Agenda
City of Minnetonka
Charter Commission Meeting
Wednesday, September 16, 2026
6:00 PM
Community Center - Minnehaha Room

1. Call to order
2. Roll call
3. Approval of minutes
   - A. Minutes of Nov. 18, 2025 charter commission meeting
4. Business items
   - A. Report from city attorney
   - B. Amendment to the charter commission bylaws
   - C. Even year municipal elections
   - D. Election of officers
   - E. Establish meeting date for 2027 annual meeting
   - F. Annual report
   - G. New business items
5. Adjournment

Charter Commission Agenda Item 3.A
Meeting of September 16, 2026

Title:	Minutes of Nov. 18, 2025 charter commission meeting
Report from:	Erik Nilsson, City Attorney

Action Requested:	Motion to approve the minutes.

ATTACHMENTS:
Nov. 18, 2025 meeting minutes

MINUTES OF THE

MINNETONKA CHARTER COMMISSION

Nov. 18, 2025

1. CALL TO ORDER

Chair Northrup called the meeting to order at 6:06 p.m. He thanked commission members for their service to the city and noted that they would take up the business items in a different order than listed on the printed agenda.

Members present: Dick Allendorf, John Northrup, Rachel Panner, Terry Schneider, Linnea Sodergren, LuAnn Tolliver, Lori Weissman, Brad Wiersum

Members absent: David Larson (excused absence)

Staff present: City Attorney Erik Nilsson

2. APPROVE MINUTES OF NOV. 12, 2024 MEETING

Tolliver noted a correction under adjournment that Wiersum moved and Weissman seconded, and Sodergren noted a typographical error under review expiring terms of commission members. Schneider moved, Allendorf seconded, to approve the minutes of the Nov. 12, 2024 meeting as amended. All voted in favor.

3. REPORT OF CITY ATTORNEY

Nilsson reported that there were no new laws enacted in the 2025 legislative session that would prompt amendments to the charter, but noted that the commission will consider technical amendments to the charter regarding citizen ballot petition requirements to align with existing state law later in the agenda. He reported on one court decision in the past year that touched on city charter authority generally. He also reported on the results of 2025 ballot questions in other cities that involved charter amendments and initiative measures.

Nilsson noted that there were no commissioners with terms expiring in 2026 and that commissioners Panner, Tolliver, Weissman, and Wiersum were reappointed in 2025.

Nilsson explained the legal considerations regarding filling the ward 2 city council seat vacancy occasioned by the election of Rebecca Schack as mayor.

4. ELECTION OF OFFICERS

Northrup introduced the topic of electing officers. Schneider asked whether the current slate would be interested in continuing in those roles, and the officers responded affirmatively. The current officers are Northrup as chair, Sodergren as vice-chair, and Tolliver as Secretary. Schneider moved, Wiersum seconded, that the commission re-elect the same slate of officers. All voted "aye."

5. CHARTER AMENDMENT ADDRESSING NUMBER OF COMMISSION MEMBERS

Nilsson reported that, based on direction given by the commission at the 2024 annual meeting and as authorized by state law, he had prepared a proposed amendment to add a new Section 2.12 to the charter. The purpose of the amendment is to establish a fixed commission membership number of nine members with the ability to expand to ten members upon the appointment of a sitting council member. Sodergren requested clarification about how to know when a commission member fails to seek reappointment. Schneider responded that the appointments process must go through the chief judge's office and city staff carefully track membership terms.

Tolliver moved, Allendorf seconded, to recommend that the city council adopt an ordinance approving the proposed amendment to the charter. All voted "aye."

6. CHARTER AMENDMENT REGARDING RESIDENT PETITION REQUIREMENTS

Nilsson summarized the proposed amendments to Section 5.05 and Appendix of the charter to achieve greater alignment with state law requirements regarding the form of resident ballot petitions. Nilsson noted that the city provides for initiative and referendum in the charter and these amendments would not effect any substantive change to those rights. Schneider asked if there is a time period to correct identified deficiencies in a petition. Nilsson responded that the charter provides for a 30-day time period. Wiersum noted that most ballot petition efforts will attempt to obtain valid signatures in excess of the threshold requirement in anticipation that some may be found insufficient.

Schneider moved, Weissman seconded, to recommend that the city council adopt an ordinance approving the proposed amendment to the charter. All voted "aye."

7. AMENDMENT TO CHARTER COMMISSION BYLAWS

Nilsson summarized the proposed amendment to change the month of the annual meeting of the charter commission from November to September and noted that the change would allow the meeting to appear on the official city calendar that is adopted by the city council in October each year. Tolliver asked about the quorum for a nine member body and a 10 member body. Nilsson responded that the bylaws set quorum at a majority of the qualified members then existing. Wiersum added that if the commission has 10 members in the future then the quorum would be six members.

Wiersum moved, Sodergren seconded, to approve the amendment of the bylaws. All voted "aye."

8. 2026 MEETING SCHEDULE

The commission discussed dates for the 2026 annual meeting. Allendorf moved, Wiersum seconded, to schedule the next annual meeting for Sept. 16, 2026, at 6:00 p.m. All voted "aye."

9. ANNUAL REPORT

Sodergren stated that the report should reflect that the commission changed the month of its annual meeting. Nilsson responded that he would update the annual report template to include actions taken by the commission at tonight's meeting before submission to the chief judge. Wiersum noted a typographical error regarding the date of the meeting in the report.

Weissman moved, Panner seconded, a motion to approve the annual report. All voted "aye."

10. NEW BUSINESS

Sodergren asked if there was a report on how ranked choice voting went during the recent November election. Wiersum noted that those details are available on the city website and that turnout was good. The commission discussed their views about ranked choice voting in general.

Wiersum raised as a new business item whether the charter should be amended to transition from odd-year city elections to even-year elections. Wiersum provided information on the city of Hopkins charter amendment to transition to even-year elections that was approved by voters. He noted that the city would save money with the change and concluded that it would not allow for use of ranked choice voting. Schneider noted that there is the potential for state law changes to accommodate ranked choice voting regardless and that odd-year elections limit the influence of partisanship and keep the focus on local issues. The commission discussed potential metrics to consider in the future, including voter turnout numbers for even-year elections and odd-year elections. Wiersum noted that a change would affect the length of elected office terms, which could be longer or shorter.

By consensus, the commission directed staff to place the topic on the agenda for discussion at the 2026 annual meeting.

Northrup congratulated and thanked Brad Wiersum for his service to the city as mayor and his tenure on the charter commission.

11. ADJOURNMENT

Wiersum moved, Allendorf seconded, to adjourn the meeting. All voted "aye." The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

LuAnn Tolliver
Secretary

Charter Commission Agenda Item 4.A
Meeting of September 16, 2026

Title: Report from city attorney

Report from: Erik Nilsson, City Attorney

Action Requested: Receive the report.

Summary Statement

At each annual meeting, the city attorney reports on legislation and court decisions within the last year that relate to the charter commission's responsibilities and operations, as well as recent activities of other charter commissions, plus additional items of note.

Background

See attached report.

ATTACHMENTS:

2026 City Attorney Report

TO: Charter Commission Members

FROM: Erik Nilsson, City Attorney

DATE: September 16, 2026

SUBJECT: City Attorney Report

This report includes a summary of legislation and court decisions, if any, within the last year, about which the commission should be aware. In addition, the report includes a summary of November ballot measures in other cities.

Legislation

There was no legislation that would require an amendment to the city charter.

Court Decision

Safe Homes Saint Paul v. City of Saint Paul, Case No. 62-CV-26-5594 (8/10/26)

After the St. Paul City Council voted to not place a residential tenant protection ordinance proposed as a ballot initiative by resident petition on the November 2026 general election ballot, plaintiff petitioners sought emergency relief from the court to order the city to comply with its charter and place the measure on the ballot. Based on advice from the city attorney, the council's decision was premised on a determination that parts of the proposed ordinance were preempted by state law. An emergency hearing was required because the city council made its decision on August 5, 2026, and Minn. Stat. § 205.16 requires that the city clerk provide all ballot questions to the county auditor at least 84 days before the election (August 11, 2026). Commonly referred to as "Tenants Right to Repair in Residential Rental Property," the proposed ordinance authorizes tenants to give landlords a 14-day notice of needed repairs. If the landlord does not make the repairs within 14 days of the notice, the tenant can make the repair and withhold up to half a month's rent or $500, whichever is greater, to pay for it. A similar ballot initiative was approved by voters in Duluth in November 2025. On August 10, 2026, the court ordered the city to place the initiative on the ballot.

Although this case addresses a ballot initiative (an ordinance) by citizen petition, the legal considerations involved would be similar for a charter amendment proposed by petition. Assuming all technical formalities of the signature petition process are met, a city's authority to reject a ballot measure by citizen petition is limited. The city has a mandatory duty to submit the proposed amendment to the voters unless the proposal is

"manifestly unconstitutional." This is a high bar that has also been explained as the "futile election" doctrine. Courts have declined to require cities to undertake what would amount to a futile election on a measure that, regardless of the vote, could never lawfully become part of the city charter. The city council lacks any supervisory or veto powers over proposed amendments and is unable to reject a proposal based on policy disagreement or because it is *arguably* illegal. Elected official and staff concerns about the quality of the draft language, alternative drafting preferences, noncompliance with city drafting conventions, or other similar technical considerations that might pose difficulties for implementation do not provide a valid legal basis to refuse to put a proposal on the ballot.

Saint Paul appealed the decision and the Minnesota Court of Appeals granted expedited review so that a decision can be rendered prior to November 3, 2026. The parties will conclude their written briefing on September 16th and oral argument is scheduled to occur in October.

Ballot Questions

In addition to the potential ballot initiative in St. Paul discussed above, two other cities will have ballot questions pertaining to charter amendments on the November ballot:

- The City of Fairmont will have two ballot questions related to the eligibility to serve on the charter commission and the charter commission application process. Both questions were proposed by the charter commission. The first question seeks to prohibit elected or appointed members of the city council from serving on the charter commission concurrently with their term on the council. State law authorizes home rule charter cities to make this "compatibility" determination and, other than judicial officers, serving in a dual capacity as an elected and appointed official and charter commission member is not prohibited. Note that recently adopted Section 2.12 of the Minnetonka Charter allows for the appointment of a sitting council member at the council's discretion to expand the fixed membership number from nine to ten. Section 2.05 prohibits more than one sitting council member from serving on the commission at one time.

  The second question would enshrine a process in the charter for filling vacancies on the commission. Ninety days prior to the expiration of the term of any member of the commission or upon the occurrence of a vacancy in the membership in any other manner, the city would be required to publish notice of the vacancy for 30 days to solicit applications for nomination to fill the pending or existing vacancy. Interested individuals would submit an application to the city clerk, who would review applicants for eligibility. The chair of the charter commission would then oversee forwarding all eligible nominees to the chief judge for appointment.

- Based on a citizen petition, the City of Luverne will have a ballot question

seeking to amend the charter to create a municipal utilities commission as follows:

> Shall the Luverne City Charter be amended to establish a new governing structure with a new layer of city government for the City's electric, water, and wastewater utilities by (1) creating a new five-member independent policymaking body to be called the Municipal Services Commission to consist of three elected members who must be City residents, one appointed representative of a large utility customer who need not be a City resident, and either a sitting Council Member or the City Administrator; (2) creating a new employment structure under which the Commission would employ a General Manager to supervise and manage the Commission's operations and employees and existing City staff with responsibilities for the City's utilities would be transferred to the authority of the Commission; and (3) transferring most of the City Council's existing responsibilities for the management, operation, and supervision of the City's utilities, including the authority to set utility rates, to the new Commission?

Charter Amendments by Ordinance

During the first half of the year, West St. Paul and Bloomington adopted charter amendments by ordinance, which is the sole path to amend the charter without proceeding to the ballot. This path requires unanimous approval by the city council and any amendment is not effective until 90 days after publication of the council's action, which gives the public an opportunity to institute a referendum petition to place the amendment before voters. Both cities adopted technical amendments. West St. Paul reviewed their entire charter to incorporate gender-neutral language and Bloomington made housekeeping clarification to rules surrounding municipal bonds and electronic payment authorizations.

Charter Commission Appointments

There were no commissioners due for reappointment in 2026. Pursuant to Section 2.12 of the Charter, Mayor Schack was appointed to the commission as its 10th member in June 2026 with a term that expires on June 8, 2030. The next terms to expire will be Commissioner Larson (1/1/2027) and Commissioner Schneider (11/6/2027)

Charter Commission Agenda Item 4.B
Meeting of September 16, 2026

Title: Amendment to the charter commission bylaws

Report from: Erik Nilsson, City Attorney

Action Requested: Motion to adopt the amendment.

Summary Statement
Proposed amendment of Article 4, Section 4, of the bylaws regarding "Number of Members" to reflect the charter amendment adopted by the city council on January 12, 2026.

Background
At its annual meeting on November 18, 2025, the charter commission voted to recommend that the city council adopt an ordinance approving the amendment of the charter to establish a fixed commission membership number pursuant to Minn. Stat. Sec. 410.05, subd. 1. On January 12, 2026, the city council voted unanimously to adopt a new section 2.12 of the city charter to establish a fixed membership composition of nine members with the ability to expand by one member to 10 total based on the appointment of a sitting council member. This new charter provision became effective 90 days after publication of the council action. On June 17, 2026, Mayor Rebecca Schack was appointed by the chief judge as the 10th member of the commission.

Staff is now following up with the corresponding amendment of the provision in the bylaws that addresses the size of the commission.

ATTACHMENTS:
Bylaws 2026

BYLAWS
CHARTER COMMISSION
CITY OF MINNETONKA

Article 1. General.

The Minnesota Charter Commission ("Commission") was established and exists under the provisions of Minnesota Statutes, Chapter 410.

Article 2. Mission.

The mission of the Minnetonka Charter Commission is to oversee the City's Charter which defines the parameters within which City government can operate. As an independent body, the Charter Commission will represent citizen viewpoints and consider and recommend appropriate revisions to the Charter which balance the best interests of city government and the citizens.

Article 3. Duties:

The Commission must act upon voters' petitions and City Council recommendations for amendment to the City of Minnetonka Charter. The Commission may also periodically review the Charter and propose amendments on its own volition.

Article 4. Members.

Section 1. Term. Members will be appointed for four year terms.

Section 2. Oath of Office. Within 30 days of appointment, Commission appointees must file a written acceptance and oath of office with the Administrator of the Hennepin County District Court.

Section 3. Termination for Absences. If a member is absent from four consecutive meetings without excuse, the Commission's Secretary must submit a certificate setting forth the facts to the Chief Judge who will issue an order for removal.

Section 4. Number of Members. Per Section 2.12 of the Charter, ~~T~~the Commission will be composed of ~~not less than seven and no more than 15 members~~ nine qualified voters of the City of Minnetonka. The City Council, in its discretion, may recommend one of its members to the chief judge for appointment and, in that case, the size of the Commission may be expanded to 10 members; provided that when any vacancy occurs, the size of the Commission must be reduced back to nine members.

Section 5. Member Requirements. All members must reside and be registered to vote in the City of Minnetonka.

Article 5. Meetings.

Section 1. Annual Meetings. The annual meeting of the Commission will be held in September of each year on a date selected by the Commission at the preceding annual meeting. The principal items of business at the annual meeting will be the election of officers and preparation of the annual report.

Section 2. Other Meetings. Meetings other than the annual meeting will be held upon the call of the Chair or any three members or pursuant to a schedule adopted by the Commission. No meeting may be held without notice mailed or delivered to each member one week in advance. The Commission must meet whenever a Charter amendment is proposed.by either valid voters' petition or Council recommendation.

Section 3. Open Meetings. All meetings of the Commission must be open to the public except as otherwise provided by law.

Section 4. Quorum; Manner of Acting. At any meeting of the Commission, a majority of the qualified members then existing is required to constitute a quorum for the transaction of business. Commission action on items other than the approval of Charter amendments can be taken only upon approval by a majority of the members present at any meeting at which a quorum is present. Charter amendments can be approved only by 2/3 of the members present at any meeting at which a quorum is present, but no less than one-half of the total number of Commission members then serving, and only if the amendment was mailed or delivered to the Commission members at least one week before the meeting. Previous action approving Charter amendments may be rescinded by either:

a. a majority of the members present at any meeting at which a quorum is present, if at the previous meeting the proposed action was discussed and notice was given that a vote would be taken at the next meeting or,

b. two-thirds of the members present at any meeting at which a quorum is present, if one week's prior notice has been given in writing.

Section 5. Agendas. An agenda for each meeting will be prepared by the Administrative Secretary in cooperation with the Chair of the Commission. The agenda, along with supporting documentation, must be mailed or delivered to each Commission member one week prior to the date of the meeting.

Article 6. Officers.

Section 1. Election. Officers of the Commission will consist of the Chair, the Vice Chair, and the Secretary. The officers will be elected for a one year period commencing at the annual meeting. If there is no quorum at the annual meeting, the election will be held at the next meeting at which a quorum is present.

A. Chair. The Chair will preside over all meetings of the Commission. If the Chair and Vice Chair are absent from the same meeting, the Commission members present will designate one of themselves to serve as Chair. The Chair will also perform all duties usually performed by chairs of similar organizations including executing documents pertaining to the Commission's business, establishing and appointing committees, representing the Commission before the City Council, and other duties that may be authorized by the Commission members.

B. Vice Chair. The Vice Chair will perform all the duties of the Chair in the absence of the Chair.

C. Secretary. The Secretary will keep accurate records of the Commission's proceedings, will attest to the accuracy of those records, and undertake the duties conferred on the Secretary by law and by the Commission members.

D. Administrative Secretary. The City Attorney or designee will be the Administrative Secretary to the Commission. The Administrative Secretary will assist the Secretary, send written notices and agendas of all meetings to the Commission members and keep a file of the Commission's records.

Article 7. Reports to Council.

The Commission's Secretary will provide copies of all minutes and reports of the Commission to the City Council to keep them appraised of the Commission's actions.

Article 8. Annual Report.

By December 31 of each year, the Commission must submit an annual report of its activities to the Chief Judge of the Hennepin County District Court. A copy must also be filed with the City Clerk.

Article 9. Parliamentary Procedure.

The proceedings of the Commission will be conducted in accordance with Roberts Rules of Order, as revised.

Article 10. Amendments.

These bylaws may be amended upon approval by 2/3 of the members present at any meeting at which a quorum is present, but by no less than one-half of the total number of Commission members then serving, and only if the amendment was mailed or delivered to the Commission members at least one week before the meeting.

Adopted this 7th day of September, 1988.

Amended:
12-13-1990
01-10-1991
05-09-1991
11-01-2007
11-06-2008
11-18-2025
09-16-2026

Charter Commission Agenda Item 4.C
Meeting of September 16, 2026

Title:	Even year municipal elections
Report from:	Erik Nilsson, City Attorney

Action Requested:	Discuss and provide direction, if any, to staff.

Summary Statement
Per the consensus direction of the charter commission at its 2025 annual meeting, the commission will discuss the topic of even year municipal elections.

Background
At its annual meeting on November 18, 2025, the commission raised the topic of moving to even year municipal elections for the first time as part of the "new business" agenda item and, by consensus, directed staff to place the topic on the 2026 annual meeting agenda for initial discussion. The commission instructed members to submit specific questions about the topic to the commission chair and/or city attorney in order to focus the subsequent discussion. One member submitted a question (feedback) and expressed an interest in learning about the pros and cons of moving to even year city elections. No other questions were received.

Staff is providing the attached materials to aid the commission's discussion. In addition, city clerk and city elections director Becky Koosman will also be in attendance to answer any questions.

ATTACHMENTS:
Even Year City Elections Slides
Municipal Turnout
State & Federal Turnout
The Timing of Elections_U Chicago Law Review
Down ballot roll-off

EVEN YEAR MUNICIPAL ELECTIONS

CHARTER COMMISSION: SEPTEMBER 16, 2026

CHARTER – ELECTION TIMING

- Section 2.03 – “Municipal elections will be held in odd-numbered years. Elections for the offices of mayor and council members-at-large will be held every four years starting in 1997. Elections for the offices of ward council members will be held every four years starting in 1999.”
- Section 4.01 – “A regular city election must be held on the first Tuesday after the first Monday in November of odd-numbered years at places designated by the city council.”

