File No. 111329

Committee Item No. 5
Board Item No. 30

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Linda Wong **Date** 1/23/12
Completed by: LW **Date** 2/3/12

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FILE NO. 111329 (FIRST DRAFT)

[Charter Amendment – Consolidation of City Elections and Ranked-Choice Voting]

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 2.101, 13.101, 13.102 and 13.103.5 and Article XVII to (1) consolidate odd-year elections for City elective offices to a single year and (2) increase voter education and clarify implementation of ranked-choice voting.

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 2.101, 13.101, 13.102 and 13.103.5 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. Findings.

1. The City has employed ranked-choice voting in every general municipal election since November 2004. As of December 2011, every sitting City elected official was elected through ranked-choice voting.

2. The City's ranked-choice voting system provides San Francisco voters with the opportunity to rank their support, in order of preference, for multiple candidates for each City elective office. San Francisco elections typically draw many candidates for each City elective office appearing on the ballot.

3. The City's use of ranked-choice voting and public financing of campaigns has gained national attention and praise as innovations in representative democracy.

4. Since the City first used ranked-choice voting in 2004, a wide cross-section of San Francisco has become well-represented on the Board of Supervisors, including members of

many different racial and ethnic groups, the gay and lesbian community, and political moderates, liberals, progressives and conservatives. With ranked-choice voting and public financing, San Franciscans have elected one of the most representative city governments in the United States.

5. Ranked-choice voting has also led to greater voter participation. In the November 2011 election, the City held its first significantly contested mayoral election using ranked-choice voting. In that election, 194,418 or 42.5% of San Francisco voters cast a vote for a mayor, representing the highest voter turnout for the most recent mayoral election among the nation's twenty largest cities.

6. Elections now are decided in a single ranked-choice voting contest in November, which is when the highest number of voters usually participates. As a result, local officeholders are winning with far more votes - 30% more, on average - than they ever received in low turnout December run-off elections.

7. In most December run-off elections, voter turnout dropped significantly. In ten out of the fourteen December run-off elections held between 2000 and 2003, voter turnout declined by more than one-third. In one City-wide run-off election for city attorney, voter turnout plummeted to only 16%.

8. Between 2000 and 2010, voter turnout in primary elections across the city was, on average, barely half of voter turnout in subsequent November elections. Relative to other areas of the City, voter turnout was even lower in low-income neighborhoods in the primaries, when compared to voter turnout in general elections.

9. Voters are using ranked-choice voting effectively. In the 2011 mayor's race, 73% of voters used all three of their rankings, and 84% used two or more. Only 0.4% of voters cast an overvote. Three exit poll studies, two of which were conducted by researchers at San Francisco State University, found that 87% of San Francisco voters understand ranked-choice voting.

10. The City's ranked-choice voting system avoids the need for separate run-off elections. A City-wide run-off election costs the City approximately $3 million, and a supervisorial district run-off election costs the City approximately $300,000.

11. Separate run-off elections not only cost taxpayers money, but a 2003 study by the San Francisco Ethics Commission found that independent expenditures quadrupled for the December run-off election when compared to the prior November election. Such one-on-one races produced highly negative campaigns, all the more so in the modern era of big money "independent expenditure" spending.

12. In *Dudum v. Arntz*, 640 F.3d 1098 (9th Cir. 2011), the Ninth Circuit Court of Appeals affirmed the constitutionality of the City's three-candidate ranked-choice voting system. As the Court held, the City's ranked-choice voting system provides all San Francisco voters with "a single and equal opportunity to express their preferences for three candidates." Further, the Court also confirmed that all "exhausted" ballots "are counted in the election, they are just counted for losing candidates."

Section 2. Competing measures.

(a) The voters intend to adopt at the June 5, 2012 election only one measure related to ranked-choice voting.

(b) This Proposition supplants in its entirety any other City proposition related to ranked-choice voting that the voters may approve at the June 5, 2012 election. If the voters adopt this Proposition and any other such proposition and this Proposition receives more votes, then the other proposition shall not become operative in any respect.

Section 3. The San Francisco Charter is hereby amended, by amending Sections 2.101 and 13.101, to read as follows:

SEC. 2.101. TERM OF OFFICE.

Each member of the Board of Supervisors shall be elected at a general election and shall serve a four-year term commencing on the eighth day in January following election and until a

successor qualifies. The respective terms of office of the members of the Board of Supervisors in effect on the date this Charter is adopted shall continue.

No person elected or appointed as a Supervisor may serve as such for more than two successive four-year terms. Any person appointed, *elected, or any combination thereof* to the office of Supervisor to complete in excess of two years of a four-year term shall be deemed, for the purpose of this section, to have served one full term. No person having served two successive four-year terms may serve as a Supervisor, either by election or appointment, until at least four years after the expiration of the second successive term in office. Any Supervisor who resigns with less than two full years remaining until the expiration of the term shall be deemed, for the purposes of this section, to have served a full four-year term.

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:

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

(2) At the ~~*statewide*~~ general *municipal* 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.

