

File No. 111212

Committee Item No. 4

Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

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Date 1/26/12

Board of Supervisors Meeting

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Completed by: Linda Wong

Date 1/23/12

Completed by: Liu

Date 2/3/12

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 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, and 13.107 and Article XVII to replace ranked-choice voting 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 June 5, 2012, a proposal to amend the Charter of the City and County by amending Sections 13.101, 13.101.5, 13.102, and 13.107 and Article XVII 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, and 13.107, to read as follows:

SEC. 13.101. TERMS OF ELECTIVE OFFICE.

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.

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.

~~At the general municipal election i~~n 1997 and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

~~At the general municipal election i~~n 2006 and every fourth year thereafter, an Assessor-Recorder and Public Defender shall be elected.

~~At the statewide general election i~~n 1998 and every fourth year thereafter, three members of the Board of Education and three members of the Governing Board of the Community College District shall be elected.

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, 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 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) 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~~non-partisan primary occurring not less than 120 days after the vacancy, or if necessary, in a run-off at the next general municipal election, at which time an election shall be held to fill the unexpired term, provided that (1) if an ~~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 is selected at that ~~election~~non-partisan

primary or if necessary, in a run-off at the next general municipal election 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 non-partisan primary or if necessary, in a run-off at the next general municipal 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.

SEC. 13.102. INSTANT RUNOFF ELECTION SELECTIONS FOR LOCAL ELECTIVE OFFICES.

(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 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.~~

Contests for Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender, and members of the Board of Supervisors shall consist of a non-partisan primary and if necessary, a further run-off at the next general municipal election. If a candidate for a local elective office 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 contest on the ballot for the following general municipal election. If no candidate for a local elective office 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 next general municipal election.

Ballots for general municipal elections may not permit voters to cast votes for write-in candidates in a run-off for a local elective office, and the Director of Elections may not count any attempts to cast votes for write-in candidates in a run-off for a local elective office.

The Director of Elections may not place any measures on the ballot for non-partisan primaries.

This section shall apply to the elections held in 2013 and to all subsequent municipal elections.

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 primaries" shall mean the first round of elections for the local elective offices of Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender, and members of the Board of Supervisors, 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.

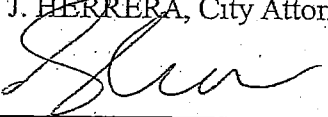
"Special municipal election" shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, ~~election of an official not required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

LEGISLATIVE DIGEST

[Charter Amendment - Replacing ranked-choice voting 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 June 5, 2012, by amending Section 13.102 and Article XVII to replace ranked-choice voting 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

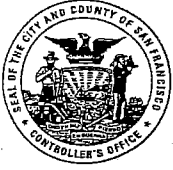
The proposed Charter amendment would replace the City's ranked-choice voting system with a two-step election system: (1) a non-partisan primary that would be held the first Tuesday after the second Monday in September; and (2) if no candidate receives at least 65% of the votes cast at the non-partisan 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.

Under the proposed election system, each voter could select only one candidate for each office. This proposal also clarifies that voters may not cast votes for write-in candidates at a potential run-off between the two candidates receiving the most votes at the non-partisan primary.

The proposal also specifies that ballot measures may not be submitted to the voters at the proposed September non-partisan primary.

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.



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

*C. Rules Committee
Members*

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

January 25, 2012

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 JAN 26 AM 9:42
BY *PC*

RE: File 111212 – Charter amendment replacing ranked-choice voting with run-off elections

Dear Ms. Calvillo,

Should the proposed charter amendment be approved by the voters, in my opinion, it would increase the cost of government by an estimated amount of \$2.6 million annually.

This estimate is a net amount including a savings of approximately \$667,000 achieved by eliminating the ongoing costs of the ranked-choice voting system and a cost of approximately \$3.3 million incurred by adding the cost of conducting run-off elections in most years.

Please note that this is a preliminary cost estimate which may change significantly as the proposal is reviewed and amended.

Sincerely,

[Handwritten Signature]
Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.