CHARTER – VOTING METHOD

- Section 4.02 – “The voters shall elect the mayor and council members by the method of Single Transferable Vote, also known as Ranked Choice Voting or Instant Runoff voting. The city council must provide by ordinance the ballot format and the rules for counting the votes and breaking a tie.”

THRESHOLD LEGAL QUESTION

- ✓ Would amending the charter to move to even year city elections make the city's established voting method (RCV) legally infeasible to continue to use? Answer – Likely NO, but ballot formatting could prove difficult depending on the number of races, candidates, and ballot questions.
  - State law requires the use of a single ballot card for a state general election. A mix of traditional and RCV layouts must be integrated on the same ballot.
  - When a single ballot card is not possible, the law only allows for judicial offices to be placed on a separate ballot.
  - There is no guarantee that a formatting solution will always be available in future elections.

ADDITIONAL LEGAL/TECHNICAL CONSIDERATIONS

- Even if multiple ballot cards authorized, the required reconciliation of voters to ballots cast would be very difficult to administer (ex. if a voter did not submit the 2nd card).
- Election equipment must be certified by the Secretary of State in order to be used and there is no apparent mechanism in state law to achieve certification.
  - There is now a Universal Tabulator that completely automates RCV tabulation, but it is not certified.
  - City uses the “spreadsheet method” of calculation and then verifies with the Universal Tabulator.
  - Even year city elections with manual tabulation increases potential for greater delays in results reporting.

RCV CITY RESPONSE

- Based on a citizen petition to amend the charter, St. Paul voters approved a move to even year city elections on the November 2024 ballot. The city and county have worked on ballot layout, including the way the bubbles appear on the ballot, to integrate all non-judicial races and issues on a single ballot card for the 2026 election.
- Minneapolis has studied the topic of even year elections since 2017, but has not made the change to date based on several considerations in the legal, practical, and political realms. Minneapolis typically has a complex ballot where the total number of races and RCV grid format consumes most of the two sides of one ballot card.

STATE LEGISLATURE RESPONSE

- Local Voices/Local Choices Act (RCV Local Options bill) bill previously considered at the state legislature in 2024 seeks to address legal and logistical hurdles:
  - Provides uniform standards and allowances for ballot formatting
  - Establishes a mechanism for election equipment certification by the Secretary of State
  - Creates authorized, statewide tabulation procedures

POLICY CONSIDERATIONS

- Potential benefits (“Pros”) of transition to even year cycle include:
  - Increased voter turnout in even year elections will likely result in higher participation for municipal elections
  - Cost savings – city generally budgets around $45,000 for a primary and $85-90,000 for a general election
  - Mitigate against voter “election cycle fatigue” when each year brings another election

POLICY CONSIDERATIONS CONT.

- Potential drawbacks (“Cons”) of transition to even year cycle include:
  - Voter drop-off for down ballot races (“ballot fatigue”) has been estimated as high as 25-30%
  - Messaging through a larger slate of candidates for office and focus shifting from local to more national/state – disadvantaging local elections
  - Voter confusion in the voting booth when confronted with more races, more candidates, and a mix of traditional and RCV layouts
  - Potential shortage of campaign staff for local races

VOTER TURNOUT

- Minnetonka's historical voter turnout in even year state, federal, and county elections is close to 75%.
  - 2018 state – 82.4%
  - 2020 federal – 89.15%
  - 2022 state – 74.86%
  - 2024 federal – 85.91%

- Typical voter turnout in municipal general elections nationwide is between 15% and 30%.
  - Minnetonka's historical average is 20%.
  - Since the adoption of ranked choice voting, voter turnout has increased to over 30% with 2023 at 32.32% and 2025 at 33.04%.

ADDITIONAL RESOURCES

- There is a large body of research available on different aspects and effects of election timing and related considerations. Separate attachments to some representative articles are included in the agenda packet. These articles have not been selected to endorse any particular position on this topic.
- The city's historical voter turnout numbers have also been provided as attachments in the agenda packet.

OPTIONS FOR NEXT STEPS

- Do nothing at this time. Continue to monitor status of state legislation.
- Direct staff to conduct research on specific areas of interest or inquiry and report back to the commission.
- Commence the charter amendment process.
- Other?


CITY OF
MINNETONKA

Historical Voter Turnout - Municipal Elections

Year	Election	Council Seats on the Ballot	Registered Voters	Election Day Registrations	Polling Place Voters	Absentee Voters	Total Ballots Cast	Voter Turnout	Precinct %	Absentee %
1985	Primary	Ward 4 Councilmember, At-Large Councilmember	27,454	70	2,339	72	2,411	8.76%	97.01%	2.99%
1985	General	Mayor, At-Large Councilmembers	27,565	45	4,241	74	4,315	15.63%	98.29%	1.71%
1987	Primary	At-Large Councilmember	27,326	30			1,167	4.27%		
1987	General	Mayor, Ward 1 & 2 Councilmembers	27,422	80			7,936	28.86%		
1989	Primary	Mayor, At-Large Councilmembers	31,033				1,296	4.18%		
1989	General	Mayor, Ward 3 & 4 Councilmembers, At-Large Councilmember	31,110				5,044	16.21%		
1991	Primary	Ward 2 Councilmember, At-Large Councilmember	33,150	14			1,331	4.01%		
1991	General	Mayor, Ward 1 & 2 Councilmembers, At-Large Councilmember	33,264	149			5,613	16.80%		
1993	Primary	Ward 3 Councilmember, At-Large Councilmember	33,946	25			1,478	4.35%		
1993	General	Mayor, Ward 3 & 4 Councilmembers, At-Large Councilmember	34,030	154			6,968	20.38%		
1995	Primary	Ward 4 Councilmember	7,555				678	8.97%		
1995	General	Mayor, Ward 1 - 4 Councilmembers	33,885	220			6,802	19.94%		
1997	General	Mayor, At-Large Councilmembers A & B	32,561				6,360	19.53%		
1999	General	At-Large Councilmember A	34,236	217			6,146	17.84%		
2001	General	Mayor, At-Large Councilmembers A & B	34,488	363			11,763	33.75%		
2003	Primary	Ward 1 & 4 Councilmembers	16,744	16	765	30	795	4.74%	96.23%	3.77%
2003	General	Ward 1 - 4 Councilmembers	33,698	107	4,216	185	4,401	13.02%	95.80%	4.20%
2005	Primary	At-Large Councilmembers A & B	35,517	45	1,520	108	1,628	4.58%	93.37%	6.63%
2005	General	Mayor, At-Large Councilmembers A & B	35,422	332	8,854	443	9,297	26.00%	95.24%	4.76%
2007	Primary	Ward 4 Councilmember	8,819	11	676	31	707	8.01%	95.62%	4.38%
2007	General	Ward 1 - 4 Councilmembers	34,911	200	6,218	225	6,443	18.35%	96.51%	3.49%
2009	General	Mayor, At-Large Councilmembers A & B	35,288	97	4,257	161	4,418	12.49%	96.36%	3.64%
2011	General	Ward 1 - 4 Councilmembers	34,350	133	4,386	241	4,627	13.42%	94.79%	5.21%
2012	Special	At-Large Councilmember B	34,520	47	2,566	204	2,770	8.01%	92.64%	7.36%
2013	Primary	At-Large Councilmember B	35,364	37	862	94	956	2.70%	90.17%	9.83%
2013	General	Mayor, At-Large Councilmembers A & B	35,241	169	5,638	343	5,981	16.89%	94.27%	5.73%
2015	General	Ward 1 - 4 Councilmembers	35,283	166	4,388	581	4,969	14.02%	88.31%	11.69%
2017	General	Mayor, At-Large Councilmembers A & B	36,599	186	6,537	1,004	7,541	20.50%	86.69%	13.31%
2018	Special	Ward 3 Councilmember	9,418	9	967	259	1,226	13.01%	78.87%	21.13%
2019	General	Ward 1 - 4 Councilmembers, At-Large Councilmember B	37,552	114	4,983	712	5,695	15.12%	87.50%	12.50%
2021	General	Mayor, At-Large Councilmembers A & B	39,613	262	8,555	2,795	11,350	28.46%	75.37%	24.63%
2023	General	Ward 1 - 4 Councilmembers	39,216	218	9,506	3,241	12,747	32.32%	74.57%	25.43%
2025	General	Mayor, At-Large Councilmembers A & B	39,879	293	9,586	3,686	13,272	33.04%	72.23%	27.77%

Average Primary Turnout: 5.46%
Average General Turnout: 20.03%
Average Percent Voting on Election Day: 89.99%
Average Percent Voting by Absentee Ballot: 10.01%

Historical Voter Turnout - State, Federal, and County Elections

Year	Election	Type	Registered Voters	Election Day Registrations	Polling Place Voters	Absentee Voters	Total Ballots Cast	Voter Turnout	Precinct %	Absentee %
1998	General	Gubernatorial Election	33,350	3,273			27,113	74.03%		
2000	Primary	State Primary	34,299	453	7,368	320	7,688	22.12%	95.84%	4.16%
2000	General	Presidential Election	34,105	4,986	28,271	3,079	31,350	80.20%	90.18%	9.82%
2002	Primary	State Primary	34,488	363	10,425	1,338	11,763	33.75%	88.63%	11.37%
2002	General	Gubernatorial Election	34,755	3,162	26,284	2,045	28,329	74.71%	92.78%	7.22%
2004	Primary	State Primary	32,874	201	3,035	262	3,297	9.97%	92.05%	7.95%
2004	General	Presidential Election	33,846	5,449	28,985	4,536	33,521	85.31%	86.47%	13.53%
2005	Special	State Senator - Senate District 43	18,199	61	3,901	204	4,105	22.48%	95.03%	4.97%
2006	Primary	State Primary	35,337	267	5,536	313	5,849	16.43%	94.65%	5.35%
2006	General	Gubernatorial Election	35,387	2,943	24,275	2,629	26,904	70.19%	90.23%	9.77%
2008	Primary	State Primary	34,970	249	5,205	308	5,513	15.65%	94.41%	5.59%
2008	General	Presidential Election	35,498	5,292	27,509	6,049	33,558	82.27%	81.97%	18.03%
2010	Primary	State Primary	34,349	442	7,076	496	7,572	21.76%	93.45%	6.55%
2010	General	Gubernatorial Election	35,157	2,340	23,198	2,249	25,447	67.86%	91.16%	8.84%
2012	Primary	State Primary	34,086	165	3,087	227	3,314	9.68%	93.15%	6.85%
2012	General	Presidential Election	33,979	4,487	29,280	5,102	34,382	89.38%	85.16%	14.84%
2014	Primary	State Primary	34,890	286	4,966	606	5,572	15.84%	89.12%	10.88%
2014	General	Gubernatorial Election	35,225	1,592	20,525	4,130	24,655	66.97%	83.25%	16.75%
2016	Primary	State Primary	35,380	117	3,453	322	3,775	10.63%	91.47%	8.53%
2016	General	Presidential Election	37,040	1,955	22,460	11,673	34,133	87.53%	65.80%	34.20%
2018	Primary	State Primary	36,532	524	10,453	2,103	12,556	33.88%	83.25%	16.75%
2018	General	Gubernatorial Election	36,946	1,652	20,654	11,154	31,808	82.41%	64.93%	35.07%
2020	PNP	Presidential Nomination Primary	37,633	643	11,187	2,347	13,534	35.36%	82.66%	17.34%
2020	Primary	State Primary	38,228	405	4,542	9,099	13,641	35.31%	33.30%	66.70%
2020	General	Presidential Election	39,892	2,286	9,735	27,867	37,602	89.15%	25.89%	74.11%
2022	Primary	State Primary	39,486	196	6,823	1,637	8,460	21.32%	80.65%	19.35%
2022	General	Gubernatorial Election	38,990	1,387	19,024	11,201	30,225	74.86%	62.94%	37.06%
2024	PNP	Presidential Nomination Primary	39,041	160	5,938	1,449	7,387	18.84%	80.38%	19.62%
2024	Special Primary	County Commissioner - District 6	39,002	11	1,731	661	2,392	6.13%	72.37%	27.63%
2024	Special	County Commissioner - District 6	39,121	17	2,588	812	3,400	8.69%	76.12%	23.88%
2024	Primary	State Primary	39,523	139	4,811	1,726	6,537	16.48%	73.60%	26.40%
2024	General	Presidential Election	40,208	2,290	15,721	20,790	36,511	85.91%	43.06%	56.94%
2026	Primary	State Primary	41,189	412	10,592	4,511	15,103	36.30%	70.13%	29.87%

Average Primary Turnout: 21.37%
Average General Turnout: 74.66%
Average PNP Turnout: 22.02%
Average Percent Voting on Election Day: 79.50%
Average Percent Voting by Absentee Ballot: 20.50%

The Timing of Elections

Christopher R. Berry† & Jacob E. Gersen††

There are nearly half a million elected officials in American local governments, and the timing of their elections varies enormously both across states and even within the same state. Some local elections are held simultaneously with major federal and state races, while others are held at times when no higher level elections coincide. This Article argues that the timing of local elections drives turnout and, ultimately, substantive policymaking. When local elections do not coincide with important federal or state contests, the marginal cost to voters of participating rises, and consequently only those voters with the greatest stake in the electoral outcome turn out, a phenomenon we label "selective participation." Selective participation is especially pronounced in local special-purpose elections, such as those for school and special districts, where single-issue interest groups are especially influential. When there is selective participation in a low turnout election, policy outcomes will be more favorable to special interests than they would be if the same government were elected in a high turnout election. To explore these ideas empirically, we examine a natural experiment created by a 1980s change in the California Election Code, which gave school boards the option of changing their elections from off-cycle to on-cycle. Against this backdrop, we consider alternative legal regimes for regulating the timing of local government elections.

INTRODUCTION

Elections are the primary means by which the will of the people affects the behavior of the government in a democracy. Through elections, voters select good candidates and reward and punish incumbent politicians for their performance in office, acts that form the cornerstone of democratic accountability. The quality of this electoral connection between popular will and government performance depends on a host of factors, ranging from voter mobilization and electoral administration to legislative procedures and party competition. Political scientists have long studied how demographic and socioeconomic factors, as well as party and candidate mobilization efforts, influence the decisions of individual voters to participate in the political process.[1] Meanwhile, political scientists, lawyers, and economists have

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1 The related literature is voluminous. See, for example, Warren E. Miller and J. Merrill Shanks, *The New American Voter* 39–114 (Harvard 1996) (presenting and analyzing data regarding the correlations among voter turnout and variables such as race, age, educational attainment, and income level); Steven J. Rosenstone and John Mark Hansen, *Mobilization, Participation, and*

analyzed how electoral rules and processes influence the performance of political institutions.[2] Yet, amid this vast sea of scholarship, the topic of election timing is a nearly deserted island.[3] Despite the enormous variation in the timing of elections within the United States, relatively little is known about the ways in which *when* an election is held affects who votes, who is elected, and ultimately which public policies are enacted. These are the questions we explore in this Article. We argue that even seemingly mundane institutional choices, such as whether an election is held on a Tuesday in November or a Wednesday in April, can have a profound impact on the nature of political participation and the influence of special interest groups.

The timing of elections for federal offices is, of course, tightly regulated and does not vary outside the primary setting in any meaningful way from state to state. Both scholars and politicians have long understood that electoral behavior in off-years—years without presidential elections—differs from participation during years with presidential elections, but this has sensibly been the starting and stopping point in the federal context.[4] Most elections in the United States, however, are not federal elections, but state and local government elections. There are more than 500,000 elected officials in the United States, and fewer than 600 of them are federal officials.[5]

The timing of local government elections can only be described as chaotic. In some localities, all or virtually all elections are held on the same day and placed on the same ballot. Many local political institutions hold elections simultaneously with other state or federal elections. Others, however, do not coordinate at all or seemingly take active steps in favor of fragmentation. For example, in some localities, there is at least one local government election in eleven months of the

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Democracy in America 74–210 (Macmillan 1993) (considering the relationships among political participation and factors such as education level, gender, race, language, and mobilization by political leaders, by electoral campaigns, or around issues).

2 There is no shortage of canonical cites on this front, but for an example, see generally Douglas W. Rae, *The Political Consequences of Electoral Laws* (Yale 1967).

3 For a notable exception, see Zoltan L. Hajnal, Paul G. Lewis, and Hugh Louch, *Municipal Elections in California: Turnout, Timing, and Competition* 35–38 (Public Policy Institute of California 2002) (concluding, based on a study of municipal elections, that election timing accounts for half of the variation in registered voter turnout among California cities).

4 From time to time, proposals to make the federal election day a national holiday or to change election day to a weekend surface, but these proposals seem to have relatively little traction historically.

5 Christopher R. Berry and Jacob E. Gersen, *Fiscal Consequences of Electoral Institutions*, 52 J L & Econ 469, 475 table 1 (2009). See also US Census Bureau, *1992 Census of Governments: Popularly Elected Officials* v–vi, online at http://www.census.gov/prod/2/gov/gc/gc92_1_2.pdf (visited Oct 21, 2009).

year.[6] The legal regimes that regulate electoral timing are equally diverse. Sometimes the precise dates for all local government elections are specified by state statute. Elsewhere, electoral timing is discretionary, set partially or entirely by the local government institution subject to the election. The result is a patchwork of local government election practices, many of which change substantially from year to year. The primary question for this Article is how such institutional variation affects electoral politics.

The structure of our argument is roughly as follows. We begin with the empirical observation that the timing of local government elections varies enormously within the United States. Given this institutional heterogeneity, a natural next question is whether electoral timing matters. Unsurprisingly, we suggest it does. Empirically, temporally fragmented elections—those occurring at odd times during the year or during years in which there is no major November election—produce systematically lower voter turnout.[7]

For reasons developed in Part II, we argue that the reduction in turnout is unlikely to be randomly distributed across the pool of potential voters. Elections held at odd times force potential voters to bear additional costs to participate in the political process. As these costs increase, voters with less at stake in the election will be more likely to abstain and voters with more at stake in the election will comprise a larger share of the active electorate, a phenomenon we label *selective participation*. When the costs of participation rise, elections that might otherwise have been dominated by majoritarian interests may turn into elections dominated by special interests, resulting in concrete differences in public policy.[8] Importantly, we use the term "minoritarian" or "special interest" descriptively rather than normatively. Electoral dominance by special interest groups may result in undesirable policies that benefit a minority by imposing costs or harms on a majority, but special interests may also have better information and more intense preferences about policy than the general public. Whether policy is better or worse when elections are dominated by special interest voters is an empirical question, one that we pur-

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6 Thomas R. Souzzi, *Special District Election Date Study: A Crazy Quilt* *2–3 (Office of Nassau County Executive, 2007), online at http://www.nyslocalgov.org/pdf/Suozzi2.pdf (visited Oct 20, 2009) (assembling local government election dates in Nassau County, New York).

7 For evidence on this point, see Hajnal, Lewis, and Louch, *Municipal Elections in California* at 36 figure 3.2 (cited in note 3). For a review of the relevant literature, see Christopher R. Berry, *Imperfect Union: Representation and Taxation in Multilevel Governments* 51–88 (Cambridge 2009).

8 We offer an informal description of this phenomenon below, but one of us has elsewhere formalized a theory of selective participation and interest group politics. See Berry, *Imperfect Union* at 52–69 (cited in note 7).

sue here and in other ongoing work. If our account of electoral timing, selective participation, and special interest influence is correct, then voter turnout should drop dramatically in oddly timed elections and minoritarian interests should tend to dominate. Both of these effects are evident empirically. Against this backdrop, the Article surveys some of the legal regimes that regulate electoral timing in the United States and clarifies the normative considerations attendant in choosing an election timing regime.

