. 167.)

The issues presented in this matter are fundamental to basic questions of election administration: whether the City can implement voter identification rules in upcoming elections and, relatedly, consolidate its elections with Orange County. These

questions must be resolved now. The June 2, 2026 Primary Election is upcoming, and the City may hold special elections even earlier. The deadlines applicable to these elections are approaching. For example, the deadline to request consolidation with Orange County for the 2026 Primary Election is March 6, 2026. (Elec. Code, § 10403.) The deadline for the Orange County Registrar of Voters to mail the County’s voter information guides for that election is May 4, 2026. (*Id.*, § 13300.) Elections officials will need the issues presented in this matter resolved well in advance of these filing and publication deadlines. And because “preparing for elections is a complex and sequential process, requiring various tasks be performed before others may begin,” “[e]arly delays in one function”—such as decisions about consolidation or the development of voter information guides—“can impact all other functions.” (*Vandermost, supra*, 53 Cal.4th at p. 455, quotations omitted.)

The City could throw the upcoming elections into chaos by establishing voter identification rules after the City and Orange County have begun planning their administration, possibly necessitating emergency judicial relief. By its own terms, the voter identification provision authorizes the City to implement voter identification rules without further enactment, and the City Clerk could implement them without warning. (See generally *Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 171 [limitations on exercise of power conferred by charter must be express]; *Krug v. Maschmeier* (2009) 172 Cal.App.4th 796, 802 [word “may” grants permissive authority].)

City officials have repeatedly reaffirmed the imminence of this threat. Voter identification was a defining feature of the City’s recent City Clerk election, where the candidate who had made voter identification a key part of her platform prevailed.⁷ City Councilmembers have also “said it’s their intention to get the voter ID requirements in place for next year.”⁸ City Mayor Gracey Van Der Mark has also issued a “call to action” for other local governments in the State to adopt local voter identification, suggesting the legal and practical concerns at issue here could grow in scale if the Court refuses to adjudicate this case now.⁹

This matter is also critical to the preservation of a “precious” constitutional right. (*Canaan v. Abdelnour* (1985) 40 Cal.3d 703, 714.) The longer this case remains pending, the greater the chilling effect on voting in the City. The City’s voters are persistently exposed to potentially confusing news coverage and public statements related to whether they will need identification to vote in upcoming elections. For example, one recent headline

⁷ Jill Replogle, *The Huntington Beach City Clerk’s race is hot — because of voter ID*, LAist (Oct. 29, 2024) <<https://laist.com/news/politics/huntington-beach-city-clerks-race-voter-id>> [as of Jan. 30, 2025].

⁸ Michael Slaten, *California appeals Huntington Beach voter ID lawsuit*, Orange Counter Register (Jan. 30, 2025) <<https://www.ocregister.com/2025/01/14/california-appeals-huntington-beach-voter-id-lawsuit/?share=hlahpsw2tlht12woiatc>> [as of Jan. 30, 2025].

⁹ YouTube, Mayor Gracey Van Der Mark Press Conference - April 18, 2024 at 14:24 (Apr. 18, 2024) <<https://www.youtube.com/live/oXVWqOBmnSM> (as of September 17, 2024)> [as of Jan. 30, 2025].

announces: “California judge rules Huntington Beach can proceed with voter ID law.”¹⁰ At least one City official has also made a statement implying that City residents must take steps beyond what State law requires to cast a ballot.¹¹ And should the City act on the authority purportedly granted under the voter identification provision, some voters would be forced to scramble to secure qualifying identification—despite their registered status—just to cast their ballot. Some otherwise lawful voters will inevitably fail.¹² The Court should settle this case now, so voters know what to expect in the 2026 elections and beyond. (See *Castro v. State of California* (1970) 2 Cal 3d 223, 234 [cautioning against “unnecessarily abridg[ing]” the right to vote].)

