File No. 120219

Committee Item No. 1
Board Item No. 33

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Linda Wong Date 6/11/12
Completed by: L.W. Date 6/19/12

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

FILE NO. 120219 (FIRST DRAFT)

[Charter Amendment - Replacing ranked-choice voting for City-wide offices with run-off elections]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Sections 13.101, 13.101.5, 13.102, 13.107, and Article XVII and by adding Section 13.102.5 to replace ranked-choice voting for City-wide offices with run-off elections.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 6, 2012, a proposal to amend the Charter of the City and County by amending Sections 13.101, 13.101.5, 13.102, 13.107, and Article XVII and by adding Section 13.102.5 to read as follows:

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~.

Section 1. The San Francisco Charter is hereby amended, by amending Sections 13.101, 13.101.5, 13.102, 13.107 and by adding Section 13.102.5, to read as follows:

SEC. 13.101. TERMS OF ELECTIVE OFFICE.

(a) Except in the case of an appointment or election to fill a vacancy, the term of office of each elected officer shall commence at 12:00 noon on the eighth day of January following the date of the election.

(b) Subject to the applicable provisions of Section 13.102, the elected officers of the City and County shall be elected as follows:

~~*At the general municipal election in 1995 and every fourth year thereafter, a Mayor, a Sheriff and a District Attorney shall be elected.*~~

~~*At the statewide general election in 1996 and every fourth year thereafter, four members of the Board of Education and four members of the Governing Board of the Community College District shall be elected.*~~

*(1) ~~At the general municipal election i~~*In ~~1997~~*2013* and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

*(2) ~~At the general municipal election i~~*In ~~2006~~*2014* and every fourth year thereafter, an Assessor-Recorder, ~~and~~ Public Defender, *three members of the Board of Education, and three members of the Governing Board of the Community College District* shall be elected.

(3) In 2015 and every fourth year thereafter, a Mayor, a Sheriff, and a District Attorney shall be elected.

*(4) ~~At the statewide general election i~~*In ~~1998~~*2016* and every fourth year thereafter, ~~three~~*four* members of the Board of Education and ~~three~~*four* members of the Governing Board of the Community College District shall be elected.

(c) The election and terms of office of members of the Board of Supervisors shall be governed by Section 13.110.

SEC. 13.101.5. VACANCIES.

(a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, *or* Treasurer, ~~*or Member of the Board of Supervisors, Board of Education or Governing Board of the Community College District*~~ becomes vacant because of death, resignation, recall, permanent disability, or the inability of the respective officer to otherwise carry out the responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy under this Charter and state laws.

(b) If the ~~O~~office of Mayor becomes vacant because of death, resignation, recall, permanent disability or the inability to carry out the responsibilities of the office, the President of

the Board of Supervisors shall become Acting Mayor and shall serve until a successor is appointed by the Board of Supervisors.

(c) If the office of member of the Board of Supervisors, member of the Board of Education or member of the Governing Board of the Community College District becomes vacant because of death, resignation, recall, permanent disability, or the inability of the respective officer to otherwise carry out the responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy under this Charter and state laws.

(~~e~~*d*) Any person filling a vacancy pursuant to subsection (a) or (b) of this Section shall serve until a successor *assumes office* ~~is~~*after being* ~~s~~elected, *in accordance with Section 13.102.5,* at the next ~~*election*~~*non-partisan primary* occurring not less than 120 days after the vacancy, *or if necessary, in a run-off at the general municipal election following that non-partisan primary;* ~~*at which time an election shall be held to fill the unexpired term,*~~ provided that ~~*(1)*~~ if a~~*n election*~~ *non-partisan primary* for the vacated office is scheduled to occur less than one year after the vacancy, the appointee shall serve until a successor *assumes office* ~~is~~*after being* ~~s~~elected, *in accordance with Section 13.102.5,* at that ~~*election*~~*non-partisan primary or if necessary, in a run-off at the general municipal election following that non-partisan primary.* ~~*or*~~

~~*(2) if an election non partisan primary for any seat on the same board as the vacated seat is scheduled to occur less than one year but at least 120 days after the vacancy, the appointee shall serve until a successor is selected at that election to fill the unexpired term.*~~

~~*(d) If no candidate receives a majority of the votes cast at an election to fill a vacated office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a municipal runoff election at the next regular or otherwise scheduled election occurring not less than five weeks later. If an instant runoff election process is enacted for the offices enumerated in this Section, that process shall apply to any election required by this Section.*~~

(e) Any person filling a vacancy pursuant to subsection (c) of this Section shall serve until a successor is elected at the next general municipal election occurring not less than 120 days after the vacancy, at which time an election shall be held to fill the unexpired term, provided that (1) if an election for the vacated office is scheduled to occur less than one year after the vacancy, the appointee shall serve until a successor is selected at that election for the subsequent term or (2) if an election for any seat on the same board as the vacated seat is scheduled to occur less than one year but at least 120 days after the vacancy, the appointee shall serve until a successor is selected at that election to fill the unexpired term.