I. BACKGROUND AND LITERATURE

The timing of elections connotes several areas of existing scholarship that are not the subject of this Article. First, the frequency of elections or, equivalently, the duration for which a selected politician is able to stay in office without reelection may affect government accountability and the legitimacy of public policy.[9] Prior scholarship has, for example, argued that the greater the time in office between elections, the greater the agency problem in politics.[10] Political theory work on the normative properties of election timing follows similar themes.[11] Related, in the redistricting context, the timing of redistricting measures can ameliorate or exacerbate potential political pathologies[12] and more generally, judicial conceptions of voting rights hinge on assumptions about the temporal nature of political participation rights.[13]

A second literature concerns the timing of called elections in parliamentary systems. Unlike presidential regimes in which electoral timing is set ex ante, the timing of elections in parliamentary schemes is generally explicitly endogenous.[14] Prior scholarship emphasizes how

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9 See Eric Maskin and Jean Tirole, *The Politician and the Judge: Accountability in Government*, 94 Am Econ Rev 1034, 1035 (2004).

10 See Timothy Hellwig and David Samuels, *Electoral Accountability and the Variety of Democratic Regimes*, 38 Brit J Polit Sci 65, 69 (2008); G. Bingham Powell, *Elections as Instruments of Democracy: Majoritarian and Proportional Visions* 51 (Yale 2000) (arguing that the ability of voters to not reelect incumbents is essential to retaining policymakers who are responsive to what citizens want).

11 Dennis F. Thompson, *Election Time: Normative Implications of the Temporal Properties of the Electoral Process in the United States*, 98 Am Polit Sci Rev 51, 51 (2004) (arguing that legitimacy of electoral outcomes depends critically on the role of time in electoral cycles).

12 See Adam B. Cox, *Designing Redistricting Institutions*, 5 Elec L J 412, 418–21 (2006) (discussing how delayed implementation of redistricting could provide a check on manipulation of voting districts for partisan ends).

13 Adam B. Cox, *The Temporal Dimension of Voting Rights*, 93 Va L Rev 361, 363–64 (2007) (arguing that courts should acknowledge the temporal dimension of voting rights, which would allow a voting plan that harms particular voters in one election to be justified by benefits to those same voters in later elections).

14 See Alastair Smith, *Election Timing in Majoritarian Parliaments*, 33 Brit J Polit Sci 397, 399–405 (2003); Kaare Strøm and Stephen M. Swindle, *Strategic Parliamentary Dissolution*, 96

the ability to call or refuse to call elections in a parliamentary system affects the distribution of coalitional power.[15] Various scholars have sought to understand when elections are called in parliamentary regimes, citing such factors as information asymmetry,[16] exogenous shocks, and public opinion.[17] An important theme of this literature is that elections should be and apparently are called strategically so as to affect the chances of electoral victories.[18] Nevertheless, the ability of politicians to call elections at any point within an electoral cycle makes this literature an imperfect match for electoral timing regimes in US local government, where elections are held at fixed, regular intervals.

Third, the timing of local government elections is closely related to ballot length. If local elections are not held concurrently with state or national elections, ballots on any given election day will be shorter. Thus, electoral timing is related to the political science literature on ballot rolloff and voter fatigue.[19] Longer ballots tend to result in some rolloff or, put differently, an increase in abstention for issues further down the ballot. We return to this issue in Part IV.B.

Am Polit Sci Rev 575, 584–88 (2002); Arthur Lupia and Kaare Strøm, *Coalition Termination and the Strategic Timing of Parliamentary Elections*, 89 Am Polit Sci Rev 648, 659 (1995).

15 Smith, 33 Brit J Polit Sci at 399–401 (cited in note 14) (demonstrating, through anecdotal evidence, that calling early elections can negatively impact the controlling party's performance in the election); Strøm and Swindle, 96 Am Polit Sci Rev at 584–88 (cited in note 14); Lupia and Strøm, 89 Am Polit Sci Rev at 655–57 (cited in note 14).

16 See, for example, Smith, 33 Brit J Polit Sci at 411–17 (cited in note 14) (showing that parliamentary governments can exploit foreknowledge of economic conditions to their advantage while scheduling elections).

17 See, for example, id at 399–400 (examining Margaret Thatcher's decision to call elections following the conclusion of the Falklands War and arguing that it was based on estimations of public opinion); Lupia and Strøm, 89 Am Polit Sci Rev at 659 (cited in note 14).

18 Consider Gary King, et al, *A Unified Model of Cabinet Dissolution in Parliamentary Democracies*, 34 Am J Polit Sci 846, 860–68 (1990); Bernard Grofman, *The Comparative Analysis of Coalition Formation and Duration: Distinguishing Between-County and Within-Country Effects*, 19 Brit J Polit Sci 291, 292–300 (1989) (examining the effect that different cabinet structures and party systems have on cabinet durability).

19 See, for example, Martin P. Wattenberg, Ian McAllister, and Anthony Salvanto, *How Voting Is Like Taking an SAT Test: An Analysis of American Voter Rolloff*, 28 Am Polit Q 234, 247–48 (2000) (concluding that voters skip ballot questions about which they lack information and that ballot rolloff will only increase with the trend toward including more issues per ballot). For analyses of how other aspects of ballots influence elections, see Bernard Grofman and Arend Lijphart, *Electoral Laws and Their Political Consequences* 245–46 (Agathon 1986) (summarizing studies that have demonstrated how a favorable position on the ballot can increase the number of votes a candidate receives); J.E. Mueller, *Choosing among 133 Candidates*, 34 Pub Opinion Q 395, 399–401 (1970) (examining voter cues in an election with an unusually large slate of relatively undifferentiated candidates and no incumbents); H.M. Bain and D.S. Hecock, *Ballot Position and Voter's Choice: The Arrangement of Names on the Ballot and Its Effect on the Voter* 88 (Wayne State 1957) (finding that voters tend to arbitrarily favor candidates who are listed first on a ballot, those who are listed immediately after the first candidate, and sometimes those who are listed last).

Finally, the problem of electoral timing naturally relates to the broader voter turnout literature. This literature is expansive, but for current purposes, a few fixed points are worth special note. To start with, one of many findings in Wolfinger and Rosenstone's classic book on voting is that turnout in years without a presidential election is significantly lower than turnout in years with a presidential election.[20] Similarly, voting patterns in local government elections[21] generally and education-related elections[22] specifically are a common object of study. Turnout is systematically lower in local elections than in federal elections.[23] Turnout is lower in special district local elections than in elections for general purpose government office (for example, mayor or city council).[24] And, turnout is lower when elections do not piggyback on general elections for higher office.[25] Particularly relevant is work by Dunne, Reed, and Wilbanks, who argue that manipulation of electoral rules can sometimes allow politicians to select the median voter in a given election.[26] They find that school bond measures are more likely

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20 Raymond E. Wolfinger and Steven J. Rosenstone, *Who Votes?* 8 (Yale 1980).

21 For an example of early emphasis on local government in the literature, see Arthur J. Alexander and Gail V. Bass, *Schools, Taxes, and Voter Behavior: An Analysis of School District Property Tax Elections* 19–49 (Rand 1974); Phillip K. Piele and John S. Hall, *Budgets, Bonds, and Bailouts: Voting Behavior in School Financial Elections* 31–53 (Heath 1973); Alvin Boskoff and Harmon Zeigler, *Voting Patterns in a Local Election* 70–71 (Lippincott 1964).

22 See, for example, Christopher R. Berry and William G. Howell, *Accountability and Local Elections: Rethinking Retrospective Voting*, 69 J Polit 844, 852–54 (2007); Daniel L. Rubinfeld and Randall Thomas, *On the Economics of Voter Turnout in Local School Elections*, 35 Pub Choice 315, 322–26 (1980) (evaluating to what extent economic variables can reliably predict voter turnout in local school district elections); Daniel L. Rubinfeld, *Voting in a Local School Election: A Micro Analysis*, 59 Rev Econ & Stat 30, 40 (1977) (noting that participation in school elections correlates with factors indicating self-interest, such as the number of children currently in school).

23 Hajnal, Lewis, and Louch, *Municipal Elections in California* at 2 (cited in note 3); Albert K. Karnig and B. Oliver Walter, *Decline in Municipal Voter Turnout: A Function of Changing Structure*, 11 Am Polit Q 491, 491–92 (1983).

24 Souzzi, *Special District Election Date Study* at *2 (cited in note 6) (noting that turnout reached as low as 3 percent in four Nassau County, New York sanitation district elections in 2002); Donald F. Stetzer, *Special Districts*, in James R. Grossman, et al, eds, *The Encyclopedia of Chicago* 774, 776 (Chicago 2004) (noting that in Chicago turnout for special district elections is lower than for municipal elections); Nancy Burns, *The Formation of American Local Governments: Private Values in Public Institutions* 12 (Oxford 1994).

25 See Harvey J. Tucker, *Low Voter Turnout and American Democracy* *2 (unpublished workshop paper, European Consortium for Political Research, 2004), online at http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/uppsala/ws9/tucker.pdf (visited Dec 27, 2009); Zoltan L. Hajnal and Paul G. Lewis, *Municipal Institutions and Voter Turnout in Local Elections*, 38 Urban Aff Rev 645, 656 (2003); Hajnal, Lewis, and Louch, *Municipal Elections in California* at 18 (cited in note 3); Arthur J. Townley, Dwight P. Sweeney, and June H. Schmieder, *School Board Elections: A Study of Citizen Voting Patterns*, 29 Urban Educ 50, 59 (1994) (noting a dramatic increase in voter participation for several Riverside County, California school district elections after a change to coordinate with local general elections).

26 Stephanie Dunne, W. Robert Reed, and James Wilbanks, *Endogenizing the Median Voter: Public Choice Goes to School*, 93 Pub Choice 99, 114–15 (1997) (concluding that the power to

to pass when turnout is low and that turnout is influenced by the timing of the bond election.[27] This Article builds on their work.

II. THEORY

The ability to exclude parties or candidates from ballots, to regulate who may vote, and to determine the way in which those votes are tallied are standard tools for influencing the outcomes of democratic elections.[28] Indeed, the ability to control who votes in an election is nearly the ability to choose who wins an election. In recent years, politicians, courts, and commentators have canvassed the ins and outs of redistricting as a tool of political control. The working (although contested) presumption of the redistricting literature is that political actors making use of increasingly powerful computer software and models of political participation can draw districts that all but ensure the winners and losers of districted elections.[29] We have little interest in wading into the redistricting debates, much less resolving them in this Article. Note, however, that political manipulation of redistricting seeks to control electoral outcomes by explicitly regulating which voters may vote in which elections. Put crudely, a redistricting scheme affects the likely median voter in an election by deciding who is permitted and who is not permitted to vote in a given district. In essence, it imposes an infinite participation cost on voters outside the district.

Rather than regulate the pool of eligible voters, as redistricting does, many other political institutions and electoral rules affect political participation in a different way: they alter the probability that an *eligible* voter will turn into an *actual* voter. Changing the costs of electoral participation accomplishes indirectly what redistricting seeks to accomplish directly: changing the median voter in an election to favor a preferred outcome.[30]

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select election dates is a useful tool for voter demographic manipulation). See also Tucker, *Low Voter Turnout* at *9–11 (cited in note 25) (noting that a set of particularly controversial Texas constitutional amendments passed, in part, due to strategic placement of an election at a time chosen to minimize turnout). See generally Marc Meredith, *The Strategic Timing of Direct Democracy*, 21 Econ & Polit 159 (2009) (suggesting that supporters of ballot initiatives may strategically time when these initiatives are brought to a vote because of a relationship between the timing of a statewide election and the demographics of the likely voters).

27 Dunne, Reed, and Wilbanks, 93 Pub Choice at 104–11 (cited in note 26).

28 Samuel Issacharoff, Pamela S. Karlen, and Richard H. Pildes, eds, *The Law of Democracy: Legal Structure of the Political Process* 867–981 (Foundation 2007).

29 But see Nathanial Persily, *In Defense of Foxes Guarding Henhouses: The Case for Judicial Acquiescence to Incumbent-Protecting Gerrymanders*, 116 Harv L Rev 649, 663–64, 668–69 (2002) (arguing that redistricting is unlikely to result in bipartisan gerrymanders because most districts are not politically lopsided on a consistent basis).

30 See Dunne, Reed, and Wilbanks, 93 Pub Choice at 114–15 (cited in note 26).

Poll taxes are an explicit, if objectionable, example, but virtually every feature of an electoral regime affects participation costs. At a minimum, voters must bear the costs of going to and from the polls; some will invest in information acquisition to learn something about the potential candidates or issues, and so on.[31] Without opening up the black box of individual decisions to vote, we note that for a given participation cost structure, there will generally be some citizens who are indifferent between voting and not voting. For this group of citizens, the benefits of voting are exactly equal to the costs of political participation. As participation costs increase, these voters will stop participating and as a result, the median voter in the group of actual voters will change. Similarly, as participation costs decrease, some citizens who were unwilling to bear the costs of voting previously may choose to participate, again changing the identity of the median actual voter in the election. The simple point is that the observed or actual median voter is endogenous to the political participation cost structure.[32]

Importantly, the voters who continue to participate in elections as the costs of doing so increase will be those with the most at stake in the election. These voters are special interest voters in the sense that they care more than the general population about the outcome of the given election. We refer to this dynamic as a "selective participation effect." Actual participation is a selective function of voter interest (potential gains or losses from the electoral outcome). Not only will turnout drop as participation costs rise, but the substantive political preferences of actual voters are likely to diverge from the political preferences of nonvoters in the jurisdiction.

This dynamic may be a bit opaque with respect to, say, a presidential election where information about candidates is widespread. But many local government elections are less well publicized and often even topically quite limited: they select officials for sewer, water, or school districts.[33] As it becomes more costly to participate in sewer district elections, it will be citizens with some special interest in these outcomes who will participate, for example the employees of the district or new residents seeking an extension of sewer lines. Although this Article focuses on shifting participation costs generated by the timing of elections, virtually every facet of an electoral scheme affects participation costs and generates potential selective participation effects. Electoral

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31 But see Arthur Lupia and Mathew D. McCubbins, *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* 4, 17 (Cambridge 1998) (arguing that while most voters generally lack information about politics, this lack of information will not necessarily lead them to make unreasoned decisions).

32 Dunne, Reed, and Wilbanks, 93 Pub Choice at 100 (cited in note 26).

33 See Berry and Howell, 69 J Polit at 846 (cited in note 22).

timing, then, is one element of this broader set of regulatory tools that may change the preference distribution of actual voters.

To illustrate, consider three common electoral timing schemes found in local government elections. In the first, all local elections are held on the same day on the same ballot. In the second, elections for different offices are scattered throughout the year on different days. In the third, elections are coordinated within a year on the same day, but some elections are held in different years, including off-cycle without higher level state or federal elections. It is not clear which of these timing regimes is optimal a priori, but each generates different participation costs structures. The citizen who wishes to vote for all local government offices must go to the polls on only one day in the first regime, perhaps on dozens of days in the second regime, and at least once per year in the third regime. A voter who would not go to the polls to vote in a single sewer district election might nevertheless vote in that election if she is already at the polls to vote in the mayoral or presidential election. If these differences are significant, seemingly modest features of electoral institutions may alter the outcomes of elections and the policies chosen by elected officials.[34]

To be clear at the outset, we emphasize that we are not making normative claims about the social desirability of alternative election timing regimes or the policies that are likely to result from them. When participation is costly only the voters who care most intensely about the issue at stake will turn out. By definition, these are "special interests." On the one hand, special interests may use their electoral influence to secure particularistic benefits for themselves at the cost of nonvoters. On the other hand, special interests are likely to be precisely those voters with the most information and the greatest expertise regarding the issue at stake, and their participation may result in better candidates being elected, ultimately leading to better public policy. Which of these two effects dominates in any given case is an empirical question.

This basic tradeoff—namely that delegating to those with expertise may generate better decisions but also gives the expert some latitude to exploit the principal—is a very general problem and a core element of literature on mechanism design.[35] For example, a very similar problem is familiar to scholars of the US Congress, where the ra-

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[34] For a formal theory of these dynamics, see Berry, *Imperfect Union* at 52–69 (cited in note 7).

[35] For a discussion, see Andreu Mas-Colell, Michael D. Whinston, and Jerry R. Green, *Microeconomic Theory* 857–925 (Oxford 1995) (discussing the mechanism design problem, which concerns the elicitation of individual preferences and the constraints that limit social decisions in responding to these preferences).

tionale for the delegation of authority to committees has been a matter of longstanding controversy.[36] Delegating some policymaking authority to specialized committees may be an efficient way for the chamber to generate informed policies, but committees may also use their informational advantages strategically to benefit their members rather than the chamber.[37] The choice of election timing, with its implications for selective participation, is another instance of this rather general problem.

If all this sounds obviously true, it should not. The selective participation account suggests that manipulating the timing of elections (or other political institutions) should alter the position of the realized median voter and therefore affect substantive policy decisions in government. However, there are robust literatures suggesting that this institutional variation should have no impact whatsoever on observed policy. Consider a general version of the Tiebout model.[38] If citizens are mobile, jurisdictions that enact policy different from the preferences of citizens will suffer an exodus of residents and capital. If local governments compete with each other for an increased tax base, then the right bundle of public goods, taxes, and spending should be provided in each jurisdiction.[39] If this theory is correct, then institutional variation like electoral timing should be largely irrelevant for determining policy. Voting with one's feet makes voting at the ballot box superfluous, implying that different electoral timing regimes should not be systematically associated with different policy outcomes in a perfectly competitive local government market.

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36 For a review of the debate, see generally Kenneth A. Shepsle and Barry R. Weingast, *Positive Theories of Congressional Institutions*, 19 Legis Stud Q 149 (1994).

37 See Keith Krehbiel, *Information and Legislative Organization* 68 (Michigan 1991); Thomas W. Gilligan and Keith Krehbiel, *Collective Decisionmaking and Standing Committees: An Informational Rationale for Restrictive Amendment Procedures*, 3 J L, Econ, & Org 287, 288–89 (1987).

38 See Carlo Perroni and Kimberly A. Scharf, *Tiebout with Politics: Capital Tax Competition and Constitutional Choices*, 68 Rev Econ Stud 133, 150 (2001) (arguing that intergovernmental competition over tax policy constrains the fiscal choices of the median voter); Phillip Sprunger and John D. Wilson, *Imperfectly Mobile Households and Durable Local Public Goods: Does the Capitalization Mechanism Work?*, 44 J Urban Econ 468, 487–88 (1998) (exploring models of governmental competition where transaction costs pose a significant barrier to voter relocation); Michael Rauscher, *Leviathan and Competition among Jurisdictions: The Case of Benefit Taxation*, 44 J Urban Econ 59, 66 (1998); Susan Rose-Ackerman, *Tiebout Models and the Competitive Ideal: An Essay on the Political Economy of Local Government*, in John M. Quigley, ed, *Perspectives on Local Public Finance and Public Policy* 23, 25–36 (JAI 1983); John C. Sonstelie and Paul R. Portney, *Profit Maximizing Communities and the Theory of Local Public Expenditure*, 5 J Urban Econ 263, 276–77 (1978). For a general review of the literature, see, for example, Sprunger and Wilson, 44 J Urban Econ at 485–87.

39 But see, for example, Dennis Epple and Allan Zelenitz, *The Implications of Competition among Jurisdictions: Does Tiebout Need Politics?*, 89 J Polit Econ 1197, 1216 (1981) (arguing that Tiebout competition alone is insufficient to constrain government excesses).

Similarly, if the preferences of voters (participants) in elections are fairly representative of nonvoters in a jurisdiction, then the extent of turnout should matter relatively little either for electoral outcomes or for the resulting public policy. The idea that participants in political processes will reasonably approximate the preferences of nonparticipants has a longtanding pedigree in political science.[40] The selective participation thesis suggests otherwise, but there are sensible theoretical reasons to expect that electoral timing simply will not matter.

