



ANTONIO R. VILLARAIGOSA
MAYOR

October 18, 2010

The Honorable Members of the City Council
c/o City Clerk, Room 395, City Hall
200 N. Spring Street
Los Angeles, CA 90012

**FOLLOW UP TO THE 2010 RANKED CHOICE VOTING (RCV)
WORKING GROUP REPORT**

Pursuant to the request from the Rules and Elections Committee on September 29, 2010, the Office of the City Clerk hereby submits this report as a follow up to the RCV Working Group Report (CF 10-0627) in order to further clarify key decision points that require action by Council in order to place an RCV measure on the ballot.

Background

On April 9, 2010, the Office of the City Clerk submitted its RCV Working Group Report to the City Council in which it analyzed the feasibility of conducting RCV elections in the City of Los Angeles.

In short, adopting RCV for City elections would require a charter change and the acquisition of new voting equipment. (A new voting system is expected to cost in excess of \$40 million, of which the RCV component is expected to be 1 or 2 percent of the total cost.)

The current City Charter establishes a traditional primary/run-off system for candidate elections. RCV would eliminate the primary/run-off system in favor of a single ranked choice run-off election. Thus, implementing RCV would necessitate an amendment to the City Charter approved by the voters. The City Charter's provisions regarding vacancies in office also contemplate a primary/run-off system. Therefore a charter change would be necessary even if RCV is to be used only in special vacancy elections.

In addition to charter changes, the City would need to adopt amendments to the City's Election Code and Campaign Finance Ordinance to accommodate for an RCV election system.

Finally, this proposed change to the City's election system would also directly impact the manner in which Los Angeles Unified School District (LAUSD) candidate elections are conducted since the Los Angeles City Charter governs the election of members to the LAUSD Board of Education. The California Constitution provides that changes to charter provisions affecting LAUSD candidate elections must be submitted to and approved by a majority of voters

in the LAUSD. The proposal to adopt RCV for LAUSD elections should be submitted to the LAUSD electorate as a separate ballot measure. The charter changes may be designed to make RCV effective only upon the approval of both the City and LAUSD electorates so that it does not result in the City and LAUSD having different election systems.

This report will cover other key decision points for Council as it considers the feasibility of conducting RCV elections in the City of Los Angeles and placing an RCV measure on the ballot.

RCV Elections Key Decision Points for Council if an RCV Policy is Adopted

Scope of Applicability – Council will need to provide direction to the City Clerk as to whether RCV would be used for special vacancy elections, special vacancy elections and recall elections, or all candidate elections.

Trigger – Council will need to provide direction as to what would trigger an RCV election so that it can be incorporated into the Charter amendment language. There are several trigger options including:

- The measure could be made effective at a date certain such that any election called after that date would be held as an RCV election. The date should be set such that there is sufficient time for an election system to be purchased/leased and implemented and for Election Code changes to be drafted, adopted and made operative. The City Clerk opposes this option inasmuch as there is currently no unconditionally certified and approved election system as of this date;
- The measure could be designed such that elections would be conducted as RCV elections only if Council adopts an ordinance declaring that City Elections will thereafter be conducted on an RCV basis; this could be done in conjunction with a City Clerk recommendation or with the making of certain findings (availability of a certified system, cost savings, etc.);
- The measure could make this a determination by the City Clerk and/or Council and/or LAUSD Board on an election-by-election basis;
- The measure could be designed to have the City Clerk be responsible for deciding whether elections (or specific vacancy elections) are to be conducted on an RCV basis, based on the City Clerk making certain findings (e.g., that certified voting equipment is available, it is administratively feasible, cost savings, etc); and
- The measure may need to include an "out clause" to enable the City Clerk or Council to decide that an election or elections should not be conducted on an RCV basis because the election can be consolidated onto an already scheduled election or for some other reason.
- The City Clerk recommends that if RCV is adopted, the option should be conducted at special single vacancy district elections. The trigger should be incorporated in the resolution calling the election and an "out clause" as listed above should be included.

Note that San Francisco had a date certain trigger (that they failed to meet and for which they were subsequently sued), the City of Oakland's trigger was based on the Alameda County Registrar being able to conduct an RCV election, and the City of Berkeley based the trigger on its City Council adopting an ordinance once voting equipment is ready.

Election Date - If Council directs that the measure should implement RCV for all City elections, then Council must provide direction as to the new election date for City elections. Current City Charter sets a Primary Election for March and a General Runoff Election in May, but with RCV there is only one election.