Finally, as explained below, the voter identification provision violates the separation of powers between the State and municipalities. The California Constitution grants the

¹⁰ Associated Press (Nov. 15, 2024) <<https://apnews.com/article/california-huntington-beach-voter-id-lawsuit-0867eae53bc86c978a993e60c7debe71>> [as of Jan. 30, 2025].

¹¹ YouTube, Huntington Beach City Council Meeting – December 3, 2024 at 1:54:30 (Dec. 3, 2024) <<https://www.youtube.com/watch?v=eN-9bI7GXTI>> [as of Jan. 30, 2025] (statement from City Attorney Michael Gates implying that voter identification rules exist, “although not fully implemented in the City yet”).

¹² See, e.g., *The Impacts of Voter Suppression on Communities of Color*, Brennan Center for Justice (Jan. 10, 2022) <<https://www.brennancenter.org/our-work/research-reports/impact-voter-suppression-communities-color>> [as of Jan. 30, 2025].

Legislature a central role in protecting election integrity. (See *supra* at pp. 15–16.) This authority encompasses the validation of voter identity at the polls. The City, however, has attempted to usurp this authority, “intruding on the Legislature’s powers.” (*Castellanos, supra*, 89 Cal.App.5th at p. 163; see also *id.* at p. 168 [hardship prong weighed in favor of ripeness in part because the challenged law intruded on the judiciary’s powers].)

The Supreme Court has recognized that such pressing election matters generally “warrant [the] court’s exercise of its original writ jurisdiction.” (*Vandermost, supra*, 53 Cal.4th at p. 453.) Indeed, courts “have frequently found challenges ripe” in election cases like this one. (*Ibid.* [collecting cases].) In *Vandermost*, for example, the Court considered the ripeness of a writ petition requesting clarification as to which district map for State Senate was to be used for an upcoming election if a referendum challenging the existing map qualified for the ballot. (*Id.* at pp. 438–440.) The Court acknowledged that it “cannot be determined” whether the referendum would qualify for the ballot. (*Id.* at p. 457.) Still, the Court recognized that elections officials needed “meaningful guidance if the referendum ultimately qualifies” (*id.* at p. 457) and that a deferred judgment could inflict “detrimental consequences to the orderly process of an election” (*id.* at p. 456). The Court therefore deemed the matter ripe for adjudication. (*Id.* at p. 464.)

Here, just as in *Vandermost*, “[t]he potential detrimental consequences resulting from this court’s deferring action until later . . . support[s] a judicial determination” that this action is ripe. (*Vandermost, supra*, 53 Cal.4th at p. 456.) In fact, this case

weighs even more strongly in favor of justiciability. Unlike the qualification of the referendum in *Vandermost*, the State has a “reasonable expectation” that the City will enact voter identification rules. (*Communities for a Better Environment, supra*, 19 Cal.App.5th at p. 738.) And while *Vandermost* heeded elections officials’ request to resolve the dispute “by the end of January” of an election year, the City’s purported authority to enact voter identification rules *begins* in January of the upcoming election year. (*Vandermost, supra*, 53 Cal.4th at p. 456.) The Court should not require the State to wait until that late stage in the election process to seek relief, inviting further voter confusion and undermining the Legislature’s authority all the while.

This facial challenge, which “involv[es] significant legal issues affecting the electoral process” that must be resolved expeditiously “to avoid a disruption of an upcoming election,” is therefore ripe under both prongs of the *Pacific Legal Foundation* analysis. (*Vandermost, supra*, 53 Cal.4th at p. 453; see, e.g., *Castellanos, supra*, 89 Cal.App.5th at pp. 168–169 [“the parties’ dispute has enough specificity for judicial resolution at present, the uncertainty in the law that [the challenged laws] create, as well as the public interest . . . counsel in favor of proceeding to the merits of plaintiffs’ arguments”].)