III. EVIDENCE

To make some headway on these issues we investigate the effect of election timing on voter turnout in municipal and school board elections and then discuss some preliminary results from an analysis of the effect of election timing on substantive policy outcomes. Although the empirical results are discussed here using mainly summary figures and simple statistics, all of the conclusions have been established using more sophisticated econometric models in a companion paper.[41]

We focus our analysis on local government elections in California for two reasons. First, there is a rich archive of electoral data available from the Center for California Studies at Sacramento State University. As explained below, this archive enables us to analyze thousands of local elections spanning 1996 through 2006. In most other states, by contrast, election data are maintained at the local level and must be collected on a cumbersome county-by-county basis.[42]

The second and, in our view, more important reason for analyzing California is that hundreds of local governments in the state have changed the timing of their elections within recent memory. According to a statewide survey, more than 40 percent of responding cities made a change in the timing of their municipal elections in recent years.[43] An important impetus for the change in city elections appears to have

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40 See, for example, Patrick Ellcessor and Jan E. Leighley, *Voters, Non-voters and Minority Representation*, in Charles E. Menifield, ed, *Representation of Minority Groups in the U.S.: Implications for the Twenty-first Century* 127, 142 (Austin & Winfield 2001); Benjamin Highton and Raymond E. Wolfinger, *The Political Implications of Higher Turnout*, 31 Brit J Polit Sci 179, 183 (2001); Sidney Verba, Kay Lehman Schlozman, and Henry E. Brady, *Voice and Equality: Civic Voluntarism in American Politics* 167–68 (Harvard 1995) (noting that while demographic differences exist between voters and nonvoters, the substantive disagreements between the two groups tend to be small).

41 See Christopher R. Berry and Jacob E. Gersen, *Electoral Timing, Selective Participation, and Public Policy* (unpublished manuscript, 2010).

42 An exception is South Carolina. See Berry and Howell, 69 J Polit at 848 (cited in note 22) (noting that South Carolina "is the only state that centrally collects precinct-level election data for local school board races").

43 Hajnal, Lewis, and Louch, *Municipal Elections in California* at ix–x (cited in note 3).

been a shift in the date of the state's presidential primary designed to increase its influence in the national nominating process.[44] When the state presidential primary date changed, localities that had been holding coinciding elections suddenly found themselves holding standalone, nonconcurrent elections. Others that had been holding nonconcurrent elections in the spring were able to consolidate their elections with the new primary date. Because local governments generally pay the entire cost of holding nonconcurrent elections but only a fraction of the costs for concurrent elections, the change in the state primary generated an incentive for localities also to change their election dates, and many did.

There has also been a large scale change in the timing of school board elections in California. Prior to 1986, school district elections were held in odd-numbered years, while most local government and state government elections were held in even-numbered years. In the mid-1980s, the California Assembly passed AB 2605,[45] which authorized school districts to consolidate elections of board members with primary or general elections held in the county in which the district is located. The bill seems to have been overwhelmingly supported and the legislative history reveals that virtually all of the political rhetoric focused on the cost savings that would accrue from election consolidation and on the possibility of increasing voter turnout—generally described as an unqualified democratic good.[46] Because of a then-recent change allowing other special districts to shift the date of their elections, had the bill failed, school districts would have been the only special district legally required to hold elections in odd years.[47] As a result, at least one member of the legislature was concerned that school

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44 California changed its primary date from June to March in 1996. In 2004 it changed the date back to June. In 2008 it changed the date to February to coincide with "Super Tuesday."

45 Assembly Bill No 2605, An Act to Amend Sections 1007 and 5017 of, and to Add Section 5000.5 to, the Education Code, Relating to Education, codified at Cal Educ Code § 1007 et seq (West).

46 See, for example, Republican Analysis of AB 2605, California State Assembly, Assembly Elections and Reapportionment Committee (Aug 22, 1986) (claiming that consolidated elections will increase voter turnout and thereby reduce the power of special interests like teachers' unions); Analysis of AB 2605, California State Senate, Senate Rules Committee (July 3, 1986) (noting that the bill would lead to cost savings by allowing for the consolidation of elections); Letter from Jeffrey N. Hamilton, Superintendent, Fort Jones Union Elementary School District, to Johan Klehs, Chairperson, Assembly Elections and Reapportionment Committee (Apr 4, 1986) (conveying support for AB 2605 because it "would provide a broader base of support for the public school system"); Letter from Bob L. Blacett, District Superintendent, Modoc Joint Unified School District, to Johan Klehs, Chairperson, Assembly Elections and Reapportionment Committee (Apr 2, 1986) (supporting AB 2605 for its "cost savings throughout California"); Letter from James M. Donnelly, Director, Governmental Relations, to Johan Klehs, Chairperson, Assembly Elections and Reapportionment Committee (Feb 27, 1986) (expressing support for the bill because it "would result in cost savings and in greater voter participation").

47 1986 Cal Stat 188 § 1, codified at Cal Elec Code § 10404 (West).

boards would be forced to pay all of what had been shared election costs.[48] The modest debates in the press mirror these same concerns.[49] The little opposition to the bill that did emerge was generally focused on a provision of the law that required approval from the board of supervisors of the county in which the school board changing election dates was located.[50] Some administrators thought the decision should be left to the school boards alone. The State Department of Education supported the measure, however, as did many superintendents.

Following the passage of AB 2605, California experienced a widespread shift in the timing of school district elections. Whereas all school board elections were held in odd years prior to the change in the law in 1986, our estimates indicate that roughly two-thirds of the state's nearly one thousand school districts had changed their election dates to even years by 2006.

In the case of both municipalities and school districts, the changes in local election timing were spurred by changes in state policy, namely the change in the state presidential primary date in the case of municipalities and the passage of AB 2506 in the case of school districts. Because these statewide changes were exogenous from the perspective of individual local jurisdictions, we have a sort of "natural experiment" that allows us to estimate the effect of election timing on political participation and policy outcomes. Indeed, a major distinguishing feature of our analysis is that we are able to observe electoral and policy outcomes within a jurisdiction over time before and after a change in election timing.

The advantages of our *differences-in-differences* approach are significant when compared to a traditional cross-sectional analysis. A cross-sectional analysis compares outcomes from one set of jurisdictions holding even-year elections to outcomes from a different set of

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48 See Letter from Richard Robinson, Assemblyman, 72d District, to George Deukmajian, Governor, State of California (Aug 21, 1986) (noting that "without enactment of AB 2605, school districts could . . . be left to pay the full costs for conducting the expensive, low-turnout elections in the off years").

49 See, for example, Karen Maeshiro, *Big Changes for Schools? Larger Classes, Middle School Reorganization Mulled*, LA Daily News 1 (Feb 14, 2005) ("In other cost-cutting moves, the board at its Feb. 1 meeting approved petitioning the Los Angeles County Board of Supervisors to move the district's school board elections from odd-numbered years to even-numbered years so they would coincide with general elections and save the district between $40,000 and $60,000."); Dee Anne Traitel, *Chula Vista School Trustees Elect to Shift Vote, Save Money*, San Diego Union-Trib B6 (Apr 24, 1985) ("In an effort to cut costs, trustees of the Chula Vista School District have decided to hold school-board elections on the same day as statewide elections. Last night's resolution will save the district half of the current $30,000 cost per election.").

50 See Letter from Karen L. Yelverton, Senior Legislative Advocate, California School Boards Association, to Richard Robinson, Member of the Assembly (Mar 10, 1986) (committing support for the bill "*if* amendments are taken to eliminate the County Board of Supervisors' approval of school board decisions").

jurisdictions holding odd-year elections. The differences between the two types of jurisdictions may be attributable to the effect of election timing, but the differences may also be due to other factors that differ systematically between jurisdictions holding even- versus odd-year elections. For example, according to our data, California school districts that hold elections in even years are smaller and less urban than districts that hold elections in odd years, have a lower proportion of students that are minorities, and have a lower poverty rate. Differences in voter participation and policy between even- and odd-year districts could be due to election timing, but the differences could also be due to other district characteristics that are systematically correlated with the timing of their elections. While it is, of course, possible to control for measurable district attributes in a statistical analysis, it is not possible to control for the *unobservable* aspects of the districts that are also likely to be correlated with election timing and voter participation (for example political interest or social capital). The natural experiment generated by statewide policy changes in California offers a clear opportunity for more rigorous analysis, allowing us to examine outcomes within the same district before and after a change in election timing. As long as other attributes of the district do not change before and after the shift in election timing, we can be more confident that the observed differences in outcomes are the result of the electoral regime.

A. Timing and Turnout

To analyze the relationship between election timing and voter participation, we draw on the California Elections Data Archive (CEDA) maintained by the Center for California Studies at Sacramento State University. The archive contains data on candidates, ballot designations, and vote totals for all county, municipal, school district, and community college elections held between 1996 and 2006. In total, the data cover more than 11,000 local government elections. The analysis herein focuses on the 4,900 school district and 3,300 municipal elections that comprise the bulk of the data.[51]

The CEDA contains the number of votes cast for each candidate in each election. Based on this information, we computed voter turnout as the total number of votes cast in the election divided by the voting age population in the jurisdiction.[52] Summary patterns for

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[51] The remaining three thousand elections consist of a smattering of community college, county, and other local offices that had relatively few elections each or could not be matched to a specific geographic area.

[52] Note that our definition of turnout can differ for two elections held on the same day as a result of ballot rolloff.

school district elections are shown in Table 1.[53] Roughly two-thirds of school district elections were held in even years. Elections held in odd years garnered less than half the level of voter participation as those held in even years, and this differential was evident throughout all the years studied.

Comparable turnout results for municipal elections are shown in Table 2. Four in five municipal elections occurred in even years. As was the case with school districts, turnout in municipal elections is roughly 20 percentage points lower in odd years. Figure 1 demonstrates the sawtooth pattern of voter participation across even and odd years that is evident in both municipal and school elections. Presidential election years also have even higher turnout than other even-numbered years (consistent with prior research),[54] while odd years show uniformly lower voter participation. Finally, turnout in municipal elections is between 5 and 15 percentage points higher than in school district elections, even when the two are held at the same time, likely as a result of ballot rolloff or abstention.

Whereas school district elections are held almost exclusively in November, about 20 percent of municipal elections are held in months other than November, primarily in March, April, and June. That is, electoral timing varies both across years and within years. As shown in Table 2, turnout is higher in November municipal elections in both even and odd years than in elections held during other times of the year. The highest level of voter participation is seen in November of even years, coincident with major state and national races, while the lowest participation occurs in months other than November in odd years, where median turnout drops to 10 percent of the voting age population.

While Tables 1 and 2 present only simple descriptive statistics, regression analyses that control for population size and demographic characteristics thought to influence voter turnout produce the same conclusions.[55] More notably, the results hold when jurisdiction-level fixed effects are introduced. That is, within the same jurisdiction over time, turnout in school board elections is approximately 22 percentage

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53 Because 94 percent of school district elections took place in November, we excluded other months from our analysis.

54 See note 20.

55 See Berry and Gersen, *Electoral Timing* (cited in note 41). Specifically, we control for population size, as well as the racial and age composition of the jurisdiction. In addition, we control for the homeownership rate and the fraction of families with children, which are expected to be especially important determinants of participation in local elections. We emphasize that these variables measure the aggregate attributes of the population in the jurisdictions, not the attributes of individual voters, and therefore the usual cautions regarding the ecological fallacy apply. See Gary King, *A Solution to the Ecological Inference Problem: Reconstructing Individual Behavior from Aggregate Data* 7, 16–17 (Princeton 1997).

points higher in even years than in odd years; turnout in municipal elections is approximately 17 percentage points higher in even years than in odd years. In other words, turnout for municipal and school district elections roughly doubles when a jurisdiction changes its election date from an odd to an even year.

These results generalize prior cross-sectional work showing that turnout in California elections is higher among jurisdictions holding elections in even years,[56] as well as work showing that turnout in school board elections in Riverside County increased significantly after the shift to on-cycle election years in California.[57]

B. Timing and Policy

The observed relationship between election timing and voter participation in school and municipal elections is unsurprising and consistent with the idea that turnout for low-profile local elections is driven to a large degree by the coincidence of major state and national races. However, to say that the timing of local government elections affects turnout is not necessarily to say that timing affects policy. Even if voter turnout drops from 40 percent of eligible voters to 12 percent, if the preferences of the median voter in the first scenario mirror the preferences of the median voter in the second, the shift in turnout would have no impact on the electoral outcome or, by implication, subsequently enacted public policy. Indeed, if the same electoral outcome can be produced with lower political participation costs, lower turnout might even be considered a benefit.

The selective participation thesis, however, suggests that the policy preferences of voters in the low-turnout scenario will be significantly different from those in the high-turnout scenario. Those with the most at stake in the election will be more likely to participate when the costs rise than citizens with less at stake. If so, officials elected in off-cycle elections may look substantially different from politicians elected in on-cycle elections, and the resulting public policy should differ as well. To be clear, the resulting policy may be better or worse on the merits. For instance, parents of students in public schools have more at stake than adults without children and may also produce desirable changes in policy when they dominate school district elections. The central empirical question for the moment is whether, in fact, policy differs across the two electoral timing regimes.

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56 See, for example, Hajnal and Lewis, 38 Urban Aff Rev at 656 (cited in note 25).

57 Townley, Sweeney, and Schmieder, 29 Urban Educ at 56–61 (cited in note 25).

Prior work has shown that the timing of votes on public bond measures for education affects the probability of passage.[58] As discussed above, however, ascertaining the impact of timing on policy outcomes is generally a challenge because only a single timing regime and a single policy outcome are observed in any given jurisdiction. There is obviously useful information in the cross-sectional estimates, but to make stronger claims, one would like to observe policy in the same jurisdiction under different legal timing regimes. This is precisely what our research design allows.

We begin by focusing on school districts because of the rich data on local policies and student outcomes that are readily available. Indeed, there are literally dozens of substantive education policies that might shift because of selective participation effects related to election timing. If parents of enrolled children dominate off-cycle elections, test scores might increase, class size might be reduced, and so forth. If unions dominate school board elections, employee salaries might increase, tenure standards might be eased, and working conditions might become more favorable along other dimensions. If anti-tax groups dominate the election, overall educational funding might drop (depending on the state-financing scheme). Our ongoing research investigates these policy outcomes and others.

For illustrative purposes, however, we discuss some preliminary findings on teacher salaries and student test scores from a companion working paper.[59] Teacher salaries represent a natural outcome by which to evaluate our theoretical prediction that special interests exert disproportionate influence when participation costs rise. First, there is already clear evidence of selective participation by teachers' union members in school district elections.[60] Second, higher salaries are a universal and unambiguous goal for teachers and their unions. Third, teacher salaries follow a rigid pay scale based on qualifications and experience, and comprehensive data on the pay scales are available from the California Department of Education (CDE).[61] On the

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58 Dunne, Reed, and Wilbanks, 93 Pub Choice at 107–10 (cited in note 26) (showing that public school officials can increase the likelihood of success of school bond measures by scheduling the election during the school year because it lowers the cost of voting for those most likely to vote in favor of the measure).

59 Berry and Gersen, *Electoral Timing* (cited in note 41).

60 Terry M. Moe, *Political Control and the Power of the Agent*, 22 J L, Econ, & Org 1, 18 (2006) (finding that in a school district election in Charter Oak, California, overall voter participation was 7 percent while teacher participation was 46 percent).

61 See California Department of Education, *Selected Certified Salaries and Related Statistics 1999–2000*, online at http://www.cde.ca.gov/ds/fd/cs/documents/j90total9900.pdf (visited Oct 21, 2009) (collecting detailed information about teacher salaries including lowest, average, and highest salaries from 85 percent of the state's school districts).

other side of the ledger, student test scores represent one natural outcome by which to evaluate the argument that the expertise of highly informed voters will lead to better performance by boards that are elected in a low-turnout election. By comparison, we are not aware of comparable data available for county or municipal employee salaries or obvious performance outcomes for these governments. Thus, while salaries and test scores represent just two policy outcomes likely to be influenced by selective participation, they are particularly direct, easily measurable, and unambiguous outcomes.

We obtained the certificated salary and benefit schedule (form J-90) from the CDE for each school district and each year from 1999 through 2005.[62] To identify teachers with the same qualifications and experience across districts, we focus on those at step ten in the salary schedule (BA degree plus sixty hours of continuing education).[63] The data show that teachers working in districts where elections are held in odd years earn roughly $1,700 more than similarly qualified teachers in districts with even-year elections, consistent with the selective participation prediction. With an average step ten salary of roughly $54,000, the even-year salary differential represents roughly a 3 percent reduction.[64]

These figures are essentially cross-sectional comparisons of salaries in all-even-year districts with salaries in all-odd-year districts, subject to all the caveats about cross-sectional analysis noted above. There are also eighteen districts that changed their election timing from odd to even years over the course of the study period. Focusing just on data from these schedule-switching districts, we can compare teacher salaries before and after the change in election timing, essentially asking whether salaries go down (or up) *in the same district* after it changes its elections from odd to even years. Even with only 108 observations from 18 districts, the estimated effect of election timing remains highly significant statistically, although somewhat smaller than in the cross-sectional comparison. Teacher salaries go down with-

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62 No data is available from years prior to 1999. The data are obtained by CDE from local school districts through a survey. Although participation in the survey is voluntary, the response rate was 84 percent of districts representing 98 percent of the state's students in the 2006 survey. The responses are rigorously checked by CDE and reconfirmed with the districts before publication. See California Department of Education, *Selected Certificated Salaries and Related Statistics 2005–06* (Dec 2006), online at http://www.cde.ca.gov/ds/fd/cs (visited Jan 3, 2010).

63 Focusing on the starting salary, the highest salary, or the average salary yields comparable results to those discussed below.

64 In other work, we control for a variety of district level covariates that could influence teacher salaries. The main results remain unchanged. Controlling for district level covariates reduces the effect slightly to $1,400. See Berry and Gersen, *Electoral Timing* (cited in note 41).

in a district by roughly $1,200, or 2 percent relative to the state average, after the switch from odd-year to even-year elections.[65]

The effect of election timing on teacher salaries might be taken as evidence that special interests exert a nefarious influence in low-turnout elections. One possible reading of the data is that teachers dominate school board elections held in odd-years and subsequently are able to extract better deals during negotiations. On the other hand, a more positive selective participation gloss might be that parents or pro-education interests more generally dominate odd-year low-turnout school board elections. Such interests, possibly including unions, might prefer higher teacher salaries in the hopes of attracting better teachers and thereby improving educational outcomes for children. As an early attempt to disentangle these effects, we have compared standardized test results on the state's Academic Performance Index between and within districts in the same way that we did for teacher salaries. Although our work is ongoing, no findings so far establish a robust link between the timing of school board elections and student achievement as measured by standardized test scores.

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The empirical analysis then is largely supportive of our thesis about electoral timing. Off-cycle elections generate systematically lower turnout and shifts in electoral timing produce identifiable shifts in voter participation and ultimately changes in public policy. Timing regimes that make it more costly for voters to participate in a given local government election produce measurable policy shifts in favor of special interests. These timing effects are detectable not just across jurisdictions, but even within jurisdictions where the timing regime has changed.[66]

IV. LEGAL REGIMES

To this point, the Article has argued that the timing of local government elections has significant implications for local democratic process. Electoral timing significantly influences voter turnout and generates identifiable differences in substantive policy outcomes. By now, constitutional lawyers may be quick to point out that the US Constitution directly addresses this institutional design problem for

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65 These estimates come from a model including district and year fixed effects, as well as time-varying district level covariates. For complete results, see id.

66 While our analysis is focused exclusively on California, an independent analysis finds comparable results using cross-sectional data from eight states. See Sarah F. Anzia, *Election Timing and the Electoral Influence of Interest Groups* (unpublished manuscript, Oct 3, 2009), online at http://www.stanford.edu/~sanzia/Election_Timing_10_3_09.pdf (visited Feb 4, 2010).

federal elections: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."[67] Article I, § 4, clause 1, colloquially known as the Times, Places, and Manner Clause, not only prescribes a careful balance of federal and state control of elections for federal offices, but also groups the timing of elections together with manner of holding elections.

