

BUSINESS, ENERGY, AND ELECTION LAW, PC

1017 El Camino Real # 504 Redwood City, CA 94063 415.236.2048 213.405.2416 fax

Oct. 31, 2018

Via Electronic Mail

Ian Patton

Chair

No on BBB Committee

407 East Third Street

Long Beach, CA 90802

Re: Measure BBB: A Trick, Not a Treat

Dear Mr. Patton:

You asked our office whether Measure BBB will deliver what its supporters promise: a “lifetime” limit of three terms for the Long Beach Mayor and Councilmembers.

The answer is an emphatic **No**. In fact, Measure BBB will open the door for political incumbents to serve a “lifetime” total of *four or more terms*.

State law regarding term limits is simple: a new rule on term limits cannot be retroactively imposed on those currently holding elected office.¹ For example, in *Woo v. Superior Court*,² a ballot initiative not only imposed a two-term limit on the Mayor and Councilmembers, but banned a two-term City Councilmember (Michael Woo) from running for re-election.

In response, the Court of Appeal unanimously ruled that Mr. Woo had a right to serve a total of *four* terms under its reading of the ballot initiative – even though the express terms of the ballot initiative appeared to *ban* him from running for re-election. Simply put, because the “term limits” clock starts fresh for incumbents, Mr. Woo was eligible to serve two *additional* terms.

The same logic applies for Measure BBB. Currently, Long Beach’s hybrid term-limits law allows the Mayor and Councilmembers to serve two terms in office – but then requires them to run as write-in candidates if they seek to serve *more than* two terms.³ For example, in 2016 Councilmember Dee Andrews was elected to a third term as a write-in candidate.

Much like the LA law in *Woo*, the express terms of Measure BBB seek to impose a three-term limit not only on newly elected officials, but on incumbents who were recently elected in primary or general elections. Because new term limits cannot be

¹ Gov’t Code §36502(b) (“Any proposal to limit the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, *shall apply prospectively only* [.]”) (italics added).

² *Woo v. Superior Court* (2000) 83 Cal.App.4th 967.

³ Long Beach City Charter §214.

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applied retroactively, an incumbent like Mayor Robert Garcia (who was re-elected in last April's primary election) could serve *an additional three terms as Mayor*.

Rather than invigorating grassroots democracy, Measure BBB makes it easier for politicians to stay in office for a political "lifetime": up to 20 years.

The misleading Measure BBB offers voters a trick, not a treat.

Sincerely,

Gautam Dutta
Managing Partner