III. STATE LAW PREEMPTS THE VOTER IDENTIFICATION PROVISION

Under Article XI, section 5, subdivision (a) of the California Constitution, the laws of charter cities supersede state law with respect to “municipal affairs,” but State law is supreme with respect to matters of “statewide concern.” (*State Bldg. &*

Construction Trades Council of Cal. v. City of Vista (2012) 54 Cal.4th 547, 552; *Cal. Fed. Savings & Loan Assn. v. City of L.A.* (1991) 54 Cal.3d 1, 7.) Subdivision (b) helps define the scope of “municipal affairs,” listing four subjects that are “presumptively” municipal affairs under subdivision (a). (*City of Huntington Beach, supra*, 44 Cal.App.5th at p. 256.)

The California Supreme Court has developed a four-part “analytical framework” to determine whether State law preempts charter city law adopted under the authority granted by Article XI, section 5. (*City of Vista, supra*, 54 Cal.4th at p. 556; *Cal. Fed. Savings, supra*, 54 Cal.3d 1 at pp. 16–17.) First, the court determines whether the local law at issue regulates an activity that can be characterized as a municipal affair. (*Ibid.*) Second, the court determines whether there is an actual conflict between State law and the local law. (*Ibid.*) Third, the court decides whether the State law addresses a matter of “statewide concern.” (*Ibid.*) Fourth and finally, the court determines whether the State law is “reasonably related to . . . resolution” of the identified statewide concern and “narrowly tailored to avoid unnecessary interference in local governance.” (*Ibid.*)

While the “conduct of municipal elections” is included in Article XI, section 5, subdivision (b) as a “presumptive[]” municipal affair under the first prong of this analysis, State law preempts the voter identification provision under the remaining prongs of this framework. (*City of Huntington Beach, supra*, 44 Cal.App.5th at p. 256.) Appellate courts throughout the State have repeatedly found that, notwithstanding the authority granted in subdivision (b), State law can preempt local law under

this framework where the remaining prongs weigh in the State’s favor—including “in the municipal election context.” (*Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, 803 [California Voting Rights Act supersedes charter city law despite subdivision (b) authority]; *Yumori-Kaku v. City of Santa Clara* (2020) 59 Cal.App.5th 385, 431 [same]; *City of Huntington Beach, supra*, 44 Cal.App.5th at pp. 259–262 [collecting California Supreme Court and Court of Appeal authority concluding that State law preempts local law governing topics listed in subdivision (b)].) After all, the “bedrock inquiry” in cases like this one is whether the State law at issue serves statewide concerns. (*Cal. Fed. Savings, supra*, 54 Cal.3d 1 at p. 17.) It is well-established that the State is substantially concerned with safeguarding the integrity of the electoral process and protecting the constitutional right to vote. The Legislature’s scrupulous efforts to balance these interests preempts the voter identification provision in every way that preemption jurisprudence recognizes.

A. Local Voter Identification Conflicts with State Law

Courts generally analyze conflict with State law under traditional preemption principles. (*Jauregui, supra*, 226 Cal.App.4th at p. 797; *Sherwin-Williams Co. v. City of L.A.* (1993) 4 Cal.4th 893, 897.) Under those principles, a conflict exists “if the local legislation duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication.” (*Chevron U.S.A. Inc. v. County of Monterey* (2023) 15 Cal.5th 135, 142, quotations omitted.) State

law preempts the voter identification provision for all three reasons, no matter how the City implements it.

1. Duplication

The provision duplicates State law concerning the validation of voter eligibility and the integrity of State and local elections. “[L]ocal legislation is ‘duplicative’ of general law when it is coextensive therewith.” (*Chevron U.S.A. Inc., supra*, 15 Cal.5th at p. 142, quotations omitted.) State law already requires voters to validate their identity before casting a ballot, both at the time of registration and at the polls. (See *supra* at pp. 16–17.)

2. Contradiction

The provision also contradicts State law. Local legislation is “contradictory” to State law when it is “inimical” to or “cannot be reconciled with [it].” (*Chevron U.S.A. Inc., supra*, 15 Cal.5th at p. 145.) The provision directly contradicts State law in at least three ways.