Note that this is a decision point only if Council opts for citywide RCV elections, not a decision that needs to be made if RCV is adopted only for special vacancy elections. On a related note, Council may need to provide direction if there is to be a new Declaration of Intention filing period since the current period is based on the Primary election date.

Operational Elements¹ – Council may want to provide certain specifics, such as were included in the San Francisco and Oakland Charter Amendments (see Attachment A for the City of San Francisco's RCV Charter language). These are listed below.

- If a voter gives two candidates the same ranking, should the City Clerk treat it as an exhausted ballot/overvote?
- If a voter skips a ranking, should the City Clerk treat it as an undervote or should it go to the next rank?
- If the voting system cannot handle rankings equal to the number of candidates, should the minimum number of rankings be set at 3 as was done in San Francisco and upheld by the court?
- Eliminate more than one candidate in a round if their total votes are less than the next to bottom candidate above them?
- Resolve tie votes by drawing lots to see who is eliminated?
- Require a vote tally summary report after every round?

Council may also want to direct that the measure provide the City Clerk with discretion to depart from procedures, if voting equipment or other administrative factors require it to do so. Council could direct to follow the San Francisco model or to follow the State's RCV Guidelines (see Attachment B for the California Secretary of State's RCV Guidelines), unless the City Clerk determines that procedure should differ. These operational elements can be addressed later by ordinance.

Campaign Finance Law Changes – Council will also need to provide direction as to whether any campaign finance provisions in the Charter should change as part of a move to RCV elections. The Ethics Commission made at least two recommendations that Council will need to consider as they pertain to provisions set forth in the Charter. These recommendations include:

- Consider whether any changes to the City's matching funds program should be pursued.
- Consider whether the City's contribution limits should be changed as there would be only one election for which contributions could be made in an RCV model, not two as in the current primary/runoff model.

Other Cities Consolidations – Currently, the City of Los Angeles consolidates its municipal elections with surrounding cities that have portions of LAUSD and the Los Angeles Community College District elections within their boundaries who conduct elections on the day of the City's Primary Election. If RCV is implemented, the City could no longer consolidate with local cities, but would have to run concurrently in those jurisdictions which could lead to voter confusion and increased costs.

Other Items to Consider – The City Clerk will need to identify any issues with completing the canvass within the current 21-day period, and if so provide direction for extending the 21-day canvass period in the Charter.

¹ These operational elements may be left for an ordinance at some future date.

Also, Council should provide direction as to voter outreach efforts that the City may want to undertake in advance of conducting an RCV election

Cost/Savings – Implementing RCV will require a hefty expenditure in the first phase. The City will have to invest in a new voting system, operational resources and voter outreach and education to name a few. Additional paper costs and the logistical issues of transporting and storing heavier ballots are also of concern. Any cost savings are not anticipated until at least the conclusion of two election cycles have passed. This might pose a problem if Council considers earmarking funds in the first phase for voter education and/or the City's Campaign Finance Matching Funds program.

Status of the County Voting System Project

In order to conduct RCV Elections a new voting system is required. The County of Los Angeles has completed their Voting System Assessment Project and the next phase is expected to be the development of voting systems specifications. It should be noted that whether or not a RCV policy is adopted, a new voting system is imminent for both the City and County due to changing laws and the antiquated nature of both the County and City's elections systems.

The County Registrar Recorder/County Clerk lists the following milestone goals in their 2010-15 Strategic Plan:

Milestone A: By July 15, 2010, complete Voting System Assessment Project (VSAP) plan.

Milestone B: By February 15, 2012, finalize and submit integrated voting and tally system procurement/development plan for approval.

Milestone C: By June 30, 2015, implement new voting and tally system.

While these are milestone goals, a new system may take longer to develop. Please note that the July 9, 2010 VSAP report submitted to the CEO and Board of Supervisors did not include a timeline.

Additionally, the new election system will also need to receive both State approval and federal certification.

Conclusion

In order to implement RCV for municipal contests, the voters of Los Angeles must approve an amendment to the City Charter. In addition, since the City Charter governs the elections for the LAUSD Board of Education members, the proposal must be approved by the LAUSD electorate and should be submitted as a separate measure. In order to implement RCV, the Los Angeles City Charter (Charter), the Los Angeles Municipal Code (LAMC), the Los Angeles Administrative Code (LAAC), and the Los Angeles Election Code will require amendment. If the City Council were to place an RCV-related charter change on a ballot, the charter language must be drafted to provide sufficient notice to the voters of the specific changes contemplated in the measure and presented in a manner that avoids voter confusion. To those ends, the charter amendment language must set forth the basic details of the RCV system.