Fwd: Keep Ranked Choice, the People's Choice
Carmen Chu to: Peggy Nevin

11/17/2011 10:16 AM

Begin forwarded message:

From: "R. Hack" <oxygeneditions@gmail.com>
Date: November 17, 2011 9:44:23 AM PST
To: david.chiu@sfgov.org, ross.mirkarimi@sfgov.org, scott.wiener@sfgov.org,
david.campos@sfgov.org, carmen.chu@sfgov.org, malia.cohen@sfgov.org,
john.avalos@sfgov.org, jane.kim@sfgov.org, sean.elsbernd@sfgov.org,
eric.mar@sfgov.org, mark.farrell@sfgov.org
Subject: Keep Ranked Choice, the People's Choice

I love having three votes instead of one. It means I can have a little more effect on choosing the preferred candidate. Formerly I could only choose between Tweedle-dee and Dipstick, the mouthpieces favored by the two party bureaucracies. No one has shown that the ranked-choice method is unfair because they can't. They can only pretend that someone who gets less than half the first-place votes is a winner.

Let the writers of illogical letters and editorials in the *Chronicle* and the plaintive Mr. Elsbernd be aware that if the top two finishers get, say, 22% and 20% of the vote, respectively, that means the choices of 58% of the voters are not reflected in the run-off.

With three votes instead of one, we all compose a much clearer picture of what the voters really want. Going back to the old system now would be a reactionary move that shuts the door on further development of electoral democracy.

Richard Hack

Oxygen Editions, S.F.

(Publisher of *Oxygen* magazine)



Rules Committee Agenda Item #111212 - Public Comment (opposed)

Carmen Chu, David Campos, David
Board of Supervisors to: Chiu, Eric L Mar, John Avalos, Sean 01/27/2012 05:45 PM
Elsbernd, Malia Cohen, Scott Wiener,

From: Joni Eisen <jonieisen@sbcglobal.net>
To: Board.of.Supervisors@sfgov.org, Jane.Kim@sfgov.org, Mark.Farrell@sfgov.org,
David.Campos@sfgov.org
Date: 01/26/2012 11:53 AM
Subject: Rules Committee Agenda Item #111212 - Public Comment (opposed)

Dear Supervisors Kim, Farrell and Campos:

This is meant to be part of the public record for the Rules Committee hearing today, January 26, because I am unable to be there.

Please do not repeal RCV. It's too early to judge it. The objections to it do not seem valid to me. The fact that there were 16 candidates running for Mayor, and 20 or so for D10 Supervisor before that, is not the fault of ranked-choice voting. If the elections had been held under the old system, voters would still have had to figure out which candidates among the throng would best represent them. And they would not have had the chance to express their support, via the ballot, for a candidate who had no chance to win but was most in line with their values.

The objection I've heard most, that RCV "disenfranchises" voters, seems the most ludicrous. By that logic - i.e., if all of your votes went to candidates who ultimately lost, then your vote didn't count - any time you vote for a losing candidate, you are being disenfranchised. Nonsense. That's democracy - you win some, you lose some. I believe that increasing the number of rankings - perhaps as a higher percentage of the total candidates (and redesigning the ballot so that such a change does not result in a huge increase in pages and printing costs) - would lessen both the number of exhausted ballots and the perception of disenfranchisement.

Some actually object on the grounds that RCV has resulted in fewer progressives being elected. It's a system, for pete's sake - a fairer and more economical system. It better expresses the actual wishes of the people, and if that's what people want, then so be it. By the way, I consider myself progressive.

I am also a campaign finance reform activist, appalled by the ever-increasing amount of money in politics. Going back to the old runoff system would inevitably result in buckets more of dirty money - much of it from outside the City - being thrown against the top-two candidates by "independent" expenditures. How could that be better?

Please don't go backwards. Instead, tweak our reforms to make them work better.

Thank you for your consideration.

Sincerely,
Joni Eisen
592 Pennsylvania
San Francisco 94107



Rules Committee Agenda Item #111212 - Added Public Comment

Carmen Chu, David Campos, David
Board of Supervisors to: Chiu, Eric L Mar, John Avalos, Sean
Elsbernd, Malia Cohen, Scott Wiener,

01/27/2012 05:44 PM

From: j benlevi <j@benlevi.com>
To: board.of.supervisors@sfgov.org
Date: 01/26/2012 01:08 AM
Subject: Rules Committee Agenda Item #111212 - Added Public Comment

Supervisors Kim, Farrell and Campos:

Please include my comments as part of the public record for the Rules Committee hearing on January 26, 2012.