(3) At the general municipal election in ~~*1997*~~ *2013, and at the general municipal election in 2015* and every fourth year thereafter, a City Attorney and a Treasurer shall be elected. *Notwithstanding any other provision of this Charter including section 6.100, the term of office for the person elected City Attorney or Treasurer at the general municipal election in 2013 shall be two years.*

(4) At the general municipal election in 2006 and every fourth year thereafter, an Assessor-Recorder and Public Defender shall be elected.

(5) At the ~~*statewide*~~ general *municipal* election in 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.

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

Section 4. The San Francisco Charter is hereby amended, by amending Sections 13.102 and 13.103.5, to read as follows:

SEC. 13.102. ~~*INSTANT RUNOFF ELECTIONS*~~*RANKED-CHOICE VOTING*.

(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 *the maximum number allowed by the technical limitations of the City's*

voting system, which in no case may be 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 *and the City's election process. The Department of Elections' voter education and outreach shall be City-wide and shall include additional outreach to those neighborhoods that had the lowest voter turnout*

in the most recent general municipal election. At least six months prior to every general municipal election, the Director of Elections shall provide a written plan to the Board of Supervisors, for its review and approval, describing the Department of Elections' voting education and outreach plans for the ten neighborhoods that had the lowest voter turnout in the most recent general municipal election.

(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. *When purchasing such a system, the City and County shall seek to acquire a voting system that allows voters to rank more than three candidates, to the extent permitted by City contracting requirements and other applicable laws.*

(i) *The Director of Elections shall employ ranked-choice voting for all elective offices of the City and County, except for members of the Board of Education for the San Francisco Unified School District and the Board of Trustees for the San Francisco Community College District.* ~~*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. 13.103.5. ELECTIONS COMMISSION.

An Elections Commission shall be established to oversee all public federal, state, district and municipal elections in the City and County. The Commission shall set general policies for the Department of Elections and shall be responsible for the proper administration of the general practices of the Department, subject to the budgetary and fiscal provisions of this Charter. *Except as provided in Section 13.102(g),* ~~T~~these duties shall include but not be limited to approving written plans prior to each election, submitted by the Director of Elections, detailing the policies, procedures, and personnel that will be used to conduct the election as well as an assessment of how well the plan succeeded in carrying out a free, fair and functional election.

The Commission shall consist of seven members who shall serve five-year terms. No person appointed as a Commission member may serve as such for more than two successive five-year terms. Any person appointed as a Commission member to complete more than two and one-half years of a five-year term shall be deemed, for the purpose of this section, to have served one full term. No person having served two successive five-year terms may serve as a Commission member until at least five years after the expiration of the second successive term in office. Any Commission member who resigns with less than two and one-half years remaining until the expiration of the term shall be deemed, for the purposes of this section, to have served a full five-year term.

The Mayor, the Board of Supervisors, the City Attorney, the Public Defender, the District Attorney, the Treasurer, and the Board of Education of the San Francisco Unified School District each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in the electoral process. The member appointed by the City Attorney shall have a background in elections law. The member appointed by the Treasurer shall have a background in financial management. The members appointed by the District Attorney, Public Defender, the Board of Education of the San Francisco Unified School District, and the Board of Supervisors shall be broadly representative of the general public. In the event a vacancy occurs, the appointing authority who appointed the member vacating the office shall appoint a qualified

person to complete the remainder of the term. All members initially appointed to the Election Commission shall take office on the first day of January, 2002.

The initial terms of Commission members shall expire according to the following guidelines: the term of the members appointed by the Mayor and the Board of Education of the San Francisco Unified School District shall expire on January 1, 2003; the term of the members appointed by the Board of Supervisors and the Treasurer shall expire on January 1 2004; the term of the member appointed by the City Attorney shall expire January 1, 2005; the term of the member appointed by the Public Defender shall expire January 1, 2006; and the term of the member appointed by the District Attorney shall expire January 1, 2007.

Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing authority only pursuant to Section 15.105. During his or her tenure, members and employees of the Elections Commission are subject to the following restrictions:

(a) Restrictions on Holding Office. No member or employee of the Elections Commission may hold any other City or County office or be an officer of a political party.

(b) Restrictions on Employment. No member or employee of the Elections Commission may be a registered campaign consultant or registered lobbyist, or be employed by or receive gifts or other compensation from a registered campaign consultant or registered lobbyist. No member of the Elections Commission may hold any employment with the City and County and no employee of the Elections Commission may hold any other employment with the City and County.

(c) Restrictions on Political Activities. No member or employee of the Elections Commission may participate in any campaign supporting or opposing a candidate or ballot measure that will appear on the San Francisco ballot, other than candidates seeking election to federal or statewide office. For purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee, including

general purpose committees; publicly endorsing or urging endorsement of any candidate or ballot measure; or participating in decisions by organizations to participate in a campaign.

If a person appointed to the Elections Commission is, at the time of appointment, an officer or employee, as prohibited by this section, that person shall be eligible to serve on the Elections Commission only if he or she resigns from his or her office or employment within thirty days of appointment.