At a minimum, any proposed charter amendment should state the specific date or condition that would trigger implementation of RCV. This would provide clarity to the voters, clarity to City staff charged with conducting elections and clarity to potential candidates seeking to run for office. Moreover, to reduce legal risks, the timetable for implementing RCV should be based on realistic considerations. This would help the City avoid the sort of litigation filed in San Francisco, which faced legal challenges because it was unable to meet the implementation schedule contained in its RCV charter amendment. In addition, a potential RCV measure must be carefully drafted to provide sufficient notice to the voters of the proposed changes and avoid voter confusion.

Inasmuch as an unconditionally approved RCV voting system does not currently exist, and since the County has just begun development of a new voting system, the Council may wish to consider placement of a Charter Amendment on the ballot in 2013 when more information is available relative to the cost and timeline of a new election system. The earliest possible date a new election system can be utilized in the City is 2015.

Recommendation for Council Action

The City Clerk recommends that the City Council direct the City Clerk to send formal correspondence to the County Registrar Recorder/County Clerk on behalf of the City Council requesting that RCV equipment be included in the design of a new voting system and that the City Clerk work closely with the RR/CC in the development of the new voting system. Further the City Clerk should request to be an active member of the RR/CC Advisory Group to develop a new voting system.


Fiscal Impact Statement

Ranked Choice Voting will require a new voting system with costs estimated at \$40 million. However, it should be noted that the current voting system is antiquated and replacement is imminent. The Ranked Choice component of the new system is estimated to be 1 or 2 percent of the total cost which can be defrayed if the County and City collaborate on the new system.

If you have any questions regarding this report, please contact Executive Officer, Holly Wolcott at (213) 978-1023.

Sincerely,



 June Lagmay
City Clerk

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San Francisco, California, Charter >> ARTICLE XIII: - ELECTIONS >>

ARTICLE XIII: - ELECTIONS

SEC. 13.100. - CITY AND COUNTY ELECTIONS.

SEC. 13.101. - TERMS OF ELECTIVE OFFICE.

SEC. 13.101.5. - VACANCIES.

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SEC. 13.100. - CITY AND COUNTY ELECTIONS.

The Board of Supervisors shall adopt an Elections Code consistent with the provisions of this Charter. Where not otherwise provided by this Charter or by ordinance, all City and County elections shall be governed by the provisions of applicable state laws.

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 in 1997 and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

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

At the statewide general 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.

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

(Amended November 1996; March 2002; Amended by Proposition E, 11/8/2005)

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 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.

(d)

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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.

(Added November 2001)

SEC. 13.102. - INSTANT RUNOFF ELECTIONS.

- (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

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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.

(Added March 2002) (Former Section 13.102 added November 1996; repealed March 2002)

SEC. 13.103. - SPECIAL MUNICIPAL ELECTIONS.

Special municipal elections may be called in accordance with state laws.

The date of any special municipal election shall be fixed by the Board of Supervisors not less than 105 nor more than 120 days from the date of calling such election; however, no special municipal election shall be held within 105 days of any general municipal or statewide election. The Board of Supervisors may consolidate a special municipal election with a general municipal or statewide election.

The Board of Supervisors shall maintain a fund sufficient to pay all costs and expenses of the City and County with respect to a special municipal election, and such fund shall be used solely to pay the costs of such an election. Upon payment of any such costs or expenses, an appropriation shall be made in the next succeeding annual appropriations ordinance sufficient to reimburse the fund.

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. 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

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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.

(Added November 2001; amended November 2002)

SEC. 13.104. - DEPARTMENT OF ELECTIONS.

A Department of Elections shall be established to conduct all public federal, state, district and municipal elections in the City and County. The department shall be administered by the Director of Elections, who shall be vested with the day-to-day conduct and management of the Department and of voter registration and matters pertaining to elections in the City and County. The Director shall report to the Elections Commission.

For purposes of this section, the conduct of elections shall include, but not be limited to: voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud.