Neither of these facts should be startling. The Founders recognized that the power to control elections for federal office is the power to destroy the federal legislature. Thus, while the Constitution allocates primary regulatory authority over elections to the states as a default, it also creates clear authority for the federal legislature to opt out of a state electoral scheme. Although the early debates contain many overlapping themes, one of the main points of disagreement was how to balance the fact that states would know how best to manage elections, the realization that the authority to regulate contains the power to undermine, and the concern that granting undisputed authority to set the terms of elections to the federal legislature would generate a risk of self-dealing.[68]

Throughout these debates, one finds a candid acknowledgment that the ability to control the manner, place, *or* time of an election constitutes an ability to influence the election's outcome. As for why the Constitution does not give this authority to the federal legislature as a default, the Founding debates reveal an ever-present concern about the risk of self-dealing and self-preservation. Surprise elections about which only one group knows, or elections held in a remote location to which most citizens do not have access, allow those in charge to control who votes.

As already noted, our goal in this Article is not to prescribe an optimal legal regime for local government election timing. This Part does, however, survey some of the most common legal regimes and identify relevant tradeoffs that would warrant consideration in any serious normative analysis.

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67 US Const Art I, § 4, cl 1.

68 See Federalist 60–61 (Hamilton), in *The Federalist* 403, 403–04 (Wesleyan 1961) (Jacob E. Cooke, ed) (arguing that giving the federal government the full power to control elections would allow it to guarantee the election of "some favourite class of men" by "confining the places of election to particular districts"). See also Philip B. Kurland and Ralph Lerner, eds, 1 *The Founders' Constitution* 248–79 (Chicago 1987) (assembling excerpts from early debates).

A. Legal Variation

Even a cursory glance at the state laws regulating electoral timing in local government reveals enormous heterogeneity. Most of the legal regimes can be split along two dimensions. First, some laws require what might be described as piggybacking—coordinating most local government elections with other local, state, and federal elections—while others allow or mandate fragmentation—holding individual elections or small clusters of elections on different days.[69] Nassau County, New York, constitutes an extreme case of fragmentation: there are special district elections on at least twenty-four different days of the year and at least one each in eleven of the twelve months of the year.[70] Second, state laws differ with respect to which institution gets to make the decision about when to have elections. Recall that California school districts were allowed to change their election dates but only subject to the approval of another local government institution.[71] Other localities are given near complete discretion to decide when local elections will be held. For example, Alaska provides complete freedom for municipalities to select their own election times, providing that they enact a measure when diverging from the default coordinated date.[72]

Other states regulate the timing of local government elections rigidly, although the regimes differ significantly as to the degree of parsimony. At one extreme, municipalities in Connecticut are given two options for their biennial elections—the first Monday of May or the first Tuesday after the first Monday of November in odd-numbered years.[73] At the other extreme, the timing of Louisiana's elections are strictly mandated but subject to a near-byzantine timing scheme. A number of municipal and ward officers are elected on the same date as Congress:[74]

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69 See notes 72–79.

70 See Souzzi, *Special District Election Date Study* at *2 (cited in note 6).

71 See text accompanying note 50.

72 Alaska Stat Ann § 29.26.040 (Lexis) (requiring that the "date of a regular election is the first Tuesday of October annually, unless a different date or interval of years is provided by ordinance"). The city of Anchorage, for example, holds its municipal elections in April. See Municipality of Anchorage, *Municipality Elections Home Page*, online at http://www.muni.org/departments/assembly/clerk/elections/pages/default.aspx (visited Oct 21, 2009).

73 Conn Gen Stat Ann § 9-164 (West). These municipal elections include the election of first selectmen and selectmen. Conn Gen Stat Ann § 9-188 (West). The board of selectmen has more discretion when deciding when special elections will be held when there are vacancies or a newly created office, but still must follow a number of restrictions and notice requirements. Conn Gen Stat Ann § 9-164(b) (West). Towns are required to have an annual town meeting, but special town meetings can also be convened by the selectmen or twenty voters. Conn Gen Stat Ann § 7-1 (West).

74 See La Rev Stat Ann § 18:402 (West).

> Primary elections for municipal and ward officers who are not elected at the same time as the governor or members of congress shall be held on the first Saturday in April of an election year, or on the second Saturday in February of an election year, if the statewide presidential preference primary election is scheduled on the second Saturday in February of the presidential election year, or on the third Saturday in February of an election year, if the statewide presidential preference primary election is scheduled on the third Saturday in February of the presidential election year.[75]

The code continues:

> General elections for municipal and ward officers who are not elected at the same time as the governor or members of congress shall be held on the fourth Saturday after the first Saturday in April of an election year unless the primary election for such officers is held on the second or third Saturday in February; in such case the general election shall be held on the fourth Saturday after the second or third Saturday in February, as the case may be, of an election year.[76]

Most states occupy intermediate locations on this continuum. A single provision in Montana law makes clear that general elections must be held on the first Tuesday after the first Monday of November in even-numbered years to vote on ballot issues and "to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers."[77] On election days in odd-numbered years, the state elects municipal officers, officers of political subdivisions wholly within one county, and other specified officers.[78]

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75 La Rev Stat Ann § 18:402(C)(1) (West).

76 La Rev Stat Ann § 18:402(C)(2) (West). However, Louisiana has different rules regarding the timing of elections in parishes containing a municipality with a population of at least 475,000, a provision that seems meant to apply only to Orleans Parish. See Louisiana Secretary of State, *2010 Elections* (June 10, 2009), online at http://www.sos.louisiana.gov/Portals/0/elections/pdf/Copyofelections10061009.pdf (visited Oct 21, 2009); Louisiana Secretary of State, *2010 Elections: Orleans Parish Only*, online at http://www.sos.louisiana.gov/Portals/0/elections/pdf/Calendar2010Elections-N.O.pdf (visited Oct 21, 2009); Louisiana Secretary of State, *2010 Elections: Election Schedule for All Parishes except Orleans Parish*, online at http://www.sos.louisiana.gov/Portals/0/elections/pdf/Calendar%202010%20Elections.pdf (visited Oct 12, 2009). For those "parishes," general elections "shall be held on the fourth Saturday after the first Saturday in February of an election year." La Rev Stat Ann § 18:402(D)(2) (West). Interestingly, no city in Orleans Parish has a population even close to 475,000 now. Rules regarding special elections, while similarly splitting parishes with and without populous cities, are also strictly prescribed. La Rev Stat Ann § 18:402(E) (West).

77 Mont Code Ann § 13-1-104(1)(a).

78 Mont Code Ann § 13-1-104(2).

As illustrated by the data from Nassau County, local governments in New York are allowed significant latitude regarding elections.[79]

B. Normative Gestures

If this Article's theoretical account of timing is correct, then some back-of-the-envelope analysis regarding the right way to regulate the timing of elections is in order, even if we can only identify some of the relevant tradeoffs and their respective magnitudes. Our goal, therefore, is more to clear some conceptual underbrush than to propose concrete policy reforms.

Low levels of voter turnout are generally lamented in democratic theory.[80] It is tempting, therefore, to think that coordinated or centralized election regimes in which all local elections are held on the same date on the same ballot should be strictly preferred. Moreover, to the extent that there are any economies of scale for elections—as there almost surely are—a single annual election for all local government officials also helps economize on the financial costs of holding elections. Temporal fragmentation drives turnout down and is likely more costly in a strict administrative sense.

The reason the pure coordination regime falters as a normative matter is that turnout in the aggregate is imperfectly correlated with per-ballot-item voting. Even if one cared only about the quantity of voter participation rather than the quality of voter participation, it is this latter statistic that warrants emphasis. Moreover, the quality of electoral decisions should be a joint function of the number of voters and the quality of individual judgments. Individual voters may pay less attention to a given issue in an on-cycle election, when it must be eva-

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79 "The general village election shall be held on the third Tuesday in March except in any village which presently elects, or hereafter adopts a proposition to elect, its officers on a date other than the third Tuesday in March." NY Elec Law § 15-104(1)(a) (McKinney). Elections for "town officers and for the consideration of such questions as may be proposed by the town board or the duly qualified electors, pursuant to the provisions of this chapter, shall be held on the Tuesday next succeeding the first Monday in November of every odd-numbered year." NY Town Law § 80 (McKinney). However, Broome County is allowed to hold its election on the Tuesday after the first Monday in November of an even-numbered year. NY Town Law § 86 (McKinney). The disorganization of elections in Nassau County is a result of the county continuing to have special improvement district commissioners. Though constrained by notice and a few other requirements, special improvement district commissioners were allowed to choose the date of their elections. NY Town Law § 212 (McKinney). An effort to get rid of the office and give its authority to the town boards led to NY Town Law § 57-a (McKinney), which required that the town board vote by at least three-fourths to continue the office or that the voters in the district hold a special election to keep the office. Fire district officers are elected on the second Tuesday in December, with a few specified exceptions. NY Town Law § 175 (McKinney).

80 See, for example, Paul R. Abramson and John H. Aldrich, *The Decline of Electoral Participation in America*, 76 Am Polit Sci Rev 502, 502 (1982) (noting the danger of electoral nonparticipation).

luated alongside many other issues, than they would have given to the same issue were it considered alone in an off-cycle election. So long as citizens have a limited stock of political attention in any given time period, spreading elections across time periods may result in an increase in per-issue or per-election citizen attention, even if aggregate turnout is lower.

A robust finding in the study of elections is that long ballots produce nontrivial rolloff effects: issues near the top of the ballot are much less likely to result in abstention than issues at the end of the ballot.[81] A pure coordination regime would inevitably generate longer ballots, increase rolloff, and almost certainly reduce the degree of attention paid to the less prominent races on the ballot. Thus, while perfect coordination of local government elections is intuitively appealing on turnout grounds, it is unlikely that these regimes generate the best mix of turnout, attention, and abstention. In theory at least, such rolloff could produce outcomes that are identical to the fragmented electoral outcomes if special interests always vote in their most preferred races and general interests abstain (in the single-ballot regime) from the same races that they do not vote for in the off-timing or fragmented regime. In practice, the empirical results suggest otherwise.

If the pure coordination solution is unlikely to be optimal, the other corner solution of complete separation seems undesirable as well. Holding local government elections in eleven months of the year may give citizens the opportunity to carefully consider each individual vote, but the costs of going to the polls with such frequency are almost certain to drive down political participation among all but a small subset of the community. Again, this could produce welfare increases if this subset cares a great deal more than the rest of the jurisdiction or if this subset has greater expertise than the rest of the population. However, it is also possible that this subset will take the opportunity to extract resources for itself at the expense of the rest of the jurisdiction.

To say that neither corner solution seems optimal, however, is not to say all that much. And the fact that we cannot identify the right amount of fragmentation or clustering with any degree of accuracy might be taken as discouraging for institutional designers. By the same token, if the political institution that controls election timing has the right incentives to balance the above considerations, there might be no reason for concern. State laws governing electoral timing often vest significant discretion in the hands of local institutions; if the exercise

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[81] Howard A. Scarrow, *Ballot Format in Plurality Partisan Elections*, in Bernard Grofman and Arend Lijphart, *Electoral Laws and Their Political Consequences* 242, 243–46 (Agathon 1986) (discussing literature).

of that discretion is subject to desirable political pressures, perhaps the timing of elections is likely to be about right.

Unfortunately, if the analogy between redistricting and electoral timing is right, then there is every reason to think that vesting discretion about timing in the same institutions subject to those elections produces a genuine risk of self-dealing. The expansive redistricting debates seem to have left unresolved the best way to manage this risk. Nevertheless, if one is of the view that state legislatures cannot be trusted to draw their own electoral districts in a fair way, then it might sensibly follow that local government institutions ought not be given the authority to control the timing of their own elections.

There is, however, also a deeper problem for normative analysis of election regimes—a problem not just for election timing, but also for normative evaluation of political institutions more generally. To illustrate, we have argued that, empirically, election timing affects the costs of political participation; when election timing is fragmented, voters selectively participate, turnout changes, and so too does policy. An easy and crude way to characterize this result is that fragmented election timing produces minoritarian (special interest) policy. In a system that prizes majoritarianism, it is easy to think any institutional arrangement that produces minoritiarian policy is undesirable (setting aside our earlier discussion of expertise and preference intensity). Calling one regime majoritarian and the other minoritarian, however, requires identifying the appropriate baseline. After all, actual voters in any election often represent a minority of the overall voting-age population (that is, potential voters). Because every bundle of electoral institutions generates participation costs, actual voters are always a subset of the universe of potential voters.

The actual voters in a coordinated election scheme—all elections on the same ballot—will be a subset of potential voters. The actual voters in a fragmented timing regime will be a subset of potential voters too. In either case, the actual median voter is likely to differ from the median citizen. The choice then is really between the electorate produced by the single ballot (coordinated timing) and the electorate produced by many ballots (fragmented timing). To be clear, the median voter should differ across these two regimes, but it is extremely difficult to say which regime produces outcomes that adhere most closely to some hypothetical potential majoritarian ideal.

A natural starting point is the median voter of the pool of all qualified voters, that is the median citizen. However, on sensible democratic theories the views of those who choose not to vote in a given election are not the right benchmark. And that is precisely the dynamic at work when voters choose not to participate in oddly timed local elections. Alternatively, any timing regime (or other electoral regime)

might be described as more or less minoritarian (majoritarian) than the status quo, but there is no reason to think the status quo is the right baseline for comparison either—even assuming that majoritarianism is the appropriate benchmark for democratic theory.

If one prefers to avoid the majoritarian position as a normative benchmark, theoretically one could advance a sort of crude welfarist analysis. Unfortunately, the normative property of timing regimes as a general matter is no easier here. The basic problem is that as participation costs rise, it is the groups most affected by an election that participate. Such special interests are, by definition, parties with the most to win or lose in the process. The remainder of the community (nonvoters) cares less about these elections, while the participating groups care a great deal. Thus, it is entirely possible that allowing special interests to control these elections would be social welfare-enhancing, which would suggest greater fragmentation with low turnout in local government elections would actually be better from a welfarist perspective.[82] So long as the rest of the population cares little and the minority cares a lot, allowing groups with the most at stake to determine electoral outcomes may enhance rather than reduce welfare. The difficulty is that the opposite conclusion is entirely plausible as well, particularly if the minority can use its electoral influence to impose costs on the majority. All of which suggests that a good deal of modesty is in order with respect to any claims about the right or best electoral timing regime.

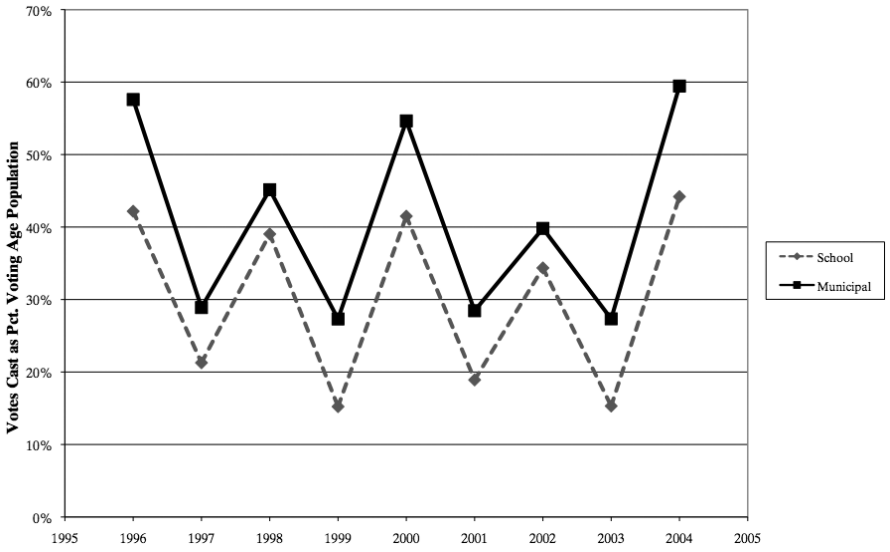
CONCLUSION

This Article takes as its target the timing of local government elections. Notwithstanding the enormous heterogeneity with respect to the timing of local government elections in the United States, electoral timing has been underemphasized in the literature. Conceptually, we seek to locate the strategic manipulation of electoral timing within the broader toolkit of local government. Because electoral timing produces participation costs, different timing regimes produce different levels and types of voting in local government elections. By taking advantage of a change in the law regarding electoral timing, this Article documents that different timing regimes produce drastically different turnout rates across a wide range of local government elections and systematically different policy outcomes.

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[82] This is a direct parallel to the welfare properties of logrolls in legislatures. See Thomas Stratmann, *Logrolling*, in Charles K. Rowley and Friedrich Schneider, eds, *The Encyclopedia of Public Choice* 372, 372 (Kluwer 2008) (noting that logrolling may produce a collective choice closer to the social optimal than sincere voting would because vote trading accounts for intensities of preferences).

FIGURE 1: VOTER TURNOUT



Source: *California Elections Data Archive* (Center for California Studies, Sacramento State University).

TABLE 1: SUMMARY OF SCHOOL BOARD ELECTION TURNOUT

Year	Average Turnout	Median Turnout	Number of Elections
1996	42%	38%	577
1997	21%	15%	332
1998	39%	31%	566
1999	15%	12%	326
2000	41%	36%	519
2001	19%	14%	334
2002	34%	26%	594
2003	15%	10%	312
2004	44%	37%	545
All even years	40%	33%	2801
All odd years	18%	13%	1304
All years	33%	22%	4105

Source: Authors' calculations based on data from *California Elections Data Archive* (Center for California Studies, Sacramento State University).

TABLE 2: SUMMARY OF MUNICIPAL ELECTION TURNOUT

Year	Average Turnout	Median Turnout	Number of Elections
1996	58%	48%	434
1997	29%	24%	150
1998	45%	39%	443
1999	27%	22%	149
2000	55%	48%	436
2001	28%	23%	132
2002	40%	34%	464
2003	27%	23%	116
2004	59%	52%	461
All even years	51%	42%	2238
All odd years	28%	23%	547
November, even years	55%	48%	1859
Other months, even years	32%	19%	379
November, odd years	32%	29%	402
Other months, odd years	16%	10%	145
All elections	47%	38%	2785

Source: Authors' calculations based on data from *California Elections Data Archive* (Center for California Studies, Sacramento State University).

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Ballot Position, Choice Fatigue, and Voter Behaviour

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In this article, we examine the effect of "choice fatigue" on decision making. We exploit a natural experiment in which voters face the same contest at different ballot positions due to differences in the number of local issues on their ballot. Facing more decisions before a given contest significantly increases the tendency to abstain or rely on decision shortcuts, such as voting for the status quo or the first-listed candidate. We estimate that, without choice fatigue, abstentions would decrease by 8%, and 6% of the propositions in our data set would have passed rather than failed.

Key words: Contextual choice, choice fatigue, voter participation

JEL Codes: D3, D72

1. INTRODUCTION

Do people find the pure act of decision making to be exhausting or effort consuming? If so, how do peoples' decisions change after they have just made other decisions? In this article, we examine this effect, which we call "choice fatigue", in an important field environment. We exploit a natural experiment that generates conditionally random variation in the number of decisions a voter must make before reaching a specific contest on the ballot. We provide evidence that making more decisions before a particular decision increases the likelihood of abstention as well as the reliance on heuristics (such as choosing the status quo) in decision making.

Decisions in many economic domains are made in sequential order, and therefore might be affected by choice fatigue. The effect of cognitive load on different decisions has been discussed in other recent work in behavioural economics and consumer psychology. For example: Levav *et al.* (2010) find that German car buyers customizing an Audi are more likely to rely on defaults after making more complicated decisions; Danziger *et al.* (2011) find that judges make harsher decisions as the number of cases since a break increases; and Iyengar and Kamenica (2010) find that employees at firms with more investment options in their 401(k) plan allocate more money to bond funds and less money to equity funds.

Similarly, in the voting literature, many have noted that voters are less likely to cast a vote as they move down the ballot, a phenomenon known as "roll-off". (Burnham, 1965; Bowler *et al.*, 1992; Bowler and Donovan, 2000; Selb, 2008). While this effect might be due to fatigue, it also might be due to the fact that contest saliency generally decreases with ballot position

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(Bowler *et al.*, 1992; Bullock and Dunn, 1996). Additionally, some have suggested that choice fatigue might cause people to vote differently (Bowler and Donovan, 2000; Selb, 2008), although the evidence is mixed (Mueller, 1969). As these studies simply correlate ballot length and aggregate votes (or voter intent) on contests across many elections, the result might be due to differences in the types of contests that appear on long ballots. Therefore, although there has been much work on the subject, the effect of fatigue on voting has never been convincingly causally identified.