First, the provision authorizes what state law squarely prohibits. Elections Code section 10005 bans charter cities from “enact[ing] or enforc[ing] any charter provision, ordinance, or regulation requiring a person to present identification for the purpose of voting or submitting a ballot . . . unless required by state or federal law.” (Sen. Bill No. 1174 (2023–2024 Reg. Sess.) § 2.) The voter identification provision, however, expressly grants expansive authority to enact voter identification laws unmoored from State or federal requirements. (Vol. 1, Tab X, Ex. M at p. 2.) A charter city may not confer upon itself authority that State law withholds. (See, e.g., *City of Huntington Beach, supra*, 44 Cal.App.5th at p. 271 [local law granting broad

authority over law enforcement activities conflicted with State law restricting those activities]; *Tosi v. County of Fresno* (2008) 161 Cal.App.4th 799, 806–807 [local law conflicted with State law by authorizing suspension or revocation of recycling license for reasons “not required by state law,” including for failing to provide identifying information additional to the information required by statute].)

Second, whereas State law expressly specifies that a registered voter only needs to provide their name and address to cast a ballot, the voter identification provision authorizes the City to demand supplemental documentation from registered voters before they can do so. (See Elec. Code, §§ 14216, 10000; see also Cal. Code Regs. tit. 2, § 19075.) Contrary to the Elections Code, a citizen of the State who is constitutionally entitled to vote and has had their eligibility verified according to State law might be denied the right to vote in the City. A conflict between State and local law exists where local law authorizes this sort of “regulat[ion] in a more restrictive manner [of] the very conduct regulated in state law.” (*Tosi, supra*, 161 Cal.App.4th at pp. 806; *c.f. AIDS Healthcare Foundation, supra*, 101 Cal.App.5th at p. 88 [identifying “fundamental conflict between a local legislative body having *some* discretion to supersede [housing] caps (as it does under Senate Bill 10) and having *no* discretion to supersede (as it does under the local law)”]; see also *Chevron U.S.A. Inc., supra*, 15 Cal.5th at p. 145–146 [identifying conflict between local law prohibiting certain oil production methods and statute directing State supervisor to make decisions about the use of all such methods].)

Third, the provision authorizes an expansion on the narrowly circumscribed voter challenge process set forth in the Elections Code. Under State law, only precinct board members may contest a voter’s identity or other specifically enumerated qualifications, and then only with sufficient evidence. (Elec. Code, § 14240.) In contrast, the provision authorizes the City to challenge *all* voters’ identity without any supporting evidence of illegal voting. In doing so, it threatens to shift the existing presumption in favor of registered voters’ eligibility to cast a ballot against the voter. (See *id.*, §§ 14246, 14251.) It also endangers the guarantees of the Voter Bill of Rights, which provides, among other things, that registered voters “have the right to cast a ballot.” (*Id.*, § 2300, subd. (a)(1)(A).) Finally, it purports to legitimize a “mass, indiscriminate, and groundless challenging of voters” solely for the purpose of “preventing voters from voting or to delay the process of voting”—an offense warranting criminal liability under State law. (Elec. Code, § 18543.) Courts have routinely found that such departures from State-mandated standards and procedures represent a conflict. (See, e.g., *Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1243 [ordinance authorizing tenant lawsuits based on unmeritorious eviction actions conflicted with the unrestricted access to the courts that the State’s litigation privilege was meant to secure]; *O’Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1071 [local law conflicted with State law by imposing different burden of proof necessary to trigger vehicle forfeiture]; *Temple of 1001 Buddhas v. City of Fremont* (2024) 100 Cal.App.5th 456, 472–475 [local law conflicted with State law by

departing from State-mandated process for appeals of building standard citations].)

The voter identification provision therefore directly contradicts state law, disrupting the balance the Legislature has struck—by constitutional mandate—between voting rights and election integrity.

3. Intrusion on an Occupied Field

Finally, the provision enters an area that the Legislature has fully occupied. “[L]ocal legislation enters an area that is ‘fully occupied’ by general law when the Legislature has expressly manifested its intent to ‘fully occupy’ the area . . . or when it has impliedly done so in light of one of the following indicia of intent”:

- (1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern;
- (2) the subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or
- (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the locality.

