

AMENDED IN SENATE JULY 14, 2009

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~~ 12 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. *The bill would provide that its provisions would be repealed as of January 1, 2019, unless a later statute enacted prior to January 1, 2019 deletes or extends that date.*

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~~ 12 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~~ 12 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.~~

(1) Not more than four cities or counties authorized under this subdivision shall be located in the northern California counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen,

1 *Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas,*
2 *Sacramento, San Francisco, San Mateo, Santa Clara, Santa Cruz,*
3 *Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity,*
4 *Yolo, and Yuba.*

5 *(2) Not more than four cities or counties authorized under this*
6 *subdivision shall be located in the central California counties of*
7 *Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono,*
8 *Monterey, San Benito, San Joaquin, San Luis Obispo, Stanislaus,*
9 *Tulare, and Tuolumne.*

10 *(3) Not more than four cities or counties authorized under this*
11 *subdivision shall be located in the southern California counties*
12 *of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San*
13 *Diego, Santa Barbara, and Ventura.*

14 *(b) If in a single election the voters of two or more cities and*
15 *counties approve the use of ranked voting, and if the authorization*
16 *of one or more of these cities or counties would exceed the*
17 *maximum number allowed to be authorized under subdivision (a),*
18 *then all of those cities and counties shall be authorized.*

19 ~~(b)~~

20 *(c) Ranked voting elections may be used for single-winner*
21 *elections, such as Mayor or City Attorney, or for elections that*
22 *elect multiple candidates to office, such as city council. Ranked*
23 *voting elections are tabulated in rounds as specified in Section*
24 *10058 for single-winner elections and Section 10059 for*
25 *multiple-winner elections. General provisions for both*
26 *single-winner elections and multiple-winner elections are specified*
27 *in this chapter.*

28 ~~(c)~~

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

33 *10051. A city or county shall submit a written request to the*
34 *Secretary of State for authorization to use ranked voting in a local*
35 *election upon certification of approval by the voters of a ballot*
36 *measure or the adoption or certification of the passage of an*
37 *initiative ordinance after approval by the voters, pursuant to Section*
38 *10054. The Secretary of State shall approve each request in the*
39 *order of its receipt until the maximum number of cities and*

1 counties, as specified in Section 10050, has been authorized to use
2 ranked voting.

3 10052. (a) A city or county may not conduct a local election
4 using ranked voting unless that election is conducted on a voting
5 system that is capable of conducting the election using ranked
6 voting and that voting system has been approved by the Secretary
7 of State pursuant to Division 19 (commencing with Section 19001),
8 or by another procedure that has been approved by the Secretary
9 of State, which at minimum includes detailed specifications for
10 counting, auditing, and reporting of results.

11 (b) ~~(1) If the Secretary of State withdraws approval of a voting~~
12 ~~system, pursuant to Section 19222, that was either intended to be~~
13 ~~used, or was used, by a city or county authorized by this chapter~~
14 ~~to conduct a ranked voting election, the city or county shall use~~
15 ~~alternative equipment or procedures approved by the Secretary of~~
16 ~~State when conducting subsequent ranked voting elections. If the~~
17 ~~voting system of a city or county for a ranked voting election is~~
18 ~~not approved by the Secretary of State, the city or county shall not~~
19 ~~conduct a ranked voting election until the Secretary of State~~
20 ~~approves the use of equipment or procedures for the city or county~~
21 ~~to conduct a ranked voting election.~~

22 ~~(2) A city or county whose voting system for a ranked voting~~
23 ~~election is not approved by the Secretary of State shall not be~~
24 ~~deleted from the number of cities and counties eligible under~~
25 ~~Section 10050 to conduct a local election using ranked voting. In~~
26 ~~the absence of an approved method for conducting a ranked voting~~
27 ~~election, the authority of that city or county to conduct a ranked~~
28 ~~voting election shall be temporarily suspended until the Secretary~~
29 ~~of State approves the use of equipment or procedures to conduct~~
30 ~~ranked voting elections. A city or county affected by this~~
31 ~~subdivision shall still be considered one of the cities and counties~~
32 ~~references in Section 10050.~~

33 10053. The following definitions apply for purposes of this
34 chapter:

35 (a) “Continuing ballot” means a ballot that counts toward some
36 candidate.

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

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

1 (d) “Qualified candidate” means a candidate listed on the ballot
2 for this election or a write-in candidate qualified for participation
3 in this election.

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

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

23 10054. A voting method authorized by this chapter may be
24 adopted by either of the following means:

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

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

30 10055. A city or county using ranked voting in a local election
31 shall conduct a voter education and outreach campaign to
32 familiarize voters with ranked voting in English and in every
33 language in which a ballot is made available to voters in that city
34 or county. The voter education and outreach campaign shall include
35 public service announcements on radio or television or in the print
36 media that are disseminated consistently with the language
37 assistance requirements of the federal Voting Rights Act of 1965
38 (42 U.S.C. Sec. 1973aa-1a).

39 10056. (a) A ranked voting ballot shall allow voters to rank
40 as many choices as there are candidates. If the voting equipment

1 cannot feasibly accommodate a number of rankings on the ballot
2 equal to the number of candidates, the elections official may limit
3 the number of choices a voter may rank to the maximum number
4 allowed by the equipment. This limit shall never be less than three.