The Director shall be appointed by the Elections Commission from a list of qualified applicants provided pursuant to the civil service provisions of this Charter. The Director shall serve a five-year term, during which he or she may be removed by the Elections Commission for cause, upon written charges and following a hearing. The Elections Commission shall present the written charges to the Director no less than thirty days before the hearing. If the Elections Commission votes to remove the Director, he or she shall have the right to appeal to the Civil Service Commission. On appeal, the Civil Service Commission shall be limited to consideration of the record before the Elections Commission; however, the Civil Service Commission may independently evaluate and weigh evidence and may in its discretion consider evidence proffered to the Elections Commission that the Commission excluded and may in its discretion exclude evidence that the Elections Commission considered. The term of the Director shall expire five years after his or her appointment. No less than thirty days before the expiration of the Director's term, the Elections Commission shall appoint a Director for the next term, who may but need not be the incumbent Director. Subject to the civil service provisions of this Charter, the Director shall have the power to appoint and remove other employees of the

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Department of Elections.

In addition to any other conflict of interest provisions applicable to City employees, the Director of Elections and all other employees of the Department of Elections shall be subject to the conflict-of-interest provisions in Section 13.103.5. The Elections Commission, may upon the recommendation of the Director of Elections and a finding that the Department will not have adequate staffing to conduct an election, request from the Board of Supervisors a waiver of the conflict-of-interest provisions in Section 13.103.5 for employees working no more than thirty days in a single calendar year. The Board of Supervisors shall approve or deny such requests from the Elections Commission by motion.

(Amended November 2001)

SEC. 13.104.5. - USE OF OTHER CITY EMPLOYEES AND OFFICERS.

Except as provided below, no City employee or officer, other than the Director of Elections, an appointee of the Director of Elections or a member of the Elections Commission, may in any capacity perform any function relating to the conduct of an election that this Charter places under the Department of Elections. This section prohibits City personnel from providing to the Department of Elections services that are unique to that department. This section does not prohibit City personnel from providing to the Department of Elections ordinary services that are unrelated to the conduct of an election and that are indistinguishable from services performed for other City departments. These general support services include, but are not limited to, services relating to human resources, personnel processing, payroll, workers compensation, budgeting, accounting, procurement, contracting, and the maintenance of telephone and voice mail systems. The Elections Commission may, upon the recommendation of the Director of Elections request from the Board of Supervisors a waiver of this prohibition so as to allow City employees and officers to assist the Department of Elections. The Board of Supervisors shall approve or deny such requests from the Elections Commission by motion.

The City Attorney shall serve as legal counsel to the Elections Commission and the Department of Elections. The Commission may, by a majority vote of its members, hire outside legal counsel to advise the Commission and the Department on matters that directly involve the election or campaign of the City Attorney, if the City Attorney is standing for election. All outside legal counsel hired pursuant to this Section shall be a member in good standing of the California State Bar. In selecting outside legal counsel, the Commission shall give preference to engaging the services of a City attorney's office, a County counsel's office or other public entity law office with an expertise regarding the subject-matter jurisdiction of the Elections Commission. In the event that the Commission concludes that private counsel is necessary, it may, by a majority vote, engage the services of a private attorney who has at least five years' experience in the subject-matter jurisdiction of the Elections Commission. Any private counsel retained pursuant to this Section shall be subject to the conflict of interest provisions of Section 13.103.5. Any contract for outside legal counsel authorized by this section shall be paid for by the Commission and shall be subject to the budgetary and fiscal provisions of this charter.

The Sheriff shall be responsible for transporting all voted ballots and all other documents or devices used to record votes from the polls to the central counting location and approving a security plan for the ballots until the certification of election results. This requirement shall not become operative following its adoption until the Sheriff has completed meeting and conferring required by state law. The Elections Commission shall send a copy of the approved transportation and security plan to the Board of Supervisors.

The Director of Elections shall develop and submit for the approval of the Elections Commission an alternative transportation and security plan if an incumbent sheriff is running for election or if there is a measure on the San Francisco ballot that would have a material, financial effect on the Sheriff or the uniformed personnel of the Sheriff's department as determined by the Ethics Commission. The Director of Elections shall invite the Secretary of State to comment on any alternative transportation and security plan. The Elections Commission shall send a copy of the approved alternative transportation and security plan to the Board of Supervisors. The Board of Supervisors shall have the authority to enter into any contracts or take whatever actions are necessary to meet the alternative security requirements of this section.

(Added November 2001; amended November 2002)

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SEC. 13.105. - NOMINATION.

The City and County shall follow the nomination provisions for municipal elective offices in accordance with state laws, except as provided for by ordinance or this Charter.

SEC. 13.106. - QUALIFICATION.

Each candidate for an elective office of the City and County shall be a resident of the City and County and an elector at the time that nomination papers are issued to the candidate, and each elected officer shall continue to be an elector during the term of the office.