(*Chevron U.S.A. Inc.*, *supra*, 15 Cal.5th at p. 142, quotations omitted.) Here, the Legislature has expressly *and* impliedly manifested its intent to occupy the field of validating voter eligibility. Any ambiguity on this score must be resolved “in favor of the public’s right to vote” and against the City. (*Robson v. Upper San Gabriel Valley Mun. Water Dist.* (2006) 142 Cal.App.4th 877, 885, citing *Stanton v. Panish* (1980) 28 Cal.3d 107, 115 [“Every reasonable presumption and interpretation is to

be indulged in favor of the right of the people to exercise the elective process,” citations and quotations omitted].)

The Legislature has expressly fully occupied the field of validating voter eligibility by adopting a statutory scheme that unambiguously applies statewide and disallows municipal intervention. (See *supra* at p. 19.) Elections Code section 10005 flatly prohibits voter identification rules beyond what State and federal law require. In passing that prohibition, the Legislature catalogued California’s existing laws in this area and found that local voter identification “conflicts with California’s established, well-balanced methods of ensuring election integrity across the state.” (Sen. Bill No. 1174 (2023–2024 Reg. Sess.) § 1, subd. (a); *Yumori-Kaku, supra*, 59 Cal.App.5th at p. 430 [legislative declarations are “entitled to great weight . . . by the court in deciding whether the general law supersedes conflicting charter enactments”], quotations omitted.)

The Legislature has also explicitly stated that all registered voters, *including voters in local elections*, can cast a ballot and what they must show to do so. (See Elec. Code, §§ 2000, subd. (a) [registered voters have the right to vote], 2300, subd. (a) [same], 10000 [locally registered voters “entitled to vote at a local, special, or consolidated election . . . in accordance with this code”], 14216 [polling place identification requirements].) The role of local elections officials in verifying voter eligibility is specifically enumerated and strictly limited. (See *id.*, §§ 14240 et seq.) These directives, coupled with the legislative declarations accompanying SB 1174, unmistakably occupy this area to the exclusion of municipalities.

The Legislature has also impliedly fully occupied this area. In fact, while only one of the above indicia suffices to show implied field preemption, all three are present here.

First, State law covers validation of voter eligibility by (1) prohibiting local voter identification rules, (2) maintaining a robust system for voters to demonstrate their identity during registration and at the polls, and (3) setting forth a detailed scheme for contesting eligibility, which goes so far as to specify which local officials can initiate contests, for what reasons, with what evidence, and to what end. (See *supra* at pp. 16–18.) These statutes are “so extensive in their scope that they clearly show an intention by the Legislature to adopt a general scheme for the regulation of” voter eligibility. (*American Financial Services Assn. v. City of Oakland* (2005) 34 Cal.4th 1239, 1254–55; see also *O’Connell, supra*, 41 Cal.4th at p. 1071 [State law regarding drug crimes and penalties “so thorough and detailed as to manifest the Legislature’s intent to preclude local regulation”]; *Let Them Choose v. San Diego Unified School Dist.* (2022) 85 Cal.App.5th 693, 703–707 [State procedure to determine the compulsory vaccinations for school attendance so comprehensive as to preempt local vaccination requirements]; *People v. Nguyen* (2014) 222 Cal.App.4th 1168, 1188–91 [statutory scheme providing for sex offender registration and regulation so comprehensive as to preempt local registration requirement].) That California’s statutory scheme “specifie[s] the limited circumstances under which local authorities” may contest voter eligibility is only further evidence “[t]hat the Legislature

intended to preempt this field generally.” (*Lippman v. City of Oakland* (2017) 19 Cal.App.5th 750, 764.)

