File No. 120724

Committee Item No. _____
Board Item No. 41

COMMITTEE/BOARD OF SUPERVISORS

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

[Charter Amendment - Replacing Ranked-Choice Voting for Mayor 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 13.101.5, 13.102, 13.107, and Article XVII and by adding Section 13.102.5 to replace ranked-choice voting for Mayor 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 13.101.5, 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 13.101.5, 13.102, 13.107 and by adding Section 13.102.5, to read as follows:

SEC. 13.101.5. VACANCIES.

~~*(a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, 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*~~*a*) If the 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.

(b) When a vacancy occurs in the office of Mayor, the Department of Elections shall hold a non-partisan primary for the vacated office on the first non-partisan primary date at least 120 days after the vacancy. Any person filling such a vacancy shall serve until a successor assumes office after being elected, in accordance with Section 13.102.5, at that non-partisan primary or if necessary, in a run-off at the general municipal election following that non-partisan primary.

~~*(c) Any person filling a vacancy pursuant to subsection (a) or (b) of this Section shall serve until a successor is selected at the next 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 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.*~~

(c) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, 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.

~~*(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.*~~

(d) Any person filling a vacancy pursuant to subsection (c) of this Section shall serve until a successor is selected at the next 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 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 SHERIFF, DISTRICT ATTORNEY, CITY ATTORNEY, TREASURER, ASSESSOR-RECORDER, PUBLIC DEFENDER, AND 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 MAYOR.

(a) Elections for Mayor 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 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) A tie between two or more candidates shall be resolved in accordance with State law.

(d) Ballots cast in the general municipal election following a non-partisan primary shall not permit voters to cast votes for write-in candidates for Mayor. The Director of Elections shall not count any attempts to cast votes for write-in candidates in that contest.

(e) The Director of Elections shall not include 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 an election for the office of Mayor to be held in the City and County on the first Tuesday after the second Monday in September.

"Non-partisan primary date" shall mean 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

LEGISLATIVE DIGEST

[Charter Amendment - Replacing Ranked-Choice Voting for Mayor 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 13.101.5, 13.102, 13.107, and Article XVII and by adding Section 13.102.5 to replace ranked-choice voting for Mayor 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.

Under existing law, any person appointed to temporarily fill a vacancy in the office of Mayor serves until her successor has been elected. An election held to permanently fill a mayoral vacancy is generally consolidated with the next election that takes place at least 120 days after the date of the vacancy.

Amendments to Current Law

The proposed Charter amendment would replace the City's ranked-choice voting system for Mayor with a run-off election system.

In the first stage of the election system, all mayoral candidates would participate in a non-partisan primary that would be held the first Tuesday after the second Monday in September. 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 mayoral candidate.

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

With respect to any vacancies in the office of Mayor, this amendment provides that any election held to fill such a vacancy shall be held at the next "non-partisan primary date" – *i.e.*,

the first Tuesday after the second Monday in September – falling more than 120 days after the date of the vacancy.

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.

Proposition A also eliminated the prior, two-stage voting system for City elective offices. Before November 2004, if a candidate for Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender or member of the Board of Supervisors failed to receive a majority of the votes at a general municipal election, the two candidates receiving the most votes would proceed to a runoff election. Any run-off election held for Mayor, Sheriff, District Attorney, City Attorney, Treasurer or member of the Board of Supervisors was held the second Tuesday of December. And any run-off election held for Assessor-Recorder and Public Defender was held at the next general election.