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 general, runoff or special municipal election.

SEC. 13.107.5. - POSTING OF BALLOT COUNTS AT POLLS.

After the closing of the polls, each precinct board shall cause to be posted outside of each polling place an accounting that includes the number of ballots delivered to that precinct board and the number of voted ballots, unused ballots, spoiled ballots, cancelled ballots, absentee ballots and provisional ballots returned to the Department of Elections by the precinct board at any time on election day. After the closing of the polls, each precinct board shall also post outside each polling place any computer record indicating the number of ballots cast for each candidate and for or against each ballot measure.

(Added November 2001)

SEC. 13.108. - DETERMINATION OF ELECTION RESULTS.

The canvass of votes cast, and certification of elections shall be as prescribed by law. If a person elected fails to qualify or for any reason does not take office, the office shall be filled in the manner prescribed by state law for the filling of a vacancy in such office.

SEC. 13.109. - FILING FEES.

The amount of fees to be charged for candidate filings, candidate statements, paid arguments and any other fees to be collected in the conduct of elections shall be proposed by the Director of Elections for approval by the Board of Supervisors on or before the second Monday in December immediately prior to the election in which the fees apply.

Signatures of registered voters in the City and County may be submitted in lieu of any filing fee. At the same time the Board of Supervisors approves the schedule of fees for the election, the Director of Elections, with the approval of the Board of Supervisors, shall establish the dollar value equivalent of each valid signature submitted.

SEC. 13.110. - ELECTION OF SUPERVISORS.

(a)

The members of the board of supervisors shall be elected by district as set forth in this section.

(b)

The City and County shall be divided into 11 supervisorial districts as set forth in this section. Beginning with the general municipal election in 2000, and until new districts are established pursuant to this section, these districts shall be used for the election or recall of the members of the board of supervisors, and for filling any vacancy in the office of member of the board of supervisors by appointment. Once new districts are established, those districts shall be used for the same purposes.

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No change in the boundary or location of any district shall operate to abolish or terminate the term of office of any member of the board of supervisors prior to the expiration of the term of office for which such member was elected or appointed.

(c)

[See editor's note following the concluding paragraph (f) of this section.]

(d)

Within 60 days following publication of the decennial federal census in the year 2000 and every decennial federal census after that, the Director of Elections shall report to the Board of Supervisors on whether the existing districts continue to meet the requirements of federal and state law and the criteria for drawing districts lines set in the Charter.

The criteria for drawing districts lines are:

Districts must conform to all legal requirements, including the requirement that they be equal in population. Population variations between districts should be limited to 1 percent from the statistical mean unless additional variations, limited to 5 percent of the statistical mean, are necessary to prevent dividing or diluting the voting power of minorities and/or to keep recognized neighborhoods intact; provided, however, that the redistricting provided for herein shall conform to the rule of one person, one vote, and shall reflect communities of interest within the City and County. Census data, at the census block level, as released by the United States Census Bureau, statistically adjusted by the Bureau to correct the unadjusted census counts for any measured undercount or overcount of any subset of the population according to the bureau's Accuracy and Coverage Evaluation or other sampling method, shall be used in any analysis of population requirements and application of the rule of one person one vote. In the event such adjusted census data, at the census block level, are not released by the Bureau, population data, at the census block level, adjusted by the California Department of Finance for any measured undercount or overcount maybe used.

If it is determined that the districts are in compliance with all legal requirements, including the requirement that they be equal in population, the current districts as drawn will be valid for the next decade. If it is determined that any of the districts are not in compliance, the Board of Supervisors by ordinance shall convene and fund a nine-member elections task force. Three members shall be appointed by the Board of Supervisors, three members shall be appointed by the Mayor, and three members shall be appointed by the Director of Elections unless an Elections Commission is created in which case the appointments designated to the Director of Elections shall be made by the Elections Commission. Task Force shall be appointed by January 8, 2002 and following the publication of each decennial federal census thereafter, shall be appointed within sixty days after issuance of a report by the Director of Elections to the Board of Supervisors that the districts are not in compliance, pursuant to this subsection.

Members of the Task Force previously appointed by the Director of Elections shall serve on the Task Force until the Elections Commission, if established, appoints three members to the Task Force, whereupon the terms of the members appointed by the Director of Elections shall expire.

The Director of Elections shall serve ex officio as a non-voting member. The task force shall be responsible for redrawing the district lines in accordance with the law and the criteria established in this Section, and shall make such adjustments as appropriate based on public input at public hearings.