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

9 10057. (a) In the first or any round, if a ballot reaches a ranking
10 with no candidate indicated, that ballot shall immediately be
11 advanced to the next ranking. If a mark for an unqualified write-in
12 candidate as described in subdivision (b) of Section 10056, that
13 ballot shall be advanced to the next ranking.

14 (b) If two or more candidates tie for the smallest number of
15 votes, the candidate to eliminate shall be chosen by lot in a manner
16 similar to that described by subdivision (a) of Section 15651,
17 except that subdivision (b) of Section 15651 shall not apply, and
18 the candidate chosen by lot shall be eliminated.

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

30 10058. Ranked voting pursuant to Section 10050 for an election
31 to elect a single candidate to office shall be known as "instant
32 runoff voting" and shall be conducted in the following manner:

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

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

38 (2) After every round, if exactly two candidates remain, the
39 candidate receiving the greater number of votes from the continuing
40 ballots shall be declared elected. If both candidates received the

1 same number of votes from the continuing ballots, the tie shall be
2 resolved by lot.

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

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

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

24 10059. Ranked voting pursuant to Section 10050 for an election
25 to elect two or more candidates to office shall be known as “choice
26 voting” and shall be conducted in the following manner:

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

33 The total number of votes cast, excluding undervotes as defined
34 in Section 10057, divided by the sum of one plus the number of
35 offices to be filled, plus one, disregarding any fraction, equals the
36 minimum threshold of votes necessary to be elected.

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

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

1 (d) If a candidate on the first count has a number of highest
2 ranking votes exactly equal to the minimum number of votes
3 required for election, that candidate is declared elected, and the
4 counted ballots indicating that candidate as a highest ranking are
5 put aside and the other rankings recorded on the ballots are not
6 examined.

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

16 Surplus votes cast for the elected candidate, divided by total
17 number of votes received by the elected candidate, calculated out
18 to four decimal places using "rounding to nearest" equals the
19 transfer value.

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

29 (g) (1) If a candidate reaches more than the minimum number
30 of votes required for election as the consequence of a transfer of
31 votes from an elected candidate, the number of votes in excess of
32 the number of votes required for election shall be transferred to
33 other candidates. This transfer will be to the next highest continuing
34 ranking shown on each of this candidate's ballots. These ballots
35 now include (A) ballots indicating this candidate as the highest
36 ranking, and (B) the ballots transferred to the candidate from one
37 or more elected candidates. The transfer value for the ballots on
38 which the candidate was indicated by the highest ranking is the
39 same as the transfer value defined in subdivision (e).

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

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

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

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

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

(2) The surplus votes of elected candidates shall be redistributed until no more candidates receive the minimum threshold of votes required for election. The surplus votes of the newly elected candidate with the greatest surplus will be distributed first, and the surpluses of the other newly elected candidates will then be

1 distributed in order according to the number of surplus votes of
2 each elected candidate awaiting transfer of surplus votes.

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

7 (4) When the number of elected and continuing candidates is
8 equal to the number of candidates to be elected, all of the
9 continuing candidates are declared elected even though they may
10 not have reached the minimum threshold of votes required for
11 election.

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

20 10060. (a) The instructions to the voters for an election that
21 uses ranked voting shall read substantially as follows:

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

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

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

38 10061. (a) As soon as possible after the close of polls of a
39 ranked voting election, the local elections official shall post ballot
40 image reports on the official Internet Web site for the city or

1 county. If a city or county does not have an official Internet Web
2 site, the local elections official shall make the ballot image reports
3 available to the public by other means as soon as possible after the
4 close of polls and ~~shall prominently notice the availability of ballot~~
5 ~~image reports in a public location in the elections official's office~~
6 *notice of the availability of the ballot image reports shall be*
7 *prominently displayed in an appropriate public location of the city*
8 *or county's election division.* The "ballot image report" for an
9 election means a report that lists, for each ballot, the candidate or
10 candidates indicated at each ranking, the precinct of the ballot, and
11 whether the ballot was cast by mail. In the report, the ballots shall
12 be listed in an order that does not permit the order in which they
13 were cast in each precinct to be reconstructed.

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

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

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

38 10062. (a) A city or county that conducts an election using
39 ranked voting pursuant to this chapter shall prepare a report, in a
40 format specified by the Legislative Analyst, describing the success

1 of the conduct of the election, including, but not limited to, any
2 statistics on the cost to conduct the election, voter turnout, and the
3 number of ballots that were not counted and the reason those ballots
4 were rejected. Whenever possible, the report shall compare the
5 election using ranked voting to similar elections that were not
6 conducted as ranked voting elections. The report shall also include
7 feedback received by the city or county about voter satisfaction
8 with ranked voting and any problems that became known to the
9 city or county during the election or canvass.

10 (b) The report required by subdivision (a) shall be submitted to
11 the Legislative Analyst by a time specified by the Legislative
12 Analyst.

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

22 10063. This chapter shall remain in effect only until January
23 1, 2019, and as of that date is repealed, unless a later enacted
24 statute, that is enacted before January 1, 2019, deletes or extends
25 that date.