

AMENDED IN SENATE JULY 2, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1121

Introduced by Assembly Member Davis
(Coauthors: Assembly Members Huffman and Ma)

February 27, 2009

An act to add and repeal Chapter 2 (commencing with Section 10050) to Part 1 of Division 10 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1121, as amended, Davis. Elections: ranked voting.

Existing law provides procedures for the nomination of candidates for elective offices in general law cities. It specifies the procedures for the conduct of the election, the canvass of ballots, and certification of persons elected to office. Related provisions require the holding of a runoff election if no candidate has been elected at the municipal election. Existing law provides that a vacancy in an elective office may be filled by appointment at a special election or at the next regular municipal election. Under existing law, the Secretary of State is the chief elections officer of the state and is required to administer the provisions of the Elections Code.

This bill would authorize the Secretary of State to approve not more than 10 cities or counties, in total, to conduct a local election using ranked voting if specified conditions are met. The bill would specify requirements for using ranked voting in both a single-candidate election and a multiple-candidate election. The bill would require local elections officials to make certain reports relating to ranked voting elections and

would also require those cities and counties to report on the success of conducting those elections to the Legislative Analyst, who would be required to report to the Legislature and make recommendations on the ranked voting elections.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 2 (commencing with Section 10050) is added to Part 1 of Division 10 of the Elections Code, to read:

CHAPTER 2. RANKED VOTING

10050. (a) A total of not more than 10 cities and counties may conduct a local election using ranked voting in which voters rank the candidates for office in order of preference. The 10 cities and counties shall consist of the following:

(1) Not more than three cities or counties with a population of 15,000 or less. Not more than one city or county authorized under this paragraph shall be located in northern California, not more than one shall be located in central California, and not more than one shall be located in southern California.

(2) Not more than three cities or counties with a population between 15,001 and 40,000, inclusive. Not more than one city or county authorized under this paragraph shall be located in northern California, not more than one shall be located in central California, and not more than one shall be located in southern California.

(3) Not more than four cities or counties with a population exceeding 40,000. Not more than two cities and counties authorized by this paragraph shall be located in northern California, not more than two shall be located in central California, and not more than two shall be located in southern California.

(b) Ranked voting elections may be used for single-winner elections, such as Mayor or City Attorney, or for elections that elect multiple candidates to office, such as city council. Ranked voting elections are tabulated in rounds as specified in Section 10058 for single-winner elections and Section 10059 for multiple-winner elections. General provisions for both

single-winner elections and multiple-winner elections are specified in this chapter.

(c) Only general law counties and general law cities may use ranked voting pursuant to this chapter. A charter city or charter county may use ranked voting if authorized by its charter or other provisions of law.

10051. A city or county ~~may~~ *shall* submit a written request to the Secretary of State for authorization to use ranked voting in a local election ~~pursuant to this chapter~~ *upon certification of approval by the voters of a ballot measure or adoption of an initiative ordinance after approval by the voters, pursuant to Section 10054.* The Secretary of State shall approve each request in the order of its receipt until the maximum number of cities and counties, as specified in ~~subdivision (a)~~ of Section 10050, has been authorized to use ranked voting.

10052. (a) A city or county may not conduct a local election using ranked voting unless that election is conducted on a voting system that is capable of conducting the election using ranked voting and that voting system has been approved by the Secretary of State pursuant to Division 19 (commencing with Section 19001), or by another procedure that has been approved by the Secretary of State, which at minimum includes detailed specifications for counting, auditing, and reporting of results.

(b) (1) *If the Secretary of State withdraws approval of a voting system, pursuant to Section 19222, that was either intended to be used, or was used, by a city or county authorized by this chapter to conduct a ranked voting election, the city or county shall use alternative equipment or procedures approved by the Secretary of State when conducting subsequent ranked voting elections. If the voting system of a city or county for a ranked voting election is not approved by the Secretary of State, the city or county shall not conduct a ranked voting election until the Secretary of State approves the use of equipment or procedures for the city or county to conduct a ranked voting election.*

(2) *A city or county whose voting system for a ranked voting election is not approved by the Secretary of State shall not be deleted from the number of cities and counties eligible under Section 10050 to conduct a local election using ranked voting.*

10053. The following definitions apply for purposes of this chapter:

1 (a) “Continuing ballot” means a ballot that counts toward some
2 candidate.