SEC. 13.102. ~~*INSTANT RUNOFF*~~ *RANKED-CHOICE VOTING* ELECTIONS *FOR MEMBERS OF THE BOARD OF SUPERVISORS*.

(a) For the purposes of this section: (1) a candidate shall be deemed "continuing" if the candidate has not been eliminated; (2) a ballot shall be deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not counted in further stages of the tabulation, if all of the choices have been eliminated or there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to two or more candidates, the ballot shall be declared exhausted when such multiple rankings are reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be transferred to that voter's next ranked choice.

(b) The ~~*Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender, and*~~ members of the Board of Supervisors shall be elected using a ranked-choice~~, or "instant runoff,"~~ ballot. The ballot shall allow voters to rank a number of choices in order of preference equal to the total number of candidates for each office; provided, however, if the voting system, vote tabulation system or similar or related equipment used by the City and County cannot feasibly accommodate choices equal to the total number of candidates running for each office, then the Director of Elections may limit the number of choices a voter may rank to no fewer than three. The ballot shall in no way interfere with a voter's ability to cast a vote for a write-in candidate.

(c) If a candidate receives a majority of the first choices, that candidate shall be declared elected. If no candidate receives a majority, the candidate who received the fewest first choices shall be eliminated *from further rounds of tabulation,* and each vote cast for that candidate shall be transferred to the next ranked candidate on that voter's ballot. If, after this transfer of votes, any candidate has a majority of the votes from the continuing ballots, that candidate shall be declared elected.

(d) If no candidate receives a majority of votes from the continuing ballots after a candidate has been eliminated and his or her votes have been transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the continuing ballots shall be eliminated. All votes cast for that candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot. This process of eliminating candidates and transferring their votes to the next-ranked continuing candidates shall be repeated until a candidate receives a majority of the votes from the continuing ballots.

(e) If the total number of votes of the two or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate with the next highest number of votes, those candidates with the lowest number of votes shall be eliminated simultaneously and their votes transferred to the next-ranked continuing candidate on each ballot in a single counting operation.

(f) A tie between two or more candidates shall be resolved in accordance with State law.

(g) The Department of Elections shall conduct a voter education campaign to familiarize voters with the ranked-choice ~~*or, "instant runoff,"*~~ method of voting.

(h) Any voting system, vote tabulation system, or similar or related equipment acquired by the City and County shall have the capability to accommodate this system of ranked-choice~~*, or "instant runoff,"*~~ balloting.

~~(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal election in November 2002 and all subsequent elections. If the Director of Elections certifies to the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not be ready to implement ranked choice balloting in November 2002, then the City shall begin using ranked choice, or "instant runoff," balloting at the November 2003 general municipal election.~~

~~If ranked choice, or "instant runoff," balloting is not used in November of 2002, and no candidate for any elective office of the City and County, except the Board of Education and the Governing Board of the Community College District, receives a majority of the votes cast at an election for such office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a runoff election held on the second Tuesday in December of 2002.~~

SEC. 13.102.5. ELECTIONS FOR CITY-WIDE ELECTIVE OFFICES.

(a) Elections for Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, and Public Defender shall consist of a non-partisan primary and a run-off at the following general municipal election, if a run-off is required under subsection (b).

(b) If a candidate for Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder or Public Defender receives at least sixty-five percent (65%) of votes cast for that office at the non-partisan primary, that candidate shall be declared elected, and the Director of Elections shall not place that office on the ballot for the following general municipal election. If no candidate receives at least sixty-five percent (65%) of the votes cast for that office at the non-partisan primary, the two candidates receiving the most votes shall appear on the ballot in a run-off at the following general municipal election. At the general municipal election, the candidate that receives a majority of the votes cast (50% plus one) shall be declared elected.

(c) Ballots for general municipal elections shall not permit voters to cast votes for write-in candidates for Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-

Recorder or Public Defender. The Director of Elections shall also not count any attempts to cast votes for write-in candidates for those elective offices at a general municipal election.

(d) The Director of Elections shall not place any measures on the ballot for non-partisan primaries.

SEC. 13.107. ELECTION MATERIAL MAILED TO VOTERS.

The Board of Supervisors shall, by ordinance, provide for the format of a voters' pamphlet including a sample ballot, candidates' statements, lists of sponsors, arguments for and against each ballot measure, any financial impact statements prepared by the Controller, and arguments for and against the recall of any officers. The voters' pamphlet shall be mailed to each elector so as to be received at least ten days prior to each *non-partisan primary and each* general, ~~*runoff*~~ or special municipal election.