Although I am a life-long progressive that has voted for Harvey Milk, George Moscone, Art Agnos and Matt Gonzales I curiously find myself in complete agreement with Supervisor Sean Elsbernd.

To me the concept of an "exhausted ballot" is insanity branded with an Orwellian-inspired euphemism.

Counting the majority of "continuing ballots" as a "majority of voters" is a complete absurdity that does not, in any way, reflect the ultimate will of voters.

Certainly an election for supervisor in which 79% of the voters did not pick the winning candidate as a first, second or third choice shows the mathematic failure of the "exhausted ballot/continuing ballot" construct in election tabulations.

We can't social engineer our way to a more democratic government, we can only show up to vote and make sure every that vote is counted.

Let's not follow the example of "Bush v. Gore" and create some circumstance that says, "close enough for government work."
EVERY VOTE SHOULD COUNT.

In terms of the demographics in run offs, no one is preventing anyone from voting in December, they just choose not to.
Again, I'm a progressive and I vote...whether it is April, June, November or December.

If the rich and white can manage to show up and vote, why can't everyone else manage to do the same?

Jason Benlevi
325 Mississippi Street
San Francisco, 94107



Rules Committee Agenda Item #111212 - Public Comment

Carmen Chu, David Campos, David
Board of Supervisors to: Chiu, Eric L Mar, John Avalos, Sean 01/27/2012 05:43 PM
Elsbernd, Malia Cohen, Scott Wiener,

From: Alison Heath <alisonheath@sbcglobal.net>
To: board.of.supervisors@sfgov.org
Date: 01/25/2012 07:58 PM
Subject: Rules Committee Agenda Item #111212 - Public Comment

Dear Supervisors Kim, Farrell and Campos:

Please include my comments as part of the public record for the Rules Committee hearing on Thursday, January 26. Unfortunately I am unable to attend in person.

I am opposed to RCV. I would like to have the opportunity to vote to replace Ranked Choice Voting with Run-off elections. I originally voted to implement RCV because I believed what I was told, that it would save the City money and put more progressives in office. In fact, the cost savings to the City seem negligible at best and the process seems to favor moderates.

After participating in the D10 Supervisor election and the recent mayoral election, my concerns have grown to the point that **I now feel the democratic process has been compromised.** RCV is really a solution looking for a problem, with "experts" imposing social engineering on the electorate. **RCV has created new problems which actually disenfranchise voters.**

It is impossible to know 20+ candidates: The old way wasn't so bad. In close elections we had the opportunity to get to know the top 2 contenders really well. (Think about how compelling the Newsom / Gonzalez run-off was.) In RCV elections with 20+ candidates it's impossible to understand all of their positions well and know in advance which will be the top candidates. It seems like the winning strategy with RCV is to run for 2nd or 3rd rankings and try hard to be nice, avoid substantive positions and not offend anyone. With a run-off, we have the benefit of hearing from the two top candidates, in depth, debating directly.

Exhausted Ballots aren't the same as not voting in a run-off: If I hadn't voted for Avalos or Lee in the mayor's race my ballot would have mattered exactly as much as if I hadn't voted at all. Steven Hill says it's just like I skipped the run-off and that's OK. Shouldn't I have the opportunity to choose whether I vote in a run-off or not, rather than a computer model doing it for me?

Candidates win without a majority of votes cast: It seems that candidates can win with considerably less than 50% of support from voters under the RCV model. This is not a one time anomaly. It has happened repeatedly no matter how often Steven Hill claims that it isn't so. Case in point was Malia Cohen, in 3rd place, winning D10 with less than 20% of voters casting votes for her. How can this be a democratic process?

This is not a solution to the campaign finance issue: Judging from recent elections, power/money can play both the RCV and run-off games well. Let's look at real and direct campaign finance reform to ensure that good candidates, lacking substantial funding, can get elected in San Francisco.

Please note that I consider myself a progressive, and that I am certainly not a member of the political and wealthy elite. Framing this as a 99% vs. 1% or liberal vs. conservative issue

completely misses the point.

I urge you to put this matter before the voters of San Francisco, whether you agree with my points or not. It's time to take a close look and shine some light on the reality of RCV vs. the promises made. Please let the voters decide whether this social experiment has improved the democratic process or been an absolute failure.

Sincerely,

Alison Heath
333 Mississippi Street
San Francisco

alisonheath@sbcglobal.net
<http://www.alisonheath.com>