Section 5. 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.*~~ *every year until and including 2015. Thereafter, "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 all even-numbered years and in every fourth year following 2015.*

"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.

"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. 111329 (FIRST DRAFT)

LEGISLATIVE DIGEST

[Charter Amendment – Consolidation of City Elections and Ranked-Choice Voting]

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 2.101, 13.101, 13.102 and 13.103.5 and Article XVII to (1) consolidate odd-year elections for City elective offices to a single year and (2) increase voter education and clarify implementation of ranked-choice voting.

Existing Law

The City holds its elections for Mayor, District Attorney, Sheriff, City Attorney, and Treasurer in odd-numbered calendar years. The last election for Mayor, Sheriff and District Attorney was held in November 2011, and the next election for these offices will be held in November 2015. The last election for City Attorney and Treasurer was held in November 2009, and the next election for these offices will be held in November 2013.

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 currently select up to the three candidates for a single office in order of preference.

The Charter specifies that ballots used for ranked-choice voting elections should allow voters to rank all candidates seeking election to office, unless the City's voting system cannot feasibly accommodate such a number of choices. But the Department of Elections may not limit the number of candidates appearing on a ranked-choice ballot to any fewer than three. In addition, the Charter requires the Department of Elections to conduct a voter education campaign to familiarize San Francisco voters with the City's ranked-choice voting system.

Amendments to Current Law

The proposed Charter amendment would consolidate the City's odd-year elections into a single calendar year. The City would continue to hold its elections for Mayor, District Attorney, Sheriff, City Attorney, and Treasurer every four years. But the City Attorney and Treasurer elected in 2013 would have two-year terms, and those offices would be on the ballot again in 2015. There would be no elections for City elective offices in 2017 and every fourth year thereafter.

The proposal would also specify that in implementing ranked-choice voting, the Director of Elections could not limit the number of choices appearing on a ranked-choice ballot to fewer than the maximum number allowed by the technical limitations of the City's voting system. With respect to voter education, the Director of Elections would be responsible for education about the City's elections generally, in addition to ranked-choice voting, and would be required

to target those education efforts at areas of the City with low voter turnout. The Department of Elections' voter education program would also be subject to annual review and approval by the Board of Supervisors.

The proposed Charter Amendment would also clarify existing law on term limits for members of the Board of Supervisors to reflect the Court of Appeals' recent decision interpreting this provision of the City's Charter.

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.

Rules members
CC

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

February 2, 2012

REVISED: February 2, 2012

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

RE: File 111329 – Charter amendment consolidating odd year elections and expanding the ranked-choice voting system (revised)

Dear Ms. Calvillo,

Should the proposed charter amendment be approved by the voters, in my opinion, it would decrease to the cost of government by approximately $1.0 million on an annual basis through consolidating the elections for City Attorney and Treasurer with those for other City offices. The amendment also specifies that when the City acquires a new voting system it seek to allow for processing more than the current three candidates under the ranked choice system. In and of itself this provision does not affect the cost of government. However, depending on how the City implements the provision, there would be costs which are not known at this time but are certainly significant.

Under the proposed amendment there would be an estimated savings of approximately $4.2 million every four years achieved by eliminating the local municipal election for the offices of City Attorney and Treasurer. The City would consolidate these offices with the election for Mayor, Sheriff and District Attorney beginning in 2015 and not conduct a separate municipal election beginning in 2017. Savings would begin in fiscal year 2017-2018 and, spread over the four year election cycle, result in approximately $1.0 million on an annual basis.

When the City seeks to acquire a new voting system, there would be costs incurred should the system expand the ranked-choice voting system. An expanded system would require new voting materials, increased voter education, software, systems, equipment, testing and certification processes and these costs are unknown at this time but would be significant.

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

Sincerely,

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.

C: Rules Committee members

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

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

RE: File 111329 – Charter amendment consolidating odd year elections and expanding the ranked-choice voting system

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 net amount of $1.6 million on an annual basis. There would also be a cost to reconfigure and certify the City's system for processing ranked choice voting which is not known at this time but is certainly significant.

Under the proposed amendment there would be an estimated savings of approximately $4.2 million every four years achieved by eliminating the local municipal election for the offices of City Attorney and Treasurer. The City would consolidate these offices with the election for Mayor, Sheriff and District Attorney beginning in 2015 and not conduct a separate municipal election beginning in 2017. Savings would begin in fiscal year 2017-2018 and, spread over the four year election cycle, result in approximately $1.0 million on an annual basis.

There would be an estimated cost of approximately $2.6 million annually incurred by expanding the ranked-choice voting system to increase the number of candidates that a voter may rank, subject to the technical limitations of the City's systems. This change would require additional voting materials, increased staffing, testing and quality control. As noted above, changes to the City's software and systems to allow for processing more than the current three ranked choice votes for any one office would be required and these costs are unknown at this time.

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

Sincerely,

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.