3 (b) “Continuing candidate” means a qualified candidate that
4 has not been elected or eliminated.

5 (c) “Majority of votes” means more than 50 percent of the votes
6 from continuing ballots.

7 (d) “Qualified candidate” means a candidate listed on the ballot
8 for this election or a write-in candidate qualified for participation
9 in this election.

10 (e) “Ranked voting” means an election method in which voters
11 rank the candidates for office in order of preference, and the ballots
12 are counted in rounds that, in the case of a single-winner election,
13 simulate a series of runoffs until only two candidates remain, with
14 the one having the greater number of votes being declared the
15 winner, or in the case of multiple-winner elections, until all seats
16 to be elected have been filled.

17 (f) “Ranking” for a candidate on a voter’s ballot is the number
18 assigned to that candidate by the voter to express his or her
19 preference for that candidate, with the “highest ranking” being the
20 one with the lowest numerical value for a qualified candidate, in
21 which a first choice ranking indicates a greater preference for a
22 candidate than a second choice ranking, and “highest continuing
23 ranking” for a candidate on a voter’s ballot is the ranking with the
24 lowest numerical value for a continuing candidate. The “highest
25 ranking” and “highest continuing ranking” are those rankings
26 already advanced past blank choices or marks for unqualified
27 write-in candidates as specified in subdivision (b) of Section 10056
28 and subdivision (a) of Section 10057.

29 10054. A voting method authorized by this chapter may be
30 adopted by ~~any~~ *either* of the following means:

31 (a) By approval of a ballot measure submitted to the voters by
32 the governing body of the city or county at an election pursuant
33 to Division 9 (commencing with Section 9000).

34 (b) By initiative ordinance adopted pursuant to Division 9
35 (commencing with Section 9000).

36 10055. A city or county using ranked voting in a local election
37 shall conduct a voter education and outreach campaign to
38 familiarize voters with ranked voting in English and in every
39 language in which a ballot is made available to voters in that city
40 or county. The voter education and outreach campaign shall include

1 public service announcements on radio or television or in the print
2 media that are disseminated consistently with the language
3 assistance requirements of the federal Voting Rights Act of 1965
4 (42 U.S.C. Sec. 1973aa-1a).

5 10056. (a) A ranked voting ballot shall allow voters to rank
6 as many choices as there are candidates. If the voting equipment
7 cannot feasibly accommodate a number of rankings on the ballot
8 equal to the number of candidates, the elections official may limit
9 the number of choices a voter may rank to the maximum number
10 allowed by the equipment. This limit shall never be less than three.

11 (b) The ballot shall not interfere with a voter's ability to rank
12 at least two write-in candidates. For the purposes of this section,
13 a mark for an unqualified write-in candidate shall not be considered
14 a mark for a candidate.

15 10057. (a) In the first or any round, if a ballot reaches a ranking
16 with no candidate indicated, that ballot shall immediately be
17 advanced to the next ranking. If a mark for an unqualified write-in
18 candidate as described in subdivision (b) of Section 10056, that
19 ballot shall be advanced to the next ranking.

20 (b) If two or more candidates tie for the smallest number of
21 votes, the candidate to eliminate shall be chosen by lot in a manner
22 similar to that described by subdivision (a) of Section 15651,
23 except that subdivision (b) of Section 15651 shall not apply, and
24 the candidate chosen by lot shall be eliminated.

25 (c) After each round, any ballot that is not continuing is an
26 undervote, overvote, or exhausted ballot, pursuant to this
27 subdivision. A ballot that has no candidates indicated at any
28 ranking shall be declared an "undervote." If a ballot reaches a
29 ranking with more than one candidate indicated, that ballot shall
30 immediately be declared an "overvote." If a ballot cannot be
31 advanced because no further candidates are ranked on that ballot,
32 that ballot shall immediately be declared "exhausted." A ballot
33 that has been declared an undervote, overvote, or exhausted shall
34 remain so and shall not count toward any candidate in that round
35 or in subsequent rounds.