Second, the relevant State law clearly indicates that the validation of voter eligibility is a paramount State concern and that inconsistent local legislation is not permitted. The California Constitution and Elections Code are replete with statements that make clear that the *State*—including those to whom the State delegates authority—is responsible for verification of voter eligibility. (See, e.g., Cal. Const. art. II, §§ 2, 3; Elec. Code, §§ 2100 et seq., 10005, 14216.) The statutory scheme applicable to this area is comprehensive, framed in mandatory terms, and repeatedly references the constitutional rights of voters. (See, e.g., Elec. Code, §§ 2100, 2300, 10005.) These preclusive terms leave no room for additional local action. (See, e.g., *Suter v. City of Lafayette* (1997) 57 Cal.App.4th 1109, 1126 [State law comprehensively detailing firearms storage requirements and granting limited authority to municipalities would not tolerate additional local action].) SB 1174 underscores the point: in prohibiting local voter identification rules, the Legislature made clear that California law on this subject allows no room for local intervention, and that the bill “addresses a matter of statewide concern” as the term is used in the California Constitution. (Sen. Bill No. 1174 (2023–2024 Reg. Sess.) § 1, subs. (a), (b); see also *Yumori-Kaku, supra*, 59 Cal.App.5th at p. 430 [legislative intent to preempt given “great weight”].)

Third, casting a ballot is “of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the locality.” (*Chevron U.S.A.*

Inc., supra, 15 Cal.5th at p. 142, quotations omitted.) “No right is more precious” than voting. (*Canaan, supra*, 40 Cal.3d at p. 714.) “Certain areas of human behavior command statewide uniformity,” including the protection of this fundamental right. (*Northern Cal. Psychiatric Society v. City of Berkeley* (1986) 178 Cal.App.3d 90, 101.) Without uniformity in the process of casting a ballot, “the specific and particularized whims of a local county or municipality” could confuse and disenfranchise voters, who “would in effect be hampered in [the] ability to” exercise their right. (*County of Santa Cruz v. Waterhouse* (2005) 127 Cal.App.4th 1483, 1490.) For instance, the voter identification provision threatens to undermine the statutory scheme that allows voters to move from one city or county to another with confidence that they do not need to supply additional documentation at the polls before casting a ballot. The Legislature articulated these very concerns in prohibiting local voter identification rules, noting that they can be used to disenfranchise voters and frustrate California’s existing statutory scheme for verifying voter eligibility. (Sen. Bill No. 1174 (2023–2024 Reg. Sess.) § 1, subd. (a); see also *Yumori-Kaku, supra*, 59 Cal.App.5th at p. 430.)

Meanwhile, the voter identification provision brings no benefit to the City. As the Legislature has declared, California already “ensures the integrity of its elections.” (Sen. Bill No. 1174 (2023–2024 Reg. Sess.) § 1, subd. (a)(2).) Nowhere has the City cited evidence that fraudulent voting occurs in the City or has ever compromised the outcome of a municipal election.

All three indicia that the Legislature has impliedly occupied this area of law are therefore present here, bolstered by the presumption in favor of the right to vote to which the State is entitled. (See *Robson, supra*, 142 Cal.App.4th at p. 885.)

B. State Law Concerning Voter Eligibility Addresses Matters of Statewide Concern

State law regarding voter eligibility in municipal, State, and federal elections addresses well-established matters of statewide concern. Courts have recognized as “commonsense” that protecting the integrity of the electoral process, at both the State and local level, is a matter of statewide concern. (*Jauregui, supra*, 226 Cal.App.4th at p. 801; see also *Johnson v. Bradley* (1992) 4 Cal.4th 389, 409 [“the integrity of the electoral process, at both the state and local level, is undoubtedly a statewide concern”].) This means ensuring the ability of eligible voters to cast their ballot and safeguarding against election misconduct. (See *Jauregui, supra*, 226 Cal.App.4th at p. 801 [“Electoral results lack integrity where a protected class is denied equal participation in the electoral process because of vote dilution.”]; *Johnson, supra*, 4 Cal.4th at p. 409 [discussing election integrity and statewide campaign financial disclosure provisions].)