Section 2. The San Francisco Charter is hereby amended, by amending Article XVII, to read as follows:

ARTICLE XVII: DEFINITIONS

For all purposes of this Charter, the following terms shall have the meanings specified below:

"Business day" shall mean any day other than a Saturday, Sunday or holiday on which governmental agencies are authorized by law to close.

"Confirm" or "confirmation" shall mean the approval by a majority of the members of the Board of Supervisors.

"Discrimination" shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

"Domestic partners" shall mean persons who register their partnerships pursuant to the voter-approved Domestic Partnership Ordinance.

"Elector" shall mean a person registered to vote in the City and County.

"For cause" shall mean the issuance of a written public statement by the Mayor describing those actions taken by an individual as a member of a board or commission which are the reasons for removal, provided such reasons constitute official misconduct in office.

"General municipal election" shall mean the election *for local officials or measures,* to be held in the City and County on the Tuesday immediately following the first Monday in November ~~*in odd numbered years*~~.

"Initiative" shall mean (1) a proposal by the voters with respect to any ordinance, act or other measure which is within the powers conferred upon the Board of Supervisors to enact, any legislative act which is within the power conferred upon any other official, board, commission or other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

"Non-partisan primary" shall mean the first round of elections for the local elective offices of Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, and Public Defender to be held in the City and County on the first Tuesday after the second Monday in September.

"Notice" shall mean publication (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office.

"One-third," "a majority" or "two-thirds" of the Board of Supervisors or any other board or commission of the City and County shall mean one-third, a majority or two-thirds of all members of such board or commission.

"Published" shall have the meaning ascribed to the term by the Board of Supervisors by ordinance. The Board of Supervisors shall seek a recommendation from the Clerk of the Board of Supervisors before adopting such an ordinance.

"Referendum" shall mean the power of the voters to nullify ordinances involving legislative matters except that the referendum power shall not extend to any portion of the annual

budget or appropriations, annual salary ordinances, ordinances authorizing the City Attorney to compromise litigation, ordinances levying taxes, ordinances relative to purely administrative matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers, or ordinances adopted pursuant to Section 9.106 of this Charter.

"Special municipal election" shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, ~~*election of an official not required to be elected at the general municipal election,*~~ or an initiative or referendum.

"Statewide election" shall mean an election held throughout the state.

"Voter" shall mean an elector who is registered in accordance with the provisions of state law.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
ANDREW SHEN
Deputy City Attorney

FILE NO. 120219 (FIRST DRAFT)

LEGISLATIVE DIGEST

[Charter Amendment - Replacing ranked-choice voting for City-wide offices with run-off elections]

A proposal to amend the Charter of the City and County of San Francisco, at an election to be held on November 6, 2012, by amending Sections 13.101, 13.101.5, 13.102, 13.107, and Article XVII and by adding Section 13.102.5, to replace ranked-choice voting for City-wide offices with run-off elections.

Existing Law

The City uses ranked-choice voting, also referred to as instant-runoff voting, to elect its Mayor, City Attorney, District Attorney, Public Defender, Sheriff, Assessor-Recorder, Treasurer, and members of the Board of Supervisors. In ranked-choice voting, voters may select up to the three candidates for a single office in order of preference. Under ranked-choice voting, the winning candidate is the one who receives the highest-level of support from the greatest number of voters.

The City's ranked-choice voting system does not employ run-off elections.

Amendments to Current Law

The proposed Charter amendment would replace the City's ranked-choice voting system for City-wide offices, *i.e.*, Mayor, City Attorney, District Attorney, Public Defender, Sheriff, Assessor-Recorder, and Treasurer, with a run-off election system. For these offices, the proposed Charter amendment would adopt a two-step election process: (1) a non-partisan primary that would be held the first Tuesday after the second Monday in September; and (2) if no candidate receives at least 65% of the votes cast at the non-partisan primary, a further run-off between the two candidates receiving the most votes at the following general municipal election, held on the Tuesday following the first Monday in November. In both the non-partisan primary and the run-off, each voter could vote for only one candidate in every contest.

The proposal provides that in any potential run-offs, voters may not cast votes for write-in candidates for these City-wide offices. The proposal also specifies that ballot measures may not be submitted to the voters at a September non-partisan primary.

The proposed Charter amendment would continue the use of ranked-choice voting to elect members of the Board of Supervisors.