Ideally, one would address these questions with a field experiment in which similar voters are presented with the exact same contest at random ballot positions.[1] Then it would be possible to determine the pure behavioural impact of shifting ballot position: are voters more likely to abstain on a contest if it is presented further down the ballot? Furthermore, if they do choose to vote, would they vote differently? Unfortunately, given that ballot ordering is determined by legislated rules, a field experiment would be nearly impossible to implement.[2]

Rather than running a field experiment, our article solves this identification problem by exploiting similar variation found in a natural experiment in California. As a result of ballot ordering rules, Californian voters in the same county can see the same contest at different ballot positions as a result of differences in the number of local contests in the voter's precinct which appear early on the ballot. These differences can be seen as random shocks to a contest's ballot position, particularly when controlling for precinct voting behaviour over time.

To understand our source of variation, consider Proposition 35, a California state-wide ballot measure in the 2000 general election concerning the use of private contractors in public works projects.[3] This proposition appeared on every ballot in the state. However, because of the differences in the number of contests in the overlaying local political jurisdictions in which each voter lives, Proposition 35 appeared at different ballot positions for different voters. For example, the ballot ordering for two precincts in the City of Escondido in San Diego are shown in Figure 1, with local contests preceded by "(L)". The voters in these precincts voted on the same contests, with the exception of five local contests (shown in bold) which appear relatively early on the ballot in Precinct 457270, but not in Precinct 455080. As a result of these local contests, voters in Precinct 457270 saw three contests one position later than those in Precinct 455080, and twenty-two contests (including Position 35) five positions later. As a result of similar variation in local contests, voters in the 1,508 polling precincts of San Diego saw Proposition 35 listed anywhere between ninth and nineteenth on the ballot, with a mean position of 15.8 and standard deviation of 2.1.

Foreshadowing the general results of our article, as Proposition 35 moved down the ballot in different precincts, the choice behaviour of voters in those precincts changed. The left and middle panels in Figure 2 shows a positive and significant association between the ballot position of Proposition 35 and the percentage of no votes (the status quo) and percentage of *undervotes* (abstentions conditional on appearing to vote) in the respective precincts. The right panel of Figure 2 provides a placebo result, showing that no such positive relationship exists across the same precincts in undervotes for the U.S. Senator race, which was the last contest appearing at a common ballot position across the precincts. For reference, the number of local contests that

1. Darcy and Schneider (1989) note that very irregular positioning in a 1986 Oklahoma election (caused by the introduction of new optical technology) led to an increase in roll-off. However, they attribute the effect to voter confusion rather than fatigue. Therefore, the ideal experiment to isolate the effect of fatigue would involve a randomization of position that does not violate voters' expectations and cause confusion.

2. Some states have begun to randomize candidate ordering *within* a contest (see Koppell and Steen, 2004), but there has been little discussion of randomizing ballot ordering across contests.

3. The title of the proposition that appeared on the ballot is "Public works projects. Use of private contractors for engineering and architectural services."

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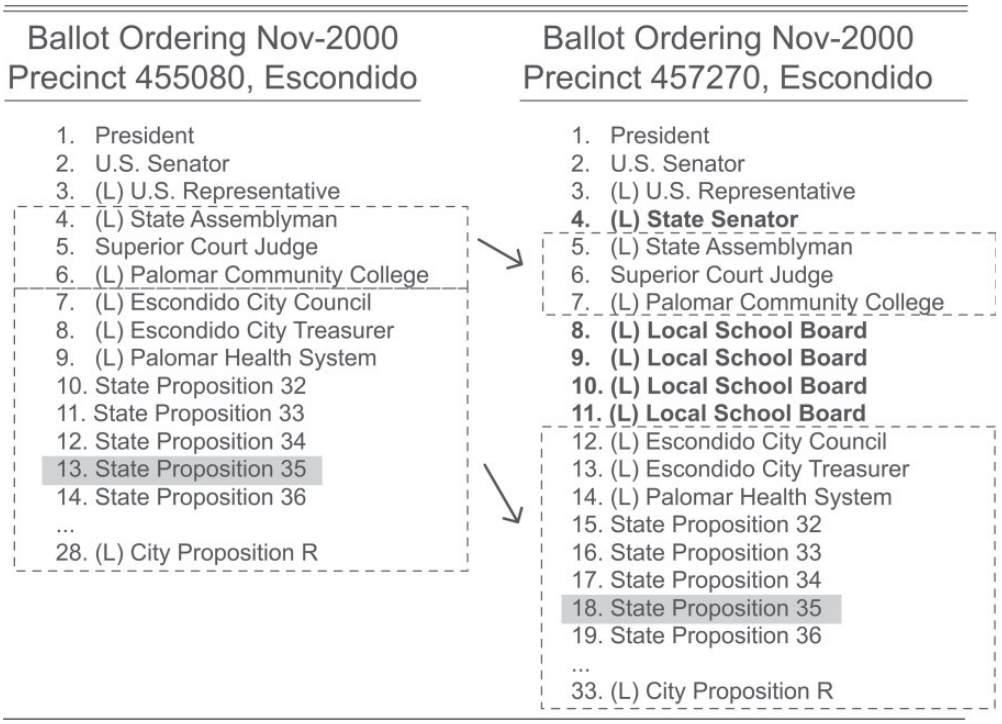


FIGURE 1

Ballot orderings for two precincts in the November 2000 election.

Notes: Local contests are preceeded by (L). Precinct 457270 has five more local contests (in bold) than Precinct 455080, shifting the common contests (in the dotted boxes) down the ballot. For example, Proposition 35 (highlighted), which is discussed in the text, moved from ballot position 13–18.

appear early in the ballot, which is perfectly correlated with the ballot position of Proposition 35, is shown in the upper x-axis.

The within-contest variation in ballot position driven by local contests allows us to include contest fixed effects in our specifications, removing the effects of unobservable contest characteristics that are likely correlated with ballot position and voter behaviour. However, data on only one election leave open the possibility that certain precinct-level unobservable characteristics might lead to both a higher number of local contests and more undervotes (or no votes). To address this concern, we use data from multiple elections, which allows us to include precinct fixed effects in our specifications, controlling for all stable precinct characteristics. Our final data set includes nearly 1 million precinct-level observations of voting outcomes and ballot ordering for every option for every federal, state-wide, and local contest for every primary and general election between 1992 and 2002 in every San Diego precinct.

Across all contests in our data set, we find that lowering a given contest by one position on the ballot increases precinct-level undervotes by 0.11 percentage points. Given the average ballot position (15.7) and level of undervotes of contests in our data (21.6%), this suggests that choice fatigue is responsible for 8% of undervotes in these contests. We also find that voters are more likely to use decision shortcuts as they become fatigued. For example, in state-wide and local propositions (yes-no decisions), lowering a given proposition by one position

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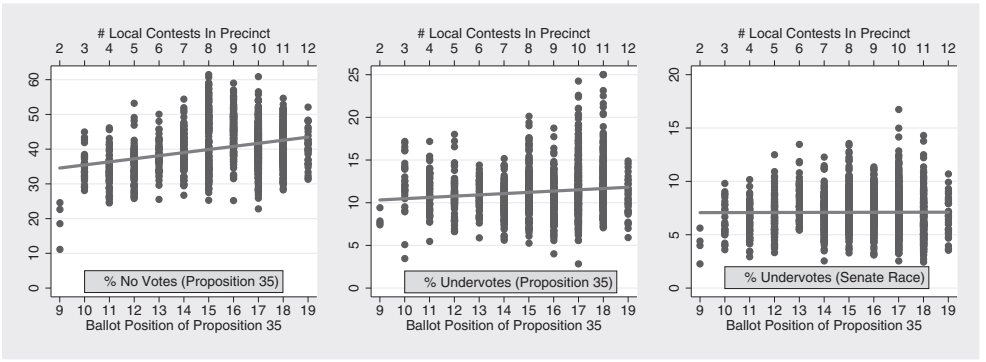


FIGURE 2

Three precinct-level outcomes given the ballot position of Proposition 35.

Notes: Each dot represents a precinct-level observation. There is a statistically significant position relationship between the position of Proposition 35 and no votes (left panel) and undervotes (middle panel) for Proposition 35, but no relationship with undervotes in the senate race (right panel). The number of local contests appearing early in the ballot, which drives the variation in ballot position of Proposition 35, is shown in the upper *x*-axis.

increases votes for the status quo (no votes) by 0.12 percentage points.[4] In state-wide and local office races (multi-candidate decisions), lowering a given contest by one position increases the tendency to vote for the first candidate listed (the most commonly studied effect of candidate ordering) for that contest by 0.06 percentage points. To understand the economic impact of these results, consider that the average proposition is presented 26.7 positions from the top of the ballot. This estimate suggests that the percentage of no votes would decrease by an average of 3.2 percentage points if these contests appeared at the top of the ballot, a natural non-fatigued baseline. Therefore, given the ballot position of each proposition, we calculate that *24 (6%) of the propositions in our data set would have passed rather than failed* if voters did not experience choice fatigue.[5] Furthermore, we calculate that this status quo effect is nearly tripled in contests with no campaign expenditures, in which voters are likely making decisions only when they enter the voting booth.

Even with precinct- and contest-level fixed effects, our identification strategy cannot capture precinct characteristics that vary with time. Perhaps most concerningly, a higher number of local contests in a given precinct might drive changes in the composition of people that turn out to vote. For example, if voters who are more likely to abstain are also more likely to turn out in elections with more local contests, our results could be spurious.[6] We provide evidence against these composition effects by running placebo regressions in the vein of above U.S. Senator race example. We find that there is no significant positive relationship between the number of

4. Although some states have propositions in which a yes vote is the status quo, a no vote always maintains the status quo for California propositions.

5. Of course, it not possible to place every contest at the top of the ballot. However, if ballot ordering of contests were randomized (as it now commonly the case with candidate ordering within contests), the effects of fatigue would be equally spread across contests and, therefore, less likely to cause large changes in outcomes, rather than being focused on contests that happen to appear on the bottom of the ballot.

6. One might reasonably expect the opposite effect, which would bias our results downwards: voters who are likely to abstain from individual contests are more likely to abstain from the entire election when facing more local contests.

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local contests in a precinct and undervotes (or the tendency to vote for the first candidate) in top-of-the-ballot contests with no ballot position variation.[7,8]

We note a few caveats about our main conclusions. First, as we only observe precinct-level aggregate voting behaviour, we cannot observe correlations in individual behaviour across contests. For example, our abstention results might be driven by voters who choose to leave the voting booth entirely once fatigued and consequently abstain from all later contests, rather than voters who have an increased tendency to abstain on each individual later contest. Secondly, as voters likely (correctly) believe that later contests are less important on average, they might rationally choose to abstain from all later contests even if they are aware that local contests cause some randomness in position (see Kamenica (2008) for a discussion of a similar form of contextual inference in product markets). It is harder, however, to rationalize changes in option choice with this explanation. Thirdly, as we study option choice conditional on voting in given contest, we cannot rule out that some of the changed behaviour is driven by a selection effect from increased abstentions. However, given that the status quo effects are slightly larger than the abstention effects, simple calculations suggest that all of the conditional voting behaviour cannot be due to selection. Fourthly, although we interpret our results on propositions as an increased tendency to vote for the status quo when fatigued, this effect might simply reflect an increased tendency for fatigued voters to vote no, regardless of meaning (as suggested by Kamenica, 2012). As voting no and voting for the status quo are always equivalent in our data set, we cannot distinguish between these interpretations.

To better understand the relevance of this article's research contribution, the next section discusses the relevant previous literature on decision making and roll-off. Section 3 discusses the data set and our empirical strategy. The empirical results are broken into two categories. In Section 4, we investigate the effect of choice fatigue on undervotes, which represents the "decision to decide". In Section 5, we discuss the effects of choice fatigue on the actual decision, given that a decision was made. The implications of the results for political economics and theories of decision making, as well as practical concerns for the design of electoral institutions are discussed in Section 6.

2. PREVIOUS LITERATURE

The central hypothesis of this article is that a contextual variable, the number of previous decisions made in the choice environment, can affect decision outcomes. As we are concerned with the effect of this variable on both abstentions and the decision itself, we will review the relevant literature in both of these areas. In both cases, given that the application in this article is voter decision making, we first discuss relevant research in this area and later cover more broadly motivating work in consumer psychology and economic choice.

2.1. *The effect of fatigue on "deciding to decide"*

Three explanations are offered in the existing literature on the effects of ballot composition on participation in individual contests: information, confusion, and fatigue. Within this body of work, the fatigue effects cannot be disentangled from other factors because of

7. A similar test is not possible with "no" votes, as there are no early contests of this type with no ballot position variation.

8. We note that, as our variation is not truly random, there is still a concern that a higher number of local contests on a ballot causes turnout by voters who exhibit standard behaviour on early contests on the ballot—where there are less undervotes in general—but are more likely to abstain (and vote for the status quo or the first candidate) on later contests.

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methodological limitations that disallow any sort of causal inference. We discuss two representative papers here.[9]

First, Darcy and Schneider (1989) study the 1986 Oklahoma gubernatorial general election in which the new use of fill-in-the-bubble optical voting technology by three counties placed the high-salience U.S. Senator contest in obscure or unusual places on the ballot. This drop in ballot position led to 3–7 percentage points more undervotes in comparison to the counties using lever machines.[10] Given that the choice of using optical voting technology is endogenous and that the author's main hypothesis is that the irregular positioning led to confusion, it is difficult to draw a predictive conclusion about the effects of fatigue. However, the authors do present an example of how the relative position of a contest on the ballot may be important for voter choice.

Secondly, Bowler *et al.* (1992) discuss how voter fatigue may influence abstentions. They follow Downs (1957) and Magleby (1984, 1989) in arguing that voting is driven by a cost–benefit analysis, leading voters to resort to cheap decisions (such as abstaining) in some contests. The paper regresses roll-off on the ballot position of California propositions from 1974–1988 and finds that roll-off rises and then falls with ballot position. However, as a proposition's position is determined by the order in which it qualified, less important propositions are likely to appear lower on the ballot. Therefore, it is not possible to separately identify the effects of ballot position and saliency. In fact, these limitations point to the advantage of our approach, which allows us to control for all proposition-specific characteristics by looking at changes in ballot order of the same proposition.

Apart from fatigue, several authors look directly at the role of information in abstention. For example, Coupe and Noury (2004) use data from a survey experiment to find the "pure" effect of information on the decision to abstain. Although not an application based on empirically observed voter choice behaviour, their conclusions are intuitive and suggest that those with less information about a particular survey question are more likely to abstain. Wattenberg *et al.* (2000) use survey data and argue that voters with less information are more likely to abstain. They characterize voters as "treat[ing] voting as if it were a test, picking out the questions that they can answer".

As there are many economic environments in which sequential decisions are made in a choice environment, there is previous work in behavioural economics and consumer psychology on the role of similar contexts in decision making. For example, Boatwright and Nunes (2001) provide additional evidence that decisions made sequentially can be affected by the attributes of individual choices. They find in a natural experiment at an online grocer that reductions in the assortment within 42 product categories increase sales by an average of 11%. Iyengar and Lepper (2000) spearheaded the literature in choice overload, finding that reductions in the variety of jams (and separately, chocolates) in a tasting booth lead to more sales, a finding supported by research in other contexts.[11] These examples suggest that larger decision sets can lead decision makers to abstain from making a decision. Dhar (1997a, 1997b) finds that preference for a "no-choice" option (choice deferral) increases when there is no single alternative in the choice set that has a clear advantage.

9. Other references include: Burnham (1965), Bullock and Dunn (1996), Bowler and Donovan (2000), Nicholson (2003), and Selb (2008).

10. The data analysis is relatively informal, with no standard errors given or hypothesis tests performed.

11. Other references in this literature include Bertrand *et al.* (2010) and Gourville and Soman (2005). Furthermore, theoretical arguments (Kamenica, 2008) and experimental evidence (Seuanez-Salgado, 2006) exist for why consumers may prefer smaller choice sets over larger ones.

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2.2. *Effect of fatigue on decisions*

For motivation on understanding how voters' decisions are affected by choice fatigue, it is first useful to discuss the literature on voter choice in low-information environments. Having no information about candidates or a proposition does not imply that voters will choose a candidate randomly. Instead, there are many contest characteristics available to them that they can use to make a low-information decision about how to vote. Cues that may affect voter decisions are candidate ordering (Miller and Krosnick, 1998; Koppell and Steen, 2004; Krosnik *et al.*, 2004; Ho and Imai, 2008; King and Leigh, 2009; Meredith and Salant, 2013), ballot configurations/design (Walker, 1966), and candidate cues such as gender McDermott (1997), ballot designation/incumbency (McDermott, 2005), race/ethnicity (Engstrom and Caridas, 1991; Vanderleeuw and Utter, 1993; Washington, 2006) and partisanship Sniderman *et al.* (1993). Additionally, these effects may be exacerbated without other cues (Miller and Krosnick, 1998). Our goal is not to examine the effect of these cues on decisions, but how these types of characteristics might *interact with fatigue* to affect voter decision making. We examine the effect of fatigue on selecting the status quo choice or the first-listed candidate (the so-called "primacy effect"), as these are arguably the cues that require the least effort to determine.[12] In the second analysis, we focus on the discontinuous effect of being listed first rather than a continuous effect of ballot position as virtually all of the papers about candidate ordering focus on this effect.[13]

A few papers have noted a relationship between ballot length and the tendency to vote for the status quo choice. Bowler and Donovan (2000) show that there is a relationship between aggregate no votes on propositions in past Californian and Oregonian elections and the number of propositions in that election. Similarly, Selb (2008) uses a random-effects heteroscedastic probit model on Swiss survey data about self-reported voting intention on propositions to find a marginally significant increase in the number of no votes when the ballot contains more propositions.[14] As this data is aggregated up to the election level, it is difficult to draw causal conclusions.

More broadly, previous research has examined the effect of cognitive exertion on the ability to make decisions and the potential resulting bias in observed choice in a variety of domains (section 3.1 of Kamenica (2012) provides a comprehensive review of these studies). For example, Levav *et al.* (2010) study the sequencing of car customization decisions in a field experiment with Audi car buyers. Customers are randomly assigned to treatments in which the first eight of sixty-seven decisions over car attributes are ordered either in increasing or decreasing order of the number of attributes available for each decision. The paper finds that customers in the "Hi-Lo" treatment (decisions with more alternatives first) are more likely to take the default choices (and spend more) than those in the "Lo-Hi" (decisions with fewer alternatives first) treatment. Danziger *et al.* (2011) study judicial decisions throughout the day, finding that the likelihood of

12. Candidates are listed in a particular order, and this order is observed with virtually no effort. Similarly, the status quo option on propositions is always "no", and requires no effort to determine. On the other hand, to make a decision based on the candidates' gender, the voter must read each candidate's name, determine the candidate's likely gender, and compare these likelihoods across candidates. In this case, it might be reasonable to expect fatigue to cause people to take this costly action less, rather than more.

13. Miller and Krosnick (1998) and Krosnik *et al.* (2004) focus on the effect of being listed first or the differential effect of being listed first versus last, although they commonly focus on contests with only two candidates. King and Leigh (2009) use a data set with an average of six candidates per ballot, but report the effect of being listed first only. Ho and Imai (2008) similarly focus all of their analysis on the effect of being listed first. Koppell and Steen (2004) and Meredith and Salant (2013) package many of their main results in terms of being listed first, but also report the effect over multiple positions.

14. Interestingly, Selb notes that "this relatively weak finding casts some doubts on Bowler and Donovan's previous results".

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a favourable decision drops consistently as judges make more decisions without a break. This is perhaps the closest study to ours in a different domain: given plausibly random ordering of decisions in a field domain, the study finds that people make different choices as the number of previous choices rises.