36 10058. Ranked voting pursuant to Section 10050 for an election
37 to elect a single candidate to office shall be known as "instant
38 runoff voting" and shall be conducted in the following manner:

39 (a) The ballots shall be counted in rounds pursuant to the
40 following order:

(1) In the first round, every ballot shall count as a vote towards the candidate indicated by the highest continuing ranking on that ballot.

(2) After every round, if exactly two candidates remain, the candidate receiving the greater number of votes from the continuing ballots shall be declared elected. If both candidates received the same number of votes from the continuing ballots, the tie shall be resolved by lot.

(3) If more than two candidates remain, the candidate receiving the smallest number of votes shall be eliminated, and every ballot counting toward that candidate shall be advanced to the next-ranked continuing candidate on the ballot. If there is a tie between two or more candidates for the smallest number of votes, the tie shall be resolved by lot. All the ballots shall be counted again in a new round.

(b) During the elimination stage of any round, if a candidate has more votes than the combined vote total of all candidates with fewer votes, but less than a majority of votes, all the candidates with fewer votes than this candidate shall be eliminated simultaneously, and those ballots advanced to the next-ranked continuing candidate. If two or more sets of candidates meet this criterion, the provisions of this subdivision apply to the largest set. For purposes of this subdivision, “sets of candidates” means ____.

(c) Notwithstanding the provisions of this section, if a voting system cannot feasibly continue the count until only two candidates remain, the system may terminate the count when a candidate receives a majority of votes from the continuing ballots, and the candidate who received the majority of votes shall be declared elected.

10059. Ranked voting pursuant to Section 10050 for an election to elect two or more candidates to office shall be known as “choice voting” and shall be conducted in the following manner:

(a) The minimum threshold of votes required for election shall be determined by dividing the total number of votes cast for that office, excluding undervotes as defined in Section 10057, by one more than the number of offices to be filled and then adding one vote, and then disregarding any fraction, as shown in the following formula:

The total number of votes cast, excluding undervotes as defined in Section 10057, divided by the sum of one plus the number of

1 offices to be filled, plus one, disregarding any fraction, equals the
2 minimum threshold of votes necessary to be elected.

3 (b) All ballots are counted and each ballot is allocated as a vote
4 to the candidate receiving the highest ranking.

5 (c) Each candidate that receives the minimum threshold of votes
6 necessary to be elected shall be declared elected.

7 (d) If a candidate on the first count has a number of highest
8 ranking votes exactly equal to the minimum number of votes
9 required for election, that candidate is declared elected, and the
10 counted ballots indicating that candidate as a highest ranking are
11 put aside and the other rankings recorded on the ballots are not
12 examined.

13 (e) If a candidate on the first count gains more than the minimum
14 number of votes required for election, the candidate is declared
15 elected, and the number of votes in excess of the number of votes
16 required for election (the surplus) is recorded. All of the elected
17 candidate's ballots are then reexamined and assigned to candidates
18 not yet elected according to the highest continuing ranking on the
19 ballots of those who gave a first preference vote to the elected
20 candidate. These votes are allocated according to a "transfer value."
21 The formula for the transfer value is:

22 Surplus votes cast for the elected candidate, divided by total
23 number of votes received by the elected candidate, calculated out
24 to four decimal places using "rounding to nearest" equals the
25 transfer value.

26 (f) If two or more candidates on the first count gain more than
27 the minimum number of votes required for election, all of those
28 candidates are declared elected. Each of the ballots of the candidate
29 with the largest number of highest ranking votes will be reexamined
30 first and assigned (at the transfer value) to candidates not yet
31 elected according to the next highest continuing ranking marked
32 on that ballot. The ballots of the other elected candidates will then
33 be reexamined and their surpluses distributed in order according
34 to the number of highest ranking votes each candidate received.