The Task Force shall complete redrawing district lines before the fifteenth day of April of the year in which the first election using the redrawn lines will be conducted. The Board of Supervisors may not revise the district boundaries established by the Task Force. The Board of Supervisors may not revise the district boundaries established by the Task Force.

If the Task Force determines that the adjusted population data to which this subsection refers are not available a sufficient period of time before the fifteenth day of April in order to use the adjusted population data in redrawing the district lines for the following supervisorial election, and the adjusted population data demonstrate more than a five percent variance from the figures used in redrawing the district lines for the [sic] that supervisorial election, the Task Force shall by the fifteenth day of April immediately preceding the next supervisorial election redraw the district lines for that supervisorial election in accordance with the provisions of this section. The procedures for redrawing supervisorial lines following the publication of every subsequent decennial federal census shall follow the procedures established by this Section.

The City Attorney shall remove the description of district lines found in this subsection from the Charter after the Elections Task Force has completed redrawing the district lines as set forth above. Following each

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redrawing of the district lines thereafter, the City Attorney shall cause the redrawn district lines to be published in an appendix to this Charter.

(e)

Each member of the board of supervisors, commencing with the general municipal election in November, 2000, shall be elected by the electors within a supervisorial district, and must have resided in the district in which he or she is elected for a period of not less than 30 days immediately preceding the date he or she files a declaration of candidacy for the office of supervisor, and must continue to reside therein during his or her incumbency, and upon ceasing to be such resident shall be removed from office.

(f)

Notwithstanding any provisions of this section or any other section of the charter to the contrary, the respective terms of office of the members of the board of supervisors who shall hold office on the eighth day of January, 2001, shall expire at 12 o'clock noon on said date and the 11 persons elected as members of the board of supervisors at the general election in 2000 shall succeed to said offices on said eighth day of January, 2001. At that time, the clerk of the board of supervisors shall determine by lot whether the supervisors elected from the even- or odd-numbered supervisorial districts at the general municipal election in 2000 shall have terms of office expiring at noon on the eighth day of January, 2003, and which shall have terms of office expiring at noon on the eighth day of January, 2005; commencing, however, with the general municipal election in November, 2002, the terms of office of the supervisors elected from the even- or odd-numbered supervisorial districts, as the case may be, shall be for a term of four years and shall continue as such thereafter. Those members of the board of supervisors elected at the general election in 1998, and those elected at the general election in 2000 who only serve an initial two-year term, shall not be deemed to have served a full term for purposes of the term limit established in Section 2.101. (Added November 1996; amended November 1999; November 2001)

Editor's note—

Charter Section 13.100(c) originally contained boundaries and descriptions of the eleven supervisorial districts of the City and County of San Francisco. Charter Section 13.100(d) requires that once new district lines are drawn, those descriptions are to be removed and the new lines published in an appendix to this Charter. For the current district boundaries and descriptions, please see Appendix E of this Charter.



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Instant Runoff Voting in Charter Counties and Charter Cities

“Instant Runoff Voting,” also known as “Ranked Voting,” is an election method in which a single election determines the candidate supported by the voters, eliminating the need for separate run-off elections. As defined in these guidelines, it is a method in which voters rank candidates for office in order of preference and ballots are counted in rounds that simulate a series of runoffs until either a single candidate among several attains a majority of votes or only two candidates remain and the one with the greatest number of votes is declared winner.

These guidelines are offered as a model that local jurisdictions may adopt, in whole or in part. They are not regulations and do not have the force of law. At present only charter cities and counties, by virtue of a charter provision approved by the voters, may adopt this method of voting.

These guidelines address only single-seat or single-winner contests. Ranked Voting may also be employed in elections to fill multiple positions. However, these guidelines are not intended to address multiple-seat elections.

Article 1. General Provisions

1. Definitions.

For purposes of these guidelines, the following terms have the following meanings:

- (a) “Choice” means an indication on a ballot of a voter’s ranking of candidates for any single office.
- (b) “Continuing ballot” means a ballot that counts towards a continuing candidate.
- (c) “Continuing candidate” means a qualified candidate that has not been eliminated.
- (d) “Exhausted ballot” means a ballot on which all of a particular voter’s choices for an office have been eliminated or there are no more valid choices for that office indicated on that voter’s ballot.
- (e) “First choice” means the highest ranked candidate on a ballot in the first round of counting, after properly accounting for skipped rankings.
- (f) “Highest ranking” and “highest continuing ranking” mean the ranking with the lowest numerical value for a continuing candidate.
- (g) “Instant runoff voting” means an election method for a single-winner race in which voters rank the candidates for office in order of preference, and the ballots are counted in rounds that, if no candidate receives a majority of the votes cast in the first round, simulate a series of runoffs until either one of several candidates receives a majority of

the votes cast, or only two candidates remain, with the one having the greater number of votes being declared the winner.