Complementing the evidence in political science, economics and marketing, survey researchers have examined similar issues with regard to how survey respondents behave as they navigate through a survey. Using terminology from Simon (1956), Krosnick (1999) describes survey subjects as falling into two categories: optimizers and satisficers. Although optimizers are thorough in their decision making, other types of people are less thoughtful as they provide responses to questions. Krosnick describes these people as "agree[ing] merely to provide answers, with no intrinsic motivation toward high quality". These "respondents may satisfy their desires to provide high-quality data after answering a few questions, and become increasingly fatigued and distracted as a questionnaire progresses". As a result, these respondents rely more on shortcuts such as choosing the status quo or "no opinion" for questions appearing later on in a questionnaire (Yin, 1989).

Baumeister *et al.* (1998) provides an interesting theory for these results, suggesting that willpower is similar to muscle strength and can be depleted by use. In the case of voting, it might be that self-control is required to expend cognitive energy to make thoughtful decisions and fulfil one's perceived civic duty. More recently, Baumeister and co-authors have suggested that willpower corresponds to blood glucose levels, implying that it can be replenished with rest (Baumeister, 2002) or simply consuming a glucose drink (Gailliot *et al.*, 2007). Taken literally, this implies that choice fatigue in voters could be lowered by providing with sugary drinks in the voting booth.

3. DATA AND EMPIRICAL STRATEGY

3.1. *Data set*

As we discuss in detail in Section 3.2, our identification strategy exploits precinct-level variation in the number of local contests that appear on a ballot for a given election. Given this variation, voters in different precincts see contests that appear later on the ballot in different ballot positions. Therefore, our analysis uses a data set with precinct-level election results and ballot ordering.

We focus on San Diego because of data availability and the large variation across precincts and elections in the number of overlaying local political jurisdictions.[15] The raw data comes from the Statement of the Vote published by the San Diego Registrar of Voters, which contains the turnout levels for each precinct as well as the number votes placed for each potential option for each contest for each precinct.[16] Therefore, for example, it is easy to determine the percentage of voters for a given contest in a given precinct that did not vote on that contest but did show up to vote. The presentation of the data across elections is unfortunately not uniform, requiring manual construction of identifiers for contests, candidates, and jurisdictions.

For every precinct-contest observation, we infer the ballot position from the rules in §13109 of the Elections Code of the California State Constitution, which dictate ballot ordering across the

15. Obtaining electronic or paper files proved difficult in other counties, mainly for lack of preservation of records and limitations on public access. Other counties have records, but would not exhibit the necessary variation to identify ballot position effects. For example, San Francisco does have electronic precinct-level data, but lacks special districts within the City and County required to observe the same contest at different positions on the ballot.

16. The data source can be obtained at: http://www.sdvote.com/

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state.[17] The code requires that federal, state-wide, and local offices always appear above the state-wide propositions, which in turn appear above the local propositions. Statewide propositions are further ordered by type and listed in the order in which they were qualified for the ballot.[18,19] As a result of this ordering, voters in different precincts can face different numbers of local contests early in the ballot for a given election, leading to variation in the ballot position of later common contests.[20] Note that top-of-the-ballot contests (such as Governor, President, Secretary of State, etc.) always appear at the same position for all voters, as there are no preceding local contests.

The final result is a novel data set of participation, voting outcomes, and ballot position for every option for every federal, state-wide, and local contest on the primary and general election ballot between 1992 and 2002 in every San Diego precinct.[21] As undervotes and yes no votes are determined at the contest level, the analysis in Sections 4 and 5.1 collapses this precinct-contest-option-level data set to the precinct-contest-level.

Table 1 contains summary statistics of the data, with the contest-level section broken down by contest type. Consistent with the ordering outlined above, the average ballot position increases from offices to state and local propositions. A significant amount of office contests do not have any variation in ballot position (and have relatively little variation when they do), because they commonly appear before all of the local contests that cause variation. For example, in the example ballots in Figure 1, U.S. Representative appears at the same ballot position and State Assemblyman changes by only one position, even though the precincts differ by five local races. Local propositions have less variation than state propositions because they commonly appear on ballots in precincts which share similar local contests. For example, more than 90% of the precincts that voted on City Proposition R (the final contest in Figure 1) shared four of the five bolded local contests in the figure. Finally, note that all state-wide propositions and judicial offices appear on all San Diego ballots, and therefore contain the most precinct-level observations per contest.

There are a few issues with the data. For example, in primary elections, members of different parties face different ballots. This creates two issues. First, common contests with party-specific options (such as the Democratic or Republican nominees for President) are reported separately for each party, while results for contests with the same options across parties (such as propositions) are presented only in aggregate. For consistency, we similarly aggregate the party-specific results when examining undervotes.[22,23] Secondly, it is possible for voters from different parties in the same precinct to face a different number of initial party-specific contests (most commonly

17. Charter cities and counties are allowed flexibility in their elections code. Of the four charter cities in our data set, the only deviation from the state elections code that is relevant to our data set is discussed later in the article: the City of San Diego rotates city contest candidates in a slightly different way than the state elections code.

18. §13115 of the California Elections Code states that proposition types appear on the ballot in the following order: bond measures, constitutional amendments, legislative measures, initiative measures, and referendum measures.

19. A proposition qualifies for the ballot when the Secretary of State approves the submission of the required number of signatures petitioning to put the proposition on the ballot. The number of signatures required is 5% and 8% of the number of votes in the previous gubernatorial general election for initiatives and constitutional amendments, respectively.

20. Variation in the ballot across precincts arises from differences in the following contest types: State Senator, County Board of Education Members, Community College Board Members, Unified School Board Members, High School Board Members, Elementary School Board Members, Board of Supervisors, Mayor, City Council, Other City Offices, Other District Offices.

21. Originally, we collected data from the 2004 and 2006 elections as well. However, the turnout data for these elections are unreliable because of an aggregation of absentee and polling voters, with the exception of the California judicial retention questions from the 2006 general election.

22. An earlier version of this article did not aggregate these contests with no effect on the qualitative conclusions in each section.

23. We do not perform this aggregation when focusing on the tendency to vote for the first candidate in a contest, as this analysis requires candidate-specific fixed effects, which vary across parties.

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TABLE 1
Summary statistics

Election level				
no. of Elections	13			
Avg. no. of registered voters	1,336,038			
Avg. no. of voting precincts	1,510			
Contest level	State/Local offices	State judges	State props	Local props
Total no. of contests	1,234	54	124	242
Total no. of county-wide contests	109	54	124	14
Avg. ballot position (BP)	11.4	18.6	24.7	33.1
Avg. percentage undervotes	18.2%	39.0%	9.6%	16.3%
Avg. percentage yes	–	–	46.3%	48.1%
Total no. of contests w/ σ(BP)>0	911	54	124	226
Avg. σ(BP) given σ(BP)>0	0.69	0.47	2.02	1.19
Total no. of observations	390,441	111,206	242,750	78,674
Candidate level				
Total no. of of candidates	3,459			
Avg no. of of candidates per contest	2.8			

Notes: Ballot position is represented by the shorthand "BP" and standard deviation "σ". As our data is at the precinct-level, all averages are taken across precincts.

arising from relative rare "third" parties not participating in all contests), creating variation in the ballot position of later common contests. In these cases, we calculate the average ballot position for common contests as the registration-weighted average of the ballot position across parties. Concerningly, this creates an additional source of across-precinct variation in the average ballot position of contests which is driven by the party composition of the precinct, rather than the number of local contests in the precinct. However, party composition accounts for less than 0.5% of the ballot position variation in our data set and does not occur in general elections, which we analyse separately in one of our specifications.

Finally, there is an issue with the exact mapping of absentee precincts to polling precincts as absentee precincts are defined as the collection of voters with an identical ballot for that election. Unfortunately, the ballot type will not necessarily map to a unique voting precinct because other surrounding voting precincts might share that ballot type for a given election. Therefore, rather than map the absentee precinct to a specific voting precinct over time, we map it to a small collection of precincts with consistently similar ballot types. Consequently, our absentee precincts are slightly more aggregated than our voting precincts.

3.2. *Empirical strategy*

Previous papers have noted a relationship between ballot position and voting behaviour, such as an increase in the tendency to undervote when facing contests that are lower on the ballot (Burnham, 1965; Bowler *et al.*, 1992; Bowler and Donovan, 2000; Selb, 2008). Unfortunately, unobservable contest characteristics, such as contest saliency, are correlated with both voter behaviour and ballot position, leading to an endogeneity problem that presumably biases the results in the direction observed in these studies. Controlling for these factors is extremely difficult using observable contest characteristics. In this article, we exploit precinct-level variation in the number of earlier local contests on the ballot, which causes different voters to see the *same contest* at a *different ballot position*. This allows the inclusion of contest fixed effects in our analysis, which fully control for all observable and unobservable contest-specific factors that might affect

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voting behaviour. The inclusion is a key contribution of this article as it allows us to untangle the effect of choice fatigue from the many explanations for voter behaviour in a particular contest on the ballot.

Even with contest fixed-effects, there is still a concern that our source of variation—the number of local contests in a precinct—is correlated with voter behaviour. For example, it might be that the precincts with voters that abstain more (and vote more for the status quo and the first candidate) also tend to have more local offices on the ballot. In this case, voters will behave differently for contests that appear relatively further down the ballot as a result of precinct differences rather than position effects. Fortunately, our data contain precinct observations from multiple elections, allowing the use of precinct fixed effects that capture all constant precinct-level factors that might affect voter behaviour.

Finally, the length of the ballot might drive different types of voters to show up to vote. Note that ballot length across precincts *within* the same election is highly correlated with the number of early local contests in each precinct, which in turn drives ballot position of later contests. For example, in the stylized ballots shown in Figure 1 in the introduction, Precinct 457270 has five more early local contests than Precinct 455080, which drives the majority of contests to appear five positions later and the ballot length to be five contests longer. As a result, we control for the ballot length minus the number of early local contests on the ballot. Later in this section, we discuss the selection issue within elections in more detail and provide an alternative placebo regression which addresses the concern more comprehensively.

Controlling for contest and precinct fixed effects as well as ballot length, the main analysis in the article regresses three different precinct-level outcomes for each contest on the ballot position of that contest (with standard errors clustered at the precinct level). For each outcome variable, we break the results by contest type (offices, propositions, etc.), election type (general and primary), and voter type (polling and absentee), as well as restricting the analysis to only county-wide contests. In Section 4, the outcome variable is the percentage of voters in precinct that abstain from making a decision on a contest (conditional on turning out to vote). Section 4 focuses on the percentage that vote no on propositions (conditional on turning out to vote)—a decision to maintain the status quo. In this case, we also include a specification that includes an interaction of total campaign expenditures with ballot position, where we interpret expenditures as a rough proxy for the pre-election attention devoted to a given contest.[24] Finally, in Section 5.2, we use the precinct-option-contest-level to study the likelihood of voting for the first listed candidate in a given contest (conditional on placing a vote in the contest), a commonly studied behavioural tendency in the voting literature. In this case, another natural experiment permits the addition of candidate-specific fixed effects: for almost all elected offices on the ballot, the ordering of candidates is determined by the drawing of a random alphabet by the Secretary of State.[25] These

24. The expenditures data were taken from California Secretary of State's Cal-Access database as well as past issues of the now-defunct "*Campaign Finance Reports*" series.

25. For some of these offices, candidates are rotated across specific subsets of precincts within the office's political jurisdiction. For state-wide contests (*e.g.* Insurance Commissioner), county-wide contests (*e.g.* Sheriff), congressional or State Board of Equalization districts, the candidates are backward-rotated (first moves to last, second moves to first, third moves to second, etc.) across State Assembly districts. The state-wide contests are rotated throughout all of the state's assembly districts, whereas the other rotation contests are only rotated through those assembly districts which appear within the county. There is no rotation otherwise, except for two special cases. The first is charter cities and counties with elections codes that are potentially different from the state's. In San Diego County, the only relevant deviation from the state's elections code is the City of San Diego, which forward-rotates city office candidates across city council districts. The other exception is when a State Assembly or State Senate district appears in more than one county. In this case, a random alphabet is drawn in each county to determine the candidate ordering. All other contests are not rotated and follow the random alphabet drawn by the Secretary of State.

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fixed effects control for all candidate-specific observables and unobservables, increasing precision and alleviating any concerns about the endogeneity of candidate position. In the resultant three-way (precinct, contest, and candidate) fixed-effects specification, we focus on the coefficient on the *interaction* of ballot position with candidate ordering. That is, while we confirm that candidates randomly placed first within a contest receive a larger vote share, our main concern is whether this effect is increasing as the contest moves down the ballot (and voters become more fatigued).

Concerningly, precinct-level changes over time are not captured in our analysis. If these changes are correlated with both voter behaviour and the number of local contests in a precinct, our effect could be spurious. There are three ways this might occur. First, as we discuss above, the composition of people who vote might change due to our primary source of exogenous variation. Specifically, if a higher number of local contests drives people who abstain more (and vote more for the status quo and the first candidate) to show up to vote, our effects would be driven by selection. Secondly, the composition of precincts might change over time. For example, a group of precincts might become wealthier and more educated over time (perhaps by gentrification). If this change leads to more local contests in the precinct and also leads to more voters who exhibit behaviours associated with fatigue, our effects would actually be driven by changing demographics rather than voter fatigue. We briefly note that the opposite effect might be more natural in both cases: voters in precincts with consistently more local contests and voters who show up given more local contests would seem to be *less likely* to exhibit fatigue-related behaviours. In fact, if anything, we find evidence in this direction in the placebo regressions discussed below. Thirdly, precinct borders may change over time and thus the across-election dimension of the data may not be tracking a consistent unit of observation. For instance, the precinct "ALPINE 553110" in the 1992 primary might have slightly different geographical boundaries than the precinct with the same label in the 1998 general election. This may be especially true in the 2002 elections (which account for 15% of our data), which took place after the usual post-2000 Census redistricting.[26] Conversations with the San Diego Registrar of Voters have suggested that these precinct boundaries changes are not a significant problem because they are primarily used to keep the number of registered voters within a precinct roughly equal and new boundaries stay geographically and demographically close to the old boundaries.[27] In this case, the expected direction of bias is less clear.

To address the concern of time-varying precinct characteristics, we perform a simple placebo analysis focusing on top-of-the-ballot contests that have no ballot position variation (such as the U.S. Senator contest discussed in the introduction). As there are no propositions at the top of the ballot, we can only run this analysis for the abstention and first-candidate outcomes. For the analysis, we regress these two voter outcomes for these contests on the number of local contests in the precinct (which drives the ballot position variation in later contests), controlling for the same precinct- and contest-level fixed effects as in our main analysis. As the position of these contests is constant across precincts, choice fatigue should not play a role in this analysis. Therefore, if these placebo results mirror our main results, our conclusions are likely driven by time-varying precinct characteristics that cause a spurious relationship between the number of local contests and voter behaviour. As we show below, this is not the case: the effect is near-zero for abstentions and negative for first-candidate effects. This placebo regression still leaves some possibility of endogeneity. Specifically, it is possible that a higher number of local contests on a ballot causes turnout by voters who exhibit standard behaviour on early contests on the ballot, but are more likely to abstain (and vote for the status quo and the first candidate) on later contests. There is no

26. A similar issue is the change in the set of overlaying political districts with the 2000 Census redistricting.
27. Similarly, there is an issue of attrition and creation of precincts over the data set because of population growth.

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TABLE 2
Regressions of undervotes on ballot position

Dependant variable: Perc. undervotes	(1) All contests	(2) Only countywide	(3) Separating contest type	(4) Separating election type	(5) Separating voter type
Ballot position (BP)	0.110***	0.126***			
	(6.59)	(7.30)			
BP—State prop			0.119***		
			(6.93)		
BP—Local Prop			0.117***		
			(4.39)		
BP—Offices			0.167***		
			(4.99)		
BP—State judge			−0.491		
			(1.93)		
BP—General				0.163***	
				(6.84)	
BP—Primary				0.042	
				(1.90)	
BP—Polling					0.103***
					(6.21)
BP—Absentee					0.160***
					(9.06)
Observations	823,072	586,566	823,072	823,072	823,072

Notes: Linear regressions of undervotes (percentage of voters who turn out to vote but choose not to make a decision on a specific contest) on the ballot position ("BP") of the contest in a precinct. All specifications include contest, precinct fixed effects, and a control for the ballot length (minus local contests). *t*-statistics are shown in parentheses (all standard errors are clustered at the precinct level). *p<0.05, **p<0.01, ***p<0.001.

credible solution to this concern in our data, although we believe this specific selection effect is unlikely.[28]

4. CHOICE FATIGUE AND THE "DECISION TO DECIDE"

In this section, we focus on how the number of previous decisions in the electoral choice environment affects a voter's decision to *participate* in voting on a particular contest, ignoring the actual decision made. As discussed in previous sections, this is accomplished by analysing a natural experiment in which different voters see the same contest in different ballot positions because of differences in the number of contests in the overlaying local political jurisdictions in which a voter lives. Column (1) in Table 2 provides our baseline specification. The coefficient on ballot position implies that moving a particular contest down one position (thus increasing the number of decisions a voter makes before observing this contest by one) increases the number of undervotes by 0.110 points, which is highly statistically significant. Given that an average contest in the data set appears at ballot position 15.7, this estimate suggests that undervotes would decrease by an average of nearly 2 points if these contests appeared at the top of the ballot. As the average level of undervotes is 21.6%, this suggests that choice fatigue is responsible for 8.0% of total undervotes. Column (2) shows that this effect is relatively stable (0.126) when focusing only on county-wide contests, which removes any concern that are results are driven by contests that endogenously appear in certain precincts.

Column (3) cuts the results by contest type. The results for local propositions and state-wide propositions have very similar point estimates of 0.117–0.119 points, while the estimate for offices

28. Composition effects for any voting experiment are deep rooted: any random manipulation known to voters before showing up to vote could lead to composition effects which confound analysis of voting behaviour.

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TABLE 3
Placebo analysis for top-of-the-ballot contests using the number of local contests in a precinct

Dependant variable:	Perc. undervotes		Candidate vote share	
	(1) All contests	(2) Only countywide	(3) All contests	(4) Only countywide
Local contests on ballot (LC)	0.0120	0.0067		
	(0.69)	(0.36)		
Appears first (F)			1.530***	1.662***
			(13.92)	(13.99)
Local contests × first (LC*F)			−0.0565***	−0.0799***
			(5.08)	(6.76)
Observations	137,388	87,480	932,736	841,268

Notes: Right panel: placebo test mirroring the analysis in Table 2: linear regressions of undervotes (percentage of voters who turn out to vote but choose not to make a decision on a specific contest) on the number of local contests in a precinct("LC"), focusing on top-of-the-ballot contests with no ballot position variation. Left panel: placebo test mirroring the analysis in Table 5: linear regressions of the vote share of a candidate (percentage of voters who for a given candidate conditional on placing a vote) on the binary variable of the candidate appearing first in the candidate list in a precinct ("F") as well as the interaction of the candidate appearing first with the number of local contests in a precinct ("LC*F"), focusing on top-of-the-ballot contests with no ballot position variation. All specifications include contest, precinct fixed effects, and a control for the ballot length (minus local contests). *t*-statistics are shown in parentheses (all standard errors are clustered at the precinct level). *p<0.05, **p<0.01, ***p<0.001.

is slightly higher (0.167)—all of these coefficients are highly statistically significant. However, the estimate for judicial races is (borderline) statistically insignificant and strongly negative (−0.491). The imprecision is due to the lack of variation in ballot position in these races (seen in Table 1), which is a result of judicial races appearing near the top of the ballot and, therefore, prior to most local contests. Unlike the rest of the coefficients in this table, this coefficient is highly sensitive, ranging from negative to positive depending on the precise specification, which makes us reluctant to draw strong conclusions.[29]

The specification in Column (4) estimates primary- and general-election ballot position coefficients. The primary coefficient is positive (0.042), but not significantly different from zero, implying that the majority of the effects of choice fatigue occur in general elections (where the coefficient is 0.163). This is perhaps not surprising if, as described in Brockington (2003), primary voters are more motivated than general election voters and high motivation mediates the effects of choice fatigue.