“[T]he protection of the constitutional rights of California residents” is also “a matter of paramount statewide concern.” (*City of Huntington Beach, supra*, 44 Cal.App.5th at p. 275.) “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.” (*Canaan, supra*, 40 Cal.3d at p. 714, citations and quotations omitted.) Protecting the right to vote is

therefore a matter of statewide concern. (See *Jauregui*, *supra*, 226 Cal.App.4th at p. 800; *Yumori-Kaku*, *supra*, 59 Cal.App.5th at p. 431.)

These statewide concerns are “equally important” and mutually reinforcing. (*People v. Gordon* (1855) 5 Cal. 235, 236.) Indeed, the California Supreme Court has recognized that “[i]t is one of the high prerogatives of the state to provide for and insure honest elections,” for “[w]ithout this safeguard the liberties of the people and the stability of the government would be at an end.” (*Pierce v. Super. Ct.* (1934) 1 Cal.2d 759, 761.) The State therefore has a strong interest in the uniformity of laws protecting election integrity and the right to vote. (See, e.g., *Fiscal v. City and County of San Francisco* (2008) 158 Cal.App.4th 895, 919 [“Clearly, the creation of a *uniform* regulatory scheme is a matter of statewide concern, which should not be disrupted by permitting this type of contradictory local action.”]; see also *City of Huntington Beach*, *supra*, 44 Cal.App.5th at p. 275 [“Uniform application of the [California Values Act] throughout the state is necessary to ensure it adequately addresses [] statewide concerns”]; *Marquez v. City of Long Beach* (2019) 32 Cal.App.5th 552, 572 [“a state law of broad general application is more likely to address a statewide concern than one that is narrow and particularized in its application”], quoting *City of Vista*, *supra*, 54 Cal.4th at p. 564.)

C. State Law Precisely Targets Election Integrity and the Right to Vote

State law concerning voter eligibility is “reasonably related to . . . resolution of [the statewide] concern[s]” and “narrowly

tailored to avoid unnecessary interference in local governance.” (*City of Vista, supra*, 54 Cal.4th at p. 556, quotations omitted.) To satisfy the first inquiry, “[a]ll that is required is a direct, substantial connection between the rights provided by the [Constitution and Elections Code] and the Legislature’s asserted purpose.” (*City of Huntington Beach, supra*, 44 Cal.App.5th at p. 277, quotations omitted.) To satisfy the second, the laws must “only prohibit[] . . . activity to the extent necessary to resolve the statewide concerns identified by the Legislature.” (*Id.* at p. 279.)

The Legislature has designed a statutory scheme that carefully balances safeguarding the integrity of the electoral process with protecting the rights of eligible voters. Voters must confirm their identity when they register to vote and face criminal liability for supplying fraudulent information, safeguarding California’s elections from fraudulent voters. (Elec. Code, §§ 2150, 2188, 2196, 18100, 18500; Cal. Code Regs. tit. 2, §§ 19073, 20107.) Once registered, however, voters are entitled to a more streamlined process at the polls. While they need to verify their identity, they do not need to supply additional documentation to cast a ballot. (Elec. Code, §§ 2300, 14216; see also Cal. Code Regs. tit. 2, § 19075.) Only well-founded questions regarding voter eligibility may interrupt the voting process, and then only to a limited extent. (Elec. Code, §§ 14240 et seq., 18543). This statewide, uniform process reduces potential voter confusion and inadvertent disenfranchisement. It also conforms with California’s implementation of two federal election integrity and voting rights laws: the National Voter Registration Act (52 U.S.C. §§ 20501–20511), which sets forth certain voter

registration requirements for federal elections, and the Help America Vote Act (52 U.S.C. §§ 20901–21145), which contains standards for verifying voter identity in federal elections. There is a “substantial connection” between election integrity and voting rights and the statutory scheme at issue here. (*City of Huntington Beach, supra*, 44 Cal.App.5th at p. 277, quotations omitted.)