(h) "Last place candidate" means a candidate who has received the fewest votes among the candidates who remain at the end of any round of counting.

(i) "Majority of votes" means more than 50 percent of the votes coming from continuing ballots.

(j) "Overvote" means a single rank (first, second, third, etc.) in which selection of more than one candidate is indicated on the ballot.

(k) "Qualified candidate" means any candidate listed on the ballot for this election or any write-in candidate qualified for participation in this election.

(l) "Ranking" means the number assigned to a candidate by the voter to express his or her preference for that candidate, with the highest ranking being the one with the lowest numerical value for a qualified candidate, i.e., a first choice ranking (1) indicates a greater preference for a candidate than a second choice ranking (2).

(m) "Round of counting" or "round" means a step in the counting process during which votes for all continuing candidates are tabulated for the purpose of determining whether a candidate has achieved a majority of the votes cast for a particular office, and, absent a majority, which candidate or candidates must be eliminated and which will continue to the next round.

(n) "Second choice" means the highest ranked continuing candidate on a ballot after that ballot's first choice has been eliminated, after properly accounting for skipped rankings.

(o) "Single-winner race" means a contest in which one candidate is to be elected to a single office.

(p) "Skipped ranking" means a ranking that has been left blank or in which the name of an unqualified candidate has been written in.

(q) "Undervote" means a ballot with no rankings for any qualified candidates. An undervote is not the same as an exhausted ballot, as an exhausted ballot contained in at least one earlier round a ranking of a qualified candidate.

(r) "Vote" means a ballot choice that is counted toward the election of a qualified candidate. During each round of counting, each continuing ballot contains one vote. All first choices are votes and lower ranked choices are potential votes that may, in accordance with the requirements of these guidelines, be credited to, and become votes for a continuing candidate.

2. Applicability of Guidelines.

(a) These guidelines apply only to a charter city, charter county or charter city and county that, in accordance with its charter, conducts single-winner races using instant runoff voting. For charter cities that request a county elections official to conduct the city's municipal elections, an elected county elections official, or in the case of counties with an appointed elections official, the county board of supervisors, must first approve the use of instant runoff voting.

(b) A charter city, charter county or charter city and county may not conduct a local election using instant runoff voting unless that election is conducted on a voting system that is capable of conducting the election using instant runoff voting and has been

approved by the Secretary of State pursuant to Division 19 of the California Elections Code, or by another procedure that has been approved by the Secretary of State.

(c) Any city or county using instant runoff voting shall conduct a voter education and outreach campaign to familiarize voters with instant runoff voting in English and in every language in which a ballot is required to be made available pursuant to the Elections Code and the Federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1973aa-1).

3. Instant Runoff Voting Ballot.

(a) The instant runoff voting ballot shall allow voters to rank as many choices as there are candidates. In the event that the voting system adopted by the county or city cannot accommodate a number of rankings on the ballot equal to the number of candidates, the elections official may limit the number of choices a voter may rank to the maximum number allowed by the equipment. This limit shall not be less than three.

(b) The ballot shall permit a voter to rank a qualified write-in candidate for each of the possible ranks (first, second, third, etc.). A mark for an unqualified write-in candidate shall not be considered a mark for a candidate.

4. Ballot Instructions.

Instructions provided to voters shall be substantially as follows, but may be modified based on ballot design and voting equipment used:

“Vote by ranking candidates in your order of choice. You may rank as many or as few candidates as you choose. Select a different candidate for each ranking (first, second, third, etc.). Do not give more than one candidate the same ranking. Ranking lower choice candidates will not hurt your higher ranked candidates. Do not skip rankings. When a skipped ranking is encountered on a ballot during a round of counting, the vote for the qualified candidate selected in the next non-skipped ranking on the ballot will be counted immediately in that the current round.”

Sample ballots illustrating voting procedures shall be posted in or near the voting booth and shall be included in the instruction packet of vote by mail ballots.

Article 2. Vote Counting Procedures: Instant Runoff Voting Elections

5. Counting Procedures.

In instant runoff elections, votes shall be counted in the following manner.