Finally, Column (5) separates the sample by the absentee status of voters. Somewhat surprisingly, the coefficient for the absentee voters is slightly higher (0.160) than voters that vote in polling places (0.103). One might predict a smaller or negligible choice fatigue effect for absentee voters, as they have more time to vote, potentially more information at their disposal, and have been characterized as of a higher socioeconomic status and more politically active (Karp and Banducci, 2001). As we will see in the following section, the difference between absentee voters and polling-place voters is neglible in the other two outcomes. Our data set does not allow us to determine the precise reason for this effect, although selection effects presumably play a role (absentee status is usually self-chosen by the voter).

To ensure that these results are not driven by any change in composition caused by the number of local contests in a precinct, we run a placebo analysis (discussed in detail at the end of Section 3.2) by regressing the percentage of undervotes on the number of local contests, focusing

29. In fact, in a previous version of this article, which used a slightly different specification (different precinct fixed effects for each type and no control for ballot length), the judicial coefficient was the *largest* in the table.

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on top-of-the-ballot contests that have no ballot position variation. The results are shown in columns (1) and (2) of Table 3. We find little evidence of a positive effect: the coefficient on the number of local contests is a statistically insignificant 0.0120 overall, which changes to 0.0067 when focusing on county-wide contests. This result provides additional confidence that there is no spurious positive association between the number of local contests and abstention behaviour that drives our results.

5. CHOICE FATIGUE AND CHOICE ACROSS ALTERNATIVES

The previous section analysed the effect of the number of previous decisions on the "decision to decide". Although this result provides evidence of choice fatigue, the economic impact is unclear. If voters who choose to abstain vote similarly to those who choose to vote, the abstentions will not affect the result of the contest. Consequently, in this section, we look at the changes in the actual decisions made by voters (conditional on making a decision) as they become fatigued by previous choices. Specifically, we examine the impact of fatigue on the likelihood of making decisions that maintain the status quo (voting no on propositions) or are extremely easy to process (voting for the candidate that is listed first).

5.1. *The effect of fatigue on maintaining the status quo in propositions*

In this section, we analyse the impact of fatigue on the tendency to vote no on propositions. In California, a no vote on state-wide and local propositions always represents maintaining the status quo. Therefore, choice fatigue might increase the tendency to vote no (which represents the familiar status quo) rather than yes (which represents an ambiguous outcome that requires cognitive effort to understand) for propositions. Alternatively, choice fatigue might lead voters to be unhappy and generally more likely to vote no, regardless of the meaning.

Column (1) in Table 4 provide our baseline estimate for the effect of ballot position on the tendency to vote no, implying that moving a particular contest down one position increases the number of no votes by 0.119 points, which is strongly statistically significant. Given that an average proposition race in our data set appears at ballot position 26.8, this estimate suggests that no votes would decrease by an average of 3.2 points if these contests appeared at the top of the ballot. Given the average ballot position of each proposition, we calculate that *24 (more than 6%) of the propositions in our data set would have passed rather than failed* if the proposition was presented to voters as the first contest on the ballot. As in the previous section, Column (2) focuses on county-wide contests, leading to a virtually identical coefficient (0.122).

Column (3) compares the coefficients for local and state propositions. The coefficient on local propositions is much higher (0.258) than that for state propositions (0.095), which might reflect the fact that local propositions are often less important and less discussed before to an election. Similarly, Column (4) displays primary- and general-election coefficients. As with the estimated coefficients on the effect of choice fatigue on undervotes in Section 4, the coefficient for the general elections is significantly higher (0.192) than the coefficient for primary elections (0.025). Again, this suggests that the high motivation associated with primary voters reduces the effects of choice fatigue. However, we stress that the results for primary elections, unlike the rest of the results in this section, are not robust to changes in specification—depending of the form of fixed effects, sample, and controls, the coefficient ranges from significantly positive to significantly negative (although always lower than general elections). This is potentially due to the aggregation issues caused from members of different parties observing different contests, which are discussed in detail in Section 3. The impact of absentee status is shown in Column (5). In this case, there is little change between the coefficient for absentee voters (0.113) and polling voters (0.122).

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TABLE 4
Regression of "no" votes (the status quo) on ballot position for propositions

Dependant variable: "No" votes	(1) All contests	(2) Only countywide	(3) Separating contest type	(4) Separating election type	(5) Separating voter type	(6) Including expenditures
Ballot Position (BP)	0.119***	0.122***				
	(5.96)	(6.04)				
BP—State prop			0.095***			
			(4.65)			
BP—Local prop			0.258***			
			(8.17)			
BP—General				0.192***		
				(6.81)		
BP—Primary				0.025		
				(1.00)		
BP—Polling					0.122***	
					(6.25)	
BP—Absentee					0.113***	
					(4.92)	
BP—No contributions						0.308***
						(12.84)
BP—Positive contrib.						0.006
						(0.27)
Observations	521,424	272,697	521,424	521,424	521,424	521,424

Notes: Linear regressions of "No" votes (percentage of voters who vote "No" on a proposition conditional on placing a vote) on the ballot position ("BP") of the proposition in a precinct. Column (6) includes the interaction of ballot position and a binary variable of positive campaign expenditures spent for or against each proposition. Standard errors in parentheses (all standard errors are clustered at the precinct level). All specifications include contest, precinct fixed effects, and a control for the ballot length (minus local contests). *t*-statistics are shown in parentheses (all standard errors are clustered at the precinct level). *$p<0.05$, **$p<0.01$, ***$p<0.001$.

Finally, Column (6) compares the coefficients for propositions with no campaign expenditures to those with positive expenditures. The coefficient for the 75% of propositions with zero expenditures is relatively large at 0.308, while there is virtually no impact of ballot position on races with positive expenditures.[30] Higher campaign expenditures presumably lead voters to be exposed to the propositions through mailings and television advertisements. As a result, voters will likely have already made a decision about these propositions before showing up at the voting booth and, therefore, will not be affected by choice fatigue. Conversely, when voters have little exposure to an issue before voting, they are seemingly more likely to make a decision when in the voting booth, which allows voting-day choice fatigue to affect their decision. This suggests that the estimates in previous sections are conservative, as they include situations in which voters have previously made a decision and, therefore, are not subject to choice fatigue.

In the previous section, we established that the likelihood of placing a vote changes with ballot position. If voters who are likely to abstain when fatigued would have been more likely to vote yes than an average voter, there would be a mechanical increase in the percentage of no votes due to simple selection. While we cannot credibly separately identify this selection effect, the magnitude of our results suggest that, even in the most extreme case, selection would account for only around half of the no-vote effect for an average proposition.[31]

30. Expenditures on individual measures average $1.2 million, with a standard deviation of $1.7 million. The effect of additional expenditures beyond zero is statistically significant, although economically small (0.002 for every $1 million spent).

31. Consider an average proposition at ballot position 30 that would have ∼10% undervotes and ∼50% yes votes when placed on the top of the ballot. Our results suggest that the percentage undervotes increase by 3.3 points due to ballot

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TABLE 5
Regressions of candidate vote share on appearing as the first candidate and the interaction of appearing first with ballot position

Dependant variable: Candidate vote share	(1) All contests	(2) Only countywide	(3) Separating Contest type	(4) Separating Election type	(5) Separating Voter type
Appears first (F)	0.443***	0.401***	0.393***	0.392***	0.443***
	(7.86)	(6.79)	(6.34)	(7.10)	(7.86)
Ballot Pos.*first (BP*F)	0.0649***	0.0725***			
	(11.98)	(13.18)			
BP*F—State offices			0.0798***		
			(9.35)		
BP*F—Local offices			0.0624***		
			(11.42)		
BP*F—General				0.0453***	
				(6.63)	
BP*F—Primary				0.0924***	
				(15.90)	
BP*F—Polling					0.0637***
					(12.88)
BP*F—Absentee					0.0701***
					(6.61)
Observations	1,154,508	1,036,327	1,154,508	1,154,508	1,154,508

Notes: Linear regressions of the vote share of a candidate (percentage of voters who for a given candidate conditional on placing a vote) on the binary variable of the candidate appearing first in the candidate list in a precinct ("F") as well as the interaction of the candidate appearing first with the ballot position of the contest in a precinct ("BP*F"). All specifications include candidate, contest, precinct fixed effects, and a control for the ballot length (minus local contests). *t*-statistics are shown in parentheses (all standard errors are clustered at the precinct level). *$p<0.05$, **$p<0.01$, ***$p<0.001$.

5.2. *The effect of fatigue on voting for the first candidate*

As opposed to the yes–no options of propositions, voters participating in elected office contests vote for one or more candidates. In this section, we will analyse the effect of choice fatigue on the tendency to choose the first candidate in the ordering, presumably the lowest-effort decision shortcut possible and, as we discuss above, the most studied candidate order effect in the literature.

Column (1) in Table 5 provides our baseline estimation. First, this estimation confirms previous findings in the literature that appearing first in the intra-contest ordering has a highly significant positive impact on the candidate's vote share (0.44 points). Secondly, it demonstrates that choice fatigue has a significant impact on the tendency to use this shortcut: moving the contest down one position increases the expected vote share of the first candidate by 0.065 points. Given that the average ballot position of office contests is 11.4, this estimate suggests that the first candidate receives, on average, an additional 0.74 points because of choice fatigue. Again, we focus on county-wide contests in Column (2), confirming the stability of the coefficients (0.401 and 0.073) given this restricted sample.

Column (3) estimates a separate coefficient for state (0.80) and local offices (0.62), finding little economic difference. In contrast to the findings above, Column (4) has a higher coefficient (0.92) for primary elections instead of general elections (0.45). Finally, Column (5) separates the effect for polling and absentee voters, finding no significant difference in the effect across different types of voters.

As in the case of undervotes, we are able to run a placebo analysis to test if these results remain when focusing on contests with no ballot position variation. The results are shown in Columns

position. If all of the abstaining voters would have voted yes, the percentage of no votes would mechanically increase by 1.9 points. However, our results imply that the percentage of no votes will increase by 3.6 points.

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(3) and (4) of Table 3. In elections with no variation, we find a much larger effect of appearing first in these contests (1.51 points) with this effect slightly (but statistically-significantly) *reduced* by 0.056 (3.7%) for each additional local contest in a precinct, which changes to 1.65 points and −0.80 for county-wide contests. If anything, this provides evidence for a selection effect that biases against our results. For example, it might be that people who suffer from choice fatigue are less likely to show up for elections with more local contests, although we are cautious to draw strong conclusions about this selection effect given the lack of a similar result in the undervote placebo regression.

6. DISCUSSION AND CONCLUSION

6.1. *Discussion*

As our result directly concerns voting behaviour, we discuss several theoretical and practical implications relevant to this context. If voters' decisions are distorted by choice fatigue, elections will not elicit the true preferences of voters. There are three potential ways to deal with this issue. First, as the average behavioural change on each contest increases with the length of the ballot, elections officials may either limit the length of ballots or hold more frequent elections. As an example, Canada holds national and local elections on separate dates and Switzerland holds referendums every 3–4 months (Selb, 2008). Conversely, our result clearly cautions against policies intended to lengthen the ballot. For example, a theoretical result by Besley and Coate (2008) finds that there are welfare gains to the unbundling of policies from candidates through additional contests, but does not consider the possibility costs from choice fatigue. Secondly, given the finding in Danziger *et al.* (2011) that breaks between decisions allowed judges to "refresh", officials may want to promote policies that allow electoral decision to take place over a longer period of time. This might be accomplished by promoting the use of absentee ballots (in which voters can make decisions over a long period of time) or heavily advertising the issues so that voters made decisions prior to entering the voting booth.[32] For example, voting in Oregon, Washington, and Colorado is exclusively conducted by mail. Thirdly, given a set ballot length, elections officials could randomize the order in which the contests appear on the ballot (or at least randomize within each block of contest types). Although this will not reduce the total amount of distorted decisions, it will spread the effect across more contests and, therefore, lower the likelihood of swaying non-marginal decisions. For example, in the case of propositions, our results suggest the percentage of no votes in a contest at the lowest position (around 35) will be swayed by more than 4 percentage points, while randomizing the order will distribute this effect equally across contests (and therefore only sway any result by at most 2 percentage points). For the similar issue of candidate ordering, a large body of previous work established a large bias towards the first-listed candidate (Miller and Krosnick, 1998; Koppell and Steen, 2004). As a response to this effect, a few states have begun to randomize candidate orderings across precincts in an election, suggesting that elections officials may be open to the idea of randomization.

Without randomization of ballot position, strategic actors have the incentive to exploit any control over the position of the contest. For example, citizens' initiatives appear in the order in which they qualify and thus it may be optimal for the group to qualify its proposition as early as possible if it wishes to minimize the no effect from voter fatigue. Similarly, these actors might consider proposition placement during elections with relatively fewer contests higher in the ballot.

32. The absentee suggestion is tempered by our findings that absentee voters are *more likely* to abstain as ballot position changes, although the effect is potentially due to selection (most absentee voters choose this status).

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To the extent that it is desirable to remove these types of strategic motivations in the electoral process, simple randomization appears to be an easy and intuitive solution.[33]

Although our empirical results focus on voting behaviour in one county in one state, we believe it is reasonable to extrapolate our conclusions and recommendations to other locations. First, there is no obvious reason that voters in San Diego would react differently from voters in other counties faced with a similar voting environment. Secondly, although California is well-known for having exceptionally long ballots, the relatively long length of the ballots in other states (Wheaton (2013) reports the average state ballot in 2010 included seventeen offices and five propositions) and internationally (Selb (2008) notes that voters in Switzerland and Italy commonly face long and complicated ballots) suggests that the effect will not be isolated to one state.

Furthermore, given that the choice fatigue mechanism presumably generalizes to other decision environments, it might be reasonable to extrapolate the results to other environments. For example, firms or policy makers may choose to strategically order decisions or disseminate information in reaction to this behaviour change. It is not unusual for consumers shopping online for electronics to be offered the possibility to compare the attributes of a handful of similar items. If consumers experience fatigue while comparing a long list of attributes, then a retailer may strategically place attributes at particular positions in the comparison sequence to mitigate or exacerbate fatigue. Conversely, a benevolent planner might place higher-stakes decisions at the beginning of the decision sequence to maximize the utility of the decision maker.

6.2. *Conclusion*

This article isolates the effect of choice fatigue on voting behaviour through a natural experiment in which the same ballot contest appears at different positions across voters. We are able to separate the effects of choice fatigue from other competing explanations of choice behaviour as a result of this exogenous variation in the number of previous decisions made by the voter. We find that voters are more likely to abstain and more likely to rely on decision shortcuts, such as voting for the status quo or the first candidate listed in a race, as the ballot position of a contest falls. In terms of economic impact, we estimate that if an average contest was placed at the top of the ballot, undervotes would decrease by 8%, the percentage of no votes on an average proposition would fall by 3.2 points, and the percentage of votes for the first candidate would fall by 0.7 points.

The results have broad implications for economic choice and for the design of electoral institutions, which offer opportunities for future work. For example, this article does not distinguish between decisions with different levels of complexity, which presumably affects the level of choice fatigue induced by making the decision. This suggests a possible interaction between for the fatigue effects documented here and the "choice overload" phenomenon discussed in Iyengar and Lepper (2000).

The fact that decision outcomes are dependent on the number of previous decisions made is presumably useful to creators of decision-making environments, such as a company or policy maker. For example, as we estimate that some contests would have different outcomes if placed at the top of the ballot, governments might consider enacting policies to limit the number of decisions on an individual ballot or act to encourage spreading these decisions over a longer time.

33. It is possible to imagine situations in which this selection is desirable. As that choice fatigue lowers the likelihood of a proposition passing, it might be optimal to place the brunt of the effect on propositions that take longer to qualify for the ballot if this delay provides an additional signal of voters' intent.

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Following a recent trend to randomize candidate ordering within contests, a straightforward and feasible policy solution is the randomization of contest ordering within an election.

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Charter Commission Agenda Item 4.D
Meeting of September 16, 2026

Title: Election of officers

Report from: Erik Nilsson, City Attorney

Action Requested: Elect a chair, vice-chair and secretary.

Summary Statement
Officers for 2027 must be elected at the annual meeting.

Background
The charter commission's bylaws require the election of a chair, vice-chair and secretary at the annual meeting. The current officers are: John Northrup, chair; Linnea Sodergren, vice-chair; and LuAnn Tolliver, secretary.

Charter Commission Agenda Item 4.E
Meeting of September 16, 2026

Title:	Establish meeting date for 2027 annual meeting
Report from:	Erik Nilsson, City Attorney

Action Requested:	Motion to approve the time, date and location for the 2027 annual meeting.

Summary Statement
By motion, the charter commission must establish the time, date and location for its annual meeting in 2027 and for other meetings, if any, that the commission deems appropriate.

Background
The charter commission bylaws currently require that the commission hold its annual meeting in September of each year, on a date selected at the preceding annual meeting. The Minnehaha Room has been reserved for the evenings of Sept. 15, 22, 23, and 29 in 2027, as potential options for the charter commission. The 15th, 22nd, and 29th are Wednesdays and the 23rd is a Thursday. The established meeting time is 6:00 p.m.

Charter Commission Agenda Item 4.F
Meeting of September 16, 2026

Title: Annual report

Report from: Erik Nilsson, City Attorney

Action Requested:

1. Approve the annual report, with changes to be made by the city attorney as necessary to reflect the actions of the Sept. 16, 2026 charter commission meeting.
2. Direct the city attorney to file the annual report with the chief judge of district court and to provide a copy to the city clerk.

Summary Statement

The commission must submit an annual report to the chief judge of Hennepin County District Court by Dec. 31, 2026.

Background

State law requires the charter commission to submit an annual report to the chief judge of the district court, on or before Dec. 31 of each year. The report must outline the activities and accomplishments of the commission during the preceding calendar year. The report also includes a record of commission member attendance at meetings. By law, if a commission member fails to attend four consecutive meetings without being excused by the commission, the secretary of the charter commission must file a certificate with the court, and the court is required to issue an order removing that member from the commission.

A draft annual report template is included in the packet. The city attorney will complete the report after the Sept. 16 commission meeting, so that the meeting accurately reflects the attendance of commissioners and includes a summary of items discussed and actions taken at the meeting.

ATTACHMENTS:

2026 Annual Report

2026 Annual Report
Charter Commission

Mission
The mission of the Minnetonka Charter Commission is to oversee the city's charter which defines the parameters within which city government can operate. As an independent body, the charter commission will represent citizen viewpoints and consider and recommend appropriate revisions to the charter which balances the best interests of city government and the citizens.

Membership
Pursuant to Section 2.12 of the charter, Mayor Rebecca Schack was appointed as the 10th member of the charter commission in June 2026 with a term expiring on June 8, 2030. Officers during the year have been John Northrup, Chair; Linnea Sodergren, Vice-Chair; and LuAnn Tolliver, Secretary. At its September 16, 2026 meeting, the commission elected _____ as Chair, _____ as Vice-Chair and _____ as Secretary.

Attendance at the 2026 commission meeting is shown below.

2026 Attendance Schedule

Member	Sept. 16, 2026	Meetings Attended
Allendorf		
Larson		
Northrup		
Panner		
Schneider		
Sodergren		
Tolliver		
Weissman		
Wiersum		

Y = Present; E = Excused; U = Unexcused; T = Term Expired; R = Resigned

Highlights of the Past Year

The commission held its annual meeting on September 16, 2026. At the meeting, the commission received its annual report from the city attorney, which included a legislative and case law update, as well as information about amendments being considered by other charter commissions. The commission discussed the topic of moving municipal elections from odd years to even years [Add summary of Sept. 16th discussion item(s).]

Charter Commission Agenda Item 4.G
Meeting of September 16, 2026

Title: New business items

Report from: Erik Nilsson, City Attorney

Action Requested: Present new business, if any.

Summary Statement

The purpose of this agenda item is to allow commission members to present issues for future consideration of the commission. By consensus or majority vote, the commission may give direction to staff regarding matters to be researched and placed on future agendas.