35 (g) (1) If a candidate reaches more than the minimum number
36 of votes required for election as the consequence of a transfer of
37 votes from an elected candidate, the number of votes in excess of
38 the number of votes required for election shall be transferred to
39 other candidates. This transfer will be to the next highest continuing
40 ranking shown on each of this candidate's ballots. These ballots

1 now include (A) ballots indicating this candidate as the highest
2 ranking, and (B) the ballots transferred to the candidate from one
3 or more elected candidates. The transfer value for the ballots on
4 which the candidate was indicated by the highest ranking is the
5 same as the transfer value defined in subdivision (e).

6 (2) The transfer value for each ballot transferred to the candidate
7 from one or more previously elected candidates shall be the surplus
8 votes cast for the elected candidate divided by the total number of
9 votes received by the elected candidate multiplied by the previous
10 transfer value of the ballot received by that candidate, as shown
11 in the following formula:

12 The surplus votes cast for the elected candidate, divided by the
13 total number of votes received by the elected candidate, multiplied
14 by the previous transfer value of the ballot received by that
15 candidate, calculated out to four decimal places using “rounding
16 to nearest.”

17 (h) If no candidate has a number of votes equal to or greater
18 than the minimum number of votes required for election, either
19 on the first count or as a consequence of a redistribution of surplus
20 votes from a previously elected candidate, the candidate with the
21 smallest number of votes is eliminated. All of the eliminated
22 candidate’s ballots, both ballots indicating that candidate as the
23 highest ranking and any ballots transferred from other candidates,
24 are transferred to the next highest continuing ranking on the
25 eliminated candidate’s ballots. The ballots in which the eliminated
26 candidate was indicated by the highest ranking are transferred to
27 the candidate indicated by the next highest continuing ranking on
28 that ballot at full value. Ballots received from previously elected
29 or previously eliminated candidates are transferred at the transfer
30 value at which the ballots were received.

31 (i) Tabulation of votes shall continue in the following sequence:

32 (1) Determine whether a candidate received more votes than
33 the sum of the combined vote total of all candidates who received
34 fewer votes than that candidate and the combined total of all
35 surplus votes not yet redistributed. If this is the case, all candidates
36 with fewer votes than this candidate shall be eliminated
37 simultaneously according to the procedure specified in paragraph
38 (3). If two or more sets of candidates meet this criterion, the
39 provisions of this paragraph apply to the largest set. For the
40 purposes of this paragraph, “sets of candidates” means ____.

1 (2) The surplus votes of elected candidates shall be redistributed
2 until no more candidates receive the minimum threshold of votes
3 required for election. The surplus votes of the newly elected
4 candidate with the greatest surplus will be distributed first, and
5 the surpluses of the other newly elected candidates will then be
6 distributed in order according to the number of surplus votes of
7 each elected candidate awaiting transfer of surplus votes.

8 (3) Candidates are eliminated as specified in subdivision (h),
9 and the votes of eliminated candidates are redistributed until
10 another candidate receives the minimum threshold of votes required
11 for election.

12 (4) When the number of elected and continuing candidates is
13 equal to the number of candidates to be elected, all of the
14 continuing candidates are declared elected even though they may
15 not have reached the minimum threshold of votes required for
16 election.

17 (j) A tie between two or more candidates for fewest votes, as
18 specified in subdivision (h), shall be resolved by lot, and the
19 candidate chosen by lot shall be eliminated. A tie between two or
20 more candidates for the number of highest ranking votes received,
21 as specified in subdivision (f), or the most surplus votes, as
22 specified in paragraph (2) of subdivision (i), shall be resolved by
23 lot, and the candidate chosen by lot shall be the first to have his
24 or her surplus votes transferred.