(a) In the first round of counting, elections officials shall count the first choices marked on each ballot. If after the first or any succeeding round, there are only two candidates remaining, the candidate with the larger total is the winner. If there are more than two candidates, counting shall continue to the next round.

(b) In the second round of counting, the candidate with the smallest number of votes shall be eliminated and every ballot counting toward the eliminated candidate shall be counted for the next highest continuing candidate on that ballot. If there is a tie between

two candidates with the smallest number of votes, the tie shall be resolved by lot. If more than two candidates remain after the second round of counting, new rounds of counting shall be repeated until there are only two candidates remaining.

(c) In any round of counting, if the total number of votes of 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 those ballots shall each be counted for the next-ranked continuing candidate on each ballot in a single counting operation.

(d) If there are only two candidates remaining, and those two candidates have the same number of votes from the continuing ballots, the tie shall be resolved by lot in accordance with Elections Code section 15651.

(e) In any round of counting, skipped rankings shall be accounted for pursuant to section 6(a), below.

(f) In the event the voting system cannot continue the count until only two candidates remain, the system may terminate the count whenever a candidate receives a majority of the votes from continuing ballots, at which point that candidate shall be declared the winner.

6. Undervotes, Skipped Rankings, Overvotes, and Exhausted Ballots.

(a) In the first or any round, in the event that any ballot reaches a rank with a skipped ranking (no qualified candidate indicated), the vote for the qualified candidate selected in the next non-skipped rank on the ballot shall be counted immediately in that round.

(b) In the first or any round, in the event that any ballot reaches an overvote, that ballot shall not count as a vote for any candidate in that round or in subsequent rounds.

(c) After each round, any exhausted or overvoted ballots shall be eliminated from any subsequent rounds of counting.

Article 3. Post-election Procedures

7. Canvass.

An instant runoff voting election shall be canvassed in substantially the manner provided by law for a regular election for the office.

8. Reporting Results.

All of the following reports shall be made available after each instant runoff voting election:

(a) The "summary report" for a race means a report that lists the candidate vote totals in each round, along with the cumulative numbers of undervotes, overvotes, and exhausted ballots in each round.

(b) The "ballot report" for a race means a report that lists, for each ballot, the candidate or candidates indicated at each ranking, the precinct of the ballot, and whether the ballot

was cast by mail. In the report, the ballots shall be listed in an order that does not permit the order in which they were cast in each precinct to be reconstructed.

(c) The "comprehensive report" for a race means a report that provides the information contained in the summary report by precinct. The report shall list, for each round, the number of ballots cast in each precinct that count as votes for each candidate in that round, that have been declared overvotes up to that point, that have been declared undervotes up to that point, and that have been declared exhausted up to that point.

(d) Preliminary versions of the summary report and ballot report shall be made available as soon as possible after the commencement of the official canvass of the vote in accordance with California Elections Code Section 15301 and prior to the 1 percent manual tally conducted pursuant to California Elections Code Section 15360.

(e) The final version of each report described in this section shall be made available by the closing of the official canvass as described in California Elections Code section 15301, and shall be included in the statement of the results described in California Elections Code section 15372.

(f) The summary report, ballot report, comprehensive report, and preliminary versions of the summary report and ballot report shall be made available to the public via the Internet and by other means. The ballot report and preliminary versions of the ballot report shall be made available in a plain text electronic format.

9. Determination of Elected Candidates.

In accordance with California Elections Code section 15450 and the county or city charter of a county, city or city and county that conducts single-winner races using instant runoff voting, the winner of each single-member race subject to instant runoff voting as determined in Article 2 of these guidelines shall constitute the elected candidate for that race.

10. One-Percent Manual Tally.

In each selected precinct, the manual one-percent tally shall be conducted as a stand-alone instant runoff voting election for that precinct, as follows.

(a) The elections official shall follow the ballot-counting procedures described in California Elections Code sections 15320 and 15321 with the following differences:

(1) After each round of manual counting of the randomly selected 1% of precincts, the number of votes counted towards each candidate, the number of exhausted ballots, the number of overvotes, and the number of undervotes shall be verified by comparison to the comprehensive report.

(2) After each round, the candidates to be eliminated shall be determined by the candidate totals in the comprehensive report for the entire election, rather than the totals for each precinct.

(b) The one-percent manual tally shall follow the procedures set forth in the California Elections Code and/or any regulations promulgated by the Secretary of State.