Background Information

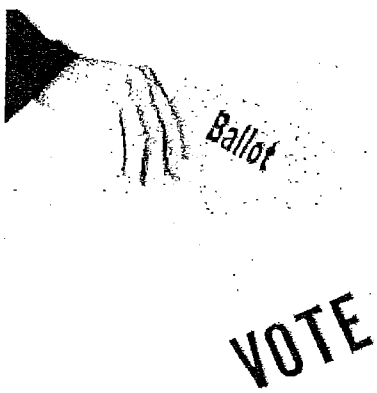
On March 5, 2002, the voters approved Proposition A, establishing a ranked-choice voting system to elect the City's Mayor, City Attorney, District Attorney, Public Defender, Sheriff, Assessor-Recorder, Treasurer, and members of the Board of Supervisors. The City first used ranked-choice voting to elect its local officials in November 2004.

File #120219
Received in Committee - 6/14/12

MONEY & POLITICS | DAILY REPORT

Counties miss deadline to send ballots to overseas, military voters

May 30, 2012 | Stephanie Snyder



photography/istockphoto.com

Elections officials throughout California missed a deadline to send 8,250 ballots to overseas and military voters for next week's presidential primary, prompting a lawsuit and swift settlement over the weekend between the state officials and the U.S. Department of Justice.

Eleven of the state's 58 counties violated the Uniformed and Overseas Citizens Absentee Voting Act by failing to send ballots to voters abroad on April 21 – 45 days before the primary. While about 5,450 of the late ballots were sent out within two days of missing the deadline, some were delayed as much as a week.

On Saturday, the U.S. Department of Justice filed a lawsuit [PDF] against California for missing the deadline, but Secretary of State Debra Bowen reached an agreement on the matter that same day, federal officials said. As part of the settlement, the secretary of state's office will hold training sessions with at least one election official in each county before the general election in November.

David Tom, elections manager for San Mateo County, said his county was on schedule to send ballots to the 739 overseas voters who requested their ballots through the mail. But at the last minute, a county Board of Supervisors candidate had to be removed from the ballot.

"Every ballot had to be reprinted," Tom said. "That may have caused us to miss the deadline date."

San Mateo County has 2,266 overseas voters in the military, Tom said. The majority of them requested their ballot electronically, but the county was six days late in physically mailing the rest of the ballots.

"It was not something that we did intend," Tom said.

The San Mateo County elections office was aware that it missed the deadline and made sure to send the remaining ballots to their destinations via express mail, Tom said. County elections officials will be contacting overseas voters who have not yet returned their ballots to offer them the option to return the ballot by express mail at no cost, he added.

"We'll certainly be much more conscious in ensuring that nothing gets in the way of meeting the deadline," Tom said. "It's going to be on our radar even more so than it is today."

This is the first primary election in which states have had to comply with new regulations under the 2009 Military and Overseas Voter Empowerment Act, said Benjamin Wagner, the U.S. attorney representing California's Eastern District.

Under the new law, states have to send ballots to overseas voters 45 days before federal elections and allow the voter to choose how he or she wants to receive the ballot – either electronically or through the mail, Wagner said.

"Nobody is intending to disenfranchise the military," he said. "Each of them (the counties) have their own

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elections officials and registrars of voters, and they're all trying to comply with new regulations. What this enforcement action is intended to do is put some teeth behind that statute."

California is not the only state that has struggled to get ballots to every overseas voter on time, Wagner said.

"It's been happening in other states on kind of a rolling basis as we get close to those states' primaries," he said. "It was not quite as cooperative of a process as it has been here in California."

The lawsuit's less-than-24-hour turnaround indicates the Justice Department already had been working with the secretary of state to resolve the problem, Wagner said. A total of 19 counties violated the law by delaying ballots or failing to provide the voter with an option -- or both, Wagner said.

"There's a sufficiently widespread problem with compliance in California that we thought it was important to bring some enforcement action," he said. "The parties have reached an agreement on what is the proper outcome of the case."

Secretary of State Bowen gave counties "repeated reminders" of the April 21 deadline, according to a press release from her office. Contra Costa, Fresno, Modoc, San Diego, San Francisco, San Mateo, Shasta, Sierra, Tehama, Trinity and Ventura counties still missed the date.

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Dean Grose
California has a problem. Fails to send ballots to 8,000+ overseas and military voters for June 5 primary! [illegible]
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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp or meeting date

I hereby submit the following item for introduction (select only one):

☒ 1. For reference to Committee: Rules Committee

An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee:

☐ 4. Request for letter beginning "Supervisor inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No.

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

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Sponsor(s):

Supervisors Farrell, Elsbernd, Chu, Cohen, Olague and ~~Weiner~~ Wiener

Subject:

Replacing ranked-choice voting with run-off elections for city-wide offices

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For Clerk's Use Only:

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