25 10060. (a) The instructions to the voters for an election that
26 uses ranked voting shall read substantially as follows:

27 “To vote in this election, indicate by selecting or marking a ‘1’
28 in the voting square to the right of your first choice, a ‘2’ in the
29 voting square to the right of your second choice, a ‘3’ in the voting
30 square to the right of your third choice, and so on. Do not give the
31 same number to more than one candidate. You may rank as many
32 or as few of the candidates as you choose, up to the limit specified,
33 if any. Your second choice will not hurt your first choice, your
34 third choice will not hurt your first two choices, and so on.

35 “You may include one or more qualified write-in candidates in
36 your rankings by writing each person’s name in one of the blank
37 spaces provided for that purpose after the names of the other
38 candidates for the same office, and then writing the desired ranking
39 in the voting square to the right of that name.”

1 (b) The instructions may be modified as appropriate for the
2 specific voting equipment used, as long as the intent of this chapter
3 is preserved.

4 10061. (a) As soon as possible after the close of polls of a
5 ranked voting election, the local elections official shall post ballot
6 image reports on the official Internet Web site for the city or
7 county. *If a city or county does not have an official Internet Web*
8 *site, the local elections official shall make the ballot image reports*
9 *available to the public by other means as soon as possible after*
10 *the close of polls and shall prominently notice the availability of*
11 *ballot image reports in a public location in the elections official's*
12 *office.* The “ballot image report” for an election means a report
13 that lists, for each ballot, the candidate or candidates indicated at
14 each ranking, the precinct of the ballot, and whether the ballot was
15 cast by mail. In the report, the ballots shall be listed in an order
16 that does not permit the order in which they were cast in each
17 precinct to be reconstructed.

18 (b) The local elections official shall also make a summary report
19 and a comprehensive report available to the public after each
20 ranked voting election. The “summary report” for a race means a
21 report that lists the candidate vote totals in each round, along with
22 the cumulative numbers of undervotes, overvotes, and exhausted
23 ballots in each round.

24 (c) The “comprehensive report” for a race means a report that
25 categorizes the numbers in the summary report by precinct. The
26 report shall list, for each round, the number of ballots cast in each
27 precinct that count as votes for each candidate in that round, that
28 have been declared undervotes, that have been declared overvotes
29 up to that point, and that have been declared exhausted up to that
30 point.

31 (d) The local elections official shall make preliminary versions
32 of the summary report and ballot image report available as soon
33 as possible after the commencement of the official canvass of the
34 vote pursuant to Section 15301 and prior to the 1 percent manual
35 tally pursuant to Section 15360. The summary report, ballot image
36 report, comprehensive report, and preliminary versions of the
37 summary report and ballot image report shall be made available
38 to the public during the canvass on the Internet and by other means.
39 The ballot image report and preliminary versions of the ballot

1 image report shall be made available in a plain text electronic
2 format.

3 10062. (a) A city or county that conducts an election using
4 ranked voting pursuant to this chapter shall prepare a report, in a
5 format specified by the Legislative Analyst, describing the success
6 of the conduct of the election, including, but not limited to, any
7 statistics on the cost to conduct the election, voter turnout, and the
8 number of ballots that were not counted and the reason those ballots
9 were rejected. Whenever possible, the report shall compare the
10 election using ranked voting to similar elections that were not
11 conducted as ranked voting elections. The report shall also include
12 feedback received by the city or county about voter satisfaction
13 with ranked voting and any problems that became known to the
14 city or county during the election or canvass.

15 (b) The report required by subdivision (a) shall be submitted to
16 the Legislative Analyst by a time specified by the Legislative
17 Analyst.

18 (c) Within six months of its receipt of the reports required by
19 this section, the Legislative Analyst shall, based on those reports,
20 report to the Legislature regarding the success of using ranked
21 voting in *general* law cities and counties and shall make
22 recommendations to the Legislature about whether the Legislature
23 should authorize the expansion of ranked voting in *general* law
24 cities and counties, and, if so, any procedures that the Legislature
25 should adopt or change to improve the conduct of elections
26 conducted using ranked voting.

27 10063. This chapter shall remain in effect only until January
28 1, 2019, and as of that date is repealed, unless a later enacted
29 statute, that is enacted before January 1, 2019, deletes or extends
30 that date.