This statutory scheme also “avoid[s] unnecessary interference in local governance.” (*City of Vista, supra*, 54 Cal.4th at p. 556, quotations omitted.) As a general matter, State law setting forth “generally applicable *procedural* standards . . . impinge[] less on local autonomy” than those imposing “substantive obligations.” (*City of Vista, supra*, 54 Cal.3d at p. 564; see also *Anderson v. City of San Jose* (2019) 42 Cal.App.5th 683, 715.) At issue here is State law designating the *procedures* by which voter eligibility is validated and contested. This law is “tailored in subject,” “no broader in sweep” than necessary to set forth that uniform process. (*Anderson, supra*, 42 Cal.App.5th at p. 717, citations and quotations omitted.) In fact, rather than burden the City, this law assumes significant election-related burdens on its behalf. For example, it obviates the need for the City to validate voter identity during registration, maintain its own voter registration database, or confirm voter eligibility with additional documentation at the polls.

Meanwhile, the voter identification provision is targeted at a problem that the City has never even alleged to exist—i.e., fraudulent voting. Measure A contained no findings or evidence that the State’s uniform scheme for voter registration and

challenging voters at the polls interferes with local governance, or that fraudulent voting occurs in the City or has ever compromised the outcome of a municipal election. Casting the possibility of locating such evidence into doubt, the Orange County Registrar of Voters recently passed a rigorous evaluation and audit process ensuring the accuracy of their work. (Vol. 1, Tab 8, Ex. R at pp. 2–3.) Meanwhile, City Councilmembers campaigning for Measure A made only vague and conclusory statements about elections security and voter trust. (See, e.g., Vol. 1, Tab 1, Ex. M at pp. 3, 4.) These statements are nothing more than unsupported policy disagreements with State law echoing Councilmember Strickland’s unsuccessful efforts to establish voter identification statewide while he served in the California Legislature. (See, e.g., Assembly Bill No. 247 (2003–2004 Reg. Sess); Vol. 1, Tab 8, Ex. S; see also *supra* at p. 20.) The voter identification provision is simply an attempt to relocate these efforts to the City; it has no relationship whatsoever to a genuine local government issue.

For these reasons, State law concerning voter eligibility cannot possibly interfere unnecessarily with the City’s local governance. (See *People ex rel. Devine v. Elkus* (1922) 59 Cal.App. 396, 408 [observing that “[t]he affairs of the city will not be disturbed” by finding voting system preempted “other than such disturbance as may arise from a change of policies, if any,” if the change in voting system results in different elected officials].)

CONCLUSION

The superior court's order improperly failed to resolve this matter. Because it is of great statewide, public importance, involves novel issues, and requires urgent resolution, writ relief is appropriate here. The State therefore respectfully requests that this Court grant its petition and direct the superior court to vacate its November 15 and December 16, 2024 orders, and enter a new and different order granting the State's petition for writ of mandate.

Respectfully submitted,

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February 13, 2025

CERTIFICATE OF COMPLIANCE

I certify that the attached Petition for Extraordinary Writ of Mandate or Other Appropriate Relief; Memorandum of Points and Authorities uses a 13 point Century Schoolbook font and contains 13,126 words.

ROB BONTA

Attorney General of California



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Deputy Attorney General

Attorneys for Petitioners the People of California and California Secretary of State

February 13, 2025

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DECLARATION OF ELECTRONIC SERVICE

Case Name: **The People of the State of California, et al. v.
City of Huntington Beach, et al.**

COA No.: G065209

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically.

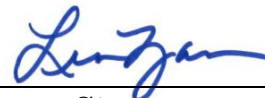
On February 13, 2025, I electronically served the attached **PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES** by transmitting a true copy via this Court's TrueFiling system, addressed as follows:

Michael E. Gates, City Attorney
Huntington Beach City Attorney's Office
E-Mail: Michael.Gates@surfcity-hb.org
***Attorney for Respondents,
City of Huntington Beach and Lisa Lane Barnes***

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on February 13, 2025, at Los Angeles, California.

Linda Zamora

Declarant



Signature